MICROFILM DIVIDER

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

ROLL NUMBER

DESCRIPTION

2145

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

2003 SENATE POLITICAL SUBDIVISIONS

SB 2145

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature 10-16-03 Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2145

Senate Political Subdivisions Committee

❑ Conference Committee

Hearing Date: January 16, 2003

Tape Number	Side A	Side B	Meter #
1	X		0 - 3743
Committee Clerk Signature			

Minutes:

SENATOR COOK called the Political Subdivisions committee to order.

Roll was taken: All senators (6) present.

SENATOR COOK opened the hearing on SB 2145 relating to real estate broker and real estate salesperson fines and recovery of investigation and legal fees.

Testimony in support of SB 2145:

SENATOR LEE the prime sponsor, spoke in favor of SB 2145. (See attached testimony)

REPRESENTATIVE POTTER Dist. 17, Grand Forks, also a realtor for Greenberg Realty in Grand Forks. She spoke in favor of SB2145 and SB2146. She had met with the realtors in Grand Forks and went over both bills. The realtors were in favor of the changes and thought they were welcome, good and fair changes.

REPRESENTATIVE DAVE WEILER testified in favor of SB 2145.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

10-16-03
Date

Pat Jergenson, Secretary Treasurer, ND Real Estate Commission, spoke in favor of SB 2145 (See attached testimony)

SENATOR COOK asked how the cost are being covered right now in your budget?

Pat Jergenson answered out of the general budget with the license fees.

Clause Lembke, ND Association of ND Realtors introduced two people from the association leadership team that will testify and make two different points, Mary Splichal and Scott Lauser.

Mary Splichal, Political Affairs Chairman of NDAR, spoke in favor of SB 2145. (See attached testimony)

Scott Louser, Past President of Association and Realtor with Prudential Preferred Properties in Minot spoke in favor of SB 2145. (See attached testimony)

SENATOR COOK asked when the fine is imposed after a violation and about legal counsel.

Roger Cymbaluk, Vice Chair of the Real Estate Commission, answered the question as to when the fine is imposed. The fine is imposed after the individual is determined to be in violation of that particular area. The question regarding legal council. Nobody is discouraged to have legal council, most of the people that come before the commission are represented by legal counsel and have their attorney with them.

Testimony in opposition to SB 2145:

Leon Mallberg, owner of Commercial Real Estate in Stanley ND, appeared in opposition of SB 2145.

He felt the bill was a conflict of interest because you have the commission as prosecutor, judge, jury and jailer. He felt the bill has not been well thought out.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

Earl Allen, Allen Realty Company of Minot, testified in opposition to SB 2145. (See attached testimony)

No neutral testimony.

SENATOR COOK closed the hearing on SB 2145.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2145

Senate Political Subdivisions Committee

❑ Conference Committee

Hearing Date January 24, 2003 (Discussion)

Tape Number	Side A	Side B	Meter #
1		X	3450 - 3945

Committee Clerk Signature Shirley Borg

Minutes:

Discussion on SB 2145. All Senators(6) in attendance.

CHAIRMAN COOK passed out some information that gives some history over complaints that have been filed in the past by the Real Estate Commission.. (See Attached)

SENATOR COOK asked if this bill would allow them to recover actual cost occurred by the commission.

SENATOR JUDY LEE replied yes and on that sheet that you just passed out it talks about the cost of some of those investigations and what they were able to collect and fine. She said it does not seem unreasonable if there has been a complaint and somebody has been sanctioned that they would participate in the cost of the outcome.

SENATOR COOK decided to keep the bill for later discussion.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2145**

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date **January 31, 2003 (Discussion and Action)**

Tape Number	Side A	Side B	Meter #
1		X	5115 - 5800

Committee Clerk Signature Shirley Borg

Minutes:

SENATOR COOK opened the discussion on SB 2145. All in attendance (6).

SENATOR JUDY LEE checked with the people involved and for the clarification there has never been an intention of expecting someone who was being investigated to pay any of their fees if they were found innocent. She pointed out; if someone calls the real estate agency about a realtor or real estate agent, they will suggest that they refer back to the local board because there are professional standards committees there that will address this and for some reason it isn't appropriate to deal first on the local level then they will deal with it there.

