

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1301

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1301

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 20, 2009

Recorder Job Number: 7299

Committee Clerk Signature *Ellen Litany*

Chairman Keiser: Opened the hearing on HB relating to the conversion, affixation & encumbrance of manufactured home to real property.

Marilyn Foss, General Counsel for the North Dakota Banker's Association. See testimony attachment 1.

Chairman Keiser: What is the difference personal property to real property?

Foss: Real property is something that is permanently fixed to land and is taxed. Personal property is pretty much everything else.

Todd Steinwand~Business Banking Manager for Wells Fargo in Bismarck/Mandan. See testimony attachment 2.

Representative Nottestad: A manufactured home moves onto a rural property and it's a farmer which become tax exempt. After a couple years, he decides to a home and sells this manufactured home. Can it go from personal, to real, back to personal property and would this be permitted under the purposed law?

Steinwand: Defer to Foss.

Foss: This bill does not include a procedure. Department of Motor Vehicle requested that we not include that.

Chairman Keiser: In the bill where does it talk about wheels to a fixed base?

Foss: It's actually throughout the bill.

Representative Ruby: Once a structure is considered real property and move it to another fixed place or a bank wouldn't give a loan on that?

Steinwand: In order for it to qualify for a long term mortgage, it needs to be permanently fixed to a foundation or put on tiers. You are correct.

Chairman Keiser: Are prefab homes included in this?

Foss: Yes.

Vice Chairman Kasper: On page 2, line 17 & 18, does that chapter cover what Representative Ruby was wondering about?

Foss: I don't deal with that, so I don't know that.

Chairman Keiser: Are you treating prefab homes as real property?

Steinwand: We considered this a construction loan and don't put the permanent finance in place until it is permanently fixed.

Chairman Keiser: True of site built home?

Steinwand: That correct.

Chairman Keiser: So now you are treating them as a site built home.

Steinwand: The challenge from a lender's perspective, how do you finance a home is not permanently fixed? The bank is taking the risk until it gets on the permanent financing.

Glenn Jackson~Director of the Motor Vehicle Department of Transportation. See testimony attachment 3.

Representative Ruby: This procedure in 2003 made it more real property. Did that eliminate that annual fees that county put on it?

Jackson: Answer inaudible.

Chairman Keiser: Does the department have any transactions under your informal process for these prefabricated home and moved to the site?

Jackson: Yes we have.

Representative Boe: A few years ago, we made licensing park model trailers for them to meet the requirements for FEMA, is this going to change that?

Jackson: I don't know.

Marcy Dickerson~State Supervisor of Assessment in the office of the State Tax Commissioner. I do support this bill. It is going to help with the taxation of mobile homes. It's not very uniform. The last section will help us clean up this situation. Along with that we request that you look at these two small amendments. **See attachment 4.**

Vice Chairman Kasper: Recreational vehicles at the lake, not year round, will be not be considered real property.

Dickerson: That is true.

Don Forsborg~Representing Independent Community Banks of North Dakota. This is a positive bill.

Anyone here to testify in opposition, neutral?

What are the wishes of the committee?

Vice Chairman Kasper: Move to adopt the amendment.

Representative Thorpe: Second

All aye's

Representative Nottestad: Moves to Do Pass as Amended.

Representative Schneider: Second

Roll Call was taken on HB 1301 with 13 yea's, 0 nay's, 0 absent and Representative Nottestad is the carrier.

FISCAL NOTE
Requested by Legislative Council
03/24/2009

Amendment to: Engrossed
 HB 1301

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures				\$600		
Appropriations				\$0		

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would require the change of a single form currently in use to a slightly different format. There are no fee or other cost modifications required.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The amendments to the bill do not alter the fiscal impact as presented in the original fiscal note.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

A onetime cost to modify a form, "Letter of Confirmation of Bill of Sale" is the only cost associated with this bill.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	03/24/2009

FISCAL NOTE
Requested by Legislative Council
01/23/2009

Amendment to: HB 1301

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures				\$600		
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A onetime cost to modify a form, "Letter of Confirmation of Bill of Sale" is the only cost associated with this bill.

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Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	01/26/2009

FISCAL NOTE
Requested by Legislative Council
01/13/2009

Bill/Resolution No.: HB 1301

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
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Appropriations				\$0		

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2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would require the change of a single form currently in use to a slightly different format. There are no fee or other cost modifications required.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

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A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

A onetime cost to modify a form, "Letter of Confirmation of Bill of Sale" is the only cost associated with this bill.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	01/16/2009

January 20, 2009

VR
1/21/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1301

Page 1, line 6, after "57-55-01" insert "and subsection 2 of section 57-55-10"

Page 21, after line 16, insert:

"SECTION 14. AMENDMENT. Subsection 2 of section 57-55-10 of the North Dakota Century Code is amended and reenacted as follows:

2. This chapter does not apply to a mobile home that:
 - a. Is used only for the temporary living quarters of the owner or other occupant while the person is engaged in recreational or vacation activities, provided the unit:
 - (1) Displays a current travel trailer license; or
 - (2) Is a park model trailer that is used only for seasonal or recreational living quarters and not as a primary residence, and which is located in a trailer park or campground, and for which the owner has paid a park model trailer fee under section 39-18-03.2. For purposes of this paragraph, "park model" trailer means a recreational vehicle not exceeding forty feet [12.19 meters] in length which is primarily designed to provide temporary living quarters for recreation, camping, or seasonal use, is built on a single chassis, is mounted on wheels, has a gross trailer area not exceeding four hundred square feet [37.16 square meters] of enclosed living space in the setup mode, and is certified by the manufacturer as complying with American national standards institute standard A119.5.
 - b. Qualifies as a farm residence as described by subsection 15 of section 57-02-08, provided such mobile home is permanently attached to ~~the ground~~ a foundation.
 - c. Is permanently attached to a foundation and is assessed as real property, provided the owner of such mobile home also owns the land on which such mobile home is located or is in possession of the real property under the terms of a lease in recordable form which has a term that continues for at least twenty years after the date of execution with the consent of the lessor of the real property.
 - d. Is owned by a licensed mobile home dealer who holds such mobile home solely for the purpose of resale, and provided that such mobile home is not used as living quarters or as the place for the conducting of any business."

