

North Dakota Senate Industry and Business Committee  
Hearing on HB SB 2320  
Testimony from the ND Land Title Association  
1/25/2023

Good morning, Mr. Chairman and Members of the Committee,

The bill before you today is to change the state set cap on the amount a North Dakota Licensed Abstracter may charge on an abstract. Legislative council missed the requested changes which we ask this committee to adopt by amending the bill. The amendments are attached.

**What is an abstract and who are we?**

Abstracting is a compilation of documents recorded against a specific piece of property written in a brief concise format through a complicated search of the real estate records by an Abstracter. Its primary use is for North Dakota attorneys to determine the status of title to the property. We are for profit companies and not government agencies. The 83 members of the North Dakota Land Title Association are licensed companies operating in each of the 53 counties.

The abstracting industry helps drive our state's economy through the safe and efficient transfer of real property. In the current housing market these services are increasingly important for the confidence of title attorneys to issue accurate title opinions for individuals to purchase real estate and lenders to provide loans to homebuyers and agriculture producers. Because we provide accurate information through abstracts, North Dakota attorneys are able to prove that people own their homes, farms and property so that they may sell or obtain a loan. Additionally, these services ensure the safe transfer of real estate which in turn keeps title claims down and results in North Dakota having some of the lowest closing and title costs in the country.

In the last 30 years the legislature has increased the abstracting cap three times, most recently being the 2015 session. At that time, we requested a smaller increase and the legislature responded suggesting we come back in 8 years for an additional increase as necessary at that time. Here we are.

As you know the landscape of North Dakota has changed significantly in the past decade. Every county in the state has seen increases in the cost of doing business and wages.

**How much is the increase?**

As amended, the increased fees in the bill represent an annual increase over the past 8 years of 2.89% per year. The bill increases the cap on the fee we can charge for each entry, name search and the certificate. The change is based on the change in the Consumer Price Index, which is a trailing adjustment compared to the actual cost of services in recent years.

Paragraph 2, as amended, of the bill would allow for annual adjustments based on the change in CPI in the future, up or down. It rounds the amount to the nearest whole dollar and grants authority to set the newly adjusted amount to our licensing authority which is the Board of Abstract Examiners.

### **Why is there a cap?**

Abstracting has occurred in the state since 1915 during which time most counties had just one abstractor. Because one individual could control a market the legislature decided to cap the fees to ensure all customers were served equally. The cap is still necessary today as 40 of our 53 counties continue to have just one abstract company. This results in a lack of competition and a need to avoid problems caused by monopolies.

An increase in the cap will allow abstract companies to hire qualified individuals to provide important services to the real estate industry.

Thank you for your time this morning. We ask the committee to adopt the amendments and provide a Do Pass recommendation of SB 2320.

Sincerely, Nick Hacker

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