SENATOR COOK said his understanding is that anything that goes past the investigative hearing, those costs are not what is included in this bill. If it did go on to the court that would not be covered.

Pat Jurgenson, Secretary Treasurer, ND [illegible] Commission, explained that their thought process was that we would be reimbursed for legal fees taking them though the legal hearing if

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

they were found in violation but what happens after that, if it were to go on to district court, is outside of that prosecution of the complaint.

No other discussion.

SENATOR POLOVITZ moved a DO PASS on SB 2145.

SENATOR JUDY LEE seconded the motion.

Roll call vote: Yes 6 No 0 Absent 0

Carrier: SENATOR JUDY LEE

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

Date: 1-31-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2145 Do Pass

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Polovitz Seconded By Senator Judy Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Judy Lee

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 9:12 a.m.

Module No: SR-20-1492
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2145: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2145 was placed on the Eleventh order on the calendar.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2145

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03

Operator's Signature Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2145

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 4, 2003

Tape Number	Side A	Side B	Meter #
2	x		0.0-28.4
2		x	13.9-16.2
Committee Clerk Signature	Judith Hanna		

Minutes: **Chairman Keiser** opened the hearing on SB 2145.

Rep. Potter, District 17, introduced SB 2145. She also introduced **Pat Jergenson, Secretary-Treasurer of the North Dakota Real Estate Commission**, who testified in support of the bill **(See attached #1).**

This bill will do three things:

1. Increase the amount of a fine assessed a licensee found in violation by the Commission to a maximum of $2500.
2. Allow the Commission to assess actual costs incurred in the investigation and prosecution of a complaint
3. Grant the Commission the authority to require a licensee to attend a course if found in violation

Rep. Kasper: 80% of your budget remains after the cost of hearings is deducted, are you suggesting that 80% is not enough to do the job requirements of your commission?

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

Jergenson: Correct. SB 2146 will address our budget concerns.

Rep. Boe: Do all your complaints result in an investigation? And they all cost $500? Even if the complaint is dismissed?

Jergenson: They have to be investigated .The minimum it costs us to investigate is $500. The fine would be assessed if and when they are found in violation.

Rep. Froseth: What kinds of violations are we talking about?

Jergenson: If a trust account fund violation occurs, if misrepresentation on property occurs...that type of thing.

Rep. Ruby: Normally boards charge a fee to do the work, their investigations, handle complaints, etc. You have a provision in here for the actual cost plus fees, shouldn't there be a reduction in fees for members, if you're getting actual costs from pursuing somebody that you are taking action against?

Jergenson Do you mean versus license fees?

Chairman Keiser: You're managing $23,000-$25,000 in 2001-2002 for legal costs. If you can charge that back to those in violation, then it is no longer a direct expense to the board. Therefore, that's prepping the next bill, but why do you need additional money if you're recovering that $23,000-$25,000 of your legal fees?

Jergenson: We haven't had a fee increase since 1995, we're solely funded by our license fees. Costs have escalated, we need to move forward with technology and improved services. This is one way to trim our budget but we also need to increase fees.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

Chairman Keiser: This bill transfers legal costs if members are found in violation and it gives the board the discretionary authority to assess fines or fees and allows recovery of legal costs. And there is a stipulation that the offenders may have to attend a class as well.

Claus Lembke, representing the ND Association of Realtors, took the podium. This association has 8 local boards comprised of 1000 members statewide. There are 1900 licensees in the state, 400-500 inactive, we represent two thirds of the active realtors in the state. He introduced **Mary Splichal, State Political Affairs Chair of the NDAR . (See attached # 2)**

Chairman Keiser: I'm concerned about these fines. $2500 is a lot of money. If we lose a person in practice and fine them, are you going to have some members of your organization upset?

Splichal: Most of our members support this bill. The alternative is to take them away from their work and livelihood for several days by removing their license. That would be more costly in the long run.

Rep. Nottestad: If an agent knows he can get by with just a fine, and won't have his license suspended, do you think it could work the other way, causing agents to work more in a gray area?

