

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2161

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2161

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2161

Senate Government and Veterans Affairs

Conference Committee

Hearing Date January 21, 2005

Tape Number	Side A	Side B	Meter #
1	x		4833-5540
		x	0-521
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens hearing on SB2161

Relating to the prohibition of recording instruments transferring title to Agricultural land to an alien or certain business entities.

(meter 4833)

Danette Odenbach - ND Associations of Counties - see written testimony, in favor of this bill.

Senator Lee - Asked why was there a limitation to foreign ownership.

Odenbach - Said she not completely versed in the history of it but thought it had to do with corporate farming.

(meter #5350)

Dewey Oster - McLean County Recorder - see written testimony. In favor of bill.

Senator Krebsbach - Asked if he knew of any recorder that have been charged with a Class A misdemeanor.

Oster - Said he knows of none but wants to head it off before it happens. He said that recorders have no way of knowing who is an alien when they purchase.

Senator Lee - Referred to her area of the state having a large alien population buying homes that this could also apply to.

Senator Nelson - Asked if it is illegal for aliens to buy property.

(end of tape, side A - meter #6228)

(Side B - meter #1)

Senator Syverson - Believes this chapter deals with agriculture land opposed to residential.

He thought maybe we may have a problem down the road with our dairy industry being rapidly evaporated by aliens purchasing large dairy operations and rejuvenated them much to the benefit of the state.

Senator Syverson - Asked if there was a piece of agricultural property you refuse to register.

Oster - No

Senator Krebsbach - Stated we are trying to remove the misdemeanor part from the recorders liability.

Senator Lee - Asked if it is true that somewhere it states that an alien can't buy property.

Senator Syverson - Said that kind of issue may encourage the individual to become a permanent resident alien and then qualify for agricultural land.

Woody Barth - ND Farmers Union - neutral on this bill. They want to make sure that if this is removed that we aren't opening up something else. He stated that there is another bill up to

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number **SB 2161**

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allow aliens to own farm land relating to the dairy industry. He says they are okay with the bill the way it reads but would like to run it by their legal staff..

Senator Lee - Asked if the Farmers Union would oppose alien ownership of any land zoned agriculture by any aliens.

Barth - Stated the Farmers Union has a policy against alien ownership of farmland in ND.

Senator Lee - Wondered if a Bosnian family could buy a little farm.

Barth - Said that if more than 50% of there income comes off the land it would be against the Farmers Union policy.

Senator Krebsbach closes the hearing **SB2161**.

(meter #521)

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2161

Senate Government and Veterans Affairs

Conference Committee

Hearing Date 27, 2005

Tape Number	Side A	Side B	Meter #
1	x		2780-2975
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens committee work on 2161

(meter #2780)

Senator Krebsbach - reviewed the bill

Senator Lee motioned for Do Pass

Senator Brown seconded

Senator Lee will carry

Date: 1/27/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Lee Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	✓		Carolyn Nelson	✓	
Richard L. Brown, Vice Chairman	✗				
Judy Lee	✗				
John O. Syverson	✗				

Total (Yes) 5 No 6

Absent 6

Floor Assignment Senator Lee

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

REPORT OF STANDING COMMITTEE (410)
January 27, 2005 1:15 p.m.

Module No: SR-18-1209
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2161: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161
was placed on the Eleventh order on the calendar.

2005 HOUSE AGRICULTURE

SB 2161

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2161

House Agriculture Committee

Conference Committee

Hearing Date 2---25---05

Tape Number	Side A	Side B	Meter #
ONE	A		9.8 TO 28.0
Committee Clerk Signature <i>Edward D. Elkon</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members we will open on SB 2161. The bill relates to the prohibition of recording instruments transferring title to Agricultural land to an alien or certain business entities. This bill is a repealer of Section 47-10.1-3 of the North Dakota Century Code.

Who would like to start with there testimony in favor of SB 2161

DANETTE ODENBACH: North Dakota Association of Counties.[NDACo] Chairman Nicholas and committee members The North Dakota Association of County Recorders {NDACR}, submits this testimony in favor of the passage of Senate Bill 2161. [[PLEASE READ PRINTED TESTIMONY THAT DANETTE READ FROM AS TO HER TESTIMONY]] We recommend a DO PASS ON SB 2161

CHAIRMAN NICHOLAS: Thank you Danette. Are there any questions? Who would like to testify in favor of bill.

