

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1315

2005 HOUSE AGRICULTURE

HB 1315

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1315

House Agriculture Committee

Conference Committee

Hearing 1---21---05

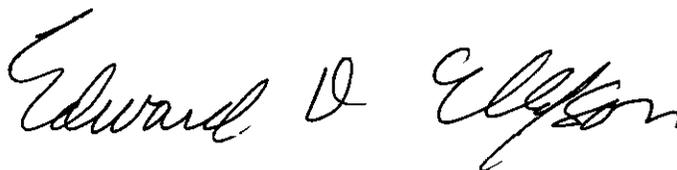
Tape Number  
TWO

Side A  
A

Side B

Meter #  
19.5 TO 36.7

Committee Clerk Signature



Minutes:

MADAM CHAIR WOMAN KINGSBURY: Committee Members we will open on HB 1315. HB 1315 is relating to redemption [for example] the period of redemption is six months.

REPRESENTATIVE MATT KLEIN: Representing District 40 out of Minot.

House Bill 1315 relates to redemption. We have had problems in the past and this will put them in the same category as many other lending institutions. I will turn it over to people that are more familiar.

CHAIR: Questions for Rep. Klein? We will go on to additional testimony.

STEVE TOMACK: North Dakota Farm Credit. Madam Chair and Members of the Committee. Deputy Director of N.D. FARM CREDIT COUNCIL. As I have stated in my testimony on the previous bill HB 1315 makes changes to the redemption period on agricultural properties. Again I want to thank you for the timely discussion of this debtor-lender issue.

[please see and read Steve's printed testimony as redemption period and bill.] [please see redemption period testimony from day one to day 598 which hopefully lender takes possession of land etc. Usually something happens with debtor rights that allows the debtor to extend the time for the lender to take possession of the land. Farm Credit dose not object to the twelve month period. This seems to make some sense to us. Twelve months is a consistent calendar year. That seems to be fair. The thing is that it seems that there is no such thing as a not contested forfeiture action. Most foreclosures take from two to four years. During that period the borrower has complete control of the property and the income produced from it. During this period the lender continues to peruse the foreclosure and make sure the taxes are paid. HB1315 Would move the twelve month period to day one hundred and thirty six. On the chart. Day 136 is the day that the summons and complaint is served and or filed. Because there are no uncontested foreclosures the net effect of this bill however would be that the lender would get the land back probably sixty days after the Sheriffs sale. Let me explain why I say that. Because in the bill the redemption period actually starts on day one thirty six. The minimum days is 60 days after Sheriff's sale. That would probably happen in most cases. They have longer period of time to retain the land depending on what action they take. Bankruptcy etc.. One to four years. The bill dose not take away any borrower rights.

MADAM CHAIR KINGSBURY: Additional testimony.

DENNIS LAUMB: CHAIRMAN OF THE N.D. FARM CREDIT COUNCIL.

I am in favor of HB 1315 which changes the redemption period. My testimony is a follow up to what Steve said. What he put out there. We will hope this will help lenders. This will not change the rights of the borrower. The present law is not fair. Need sot be updated.

Page 3  
House Agriculture Committee  
Bill/Resolution Number HB 1315  
Hearing Date 1--21--05

Our share holders don't know why the redemption period is as long as it is..

CHAIR: Additional testimony.

DAVID ANDERSON: I favor HB 1315. I am a farmer in the Regent area. Director at Mandan Farm Credit. As a farmer I don't think any of us can operate under criteria that was established fifty year ago. Even longer. The legislation was originally written to protect debtor rights. It is cumbers.

MUELLER: Negative effect is high bidder of land in foreclosure can't get on land for a year after sheriffs sale.

TOMACK: This bill would address it some. The buyer could get on earlier. Within sixty days

WOODY BARTH: We support Bill. We agree you should not drag out foreclosure for six years.

VICE CHAIR WOMAN KINGSBURY CLOSED ON HB 1315

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1315

House Agriculture Committee

Conference Committee

Hearing Date 2---10---05

Tape Number  
TWO

Side A  
A

Side B

Meter #  
4.8 TO 5.9

Committee Clerk Signature



Minutes:

CHAIRMAN NICHOLAS: Committee Members, please open your bill book to HB 1315.

