

**2013 HOUSE POLITICAL SUBDIVISIONS**

**HB 1225**

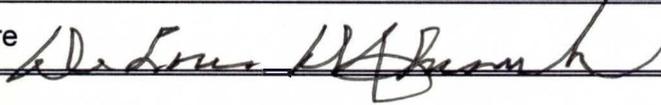
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1225  
February 7, 2013  
Job # 18547

Conference Committee

Committee Clerk Signature



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

Relating to property sales price disclosures.

### Minutes:

Testimony 1,2,3,4

**Chairman N. Johnson:** Opened the hearing on HB 1225.

**Rep. Louser:** Introduced the bill. I am bringing before you a minor change that may have a great impact of the real estate industry to provide accurate and timely data with regards to market conditions. I brought this bill into special session in November 2011 as a way to address appraisal and evaluation issues after the flood. I realized this was a long shot then, but it was urgent at that time. Properties affected by the flooding in Minot were being sold privately and banks were not lending money against those properties because they were a risk. They may have been \$200,000, but under the conditions of the flooding they are now only worth \$50,000. The property owner would negotiate with the lender holding the note a reduced sale which is called a short sale. Discussed the short sale and how it works. There were so few properties after the flood that was available for us to identify what a fair market value was and it was very difficult to get that information from property owners. Many people in our industry were being asked to place a value on a property for tax purposes so the property owner could, through their accountant, could identify what kind of loss they had during that year so we had to provide some kind of evidence and sign a letter to the IRS saying this is what I believe this property was worth. There are other instances where we need information to provide evaluations, but it did show itself during the flood. Realtor is a trade name. A member of an organization that subscribed to a code of ethics, but in most cases has excess to what we call a multiple listing service. Within that computer system service you see the sold data. We have excess to that information and many people have excess to that. There are licensing in smaller markets and appraisers in smaller markets that don't have an MLS. In fact there are only 7 MLS's in the state that don't have excess to that information and appraisers in smaller communities are having a difficult time finding sold data to do the comparable reports that are required by the underwriters when somebody is buying the property. In the last five years it has actually taken longer to close loans because there is a lot more regulation. If you get to closing you are not in most cases that your sales price can be filed confidential. In our market it is assumed that is what the consumer would want. It is just done that way so the information is not readily available in public record. Discussed how the information works now. In other

states you will see websites that say house sale and what it sold for or you will see direct postcards doing to the neighborhood saying this is what your neighbor's house sold for. Call me, look what I did for your neighbor or it is printed in a newspaper. That is not what is happening here. This bill is drafted to provide privacy and is limited to the properties that are twenty acres or less. It would require effort on the licensee's part; whether it is an appraiser or real estate agent to go seek out that information. You will hear some information as we proceed regarding what the county recorders are looking at versus the State Board of Tax Equalization. They would have to provide proof that they are licensed for excess to any sold data. It is fully intended to expedite the appraisal process and provide accurate market data. There is a concern if this is misused what the penalty is? It is a Class B misdemeanor so we are aware we don't want to have this misused. If this is a timing issue and how long this information should be made available, I would be willing to look at a six month window. Most appraisals can only go back six months for comparable information.

**Rep. Klemin:** This section of the law the secrecy of the information except for the requirement that the taxing authorities be informed of the sale price for tax purposes. You made the statement that if you subscribed to an MLS service you can look all this information up anyway so if I as a buyer of property want this to be secret I will file this form with the state tax department, but I am not going to put it on the deed and then the broker goes out and essentially makes that information public anyway through the MLS service, that seems counterproductive to the purpose of this statute. This statute says this information is secret. It doesn't say but any real estate service can have that information anyway. I question the ethics of the situation.

**Rep. Louser:** That was the first question in 2005 when I had that question and I did not know how to answer it. The access to MLS is not public. This is only accessible by participants in the system. Whether it is the Board of Realtor's that owns the system or a cooperation of brokers that owns the system. Our listing contracts within MLS have a statement that says the seller is willing to provide that information for statistical and comparable purposes only. When a buyer writes the offer to purchase also has that language that says buyer and seller agree that this information will be disclosed to the MLS for statistically and comparable purposes only. If they do not wish to have that information they would have to strike that part of the contract.

**Rep. Klemin:** This bill is proposing to accomplish the same thing the MLS is doing by contract throughout the state in areas where the MLS is either not available or where a person doesn't want to do that in a contract?

**Rep. Louser:** In the instant where no real estate agent that has access to the MLS was used for the transaction. Maybe for sale by owner would be an example. This bill would allow them to use this information to do a comparable or market analysis for a comparable.

**Rep. Klemin:** Through the tax department, is that what you are referring to?

**Rep. Louser:** Yes

**Rep. Klemin:** But it is really not secret to attorneys, appraisers, real estate brokers or real estate salesmen.

**Rep. Louser:** It would be secret up to the point that one of those entities would request that information. They have to make an effort to maybe physically show up at the State Board of Equalization and provide identification with a license to say that is what they want. It will get used in rural areas where there is not a MLS system, but there is a requirement for appraisers to excess the information to do their appraisals. Having problems getting appraisal information for closing.

**Rep. Klemin:** On page 3, line 21 and 22 and in a manner that will not reveal the names of any grantors, grantees or parties to the sale, but it would include the legal descriptions of the property and the addresses. In Bismarck I can go to the county website on their property website and put in an address and I have got all the information immediately what is the point of not revealing the names of them?

**Rep. Louser:** I agree. We don't need to know who the property owner is. We only need to know the sale price of the property.

**Rep. Koppelman:** What is the difference between appraisers and assessors when it comes to accessing information?

**Rep. Louser:** Yes assessors have more access to information. They would have the statement from the Board of Equalization to say from the closing agent what the sale was. The appraiser doesn't have access to that same information, but maybe required to use a property on an appraisal to close the next transaction. The city appraiser does not have access to the MLS, but the appraiser may belong to the MLS.

**Rep. Koppelman:** The terms of the sale might affect the value of the property because concessions are made on the sale.

**Rep. Louser:** that has to be included on the appraisal. On a VA loan it is zero percent down opportunity that is guaranteed by the VA and it also allows for the seller to pay concede closing costs on behalf of the buyer as part of the offer so you may have 4% to the purchase price conceded in closing costs so instead of a \$200,000 purchase it may only reflect a net of \$192,000; which would impact the appraisal.

**Rep. Koppelman:** Why would real estate brokers need the information? If assessors have it for their purposes and appraisers would be granted this through law change, why would that be necessary?

**Rep. Louser:** In the bigger markets it is not as impactful. It is the smaller markets that don't have an MLS and therefore an appraiser that can't access the data; they don't have any information to go on so they have to knock on doors to get this information.

**Rep. Koppelman:** If the appraiser had access to the data, why would you as a realtor need excess?

**Rep. Louser:** Let's say somebody from Stanley calls and says I would like to list my house can you come out and do a market analysis for me. If I go out and look at the property and say I am sorry I don't know what your house is worth because I don't have any information to provide you an analysis and the seller says what did I call you for since there are three houses that sold on my block in the last month and you can't tell me what my house is worth.

**Rep. Koppelman:** What is to prevent someone from disclosing this information that is private? Should there be a criminal penalty if the bill were to pass?

**Rep. Louser:** I think the penalty would be what it was before. Licensees and appraisers have access to the information in MLS that is already sold and we are not abusing it now. This is going to require effort to go out and look at a specific property for the purpose of doing an appraisal. I can't think of anybody that would take the time to just go out and seek out the information because it is going to be work on the practitioner's part. There are protections in place now.

**Rep. Koppelman:** Asked what MLS is?

**Rep. Louser:** MLS is a multiple listing service that includes a common lock box and an agreement to cooperate with each other; a compensation agreement whereby the seller provides a fee and it is negotiated between the buyer and seller; it is also exchanged on websites of broker A and broker B. Once that property closes and then it goes away from the system. In North Dakota as soon as that property is sold that field is not reported so that is never reported publically.

**Rep. Kathy Hogan:** What percentage of the real estate transactions is covered through MLS and what is the percentage that would use this system versus the MLS system?

**Rep. Louser:** This would not replace the MLS. I guess 85% of the properties go through an MLS in a large market. I don't have any way to know what didn't sell so I am guessing. This is geared toward appraisers that didn't have access or properties that didn't go in smaller communities.

**Rep. Kathy Hogan:** so this will have an impact in the small rural counties?

**Rep. Louser:** Yes I think that is right.

**Joe Ibach, Chairman of the ND Real Estate Appraiser Qualifications and Ethics Board:** (See testimony #1) 32-25 - 39:14

**Rep. Koppelman:** In those areas where it is impossible to find comparable data to do an appraisal are people still buying and selling property?

**Joe Ibach:** The appraisals are still being done. If I do an appraisal in Bismarck on a house my fee is \$575. If I go to Steele my fee is \$850. It is the time to go to the courthouse; find the sales, get the data and no sales price so then I have to find the buyer or seller. I have to get that price. That all takes time and that is unfortunate that people in rural North

Dakota are paying a price because they are paying more for an appraisal than they are in Bismarck because in Bismarck we have MLS.

