

**2015 SENATE FINANCE AND TAXATION**

**SB 2068**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

SB2068  
1/12/2015  
Job Number 21817

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to providing statements of full consideration, the tax lien of record clearance requirement for new and expanding business income tax exemptions, and removal of obsolete language from provisions relating to valuation and assessment of agricultural lands; and to provide an effective date.

## Minutes:

Attachment #1

**Chairman Cook** opened the hearing on SB2068.

**Donnita Wald, General Counsel**, office of North Dakota State Tax Commissioner. I am here today to testify in support of SB2068 which is our property tax housekeeping bill. **(See Attachment #1)**

**Chairman Cook** -- What's a statement of full consideration?

**Donnita Wald** -- When you transfer property, on the deed you can put the purchase price. And if you don't put it on the deed, you have to file a statement of full consideration. In previous laws, those were required to be filed with the County Recorder and the State Board of Equalization.

**Chairman Cook** -- Bottom line is: the sale price of property that sells in North Dakota is public, and it's available for sales ratio studies.

**Donnita Wald** -- That is correct. And to any other person who wishes to receive that information.

**Senator Bekkedahl** -- Sitting in our Board of Equalization hearings every year and the assessments come forth, they've told us before that some sales are held in confidentiality. That's no longer the case and that changed last session?

**Donnita Wald** -- That's correct.

**Senator Bekkedahl** -- So moving forward, when they tell us that I can tell them "no, we are allowed that information".

**Donnita Wald** -- That's correct. You are allowed that information.

**Senator Oehlke** -- There are some exceptions to that, correct? I just noted that on page 3 it notes that this section does not apply to deeds transferring title to the following types of properties: forced sales, sales to or from religious charitable or non-profit organizations are listed there. Have we gone through and manicured that laundry list of exceptions?

**Donnita Wald** -- No

**Senator Oehlke** -- How come?

**Donnita Wald** -- Because we have not been asked.

**Senator Oehlke** -- Ok.

**Donnita Wald** -- Or a bill has not been introduced.

**Senator Oehlke** -- I understand some of the exceptions, but when I look at the list of A through J, I wonder if that should really make a difference because of you've got an arms length sale, I would think that should be good information that an assessor should be able to use.

**Donnita Wald** continues going through her testimony.

**Chairman Cook** -- When you say no tax liens to the state, does that include a tax lien on somebody's property?

**Donnita Wald** -- That's something that the locals are responsible to look for. This section applies to not only the State Board of Equalization but also to the local governing bodies who grant that exemption. The State Board only does the income tax exemption part of it but it would also apply to property taxes.

**Chairman Cook** -- What are we talking about -- income tax exemption in an enterprise zone?

**Donnita Wald** -- This particular chapter of the code 40-57.1 applies only to the new and expanding business exemption.

**Senator Oehlke** -- Going back to the top of page 3 where it talks about these various exceptions, sales to or from a government or government agency, what would be the reason why that information would be excepted?

**Donnita Wald** -- I don't when this list was put in and so I don't know what the reason is. I didn't know the whole list was there until this morning when I was drafting this testimony.

For sales to or from a government agency, I would think that information is open record anyway. Jolene, or one of our property tax experts may know more about that than I do.

**Senator Triplett** -- I don't think it's really a matter of whether these are or should be public records. I think the reason they are excepted is because they are the kinds of transactions that you would not likely have actual full consideration or arms length dealings being done.

**Donnita Wald** -- I believe Senator Triplett is correct. Some of these are forced transfers.

**Chairman Cook** -- I still question H, just because it is a change of use why would you not use that sale in a sales ratio study?

**Senator Dotzenrod** -- On the bottom of page 1, we are dealing with mobile homes. When someone buys a mobile home, it's not real property -- not subject to property taxes by virtue of the sale, it becomes part of the tax system, when it becomes affixed to a lot. Is it considered real property when it is affixed?

**Donnita Wald** -- Yes, it does.

**Senator Dotzenrod** -- When we provide a 12% reduction in property taxes or education mill levy buy-down, those mobile home owners get those property tax reductions?

