

**2015 HOUSE ENERGY AND NATURAL RESOURCES**

**HB 1148**

## 2015 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

## Pioneer Room, State Capitol

HB 1148

1/16/2015

Job #22075

☐ Subcommittee☐ Conference Committee

Committee Clerk Signature

Kenneth M. Tuck

**Explanation or reason for introduction of bill/resolution:**

Relating to fees charged by abstractors.

**Minutes:**

Attachments # 6

## Chairman Porter opens hearing on HB 1148.

**Rep. George Keiser:** This is a simple bill. It basically attempts to change the fees charged by abstractors. The abstractor may charge a fee...striking from \$1.50 and no more....simply "not to exceed \$3.00," which is a significant increase, and the abstractor's will give you the historical justification for that. On the second page, we have additional changes in fees. On line 8, for each entry for an abstractor continuation event, entry on an abstract, changing from \$10 to \$15. And on line 11, for complete certification covering the records of the several county offices, \$100 to \$150. And, on line 14, for certification covering lands in excess of one quarter section, the change from an additional fee of \$10 to \$15. And, on line 17, for certification covering premises in more than one block in any subdivision, changing the fee from \$10 to \$15. And, finally, on line 19, for each name searched for judgments, real estate taxes, bankruptcy proceedings and federal tax liens and state tax liens, from \$5 to \$10.

2:57

**Pat Ward, Attorney representing the N.D. Land Title Association**

The Association consists of about 70 abstracting companies and about 83 title members.

**Nick Hacker, Legislative Chair, N.D. Land Title Association:**

(Attachment #1)

**Rep. Glen Froseth:** Are county recorders considered abstracters?

**Hacker:** That's correct. County recorders are not mineral landmen, and county recorders are not abstractors, either. They receive and record documents.

**Sandra Simonson, Owner and Operator of Divide-Burke Abstract Co., Inc.:**

(See Attachment #2)

16:40

**Rep. Mike Lefor:** With this increase, will that make you competitive? With salaries and so forth in your area?

**Simonson:** No, I can't compete with somebody who's getting \$35 an hour. I guess I could give my employees a raise, though, and explain they are valued. I got a raise in fees, and because of this, I'm going to give you a raise. Or add a benefit.

**Rep. Lefor:** So, do you feel this is enough?

**Simonson:** On one hand, no. But on the other hand, I don't want to take advantage of the situation, but yet I do believe that we are owed an increase.

**Rep. Glen Froseth:** The last raise in fees was eight years ago, and somewhere must have been told they couldn't come back and ask for an increase until now again. Is there another eight-year waiting period in the code? No.

**Andy Freeman, Bottineau County Abstract Co.**  
(See Attachment #2A)

**Rep. Lefor:** How long have you been in the business?

**Freeman:** I entered this industry in 2009. I am a third-generation owner.

**Monica Romsdal, owner of the Dickey and LaMoure County Abstract Companies:**  
(See Attachment #3)

**Rep. Roger Brabandt:** What specific education is required in your business? Is there any specific advanced education required?

**Romsdal:** No. It's mainly working the field. To become a certified abstracter, there is a state test they have to take.

**Sue Cosgriff, President of Cass County Abstract Co/Red River Title Services, Inc.:**  
(See Attachment #4)  
38:08

**Rep. Keiser:** In terms of your IT, do you have to have the capacity to accept different platforms, different programs? Is that required?

**Cosgriff:** We do, and it may vary according to the size of the county. I can't speak for all the counties.

**Rep. Chuck Damschen:** Are there any other fees besides for entries?

**Cosgriff:** These are the only charges that we are allowed to charge. And if someone ever feels that they're being overcharged, they're supposed to file a complaint with the board that regulates the abstracters. These are our only fees. These are the maximum fees. Some people might actually not charge the full fees. These are a cap and we can't exceed that.

**Rep. Lefor:** My question is: are we going far enough? And who put these recommended changes together?

**Hacker:** The requested change amounts came from the state association, which represents every county. They voted on it in September. They had a pretty significant discussion about what type of fee to propose. They said, "let's pick a number that's most realistic. " It is a cap, and not all the abstracts that come out are charged at the cap rate.

**Rep. Froseth:** When I purchased a new house in 2008, I didn't get an abstract. I got a certificate of ownership or something like that. Is that becoming commonplace?

**Hacker:** Yes, that is correct. There are two ways to acquire title.

**Rep. Froseth:** So in the event I sell that house, there is no abstract, so if I sell that house, I just transfer this? And there never will be an abstract?

**Hacker:** That is correct.

**Cosgriff:** They are totally different animals, but a title insurance policy is based on an abstract of title, and you can't issue a title policy without one, even when you re-issue a title policy.

