

2023 HOUSE FINANCE AND TAXATION

HB 1267

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1267
1/17/2023

A bill relating to the disposition of proceeds from tax lien foreclosures.
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Chairman Headland opened the hearing at 10:44am.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVilleville, and Representative Ista. No members absent.

Discussion Topics:

- Property sales and tax payments
- Foreclosures and delinquent taxes

Representative Dockter verbally introduced the bill in support.

Aaron Birst, Executive Director for North Dakota Association of Counties, testified verbally in support.

Susan Dollinger, Director of Unclaimed Property Division of the North Dakota Department of Trust Lands, testified in opposition (#13848).

Joseph Heringer, Commissioner of Trust Funds, verbally clarified information for the committee.

Chairman Headland closed the hearing at 11:09am.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1267
1/18/2023

A bill relating to the disposition of proceeds from tax lien foreclosures.
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Chairman Headland opened the meeting at 3:21PM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, and Representative Ista. **Members absent:** Representative Grueneich, Representative Finley-DeVille.

Discussion Topics:

- Committee action

Committee discussion.

Representative Olson moved a Do Not Pass.

Representative Steiner seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	N
Representative Jared Hagert	N
Representative Dick Anderson	N
Representative Glenn Bosch	N
Representative Jason Dockter	N
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	N
Representative Jim Grueneich	AB
Representative Patrick Hatlestad	N
Representative Zachary Ista	Y
Representative Mike Motschenbacher	N
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion failed 4-8-2

Representative Dockter moved a Do Pass.

Representative Bosch seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Jim Grueneich	AB
Representative Patrick Hatlestad	Y
Representative Zachary Ista	N
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N

Motion carried 9-3-2

Representative Olson is the bill carrier.

Meeting adjourned at 3:31PM.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1267: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1267 was placed on the Eleventh order on the calendar.

2023 SENATE FINANCE AND TAXATION

HB 1267

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1267
3/27/2023

Relating to the disposition of proceeds from tax lien foreclosures.

9:00 AM Chairman Kannianen opened hearing.

Senator Present: **Kannianen, Weber, Patten, Rummel, Piepkorn, Magrum.**

Discussion Topics:

- Foreclosures
- County notification
- Bill history
- Delinquent process
- Interest rates

9:00 AM Representative Dockter introduced bill. No written testimony.

9:06 AM Colin Poolman introduced Neal Messer. No written testimony.

9:07 AM Neal Messer, Commissioner for Stark County, verbally testified in favor.

9:23 AM Aaron Birst, ND Association of Counties, verbally testified in favor.

9:39 AM Representative Koppelman verbally testified in opposition.

9:56 AM Susan Dollinger, Director of the Unclaimed Property Division of the ND Department of Trustlands, testified in opposition. #26624

10:06 AM Joseph Herringer, Commissioner for University and ND School Lands, verbally testified opposed.

10:06 AM Susan Dollinger, Director of the Unclaimed Property Division of the ND Department of Trustlands, answered additional questions. No written testimony.

10:13 AM Daniel Dew, Legal Policy Director for Pacific foundation, testified in opposition. #26578

Additional written testimony:

Marisa Haman #26631

John Ertelt #26633

Erica Johnsrud #26634

10:20 AM Chairman Kannianen adjourned meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1267
3/28/2023

Relating to the disposition of proceeds from tax lien foreclosures.

9:00 AM Chairman Kannianen opened hearing.

Senator Present: **Kannianen, Weber, Patten, Rummel, Piepkorn, Magrum.**

Discussion Topics:

- Excess proceeds
- Aggregate proceeds
- Sale expenses

Senator Rummel provided an update and information. No written testimony.

9:07 AM Chairman Kannianen adjourned meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1267
3/29/2023

relating to the disposition of proceeds from tax lien foreclosures.

2:58 PM Chairman Kannianen opened hearing.

Senator Present: **Kannianen, Weber, Patten, Rummel, Piepkorn, Magrum.**

Discussion Topics:

- Amendment discussion
- Committee action

3:02 PM Senator Magrum moved to adopt amendment LC 23.0123.01001. #27018

3:02 PM Senator Rummel seconded.

Senators	Vote
Senator Jordan Kannianen	Y
Senator Mark F. Weber	Y
Senator Jeffery J. Magrum	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Dean Rummel	Y

Motion passed 6-0-0

3:03 PM Senator Magrum moved a Do Pass as amended.

3:03 PM Senator Rummel seconded.

Senators	Vote
Senator Jordan Kannianen	Y
Senator Mark F. Weber	Y
Senator Jeffery J. Magrum	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Dean Rummel	Y

Motion passed 6-0-0

3:04 PM Senator Rummel will carry.

3:10 PM Chairman Kannianen adjourned meeting.
Nathan Liesen, Committee Clerk

March 29, 2023

JA
3-29-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1267

Page 1, line 12, remove "original"

Page 1, line 12, remove the overstrike over "with"

Page 1, line 12, remove "without"

Page 1, line 13, overstrike "was sold" and insert immediately thereafter "is:

a. Sold

Page 1, line 13, remove the overstrike over the overstruck comma

Page 1, line 13, remove "and"

Page 1, line 14, remove the overstrike over "~~penalties, interest, and~~" and insert immediately thereafter "associated"

Page 1, line 14, remove the overstrike over "~~costs~~"

Page 1, line 14, after "with" insert "at the time of"

Page 1, line 14, remove the overstrike over "~~selling the property,~~"

Page 1, remove the overstrike over line 16

Page 1, line 17, remove the overstrike over "~~ninety-day retention period, any excess proceeds must be distributed~~"

Page 2, line 2, remove "credited"

Page 2, line 3, replace "to the general fund of the county" with "as provided in subsection 3"

Page 2, line 4, overstrike "2. If the property is sold" and insert immediately thereafter:

"b. Sold"

Page 2, line 6, remove the overstrike over "with"

Page 2, line 6, remove "without"

Page 2, line 8, remove the overstrike over the first overstruck comma

Page 2, line 8, remove "and"

Page 2, line 8, remove the overstrike over "~~, penalties,~~"

Page 2, line 9, remove the overstrike over "~~interest, and~~" and insert immediately thereafter "associated"

Page 2, line 9, remove the overstrike over "~~costs~~"

Page 2, line 9, after "with" insert "at the time of"

Page 2, line 9, remove the overstrike over "~~selling the property~~"

24
3-29-23

Page 2, line 9, remove the overstrike over "retained by"

Page 2, remove the overstrike over lines 10 and 11

Page 2, line 12, remove the overstrike over "subsection"

Page 2, line 12, replace "credited to the county general fund" with "3"

Page 2, line 13, overstrike "3. If the property is sold" and insert immediately thereafter:

"c. Sold"

Page 2, after line 17, insert:

- "2. If an owner of record title owns multiple parcels of property subject to foreclosure proceedings under this chapter, the county treasurer shall use the aggregate amount of outstanding taxes, special assessments, penalties, interest, and associated costs applicable to all parcels of property and the aggregate proceeds from all public or private sales of the parcels of property to determine the amount of excess proceeds, if any, available for distribution as provided in this section.
3. Excess proceeds under this section must be distributed:
 - a. To the owner of the record title of the real estate listed in the notice of foreclosure of tax lien if the owner of record submitted an undisputed claim for the excess proceeds within the ninety-day retention period;
 - b. To the clerk of the district court in the county in which all or a majority of the property is located if a disputed claim or multiple claims for the excess proceeds were submitted within the ninety-day retention period; or
 - c. To the unclaimed property administrator under chapter 47-30.2 if a claim for the excess proceeds was not submitted within the ninety-day retention period."