Splichal: In addition to the fine, they could still lose their license for an appropriate length of time. Repeat offenders would be noticed by the commissioners who would find their way to stop them.

Senator J. Lee, District 13, testified in support of SB 2145 **(See attached #3)** She clarified that a realtor is someone who belongs to the state association that is a trade association. People who are licensed are real estate agents, not every real estate agent is a realtor, but every realtor is a licensed agent.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

Scott Louser, NDAR Vice-President & Chair of Education Committee, Minot, testified in support of SB 2145. **(See attached #4)**

Rep. Thorpe: All these fines and penalties and disciplinary action, have you had any agents or brokers that have had a second offense?

Louser: I'd defer to one of our Commissioners, I'm not on that governing body so I don't get that type of information.

Chairman Keiser: On the education side, with a significant violation, what kind of program, would it be standard education on that subject matter that these people would be directed to take or would it be like traffic school where the program is designed specifically for those violators?

Louser: The Commission has the ability to assess up to 6 hours of required education per cycle for realtors. Right now we have a four hour course in agency law. I would expect that if there was an agency violation where a realtor violated law with a consumer, that the Real Estate Commission would give a specific agency law course in that instance.

Roger Cymbaluk, Vice-Chair, North Dakota , testified in support of SB 2145. I can address that previous question about double violations. The motivation behind this stems from the instance that cost us $7700. The fine we were allowed by law to assess was $500 and a letter of reprimand. There's another case that cost us $3600. That investigation concluded with the Commission deciding that it didn't warrant a formal hearing.

Rep. Kasper: How do you determine your costs under your cost items? Are they hard or soft costs?

Cymbaluk: Complaints are handled by a law firm that is assigned by the Office of the Attorney General. His law firm conducts the investigation. We know exactly what it costs.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

Rep. Klein: Where are you sitting at now, in terms of assets available? And how would you see this fine thing increasing your reserves?

Cymbaluk: That will be addressed in SB 2146. We are not looking at the fines to generate income, we hope that they will be a deterrent.

Written testimony from **Bob Willer** in support of SB 2145 was distributed to the committee.

(See attached # 5)

As there was no one else present to testify in support of or in opposition to SB 2145, **Chairman Keiser** closed the hearing.

Chairman Keiser called for committee work on SB 2145.

Rep. Kasper complimented the Realtor's Association on their well orchestrated presentation.

Rep. Severson moved a Do Pass.

Rep. Johnson seconded the motion.

Results of the roll call vote were 13-0-1.

Rep. Severson will carry this bill on the floor.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

Date: 3/4/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2145

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Severson Seconded By Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe	✓	
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froseth	✓		Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Severson

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
March 4, 2003 4:56 p.m.

Module No: HR-38-3917
Carrier: Severson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2145: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2145 was placed on the Fourteenth order on the calendar.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

2003 TESTIMONY

SB 2145

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03

Operator's Signature Date

(For Sen. J. Lee)

Scratch Pad for Bill: SB 2145

SB 2145
Testimony for Political Subdivisions Committee
January 16, 2003

SB 2145 would allow the Real Estate Commission to recapture actual costs incurred while investigating a complaint from a citizen about a real estate licensee. It also would allow them to require the licensee to attend a course which would make the offender better informed about the areas of real estate practice in which the offense took place, so that he/she would not be likely to commit the same offense again. A fine not to exceed $2500 could be levied in lieu of suspension of a license, if the Commission decided that a fine would be the best punishment.

One of the most important roles of the Real Estate Commission, in my opinion, is protection of the public. They work toward that goal by requiring people in the real estate business to be licensed, to take certain classes to ensure that they are up to date on federal and state law and policies, and to respond to complaints from citizens.

The number of complaints has grown in recent years, as real estate transactions have become more complex. The Commission thinks that it is important to follow up on all citizen requests, but it is eating up their budget. In order to continue to assure that citizens have the best possible service in their real estate transactions, the Real Estate Commission needs to have flexibility in order to respond to citizen concerns.