DEWEY OSTER: Good Morning Chairman Nicholas and members of the House Agriculture Committee. I am Dewey Oster, McClain County Recorder member of the North Dakota Recorders Association. Committee on Legislation. I want to rubber stamp and put my support on Danette Odenbacks testimony, as it pertains to SB 2161. The bill is straight forward. The way the bill is now, it simply is not doable. [[[please read DEWEYS printed testimony which is attached]]] what we are doing here is being pro-active rather than reactive

The law has been in place for some time. We have not been tested, I don't know of anybody that's come under fire because of this. We simply want to have it in rules before it leads to problems. Therefore I ask that you repeal Section 47. 10. 103 of the North Dakota Century Code. I also request that you repeal Section 47-10-1-03 of the North Dakota Century Code.

I will entertain any questions you may have.

REPRESENTATIVE MUELLER: Who should be responsible for this issue. Is there an agency or political sub-division that could be in a position to make sure we aren't getting hung out to dry by a foreign investor.

DEWEY: Chairman Nicholas and Committee, I wish I could answer that question. I don't know. I think someone should be responsible for it but I don't know. I don't know where the responsibility lies.

REPRESENTATIVE MUELLER: It is on the purchaser of property. Well I don't think they are going to come in and tell you I want to buy three sections of land. It is not going to happen.

REPRESENTATIVE: We don't allow foreign ownership's of Ag. Land in ND right now.

Some got grandfathered in but right now if a Norwegian came in he could not purchase

Land. I think that is the way it is. I am not sure about Canadians coming forward to purchase land. There is another bill out there that talks to this this bill as to sales of ND land to an alien.

REPRESENTATIVE DAMSCHEN: A lot of limits to ownership to land by non-profits.

If there is a violation of this is there any entity out there that checks in those issues.

DEWEY: I am not certain. I do know that the recorders send to the North Dakota Attorney General as to sale of land every six months if there was a sale to a corporation. We are involved in that process but I am not sure of as to the other question.

FROELICH: Every time you r record something there must be an address. Right I would imagine 99 percent of your recordings have an address don't they.

DEWY: They are required to have an address. By law.

REPRESENTATIVE FROELICH: If they put down a false address then they should be subject to prosecution.

DEWEY: I guess they could twist the law and use someone else's address

PRESENTATIVE DAMSCHEN: Aliens living in country, Dose this apply to them also.

DEWEY: If it comes in with a foreign address we report that to the Attorney General. Office. As we do with corporations.

DAMSCHEN: Aliens living in this country have a US ADDRESS.

What we need is a data base. So we could access the data base: Any additional testimony for SB 2161. Any testimony in opposition.

I would assume we have some other county register of deeds in the hearing room this morning.

They each introduced themselves. Ward, Caviler, Wells Dunn, Mckenzie Co., The chair welcomed them to the committee.

CHAIRMAN NICHOLAS: What is the committee's wishes on 2161?

REPRESENTATIVE DAMSCHEN: MADE A MOTION FOR A DO PASS.

REPRESENTATIVE MUELLER: SECONDED THE MOTION.

CHAIR: Is there any additional discussion committee members.

REPRESENTATIVE MUELLER AND DAMSCHEN both had reservations. There should be a mechanism in place to address the problem. Attorney general should be brought into picture. As to enforcement. You can contact the Attorney General.

CHAIRMAN NICHOLAS: THE CLERK WILL TAKE THE ROLL.

THERE WERE 8 YES 3 NO 2 ABSENT

REPRESENTATIVE KREID CARRIED THE BILL

THE CHAIR CLOSED ON SB 2161

SB 2161

2-25-05

Date:

Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HOUSE AGRICULTURE COMMITTEE

Committee

Check here for Conference Committee

Legislative Council Amendment Number 7

Action Taken DO PASS

Motion Made By DAMSCHEN

Seconded By MUELLER

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE		✓
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH		✓
REP. WESLEY BELTER		✓	REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG			REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL					

Total (Yes) 8

No 3

Absent 2

Floor Assignment KREIDT

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

REPORT OF STANDING COMMITTEE (410)
February 25, 2005 12:52 p.m.

Module No: HR-35-3692
Carrier: Kreidt
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2161: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(8 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SB 2161 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2161

2161

**TESTIMONY TO THE
SENATE GOVERNMENT & VETERAN AFFAIRS COMMITTEE**

Prepared January 20, 2005 by
Danette Odenbach
North Dakota Association of Counties

REGARDING HOUSE BILL 2161

Chairman Krebsbach and members of the Senate Government and Veterans Affairs Committee:

The North Dakota Association of Counties (NDACo), on behalf and at the request of the North Dakota Association of County Recorders (NDACR), submits this testimony in favor of the passage of SB 2161.

