

**2017 SENATE FINANCE AND TAXATION**

**SB 2160**

# 2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

Senate Bill 2160  
1/16/2017  
Job #: 26886

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

A BILL for an Act to amend and reenact sections 11-18-01 and 57-28-04 of the North Dakota Century Code, relating to the duties of a recorder and providing notice of foreclosure of tax liens; and to provide an effective date.

## Minutes:

3 Attachments

**Vice Chairman Bekkedahl:** Called Finance and Taxation Committee to order. Senator Cook and Senator Meyer were absent. The first bill of the morning is a bill I am a sponsor of. We are going to turn the gavel over to last session's vice chairman Senator Laffen while I enter the bill. Senator Laffen.

**Senator Laffen:** Opened the hearing on SB 2160.

**Senator Brad Bekkedahl, District 1:** Presented testimony #1 in support of SB 2160. Handed out written testimony #2 for support by the Williams County Board of County Commissioners.

**Senator Laffen:** Would you suggest that these other changes are clean-up or housekeeping related? Nothing of substance really is there?

**Senator Bekkedahl:** It was presented to me that way. Once the statute was opened with minor changes for foreclosure costs, the Association came forward with concerns about other areas that should be cleaned up. Controversial testimony upcoming about accessing lists of lienholders that the counties no longer access and is done by the Secretary of State Central Filing. The bankers would like to keep that in the recorder's office. Keep the bill open until amendments can be added.

**Senator Laffen:** Any questions for Senator Bekkedahl? Further testimony in favor of SB 2160?

**Aaron Birst, North Dakota Association of Counties:** Subsection 5, page 3, line 4 was the original bill from Senator Bekkedahl. The Association looked at another change in the statute, whatever happens, subsection 5 change should be left alone. Two sessions ago, the

Secretary of State's office took over Uniform Commercial Code (UCC) filings. Before, commercial code transactions and land transactions went through the recorder's office. It's now at the Secretary of State's office. Recorders lost the ability to have the records. They can access them, but the problem is subsection 2 requires the recorder to certify the records. You can't certify records that you don't own or swear to. The concept was to take out the certification request. Clerks of court and recorders could still find the records as outlined in section 2. Under section 3, the auditor would send out the notification. Bill revolves around foreclosures for tax delinquency. Provide notification to persons interested, redeem the property, and take care of it. Intention was never to cut out bankers, creditors, and title company. Intent is to supply notice, but not certified records. SOS to certify their own UCC filings. Please keep the last section of the bill alive.

**Senator Laffen:** Questions? Further testimony in support of SB 2160?

**Debbie Kroshus, Burleigh County Recorder: (9:05-12:50)** presented testimony #3 in support of SB 2160.

**Vice Chairman Bekkedahl:** The date Mr. Glatt wanted changed is on page 2, by June 1<sup>st</sup>,

**Debbie Kroshus:** Line 21, page 2, as before June 1<sup>st</sup> contradicts North Dakota 57-28-01 which states on or before June 1<sup>st</sup>.

**Senator Laffen:** Any other questions for Debbie?

**Senator Dotzenrod:** On page 3, line adding, "or actual costs, whichever is higher". Different counties have different actual costs. If we adopted this, would some counties get creative with actual costs? Would this be fairly uniform from county to county?

**Debbie Kroshus:** Good question, I don't have the answer to that.

**Vice Chairman Bekkedahl:** I can answer one part of that question, in discussion with the Williams County Commission, it was the certified mailing costs around \$6-\$7 per mailing and that's the cost they are looking to when you have 200 owners per parcel. Those are the costs they were inferring. I don't think they were trying to manipulate costs into the system. That would be an abuse of what they were intending.

**Senator Laffen:** Might be something that could be fixed if ever need be some day. We start hearing that property taxes are going down because the county is being funded through these fees.

Any other questions for Debbie? Further testimony in favor of SB 2160, testimony in opposition to SB 2160.

