

2019 HOUSE FINANCE AND TAXATION COMMITTEE

HB 1221

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1221
1/21/2019
31101

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the period of property tax delinquency before foreclosure of a tax lien; to provide for application; and to provide an effective date.

Minutes:

Attachments 1-3

Chairman Headland: Opened hearing on HB 1221.

Representative Satrom: Introduced bill. According to our current laws the county can come after you and sell your property after two years if you have not paid your taxes. I'm proposing to change one number in the law from two to five. Historically it was five years until it was changed a few sessions ago then changed to two years. If we need to change to higher interest or exempt them from the five-year window I wouldn't be opposed to that. Right now our national economy is doing well but if we go through a serious depression or recession in the future two years goes by pretty quickly. We need to do what we can to help people stay in their homes during and after difficult situations. There are no easy answers to fix this. We need to ask ourselves if the government is here to serve us or are we here to serve them? Or is our government for us as long as it's not an inconvenience?

Chairman Headland: Is there testimony in support of HB 1221? Is there opposition?

Michael Montplaisir, Cass County Auditor: Distributed written testimony, see attachment #1. Ended testimony at 11:32.

Chairman Headland: In reality, you have two years then is it at the end of the third year when you start the process?

Michael Montplaisir: In 2019 the 2016 taxes were levied January 1, 2017. The law says you have notice by the 31st of May two years after it has become due. We don't wait until May 31 to serve the notice. Next month we'll be sending the developers a list of all the delinquent lots. In March we'll send them that same list. Once we get around to May 1 we're going to put on the \$50 service fee. We'll send home owners a notice in April and if they pay by May 1 we would eliminate the \$50 fee. We start in May sending out certified notices to all

the lien and judgement holders along with the sheriff service to properties where people live. In July we publish a notice in the paper. They get a lot of notices.

Chairman Headland: When would the actual sheriff sale occur?

Michael Montplaisir: It isn't a sheriff sale. The county auditor actually sells it. I'm the auctioneer. They have to pay the oldest year no later than October 1 then October 2 the county auditor deeds the property to the county on behalf of the state of North Dakota. Then we have about six weeks to value the property and get it ready for the sale. After we take it we send the owners a letter explaining the process to them. At any time up until the third Tuesday in November they can redeem it and pay all the years' taxes. The letter has prompted more people to contact us which is what we really want. We tell them to let us know if they are having trouble paying the taxes so we could possibly help. It works very well.

Chairman Headland: In a scenario of someone losing their property because of an illness or some type of medical issue, are there ways to work through those so they don't lose their property?

Michael Montplaisir: In my 30 years I have never had a person lose a property that they really wanted to keep. We work with the property owners.

Representative Hatlestad: Do they have to pay all of the back taxes or one year?

Michael Montplaisir: Up until October 1 they can pay the oldest year then after October 1 they have to pay all three years.

Representative B. Koppelman: What would happen to the proceeds of the property when you have to sell the property? Does it go back to the owner once everything else is paid on that?

Michael Montplaisir: Current law states that if we sell a property we pay off the taxes then the rest goes to the general fund of the county. We don't usually get a lot of extra money. The important part of that is our leverage. I'm not really concerned about lien holders but mortgages companies and property owners I am concerned. We always tell people that if it's worth anything then they should sell it. We've been able to finance it through the county or with reverse mortgages which works in most cases.

Representative B. Koppelman: Do we need to shorten the time frame that developers can intentionally use the system as opposed to people that are down on their luck whether or not we change the timeframe for those who are down on their luck?

Michael Montplaisir: I would hate to treat any type of property differently but I would urge the cities consider when they're going to sell bonds to develop land that they have a letter of credit or something from the developer so that they can force them to pay.

Chairman Headland: Is there further opposition?

Bill Wocken, North Dakota League of Cities: Distributed written testimony from himself as well as from City of Watford City, see attachments #2 and 3. Ended testimony at 23:32.

Chairman Headland: Is there further opposition? Seeing none we will close the hearing on HB 1221.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1221
1/21/2019
31129

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the period of property tax delinquency before foreclosure of a tax lien; to provide for application; and to provide an effective date.

Minutes:

No attachments

Chairman Headland: We're open for discussion. It became obvious to me the reasons we made the changes a few sessions back to reduce the amount of years. I don't support this bill either.

Vice Chairman Grueneich: With the testimony we heard and the potential burden it puts on the county I agree that it's probably not the homeowners, it's probably some of the developers. To give them an opportunity of up to five years and even into the sixth year before they act on it, I can't support this.

