

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1195

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1195

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1195

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 1-19-01

Tape Number	Side A	Side B	Meter #
I	xx		1723-4,850
Committee Clerk Signature <i>Pam Oliver</i>			

Minutes: Chairman Froseth called the hearing on HB1195 to order with all members present.

Rep. Klemin, Dist. 47 : (1750) testified in support of the bill. This bill is intended to provide an increase in the fees charged by abstract companies. The fees are set out by law. The last time these fees were increased was 1993. We have a proposed amendment to this bill, that was handed out, to delete subsection 8 of this bill, so that there would not be an annual adjustment for cost of living for the abstract fees. The reason being, the Attorney General's Office asked for this deletion. Instead, this amendment makes an additional change in line 8, page 1, which would increase the amount per each entry on an abstract from \$5 to \$6. So we removed the annual adjustment and added \$6 instead of \$5.

Vice-Chair Severson : (2061) Have these amendments been approved by the board?

Rep. Klemin : That's correct.

Rep. Delmore : (2084) How did you arrive at the \$75? I understand this hasn't increased since 1993 but this is a 20% increase.

Rep. Klemin : I can't answer. That is the number the board wanted. Others who will testify can answer that question.

Rep. Ekstrom : (2138) Do you know what it cost for Legislative Council to draft bills? If we change this one, it will cost money to redo this bill. I was just curious if it is worth our cost to make little changes.

Rep. Klemin : I have no idea what the cost is.

Jim Horner, ND Land Title Co. : (2255) testified in support of bill. (See attached testimony)  
The bill and amendments are the maximum fee. Not all abstract companies charge the maximum fee, and we need to remember that. Abstract companies want qualified people and we need to pay them. Also, employer related costs have and will continue to increase. \$20 since 1993 is not an unreasonable request.

Vice-Chair Severson : (2770) Has your business changed in 8 years-decreased or increased?

Jim Horner : Yes, dramatically. Bismarek very much. Technology has changed a lot. I can't run an ad in the newspaper saying if you bring your abstract in next week, I can give you a discount. No, you won't. If the interest rate goes up, we have a terrible year. If interest rates goes down, we have a great year. We have big fluctuations. We try to balance the good years so we have some left to get us through the bad years and stay in business. The smaller counties don't have as much volume as the big ones. Harder for them to keep afloat. Our association has a very big split. We have more smaller county abstractors and we really need them.

Vice-Chair Severson : (2979) Does every county has an abstractor or do they share?

Jim : There are 59 abstractors with certificates of authority. A few counties have more, but every county has at least one.

Chair Froseth : In line 8, the *fee for each entry* , this can be one line or many pages?

Jim : No. An entry is like a document of record. A deed is an entry. The whole deed would be the entry. Each document. We don't do the recording. We have to have everything in our office, by law.

Rep. Herbel (3260) Can you give me an average cost of recording an abstract?

Jim : Five entries may be average. \$120-125 for abstract.

Rep. Kretschmar : (3420) You located in Burleigh County. Are you allowed, by law, to abstract in Morton County?

Jim : No. I'd have to get a certificate of authority from Morton. The board would have to examine it. It is quite costly. Not feasible.

Claus Lembke, ND Realtors : (3572) We have 1050 members state wide. We support the provisions in this bill. It's our board of directors policy to allow a reasonable increase and we compliment the abstracters. The amendments brought by Rep. Klemin are what we approved.

Sue Cosgriff, ND Land Title Assoc.; Pres. of Cass County Abstract : (3723) We are only an abstract company in Fargo. We could provide some figures, because this is what we do all the time. Our expenses have skyrocketed over the 8 year period. Technology has a high cost because it becomes obsolete so quickly. The abstractor plays an important role in their counties. It's imperative for the consumers of the state that we keep these businesses viable. I strongly recommend a do pass.

Rep. Fairfield : (3980) Have you changed any other fees in the last 8 years?

Sue : No, we have not.

Rep. Delmore : (4057) Do you remember what the amount was 8 years ago when the rate was changed to \$60?

