

2021 HOUSE FINANCE AND TAXATION

HB 1136

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1136
1/20/2021

A bill relating to the disposition of proceeds from tax lien foreclosures.

Chairman Headland opened the hearing at 9:00am. Roll call:

Representatives	Present
Representative Craig Headland	P
Representative Vicky Steiner	P
Representative Dick Anderson	P
Representative Glenn Bosch	P
Representative Jason Dockter	P
Representative Sebastian Ertelt	P
Representative Jay Fisher	P
Representative Patrick Hatlestad	P
Representative Zachary Ista	P
Representative Tom Kading	P
Representative Ben Koppelman	P
Representative Marvin E. Nelson	AB
Representative Nathan Toman	P
Representative Wayne A. Trottier	P

Discussion Topics:

- Proceeds received from a foreclosure auction due to delinquent taxes

Representative Kiefert introduced the bill (9:00am). Testimony #1865.

Mike Montplaisir, Cass County Finance Director, testified in opposition. Testimony #1364.

Chairman Headland closed the hearing at 9:29am.

Mary Brucker, Committee Clerk

House Bill 1136

Chairman Headland and members of the House Finance and Taxation Committee, for the record I'm Representative Dwight Kiefert from District 24.

Today we are looking at House Bill 1136 that is to address the proceeds received from a foreclosure auction due to delinquent taxes.

Beginning on page 1, line 12 through 17 we are striking the words, ~~general fund of the county~~, so it reads as follows:

“If the property was sold for an amount sufficient to cover all outstanding taxes and special assessments, tax receipts must be written for all such years, and any remaining amount in excess of the amount listed in the notice of foreclosure of tax lien must be credited to the owner of the record title of the real estate listed in the notice of foreclosure of tax lien.”

Previously, these funds went to the general fund of the County.

Then beginning on line 22 we are striking, “~~all taxes and special assessments are,~~ and striking ~~county~~ from line 23, and striking ~~general fund,~~ from page 2 line 1, then adding verbiage so it reads beginning on line 21 on page 1.

“Any payment under the contract after the amount listed in the notice of foreclosure of tax lien is paid must be credited to the owner of the record title of the real estate listed in the notice of foreclosure of tax lien.”

Mr. Speaker, may I continue?

Chairman Headland and members of the committee, have you ever gone to the mail box only to receive a letter of bad news?

How would you like to get a letter from your county tax person saying that you are delinquent on your real estate taxes and the county is seizing your house or property and intend to sell your property to the highest bidder on the court house steps to settle your tax delinquency?

The letter goes on to explain that they are also going to keep any proceeds over and above what they receive to

satisfy your delinquent taxes. You are going to lose everything you have invested in the property. It doesn't matter the amount delinquent or the reason why, you just lost your property.

Sound like a nightmare? Well it has been for over 500 North Dakota families since 2013 to 2019

It doesn't seem like this is possible but current ND laws allow the counties to do this. ND is among 12 states that still continue this process of legalized robbery.

This practice last year was declared Unconstitutional by the Michigan Supreme Court.

2013 in Williams County, Leane and Kris Glasoe lost their childhood home over a tax bill less than 4% of the home's value. They filed a case against the county for failure to properly notify them of the tax debt, but they were unable to reclaim the house or the equity their parents left them.

2018, Pembina County Resident Kevin Juhl, residing in the city of Drayton, received a letter from the County Auditor's office that their home had been seized due to delinquent taxes and was going to be sold at public

auction with all the proceeds going to the county's general fund. In pleading with the county auditor they said they would sell their house back to them for \$45,000

I would say this is border line extortion.

How much you are delinquent or why doesn't matter, you might have wrote the check out for the wrong amount, failed to pay late fees, failed to pay the penalties, if its only a few dollars the County has the right to foreclose and keep all the proceeds, even if its only a few dollars.

If you took someone to small claims court, the judge would never award you more than what you are owed.

Then why should we allow the county to not only keep the taxes and interest owed, but all the equity in a person's home too?

We really can't put all the blame on the County Government, because we, the Legislature gave them the right to do this.

Government should protect private property, not enable state-authorized theft. When a government takes property, sells it, and keeps all the proceeds beyond

what's owed, that government is stealing money from some of its poorest residents. That stolen equity could keep many families out of poverty.

