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## **FISCAL NOTE STATEMENT**

House Bill or Resolution No. HB 1261

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Sheila Sandness  
Senior Fiscal Analyst

**2019 HOUSE FINANCE AND TAXATION**

**HB 1261**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1261  
1/21/2019  
31102

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

### Explanation or reason for introduction of bill/resolution:

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

### Minutes:

Attachments 1-2

**Chairman Headland:** Opened hearing on HB 1261.

**Representative Satrom:** Introduced bill. This all started because one of my constituents saw an article in the Jamestown Sun about a tax foreclosure. Distributed and informed the committee of the article, see attachment #1. I understand the county keeping the amount due, keeping the interest, expenses, and executing the sale. I question whether keeping the profit is the role of our local government or if it would be more noble to allow the owner to keep the remaining amount. This bill is intended to remedy this.

**Chairman Headland:** Is there testimony in support? Is there opposition?

**Linda Svihovec, Research Analyst with North Dakota Association of Counties:** Distributed written testimony, see attachment #2. Ended testimony at 8:20. In 2018 Cass County took one property. They priced it at \$10,000 over the taxes knowing that there would be some additional clean up. There were no excess sales in Richland County. Burleigh County had zero. McKenzie County had 17 properties and excess sales received to the general fund was \$21,000. That probably included multiple lots from the same developer. Ward County had zero excess proceeds and Morton County had zero. Bottineau County took 23 properties in foreclosure with zero excess dollars in proceeds; six were redeemed by owners, seven sold for taxes due, and 10 retained by the county because nobody wanted to buy them.

**Chairman Headland:** What happens with those properties the county can't find a buyer for? Are they advertised? Are they able to be sold anytime of the year to anybody who is willing to make an offer?

**Linda Svihovec:** Yes there is a mechanism in the law for selling between sales. We list those properties every year in the foreclosure notices. Everybody wants those properties

back on the tax rolls. There were years in McKenzie County where we sat on properties for a few years because they just weren't desired. That rarely happens out there now.

**Representative B. Koppelman:** If they are contacting people other than the owner who owes the tax do they have the authority to let anybody pay the tax? Does that individual assume the property or does that just get it off the county's back? Is the mortgage still in place and still belongs to the homeowner who isn't paying?

**Linda Svihovec:** Yes a mortgage company can come and does come in and pay up those taxes because they don't want to lose that mortgage. It does not change the ownership on that property.

**Chairman Headland:** Is there further testimony in opposition?

**Michael Montplaisir, Cass County Auditor:** Foreclosing on property for taxes is an enforcement action. If you change it that we're giving the money back to the owner, then we're a realtor. When we take a property it's typically not worth a lot or they wouldn't have let it go back for taxes but we try to get the maximum amount of money we can for it. After we take it then it belongs to the citizens of the county. We make money on some. If we sell a property and get more money for it this bill says it goes back to the property owner. I would rather we give it to the court system and they can sort out who gets the money.

**Representative Dockter:** Do you know about how much time this process takes you and your staff? I can't imagine the hours you put in to follow up and proceed with all this.

**Michael Montplaisir:** I can't give you a figure on the hours. For everybody who owes 2016 taxes we're going to send a list to the county recorder's office by March 1 to the clerk of district court. They have to research all the liens and judgements then we have to enter all that into the tax system so we can service notices. Anything with a residence on we serve by sheriff service otherwise people are notified by certified mail. It takes a lot of time.

**Chairman Headland:** Has anybody ever tried to determine the cost of delinquent taxes on the rest of the taxpayers located in the county? We all understand there is a cost but I'm curious as to how great it would be.

**Michael Montplaisir:** We've never done a study on the cost of it. Years ago we had to keep track of the cost for every certified notice, publication, and sheriff service. A number of years ago we changed that to a \$50 fee. That has helped us tremendously in tracking things.

**Chairman Headland:** Is there further opposition?

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1261  
1/21/2019  
31130

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

### Explanation or reason for introduction of bill/resolution:

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

### Minutes:

No attachments

**Chairman Headland:** Comments committee members? I'm rejecting this measure as well. There are costs associated with foreclosures. I think it's fair that the county has the ability to use anything extra from a foreclosure to help with the costs rather than completing passing them on to all the other taxpayers.

**Representative Dockter:** When Mike Montplaisir testified and told us everything their staff has to do I think they deserve the extra resources. **MADE A MOTION FOR A DO NOT PASS.**

**Vice Chairman Grueneich: SECONDED**

**Chairman Headland:** Is there any further discussion?

**ROLL CALL VOTE: 13 YES 0 NO 1 ABSENT  
MOTION CARRIED**

**Representative Blum will carry this bill.**

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

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1261

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. Dockter Seconded By Rep. Grueneich

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	A				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Blum

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

**REPORT OF STANDING COMMITTEE**

**HB 1261: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1261 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**HB 1261**

# 1 HB 1261  
1-21-19



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## Forfeited properties sell at auction

By Tom LaVenture / Jamestown Sun on Nov 21, 2018 at 7:06 a.m.