**Rick Clayburgh, North Dakota Bankers Association:** In opposition to SB 2160 as written. No objections to section one and the last paragraph on fees. Our major concern comes on the notice of foreclosure and a lien. Appreciate the counties willingness to work with the lender community to try to address concerns from both sides. We will work to come up with an agreement. Our concern is that in other states, where creditors are no longer given notice

of a lien foreclosure. There has almost be a little cottage industry, where people will come in and purchase the lien and then go to the recorded lien holder, and hold them "hostage" on the right against which has been removed. Pay ten times what the tax value is worth and you can have your property back. Our concern is that a lender won't know if a tax foreclosure is occurring and the potential issues that can occur.

Opposed to Section 2 of the bill, excluding the last paragraph, as written. Look forward to working with the counties to address the issue.

**Senator Laffen:** Questions?

**Vice Chairman Bekkedahl:** Points well taken. In my discussion with the Association of Counties, I asked the same questions. Assured to me that it wasn't the intent. Intent was to simply what was actually occurring out there. I did ask the question, and wanted to make sure the lienholders and judgement holders were notified in the process. We're trying to maintain that sanctity as well. I hope there can be an amendment to the bill.

**Rick Clayburgh:** Thank you for your sponsor of the bill and your communication with the counties. I think we can work out a resolution.

**Senator Laffen:** Further testimony in opposition of SB 2160.

**Barry Haugen, President, ICBND (Independent Community Bankers of North Dakota):** Opposed to SB 2160 as written, our issues are with Section 2 and the notice of lien foreclosure to the creditors and mortgagees. We are ok, with section 1 as drafted, as well as paragraph 5, section 2.

**Senator Laffen:** Any questions?

**Greg Tschider, Credit Union Association of the Dakotas:** Speak in opposition to SB 2160. No objection to the deletion of security agreement section, or objections to the actual costs. Senator Dotzenrod did raise a legitimate concern. Would be nice if there was some definition of what that is. We support the date change request. As written section 2 and 4 don't fit. In section 2 supposed to be a listing of lienholders, mortgagees, etc. In section 4, no notice is provided. Why go through the work in #2 if no notice is given? Substantial property rights that are impacted if we do not receive a lien notice. Not just the banks and the credit unions that are impacted.

**Senator Laffen:** Any questions? Further opposition of 2160. Neutral for SB 2160?

**Nick Hacker, North Dakota Land Title Association:** We support the removal of #4, that's or profession, abstracts. One of the things that affects us is, when we write title insurance, we start to protect the sanctity of the mortgage recorded. We start to see spikes in claims and litigation and claims against our members. When notice is served, under section 3, a list is provided by the recorder or clerk of district court, we're hopeful that an amendment could occur to add the registered agent of an entity to this list. The Security of State's office maintains a very good list of registered agents. Those are generally the people who should be receiving the notice of pending litigation. We have active litigation today because they

didn't receive the actual notice. What happens in practice today, they serve by certified mail, comes back undeliverable, and we don't understand what happens at that time. Should be served to the registered agents to reduce future litigation and claims.

**Senator Laffen:** Questions? Any neutral testimony on 2160.

**Senator Dotzenrod:** Could someone explain why the lines 16-18 had to come out.

**Senator Laffen:** I assume this was part of the counties desire.

**Aaron Birst:** It didn't read right. The practice had nothing to do with January first. The notifications sent out is June first. It wasn't helpful to current practices.

**Senator Dotzenrod:** Currently has to be done before filing any unsatisfied lien or before January first. Getting the request from the recorder, the list of names and address, all the people involved, have some judgement or security interest, has to be done before filing any unsatisfied lien.

**Aaron Birst:** The recorder and the clerk of court are going to look by March first who has UCC filings, recording, mortgage owners, when looking, it will go into the records. They are going to look at dating in March, regardless is it's filled in January, after January, before January, as long as it appears on the records it will be found and reported to the auditor. Auditor in section 3 sends to the people living there, certified mailing to everyone else that appears on the records. I thought the lienholders were already identified. #3, records of reporter or district clerk, thought the lienholders were in there. Filing date of January first has no impact on what is going to turn up.