**Rep. Koppelman:** MLS does not give you the sales data so what does it give you?

**Joe Ibach:** MLS does give the sale price.

**Rep. Koppelman:** Why do you need the bill then?

**Joe Ibach:** It doesn't work in rural North Dakota because there is no MLS.

**Rep. Koppelman:** How does MLS get confidential information?

**Joe Ibach:** I am not a realtor, I don't know. In Bismarck I think every property sold is reported as a sold sale. Maybe it is within their agreement there.

**Rep. Klemin:** You talked about not being able to get information from the banker and that maybe because bankers have statutory customer confidentiality requirements and they are not allowed to release information without the consent of the customer. What if we had a similar kind of confidentiality requirement on appraisers if they got this information?

**Joe Ibach:** I totally agree. The information we have right now is through MLS is confidential to my appraisal practice. I am not allowed to go down the street and tell anyone. If we would have access to the same information that assessors have right now then that would give us the information. We have to make sure that we can use it in the appraisal so why would I need it. We have to be careful so we can use the data.

**Rep. Louser:** It is the selling broker's responsibility to not disclose that to MLS. You could withdraw the listing completely so that it never existed. You can exclude anything you want to on the listing. I have never had that happen in 15 year where someone said I don't want that disclosed.

**Rep. Koppelman:** so if that is true you have the information you are asking for in the bill.

**Rep. Louser:** It is everywhere where we do not have MLS. One if in the larger markets where there is an MLS. Nobody is required to use the MLS or realtor to sell their property. There could be a private sale that was never submitted to the MLS. Everything that was not submitted to the MLS in the smaller markets.

**Rep. Klemin:** In the typical case it is the seller who has the contract with the realtor and not the buyer.

**Rep. Louser:** That would be called sub agency and has not been practiced in North Dakota since 1995 so you have a duty to be a buyer agent for the buyer similar to a listing for a seller; however you would overstrike on a contract that is a standard offer to purchase contract that would be very clear that the buyer did not want that disclosed and that would be submitted to the seller-broker who is responsible to maintain the agreed contract. I have never seen it happen.

**Rep. Klemin:** What about confidentiality to the bill with real estate brokers and salesmen we are really opening it up to a much larger group than just appraisers.

**Rep. Louser:** I don't object to that. I think it is already being done. I don't see the need for it, but I would accept that.

**Rep. Beadle:** One issue with appraisals is with commercial properties as well as well as rural properties. We have some other MLS's let's use Minot for example; what percentage of commercial transactions would you say goes through the Minot MLS system where there would be any disclosure?

**Rep. Louser:** My estimate for total transactions is over 90%. Regarding commercial I would say maybe say half.

**Rep. Muscha:** We bought a house in a small town and just purchased the lot from another family in town and they just wanted what they paid for it twenty years ago. Would that have been registered with the county?

**Rep. Louser:** there would still have been a statement of consideration filed with the State Board of Equalization and back to the assessor. Then it is up to the appraiser to determine if that was an arm's length transaction and if there were other things that may have impacted the value.

**Rep. Muscha:** There was never an appraisal done.

**Rep. Louser:** Anything that goes out in a secondary market, even where a bank says we will just hold the note in house they still want to have access to know that there are lending against a fair value.

**Rep. Hatlestad:** Do financial institutions have access to any of this information or are they at the mercy of the appraiser?

**Rep. Louser:** They do not have access to the sold data and if they did they may not need the appraisal which is contrary to the whole process because most financial institutions don't hold a 30 year not in their bank. They sell it off to get their cash back to lend to the next person. They may hold it in house for 5 years for good clients and they may join the MLS and pay a fee and have access to some data.

**Rep. Hatlestad:** You said they could join the MLS and have access to all that information?

**Rep. Louser:** If they have an employee in the bank that joins the MLS through all the rules.

**Rep. Ben Hanson:** The MLS board that governs the 7 MLS systems we have in the state does not have to allow anyone into their system as required by law. Do you think this could provide some consumer protection for the buyer, seller.

**Rep. Louser:** There are two ways an MLS system can exist. One is a corporately held MLS and the other is a board of realtors owned MLS. Six of the seven boards of realtors in ND owned their MLS so in order to join the MLS you must be a member of the board of realtors. You don't have access otherwise. So you have to get a real estate license and pay the monthly fee and the access and abide by the rules of non-disclosure and all the other agreements that go with MLS. If you are in a corporately held MLS made up of a corporation of brokers the same thing applies, but you may have affiliates that may join the MLS and have access to data if they have somebody that is licensed so you wouldn't have the broker join, you would have the employee of the bank being a real estate licensee joining the MLS under the affiliate program. How does this protect consumers? In a smaller community if I were to go and buy a house in Garrison and I don't have enough information to get an appraisal, but I want to buy that property, the bank may say rather than putting this out on a secondary market and giving you an FHA loan of 5% down at 4% we will still lend against it, but we want somebody in house to verify or want somebody to verify in market that the property you are buying is worth what you are buying it for. We are not going to get an official appraisal and we are not going to sell it on the secondary market, but we are going to keep it in house. I think this would allow for more appraisals to be done in those markets and data available would save consumers money.

**Claus Lembke, ND Realtors:** We are in favor of this bill. We would approve the amendments the Mr. Iback proposed. The appraisers are very critically important to protect the lender so they get the proper loan valuation and they do a good job in there. Who sets the first price? The realtor that list the property sets the first price and it is important to have the best access to information because today's listing; when it is sold becomes a comparable. Without an appraiser being involved; that is between the buyer and seller. So you need an educated realtor that has access to this information. When the seller wants more for his property than the realtor believes we still have some realtor's that still take it, but we find more and more realtor's that will not take it at that inflated price.

**Rep. J. Kelsh:** The counties hire assessors and expect them to do a good job. We are making it more difficult for them to do it. Houses are based on prior sales basically. We need to loosen this up so that the assessor can get this information without having to knock on doors and run people down. I would like you to comment on this.

**Claus Lembke:** The assessor gets this information. The disclosure is filed and then mailed to the State Board of Equalization and it shows in their personal property; how much was included and it is detailed. The Assessor does have that information.

**Kathy Meier, Appraiser from Bismarck:** I am here to urge your support of this bill. Market values are changing quickly in the state and we need the best information available. We need this information and I would urge you not to limit this to 20 acres. It is my understanding that I am held under Federal regulation of Gram Leach Biely and that I need to maintain confidentiality in my appraisal process.

**Rep. Hatlestad:** When you submit an appraisal to me as a lending institution you have to justify how you arrived at those figures. So if you are listing all this information so in a sense it does not become confidential then?

**Kathy Meier:** You as a lender are held under private banking rules so once I give you that detailed information I need to make sure it is an arm's length transaction. I need to verify that information since I get that information from the assessor on a sale price. Once I transmit that report to you as a lender you are held under those same financial privacy regulations.

**Doreen Riedman, Executive Officer, ND Association of Builders:** (See testimony #2). We believe this bill strikes a good balance giving that privacy that is needed to the folks but also giving the information that is needed to those who are doing the appraisals.

**Rep. Koppelman:** Why not just make this information public?

**Doreen Riedman:** That is a good question, but I think we need to still leave it to the professional in the industry that needs these figures.

**Rep. Klemin:** Isn't the building permit information public?

**Doreen Riedman:** Yes it is and it does have the value in it. In the rural areas and small towns building permits aren't even required in some of them.

**Jeff Zarling, Williston Business Owner:** (See testimony #3). I currently serve on the board of the Williston Builders Association and on the board of the ND Builder's Association. I am here to testify as a resident of Williston. I want to explain our activities and involvement. We are a professional services firm providing business development and marketing communications and website application development. We have been involved with the building industry since our inception in the twin cities 13 years ago. We have been in Williston eleven year. In the past several years we have been producing the Bakken Ambassador conference, the oil products and service shall and last year in May we produced the Bakken Housing Summit and we brought together 375 people and service providers to address housing in Western North Dakota. We have worked to identify the issues and challenges facing housing development in western North Dakota and try to bring those issues to our conferences to address to get more housing built. North Dakota is a closed record state. Issues have arisen with lead times for appraisals and access to market data for timely and accurate transactions. The delays in closing have increased costs in carrying costs for builders and hardships for buyers and sellers who have many stories that have had contracts fall through. A number of appraisers from other states we have talked to in the industry have pursued this option, and have created some availability to appraisal services however they have challenges obtaining appropriate market data and that can increase the costs of an appraisal and delay the time for that appraisal. I have been told by other licensed appraisers who provide market analysis and studies for investors and developers in the area that they would not be comfortable providing appraisal services in North Dakota due to the lack of access to sales data. We have discussed this with a variety of stake holders in western North Dakota including other citizens, builders etc. the concern brought up was related to the privacy of information. Those people are comfortable with the information being used like this and this bill strikes that kind of balance.

**Rep. Kathy Hogan:** You talked about a closed state versus an open state. Is this information open in other states?

**Jeff Zarling:** In the Phoenix market you can go to their website and log in and access sales transaction data on any property from the beginning of that parcel.

**Rep. Kathy Hogan:** Do you have an idea of how many states are open and closed?

**Jeff Zarling:** There has been a lot of discussion about the MLS and looking to that if we have that why do we need this? I want to point out in western North Dakota we have little access to MLS. In Williston it is a private MLS and the realtors that have come into the community have not been provided access to that MLS. If you were to estimate the number of transactions in Williston area that are listed on the MLS it is less than half. We have Bakken Realty that have come into the area and are operating and they have not been provided access to that MLS. New construction is taking place and those sales are not reflected anywhere on an MLS. We hear a lot of frustration from residents too. You have to look at Basin Brokers and you have to look at theirs and Bekk's doesn't list their property publically.