**Nancy Willis, Government Affairs Director, ND Association of Realtors:**  
(Attachment #5)

**Lanie Herauf, Government and Regulatory Affairs Specialist, Greater ND Chamber:**  
We support this bill. We have long been in support of reasonable and responsible fee increases, and we believe this bill falls in line with that mantra. We feel the fee increases are warranted for this particular area.

## **OPPOSITION**

None

Chairman Porter closed the hearing on HB 1148.

50:00

Chairman Porter called the Committee back to order for HB 1148.

Rep. Keiser motioned to Do Pass  
Rep. Brabandt seconded.

House Energy and Natural Resources Committee

HB 1148

1/16/2015

Page 4

**A roll call vote was taken. Yes: 12 No: 0 Absent: 1 (Anderson)**

**Do Pass motion prevails.**

**Rep. Brabandt will carry.**

11/6/15

Date: Click here to enter a date.

Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. "Enter Bill/Resolution No."**

House Energy and Natural Resources Committee☐ Subcommittee

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
 Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By

Keesen

Seconded By

Barnard

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Bob Hunsakor	✓	
Vice Chairman Damschen	✓		Rep. Corey Mock	✓	
Rep. Dick Anderson	✓		Rep. Naomi Muscha	✓	
Rep. Roger Brabandt	✓				
Rep. Bill Devlin	✓				
Rep. Glen Froseth	✓				
Rep. Curt Hofstad	✓				
Rep. George Keiser	✓				
Rep. Mike Lefor	✓				
Rep. Mike Nathe	✓				

Total (Yes) 12 No 0Absent 1Floor Assignment Barnard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1148: Energy and Natural Resources Committee (Rep. Porter, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1148 was placed on the Eleventh order on the calendar.

**2015 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1148**



# 2015 SENATE STANDING COMMITTEE MINUTES

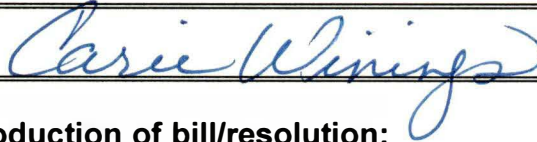
## Government and Veterans Affairs Committee

Missouri River Room, State Capitol

HB 1148  
3/12/2015  
Job # 24743

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 43-01-15.1 and 43-01-18 of the North Dakota Century Code, relating to fees charged by abstractors.

### Minutes:

Attachments 1 - 4

**Chairman Dever:** Opened the hearing on HB 1148.

**Representative Keizer, District 47:** Testified as sponsor and in support of the bill. This is simply a proposal to address the fees that are charged for abstractors. It has been a very long time since the last increase. There are folks from the industry that will address the justification for that.

**(1:50)Pat Ward, North Dakota Land and Title Association:** Testified in support of the bill. It is important to keep in mind that what we are looking at here by increasing these fees, this is not a tax; it is a cap on fees that are charged by private companies. These abstract companies here to testify are private companies that serve an important business in the chain of title and protecting title in North Dakota. They are going to tell you some of the problems they are encountering. How much their costs have increased. They will tell you the amount of work that they have and why it is reasonable to raise these fees in the amounts that are suggested. Others will testify and tell you why we need these caps lifted.

**(3:25) Chairman Dever:** Why would fees be included in this Title?

**Pat Ward:** I believe because the profession is abstractors.

**(3:48)Nick Hacker, Legislative Chair, North Dakota Land and Title Association:** Testified in support of the bill. The reason it is in this section is because it is a cap on the amount of the fee that profession can charge for their services. We are regulated by a board of examiners. It is the North Dakota Abstractors Board. That is where our regulation lies. They dictate how we abstract and they make sure that we have the appropriate title plants; which is the information that we look at to provide to attorneys for them to determine the status of title. This adjusts the state cap. (Shows the committee a copy of an abstract.) The association is made up of 83 members. We are the licensed companies operating in

each and every one of the counties in North Dakota. We provide for the safe, economic transfer of properties in the state. In the current housing market, these services are especially important. Because we provide accurate information in these abstracts, North Dakota attorneys are able to more efficiently provide people proof that they own their homes, their farms, and properties so that they may sell or obtain a loan. The legislature has only increased the abstract fee cap 2 times in the last 22 years; most recently in the in the 2007 session in which the increase is approximately 40%. At that time we requested a smaller increase and the legislature responded wisely by granting a higher increase and suggested that we come back in 8 years. It has been 8 years since it has been increased so here we are. As you know, the landscape has changed significantly in North Dakota in the past 8 years and not only in the oil producing counties, but every county in the state has actually seen personal income growth. When there is personal income growth, people like to buy things. Many times those are homes. There have been a lot of cost increases in our industry. The important thing to understand is why we have a cap. Abstracting started in about 1915 and at that time most counties had one abstractor. Because one individual could control the market, the legislature decided to cap the fees to ensure all customers were served equally. This prevented the highest bidder from receiving service before a buyer trying to purchase that home. It is still necessary today, as 43 of our 53 counties only have one abstractor. The increase before you is roughly 50% since the prior adjustment comes out to about 6% per year and cost of doing business in North Dakota has definitely out paced that rate.

