

2013 HOUSE FINANCE AND TAXATION

HB 1396

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1396
February 5, 2013
Job #18292

☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to reassessment of property that has been sold for less than its most recently assessed true and full value.

Minutes:

Attached testimony #1, 2, 3, 4, 5

Chairman Belter: Opened hearing on HB 1396.

Representative Koppelman: Introduced bill. I believe HB 1396 is clear common sense legislation. The bill says that if you purchase a home or sell a home and the assessed value on the tax statement for that home as long as it's a long arm's length transaction (you're not selling it to your brother in law or nephew for a bargain basement price) the assessed value must be lowered if its higher than the sell price. I know our assessors around the state work very hard to implement a well thought out formula to determine a fair market true and full value piece of property. One way to do that is by using a formula by using comparable sales. Sometimes people will purchase a piece of property for a particular price then look at their tax statement and see it's valued for 10-20% higher than what they bought it for. We have taxpayers around our state that are paying more property taxes than they should as if it wasn't crippling enough already. Some of our assessors convinced the legislature that their formula was superior to the market place when their formula determines what the market place is. There is no clearer or better determinant of market value than what a willing buyer is willing pay and a willing seller is willing to accept. That by definition is the market price of something. This bill says that they must lower that assessed value of that property to the purchase price. There are exclusions in there for specials deals and things like that.

Vice Chairman Headland: If we were to pass this how does it impact the productivity formula that is used to put value on agriculture property?

Representative Koppelman: My guess is that it wouldn't affect it because agriculture land is valued for taxable purposes at a productivity factor not a sale price. This strictly deals with sale price which is the determinant in developing the assessed value for residential or commercial real estate.

Representative Owens: When you buy something more than what it is appraised for then is it reversed?

Representative Koppelman: The bill is really silent on that. Anecdotal evidence and experience I've observed as a citizen would seem to indicate the assessors are more eager to reassess property that's increasing in value than property that is decreasing in value. I'm not sure that we're missing much of the valuation with respect to taxation when markets are rising. I think we're more likely to have them linger high when the markets are going the other way and that's what this bill is trying to address.

Representative Trottier: In the case of buying lower than it is assessed the person assessing it has to go with a certified appraiser, correct?

Representative Koppelman: I don't know that for sure. The assessors could probably answer that. If the person paid less for a piece of property than it was assessed value on the tax statement was then when properties in the neighborhood were reappraised that sale would be part of the picture.

Representative Trottier: A city assessor told me the way to correct this is to hire a certified appraiser but that was \$700-800.

Representative Koppelman: I would just assume they would do the right thing rather than forcing people to do that.

Vice Chairman Headland: If I give my house to my daughter does she get away with the exemption?

Representative Koppelman: No. The bill talks about arm's length transactions and means that it's a normal sale between two, a buyer and a seller, who have no relationship to one another. If there are better things that need to be added to that I would certainly welcome that.

Vice Chairman Headland: I could sell it to her at an arm's length transaction for \$1.00.

Representative Koppelman: I'm not sure about that but I think the legal definition of arm's length was put in there was to avoid that kind of thing.

Chairman Belter: Further testimony in support for 1396? Any opposition to 1396?

Kevin Ternes, City Assessor in Minot: See attached testimony #1, 2, 3, and 4.

Chairman Belter: Further testimony in opposition to 1396?

Additional testimony distributed after the hearing from Debra Goodsell, Acting City Assessor in Bismarck. See attached testimony #5.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1396
February 6, 2013
Job #18444

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A Bill relating to reassessment of property that has been sold for less than its most recently assessed true and full value.

Minutes:

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Chairman Belter: Is there a motion?

Vice Chairman Headland: Made a motion for a Do Not Pass.

Representative Haak: Seconded.

Chairman Belter: Is there any discussion?

Representative Klein: I think the tax assessor from Minot explained that it would create another major problem and it wouldn't solve anything.

ROLL CALL VOTE FOR DO NOT PASS
13 YES 1 NO 0 ABSENT

Representative Haak will carry HB 1396.

Date: 2-6-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1396

House Finance and Taxation 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. Headland Seconded By Rep. Haak

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt		✓			

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Haak

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

REPORT OF STANDING COMMITTEE

HB 1396: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1396 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1396

2/5/2013

TO: Chairman Belter, and House Finance and Taxation Committee

FROM: Kevin Ternes, Minot City Assessor

Thank you for accepting my testimony regarding HB 1396.

This bill attempts to ensure that a property owner who purchases a property for less than the current assessment, will not be assessed for more than the sale price paid the following year. This at first sounds fair and reasonable. After all, why would anyone be assessed for more than the prior year's sale price? Generally, nobody should be. But I would like to offer a number of reasons why it could and does happen.

1. Many buyers improve the property with updates or new construction prior to even moving in or complete the improvements shortly after moving in. These improvements can be tens of thousands of dollars of improvements. To not allow the assessor to recognize that in effect freezes the assessment at something less than actual market value and gives this property owner a discount that nobody else in the same condo phase or neighborhood gets.

I'm specifically thinking of about fifty 4 plex apartment buildings in Minot in the same neighborhood. They were all built in the early 1960's. Many have been updated throughout the years and this effects the sale price based on updated ones selling for upwards as twice as much as the ones that are mostly original. If I buy an original one in the middle of winter, spend 30 days redoing it, I will be assessed at almost half of what the other updated ones are assessed at the following year. That's going to be extremely difficult to explain to the other taxpayers who are always checking to make sure that everybody is assessed equitably.