**Rep. Koppelman:** I thought it would be accessible if you whose to become a member?

**Jeff Zarling:** I am not certain, but they say it is a private MLS and they don't provide them access.

**Rep. L. Meier:** So those entities would have to go before the Board of Realtors in order to gain access?

**Jeff Zarling:** I don't have the answer to those questions.

**Rep. Beadle:** As one of the realtor firms that has been operating in Williston quite heavily and Dickinson without access to the MLS. Williston in particular is owned by the four brokerage companies that were in Williston about five years ago so it is owned by those individual companies and they have ownership share. For an individual to join the MLS the company needs to pay a fee; a few thousand dollars to join their MLS, but if anyone of those other four companies that are on their veto's it; then you are not able to be on there. That goes for whoever they can veto anyone.

**Rep. Ben Hanson:** I do believe that price is around \$10,000 now.

Opposition:

**Ann Johnsrud, McKenzie County Recorder:** (See testimony #4). We don't have the information that this bill is going to be asking for. We would like to see something added into it saying who is going to give the information to these people that are going to be asking for it because the recorders don't have it. See the attachment I have the State Board of Equalization Monthly report of the county recorder. When people come in and they have a transaction there are four things that can be on a deed; you can report it to the State Board of Equalization; we don't see that document. You can record it with the county recorder and that is confidential information. You can have an exemption on your deed or

you can put the purchase price on your deed. Very few of the conveniences that come across the recorders desk are reported directly with the county recorder. When we do this report at the end of the month we give all this information to the Tax Equalization director and the assessor so we don't even have the information in our office that these folks might ask for. If they did come to us and try to get it we are going to have to ask for their licenses so they are going to have to take their licenses off their wall and bring it in to the county to show it anyway.

**Rep. L. Meier:** Who would you recommend that they gain that information from?

**Ann Johnsrud:** It does to the State Board of Equalization from the tax director and I sent our report there too. I don't know what they do with it.

**Rep. Muscha:** We did not have an assessor or appraiser come when we built our house until the house was built and then it was just a local assessor, but that would be the price of the whole house etc. It is a different world in the small towns.

**Ann Johnsrud:** Every deed that comes into our office is required to have that statement on there so at the time when you purchased that property, if you brought it to my desk I would have said are you going to report it yourself? Do you want to report it with me? If you are not exempt and obviously you probably weren't on those then you have to put the purchase price on the deed. There are no exceptions.

**Rep. Ben Hanson:** If that was specified who to give that information to from the counties amended would you find the rest of the bill to be objectionable?

**Ann Johnsrud:** No I would not find the rest of the bill objectionable, but I would want it to state that is going to give that information.

**Rep. Ben Hanson:** Have you talked to other county recorders about this?

**Ann Johnsrud:** Yes we all shared the same concern. I am representing myself and the others.

**Rep. Klemin:** Whoever is providing this information is going to have some increased workload in order to do this on the request of every attorney, appraiser, real estate broker, real estate salesman who wants it and whoever that party is that is providing this information should there be some kind of fee?

**Ann Johnsrud:** There is a fee established now. In the recorder's office we can charge 50 cents/document that we look at for a report of such. If it takes more than an hour we can charge \$25/hr. So there would be fees.

**Rep. Klemin:** What if it is the county tax assessor of equalization?

**Ann Johnsrud:** I believe they can only charge the \$25/hr. after the first hour.

Neutral:

**Marcy Dickerson, State Supervisor of Assessments:** I just wanted to respond to Rep. Hogan's question. It is my understanding that most states are open states and that this information is a public record.

**Rep. Klemin:** This bill doesn't say who provides this information. Who is the proper party to do that?

**Marcy Dickerson:** I would think the Director of Tax Equalization or the State Board of Equalization, but they have no staff or appropriation or anything. The Tax Department represents the State board and does all the work that is involved in that board. I would assume that the request would either be made to the Tax Department staff; State Board of Equalization or to the County Tax director who would have the information. The county recorder does not do anything with the information concerned in these statements. I would be quite an undertaking to provide all this information to all the people who might be interested in it.

**Rep. Klemin:** If it is a state board providing this information then there should be a fiscal impact on the staff that it is going to take to do this state wide. Do we need a fiscal note?

**Marcy Dickerson:** In most cases the state board or tax department we generally have not had any fiscal note relating to the expense to the tax department. We just eat it. If something is large enough I think a fiscal note would be appropriate.

**Rep. Klemin:** Someone would have to compile it?

**Marcy Dickerson:** This is public information to everyone in other states. This bill singles out the individual property owner as the only person who wouldn't be able to get this information.

**Sterling Breuer, Appraiser in Bismarck:** I am for this along with the amendments. The county and city assessors do get this information now and that would solve that problem. It is already available. It is just a matter of releasing that information. I don't think this would cost much money. It is essential for us as appraisers to have good information. We are seeing many sales that are not through MLS.

Hearing closed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1225  
February 14, 2013  
Job # 18975

Conference Committee

Committee Clerk Signature



**Minutes:**

Proposed amendment # 1,2,3

**Chairman N. Johnson** reopened the meeting on HB 1225. This is the bill about property sales price disclosures. (Proposed amendment # 1 & 2) (On back Ternes testimony) We also had amendments brought in by Mr. Iback. Those were in his testimony. He had a primary and secondary position. This is the bill that would allow the sale price to be filed so that appraisers and real estate people would have access to know the numbers to do comparisons.

**Motion Made to Move the amendments by Rep. A. Maragos; Seconded by Rep. L. Meier**

Discussion:

**Chairman N. Johnson:** That amendment is to remove line 21 and 22 basically. That would mean the names could be on there. They would not have to call in twice to get the name.

**Rep. Koppelman:** Why would we want to disclose more than the bill asked for? The current law is to have some privacy if people want it. If they are looking for sales why do they care if they put the name of the people are?

**Rep. Beadle:** One of the reasons the people care who the names of the people are is because when you are doing an analysis we need to make sure it is an arm's length transaction. If it is myself selling land to Joe Beadle it might be a discounted price or something that could throw off the analysis for an appraisal so you would want to have that information as far as who is deeding it to who because that way it will tip off on whether or not there might any other factors in there that might have affected the market value of the property.

**Rep. Koppelman:** I am not sure how names alone would tell you that? My son in law has a completely different name than I do.

**Rep. Beadle:** You are right. It doesn't really tell you that. Frankly the names of who is currently is an owner of property is public record and at any point in time that is public record it is just a matter of whether you can do it in one or two phone calls.

**Rep. A. Maragos:** That is exactly what Kevin Ternes said on the other side. He says as a likely scenario under this bill we won't be able to name the parties in the transaction; however that same person can call back one minute later and ask who is the current owner because who owns a piece of property is public knowledge. This part of the bill is unenforceable. On the last two lines he says it would also keep us from posting the sale price of the property on our website because obviously the grantees name is connected to the online property record.

**Rep. Klemin:** What this bill and these amendments do is basically make all this information a public record. If we are going to do that why don't we repeal this requirement or repeal all the confidentiality parts of it and then we have a lot of different exceptions that currently don't apply. Why don't we just repeal the section or do something to make it open to everyone. I am an attorney and I can go get all this stuff. I don't have to have a reason for it. Why can't Rep. A. Looyen get it? He couldn't unless he was one of these other persons. So if we are going to open it up; why don't we open it up completely?

**Rep. A. Maragos:** I would certainly withdraw my motion to amend if Rep. Klemin wants to move to repeal.

**Chairman N. Johnson:** I visited with Mr. Lemke yesterday because Mr. Brewer had requested that we eliminate several of those. Mr. Lemke said I understand his wanting to do that. They probably should go; but this is like one step at a time. If we remove those you are going to get a backlash about people and privacy rights. What we want is this limited amount open so we can get appraisals done. Several states even publish them in newspaper.

**Rep. Koppelman:** We had this question before. Before I voted to keep the privacy in place, but I do think what you have described is exactly what is afoot here. I think Rep. Klemin point is well taken. If we are going to make this available to specialized person or that one; the taxes are currently public information; the appraised value is currently public information what is the point. I think it is cleaner to follow Rep. Klemin suggestion. Then we can vote up or down on that issue. I have introduced a bill for the last couple sessions which we killed again the other day that basically says if you buy a piece of property and the price you purchase it for is less than what the assessed value is for tax purposes is that they would have to lower it to that value; which to me is a no brainer. That would be the definition of the market. If this is all public it might shed some light on the whole assessment process.

**Rep. Klemin:** All we really need to do on page 3, line 6-15; the existing law that is the whole confidentiality secretary part. The rest requires a statement of full consideration to be filed showing purchases prices etc. If we are going to open it up then we don't have a need for the secrecy any more. It is all public information now. You can now get all the information now in other ways so what is the point. If we just amend this bill to delete subsection 8 of the existing law; then we don't need any of the rest of this stuff.

**Rep. A. Maragos withdrew his motion; Seconded by Rep. L. Meier withdrawn too.**

**Chairman N. Johnson:** Before we move on I would like to have you check with your people. My concern is if we do it all we will get resistance on the floor saying that is my privacy and I am not going to open it up and then the sponsors have nothing left.

