

1999 SENATE FINANCE AND TAXATION

SB 2334

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2334

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 01/25/99

Tape Number	Side A	Side B	Meter #
tape # 1 2,334		x	2465-end
Committee Clerk Signature <i>Shelita Wald</i>			

Minutes:

Sen. Urlacher opened the hearing on 2334, A BILL RELATING TO SALES OF PROPERTY FOR DELINQUENT TAXES.

Sen. Fischer - I am supporting the bill. I would like others to explain this bill and I would like them to continue this discussion.

Terry Traynor - Testimony submitted and attached. ND Association of Counties.

Mike Montplaisir - Testimony submitted and attached. Cass County Auditor.

Leslie Korgel - Testimony submitted and attached. McLean County Treasurer.

Sen. Urlacher - closed the hearing.

DISCUSSION - 01/25/99 MOTION IS MADE BY SEN, WARDNER TO DO PASS AND SEN. STENEHJEM SECONDED , VOTE TAKEN 7 YES 0 NO & 0 ABSENT.

Page 2
Senate Finance and Taxation Committee
Bill/Resolution Number Sb 2334
Hearing Date 01/25/99

SEN. CHRISTMANN WILL CARRY THE BILL ---TAPE #1 SIDE B -METER # 2465-END

ALSO TAPE #2 SIDE A 0-50.

FISCAL NOTE

(Return original and 14 copies)

Resolution No.: SB 2334

Amendment to: _____

Requested by Legislative Council

Date of Request: 1/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: SB 2334, if enacted, rewrites the tax deed proceedings by eliminating tax sales and providing for a foreclosure of tax lien by the county. The revenue impact to the state (constitutional one-mill medical center levy), counties, cities, and school districts may be caused by the time difference between a private bidder receiving a tax sale certificate by paying the delinquent tax and the three years eleven months until the county sells the property obtained by tax deed. A sampling of county auditors indicates that very few tax sale certificates are issued to private purchasers, if the delinquent taxes are not paid by the owner, most tax deeds are issued to the county. The effective date of SB 2334 affects property taxes levied in 1999, and unpaid by the third Tuesday in December, 2000. There may be a slight revenue loss to the state medical center special fund, counties, cities and school districts beginning in FY 1999 - 2000.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	0	0	0	<\$5,000	0	<\$5,000
Expenditures	0	0	0	0	0	0

What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: 0
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: 0
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: 0

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	<\$5,000 loss	<\$5,000 loss	<\$5,000 loss	<\$5,000 loss	<\$5,000 loss	<\$5,000 loss

If additional space is needed
attach a supplemental sheet.

Signed: *Kathryn L. Strombeck*

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: January 22, 1999

Phone Number: 328-3402

Date: 1/25/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2334

Senate Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Wardner Seconded By Sen. Stenehjem

Senators	Yes	No	Senators	Yes	No
SENATOR URLACHER	✓				
SENATOR CHRISTMANN	✓				
SENATOR SCHOBINGER	✓				
SENATOR STENEHJEM	✓				
SENATOR WARDNER	✓				
SENATOR KINNOIN	✓				
SENATOR KROEPLIN	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Christmann

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

REPORT OF STANDING COMMITTEE (410)
January 26, 1999 7:47 a.m.

Module No: SR-16-1161
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2334: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2334 was placed on the Eleventh order on the calendar.

1999 HOUSE FINANCE AND TAXATION

SB 2334

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2334

House Finance and Taxation Committee

Conference Committee

Hearing Date March 3, 1999

Tape Number	Side A	Side B	Meter #
1		x	49
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

SEN. TOM FISCHER, DIST. 46, FARGO, Introduced the bill. See written testimony.

MICHAEL MONTPLAISIR, CPA, CASS COUNTY, FARGO Testified in support of the bill.

See written testimony. Also submitted the proposed process of delinquent property taxes resulting in a tax deed. See attached copy.

REP. RENNER Referred to handout regarding current delinquent property tax process, three to ten years after the sale, I thought they had to be cleared up in five years?