Renumber accordingly

Date: Jan 20-2009
Roll Call Vote # _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1301

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	x	
Vice Chairman	x		Representative Boe	x	
Representative Clark	x		Representative Gruchalla	x	
Representative N Johnson	x		Representative Schneider	x	
Representative Nottestad	x		Representative Thorpe	x	
Representative Ruby	✓				
Representative Sukut	x				
Representative Vigesaa	x				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Nottestad

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

REPORT OF STANDING COMMITTEE

HB 1301: Industry, Business and Labor Committee (Rep. Kelsner, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1301 was placed on the Sixth order on the calendar.

Page 1, line 6, after "57-55-01" insert "and subsection 2 of section 57-55-10"

Page 21, after line 16, insert:

"SECTION 14. AMENDMENT. Subsection 2 of section 57-55-10 of the North Dakota Century Code is amended and reenacted as follows:

2. This chapter does not apply to a mobile home that:
 - a. Is used only for the temporary living quarters of the owner or other occupant while the person is engaged in recreational or vacation activities, provided the unit:
 - (1) Displays a current travel trailer license; or
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 - d. Is owned by a licensed mobile home dealer who holds such mobile home solely for the purpose of resale, and provided that such mobile home is not used as living quarters or as the place for the conducting of any business."

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1301

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1301

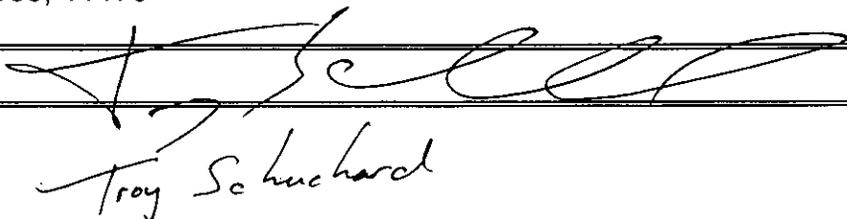
Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Hearing Date: March 18, 2009

Recorder Job Number: 11168, 11170

Committee Clerk Signature



Troy Schuchard

Minutes:

Chairman Klein: Opened the hearing on HB 1301, all members present.

Marilyn Foss: General Counsel for the North Dakota Bankers Association (NDBA) introduced and testified in support of HB 1301 and proposed amendments. (See attachment #1)

Senator Behm: Haven't mobile homes been taxed before?

Marilyn Foss: If you permanently affix the property on a foundation, it is considered real estate. But manufactured homes are in another classification.

Senator Horne: Why would somebody who owns a manufactured home, want to do this?

Marilyn Foss: The financing is easier. Lots of people purchase the property and place the home on it and it is handled by the lender as real estate.

Senator Andrist: Could this be used for mobile homes?

Marilyn Foss: My understanding is that if they took off the wheels and fix it to a foundation, then yes.

Senator Behm: If you put a foundation under your mobile home, does that make it real estate?

Marilyn Foss: It is my understanding that it would be classified as real estate.

Todd Steinwand: Business Banking Manager representing Wells Fargo testified in support of HB 1301. (See attachment #2)

Senator Nodland: The activity in the west is where the cost is. It clears everything up and gives them the best rates.

Todd Steinwand: Unless you can stretch those payments out, it makes it hard to purchase one.

Chairman Klein: Is everyone on board with adopting the amendment?

Todd Steinwand: I cannot speak for everyone, however we are.

Glen Jackson: Director of the Drivers License & Traffic Safety Division of the North Dakota Department of Transportation testified in support of HB 1301. (See attachment #3)

Jack McDonald: When does a fixture become a fixture? This bill resolves the issue with these types of homes. Plus it makes getting financing easier.

Marcey Dickerson: State Supervisor of Assessments and Director of Property Tax Division for the Office of State Tax Commissioner testified in support of HB 1301. (See attachment #4)

Senator Andrist: Either way, the tax ramifications don't change.

Marcey Dickerson: That is somewhat true. The total amount of money you pay probably will be the same but you will get one statement instead of two, the land and the mobile home.

Senator Behm: I believe that everyone that buys a mobile home would like their homes assessed as real estate.

Marcey Dickerson: It is considered as personal property.

Chairman Klein: Closed the hearing on HB 1301.

Senator Andrist: Motion for a Do Pass on the proposed amendment.

Senator Potter: Seconded

Chairman Klein: Motion for a Do Pass the amendment is approved 7-0

Senator Behm: Motion for a Do Pass as amended HB 1301

Senator Wanzek: Seconded

Chairman Klein: Motion for a Do Pass as amended is approved 7-0, **Senator Nodland** to carry.

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Date: 3/18/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1301

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Pass Do Not Pass Amended

Motion Made By Senator Andrist Seconded By Senator Potter

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1301, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1301 was placed on the Sixth order on the calendar.

Page 1, line 4, after "sections" insert "11-18-02.2,"

Page 1, after line 8, insert:

"SECTION 1. AMENDMENT. Section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

11-18-02.2. Statements of full consideration to be filed with state board of equalization or recorder - Procedure - Secrecy of Information - Penalty.

1. Any grantee or grantee's authorized agent who presents a deed in the office of the county recorder shall certify on the face of the deed any one of the following:
 - a. A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the state board of equalization.
 - b. A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the recorder.
 - c. A statement of the full consideration paid for the property conveyed.
 - d. A statement designating one of the exemptions in subsection ~~6~~ 7 which the grantee believes applies to the transaction.
2. Any party who presents an affidavit of affixation to real property of a manufactured home in the office of the county recorder in accordance with section 47-10-26 and who acquired the manufactured home before the affixation of the manufactured home to the real property shall either contain in or present in addition to the affidavit of affixation any one of the following:
 - a. A statement that the party has filed with the state board of equalization a report of the full consideration paid for the manufactured home before the affixation.
 - b. A statement that the party has filed with the recorder a report of the full consideration paid for the manufactured home before the affixation.
 - c. A statement of the full consideration paid by the party for the manufactured home before the affixation.
3. The recorder ~~shall~~ may not record any deed unless it the deed contains one of the statements required by subsection 1 or record any affidavit of affixation unless the affidavit contains or is accompanied by one of the statements required by subsection 2.

