2021 HOUSE FINANCE AND TAXATION

HB 1199

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1199
1/20/2021

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

Chairman Headland opened the hearing at 9:30am. 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 from tax lien foreclosures
- Home equity

Representative K. Koppelman introduced the bill (9:35am). Testimony #1892.

Daniel Dew, Legal Policy Director at the Pacific Legal Foundation, testified in support. Testimony #1896.

Representative K. Koppelman further explained the bill.

Cale Dunwoody, on behalf of Americans for Prosperity-North Dakota, testified in support. Testimony #1887.

Mike Montplaisir, Cass County Finance Director, testified in opposition. Testimony #1367.

Chairman Headland closed the hearing at 10:01am.

Mary Brucker, Committee Clerk

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Kim Koppelman
District 13
513 First Avenue NW
West Fargo, ND 58078-1101
B: 701-492-7317
kkoppelman@nd.gov

Speaker of the House

1-20-2020

Testimony in Support of HB 1199

Before the House Finance and Taxation Committee

Mr. Chairman and Members of the Committee,

I bring House Bill 1199 before you today to correct an injustice in North Dakota law which can rob our state's citizens of their hard-earned equity in their homes, which often represents their life savings or retirement nest egg.

Under current law, if property is sold due to unpaid back taxes, not only can the local government, understandably, recoup the taxes it is due, the government can actually keep the entire proceeds of the sale!

Let's consider what this means. If you owned a home worth $250,000, on which you had a $50,000 balance on your mortgage, for example, and ran into difficult financial times and were unable to pay your taxes or a portion of them for two years (the point at which, under current law, such a sale can occur). Suppose that the county decided to foreclose and sell your home to collect those back taxes, not only would you be out of your home, not only would the government collect all it is due in back taxes, penalties and interest due, but under current law, the government could also keep the entire proceeds of the sale.

In other words, you could lose the entire $200,000 of equity which you had in your home! The quick turn-around—two years rather than the 5 years we previously had in law—exacerbates the problem. Surely anyone can come upon hard times, financially, and, under North Dakota law, quickly lose not only their home, but also all the equity they've built up in it.

I'm sure that you'll agree that this is simply wrong.

House Bill 1199 will correct that by both allowing the government all it is due—back taxes, penalties, interest, and even their costs incurred in the sale process—but will ensure that our citizens are never in fear of being robbed of their property, as well. I respectfully encourage you to give it a "Do Pass" recommendation.

Thank you.

Chair Headland, Vice Chair Steiner, and members of the Finance and Taxation Committee, my name is Daniel Dew, and I am the legal policy director at the Pacific Legal Foundation. PLF is a nonprofit law firm dedicated to individual rights and limited government. And lest the "Pacific" in our name gives you pause, PLF was founded in 1973 by then-Governor Ronald Reagan's staff to protect property, economic, speech, and other individual rights from government overreach. We have a dozen wins before the United States Supreme Court and the Court just accepted another one of our cases for argument and decision this spring.

Thank you for taking the time to address an egregious practice that we have labeled "Home Equity Theft" in House Bill 1199 and allowing me to testify in favor of the bill.

When a debt is owed, it should be paid. And an entity that is owed a debt needs a mechanism to collect that debt. For example, when a person defaults on a mortgage, the bank can foreclose, sell the property, and take what the bank is owed. Anything recovered beyond the debt and costs associated with collecting the debt is returned to the former property owner.

Local government is—or at least should be—no different. Local government relies on property tax revenues to operate and cannot be left without recourse when a person does not pay. Like a bank, counties can foreclose upon homes where the owner has defaulted on their property taxes. The difference between what banks and local governments can do in North Dakota and eleven other states is that regardless of how small the debt or large the recovery, the county keeps it all.

A debt is a debt but collecting more than what is owed is theft. Even under a retributive form of justice that demands "an eye for an eye, and a tooth for a tooth," the offended party cannot recover more than what will make him whole.

The state of Michigan earned the scorn of national headlines for its tax foreclosure law that, like North Dakota, allowed counties to take more than what was owed. Uri Rafaeli had his Michigan home taken over $8.41 in underpaid property taxes. The county sold the home for $25,000 and left our client with nothing. PLF challenged the case all the way up to the Michigan Supreme Court. The Court held that when a locality takes more than what it is owed, it is an unconstitutional taking of private property. Mr. Rafaeli wasn't the only person to lose his property. The Detroit News estimated that the Michigan Supreme Court's decision meant Michigan counties could be on the hook for one to two billion dollars in stolen equity.

Now, you are probably thinking to yourself that North Dakota is better than Michigan. And I am here to tell you that you are correct. As a native Ohioan, I would submit that pretty much anywhere is better than Michigan.

