

# MICROFILM DIVIDER

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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1294

2007 HOUSE FINANCE AND TAXATION

HB 1294

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1294 A

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2814

Committee Clerk Signature

*Mickie Schmielt*

### Minutes:

Chairman Belter opened the hearing on HB 1294 and asked for testimony in support of the Bill

**Rep. Elwood Thorpe: (See attachment #1)** testified in support. We have the effect of inflation at the rate of 3% a year. As it inflates, we're going to pay more tax. As we do it now, using the gross receipts on a sale also includes the sales commission on the sale of that property, and every time it's sold, there's another commission fee. When you sell your own property a lot of times it will be less than what an agency could get for you. I have a graph for you to see. **(See attachment #2, #3, & #4)**

**Representative Weiler:** This chart with steady growth, where it starts to increase drastically, it says; forced by the effect of multiplication of commission fees. Is it your belief then that the commission fees are the reason for the steep incline of property values over the last 17 years?

**Rep. Elwood Thorpe:** I said earlier, I think in the last 2 to 3 years that's where we're seeing it start to escalate. Properties have been moving more in the last 3 years for various reasons and as we have more on the market and there's more property sold with that commission figure included in gross sales that goes to the Equalization Board, there has to be a multiplier.

**Representative Weiler:** In looking at the chart, don't you believe that supply and demand in the market has been the main contributor to the valuation of homes? In your testimony in the third paragraph where it starts with example, who cuts a check to who?

**Rep. Elwood Thorpe:** That would be an agency that was handling the property sale.

**Representative Weiler:** That's not really how it works, but I think I see what you're getting at. When I do a market evaluation on a property, we don't take into consideration whatsoever what the commission may or may not be. When we do that, and tell the property owner how much their property is worth, we compare it to 2-several other properties that have sold recently in that area of similar type homes. We don't go to a property owner and say your house is worth \$234,000 dollars, but you better put it on the market for \$254,000 because it's going to cost you \$20,000 dollars in commissions. We don't operate that way.

**Rep. Elwood Thorpe:** That certainly was not my intention at all. I should probably said agency.

**Representative Weiler:** If I buy a car for \$30,000, I pay an excise tax on the \$30,000. Using your type of thinking under this Bill, then if the dealer made \$6,000 on a car, maybe I should only pay excise tax on \$24,000. Should we be taxing the profit?

**Rep. Elwood Thorpe:** I don't think we're comparing apples to oranges.

**Representative Weiler:** I think we're comparing apples to apples.

**Rep. Elwood Thorpe:** We're talking about commission fees.

**Representative Weiler:** It basically gets to the same point.

**Vice Chairman Drovdal:** In your testimony about maintaining some improvement, you said this Bill only addresses the commission fees. Isn't this your amendment that changes the costs associated with the purchase in sales so therefore it would cover other costs?

**Rep. Elwood Thorpe:** Did I give you the right amendment?

**Vice Chairman Drovdal:** This changes the original Bill from this commission fees to other costs. So would that address both if we accept your amendment?

**Rep. Elwood Thorpe:** No. I had the Counsel draw this up for me. The original Bill the way it read included realtors.

**Vice Chairman Drovdal:** That Bill was just commissions, but your amendment would make all costs, would it not?

**Rep. Elwood Thorpe:** It was not my intent on the Bill. It may need to be further amended if that's what it says.

**Representative Froseth:** Are the fees in commissions' public knowledge so the assessor would know, because I think the commission is sometimes negotiable on certain sales?

**Rep. Elwood Thorpe:** It became apparent that it was going to get cumbersome the way I have originally discussed with them. The way it was at that time when I brought it to the counsel was that on each sale you would have to determine the commission fees. Now the way this Bill was supposed to be, it was set by the Equalization Board and if the Bill passed it would say that they would use instead of the 100% property figure, they would use 94% and make it a lot simpler for them to work with.

**Representative Headland:** What if I buy a house at an auction, would you want this Bill to reflect the auctioneer's commissions? It would be the same type of thought.

**Rep. Elwood Thorpe:** The way the Bill reads now is it doesn't make any difference what agency or who sells it, it just states that the commission board will use 94% instead of 100%.

**Representative Pinkerton:** I think there are some excellent points in this Bill as amended. It does maybe set an artificial high value for residential property and then that is used to determine the value of the surrounding property because they go through an assessor who will look at sales or comparable properties to establish a real value.

**Representative Weiler:** The points that you speak of, those are for a buyer, and this has to do with the mortgage loan that they are getting. This has nothing to do with the sales price of the home. This could cause some great inequities in the process.

**Rep. Elwood Thorpe:** I anticipated that kind of a question. It usually takes less money when an owner sells his own home. There's a theory here on the way we arrive on taxation through the sales figure.