- ~~3-~~ 4. The recorder shall accumulate and at least monthly forward to the state board of equalization a report containing the information filed in the recorder's office pursuant to subsection 1 or 2.
- ~~4-~~ 5. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out ~~the purposes of~~ this section, and the forms ~~will~~ must contain a space for the explanation of special circumstances ~~which~~ that may have contributed to the amount of the consideration.
- ~~5-~~ 6. For purposes of ~~this section~~ subsection 1, the word "deed" means an instrument or writing whereby any real property or interest therein ~~shall be~~ is granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing ~~which~~ that transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.
- ~~6-~~ 7. ~~The provisions of this~~ This section ~~do~~ does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
- a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale ~~which~~ that resulted as a settlement of an estate.
 - e. All sales to or from a government or governmental agency.
 - f. All forced sales, mortgage foreclosures, and tax sales.
 - g. All sales to or from religious, charitable, or nonprofit organizations.
 - h. All sales when there is an indicated change of use by the new owners.
 - i. All transfer of ownership of property for which is given a quitclaim deed.
 - j. Sales of property not assessable by law.
 - k. Agricultural lands of less than eighty acres [32.37 hectares].
 - l. A transfer that is pursuant to a judgment.
- ~~7-~~ 8. The state board of equalization shall guard the secrecy of information contained on statements filed with the board ~~pursuant to~~ under subsection 1 or 2, and any information contained on statements and any information provided by local officials ~~shall~~ must be limited to ~~such~~ data as is necessary to perform ~~their~~ their official duties and ~~shall~~ may not include the names of any grantors or grantees to deeds or of any parties to affidavits of affixation. Any reports made available to the public must be made in a

manner that will not reveal the names of any grantors ~~or~~, grantees, or parties. The recorder shall guard the secrecy of information contained on reports filed in the recorder's office ~~pursuant to~~ under subdivision b of subsection 1 or subdivision b of subsection 2.

- 8- 9. Any person ~~who~~ that, in the statements provided for in subsection 1 or 2, willfully falsifies the consideration paid for the transferred real property or the manufactured home, as applicable, or interest therein or ~~who~~ that falsely certifies that the person has filed a report of full consideration with the state board of equalization is guilty of a class B misdemeanor."

Page 9, line 28, replace "may" with "must"

Page 10, line 2, replace "must be" with "are"

Page 11, line 24, replace "may" with "must"

Page 11, line 29, replace "must be" with "are"

Page 13, line 29, replace "may" with "must"

Page 14, line 3, replace "must be" with "are"

Page 15, line 9, replace "executes" with "shall execute"

Page 15, line 10, replace "records" with "record"

Page 15, line 15, replace "files" with "shall file"

Page 18, line 12, remove "and"

Page 18, line 13, after "(8)" insert "If the party executing the affidavit acquired the manufactured home before the affixation of the manufactured home to the real property, that party shall complete one of the statements required by subsection 2 of section 11-18-02.2; and

(9)"

Page 19, line 24, replace "may" with "must"

Page 20, line 1, replace "affect" with "effect" and replace "transfer of an interest" with "encumbrance"

Page 20, line 2, replace "transfer" with "conveyance"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1301

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1301

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: April 15, 2009

Recorder Job Number: 11884

Committee Clerk Signature

Ellen LeTang

Chairman Nottestad: We saw that the amendment was quite substantial and rather than try to figure out where everything was, we didn't concur on it to give you the folks the opportunity to say why you put it in. We have people in the audience to provide information.

Senator Nodland: I defer it to them if it's ok with you and let them explain it?

Marylin Foss~General Counsel for the North Dakota Banker's Association. We had a good hearing in the House and as you recall Marcy Dickerson testified. After that hearing Marcy came up to me and said that we need to do one more thing with the bill. She did put an amendment on it addressing valuation issues for manufactured housing separate from real estate issues. She said that we need to also add to the bill to get a statement of full consideration. The statement of full consideration is a document that is filed when real estate is transferred. It either says the amount of consideration you paid or it says that you have filed a statement with the board of equalization telling them what the full consideration is. The board of equalization uses that statement to help in its work to make sure that properties are being assessed evenly and equitably. What we did was get together with Marcy and the Wells National counsel that drafted the original bill and came up with these amendments, section 1; add the amendment for the statement of full consideration when there is a manufactured home

that being converted. All the amendment on page 1, after line 8, which inserted the section 1 amendment, relate to that. There is another statement adding to the requirement for the affidavit affixation that they are separately or part of the affidavit at fixation which is the document the person who wants to convert the manufactured home into real property file with the county recorder. Then the other amendment mostly has to do with saying language cleanup or improvement. Before we offered the amendment we did run them by the tax department which said that it did meet the needs of the tax department and the state board of equalization. We also ran them by the Motor Vehicle division which concurred.

Representative Nottestad: Any questions for Ms Foss?

Senator Nodland: Is this it?

Foss: Yes, the Motor Vehicle said that they may have a question about records retention.

Representative Nottestad: I understand now why we have to amend this.

Foss: My reaction was how did you get along?

Representative Nottestad: Further questions?

Representative Ruby: Move House accede Senate amendments.

Senator Horne: Second.