I have been in the real estate business since 1975 and have seen tremendous changes in the way business is conducted. The Real Estate Commission performs an extremely valuable service for ND citizens, and I urge your committee to support SB 2145 and its provisions to permit them to ensure that real estate agents perform their jobs responsibly and professionally for the good of their clients.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

10-16-03
Date

Senate Bill 2145

Testimony before the Political Subdivisions Committee
January 16, 2003

By: Pat Jergenson, Secretary Treasurer
North Dakota Real Estate Commission

Same testimony to House

Mr. Chairman and members of the Political Subdivisions Committee; on behalf of the Real Estate Commission I want to thank Senator Lee and the other cosponsors for assisting us with the introduction and sponsorship of Senate Bill 2145.

My name is Pat Jergenson and I have been the Secretary Treasurer for the Real Estate Commission since last April.

I would like to introduce the Commissioners present at this meeting .....

Senate Bill 2145 has been introduced at the request of the North Dakota Real Estate Commission. Page 1 Lines 10, 11, and 12 and page 4 lines 25-30 of this bill would do three things:

1. Increase the amount of a fine assessed a licensee found in violation by the Commission to a maximum of $2500.00. Imposing a monetary fine is a more desirable method to be used in cases in which it is inappropriate to suspend or revoke a license. The suspension or revocation of a license may in most instances be a far greater penalty than the payment of a fine. Lost income during a 60, 90, or 180 days suspension of a license can exceed the

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

maximum dollar amount of the fine limit being proposed in this bill.

2. Allow the Commission to assess actual costs incurred by the Commission in the investigation and prosecution of the complaint to the licensee if found in violation. It should be noted that the Commission operates largely on the revenue it derives from license fees, a small portion of our income comes from other incidental fees and fines. Real estate licensees should not be expected to pay the costs of lengthy investigations or hearings due to inappropriate actions of a few.
3. Grant the Commission the authority to require a licensee to attend a course if found in violation. Requiring the licensee to have additional education would better serve the public and the profession.

The number of complaints and the cost of investigating them is a very difficult item to budget. Legal costs consume about 19% of our expense budget. (The dollar amounts were $24,789.00 in 2001 and $23,742.00 in 2002) We don't foresee the number of complaints decreasing, nor will the cost of processing these complaints. When the consumer calls the Commission office inquiring about the complaint process we send them a packet of information. Not all inquiries result in a formal complaint and in the past we have not tracked the number of inquiries, however there is

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

a cost to provide the packets. Not all complaints are forwarded on for a hearing, yet there are still investigation costs. The purpose of an investigation is to provide the Commission with enough information to decide if the complaint should be scheduled for a hearing or dismissed.

The approximate cost of investigating an average complaint that results in being dismissed is $500.00; this involves the review of the complaint and response, contacting witnesses, legal research, drafting a memo, and presenting the results of the investigation to the Commission. Those complaints that are forwarded on to administrative hearings range in cost from $1000.00 to $1500.00 depending on the complexity of the issues, number of witnesses, etc. If the administrative decision of the Commission is appealed to state district court the cost increases to approximately $2000.00 to $2500.00. If the district court decision is appealed to the state supreme court, which happened in the mid 1990's, another $1500.00 to $2000.00 can be added to these totals. These figures can vary greatly depending on the legal issues involved.

Page 4 lines 17, 18, 21, and 23 state that a license may not be revoked, a monetary fine or actual costs may not be imposed, or course attendance may not be required unless the licensee has been found in violation in accordance with the hearing process.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

Our 2002-03 total budget is $127,310.00. This one expense item consumes 19% of our budget. It has a definite impact. We cannot make cuts in this process, it is our duty to provide this service to the public.

We ask that your Committee give favorable consideration to Senate Bill 2145. Thank you.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

Mary Splichal, GRI
Logan Hill, GMAC Real Estate
723 W Memorial Hwy
Bismarck, ND 58504
701-224-9992 ext 325

Same given to the House

Senate Bill 2145

Testimony before the Senate Political Subdivision Committee

January 16, 2003

Mr. Chairman and members of the Senate Political Subdivision Committee.