Page 2, remove the overstrike over lines 18 through 21

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1267: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1267 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 12, remove "original"

Page 1, line 12, remove the overstrike over "~~with~~"

Page 1, line 12, remove "without"

Page 1, line 13, overstrike "~~was sold~~" and insert immediately thereafter "is:"

a. Sold"

Page 1, line 13, remove the overstrike over the overstruck comma

Page 1, line 13, remove "and"

Page 1, line 14, remove the overstrike over "~~penalties, interest, and~~" and insert immediately thereafter "associated"

Page 1, line 14, remove the overstrike over "~~costs~~"

Page 1, line 14, after "~~with~~" insert "at the time of"

Page 1, line 14, remove the overstrike over "~~selling the property,~~"

Page 1, remove the overstrike over line 16

Page 1, line 17, remove the overstrike over "~~ninety-day retention period, any excess proceeds must be distributed~~"

Page 2, line 2, remove "credited"

Page 2, line 3, replace "to the general fund of the county" with "as provided in subsection 3"

Page 2, line 4, overstrike "2. If the property is sold" and insert immediately thereafter:

b. Sold"

Page 2, line 6, remove the overstrike over "~~with~~"

Page 2, line 6, remove "without"

Page 2, line 8, remove the overstrike over the first overstruck comma

Page 2, line 8, remove "and"

Page 2, line 8, remove the overstrike over "~~, penalties,~~"

Page 2, line 9, remove the overstrike over "~~interest, and~~" and insert immediately thereafter "associated"

Page 2, line 9, remove the overstrike over "~~costs~~"

Page 2, line 9, after "~~with~~" insert "at the time of"

Page 2, line 9, remove the overstrike over "~~selling the property~~"

Page 2, line 9, remove the overstrike over "retained by"

Page 2, remove the overstrike over lines 10 and 11

Page 2, line 12, remove the overstrike over "subsection"

Page 2, line 12, replace "credited to the county general fund" with "3"

Page 2, line 13, overstrike "3. If the property is sold" and insert immediately thereafter:

"c. Sold"

Page 2, after line 17, insert:

- "2. If an owner of record title owns multiple parcels of property subject to foreclosure proceedings under this chapter, the county treasurer shall use the aggregate amount of outstanding taxes, special assessments, penalties, interest, and associated costs applicable to all parcels of property and the aggregate proceeds from all public or private sales of the parcels of property to determine the amount of excess proceeds, if any, available for distribution as provided in this section.
3. Excess proceeds under this section must be distributed:
 - a. To the owner of the record title of the real estate listed in the notice of foreclosure of tax lien if the owner of record submitted an undisputed claim for the excess proceeds within the ninety-day retention period;
 - b. To the clerk of the district court in the county in which all or a majority of the property is located if a disputed claim or multiple claims for the excess proceeds were submitted within the ninety-day retention period; or
 - c. To the unclaimed property administrator under chapter 47-30.2 if a claim for the excess proceeds was not submitted within the ninety-day retention period."

Page 2, remove the overstrike over lines 18 through 21

Renumber accordingly

TESTIMONY

HB 1267



**TESTIMONY OF SUSAN DOLLINGER
DIRECTOR – UNCLAIMED PROPERTY
North Dakota Department of Trust Lands**

House Bill 1267

**Finance and Taxation Committee
January 17, 2023**

Chairman Headland and members of the House Finance and Taxation Committee, I am Susan Dollinger, Director of the Unclaimed Property Division of the North Dakota Department of Trust Lands. I am here to testify in opposition of House Bill 1267.

The Unclaimed Property Division administers and enforces the Revised Uniform Unclaimed Property Act, more commonly referred to as RUUPA. The primary function of the Unclaimed Property Division is to protect consumers by ensuring unclaimed property is returned to its rightful owner.

While unclaimed property laws are as old as our nation and most states have operated unclaimed property programs for decades, the notion of “lucrative silence” motivated the Uniform Law Commission to develop the first Uniform Unclaimed Property Laws. State unclaimed property programs share the common view that holders of unclaimed property have no legal or moral right to unclaimed property being held on their books, but rather this property belongs to employees, customers, vendors, and shareholders.

For those of you unfamiliar with the concept of unclaimed property, I should note that in this context “property” is not real estate, but rather consists of intangible items such as uncashed vendor or payroll checks, dormant bank accounts, undeliverable securities, forgotten utility deposits, and in this case, unclaimed excess proceeds from a tax lien foreclosure sale.

N.D.C.C. ch. 47-30.2 directs all funds received by the Division be credited to the Common Schools Trust Fund. The funds are invested, and income generated during that time is used to benefit the education of children in North Dakota. All unclaimed property received is held in perpetuity in the Common Schools Trust Fund, meaning the owner has the right to claim the property at any time at no cost.

Mark your calendars because February 1st is National Unclaimed Property Day. It is promotions such as this and various other outreach activities which increase awareness of the program and in turn allows more citizens to visit our website to search for and claim their property.

It is also worth pointing out the issues surrounding excess proceeds from a sale of property under N.D.C.C. ch. 57-28 were thoughtfully considered during the 67th Legislative Assembly in HB 1199.

Mr. Chairman and members of the committee, I would urge you to have unclaimed excess funds derived from tax lien foreclosures continue to be placed in the custody of the Unclaimed Property Division rather than revert to the County. By placing it in the general fund of the Counties, owners of unclaimed property would not have the opportunity to search for and claim what is rightfully theirs.

Thank you for your time. I would stand for any questions you may have.

Testimony of Daniel Dew, Pacific Legal Foundation, on SB 1267
North Dakota House Judiciary Committee
March 27, 2023

Chair Kannianen and members of the Finance and Taxation Committee, thank you for the opportunity to testify today in opposition to HB 1267. My name is Daniel Dew and I'm the legal policy director at Pacific Legal Foundation. PLF is a nonprofit law firm that defends people from government overreach. We were founded 50 years ago by staffers for then-Governor Ronald Reagan. We had our thirteenth and fourteenth win in the U.S. Supreme Court last year and we have three more cases pending before the Court this term.

Our Supreme Court case that is most applicable to this hearing is [Tyler v. Hennepin County](#) which will be heard on April 26 dealing with this exact issue. This is a case out of Minnesota where the government took a 94-year-old woman's home because of unpaid property taxes. Ms. Tyler owed \$15,000 in property taxes, fees, and interest. The government sold her home for \$40,000 and left her with nothing.

The Supreme Court will look at two issues in that case: 1. Whether seizing more than is owed is a taking without just compensation under the Fifth Amendment; and 2. Whether, if characterized as a penalty, it is an excessive fine or fee prohibited by the Eighth Amendment.