**Donnita Wald** -- As an owner of one of those, yes, I did get that.

**Jolene Vidal, Property Tax Specialist with the State Tax Commissioner**

I'm here to address your question regarding the A through L in here and Senator Triplett was correct that these examples of non-arms-length transactions and specifically on H indicated change of use would be where it's going from residential to commercial, or agricultural to commercial. Those different types of changes where the property is now something else.

**Chairman Cook** --- You wouldn't want to compare a piece of property that goes from residential to commercial, you wouldn't want to compare that to residential property but would you not want to compare it to commercial property?

**Jolene Vidal** -- If we have a property that was residentially assessed the year before and then it goes to commercial, we're looking at a change in use of property and we're looking at a change in the way the property is being valued.

No further testimony in support, opposed or neutral.

**Chairman Cook** closed the hearing on SB2068.

**Senator Laffen** moved a do pass.

**Senator Triplett** seconded.

Roll call vote 7-0-0. Motion carried. **Carrier: Senator Unruh.**

Date: 1-12-15

Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO 2068**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Laffen Seconded By Sen. Triplett

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Unruh

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

**REPORT OF STANDING COMMITTEE**

**SB 2068: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2068 was placed on the Eleventh order on the calendar.**

**2015 HOUSE FINANCE AND TAXATION**

**SB 2068**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2068  
2/23/2015  
24234

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Mary Brucker*

### Explanation or reason for introduction of bill/resolution:

A bill relating to providing statements of full consideration, the tax lien of record clearance requirement for new and expanding business income tax exemptions, and removal of obsolete language from provisions relating to valuation and assessment of agricultural lands.

### Minutes:

Attachment #1

**Chairman Headland:** Opened hearing.

**Donnita Wald, Counsel for Tax Commissioner's Office:** Distributed written testimony in support. See attachment #1.

**Representative Klein:** On page 3 item k, why are you omitting agricultural lands less than 80 acres?

**Donnita Wald:** We are not removing any language there. The change in this section relates only to the statements of full consideration. Other than that we are not making any other changes to this statute.

**Representative Klein:** I understand that but I was wondering why originally anything less than 80 acres was not covered.

**Donnita Wald:** I don't know the history of that section but I can find out for you.

**Vice Chairman Owens:** On the full consideration statement does that mean that on online property records the amount that always said zero will now be filled in?

**Donnita Wald:** Are you talking about the statements of full consideration?

**Vice Chairman Owens:** Online when you look up property information for the counties that have property tax information it shows the value and things and they have the documents there that are always recorded as zero under each deed. Does this mean that now this isn't confidential and that information will be a matter of public record, what was paid for the property?

**Donnita Wald:** It should be recorded somewhere. When a statement of full consideration is filed they don't have to put the sale price on that particular document or they don't have to put it on the deed but it has to be listed on either one of those documents.

**Vice Chairman Owens:** It could or could not show up depending on whether or not it's on the deed.

**Donnita Wald:** That is correct. Another place it may be available is on the secretary of state's website where the financial institution or the mortgager files their purchase money security interest and their other documents.

**Chairman Headland:** Is there any further support? Is there any opposition to SB 2068? Seeing none we will close the hearing on SB 2068.

**Representative Dockter: MADE A MOTION FOR A DO PASS**

**Representative Schneider: SECONDED**

**ROLL CALL VOTE: 13 YES 0 NO 1 ABSENT**

**Representative Schneider will carry this bill.**

Date: 2-23-15  
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2068**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar
- Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Dockter    Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	AB				

Total (Yes) 13    No 0

Absent 1

Floor Assignment Rep. Schneider

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

**REPORT OF STANDING COMMITTEE**

**SB 2068: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2068 was placed on the Fourteenth order on the calendar.**

**2015 TESTIMONY**

**SB 2068**



1-12-15  
#1

## TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER IN SUPPORT OF SENATE BILL 2068

Good Morning, Chairman Cook, Members of the Senate Finance and Taxation Committee. My name is Donnita Wald, General Counsel for the North Dakota Office of State Tax Commissioner. I am here today to testify in support of Senate Bill No. 2068, our Property Tax Housekeeping bill.