I would like to move this bill along. What are the committees wishes on this bill.

**REPRESENTATIVE BRANDBURAG MADE A MOTION FOR A DO PASS.**

**REPRESENTATIVE BOE: SECONDED THE MOTION.**

**THE ROLL WAS TAKEN.**

**THERE WERE 13 YES**

**0 NO**

**0 ABSENT**

**REPRESENTATIVE BOE CARRIED THE BILL.**

**CHAIRMAN MAN NICHOLAS CLOSED THE HEARING ON HB 1315**

2-10-05  
HB 1315

Date:  
Roll Call Vote #:

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

House **HOUSE AGRICULTURE COMMITTEE**

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **DO PASS**

Motion Made By **B. BRANDBURG** Seconded By **BOE**

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN	✓		REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH	✓	
REP. WESLEY BELTER	✓		REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD	✓	
REP. CHUCK DAMSCHEN	✓				
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes) **13** No **0**

Absent

Floor Assignment **BOE**

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

**REPORT OF STANDING COMMITTEE (410)**  
February 10, 2005 1:47 p.m.

**Module No: HR-27-2432**  
**Carrier: Boe**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1315: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1315 was placed on the  
Eleventh order on the calendar.

2005 SENATE AGRICULTURE

HB 1315

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1315

Senate Agriculture Committee

Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
1	x		5870 - end
1		x	0 - 2110

Committee Clerk Signature



Minutes:

**Vice Chairman Erbele** opened the hearing on HB 1315, a bill relating to redemption.

**Steve Tomac**, Executive Director of North Dakota Farm Credit Council, testified in favor of the bill. (written testimony)

**Senator Taylor** asked if the owner has a chance to acquire his land back in that period of time, is the purchaser of his land at the sheriff's sale just in limbo during that period of time. (meter 471)

**Mr. Tomac** said that is his understanding of the process. During the redemption period, the borrower has the chance to pay the amount bid and a nominal interest rate prescribed by law.

**Senator Taylor** asked if although the original owner can still receive the income from that property, is he also responsible for paying the property taxes.

**Mr. Tomac** said by that time the lending institution is paying the taxes to be sure they don't get caught with a county tax lien.

**Senator Erbele** asked if move day 233 is moving to day 136, how long is the redemption period.

**Mr. Tomac** said it is still one year. At Farm Credit they believe the borrower is entitled to one year, that is a growing season, the crop year.

**Senator Erbele** asked where the sheriff's sale falls in the time line.

**Mr. Tomac** said under this scenario the sheriff's sale is at day 233 but there is a part of the bill that says in no case will the redemption period be shorter than 60 days after the sheriff's sale. That would accommodate the year.

**Dennis Laumb**, farmer from Valley City, testified in favor of the bill.. (written testimony) (meter 715. The only person who could ever buy land at a sheriff's sale is the lender because no one else dares take a year's chance during the redemption period.

**Jim Schlosser**, North Dakota Bankers Association, testified in favor of the bill. (meter 803)

The borrower gets a notice before foreclosure that states how he has to get that loan current. Once the summons and complaint is filed and the action is started, the entire loan is due. The lender could negotiate with the borrower. This bill benefits the consumer. If there is a long redemption period on agricultural land, the board does not want to wait a long time to start the action. If they can take a little longer, it gives them more time to negotiate and the borrower has a chance to bring the loan current and not be faced with acceleration of the loan and paying the entire amount. He had the legislation that changed the law dealing with residential property to start the redemption period at the time of the summons and complaint instead of the sheriff's sale, just like this bill. In some instances the lender waited a longer time because they had some breathing room. In the long run this will help all parties.

**Senator Erbele** asked if a borrower can bring a loan current even after it has been accelerated.

**Mr. Schlosser** said after the summons and complaint the lender does not have to accept anything less than the full amount but he can.

**Claude Sem**, CEO of Farm Credit Services of North Dakota, Minot, testified in favor of the bill. (written testimony) (meter 1068) This covers mortgages going forward, not those on record today.

