

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2141

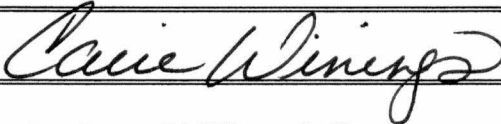
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Missouri River Room, State Capitol

SB 2141
1/15/2015
Job # 22014

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for a legislative management study of recorder fees.

Minutes:

Attachments 1-5

Chairman Dever: Opened the hearing on SB 2141.

Pat Ward, Attorney, ND Land and Title Company: Testified in support of the bill and to explain the bill. We are just asking for a study here to ...

(1:50) Nick Hacker, ND Legislative Chair, ND Land and Title Company: See Attachment #1 for testimony in support of the bill.

(15:25) Senator Cook: I think that recorder fees have continued to be a problem for many sessions and recognize the need for a study. But if this study goes forward, you realize that only legislators will be at the table. The other players stand at the podium. Has there been any effort to exclude legislators and have good dialogue with the recorders and all the other players over this to improve the situation? I am getting some e mails and I am puzzled at the fear of the study, but with a study you would only have legislators.

Nick Hacker: As to some of the traffic you might be receiving; I see the value in having a committee and working with the legislators, or legislators having a committee in which we can propose information to you so that you can calculate the correct fee and accommodate for the cost increases at the recorders. Our association would be very wise to support an increase in the average cost and we would support the recorders in that.

Senator Cook: You don't care what the cost is; you just want to know what the cost is?

Nick Hacker: Absolutely, we just want certainty. We are not certain that if this is handled outside of the committee that it will occur. We are not certain that it will occur timely. We are pressured with new regulations from the federal government that are very burdensome for us and we thought that putting a bill in to encourage dialogue and discussion to make sure that we are at the table. Most of the time we are at the table with our recorders but not all the time.

Chairman Dever: Are those fees set by Century Code?

Nick Hacker: Yes.

(18:28) Jack McDonald, Independent Community Banks of ND: Testified in support of the bill. The banks are very much involved with this and it is a very important issue for a bank to get its security in place at the time that the transaction closes. We get our security in place by filing mortgages and other documents. If there is a delay in those filings because of some confusion over the amount of the fees that are going to be charged, it is a very serious event for a bank. A delay of a day or two could mean that there could be intervening lean orders that could get in ahead of the bank and ruin the security we have on our mortgage. The issue is not quite not as easy as it may seem. The amount of the fee is determined on the number of pages and if the margins and type are right. As best you can you try to calculate that amount but you never really calculate it right all the time. Generally speaking we have very good relations with the recorders, but it is the delay that is the problem. It would be much easier to have a flat fee. I would add to that I serve as President of the State Bar Association and they do agree and supports the study as well.

(20:35) Debbie Kroshus, Burleigh County Recorder: See Attachments #2 for testimony in opposition to the bill.

(25:35) Senator Cook: You indicate that you are open to having a dialogue. What if instead of a study done by legislators, there was a taskforce put together with a couple of legislators, recorders, title companies, bankers, and attorneys where you all sat down at the same table together and you all have one vote as you work through the issue to come to some sort of a solution where you are all happy and would be presented to legislature in the next session. Would you be more comfortable in that environment?

Debbie Kroshus: We would.

Chairman Dever: So your concern is about the legislators being involved?

Senator Cook: (Talked about a bill that is being proposed on putting together task forces to look at issues such as these. It would completely restructure the advisory commission on inter-government relations) The intent is when you have particular issues such as this you need to have the people involved with the issue in the task force.

Chairman Dever: This study is a bill, not a resolution and it would be easier to establish that task force through a bill.

Senator Cook: Especially once the bill passes that would eliminate the Advisory Commission and turn it into a structure just as I have explained. This is a perfect example of an issue that should go into that type of a structure and get resolved.

Debbie Kroshus: It is not that we don't want the legislators involved. We just want to have an equal voice. We don't want to just be testifying. We want to be able to be involved in the discussion.

Senator Davison: In my job I run an organization that has 43 school Superintendents and many times we have to find consensus and find ways to make a system more efficient and effective. When I listen to the two testimonies today, my gut tells me that one testimony is drawing a line in the sand and being stubborn and the other one is trying to find a solution. My concern is that the testimony you provided talks about being collaborative but then towards the bottom of paragraph one you talk about the reasons why you can't do anything. Some of the words that I see here concern me; do you have a solution? There obviously is a problem.

Debbie Kroshus: We don't have a solution. We have not been given much time. We just found out about this bill last week and have not had time to come up with a solution. We were surprised by what was being presented. As for myself, as the Burleigh County recorder, we do a lot of electronic recordings which tends to eliminate many of the issues that Mr. Hacker brought up as far as fees. If we have to reject a document in an electronically recorded environment it is usually not for fees because those fees are generated automatically. It is usually for other reasons. We all have tried to work with the title companies and others. For the most part we call and try to work with them very closely. My indication on my testimony as far as the timely process and the software - just investigating the fees and trying to come up with averages would be very timely simply because it is not an easy report to run in the software we use. Not that we are opposed to doing that. It is more that the legislators have to be involved in the process.

Chairman Dever: Nick Hacker seems to be concerned about consistency. Do you have a response to that?

Debbie Kroshus: Yes there is consistency. Our fees are pretty well spelled out in Century Code. It is \$10 for the first page, \$3 for each additional page, and if there is more than one document number on a satisfaction we charge \$3 for that. It is not that our fees are any different. The fee issues come into play when they are expecting a 7 page mortgage from the lender and the lender attaches riders. Then the document becomes a 10 page document and they charged \$28 when it should have been more than that. It is not an issue with our fees and how we charge; it is more that they would like to know up front before they do their closing statements what the fees are going to be. We can't record a document if the fees are not correct and that is in Century Code.

Chairman Dever: I would imagine you understand their concerns and this is not the first time you have heard of them?

Debbie Kroshus: Absolutely.

Chairman Dever: How long has your current fee structure been in place?

Debbie Kroshus: Since 2001. The one fee that has changed since then in the last legislative session was the fees for recording sub division plats.

Chairman Dever: So if we were to go the taskforce route, you would see that as a better solution than this?

Debbie Kroshus: Yes, we would be open to that.

(35:00)(Reads Ann Johnsrud's testimony in opposition to the bill, attachment #3, who was not present for the hearing)

(36:20)Chairman Dever: In her absence you are the primary spokesperson for the county recorders?