This Bill makes three changes to various sections of the N.D.C.C. relating to statements of full consideration, applicant requirements for the New and Expanding Business Exemption, and removes obsolete language from the Code.

### SECTION 1 (Pages 1-2)

The change proposed in this Section of SB 2068 removes the requirement that Statements of Full Consideration, filed with the County Recorder in the county in which the property is located, also be filed with the Tax Commissioner. Under previous law, if the deed did not contain the amount the property was sold for, the parties to the transaction were required to file a statement of full consideration with the county recorder and the State Board of Equalization (SBOE). In the 2013 Session, the confidentiality of statements of full consideration was removed. Because of this change, the amount the property was sold for is now contained on the deed, and if not recorded on this document, it is on the statement of full consideration. Therefore, due to the fact that these are now open records and the sales information is readily available to interested parties, we no longer believe the requirement to file the Statement of Full Consideration with the SBOE is necessary.

Further, removal of this requirement removes a redundancy that currently exists in this statute. On page 2, lines 14-16, the county recorder is required accumulate and file a monthly report with the SBOE that summarizes the sales prices for property transfers. There is no reason to impose a requirement on those parties to a property transfer to file Statements of Full Consideration with the SBOE.

**SECTION 2 (Pages 3-4).** In Section 2 of the Bill we propose one substantive change and a number of housekeeping changes.

On Page 2, lines 23 and 31, we are proposing a change to the tax clearance requirements for the New and Expanding Business Exemption, adding a requirement that the applicant for the exemption have no tax liens, but to also require that the applicant not have any state tax debts, even though a lien has not yet been filed. This is accomplished by adding the word “obligations” where tax liens are referenced throughout N.D.C.C. § 40-57.1-04.4.

The Office of State Tax Commissioner believes that if an applicant has any state tax debt the applicant should be ineligible for the five year income tax exemption. We are requesting this change because the SBOE recently encountered a situation in which the applicant for the exemption owed a substantial amount of state taxes. But, because a tax lien had not yet been filed, the applicant met the statutory tax clearance requirement and qualified for the exemption.

The other housekeeping change requested in Section 2 clarifies that the applicant may not have any income tax withholding liabilities. Currently, our interpretation and application of this section is that the use of the word “income” includes the income withholding tax because this tax is contained within the income tax laws in N.D.C.C. ch. 57-38. We have not had this interpretation challenged, but believe this change will clarify the tax clearance requirement for applicants who are not familiar with our state tax laws.

Finally, on page 3, lines 27-28, we are making the language consistent with our current definition of “passthrough entity” in the income tax law. If you recall, in the Tax Department’s 2013 housekeeping bill, we consolidated the list of all types of pass-through entities into one definition in the income tax chapter. For example, the definition of pass-through includes entities such as S-corporations, limited partnerships, limited liability companies, limited liability limited partnerships, and other pass-through entities that may be developed in the future. By referencing 57-38-01, any time there is a change to the definition of pass-through entity for income tax purposes, the new and expanding business exemption definition automatically “piggybacks” on that change.

**SECTION 3 (Page 3)**

This section removes obsolete date references to the capitalization rate for the valuation and assessment of agricultural property.

**SECTION 4.** This section contains the effective date for the changes made to the new and expanding business exemption, specifically to clarify that the change relating to “tax obligations” for tax clearance purposes under the New and Expanding Business Tax Exemption, applies to applications filed after June 30, 2015.

## **CONCLUSION**

In conclusion, we ask that you give favorable consideration to Senate Bill No. 2068, and that the Senate Finance and Taxation Committee give this bill a “Do Pass” recommendation. And I stand for any questions you may have. Thank you.



SB 2068  
2-23-15  
#1 p. 1

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# 1 p. 2

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