**Rep. Koppelman:** Is it our job to save bills or our job to have the issue before the chamber.

**Chairman N. Johnson:** Both. Is it more reasonable to say let's open it up X amount at this point and see how it works and move forward. I think if we do it all it will go no. I could be wrong.

**Rep. Koppelman:** We could hold this and check with people. Rep. Klemin has made the point of privacy versus public information. Why not has the public policy decision on whether this should be open or private?

**Rep. Beadle:** One of the reasons why the individuals are listed in 8 Subsection b for the ones that are able to access the information opens it up a little bit because when you are looking at who actually utilizes this data. One of the sponsor's goals is not to change the sponsor's intent we need to make sure we don't do that. Attorneys have confidentiality requirements in theirs. Real estate brokers and sales people also have confidentiality too. Why these individuals are opened up is these are necessary parties to actually facilitate transactions and keep the market going. The intention I don't think is to open it up so that Joe Smool can spy on their neighbors and see what they are selling everything for all around the place so that is where they narrowed it down a little bit.

**Rep. Klemin:** The only confidentiality that an attorney has is with respect to his client's information. Anybody else I have no requirement of confidentiality whatsoever.

**Rep. Ben Hanson:** I believe the reason it is not entirely opened up was because similar bills have been proposed in the past and faced opposition so it was more of an easing ourselves into some of the standards that have been doing on.

**Rep. Kathy Hogan:** Say I want to sell my house on my own without using a real estate attorney. Can I get the comparable in my neighborhood and can I have access to that. I think from a consumer point of view it is a consumer friendly bill so I could do that with the amendment.

**Rep. Klemin:** The way it is now unless you are an attorney, appraiser, real estate broker or real estate sales person you could not get that information.

**Rep. Hatlestad:** My guess is when people complain they have no idea how wide open their live really is so I think if Rep. Klemin got up and said I can tell you this, this, this so I understand why.

**Rep. Koppelman:** I don't remember a bill in the past that tried to open it all up. There might be people who currently opposed the bill might support it when it is wide open. If our only purpose is to deal with appraisals and real estate sales and marketing; then the bill is probably appropriate.

**Rep. Beadle:** During the testimony and hearing on the bill the reasoning why this was brought forward was because of the changes we have had over the last few years since the housing burst nationally with the financing and lending requirement requiring stricter appraisals etc. has slowed down the process for being approved and purchasing a home. The growth in certain areas of our state combined with private MLS systems that people are not allowed to be on has made it difficult to finance projects within the state of North Dakota. I don't disagree and the second point would be that I would recommend Rep. Hogan uses a realtor because they are good and effective.

**Rep. Klemin:** If we do as I was suggesting and take out Subsection 8 of the existing law this doesn't mean that all the purchase and sale information is going to be on the deed. You can still put \$1 or other good and valuable consideration on the deed if you want to. You just have to file that statement of full consideration as currently required. OK let's say I contact a real estate sales person I could call up any real estate sales person and say I am planning on selling my house; could you come over and give me a market analysis. They can do that and give me the information and give it to me and then since I have not signed an agreement with them I will just use that myself so I have really done the same thing as if I just went down to the county tax and equalization and looked at it myself. I can also go one line right now too. The only people we aren't opening it up to are people in rural areas who just want to find out what their neighbors land sold for, but they can find out what the assessed value is which is supposed to be the true and full value; which is based on that information that was filed so it is all there already. The only thing is when they want an appraisal they have to pay more to get it.

Recessed.

**Chairman N. Johnson** reopened the meeting on HB 1225.

**Rep. Klemin:** (Proposed amendment #3). In the past I have been in favor of maintaining the privacy of this information, but times have changed. Virtually all of this information is now available online; either through the auditor's office or the special assessment office or the MLS system so that virtually anyone can go look it up now. The only place where you might not see current information like this is out in the rural areas or small town and you can dig it up. The problem is it is just jacking up the price of appraisals for those people. Went over the amendment.

**Motion made to move these amendments by Rep. M. Klein: Seconded by Rep. Koppelman**

Discussion:

**Rep. Beadle:** It is my belief that I don't think this would be taking away from the intent of the prime sponsor of this bill. I would support the amendments.

**Voice Vote Carried.**

**Do Pass As Amended Motion Made By Rep. A. Maragos; Seconded by Rep. Ben Hanson**

House Political Subdivisions Committee

HB 1225

February 14, 2013

Page 5

**Vote:            15   Yes   0   No   0 Absent   Carrier: Rep. M. Klein:**

Closed.

February 14, 2013

1/14/13  
JMK

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1225

Page 1, line 7, overstrike "**Secrecy of information** - "

Page 3, line 6, remove "a."

Page 3, line 6, overstrike "The state board of equalization shall guard the secrecy of information contained"

Page 3, overstrike lines 7 through 15

Page 3, remove lines 16 through 22

Page 3, line 23, overstrike "9."

Renumber accordingly

Date: 2-14-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1225

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number Terms amend #1 & #2

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Maragos Seconded By Rep. L. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Withdrawn

Date: 2-14-13  
Roll Call Vote #: 2-PM

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1295

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number Klemin #3

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Klein Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyzen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Vote carried!*

Date: 2-14-13  
Roll Call Vote #: 3PM

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1225**

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Maragos Seconded By Rep. B. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. M. Klein

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

**REPORT OF STANDING COMMITTEE**

**HB 1225: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1225 was placed on the Sixth order on the calendar.

Page 1, line 7, overstrike "**Secrecy of information -**"

Page 3, line 6, remove "a."

Page 3, line 6, overstrike "The state board of equalization shall guard the secrecy of information contained"

Page 3, overstrike lines 7 through 15

Page 3, remove lines 16 through 22

Page 3, line 23, overstrike "9."

Renumber accordingly

**2013 SENATE POLITICAL SUBDIVISIONS**

**HB 1225**

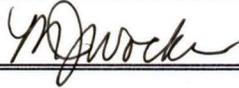
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1225  
March 22, 2013  
20362

Conference Committee

Committee Clerk Signature



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

Relating to property sales price disclosures

### Minutes:

You may make reference to "attached testimony."

**Chairman Andrist** opened the hearing for HB 1225. All senators were present.

**Rep. Scott Louser** Dist. 5, Minot introduced HB 1225 (:47- 6:28) What we are looking at before us is the elimination of the privacy of the sales price when somebody buys or sells real estate in North Dakota. Currently, the law provides or allows for the opportunity for the sales price to be confidential to the public. The intention of the original bill was to allow appraisers, licensees, real estate licensee, and attorneys' access to that information for the purposes of appraisal or comparative market analysis statistical purposes for their reporting. Most realtors have access to what's called the Multiple Listing Service (MLS) and that service does disclose the sales price and most appraisers have access to that data. One of the issues though, is if the community where the property was sold or if the property was sold without the use of a real estate broker, who has access to MLS, that information isn't anywhere to be had. In the smaller communities in particular the appraisers have to go out and dig up that information. It takes time, lots of money and in everybody's case frustration including those of us in a market that have the MLS that has transactions outside of that circle. The intent of the bill was to grant access to that information

**Senator Howard Anderson** When I sell a piece of property in McLean County and once its recorded, anybody can call the Register of Deeds office and ask how much I sold it for and it's public information they can find out about. It does kind of irritate me when some people have some kind of a mechanism that they can keep their secret when mine is not. Can you explain that, what is the difference?

**Rep. Scott Louser** replied I can't say for sure how it's handled in your county. The way it's handled in our market, it is presumed by the title company who does the closing, the consumer wants that information deemed private. It is not required. (7:03-8:13)

**Senator Judy Lee** I don't think its presumed, I think it's in the law right now and in our market place unless Mr. Lampher tells me it's different. Often at closing the title company will have just a little statement on the deed which the buyer initials which discloses the sales prices, but they don't have to do that. All they have to do is send it to the State Board

of Tax Equalization, a disclosure which comes back to the county as statistical information. So, your information is not disclosed.

**Rep. Scott Louser** there are a couple of incidents in this industry where the law says one thing and different markets handle it differently based on how they've done it in the past. (9:34-9:50)

**Vice Chairman Ronald Sorvaag** From experience from farmland sales, I think we've had to sign something to say we didn't want it revealed and we've done that. How is this different from the Senate bill that we sent over that dealt with this same issue?

**Rep. Scott Louser** replied you did the same thing in the Senate bill. It had other issues in it. You did send the bill over into the House. I understand that didn't come out of committee with an unfavorable recommendation.

**Greg Larson** Vice-President of the North Dakota Realtors Association, in support of the bill as it was originally written. (11:33- 12:07)

**David Lanpher**, North Dakota Real Estate Qualifications and Ethics Board: in support of HB 1225. Written testimony #1 (11:42-19:46)

**Senator Judy Lee** In looking through the flow in this bill, the first one, just permitted access to attorneys, appraisers, brokers and sales persons, the second part in the House eliminated the secrecy provision which is what is in front of us, does. But for some reason this in now different. Do you have any comments on sort of the evolution of this bill?

**David Lanpher** replied I think the point of when it became amended out of the House was just to open up the record. Why should only a certain group of people have an access to the information? Why not make it public.

**Senator Judy Lee** I would've talked about the advantages of having the information that is out there that is readily available in addition to the reasons already discussed. It would include the fact, that we're going to have fair and equitable values known about rural property that will allow us to have equitable taxes which is a big deal to a lot of people.