Groups across the political spectrum have filed amicus briefs in support of Ms. Tyler. Groups like ACLU, Americans for Prosperity, The Cato Institute, AARP, NFIB, and the National Association of Realtors all filed amicus briefs in favor of our client. The United States Government filed a brief arguing that it was an unconstitutional taking. Of most interest to this committee, North Dakota Attorney General Drew Wrigley joined 12 other states to submit an [amicus brief](#) urging the court to rule in our client's favor because the scheme is unconstitutional.

The system being challenged in Minnesota is the same system North Dakota had until last session when the North Dakota legislature unanimously passed a bill to end this home equity theft.

In the [data available for 86% of North Dakota's population](#), between 2013 and 2019 roughly 500 homes went through tax foreclosure for debts that were usually less than 5% (often less than 1%) of the value of the home. Only about 80 of the 500 homes were sold to new owners. The data seems to confirm that, in most cases, the county sells the property back to the original owner for the taxes, fees, and interest owed.

The typical outcome is reasonable, but the data shows that as many as one out of six such homeowners are not so fortunate. During the administration of their parents' estate in Williams County in 2013, LeAnne and Kris Glasoe lost their childhood home over a tax bill of less than 4% of the home's value. LeAnne and Kris even brought a case against the county for failure to properly notify them of the tax debt, but they were unable to reclaim the house—or the equity their parents had left them.

A Michigan family had a home taken over \$8.41 in underpaid property taxes that the county sold for \$24,500 and left the family with nothing. Fortunately, the Michigan Supreme Court held that the law there violated the Takings Clause of the Michigan Constitution.

The North Dakota Counties may claim that they wouldn't do such things, but they cannot deny that they have taken more than what they were owed in the past, and that the bill as written would make it possible for the county to take a home or property of any value over a debt of any size.

The Counties may provide lots of notice to people before they take the homes and keep all of the equity, but no amount of notice allows the government to violate constitutional rights.

The Counties may also argue that they need this bill to even out losses, but that isn't how constitutional rights work. Constitutional rights are individual rights and Counties cannot violate the rights of some to balance their spreadsheets.

The current law allows counties, lienholders, and citizens to be made whole.

If this law is passed, you will be forced to take this up for a third session in a row, but that time with a mandate from the U.S. Supreme Court.

Thank you for allowing me to testify and I am happy to answer any questions the committee may have.



**TESTIMONY OF SUSAN DOLLINGER
DIRECTOR – UNCLAIMED PROPERTY
North Dakota Department of Trust Lands**

House Bill 1267

**Finance and Taxation Committee
March 27, 2023**

Chairman Kannianen and members of the Senate Finance and Taxation Committee, for the record, my name is Susan Dollinger. I am the Director of the Unclaimed Property Division of the North Dakota Department of Trust Lands. I am here to testify in opposition to House Bill 1267.

The Unclaimed Property Division administers and enforces the North Dakota Revised Uniform Unclaimed Property Act, more commonly referred to as RUUPA. The primary function of the Unclaimed Property Division is to protect consumers by ensuring abandoned property is returned to its rightful owner. Since its inception in 1975, the Unclaimed Property Division has been housed in the Department of Trust lands under the control of the Board of University and School Lands. I only mention this as a point of clarification as I have heard several discussions surrounding where Unclaimed Property has been housed over the years.

RUUPA (N.D.C.C. ch. 47-30.2) directs all funds received by the Division be credited to the Common Schools Trust Fund. The funds are invested, and income generated during that time is used to benefit the education of children in North Dakota. All unclaimed property received is held in perpetuity, meaning the owner has the right to claim the property at any time at no cost.

It is promotions such as National Unclaimed Property Day (February 1st) and various other outreach activities which increase awareness of the program and encourage citizens to visit our website to search for and claim their property. (unclaimedproperty.nd.gov) These outreach activities work, as evidenced by our single-day record of claims received on February 1, 2023.

There are several key terms in the Unclaimed Property industry that are important to understand as we discuss what HB1267 does. First, the term “holder” is a person (usually a business but in this instance, the county) obligated to hold for, deliver, or pay to the owner of property subject to Unclaimed Property Laws. Second, the term “owner” is a person, or their legal representative, who has a legal or equitable interest in said property.

The Dormancy Period refers to a specified period in which an owner takes no action regarding his/her property while in the custody of the holder. Once the dormancy period has passed, the holder is required to turn the property over to the State. It is important to note that BEFORE a holder turns over ANY property to the State, it must conduct due diligence. Meaning, the holder must make one final attempt to locate the owner and attempt to return the property.

If a holder is unable to locate and return the property to the owner, then unclaimed property laws require the holder to deliver the property to the state and provide the name and last known address of the owner. Upon delivery to the state, the holder is no longer liable to the property owner. Thus, it is reasonable to say that ALL property that comes to the Unclaimed Property Division is for owners who can't be found.

I should note that in this context "property" is not real estate, but rather consists of intangible items such as uncashed vendor or payroll checks, dormant bank accounts, undeliverable securities, forgotten utility deposits, and in this case, unclaimed excess proceeds from a tax lien foreclosure sale. State unclaimed property programs share the common view that holders of unclaimed property have no legal or moral right to hold unclaimed property on their books, but rather this property belongs to employees, customers, vendors, shareholders, and most importantly, taxpayers.

I would be remiss if I did not point out that the issues surrounding excess proceeds from tax lien foreclosure sales under N.D.C.C. ch. 57-28 were thoughtfully considered during the 67th Legislative Assembly in HB 1199. HB 1199 made North Dakota one of the states where home equity theft is no longer legal. Passing HB 1267 will remove all the good work done last session and put North Dakota back on the list of states who continue to allow home equity theft. The map below comes from the Pacific Legal Foundation which shows the states in green as the states that protect its citizens home equity. If HB 1267 passes, it would place North Dakota back in the red category.

Finally, Geraldine felt safe and comfortable again, surrounded by other seniors. But the property taxes on her condo started piling up. Soon Geraldine accrued a \$2,300 tax debt and the government started tacking on thousands of dollars in interest, fees, and other penalties until the total bill reached \$15,000 in 2015. At that point, Hennepin County seized Geraldine's condo and sold it one year later for \$40,000. Instead of keeping the \$15,000 it was owed and refunding Geraldine the sale surplus, the county kept all \$40,000.

This is an egregious violation of fundamental property rights. Both the U.S. and North Dakota Constitutions prohibit the government from taking private property without giving owners just compensation. Home equity—the portion of a home's market value that belongs to the homeowner after all debts on the property are subtracted—is private property and therefore just as protected as a home or land.

Passing HB 1267 would put our taxing political sub-divisions at risk of years long legal battles like Hennepin County is facing, as well as the others listed in the attachment to this testimony.

Mr. Chairman and members of the committee, I urge you to have unclaimed excess funds derived from tax lien foreclosures continue to be placed in the custody of the Unclaimed Property Division rather than revert to the counties. Allowing counties to keep the excess is an unconstitutional taking that deprives owners of the opportunity to search for and claim what is rightfully theirs, and at the same time reduces future earnings of the Common Schools Trust Fund.

Thank you for your time. I would stand for any questions you may have.