Voting roll call was taken on HB 1301 for the House accede the Senate amendments with 6 yes, 0 no, 0 absent and Representative Nottestad is the carrier.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1301 (, as (re)engrossed):

Date: Apr. 15-2009

Your Conference Committee House 1BL

For the Senate:

For the House:

	YES / NO		YES / NO	
* Senator Nadland	*		Ch. Nottestad	*
* Sen Andrist	*		Rep Ruby	*
* Sen Horne	*		Rep Gruchalla	*

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1087 - 1089

and place _____ on the Seventh order.

adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1301 was placed on the Seventh order of business on the calendar.

DATE: Apr. 15, 2009

CARRIER: Rep Nottestad

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Rep. ~~Nottestad~~ Ruby

SECONDED BY: Sen. Horne

OTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1301, as engrossed: Your conference committee (Sens. Nodland, Andrist, Horne and Reps. Nottestad, Ruby, Gruchalla) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1087-1089 and place HB 1301 on the Seventh order.

Engrossed HB 1301 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1301

TESTIMONY OF MARILYN FOSS

IN FAVOR OF HOUSE BILL 1301

Chairman Keiser, members of the IBL Committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association (“NDBA”). NDBA is pleased to be here this morning to support House Bill 1301. This bill addresses a problem with North Dakota law and addresses it in a manner that will benefit North Dakota consumers as well as banks and other lenders. Before moving on, I want to acknowledge the assistance that was given by the state Department of Transportation and its Motor Vehicle Division. The agency worked with us to craft a workable solution. We very much appreciate their involvement and assistance with this project.

In a nutshell, this bill fills a huge gap in our law by establishing a **specific statutory process** to acknowledge and reflect in law the conversion of a manufactured home from personal property to real estate. Currently, the ownership interest in a manufactured home (a “Home”), like the ownership interest in a car, is documented by listing the owner’s name on a certificate of title covering the Home. Again like a car, a Home is financed by having the lender’s name listed as a secured party or lienholder on the certificate of title. Unlike a car, however, a Home can be permanently affixed to the real property on which it sits. Once it is, it is commonly taxed as real property, and after that the intent is to treat it as real property, which means transferring ownership by a deed and financing it by a mortgage.

Right now, we have no statutory method for eliminating the certificate of title to a Home and converting the Home to real property when the Home is or will be permanently affixed to real property. House Bill 1319 does this by giving statutory recognition to an informal process that have been used by the MVD for many years and by providing that, IF the process is followed the manufactured home will be deemed to be real estate just as a site built home is real estate under our law. This will make things so much easier and clearer for consumers and lenders.

At this point, I'd like to turn the presentation over to Todd Steinwand of Wells Fargo Bank here in Bismarck. Wells Fargo brought this to our attention and committed its resources to developing the solution that is embodied in the bill. After Todd has concluded his remarks, I'll go through and discuss some specifics about the bill.

House Bill 1301 Does

The heart of the bill is found in Sections 9 and 11 which creates a new sections to the certificate of title law and the real estate law setting forth definitions and procedures, including a required affidavit of affixation for converting a Home to real property. In order for a Home to be converted to real property, 1) the Home must be permanently affixed to land; 2) an affidavit of affixation that complies with the statute must be recorded in the land records; 3) and an application, including a certified copy of the recorded affidavit, must be filed with the MVD. Then, depending upon whether the Home is covered by a manufacturer's certificate of origin, a certificate of title or neither,

and whether, after diligent search and inquiry, the owner of the Home is unable to produce the manufacturer's certificate of origin or certificate of title if one exists, the MVD must cancel the manufacturer's certificate of origin, cancel the certificate of title or confirm in its records that conversion has occurred. Upon completion of all those requirements a Home is deemed to be real property and thereafter is transferred and financed as real property.

Section 7 provides for the conversion of Homes not covered by certificates of title (or for which the certificates of title cannot be found) but permanently affixed to real property before the effective date of the act. After the effective date of the act, any such Home can be converted to real property, but the Home owner must then either title or convert the Home.

If a properly completed application is delivered to the MVD within 60 days of the date the affidavit of affixation is recorded in the land records, conversion is deemed to have occurred on the date the affidavit was recorded. This 60 day aspect of the bill is reflected throughout.

As I noted earlier, Section 9 is a new section of the certificate of title statute which is enacted to accommodate the conversion process. Changes are made to the certificate of title statute, including changes affecting purchase money secured lenders and changes designed to protect the legal status of holders of security interests in a Home until the conversion process is completed.

In section 13 the definition of "mobile home" in the mobile home tax statute is amended to conform to the definition of "manufactured home" in the North Dakota UCC, which in turn uses the definition of "manufactured home" in the regulations of the U.S. Department of Housing and Urban Development. The definition in the mobile home tax statute does not include a manufactured home which has become real property in accordance with the new section of the real estate law.

In Sections 10 and 12 the provisions relating to what constitutes "real property" in both the real property statute and in the real property tax statute are amended to include a manufactured home (as defined above) which has become real property in accordance with the new section of the real estate law.

The entire process for converting a Home from personal property to real estate is voluntary on the part of the Home owner.

Although Wells Fargo worked extremely hard on this effort, the bill is strongly supported by NDBA and its member banks. When we brought this before our bankers, all were enthusiastic about clearing up the current mess and several from the West noted particularly how the bill will facilitate lending for available, affordable Homes.

This is a great piece of legislation and we urge a strong Do Pass recommendation from the IBL Committee.

**MANUFACTURED HOME
AFFIDAVIT OF AFFIXATION**

STATE OF _____)
 COUNTY OF _____) ss.:

BEFORE ME, the undersigned notary public, on this day personally appeared

[type the name(s) of each person signing this Affidavit]:

known to me to be the person(s) whose name(s) is/are subscribed below (each a "Homeowner"), and who, being by me first duly sworn, did each on his or her oath state as follows:

1. Homeowner owns the manufactured home ("Home") described as follows:

New/Used	Year	Manufacturer's Name	Model Name and Model No.	Manufacturer's Serial No.	Length / Width
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2. The Home was built in compliance with the federal Manufactured Home Construction and Safety Standards Act.