**Senator Dotzenrod:** I'm going to have to re-read it a few times to understand.

**Vice Chairman Bekkedahl:** May I ask that you speak with your people and address his concerns. We want to make sure we're not removing something that looks extraneous but may actually be important in the process or could be changed, versus just removed.

**Aaron Birst:** The intent was to be if record can be found by March 1<sup>st</sup>. We're going to find the record and turn it over and send out the notifications.

**Senator Laffen:** Closed the public hearing on SB 2160.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

Senate Bill 2160  
1/25/2017  
Job #: 27394

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

A BILL for an Act to amend and reenact section 57-60-14 of the North Dakota Century Code, relating to the allocation of coal conversion tax revenue collections; and to provide an effective date.

**Minutes:**

Attachments #1, #2

**Chairman Cook:** Opened SB 2160 for committee discussion.

**Committee Discussion (0-10:36)** Vice Chairman Bekkedahl walked through the "Christmas tree" version of the bill to explain what the amendments would do as well as clarifying the purpose for certain sections of the bill. (See Attachments #1 and #2). It was clarified that the Association of Counties, the bankers, and the title people all were involved in and endorsed the amendments. The bill originated due to parcels of land in Williams County that have been sold as investment parcels with multiple owners and in the process some additional cleanup of language was requested.

**(10:37) Vice Chairman Bekkedahl:** move a do pass on SB 2160 and adopt the amendment document 17.0473.02001. (attachment #1)

**Senator Unruh seconded.**

**Chairman Cook:** Discussion?

**Voice vote was taken: motion passed. Amendments adopted.**

**Senator Unruh move a do pass, as amended.**

**Senator Laffen second.**

**Chairman Cook:** Discussion?

**(12:00) Roll Call Vote was taken: 6 yeas, 0 nays, 0 absent.**

**Vice Chairman Bekkedahl will carry the bill.**

January 24, 2017

ET  
1-25-17  
p. 1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2160

Page 2, line 21, replace "By" with "On or before"

Page 2, line 26, remove the overstrike over "~~The county auditor shall serve the notice of foreclosure of tax lien upon each~~"

Page 2, remove the overstrike over lines 27 through 31

Page 3, remove the overstrike over line 1

Page 3, line 2, remove the overstrike over "~~county. The notice must be served by certified mail.~~" and insert immediately thereafter "If a mortgagee, lienholder, or other person entitled to notice under this subsection has an agent registered with the secretary of state for the purpose of accepting service, the notice required under this subsection must be served on that registered agent."

Page 3, line 3, remove the overstrike over "5."

Renumber accordingly

Date: 1-25-17  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2160

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 17.0473.02001

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 Bekkedahl    Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chair Brad Bekkedahl					
Senator Lonnie J. Laffen					
Senator Scott Meyer					
Senator Jessica Unruh					
<u>voice vote</u>					

Total (Yes) \_\_\_\_\_ passed No \_\_\_\_\_  
Absent \_\_\_\_\_  
Floor Assignment \_\_\_\_\_

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



Date: 1-25-17  
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2160

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 17.0473.02001 Title: 03000

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 Unruh Seconded By Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod	X	
Vice Chair Brad Bekkedahl	X				
Senator Lonnie J. Laffen	X				
Senator Scott Meyer	X				
Senator Jessica Unruh	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Bekkedahl

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

**REPORT OF STANDING COMMITTEE**

**SB 2160: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2160 was placed on the Sixth order on the calendar.

Page 2, line 21, replace "By" with "On or before"

Page 2, line 26, remove the overstrike over "~~The county auditor shall serve the notice of foreclosure of tax lien upon each~~"

Page 2, remove the overstrike over lines 27 through 31

Page 3, remove the overstrike over line 1

Page 3, line 2, remove the overstrike over "~~county. The notice must be served by certified mail.~~" and insert immediately thereafter "If a mortgagee, lienholder, or other person entitled to notice under this subsection has an agent registered with the secretary of state for the purpose of accepting service, the notice required under this subsection must be served on that registered agent."

Page 3, line 3, remove the overstrike over "~~5.~~"

Renumber accordingly

**2017 HOUSE FINANCE AND TAXATION**

**SB 2160**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2160  
3/1/2017  
28537

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Mary Buckner*

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

A bill relating to the duties of a recorder and providing notice of foreclosure of tax liens; and to provide an effective date.