Debbie Kroshus: I am.

Chairman Dever: So if we would put together a taskforce, maybe you and Nick can identify for us who the various stakeholders might be who should be included in that?

Debbie Kroshus: I believe we could.

Chairman Dever: If we did that we may want to include a report to Legislative Management prior to the next session so if there is a bill to come forward they could prepare.

Senator Davison: This discussion is not about the amount of money correct? I hear that this is a discussion of efficiencies.

Debbie Kroshus: At the national level they are looking at per document fees and what would be fair across the country. Because obviously we have lenders from MN, SD, AZ, and others recording mortgages or whatever in ND. It is confusing for the local land title associations on counting the pages so imagine what it is for out of state groups. That is why the national association is looking at that.

Senator Davison: If there is a flat fee, doesn't that make it easier for the outside organizations to understand our fees better in our state?

Debbie Kroshus: Yes it would. That is why they are looking at it.

Senator Cook: I am a strong proponent of efficient, consumer friendly government. I think that we all understand that government comes with some baggage. To make it efficient and consumer friendly should be our objective. We have something here that is not necessarily consumer friendly or efficient. It deserves to be fixed. Is there any way that it can be fixed this session without waiting two years? Is there any way we can sit down and figure out how to figure out a solution?

Debbie Kroshus: I don't see that happening during the time frame of this session simply because there is a lot of research that needs to be done. The oil communities are extremely busy. There has to be accurate research to come up with fair, accurate fees that don't jeopardize the revenue that is being brought in by the county recorders right now.

Senator Davison: What are your biggest fears in this situation?

Debbie Kroshus: Losing revenues and coming up with the best accurate fee structure. The other fear that we would have is the confusion that it might create if we have a flat fee on a

mortgage, satisfaction, and a deed dealing with surface documents and all the other types of documents that we record in a day that are not that specific. We would never want to propose a per document fee on all documents.

Debbie Kroshus: Would it be ok with you if we came up with a solution that generated more revenue?

Senator Davison: I think we would be happy with more revenue.

See Attachment #4 for additional testimony handed out from recorders.

Chairman Dever: We would like for you all to get together and let us know what you would like to see in a taskforce.

Senator Flakoll: Asked to have Nick Hacker return to the podium to answer some questions before the hearing was closed. Wanted to know if his organization would support a joint taskforce and for it to be on the record.

Nick Hacker: Yes we would be in support of creating a taskforce and sitting down with the recorders and figuring out who the members of that taskforce should be.

Chairman Dever: Is there a title company association?

Nick Hacker: There is and it is call the ND Land Title Association and we have approximately 83 members representing every single county in ND.

Chairman Dever: Are you speaking for them?

Nick Hacker: Yes, I am speaking on their behalf.

Senator Davison: Are we talking about a large sum of money when there are these inaccuracies?

Nick Hacker: Generally it will be under \$50. We are really talking about \$3 to \$16 dollars on average. Just to clarify, the bill is looking for a flat fee on three different categories of documents; deeds, satisfactions, and mortgages. The reason for the bill is under our regulation under RESPA (Real-estate, Settlement, and Procedures Act) which requires that it has to be right to the number. Although it is not a client/recorder problem with us being off a little bit by the number, it becomes our problem with the federal government.

Chairman Dever: It is interesting to me that we are talking about the cost the county recorders processing a document and we are also talking about the cost of the title association processing a small check.

Senator Davison: In general, when you do a closing do consumers comment much about the fees that are there?

Nick Hacker: Not on that portion of the closing. There are a lot of different matters that happen in a real-estate closing and this is generally the smallest charge that there is.

Chairman Dever: Closed the hearing in SB 2141.

See Attachment #5 for additional testimony from Grant Shaft given to the committee outside of the committee hearing.

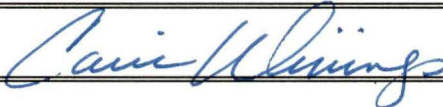
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2141
2/6/2015
Job # 23400

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1

Chairman Dever: Opened SB 2141 for committee discussion.

Senator Cook: Explained the amendments to the committee. (See Attachment #1 for proposed amendments) It really starts with changes in federal law and banking law and information that title companies are required to have when they get information from the lending institutions. Right now title companies are eating it. There is no reason the problem exists. We met. The recorders wanted to continue to meet at a table and continue to discuss a solution without any legislative study. My answer to that was that the legislative study requirement is a decision that won't be made until June and if they get the work done by then, they study won't have to happen but that the study should be here to make sure that they get their work done and that they all negotiate in good faith. We then focused on amendments to the resolution that would get them to agree on what the resolution said. They came away with a reasonable amount of agreement.

Senator Cook: Moved Amendment 15.0512.01001.

Senator Poolman: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Cook: Moved a Do Pass As Amended.

Senator Poolman: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Cook will carry the bill.

February 3, 2015

2/6/15
JR

PROPOSED AMENDMENTS TO SENATE BILL NO. 2141

Page 1, line 4, remove "improve and"

Page 1, line 5, after "fee" insert "on surface right only documents"

Page 1, line 6, remove "regardless of number"

Page 1, line 7, remove "of pages"

Page 1, line 7, remove "also"

Page 1, line 7, remove "for"

Page 1, line 8, replace "other recorded instruments" with "while limiting the study to the specific documents included in this study and shall identify an average fee for each type of document inclusive of an increase for the cost of county recorders offices since 2001"

Renumber accordingly

Date: 2/4
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2141

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 15. 0512. 01001

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 Cook Seconded By Poolman

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

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

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

Date: 2/4
 Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2141**

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 Cook Seconded By Poolman

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

Total (Yes) 6 No 0

Absent 1

Floor Assignment Cook

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

REPORT OF STANDING COMMITTEE

SB 2141: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2141 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "improve and"

Page 1, line 5, after "fee" insert "on surface right only documents"

Page 1, line 6, remove "regardless of number"

Page 1, line 7, remove "of pages"

Page 1, line 7, remove "also"

Page 1, line 7, remove "for"

Page 1, line 8, replace "other recorded instruments" with "while limiting the study to the specific documents included in this study and shall identify an average fee for each type of document inclusive of an increase for the cost of county recorders offices since 2001"

Renumber accordingly

2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2141

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

SB 2141
3/26/2015
25477

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donna Whetham

Explanation or reason for introduction of bill/resolution:

Provide for a legislative management study of recorder fees.