All joking aside, to the credit of North Dakota County Treasurers and Auditors, this does not seem to be as widespread a phenomenon as we've seen in other states – but home equity theft still does happen in North Dakota.

In a report we recently published on North Dakota home equity theft we highlight the story of the Juhl family. The Juhls were threatened with losing their home if they did not pay $45,000 to purchase their home back from the county after defaulting on less than $2,000 in back property taxes. Thanks to their diligence and friends, the Juhls were able to reclaim their home for the debt owed. Others are not so lucky.

In the data available for 86% of North Dakota's population, between 2013 and 2019 roughly 500 homes went through tax foreclosure for debts that were usually less than 5% (often less than 1%) of the home's value. Only about 80 of the 500 homes were sold to new owners. The data seems to confirm that, in most cases, the county sells the property back to the original owner for the taxes, fees, and interest owed.

The typical outcome is reasonable, but the data shows that as many as one out of six such homeowners are not so fortunate. During the administration of their parents' estate in Williams County in 2013, LeAnne and Kris Glasoe lost their childhood home over a tax bill of less than 4% of the home's value. LeAnne and Kris even brought 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 had left them.

North Dakotans should not have to rely on the uncertain benevolence of their county auditors to keep what they have rightfully inherited or earned. When county budgets get tight, new officials may feel a greater temptation to supplement revenues by selling tax-foreclosed properties to new owners and keeping the excess. With economic fallout from the pandemic and other uncertainties looming, it is not unthinkable that counties could be in a big enough pinch to succumb to such a temptation.

Constitutional rights protect individuals from government. Even one violation of rights is more than the constitution will allow. Changing laws to protect your constituents from even the threat of unconstitutional actions is not only worth your time but is your duty as an elected official who have sworn an oath to defend the constitution.

House Bill 1199 is a short bill that should have minimal impact on county officials. It allows counties to collect the tax debt along with interest, penalties, and recover any costs associated with selling the property to make the county whole. It also ensures that a lifetime of work and equity is not unconstitutionally taken by the state. I urge your support for House Bill 1199.

Thank you again for the opportunity to testify and I am happy to answer any questions the committee may have.

HB 1199
North Dakota House Finance and Taxation Committee
01/20/2021
9:30am

Good morning Chairman Headland and members of the House Finance and Taxation Committee. My name is Cale Dunwoody, and I am here on behalf of Americans for Prosperity-North Dakota. This morning I am testifying in favor of House Bill 1199, a bill relating to the disposition of proceeds from tax lien foreclosures. House Bill 1199 is a pre-emptive measure to prevent widespread Home Equity abuses in North Dakota. This bill minimizes the potential for government overreach and ensures our friends and neighbors are subject to proportional consequences. While Home Equity theft may not be quite as prevalent in North Dakota as in Michigan, there still exists the potential for abuse.

North Dakota is a place of common sense and we believe this bill is common sense. Counties need to satisfy any debts that may have accrued during a home foreclosure, but it is important for the homeowner to receive the remaining equity. Today, I am respectfully asking members of this committee to support this bill and keep North Dakotans' home equity in their pockets.

I will stand for any questions.

Respectfully,

Cale Dunwoody
Americans for Prosperity-North Dakota

#1367

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 1199

Mr. Chairman and members of the House Finance and Taxation Committee, I am Michael Montplaisir, Cass County Finance Director. House Bill 1199 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.

Much of my testimony on House Bill 1136 applies equally well to House Bill 1199.

The difference in the two bills appears to be that the mortgage holder, lien holder, judgment holder, or other interested party needs to take some action with the court system to have the proceeds deposited with the court instead of returned to the former owner. There is no timeline for the other parties to take court action – do we hold on to the excess funds for a specified period of time?

Again 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.

As mentioned in my earlier testimony on HB 1136, 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 was filed in any of these cases. How does a potential heir of these people prove a claim?

A better solution would be for the county to deposit all excess sales revenue with the court and let the legal process sort out who gets the excess funds.

I urge a Do Not Pass on House Bill 1136

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1199
1/25/2021

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

Chairman Headland opened up for discussion at 2:28pm.

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	AB
Representative Patrick Hatlestad	P
Representative Zachary Ista	P
Representative Tom Kading	AB
Representative Ben Koppelman	AB
Representative Marvin E. Nelson	P
Representative Nathan Toman	P
Representative Wayne A. Trottier	P

Discussion Topics:
- Representative K. Koppelman's proposed amendment 21.0528.02001.

Representative Dockter made a motion to adopt Representative K. Koppelman's amendment 21.0528.02001. Testimony #3100.

Representative Ertelt seconded the motion.

Voice vote-motion carried.

Representative Ista made a motion for a Do Pass As Amended.