Five real estate properties that were forfeited for delinquent taxes sold at public auction, the Stutsman County Commission learned Tuesday.

In her report to the commission, Nicole Meland, Stutsman County auditor and chief operating officer, said five of six properties sold at a public auction Tuesday.

There was \$10,197 in outstanding property taxes on the five properties that sold, she said. The total \$59,200 from the sale of the properties left the county with \$49,003 in profit, she said.

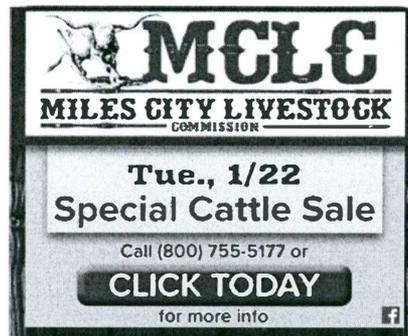
Three of the properties were in Jamestown, she said. Properties in Kensal and Woodworth sold for the minimum \$100 bid on each property, she said.

One property in Cleveland had a minimum bid of \$2,596 but did not sell, Meland said. The property has a trailer with several additions that would likely need to be torn down, said Commissioner Dennis Ova.

The unsold property will be posted on the county website in February as a direct purchase property, Meland said.

In other business, the commission approved 4-0 to cancel a list of checks for Stutsman County Corrections taxable meals and mid-month bills. The checks were a year old as of June and will be sent to the state of North Dakota when they are 2 years old, according to Jessica Moser, Stutsman County treasurer.

Commissioner Craig Neys was not present.



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COMMISSION

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1 day ago

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13 min ago

2018 projects  
1 hour ago

Hockey Day North Dakota  
1 hour ago

Community calendar of even 2019  
1 hour ago

Farmland rental rates holding with exceptions  
2 hours ago

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9 hours ago

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10 hours ago

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By NDQuits

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Testimony Prepared for the  
House Finance & Tax  
January 21, 2019  
By: Linda Svihovec, NDACo Research Analyst

**RE: OPPOSE House Bill 1261 - Disposition of Proceeds from Tax Lien Foreclosure**

Good morning Chairman Headland and committee members. For the record, my name is Linda Svihovec, Research Analyst with the North Dakota Association of Counties. Thank you for this opportunity to provide testimony opposing HB 1261 which changes where the excess amount collected in property tax foreclosures is allocated. Current law requires the excess foreclosure funds to be credited to the county general fund after the county treasurer receipts all outstanding taxes. HB 1261 would provide for those excess funds to be credited to the owner of the record title listed in the foreclosure notice.

North Dakota law gives property owners a fair amount of flexibility in how and when to pay their taxes in order to avoid foreclosure. The foreclosure process requires multiple notices over a three-year period to be sent to property owners whose taxes are delinquent, advising them of the amount of delinquent taxes due and the date their property will be subject to foreclosure. Current law allows for taxes to be paid in installments to accommodate owners who may be undergoing a financial hardship. There is also a redemption period between the October 1 foreclosure date and the November tax sale, where an owner has the opportunity to pay their taxes and regain title to their property. When a property owner does not pay their taxes, the cost for services such as roads, public safety, water, and education is shifted to others.

Counties lose money on most tax foreclosures. Excess proceeds help offset the costs incurred by counties for insuring, cleaning, and demolishing properties that owners have abandoned. North Dakota county auditors have expressed concern that it will be a challenge to determine who should be paid the excess proceeds in instances where the owner on record has died; where there are judgments, liens, or mortgages on the property; if the owner is a partnership or corporation; or when the owner of record cannot be found.

# 2  
HB 1261  
1-21-19  
p. 2

Early in the oil boom, western North Dakota counties experienced a large number of speculators who bought up rural properties with the intent to "get rich quick". Some of these "developers" never moved any dirt, abandoned their "get rich quick" dream and left North Dakota, leaving no forwarding address, with no intention to pay the taxes on the property they purchased. Providing owners of record with a check for the excess proceeds may encourage speculating developers to abandon their property and their tax responsibility, knowing that the county will bear the responsibility for the cost to maintain and clean up the property until it is sold.

Chairman Headland and committee members, I urge a DO NOT PASS on HB1261, as it will take away a limited source of funds from counties who bear the responsibility and cost for properties acquired through the foreclosure process.