### Minutes:

Attachments 1-3

**Chairman Headland:** Opened hearing on SB 2160.

**Senator Bekkedahl:** Introduced bill. Provided written testimony. See attachment #1. Also provided written testimony from Williams County Board of County Commissioners, see attachment #2. Ended testimony at 4:40.

**Chairman Headland:** Are there any questions? Further testimony in support?

**Aaron Birst, Association of Counties:** When we heard Senator Bekkedahl was working on this statute I guaranteed him our amendments wouldn't interfere with the changes in his bill. For the most part, this is clean up language. In section 1, counties don't do security agreements anymore so that is language that shouldn't be there. On page 2 line 11 section 2, a few sessions ago the Secretary of State's office took over the UCC filings which were the commercial code filings that used to be done at the county level. This bill still had language that the county would certify those UCC records when there's a foreclosure. Since the county no longer has the records we were uncomfortable being able to certify those. We are still going to attempt to get those records but we just can't certify them and that was the technical cleanup we were trying to do. There were some amendments on the senate side when the bankers and title folks came in. It wasn't drafted quite right but I think we've gotten that all squared away now. The foreclosure process is that before the auditor puts it out for foreclosure they ask the recorder to get all the documents so they make sure the people who have interest in the foreclosed property receive notice of it. The recorders are still going to get that data to the auditor and the auditor will still send it out but in the case of the UCC we are not certified 100% but those are the right records.

**Representative B. Koppelman:** In section 5 Senator Bekkedahl talked about it being \$50 or actual cost as it is now. Does this open the door for them to charge in excess of \$50 for serving someone that's local or somebody that is within the state?

**Aaron Birst:** When we surveyed the auditors on when they send this out the certified mailings are \$7.00 and they didn't anticipate us ever getting over the \$50 with the exception of those extreme cases like sending them to China. The auditors are not intending to do anything other than the \$50 and in large part it covers 95% of the costs.

**Representative Ertelt:** In section 2, now page 3 line 7, where it says "or the actual costs whichever is higher" in regards to dealing with the foreign entities, did you consider attacking from a different method whereas the requirement would be that they would have a mailing address at least within the United States, if not within the state? Is there any issue with sending to other states within the United States?

**Aaron Birst:** We didn't consider anything other than just doing the actual cost. There has never been a problem sending to other states. This bill was never intended to not send notices; we want to send the notices, this is just to make sure we collect the costs. The counties will do the best they can to send out notices anywhere in the world as opposed to not sending them internationally; we've never debated that, we can get it done.

**Chairman Headland:** Is there further testimony in support?

**Debbie Kroshus, Burleigh County Recorder:** Provided written testimony in support. See attachment #3. This bill cleans up the language for the recorders. We no longer have UCCs or federal and state tax liens in our offices so it is not easy for us to certify that we've checked them all. This bill cleans up the language that were our responsibilities in the past but once those moved up to the Secretary of State's office last year we no longer have access to them as easily as we had before. I would appreciate your support in passing SB 2160.

**Chairman Headland:** Is there further testimony in support? Is there any opposition? Committee, what are your wishes?

**Representative B. Koppelman: MADE A MOTION FOR A DO PASS**

**Representative Olson: SECONDED**

**Chairman Headland:** Any discussion?

**ROLL CALL VOTE: 12 YES 0 NO 2 ABSENT**

**MOTION CARRIED**

**Representative Olson will carry this bill.**

Date: 3-1-17  
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2160

House Finance and Taxation 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. Koppelman Seconded By Rep. Olson

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓		Representative Mitskog	AB	
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	AB				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Olson

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

**REPORT OF STANDING COMMITTEE**

**SB 2160, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed SB 2160 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2160



SB 2160  
Senate Finance and Taxation Committee  
January 16, 2017

Testimony by Senator Brad Bekkedahl

Chairman Cook and Committee,

SB 260 began as a request from the Williams County Commission to correct an issue of foreclosure recovery costs that are capped at \$50 per parcel. The staff at the County Auditor's office indicated to the Commission that are existing parcels in the City of Williston that have multiple owners that would exceed the cap of \$50/parcel in processing foreclosure, if any such foreclosures occurred.