3. If Homeowner is the first retail buyer of the Home, Homeowner is in receipt of (i) the manufacturer's warranty for the Home, (ii) the Consumer Manual for the Home, (iii) the Insulation Disclosure for the Home, (iv) the formaldehyde health notice, and (v) the Dispute Resolution Disclosure required by 24 C.F.R. § 3288.5.

The street address of the real estate to which the Home is or shall be permanently affixed ("Property Address") is:

Street or Route	City	County	State	Zip Code
-----------------	------	--------	-------	----------

5. The legal description of the real estate to which the Home is or shall be permanently affixed ("Land") is:

6. Homeowner is the owner of the Land or, if not the owner of the Land, is in possession of the Land pursuant to a lease in recordable form that has a term that continues for at least twenty years after the date of the execution of this Affidavit, and the consent of the lessor is attached to this Affidavit.

7. The Home is or shall be assessed and taxed as an improvement to the Land.

8. As of the date of the execution of this affidavit, or if the Home is not yet located at the Property Address, upon the delivery of the Home to the Property Address:

- (a) All permits required by governmental authorities have been obtained;
- (b) The Home [] is [] shall be permanently affixed as defined in Subsection 1 of Section 47-10-26, North Dakota Century Code;
- (c) The wheels, axles, towbar or hitch were removed when the Home was placed on the Property Address; and
- (d) The Home has the characteristics of site-built housing and is part of the Land.

9. The Home [] was [] was not permanently affixed before [EFFECTIVE DATE OF ACT].

If Homeowner is the owner of the Land, any conveyance or financing of the Home and the Land shall be a single transaction under applicable state law.

The Home is subject to the following security interests or liens:

Name of Lienholder:

Name of Lienholder

Address:

Address:

Original Principal Amount Secured:

Original Principal Amount Secured:

12. Other than those disclosed in this Affidavit, Homeowner is not aware of (i) any other security interest, claim, lien or encumbrance affecting the Home, or (ii) any other facts or information that could reasonably affect the validity of the title of the Home or the existence or non-existence of security interests in it.

13. A release of lien from each of the Lienholders identified in paragraph 11 of this Affidavit has been shall be delivered to the department of transportation.

14 Homeowner shall initial only one of the following, as it applies to the Home:

The Home is not covered by a certificate of title. The Home is covered by a manufacturer's certificate of origin, issued on _____ of _____, _____, manufacturer's serial number _____, which Homeowner shall surrender. The original manufacturer's certificate of origin, duly endorsed to Homeowner, is attached to this affidavit.

The Home is not covered by a certificate of title. After diligent search and inquiry, Homeowner is unable to produce the original manufacturer's certificate of origin. Homeowner shall apply to the department of transportation for a confirmation of conversion of the Home.

The Home is covered by a certificate of title issued on _____ of _____, _____, title number _____, which Homeowner shall surrender.

The Home is covered by a certificate of title. After diligent search and inquiry, Homeowner is unable to produce the original Certificate of Title. Homeowner shall apply to the department of transportation for a confirmation of conversion of the Home.

Homeowner designates the following person to file a certified copy of this Affidavit with the department of transportation, and the person to whom the recorder shall return a certified copy of this Affidavit after it has been duly recorded in the real estate records:

Name:

Address:

16. This Affidavit is executed by Homeowner pursuant to Subsection 2 of Section 47-10-26, North Dakota Century Code.

IN WITNESS WHEREOF, Homeowner(s) has/have executed this Affidavit in my presence and in the presence of the

undersigned witnesses on this _____ day of _____.

Homeowner #1 (SEAL)

Witness

Printed Name

Homeowner #2 (SEAL)

Witness

Printed Name

Homeowner #3 (SEAL)

Witness

Printed Name

Homeowner #4 (SEAL)

Witness

Printed Name

STATE OF _____)

) ss.:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ (date) by _____ (name(s) of person(s) acknowledging).

Notary Signature

Notary Public; State of _____

Serial Number, if any

My commission expires: _____

Official Seal:

NOTATION RECORDER: This instrument covers goods that are or are to become fixtures on the Property described and is to be filed for record in the records where conveyances of real estate are recorded.

CHAIRMAN KEISER AND MEMBERS OF THE COMMITTEE:

Same given to Senate.

MY NAME IS TODD STEINWAND AND I AM THE BUSINESS BANKING MANAGER FOR WELLS FARGO IN BISMARCK/MANDAN.

- WELLS FARGO IS A NATIONAL LEADER IN THE MORTGAGE LENDING INDUSTRY THROUGH OUR COMPANY WELLS FARGO HOME MORTGAGE. NOT ONLY DO WE ORIGINATE HOME LOANS THROUGH OUR WELLS FARGO BANKS, BUT SEVERAL INDEPENDENT BANKS SELL THEIR MORTGAGES TO WELLS FARGO HOME MORTGAGE.
- NORTH DAKOTA IS ONE OF ONLY 7 STATES THAT DOES NOT HAVE A FORMALIZED PROCESS OF CONVERTING MANUFACTURED HOMES FROM PERSONAL PROPERTY TO REAL PROPERTY (ALASKA, ILLINOIS, LOUISIANA, MISSISSIPPI, NEBRASKA, AND NEW MEXICO.)
- THIS BILL IS GOOD FOR BUYERS OF MANUFACTURED HOMES BY MAKING CREDIT MORE AVAILABLE FOR PURCHASE OF MANUFACTURED HOMES.
- IT IS GOOD FOR THE LENDERS, TITLE COMPANIES, AND AGENTS, AS IT STANDARDIZES THE PROCESS AND MAKES FINANCING OF MANUFACTURED HOMES MORE EFFICIENT.
- I HAVE ATTACHED A MEMORANDUM FROM WELLS FARGO'S SPECIALIZED MANUFACTURED HOUSING TEAM.

*Same handout
given to Senate.*

MEMORANDUM

Date: January 16, 2009

Re: North Dakota

Introduction

Wells Fargo has a specialized Manufactured Housing Team specifically tasked to confirm and complete all Investor requirements and State Statutes to convert the Manufactured Home from Personal to Real Property.