Representative D. Anderson seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	N
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y

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 be the bill carrier.

Meeting adjourned at 2:33pm.

Mary Brucker, Committee Clerk

Do 1/25/2
1 of 1

21.0528.02001
Title.03000

Prepared by the Legislative Council staff for
Representative K. Koppelman
January 25, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1199

Page 1, line 17, after "lien" insert ", or to the decedent's estate if the owner of the record title of the real estate is deceased,"

Page 2, line 3, after "lien" insert ", or to the decedent's estate if the owner of the record title of the real estate is deceased,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1199: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1199 was placed on the Sixth order on the calendar.

Page 1, line 17, after "lien" insert ", or to the decedent's estate if the owner of the record title of the real estate is deceased,"

Page 2, line 3, after "lien" insert ", or to the decedent's estate if the owner of the record title of the real estate is deceased,"

Renumber accordingly

21.0528.02001
Title.

Prepared by the Legislative Council staff for
Representative K. Koppelman
January 25, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1199

Page 1, line 17, after "lien" insert ", or to the decedent's estate if the owner of the record title of the real estate is deceased,"

Page 2, line 3, after "lien" insert ", or to the decedent's estate if the owner of the record title of the real estate is deceased,"

Renumber accordingly

2021 SENATE FINANCE AND TAXATION

HB 1199

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1199
3/23/2021

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:25]

Discussion Topics:
- Homeowner equity
- Home sale proceeds
- Abandoned property

Representative K. Koppelman [10:25] introduces in favor #10540.

Michael Montplaisir [10:31] Cass County Government in favor and submits an amendment adding clarification words and time frames #10400, 10401 and 10543.

Daniel Dew [10:35] Legal Policy Director, Pacific Legal Foundation in favor #10142.

Cale Dunwoody [10:41] Grassroots Engagement Director - Americans for prosperity - North Dakota in favor #10539

Chair Bell adjourns the meeting. [10:42]

Joel Crane, Committee Clerk

#10540

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Kim Koppelman
District 13
513 First Avenue NW
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B: 701-492-7317
kkoppelman@nd.gov

Speaker of the House

3-23-2021

Testimony in Support of HB 1199

Before the Senate Finance and Taxation Committee

Madam Chairman and Members of the Committee,

I bring House Bill 1199 before you today to correct an injustice in North Dakota law which can rob our state's citizens of their hard-earned equity in their homes, which often represents their life savings or retirement nest egg.

Under current law, if property is sold due to unpaid back taxes, not only can the local government, understandably, recoup the taxes it is due, the government can actually keep the entire proceeds of the sale!

Let's consider what this means. Suppose that you owned a home worth $250,000, on which you had a $50,000 balance on your mortgage, for example, and ran into difficult financial times and were unable to pay your taxes or a portion of them for two years (the point at which, under current law, such a sale can occur) and suppose that the county decided to foreclose and sell your home to collect those back taxes. Not only would you be out of your home, not only would the government collect all it is due in back taxes, penalties and interest but, under current law, the government could also keep the entire proceeds of the sale.

In other words, you could lose the entire $200,000 of equity which you had in your home!
The quick turn-around—two years rather than the 5 years we previously had in law—exacerbates the problem. Surely anyone can come upon hard times, financially. Currently, under North Dakota law, that means that they can quickly lose not only their home, but also all the equity they've built up in it.

I'm sure that you'll agree that this is simply wrong.

House Bill 1199 will correct that. It will hold political subdivisions harmless by allowing the government all it is due—back taxes, penalties, interest, and even their costs incurred in the sale process. More importantly, it will also ensure that our citizens are never in fear of being robbed of their life savings while also losing their homes. I respectfully encourage you to give it a "Do Pass" recommendation.

Thank you.

#10400

PROPOSED AMENDMENTS FOR ENGROSSED HOUSE BILL No. 1199

Page 1, line 12, overstrike “original”

Page1, line 12, overstrike “without” and insert immediately thereafter “with”

Page 1, line 18, after “order” insert “within thirty days after the sale”

Page 2, line 5, after “order” insert “within thirty days after the sale”

Renumber accordingly

#10401

Written Testimony To
THE SENATE FINANCE AND TAXATION COMMITTEE
March 22, 2021
By Michael Montplaisir, Cass County Finance Director
Cass County Government

REGARDING HOUSE BILL 1199

Chairwoman Bell and members of the Senate Finance and Taxation Committee, I am Michael Montplaisir, Cass County Finance Director. I am in support of House Bill 1199 that changes the handling of excess proceeds of tax sales. I do, however, have a couple of suggestions on changes for clarity and to add a timeline on distribution of funds.

