

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1133

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1133

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1133

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-12-01

Tape Number	Side A	Side B	Meter #
1	xx		3700--end
1		xx	255-738
1		xx	2204-2500
Committee Clerk Signature <i>Rim Owen</i>			

Minutes: Chairman Froseth opened hearing on HB 1133 with those present: Chair Froseth, Vice-Chair Severson, Reps. Delmore, Disrud, Eckre, Ekstrom, Fairfield, Grosz, Gunter, Herbel, N. Johnson, Kretschmar, Maragos, Niemeier, and Tieman.

Rep. Klemm, Dist. 47, Bismarck : Testified in support of HB 1133. This bill is to correct a conflict between two sections of law. I believe it may have been a drafting error. (See Attached Testimony)

Rep. Fairfield : (4172) After this bill, will it be O.K. for the notary to be a party to a limited liability and still notarize the document?

Rep. Klemm : Yes, that is what section 34 says.

Chair Froseth : How many times is a document invalid because a notary hasn't met all the qualifications?

Rep. Klemin : I don't know that I can answer. It would not occur unless someone questions it. Now we have the answer without having to go to court to find the answer. Now we have to have a judge decide.

Rep. Delmore : (4309) What if it is a dated document that is in question and later found to be invalid? It would change the course of what someone was allowed to do because of the way it was notarized.

Rep. Klemin : That could be. That's the same situation we have right now. Now, notaries should know, upfront, because it is clearly stated in the law.

Rep. Delmore : My point is who will pay for the invalid document?

Rep. Klemin : We are talking about related parties, where the notary is notarizing the signature of his/her spouse. We are not talking about an innocent third party out there who is faced with an invalid document. The document will be invalid anyway, but we should not have to go to court to have a legal decision say that. We can say that upfront in this statute.

Rep. Delmore : In what case, given these relationships, etc., if we are allowing somebody who is a member of this limited corporation to sign on to it. In what instances is it going to be invalid.

Rep. Klemin : (4582) If we delete the reference to limited liability companies, it should spring this section 33 in harmony with section 34.

Rep. Fairfield : Why did we not prohibit it from section 34 rather than deleting it from section 33?

Rep. Klemin : It was a judgment call. Limited liability companies are much like corporations. Why do it for a corporation and not a limited liability. Partnership is different. Can't be in both places.

Bob Schaible, Deputy Sec. Of State : (4800) The Sec. of State wants to go on record as supporting HB1133.

Jim Horner, ND Land & Title Assoc. : We are neutral on this for the main part. We would like the affidavit portion deleted.

Chair Froseth : So you would like the words *or affidavits* be removed from line 12.

Jim : Yes. Since we are cleaning up the bill let's do this, too.

Rep. Klemm : (5215) Acknowledgments and affidavits are not the same thing. He went on to explain the differences. I am neutral as to whether this change is good or bad.

Chair Froseth : (side B 255) If we take the word affidavit from 33, we have to take it out of 34.

Rep. N. Johnson : (494) I don't see a problem, but maybe we should give the Secretary of State a chance to respond.

Chair Froseth : Mr. Horner, would you like to respond?

Jim Horner : (535) Maybe we are just talking about apples and oranges. When we are talking about execution of the affidavits. Who will be executing. Notarizing is different than executing. We don't want the person executing it to be limited. They may be the only person who knows the facts and swears to it.

Maheolm Brown, State Bar Assoc. : (655) I think what Mr. Horner is concerned about is the affidavit in the title of the section. This whole section deals with who shall not execute acknowledgments. Maybe, affidavits should be stricken from the title.

Chair Froseth : Hearing no further testimony, HB1133 is closed.

**Tape 1, Side B 2205 1-12-01**

Chair Froseth : Let's take up HB1133

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House Political Subdivisions Committee  
Bill/Resolution Number HB1133  
Hearing Date 1-12-01

Rep. Kretschmar : (2232) I think the word *affidavit* should be left out of the title. I move to amend this bill and delete *and affidavits* on line 6.

Rep. Maragos : (2305) Then should we also delete *affidavit* from line 12?

Rep. Kretschmar : No, we want it in the statute.

Vice-Chair Severson :(2330) I second the motion to amend.

**VOICE VOTE ON AMENDMENT: All Yes, amendment passed**

Rep. Maragos : I move a **DO PASS AS AMENDED** on HB1133.

Rep. Grosz : (2400) I second the motion.