Attachments # 1-3.

Minutes:

Chairman Kasper opened the hearing on SB 2141.

Nick Hacker, ND Land Title Association, appeared in support of SB 2141. (See Attachment #1) (1:39-9:58)

Rep. M. Johnson: Annually how much do these \$1-\$3 discrepancies add up to that you eat?

Nick Hacker: Maybe 25%. It doesn't seem like a lot but we operate off of low fees to conduct real estate closings so we need lots of volume.

Rep. M. Johnson: When you have to revise a settlement statement on the spot, where do send it to approval?

Nick Hacker: We receive all the closing numbers, that is the loan amount, the fees of the lender, the cost of appraisal etc. We still don't know, it is x amount of pages, they then will remit us the documents right before closing, we find out it is an extra 1-7 pages, so when the number changes we send it back to the lender for final approval. We wait for the lender to give final approval which takes a period of time.

Rep. Steiner: I imagine this wasn't a study that you brought, did you bring a different bill that was originally to increase fees at some point?

Nick Hacker: We initially brought a study bill, we rephrased some of the terminology in the study bill because we had asked to study recording fees on deeds mortgages which

could include mineral documents, we wanted to limit it to just surface documents because some mineral documents get to be very large and have extremely large fees.

Rep. Steiner: Would you foresee after this study and you come up with an average fee that the taxpayer in that county, instead of \$7 on that document they average that you have determined is \$50 there would be an increase to the taxpayer, do you for see that happening?

Nick Hacker: The fee gets passed on directly to the consumer. Not necessarily a taxpayer, they become taxpayer. The idea is so we can take a deed that generally runs \$13 to record but would be \$16 to record and they come up with an average of \$15 . We had a document mailed to us and included \$100 because they didn't want to calculate the recording fee. This creates a problem and the fee was \$16 so the county recorder had to send the money back. The idea is we can narrow the buckets so that when it is \$13 or \$16 we can come up with a \$15 average.

Chairman Kasper How many transactions per year would you estimate your company does that apply to this study?

Nick Hacker: I am here to represent the ND Land Title Association we could do up to 10,000 to 12,000 transactions a year and we are just one company and there are about 80 companies.

Chairman Kasper: There are 12,000 transactions per year on an average of 25% of those so that would be 4000 where you might be undercharging the consumer.

Nick Hacker: That is a pretty accurate number for our company but I can't say for others. The idea is to come up with what the actual cost is and create an average number so it applies equally so we can get some certainty. The biggest fear is the document gets rejected because we already took the buyers money and gave it to the seller. The seller has moved out and the buyer moved in and someone files a mechanics lien. Now the buyer, because we will not give mechanics liens in Williams county North Dakota because they are very rampant in that area, inherited a mechanics lien from the seller who sold them a house and is gone. We want certainty so those types of situations don't happen.

Chairman Kasper: These documents that have to be corrected we are talking in ranges of \$5 or less on the average where there is a differential that are causing the problems per transaction?

Nick Hacker: \$10 for the first page, and every page thereafter is \$3.

Chairman Kasper: If the bill passes and the study is picked do you estimate the committee would be able to come up with a number so the county would not lose any dollars for these transactions and have more certainty?

Nick Hacker: Exactly, they need the resources that are there to help us in our business. We want them funded. Since 2001 recorder fees have changed and it provides an

opportunity to find the average fee and if it is \$14.50 then we round it up to \$15. They have had an increase in cost for business too.

Chairman Kasper: Any other support for SB 2141? Seeing none. Any opposition to SB 2141?

Opposition

Debbie Kroshus: Burleigh County Recorder: appeared in opposition to SB 2141. (See Attachment #2). (18:43-22:48).

Chairman Kasper: You mentioned sitting down at the table and talking about restructuring of fees, who would be at that table?

Debbie Kroshus: We would determine the entities that would be involved of course we would want to involve the North Dakota Land Title Association, Bankers Association, and the county recorders.

Chairman Kasper: Do you see in the study that we would not be able to pick those entities you just indicated?

Debbie Kroshus: If the study is chosen we hope we would all be involved in the study in the task force or committee that is set up. The recorders want to be very well represented.

Chairman Kasper: Who would you see being in charge of this discussion?

Debbie Kroshus: As the County Recorders Association we would collectively study each of our fees as we have already started doing. The fees are set by North Dakota Century Code however the types of documents and the fees paid to record these documents vary by county because of the size of the documents. We would propose we look at all of our fees.

Chairman Kasper: When we are talking about transactions that affect a lot of people in our state and you are talking about multiple players. One of the problems I see with running an independent study is who runs the study, who comes to the table and how do you come to a conclusion. Whereas I see in the study covering all the areas you suggested but you would have a neutral agency the Legislative Interim Committee moving that study forward. It would by my perspective involve all the players you are discussing but it would be an opportunity for a neutral group to help you move it. Do you have an objection to a neutral entity helping you move that study forward?

Debbie Kroshus: We do not have an objection to that. We just want to be very well represented in any study.

Rep. Laning: What prevents you from putting an overpayment in county treasurer, do you know where I would find that in Code? The simple thing would be to let them pay you the money and don't worry about it.

Debbie Kroshus: It is defined in Century Code what we can keep as an overpayment it is up to \$5. Anything over \$5 needs to be refunded to submitter. In Burleigh County I don't have access to the checkbook so if someone sends me an overpayment I can't write them a check I have to send the check back and ask for a correct fee.

Rep. Louser: It seemed to me 15 years ago there was a per page recording fee to put those pages on a website and then that sunsetted. I am wondering if the 2001 reference if that is about when that happened. What do you do with the fees?

Debbie Kroshus: The fund is called the Preservation fund and in 2001 it was defined that \$3.00 of the first page fee goes into the fund for each recorder office to be used for preserving documents. What we have done with that fund we are allowed to use it to purchase new computers, updating our software, imaging our documents and anything that has to do with preserving records. That \$3.00 continues to go into the Preservation fund to be used by county recorders.

Rep. Wallman: When we talk about a flat fee and there are different size transactions, how would that be equitable for the person who has 2 pages versus a 100 pages?