**Chairman Andrist** We try to steer away from the idea that we should have special privileges to access. It is the public access. If we have any right to it everybody has a right to it. I think that is some of the philosophy that went into the rewrite of this bill.

**Vice Chairman Ronald Sorvaag** But you were okay, but was just limiting it to just appraisers? You still like it opened all the way up, or were you comfortable with the other version too?

**David Lanpher** I think the opinion of the appraiser board, we want it open. So, as a board member, I think the more open the better. That serves the public interest in especially the rural areas and in the west where I get calls from consumers about timeliness issues.

**Senator Judy Lee** It would be fair to say that if you had your druthers you would rather had it fully opened, but if you have to settle, you'd settle for just having it open to professionals. Is that correct? **David Lanpher** replied I would say that would be correct. We have to help the industry but we are willing to support any bill that helps the industry. I am not intending to get rid of the amended bill. We just want access to the information for the professionals.

**Joe Ibach** (24:10-30:08) Member of the Appraisal Board: speaking on behalf as an appraiser; in support of HB 1225. Mr. Ibach talked from a standpoint of a career appraiser and appraisals.

**Vice Chairman Ronald Sorvaag** everything you said would work just fine if it was limited to appraisers and they expect it is held in confidentiality. There is nothing that you said, that would justify opening private information of individuals to the whole public which this bill would do. Could you address that? Because if it was limited to your industry you said you would hold it confidential. Why wouldn't that work for a certified appraiser?

**Joe Ibach** replied my answer is what Senator Andrist said earlier. Once you start limiting to, let's say just appraisers, the information that we have is so beneficial to realtors, it is so beneficial to attorneys anybody that is involved in the real estate market would find this information to be very beneficial because I think if you start limiting it to just appraisers, I've got a feeling that there is going to be somebody out there that is complaining. Everyone wants to circumvent a restriction.

**Vice Chairman Ronald Sorvaag** But Senator Andrist is a newspaper man which is talking about public information. We're talking about private information that is two whole different worlds.

**Joe Ibach** replied if the bill were passed in its current state, it would all be public information. Should we limit it, I've been doing this for so long that my preference would be this bill. If not we want to go back to the original draft and I would be open to that too.

**Chairman Andrist** I'm not a newspaper man anymore and if I was I am not particularly interested in publishing all the sale prices for all the houses in town; but I am wondering if there isn't a public interest. (Ex. cited. 32:34-32:55)

**Joe Ibach** shared some examples with the committee relating to Senator Andrist previous comments.

**Senator Judy Lee** First of all I helped in many cases with people who were preparing exactly what you're talking about, requests for reconsideration by an assessment board for the city. MLS has the information, so it was easy for us to do it. But, they didn't have access to that information so that they could do it themselves. Do you feel that anybody has been harmed in the metropolitan area for a MLS service who does have that information available to all of the parties? If there is harm that has been done, we need to know about that in the areas where it is disclosed.

**Joe Ibach** replied yes in metropolitan areas it is not quite as prevalent in the single family market, but in Bismarck, North Dakota commercial properties, the listing and the sale of

commercial do not have to go through Multiple Listing Services. So if you're doing commercial work a large percentage of those transactions are not available to appraisers, because those realtors don't have to report to MLS.

**Senator Judy Lee** In those areas where information is available to lots of people, do you think anybody's been hurt, a buyer or seller has been hurt, in any way by the fact that the information on a residential transaction is available to a large number of folks because MLS contains that data which sellers agreed would be shared at the time of the listing of the property. **Joe Ibach** replied in that parameter, I don't think anybody has been hurt. At that point we've got all the MLS information out there and I've never seen where people asked where they got the information. Once the transaction is complete, everybody is happy and they don't think about how that is going to impact anybody when the sales price was released.

**Senator Judy Lee** Were only talking about the sales price. We're not talking about whether or not there was a mortgage in the first place, whether or not there any equity, what the payoff is to the seller, were only talking about the sales price in this particular case. Is that correct? **Joe Ibach** replied that is correct. All we're asking for is the consideration to the transaction, and that's it.

**Senator Jim Dotzenrod** I think it is important to point out, that this bill if we pass it as it is, it still leaves intact the 12 exceptions that would be protected and would not have to be revealed. (Referenced them in the bill 37:21- 37:48) Most of what would be made public is the sort of thing that is the result of something that takes place in a more or less public arena. It appears to me that we are really separating what people might call, personal/private transactions from those that are in the broader public area.

**Joe Ibach** replied you are absolutely correct! As an appraiser, I only want transactions that are arms-length. I don't want family transactions, nothing considered to be market exposed so that is all we're looking for. The market exposed arm-length transaction. The other point I kind of picked up there is that a lot of these transactions are exposed. (Ex. cited 39:06-39:46)

**Senator John Grabinger** I am trying to decide where's there's a problem and you brought up the suggestion about Williston etc. Don't you think by you getting the information on what he sold that property for, might hamper his efforts to get a better price on the property across the street when you're going to give out that information to the prospective buyer.

**Joe Ibach** That's an excellent point. However realize that when I do an appraisal one sale doesn't set the market. (Ex. cited 40:40- 41:21)

**Vice Chairman Ronald Sorvaag** That is your information. But now revealing that price might affect something competitively with people he is in competition. So, now we're back to the same arena again. For you its' okay and I am not arguing against it. But, this bill gives it to everybody. It gives it to its competitors, to other developers; it might not be so general knowledge. Not everything is at the coffee shop. In a commercial setting there's business considerations and a lot of reasons why people do this. It isn't all because we don't want anybody to know and that's where it still comes back. Your answer every time is

what helps your business, and I do understand this. But I still find nothing in that justifies revealing it all to the general public, except for the fact they should get to know somebody else's private business. Address that please?

**Joe Ibach** replied I would tend to disagree. I don't do a lot of commercial work personally but I do have some commercial property. If I was a developer I would really like to know what is going on in the market place. Because it then gives me, the opportunity to price whatever I am selling at, at whatever anybody else is selling at. It would help set the right price from the current data. The more data you have the better product you can provide.

**Vice Chairman Ronald Sorvaag** On that argument too, if you're giving your data, you are helping your competitor. Is what you need for an appraisal can be a different arena that what it can be in a commercial in the market place? **Joe Ibach** replied in every other arena outside of real estate, we're all competing against each other with whatever data we have. The better data we have in whatever industry, the better product we can provide.

**Senator Judy Lee** Do you see that as being any different from selling construction equipment or great big tractors for \$150,000 and up? **Joe Ibach** I think it is a great correlation because it's like the more information you have, the better product you can provide at the best pricing for the consumer.

**Doreen Redmond** North Dakota Association of Builders (44:53-47:38) in support of HB 1225. We much rather have the original version of the bill with the disclosure being upon request of an attorney, appraiser, real estate broker, or real estate sales person licensed in the state for statistical purposes.

**Chairman Andrist** As a taxpayer who owns a house and it's assessed and paid taxes, do you think that I should have no right to access the information about what the one across the street might have sold for? Should we provide this as a privilege for some people to know but not for me to know?

**Doreen Redmond** replied the information is available on the property taxes in the assessed value is out there and that is public information. I think the professionals need the information, and we just think that is a big first step from going from a state that held everything private for so long and we're one of very few and then to just take that leap at this point. It seems like a big leap. **Chairman Andrist** I am asking the question and I am trying to assess for myself, wondering if in the final disclosure is the best possible course. The other thing is if it's disclosed to some person is there any way to muzzle him to make sure that he doesn't tell anybody? So then you open the whole process into the rumor mill again. That is one of the things I am thinking about. I still have first amendment rights if I have information. **Doreen Redmond** replied I respect that completely and I am all for open records and all of that. We believe the information is needed for certain procedures and appraisals, one of those processes then. We think those professionals and were not one of them that gets' the information. It is not licensed contractors that gets, the information, it's simply attorneys, appraisers, real estate brokers and real estate sales people. That is a big group of people that do get that information but we trust they will be professionals with the information and hold it to the needs that they need it for and keep it confidential.

**Senator Judy Lee** I thought Rep. Louser said that the Senate bill which talked about providing information was killed. I don't remember the number. Did it pass?

**Doreen Redmond** replied as far as I know it was SB 2101 passed with the same thing in it. It did remove the secrecy. **Senator Judy Lee** Why wouldn't especially on high end unique special homes that are being built I would think those builders of any builders would want to have this kind of disclosure, because they would have serious struggles getting appraisals because the houses are unique. So if they are in a really swell neighborhood, and the builder is building something with very special cabinetry; 600 bottle wine cellar, home exercise room, extraordinary wood and all those kinds of things that when somebody is building an upper end home there not going to quibble with the builder if it's something they want. Why would builders not find this really beneficial so that they didn't have problems with their buyer getting a proper appraisal with the band because most of them aren't paying cash. They like the little interest deduction.

**Doreen Redmond** I understand your point exactly and yes that is the case; among many of our builders do feel that way. But, some our biggest custom builders who are building those big million dollar homes, there the guys that don't want this opened up for many reasons. Out in western North Dakota is probably where we are seeing more push back on opening this up than elsewhere.