**(8:23) Senator Nelson:** Page 1, Line 16, what is the \$1.50 to \$3.00 for?

**Nick Hacker:** In the back of that abstract there is going to be mineral entries. There are a lot of documents that are mineral focused only. They only affect the mineral interest in the real estate. They are not as pertinent on a surface transaction when someone is trying to buy a lot. When that is determined, we simply list the document and the document # that is a mineral document instead of typing out the entire document. It is less work but the amount of search work still has to be done and it has increased over time as well. We would charge more for typing out an entire mineral lease. The \$3 is per mineral entry.

**Senator Flakoll:** Was it 2001 when we changed this last?

**Nick Hacker:** It was 2007. On the last page we just adjust the pricing. Each one of those entries, where you see a number, that is called an abstract entry. The abstractor will chain the title, review the document, and type the pertinent information so that it can be quickly reviewed by an attorney.

**Chairman Dever:** This does not have the other issue where the fees might be different coming out different in the closing than going in?

**Nick Hacker:** No. It is completely different. There are three groups in our industry. There is title insurance, real estate closings, and there is abstracting. This is the abstracting piece of our industry as a whole but not all abstractors conduct real estate closings or write title insurance. That is kind of up to them in their marketplace.

**(12:45)Sandra Simonson, Owner, Divide-Burke Abstract Company Inc.:** See Attachment #1 for testimony in support of the bill.

**(17:05)Chairman Dever:** How much was the large document that you brought for recording?

**Sandra Simonson:** If I were to put this document in my abstract, I would get \$10.

**Chairman Dever:** Do you digitize that then?

**Sandra Simonson:** Yes it is but actually when you get a big document like this it is easier to look at it in a printed form because it is easier to look through paper.

**Chairman Dever:** Are the fees represented in this bill the sole source of revenue for abstractors?

**Sandra Simonson:** Yes.

**Senator Marcellais:** Do you send any of these titles to titles and records in Aberdeen, SD for the Bureau of Indian Affairs?

**Sandra Simonson:** No. I have a certificate of authority for Divide and Burke County. Those are the only two counties that I serve.

**(19:05)Monica Romstall, Dickey and Lamoure County, Owner, Abstract Company:** See Attachment #2 for testimony in support of the bill.

**(22:00) Andy Freeman, Bottineau County Abstract Company:** See Attachment #3 for testimony in support of the bill.

**(24:40) Chairman Dever:** Is the actual amount charged determined by the individual abstractor?

**Andy Freeman:** Yes. It is based on the number of entries that are indexed at the courthouse.

**Chairman Dever:** Do you always charge the cap?

**Andy Freeman:** I will say that if we have good base information on a property, some abstracts can get up to 150 entries, and if I have them already ready to go, I do charge \$10 per entry for stuff that I already have in my records. That is why it is a cap. Many times you will see that on a new abstract. There could be one or two entries on an abstract, but if we have to go back to the beginning of time you start to see the entries accumulate.

**(27:05)Sue Cosgriff, President, Cass County Abstract:** See Attachment #4 for testimony in support of the bill.

**(31:45) Chairman Dever:** I see different categories for different fees - are those appropriately distributed?

**Sue Cosgriff:** Yes. Explained the increases on the caps and gave a couple of examples. We cannot charge for the entries that we do not put on. In a way that is misleading when it says \$10 an entry when it can take large amounts of time to research.

**Chairman Dever:** I understand that the fastest growing county in North Dakota is still Cass County.

**Sue Cosgriff:** That is correct.

**Chairman Dever:** What would happen to the fees if we eliminated the caps?

**Sue Cosgriff:** As Nick has stated, the caps are very important for the counties with only the one abstractor.

**Senator Nelson:** How many abstract companies are in Cass County?

**Sue Cosgriff:** There are 2.

**(34:45) Nancy Willis, North Dakota Association of Realtors:** Testified in support of the bill and asked for a do pass.

**Chairman Dever:** Closed the hearing on HB 1148.

# 2015 SENATE STANDING COMMITTEE MINUTES

**Government and Veterans Affairs Committee**  
Missouri River Room, State Capitol

HB 1148  
3/12/2015  
Job # 24759

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



**Minutes:**

No Attachments

**Chairman Dever:** Opened HB 1148 for committee discussion.

**Senator Flakoll:** Moved a Do Pass.

**Senator Poolman:** Seconded.

**Chairman Dever:** Any further discussion?

**Senator Cook:** We never did get an explanation of all of the different fees.

**Senator Nelson:** Explained what she understood the fees to be.

**Committee Discussion:** The committee discussed the amount of work sometimes has to be done for a small amount of fees based on some of the examples that were brought before the committee.