Sue : I believe a certificate was \$50 and went to \$60.

Charles McKay, Farmers Credit Service : (4150) We use abstract services from all over the state. We are in favor of the amendments. However, we are reluctant to allow future increases without legislative authority.

Marie Bensch : (4350) I own and operate the Larimore Abstract Co. It's very important to these counties that we maintain a presence in each county for the customers. They can come and talk to us face to face. They drive long distances to bring their abstracts. The people are suppliers. You need to remember that our expenses like heat, water, technology, and gas charges are not set by statute. These keep going up. What we can charge our customer is set by statute. We would like to pay our bills, have a small profit, and continue to provide good service to small counties

Rep. Kretschmar : (4600) Would you prefer that there be no fees set in law, and you can charge what you like?

Marie : No, we should have a fair raise so we can survive.

Chair Froseth (4685) Any more testimony for or against? Hearing none, hearing closed. What are committee wishes?

Vice-Chair Severson : I move a **DO PASS** on the amendments. Rep. Maragos : I second.

**VOICE VOTE: ALL YES. AMENDMENT PASSED.**

Rep. Disrud moved a **DO PASS AS AMENDED**, and Vice-Chair Severson seconded.

**VOTE: 15 YES and 0 NO. PASSED. Rep. Tiegan will carry the bill.**

10382.0101  
Title.0200

Prepared by the Legislative Council staff for  
Representative Klemin  
January 16, 2001

VK  
1/19/01

HOUSE AMENDMENTS TO HB 1195 HOUSE POL. SUBS. 1-22-01  
Page 1, line 8, overstrike "five" and insert immediately thereafter "six"

HOUSE AMENDMENTS TO HB 1195 HOUSE POL. SUBS. 1-22-01  
Page 2, remove lines 1 through 5

Renumber accordingly

Date: 1-19-01  
Roll Call Vote #: 1

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1195**

House POLITICAL SUBDIVISIONS Committee \_\_\_\_\_

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number 10382.0101 .02.00 Title \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Rep. Disrud Seconded By Vice Chair Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	/	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	/				
Rep. April Fairfield	/				
Rep. Michael Grosz	/				
Rep. Jane Gunter	/				
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar	/				
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Maragos	/				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Tieman

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



**REPORT OF STANDING COMMITTEE**

**HB 1195, as amended, Political Subdivisions Committee (Rep. Froseth, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). placed on the Sixth  
order on the calendar.

Page 1, line 8, overstrike "five" and insert immediately thereafter "six"

Page 2, remove lines 1 through 5

Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

HB 1195

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1195

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 16, 2001

Tape Number	Side A	Side B	Meter #
1	x		53.5- 54.5
		x	3.8-16.7
Committee Clerk Signature <i>Nancy G. Wick</i>			

Minutes:

The hearing was opened on HB1195, relating to fees charged by abstractors.

REP. KLEMIN: I don't have any written testimony on this, there are a number of other people here who will be testifying in support of this bill. House Bill 1195 amends the part of the law relating to fee charged by abstractors. As I am sure, most of you are aware, there is at least one abstract company in every county. Few counties have more than one. But there is every county and abstract companies are a little bit different as compared to other private businesses, this is probably the only kind of business that I am aware of that has its fees set in the statutes, whereas most of the rest of the private businesses charge there fees based on what the market will bear or what the competition is and so forth. There is no restriction on what they can charge. However, for abstractors, there is a statutory fee schedule what sets out what there rates are. The abstractors have asked me to introduce this bill to increase the rates for items one and two on the list, lines 8,9, and 10. The abstract company last had an increase in there rates in 1993, so it has been eight

years since they had a increase in what they charge and these are maximum rates. They can't charge more than this, of course they can charge less. But as you all know we've had a lot of increases in the cost of doing business over the last eight years, there's been a lot of increase in the wages you pay to employees, the rent you pay, the utilities, everything has gone up. Its time for an increase. Previously, to 1993, they had a rate increase in 1985 so its not like your back here every year asking for a rate increase, its been 8 years. Its very difficult to find qualified employees to work in abstract companies, particularly people who are abstractors, you have to take a test pass by the Board of Abstract examiners and its a very difficult test, to become certified as an abstractor and maintain continuing education requirements, insurance requirements for liability purposes, all of these things add to the cost of doing business.