The language on line 4 of page 3 would provide the ability to assess all the costs in the foreclosure process to be added to the amount required to satisfy the tax lien, if such costs exceeded \$50.00, and not ultimately, the County taxpayers. I also have testimony from the Chairman of the Williams County Commission requesting this change and support for SB 2160.

Upon review of the bill by the Association of Counties, they requested administrative changes to the statute to comply with current practices or legal requirements. The removal the language on lines 19 and 20 are because the Recorder's office no longer provides these services. The security agreement abstracts are now provided by the private title companies. Section 2 on page 2 deals with identifying persons involved in the foreclosure notification. The changes in lines 11 – 20 are clean up language to reflect actual practices. The changes in section 3 on page 2 refer to how and when the notice of foreclosure is to occur. Section 4 is now a repeat of revised sections 2 and 3 and is therefore no longer needed, so has been removed.

I stand now for questions, and concluding that, I will invite representatives of the Association of Counties to provide supportive testimony and further explanation to the changes they requested as incorporated into the bill. Thank you for your attention and consideration.

Letter of Support for  
Finance and Taxation Committee  
January 12, 2017

Prepared by:  
Williams County

**SB 2160: Relating to Duties of a Recorder**

Chairman Cook and members of the Finance and Taxation Committee, We the Williams County Board of County Commissioners support the approval of Senate Bill 2160, relating to duties of a recorder and providing notice of foreclosure of tax liens, and to provide an effective date.

As the law currently states in section 57-28-04 paragraph three of the North Dakota Century Code, county governments can legally only charge \$50.00 for expenses of services of notification, publications, and other foreclosure costs for services of notice foreclosure of tax liens. Our Board supports changing the \$50.00 amount to instead reflect the actual costs accrued during the process.

As properties come back to North Dakota counties for nonpayment of property taxes there is an obligation that the counties notify each owner of foreclosure lien by certified mail. While the intent of the law is good, it does not take into consideration the monetary obligation to provide notice for parcels that have more than one, and in some cases, even hundreds of owners. The current cost of certified mail is \$6.45 per piece, a minimal cost until there is a parcel with 180 owners, and example of which exists in Williams County.

It is evident that there is potential for there to be costs that will fall to the tax payer dollar if this change is not made. We encourage this committee to consider making a change that will allow counties to request remittance for the true costs of notification.

We ask that you support this bill to ensure that tax payer dollars are not unnecessarily used. Please reach out if you have any

4/6/17

SB 2160

Testimony # 2

pg 2

questions, we would be happy to provide testimony in support.

Sincerely,

David Montgomery

Williams County Board of County Commissioners

Chairman, David Montgomery

1/16/2017

SB 2160

Testimony #3 Pg 1

**TO: Chairman Dwight Cook**

**Finance and Taxation Committee**

**From: Debbie Kroshus, Burleigh County Recorder**

**RE: SB 2160**

Chairman Cook, and Committee Members,

My name is Debbie Kroshus and I am the Burleigh County Recorder. I am here in support of SB 2160, an act to amend and reenact sections 11-18-01, preparing a security agreement abstract, and 57-28-04 relating to duties of a recorder and providing notice of foreclosure of tax liens. I would like to take this opportunity to request a **Do Pass** on **SB 2160**.

SECTION 1. AMENDMENT. I strongly support the request for removal of paragraph 4 stating the Recorder would "prepare a security agreement abstract whenever any person requests the agreement and pays the required fee." This paragraph requires county recorders to prepare a list of all UCC or Central Index filings on a certain person, listing date and time and such that it was recorded, as well as on real estate, searching all mortgages, satisfactions, liens, and such. In February 2016 the legislature transferred these responsibilities to the Secretary of State's office for all such filings. County recorders no longer have access to these filings so we would be unable to prepare such security agreement abstract. We fully support the removal of this paragraph.

