

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1252

2001 HOUSE JUDICIARY

HB 1252

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

House Judiciary Committee

Conference Committee

Hearing Date 01-22-01

Tape Number	Side A	Side B	Meter #
Tape 1	x		01 to 1238
	x		1308 to 2280
Committee Clerk Signature <i>Jean Burt</i>			

Minutes: Chr DeKrey opened the hearing on HB 1252 and asked the clerk to read the title.

Relating to signatures on notarial certificates and to amend and reenact section ND Century Code relating to documents entitled to recording.

Rep Haas: District 36 Taylor North Dakota. Sponsor of HB 1252. This bill relates to documents entitled to recording, page 2 section 2 - executed with an original signature, also relating to section 44-06-13.1 line 7 and 8 . the signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law. The reason for exception is, as e-commerce continues to expand, the need for a provision for something other than original signature will be required.

Chr DeKrey: Are there any questions for Rep Haas, if not thank you for appearing in front of the committee.

Al Jaeger: Secretary of State (see attached testimony)

Rep Delmore: What is the main problem that you see with the stamped signature?

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Al Jaeger: We have other problems, it could be other ways, but the rubber stamp is the most common.

Rep Delmore: As long as there is a signature, why do you have a problem with the stamp, we use it for a number of things.

Al Jaeger: The problems, anyone can use the stamp but only you can affix your signature to a document.

Rep Delmore: Can you state where there has been a specific problem.

Al Jaeger: I am not aware, but there well may be one with different issues being raised.

Rep Kretschmar: If someone signs legal papers in another state, such as South Dakota, how is it recorded here?

Al Jaeger: we already have a law in place that recognizes the signatures done in another state.

Rep Mahoney: when I look at this, I'm trying to see what the problem is.

Al Jaeger: we started the process of this bill, because of a problem in the Register of Deeds Office.

Rep Mahoney: Why do you feel that it has to be an original signature, where is the problem?

Al Jaeger: As I understand it, the person appears before you and says yes, that is my signature and that is my wife's signature and it is alright. You can't go there from here. The idea of a executable signature on a document should be the original signature.

Chr DeKrey: We will take a break in the hearing so that the person who has to testify on another bill, may testify and then go to another hearing. We will resume the hearing on HB 1252.

Pamela Tamayo Stenchjem: Dunn county Register of Deeds/ex-officio Clerk of Courts (see attached testimony.

Rep Mahoney: Are you aware of another bill that deals with electronic signatures?

Pamela Stenchjem: The bill effects more on the filing of the document.

Rep Kretschmar: Are you getting more of this as a problem?

Pamela Stenchjem: The documents that are copies, we are having difficulty in discerning which copies are the original. One way to check is to see if the ink is blue or black. We are looking at this because we have to maintain integrity and to avert possible fraud down the road.

Chr DeKrey: Is there anyone else wishing to appear in support of HB 1252, is there anyone wishing to testify in opposition?

Ron Ness: North Dakota Petroleum Council, I have worked with the Secretary of State with come of our concerns. In section one, The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law. We can live with that section. Our concern in section two, line one page two, any acknowledgment must be executed with an original signature. with the age of electronic signatures, we have land deeds and leases of people who are not in the state or that are signed in other states. The Register of Deeds says no we cannot accept this signature, this can cause a delay or the possibility of losing the lease. If the acknowledge is legal in another state why can it not be allowed in this state.

Chr DeKrey: Don't we have laws now that cover this?

Ron Ness: This bill doesn't acknowledge this, the law would over ride anything else.

Rep Mahoney: So you are ok with section one, you just have concerns with section two? Can you use a rubber stamp now in section one?

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Hearing Date 01-22-01

Mr Ness: Section one would not allow the use of a rubber stamp. But section two, if enacted governing documents that are signed out of state exceeds the authority of the state. You cannot govern issues done outside the state.

Rep Delmore: What you are asking for is that the same standards apply.

Ron Ness: I don't believe that I am following your question.

Rep Delmore: You want the law to have the same standards in state as out of state?

Ron Ness: If tow parties agree outside of the state of North Dakota and it is authorized in that state, we are trying to impose our law in another state.