North Dakota currently has no formal statutory method of converting a manufactured home into real property ("Conversion Procedure"). Nevertheless, the North Dakota Motor Vehicle Division ("MVD") has established an informal Conversion Procedure for manufactured homes located on the home owner's property. The home owner must complete an Affidavit for Use for a Manufactured Home (Form SFN 53658) and submit it, along with the manufacturer's certificate of origin, to the MVD. Upon receipt, the MVD will enter the home's vehicle information number in its data base and retain an electronic image of the home's certificate of origin to ensure that no certificate of title will be issued for that home in the future. However, while this procedure is widely accepted in North Dakota, the MVD's authority to establish this informal procedure is unclear and its legal effect on the home is uncertain.

Today the North Dakota MVD requires the issuance of the "Letter of Confirmation and Bill of Sale" document on every sale/Rcfi transaction updating the new or current owner's name. To obtain the Letter of Confirmation and Bill of Sale you must follow this process.

First step. Send "Record request form" with \$3.00 to Bismarck MVD asking if the Letter of Confirmation has been issued previously? If yes, MVD will notify you who the Lien Holder is and must obtain the original from the lien holder or complete the MVD Application for a duplicate Letter of Confirmation Bill of Sale; again document is updated on every transaction.

To obtain a Letter of Confirmation and Bill of Sale on a first time sale the below documents are completed and submitted to Bismarck MVD.

- MCO Manufacturers Certificate of Origin
- Complete Application for certificate of Title (form no. SFN 2872)
- Complete Affidavit of Use

Once MVD obtains the above documents they will issue the Letter of Confirmation and Bill of Sale document. A Certificate of Title is not issued.

Issues with the current process.

- Title Agents refuse to follow the informal process because it's not in the North Dakota State Statute.
- Title Agents refuse to follow the informal process because it's too confusing.
- Every transaction needs a new Letter of Confirmation and Bill of Sale issued.
- There are multiple methods to obtain the Letter of Confirmation and to date Wells Fargo has identified 6 different methods so far explained from different State Officials to complete the process.
- An individual can ask for a Certificate of Title at any time and the MVD will issue one. Further clouding the issue. You may have a Certificate of Title and Letter of Confirmation and Bill of Sale issued on the same property to different lien holders.
- Wells Fargo has identified only 5 Title Agents that will work with us and complete the informal process. We had one loan closing the Borrower had to drive 150 miles to the closing because Wells Fargo could not find a local Title Agent to complete the process.
- Wells Fargo has many closing delays due to a confusing process. Homes where the process was not completed on the origin transaction Wells Fargo is required to ask a Police Officer prior to closing to physically inspect the home's data plate Vin number and complete the "Vehicle of Inspection SFN 2486 form".
- Wells Fargo has also turned away business to the Borrower due to no enforceable / legal method to convert the home to real property. Especially with older homes.
- Certificate of Titles are issued by mistake and not surrendered leaving them open to title claims.
- Borrowers are also confused and ask why the process is so difficult?

- Lack of confidence by Lenders and Title Agents regarding North Dakota's process.

The goal of the proposed Legislation is to remove confusion for all involved with Manufactured Home lending. Bring clarity and simplicity to the process of converting a Manufactured Home from Personal property to Real Property. This Legislation will improve the process for the Borrower, Lender, Title Agent and State Agencies. If a home is not converted to real property by a clear and enforceable State Statute all entities involved are at risk.

Attachment 4

PROPOSED AMENDMENTS TO HOUSE BILL 1301

*Prepared and proposed by the North Dakota Office of State Tax Commissioner
January 20, 2009*

Page 1, line 6, after "57-55-01" insert ", and subsection 2 of section 57-55-10"

Page 21, after line 16, insert:

"SECTION 14. AMENDMENT. Subsection 2 of section 57-55-10 of the North Dakota Century Code is amended and reenacted as follows:

2. This chapter does not apply to a mobile home that:
 - a. Is used only for the temporary living quarters of the owner or other occupant while the person is engaged in recreational or vacation activities, provided the unit:
 - (1) Displays a current travel trailer license; or
 - (2) Is a park model trailer that is used only for seasonal or recreational living quarters and not as a primary residence, and which is located in a trailer park or campground, and for which the owner has paid a park model trailer fee under section 39-18-03.2. For purposes of this paragraph, "park model" trailer means a recreational vehicle not exceeding forty feet [12.19 meters] in length which is primarily designed to provide temporary living quarters for recreation, camping, or seasonal use, is built on a single chassis, is mounted on wheels, has a gross trailer area not exceeding four hundred square feet [37.16 square meters] of enclosed living space in the setup mode, and is certified by the manufacturer as complying with American national standards institute standard A119.5.
 - b. Qualifies as a farm residence as described by subsection 15 of section 57-02-08, provided such mobile home is permanently attached to ~~the ground a~~ foundation.
 - c. Is permanently attached to a foundation and is assessed as real property, provided the owner of such mobile home also owns the land on which such mobile home is located or is in possession of the real property under the terms of a lease in recordable form that has a term that continues for at least twenty years after the date of execution and the consent of the lessor of the real property.
 - d. Is owned by a licensed mobile home dealer who holds such mobile home solely for the purpose of resale, and provided that such mobile home is not used as living quarters or as the place for the conducting of any business.

Renumber accordingly

#1

TESTIMONY OF MARILYN FOSS
IN FAVOR OF ENGROSSED HOUSE BILL 1301

Chairman Klein, members of the IBL Committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association ("NDBA"). NDBA is pleased to be here this morning to support Engrossed House Bill 1301. This bill addresses a problem with North Dakota law and addresses it in a manner that will benefit North Dakota consumers as well as banks and other lenders. Before moving on, I want to acknowledge the assistance that was given by the state Department of Transportation and its Motor Vehicle Division and the state Tax Department. These agencies have worked with us to craft a workable solution. We very much appreciate their involvement and assistance with this project.