Summary of Legal Battles

Fair v. Continental Resources (Nebraska) - Active

Kevin Fair owned a home in Nebraska worth \$60,000. But when he was unable to pay his \$588.21 property tax bill, the government put a tax lien on the property and sold it to a private party, Continental Resources, who paid the taxes on it, and then foreclosed on Mr. Fair, seizing his home. After Continental foreclosed on him, Mr. Fair sued, arguing that Nebraska took his equity and gave it to Continental.

Foss v. City of New Bedford, ET Al. (Massachusetts) – Won

Deborah Foss, a 66-year-old disabled retiree, used her life savings in 2015 to buy a two-family house in New Bedford. A year later, dealing with medical and financial problems and tenants who stopped paying rent, Foss fell behind on her property taxes and by 2018 her tax debt had accrued to \$9,626. New Bedford sold the tax lien to a private company, Tallage Davis, which initiated a foreclosure. Foss appeared in court and asked for a payment plan, but she could not afford a lawyer, and her request was dismissed. Tallage charged her 16 percent interest, and when she could not pay nearly \$25,000 in 2019, it foreclosed on her home and evicted her on February 1, 2022. Tallage sold her house for \$242,000 – keeping a profit of \$210,000 more than Foss's debt.

Hall V. Meisner (Michigan) – Won-Ruled Unconstitutional

When Tawanda and Prentiss Hall fell behind on their property taxes, they did what many financially strapped homeowners do: set up a payment plan with the local government. They didn't want to lose the Southfield, Michigan home where they lived with their children.

The Oakland County treasurer ended the plan, however, with the tax debt standing at \$22,642, and foreclosed on their home. The Halls were shocked to learn that the foreclosure took from them not only the value of debt but every penny of equity they had built up in the house. Instead of selling the house at public auction, paying off the debt, and returning the surplus (minus interest and penalties) to the homeowners, the county used the Halls' money to enrich a private company, Southfield Neighborhood Revitalization Initiative, LLC, managed by City of Southfield officials.

Through a series of legal transactions, the county took the Halls' home (and the homes of seven other homeowners party to this case) and transferred it through the City of Southfield to the Revitalization Initiative, which sold it for more than \$300,000. The Halls received none of the difference between the debt they owed and the sales price.

Johnson v. City of East Orange (New Jersey) – Active

In 1993, Lynette emigrated to New Jersey, settling in with her husband to raise their family. Today, Lynette is proud that her eight children, now adults, share the family's deep-rooted entrepreneurship and independence. Her son, Elton, and daughter, Shevon, were no exception. In 2014, the brother and sister found an ideal commercial location in East Orange, New Jersey, to run their small businesses.

In 2014, Lynette Johnson bought a commercial property for her and her children to share; her son Elton would run a deli-grocery store on one side of the building while Shevon would use the other side for her shipping business.

The property cost \$55,000 and Lynette spent another \$16,000 on architectural plans and permits for renovations. She never received property tax assessments and thus did not pay the first year's property taxes.

In New Jersey, property taxes are treated as a continuous lien. If they're not paid by the close of a fiscal year, the lien is sold at public auction for the taxes owed plus interest. Unbeknownst to the Johnsons, the city bought their tax lien at public auction in October 2015. At the time of sale, Lynette owed \$4,621.98.

The Johnsons remained in the dark for the next two years, during which time the lien amount grew to nearly \$20,000. In fact, they didn't know the city foreclosed on their property in February 2018 until a month later when a family member saw police towing vehicles from the property.

Shevon rushed to the scene and was informed the property now belonged to the city. She went straight to City Hall and offered to pay the lien amount in full, only to be told it was too late. Three months later, the city sold the property to private investors for \$101,000—and kept all proceeds from the sale, netting an \$81,000 profit.

Rafaeli, Ilc. V. Oakland County (Michigan) - Won

In 2011, Uri Rafaeli's business—Rafaeli, LLC—purchased a modest rental property in Southfield, Michigan for \$60,000. Rafaeli inadvertently underpaid the property's 2011 taxes. He paid his 2012, 2013 taxes in full. After learning he owed money for 2011, Rafaeli tried to pay the full 2011 tax debt in January, 2013. He mistakenly did not factor in interest growing on the debt and underpaid by \$8.41. The County foreclosed on the property, sold it for \$24,500, and pocketed the massive windfall at Rafaeli's expense.

Perez v. Wayne County (Michigan) - Active

In 2013, Erica Perez and her father Romualdo bought a four-unit apartment home in Detroit for \$60,000 intending to rent it out.

In 2017, Wayne County seized the family's home because they unknowingly underpaid their 2014 property tax bill by \$144, despite the fact they had paid their property taxes in full every year since.

The county tacked on another \$359 in interest, penalties, and fees, foreclosed on their property, sold it for \$108,000, and kept every cent beyond what was owed—which state law not only allows, but encourages.

Wayside Church v. Van Buren County (Michigan) - Active

When Wayside Church fell behind on its 2011 property taxes on a parcel that the church had used as a youth camp, Van Buren County, Michigan took the youth camp property and sold it for \$206,000 to pay the church's \$16,750 in taxes, penalties, interest, and fees. Invoking the Michigan General Property Tax Act, the County kept the surplus proceeds—\$189,250 more than the debt—as a windfall.



House Bill 1267
Finance and Taxation Committee
March 27th, 2023

Marisa Haman
Ward County Auditor/Treasurer

Chairman Hedland and House Finance and Taxation Committee. My name is Marisa Haman and I am the Ward County Auditor/Treasurer. I am writing in favor of HB 1267.

Ward County has several properties that are auctioned for tax foreclosure each year. The tax foreclosure process is very tedious and time consuming takes up many staff hours in my department as well as Tax Equalization, Recorder, Sheriff and Clerk of Courts offices.

In many cases properties do not sell at auction and remain in the County's possession year after year. (see exhibit A)

The county is obligated to maintain these properties until sold. Without being able to keep sale excess proceeds to offset the maintenance costs on the properties, the county is forced to levy taxes to pay for this maintenance.

I encourage you to recommend "do pass" on HB 1267 to minimize the financial impact of maintaining unsold properties has on counties.

Thank you for your time and consideration. Please feel free to contact me with any questions.

Exhibit A

TAX FORECLOSURES

(Chapter 57-28 of the North Dakota Century Code)

NOTICE IS HEREBY GIVEN that the following real estate has been forfeited to the County of Ward, State of North Dakota, for delinquent taxes and that said County has taken deed to such property.

Each parcel of real estate is available for purchase for a sum not less than the minimum sale price. Payment may be made as follows:

1. All sales of \$2,000 or less shall be for cash in full.
2. Any sale over \$2,000 may be for cash in full, certified funds, or credit card*.

All successful private bidders of properties offered for sale by the County shall be required as a condition of the sale to sign a statement expressing their understanding that the purchase price of any tax deed property bears no relationship to either fair market value or taxable value of the property. The County is not responsible for divulging whether or not liens exist on the properties offered for sale; this is the express responsibility of the bidder.