The intent of the bill is to first cover the taxes, special assessments, penalty, interest, and costs before distributing fund to the former owner or others. If that is the case, on line 12 of page 1, the word original should be removed. Also, the word “without” on line 12 and line 23 of page one should be replaced with “with”. Line 12 should have the word “interest” added after penalties to be consistent.

Current law allows the county to keep the penalty and interest, in addition to any excess proceeds. The change should require the county to distribute the penalty and interest to all political subdivisions the same as they would be distributed if the property owner paid the tax with penalty and interest.

The other change to consider is adding language to specify when the funds should be paid to the former owner, or other parties. The timeline would need to be included both line 18 of page 1 and line 5 of page 2. Adding the words “within (number of days) after the sale” following the word “order” on line of page 1 and line 5 of page 2 would clarify when it would be appropriate to remit funds to the former owner or other parties.

A preferred solution would be to deposit all excess sales revenue with the court and let all the parties apply to the court for their share of any excess funds.

I urge a Do Pass on House Bill 1199

#10543

PROPOSED AMENDMENTS FOR ENGROSSED HOUSE BILL No. 1199

Page 1, line 12, overstrike "original"

Page1, line 12, overstrike "without" and insert immediately thereafter "<u>with</u>"

Page 1, line 14, after "<u>penalties,</u>" insert "<u>interest</u>"

Page 1, line 18, after "<u>order</u>" insert "<u>within thirty days after the sale</u>"

Page 1, line 23, overstrike "without" and insert immediately thereafter "<u>with</u>"

Page 2, line 5, after "<u>order</u>" insert "<u>within thirty days after the sale</u>"

Renumber accordingly

#10142

Testimony of Daniel J. Dew, Pacific Legal Foundation, on HB 1199
North Dakota Senate Finance and Taxation Committee
March 23, 2021

Chair Bell, Vice Chair Kannianen, and members of the Senate Finance and Taxation Committee, my name is Daniel Dew, and I am the legal policy director at Pacific Legal Foundation. PLF is a nonprofit law firm dedicated to individual rights and limited government. PLF was founded in 1973 by then-Governor Ronald Reagan's staff to protect individual rights from government overreach, including property, economic, and speech rights that are increasingly under assault. We have a dozen wins before the United States Supreme Court and, just yesterday, my colleagues argued another case before the Supreme Court.

Thank you for taking the time to address an egregious practice that we have labeled "Home Equity Theft" in House Bill 1199 and allowing me to testify in favor of the bill.

When a debt is owed, it should be paid. And an entity that is owed a debt needs a mechanism to collect that debt. For example, when a person defaults on a mortgage, the bank can foreclose, sell the property, and take what it is owed. Anything recovered beyond the debt and costs associated with collecting the debt is returned to the former property owner.

Local government is no different. Local government relies on property tax revenues to operate and cannot be left without recourse when a person does not pay. Like a bank, counties can foreclose upon homes where the owner has defaulted on their property taxes. The difference between what banks and local governments can do in North Dakota and eleven other states is that regardless of how small the debt or large the recovery, the county keeps it all.

A debt is a debt but collecting more than what is owed is theft. Even under a retributive form of justice that demands "an eye for an eye, and a tooth for a tooth," the offended party cannot recover more than what will make him whole.

The state of Michigan earned the scorn of national headlines for its tax foreclosure law that, like North Dakota, allowed counties to take more than what was owed. Uri Rafaeli had his Michigan home taken over $8.41 in underpaid property taxes. The county sold the home for $25,000 and left our client with nothing. PLF challenged the case all the way up to the Michigan Supreme Court. The Court held that when a locality takes more than what it is owed, it is an unconstitutional taking of private property. Mr. Rafaeli wasn't the only person to lose his property. The Detroit News estimated that the Michigan Supreme Court's decision meant Michigan counties could be on the hook for one to two billion dollars in stolen equity.

To be clear, HB 1199 operates prospectively and would not open North Dakota counties to any additional liability. But it does prevent further wrongs and additional government liability.

Now, you are probably thinking to yourself that North Dakota is better than Michigan. And I am here to tell you that you are correct. As a native Ohioan, I would submit that pretty much anywhere is better than Michigan.

All joking aside, to the credit of North Dakota County Treasurers and Auditors, this does not seem to be as much of a widespread phenomenon like we've seen in other states – but it does happen.

In a report we recently published on North Dakota home equity theft we highlight the story of the Juhl family. The Juhls were threatened with losing their home if they did not pay $45,000 to purchase their home back from the county after defaulting on less than $2,000 in back property taxes. Thanks to their diligence and friends, the Juhls were able to reclaim their home for the debt owed. Others are not so lucky.