MICHAEL MONTPLAISIR, The three to ten years refers to a private person who comes in with a tax sale and bond certificate, they can come in three years from the date of that certificate and ask to foreclose on, but they have up to ten years to do that. We are not allowed to foreclose, until the purchaser comes to us and asks us to foreclose on it.

REP. BILL DEVLIN, DIST. 23, FINLEY, Co-sponsor of the bill, testified in support. Stated, as a former county commissioner, I can tell you this is a very good bill and deserves your support.

TERRY TRAYNOR, NORTH DAKOTA ASSOCIATION OF COUNTIES, Testified in support of the bill. See written testimony.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-3-99, Tape #2, Side B, Meter #5.3

REP. RENNER Made a motion for a DO PASS

REP. WARNER Second the motion. MOTION CARRIED

14 Yes 0 No 1 Absent

REP. WARNER Was given the floor assignment.

Please type or use black pen to complete

Date 3-3-99
Roll call vote # _____

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2334

House HOUSE FINANCE & TAX Committee

- Subcommittee on _____
 - Conference Committee
- } Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Renner Seconded By Rep. Warner

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	✓				
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 14 0
(Yes) (No)

Absent 1

Floor Assignment Rep. Warner

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
March 3, 1999 4:19 p.m.

Module No: HR-38-3978
Carrier: Warner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2334: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2334 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2334

Senate Finance and Taxation Committee
Sen. Urlacher-Chairman

Hearing on Senate bill 2334
11:00 AM Monday January 25, 1999

Testimony: Leslie Korgel- McLean County Treasurer

Good morning Chairman Urlacher, vice chairman Christmann and members of the Senate Finance and Taxation Committee. I am Leslie Korgel, McLean County Treasurer, and I am testifying in support of SB 2334. The purpose of this bill is to streamline the collection process of real estate property taxes in North Dakota.

The present real estate property tax collection process includes a tax sale, tax sale certificates, assignment of tax sale certificates, subsequent tax sale certificates, period of redemption and expiration of period of redemption, title transfer, annual sale of property acquired by tax deed, private sales between annual sales, rights of repurchase by owners etc. The proposed system would eliminate the tax sale process and instead place a tax lien on the property at the end of the first year. Then, if the taxes are not paid by October 1st of the fourth year following the application of the tax lien, the property would be foreclosed on and a tax deed would be issued to the county.

I have enclosed flow charts (courtesy of the North Dakota Tax Dept) that show the current procedure and the proposed procedure..Under the present system, the county treasurer sends a notice (between Nov. 1 and Nov. 15) to the owners stating that their property will be sold for taxes at the tax sale on the 2nd Tuesday of December, if taxes remain unpaid. At the tax sale, any private purchaser can buy a tax sale certificate (which amounts to the unpaid taxes, specials, penalty and costs) and bid up to a 9% annual interest rate. If there are no purchasers at the sale, then the county treasurer bids on the property on behalf of the county. The private purchasers after buying a tax sale certificate can then buy subsequent tax sale certificates as they become available in following years. When in possession of three tax sale certificates, the purchaser can have the auditor begin proceedings to get a tax deed to the property. The county can also assign its tax sale certificates to a private purchaser. If there are three certificates to be assigned, the purchaser could have the auditor begin tax deed proceedings immediately. There is real debate among states attorneys , if this can be done or not. A private purchaser at the tax sale can be anyone except the county auditor or county treasurer.

The county then becomes an escrow agent and banker in the next step. If the property owner comes in to pay the taxes with a private purchaser holding a tax sale certificate, the treasurer must collect the amount paid for the certificate plus interest