**Jeff Olson** Credit Union Association of the Dakota (54:13-55:12) representing the financial cooperatives in North and South Dakota. This is a good bill for our members. We will support any member or any bill that will help the process out.

**Chairman Andrist** Would you say that this problem is particularly acute in the small communities? **Jeff Olson** replied most definitely, yes. About half of our members over 20, are involved in home mortgage origination, or refinances in the appraisal processes are very much a part of that.

**Marcy Dickerson**, State Supervisor of Assessments, Tax Department (56:07-58:13) I am definitely in favor of this bill in its present form. When the bill was limited just to the professionals, it really wouldn't help things as much as some people think it would because at the present time the assessors, the government employed appraisers do have access to the confidential sales. But they can't disclose anything about those sales so if their defending their appraisal in an abatement situation or any kind of an appeal situation, there credibility is challenged because they can't say or identify the sales that they are saying are comparable to the property that they are appraising. That same thing would be happening to the professionals that are not government employees but the appraisers and the real estate people they still would be limited to not telling where they got their information. I would be disappointed if it went back to its original form.

**Chairman Andrist** closed the hearing on HB 1225.

Committee Discussion

**Senator Jim Dotzenrod** During the course of the hearing several times there was reference to the Senate bill. Even though that is not in front of us we should be ignoring that, the way that Senate bill 2101, developed is kind of instructive about what's really creating troubles here. That bill was in the Finance and Tax committee and it was really introduced because of the situation where you remember Senator Oehlke and said have you ever been in one of those situations where someone says to you if you only knew what I knew then you would feel differently about this. He expressed his frustrating position to have to argue with someone who says that to you. That bill really had to do with the case where a property owner gets his tax statement at tax time, and looks and realizes the numbers aren't right and what can I do about it. SB 2101 would allow him to challenge it, and to the local assessor and if they couldn't come to some agreement, then he would have the right to go out and hire a assessor on his own and get that assessors' information and use that to challenge what the public assessor had come up with. What we heard in the hearing, from those assessors and from the public assessors is that thy don't have the same information. This bill in its form that we had it, couldn't work because you would have one set of assessors, the government ones that would have data and information that the other assessors (the private ones) would not have and weren't legally allowed to have it. So, if the idea that you could challenge that one set of assessors could challenge another set of assessors we found that can't work unless they both have the same sets of data to work with you're not going to be able to challenge one person's numbers with another unless they both could have that. What the committee did then is adopted this provision to make it public, and that's how the bill left. How can you have one assessor challenging another assessor and we had to find a way that they both would have the same data to work with. So that provision was adopted and it went to the floor, and we adopted those amendments and then it was voted on. Even though we really shouldn't be dealing with that bill now, I think to understand how we got to that point it tells you a lot about the arguments that might be made on this bill. It gets down to the question of the individual taxpayer being able to argue with some knowledge about his property value priced fairly.

**Chairman Andrist** committee members I keep asking myself if it's part of the taxing and the assessing system and we have so much conflict, in that whole process, it just seems to me that one of the best ways to minimum conflict is to put daylight on it. That's my reaction to the bill.

**Vice Chairman Ronald Sorvaag** My problem with it is if I am going to go in to sell something or go into a business transaction I expect to reveal my financial information. It is what about me. But every time it is inconvenienced by another business and in this case partially government we're saying that you have to reveal you're private business transaction publically for the convenience of another transaction or another thing that has nothing to do with you. I know its sound to the bone but it is still going to the point what is next. Gee it would be handier if I knew Ron's business, but Senator Sorvaag is not part of this. But it makes it easier for all of us so let's pass a law that he has to reveal this. It is more theoretically. I am being forced to reveal information and make it public to help somebody else in something that has nothing to do, it is not a transaction it is not an action, that in any means I chose to be part of and go into and that is where philosophically I voted against the bill. I think this is just an over reach. I know there is the taxing, but it is still saying you've got to reveal some private business information you've chose not to reveal.

**Senator Judy Lee** I absolutely respect Senator Solvang's position and I understand that, but we're not talking about any part of the business transaction except the sales price in this case. What's critical I think about it, is that in order for taxing authorities to be able to have accurate information, if everybody is assessed properly and the law says it is supposed to be assessed at market value and all the assessed value is half of that, and then you multiply it by times .09x mill levy to get your taxes, if everybody's is levied accurately then everybody is paying their fair share. I am all for privacy for being protected and that is why it would only be the sales price. It sounds as if the recommendation in the House and I agree and we can't only think about that, but I don't want to jeopardize at least the possibility of being able to have some of this information available for a variety of important purposes but one of them certainly would be more equity in the way those property taxes are assessed, because right now there's nothing equitable about the way its going on.

**Chairman Andrist** So, this does point out that contribute to the argument that we have a public interest as well as a private interest in it.

**Senator Judy Lee** Absolutely and not a snoopy one, we are all extremely private.

**Senator Howard Anderson** So what you're saying is the county assessor is not doing his job and he's not keeping up with current values. Is that generally the problem?

**Senator Judy Lee** I am talking about the city in this particular case doing the assessments but there is such a variation in our communities but the assessors for the city can only get around the city once every several years. So, my own neighborhood which is now 12 years old, that neighborhood has currently had some reassessment done but its years before an assessor can get around because the cities don't have a lot of staff to do some of that work. As a result there isn't a detailed upgrade of those assessed values on regular basis. If the sales prices were disclosed, I think people are afraid their taxes are going up if it's disclosed. The city and the county don't determine what your taxes are based on what the sales price is.

**Vice Chairman Ronald Sorvaag** I obviously grew up in a more boring area than Senator Lee. But people do care, and people are at the courthouse digging, and people are using that in the agriculture world in my time to try to use it as competitive or trans-actual advantage or disadvantage to hurt other people. It's being done. There are attempts to do it. It is just in error to think people are just doing it to be snoopy, there doing it for other reasons. It is happening and it's always happened. It is more in the agriculture world.

**Senator John Grabinger** I think from my standpoint we have to weigh the importance of this secrecy from a commercial standpoint. I think there is an impact, to the businesses in the commercial entities that really could hurt them in their dealings. But at the same time I understand the appraisers need for this information and how quickly it would help them. We have a serious problem out there where appraisers can't get their work done. I think we really have to weigh the disadvantage here, the advantage here, and that's why we're elected to do this.

**Senator Howard Anderson** I am not opposed to the confidentiality to the public. If we just had the information available to the assessors and so forth, I am not opposed to that. I would've been happy with the original bill. But I don't have a big heartburn about it. I do know as we've talked about this, we do have a very difficult time under certain circumstances getting appraisers in our rural areas but there aren't enough companion sales. I am not sure it's always because of the price wasn't disclosed, it might be just because there aren't that many sales. Either way I am happy with it.

**Senator Judy Lee** Strategically, and we aren't supposed to necessarily be strategic but I am also a pragmatist about some of this stuff. We can amend it so that it goes back to the original bill and then if it passes the Senate we have to deal with whether or not the House will like it. We can send it out the way it is and we can deal with our own body on whether or not it likes it with the more expanded form. So, it's a risk either way actually.

**Senator Howard Anderson** In conference committee we can ask them why they killed 2101? **Senator Judy Lee** if we get that far that is my concern.

Senator Judy Lee move do pass on 1215 as engrossed 03000

2<sup>nd</sup> Senator Dotzenrod

Role call vote- 5 Yea, 1 No, 0 Absent

Carrier Senator Dotzenrod



**REPORT OF STANDING COMMITTEE**

**HB 1225, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)**  
recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1225 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1225**

#1

## House Bill No. 1225:

### Testimony of Joe Ibach, Chairman of the North Dakota Real Estate Qualifications and Ethics Board

Good morning. My name is Joe Ibach, Chairman of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I will refer to this Board throughout my testimony as either the ND Appraiser Board of the Appraiser Board.

My testimony is limited only to the need (and public benefit) of duly licensed and certified appraisers. I will let the attorney's, real estate brokers and real estate salespersons speak on their own behalf.

- On February 6<sup>th</sup>, 2013, the ND Appraiser Board met via conference call to consider House Bill No. 1225. After discussion, a motion was unanimously passed by the Board to include:

1. **Primary Position** of the ND Appraiser Board. Amend HB 1225 with a significant change. All sale records currently available to the State Board of Equalization would be available to all North Dakota duly licensed and certified appraisers.

2. **Secondary Position** of the ND Appraiser Board. If this significant change was not acceptable to the Committee, the Appraiser Board would ultimately support this legislation with the following suggested revisions:

Page 3, line 18 – the word “may” be replaced with the word “shall”

Page 3, line 20 – after the words “market analysis” add “or for an appraisal”

#### **Primary Position of the Board:**

- In general, the ND Appraiser Board believes that the level of market information available to an appraiser can impact the accuracy and the credibility of an appraisal.
- From a theoretical standpoint:
  1. The more market information available assists the appraiser in providing a more accurate and credible appraisal reports. This would definitely be in the Public's best interest.
  2. The more market information readily available to an appraiser should help the appraiser complete an appraisal in a timelier manner. However, if passed, this legislation will be helpful but it will not be the total solution to appraisal backlogs in portions of North Dakota.

3. Appraisers may be more willing to take-on appraisal assignments in the more rural areas of the State if they know they have access to market information previously unavailable. Again, if passed, this legislation will be helpful but it will not be the total solution to the problem of getting appraisers to agree to appraisal assignments in the rural areas of North Dakota.