#	Parcel#	Property Address	Legal	Minimum Sale Price
2022 Ward County Tax Properties				
CITY OF BURLINGTON				
292	BN130520100020	0 *UNASSIGNED MINOT, ND 58701	HIGHLANDS RANCH LOT 2 BLK 1 HARRISON S7 A .11	\$1,195.56
293	BN130520200010	0 *UNASSIGNED MINOT, ND 58701	HIGHLANDS RANCH LOT 1 BLK 2 HARRISON S7 A .11	\$1,195.56
CITY OF KENMARE				
399	KM200062300070	115 2ND AVE SE KENMARE, ND 58746	TOLLEYS PLAT LOT 7 & N2 L8 B23 KENMARE CITY	\$452.19
CITY OF SAWYER				
699	SW110041500022	0 UNASSIGNED SAWYER, ND 58781	CASSEDAYS ADDN TO SAWYER ALL EXC E140' OF LOTS 1&2 B15 SAWYER	\$10,116.00
2021 Ward County Tax Properties				
CITY OF BURLINGTON				
283	BN130560400010	0 *UNASSIGNED MINOT, ND 58701	HIGHLANDS RANCH 3RD ADDITION LOT 1 BLK 4 BURLINGTON CITY S-7 A 43.99	\$200,630.02
284	BN130560400030	0 *UNASSIGNED MINOT, ND 58701	HIGHLANDS RANCH 3RD ADDITION LOT 3 BLK 4 BURLINGTON CITY S-7 A 78.52	\$361,958.76
SAWYER CITY				
790	SW000059900040	0 *UNASSIGNED SAWYER, ND 58781	CASSEDAYS ADDN TO SAWYER OLT D SAWYER-S16 SFD	\$4,538.23
2020 Ward County Tax Properties				
BURLINGTON CITY				
287	BN130560400040	0 *UNASSIGNED MINOT, ND 58701	HIGHLANDS RANCH 3RD ADDITION LOT 4 BLK 4 BURLINGTON CITY S-7 A 48.32	\$256,098.74
KENMARE CITY				
376	KM000011300080	404 2ND AVE NW KENMARE, ND 58746	ORIG KENMARE L8 B13 KENMARE CITY	\$5,749.15
MINOT CITY				
668	MI241490000030	708 BURDICK EXPY E MINOT, ND 58701	ELLIS S/D LOT 1 BLK 3 HECKERS THIRD ADDN LOT 3	\$19,925.52
2019 Ward County Tax Properties				
KENMARE CITY				
399	KM200062600030	0 *UNASSIGNED	TOLLEYS PLAT LOT 3 BLK 26 KENMARE CITY-S28	\$443.02
400	KM200062600050	0 *UNASSIGNED	TOLLEYS PLAT LOT 5 BLK 26 KENMARE CITY-S28	\$443.02
405	KM270240100021	0 *UNASSIGNED	NIEDERRITERS 4TH ADDITION LOT 2A BLOCK 1 KENMARE CITY S-28 A .158	\$881.24
406	KM270240100022	0 *UNASSIGNED	NIEDERRITERS 4TH ADDITION LOT 2B BLOCK 1 KENMARE CITY S-28 A .101	\$462.95
407	KM270240100031	0 *UNASSIGNED	NIEDERRITERS 4TH ADDITION LOT 3A BLOCK 1 KENMARE CITY-S28 A .101	\$551.13
408	KM270240100032	0 *UNASSIGNED	NIEDERRITERS 4TH ADDITION LOT 3B BLOCK 1 KENMARE CITY S-28 A .096	\$551.13
409	KM270240100041	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 4A BLOCK 1 KENMARE CITY S-28 A .145	\$716.17
410	KM270240100042	0 *UNASSIGNED	NIEDERRITERS 4TH ADDITION LOT 4B BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
411	KM270240100051	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 5A BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
412	KM270240100052	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 5B BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
413	KM270240100061	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 6A BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
414	KM270240100062	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 6B BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
415	KM270240100071	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 7A BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
416	KM270240100072	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 7B BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
417	KM270240100081	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 8A BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
418	KM270240100082	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 8B BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
419	KM270240100091	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 9A BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
420	KM270240100092	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 9B BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
421	KM270240100101	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 10A BLOCK 1 KENMARE CITY S-28 A .101	\$551.13
422	KM270240100102	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 10B BLOCK 1 KENMARE CITY S-28 A .134	\$716.17
424	KM270240200021	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 2A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
425	KM270240200022	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 2B BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
426	KM270240200031	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 3A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
427	KM270240200032	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 3B BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
428	KM270240200041	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 4A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
429	KM270240200042	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 4B BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
430	KM270240200051	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 5A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
431	KM270240200052	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 5B BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
432	KM270240200061	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 6A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
433	KM270240200062	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 6B BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
434	KM270240200071	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 7A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
435	KM270240200072	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 7B BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
436	KM270240200081	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 8A BLOCK 2 KENMARE CITY S-28 A .088	\$551.13
437	KM270240200082	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 8B BLOCK 2 KENMARE CITY S-28 A .116	\$716.17