My name is Mary Splichal and I am the Political Affairs Chair of the North Dakota Association of REALTORS® (NDAR) and a REALTOR® with Logan Hill GMAC Real Estate, here in Bismarck.

I speak on behalf of our State Association with eight (8) local boards and over 1,000 members. We support the fine increases proposed by the Real Estate Commission, for licensees found guilty of license law violations. Fines exist to serve as a deterrent and we feel the proposal of fines, up to $2,500, is reasonable.

We also support the provision in Senate Bill 2145 that allows the Real Estate Commission to assess the person in violation for the actual cost of investigating and processing a complaint. 99% of our members should not bear the cost created by a few that have broken the law.

We are asking for your favorable consideration and passage of Senate Bill 2145.

Thank you.
Mary Splichal, NDAR Political Affairs Chair

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

Scott Louser, ABR, GRI
The Prudential Preferred Properties
400 4th St SW
Minot ND 58701
701-852-8151

Mr. Chairman and members of the Senate Political Subdivision Committee, my name is Scott Louser. I am a REALTOR® with Prudential Preferred Properties in Minot. I am the past President of the Minot Board, the current Chair of the State Association Education Committee, I am an approved instructor to teach ND Agency Law to other licensed agents in ND, I have a Master's Degree in Business Management from Minot State and have been teaching Principles of Real Estate for four years at Minot State. The reason I give you my background is I feel you will not find a licensed real estate agent in North Dakota that holds education beliefs as strong as I.

Enabling the Real Estate Commission to require attendance at a specific course of instruction is an excellent tool to educate licensees who are either unprofessional or ignorant of license laws and rules. Our Real Estate Commission has a long-standing practice of using education as a major tool in avoiding errors by licensees.

During the times we reviewed and discussed SB 2145, we received a great deal of support from our membership for this type of legislation. We have not had a single objection. One concern we heard, and I suspect you might also hear it here today, is a fear that if this passes, the Commission is more likely to find accused licensees guilty because it favors the Commission financially.

To counter that, we say...look at the track record of the Commission. They have always been fair and objective. They have an attitude of education, not the big arm of the law, is the answer. In the cases that they have had before them, we find more often than not, the Commission has been very understanding and empathetic. Many times, we hear from our members that they are not tough enough.

We have trust and confidence in our Real Estate Commission. I ask you to give SB 2145 your favorable consideration....

Thank you

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

SB 2145

Member: National Association of Real Estate Boards, Institute of Real Estate Brokers & National Association of Realtors

Allen Realty Company

Real Estate Planning • Sales • Appraisals
Management • Financing • Rentals • Insurance

Residential
Commercial
Industrial
Farms — Ranches
Business Opportunities

(701) 838-8400 (701) 839-8600

OWNERS AND DEVELOPERS OF THE

OAK PARK CENTER

1100-1500 · 4th Avenue N.W. (Country Club Road)
MINOT, NORTH DAKOTA 58701

All quotations subject to prior sale or change of price without notice.

Information subject to verification . . . not guaranteed.

Honorable Chairman & Members
Political Subdivisions Committee:

My Associates and I ask that you vote "Do Not Pass" on SB2145 and SB2146, and appreciate your hearing the following facts:

The N.D. Real Estate Commission is not unlike all other Government Bureaucracy. . .attempting to attain more power and control. . .building its own Empire. . .control over the Industry. . .building a fence higher and higher to shut down, shut out competition, making it more and more difficult for young persons to enter the field, hurting small towns and cities. We worked our hearts out 55 years ago to attain real estate licensing in Minnesota, never believing older Realtors who stated that this could, does and did happen. Now you see it!

The writer has been instrumental in creating 3 new Real Estate Boards, and has served as President numberous terms, State Officer on numerous positions, and as Regional Vice President of the Farm Land Institute of the National Association of Realtors.

The Hearing Room may be jammed to capacity by the Elitists, and, perhaps Bismarck Realtors who can sleep till eight and still jam the room before nine A.M. However, this Bill having been conceived in secrecy, is totally unbeknown to 90% of out state licensed real estate brokers and salesmen. Where are the licensees from Devils Lake, Tioga, Harvey, Rugby, Stanley, Carrington, Watford City, Bowman, Drake, Garrison, and on and on and on? Should they not know the dirty details before such a bill is foisted upon them? You know the answer!