I also want to recognize the efforts of Wells Fargo in this effort. Wells Fargo brought this problem to our attention and has devoted all necessary resources to crafting a solution that works for North Dakota. Todd Steinwand, the Business Banking Manager for Wells Fargo in Bismarck is also here to testify in support of this bill.

In a nutshell, this bill fills a huge gap in our law by establishing a specific statutory process to acknowledge and reflect in law the conversion of a manufactured home from personal property to real estate. Currently, the ownership interest in a manufactured home (a "Home") is documented by a manufacturer's certificate of origin or, after sale to a private person, a certificate of title that states the owner's name on a certificate of title covering the Home. Like a car, evidence that a Home is indicated by having the lender's name listed as a secured party or lien holder on the certificate of title.

Unlike a car, however, a Home can be permanently affixed to the real property on which it sits. Once that occurs, the manufactured home is commonly taxed as real property,

and after that the intent is for it to be real property, which means transferring ownership by a deed and financing it by a mortgage.

Right now, we have no statutory method for eliminating the manufacturer's certificate of origin or a certificate of title to a Home and converting the Home to real property when the Home is or will be permanently affixed to real property. House Bill 1319 does this by giving statutory recognition to an informal process that have been used by the MVD for many years and by providing that, IF the process is followed the manufactured home will be real estate just as a site built home is real estate under our law. The entire process for converting a Home from personal property to real estate is voluntary on the part of the Home owner. Having a statutory system for the conversion process will make the process much easier and clearer for consumers and lenders.

What Engrossed House Bill 1301 Does.

From a banker's perspective, the heart of the bill is found in Sections 9 and 11 which create new sections to the certificate of title law and the real estate law setting forth definitions and procedures for converting a Home to real property, including a required affidavit of affixation and, with the amendments we are proposing, a filed statement of full consideration,. In order for a Home to be converted to real property, 1) the Home must be permanently affixed to land; 2) an affidavit of affixation that complies with the statute must be recorded in the land records; 3) a statement of full consideration must be made, and 4) an application, including a certified copy of the recorded affidavit, must be filed with the MVD. Then, depending upon whether the Home is covered by a manufacturer's certificate of origin, a certificate of title or neither, and whether, after diligent search and inquiry, the owner of the Home is unable to produce the manufacturer's certificate of origin or certificate of title if one

exists, the MVD must cancel the manufacturer's certificate of origin, cancel the certificate of title or confirm in its records that conversion has occurred. Upon completion of all those requirements a Home is defined as real property and is transferred and financed as real property.

Section 7 provides for the conversion of Homes not covered by certificates of title (or for which the certificates of title cannot be found) but permanently affixed to real property before the effective date of the act. After the effective date of the act, any such Home can be converted to real property, but the Home owner must then either title or convert the Home.

If a properly completed application is delivered to the MVD within 60 days of the date the affidavit of affixation is recorded in the land records, conversion is deemed to have occurred on the date the affidavit was recorded. This 60 day aspect of the bill is reflected throughout.

As I noted earlier, Section 9 is a new section of the certificate of title statute which is enacted to accommodate the conversion process. Changes are made to the certificate of title statute, including changes affecting purchase money secured lenders and changes designed to protect the legal status of holders of security interests in a Home until the conversion process is completed.

In section 13 the definition of "mobile home" in the mobile home tax statute is amended to conform to the definition of "manufactured home" in the North Dakota UCC, which in turn uses the definition of "manufactured home" in the regulations of the U.S. Department of Housing and Urban Development. The definition in the mobile home tax statute does not include a manufactured home which has become real property in accordance with the new section of the real estate law.

In Sections 10 and 12 the provisions relating to what constitutes "real property" in both the real property statute and in the real property tax statute are amended to include a manufactured home (as defined above) which has become real property in accordance with the new section of the real estate law.

The Amendments

With our support, the House amended the bill to add provisions that were suggested by the Tax Department. However, the Tax Department also let us know that further amendments were desired. We worked with the Tax Department and MVD on the amendments which we are now offering. Substantively, the amendments incorporate the requirements for a statement of full consideration to apply to a manufactured home that is being converted to real estate. Beyond that, the amendments include several substitutions of the word "must" for "may" and "shall" for "must". Wells Fargo counsel suggested these changes, at a minimum and legislative council drafting suggestions aside, so it would be clear that there is no agency discretion for the affected provisions of the bill.

Engrossed House Bill 1301 is Supported By Banks of All Sizes and Locations.

Although Wells Fargo worked extremely hard on this effort, the bill is strongly supported by NDBA and its member banks. When we brought this before our legislative committee, all bankers were extremely enthusiastic about clearing up the current uncertainties and several from the West noted particularly how the bill will facilitate lending for available, affordable Homes.

This is a great piece of legislation and we urge a strong Do Pass recommendation from you.

#1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1301

Page 1, line 4, after "sections" insert "11-18-02.2,"

Page 1, after line 8, insert:

"SECTION 1. AMENDMENT. Section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

11-18-02.2. Statements of full consideration to be filed with state board of equalization or recorder — Procedure — Secrecy of information — Penalty.

1. Any grantee or grantee's authorized agent who presents a deed in the office of the county recorder shall certify on the face of the deed any one of the following:
 - a. A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the state board of equalization.
 - b. A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the recorder.
 - c. A statement of the full consideration paid for the property conveyed.
 - d. A statement designating one of the exemptions in subsection 67 which the grantee believes applies to the transaction.
2. Any party who presents an affidavit of affixation to real property of a manufactured home in the office of the county recorder in accordance with section 47-10-26 and who acquired such manufactured home prior to the manufactured home's affixation to the real property shall either contain in or present in addition to such affidavit of affixation any one of the following:
 - a. A statement that the party has filed with the state board of equalization a report of the full consideration paid for such manufactured home prior to such affixation.
 - b. A statement that the party has filed with the recorder a report of the full consideration paid for such manufactured home prior to such affixation.
 - c. A statement of the full consideration paid by such party for the manufactured home prior to such affixation.
3. The recorder shall not record any deed unless it contains one of the statements required by subsection 1 or any affidavit of affixation unless it contains or is accompanied by one of the statements required by subsection 2.
4. The recorder shall accumulate and at least monthly forward to the state board of equalization a report containing the information filed in the recorder's office pursuant to subsection 1 or subsection 2.
45. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out the purposes of this section, and the forms will contain a space for the explanation of special circumstances which may have contributed to the amount of the consideration.
56. For purposes of ~~this section~~ subsection 1, the word "deed" means an instrument or writing whereby any real property or interest therein shall be granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing which transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of

the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.