**A Roll Call Vote Was Taken:** 7 yeas, 0 nays, 0 absent.

**Motion Carried.**

**Senator Davison will carry the bill.**

Date: 3/12  
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1148

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Flakoll Seconded By Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Davison

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1148: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1148 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HB 1148**



#1  
HB 1148  
1-16-15  
pg 1 of 2

ND House of Representatives Energy and Natural Resources Committee  
Committee Hearing on HB 1148  
Testimony from the ND Land Title Association  
1/16/2015

Good morning Mr. Chairman and Members of the Committee,

The bill before you today changes the state set cap on the amount a North Dakota Licensed Abstracter may charge on an abstract.

What is an abstract and who are we?

Abstracting is a compilation of documents recorded against a specific piece of property written in a brief concise format through a complicated search of the real estate records by an Abstracter. Its primary use is for North Dakota attorneys to determine the status of title. We are for profit companies and not government agencies. The 83 members of the North Dakota Land Title Association are licensed companies operating in each of the 53 counties.

The abstracting industry helps drive our state's economy through the safe and efficient transfer of real property. In the current housing market these services are increasingly important for the confidence of title attorneys to issue accurate title opinions for individuals to purchase real estate and lenders to provide loans to homebuyers and farmers. Because we provide accurate information through abstracts North Dakota attorneys are able to prove that people own their homes, farms and property so that they may sell or obtain a loan.

In the last 22 years the legislature has only twice increased the abstracting cap, most recently being the 2007 session in which the increase was approximately 40%. At that time we requested a smaller increase and the legislature responded with granting a higher increase and suggesting we come back in 8 years for an additional increase as necessary at that time. Here we are.

As you know the landscape of North Dakota has changed significantly, in the past 8 years. Not only are oil producing counties different today, but every county in the state has seen growth as evidenced in a recent report that stating personal income has grown grew in every county in the state. The cost of doing business in the

#1  
HB 1148  
1-16-15  
Pg 2

state has also significantly increased in the past 8 years from employee wages, to liability insurance, rent or property taxes, and office supplies needed in preparing an abstract.

Why is there a cap?

Abstracting has occurred in the state since roughly 1915 during which time most counties only had one abstractor. Because one individual could control a market the legislature decided to cap the fees to ensure all customers were served equally. This prevented the highest bidder from receiving service before a buyer trying to purchase a home. The cap is still necessary today as 43 of our 53 counties still have just one abstract company. This results in a lack of competition and need to avoid problems caused by monopolies.

The bill before you requests an increase of roughly 50% since the prior adjustment in 2007. The increase represents an average annual adjustment of about 6.5%. meanwhile the cost of doing business in North Dakota has outpaced this rate. Others are here today to explain some of these increases and costs which have negatively affected their businesses and the need to increase the cap. An increase will allow abstract companies to hire qualified individuals to provide, and in some cases increase, service to the real estate industry.

We would ask the committee to provide a Do Pass recommendation of this important bill.

Sincerely, Nick Hacker

*North Dakota Land Title Association, Legislative Committee Chair Nick Hacker  
(701) 663-5364 – [nhacker@thetitleteam.com](mailto:nhacker@thetitleteam.com)*

#2  
HB 1148  
1-16-15  
Pg 1

Mr. Chairman and Members of the Committee,

My name is Sandra Simonson and I own and operate Divide-Burke Abstract Company Inc., which is located in the Crosby, North Dakota – covering the counties of Divide and Burke.

I have been in the abstracting business for 21 years and, when my career first began, I was the only employee in the Divide County office. My responsibilities covered everything including copying, typing, indexing, orders, abstracts, mineral searches and O & E Reports. I was a one-man-show until six years ago.

Six years ago the oil boom hit. I hired my first full-time employee and I paid her \$10 per hour, a retirement plan and two weeks of paid vacation. Over the years, I have increased my workforce to seven employees. Currently, I pay my starting employees \$15 per hour and my seasoned employees \$20 per hour. Over the past eight years, my fees have remained the same and my employees' wages have doubled.

Just this past year, I lost two very competent and valuable employees. One to a local café because she thought she could make more money in tips alone. The other employee took a job as a bookkeeper for the local gas station; they got paid more money plus the benefit of health insurance.

