

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2119

2007 SENATE POLITICAL SUBDIVISIONS

SB 2119

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2119**

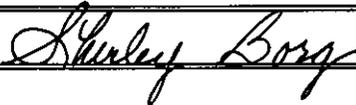
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **January 5, 2007**

Recorder Job Number: 659

Committee Clerk Signature



Minutes:

**Chairman Cook** called the committee to order. Roll call was taken with all members (5) present.

**Chairman Cook** opened the hearing on SB 2119 relating to licensed abstracter records.

**Harold Bensch**, President of Abstracter's Board of Examiners, testified in support of SB 2119.  
(See attachment #1)

**Senator Anderson** asked what is a tract index.

**Harold Bensch** replied, a tract index is the index that the register of deed keeps and the index that we keep with the legal description of the property where we index the documents that are recorded in the County Recorders Office against that particular piece of property. A deed, mortgage or satisfaction has the legal description on it. The tract index has that legal description on it and a place to put the document number, book and page, when that document is recorded so that we can look at our tract index and find out what documents have been recorded protecting a particular piece of property.

**Senator Warner** asked if that included mineral interest or mineral rights.

**Harold Bensch** replied that it does include mineral rights.

**Chairman Cook** said it appears that right now you are required to have a set of abstract books and we are removing that requirement.

**Harold Bensch** replied that they are clarifying what the abstract books are. We are using the modern conveniences like images and off site back ups rather than hard covered books.

**Phyllis Sutherland**, President of the ND Land Title Association, Carrington, ND testified in support of SB 2119. (See attached attachment #2)

**Claus Lemke**, ND Association of Realtors, appeared in support of the efforts.

No further testimony in support, opposition or neutral on SB 2119.

**Chairman Cook** closed the hearing on SB 2119.

Committee action:

**Senator Warner** moved a Do Pass on SB 2119.

**Senator Olafson** seconded the motion.

No Discussion

Vote: Yes 5 No 0 Absent 0

Carrier: Senator Warner



**REPORT OF STANDING COMMITTEE (410)**  
January 5, 2007 1:02 p.m.

**Module No: SR-03-0264**  
**Carrier: Warner**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2119: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Eleventh order on the calendar.**

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2119

# 2007 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2119

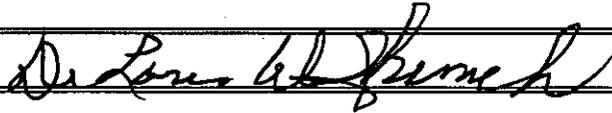
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 22, 2007

Recorder Job Number: 3634

Committee Clerk Signature



### Minutes:

**Chairman Herbel** opened the hearing on SB 2119.

**Sue Cosgriff, Vice President of the Abstractor Board of Examinators:** (see testimony #1)

The proposed amendment requires that the records be physically maintained in the place of business of the abstractor which is making application or which holds the certificate of authority. Also that the certificate holder maintain a tract of this. These proposed amendments simply clarify the requirements that the board has required in the past. The present statutory are not clear on the matter, as it indicates the entity must have per use in such business a complete set of records and does not support what all the encompasses. These proposed amendments can also provide the county recorder with a viable disaster recovery plan as an entity holding the certificate of authority to provide a backup for the county recorder in the event of a natural disaster or some other event that may destroy the records of the county recorder. I ask for your support in the do pass of this bill.

**Rep. Louis Pinkerton:** What kind of records do they maintain?

**Sue Cosgriff:** It varies from county to county. It is going more toward digital now. The majority of the counties will digitize going forward. Some of the smaller counties can not afford

to do that. All the abstract companies in the state have a copy of every single document that is in the courthouse. So these are actual duplications of what is in the courthouse.

**Rep.Dwight Wrangham:** What is the definition of a tract index?

**Sue Cosgriff:** It is just an organizational tool to keep track of all the documents that are in your office so it is easier to find.

**Phyllis Sutherland: President of the ND Land Title Assoc.:** (see testimony #2)

**Rep.Dwight Wrangham:** I still have questions about tract index. Is that a commonly used phase?

**Phyllis Sutherland:** Tract index is a term commonly used throughout the state of ND in every county. It refers to an organizational system of tracking the document that is recorded. She gave an example of how it works.