#	Parcel#	Property Address	Legal	Minimum Sale Price
438	KM270240200091	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 9A BLOCK 2 KENMARE CITY S-28 A .077	\$386.10
439	KM270240200092	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 9B BLOCK 2 KENMARE CITY S-28 A .076	\$386.10
440	KM270240200101	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 10A BLOCK 2 KENMARE CITY S-28 A .076	\$386.10
441	KM270240200102	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 10B BLOCK 2 KENMARE CITY S-28 A .076	\$386.10
442	KM270240200111	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 11A BLOCK 2 KENMARE CITY S-28 A .076	\$386.10
443	KM270240200112	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 11B BLOCK 2 KENMARE CITY S-28 A .122	\$716.17
444	KM270240200121	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 12A BLOCK 2 KENMARE CITY S-28 A .127	\$716.17
445	KM270240200122	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 12B BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
446	KM270240200131	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 13A BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
447	KM270240200132	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 13B BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
448	KM270240200141	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 14A BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
449	KM270240200142	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 14B BLOCK 2 KENMARE CITY S-28 A .089	\$479.45
450	KM270240200151	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 15A BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
451	KM270240200152	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 15B BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
452	KM270240200161	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 16A BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
453	KM270240200162	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 16B BLOCK 2 KENMARE CITY S-28 A .089	\$468.05
454	KM270240200171	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 17A BLOCK 2 KENMARE CITY S-28 A .089	\$551.13
455	KM270240200172	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 17B BLOCK 2 KENMARE CITY S-28 A .095	\$551.13
456	KM270240200181	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 18A BLOCK 2 KENMARE CITY S-28 A .116	\$550.00
457	KM270240200182	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 18B BLOCK 2 KENMARE CITY S-28 A .072	\$516.38
458	KM270240200191	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 19A BLOCK 2 KENMARE CITY S-28 A .072	\$516.38
459	KM270240200192	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 19B BLOCK 2 KENMARE CITY S-28 A .072	\$516.38
460	KM270240200201	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 20A BLOCK 2 KENMARE CITY S-28 A .072	\$516.38
461	KM270240200202	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 20B BLOCK 2 KENMARE CITY S-28 A .071	\$330.10
462	KM270240300010	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 1 BLOCK 3 KENMARE CITY S-28 A .254	\$1,376.33
463	KM270240300020	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 2 BLOCK 3 KENMARE CITY S-28 A .254	\$1,376.33
464	KM270240300030	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 3 BLOCK 3 KENMARE CITY S-28 A .299	\$1,541.34
465	KM270240300040	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 4 BLOCK 3 KENMARE CITY S-28 A .322	\$1,376.33
466	KM270240300050	0 *UNASSIGNED	NIEDERRITER'S 4TH ADDITION LOT 5 BLOCK 3 KENMARE CITY S-28 A .273	\$1,376.33
MINOT CITY				
511	MI10C980000070	0 UNASSIGNED	MARKET AT NORTH HILL ADDITION LOT 7 DETENTION POND	\$769.74
RYDER CITY				
774	RD000010200110	0 *UNASSIGNED	RYDER LOTS 10 & 11 B2 RYDER-S161	\$1,628.14
2018 Ward County Tax Properties				
MINOT CITY				
277	MI01D970030170	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 17 BLDG 13	\$18,754.95
278	MI01D970030180	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 18 BLDG 13	\$18,754.95
279	MI01D970030190	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 19 BLDG 13	\$18,754.95
280	MI01D970030200	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 20 BLDG 13	\$18,754.95
281	MI01D970030210	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 21 BLDG 13	\$19,328.46
282	MI01D970030220	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 22 BLDG 13	\$19,328.46
283	MI01D970030230	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 23 BLDG 13	\$19,328.46
284	MI01D970030240	13 SW 43RD AVE	STONY RIDGE CONDOMINIUMS-ON OLT 13 SEC 1-154-83 UNIT 24 BLDG 13	\$19,328.46
2017 Ward County Tax Properties				
KENMARE CITY				
108	KM200053000060	*UNASSIGNED	NIEDERRITERS PLAT LOTS 1-6 BLOCK 30 KENMARE CITY	\$3,616.55
111	KM2000660100020	518 SE 3RD AVE	TOLLEYS PLAT LOTS 2 & 3 BLOCK 1 KENMARE CITY-S28	\$12,892.40
123	KM200062600040	*UNASSIGNED	TOLLEYS PLAT LOT 4 BLK 26 KENMARE CITY	\$441.90
MINOT CITY				
139	MI01D970040250	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 25 BLOCK 9 BLDG 4	\$21,541.76
140	MI01D970040260	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 26 BLOCK 9 BLDG 4	\$21,541.76
141	MI01D970040270	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 27 BLOCK 9 BLDG 4	\$21,541.76
142	MI01D970040280	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 28 BLOCK 9 BLDG 4	\$21,541.76
143	MI01D970040290	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 29 BLOCK 9 BLDG 4	\$22,326.63
144	MI01D970040300	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 30 BLOCK 9 BLDG 4	\$22,326.63
145	MI01D970040310	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 31 BLOCK 9 BLDG 4	\$22,326.63
146	MI01D970040320	9 SW 43RD AVE	STONY RIDGE CONDO UNIT 32 BLOCK 9 BLDG 4	\$22,326.63
147	MI01D970050330	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 33 BLOCK 5 BLDG 5	\$22,065.36
148	MI01D970050340	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 34 BLOCK 5 BLDG 5	\$22,065.36
149	MI01D970050350	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 35 BLOCK 5 BLDG 5	\$22,065.36
150	MI01D970050360	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 36 BLOCK 5 BLDG 5	\$22,065.36
151	MI01D970050370	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 37 BLOCK 5 BLDG 5	\$22,850.23
152	MI01D970050380	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 38 BLOCK 5 BLDG 5	\$23,769.48
153	MI01D970050390	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 39 BLOCK 5 BLDG 5	\$23,769.48
154	MI01D970050400	5 SW 43RD AVE	STONY RIDGE CONDO UNIT 40 BLOCK 5 BLDG 5	\$23,769.48
2016 Ward County Tax Properties				
KENMARE CITY				
97	KM200062300040	*UNASSIGNED	TOLLEYS PLAT LOT 4 BLOCK 23	\$1,163.23

<u>#</u>	<u>Parcel#</u>	<u>Property Address</u>	<u>Legal</u>	<u>Minimum Sale Price</u>
98	KM200062600060	*UNASSIGNED	TOLLEYS PLAT LOT 6 BLOCK 26	\$1,978.08
Ward County Tax Properties Prior to 2015				
	MI240720400012	710 1ST AVE SE	EASTWOOD PARK ADDN EAST 44.66 LOT 1 BLOCK 4	\$5,333.34
<p>* A 2.65% convenience fee is imposed by an outside service company based on amount charged on credit card. **MINIMUM of \$20.00 Deed Recording Fee will be assessed on all purchases. ****Properties sold through foreclosure sale will not have a clear title****</p> <p><i>Updated 03.22.2023</i></p>				

Greetings Finance and Taxation Committee
Chairman, Senator Kannianen,
Vice Chair, Senator Weber,
members of the committee:

My testimony herein is in opposition to HB 1267.

In view of the considerable amount of time expended on committee work, regarding last session's HB 1199 (Relating to the disposition of proceeds from tax lien foreclosures) and the unanimous vote for its passage in both the House and Senate, it is disconcerting to me that this current bill, HB 1267, is attempting to essentially reverse that effort. HB 1267 clearly, in my opinion, constitutes an unvarnished attack on the right of private property ownership and essentially facilitates theft by government.

I believe that the right of private property ownership is the bedrock of liberty, therefore, whenever matters concerning private property are being discussed or considered in any manner, we must always exercise the most extreme caution in its preservation.

I am asking that this committee please vote a do not pass recommendation on HB 1267. Thank you for your time and consideration.

Yours Sincerely,

John W. Ertelt

Oriska, North Dakota

Written Testimony for the
Senate Finance and Taxation
 March 27, 2023
 Erica Johnsrud, McKenzie County Auditor/Treasurer



RE: SUPPORT for HB 1267

Good morning, Chairman Kannianen, and members of the Senate Finance and Taxation Committee. My name is Erica Johnsrud and I serve as the Auditor/Treasurer for McKenzie County. I stand in support of HB 1267.

This bill seeks to revert the proceeds from tax lien foreclosures back to the County's general fund, which is the way prior to the 2021 Legislative Session when HB 1199 changed the disposition to the system in place today. As I hope you can appreciate below, the time and cost to the counties to complete the process is extensive and complex.

The process currently begins on or before March 1 of each year and currently continues until mid-February of the following year. Only properties that have 3 years of unpaid taxes are subject to the tax lien process and sale described below.

The following processes are currently in place and would not change as a result of the passage of HB 1267:

- Annual notices to taxpayer of unpaid tax:
 - March each year – many counties, including McKenzie County, send out “courtesy notices” to taxpayers reminding them that their taxes for the current year, due March 1 each year, remain unpaid. These notices also include information on previous year unpaid taxes, if applicable.
 - November each year – required “Notice of Delinquent Tax” required by NDCC 57-20.
 - December each year – tax statements mailed out, which also indicate if delinquent taxes are due (NDCC 57-20-07.1).
 - This process occurs each year until the 3 years unpaid period is met.
- Once taxes remain unpaid for a period of 3 years the following steps are taken:
 - On or before March 1
 - Clerk of Court and County Recorder are provided information from the County Auditor on parcels with unpaid tax for the past 3 tax years.
 - Clerk of Court and Recorder are required to provide mortgage holder and lien holder information before April 15 to the County Auditor.
 - Those certifications include the names and addresses of any recorded or filed persons with an interest in the property.
 - By April 15
 - Cost of Service Notice is mailed to all 3-year delinquent taxpayers.
 - Notice includes the amount in dollars to be added to the notice if the taxes remain unpaid for the most outstanding year due.