Is it true that the NDREC has bankrupted itself in taking over what could and should be left to the North Dakota Court System? Sales people planting the seeds of distrust for the competing sales person is not the way to go. Questionable consumer complaints seem to be rampant.

North Dakota Legislators have a serious burden. . .to make it clear that this state is not Anti-Business and Anti-Young People, and anti-small town and small cities.

Reams and reams can be written with reasons for a "Do Not Pass". Your attention and concern are sincerely appreciated.

Submitted by Earl Allen

Earl Allen, Realtor

REALTOR®

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

SB 2145
1-24-03

North Dakota Real Estate Commission
Compilation of Complaints

2000

Number of complaints	9
Number dismissed after investigation	6
Hearings held	3
Appealed to a higher court	1
Decision by Commission overturned	0

2001

Number of complaints	8
Number dismissed after investigation	5
Hearings held	3
Appealed to a higher court	0
Decision by Commission overturned	0

2002

Number of complaints	11
Number dismissed after investigation	3 (8 remain under investigation)
Hearings held	0
Appealed to a higher court	0
Decision by Commission overturned	0

Costs of some of the investigations/hearings

Hearings

Case# 2000-06	$7,700.00 (appealed to district court)	Fine: $500 and letter of reprimand
Case# 2000-08	$3,600.00	Fine: $500 and letter of reprimand
Case# 2001-04	$1,200.00	Fine: $500 and 30 day suspension of license
Case# 2001-05	$3,100.00	Fine: $1000 and 6 month suspension of license
Case# 2001-08	$2,700.00	Fine: $1000 and letter of reprimand

Investigations

Case# 2000-01	$740.00
Case# 2000-03	$725.00
Case# 2001-01	$510.00
Case# 2001-02	$560.00
Case# 2001-03	$700.00
Case# 2002-02	$360.00

To our recollection there has never been a decision made by the Commission that has been overturned in Court

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee — 10-16-03
Operator's Signature — Date

10 Sfo 2145

"Claus"
<claus@btinet.net>
01/21/2003 11:59 AM

To: "Lee, Judy" <jlee@state.nd.us>
no: "Lembke , Claus" <claus@btigate.com>, "Splichal, Mary" <marysplichal@realtor.com>
Subject: Fees by other Trades

Hi Judy,
here are a few examples of fee's charged by other Professions or Trades:

Plumbers: Fee's set by the Board with a statutory limit
Journeyman max. $100
Master max. $200
Inspector max. $ 200

Engineers: Fee's set by the Board with a statutory limit of $100
Board also can charge a guilty party investigative costs

Landscape Architects:
Fee's set by the Board with a statutory limit of $ 100

Mortgage Brokers:
Set by rule by Banking commissioner currently at $300
Commissioner may also fine a guilty party up to a $5,000 fine

Attorneys :Members of State Bar Association vote on the annual fee which is $305 if you have been an Attorney for over 5 years. (lesser amounts with less experience) Max. set by statue at $400

Accountants: set by rule by the Board (no max) current fee's are $45 per individual and goes up to $300 for large firms.

Appraisers: set by rule by the Board (no max)current fee $225

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee 10-16-03
Operator's Signature Date

#4

Scott Louser, ABR, CRS, GRI
The Prudential Preferred Properties
400 4th St SW
Minot ND 58701
701-852-8151

Senate Bill 2145

Testimony before the House Industry, Business & Labor Committee.

March 4, 2003

By: Scott Louser, The Prudential Preferred Properties, Minot, ND

Mr. Chairman and Members of the House IBL Committee; My name is Scott Louser. I am a REALTOR® with Prudential Preferred Properties in Minot. I am a past President of the Minot Board of REALTORS®, the current Chairman of our State Association's Education Committee, Vice President of NDAR, I teach a Principles of Real Estate Course at Minot State University and I am an approved instructor to teach North Dakota Agency Law courses for the North Dakota Association of REALTORS®. My point in telling you this would be the fact that no other REALTOR® across our State understands the value of education more than I.