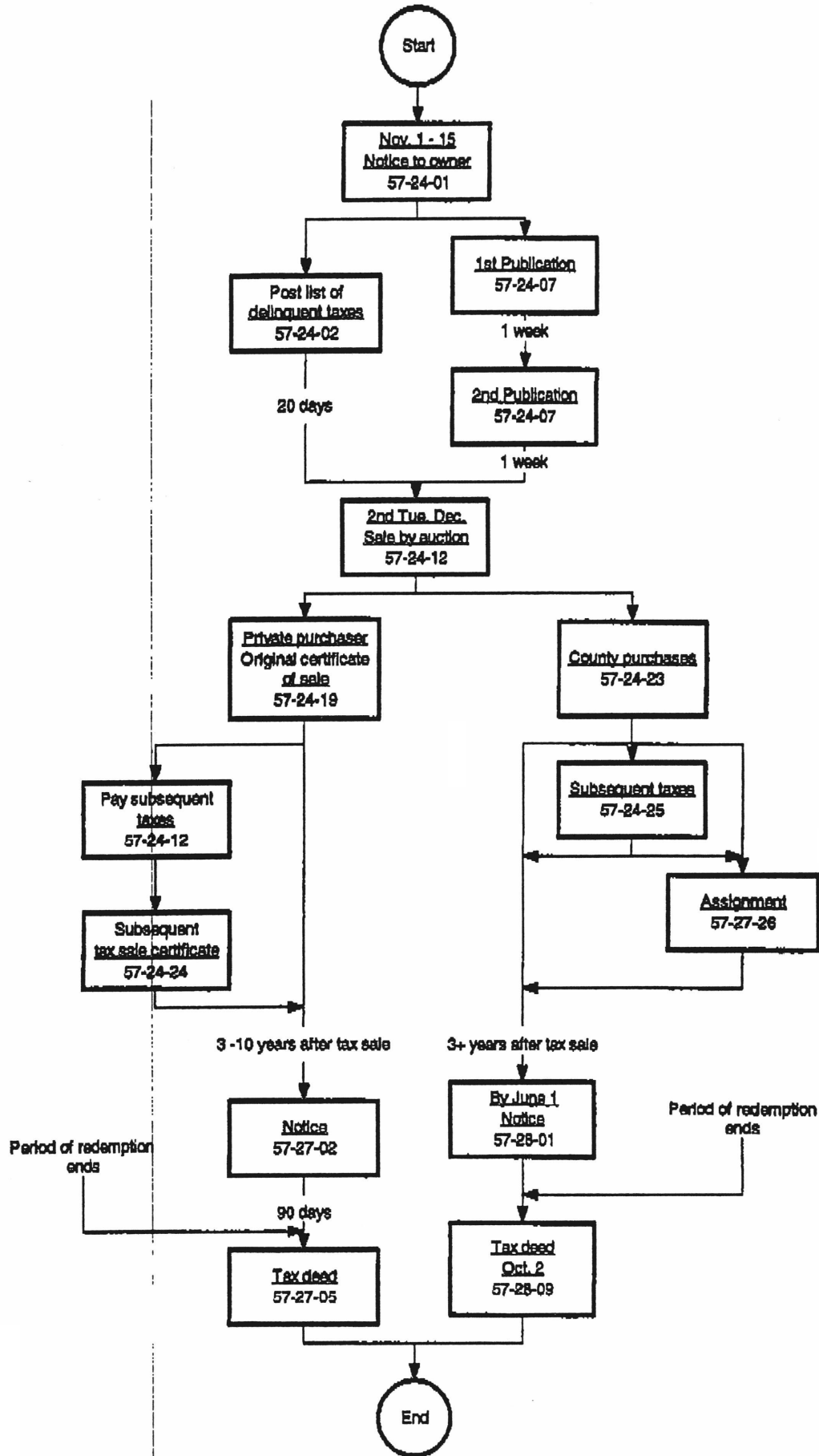
from the day of the tax sale to the day of payment at the bid interest rate. The county auditor then has to notify the holder of the tax sale certificate to bring the certificate in to collect the payment. If the tax sale certificate holder comes in with three years of certificates to begin tax deed proceedings, the auditor has to send a notice to the property owners giving them 90 days to pay up all of the tax sale certificates (plus interest from their date of issuance). If the owner pays, then a check has to be sent to the tax sale certificate holder. If the owner does not pay, then a tax deed must be issued to the tax sale certificate holder.

