

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