

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1026

2005 HOUSE FINANCE AND TAXATION

HB 1026

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1026**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 5, 2005**

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1           | X      |        | 25      |

Committee Clerk Signature

*Janice Stein*

Minutes:

**REP. DAVID DROVDAL, VICE CHAIR,** Called the committee hearing to order.

**JENNIFER CLARK, LEGISLATIVE COUNCIL FOR THE ADVISORY COMMISSION**

**ON INTERGOVERNMENTAL RELATIONS,** Explained the bill to committee members.

This bill has three main provisions in Section 1, 3 and 4 of the bill. The bill decreases the length of time in which a tax foreclosure will take place. Right now, it is just slightly less than five years. It is decreasing it just about three years. The changes in Sections 1, 3 and 4 accomplish that.

The second piece of this is under Section 2 of the bill. It allows counties the option of waiving penalty. That option will expire October 1 of 2009. There will be a period where your taxes will come due at a higher rate.

**REP. DROVDAL** The waiver you are referring to is only to the delinquent tax payer?

**JENNIFER CLARK** I am not familiar as to what happens upon sale, maybe Mr. Walstad can answer that.

**MIKE MONTPLAISIR, COUNTY AUDITOR, CASS COUNTY**, Testified in support of the bill, see attached written testimony.

**REP. FROELICH** Referred to the Board of County Commissioners may establish a policy to waive all or part of penalties and interest on delinquent real estate taxes, aren't we encouraging people to not pay their property taxes?

**MIKE MONTPLAISIR** We don't see it that way, we think it is an incentive to get people to bring their taxes up to date in a one-time shot. This is an opportunity where someone can go to the bank, borrow the money, and get out of this cycle.

**REP. WRANGHAM** Currently, is there any procedure in place whereby, counties can forgive penalty and interest?

**MIKE MONTPLAISIR** We don't believe so. The county could compromise in the past, kind of a complicated procedure, you have to send a notice to the State Tax Department, or, they could do a tax abatement, if they thought the property was overvalued.

**REP. SCHMIDT** Right now you have a problem for five years, if you cut that down to three years, you might have more people. You might add to that, have you looked at that?

**MIKE MONTPLAISIR** We have looked at that. If we go back four years and have approximately 350 properties on our dormant list, that is not in addition to the 220, they are also in that 350. The problem we have, we have some rather modest houses in Fargo, where at the end of five years, with the interest and penalties, they have \$10,000 to \$12,000 worth of taxes and specials against them, those are the people we are concerned about. There is no way they can

come up with \$12,000 then. If we give them the opportunity to go to a bank and pay off a lesser amount, it will decrease our problems.

**REP. CONRAD** Asked how many were three years, 350 at four years and 320 at five years?

**MIKE MONTPLAISIR** Stated he didn't work that up, but he could get that for the committee. He stated it was the same people year after year. He didn't think it would be a significant amount at four years.

**REP. CONRAD** Asked whether there would be a policy, where they have to have a reason, across the board kind of thing.

**MIKE MONTPLAISIR** That was one of the things we stressed in the committee, was that it would not be a cherry picking thing, it was all or nothing. In my situation, I would like to run it from August 1, to October 1. The further time period we give those people, the more apt they will do something.

**BEV NIELSON, NORTH DAKOTA SCHOOL BOARD ASSOCIATION,** Testified in support of the bill. Whenever you talk about property tax revenue, we know it is much needed funds for the schools. We believe it is unfair to pass around the necessity and collection of money for schools, when people pay their property taxes. We do not believe that you do anyone a favor by allowing their taxes to compound and compound, to where it becomes impossible to pay.

**TERRY TRAYNOR, ASSISTANT DIRECTOR, NORTH DAKOTA ASSOCIATION OF COUNTIES** Testified in support of the bill. See attached written testimony.

**JERRY HJELMSTAD, NORTH DAKOTA LEAGUE OF CITIES,** Testified in support of the bill. In allowing those taxpayers five years, it just shifts the taxes to those who are paying

their taxes. We look at three groups who aren't paying their taxes, those who simply can't pay them, and it doesn't get any easier after three years. We have another group, who basically, use the system and pay only one year at a time. There is another group of people who acquire property and never pay taxes, they sift what they can from rent, by the time the property goes back to the city, after the five year period, it is so run down at that point, so if we shorten up the period, it would prevent some of that abuse.