SECTION 2. AMENDMENT addresses language to more clearly define the necessary steps for service of notice of foreclosure of lien. The new language better defines the responsibilities of the recorder and clerk of district court by removing the "certified" from preparing a list of names and addresses of all persons who appear as interested owners, mortgagees, lienholders, or judgment creditors. It also

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SB 2160

Testimony # 3

pg 2

defines time frames for our offices to conduct our search and prepare and present the list to the Auditor. In addition to UCC's, state and federal tax liens which were held in the recorder's office in the past are now filed and held at the Secretary of State's office, eliminating our ability to search those records. We can only search the land records we currently have in our offices so it would be impossible for us to "certify" the list to be complete.

The county recorders will continue to work closely with the Auditor's office in preparing these lists and presenting any information they request to fulfill their responsibilities.

Therefore I strongly urge a **DO PASS** on SB 2160.

Thank you for your time.

Do you have any questions for me?

1/25/17

SB 2160

Attachment # 1

pg 1

17.0473.02001  
Title.

Prepared by the Legislative Council staff for  
Senator Bekkedahl

January 24, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2160

Page 2, line 21, replace "By" with "On or before"

Page 2, line 26, remove the overstrike over "~~The county auditor shall serve the notice of foreclosure of tax lien upon each~~"

Page 2, remove the overstrike over lines 27 through 31

Page 3, remove the overstrike over line 1

Page 3, line 2, remove the overstrike over "~~county. The notice must be served by certified mail.~~" and insert immediately thereafter "If a mortgagee, lienholder, or other person entitled to notice under this subsection has an agent registered with the secretary of state for the purpose of accepting service, the notice required under this subsection must be served on that registered agent."

Page 3, line 3, remove the overstrike over "5:"

Renumber accordingly

Sixty-fifth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2160**

Introduced by

Senators Bekkedahl, Armstrong, Kannianen, G. Lee

Representatives Hatlestad, Longmuir

1 A BILL for an Act to amend and reenact sections 11-18-01 and 57-28-04 of the North Dakota  
2 Century Code, relating to the duties of a recorder and providing notice of foreclosure of tax  
3 liens; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **11-18-01. Recorder's duties - Recording and filing instruments - Abstracts**

8 The recorder shall:

- 9 1. Keep a full and true record, in proper books or other storage media provided for that  
10 purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment,  
11 decree, lien, certificate of sale, and other instrument required to be filed or admitted to  
12 record, if the person offering the instrument for filing or recording pays to the recorder  
13 the fees provided by law for the filing or recording.
- 14 2. Endorse upon each instrument filed with the recorder for record or otherwise the date  
15 and the hour and minute of the day of the filing or recording.
- 16 3. When the instrument is recorded or filed, endorse on the instrument the book and  
17 page or document number, the date, and the hour and minute of the date when it was  
18 recorded or filed with the recorder.
- 19 4. ~~Prepare a security agreement abstract whenever any person requests the agreement~~  
20 ~~and pays the required fee.~~

21 **SECTION 2. AMENDMENT.** Section 57-28-04 of the North Dakota Century Code is  
22 amended and reenacted as follows:

