

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
PROPERTY TAX MEASURE REVIEW COMMITTEE
INITIATED CONSTITUTIONAL MEASURE NO. 2**

AUGUST 15, 2011

Chairman Drovdal, members of the Property Tax Measure Review Committee, I am Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division for the Office of State Tax Commissioner. I am here today to provide information on statutory provisions relating to nonpayment of property taxes, homestead credit, and concerns about the initiated measure.

Property Tax Due Dates – Penalties and Interest

All real and personal property taxes and yearly installments of special assessments become due on the first day of January following the year for which the taxes were levied. A 5 percent discount is allowed if all of the real estate taxes levied on a parcel in any one year are paid in full on or before February 15 prior to the date of delinquency. The first installment of real estate taxes, all personal property taxes, and yearly installments of special assessments become delinquent after the first day of March and are subject to penalty as follows:

March 2	3 percent penalty
May 1	3 percent penalty
July 1	3 percent penalty
October 15	3 percent penalty

From January 1 of the following year, simple interest accrues at the rate of 12 percent per annum. The second installment of real estate taxes becomes delinquent after October 15 and is subject to a penalty of 6 percent.

Delinquent Taxes – Real Property.

Between November 1 and 15 of each year, the county treasurer mails a notice to each owner of property having delinquent taxes, stating that unless the delinquent taxes and special assessments with penalty and interest and costs established under subsection 5 of § 57-28-04 are paid by October 1 of the second year following the year in which the taxes became delinquent, the county auditor will foreclose on the tax lien and issue a tax deed to the county.

On or before June 1 of each year, the county auditor gives notice of foreclosure of tax lien for all property on which two or more years have passed since the tax became due. The notice includes the description of the property; the amount of delinquent property taxes and special assessments with penalties, interest, and foreclosure costs, for the tax year foreclosed; the total amount required to satisfy the property tax lien; and the time when the foreclosure will occur.

If the current assessment shows a residential building is located on the property, the notice must be delivered personally to the owner, if known to be a resident of this state. If the owner is a nonresident, the notice must be sent by certified mail to the owner at the owner's last-known address. If there is no residential building located on the property, the notice must be sent by certified mail to the owner at the owner's last-known address. The notice must be served personally upon any person actually residing upon the property subject to tax lien and upon any tenant or other person entitled to possession of the property, shown in the records of the recorder.

Notice of foreclosure of tax lien must be served upon each mortgagee, lienholder, and other person with an interest in the property. The county auditor must serve notice of foreclosure by publication for all property for which notice of foreclosure is served upon the owner by certified mail. The expense of service of the notice, publication, and other foreclosure costs in the amount of \$50 must be added to the amount required to satisfy the tax lien.

Effect of failure to satisfy tax lien.

If the lien is not satisfied before the date of foreclosure, any interest of the owner, mortgagee, or lienholder in the property passes to the county. All rights of satisfaction are foreclosed. All errors, irregularities, or omissions which do not affect the substantial rights of the parties, except jurisdictional defects, are waived. The county auditor issues a tax deed to the county, or if the state engineer has made an assessment against the property, to the state engineer, or if the property was sold by another political subdivision of this state within the ten years preceding the foreclosure, to that political subdivision.

Annual sale.

The board of county commissioners must appraise all property acquired by the county by tax deed and hold a hearing to hear objections to the minimum sale prices determined. The annual sale of land acquired by tax deed must be held at the county auditor's office or the usual place of holding district court in the county beginning on the third Tuesday in November of each

year. Each parcel of land must be sold at auction to the highest qualified bidder for no less than the minimum sale price as fixed before the sale.

Any property not sold at the annual sale may be sold by the county auditor at private sale before the next annual November sale for not less than the property's minimum sale price. Any property acquired by the county which is subject to a special assessment lien for improvements made by a city may be sold to that city for cash at any price agreed upon by the board of county commissioners and the governing body of the city, prior to a sale to any other party.

Rights of Repurchase.

The former owner; the former owner's executor or administrator; or the parent spouse, or child of the former owner may repurchase any property forfeited to the county under tax deed proceedings, so long as the tax title to the property remains in the county. The consideration of the repurchase contract with a private party must include the total amount required to be paid to effect a satisfaction of tax lien; and the total amount of all subsequent taxes and special assessments with interest, penalties, and costs.

Mobile Home Taxes - Due Dates – Delinquency

Although mobile homes taxes are in lieu of property tax, they are included here because they are levied and distributed similarly to property taxes, and mobile homes serve as residences for a significant number of people.

Mobile home taxes are due on January 10 of each year or ten days after the mobile home is purchased or first moved into North Dakota. A 5 percent discount is allowed if the tax is paid in full by February 15 or if the tax is paid in full within 30 days after the mobile home is purchased or first moved into North Dakota.