Motels quite often are sold at the end of their IRS depreciation schedules, meaning at that point they can be in tough shape. It is often better for them to sell to another investment group who can then remodel the structure and take the capital expenses on their income taxes. This proposal would not allow the assessor to recognize the significant increase in market value on a newly renovated motel for example the following year thereby giving this one motel a tax advantage over competing properties.

2. Oftentimes similar properties sell for different prices depending on the time of the year or what is available for sale at the time a buyer makes a purchase. It is not uncommon at all that **similar** houses or condominiums sell for **different** prices in the same year. This bill would cause different assessments to be applied to similar properties. I'm concerned that different assessments on similar properties is not going to be seen by taxpayers as a positive step toward property tax reform. (handouts)

The bill also would mandate various adjustments downward from the most recent selling price based on costs that were incurred by the buyer in the transfer of the property. For instance the bill specifically mentions special assessments. This bill does not fully encompass the issue of special assessments. If two homes are sold in the same year and one sells for \$200,000 plus \$20,000 in specials to be assumed, and the home next door sells for \$220,000 but no specials are assumed because the seller paid them off a couple of years prior because he didn't want to pay interest on the specials.....how do we assess these two homes?

Didn't they both in essence pay \$220,000 dollars? This bill proposes we now assess one at \$180,000 (\$200,000 less \$20,000, because that's what line 13 states in the bill) but the second house is assessed at \$220,000? Wouldn't this give us two similar homes assessed at \$40,000 different?

HB 1396 also would require the actual sale price "must be reduced by the amountof mortgage points, or other costs traditionally borne by the purchaser ...". Would this include realtor fees? As home sellers become more sophisticated with more and more online information, many properties are being sold without the use of a realtor. And quite often they are selling their homes for the same price as those who chose to have a realtor to do all the showing and selling. But would this bill require two similar homes that sold for about the same price, one with a realtor and one without, to be assessed at different levels?

Regarding the effective date of the bill on line 18, all city and county assessments will have been completed, local and county boards of equalization will have already met and the assessment totals will already have been used by city and county finance departments in budget considerations.

Thank you for your consideration of these concerns as they relate to fairness and equity in our property tax assessment process.

#1 p. 2



**Sold in December
2011 for \$149,900**

2829 North Broadway. Sold when new on 12/11/2008 for \$98,900
Resold on 12/16/2011 for \$149,000.



**Sold in November
2011 for \$139,900**

2725 North Broadway, Sold when new on 6/9/2008 for \$100,900.
Resold on 11/4/2011 for \$139,900.

Twinhomes



\$201,483 2/15/2012

973 Sq Ft



\$204,485 1/23/2012

973 Sq Ft



\$201,737 10/24/2011

972 Sq Ft



\$194,771 10/17/2011

972 Sq Ft



\$203,275 2/15/2012

972 Sq Ft



\$208,287 2/10/2012

972 Sq Ft

Flooded single family homes



\$80,600 8/8/2012

1,178 Sq Ft



\$110,200 10/25/2012

1,178 Sq Ft



\$120,333 1/28/2013

1,178 Sq Ft



\$265,963 11/16/2011

1460 Sq Ft



\$276,686 10/31/2011

1460 Sq Ft



\$286,155 11/14/2011

1460 Sq Ft



SE Minot \$241,522 6/29/2011 (Pre-Flood)

1416 Sq Ft

Testimony to the House Finance & Taxation Committee

Chairman Wesley R. Belter

HB 1396

Debra Goodsell, Acting City Assessor

City of Bismarck

dgoodsel@nd.gov

February 5, 2013

House Bill 1396

Mr. Chairman, my name is Debra Goodsell and I am the Acting City Assessor in Bismarck.

I would like to offer the concerns that I have regarding this bill.

My concern is "What is an Arms length Transaction" and who would decide if a sale is an arm's length transaction. We have sales that sold at Auction, which we do not consider an arm's length transaction by State law, however the buyer is adamant the price is a realistic price because it had been advertised for sale, was an open auction sale and the property appraised for finance purposes for the purchase price the buyer paid. I feel that there would have to be unambiguous and stringent definitions and guidelines as to what an arm's length transaction is. There are also properties that list a selling price, but there are conditions that "transfer under the table" that no one knows about. This should be considered part of the sales price making it an unusable sale. If the buyer doesn't inform us of these transactions, the sales price is not accurate. With so many variables for "sales prices," it would be virtually limitless as to how to determine what a legitimate sale price is.

My next concern has to do with special assessments, mortgage points or other costs traditionally borne by the purchaser paid for by the seller. If a developer pays for improvements such as the streets and lights, sells the property, would that be considered a cost that we should subtract from the sales price even though they are not "special assessments." The developer may build two similar homes, one in an area that he puts the improvements in which he would sell for more and one where

the City puts the specials in which would sell for a different price. We have asked several buyers what they paid for their home, and a lot of them don't really know what they paid for the property. When asked what they paid for a property, they will give you the bottom line of a closing cost statement, after all taxes are prorated, and credits or debits are made. An agreed upon purchase price between a buyer and seller often changes many times. Would it be fair to value two properties that are alike differently, just because one buyer isn't as savvy a negotiator as the next person?

This proposed legislation would cause many inequities in the equalization process with no reliable methods of getting the required information from the purchasers.

P. 57