Enabling the Real Estate Commission to require attendance at a specific course of instruction is an excellent tool to educate licenses who are ignorant of license laws and rules. Our Real Estate Commission has a long-standing practice of using education as a major tool in avoiding errors by licensees.

During the times we reviewed and discussed SB 2145 we received a great deal of support from our membership for this type of legislation. During our Presidential Roundtable, a session our new President holds with all who are interested in participating from each local board, we did not hear one objection. One concern we have since heard, and I suspect you might also hear it here today, is a fear that if this passes, the commission is more likely to find accused licensees guilty because it favors the commission financially.

To counter that we say, look at the track record of the commission. They have always been fair and objective. They have an attitude that education, not the big arm of the law, is the answer. In the cases that they had before them we find more often than not that the Commission has been very understanding and empathetic. Many times we hear from our members that they are not tough enough.

We have trust and confidence in our Real Estate Commission.

I ask you to give this SB 2145 your favorable consideration.

Thank you.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

#5

To: Members of the Industry, Business and Labor Committee
From: Bob Willer

Re: SB 2145 and SB 2146

I apologize in advance for having to send this letter rather than being able to visit with you directly but there is a very good chance that I'll not be available to testify on Tuesday when the hearing is scheduled for the above referenced bills. I'm currently out of town and won't be back before the hearing.

I'm currently a Sr. Vice President with Northern Capital Trust Company. Previously I spent 28 years in the real estate business and am serving in my 10th year on the Real Estate Commission (the senior member of the current commission).

As brief as I can, the two bills being introduced are very necessary for the continued existence of the commission. This is a commission that has operated over the years on a very minimal budget in a very efficient and effective manner. Since inception, the commission started with two employees and today has two employees. The offices are located in the basement of a downtown office building in a two-room office. To describe the office as modest would be very accurate. In the history of the commission there have been only 4 increases in dues ....two at $5.00 annually and two at $10.00. That is incredible in itself. The commission's annual budget is miniscule in comparison to most of what you deal with .....(125,000 to 140,000). As times have changed, so have the operations of the commission. As we have seen the number of complaints increase over the years (in particular the last 3 years) our legal expense budget item has increased significantly. We've had to modernize the commission office (finally) and purchase and install computers. It may be hard for you to fathom this, but only 5 years ago our executive director was still doing letters on a manual typewriter. I could go on and on about how this office was run on a shoestring... the point being that this has been a frugally run entity that at the same time has provided a tremendous service to the general public of ND and to the licensees of ND. It should be noted that ND nationally is a model that is the envy of most of the country for our ability to govern the licensee's for the protection of the general public. Our commissioners have been leaders of the national organization of license law officials and our past Executive Director had served as national president. As the costs of running the office have

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date

been increasing rather significantly, we've tried to hold our own. However, as these costs have started to increase significantly, the impact on a budget as small as ours is huge. Unfortunately, we cannot cut anymore. We've gone as far as eliminating travel of the commissioners as well as the minimal pay for commissioners to do their work when they meet, eliminated the position of auditor, cutback the number of newsletters that we do for the licensees, etc, etc. We have reached the point of no return. What we are asking for is prudent and in the best interests of the general public and the licensees that we govern. Frankly, even if we increased to the maximum levels, the cost would be a bargain for those that are paying the fees. As the history of the commission would indicate, we have been real stewards of the budget. It would give the commission great pleasure to reduce fees in the future and if that were ever to happen, ND is where it would. We believe that we have cut to the point where we can no longer perform the duties that the commission was initially formed for. I respectfully request your support on these bills, as they will allow what has been a very well run commission to continue and improve on their already great services.

Again, I apologize for this lengthy letter as I would much rather discuss this with you personally. If you have any questions or if I could provide more input for you, please do not hesitate to contact me.

Thanks again!

Bob

Bob Willer
Northern Capital Trust
(701) 250-1113
bwiller@nctnd.com

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Theresa A. Lee
Operator's Signature

10-16-03
Date