The tax may be paid in two equal installments if the amount of tax is \$40 or more. The first installment is due on January 10. It becomes delinquent on March 1 and subject to a penalty of 2 percent, and additional 2 percent on April 1, and additional 2 percent on May 1, and an additional penalty of 2 percent on June 1. The second installment is due June 1, is delinquent and subject to a penalty of 2 percent on July 1, an additional 2 percent on August 1, an additional 2 percent on September 1, and an additional 2 percent on October 1. If any tax remains due after January 1 of the next year, interest is due at the monthly rate of $\frac{1}{2}$ percent for each month or fraction of a month.

If the mobile home tax is not paid within 40 days it is subject to 1 percent penalty and interest of ½ percent for each full and fractional month of delay.

If the director of tax equalization determines that any person is not complying with the provisions of N.D.C.C. ch. 57-55, the director shall give the person a warning that if the person fails to comply within ten days, the tax director may begin civil action against the person. If the tax director determines there are mobile homes in the county belonging to transients or nonresidents who have failed to comply, and in the director's opinion the taxes will be uncollectible if immediate action is not taken, the director shall notify the county sheriff. The sheriff shall commence proceedings to collect the taxes, penalties, and interest, if any, which are due.

Provisions relating to delinquent taxes on public utility property.

For purposes of assessment and taxation and the collection of taxes, the property of a company assessed under N.D.C.C. ch. 57-06 must be considered personal property. When any of the taxes become delinquent, the county treasurer shall proceed to collect them in the manner provided by law for collection of delinquent personal property taxes. If collection is made by seizure and sale, the sale must be at public auction held at the county courthouse.

Provisions relating to delinquent taxes on air transportation company property.

Property taxes levied on air transportation company real property are paid to the Tax Commissioner and allocated to cities and municipal airport authorities where air transportation companies make regularly scheduled landings. Taxes are due on April 15 and, if not paid by the first day of May, are subject to 2 percent penalty; an additional 2 percent penalty on June 1; and additional penalty of 2 percent on July 1; and an additional penalty of 2 percent on October 15. After January 1 of the year following the year in which the taxes become due and payable, simple interest of 12 percent per annum is charged, prorated to the nearest full month of delinquency. Provisions of law respecting delinquency of personal property assessments are applicable to assessments and taxes on air transportation real property.

If any tax has not been paid by October 1 of the year following the year of delinquency, the state tax commissioner shall seize personal property belonging to the company found within this state, sufficient to pay the amount of tax with penalty and interest.

Homestead Credit.

I have been asked to provide information on the Homestead Credit program over the past two bienniums. There are three parts to the program: a reduction in the taxable value of the homestead of a qualifying homeowner; a credit against special assessments levied on the homestead of a qualifying homeowner; and a refund of a portion of rent paid by a renter that is deemed to represent property tax. The special assessment credit becomes a lien on the property that must be satisfied before the property can be transferred. Few individuals take advantage of that part of the program.

2007-2009.

During the 2007-2009 biennium, the following qualification requirements were in place for homeowners claiming credit:

- At least 65 years of age, or permanently and totally disabled.
- Reside on and have an interest in the property for which credit was claimed.
- Total annual income from all sources, after deduction of out-of-pocket medical expenses, of applicant and spouse if married could not exceed \$17,500.
- Homeowners' assets, excluding the first unencumbered \$100,000 market value of the homestead, could not exceed \$50,000.
- Maximum credit allowed was a reduction of \$3,375 of taxable value (represents \$75,000 of true and full value). A reduction of 20, 40, 60, 80, or 100 percent was available, depending on the level of the applicant's income.

Renters had to meet the same requirements except for ownership and the asset test. There is no limit on a renter's assets. If 20 percent of rent paid for living quarters exceeded 4 percent of the applicant's income after deduction of out-of-pocket medical expenses, the difference was the refund amount, up to a maximum of \$240.

The original appropriation for the 2007-2009 biennium was \$4,500,000. SB 2032 expanded the program and included an additional \$3,604,000 appropriation, for a total of \$8,104,000. A total of \$5,329,198 was spent for 7,366 homeowners and 4,049 renters.

2009-2011.

In 2009, the following changes were made by SB 2402:

- Maximum income after medical expenses was increased to \$26,000.

- Homeowners' assets excluding the first \$100,000 of market value of the homestead cannot exceed \$75,000.
- Maximum credit allowed is \$4,500 of taxable value (represents \$100,000 of true and full value).
- The renter's refund was increased to a maximum of \$400.