There are liability concerns for the county in all of this. From acting as a third party agent, to missing the collection of a certificate payment etc. The proposed procedure would eliminate the tax sale certificate thereby eliminating third party involvement with the associated bookwork that is both time consuming and expensive.

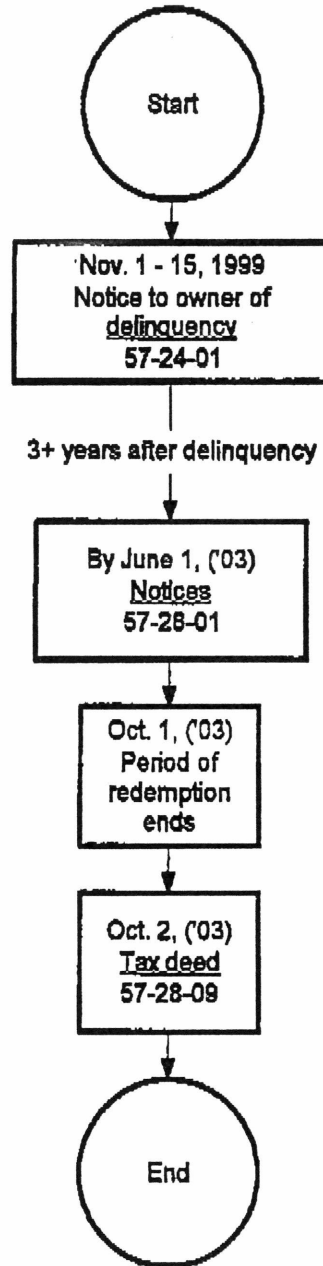
Are there any questions from the committee members?

Thank you Mr. Chairman.

Delinquent Property Tax: Enforcement Through Property Sale



Alternate to Tax Sale Proceedings



TESTIMONY REGARDING SENATE BILL 2334

Chairman Urlacher and members of the Finance and Taxation Committee:

When this bill was first proposed by the County Commissioners Association, I was skeptical that we could write the legislation in time for this years legislative session. This bill is the collaborative effort of County Auditors, County Treasurers, State Tax Department, and the Association of Counties.

If you have trouble understanding what the one year tax sale and tax sale certificates are; you are not alone. The NDCC refers to this as the 'land sale' and the subsequent actions, the redemption from this land sale. This creates a lot of confusion on the part of the property owner, who is fearful of losing their property, and persons seeking to purchase 'land' at this sale. What is being sold is a tax lien against the land. This lien can be forced to be redeemed three years from the purchase date.

Actual investments in these tax liens are rare. In a survey I did after the December sale, of the over \$10,000,000 in delinquent taxes up for sale, only \$28,420 were sold. As a county, we spend a lot of time administering a program that is not needed and seldom used.

I have a concern about outside investors wanting to purchase these liens. Every year I get calls from out of state financial institutions that are considering purchasing these liens, which could pay up to nine percent interest. A purchase would give them a financial interest in the property owned by North Dakota residents. Of the fifty-three counties I surveyed in December, twenty-five of them had been contacted by out of state concerns regarding the sale. A Fargo company recently requested a complete listing of all tax liens in Cass County.

What happens when we sell the taxes? The county becomes the middle man between the property owner and the investor. The county is responsible for keeping the record of what the property owner owes and what is owed to the investor. If the property owner does not redeem the property by paying the tax, the county handles the foreclosure for the investor, and presents the investor with a tax deed to the property.

On the attached pages, I have a summary of what this bill does and does not do and a flow chart of the current procedures and the proposed procedures.

I urge you to support Senate Bill 2334 as a simplification and modernization of the delinquent property tax sections of the NDCC. This bill will reduce the administration burden on counties and strengthen the rights of property owners through eliminating the sale of taxes.

