

2021 SENATE POLITICAL SUBDIVISIONS

SB 2280

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

SB 2280
2/5/2021

A BILL for an Act to amend and reenact sections 57-28-10, 57-28-11, 57-28-17, and 57-28-18 of the North Dakota Century Code, relating to permitting reappraisal of property acquired by a county by tax deed.

Chairman Burckhard opened the hearing on SB 2280 at 8:29 a.m. Senators present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- Appraisal of properties process
- Appraise V.S. Assess language
- Sold and unsold county parcels

[8:30] Senator Jay Elkin, District 36. Introduced SB 2280 and Testified in favor #5627.

[8:38] Neal Messer, County Commissioner, Stark County. Testified in favor #5484

[8:50] Linda Svihovec, North Dakota Association of Counties. Testified in favor

Senator Anderson moved **DO PASS**
Senator Larson seconded the motion

Roll Call Vote

Motion passed 7-0-0

Senator Larson will carry SB 2280.

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

Chairman Burckhard closed the hearing on SB 2280 at 9:03 a.m.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2280: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2280 was placed on the Eleventh order on the calendar.

SB. 2280

Mr. Chairman and members of the committee.

I am ,State Senator Jay Elkin from district 36 and I'm here to provide my support of SB 2280.

Under current statute, when a county acquires property via a tax deed, century code dictates the county must attempt to sell the property via an annual sale, which is usually held in late November of each calendar year to the highest bidder . NDCC 57-28-10 requires the commissioners to appraise the properties and set a minimum sale price at least 30 days prior to the sale .

The minimum sale price must be set high enough to cover all taxes, interest, and penalty due against the property and can be set at as high as fair market value.If the property is not sold at the (annual sale) it can be sold at any time during the year, and between (annual sales) but for only the previously established sale price .

There are currently no provisions which allow a county commission to adjust the minimum sales price to correct errors in the sales price or to reflect any changes in market value during the calendar year. The County Commission can only change the sales price once a year, which severely limits the commissions ability to market and sell these properties and return them to the tax rolls in an expeditious manner. SB 2280 would remedy this by allowing the county commissioners more flexibility to respond to the market. This change in law would merely allow, not mandate the County Commission to modify the sales price at any time during the calendar year provided they have the property reappraised and attempt to sell the property at the reappraised value, subject again to all of the regulations and notification requirements that currently apply to the annual sale. This would greatly assist counties in returning these properties back to the tax rolls.

Mr. chairman and committee members , Thank you

TESTIMONY ON SB2280

Members of the Senate Political Subdivisions Committee:

My name is Neal Messer from Dickinson. I come before you today in support of Senate Bill 2280. As a little bit of background, I was recently elected in November as a County Commissioner for Stark County. In my “real job”, I have been a Realtor for the past 42 years.

Almost immediately upon becoming a commissioner, I was handed a list of about 10-12 properties that Stark County had recently acquired via a tax deed. I was basically told that since I was in the “Real Estate Business” that I would be put in charge to get these properties sold and back on the tax rolls. So I put on my real estate cap on and went out and looked at the properties and immediately came to the conclusion our “Sales Price” i.e. “asking price” was too high on almost every property we acquired via the tax deed process. But since we had already had our “Annual Sale”, current law dictates that we must keep our original sales price for the full year until we can reappraise and adjust the sales price later this year.

Under current statute, when a County acquires a property via a tax deed, Century Code dictates the county must attempt to sell the property via an “annual sale”, which is held the third Tuesday in November of each calendar year. NDCC 57-28-10 requires the commissioners to appraise the properties and set a minimum sale price at least 30 days prior to the sale. The minimum sale price must be set high enough to cover all taxes, interest, and penalty due against the property and can be set at as high as fair market value. If the property is not sold at the “annual sale”, it can be sold at any time during the year, and between “annual sales” but for ONLY the previously established sales price. There are currently NO provisions which allow a commission to revisit and adjust the minimum sales price to correct the sales price or to reflect any changes in market value during the calendar year. The County Commission can ONLY change the sales price once a year, thus severely limiting the commission’s ability to sell these properties and return them to the tax rolls in an expeditious manner.