Chr DeKrey: If there are no other questions, we will close the hearing on HB 1252.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1252 b

House Judiciary Committee

Conference Committee

Hearing Date 2-13-01

Tape Number	Side A	Side B	Meter #
1		xx	3578--4250
Committee Clerk Signature <i>Joan Davis</i>			

Minutes: Chair DeKrey : Take up HB1252.

Cory Fong, Sec. State Office : I think the bill is good and we don't have any amendments.

Rep. Delmore : If we pass this bill, it will mean that no notary will be able to use the stamp with his/her name on it when dealing with electronic filing?

Cory : No.

Rep. Delmore : If we can accept electronic signatures in all those things, why do we need this bill. The idea that someone has to use their real signature in something like that. Some of our notaries go through way too many documents in a day. I think the stamp has been successful.

Chair DeKrey : Are we talking about the person signing the document or notary?

Rep. Klemin : I think we need to have a basic understanding of what a notary does. A notary is not to notarize a signature that has been laying around on a stack for some time.

Cory : This is the stamping of the individual who is being notarized. There is a stamp that the notary uses. We are not talking about that.

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Rep. Grande : I move a DO PASS.

Rep. Brekke : I second.

VOTE: 10 YES and 2 NO with 3 absent. PASSED. Rep. Maragos will carry the bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252c

House Judiciary Committee

Conference Committee

Hearing Date 02-20-01

Tape Number	Side A	Side B	Met. #
TAPE I	X		01 to 294
TAPE I	X		1887 to 2141
Committee Clerk Signature <i>Stan Diers</i>			

Minutes: Chairman DeKrey called the committee to order and we will take up HB 1252.

Al Jaeger: Secretary of State came in to explain the amendments. This bill is the original signature bill, it was passed out of committee and referred back to this committee. The wording in the amendment before you is acceptable to all parties. If those are adopted, I am comfortable with it, everyone is comfortable with it.

DISCUSSION

COMMITTEE ACTION

Rep Wrangham moved the Jaeger amendment. Rep Kingsbury seconded.

Chairman DeKrey: called for a voice vote on the amendments. Motion carries.

What are the wishes of the committee? Rep Maragos moved a DO PASS as amend. seconded by Rep Disrud.

DISCUSSION

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House Judiciary Committee

Bill/Resolution Number 02-20-01

Hearing Date HB 1252

Chairman DeKrey: The clerk will call the roll on a DO PASS as amend. The motion passes with

14 YES, 1 NO and 0 ABSENT. Carrier Rep Maragos.

Date: 02-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Grande Seconded By Rep Brekke

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore		✓			
Rep Rachael Disrud	✓				
Rep Bruce Eckre		✓			
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney					
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham					

Total (Yes) 10 No 2

Absent 3

Floor Assignment Rep Maragos

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

REPORT OF STANDING COMMITTEE (410)
February 13, 2001 11:46 a.m.

Module No: HR-26-3178
Carrier: Maragos
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1252: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS**
(10 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1252 was placed on the
Eleventh order on the calendar.

A handwritten signature in black ink, appearing to read "James DeKrey", is written across the center of the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

PROPOSED AMENDMENT TO HOUSE BILL 1252

Page 2, line 1, after the first underscored comma insert "or the law of the state where the instrument or document was executed."

Renumber accordingly

18282.0101
Title.0200

Adopted by the Judiciary Committee
February 20, 2001

VK
2/20/01

HOUSE AMENDMENTS TO HB 1252 HOUSE JUDICIARY 02-20-01

Page 2, line 1, after "by" insert "the" and after "law" insert "of this state or the law of the state in which the instrument or document was executed"

Renumber accordingly

Date: 02-20-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1252

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Maragos Seconded By Rep Disrud

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore		✓			
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 14 No 1

Absent 0

Floor Assignment Rep Maragos

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

REPORT OF STANDING COMMITTEE (410)
February 20, 2001 1:16 p.m.

Module No: HR-31-3998
Carrier: Maragos
Insert LC: 18282.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1252: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1252 was placed on the Sixth order on the calendar.

Page 2, line 1, after "by" insert "he" and after "law" insert "of this state or the law of the state in which the instrument or document was executed"

Renumber accordingly

2001 SENATE JUDICIARY

HB 1252

