

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

22/5

2001 SENATE POLITICAL SUBDIVISIONS

SB 2215

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2215

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 25, 2001

| Tape Number                                     | Side A | Side B | Meter #   |
|---|--------|--------|-----------|
| 1   |        | x      | 14.0-30.7 |
|   |        |        |           |
|   |        |        |           |
| Committee Clerk Signature <i>Mary Jo Wocken</i> |        |        |           |

Minutes:

The hearing was opened on SB2215, relating to county debt adjustment boards.

SENATOR WARDNER : Sponsor, also spoke in favor of SB2215. This is a repealer bill, in which it takes out of code a law which place in the 1930's. It was brought in at that time to take care of people that were in debt and so that there peers would come together and were appointed by the district judge of that area, whether they should pay the bill or not pay the bill, pay part of the bill or find some kind of fairness to the issue. This bill hasn't been used for some years until a collection agency, one year ago, used it. Of course it creates all kinds of problems because today it is a lot different than it was back in 1935.

REPRESENTATIVE AARVOLD: Co-sponsor and supporter of SB 2215. Representative Aarvold stated he was a Democrat in favor of smaller government by eliminating the county debt adjustment board. This is not used frequently if at all in terms of resolving disputes between creditor and debtors.

KIM RAU: North Dakota Hospital Services Inc.,. Presented written testimony concerning this bill. See attached testimony. Kim Rau urged this committee a Do Pass on SB2215.

SENATOR WATNE: According to and looking at what this law, is the process that this woman went through? Whom did she notify, then a District Judge, then the judge had to set up the panel, or what happened? There had to be an appointment of a board. How did that work?

KIM RAU: What they did. She went to the Clerk of Court and asked for this to be done. The Clerk of Court had to go to the District Judge, to get the approval to set up this County Debt Adjustment Board. Then we had a hearing. SENATOR COOK: Mrs. Rau, I'm looking at this, the only decision that this debt board can really weigh is the relationship between the debt and the individuals income? Couldn't they also take a look at the bill and say maybe for some reason or whatever, the bill wasn't justified? KIM RAU: It is my understanding that they could do, the board could do whatever they wanted to do with that debt. They wanted to get rid of it because they deemed it as fair, they could get rid of it. SENATOR COOK: Ms. Rau, when they make their decision, do they have a final order, or document? What was their decision in reducing this debt? KIM RAU: With the actual file plus a tape recording she shared the contents of the file. Because the individuals name was on the file she was unable to share it with everyone. In the actual decision the 'Debt Adjustment Board Notice of Decision' decided that the debtor was responsible for a certain dollar amount to be paid over a twelve month period. It was an actual judgment. SENATOR COOK: There is no reason as to why they came to that conclusion? KIM RAU: A hearing was held, there was a decision. SENATOR WATNE: Was it signed by a judge. KIM RAU: This was faxed over to their attorney through another party from Honorable Gordon Holberg. It was signed by a judge. SENATOR FLAKOLL: Is this a public hearing or is it a private hearing that they have? Can anyone attend if they want? KIM RAU: In this case the

debtor, committee and Clerk of Court. The Judge was not present. We actually did this through a telephone conference call. SENATOR FLAKOLL: I would assume it was an open meeting, but I'm also reading in the 11:26:04, "if a debtor requesting a meeting makes and files an affidavit dating that the debtor is financially unable to pay the fee provided for in this section, the payment thereof shall be waived". Is there any proof that you have to? SENATOR LEE: I believe that's referring to the \$10 filing fee. SENATOR COOK: Okay, sure. SENATOR LEE: That's above. It would be my impression also, that it would be an open record and our intern can provide us with better information about that. But in 11:26:06, all it is apparently able to discuss if conciliated between the debtor and the creditor. The financial condition of the debtor, and the condition of the financial obligations of the debtor 26:05. So it looks to me as if all they can do is say they are current or behind on these payments without a judgment about whether or not, without making a judgment call. I don't mean judgment in the legal sense of the word, about whether or not the bill is fair. It's just apparently it has to do with whether or not the individual is capable of paying in his current wrongs of his debt.

SENATOR COOK: Closed the Hearing on SB2215.