1       **57-28-04. Service of notice of foreclosure of lien.**

- 2       1. If the current assessment records show that a residential building is located on the  
3       property, the county auditor shall deliver the notice of foreclosure of tax lien to the  
4       sheriff who shall serve it or cause it to be served personally upon the owner, if known  
5       to be a resident of this state. If the owner is a nonresident of this state, the county  
6       auditor shall serve the notice by certified mail addressed to the owner at the owner's  
7       last-known post-office address and determine whether personal service upon any  
8       person is required under subsection 3. If the current assessment records show that no  
9       residential building is located on the property, the auditor shall serve the notice by  
10      certified mail addressed to the owner at the owner's last-known post-office address.
- 11      2. By March first, the county auditor shall request from the recorder and the clerk of the  
12      district court a ~~certified~~ list giving the names and addresses of all persons who appear  
13      to be interested as owners, mortgagees, lienholders, or ~~otherwise in the property~~  
14      ~~except a person whose only interest is in judgment creditors. Ownership does not~~  
15      include an easement or right of way recorded, or a mineral interest that was severed  
16      from the surface estate, ~~before filing of any unsatisfied lien or mortgage or before~~  
17      ~~January first of the year following the year for which the taxes were levied and to~~  
18      ~~which the tax lien relates, upon whom the notice of foreclosures must be served.~~ The  
19      recorder and the clerk of the district court shall provide the county auditor with the  
20      requested lists by April fifteenth following the request.
- 21      3. ~~The notice must be served~~ By On or before June first, the county auditor shall serve the  
22      notice of tax lien foreclosure personally upon any person actually residing upon the  
23      property subject to tax lien and by certified mail upon any ~~tenant or~~ other person  
24      entitled to the possession of the property as may appear from the records of the  
25      recorder or clerk of the district court.
- 26      4. The county auditor shall serve the notice of foreclosure of tax lien upon each  
27      mortgagee, lienholder, and other person with an interest in the property except a  
28      person whose only interest is in a mineral interest that was severed from the surface  
29      estate before the filing of any unsatisfied lien or mortgage or before January first of the  
30      year following the year for which the taxes were levied and to which the notice of  
31      foreclosure of tax lien relates, and upon whom personal service is not required by this



1 section, as shown by the records of the recorder or the clerk of the district court of the  
2 county. The notice must be served by certified mail. If a mortgagee, lienholder, or other  
3 person entitled to notice under this subsection has an agent registered with the  
4 secretary of state for the purpose of accepting service, the notice required under this  
5 subsection must be served on that registered agent.

- 6 5. The expense of service of the notice, publication, and other foreclosure costs under  
7 this chapter in the amount of fifty dollars or actual costs whichever is higher must be  
8 added to the amount required to satisfy the tax lien. The auditor or sheriff shall make  
9 proof of service by mail by affidavit showing the names and addresses of all parties  
10 upon whom the notice was served with the date of mailing in each case and shall  
11 attach the registry, certification, and return receipts and file the affidavit and receipts  
12 with the original notice of foreclosure of tax lien. Service by publication under this  
13 chapter must be shown of record by filing of an affidavit of publication.

14 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
15 December 31, 2016.

#1  
SB 2160  
3-1-17

**House Finance and Taxation Committee**  
**Honorable Craig Headland, Chairman**  
**Senate Bill 2160 Hearing**  
**Testimony by Senator Brad Bekkedahl**

**March 1, 2017**

Chairman Headland and Committee Members,

SB 2160 began as a request from the Williams County Commission to correct an issue of foreclosure recovery costs that are capped in statute at \$50 per parcel. The staff at the County Auditor's office indicated to the Commission that there are existing parcels in the City of Williston that have multiple owners that would exceed the cap of \$50/parcel in processing foreclosure, if any such foreclosures occurred.

The language on line 4 of page 3 would provide the ability to assess all the costs in the foreclosure process to be added to the amount required to satisfy the tax lien, if such costs exceeded \$50.00, and not as is now, to the County taxpayers. I also have testimony from the Chairman of the Williams County Commission requesting this change and support for SB 2160.

Upon review of the bill by the Association of Counties, they requested administrative changes to the statute to comply with current practices or legal requirements. The removal the language on lines 19 and 20 on page 1 are because the Recorder's office no longer provides these services. The security agreement abstracts are now provided by the private title companies. Section 2 on page 2 deals with identifying persons involved in the foreclosure notification. The changes in lines 11 – 20 are clean up language to reflect actual practices. The changes in section 3 on page 2 refer to how and when the notice of foreclosure is to occur from the County Auditor's office. Section 4 has additional language that makes notification for any mortgagee, lienholder, or other person registered with the Secretary of State as a registered agent on the property, to also be entitled to notice of foreclosure.

Mr. Chairman and Committee, this bill passed the Senate Finance and Tax Committee with a Do Pass recommendation by a 6-0 vote. It then passed the Senate floor with a 45-0 vote. I ask now for a Do Pass recommendation from your committee, and will stand for any questions you may have.

