

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2196

2001 SENATE JUDICIARY

SB 2196

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

Senate Judiciary Committee

Conference Committee

Hearing Date January 23rd, 2001

| Tape Number               | Side A | Side B | Meter #         |
|---------------------------|--------|--------|-----------------|
| 1                         | X      | X      | 29.9-end/0-16.1 |
|                           |        |        |                 |
|                           |        |        |                 |
| Committee Clerk Signature |        |        |                 |

Minutes: **Senator Traynor** opened the hearing on SB 2196: A BILL FOR AN ACT TO CREATE AND ENACT A NEW SECTION TO CHAPTER 28-21 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO EXECUTION ON MONEYS RETAINED BY GARNISHMENT.

**Senator Watne**, testified on behalf of SB 2196. This bill could save money for all involved.  
(testimony attached)

**Representative Maragos**, supports SB 2196.

**Todd Kranda**, attorney testifies on behalf of the North Dakota Collectors Association, supports SB 2196.

**Senator Nelson**, ND collectors association, what are they?

**Michael Lefor**, we're a collection agency.

**Lisa Lauinger**, (Testimony attached explaining the bill and process)

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2196

Hearing Date January 23rd, 2001

**Senator Traynor:** On line 10 are you talking about execution for service? Maybe it should read the execution may be served by the attorney for the judgment creditor. Instead of "made," "served."

**Lisa Lauinger:** yes. The execution can be turned over to the attorney or sheriff or clerk. It's not as restrictive as it is currently set up.

**Senator Traynor:** The execution is issued by the Clerk. The clerk does not serve the execution.

**Lisa Lauinger:** yes.

**Senator Trenbeath:** This would seem to require some revision of some current acting law. Are we replacing some law or are we revising some court law?

**Lisa Lauinger:** No we believe it doesn't interfere with any acting laws, it only pertains to garnishments.

**Senator Trenbeath:** Doesn't that mean execution relating to garnishments? So does that mean all other statutes regarding garnishment executions are under some general execution statute?

**Lisa Lauinger:** yes.

**Senator Trenbeath:** I'm concerned about line 12 to line 13. "A transcript of the judgment need not be filed in the county of the sheriff to whom the execution is directed." It seems that what we're doing here is giving extraterritorialial power to a judgment without it having been filed in that county.

**Lisa Lauinger:** yes.

**Senator Trenbeath:** I understand that to be the case, but why is that different from that. Why wouldn't we be seeing next a bill proposed that you didn't need to file a transcript for property. It's a similar argument.

**Lisa Lauinger:** my assumption would be that there is no work being performed in Burleigh county. There is no requirement that the clerk perform function in that county.

**Senator Lyson:** What happens to person who gets execution from other counties. Won't this cause a problem with the IRA. I see a problem with that. No one will see that judgment coming in. I see money can be given to a sheriff or attorney, I don't see this is in the bill.

**Lisa Lauinger:** On line 14 and 15 it does address that a third party shall remit the amount due to the sheriff or the attorney. After funds are obtained by a third party. Garnishment forms are specific; they provide for anything that may be creating things on the money by the bank or the employer. The bank or employer is, by law, to complete those garnishment requirements. That is addressed in the garnishment statutes.

**Senator Lyson:** but that's happening in the county that has the judgment. I don't see the banker or whoever is checking doesn't know a title is occurring.

**Lisa Lauinger:** My guess is that it applies to real and personal property in that county. No money will be withheld. If the IRS knows where the bank is, that will be addressed. We are trying to protect the rights of the consumer, and make it more cost effective.

**Senator Traynor:** If the attorney collects from the debtor, then the attorney would provide the clerk with a return of the execution. Instead of the sheriff doing it.

**Lisa Lauinger:** yes that would be correct.

**Senator Trenbeath:** On line 16, "if the judgment debtor files a claim of exemptions under section 32-09.1-22." I guess the change would be under present law he or she would file a claim of exemption with the court of the county in which execution was served and now that person has to file claims in the original court.

**Lisa Lauinger:** I think everything goes to the original county. That's my experience.

Page 4

Senate Judiciary Committee

Bill/Resolution Number SB 2196

Hearing Date January 23rd, 2001

**Senator Traynor:** Is this last sentence in the current code?

**Senator Trenbeath:** yes. It's not crystal clear.

**Rusty Steffan, representing ND Collectors Association.**

**Senator Traynor:** If the attorney for the creditor serves the execution, on the bank for instance, what else accompanies the service? Besides a copy of the execution. Is there a letter?

**Rusty Steffan:** They would have a letter from the bank, notifying of the execution.

**Senator Traynor:** would that letter contain any language concerning the neglect of the bank and committee?

**Rusty Steffan:** I'm not sure.

**Todd Kranda:** It says we have a fund that we are indebted to a certain amount. They have a contact. How much are you required to deduct. I also anticipate a cover letter. Here is the execution; fees are added, etc...

**Senator Traynor:** Some members of the committee are afraid of getting rid of a file.

**Todd Kranda:** Changing the language on line 10 from "made" to "serve" is an appropriate term. Regarding line 12 and 13 about a transcript, I don't see why there needs to be another fee to be paid. There are some debtors that deal only in cash.