- 67. The provisions of this section do not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
 - a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale where the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale which resulted as a settlement of an estate.
 - e. All sales to or from a government or governmental agency.
 - f. All forced sales, mortgage foreclosures, and tax sales.
 - g. All sales to or from religious, charitable, or nonprofit organizations.
 - h. All sales where there is an indicated change of use by the new owners.
 - i. All transfer of ownership of property for which is given a quitclaim deed.
 - j. Sales of property not assessable by law.
 - k. Agricultural lands of less than eighty acres [32.37 hectares].
 - l. A transfer that is pursuant to a judgment.

78. The state board of equalization shall guard the secrecy of information contained on statements filed with the board pursuant to subsection 1 or subsection 2, and any information contained on statements and any information provided by local officials shall be limited to such data as is necessary to perform their official duties and shall not include the names of any grantors or grantees to deeds or of any parties to affidavits of affixation. Any reports made available to the public must be made in a manner that will not reveal the names of any grantors, ~~or~~ grantees or parties. The recorder shall guard the secrecy of information contained on reports filed in the recorder's office pursuant to subdivision b of subsection 1 or subdivision b of subsection 2.

89. Any person who, in the statements provided for in subsection 1 or subsection 2, willfully falsifies the consideration paid for the transferred real property or the manufactured home, as applicable, or interest therein or who falsely certifies that the person has filed a report of full consideration with the state board of equalization is guilty of a class B misdemeanor."

Page 9, line 28 replace "may" with "must"

Page 10, line 2 replace "must" with "shall"

Page 11, line 24 replace "may" with "must"

Page 11, line 29 replace "must" with "shall"

Page 13, line 29 replace "may" with "must"

Page 14, line 3 replace "must" with "shall"

Page 15, line 9 after "home" insert "must"

#1

DO PASS
Affidavit
POTTER

Page 15, line 9 replace "executes" with "shall execute"

Page 15, line 10 replace "records" with "record"

Page 15, line 15, replace "files" with "must file"

Page 18, line 12, remove "and"

Page 18, line 12, after "(8)" insert:

"If the party executing the affidavit acquired the manufactured home prior to the manufactured home's affixation to the real property, one of the statements required by subsection 2 of section 11-18-02.2; and (9)"

Page 19, line 24 replace "may" with "must"

Page 20, line 1 replace "affect" with "effect" and "transfer of an interest" with "encumbrance"

Page 20, line 2 replace "transfer" with "conveyance"

Renumber accordingly

Statement of
Full Consideration

SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE

**March 18, 9:30 a.m.
Roosevelt Park Room**

**North Dakota Department of Transportation
Glenn Jackson, Director, Drivers License & Traffic Safety Division**

HB1301

3
Same
given to
House.

Good morning, Mr. Chairman and members of the committee. I'm Glenn Jackson, Director of the Drivers License & Traffic Safety Division at the North Dakota Department of Transportation, until recently the Director of the Motor Vehicle Division. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation supports House Bill 1301 and had the opportunity to work with the ND Bankers Association to make this a workable bill. This bill codifies the current process followed by the Motor Vehicle Division in regards to processing titles for manufactured homes.

The owner of a manufactured home needs a document that provides a pathway of ownership. Currently, an application for a manufactured home title is made to the Motor Vehicle Division. Accompanying the application is SFN 53658, Affidavit of Use for a Manufactured Home, which notifies us that this home is real property. A descriptive record of the home is established with the motor vehicle records.

However, rather than issuing a title, a Letter of Confirmation Bill of Sale is issued and sent to the lien holder of record. If there is no lien holder, it is issued to the owner of record. This Letter of Confirmation Bill of Sale was formatted and designed similar to the title issued for cars, trucks, etc and is also used to transfer any ownership of the home.

This informal procedure was adopted in 2003 based upon discussion and verbal agreements that took place between the Motor Vehicle Division Director at that time and representatives of the North Dakota Manufactured Housing Association. The current procedure is informal and is not statutory. The passage of this bill will codify our present procedure. No changes are made to current vehicle titling statutes or processes.

The fiscal impacts of this bill are minimal, only \$600 dollars to slightly modify the current Letter of Confirmation Bill of Sale form.

Mr. Chairman, I'll be happy to take your questions at this time.

#4

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

HOUSE BILL 1301

MARCH 18, 2009

Chairman Klein, Members of the Senate Industry, Business and Labor Committee, I am Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division for the Office of State Tax Commissioner, and I am here today to speak in support of the proposed amendments to House Bill 1301.

The proposed amendments to N.D.C.C. § 11-18-02.2 are necessary to ensure that the full consideration paid for manufactured homes to be affixed to real property is reported to either the County Recorder or the State Board of Equalization for use in the sales ratio study. Under existing law, full consideration must be reported to the County Recorder or the State Board of Equalization before any transfer of real property may be recorded. Before a manufactured home is titled as a mobile home a statement of mobile home full consideration must be filed with the Department of Transportation. Manufactured homes that are not titled as mobile homes will not file a statement with the Department of Transportation.

The Office of State Tax Commissioner appreciates the cooperation of the North Dakota Bankers Association in preparing these amendments and asks that you approve them and give a "Do Pass" recommendation to House Bill 1301.

This concludes my prepared testimony.