This bill will not prevent a county from foreclosing and selling property for delinquent taxes, but it will stop the practice of the County pocketing the entire sale.

The County in opposition to this bill will say, this practice doesn't happen, between 2013 and 2019 it's happened to 500 families in ND.

They might say they depend on this income, after saying it doesn't happen.

How can they justify taking it all, when they are owed just a little?

They can say it's all perfectly legal, and we can only blame ourselves, the ND Legislature, for allowing this to go on.

Thank you Chairman Headland and Committee Members, I will stand for questions.

Written Testimony To
THE HOUSE FINANCE AND TAXATION COMMITTEE
January 20, 2021
By Michael Montplaisir, Cass County Finance Director
Cass County Government

REGARDING HOUSE BILL 1136

Mr. Chairman and members of the House Finance and Taxation Committee, I am Michael Montplaisir, Cass County Finance Director. House Bill 1136 affects the disposition of proceeds of tax sales when the amount received is in excess of the charges against the property. Currently any proceeds in excess of the charges against the property by law is credited to the General Fund of the County.

When we serve notices of foreclosure on property, we serve the owners, mortgage holders, lien holders and judgement holders. Sometimes we service upwards of ten to fifteen people when sending notices on a property. The threat of loss of their mortgage prompts lenders to work with their customers to advance them funds for the taxes to avoid losing their mortgage in a tax sale. This allows the customer and the mortgage holder to work out a payment plan, and if all else fails the mortgage holder can foreclose on the property.

We take property in a tax actions, we are **not** in the business of taking and selling property to make money for the county, we take and sell property to recover taxes and costs that are unpaid by the owner. The loss of any revenue to the county by this change in law is not an overriding concern. However, there are some other problems.

As mentioned above the threat of a mortgage companies loss of their mortgage is a motivating factor in making sure the property owner pays the taxes, to the point where the mortgage company may add on to their loan to pay the taxes. We may end up with more foreclosures as a result.

If we return the excess to the owner, the mortgage company and lien holders may have to sue the former owner to get any share of that excess proceeds.

We may be held liable for not getting as much for the property as the former owner, or their mortgage company thinks it is worth, we are not real estate agents, we don't "market" these properties, we auction them off at a public auction.

In recent years we have seen an increase in the foreclosure of properties where the former owner is deceased. In our 2019 sale, four of the properties sold had deceased owners, in the 2020 sale one of the properties had a deceased owner, no estate were filed in any of these cases.

The current system works; if the legislature is concerned that counties receive the excess funds, make the requirement that the excess funds be deposited with the Clerk of Court and allow people to make a claim on the funds. The county could provide the Clerk with listing of the former owner, mortgage, lien, and judgment holders of record. The court system is better equipped made legal decisions as which parties are entitled to the excess funds. After a period of time, excess funds that are unclaimed or distributed could be returned to the county for deposit into the General Fund.

I urge a Do Not Pass on House Bill 1136

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1136
1/25/2021

A bill relating to the disposition of proceeds from tax lien foreclosures.

Chairman Headland opened up for discussion at 2:33pm.

Representatives	Present
Representative Craig Headland	P
Representative Vicky Steiner	P
Representative Dick Anderson	P
Representative Glenn Bosch	P
Representative Jason Dockter	P
Representative Sebastian Ertelt	P
Representative Jay Fisher	P
Representative Patrick Hatlestad	P
Representative Zachary Ista	P
Representative Tom Kading	P
Representative Ben Koppelman	P
Representative Marvin E. Nelson	P
Representative Nathan Toman	P
Representative Wayne A. Trottier	P

Discussion Topics:

- Disposition of proceeds from tax lien foreclosures
- Proceeds received from foreclosure auctions due to delinquent taxes

Representative Dockter made a motion for a Do Not

Pass. Vice Chairman Steiner seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	N
Representative Jay Fisher	AB
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	AB

Representative Ben Koppelman	AB
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Motion carried 10-1-3

Representative Ista will carry this bill on the floor.

Meeting adjourned at 2:37pm.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1136: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO NOT PASS (10 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1136 was placed on the Eleventh order on the calendar.