Senate Bill 2161 repeals section 47-10.1-03 of the North Dakota Century Code, which establishes a duty for county recorders essentially impossible to perform and which a subsequent section, 47-10.1-06, suggests may be a Class A misdemeanor if they fail to comply. Section 47-10.1-03 prohibits County Recorders from recording any information affecting title, possession or interest in agricultural lands when the acquiring person or business entity is not a citizen of the United States, a citizen of Canada, or a permanent resident alien of the United States. Section 47-10.1-03 is attached for your review.

County Recorders, when reviewing their duties, recognized they are unable to comply with this section of the law, implemented in 1979, as they are not in a position to determine residency, nor are they supplied with any information allowing them to do so.

Repealing this section of the law removes the burden of proof from the recorder's office and places the responsibility for compliance (and penalty for non-compliance) with the purchaser of the property.

The North Dakota Association of Counties and the North Dakota Association of County Recorders appreciate your consideration and request a Do Pass recommendation on Senate Bill 2161 to repeal Section 47-10.1-03 of the North Dakota Century Code.

47-10.1-03. Recording. A recorder in this state shall not record any instrument affecting title to, possession of, or interest in agricultural land where the acquiring person or business entity is in violation of section 47-10.1-02.

Source: S.L. 1979, ch. 484, § 3; 2001, ch. 120, § 1.

TESTIMONY GERMANE TO SB 2161

FRI - 21JAN05

TO: ND SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

**FM: Dwayne J. "Dewey" Oster, McLean County Recorder
North Dakota Recorder's Assn. Legislative Committee**

Madam Chair Krebsbach and members of the Senate Government and Veterans Affairs Committee.

For the record, I am Dewey Oster, McLean County Recorder and also a member of the North Dakota Recorder's Association Legislative Committee.

I wish to place the "stamp of support" on Ms. Odenbach's testimony as it pertains to SB 2161.

One of the county recorder's primary job functions is to record all instruments or documents affecting title to real property. All instruments, including deeds to property, must meet certain recording requirements in order to be placed of record. Most of these requirements are easily identifiable and present no problem. But I submit, it is a virtually impossible task for us, as recorders, to make a determination as to whether or not an individual or a certain entity is an alien. And to have the recorder possibly charged with a Class A misdemeanor for failure to recognize this fact is a far too stringent a penalty.

Therefore, I also ask that you repeal Section 47-10.1-03 of the North Dakota Century Code.

**TESTIMONY TO THE
HOUSE AGRICULTURE COMMITTEE**

Prepared January 20, 2005 by
Danette Odenbach
North Dakota Association of Counties

REGARDING HOUSE BILL 2161

Chairman Nicholas and members of the House Agriculture Committee:

The North Dakota Association of Counties (NDACo), on behalf and at the request of the North Dakota Association of County Recorders (NDACR), submits this testimony in favor of the passage of Senate Bill 2161.

Senate Bill 2161 repeals section 47-10.1-03 of the North Dakota Century Code, which establishes a duty for county recorders essentially impossible to perform and which a subsequent section, 47-10.1-06, suggests may be a Class A misdemeanor if they fail to comply. Section 47-10.1-03 prohibits County Recorders from recording any information affecting title, possession or interest in agricultural lands when the acquiring person or business entity is not a citizen of the United States, a citizen of Canada, or a permanent resident alien of the United States. Section 47-10.1-03 is attached for your review.

County Recorders, when reviewing their duties, recognized they are unable to comply with this section of the law, implemented in 1979, as they are not in a position to determine residency, nor are they supplied with any information allowing them to do so. In addition, section 47-10.1-02 provides resolution to any unlawful ownership of agricultural lands by ineligible persons by requiring disposal within three years after acquiring ownership.

Repealing section 47-10.1-03 removes the burden of proof from the recorder's office and places the responsibility for compliance (and penalty for non-compliance) with the purchaser of the property.

The North Dakota Association of Counties and the North Dakota Association of County Recorders appreciate your consideration and request a Do Pass recommendation on Senate Bill 2161 to repeal Section 47-10.1-03 of the North Dakota Century Code.

47-10.1-03. Recording. A recorder in this state shall not record any instrument affecting title to, possession of, or interest in agricultural land where the acquiring person or business entity is in violation of section 47-10.1-02.

Source: S.L. 1979, ch. 484, § 3; 2001, ch. 120, § 1.