Senator Watne moved a Do Pass on SB2215. Senator Lyson 2nd

Discussion was held between committee members. SENATOR COOK: Are their options, if I may commit bankruptcy? SENATOR LEE: That was mentioned, but I think with, as had been mentioned during the testimony, there are other credit management kinds of opportunities, credit counseling, any number of other kinds of matters that would be more fair because they would actually look at the debt itself and deal with some kind of mediation between them. Its not objective because there pulling in 3-7 people off the street so to speak, to discuss whether or not if somebody can afford to make the payments. I think we have better ways of dealing with it.

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Senate Political Subdivisions Committee

Bill/Resolution Number SB2215

Hearing Date January 25, 2001

SENATOR MATHERN: We receive requests from the counseling service like the Village to ask for help with the debtor and it works very well. I speak in favor of that, there, is something out there. SENATOR LEE: Have you had any experience with this debt adjustment board?

SENATOR MATHERN: No, I never have. SENATOR FLAKOLL: Due processes in other areas are probably more qualified to handle this. Again, you know a few people kind of picked seemingly at random to deal with the situation, who may not have the expertise and knowledge of debt service and what's fair for both sides. But maybe some other related issues in terms of why was this debt encumbered and some of those problems. SENATOR COOK: Somebody got treated fair, or abused the law, or is it?

Do Pass SB2215 8 Yeas, 0 No 0 Absent

Carrier: Senator Christenson



**REPORT OF STANDING COMMITTEE (410)**  
January 25, 2001 3:00 p.m.

**Module No: SR-13-1652**  
**Carrier: Christenson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2215: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2215 was placed on the Eleventh order on the calendar.**

2001 HOUSE POLITICAL SUBDIVISIONS

SB 2215

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2215

House Political Subdivisions Committee

Conference Committee

Hearing Date 3-08-01

| Tape Number                                | Side A | Side B | Meter #    |
|--|--------|--------|------------|
| 1  | xx     |        | 4500--5660 |
|  |        |        |            |
|  |        |        |            |
| Committee Clerk Signature <i>Pam Dever</i> |        |        |            |

Minutes: Chair Froseth opened the hearing of SB2215 relating to county debt adjustment boards.

Rep. Ole Aarsvold, Dist. 20 : support this bill. This law has out lived it's usefulness. There is no need for this board any more. It was passed during the depression.

Rep. N. Johnson : Are there active boards set up now?

Rep. Aarsvold : I don't know of any county that has a board in place. They are not being appointed nor are they being used.

Kim Rau, ND American Collectors Assoc.: testified in support of SB2215. (SEE ATTACHED)

Chair Froseth : Any more testimony for or against? Hearing none, SB2215 is closed. What does the committee wish?

Rep. Tieman : I move a DO PASS.

Rep. Delmore : I second.

**VOTE: 13 YES and 0 NO with 2 absent. PASSED. Rep. Gunter will carry the bill.**

Date: 3-8-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2215

House POLITICAL SUBDIVISIONS Committee

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

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

Action Taken DO PASS

Motion Made By Rep. Delmore Seconded By Rep. Tieman

| 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 Eekre            | AB  |    |                      |     |    |
| Rep. Mary Ekstrom           | ✓   |    |                      |     |    |
| Rep. April Fairfield        | AB  |    |                      |     |    |
| 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) 13 No 0

Absent 2 ab

Floor Assignment Rep. Gunter

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

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2001 11:11 a.m.

Module No: HR-40-5103  
Carrier: Gunter  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2215: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2215 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SB 2215

## **SENATE BILL #2215**

### **In support**

Chairman Cook and members of the Political Subdivision committee, my name is Kim Kau. I am speaking on behalf of the North Dakota American Collectors Association.

Senate Bill #2215 repeals a section of law that was put into place in 1935, which was during the depression era. Perhaps in 1935 there was a need for a County Debt Adjustment Board, but in 2001 this need no longer exists.

In visiting with the Clerk of Court in Wells County, it was her understanding that the purpose of this law was to assist farmers during the depression. Today we have other means of helping the farmer and helping those that are having financial difficulty. From government programs to financial counseling programs to charity programs

I spoke with a gentleman that worked with the Farmers Home Administration from 1957 until his retirement approximately 10 years ago. When he began with FHA his job was to collect money owed to the federal government for Barn Yard Loans and for Seed and Feed Loans. In order to collect these loans (many of which were given to farmers during the 1930's), a process called the Debt Settlement Procedure was used. It is my belief and his that ND CC 11-26 is the law that was being used for this Debt Settlement Procedure.