Debbie Kroshus: That is a concern for the county recorders because most deeds are 2 pages and the is a \$13 document and satisfactions are 1-2 pages \$10- \$13 dollars, mortgages can be a 7 page document for \$28 and another has a 14 page mortgage for \$49. To come up with an average we certainly wouldn't take less than the average mortgage fee. In the other states that do have a per doc fee there deeds and satisfactions are all \$50. The consumer would absorb that fee.

Rep. Seibel: You stated 3 states has implemented a flat fee, do you know which states and what the flat fee is?

Debbie Kroshus: Minnesota and I am not sure which other two. The flat fee is \$46 per document. There are other fees such as closing costs and they are quite a bit higher than here.

Vice Chair Rohr: You indicate North Dakota appears to be in step with the rest of the country, and you would need to assess how these fees compare, do you currently have a list of comparisons and could you share with us and when was it done?

Debbie Kroshus: We do have a generalized list we can pull off the internet, we did that just last month, we have just glanced at it and would certainly look at that further.

Vice Chair Rohr: When was the last one done?

Debbie Kroshus: I don't know, because of this bill is why we started to seriously look at it.

Chairman Kasper: You indicated an average deed is 2 pages and your fee is \$13, or is that a fee you have dictated?

Debbie Kroshus: That is dictated by Century Code. Chapter 11-18 says the first page recorded is \$10 and each additional page is \$3 and we are allowed the additional fees for document numbers and sections.

Chairman Kasper: The satisfaction is normally 1 page?

Debbie Kroshus: Yes, depending on the bank.

Chairman Kasper: What is the fee charged for that?

Debbie Kroshus: \$10 if it meets the other recording requirements.

Chairman Kasper: How often do they not?

Debbie Kroshus: It is not very often that they don't, almost all the North Dakota lending institutions are aware of our fees. If we see incorrect fees it is because they missed a document number or added a page.

Chairman Kasper: Then on mortgages you indicated 6 or 7 pages generally?

Debbie Kroshus: It varies by the bank depending on the software company they use. One may use a 7 page and another 14 pages. Starion financial is 11 pages normally.

Chairman Kasper: So somewhere between 7 and 14 pages normally?

Debbie Kroshus: Without attachments or riders.

Chairman Kasper: How many times are there attachments or riders percentage wise that you have experienced?

Debbie Kroshus: We really don't track that much, I truly cannot answer that.

Chairman Kasper: What are the fees on the mortgages, is that also per page?

Debbie Kroshus: All of our documents are charged the same way per Century Code , \$10 the first page and \$3 for each additional.

Chairman Kasper: In the way the bill is worded is this study narrow enough so that is what we would be studying or you said there might be some circumstances where there might be some areas to add to the study?

Debbie Kroshus: The proposed bill is for deeds, mortgages, and satisfactions, where the confusion might come is in an assignment of mortgage or other documents that come along with that. If we have a mortgage fee, that is one of the undefined consequences that could happen where we are limiting the three types of documents.

Beth Knutson, McLean County Recorder: appeared in opposition to 2141. (See Attachment # 3). (37:07-38:46)

Chairman Kasper: The fund where your fees go into is it the Preservation fund?

Beth Knutson: Yes

Chairman Kasper: Do you have a preservation fund in your county, do all counties have that and what is the current balance?

Beth Knutson: Yes we do, we have the \$3.00 of the first page of every document goes in to the Preservation fund. It is used for preservation of the documents. The current balance has about \$8,000 in it right now but we are in the process of making our documents all digital and available to the public so that will probably be zero by the end of this year.

Rep. B. Koppelman: In your testimony you stated the flat rate could be confusing some submitters and some counties may get less revenue and it may be more expensive for consumers. Does that just set the stage for we don't know if it will be more or less expensive for consumers, the decreasing or increasing revenue for the counties and should we find out what we don't know?

Beth Knutson: It goes back to the point that we aren't opposed to a study and looking at it, we want to have a voice in that. I do understand what you said about increasing revenue and decreasing revenue, the problem we have is we have big corporations, they record mortgages that cost up to \$5,000 and then you have a mortgage that could cost \$28. In essence, I will be paying \$56 and they are going to pay \$56. We don't see the fairness for that. We are thinking if we can come to an agreement where all the documents would come under a more uniform system. If you have two systems it could be more confusing.

Rep. B. Koppelman: Do you have concern that Legislative Management wouldn't allow you to have a voice at the table?

Beth Knutson: It is not that a concern that you wouldn't allow us to have a voice it is a matter of how much of a voice we will have. If we would be allowed to set up a study and have the people who are most affected by be there. It is always good to have that neutral person too.

Rep. Schneider: If we decided to not approve this study and gave you a chance first to do it, what would do you envision would happen and who would initiate a study, what structure do you have and how long would it take?

Beth Knutson: The recorders are proactive in legislation, we have a legislative committee and we bring forth our own bills for fees and such. I see no problem at all with our legislative committee setting up meetings.

Rep. Schneider: How long do you think it would take you to complete a study and bring up your suggestions?

Beth Knutson: I would estimate at least a year.

Chairman Kasper: Have you done a study like this by the recorders in the past?

Beth Knutson: I have only been in office for three years and I have not been in on anything of this sort but in 2001 when legislation was passed to increase the fees to \$10 and \$3 it was brought forth by the recorders.

Chairman Kasper: Was that a legislative study or was it a recorder study?

Beth Knutson: I don't know if it was a study or not, I was not in on that.

Chairman Kasper: If a legislative study where to occur so long as the recorders had ample opportunity to have your input and obviously our studies are open to the public and agenda's are set and published in advance where people can be involved you would not object as long as you had your input which all other recorders thought was fair and equitable.

Beth Knutson: Yes.

Rep. Mooney: If the study was amended to identify particular stakeholders that should be included would that also be more amenable for you?

Beth Knutson: I am not sure how you would decide who would be affected but if you say Land and Title, Bankers, Recorders yes that would help.

Rep. Mooney: It seems like there is a pretty good idea who needs to be at the table as far as getting accurate information in order to make appropriate recommendations. If a part of your concern is that you may not be at that table, one way to address that may be to absolutely insure within the study construct all those individuals and organizations are included.

Beth Knutson: Yes I do think that would help, the other main issue is the fact that we are trying to set up a flat rate for only 3 documents. That is going to cause a lot of problems.

Rep. Schneider: Do you see some benefit to broadening the study to include some of the consumer's issues that were mentioned in previous testimony such as the delays that could cause the loss or compromise a mortgage because a page was added and the fees are different?