**Rep. Lawrence Klemin:** It refers to a specific document and it is on the tract and you use the listing to find the tract of land?

**Phyllis Sutherland:** You are right. The tract would be the particular piece of land and the index would be the whole system that it is fed to.

**Edward Erickson: Ass't Attorney General.** Represents the Abstractors Board of Examinations: I would like to answer Rep.Dwight Wrangham question. The tract index is not only in the century code in recording deeds and mortgages and the like, so we did not want to redefine it here.

Oppostion: None

Hearing closed.

Chairman Herbel reopened hearing on SB 2119.

Do Pass Motion Made By Rep. William Kretschmar Seconded By Rep. Lee Kaldor

Vote: 14    yes    0    No    0    Absent    Carrier: Rep. Pat Hatlestad

Date: 2-22-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. JB2119

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Rep. Kretschmar Seconded By Rep. Kaldor

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Hatlestad

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

**REPORT OF STANDING COMMITTEE**

**SB 2119: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2119

SENATE BILL 2119

Chairman Cook, members of the Political Subdivisions Committee, my name is Harold Bensch, and I am President of the Abstractor's Board of Examiners.

The Board has worked with Mr. Erickson of the State Attorney General's Office to draft the proposed amendments to Sections 43-01-09, 43-01-14 and 43-01-23 of the North Dakota Century Code, relating to licensed abstractor records. These amendments have been presented to the North Dakota Land Title Association and have their approval.

The proposed changes require that the records be maintained in the Abstractors office and that they maintain a tract index.

The proposed changes clarify the need for holders of certificates of Authority to have the required records physically in their offices and not just have access to them on the County Recorders web site.

These are requirements that the Board has required in the past, however, the present statutory requirements are not clear on the matter.

These changes will also provide an additional backup to the records kept by the County Recorders in the event of a natural disaster or other event that would affect the County Recorders records.

Thank you for your support of this legislation.

Political Subdivisions Committee Hearing  
RE: S.B. 2119

January 5, 2007

Mr. Chairman and Committee Members -

My name is Phyllis Sutherland, of Carrington, North Dakota, and I am the President of the North Dakota Land Title Association. The association is composed primarily of abstracters and abstract companies in North Dakota, whose main function is the compilation of abstracts of title from searching the real estate records in their respective counties. On behalf of my association, I am here today to support the Abstracter's Board of Examiners' Senate Bill No. 2119.

The Abstracter's Board of Examiners, as overseers of the abstracters of North Dakota, prepared this bill with the blessing of the land title association. The purpose of this amendment is not only to clarify some archaic language written into the code in the late 1800s, but also to strengthen the abstract plant law as it is currently being used.

Therefore, the amendments respectfully suggested in this bill will accomplish the following objectives:

1. The meaning of the archaic phrase "have for use" [see line 10, page 1 of SB 2119], probably referred to the fact that in 1890 abstracters usually maintained a handwritten card file, upon which the important parts of each recorded document were painstakingly condensed from the records in the Register of Deeds office. Since the advent of copy machines and microfilm cameras, abstracters gained the ability to acquire verbatim records and thus, are now required by the Abstracter's Board of Examiners to "have and maintain" these records. Also, the term "books" [see line 13, page 1 of SB

2119] was omitted as archaic, since the records in the Recorder's office (formerly Register of Deeds) take many forms, of which some may still be books.

2. The Abstracter's Board of Examiners issues Certificates of Authority, which are licenses for new and renewing abstract companies. Before issuing new Certificates of Authority, the board requires applicant abstract companies to have and maintain a tract index, separate from the tract index maintained by the Recorder's office. The tract index is a system of tracking each individual document against the particular land described in that document in the real estate records of a particular county. The current abstract code is rather vague about which books or records are to be had by abstract companies and does not specifically address this very important record. Adding the term "tract index" [see line 11, page 1, of SB 2119] is needed to strengthen this part of the code.