SENATOR WATNE: Do you know why the House took out the number 8 in Section 2, which seems to tie it to the consumer price index? REP. KLEMIN: The reason was the cost of administering that by the Board of Abstract Examiners. They were informed by the Attorney General's office that in order to do that on an annual basis based on the change in the consumer price index they would have to have a rule making proceeding publishing a notice and all of the newspapers state wide and it was just to expensive, so they took it out. SENATOR COOK: Rep. Klemin was the guy in the service of abstracting always in private service or one time was it a divided by government ? REP.KLEMIN: Well, Senator Cook, I saw an antique abstract at one time that was done by a Register of Deeds. That was probably done around 1900. But to my knowledge for the most part going back to earliest times it has been done by abstract companies although I think it still, and someone else here may correct me if I am wrong, there is still a provision in the statute which did allow registers of deeds or clerks of court to do that. That may

have be repealed, I am not sure about that. SENATOR COOK: Did you bring all these people to testify in support of this bill?

REP. KLEMIN: Moral support Mr. Chairman. SENATOR COOK: Is there anybody opposed to this bill, as far as testifying, I don't want to intimidate you? Anybody at all? JIM HORNER:

Lobbyist for all of these people. Part owner and Vice-president of a title company. North Dakota Guaranteed and Title. See written testimony. SENATOR COOK: There is no limit on how many

abstractors there can be is there? Companies? JIM HORNER: There is no limit, but every

abstractor company, we have a plant law. So to be a abstractor you have to get a plant, which means that we have to, as an abstract company has to have everything that the Register of Deeds

has in our office. It gets very expensive, and we have to keep that updated. So when, every time something gets recorded at the Register of Deeds office, that gets indexed in our office too. We

have to have a copy of that. Sometimes, many of those documents we never use, but we have to by law, have them, or else we can't have our certificate to do business. SENATOR COOK: But

there would be no, nothing that would stop me if I wanted to make that investment to get into the business? JIM HORNER: No. Nothing at all. There are several cities that do have two abstract

companies. Is it feasible, is it practical, will there be a profit. Everybody does look at a business with the idea to do it, to make a profit. SENATOR COOK: The cities that have two is there

competition that drives this price down or do they charge this price? JIM HORNER: Yes, it is a competition and the market that does drive the price down. Some of the cities that do not have

two, sometimes its the volume that drives it down. CLAUS LEMBKE: Represent the North Dakota Association of Realtors. We look at this bill and work for private sessions that we do

with most of the organizations that have similar interest in legislation and we have some concerns with the indexing. We reached a compromise. Our marching paper from our

association is support a reasonable increase. We think this twenty dollar increase that Mr. Horner spoke of, is a reasonable increase. It is \$20 on an average \$120 bill, so you can figure out that its about what average abstract updating costs would be, we find in our experience. We hope that you will support this bill also. CHARLES MCKAY: Represent Farm Credit Services. We're one of the major farm real estate lenders in the state. We also support the fee increase. The ability, because the abstract business is closely regulated, the ability for them we feel to provide timely service is more important than small increases to borrowers and we hope that you will grant the ending. SUE COSGRIFF: President of the North Dakota Land Federal Association, and President of Cass County Abstract Company in Fargo. See written testimony. We have not had an increase in our maximum fees for eight years and I am appearing today on behalf of our association to request the increase in the maximum allowable fees. The majority of our members are from small rural communities. Our expenses have skyrocketed over this eight year period. Labor costs, energy costs, paper products, and virtually every other office related expense has increased during this period. Automation is becoming a necessity, for advancing in our industry. The current rate structure will not support the capital invested needed for automation. The abstractor plays an important role in there respective counties, being a part of every real estate transaction from land fills to mortgage refinances. It is imperative for the continuance of this state that we keep these businesses viable. For these reasons I would strongly recommend a Do Pass. SENATOR WATNE: You used a term that I am kind of curious about. You said some counties have more than one title plant. I've never heard the plant before. SUE COSGRIFF: The word title plant is in order to be or have an abstract company you need to have an abstractors, what we call a plant license, its called a certificate of authority. And that just means that you have complied with all the factors set forth in the state statutes. Once you've done that then you