- For many counties this amount is \$50, allowed by law, as actual costs are unknown at this time to keep counties whole for expenses incurred during the foreclosure process.
- Month of May (must be completed on or before June 1)
 - Foreclosure notices mailed to taxpayers by certified mail. McKenzie County mails these out on the first business day of May.
 - Foreclosure notices mailed via certified mail to each and every single person and address that has an interest in the property, including registered agents on file with the ND Secretary of State.
 - Residential structures on any 3-year delinquent properties are personally served the notice from the Sheriff's Office regarding the delinquent tax and pending tax foreclosure sale in November.
- On or before August 1
 - Foreclosure Notice must be published in County's Official Newspaper.
 - Listing must include taxpayer name, property address, and amount of tax due to redeem the property and end the foreclosure process.
- October 2
 - Tax Deed issued to the County.
 - Homeowner or interested party still has the opportunity to redeem the property and end the foreclosure process, but now must pay all years current.
 - Up to October 2 only the most outstanding year of taxes is required to be paid to stop the foreclosure process.
- 30 days before Annual Sale
 - Minimum Sales Price Set by the Board of County Commissioners.
 - Counties' goal is to return the property to the county tax rolls, not to make a profit on the property.
 - McKenzie County sets the minimum sales price at an amount to cover the 3 years outstanding taxes, special assessments, penalty, and interest due, plus an estimated amount of the following year's taxes and special assessments.
- At least 10-15 days before Annual Sale
 - Official notice listing property address and tax due published in County's Official Newspaper (10 days before Annual Sale).
 - Notice is also required to be posted outside the County Auditor's Office (15 days before Annual Sale).
- Third Tuesday in November
 - Annual Sale of 3-year Delinquent Taxes.
 - Sale price starts at minimum set by Board of County Commissioners.
 - Property sold according to Terms of Annual Sale (example attached to this testimony) to the Highest Bidder.
 - Successful bidder given County Deed for the property.
- Disposition of Proceeds
 - Occurs at 90 days past the Annual Sale Date (mid-February of following year)
 - Following the annual sale, counties mail to former owner(s) a claim form (example attached to this testimony) and process outlining next steps.
 - Excess Proceeds (those not to cover taxes or special assessments due) are to be distributed in one of three ways (NDCC 57-28-20):

1. To the owner of record title if the owner has submitted an undisputed claim for the excess within the 90-day period.
 2. To the clerk of the district court...if a disputed claim or multiple claims for excess were filed within 90-day period.
 3. To unclaimed property if no claim was submitted within the 90-day period.
- **Property Owners Rights of Redemption** - Property Owners have until the time of the sale on the 3rd Tuesday in November to redeem the property by paying all taxes, specials, interest, penalties in full/current.

HB 1267 only changes the disposition of the excess proceeds from the tax sale back to the manner in which it was prior to the 67th Legislative Assembly.

We respectfully request the proceeds are submitted back to the county's general fund to assist in covering some of the costs incurred during the process. By the time get to the annual foreclosure sale in November, owners likely have received at least 9 notices by mail, plus possible personal service by the Sheriff, plus 2 published notices in the Official Newspaper. All other interested parties (lienholder, mortgage holders, etc.) based on records certified by Clerk of Court or County Recorder have been sent notices, including registered agents. Additional county expenses incurred during the process include:

- Cost of certified mail – As an example, McKenzie County has had to send 10 certified letters on one parcel at cost of at least \$5.50 for each letter mailed.
- Cost of service of Sheriff Deputy – can be multiple attempts at personal service.
- Cost of publication two times in the official newspaper.
- Costs of property upkeep, cleanup, etc if needed.

Counties make every attempt to locate former owners or anyone with an interest in the property, but when you can't find the owner, you can't find them. Often times, in my experience, developers or other owners have made the business decision to let the property go through this process, essentially they walk away without incurring any additional costs and have no desire to retain ownership of the property. The current process extends red tape by sending funds to Unclaimed Property with very remote chance the person will redeem the funds. Funds deposited to the County would cover the burden of the costs and time incurred during the foreclosure process, which I can assure you is not a money-maker for counties.

As this bill would assist counties in recouping costs incurred during a complex and lengthy tax foreclosure and sale process, I urge a DO PASS recommendation on HB 1267.

**Terms of Annual Sale
November 15, 2022
McKenzie County Auditor/Treasurer**

1. Each parcel of land will be sold at auction to the highest bidder for not less than the posted minimum sale price. Terms are cash or check to be deposited immediately with the McKenzie County Auditor/Treasurer's Office. The county is deeding its interest in the property. We recommend the successful bidder perfect their title. The county issues what is known as a "county deed". Any questions of a legal nature should be discussed with your attorney.
2. The descriptions provided are based on the Official Records of the County Recorder's Office and are presumed to be correct.
3. Prospective purchasers are urged to examine the title, location and desirability of the properties available to their own satisfaction prior to the sale. The County makes no guarantee, expressed or implied, relative to the title, location or condition of the properties for sale. The County assumes no liability for any other possible liens, encumbrances or easements, recorded or not recorded.
4. Prospective purchasers are advised that some assessments which are levied by agencies or offices other than the County may still be outstanding after the tax sale; in addition, the I.R.S. has the option of redeeming, up until 120 days after the sale, any property on which there is an I.R.S. lien recorded.
5. If the successful purchaser desires a survey of the property, it will be at the purchaser's own initiative and expense. The County makes no warranty, either expressed or implied, relative to the usability, the ground location, or property lines of the properties. The prospective purchaser must determine the exact location, desirability, and usefulness of the properties.
6. The sale of these properties should not, in any way, be equated to real estate sales by licensed salesmen, brokers and realtors. The County cannot guarantee the condition of the property nor assume any responsibility for conformance to codes, permits or zoning ordinances. You should inspect the property before investing. The burden is on the purchaser to thoroughly research, before the sale, any matters relevant to his or her decision to purchase, rather than on the county, whose sole interest is the recovery of back taxes.
7. Your bid is an irrevocable offer to purchase the asset.
8. Successful bidder shall state in writing the name(s) and address(es) in which the County Deed shall be issued. Note that the property will be deeded in the name of the bidder unless the bidder has written, signed permission from another party to record the deed in their name.

9. A copy of the deed will be mailed to the purchaser after it is signed by the Chair of the McKenzie County Commission. The County Recorder will send the original deed to the owner after recording is completed.

10. The minimum bid price includes all taxes, penalties, interest and annual installments of specials certified to the McKenzie County Auditor/Treasurer through the 2021 tax year. The bid price also includes the estimated taxes and annual installment of special assessments for the 2022 tax year.

