

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2180

2005 SENATE JUDICIARY

SB 2180

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2180

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 17, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 1160
Committee Clerk Signature <i>Marion L. Selberg</i>			

Minutes: Relating to instruments recorded without auditor's certificate.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Sen Holmberg - Dist #17. Introduced the bill This bill is a result of the work of the real property division of the Bar Assoc. One of the segments are the bar have been studying issues.

We are constantly making changes in the statute. We are "up dating" these bill.

Malcolm Brown - Probate Attorney in Bismarck. (meter 178) and a member of the Titles Standards Committee. Handed out an amendment Att #1. Read change. We have not updated this law since 1985. In the old days you would get an order from the court terminating joint tenancy. Today we do not go to the court we only record an affidavit and a death certificate. This terminates the joint tenancy. The process has changed but the bill "language" has not. A life estate is the same procedure.

Sen. Trenbeath stated that in chapter 11. The language changing or judgment or decree affecting title real-estate is presently in law and that would effect any other, example divorce, awarded property to a non entitled spouse previously you would be able to record a subsequent deed without reference to paid taxes? What this statute says - a title decree is the type of judgment you could record, a petition decree- you could record a divorce decree that would divide the property between spouses without the taxes being paid. I don't think then the subsequent spouse could record the deed without the taxes being paid. The divorce decree would fall under this, **Mr. Brown** responded and **Sen. Trenbeath** agreed.

Sen. Traynor referred to 1118-02 as being in reference to delinquent taxes. (meter 438) and life estates. Would like to insert life estates on page 1, line 14 after tenancy. This is the way we a doing it. In the Western part of the state they are arguing the not paying of taxes on a death certificate.

Testimony in Opposition of the Bill:

none

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Sen. Trenbeath move to do pass the amendments submitted and discussed **Senator Triplett** seconded All in favor.

Sen. Trenbeath move to do pass the bill as amended and seconded by **Senator Triplett**. All were in favor, all present.

Carrier **Sen. Trenbeath**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 1/17/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2180

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50409.0100

Action Taken Move To Amend

Motion Made By Sen Trenbeath Seconded By Sen. Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

Date: 1/17/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2180

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 56409.0100

Action Taken Do Pass As Amended

Motion Made By sen Trenbeath Seconded By sen. Triplett

Senators	Yes	No	SenatorsSen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment sen. Treca beath

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

REPORT OF STANDING COMMITTEE

SB 2180: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "order" and insert immediately thereafter "document"

Page 1, line 14, after "tenancy" insert "or a life estate"

Renumber accordingly

2005 HOUSE JUDICIARY

SB 2180

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2180

House Judiciary Committee

☐ Conference Committee

Hearing Date 3/2/05

Tape Number	Side A	Side B	Meter #
1		xx	6.9-12.4
Committee Clerk Signature <i>Maureen Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Maragos).

Chairman DeKrey: We will open the hearing on SB 2180.

Malcolm Brown, Real Property & Probate Section of the State Bar Association of ND:

This bill is an amendment to a section in the county portion of the NDCC dealing with documents that should be recorded by the recorder without payment of taxes. What we're doing is bringing this section into the 21st century. A final decree of distribution, you will note on line 13, is crossed out. We haven't used final decree of distribution since the Uniform Probate Code was enacted and went into effect in 1975. But for whatever reason, nobody ever caught this. A Personal Representative deed is what is used to distribute out of a probate, and then what we've also added is a document terminating joint tenancy, instead of an order. Because we don't get orders terminating joint tenancy any more. All that's required to terminate a joint tenancy is the simple recording of the death certificate. So again this would bring this section of the code with

regard to the filing of documents with the county recorder, more in line with what the real world is today.

Representative Kretschmar: I understand that Personal Representative deeds are used 99% of the time, but I believe there is still a provision in the probate code for a PR deed of distribution.

Malcolm Brown: That's true. We had quite a debate on that, and it would appear in practice throughout the state that lawyers are simply using PR deeds, they don't call them a deed of distribution. That's why we suggested it be this way.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. They can't find Sen. Trenbeath, and so we will close the hearing. What are the committee's wishes in regard to SB 2180.

Representative Maragos: I move a Do Pass on SB 2180.

Representative Delmore: Seconded.

11 YES 0 NO 3 ABSENT

DO PASS

CARRIER: Rep. Onstad

Date: 3/2/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2180

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	A	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	A				
Representative Koppelman	A				
Representative Kretschmar	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Onstad

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

REPORT OF STANDING COMMITTEE (410)
March 2, 2005 12:45 p.m.

Module No: HR-38-3962
Carrier: Onstad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2180, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2180 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2180

Att #1

50409.0100

Fifty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2180

Introduced by

Senators Holmberg, Trenbeath

1 A BILL for an Act to amend and reenact section 11-18-03 of the North Dakota Century Code,
2 relating to instruments recorded without auditor's certificate.

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

4 **SECTION 1. AMENDMENT.** Section 11-18-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **11-18-03. Instruments entitled to record without regard to taxes.** The following
7 instruments may be recorded by the recorder without the auditor's certificate referred to in
8 section 11-18-02:

- 9 1. A sheriff's or referee's certificate of sale on execution or on foreclosure of a
10 mortgage.
- 11 2. A mineral deed conveying oil, gas, and other minerals in or under the surface of
12 lands.
- 13 3. ~~A final decree of distribution~~ personal representative's deed or any ~~order~~ document
14 terminating joint tenancy or any judgment or decree affecting title to real estate,
15 which must be presented to the auditor's office prior to being placed of record in
16 order to allow the auditor to make such changes in the tax rolls of the auditor's
17 office as may be necessary.
- 18 4. Any deed conveying to the state, or to any political subdivision or municipal
19 corporation thereof, any right of way for use as a public street, alley, or highway.
- 20 5. Any plat, replat, or auditor's lot accompanied by a resolution requesting the
21 recording of the plat, replat, or auditor's lot by the governing body of a political
22 subdivision.