Beth Knutson: Yes, I do see that would be beneficial. As far as documents being rejected in our county is not because of fees. All our Land and Title associated companies all have accounts with us. The reason documents are rejected are for no notary stamps, no legal description, or error in legal description or other reasons.

Ann Johnsrud, McKenzie County Recorder: appeared in opposition to SB 2141. I am possibly the longest reigning recorder here so the questions about past legislation I can answer. I have been on the legislative committee since 1997. I would also like to say I am on the National Recorders Executive Committee and they are with PRIA which is all kinds of entities, bankers, title companies etc. PRIA is actually doing a study on recording fees

across the United States. It is in progress right now and just so you know that there are studies being done nationally.

Rep. Laning: It was mentioned that Code allows you to charge \$5 over, do you know here that is found?

Ann Johnsrud: I don't know exactly, but we could find it and email that information to you. It is in the Century Code and we will do that.

Rep. Schneider: With your experience could you outline some pros and cons your organization spearheading a study like this before Legislative Management needed to do it?

Ann Johnsrud: We have done this in the past on any legislation we have brought forward, when we did the Preservation fund in 2001 I was very involved in that and we did sit down at the table with the bankers, realtors, title companies before any legislation was brought forward so when we came we came unified.

Rep. Mooney: What does PRIA stand for?

Ann Johnsrud: Property Records Industry Association.

Rep. Schneider: How long did that process in 2001 take you?

Ann Johnsrud: Two years.

Rep. Schneider: Why that was a better process than the Legislative Management study that is being proposed now?

Ann Johnsrud: I just think it worked very well for us. We are very proactive, we could set the times. We could talk as long as we wanted and with the appropriate people. For us it worked better.

Chairman Kasper: You heard the testimony about the consternation a homebuyer and seller could experience because of \$3 or small amounts, have you seen that in your experience over the last 20 years?

Ann Johnsrud: Yes, I have, I have seen in numerous times where they are probably short on the fees. The ND Guaranty Title Company is in our county and we charge to them. Specifically I wouldn't actually know if we overcharged or undercharged to them, we count up the documents and they pay it monthly. I do see a lot of mortgages that come in with additional riders all the time.

Chairman Kasper: Would that be where the fees weren't quite right and they had to fax it out and get it back because they had to correct a document?

Ann Johnsrud: I am really not sure what their process is because we see the document after the fact. We don't know what has happened in their closing.

Chairman Kasper: What I am getting at is where you might have seen a document where you thought was complete and all of a sudden \$2 is wrong so that same document has to be faxed out to ok and then come back to your office so you have the same document with a slightly different number?

Ann Johnsrud: I don't see that.

Chairman Kasper: Any other questions? Any other opposition to SB 2141? Seeing none. Any one in a neutral position to SB 2141? Seeing none. The hearing was closed on SB 2141..

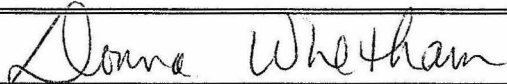
2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

SB 2141
3/26/2015
25511

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Provide for a legislative management study of recorder fees

Minutes:

Chairman Kasper: opened the meeting on SB 2141.

Rep. Louser: This study may or may not pass but it is not going to fix the problem. I felt like we already did the study here. The recorders have their fee and the documents don't get to them until after closing. This isn't a recorder problem, the problem is the requirement of disclosure at the beginning of the transaction, when you get your good faith estimate and at the very end, and we have all heard the good funds. So the consumer is told to bring the exact amount of money to bring in the form of good funds to closing. They base that on the documents that are before them in part. The bank when they made the estimate of the transaction thought there would be a 7 page document and in the end it was 15 pages. So if the numbers is off they have to send the approval back. The recorders are off in the distance doing their jobs and don't know a closing is taking place. This has nothing to do with the recorders. This is federal regulation, part of the problem when they have an overage they are sending a \$2-\$3 check to the consumer and they aren't cashing the check. I don't know if this study is going to fix the problem. The recorders fees are not the problem.

Rep. M. Johnson: The same result whether it is flat or not continues as is, the same problem exists, correct?

Chairman Kasper: The vast majority of those recording fees are going to be under \$20.

Rep. M. Johnson: You would have the same problem with the flat fee or as it is.

Rep. Louser: Whether it is at the beginning of the transaction or it is at the end. Those laws require there not be more than a 10% variance from beginning to end. It usually happens at the end where they say we now know the flat fee is \$46. If there were a flat fee that would resolve the problem. The problem with the flat fee as 3 other states have is if we have a \$46 dollar flat fee and 80% of the transactions would have been \$20 how is that

fair to the consumer. I know there is a frustration here but I don't think studying the recorders is the problem.

Rep. Dockter: Moved Do Not Pass on SB 2141.

Rep. Siebel: seconded.

Rep. Karls: Can't the person doing this transaction have a \$20 bill in their pocket and pay in cash.

Rep. Louser: Yes, you can accept funds under \$200 dollars in a check or cash at a closing. The person could pay the extra in a check or cash.

Rep. M. Johnson: Why don't they resolve it that way then?

Rep. Louser: I guess when you are sitting at the closing and you are ready to go and you are scheduled at 3:00 and it is now 3:15 and our numbers were off by about \$20 do you have your check book? No you mean I have to run home and they say no we will just close it. They send it to the lender and it is another \$20 and it is a mess.

Rep. M. Johnson: Why aren't the abstract or title people or the realtors in the room say it might run different before the closing bring \$100 one dollar bills.

Rep. Louser: Many times the buyer doesn't even bring money, they have the check cut from the bank or the bank wires the fund for the sale or purchase.

Rep. M. Johnson: Why aren't they being advised on the closing costs and this problem.

Rep. Louser: Starting August 1 you have to have all the numbers reported to the buyer 3 days before the closing, currently it is 48 hours. So you have the numbers ready to go and you don't know how many pages were sent to the title company, so if you find there is another 5 pages to be recorded that can throw your numbers off.

Rep. M. Johnson: Then the question becomes on the fees for that, why does the purchase settlement statement have to be revised?

Chairman Kasper: I think it is federal law that it has to be down to the penny.

Rep. Louser: Yes, down to the penny and then the buyer would have to wave the following three day period to review the document. It is absurd I know.