To conclude, Mr. Chairman and committee members, the North Dakota Land Title Association is highly supportive of SB 2119 and believes it to be a good bill designed to clarify, update and strengthen the existing abstract law.

Thank you for giving me the opportunity to offer this testimony. I would now be happy to answer any questions.

Phyllis Sutherland, President  
North Dakota Land Title Association  
Manager of Foster County Abstract and Title Company  
Carrington, North Dakota

SB 2119

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Sue Cosgriff. I am the Vice President of the Abstracter's Board of Examiners.

At the request of the Board, Mr. Edward Erickson of the State Attorney General's Office has drafted proposed amendments to Sections 43-01-09, 43-01-14 and 43-01-23 of the North Dakota Century Code relating to the records necessary to obtain and retain a Certificate of Authority, also referred to as an abstract plant license. I am here today to testify on behalf of the Board and to ask for your support and a DO PASS on these amendments.

The proposed amendments require that the records be physically maintained in the place of business of the entity which is making application or which holds a Certificate of Authority; and also that the Certificate Holder maintain a tract index. These proposed amendments simply clarify the requirements that the Board has required in the past. The present statutory requirements are not clear on the matter as it indicates the entity "must have for use in such business a complete set of

abstract books or records" and does not set forth what all that encompasses.

These proposed amendments can also provide the County Recorders with a viable disaster recovery plan as the entity holding the Certificate of Authority could provide backup to the County Recorder in the event of a natural disaster or some other event which may destroy the records of the County Recorder.

For the reasons stated above, I ask for your support and a DO PASS on SB 2119.

Thank you for your time and consideration.

I would be happy to answer any questions you may have.

**Political Subdivisions Committee Hearing**  
**RE: S.B. 2119**

**February 22, 2007**

Mr. Chairman and Committee Members -

My name is Phyllis Sutherland, of Carrington, North Dakota, and I am the President of the North Dakota Land Title Association. The association is composed primarily of abstracters and abstract companies in North Dakota, whose main function is the compilation of abstracts of title from searching the real estate records in their respective counties. On behalf of my association, I am here today to support the Abstracter's Board of Examiners' Senate Bill No. 2119.

The Abstracter's Board of Examiners, as overseers of the abstracters of North Dakota, prepared this bill with the blessing of the land title association. The purpose of this amendment is not only to clarify some archaic language written into the code in the late 1800s, but also to strengthen the abstract plant law as it is currently being used.

Therefore, the amendments respectfully suggested in this bill will accomplish the following objectives:

1. The meaning of the archaic phrase "have for use" [see line 10, page 1 of SB 2119], probably referred to the fact that in 1890 abstracters usually maintained a handwritten card file, upon which the important parts of each recorded document were painstakingly condensed from the records in the Register of Deeds office. Since the advent of copy machines and microfilm cameras, abstracters gained the ability to acquire verbatim records and thus, are now required by the Abstracter's Board of Examiners to "have and maintain" these records. Also, the term "books" [see line 13, page 1 of SB

2119] was omitted as archaic, since the records in the Recorder's office (formerly Register of Deeds) take many forms, of which some may still be books.

2. The Abstracter's Board of Examiners issues Certificates of Authority, which are licenses for new and renewing abstract companies. Before issuing new Certificates of Authority, the board requires applicant abstract companies to have and maintain a tract index, separate from the tract index maintained by the Recorder's office. The tract index is a system of tracking each individual document against the particular land described in that document in the real estate records of a particular county. The current abstract code is rather vague about which books or records are to be had by abstract companies and does not specifically address this very important record. Adding the term "tract index" [see line 11, page 1, of SB 2119] is needed to strengthen this part of the code.

To conclude, Mr. Chairman and committee members, the North Dakota Land Title Association is highly supportive of SB 2119 and believes it to be a good bill designed to clarify, update and strengthen the existing abstract law. I urge you to give it a "do pass."

Thank you for giving me the opportunity to offer this testimony. I would now be happy to answer any questions.

Phyllis Sutherland, President  
North Dakota Land Title Association  
Manager of Foster County Abstract and Title Company  
Carrington, North Dakota