**CLAUS LEMPKE, NORTH DAKOTA ASSOCIATION OF REALTORS**, Testified in opposition. He felt cutting the period in half is too fast. There are several reasons which could affect you, illness, unemployment, lawsuits, estates, it come upon you very fast, and you could lose your property.

**STEVE TOMAC, NORTH DAKOTA FARM CREDIT COUNCIL** Testified in a neutral position. He stated their concern was in Section 3. He stated they enjoy a healthy relationship with all of the county auditors and county treasurers. At this date, he stated, they are not sure, when they send the tax statements to find out if the taxes are paid, whether they are doing that because it is mandated or whether they are doing it out of a courtesy. The concern is, if we shorten the time period, and there are a few delinquencies, the suggested language on line 7, might be to add the lien holders of record to the mailing list that the treasurer has to send, especially under a two year window instead of a four year window.

**REP. WRANGHAM** Asked anyone, if this were to pass in its present form, what happens if, July 1, someone is four years out?

**JOHN WALSTAD, LEGISLATIVE COUNCIL** Answered the question, stating, the effective date clause in the bill, addresses the issue. This speed up would only apply to tax year 2005, and

thereafter. Tax years before that, would be subject to the same four year period. There will be an overlap there. 2002 taxes which were due in 2003, under current law, would be subject to tax deed in 2007, that year would be unaffected. 2005 would be the first year subject to the change in this bill, 2005 and 2006, would be subject tax deed in 2008. There you have a double up. 2006 taxes due in 2007, would be subject to tax deed in 2009, so they would double up with the 2004 taxes. After that, the 2007 and 2008, would be due in 2010. It is a four year period, where you will have some doubling up.

**REP. DROVDAL** The forgiveness in interest and penalty is only on the year the tax is doubled up, it isn't all of the taxes due at that time?

**JOHN WALSTAD** The way it is worded, it is for anytime that the Board of County Commissioners believe this reduced foreclosure period creates a hardship. I would read that to say that the Board of County Commissioners can say, we are going to deal with your entire tax on this property if you bring it up to speed right now.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION 1-12-05 Tape #1, Side B, Meter 17**

**REP. DROVDAL** Presented amendments to the committee members. He reviewed the bill for the committee members. He stated there was a legitimate concern that it would put some taxpayers in a bind, because they not only would be paying the fourth year and the second year at the exact same time, in order to keep their property. For three years they would be paying a double property tax, interest and penalty. The way they proposed to remedy that situation, is to allow, under certain conditions, the county to forgive, interest and penalty for all of the years.

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House Finance and Taxation Committee

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The reason I asked for the amendment, is that in three years, those same property tax owners will be right back where they are now. My amendment says, we will allow them to do that forgiveness of the interest and penalty, but just for the two years that are due. This would be for three years in a row, they could ask for forgiveness of the interest and penalty.

**REP. BELTER** Read a memo from Farm Credit Services, which stated they wanted to be notified if taxes were not paid on a property.

A roll call vote was taken to adopt the amendments, the vote failed.

Committee members wanted to hold the bill so that they could visit with some county commissioners, before they voted on the bill. Committee action will be taken at a later date.



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1026**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 17, 2005**

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 2           | x      |        | 10.6    |

Committee Clerk Signature

Minutes:

**COMMITTEE ACTION**

**REP. WRANGHAM** Shared his thoughts regarding this bill. He stated that states around us have made similiar changes, and have gone to three years. If I were to have an amendment drafted, I would change the 2 years to 3 years.