Rep. B. Koppelman: One of the things I thought was different that one of the recorders were saying and I don't know if having a study will fix this. I don't think we have to come up flat fee that nets a huge increase in costs or, as one of them were concerned a huge decrease in costs. We are all capable of figuring the average and then if need be adding a dollar or two and making that a flat rate. Maybe that has to be done in a bill because clearly the recorders do not seem to be willing to go that direction on their own. But I don't know who governs that if that would ultimately be a bill?

Chairman Kasper: I think a big part of that is turf protection and lack of communication and being in a hurry with volume of work. I think this has a lot to do with lots of things.

Rep. Seibel: I believe the average problem would be with the coal deals, some of the recording fees can be \$5,000 to \$20,000 and that will throw that average way out and now the general population with the 2 page they are filing their average is going to go way up. I don't think averaging is even an option.

Rep. B. Koppelman: In that case they are different types of closing so if you looked at all residential properties you could come up with a relative flat rate that would cover that.

Chairman Kasper: However if you come up with a flat rate your stuck with it even if it does cost more. Have you ever been to Beulah?

Rep. Laning: I agree with Representative Louser, I don't think it is fair for someone with a 2 page document to end up paying an average, it is not that big of deal. Let the banker figure this out and I don't think it is the recorder's problem either and I don't think this study is going to change anything.

Chairman Kasper: Any other discussion on SB 2141? Seeing none the clerk will take the roll on a do not pass on SB 2141.

A Roll Call Vote was taken. Yes: 13 No: 1 Absent: 0. Motion carried.

Rep. M. Johnson: will carry the bill.

Date: 3-26-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2141**

House 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 Rep. Dockter Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chair Karen Rohr	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Mary Schneider	X	
Rep. Mary C. Johnson	X		Rep. Kris Wallman	X	
Rep. Karen Karls	X				
Rep. Ben Koppelman		X			
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Johnson

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

REPORT OF STANDING COMMITTEE

SB 2141, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends DO NOT PASS (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2141 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2141

ND Senate Government and Veteran's Affairs Committee
Committee Hearing on SB 2141
Testimony from the ND Land Title Association
1/15/2015

#1
Pg 1

Good morning Mr. Chairman and Members of the Committee,

The title insurance, closing services industries help drive our nation'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 lenders to provide loans to credit worthy homebuyers. Because we provide proof that people own their homes, they can use real estate capital to grow their assets and stimulate the economy. Americans close their loans faster than any other country – in as little as 30-45 days on average. And the speed of that transaction saves consumers tens of billions of dollars annually in additional interest costs.

Our work also provides benefits to society that go largely unrecognized. One of these benefits at no cost to taxpayers, is that we pay \$170 million per year to purchase copies from local recorders offices. In one county alone in North Dakota these fees can be as much as \$15,000 per month or more in the state's largest counties. This benefit to ND Counties is provided by an industry in which 65% of the companies have 1-3 employees and gross less than \$250,000 per year. We are main street small businesses making a big difference for local county recorders offices.

County Recorders are truly a partner in our business providing the land information we rely on to safely transfer and mortgage real estate. We work closely with them to close hundreds of transaction every day in North Dakota.

This study bill is being proposed to streamline the recording fees for surface right mortgages, deeds and bank filed mortgage satisfactions by coming up with an average flat fee for each document over the next interim plus increased costs of the Recorders offices so that we can approach the 2017 legislative session with a thoroughly thought-out bill with an accurately calculated fee. Further, the study would ensure all affected parties are at the table including Recorders offices, real estate closing companies, attorneys, lenders and others involved in the industry.

This study and the preceding bill are important to our industry due to new regulations. Our industry has several different regulators including the Department of Insurance which regulates Title Insurance, the Abstracters Board of Examiners which regulates Abstracting and the Federal Government's Consumer Finance Protection Bureau (CFPB) which regulates real estate closings and ensure consumer protection.

Recently, the CFPB has instituted new rules on the closing process including more stringent requirements including recording fees being exact. These new requirements are set to begin August 1, 2015. This study is timely to ensure we always have the exact amount of recording fee on the settlement statement at least three days before the closing (per the CFPB) even though we may not know the exact number of pages to be recorded and hence the fee amount until after or shortly before the closing. Coming up with a flat fee would significantly help avoid last minute changes when we find out about extra pages on the mortgage or deed to ensure the homebuyer has the correct amount to bring as cash to close.

The study and hopefully future flat fee bill also reduces regulatory compliance risk of accidental over charging which results in closing companies needing to send out a \$1-3 check to borrowers or if they accidentally under charge absorbing the cost. A flat fee recording would also increase efficiencies of Recorders offices by avoiding the mailing back of rejected documents, calls to advise the fee was short, issuance for over payments.

Further, if the recording check was slightly short and the document rejected, significant risk arises that an intervening lien (mortgage) or deed is filed leaving the borrower, lender and title company at risk for a claim and ultimately a new homeowner at risk of paying for a home that they did not get.

Thank you for your time this morning. Several other states have already successfully incorporate similar measures which have been very positive for both industry and recording offices.

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

Sincerely, Nick Hacker

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

TO: Chairman Dick Dever

From: Debbie Kroshus, Burleigh County Recorder

RE: SB 2141

Chairman Dever and Committee Members,

My name is Debbie Kroshus and I am the Burleigh County Recorder. I, along with the recorders attending this hearing, would like to address information presented to you for SB 2141 requesting a legislative management study of recording fees defined in NDCC 11-18. This is not the county recorders bill and I would like to take this opportunity to request a Do Not Pass on SB 2141. I believe the legislature should not be tasked with spending their valuable time putting together a committee and administering negotiations for fee changes for county recorders. This could be a very time consuming effort for legislators as there is much research that would be needed to introduce new fees for recording land record documents.

It is my belief that a Do Not Pass on this bill would allow for the county recorders, Land Title Association and Bankers Association to work together to research the number of documents per county and the average fees associated with recording these documents. After the research is conducted and figures are put together, a committee made up of members from these entities could begin a discussion on fee changes that could be made.

The task of determining an average fee structure will be very time consuming as each county varies in the number of documents recorded each year. Most of our software systems do not allow for easy access to reports that specify average document size and fees so this would most likely be a manual task for each recorder's office. This would only be the start of a long process.

After research is conducted and average revenues are identified the task of communicating with committee members would begin to determine if fees need to be changed. Once the committee defines new fees are needed, they will need to determine what these fees should be to insure no loss of revenue to the county recorder's offices.

