

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2216

2007 SENATE JUDICIARY

SB 2216

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1553 & 1557

Committee Clerk Signature *Mara L. Solberg*

Minutes: Relating to the service of notice before foreclosure.

Senator Lyson, Vice-Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Sen. Holmberg, Dist. #17 Introduced the bill (meter 0:30) I put these bills in at the request of the Real Property Div. of Bar Assoc. Mr. Brown is hear to review the details.

Mr. Malcolm H. Brown, Real Property Probate and Trust Section of the State Bar Association. (meter 2:62) Gave testimony – Att. #1.

Sen. Lyson discussed the “registered mail” verses “regular mail” that was here last session and is here again. (meter 4:44)

Sen. Olafson sited a personal case (meter 5:10) of a redemption.

Sen. Feibiger asked how (meter 5:01) wide spread this issue is? Twice since I have been an attorney in 40 years. Spoke of a Supreme Court case and how this law would bring clarity.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Sen. Nelson requested a copy of rule 4 for the committee to review. Why is the bar reviewing this issue? The committee requested a review of this law.

Senator Lyson, Vice-Chairman closed the hearing.

Recorder Job number: 1557

Senator Lyson, Vice-Chairman reopened the hearing.

Sen. Fiebiger state having no problem with this bill

Sen. Fiebiger made the motion to Do Pass and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Fiebiger**

Senator Lyson, Vice-Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
January 22, 2007 1:25 p.m.

Module No: SR-14-0962
Carrier: Flebiger
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2216: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the
Eleventh order on the calendar.

2007 HOUSE JUDICIARY

SB 2216

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/28/07

Recorder Job Number: 4049

Committee Clerk Signature

A. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2216.

Malcolm Brown, State Bar Association: (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2216

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/28/07

Recorder Job Number: 4128

Committee Clerk Signature *D. Penrose*

Minutes:

Chairman DeKrey: We will take a look at SB 2216. What are the committee's wishes.

Rep. Klemin: I move a Do Pass.

Rep. Griffin: Second.

14 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Rep. Klemin

Date: 2/28/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2216

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Klemin Seconded By Rep. Griffin

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE (410)
February 28, 2007 3:07 p.m.

Module No: HR-38-4124
Carrier: Klemin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2216: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

SB 2216

Att # 1

1-22-07

Senate Judiciary Committee
January 22, 2007

Senate Bill 2216

Testimony of Malcolm H. Brown on behalf of the Real Property,
Probate and Trust Section of the State Bar Association.

Senate Bill 2216 proposes to add a new section to the Century Code chapter on mortgage foreclosures, 32-19. The new section would allow a person to redeem from a foreclosure sale even if there were a dispute as to the correct amount required for that redemption. Under current law (28-24-02 N.D.C.C.) payment to redeem must be made to the "purchaser" (the person who bought the property at the sale) and if there is a dispute about the correct amount, the period of redemption could expire and prevent a successful redemption. Section 1 of SB 2216 would allow the redemptioner to pay the monies to the sheriff and, if there was a dispute, it could be settled later without risking the expiration of the time for redemption.

Section 2 of SB 2216 omits the requirement of service of the notice of intent to foreclose by "registered" mail, and simply requires service as provided in Rule 4 of the Rules of Civil Procedure. This rule governs service of process in all civil cases, and service of the notice before foreclosure is just the first step in the foreclosure action, which is a "civil" case. Service can be personal, by certified mail, FedEx etc that requires a signed receipt or by publication.

House Judiciary Committee
February 28, 2007

Senate Bill 2216

Testimony of Malcolm H. Brown on behalf of the Real Property,
Probate and Trust Section of the State Bar Association.

Senate Bill 2216 proposes to add a new section to the Century Code chapter on mortgage foreclosures, 32-19. The new section would allow a person to redeem from a foreclosure sale even if there were a dispute as to the correct amount required for that redemption. Under current law (28-24-02 N.D.C.C.) payment to redeem must be made to the "purchaser" (the person who bought the property at the sale) and if there is a dispute about the correct amount, the period of redemption could expire and prevent a successful redemption. Section 1 of SB 2216 would allow the redemptioner to pay the monies to the sheriff and, if there was a dispute, it could be settled later without risking the expiration of the time for redemption.

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