I would like to tell you, as business owners, what we are up against. We have mechanics making \$18 to \$30 per hour, truck drivers who make \$80 to \$100 per hour, and gas plant operators that make \$35 per hour. I have a son with a high school education that makes \$20 per hour, is given a \$100 per day for just showing up to work and drives his own company vehicle. I cannot compete with that; but, on the other hand, I do not want to compete with that.

Eight years ago, the Abstracters Association was granted a raise in fees by the State of North Dakota. To demonstrate to you how the oil industry has impacted my business, let me show you something. I use to consider a large document to be 100 pages. On December 17, 2014 an oil company recorded a document that was 772 pages long. This is one document.

To me, as an abstracter, this means that every time a document goes into one of my abstracts, I have to search through 772 pages to find my land, lease, pipeline, what-have-you. The volume and complexity of my work has skyrocketed.

Twenty years ago (even seven years ago, for that matter), it was peculiar to find a pipeline easement that ran across a piece of property; today, it is peculiar if one is not running through it. With all of the Oil and Gas Leases and Pipelines and Easements coming into play, these large documents are becoming much more frequent. Title companies are taking on more responsibilities as they are checking judgments, tax liens, child support liens, surface interest, mineral interest, royalty interest and ORR interest. Simple title is not simple anymore!

For these reasons we ask that you give this bill a DO PASS recommendation. Thank you for your time and consideration.

#2A  
HB 1148  
1-16-15  
v31

Mr. Chairman and Members of the Committee:

I am Andy Freeman from the Bottineau County Abstract Company which serves the following counties: Bottineau, McHenry and Sheridan.

The last time the fees we are able to charge were addressed was the 2007 Legislative Assembly which had an effective date of August 1, 2007. So much in our industry and our state has changed in that time period. In just comparing wages for my employees from the 2008 year to 2014, there has been a 79.7% increase or \$ 72,500.00. Almost every expense I incur as a business owner has went up over that time period, which does nothing but erode the business profits and puts stress on retaining employees. This is a very specialized industry and it takes time to train employees. Recently I was unable to retain an employee of over 15 years due to my lack of ability to or the uncertainty of if a potential raise would be granted thru our Bill.

I hope you will look favorably upon our request as the North Dakota Land Title Association and its members hard work to provide clear title for people's dreams of owning a home or operating their business that provide for their families.

For these reasons we ask that you give this bill a Do Pass recommendation, thank you for your time and consideration.

Andy Freeman

NDLTA – President

Bottineau County Abstract Company – President

Regards,

#3  
HB 1148  
1-16-13

Good Morning Chairman Representative Porter, Vice Chairman Representative Damschen and all of the Legislative Members. I am Monica Romsdal, owner of the Dickey and LaMoure County Abstract Companies, also the Vice President of the North Dakota Land Title Association.

On behalf of the Association, I want to Thank Representative Keiser, along with Representative Beadle and Senator Klein for the Introduction of this bill.

As you know our fees are regulated to protect the landowners and consumers of the great State of North Dakota. We come before you today 8 years since our last fee increase; in those years many changes have occurred not only because of the oil in the western part (that has affected the far reaches of the eastern part) but also the wonderful farm economy that we experienced for several years. These factors alone have been both a blessing and an adjustment for our industry.

I have hired additional help to keep our mission and value standards met and achieved. The vision set by our company, to be a leader insuring, managing and supporting the real estate transactions requires constant changes. RESPA, (real estate Settlement Procedures Act) laws were re-written not once but twice since our last fee increase. Not that it is uncalled for, but the CFPB (Consumer Financial Protection Bureau) has set stringent requirements that will be changing along with the new RESPA laws. These two reforms make it necessary to obtain new software that keeps our company in compliance, with added hours of training and enforcement, and more equipment for new hires to complete our mission, the all contribute to additional expense for our companies.

Because of the national 2008 debacle, my errors and omission insurance has increased from \$2100 in 2009 to just last year a whopping \$4500, that is 114%.

A few of the other fees that have affected my business are:

Health insurance - increase of 90%

heating fuel - increase of 72%

salaries increase of 26%

Our businesses are good hometown businesses. We support the local foundations, the local and state chamber of commerce department, we support the kids, the athletics, the college, the parks and rec departments, and of course the golf course! We are members of the service groups (and usually hold an office for life), members of local churches, teaching Sunday school and leading music, we are active in school PTA's and other school organizations and some of us even serve as community Mayors and/or council persons.

To end, our industry is not a romantic, fun loving job that people break down our doors to come and apply for, and rarely does anyone apply that has any experience. The training of a new employee is extensive and expensive. To keep good employees, we need to pay them a decent wage so that they can become good ambassadors for not only our company but also our community.

Thank You, and please consider approving House Bill No. 1148.