- With the above considerations and public benefits in mind, the Appraiser Board supports a complete open records policy, not limited to sales of properties of twenty acres or less. It would provide the most public benefit with respect to accurate, credible, and timely appraisals, throughout North Dakota.
- Therefore, it is the Board's **primary position** (first option) that all sales records currently available to the State Board of Equalization should be available to all North Dakota duly licensed and certified appraisers.

**Secondary Position of the Board:**

- During deliberations, the members of the Board recognized the long standing individual privacy concerns of this and previous legislative bodies.
- Ultimately, the Appraiser Board supports the current proposed legislation, if passed as amended, would provide at least a "first step" compromise between (1) the public benefit of having more complete market data made available to appraisers and (2) any negative impact that the information disclosure could have on individual privacy concerns.
- Therefore, it is Board's **secondary position** (second option) that this legislation be passed with the following suggested changes:

Page 3, line 18 – the word "may" be replaced with the word "shall"

Page 3, line 20 – after the words "market analysis" add "or for an appraisal"



# 2

**Testimony on House Bill 1225**  
**House Political Subdivisions Committee**  
**February 7, 2013**

**Doreen Riedman, Executive Officer**  
**North Dakota Association of Builders**

Chairman Johnson and members of the House Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) **encourages your support of House Bill 1225, relating to property sales price disclosures.**

The NDAB represents 1,941 member companies statewide with employees numbering 51,966. We are in partnership with six local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, Minot, and Williston; and are all part of a larger federation, the National Association of Home Builders (NAHB), which has over 150,000 members.

Our organization has reviewed this measure that discloses the sales prices on properties sold between private parties and not listed with the Multiple Listing Service. In many cases, people building custom homes don't wish to have this information made public, and we respect that.

However, we believe this legislation strikes a good balance – it provides professionals in the housing industry with the information needed, while still keeping private the personal information on the parties involved.

This is valuable information needed by those conducting appraisals, and we believe it will lead to a more efficient appraisal process and better appraisals. We desperately need any tools we can to expedite appraisals and ensure that comparables (comps) are available on new construction projects as well as existing properties.

We respectfully ask for your committee's support of House Bill 1225 to aid the process and quality of appraisals in our state.

**OFFICERS**

**PRESIDENT**

Jason Eid, Fargo-Moorhead

**1<sup>ST</sup> VICE PRESIDENT**

Ken Callahan, Williston

**2<sup>ND</sup> VICE PRESIDENT**

LeRoy Kurtyka, Grand Forks

**SECRETARY/TREASURER**

Arnold Karsky, Dickinson

**PAST PRESIDENT**

Eddy Mitzel, Bismarck-Mandan

**BUILD-PAC TRUSTEE**

Don Dabbert Jr., Fargo-Moorhead

**ALTERNATE BUILD-PAC TRUSTEE**

Joel Feist, Minot

**STATE REPRESENTATIVE**

John Gunkelman, Fargo-Moorhead

**ASSOCIATE NATIONAL DIRECTORS**

Ken Krajsa, Fargo-Moorhead

Joe Stenvold, Minot

**BOARD OF DIRECTORS**

**DICKINSON AREA BUILDERS ASSOCIATION**

Arnold Karsky, President

Kyle Kuntz

Mark Lefor

Irene Schafer, Executive Officer

**WILLISTON AREA BUILDERS ASSOCIATION**

Jeff Zaring, President

Ken Callahan

Rick Tofte

**BISMARCK-MANDAN HOME BUILDERS ASSOCIATION**

Eric Brenden, President

Scott Duchsherer

Eddy Mitzel

Chad Moldenhauer

Vance Vetter, CGP

Roxy Jacobson, Executive Officer

**MINOT ASSOCIATION OF BUILDERS**

Mitch Kraft, President

Joel Feist

Joe Stenvold

Bruce Walker, Life Director

Vicky Flagstad, Executive Officer

**HOME BUILDERS ASSOCIATION OF**

**FARGO-MOORHEAD**

Darrick Guthmiller, President, CGP

Don Dabbert Jr., Life Director

Carlita Dietz

Gerald Eid, Senior Life Director

Jason Eid, NDPB, CGP

John Gunkelman, Life Director, NDPB, CAPS, CGP, CGB, CGP

Ken Krajsa, Life Director

Tyrone Leslie, NDPB, CAPS, CGB, CGP

Dan Lindquist, NDPB, CGP

Bryce Johnson, Executive Vice President

**GRAND FORKS BUILDERS ASSOCIATION**

LeRoy Kurtyka, President

Ralph Applegren, Senior Life Director

Tim Rosencrans, Life Director

Chip Shea

Justy Wysocki

Betty McDonald, Executive Officer

**STAFF**

Doreen Riedman, Executive Officer

Sandra Neiss, Administrative Assistant

Affiliated With



## House Bill 1225 – Property Sales Price Disclosure

Jeff Zarling, President, Dawa Solutions Group, Williston, North Dakota

Although I currently serve as president of the Williston Area Builders Association and on the board of North Dakota Builders Association, I am not here to testify on behalf of either organization. I am here to testify as a resident of Williston, North Dakota and a business that has been involved with the housing and construction activities throughout Western North Dakota.

I speak in support of the bill, but to understand my perspective I should briefly explain our activities and involvement. Dawa is a professional services firm providing business development, marketing, communication and website application development services. We have been involved with the building industry since our inception in the Twin Cities thirteen years ago, although our business has expanded far beyond that industry in the nearly eleven years we have been in Williston. In the past several years we have produced the Bakken Investor Conference in Minot, the Oil Product & Service Show in Williston, and the Bakken Housing Summit last May in Williston.

Through these activities we have interacted with hundreds of builders, developers, realtors, appraisers, private equity firms, individual investors and real estate fund managers. As part of our conferences we have worked to identify the issues and challenges facing those who are trying to build housing and other projects in Western North Dakota.

One such issue that was identified by several parties and discussed at our Housing Summit was the fact that North Dakota is a closed records state. Issues have arisen with lead times for appraisals and access to market data for timely and accurate transactions. The delays in closing transactions results increased carrying costs for builders and hardships for buyers and sellers.

Additionally, North Dakota provides a process for licensed appraisers from other states to apply for a license in North Dakota through reciprocity or recognition of their license based on similar standards. A number of appraisers have pursued this option and have created more availability to appraisal services. However, they have a challenge obtaining appropriate market data which delays their ability to get “up to speed” and provide their service. This is an issue for North Dakota appraisers from other parts of the state as well.

I have been told by other licensed appraisers who also provide market analysis and studies for investors and developers that they will not provide appraisal services in North Dakota due to the lack of access to the property sales data.

As we discussed this issue with a variety of stakeholders in Western North Dakota, the concerns raised were related to the privacy of information for the parties of the transaction. Those conversations resulted in the idea that the records should be accessible only to those service providers involved with the transaction allowing them to better and more efficiently perform their services while maintaining individual privacy. This approach was acceptable to those that expressed concerns about privacy.

I did share this information and our ideas with several groups and representatives. While I did not share this information with Representative Louser directly, I was pleasantly surprised to see this bill as I believe it addresses some of the concerns and problems facing real estate development and sales transactions, yet it strikes a balance with the concerns of privacy.

#4

To: Chairman Johnson

From: Ann Johnsrud, McKenzie County Recorder

RE: HB 1225

Chairman Johnson and members of the committee,

I am here today to provide testimony in opposition to HB 1225.

Sales of property, or deed conveyances, currently must contain one of four statements which are listed on lines 10 through 16 in HB 1225. HB 1225 is regarding statement (a) Reporting full consideration paid for property conveyed with the state board of equalization and statement (b) Reporting full consideration paid for property conveyed with the recorder.

HB 1225 is seeking to compel the county recorder to disclose information in statement (a) and statement (b) upon request by "licensed" attorneys, appraisers, real estate brokers or real estate salespersons in a manner not to reveal the names of the grantors, grantees or parties to the sale on properties less than twenty acres.

County Recorders do not have the information in full consideration statement (a) as this information is sent directly to the State Board of Equalization and the Recorder has no knowledge of its content. The Recorder simply reports those conveyances containing the Statement of Full Consideration (a) in the monthly report sent to the State Board of Equalization.

County Recorders do file full consideration statement (b) in their offices. The number of conveyances containing this statement is reported on the form sent by Recorders to the State Board of Equalization. The information is then given by County Recorders to the County Tax Equalization Director who then compiles the information into their sales ratio program and it is used for valuation purposes.

If this bill were to pass, those persons requesting information would need to prove to the county Recorder that they were indeed licensed in the state of North Dakota and I am unsure

as to why this information would only be made available to a select few and not the general public.

This information would have to be compiled by the Recorder by hand, as each and every transaction would have to be reviewed by the Recorder to determine the acreage involved as only transactions of twenty acres or less would be included. This would mean every lot/block conveyance and small tract conveyances in township/range areas. Compiling this information would be a very labor intensive and time consuming task. Recorders do not have the capability in their recording systems to compile this information. The number of conveyances under this section of the law is merely reported to the State Board of Equalization and the information is not used in the Recorder's office for any purpose whatsoever. Some Recorders file and report as many as 80% of the conveyances containing full consideration statement (b). Again, Recorders merely report this information to the State Board of Equalization. For all other statements in this section of the North Dakota Century Code, individuals come to the Recorder's office and search the county records, which are open to the public.