11. Upon delivery of the deed, the property becomes taxable to the purchaser for the 2022 tax year.

Clean Petroleum Services Inc
4530 Baywalk Circle
Pensacola, FL 32514

December 1, 2022

RE: 03-00-10032
Notice of Excess Foreclosure Proceeds

This letter is to inform you that the above listed property was sold at the annual tax sale on November 15, 2022 pursuant to NDCC 57-28 in the amount of \$9,500.00. There is a balance of \$4,229.44 in excess proceeds after taxes, special assessments, penalties, interest, and costs associated with selling the property are deducted from the purchase amount.

Pursuant to NDCC 57-28-20, excess proceeds must be retained by the county for 90 days following the date of the sale. After the 90-day retention period, any excess proceeds must be distributed:

- a. To the owner of the record title in the notice of foreclosure of tax lien if the owner submits an undisputed claim for the excess proceeds within the 90-day retention period.
- b. To the clerk of district court in McKenzie County if a disputed or multiple claims are submitted for the excess funds within the 90-day retention period.
- c. To unclaimed property under NDCC 47-30.1 if no claims are submitted within the 90-day retention period.

If you are entitled to excess proceeds pursuant to NDCC 57-28-20, please complete the enclosed claim for excess foreclosure proceeds and return to the McKenzie County Auditor/Treasurer's office by February 13, 2023.

Thank you,



Erica Johnsrud
McKenzie County Auditor/Treasurer

CLAIM FOR EXCESS FORECLOSURE PROCEEDS

(Per NDCC 57-28-20 - Disposition of proceeds of sale)

Date: _____

Claimant(s) Name: _____ claims to be entitled to payment of the excess of the foreclosure sale proceeds of real estate property described below. Claimant is entitled to the excess proceeds because he/she is (check one):

- Owner of Record Lien Holder Mortgage Holder
- Judgment Holder Estate Other (explain) _____

Legal Description of Foreclosure Property for which claim is being made: _____

Parcel #: _____ Amount of Claim: \$ _____

Claimant Contact Information:

Name

Street Address, City, State, Zip

Mailing Address (if different)

Phone

Email

AFFIDAVIT & AGREEMENT

I / we _____ hereby state under oath that the information provided above is complete and accurate to the best of our ability and that no intentional misstatements or misrepresentations are included on this Claim for Excess Foreclosure Proceeds. I / we agree to indemnify, compensate, or make restitution to _____ County for any loss, damage, or expense experienced by the County as a result of any misstatement or misrepresentation in this Claim for Excess Foreclosure Proceeds.

X _____
Claimant Signature

X _____
Claimant Signature

NOTARY PUBLIC:

State of _____
County of _____

This document was acknowledged before me by _____
Name(s) of Claimant(s)
who personally signed and appeared before me on this _____ day of _____, 20_____.

Signature of Notary Official My commission expires: _____

23.0123.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1267

Introduced by

Representatives Dockter, D. Anderson, Bosch, Headland, Nathe

Senator Weber

1 A BILL for an Act to amend and reenact section 57-28-20 of the North Dakota Century Code,
2 relating to the disposition of proceeds from tax lien foreclosures.

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

4 **SECTION 1. AMENDMENT.** Section 57-28-20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-28-20. Disposition of proceeds of sales.**

7 All proceeds from the public or private sale of property under this chapter must be
8 apportioned as regular tax payments are apportioned among and within taxing districts in which
9 the property is located, as follows:

10 1. The county treasurer shall issue a regular tax receipt in the name of the county,
11 beginning with the earliest year for which the taxes are delinquent. Tax receipts must
12 be written for the ~~original~~ amount of the tax, ~~with~~without penalty and interest. If the
13 property ~~was sold~~is:

14 a. Sold for an amount sufficient to cover all outstanding taxes, ~~and~~ special
15 assessments, penalties, interest, and associated costs ~~associated with~~at the time
16 of selling the property, tax receipts must be written for all such years, and any
17 remaining amount must be retained by the county for ninety days following the
18 date of the sale. After the ninety-day retention period, any excess proceeds must
19 be distributed;

20 ~~a. To the owner of the record title of the real estate listed in the notice of foreclosure~~
21 ~~of tax lien if the owner of record submitted an undisputed claim for the excess~~
22 ~~proceeds within the ninety-day retention period;~~

Sixty-eighth
Legislative Assembly

- 1 ~~_____ b. To the clerk of the district court in the county in which all or a majority of the~~
2 ~~property is located if a disputed claim or multiple claims for the excess proceeds~~
3 ~~were submitted within the ninety-day retention period; or~~
- 4 ~~_____ e. To the unclaimed property administrator under chapter 47-30.2 if a claim for the~~
5 ~~excess proceeds was not submitted within the ninety-day retention period~~
6 ~~credited~~
7 ~~to the general fund of the county as provided in subsection 3.~~
- 8 ~~_____ 2. If the property is sold~~
9 ~~_____ b. Sold~~ under a contract, the county treasurer shall issue tax receipts, beginning
10 with the earliest year for which taxes or special assessments are delinquent,
11 ~~with~~~~without~~ penalty and interest, and all subsequent payments made on the
12 contract must be applied to the earliest remaining unpaid taxes or special
13 assessments. Any payment under the contract after all taxes, ~~and~~ special
14 assessments, ~~penalties, interest, and~~ associated costs ~~associated with~~ at the time
15 of selling the property are paid must be retained by the county for ninety days
16 following the date of the sale. After the ninety-day retention period, any excess
17 proceeds must be distributed in the manner provided in subsection 4~~credited to~~
18 ~~the county general fund~~~~3.~~
- 19 ~~_____ 3. If the property is sold~~
20 ~~_____ c. Sold~~ for less than the total amount of the taxes due, the treasurer shall write tax
21 receipts beginning with the earliest year and for as many subsequent years as
22 the proceeds realized from the sale will satisfy, and the remainder of any unpaid
23 general taxes or special assessments must be canceled by the board of county
24 commissioners.
- 25 ~~_____ 2. If an owner of record title owns multiple parcels of property subject to foreclosure~~
26 ~~proceedings under this chapter, the county treasurer shall use the aggregate amount~~
27 ~~of outstanding taxes, special assessments, penalties, interest, and associated costs~~
28 ~~applicable to all parcels of property and the aggregate proceeds from all public or~~
29 ~~private sales of the parcels of property to determine the amount of excess proceeds, if~~
30 ~~any, available for distribution as provided in this section.~~
- 31 ~~_____ 3. Excess proceeds under this section must be distributed:~~

- 1 a. To the owner of the record title of the real estate listed in the notice of foreclosure
2 of tax lien if the owner of record submitted an undisputed claim for the excess
3 proceeds within the ninety-day retention period;
- 4 b. To the clerk of the district court in the county in which all or a majority of the
5 property is located if a disputed claim or multiple claims for the excess proceeds
6 were submitted within the ninety-day retention period; or
- 7 c. To the unclaimed property administrator under chapter 47-30.2 if a claim for the
8 excess proceeds was not submitted within the ninety-day retention period.
- 9 4. A city or county that acquires a tax deed to property shall make reasonable efforts to
10 sell the property for the amount necessary to satisfy the outstanding taxes, penalties,
11 and interest owed on the property and shall distribute any remaining sale proceeds in
12 the manner provided in this chapter.