The original appropriation for the 2009-2011 biennium was \$5,964,000. When SB 2402 expanded the program, a fiscal note was prepared but no additional appropriation was made. In 2011, SB 2023 included an additional appropriation of \$1,349,000. When that was found to be insufficient, the Emergency Commission approved another \$150,000, for a total appropriation of \$7,463,000. A total of \$7,423,660 was spent for 8,428 homeowners and 4,767 renters.

2011-2013.

The appropriation for the 2011-2013 biennium is \$8,792,788. No changes to the program were made.

Additional concerns about the initiated measure.

If property taxation is abolished in North Dakota, it is likely that individuals and businesses that enjoy property tax exemptions, whether mandatory or discretionary, will want some kind of favorable treatment regarding other taxes they are required to pay, to provide them with benefits similar to those they experienced with property tax exemptions. Attached to my testimony is a list of property tax exemptions currently in place.

This concludes my prepared testimony. I will try to answer any questions.

Real Property Exemptions

Authorized by North Dakota Century Code

As of July 2011

§ 15-17-06

Property of an institutional holding association.

§ 23-11-29

Property owned by a housing authority.

Ch. 40-57.1

Property tax exemption for new and expanding businesses, maximum of 5 years, except maximum of 10 years if manufacturing a product from agricultural commodities.
Exemption up to 10 years available if project operator leases government-owned real property.

§ 40-63-05

Exemption up to five years for residential or commercial property, exclusive of land, purchased or rehabilitated as a renaissance zone project.

§ 57-02-08 – Subsection:

1. Property owned by the United States.
2. Property owned by the State of North Dakota.
3. Property belonging to a political subdivision and leasehold interest in property leased by a political subdivision from another political subdivision.
4. Property of Indians if title is inalienable.
5. Burying grounds and cemeteries.
6. Property belonging to schools, academies, colleges, or other institutions of learning.
7. Repealed.
8. Buildings and land belonging to institutions of public charity and used for charitable purposes. Excludes property that is residential rental units leased to tenants based on income levels that enable the owner to receive a federal low-income housing income tax credit.
9. All buildings owned by any religious corporation or organization and used for the religious services of the organization, and if on the same parcel, dwellings with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, land directly under and within the perimeter of those buildings, improved off-street parking or reasonable landscaping or sidewalk area adjoining the main church building, and up to a maximum of two additional acres must be deemed to be property used exclusively for religious services, and exempt from taxation, whether the real property consists of one tract or more. If the residence of the bishop, priest, rector, or other

§ 57-02-08 – Subsection: (cont.)

minister in charge of services is located on property not adjacent to the church, that residence with usual outbuildings and land on which it is located, up to two acres, is exempt from taxation. The exemption of a building used for the religious services of the owner continues to be in effect if the building in whole, or in part, is rented to an otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.

10. Property of an agricultural fair association.
11. Property owned by lodges, chapters, commanderies, consistories, farmers' clubs, and like organizations, used by them for places of meeting and for conducting their business.
12. Repealed.
13. All land used as a public park or monument ground belonging to any military organization.
14. National Guard armory and land or lots upon which situated.
15. All farm structures and improvements located on agricultural lands.
Farm residences must meet additional criteria to qualify for exemption.
16. Property of a nonprofit corporation organized under the laws of this state for promoting athletic and educational needs and uses at any state educational institution in this state.
17. Moneys and credits, except capital in direct competition with bank stock.
18. Repealed.
19. Repealed.
20. a. Homestead structures and improvements owned by a paraplegic disabled veteran or veteran who has been awarded specially adapted housing;
b. Permanently and totally disabled person confined to a wheelchair.
21. Repealed.
22. Structures and improvements owned and occupied as a home by a blind person.
23. Structural improvements other than pavement or surfacing used as an automobile parking lot within a city.
24. Repealed.
25. All personal property except:
 - a. personal property of entities, other than railroads, assessed by the state board of equalization.
 - b. Any property subject to a tax in lieu of ad valorem tax.
 - c. Any kind of personal property, including mobile homes, that is subjected to a tax pursuant to any other provision of law.
26. Structures and improvements owned and occupied as a homestead by a paraplegic disabled person with limited income.
27. Equipment designed to provide heating, cooling, or to produce electrical or mechanical power by utilization of solar, wind, or geothermal energy.
28. All structures and improvements owned by a cooperative or nonprofit corporation to furnish potable water for uses other than irrigation.
29. Property owned by a city and leased to an entity described in subsection 8 or subleased to a public school district for educational purposes.
30. Property other than residential owned by an organization described in section 9 and leased to a public school district for educational purposes.
31. Group homes.
32. Minerals in the earth which at the time of removal are subject to taxes imposed under chapter 57-51, 57-61, or 57-65.
33. Property used for athletic or recreational activities owned by a political subdivision and leased to a nonprofit corporation organized for the purpose of promoting public athletic or recreational activities.