#4 HB 1148  
1-16-15  
pg 1 of 5

**Mr. Chairman and members of the committee:**

**My name is Sue Cosgriff and I am the President of Cass County Abstract Company/Red River Title Services, Inc., in Fargo, ND. I have held my position with that company for approximately 30 years.**

**I am here today to testify in favor of House Bill 1148, increasing the amount abstracters may charge for their product.**

**The abstract profession is one of few industries where prices are set by state statute. This is important to the consumer as it protects them in areas with little or no competition. There are several small counties in North Dakota where there is only one abstract company.**

**We have not had an increase in our fees for 8 years. As we all know the costs of operating a business have greatly increased over that period of time. This is not just a "West" issue. The rapidly increasing salaries and the rapidly escalating increase in overall business costs are statewide issues.**

**Technology is a must in our industry. The cost of technology has exploded. We must purchase and maintain the technology needed to maintain the hardware and software necessary to meet our customers'**



# 4  
HB 1148  
1-16-15  
pg 2  
JFS

needs. This is a challenging assignment. Also, in the past 8 years the technology has changed how we must perform certain searches. In order to conduct our abstract duties, we must search an ever increasing number of different data bases. We check our office land record data base or manual records, we check the County property records data base or manual records, we check our County tax data base for property tax information, we check the ND Central Indexing system for State Tax Liens, we check the ND Supreme Court judgment system data base for judgment information and we check the ND Child Support Lien system for child support liens. Our office has had to hire additional employees in order to complete all the required "checks" and insure that our product is delivered to the consumer in a timely fashion.

It is becoming harder and harder for us to keep up with the demands of the business with the revenue dollars we have to work with. In smaller counties this is becoming almost impossible. They find it very difficult to hire anyone and it seems like once they do and has the person trained, they lose that person to the County or some

#4  
HB1148  
1-16-15  
pg 3  
of 5

other company that can offer that person more salary and better benefits.

Salaries have risen sharply –even more so in the past two years – a trend that gives business owners with fixed revenue panic attacks. Eight years ago we could hire individuals with no secondary training for approximately \$8-9 per hour. College graduates for about \$12-13 per hour. Over the past 2 years our new hires (college graduates) with no direct abstracting experience have cost us between \$19-20 per hour and \$14-16 per hour with no secondary education – and this is without the additional cost of benefits added in. And that is if we are lucky enough to even get a candidate that we feel we can train. They are few and far between.

Our rent has increased approximately 41% over the 8 year period. Our lease expires in 18 months and I am worried about the potential increase that may bring.

The cost of health insurance has exploded during this time, our paper prices have increased 79.6% during the past 8 years, as well as



#4  
HB1148-  
1-12-15  
pg 4  
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substantial increases in the cost of utilities and all other miscellaneous business expenses.

One of the areas that is often overlooked when discussing the cost of doing business is the increase in abstractor's liability resulting from the increased value of real estate. If a consumer is damaged as a result of relying on an abstract of title, the abstractor may be held responsible for those damages. Our cost of abstractor's errors and omissions insurance has more than doubled over the 8 year period of time – and we have not had any claims during that time. In addition, an abstractor could be held responsible if the damages exceeded the limits of the policy.

Speaking of liability, our fee is based upon the number of entries that appear in abstract. If we prepare an abstract for a \$20,000 vacant lot and that abstract has 4 entries, we would receive approximately \$140 for that abstract. If we prepare an abstract for a \$30,000,000 processing plant which also has 4 entries, we would receive about \$140 for that abstract. As you can see, our liability on the two abstracts would be very different – but we receive the same

#4  
HB 1148  
1-16-15  
mg  
of 5

fee for both abstracts. This demonstrates the need for this fee increase to help offset the cost of our liability insurance.

Our profit margins, if existing at all, are rapidly diminishing. This ultimately affects the consumer. It is becoming harder and harder to find employees to work when the revenue isn't there to pay them what they deserve or what other companies can and are willing to pay, resulting in challenges to provide appropriate customer service.

We want to make sure we are able to provide the very best service for the consumer. In order to do that we need to make sure that we hire the very best talent available, have the very latest in technological hardware and software and have the proper tools available to us to provide a timely, quality product to the consumer.

For these reasons, I ask for a DO PASS vote on House Bill 1148.

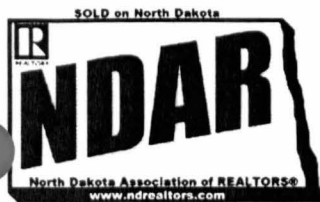
Thank you for your time and consideration in this matter.

Sue Cosgriff

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5



## North Dakota Association of REALTORS®

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#5  
HB 1148  
1-16-15

**2015**

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### TESTIMONY ON HB 1148

Chairman Potter and members of the Energy and Natural Resources Committee, my name is Nancy R. Willis and I am the Government Affairs Director for the North Dakota Association of REALTORS® (NDAR).