**Representative Weiler:** I take this Bill as a way to help reduce the valuation of the properties.

**Rep. Elwood Thorpe:** Yes, we need to reduce that impact.

**Vice Chairman Drovdal:** You just said that valuation is driving property taxes up but isn't it the cost of government that drives property tax no matter what the value or the mill is?

**Rep. Elwood Thorpe:** You're right, I know that. They're going to do what they have to do regardless. I don't think we can deny that the valuation figure has been driving property taxes up. We all enjoy the idea of our property went up, but you can't have it both ways. We can't have high property value and still enjoy low taxes. This isn't going to lower anybody's taxes, the only thing it might do is slow the rate.

**Chairman Belter:** Any other testimony in support, opposition?

**Claus Lembke, represents the ND Association of Realtors:** testimony in opposition. The original amended Bill before you really don't affect our industry one way or another other than, if this is passed, our members could go out there and say if you buy a house from a realtor, you get lower property valuation. They could do that because you can get it reduced by 6%. The other reason that we have some trouble with the original Bill is the realtor commission. Realtor is a registered trademark and not all real estate agents are members of our organization, we have over 1400 members statewide, but there's 2,000 licensees' out there. So the original Bill addresses only those transactions where a realtor was involved. We're

objecting to that because it would be an inequity. We've adopted the policy statement that we want true and full value. We want ad valorem taxes to be measured against the true and full value. In the Bill it says the Real Estate Commission is negotiable. Of course they are, they range anywhere from a flat fee, which could equal 1 or 2%, up to 10%, and each transaction is negotiated. The amendments you have before you, the first and second amendment contradict each other. We think you should do the second amendment. It would remove reference to realtor. We don't think this is workable.

**Chairman Belter:** The example you gave about having a realtor sell your house because it will keep your property values down, even with the amendment, that same situation would apply?

**Claus Lembke:** Yes

**Representative Froseth:** With the amendment it seems like it would mean more of a reduction because now you might be talking the cost of abstract, titles and fees, including that commission?

**Claus Lembke:** That is correct.

**Chairman Belter:** Is there any other opposition or neutral testimony?

**Marcy Dickerson, State Supervisor of Assessments for the Tax Commissioner:** I would like to clear up a misconception. Some of the conversation here has made it seem like each house would be treated separately and the one that was sold by a real estate agent would be valued on a different basis from the one that was not. That's not the way I interpret this Bill. This Bill basically says the State Board of Equalization will look at 94% instead of 100% as the goal for equalizing property. However it's because of a real estate commission or because of any other reason, it would not be applied to individual properties, you'd be looking at the whole universe of comparable sales like assessors do, some of those may have sold with a commission, some without a commission. But the whole mix has got to begin there. So

basically it's just a mechanism to reduce the percentages of which of these properties are assessed.

**Chairman Belter:** In other words are you saying that the Bill really makes no difference?

**Marcy Dickerson:** No, it makes a difference in that the goal would be to assess property at 96% of its value rather than 100% of its value. That would proportionately reduce the burden on the residential and commercial property. On line 11 in the original Bill, it talks about the value as determined by the sales market and productivity study. Productivity study really does not apply to residential and commercial property. I would change it to full value as determined by the sales and market study. Productivity applies basically to AG property which is not in this discussion.

**Representative Weiler:** So this does not affect Ag land or farm land? This is going to create a shift in taxes.

**Marcy Dickerson:** Yes, it will shift some of the burden onto Ag and centrally assessed properties.

**Chairman Belter:** Any other neutral testimony? If not, we'll close the hearing on HB1294.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1294 B

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2830

Committee Clerk Signature

*Mickey Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1294. This is Rep. Clark's Bill.

**Representative Froseth:** I'll move the amendment

**Representative Kelsh:** Second it.

**Chairman Belter:** Any discussion?

**Representative Vig:** Would this include on line 11, removing "and productivity"?

**Chairman Belter:** Yes. We have a motion to accept the amendments; 0201 plus the amendment suggested by Marcy on line 11, which overstrikes "and productivity."

**Representative Froseth:** I don't think it reads quite right that way.

**Representative Kelsh:** Marcy's set puts an "and" between sales and market and remove a comma behind market and productivity.

**Vice Chairman Drovdal:** Where do you want this other amendment, on here or what?

**Representative Kelsh:** Marcy said it will broaden beyond commissions.

**Representative Weiler:** Keep in mind if there's a problem with the abstract, we can be talking about a lot of dollars to get that fixed and that would have to be included. There would be a \$10,000 dollar cost to the seller to upgrade or correct a mistake. And if that is the case, that also is considered an expense.

**Chairman Belter:** We have the amendments before us. Are there any question? If not, all those in favor signify by saying aye. The motion carries. What are your wishes on HB 1294?