**REP. WEILER** Other than the fact that other states have gone to three years, why do you think we should do the same?

**REP. WRANGHAM** Felt it was quite a step from four years to two years.

**REP. CONRAD** Stated this would actually happen in the third year.

**REP. WRANGHAM** Made a motion to adopt his amendment to the bill, changing the two years to three years.

**REP. SCHMIDT** Second the motion. Motion failed.

**REP. GRANDE** Made a motion for a **Do Pass**.

**REP. HEADLAND** Second the motion. **Motion carried.**

**11 Yes      3 No      0 Absent**

**REP. IVERSON** Was given the floor assignment.

## **FISCAL NOTE STATEMENT**

House Bill or Resolution No. 1026

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad  
Code Revisor

Date: 1-12-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1026

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Adopt one

Motion Made By

Seconded By

| Representatives         | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| BELTER, WES, CHAIRMAN   | ✓   |    | <i>Failed</i>   |     |    |
| DROVDAL, DAVID, V-CHAIR | ✓   |    |                 |     |    |
| BRANDENBURG, MICHAEL    |     | ✓  |                 |     |    |
| CONRAD, KARI            | A   |    |                 |     |    |
| FROELICH, ROD           |     | ✓  |                 |     |    |
| GRANDE, BETTE           | ✓   |    |                 |     |    |
| HEADLAND, CRAIG         |     | ✓  |                 |     |    |
| IVERSON, RONALD         | ✓   |    |                 |     |    |
| KELSH, SCOT             |     | ✓  |                 |     |    |
| NICHOLAS, EUGENE        | ✓   |    |                 |     |    |
| OWENS, MARK             | ✓   |    |                 |     |    |
| SCHMIDT, ARLO           |     | ✓  |                 |     |    |
| WEILER, DAVE            | A   |    |                 |     |    |
| WRANGHAM, DWIGHT        |     | ✓  |                 |     |    |

Total (Yes)

6

No

6

Absent

2

Floor Assignment

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

117-05  
all Vote #: 1

**BILL/RESOLUTION NO. HB 1026**

House **FINANCE & TAXATION**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

### Action Taken

Dd

Pass

**Motion Made By**

Rep. Grande

## Seconded By

Rep. Headland

**Representatives**  
**BELTER, WES, CHAIRMAN**  
**DROVDAL, DAVID, V-CHAIR**  
**BRANDENBURG, MICHAEL**  
**CONRAD, KARI**  
**FROELICH, ROD**  
**GRANDE, BETTE**  
**HEADLAND, CRAIG**  
**IVERSON, RONALD**  
**KELSH, SCOT**  
**NICHOLAS, EUGENE**  
**OWENS, MARK**  
**SCHMIDT, ARLO**  
**WEILER, DAVE**  
**WRANGHAM, DWIGHT**

**Yes**

**No**

## Representatives

**Yes      No**

**No**

**Total (Yes)**

11

No

3

**Absent**

## Floor Assignment

Rep. Iversen<sup>D</sup>

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

**REPORT OF STANDING COMMITTEE**

**HB 1026: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1026 was placed on the Eleventh order on the calendar.**

2005 TESTIMONY

HB 1026

**Testimony To The  
THE HOUSE FINANCE & TAXATION COMMITTEE  
Monday, January 7, 2005 by  
Terry Traynor, Assistant Director  
North Dakota Association of Counties**

**REGARDING HOUSE BILL 1026**

Chairman Belter and committee members, on behalf of the State's 53 counties and 500 county officials, I want to present the support of our Association for House Bill 1026. County officials, with much greater understanding of the mechanics of this issue, are here today to explain address details. I will therefore be brief and outline why the members of our Association acted at our statewide convention to support this legislation.

Current law allows four years from when taxes are due to when the notice of foreclosure is given to the owner of the property. This is the foundation of a process, established over 100 years ago, that actually takes five years for a parcel to be sold for non-payment of taxes. This abnormally long period causes schools, counties, cities and other political subdivisions to be deprived of the timely use of the tax dollars, and places burdens on the County Auditor and other county officials in the collection of delinquent taxes. Few private businesses could stay in operation if accounts payable were left unpaid for five years, and it seems reasonable to shorten this period for local government to three.

When budgeting each year, local government must now anticipate the revenue that will not be received, from parcels that have not paid taxes for one, two, three, and four years already. This forces the boards and commissions to raise taxes for everyone, to offset the revenue that will be uncollected. While it may be appropriate for allowances to be made for the first few years, carrying this out for five years seems excessive. Although local government will many times recapture the taxes and interest owed, through the eventual sale of the property; it seems improper for the financing of this tax bill to be done with other taxpayers money. We need to update this system to treat all taxpayers, and particularly those that pay their taxes on-time, in a fair and competent manner

Mr. Chairman and committee members, I hope you can support our efforts to improve this process, and give House Bill 1026 a Do Pass recommendation.