Michael Montplaisir, Cass County Auditor

SENATE BILL 2334

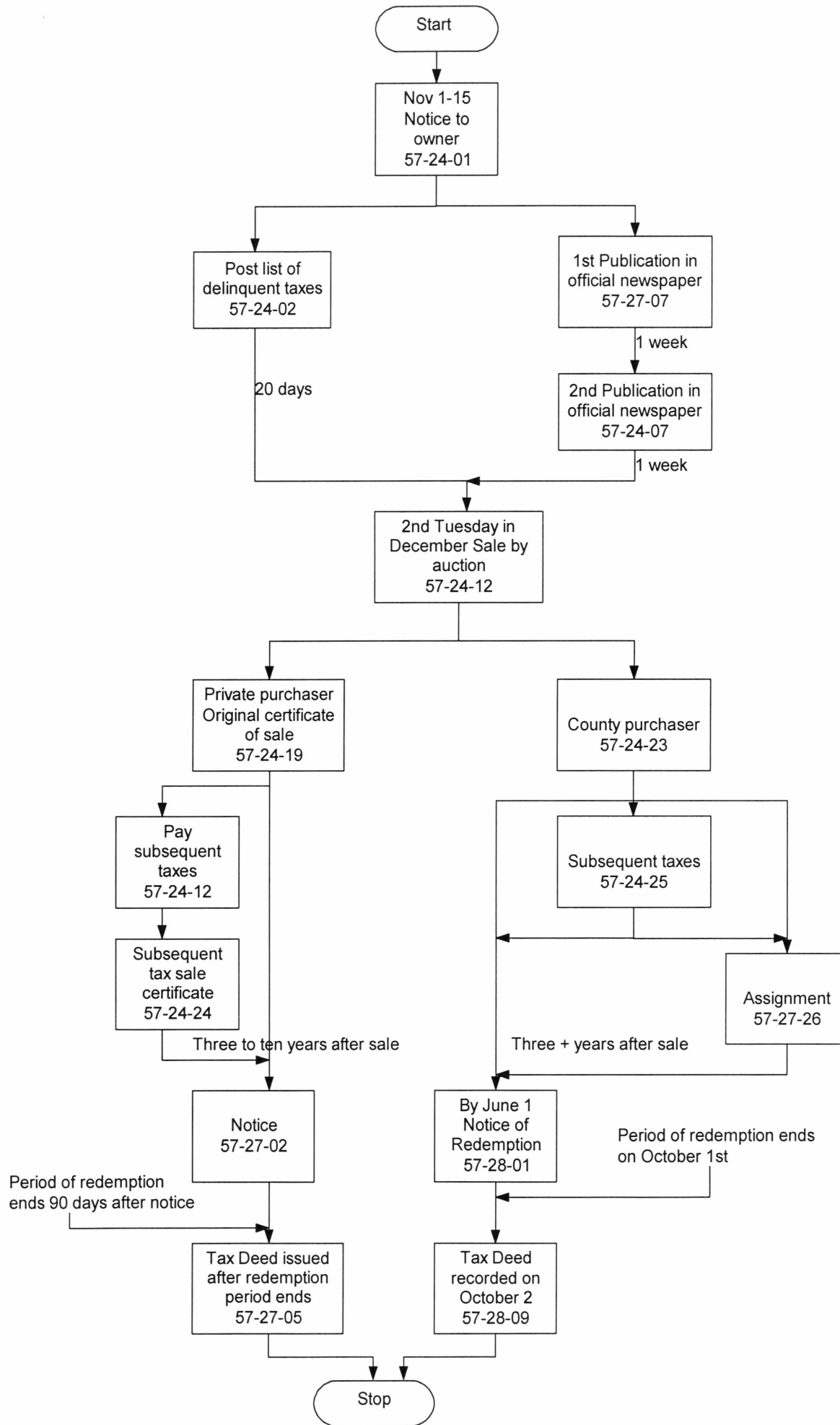
What this bill does:

- Eliminates the annual tax sale
- Eliminates tax sale certificates
- Eliminates subsequent tax sale certificates
- Changes the Notice of Expiration of Period of Redemption to a Notice of Foreclosure of Tax Lien
- Adds a flat \$50 fee for the notice procedures instead of the costs of sheriff's service and publication costs (in Cass County this would be a revenue neutral fee)
- Gives more flexibility to the Register of Deeds and Clerk of District Court, they will now have the period from March 1 to April 15th to certify mortgage, lien, and judgement holders instead of the current ten days.
- Eliminates three chapters of the NDCC - 57-24, 57-26, and 57-27 along with repealing some sections of chapters 40-25 and 57-20.
- Makes the title given by counties marketable, as long as they meet the same requirements as cities under this chapter. (See page 18)
- Streamlines the process of foreclosure (see accompanying flowcharts)