**ACTION: 11 YES, 4 NO, BILL PASSED. Rep. Disrud will carry.**

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1133 b

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-19-01

Tape Number	Side A	Side B	Meter #
1		xx	230-620
Committee Clerk Signature <i>Pam Owen</i>			

Minutes: Chair Froseth : We need to look at HB1133 again. We had some amendments that Legislative Council had to investigate that Rep. Kretschmar proposed.. We did pass this with the amendments.

Rep. Kretschmar : I move to reconsider HB1133.

Rep. Delmore : I second.

**VOICE VOTE to reconsider: ALL YES. Motion carried to reconsider.**

Rep. Ekstrom : I move to withdraw the previous amendments.

Vice-Chair Severson : I second.

**VOICE VOTE to withdraw amendments: ALL YES. Motion carried.**

Rep. Kretschmar : (368) I have now some amendments prepared by Legislative Council that only amends the title to the bill. The statute will prohibit a notary from notarizing an instrument which the notary is a party. The amendment does not change the body of the statute as presented in the bill. I move that amendment.

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House Political Subdivisions Committee

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Hearing Date 1-19-01

Rep. N. Johnson : I second.

**VOICE VOTE on amendment: YES carried. AMENDMENT PASSES.**

Vice-Chair Severson : I move a **DO PASS AS AMENDED.**

Rep. Ekstrom : I second.

**VOTE: 14 Yes and 1 NO BILL PASSES Rep. Disrud will carry the bill.**



10295.0102  
Title.0200

Prepared by the Legislative Council staff for  
Representative Kretschmar  
January 16, 2001

VR  
1/19/01

HOUSE AMENDMENTS TO HB 1133      HOUSE POL. SUBS.      1-19-01  
Page 1, line 6, overstrike "~~Who shall not execute acknowledgments and affidavits~~" and  
insert immediately thereafter "Prohibition on self-interested individuals from  
proving documents"

Renumber accordingly

Date: 1-12-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House POLITICAL SUBDIVISIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Maragos Seconded By Rep. Gross

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	✓		Rep. Wayne W. Tieman	✓	
Vice-Chair Dale C. Severson	✓				
Rep. Lois Delmore		✓			
Rep. Rachael Disrud	✓				
Rep. Bruce Eckre	✓				
Rep. Mary Ekstrom		✓			
Rep. April Fairfield		✓			
Rep. Michael Grosz	✓				
Rep. Jane Gunter	✓				
Rep. Gil Herbel	✓				
Rep. Nancy Johnson	✓				
Rep. William E. Kretschmar	✓				
Rep. Carol A. Niemeier		✓			
Rep. Andrew G. Maragos	✓				

Total (Yes) 11 No 4

Absent -0-

Floor Assignment Rep. Disrud

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

Date: 1-19-01  
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House POLITICAL SUBDIVISIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 10295, 0102 0200 Tall

Action Taken Do Pass As Amended

Motion Made By Vice Chair Severson Seconded By Rep Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman		
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	/				
Rep. April Fairfield		/			
Rep. Michael Grosz	/				
Rep. Jane Gunter	/				
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar	/				
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Marugos	/				

Total (Yes) 14 No 1

Absent 0

Floor Assignment Rep. Disrud

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

REPORT OF STANDING COMMITTEE (410)  
January 19, 2001 2:29 p.m.

Module No: HR-09-1324  
Carrier: Disrud  
Insert LC: 10295.0102 Title: .0200

**REPORT OF STANDING COMMITTEE**

HB 1133, as amended, Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). placed on the Sixth order on the calendar.

Page 1, line 6, overstrike "**Who shall not execute acknowledgments and affidavits**" and insert immediately thereafter "Prohibition on self-interested individuals from proving documents"

Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

HB 1133

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1133

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 16, 2001

Tape Number	Side A	Side B	Meter #
1	x		16.6-29.1
March 1, 2001 2	x		7.1- 18.6
March 2, 2001	x		7.4-16.7
Committee Clerk Signature <i>Mary Jo Whelan</i>			

Minutes:

The hearing was opened on House Bill 1133, relating to the proof of a document.

REP. KLEMIN: Introduced and sponsored HB1133. See written testimony.

This bill amends Section 47:19:33 of the ND Century Code which relates to the restrictions on a notary public concerning the personal interest in a instrument or affidavit.

SENATOR COOK: The amendments in the House, are just cleanup or?

REP. KLEMIN: The amendment in the House related to an ambiguity in the title of this section.

Where it says, who shall not execute an instrument or an affidavits, and that was changed to prohibition on self-interested individuals from proving documents. The reason for that is, were not really not talking about executing a affidavit, cause that is done, by the person who makes the affidavit. We're talking about the notary subscribing on their that the person swore this was his statement. So that amendment is simply to clarify that ambiguity. SENATOR MATHERN: What