NDAR represents more than 1600 REALTOR® and 250 affiliate members statewide.

On behalf of NDAR and its members, I ask for a DO PASS on HB 1148.

In December of last year, NDAR's Government Affairs Committee and Board of Directors had an opportunity to review the bill draft for HB 1148.

We agreed that it has been a long time since there has been any adjustment in abstracter fees and also believe that the increase requested is reasonable. Our members feel it is important for companies to be able to offer salaries which are comparable with the marketplace and which allow them to hire and retain abstracters, especially in areas of the state where competition for employees is fierce.

For that reason, our Board of Directors voted to support HB 1148 and for that reason we request a DO PASS on HB 1148.

I would be happy to answer questions.



Mr. Chairman and Members of the Committee,

My name is Sandra Simonson and I own and operate Divide-Burke Abstract Company Inc., which is located in the Crosby, North Dakota – covering the counties of Divide and Burke.

I have been in the abstracting business for 21 years and, when my career first began, I was the only employee in the Divide County office. My responsibilities covered everything including copying, typing, indexing, orders, abstracts, mineral searches and O & E Reports. I was a one-man-show until six years ago.

Six years ago the oil boom hit. I hired my first full-time employee and I paid her \$10 per hour, a retirement plan and two weeks of paid vacation. Over the years, I have increased my workforce to seven employees. Currently, I pay my starting employees \$15 per hour and my seasoned employees \$20 per hour. Over the past eight years, my fees have remained the same and my employees' wages have doubled.

Just this past year, I lost two very competent and valuable employees. One to a local café because she thought she could make more money in tips alone. The other employee took a job as a bookkeeper for the local gas station; they got paid more money plus the benefit of health insurance.

I would like to tell you, as business owners, what we are up against. We have mechanics making \$18 to \$30 per hour, truck drivers who make \$80 to \$100 per hour, and gas plant operators that make \$35 per hour. I have a son with a high school education that makes \$20 per hour, is given a \$100 per day for just showing up to work and drives his own company vehicle. I cannot compete with that; but, on the other hand, I do not want to compete with that.

Eight years ago, the Abstracters Association was granted a raise in fees by the State of North Dakota. To demonstrate to you how the oil Industry has impacted my business, let me show you something. I use to consider a large document to be 100 pages. On December 17, 2014 an oil company recorded a document that was 772 pages long. This is one document.

To me, as an abstracter, this means that every time a document goes into one of my abstracts, I have to search through 772 pages to find my land, lease, pipeline, what-have-you. The volume and complexity of my work has skyrocketed.

Twenty years ago (even seven years ago, for that matter), it was peculiar to find a pipeline easement that ran across a piece of property; today, it is peculiar if one is not running through it. With all of the Oil and Gas Leases and Pipelines and Easements coming into play, these large documents are becoming much more frequent. Title companies are taking on more responsibilities as they are checking judgments, tax liens, child support liens, surface interest, mineral interest, royalty interest and ORR interest. Simple title is not simple anymore!

For these reasons we ask that you give this bill a DO PASS recommendation. Thank you for your time and consideration.

Good Morning Chairman Dever, Vice Chairman Poolman, and all legislative members.

As you know our fees are regulated to protect the landowners and consumers of the great State of North Dakota. We come before you today 8 years since our last fee increase; in those years many changes have occurred not only because of the oil in the western part (that has affected the far reaches of the eastern part) but also the wonderful farm economy that we experienced for several years. These factors alone have been both a blessing and an adjustment for our industry.

I have hired additional help to keep our mission and value standards met and achieved. The vision set by our company, to be a leader insuring, managing and supporting the real estate transactions requires constant changes. RESPA, (real estate Settlement Procedures Act) laws were re-written not once but twice since our last fee increase. Not that it is uncalled for, but the CFPB (Consumer Financial Protection Bureau) has set stringent requirements that will be changing along with the new RESPA laws. These two reforms make it necessary to obtain new software that keeps our company in compliance, with added hours of training and enforcement, and more equipment for new hires to complete our mission, they all contribute to additional expense for our companies.

Because of the national 2008 debacle, my errors and omission insurance has increased 114% in the last 8 years.

A few of the other fees that have affected my business are:

Health insurance - increase of 90%

heating fuel - increase of 72%

salaries increase of only 26% but that is only because my long term, higher paid employee, now for the government.

Our businesses are good hometown businesses. We support the local foundations, the local and state chamber of commerce department, we support the kids, the athletics, the college, the parks and rec departments, and of course the golf course! We are members of the service groups (and usually hold an office for life), members of local churches, teaching Sunday school and leading music, we are active in school PTA's and other school organizations and some of us even serve as community Mayors and/or council persons.