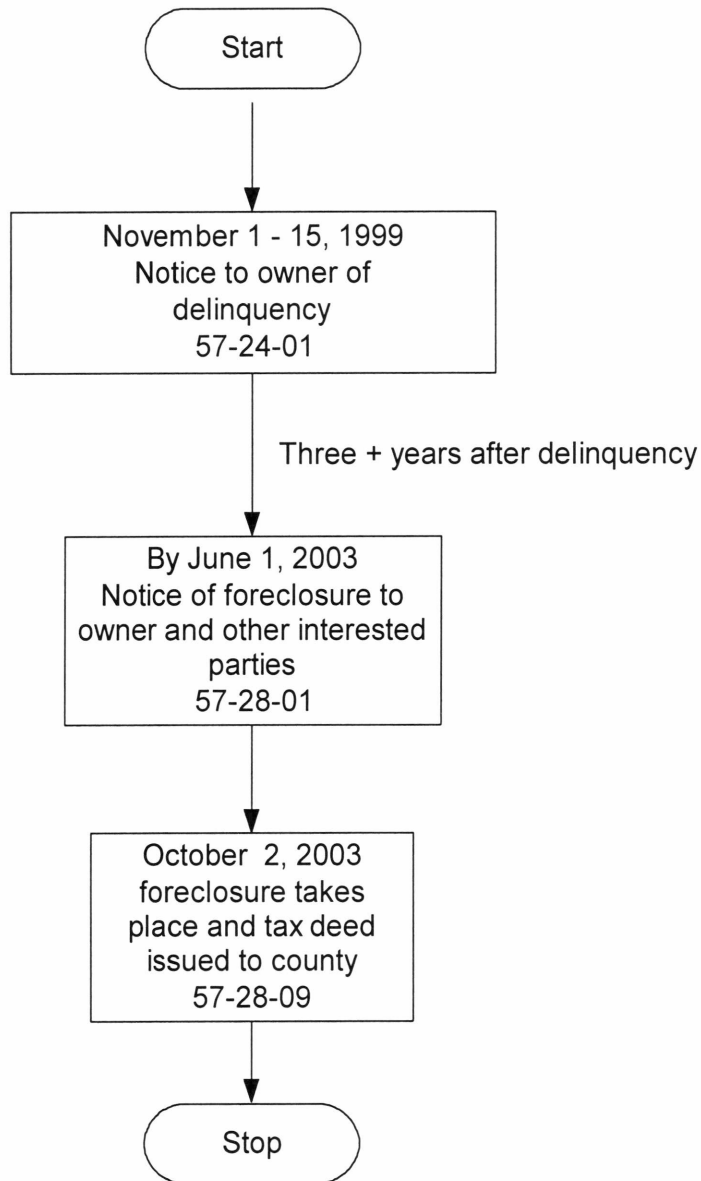
What this bill does not do:

- This bill does not change the number of years the tax can be outstanding.
- This bill does not reduce the property owner's rights.
- This bill does not change the interest rate charged on delinquent taxes.

Current Delinquent Property Tax Process - Resulting in Tax Deed



Proposed Delinquent Property Tax Process - Resulting in Tax Deed



Bill
2334

**TESTIMONY TO THE
SENATE FINANCE & TAXATION COMMITTEE**
Prepared January 25, 1999 by the
North Dakota Association of Counties
Terry Traynor, NDACo Assistant Director

Concerning Senate Bill No. 2334

Thank you Chairman Urlacher and members of the Committee for the opportunity to present a few very brief remarks concerning our Association's strong support for Senate Bill 2334. This rather lengthy piece of legislation, we believe, is quite possibly the most important and the most positive change to our property tax system in many years. It is the result of the combined efforts of county treasurers and auditors, with significant technical assistance from the State Tax Department.

