2025 HOUSE JUDICIARY

HB 1271

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1271
1/29/2025

A BILL for an Act to amend and reenact subsection 6 of section 11-18-02.2 of the North Dakota Century Code, relating to exceptions for providing statements of full consideration.

10:21 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Representative Henderson

Discussion Topics:

- Quitclaim deed uses
- Definition of arms-length transactions

10:22 a.m. Representative Jim Grueneich, North Dakota Representative for District 28, introduced the bill.

10:32 a.m. Blaine Johnson, Bismarck Attorney, testified in opposition and provided testimony #33266.

10:48 a.m. John Ward, North Dakota Land Title Association, testified in opposition.

Additional written testimony:
Paul Houdek, City Assessor for the City of Grafton, submitted testimony in favor #32065
Nick Hacker, North Dakota Land Title Association, submitted testimony in opposition #32314

10:50 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

TESTIMONY ON HB 1271

HOUSE JUDICIARY COMMITTEE

JANUARY 29, 2025

PAUL HOUDEK, GRAFTON CITY ASSESSOR

Chairman Klemin and members of the House Judiciary Committee, my name is Paul Houdek, and I am a City Assessor for the City of Grafton. I am reaching out to you today in **support of HB 1271.** This bill will help your local assessors and real estate appraisers track local real estate market sales. Like many local assessors in our state, I work in a small rural market. Each usable real estate sale is important to help assessment officials establish benchmarks for market value in our jurisdictions. In the recent past we have seen more and more deeds using a quit claim deed rather than a warranty deed to transfer ownership from one party to another. In a small market, we need all the market data that we can get. What we are finding is some attorneys or closing agents are using a quit claim deed rather than a warranty deed simply as a means of not having to disclose a sale price for the transaction. **Under current law, with the use of a warranty deed, the sale price must be disclosed. If you transfer title with a quit claim deed, the sale price does not need to be disclosed. This bill would simply make it a requirement to disclose the sale price under both a warranty deed and a quit claim deed when using the quit claim deed for anything other than simple "title cleanup".** When this information is not disclosed it becomes more difficult for assessors to complete our mandated State Sales Ratio Study. Simply put, we cannot do our jobs without this critical information.

There is certainly a time and a place for the use of a quit claim deed. Transactions that include family members or business partners needing to "clean up the title" of a property are examples of a good use for a quit claim deed where the disclosure of the sale price would remain unnecessary because these are not market transactions. This bill does not change the requirement for these types of transactions.

One closing company or one attorney who does a lot of the real estate transactions in a small jurisdiction could potentially affect the results of the State Sales Ratio Study of any given jurisdiction by filing quit claim deeds and not reporting the sale price of any of the transactions with which they are involved.

Please support HB 1271 and help us get the precious information that we need to do our jobs.

Thank you!!

Respectfully,

Paul Houdek
Grafton City Assessor

House of Representatives Judiciary Committee
Hearing on HB 1271

Testimony from North Land Title Association
Nick Hacker – Legislative Chair
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(240) 688-2210

Chairman Klemin and Members of the Committee, my name is Nick Hacker with the North Dakota Land Title Association.

Our industry provides abstracting, title insurance and real estate closing services in every county of the state. Our job is to ensure buyers acquire real property free and clear of liens and to protect lenders regarding their mortgage.

Quit claim deeds are a common and efficient tool used by many property owners in North Dakota. These deeds allow for the transfer of property without the warranties or guarantees often associated with other types of deeds, making them an essential tool for various legitimate transactions. Many property owners rely on quit claim deeds for straightforward transfers, such as family estate planning, resolving title issues, and facilitating transfers between co-owners.

House Bill 1271 introduces requirements that would complicate these transfers and make it more difficult for individuals to manage their property rights.

As closing professionals, we rely on attorneys to interpret the law and ultimately the status of title. The use of a quit claim deed to cure a title defect can be arbitrary and up for interpretation if a defect exists which results in using this tool out of an abundance of caution. This bill would put us in a position of having to make a determination if a defect exists which increases our risk and would result in requiring property owners to go through unnecessary and expensive legal hurdles such as quiet title actions.

Quit claim deeds are used when transactions are not at arm's length so they should not be used for the basis of assessment or valuation. The value is something other than what can be measured financially.

We urge the committee to consider the implications and unintended consequences of House Bill 1271. Please give this bill a do not pass the recommendation.

Thank you.

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House of Representatives Judiciary Committee

Hearing on HB 1271

North Dakota State Bar Association – Real Property Section

Testimony of Blaine T. Johnson, Section Chair

Hon. Chairman Lawrence Klemin:

My name is Blaine Johnson, and I am a partner at the law firm of Crowley Fleck PLLP. I am also the chair of the State Bar Association of North Dakota Real Property, Probate and Trust Section. I have practiced law for 22 years with an emphasis on real property, business, and estate planning.

The underlying purpose of North Dakota Century Code §11-18.02.2 is to provide assessors with information necessary to determine fair market value. Fair market value is defined as the "price a seller is willing to accept and a buyer is willing to pay on the open market and in an arm's length transaction."

Quitclaim deeds are used for a variety of purposes besides resolving title defects. An overwhelming majority of quitclaim deeds are used when no or nominal consideration changes hands. They are used when individuals convey property into a business structure, or when that business is liquidated, and the real property assets are distributed to owners. They are commonly used for estate planning purposes, and while the grantors and grantees are often related and may fall under subsection (c) of N.D.C.C. § 11-18-02.2, they may be distant relatives and fall outside of the typical definition of immediate family. Quitclaim deeds may also be used for charitable contributions of real property.

From a practitioner's standpoint, there are many times in which quitclaim deeds are used in which the parties do not establish a specific monetary amount for consideration. This bill would require them to do so, perhaps requiring a costly appraisal.

The support for this bill relies on the misguided position that more information is better. Even if consideration was established for a quitclaim deed, that consideration is impacted by the lack of warranty of title that is provided in a quitclaim deed. There simply is no guaranty that the grantor has any interest in the real property, and there is no recourse against the grantor if in fact he or she does not have any interest. That lack of warranty is reflected by a lower value determination that will negatively impact true fair market value assessments.

As it is, the statement of consideration reported on deeds fails to accurately take into account the value of personal property included in the sale as title companies simply restate the total purchase price identified on the purchase agreement. Those transactions often include personal property,

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sometimes of a nominal amount, but occasionally including expensive furnishings, equipment, fixtures, and even items such as boats and docks.

While clients do have concerns about privacy and generally do not want the general public knowing how much they have paid for a property, the number of circumstances where this exception is used to avoid disclosing the purchase price is exceedingly rare, and the purchaser is doing so at great risk.

For the reasons identified above, I urge you to give this bill a do not pass recommendation.

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
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HB 1271
1/29/2025

A BILL for an Act to amend and reenact subsection 6 of section 11-18-02.2 of the North Dakota Century Code, relating to exceptions for providing statements of full consideration.

11:46 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Discussion Topics:

- Disclosure of arms-length transactions
- Committee Action

11:46 a.m. Representative S. Olson moved a Do Not Pass.

11:46 a.m. Representative Schneider seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	N
Representative Nels Christianson	Y
Representative Donna Henderson	N
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	N
Representative Christina Wolff	Y

11:52 a.m. Motion passed 9-5-0

11:52 a.m. Representative Schneider will carry the bill.

11:52 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

REPORT OF STANDING COMMITTEE
HB 1271 (25.0967.01000)

Judiciary Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1271 was placed on the Eleventh order on the calendar.