can receive that certificate of authority which is your plant license. The plant license is just all the documents and all the indexes in the recorders office. MARIE BENCH: Owner of LaMoure County Abstract Company. LaMoure is a very small county, less than 6000 people. We try to keep LaMoure county Abstract Co, in LaMoure County. We also own Stutsman Co. Abstract Company. I could move everything to Stutsman county and work out of that office which would be a lot more feasible. I would not have to duplicate everything. But for the consumer and for these dear people in the county we're trying very hard to keep the plant operating there. I would appreciate this raise, because, the legislature sets our fees, but the people who provide services to us can charge anything they want. Ex. Given. But our fees are set by the legislature, to give the consumer good business which is our number one thing, we need to keep good people.

Hearing Closed on HB1195.

Senator Flakoll moved for a Do Pass

Senator Watne- 2nd.

Roll call vote: 8 Yeas, 0 No, 0 Ab

Carrier: Senator Flakoll

**Roll Call Vote #:** /

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate	Political Subdivisions	Committee
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Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken No Pass H.B. 1195

Motion Made By Sen. Hall Seconded By Sen. Watne

[illegible]

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Flakall

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



**REPORT OF STANDING COMMITTEE (410)**  
February 21, 2001 10:35 a.m.

**Module No: SR-32-4181**  
**Carrier: Flakoll**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1195, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)**  
recommends **DO PASS** (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1195 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1195

Mr. Chairman and Members of the Committee. House Bill 1195.

My name is Jim Horner, and I am the lobbyist for the North Dakota Land Title Association. I am also appearing on behalf of myself as a licensed abstractor, Vice President and part owner of the North Dakota Guaranty & Title Company, who does prepare abstracts of title to real estate.

This bill is for a change in Section 43-01-08, fees chargeable by abstractor. The maximum fees that we as abstractors can charge are set by the above statute, and we need to appear before you today to ask for an increase in the allowable fees.

The bill as originally introduced has been, or will be amended, which amendment deletes the provision for a cost of living increase. As I did visit with numerous people, they were receptive to the changes in the requested fees, however, there was a great deal of opposition to the cost of living increase annually.

We felt that with the annual adjustment provision, this could eliminate the need, in most part, in the future to come before the legislature and ask for an increase. In lieu of deleting the annual adjustment provision we also amended the original bill insofar as the first item chargeable. \$5.00 to \$6.00 for an entry shown on the abstract. The certificate fee change from \$60.00 to \$75.00 would stay the same as in the original bill. The certificate certifies all the searches we do in all offices, and places the liability upon us, as the abstractor. How would this change the overall cost of an abstract. A continuation with 5 entries would now cost \$20.00 more than before.

Again, I would like to point out that these are Maximum Fees, and there are areas in the state where it is necessary to charge the maximum fee to stay in business.

Our last increase was in 1993. 8 years ago. It is no secret that for various reasons the cost of doing business has increased, and with the present fee schedule we cannot keep up with that increased cost of doing business. We are a service company, providing a very necessary service to each county that we are in, and to provide that service we need qualified employees, and need to keep them. Example, the minimum wage in 1993 was \$4.25. Today it is \$5.15, about a 21% increase, and there are indications that it is going to increase in the very near future. Then there are other employee costs, social security, insurances, workmen's comp. And the need for benefit plans to compete with other business to retain employees.

We can give you statistical costs that have increased, but I am sure you are aware of that, and see that in many other instances, or in your own business.