Representative B. Koppelman: I understand the intent of this bill. I'd like to **propose an amendment that we change the word "five" to the word "three" on page 1 line 13 and on page 2 line 12.**

Representative Ertelt: Seconded

Chairman Headland: Why?

Representative B. Koppelman: I really don't like the abuse of the developers always paying their taxes late. There have been cases where people have been through the ringer and I thought the legislature took too far of a swing back in the direction of being too shallow with the number of years. Maybe five years going into six years is too far of a stretch too. To me it's a lot more palatable if it's adding an additional year. I'm just finding a middle ground between four years and two years.

Chairman Headland: I'm going to reject your amendment. I think they laid out a pretty good case as to why we should keep it where it is. When asked directly they've never had a case where someone lost their property to them for lack of payment due to medical issues. He made it clear that they do whatever they can to accommodate a home owner. I

think it's working as designed. Any time you have delinquent taxes you're essentially putting the burden on the ones that are willing to pay in a timely fashion. In my mind I think it's working as we want it to so I'm going to reject your amendment.

Representative B. Koppelman: I don't think they said they never had a situation where it didn't happen but I think they said it was rare when someone lost their home. Our auditor from Cass County has indicated that it was less than two times per year.

Chairman Headland: Is there any other discussion on the proposed amendment?

VOICE VOTE: MOTION FAILED TO ADOPT THE AMENDMENT

Chairman Headland: Is there further discussion on HB 1221?

Representative Dockter: MADE A MOTION FOR A DO NOT PASS

Representative Steiner: SECONDED

Chairman Headland: Discussion.

**ROLL CALL VOTE: 11 YES 2 NO 1 ABSENT
MOTION CARRIED**

Representative Fisher will carry this bill.

Date: 1-21-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1221

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: change "five" to "three" on page 1 line 13 and on page 2 line 12.

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion failed

Date: 1-21-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1221**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Darter Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt		✓			
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading	✓				
Representative Koppelman		✓			
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✗				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Fisher

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

REPORT OF STANDING COMMITTEE

HB 1221: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1221 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1221

Written Testimony To
THE HOUSE FINANCE AND TAXATION COMMITTEE
January 21, 2019 by
Michael Montplaisir, Cass County Auditor
Cass County Government

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REGARDING HOUSE BILL 1221

Mr. Chairman and members of the House Finance and Taxation Committee, I am Michael Montplaisir, Cass County Auditor and have been involved in property tax and managing the notice process for delinquent taxes for about thirty years. House Bill 1221 increases the amount of time from when a tax bill becomes due and when the property is subject to forfeiture. The change of a simple word in the law, from two to five, adds thirty-six months to the process.

In 2007 the Legislature adopted House Bill 1332 decreasing the time from the original due date of property taxes from fifty-seven months to thirty-three months. We had a lot of discussion at that time concerning the effect on the property owners who were delinquent and what effect the change would have on them. The reduced time has worked well, the same number of properties are in the delinquent process at the beginning, but we are able to work out solutions for more of them because the unpaid balance is workable.

For homeowners, when they are three years behind they can still recover. The further they get behind the harder it becomes for them to stay in their home. We have gotten people on automatic payments through their bank, have set up contact for deeds for homeowners and when we have taken their house, have helped them with finding Reverse Mortgage experts in some cases. The sooner we can start working with these people the better, and that directly relates to the number of years the state allows them delay paying property taxes.

We have developer properties on our delinquent list each year. We have six-hundred twelve properties that owe 2016 taxes; three-hundred forty-four of those are development lots. One developer alone has seventy-four delinquent lots. Some developers normally pay the taxes and specials on the lots when they sell the lot, or when they are up against the foreclosure for taxes. In the meantime, the city has to pay the bonds sold for the infrastructure put on those lots. Adding three more years to this process leaves the city, and ultimately the rest of the property tax payers on the hook for the bonds.

No one likes taking property for non-payment of taxes. The process is difficult and county staff spends a lot of time on this process. However, the process does provide adequate notice to property owners, lenders, and lien holders before a foreclosure takes place. The foreclosure is an enforcement action of the property tax system. The threat of foreclosure is more important than the actual foreclosure; of over sixty thousand properties in Cass County, we usually take title to less than twenty each year and the owner before the annual sale redeems about half of those.

HB 1221 would change it so the notice process starts five years after the property tax first becomes due, adding three years to the process. Some would say that gives property owners three more years to pay their taxes, what it really is, is three more years of interest before the same people on my list today have to pay their taxes. This is going to make it harder for property owners, not easier.