The county recorders are willing to work closely with the Land Title Association and the Banker's Association to put a committee together to review recording fees defined in North Dakota Century Code, Chapter 11-18. If it is determined that fees do need to be changed, the county recorders and committee would submit a bill to be heard before the 65th Legislative Assembly requesting fee changes. This is how we have done fee changes in the past. Recording fees affect all county recorders across the state so we feel this would be the best way to approach any recording fee changes that need to be made.

I request that you allow for this research and these negotiations to be done with the county recorders, Land Title Association and Bankers Association prior to any legislative involvement. It is imperative that the county recorders be very well represented in any discussion regarding recording fee changes. Once we are in agreement there is a need for fee changes, then it would be the time for legislative involvement. Therefore I request a Do Not Pass on this bill.

Thank you for your time.

Do you have any questions for me?

To: Chairman Dick Dever

From: Ann Johnsrud, McKenzie County Recorder

RE: SB 2141

Chairman Dever and Committee Members,

My name is Ann Johnsrud and I am the McKenzie County Recorder and a member of the executive board of the National Association of Clerks Recorders and Election Officials (NACRC). I am sending this as I am unable to attend the hearing today and wanted to enter testimony opposing SB 2141.

NACRC and the Property Industry Records Association (PRIA) are conducting a national study on standardized fees for mortgages and deeds. I will be attending a workshop on this very subject the end of February in Washington DC.

I feel we would be better served to wait until this study is completed. A White Paper will be issued on the subject later this year. Recorders are the ones doing the work and understand what is required and have the best knowledge if what fees should be. After the White Paper is issued recorders in North Dakota will have a better idea of what is happening nationally and can make our own assessment at that time.

I am asking for a Do Not Pass on SB 2141.

Thank you for your time and consideration.

Ann Johnsrud

McKenzie County Recorder

113
#4

TO: Chairman Dick Dever

RE: Oppose SB 2141

Chairman Dever and Committee Members:

I am Carrie K. Krause, the Wells County Recorder, and I strongly urge you to not support SB 2141. Our fees were visited in 2001 and changed to keep up with the growing demand for recording documents in the real estate. The fees for recording a document are calculated on the amount of pages, relating documents and number of sections indexed. The larger the document the larger the recording fee and the amount of time and effort to work that document. These are "user fees" designed to cover the specific costs related to specific documents and if someone doesn't pay for the cost to record their big document someone else will, whether it be the person with a 1-page deed or the taxpayers who aren't party to the transaction recorded. It is only fair that the document's recording cost be in line with the size and amount of work it takes to complete the recording.

This is not a County Recorder request for a study and we are not in favor of it. If there is a study to be done we feel we should be the ones to do the extensive research to determine if there is a need to change the fees. Once the research has been done then a committee could be formed including the County Recorder's Association, the Land Title Association and the Banker's Association to determine whether a flat fee for deeds, mortgages, and satisfactions of mortgage would be feasible and at that time seek legislation to change them. I ask that you give a do not pass to SB 2141.

Thank you for your support.

Carrie K. Krause

Wells County Recorder

SENATE BILL 2141
SENATE GOVERNMENT AND VETERAN'S AFFAIRS HEARING
SENATOR DEVER, CHAIRMAN
JANUARY 15, 2015
GRANT H. SHAFT, REGISTER LOBBYIST #423

**TESTIMONY OF GRANT H. SHAFT ON BEHALF OF
REAL PROPERTY, PROBATE AND TRUST SECTION OF THE STATE BAR
ASSOCIATION OF NORTH DAKOTA**

Mr. Chairman and members of the Committee:

My name is Grant H. Shaft and I am the Chairman of the Real Property, Probate and Trust Section of the State Bar Association of North Dakota ("the Section). The Section is the largest within the Bar Association and is comprised of attorneys who concentrate their practices in the areas of real property, estate planning, probate and trust work. My testimony today, in support of Senate Bill 2141, is on behalf of the Section.

The practicing bar in North Dakota has countless anecdotal stories of recording difficulties related different interpretations of the fees due. The vast majority relate to the various manners in which county recorder offices handle the application of recording fees. Often times a subjective interpretation, through no fault of the recorder's office, results in documents being returned unrecorded which can have a catastrophic result to a time sensitive closing. Many of our Section members also practice in Minnesota where a flat fee is used and most find this preferable as it eliminates the guessing game of a page count.

The Section supports a study on improving and modernizing statutory recording fees and would look forward to participating with the interim committee leading the study.

I urge your support of Senate Bill 2141. Thank you.

**Grant H. Shaft
Shaft Law Office
P.O. Box 5495
Grand Forks, ND 58206-5495
(701)738-0124
Email: grant@shaftlaw.com**

2/6 #1

15.0512.01001
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 3, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2141

Page 1, line 4, remove "improve and"

Page 1, line 5, after "fee" insert "on surface right only documents"

Page 1, line 6, remove "regardless of number"

Page 1, line 7, remove "of pages"

Page 1, line 7, remove "also"

Page 1, line 7, remove "for"

Page 1, line 8, replace "other recorded instruments" with "while ensuring only to study the specific documents included in this study and shall identify an average for each type of document inclusive of an increase for the cost of county recorders offices since 2001"

Re-number accordingly

#1
SB 2141
3-26-15

ND House Government and Veteran's Affairs Committee
Committee Hearing on SB 2141
Testimony from the ND Land Title Association
3/26/2015

Good morning Mr. Chairman and Members of the Committee,

The title insurance and real estate closing services industry's help drive our nation'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 lenders to provide loans to credit worthy homebuyers. Because we provide proof that people own their homes, they can use real estate capital to grow their assets and stimulate the economy. Americans close their loans faster than any other country in the world, usually 30-45 days on average. And the speed of that transaction saves consumers tens of billions of dollars annually in avoiding additional interest costs.

Our work also provides benefits to society that go largely unrecognized. One of these benefits at no cost to taxpayers, is that we pay \$170 million per year to purchase records and copies from local recorders offices. In one county alone in North Dakota these fees paid to individual county recorders offices can be as much as \$10,000 per month or even more in the state's larger counties. This benefit to ND Counties is provided by an industry in which 65% of the companies have 1-3 employees and gross less than \$250,000 per year. We are main street small businesses making a big difference for local county recorders offices.

County Recorders are truly a partner in our business providing the land information we rely on to safely transfer and mortgage real estate. We work closely with them to close hundreds of transaction every day in North Dakota.