**Senator Seymour** asked how much money this bill will bring to Farm Credit Services in 10 years. (meter 1165)

**Mr. Sem** said hopefully nothing. It is their hope not to foreclose. If they can save 160 days or maybe a year instead of having 5 years where they are able to put the land back on the market and have another farmer own it, perhaps another borrower.

**Senator Erbele** asked if a person gets into trouble with his payments, if he is going to make an effort to save the property, when is that most likely to happen. Do you see much happening after the sheriff's sale.

**Mr. Sem** said hopefully the borrower is working with whatever means are available, mediation, Bank of North Dakota, Farm Credit, a combination of these things. They have to sell the property back and sometimes a borrower finds a relative or his wife has an inheritance and they are able to buy it back.

**Senator Erbele** asked if a lot of people are able to redeem their land after the sheriff's sale.

**Mr. Sem** said about 25% try to redeem the property. In the example of a lender having a \$100,000 loan on some property and there is no equity left and the property is only worth \$50,000. After the sheriff's sale the borrower can buy it for the appraised value, for \$50,000. Maybe there is a lender willing to loan the \$50,000.

**Senator Taylor** asked if there are not a lot of buyers at a sheriff's sale, is it usually only the lender.

**Mr. Sem** said in the majority of the cases, yes.

**Senator Klein** asked if this bill more closely mirrors the residential property.

**Mr. Sem** said that is correct.

**Senator Taylor** asked if we shorten the redemption period will there be more action at the sheriff's sale.

**Mr. Sem** said he does not expect this, no one will bid above the appraised value when they can buy other land at the appraised value.

**Senator Urlacher** asked if he sees as farm size increases, more foreclosures.

**Mr. Sem** said he hopes that is not true. They are seeing larger farmers, they see more risk, more dollars loaned, it makes them work harder.

**Senator Urlacher** asked if the two bills give more flexibility to management.

**Mr. Sem** said hopefully so, also hopefully more flexibility for the customer.

**Mike O'Keefe**, CEO of Farm Credit Services of Mandan, testified in favor of the bill. (meter 1660) A lot of the negotiation takes place at the front end, when the first 30 day notice goes out or the 45 day notice in Farm Credit Services case, prior to the summons and complaint. The ability to negotiate is there all through the process. They are not looking to reduce the year of redemption, it just starts at a different time. In no event would it be shorter than 60 days after the sheriff's sale. They feel strongly a borrower should have at least a crop season to negotiate and work with the lender. As most of us know, when the sheriff's sale is held and there are no negotiations, its pretty much over.

**Bill Onstad**, farmer from Wells County, testified in favor of the bill. He is on the Farm Credit board in Minot. Both bills will result in less cost to the consumers because when they do have actions like this all the customers pay. In Wells County they had a prime example, a farmer bought high priced land, let it go back and the customers of that credit union paid.

**Eric Aasmundstad**, president North Dakota Farm Bureau, testified in favor of the bill. (meter 1977) This deals with uncontested foreclosures where the borrower has finally said enough. It allows the lender to complete the process in less time and that saves consumers money.

**Vice Chairman Erbele** closed the hearing on HB 1315.

**Senator Seymour** moved a do pass on HB 1315. (meter 4465)

**Senator Taylor** seconded the motion.

The motion passed on a roll call vote 5-0-1.

**Senator Taylor** will carry the bill.

Date:

3/3/05

Roll Call Vote #

1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1315

Senate Agriculture

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

*Do Pass*

Motion Made By

*Sen. Seymour*

Seconded By

*Sen. Taylor*

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein	A				
Senator Urlacher	✓				

Total (Yes)

5

No

0

Absent

1

Floor Assignment

*Sen. Taylor*

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

**REPORT OF STANDING COMMITTEE (410)**  
March 3, 2005 12:52 p.m.

**Module No: SR-39-4059**  
**Carrier: Taylor**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1315: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS**  
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1315 was placed on the  
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1315



# **North Dakota Farm Credit Council**

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

**Testimony by Steve Tomac  
Executive Director, NDFCC**

**HB 1315**

**January 21, 2005**

**Madam Chair and members of the House Agriculture Committee, as I have stated in my testimony on the previous bill HB 1315 makes changes to the redemption period on agricultural properties. Again I want to thank you for the timely discussion of this debtor-lender issue.**