In the data available for 86% of North Dakota's population, between 2013 and 2019 roughly 500 homes went through tax foreclosure for debts that were usually less than 5% (often less than 1%) of the home's value. Only about 80 of the 500 homes were sold to new owners. The data seems to confirm that, in most cases, the county sells the property back to the original owner for the taxes, fees, and interest owed.

The typical outcome is reasonable, but the data shows that as many as one out of six such homeowners are not so fortunate. During the administration of their parents' estate in Williams County in 2013, LeAnne and Kris Glasoe lost their childhood home over a tax bill of less than 4% of the home's value. LeAnne and Kris even brought 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 had left them.

North Dakotans should not have to rely on the uncertain benevolence of their county auditors to keep what they have rightfully inherited or earned. When county budgets get tight, officials may feel a greater temptation to supplement revenues by selling tax-foreclosed properties to new owners and keeping the excess. With economic fallout from the pandemic and other uncertainties looming, it is not unthinkable that counties could be in a big enough pinch to succumb to such a temptation.

Constitutional rights protect individuals from government. Even one violation of rights is more than the constitution will allow. Changing laws to protect your constituents from even the threat of unconstitutional actions is not only worth your time but is your duty as elected officials who have sworn an oath to uphold the constitution.

House Bill 1199 is a short bill that should have minimal impact on county officials. It allows counties to collect the tax debt along with interest, penalties, and recover any costs associated with selling the property to make the county whole. It allows other lienholders to recover what they are owed. And most importantly, it ensures that a lifetime of work and equity is not unconstitutionally taken by the government. I urge your support for House Bill 1199.

Thank you again for the opportunity to testify and I am happy to answer any questions the committee may have.

AMERICANS FOR PROSPERITY
NORTH DAKOTA

#10539

HB 1199
Senate Finance and Taxation
March 23rd, 2021
10:15 AM

Chairman Bell and members of the Senate Finance and Taxation Committee,

For the record, my name is Cale Dunwoody and I serve as a Grassroots Engagement Director for Americans for Prosperity-North Dakota. Our organization priorities limited government and greater personal choice, which allows citizens to reach their full potential.

House Bill 1199 is a pre-emptive measure to prevent widespread Home Equity abuses in North Dakota. This bill minimizes the potential for government overreach and ensures our friends and neighbors are subject to proportional consequences. While Home Equity theft may not be quite as prevalent in North Dakota as in Michigan, there still exists the potential for abuse.

North Dakota is a place of common sense and we believe this bill is common sense. Counties need to satisfy any debts that may have accrued during a home foreclosure, but it is important for the homeowner to receive the remaining equity. Today, I am respectfully asking this committee to support this bill and keep North Dakotans' home equity in their pockets.

I will stand for any questions.

Respectfully,

Cale Dunwoody
Grassroots Engagement Director
Americans for Prosperity-North Dakota

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1199
3/29/2021

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:52]

Discussion Topics:
- Tax lien foreclosure
- Disposition of proceeds and timelines of disposition

No committee action

Chair Bell adjourns the meeting. [10:56]

Joel Crane, Committee Clerk

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1199
3/30/2021

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [11:04]

Discussion Topics:
- Foreclosures on properties
- Destination of general fund proceeds
- Determining property ownership

Emily Thompson [11:04], Code Reviser for Legislative Council, answers questions from the committee.

Senator Weber [11:08] motions to adopt an amendment. [Testimony #10543 from 3/23/21]
Senator J. Roers [11:08] seconds.

Voice vote, motion passes. [11:08]

Senator Patten [11:18] announces that he will work on an amendment.

Chair Bell adjourns the meeting. [11:19]

Joel Crane, Committee Clerk

PROPOSED AMENDMENTS FOR ENGROSSED HOUSE BILL No. 1199

Page 1, line 12, overstrike “original”

Page1, line 12, overstrike “without” and insert immediately thereafter “with”

Page 1, line 14, after “penalties,” insert “interest”

Page 1, line 18, after “order” insert “within thirty days after the sale”

Page 1, line 23, overstrike “without” and insert immediately thereafter “with”

Page 2, line 5, after “order” insert “within thirty days after the sale”

Renumber accordingly

#10543

PROPOSED AMENDMENTS FOR ENGROSSED HOUSE BILL No. 1199

Page 1, line 12, overstrike “original”

Page1, line 12, overstrike “without” and insert immediately thereafter “with”

Page 1, line 14, after “penalties,” insert “interest”

Page 1, line 18, after “order” insert “within thirty days after the sale”

Page 1, line 23, overstrike “without” and insert immediately thereafter “with”

Page 2, line 5, after “order” insert “within thirty days after the sale”

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1199
3/31/2021

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:58]

Discussion Topics:
- Owner of record notices
- Tax foreclosure
- Disputed claims

Senator Patten [10:58] submits an amendment to further amend [LC 21.0528.03001] #11211.