County Recorders are the central storage information network for real and personal property conveyances and are not in the business of, nor is it in the scope of duties to compile purchase price information.

Thank you for your time and I ask that you give HB 1225 bill a "do not pass" recommendation. I am happy to answer any questions you might have.

Ann Johnsrud



The Information on  
This Form Is  
Confidential  
N.D.C.C. Sec. 11-18-02.2(8)

North Dakota State Board Of Equalization  
Statement Of Real Estate Full Consideration  
Mail to: Secretary of the State Board of Equalization  
North Dakota Office of State Tax Commissioner  
600 E. Boulevard Ave., Dept, 127  
Bismarck, ND 58505-0599

1. Name of Grantee (Purchaser)		2. Address of Grantee (Purchaser)	
3. Name of Grantor (Seller)			
4. Location of Property Transferred (Number & Street or R.R.)	5. <input type="checkbox"/> City	<input type="checkbox"/> Township	6. County
7. Legal Description (Fill in legal description below or attach a copy of legal description from instrument of conveyance.)			

Lot No.: \_\_\_\_\_ Block No.: \_\_\_\_\_ Plat Name: \_\_\_\_\_  
Or: \_\_\_\_\_

8. Date on which purchase agreement was made: Month: \_\_\_\_\_ Year: \_\_\_\_\_

9. Total Purchase price (fill in amount paid or to be paid exclusive of any interest payments)..... \$ \_\_\_\_\_

10. Total value of personal property included in purchase price:  
(Furniture, appliances not built in, machinery, crops, livestock, etc.) ..... \$ \_\_\_\_\_

11. Kind Of Property:  Land Only  New Building  Building Previously Used

12. Principal Intended Use:  Agricultural  Commercial/Industrial  Residential

Other (explain): \_\_\_\_\_

a. If agricultural, was property used to expand present farming unit?  Yes  No

b. If agricultural, the number of acres purchased was: \_\_\_\_\_

c. If agricultural, did purchase include buildings?  Yes  No If yes, estimate the value of buildings \$ \_\_\_\_\_

13. Was the property: purchased from a relative, a gift, an exchange, a forced or tax sale, or sold to settle an estate?  Yes  No

14. In your opinion, was the sale or transfer made at fair market value (willing buyer, willing seller)?  Yes  No  
If "no," briefly explain why: \_\_\_\_\_

I (we) certify under penalty of law that this statement, including the legal description in "7" above, has been examined by me (us) and to the best of my (our) knowledge and belief it is true, correct and complete.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Grantee (Purchaser) or Authorized Agent

#1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1225

Page 3, remove line 21

Page 3, line 22, remove "parties to the sale"

Renumber accordingly

NORTH DAKOTA HOUSE POLITICAL SUBDIVISIONS COMMITTEE

House Bill 1225  
February 7, 2013

TO: House Political Subdivisions Committee  
FROM: Kevin Ternes, Minot City Assessor

Thank you for accepting my written testimony on HB 1225. As a property tax assessor with over 20 years of experience, I am in support of releasing all information related to sales of real property whether under 20 acres or above that amount. In order to have a transparent property tax system, it is good for everyone to know what property is selling for so they can compare those sale prices to their assessment. To my knowledge, North Dakota is one of the few states that does not allow full disclosure of all sale prices.

I would, however, ask that an amendment be considered for this bill that would consider eliminating lines 21 and 22 on page 3. In administering this bill, the likely scenario will be the following:

An appraiser, attorney, or realtor will call the assessor's office to ask for the sale price of a confidential sale at 123 South St, City of Anywhere, ND. We won't be able to tell them the name of the parties in the transaction according to HB 1225 as written. However, that same person can call back one minute later and ask, "Who is the current owner of 123 South St and who was the prior owner?" Because who owns a piece of property is public knowledge, this part of the bill is unenforceable, and assessors will be unable to follow the law.

Lines 21 and 22 would probably also keep us from posting the sale price of a property on our website because obviously the grantee's name is connected to the online property record.

Thank you for your consideration.

#2

13.0248.02001  
Title.

Prepared by the Legislative Council staff for  
Representative N. Johnson  
February 13, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1225

Page 1, line 12, after "paid" insert "with the state board of equalization"

Page 3, line 18, after "disclosed" insert "by the director of tax equalization in the county"

Renumber accordingly

#3

Rep. Lawrence R. Klemin

February 14, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1225

Page 1, line 7, overstrike "Secrecy of information -"

Page 3, overstrike lines 6 through 15

Page 3, remove lines 16 through 22

Renumber accordingly

**House Bill No. 1225:**

**Testimony of Dave Lanpher, Public Member  
of the North Dakota Real Estate Qualifications and Ethics Board**

**March 22, 2013**

Good morning, my name is Dave Lanpher and I am here on behalf of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I will refer to this Board throughout my testimony as the ND Appraiser Board or the Appraiser Board.

The ND Appraiser Board is comprised of five members with three of the five members being appraisers, one of the members being a member of the financial industry and the fifth member being a member of the general public. I am currently serving as the "Public" member of the ND Appraiser Board.

My personal background is such that I am a licensed Real Estate Broker Associate with Park Company Realtors of Fargo, ND. I currently am a member of and have previously served as the President of the Fargo-Moorhead Area Association of Realtors and the President of the North Dakota Association of Realtors. However, today I am speaking to you on behalf of the ND Appraiser Board.

Over the past several years there have been numerous concerns expressed about the timeliness of appraisals, especially in rural communities and in the western portions of North Dakota. Several factors including historically low interest rates and the relative strength of the economy in North Dakota have increased the demand for appraisals and appraisers.

The ND Appraiser Board has taken steps to address the shortage of appraisers in the State. Currently, the number of credentialed appraisers in the State stands at 301 permits with 155 Certified General; 59 Certified Residential; 38 Licensed Residential; and 49 Apprentice appraisers. This is an increase in the number of permitted appraisers in North Dakota over the past two years (2011: 262 appraisers and 2012: 287 appraisers)

It is interesting to note that this increasing trend of appraisers is not being seen in all parts of the Country. During this same period, the number of permitted appraisers on a National level has actually decreased from 110,000 appraisers year-end 2010 to 101,958 appraisers as of March 2013. The economy in North Dakota has been particularly strong and several appraisers from other States have re-located to North Dakota in recent years.

Even with the increasing numbers of appraisers in North Dakota, the timeliness of appraisals is still an issue. This is particularly true in rural areas throughout the State and in the western portions of the State where the shortage of many industries is noted.

During previous testimonies, representatives of the ND Appraiser Board have been asked what the Legislature could do to help in addressing the timeliness of appraisals along with help to facilitate obtaining appraisals in the more rural portions of the State.

I work in both North Dakota and in Minnesota. One of the impediments in obtaining appraisals in rural areas has been identified as a lack of comparable sales information. Both Minnesota and South Dakota have completely open and transparent records with respect to information on sales that occur in the respective States. North Dakota currently allows a reporting option, whereby, sales price information can remain secret, other than to the State Board of Tax Equalization and the various assessors throughout the State. In larger areas of the State, multiple listing services generally provide assistance to appraisers in gathering needed information to complete a credible appraisal. However, in the smaller, more rural areas of North Dakota, multiple listing services that could provide such information do not exist. This limited comparable sales information has an adverse impact on the credibility of an appraisal. In addition, this limited comparable sales information can have an impact on the timeliness of an appraisal. In fact, many appraisers have indicated they will not take on appraisal assignments in certain areas of the State due primarily to the lack of comparable sales information needed to produce credible and timely appraisal reports.

The ND Appraiser Board met via conference and considered House Bill No. 1225. It is the position of the Board to support this legislation, primarily for the following reasons:

- In general, the ND Appraiser Board believes that the level of market information available to an appraiser can impact the accuracy and the credibility of an appraisal.
- From a theoretical standpoint:
  1. The more market information available assists the appraiser in providing more accurate and credible appraisal reports. This would definitely be in the Public's best interest.
  2. The more market information readily available to an appraiser should assist the appraiser in completing an appraisal in a timelier manner. However, if passed, this legislation will help, but it will not be the total solution to appraisal backlogs in portions of North Dakota.

3. Appraisers may be more willing to take-on appraisal assignments in the more rural areas of the State if they know they have access to market information previously unavailable. Again, if passed, this legislation may help, but it will not be the total solution to the problem of getting appraisers to agree to appraisal assignments in the rural areas of North Dakota.

- With the above considerations and public benefits in mind, the Appraiser Board supports a complete open records policy as such a policy would provide the most public benefit with respect to accurate, credible, and timely appraisals throughout North Dakota.
- Therefore, it is the Board's **primary position** (first option) that all sales records currently available to the State Board of Equalization should, at a minimum, be available to all permitted North Dakota apprentice, licensed and certified appraisers.

House Bill 1225 appears to "open-up" the public records in a way which will benefit not only the appraisers being asked to provide credible appraisals but will also benefit the public in its entirety by fostering, at least in theory, more credible and timely appraisals, especially in areas of the State where information is often times a limiting factor. While personal rights to confidentiality are certainly important, the greater interests of the public will be served if appraisals become more credible and timely.

Therefore, the North Dakota Real Estate Appraiser Qualifications and Ethics Board respectfully requests your support for House Bill 1225.