#2  
SB 2160  
3-1-17

Letter of Support for  
Finance and Taxation Committee  
January 12, 2017

Prepared by:  
Williams County

**SB 2160: Relating to Duties of a Recorder**

Chairman Cook and members of the Finance and Taxation Committee, We the Williams County Board of County Commissioners support the approval of Senate Bill 2160, relating to duties of a recorder and providing notice of foreclosure of tax liens, and to provide an effective date.

As the law currently states in section 57-28-04 paragraph three of the North Dakota Century Code, county governments can legally only charge \$50.00 for expenses of services of notification, publications, and other foreclosure costs for services of notice foreclosure of tax liens. Our Board supports changing the \$50.00 amount to instead reflect the actual costs accrued during the process.

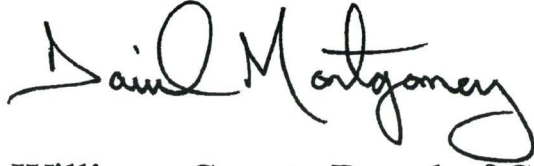
As properties come back to North Dakota counties for nonpayment of property taxes there is an obligation that the counties notify each owner of foreclosure lien by certified mail. While the intent of the law is good, it does not take into consideration the monetary obligation to provide notice for parcels that have more than one, and in some cases, even hundreds of owners. The current cost of certified mail is \$6.45 per piece, a minimal cost until there is a parcel with 180 owners, and example of which exists in Williams County.

It is evident that there is potential for there to be costs that will fall to the tax payer dollar if this change is not made. We encourage this committee to consider making a change that will allow counties to request remittance for the true costs of notification.

We ask that you support this bill to ensure that tax payer dollars are not unnecessarily used. Please reach out if you have any

questions, we would be happy to provide testimony in support.

Sincerely,

A handwritten signature in black ink that reads "David Montgomery". The signature is written in a cursive style with a large, looped initial "D" and "M".

Williams County Board of County Commissioners  
Chairman, David Montgomery

# 2 p. 2  
SB 2160  
3-1-17

# 3 p. 1  
SB 2160  
3-1-17

**TO: Chairman Craig Headland**

**Finance and Taxation Committee**

**From: Debbie Kroshus, Burleigh County Recorder**

**RE: SB 2160**

Chairman Headland and Committee Members,

My name is Debbie Kroshus and I am the Burleigh County Recorder. I am here in support of SB 2160, an act to amend and reenact sections 11-18-01, preparing a security agreement abstract, and 57-28-04 relating to duties of a recorder and providing notice of foreclosure of tax liens. I would like to take this opportunity to request a **Do Pass** on **SB 2160** as amended.

SECTION 1. AMENDMENT. I strongly support the request for removal of paragraph 4 stating the Recorder would "prepare a security agreement abstract whenever any person requests the agreement and pays the required fee." This paragraph requires county recorders to prepare a list of all UCC or Central Index filings on a certain person, listing date and time and such that it was recorded, as well as on real estate, searching all mortgages, satisfactions, liens, and such. In February 2016 the legislature transferred these responsibilities to the Secretary of State's office for all such filings. County recorders no longer have access to these filings so we would be unable to prepare such security agreement abstract. We fully support the removal of this paragraph.

SECTION 2. AMENDMENT addresses language to more clearly define the necessary steps for service of notice of foreclosure of lien. The new language better defines the responsibilities of the recorder and clerk of district court by removing the "certified" from preparing a list of names and addresses of all persons who appear as interested owners, mortgagees, lienholders, or judgment creditors. It also

#3 p. 2  
SB 2160  
3-1-17

defines time frames for our offices to conduct our search and prepare and present the list to the Auditor. In addition to UCC's, state and federal tax liens which were held in the recorder's office in the past are now filed and held at the Secretary of State's office, eliminating our ability to search those records. We can only validate the land records we currently have in our office so it would be impossible for us to "certify" the list to be complete.

The county recorders will continue to work closely with the Auditor's office in preparing these lists and presenting any information they request to fulfill their responsibilities.

Therefore I strongly urge a **DO PASS on SB 2160**.

Do you have any questions for me?

Thank you for your time.