Senator Patten [11:05] moved amendment [LC 21.0528.03001] to further amend.
Senator J. Roers seconds

Voice vote - motion passes.

Senator Weber [11:06] moved DO PASS as Amended.
Senator J. Roers seconds

Senators	
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion carries 7-0-0
Senator Weber carries

Chair Bell adjourns the meeting. [11:19]

Joel Crane, Committee Clerk

FIRST ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1199

Introduced by

Representatives K. Koppelman, Ista, Jones, B. Koppelman, Paur, Satrom, Steiner

Senators Clemens, Luick, Wobbema

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-20 of the North Dakota Century Code is amended and reenacted as follows:

57-28-20. Disposition of proceeds of sales.

All proceeds from the public or private sale of property under this chapter must be apportioned as regular tax payments are apportioned among and within taxing districts in which the property is located, as follows:

1. The county treasurer shall issue a regular tax receipt in the name of the county, beginning with the earliest year for which the taxes are delinquent. Tax receipts must be written for the original amount of the tax, without penalty and interest. If the property was sold for an amount sufficient to cover all outstanding taxes ~~and~~, special assessments, penalties, and costs associated with selling the property, tax receipts must be written for all such years, and any remaining amount must be credited to the ~~general fund of the county~~owner of the record title of the real estate listed in the notice of foreclosure of tax lien, or to the ~~decedent's estate if the owner of the record title of the real estate is deceased~~general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien, unless another claimant receives a court order requiring the funds be deposited with a court that will determine whether any of the proceeds should be paid to a lienholder or other party.
2. If the property is sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent,

without penalty and interest, and all subsequent payments made on the contract must be applied to the earliest remaining unpaid taxes or special assessments. Any payment under the contract after all taxes ~~and~~, special assessments, penalties, interest, and costs associated with selling the property are paid must be credited to the ~~county general fund~~owner of the record title of the real estate listed in the notice of foreclosure of tax lien, or to the ~~decedent's estate if the owner of the record title of the real estate is deceased~~general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien, unless another claimant receives a court order requiring the funds be deposited with a court that will determine whether any of the proceeds should be paid to a lienholder or other party.

3. If the property is sold for less than the total amount of the taxes due, the treasurer shall write tax receipts beginning with the earliest year and for as many subsequent years as the proceeds realized from the sale will satisfy, and the remainder of any unpaid general taxes or special assessments must be canceled by the board of county commissioners.

4. A city or county that acquires a tax deed to property shall make reasonable efforts to sell the property for the amount necessary to satisfy the outstanding taxes, penalties, and interest owed on the property and shall distribute any remaining sale proceeds in the manner provided in this chapter.

3/31

21.0528.03002
Title.04000

Adopted by the Senate Finance and Taxation Committee

March 31, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1199

Page 1, line 12, overstrike "original"

Page 1, line 14, after the first underscored comma insert "<u>interest,</u>"

Page 1, line 17, remove "<u>decedent's estate if the owner of the record title of</u>"

Page 1, line 18, replace "<u>the real estate is deceased</u>" with "<u>general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien</u>"

Page 1, line 18, after "<u>order</u>" insert "<u>within thirty days after the sale</u>"

Page 1, line 23, overstrike "without" and insert immediately thereafter "<u>with</u>"

Page 2, line 4, remove "<u>decedent's estate if the owner of the record title of the</u>"

Page 2, line 5, replace "<u>real estate is deceased</u>" with "<u>general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien</u>"

Page 2, line 5, after "<u>order</u>" insert "<u>within thirty days after the sale</u>"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1199, as engrossed: Finance and Taxation Committee (Sen. Bell, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1199 was placed on the Sixth order on the calendar.

Page 1, line 12, overstrike "original"

Page 1, line 14, after the first underscored comma insert "interest,"

Page 1, line 17, remove "decedent's estate if the owner of the record title of"

Page 1, line 18, replace "the real estate is deceased" with "general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien"

Page 1, line 18, after "order" insert "within thirty days after the sale"

Page 1, line 23, overstrike "without" and insert immediately thereafter "with"

Page 2, line 4, remove "decedent's estate if the owner of the record title of the"

Page 2, line 5, replace "real estate is deceased" with "general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien"

Page 2, line 5, after "order" insert "within thirty days after the sale"

Renumber accordingly

#11211

FIRST ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1199

Introduced by

Representatives K. Koppelman, Ista, Jones, B. Koppelman, Paur, Satrom, Steiner

Senators Clemens, Luick, Wobbema

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-20 of the North Dakota Century Code is amended and reenacted as follows:

57-28-20. Disposition of proceeds of sales.