**A redemption period is the amount of time that the debtor has to redeem the debt after the foreclosure process has been completed. The current law requires that acreages over 40 acres require a 12 month redemption period and the clock starts the day of the Sheriff's sale. HB 1315 changes the start time for the 12 months from the Sheriff's sale to when the Summon and Complaint for the foreclosure action is filed with the clerk of the district court.**

**Page 2 of my testimony gives a chronological timeline of an uncontested foreclosure action. Please remember, in this example the debtor has not filed any motions which delayed the process. This is the shortest period of time that Farm Credit could process a foreclosure action.**

**Farm Credit does not object to a 12 month period. Twelve months is consistent with the crop years in North Dakota. The problem is that there is no such thing as an uncontested foreclosure action because most foreclosure actions last 2-4 years. During this period the borrower has complete control of the property and the income produced from it. During this period the lender continues to pursue the foreclosure and makes sure that the taxes are paid.**

**HB 1315 would move the start of the 12 month period to DAY 136 on the chart. Because there are no "uncontested" foreclosures, the net effect of this bill would be that the lender would get the property back 60 days after the sheriff's sale in most cases.**

**Madam Chair and members of the Committee, as the time period gets stretched out both the loan and the property deteriorate. Prolonging the inevitable adds cost to the process which is passed on to our owner/borrowers. Passage of this HB 1315 removes a minimum of 100 days and maximum of 300 days from the process. It does not take away any debtor rights but combined with HB 1312 creates opportunity for many borrowers.**

**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.aqcountry.com](http://www.aqcountry.com)

**FCS of Grand Forks**

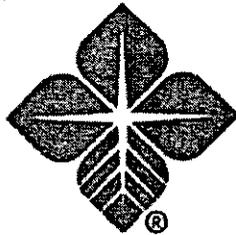
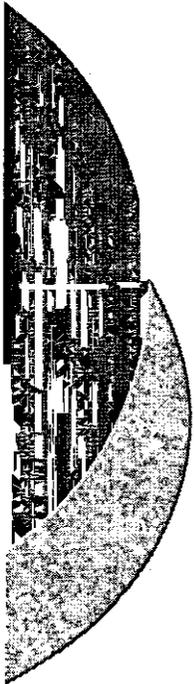
2424 32<sup>nd</sup> Avenue South  
Grand Forks, ND 58201  
701-775-3193 • 800-288-3982  
[www.fcsdirect.com](http://www.fcsdirect.com)

**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)



# Redemption Period (cont.)

## UNCONTESTED FORECLOSURE ACTION

Day 1	Payment is due
Day 14	Past due reminder letter
Day 31	Refer to ag mediation and provide 45-day restructure
Day 97	Attorney sends out "Notice of Intent to Foreclose"
Day 127	Notice of Intent period ends – loan is accelerated
Day 136	Summons and Complaint is served
Day 160	End of time period to answer Summons and Complaint
Day 170	Motion for Default Judgment is filed
Day 181	Court enters Default Judgment
Day 212	Publish in paper once per week for three consecutive weeks
Day 233	Sheriff's sale
Day 233	Redemption period under current law begins. Borrower retains possession and can redeem during this period.
Day 598	Lender takes possession

*THE DEBTOR FILES MOTIONS & IT GOES ON & ON. 598 IS NOT THE END FOR DEBTOR*

1315

Mr. Chairman and members of the House Agriculture Committee, I am Dennis Laumb, Chairman of the North Dakota Farm Credit Council; I also serve as a Director of AgCountry Farm Credit at Fargo. I am here to testify in favor of HB 1315 which changes the start of the redemption period from the Sheriff's Sale to when the Summons & Complaint is filed.

This change in the law would help reduce the frivolous defenses and stalling tactics to mortgage foreclosures that lenders face. We hope it will be a benefit to financial institutions by not having to pass on to good borrowers, who pay timely, the legal costs associated with this type of legal action. This would not change the rights of the borrower.

As a farmer, I see this as a way to cut out the costs that are associated with this type of foreclosure and not having those costs passed on to me. The present law is not only inefficient, it is unfair and antiquated.