This study bill is being proposed to streamline and provide certainty of the recording fees for surface right mortgages, deeds and bank filed mortgage satisfactions through coming up with an average flat fee for each document over the next interim. This will allow for a broad group of interested parties including Recorders offices, closing companies, attorneys, lenders and others involved in the industry to provide input and work together so that we can approach the 2017 legislative session with a thoroughly thought-out bill with accurately calculated fees.

This study and the following bill are important to the real estate industry due to new regulations. Our industry has several different regulators including the Department of Insurance which regulates Title Insurance, the Abstracters Board of Examiners which

regulates Abstracting and the Federal Government's Consumer Finance Protection Bureau (CFPB) which regulates real estate closings and ensures consumer protection.

Recently, the CFPB has instituted new rules on the closing process including stringent requirements for the accuracy of fees to be exact. These new requirements are set to begin August 1, 2015. This study is timely to ensure we have the exact amount for recording fees on the settlement statement at least three days before the closing, as required by the CFPB, even though we may not know the exact number of pages to be recorded until the day of closing.

Today the fees the Recorder's charge often fluctuate because they are per page charges and can increase if a notary accidentally stamps the document in the margin or the lender sends a mortgage just before closing with an extra page. This happens outside of the control of the closing company and this fee is almost always the smallest charged but is the one that fluctuates or changes most often. This occurs right before a homebuyer is about to sign their closings documents, they have their down payment check in hand and are ready to move in.

The study and hopefully future flat fee bill will reduce new federal regulatory compliance risk of accidental over charging. If we over charge we are required by law to send the overage back to the consumer, a good public policy, but in practice what occurs is the companies naturally under charge and eat the cost instead of being required to send out \$1-3 checks to borrowers or be found in violation of federal law and face strict penalties.

If the recording check was slightly short and the recorder rejects the document, significant risk arises that an intervening lien (mortgage) or deed could be filed leaving the borrower, lender and title company at risk for a claim and ultimately a new homeowner at risk of paying for a home that they did not get. A flat fee could also increase efficiencies of Recorders offices by avoiding the mailing back rejected documents, calls to advise the fee was short, issuance for over payments.

Thank you for your time this morning. Other states have already successfully incorporated flat fees, such as Minnesota. Our approach to study the issue first is in hope that we can create a positive result for both the industry and recording offices.

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

Sincerely, Nick Hacker

NDLTA, Legislative Chair - (701) 663-5364 – nhacker@thetitleteam.com

#2 2141
3-26-15

TO: Chairman Jim Kasper

From: Debbie Kroshus, Burleigh County Recorder

RE: SB 2141

Chairman Kasper and Committee Members,

My name is Debbie Kroshus and I am the Burleigh County Recorder. I would like to address information presented to you for SB 2141 requesting a legislative management study of recording fees as defined in NDCC 11-18. This is not the county recorders bill and I would like to take this opportunity to request a Do Not Pass on SB 2141. I believe the legislature should not be tasked with spending their valuable time putting together a committee and administering negotiations for fee changes for county recorders. This could be a very time consuming effort for legislators as there is much research that would have to be accomplished prior to introducing new fees for recording land record documents.

In a brief summation, North Dakota recording fees appear to be in step with the rest of the country so we would need to assess how our fees compare nationally over all. It appears the majority of other states still calculate recording fees by pages and many charge extra fees for such things as additional reference numbers, legal descriptions and grantor/grantee names. Only three states have implemented a flat fee for deeds, mortgages and satisfactions. They charge the same fee for all documents, along with the additional fees, which if done in North Dakota could significantly increase the fees for land owners when recording certain documents such as deeds and satisfactions and also some mortgages.

The task of determining an average fee structure will be time consuming as each county varies in the number and types of documents recorded each year. There are many instrument types that will be affected by the fee changes as proposed in SB 2141. It is not as simple as deeds, mortgages, and satisfactions. Even though the proposed legislation is for surface rights only, there are still numerous

documents that would be affected by such changes. Many documents can be surface and minerals within the same document and often times are not easily defined as surface only.

Once the county recorders research is complete and assessments made of our fee structures and if it is determined that fees under the North Dakota Century Code Chapter 11-18 need to be restructured, we would then sit down at the table with the appropriate entities to discuss possible changes. We would collectively come up with a unified plan to propose legislative change and submit a bill to be heard before the 65th Legislative Assembly. We have done this in the past with other legislation and it has worked very well to effect change while keeping fair and equitable fees for the public.

I request that you allow for this research and these negotiations by recorders and the appropriate entities without a legislative management study. After all, NDCC 11-18 is the chapter defining "Recorder" responsibilities and fees.

I respectfully request a Do Not Pass on this bill.

Thank you for your time and I would be happy to answer any questions you might have.

Debbie Kroshus, Burleigh County Recorder

TO: Chairman Jim Kasper

From: Beth A. Knutson, McLean County Recorder

RE: SB 2141

#3 SB2141
3-26-15

Chairman Kasper and Committee Members,

My name is Beth A. Knutson and I am the McLean County Recorder. I am opposed to SB 2141 which asks for a legislative management study of recorder fees and proposes setting a flat fee for 3 document types, surface deeds, surface mortgages and surface satisfactions. This bill was not brought forth by, nor was it discussed with, the Recorders before being introduced.

This bill seems to have been created in order to set a flat rate fee schedule for the recording of 3 specific document types to make it easier for closing companies to prepare their closing statements. This sort of fee change will not only be confusing to submitters which will increase the amount of rejected documents it will also results in many expenses at the cost of the tax payers.

Recorders accept documents from many different types of submitters. If a flat fee is set for these 3 document types, it will increase the cost to record smaller documents received from the general public and decrease the fee of larger documents received from large corporations. Tax payers will not only be paying for the implementation of a fee change, they will also be paying more to record their documents.

A fee change of this type would benefit a small portion of our submitters while having a negative effect on a much larger number, including the general public who we are here to serve. Recorders have always felt our fees are equitable for everyone, and I feel that a fee change would not only risk a loss in revenue for some counties but would also impact the ability of the general public to record documents as cost effectively as they currently do.

I feel a study of the Recorders fees may lead to a fee change that could result in a large number of unintended consequences and extra costs, which is why I urge a Do Not Pass on SB 2141.

Thank you for your time and consideration.



Beth A. Knutson

McLean County Recorder