To end, our industry is not a romantic, fun loving job that people break down our doors to come and apply for, and rarely does anyone apply that has any experience. The training of a new employee is extensive and expensive. To keep good employees, we need to pay them a decent wage so that they can become good ambassadors for not only our company but also our community.

Thank You, and please consider approving House Bill 1148

3/12 HB 1148

#3

Mr. Chairman and Members of the Committee:

I am Andy Freeman from the Bottineau County Abstract Company which serves the following counties: Bottineau, McHenry and Sheridan. I'm also the current President of the North Dakota Land Title Association. I'm a third generation abstractor. My Grandfather ran our company in the 50's, 60's and into the early 70's, when my father took over the business until 2009 which is when I starting running the company.

The last time the fees we are able to charge were addressed was the 2007 Legislative Assembly which had an effective date of August 1, 2007. So much in our industry and our state has changed in that time period. In just comparing wages for my employees from the 2008 year to 2014, there has been a 79.7% increase or \$ 72,500.00. Almost every expense I incur as a business owner has went up over that time period, which does nothing but erode the business profits and puts stress on retaining employees. This is a very specialized industry and it takes time to train employees. A typical time frame to train a new employee to become independent and be able to handle an order on their own without supervision is around 6-9 months. Recently I was unable to retain an employee of over 15 years due to my lack of ability to or the uncertainty of if a potential raise would be granted thru our Bill. That employee now works for the County Recorder in Bottineau County.

I hope you will look favorably upon our request as the North Dakota Land Title Association and its members hard work to provide clear title for people's dreams of owning a home or operating their business that provide for their families.

For these reasons we ask that you give this bill a Do Pass recommendation, thank you for your time and consideration.

Andy Freeman

NDLTA – President

Bottineau County Abstract Company – President

Regards,

**Mr. Chairman and members of the committee:**

**My name is Sue Cosgriff and I am the President of Cass County Abstract Company/Red River Title Services, Inc., in Fargo, ND. I have held my position with that company for approximately 30 years.**

**I am here today to testify in favor of House Bill 1148, increasing the amount abstracters may charge for their product.**

**The abstract profession is one of few industries where prices are set by state statute. This is important to the consumer as it protects them in areas with little or no competition. There are several small counties in North Dakota where there is only one abstract company.**

**We have not had an increase in our fees for 8 years. As we all know the costs of operating a business have greatly increased over that period of time. This is not just a "West" issue. The rapidly increasing salaries and the rapidly escalating increase in overall business costs are statewide issues.**

**Technology is a must in our industry. The cost of technology has exploded. We must purchase and maintain the technology needed to maintain the hardware and software necessary to meet our customers'**

needs. This is a challenging assignment. Also, in the past 8 years the technology has changed how we must perform certain searches. In order to conduct our abstract duties, we must search an ever increasing number of different data bases. We check our office land record data base or manual records, we check the County property records data base or manual records, we check our County tax data base for property tax information, we check the ND Central Indexing system for State Tax Liens, we check the ND Supreme Court judgment system data base for judgment information and we check the ND Child Support Lien system for child support liens. Our office has had to hire additional employees in order to complete all the required "checks" and insure that our product is delivered to the consumer in a timely fashion.

It is becoming harder and harder for us to keep up with the demands of the business with the revenue dollars we have to work with. In smaller counties this is becoming almost impossible. They find it very difficult to hire anyone and it seems like once they do and has the person trained, they lose that person to the County or some



other company that can offer that person more salary and better benefits.

Salaries have risen sharply –even more so in the past two years – a trend that gives business owners with fixed revenue panic attacks. Eight years ago we could hire individuals with no secondary training for approximately \$8-9 per hour. College graduates for about \$12-13 per hour. Over the past 2 years our new hires (college graduates) with no direct abstracting experience have cost us between \$19-20 per hour and \$14-16 per hour with no secondary education – and this is without the additional cost of benefits added in. And that is if we are lucky enough to even get a candidate that we feel we can train. They are few and far between.

Our rent has increased approximately 41% over the 8 year period. Our lease expires in 18 months and I am worried about the potential increase that may bring.

The cost of health insurance has exploded during this time, our paper prices have increased 79.6% during the past 8 years, as well as

**substantial increases in the cost of utilities and all other miscellaneous business expenses.**

**One of the areas that is often overlooked when discussing the cost of doing business is the increase in abstractor's liability resulting from the increased value of real estate. If a consumer is damaged as a result of relying on an abstract of title, the abstractor may be held responsible for those damages. Our cost of abstractor's errors and omissions insurance has more than doubled over the 8 year period of time – and we have not had any claims during that time. In addition, an abstractor could be held responsible if the damages exceeded the limits of the policy.**

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**Sue Cosgriff**

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