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p. 2

Cass County has over sixty thousand tax parcels; the taxes are paid on the vast majority of these in the year they are due. From my experience, the properties that still have taxes two years later can be divided into three groups.

- Individual owners who are always going to be two years behind on their taxes.
- Developers who are using the tax system as a method of financing their development.
- Abandoned properties.

This last group is our real problem – these are the buildings that are left to deteriorate in residential neighborhoods or business districts. These are the properties we get complaints about from neighboring property owners; the lawns are not mowed, weeds are not controlled, and sidewalks are not cleared. The lots and buildings become attractive nuisances. Adding three more years to the process is a disservice to the vast majority of people who pay their taxes on time and have to live or work next to these properties.

The chart below is a summary of the properties Cass County has taken title to after October 1st in each of the years listed. As mentioned before, Cass County has over sixty thousand properties, the current two years to pay taxes does not appear to be a problem - normally under twenty properties are forfeited to the county each year. Usually, owners redeem over half of the properties forfeited before the sale date.

As you look at the chart, you see some years with a large amount of properties forfeited. These are vacant lots in developments that were forfeited and after failing to get bids at the annual sale, we offered them to the city in which they were located.

Year	Forfeited	Redeemed	Sold at Sale	Sold to City	Hold
*2018	12	8	3	1	2
2017	15	8	0		7
2016	14	9	4	1	
2015	20	12	7	1	
2014	16	15	1		
2013	12	8	2	2	
2012	13	6	3	4	
2011	72	10	9	53	
2010	44	14	16	14	
2009	9	2	3	4	
2008	18	2	6	10	
2007	18	1	5	12	

* two of the lots sold were taken in previous years

I urge you not to change the amount of time property can be delinquent on property taxes. The current system works for the property owners, and, it is good public policy. Letting property owners get further into debt is simply bad business.

I ask you to recommend a do not pass on House Bill 1221

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Testimony in Opposition to House Bill 1221
January 21, 2019
House Finance and Tax Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Finance and Tax Committee. For the record, my name is Bill Wocken and I am appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1221.

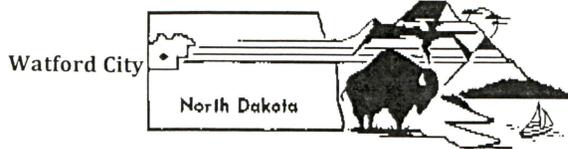
House Bill 1221 lengthens the period of time allowed for a parcel of taxable property to have delinquent taxes before it is foreclosed upon. The current standard is two years and this bill lengthens that period of delinquency to five years.

During the time of any tax delinquency the expenses of local government go on and, thanks to inflation, often increase. To allow properties to be delinquent and continue their delinquency increases the load on properties that are paying their taxes. If enough properties are delinquent the political subdivision may find itself in the position of having to increase the mill levy on the paying parcels in order to meet its budgeted obligations.

This problem is compounded by the proposed addition of three years to the time during which delinquency is allowed without foreclosure. This encourages delinquency since it acts like a loan to the property owner for five years under this bill. One might think this bill would only apply to isolated parcels within a community but it has potential to become a part of the business model for developing areas or commercial facilities.

Mr. Chairman and committee members, the present two year delinquency period is serving us well. House Bill 1221, though well intentioned, may have some sizable unintended consequences. The North Dakota League of Cities therefore requests a Do Not Pass recommendation on this bill.

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City of Watford City

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1/21/2019

9:30 AM – Fort Totten Room

URGE a DO NOT Pass recommendation on HB 1221

Chairman Headland and Committee members of House Finance and Taxation,

The City of Watford City opposes the proposed amendment to NDCC 15-08-19, 57-20-26, and 57-28-01. Five years is an extremely long period of time to leave a property on the tax rolls while incurring the expenses by a Local Political Subdivision (LPS) of servicing that property. With the current timeline of foreclosure and placing lien on the property, it supports adequate notification process and ability for the property owner to respond and come current with their property tax liability. Current NDCC is an adequate balance of property owner rights and not placing the Local Political Subdivision in a position of providing services for five years without tax collections for those services.

This increase in lien liability (created by extending the delinquency period by 2.5 times) causes an unintended consequence of LPS's not being able to get properties back on the rolls also. Simply, please leave NDCC 15-08-19, 57-20-26, and 57-28-01 as is.

Again, the **City of Watford City recommends a DO NOT Pass on HB 1221.**

Thank you for your time and consideration of our concerns.

Mayor Phil Riely, Watford City
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