All proceeds from the public or private sale of property under this chapter must be apportioned as regular tax payments are apportioned among and within taxing districts in which the property is located, as follows:

1. The county treasurer shall issue a regular tax receipt in the name of the county, beginning with the earliest year for which the taxes are delinquent. Tax receipts must be written for the original amount of the tax, without penalty and interest. If the property was sold for an amount sufficient to cover all outstanding taxes ~~and~~, special assessments, penalties, and costs associated with selling the property, tax receipts must be written for all such years, and any remaining amount must be credited to the ~~general fund of the county~~owner of the record title of the real estate listed in the notice of foreclosure of tax lien, or to the ~~decedent's estate if the owner of the record title of the real estate is deceased~~general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien, unless another claimant receives a court order requiring the funds be deposited with a court that will determine whether any of the proceeds should be paid to a lienholder or other party.
2. If the property is sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent,

without penalty and interest, and all subsequent payments made on the contract must be applied to the earliest remaining unpaid taxes or special assessments. Any payment under the contract after all taxes ~~and~~, special assessments, penalties, interest, and costs associated with selling the property are paid must be credited to the ~~county general fund~~owner of the record title of the real estate listed in the notice of foreclosure of tax lien, or to the ~~decedent's estate if the owner of the record title of the real estate is deceased~~general fund of the county if the owner of the record title of the real estate did not respond to the notice of foreclosure of tax lien, unless another claimant receives a court order requiring the funds be deposited with a court that will determine whether any of the proceeds should be paid to a lienholder or other party.

3. If the property is sold for less than the total amount of the taxes due, the treasurer shall write tax receipts beginning with the earliest year and for as many subsequent years as the proceeds realized from the sale will satisfy, and the remainder of any unpaid general taxes or special assessments must be canceled by the board of county commissioners.

4. A city or county that acquires a tax deed to property shall make reasonable efforts to sell the property for the amount necessary to satisfy the outstanding taxes, penalties, and interest owed on the property and shall distribute any remaining sale proceeds in the manner provided in this chapter.

2021 CONFERENCE COMMITTEE

HB 1199

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1199
4/12/2021
Conference Committee

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

Chairman B. Koppelman opened the conference committee at 10:00am.

Present: Chairman B.Koppelman, Representative Steiner, Representative Ista, Senator Weber, Senator Patten, and Senator Piepkorn.
Absent: None

Discussion Topics:
- Explanation of Senate amendments
- Discussion of marked up version 21.0528.03002

Senator Weber explained the amendments the Senate chamber placed on the bill.

Senator Patten further explained the Senate amendments.

Discussion among the committee regarding the marked up version 21.0528.03002 (#11634)..

Committee will do some further research and another conference committee will be scheduled.

Chairman B. Koppelman closed the conference committee at 10:29am.

Mary Brucker, Committee Clerk

FIRST ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1199

Introduced by

Representatives K. Koppelman, Ista, Jones, B. Koppelman, Paur, Satrom, Steiner

Senators Clemens, Luick, Wobbema

A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-20 of the North Dakota Century Code is amended and reenacted as follows:

57-28-20. Disposition of proceeds of sales.

All proceeds from the public or private sale of property under this chapter must be apportioned as regular tax payments are apportioned among and within taxing districts in which the property is located, as follows:

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2. If the property is sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent,

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3. If the property is sold for less than the total amount of the taxes due, the treasurer shall write tax receipts beginning with the earliest year and for as many subsequent years as the proceeds realized from the sale will satisfy, and the remainder of any unpaid general taxes or special assessments must be canceled by the board of county commissioners.

4. A city or county that acquires a tax deed to property shall make reasonable efforts to sell the property for the amount necessary to satisfy the outstanding taxes, penalties, and interest owed on the property and shall distribute any remaining sale proceeds in the manner provided in this chapter.

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1199
4/13/2021
Conference Committee

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

Chairman B. Koppelman opened the conference committee at 10:30am.

Present: Chairman B. Koppelman, Representative Steiner, Representative Ista, Senator Weber, Senator Patten, and Senator Piepkorn.
Absent: None.

Discussion Topics:
- Proposed amendment 21.0528.03003
- Conference committee decision

Senator Patten proposed an amendment 21.0528.03003 (#11500) and explained.

Senator Patten made a verbal proposed change to the amendment on page 1 line 12 changing "without penalty" to "with penalty."

Committee discussion.

Senator Patten made a motion for the Senate to recede from Senate amendments and amend as follows with adoption of amendment 21.0528.03003 and changing the word "without" to "with" on page 1 line 12.

Senator Piepkorn seconded the motion.

Roll call vote-motion carried 6-0-0.

Chairman B. Koppelman is the House bill carrier.