As a director, at Focus Group Meeting with our shareholders, many of our shareholders just don't understand why the redemption period is the length that it is. We try to explain that the foreclosing is not a speedy process and legal abuses commonly extend this process to several months or even years. We assure them that we are working to change this time frame.

Mr. Chairman and members of the Senate Agriculture Committee, my name is Dennis Laumb. I am a farmer from the Valley City area and am here to testify in support of changing the redemption period start time to when the "Notice Before Foreclosure" is filed, rather than the date of the sheriff's sale.

This change in the law would reduce the abuses that have taken place by frivolous defenses to mortgage foreclosures that are only intended to be stalling tactics. Borrowers would still be afforded all their current borrower rights, including mediation.

By changing the start time of the redemption period, as a farmer, I see this as reducing unnecessary costs that are otherwise passed on to me. The present law is not only inefficient, it is unfair and antiquated.

I am a director of a lending cooperative. We hold focus group meetings with our shareholders. Many of our shareholders just don't understand why the redemption period is the length that it is. We try to explain that the North Dakota foreclosure process is cumbersome and allows for legal abuses that extend this process. We assure them that we are working to change this time frame to eliminate or reduce abuses, while still maintaining borrower rights. This Bill would maintain these rights, but reduce the abuses that end up costing those of us that are making our payments.

*Testimony submitted by Dennis Laumb, Valley City Farmer, Director of AgCountry Farm Credit Services in Fargo and Chairman of the North Dakota Farm Credit Council.*

1315

## **Senate Ag Committee**

Mr. Chairman and members of the Agricultural Committee, my name is Claude Sem, CEO of Farm Credit Services of North Dakota which is located in Minot, North Dakota.

I am in favor of Bill 1315. The redemption period is the amount of time that mortgagors have to redeem debt. Current law requires that the redemption period be twelve months. Farm Credit has no contention with the twelve months but instead with the overall length of time it takes to complete a foreclosure. We have seen foreclosures take years to process, only to be followed by the property being tied up in the redemption period for another year. This bill would simply shorten that period and would bring farm real estate foreclosures in line with commercial real estate loans.

Your "Do Pass" consideration of Bill 1315 would be greatly appreciated.



# **North Dakota Farm Credit Council**

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

**Testimony by Steve Tomac  
Executive Director, NDFCC**

**HB 1315**

**March 3, 2005**

**Mr. Chairman and members of the Senate Agriculture Committee, as I have stated in my testimony on the previous bill HB 1315 makes changes to the redemption period on agricultural properties. Again I want to thank you for the timely discussion of this debtor-lender issue.**

**A redemption period is the amount of time that the debtor has to redeem the debt after the foreclosure process has been completed. The current law requires that acreages over 40 acres require a 12 month redemption period and the clock starts the day of the Sheriff's sale. HB 1315 changes the start time for the 12 months from the Sheriff's sale to when the Summon and Complaint for the foreclosure action is filed with the clerk of the district court.**

**Page 2 of my testimony gives a chronological timeline of an uncontested foreclosure action. Please remember, in this example the debtor has not filed any motions which delayed the process. This is the shortest period of time that Farm Credit could process a foreclosure action.**

**Farm Credit does not object to a 12 month period. Twelve months is consistent with the crop years in North Dakota. The problem is that there is no such thing as an uncontested foreclosure action because most foreclosure actions last 2-4 years. During this period the borrower has complete control of the property and the income produced from it. During this period the lender continues to pursue the foreclosure and makes sure that the taxes are paid.**

**HB 1315 would move the start of the 12 month period to DAY 136 on the chart. Because there are no "uncontested" foreclosures, the net effect of this bill would be that the lender would get the property back 60 days after the sheriff's sale in most cases.**

**Mr. Chairman and members of the Committee, as the time period gets stretched out both the loan and the property deteriorate. Prolonging the inevitable adds cost to the process which is passed on to our owner/borrowers. Passage of this HB 1315 removes a minimum of 100 days and maximum of 300 days from the process. It does not take away any debtor rights but combined with HB 1312 creates opportunity for many borrowers.**

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.fcsdirect.com](http://www.fcsdirect.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)