**Senator Traynor:** This elimination would deal only with garnishment?

**Todd Kranda:** only under this limited summary execution proceeding.

**Senator Lyson:** on line 12, what is execution? Shouldn't that mean "a copy of the judgment?"

**Todd Kranda:** it is a term that means a process. A specific document that a clerk issues.

**Senator Lyson:** but your serving the execution.

**Todd Kranda:** it's a caption issued by the clerk. It's a one sheet summary of the case, etc... we could amend that.

Page 5  
Senate Judiciary Committee  
Bill/Resolution Number SB 2196  
Hearing Date January 23rd, 2001

Senator Traynor closed the hearing on SB 2196.

A MOTION WAS MADE BY SENATOR WATNE TO AMEND LINE 10, PAGE 1 TO CHANGE "MADE" TO "SERVED." SECONDED BY SENATOR NELSON. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING. A SECOND MOTION WAS MADE TO AMEND LINE 11, PAGE 1 AFTER "PARTY" TO REMOVE "AND MUST CONTAIN A COPY OF" AND TO REMOVE "THE EXECUTION" ON LINE 12, PAGE 1. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING. A THIRD MOTION WAS MADE BY SENATOR WATNE TO DO PASS AS TWICE AMENDED. SECONDED BY SENATOR NELSON. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2196

Page 1, line 10, replace "made" with "served"

Page 1, line 11, remove "and must contain a copy of"

Page 1, line 12, remove "the execution"

*H's*

Renumber accordingly



Date: 1/23/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2196

Senate Judiciary Committee

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

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

Action Taken Amend the 10 pg. 1 "made" to "sewed"

Motion Made By Watne Seconded By Nelson

| Senators                | Yes | No | Senators    | Yes | No |
|-------------------------|-----|----|-------------|-----|----|
| Traynor, J. Chairman    | X   |    | Bercier, D. | X   |    |
| Watne, D. Vice Chairman | X   |    | Nelson, C.  | X   |    |
| Dever, D.               | X   |    |             |     |    |
| Lyson, S.               | X   |    |             |     |    |
| Trenbeath, T.           | X   |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |

Total (Yes) 7 No 0

Absent 0

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

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

Date: 1/23/01  
 Roll Call Vote #: 2

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB-~~2195~~ 2196**

Senate Judiciary Committee

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

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

Action Taken Amend line 11 after "party" to include execution.

Motion Made By Lyson Seconded By Trenbeath

| Senators                | Yes | No | Senators    | Yes | No |
|-------------------------|-----|----|-------------|-----|----|
| Traynor, J. Chairman    | X   |    | Bercier, D. | X   |    |
| Watne, D. Vice Chairman | X   |    | Nelson, C.  | X   |    |
| Dever, D.               | X   |    |             |     |    |
| Lyson, S.               | X   |    |             |     |    |
| Trenbeath, T.           | X   |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |

Total (Yes) 7 No 0

Absent 0

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

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

Date: 1/23/01  
Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. S13 2146

Senate Judiciary Committee

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

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

Action Taken To Pass as Amended as 2 times Amended

Motion Made By Watne Seconded By Nelson

| Senators                | Yes | No | Senators    | Yes | No |
|-------------------------|-----|----|-------------|-----|----|
| Traynor, J. Chairman    | X   |    | Bercier, D. | X   |    |
| Watne, D. Vice Chairman | X   |    | Nelson, C.  | X   |    |
| Dever, D.               | X   |    |             |     |    |
| Lyson, S.               | X   |    |             |     |    |
| Trenbeath, T.           | X   |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |
|                         |     |    |             |     |    |

Total (Yes) 7 No 0

Absent 0

Floor Assignment Watne

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

**REPORT OF STANDING COMMITTEE (410)**  
January 25, 2001 8:14 a.m.

Module No: SR-13-1564  
Carrier: Watne  
Insert LC: 18275.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

**SB 2196: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2196 was placed on the Sixth order on the calendar.**

Page 1, line 10, replace "made" with "served"

Page 1, line 11, remove "and must contain a copy of"

Page 1, line 12, remove "the execution"

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2196

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

House Judiciary Committee

Conference Committee

Hearing Date 03-12-01

| Tape Number                                 | Side A | Side B | Meter #      |
|---|--------|--------|--------------|
| TAPE II                                     | x      |        | 163 to 1261  |
| TAPE II                                     | x      |        | 5014 to 5323 |
| Committee Clerk Signature <i>Joan Diers</i> |        |        |              |

Minutes: Chairman DeKrey opened the hearing on SB 2196. Relating to prohibited employer retaliation for employee reporting of violations of laws, ordinances or regulations.

Senator Watne: District 5, (see attached testimony).

Chairman DeKrey: If there are no questions, thank you for appearing before this committee. Mr Kranda before you start, what is the difference between certified and registered mail?

Todd Kranda: North Dakota Collectors Association. Gives an answer to the chairman's question.

Chairman DeKrey: Certified is the one that you get the green card back.

Rep Klemin: Registered has to do with value of whatever you are serving.

Todd Kranda: appears on behalf of the North Dakota Collectors Association, in support of SB 2196. He explained one of the amendments that was added while in the Senate. Change on line ten, the word made was in the original bill, and that was replaced by the word served. There was some confusion as to whether the attorney makes the execution as the document comes out of the clerk of courts office, we did not intend to change that process. The second area that was changed