SB 2280 would remedy this by allowing the county commissions more flexibility to more quickly respond to the market. This change in the law would merely allow, (not mandate) the commission to modify the sales price at any time during the calendar year provided they reappraise the property and attempt to sell the property at the reappraised value, subject again to all the regulations and notification requirements that currently apply to the “annual sale.” Another reason I feel so strongly about SB2280, is in Stark County we currently have 138 addition parcels that are delinquent for both 2018 and 2019 taxes. While we only expect maybe only 15-20 of those 138 parcels to go through the full tax deed process, we have the potential to get those parcels back as well.

SB 2280 is a straight forward solution that returns control to local county commissions’ in the selling and the return of these properties to the tax rolls in a way that is most effective and beneficial to the counties and local tax payers.

Thank you again for allowing me to come before your committee. I can answer any questions you may have on this bill.

Thank you.

2021 HOUSE POLITICAL SUBDIVISIONS

SB 2280

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

SB 2280
3/18/2021

Relating to permitting reappraisal of property acquired by a county by tax deed
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Chairman Dockter: (10:00). Opened the hearing.

Representatives	Attendance
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Dori Hauck	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Nathan Toman	P

Discussion Topics:

- Minimum sale price
- Reappraisal

Sen Elkin: Introduced the bill.

Neal Messer, County Commissioner for Stark County: In support, testimony #9673.

Linda Svihovec, Association of Counties: In support, no written testimony.

Rep. Johnson: Will work on an amendment.

Chairman Dockter: (11:17). Adjourned the hearing.

Carmen Hickle, Committee Clerk

TESTIMONY ON SB2280

Members of the House Political Subdivisions Committee:

My name is Neal Messer from Dickinson. I am providing testimony to you today in support of Senate Bill 2280. As a little bit of background, I was recently elected in November as a County Commissioner for Stark County. In my “real job”, I have been a Realtor for the past 42 years.

Almost immediately upon becoming a commissioner, I was handed a list of about 10-12 properties that Stark County had recently acquired via a tax deed. I was basically told that since I was in the “Real Estate Business” that I would be put in charge to get these properties sold and back on the tax rolls. So I put on my real estate cap on and went out and looked at the properties and immediately came to the conclusion our “Sales Price” i.e. “asking price” was too high on almost every property we acquired via the tax deed process. But since we had already had our “Annual Sale”, current law dictates that we must keep our original sales price for the full year until we can reappraise and adjust the sales price later this year.

Under current statute, when a County acquires a property via a tax deed, Century Code dictates the county must attempt to sell the property via an “annual sale”, which is held the third Tuesday in November of each calendar year. NDCC 57-28-10 requires the commissioners to appraise the properties and set a minimum sale price at least 30 days prior to the sale. The minimum sale price must be set high enough to cover all taxes, interest, and penalty due against the property and can be set at as high as fair market value. If the property is not sold at the “annual sale”, it can be sold at any time during the year, and between “annual sales” but for ONLY the previously established sales price. There are currently NO provisions which allow a commission to revisit and adjust the minimum sales price to correct the sales price or to reflect any changes in market value during the calendar year. The County Commission can ONLY change the sales price once a year, thus severely limiting the commission’s ability to sell these properties and return them to the tax rolls in an expeditious manner.

SB 2280 would remedy this by allowing the county commissions more flexibility to more quickly respond to the market. This change in the law would merely allow, (not mandate) the commission to modify the sales price at any time during the calendar year provided they reappraise the property and attempt to sell the property at the reappraised value, subject again to all the regulations and notification requirements that currently apply to the “annual sale.” Another reason I feel so strongly about SB2280, is in Stark County we currently have 109 addition parcels that are delinquent for both 2018 and 2019 taxes and now late for the 2020 taxes. While we only expect maybe only 15-20 of those 109 parcels to go through the full tax deed process, we have the potential to get those parcels back as well.

SB 2280 is a straight forward solution that returns control to local county commissions’ in the selling and the return of these properties to the tax rolls in a way that is most effective and beneficial to the counties and local tax payers.

Thank you again for allowing me to come before your committee. I can answer any questions you may have on this bill.

Thank you.

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

SB 2280
3/18/2021

Relating to permitting reappraisal of property acquired by a county by tax deed
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Chairman Dockter: (4:40). Opened for committee work.

Representatives	Attendance
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Dori Hauck	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y

Discussion Topics:

- Amendment

Rep. Johnson: Made a motion on proposed amendment 21.0884.01001. Testimony #10078, 10079.

Rep. Nelson: Second the motion.

Rep. Johnson: Withdrew the motion.

Rep. Nelson: Withdrew his second.