§ 57-02-08 – Subsection: (cont.)

34. Any building on state land used at least in part for academic or research purposes by students and faculty of a state institution of higher learning.
35. Up to \$150,000 of true and full value of new single-family and condominium and townhouse residential property exclusive of land for two years.
36. Structures and improvements used for early childhood education or as an adult day care center – not available for property used as a residence.
37. A pollution abatement improvement.
38. The leasehold interest in state-owned property leased for pasture or grazing purposes or upon which payments in lieu of taxes are made by the state.
39. All property including any possessory interest therein relating to any waterworks, mains, and water distribution system leased to the state or private entity, operated by or providing services to a municipality, other political subdivision, or agency of the state, or its citizens.
40. All property including any possessory interest therein relating to any sewage systems and facilities for collection, treatment, purification, and disposal in a sanitary manner of sewage leased to the state or private entity, operated by or providing services to a municipality, other political subdivision, or agency of the state, or its citizens.
41. All property including any possessory interest therein leased to a private entity pursuant to section 54-01-27, which property is operated by or providing services to the state or its citizens.
42. New single-family residential property exclusive of land for the year in which construction began and for the next two years, while owned by the builder and unoccupied.

§ 57-02-08.1

Homestead of a person 65 years of age or older, or a permanently and totally disabled person, with total income of not more than \$26,000 and assets of not more than \$75,000, excluding the first \$100,000 unencumbered value of the homestead, up to a maximum taxable valuation of \$4,500, depending on the person's income. The state reimburses political subdivisions for lost revenue.

§ 57-02-08.3

A person who qualifies for homestead credit under § 57-02-08.1 may elect to also qualify for an additional homestead credit for the portion of any special assessment on the homestead that becomes due for the same year. The state reimburses the political subdivision levying the special assessment for the amount of the installment.

§ 57-02-08.7

Leasehold interest in state-owned property if used primarily for tourism or concession purposes

§ 57-02-08.8

A disabled veteran of the United States armed forces with a service-connected disability of 50 percent or greater or a disabled veteran who has an extra-schedular rating to include individual

unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs is eligible for a credit against the first \$5,400 of taxable valuation of fixtures, buildings, and improvements of the homestead, equal to the percentage of the disabled veteran's disability compensation rating for service-connected disabilities as certified by the department of veterans affairs for the purpose of applying for a property tax exemption. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a 100 percent exemption. The state reimburses political subdivisions for lost revenue.

§ 57-02-10

Inundated and highway easement lands.

§ 57-02-26(3)

Property owned by the state and held under a lease and any structure, fixture, or improvement located on that property is not taxable to the leaseholder if the structure, fixture, or improvement is used primarily for athletic and educational purposes at any state institution of higher education.

Chapter 57-02.2

Improvements to commercial and residential buildings, maximum of 5 years.

§ 57-32-01.2

Personal property of air carrier transportation companies.

Property that makes payments in lieu of ad valorem taxes (§ 57-02-08(25)(b))

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| § 10-06.1-10 | Farmland or ranchland owned by certain nonprofit organizations for conservation purposes. |
| § 37-07.3-04 | Land owned by the North Dakota National Guard. |
| § 40-57.1-03 | Structures and improvements of a new or expanding business, in lieu of or in addition to a property tax exemption, up to 20 years. |
| Ch. 57-02.1 | Game and fish department land. |
| Ch. 57-02.3 | Property owned by the board of university and school lands or the state treasurer. |
| § 57-06-17.2 | Carbon dioxide pipeline, excluding land, while under construction and for the first ten years of operation. |
| § 57-06-17.3 | New transmission line property that is not taxable under ch. 57-33.2 and is initially placed in service after October 1, 2002. |
| Ch. 57-33.2 | Property, other than land, of rural electric cooperatives and other electric companies that opt for taxation under this chapter. |
| § 57-57-06 | Woodlands that pay the forest stewardship tax. |
| Ch. 57-60 | Coal conversion facilities. |
| § 61-02-24.2 | Land acquired by the State Water Commission for the Devils Lake outlet |
| § 65-02-31 | Building and land owned by Workforce Safety and Insurance. |

§ 23-11-29

Exempts property of a housing authority used for low-income housing (authority may make payments in lieu of taxes).

Property of an authority used for moderate income housing is exempt – no provision for payments in lieu of taxes..

Exemption available but not in use:

§ 57-02-08.4

Conditional exemption of wetlands. This exemption is available only if there is money in the fund for reimbursement to the counties. There is no money in the fund, so no exemptions are available under this section.