The company that I run, Hospital Services, Inc. became aware of this law in 1999. We had a consumer that was refusing to pay a bill that she owed. She had a full time job and did have the means to pay the bill. We tried on several occasions to get her to make payments on the bill, but she refused. When legal action was commenced, she found this antiquated bill. She was able to convince the County Debt Adjustment Board to reduce her bill substantially and than only pay \$27.60 per month for 11 months.

There were other avenues that this particular debtor could have used. She could have utilized the services of a consumer credit organization, or she had the option of filing bankruptcy. There is also the solution of simply making monthly payments on her debt.

If we took this law to the extreme, no one with somewhat limited means of income would have to pay an entire debt that they owed. They would simply rack up bills from needed items to frivolous items and take their debts to the County Debt Adjustment Board and have this committee of 3-7 county residents determine what they need to pay, if anything. Perhaps this would keep the debtor from filing bankruptcy, but is this what we want. There was no indication in this section of law that prohibits the debtor from appearing before this board every week if they wanted to. Bankruptcy court on the other hand has specific limitations as to the length of time a debtor must wait to file bankruptcy again.

Mr. Chairman and members of the committee as you can see from my testimony, that while the intent of the law was good for the 1930's, it no longer has a need in 2001. I urge your favorable recommendation on passing Senate Bill 2215, which repeals Chapter 11-26 of North Dakota Century Code.

**CHAPTER 11-26**  
**COUNTY DEBT ADJUSTMENT BOARD**

**11-26-01. Debt adjustment board - Members - Appointment - Oath.** The judges of the district courts of the several judicial districts of the state shall appoint, by joint action of the judges within each judicial district, a debt adjustment board for each county within the district. The board shall consist of not less than three nor more than seven members who shall serve at the pleasure of the district judges of the district within which the county is located, and who, before entering upon the duties of their office, shall take and file with the register of deeds, unless the board of county commissioners designates a different official, the oath of office prescribed for civil officers.

**11-26-02. Compensation and expenses.** The services of the members of the debt adjustment board shall be rendered without fee or compensation, but the board of county commissioners may authorize the payment of the actual expenses of the members of the board. If the payment of such expenses is authorized, they shall be paid in the same manner and out of the same funds as expenses of county officers are paid. Not more than five hundred dollars may be expended in a county in any one year for expenses of the debt adjustment board.

**11-26-03. Secretary of board.** The register of deeds, unless the board of county commissioners designates a different official, shall act as secretary of the debt adjustment board. The expenses incurred by the register of deeds, or designated official, in sending out notices and performing other acts prescribed by this chapter shall be defrayed out of funds available for payment of expenses in official business.

**11-26-04. Meetings of board, when held - Fees.** Whenever a debtor or creditor calls for assistance upon the debt adjustment board of the county within which the debtor resides and pays to the register of deeds, unless the board of county commissioners designates a different official, a filing fee of ten dollars, the register of deeds, or designated official, shall call a meeting of the debtor and the debtor's creditors with the board at the earliest possible date. The register of deeds, or designated official, shall notify the members of the board and the debtor and creditors of the time and place of such meeting. If a debtor requesting a meeting makes and files an affidavit stating that the debtor is financially unable to pay the fee provided for in this section, the payment thereof shall be waived.

**11-26-05. Members of board to investigate financial condition of debtor - Administer oaths.** At the meeting of the county debt adjustment board, any one or more of the members of the board may conduct a hearing as to the financial condition of the debtor, and the board shall fully examine and consider the condition of all of the financial obligations of the debtor. The members of the board may administer oaths in all matters and proceedings before the board.

**11-26-06. General duties of board.** The debt adjustment board shall attempt to conciliate between the debtor and the debtor's creditors and shall advise and assist in arriving at a fair basis upon which the debts can be adjusted, refinanced, or paid. It also shall advise, counsel, and assist the parties in arriving at some agreement as to the future conduct of business relations between them.

**11-26-07. Offers of settlement made in connection with proceedings not admissible in evidence.** Superseded by N.D.R.Ev., Rule 408.

**11-26-08. Rules of procedure before board.** Rules of procedure for debt adjustment boards may be prescribed and adopted in the same manner and by the same authority as rules of practice are prescribed and adopted for the district courts.