**Representative Grande:** I would move a **Do Not Pass as Amended**.

**Representative Headland:** **Second it.**

**Chairman Belter:** Is there any discussion? Will the clerk read the roll; 9-y; 4-n; 1-absent; Rep. Grande will carry the Bill. We'll close the hearing on HB 1294.

#3

HB 1294 A  
2-5-07 Am  
70350.0201  
Title.

Rep. Thorpe

Prepared by the Legislative Council staff for  
Representative Thorpe  
January 16, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1294

Page 1, line 7, replace "realtors" with "costs associated with purchase and sale"

Page 1, line 8, remove "commissions" and replace "realtors' commissions" with "costs associated with purchase and sale"

Renumber accordingly

January 16, 2007

**House Amendments to HB 1294 (70350.0202) - Finance and Taxation Committee  
02/06/2007**

Page 1, line 7, replace "realtors" with "**costs associated with purchase and sale**"

Page 1, line 8, remove "**commissions**" and replace "realtors' commissions" with "**costs associated with purchase and sale**"

Page 1, line 11, replace the first underscored comma with "and" and remove ", and  
productivity"

Renumber accordingly

Date: 2-5-07 pm  
Roll Call Vote #: 1294

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House \_\_\_\_\_ Finance & Tax \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment  
Number \_\_\_\_\_

Action Taken Do Not Pass As Amended

Motion Made By Rep. Grande Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		
Vice Chairman Drovdal	✓		Rep. Kelsh		✓
Rep. Brandenburg	✓		Rep. Pinkerton		✓
Rep. Froseth	✓		Rep. Schmidt	✓	✓
Rep. Grande	✓		Rep. Vig		✓
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler		✓			
Rep. Wrangham	✓				

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Grande

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

HB 1294: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1294 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "realtors" with "costs associated with purchase and sale"

Page 1, line 8, remove "commissions" and replace "realtors' commissions" with "costs associated with purchase and sale"

Page 1, line 11, replace the first underscored comma with "and" and remove ", and productivity"

Renumber accordingly

2007 TESTIMONY

HB 1294

#1 2-5-07 Am

Good Morning Chairman Belter  
& committee members  
& Am Rep. Wady Thorpe representing  
District 5 from Minot, District 5  
comprise the south 1/2 of Minot  
from Central Ave south to 37th Ave,  
including most of the business &  
financial sections as well as  
the majorities of its K thru 12  
education facilities

While on my door to door Campaign,  
I had a voter bring to my attention  
the need to change how our assessor  
and County board of equalization at  
present use gross value of property for  
evaluation purposes.

It is his & his neighbors view, that  
this is unfair, that the board should  
instead use NET sale's to calculate  
valuations for property tax purposes.

example = when a property owner  
lists a property for sale asking  
to ~~price~~ receive a net price  
of \$94,000 NET to seller,  
and the listing agency in turn  
sells the property for \$100,000

which includes there sales Commission  
this is the gross selling price.  
They then will cut a check to  
the lister of the property for the  
agreed price ~~of~~ of \$94,000 which  
is considered the NET selling price  
for this property.

Mr Chairman & members of your Finance  
& tax Committee this gentleman  
gave me an example of a property  
in his neighborhood which had been  
sold 3 times in 5 yrs. having  
a multiplication effect on valuations  
to his & his neighbors property  
using our present system.

After giving this a lot of thought,  
I made the decision to do a bill  
draft to correct this situation.

It is my belief that there are some  
harming consequences if we fail to  
address this inequity of falsely forcing  
up property valuations.

Added to this a multiplying effect  
could be the added multiplier

of property owners forced into  
foreclosure of their property due to  
inability to meet payments  
& higher property taxes!

These multipliers could force  
taxes to go through the roof,  
and start another recession!

I believe the following force &  
impact present valuations

Millevie's

Close ing costs

Maintenance & improvements

Commission fees & Inflation

This bill draft only addresses the  
Commission fees charged by the  
Agency which should not be  
a part of the net sales figure!

Chairman Belter and your great  
Finance & Tax Committee I ask  
you to give this your careful  
consideration and Respectfully  
ask for a do pass to  
Get fair net back into valuations  
of property

Thank you

HB 1294A  
#2 2-5-07 am

Rep. Thorpe

West on mapping  
Redactions

Bill Lewis + duplators

with Simon + duplators

Barb Body growth

1930s 1940s 1950s 1960s 1970s 1980s 1990s 2007

How did the effect of multiplication of common fees

HB 1294A Rep. Thorpe

#4 2-5-07-AM

Valuation —	100,000	94,000
Taxable Base	50,000	47,000
Assessment	5000	4700

Mills ~~600~~ 3800 2820

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<180>

4700  
- 000  
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4700

\* Multiplying factor in using the Assessor +  
Equalization