This Bill proposes the replacement of the incredibly complex and expensive system that we now use to address delinquent taxes, with a very straightforward and streamlined process. But, very importantly, it preserves the notice requirements and landowner protections of the present system, and also retains the current five-year period before any landowner can lose their property for non-payment.

To this testimony I have attached two flow charts to which the rest of the testifiers may refer. They give a very quick visual picture of the complexity we hope to eliminate. Those that follow me can more accurately describe the specific problems and concerns that this restructuring will address. And they can also more clearly convey the way the current system creates an attraction to out-of-state investment speculators.

Our intent in drafting this bill was not to change the requirements or results as they might affect a landowner; but to simplify the process, clarify the responsibilities, eliminate out-of-state speculation in tax certificates, and leave the county with a clear marketable title if foreclosure due to non-payment of taxes ultimately becomes necessary. We believe this bill accomplishes these goals, and gives us a process that better serves all of our taxpayers.

I will attempt to answer any questions you may have, however those that follow me, and representatives of the Tax Department may be much more capable of answering the more technical questions. County government would greatly appreciate your support of Senate Bill 2334.

SB 2334

Senator Tom Fischer

Mr. Chairman, members of the House Finance & Taxation Committee.

For the record my name is Tom Fischer, state senator from district 46, south Fargo.

I am here today to introduce and support Senate bill 2334.

This bill would eliminate the tax sale process which is seldom, if ever, used by any counties. It would also eliminate the one year tax certificates.

The passing of this legislation will eliminate the third party from being a part of the tax procedure.

Mr. Chairman, There are people here today who are far more qualified than myself to explain this bill in detail and answer your questions.

Mr. Chairman, with your permission, I would ask that they continue with their testimony.

Mr. Chairman if there are any questions I will attempt to answer them.

CASS COUNTY
GOVERNMENT



March 1, 1999

Representative Welsey R. Belter
Chairman, Finance and Taxation Committee
State Capitol
Bismarck ND 58505

Auditor

Michael Montplaisir, CPA
701-241-5601

Treasurer

Charlotte Sandvik
701-241-5611

Director of Equalization

Frank Klein
701-241-5616

Re: Senate Bill 2334

Dear Representative Belter:

When this bill was first proposed by the County Commissioners Association, I was skeptical that we could write legislation in time for this year's legislative session; however, with the collaborative effort of county auditors and treasurers, the State Tax Department, and the Association of Counties this bill has become a reality.

If you have trouble understanding what the one-year tax sale and tax sale certificates are, you are not alone. The NDCC refers to this as the 'land sale' and subsequent actions as the redemption from this land sale. This creates a lot of confusion on the part of the property owner, who is fearful of losing their property, and persons seeking to purchase 'land' at this sale. What is being sold is a tax lien against the land. This lien can force a redemption three years from the purchase date.

Actual investments in the tax liens are rare. In a survey I conducted after the December sale, out of the approximately \$10,000,000 in delinquent taxes up for sale, only \$28,420 were sold. As a county, we spend a lot of time administering a program that is not needed and seldom used.

We have a concern about outside investors wanting to purchase these liens. Every year we get calls from out-of-state financial institutions that are interested in purchasing these liens, which could pay up to nine percent interest. A purchase would give them a financial interest in the property owned by North Dakota residents. Of the fifty-three counties surveyed in December, twenty-five of them had been contacted by out-of-state institutions regarding the sale. A Fargo company recently requested a complete listing of all tax liens in Cass County.

Box 2806
211 Ninth Street South
Fargo, North Dakota 58103

FAX 701-241-5728

Rep. Wesley R. Belter

March 1, 1999

Page 2

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Sincerely,

A handwritten signature in cursive script that reads "Michael Montplaisir".

Michael Montplaisir
Cass County Auditor

**TESTIMONY TO THE
HOUSE FINANCE & TAXATION COMMITTEE
Prepared March 3, 1999 by the
North Dakota Association of Counties
Terry Traynor, NDACo Assistant Director**

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