Rep. Johnson: Made a motion on proposed amendment 21.0884.01002.

Vice Chairman Pyle: Second the motion.

Voice vote carried.

Rep. Johnson: Made a do pass as amended motion.

Rep. Nelson: Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Dori Hauck	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y

14-0-0 carried.

Rep. Hauck: Will carry the bill.

Chairman Dockter: (4:51). Closed committee work.

Carmen Hickle, Committee Clerk

March 18, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2280

Page 1, line 1, remove "57-28-10,"

Page 1, remove lines 5 through 23

Page 2, line 14, after "**sales**" insert "**- Reappraisal**"

Page 2, line 15, after "1." insert "If the county continues to retain the property acquired by tax deed after the initial appraisal is conducted and the annual sale is held, the board may reappraise the value of the property at any time deemed necessary by the board. The reappraisal of the property must be completed at least thirty days before a subsequent annual sale under this chapter."

Page 2, line 17, remove ", taking into account the most recent appraisal approved by the"

Page 2, line 18, remove "board of county commissioners"

Page 3, line 11, remove ", the property"

Page 3, remove line 12

Page 3, line 13, remove "the most recent appraisal approved by the board"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2280: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2280 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "57-28-10,"

Page 1, remove lines 5 through 23

Page 2, line 14, after "**sales**" insert "**- Reappraisal**"

Page 2, line 15, after "1." insert "If the county continues to retain the property acquired by tax deed after the initial appraisal is conducted and the annual sale is held, the board may reappraise the value of the property at any time deemed necessary by the board. The reappraisal of the property must be completed at least thirty days before a subsequent annual sale under this chapter."

Page 2, line 17, remove ", taking into account the most recent appraisal approved by the"

Page 2, line 18, remove "board of county commissioners"

Page 3, line 11, remove ", the property"

Page 3, remove line 12

Page 3, line 13, remove "the most recent appraisal approved by the board"

Renumber accordingly

21.0884.01001
Title.

Prepared by the Legislative Council staff for
Representative M. Johnson
March 18, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2280

Page 1, line 1, remove "57-28-10,"

Page 1, remove lines 5 through 23

Page 2, line 14, after "**sales**" insert "**- Reappraisal**"

Page 2, line 15, after "1." insert "If the county continues to retain the property acquired by tax deed after the initial appraisal is conducted and the annual sale is held, the board may reappraise the value of the property at any time deemed necessary by the board. The reappraisal of the property must be completed at least thirty days before a subsequent annual sale under this chapter."

Page 2, line 17, remove ", taking into account the most recent appraisal approved by the"

Page 2, line 18, remove "board of county commissioners"

Page 3, line 11, remove "the property"

Page 3, line 12, remove "must be sold for not less than the property's minimum sale price."

Renumber accordingly

21.0884.01001

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2280

Introduced by

Senators Elkin, Larson

Representatives Devlin, Dockter, Lefor, Louser

1 A BILL for an Act to amend and reenact sections ~~57-28-10~~, 57-28-11, 57-28-17, and 57-28-18 of
2 the North Dakota Century Code, relating to permitting reappraisal of property acquired by a
3 county by tax deed.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **~~SECTION 1. AMENDMENT.~~** ~~Section 57-28-10 of the North Dakota Century Code is~~
6 ~~amended and reenacted as follows:~~

7 ~~— **57-28-10. Appraisal for annual sale – Reappraisal – Minimum sale price.**~~

8 ~~— 1. All property acquired by the county by tax deed must be appraised by the board of~~
9 ~~county commissioners at least thirty days before the annual sale under this chapter. If~~
10 ~~the county continues to retain the property acquired by tax deed after the initial~~
11 ~~appraisal is conducted and the annual sale is held, the board may reappraise the~~
12 ~~value of the property at any time deemed necessary by the board. The reappraisal of~~
13 ~~the property must be completed at least thirty days before a subsequent annual sale~~
14 ~~under this chapter.~~

15 ~~— 2. The appraised price must be sufficient to cover all taxes, special assessments,~~
16 ~~homestead credit for special assessments, penalties, interest, and costs which were~~
17 ~~due against the property at the time of the service of the notice of foreclosure of tax~~
18 ~~lien, plus an amount equal to the estimated taxes and special assessments for the~~
19 ~~current assessment year. If the fair market value of the property is more than the total~~
20 ~~amount due against the property, the minimum sale price of the property must be at~~
21 ~~least equal to the total amount due against the property. If the fair market value of the~~
22 ~~property is less than the total amount due against the property, the board shall fix a fair~~
23 ~~minimum sale price for the property.~~