I will entertain any questions, and ask for your favorable vote to pass HB 1195

Thank You Very Much.

  
Jim Horner

Mr. Chairman and Members of the Committee:

My name is Sue Cosgriff and I am appearing this morning as President of the North Dakota Land Title Association and as President of Cass County Abstract Company in Fargo.

Our state association is made up of abstracters from all counties within the state. Some counties have more than one title plant so our membership is comprised of 59 separate small business entities.

We have not had an increase in our maximum fees for eight years and I am appearing on behalf of our state association to request an increase in the maximum allowable fees.

The majority of our members are from small rural communities. Our expenses have sky rocketed over this eight year period. Labor cost, energy costs, paper products and virtually every other office related expense has increased during this eight year period.

Automation is becoming a necessity for advancing in our industry and the current rate structure will not support the capital investment needed for automation.

*Title Plant*  
*✓ Certificate of authority*

The abstractor plays an important role in their respective counties, being a part of every real estate transaction from land sales to mortgage refinances. It is imperative for the consumers of this state that we keep these businesses viable.

For these reasons I would strongly recommend a "do pass" vote.

Thank you.

Sue Cosgriff  
President  
North Dakota Land Title Association

February 16, 2001

## HOUSE BILL 1195

Mr. Chairman and Members of the Political Subdivisions Committee. House Bill 1195.

My name is Jim Horner, and I am lobbyist for the North Dakota Land Title Association. I am also appearing on behalf of myself as a licensed abstractor. I am also a part owner and Vice President of the North Dakota Guaranty & Title Company. One of the functions that we do is prepare abstracts of title.

This bill is for a change in Section 43-01-08, fees chargeable by an abstractor. The maximum fees that abstractors can or may charge are set by the above statute, and we need to appear before you today to ask for an increase in the allowable fees. These allowable fees I would like to state are the maximum fees that can be charged, and are not the fees that must be charged.

The bill as originally introduced in the house had a provision for an annual cost of living increase. This provision received a great deal of opposition before the hearing. We amended the bill to delete the provision for the cost of living. Instead of the annual cost of living increase the entry fee was increased from \$5.00 per entry to \$6.00. The only other increase that is being asked in the new bill is to increase the certificate fee from \$60.00 to \$75.00. All of the other provisions as to what can be charged are to remain the same. The certificate is what the abstractor puts on the abstract to certify the abstract as to the correctness, and the fact that the abstract shows everything that affects the property contained in the abstract. If not correct as certified, then the abstractor or abstract company could be liable for damages.

How would this change the overall cost of a continuation of an abstract. Just for example purposes, lets say a continuation averages 5 entries in it. This would increase the cost of doing that continuation by a total of \$20.00.

Please, remember that these would be the maximum amount that would be allowed to be charged. These are not the fees that must be charged.

Our last increase was in 1993, 8 years ago. It is no secret that the cost of doing business has increased. With the present fee schedule it is difficult, and in some cases, impossible to keep up and maintain any kind of a profit. And, as any business we are entitled to make a profit. An abstract company is a service company, providing a very necessary service in each county within the state of North Dakota. There are 59 abstract companies, and all of them are important businesses to the community that they are in. We need qualified people as employees, and must offer these people a just salary to keep them. In 1993 the minimum wage was \$4.25. Today it is \$5.15, about a 21% increase, and indications that there will be a very substantial increase in the very near future. There are many other employee costs, such as social security, insurances, workmen's compensation. Then there are the other employee benefits that are necessary just to retain them. It is amazing how many employees are lost to city, county and state jobs due to better wages and/or benefits. And as a service company it is important for the customers that

we are serving to have the very best, qualified people.

I can give you statistics to show that all other costs have increased, but I am sure you are aware of that. And there will be other testimony to that verify that. It gets very difficult when the fees that are allowed to be charged cannot increase with the cost of doing business.

Please give this House Bill a favorable do pass vote, and with that I would entertain any questions that any of you may have.

Thank you very much.



Jim Horner, Lobbyist, North Dakota Land Title Association.