Senator Patten is the Senate bill carrier.

Chairman B. Koppelman closed the conference committee at 10:44am.

Mary Brucker, Committee Clerk

Adopted by the Conference Committee

GJ 4/13/21

April 13, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1199

That the Senate recede from its amendments as printed on pages 1462 and 1463 of the House Journal and page 1133 of the Senate Journal and that Engrossed House Bill No. 1199 be amended as follows:

Page 1, line 12, overstrike "original"

Page 1, line 12, overstrike "without" and insert immediately thereafter "with"

Page 1, line 14, after the first underscored comma insert "interest,"

Page 1, line 15, overstrike "credited to the"

Page 1, line 16, remove "owner of the record title of the real estate listed in the notice"

Page 1, remove lines 17 through 19

Page 1, line 20, replace "should be paid to a lienholder or other party" with "retained by the county for ninety days following the date of the sale. After the ninety-day retention period, any excess proceeds must be distributed:

a. To the owner of the record title of the real estate listed in the notice of foreclosure of tax lien if the owner of record submitted an undisputed claim for the excess proceeds within the ninety-day retention period;

b. To the clerk of the district court in the county in which all or a majority of the property is located if a disputed claim or multiple claims for the excess proceeds were submitted within the ninety-day retention period; or

c. To the unclaimed property administrator under chapter 47-30.1 if a claim for the excess proceeds was not submitted within the ninety-day retention period"

Page 1, line 23, overstrike "without" and insert immediately thereafter "with"

Page 2, line 2, overstrike "credited to the"

Page 2, line 3, remove "owner of the record title of the real estate listed in the notice of"

Page 2, remove lines 4 through 6

Page 2, line 7, replace "be paid to a lienholder or other party" with "retained by the county for ninety days following the date of the sale. After the ninety-day retention period, any excess proceeds must be distributed in the manner provided in subsection 1"

Renumber accordingly

Date: 4/13/2021
Roll Call Vote #: 1

2021 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. __1199___________as (re) engrossed

House FINANCE AND TAXATION Committee

Action Taken ☐ **HOUSE accede to Senate Amendments**
☐ **HOUSE accede to Senate Amendments and further amend**
☐ **SENATE recede from Senate amendments**
☒ **SENATE recede from Senate amendments and amend as follows**
Adoption of 21.0528.03003 and changing "without" to "with" on page 1 line 12.
☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Patten Seconded by: Senator Piepkorn

Representatives	4-12	4-13		Yes	No		Senators	4-12	4-13		Yes	No
Chairman Koppelman	x	x		x			Chairman Weber	x	x		x	
Rep Steiner	x	x		x			Senator Patten	x	x		x	
Rep Ista	x	x		x			Senator Piepkorn	x	x		x	
Total Rep. Vote				3			Total Senate Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. B. Koppelman Senate Carrier Senator Patten

LC Number 21.0528 . 03004 of amendment

LC Number 21.0528 . 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment:
Adopt amendment 21.0528.03003 and change "without" to "with" on page 1 line 12.

Insert LC: 21.0528.03004
House Carrier: B. Koppelman
Senate Carrier: Patten

REPORT OF CONFERENCE COMMITTEE

HB 1199, as engrossed: Your conference committee (Sens. Weber, Patten, Piepkorn and Reps. B. Koppelman, Steiner, Ista) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1462-1463, adopt amendments as follows, and place HB 1199 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1462 and 1463 of the House Journal and page 1133 of the Senate Journal and that Engrossed House Bill No. 1199 be amended as follows:

Page 1, line 12, overstrike "original"

Page 1, line 12, overstrike "without" and insert immediately thereafter "with"

Page 1, line 14, after the first underscored comma insert "interest,"

Page 1, line 15, overstrike "credited to the"

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b. To the clerk of the district court in the county in which all or a majority of the property is located if a disputed claim or multiple claims for the excess proceeds were submitted within the ninety-day retention period; or

c. To the unclaimed property administrator under chapter 47-30.1 if a claim for the excess proceeds was not submitted within the ninety-day retention period"

Page 1, line 23, overstrike "without" and insert immediately thereafter "with"

Page 2, line 2, overstrike "credited to the"

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Page 2, line 7, replace "be paid to a lienholder or other party" with "retained by the county for ninety days following the date of the sale. After the ninety-day retention period, any excess proceeds must be distributed in the manner provided in subsection 1"

Renumber accordingly

Engrossed HB 1199 was placed on the Seventh order of business on the calendar.

21.0528.03003

Sixty-seventh
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1199

Introduced by

Representatives K. Koppelman, Ista, Jones, B. Koppelman, Paur, Satrom, Steiner

Senators Clemens, Luick, Wobbema

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