1 **SECTION 1. AMENDMENT.** Section 57-28-11 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-28-11. Hearing on appraisal or reappraisal.**

4 After ~~making the an~~ appraisal or reappraisal of property acquired by tax deed, the board of
5 county commissioners shall set a date for hearing objections to the minimum sale price
6 determined. At least ten days before the hearing, the county auditor shall mail to the auditor of
7 any city, or the clerk of the board of supervisors of any township, in which appraised property is
8 located a written notice stating the time when objections to the established minimum sale price
9 will be heard. Any member or representative of the governing body of any taxing district may
10 appear at the hearing with reference to the fair market value of appraised property, and the
11 board may make appropriate changes in the minimum sale price of property.

12 **SECTION 2. AMENDMENT.** Section 57-28-17 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-28-17. Sale between annual sales - Reappraisal.**

15 1. If the county continues to retain the property acquired by tax deed after the initial
16 appraisal is conducted and the annual sale is held, the board may reappraise the
17 value of the property at any time deemed necessary by the board. The reappraisal of
18 the property must be completed at least thirty days before a subsequent annual sale
19 under this chapter. Any property not sold at the annual November sale may be sold by
20 the county auditor at private sale before the next annual November sale for not less
21 than the property's minimum sale price, ~~taking into account the most recent appraisal~~
22 ~~approved by the board of county commissioners.~~ A parcel of real estate against which
23 an unpaid special assessment continues as a lien under section 57-28-09 may be sold
24 by the county auditor free of the lien if the governing body of the city in which the
25 property is located finds that the sum of the minimum sale price and the unpaid special
26 assessment exceeds the market value of the property. If the governing body of the city
27 makes this finding, it may cancel all or part of the special assessment lien against the
28 property to reduce the lien to an amount which, when added to the minimum sale
29 price, will be equal to the market value of the property. The action of the governing
30 body shall be certified by the city auditor or clerk to the county auditor. The county
31 auditor may then sell the property at private sale before the next annual November

1 sale for not less than the resulting amount. The purchaser acquires the property free
2 from any part of any lien for special assessment which was canceled by the governing
3 body of the city, and the county auditor shall remove from the record any canceled
4 special assessments.

5 2. Notwithstanding the provisions of this section or other provisions of law, any property
6 acquired by the county which is subject to a special assessment lien for improvements
7 made by a city may be sold to that city for cash at any price agreed upon by the board
8 of county commissioners and the governing body of the city.

9 **SECTION 3. AMENDMENT.** Section 57-28-18 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-28-18. Terms of private sale and distribution of proceeds.**

12 1. Any private sale of real property made between the annual November sales must be
13 made upon the same terms and conditions as a sale may be made at the November
14 sale, unless the board of county commissioners has had the property reappraised and
15 has consented, by majority, to value the property at the reappraised price, ~~the property~~
16 ~~must be sold for not less than the property's minimum sale price,~~ taking into account
17 the most recent appraisal approved by the board. The sale of farmland acquired by the
18 county by tax deed is subject to any existing lease of the property for the year of the
19 sale. If the farmland is to be sold by private sale to any person other than the former
20 owner or other interested person, a deed or contract for deed may not be delivered to
21 the purchaser until thirty days after service by certified mail upon the former owner or
22 other interested party of the pending sale, the date when the sale will become final,
23 and the amount required to repurchase the property. For the purposes of this section,
24 "other interested party" means the executor, administrator, parent, spouse, or child of
25 the former owner who has notified the county auditor in writing of that status, the
26 address at which service may be made, and that the person should be notified of the
27 expiration of the period of repurchase in connection with any private sale of the
28 property.

29 2. In case of the sale, contract for sale, or repurchase by the former owner of tax deed
30 property during January, the property must be assessed and taxed for that year, and
31 the purchaser or repurchaser is entitled to the rental and landlord's share of crops on

1 the property for the year. In case of the sale, contract for sale, or repurchase by the
2 former owner of tax deed land after January, the property ~~must~~may not be assessed
3 and taxed for that year, and the county is entitled to the rental and landlord's share of
4 the crops on the property for the year. The proceeds realized from a sale between
5 annual November sales must be apportioned in the same manner as the proceeds of
6 the annual November sale.