# Analysis - McLean County Delinquent Property Taxes

Data as of December 31, 2004

|              | <u>2000</u>  | <u>2001</u>  | <u>2002</u>  | <u>2003</u>  | <b>Total<br/>Delinquent</b> |
|--------------|--------------|--------------|--------------|--------------|-----------------------------|
| Total Levied | \$ 6,109,844 | \$ 6,291,927 | \$ 6,880,788 | \$ 7,205,180 | \$ 26,487,739               |
| Delinquent   | \$ 42,814    | \$ 74,312    | \$ 134,096   | \$ 483,745   | \$ 734,967                  |

## Breakdown by Jurisdiction

|                      |            |
|----------------------|------------|
| School Districts 31% | \$ 231,065 |
| Cities 20%           | \$ 144,292 |
| County 10%           | \$ 69,981  |
| Township 2%          | \$ 11,727  |
| State <1%            | \$ 1,354   |
| Park/Fire/Other 38%  | \$ 276,548 |

**TESTIMONY TO THE  
HOUSE OF REPRESENTATIVES FINANCE & TAXATION COMMITTEE  
Prepared January 4, 2005, by  
Michael Montplaisir, Cass County Auditor  
Past President, North Dakota Association of Counties  
CONCERNING HOUSE BILL 1026**

Mr. Chairman and members of the Committee, I am Mike Montplaisir, the Cass County Auditor and Past President of the North Dakota Association of Counties. I am also in the unique and privileged position to sit on your Advisory Commission on Intergovernmental Relations, which developed HB1026 for your consideration.

Mr. Chairman, HB1026 is a very simple bill that deals with a major change in the way that we handle delinquent property taxes in North Dakota. Currently, a property tax bill can be outstanding for a total of fifty-seven months before a property is forfeited for non-payment of taxes. Under HB1026, the amount of time a property tax bill could be outstanding will be reduced to thirty-three months before the property is forfeited for non-payment of taxes.

This is not about wanting to "take" property from land owners sooner--we never want to take property. The county prefers to collect the tax due for services provided by the local governments. We recognize that sometimes circumstances prevent people from paying their taxes when due--the thirty-three months from the time taxes are due to the date of forfeiture allows for those instances. The longer the property tax bill is outstanding, the more difficult it becomes for the property owner to pay the tax.

HB1026 also provides local government with a "tool" in the form of a penalty and interest waiver window to allow taxpayers to catch up on their delinquent property taxes. At the county's option, penalty and interest could be waived during all or part of the transition period. A waiver of the penalty and interest could provide the taxpayer with enough incentive to borrow the funds, if needed, to break the cycle of delinquency.

I want to stress the rate of delinquency is very small. In Cass County, we currently have 220 properties with \$350,000 owing on the 2000 taxes. These taxes must be paid by October 1, 2005, to avoid forfeiture. We have approximately 50,000 tax properties in Cass County, with a total billing of \$150 million. These few delinquent properties, however, take an inordinate amount of time to collect.

Mr. Chairman and members of the committee, I thank you for the opportunity to present this testimony, and urge a Do Pass recommendation.



# **North Dakota Farm Credit Council**

AgCountry FCS • FCS of Grand Forks • FCS of Mandan • FCS of North Dakota

January 10, 2005

Chairman Wesley R. Belter  
House Finance & Taxation Committee  
North Dakota Legislature  
600 E. Boulevard Avenue  
Bismarck, North Dakota 58505

RE: HB 1026

Chairman Belter:

During the hearing on HB 1026, the North Dakota Farm Credit Council asked the Committee for some time to determine if the county treasurer was required to give notice of delinquent taxes to the lien holder(s). Section 57-28-04 (4) of existing century code states that "the county auditor shall serve the notice of foreclosure of tax lien upon each mortgagee,....."

This addresses our concerns. Please thank the committee for their indulgence and patience.

Respectfully,



Steve Tomac  
Executive Director  
North Dakota Farm Credit Council

Independently owned and operated associations serving North Dakota and northwest and west central Minnesota.

## **AgCountry FCS**

1749 38<sup>th</sup> Street SW  
Fargo, ND 58108  
701-282-9494 • 800-450-8933  
[www.agcountry.com](http://www.agcountry.com)

## **FCS of Grand Forks**

2424 32<sup>nd</sup> Avenue South  
Grand Forks, ND 58201  
701-775-3193 • 800-288-3982  
[www.fcsgdirect.com](http://www.fcsgdirect.com)

## **FCS of Mandan**

1600 Old Red Trail  
Mandan, ND 58554  
701-663-6487 • 800-660-6487  
[www.farmcreditmandan.com](http://www.farmcreditmandan.com)

## **FCS of North Dakota**

3100 10<sup>th</sup> Street SW  
Minot, ND 58702  
701-852-1265 • 800-264-1265  
[www.farmcreditnd.com](http://www.farmcreditnd.com)