

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

January 28, 1987

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol, at 1:00 p.m. by Chairman Boylan.

ROLL CALL: Senators Galt and Story in later, all other members present.

Senator Boylan asked Senator Lybeck to take over the chair so he could present SB 193.

CONSIDERATION OF SB 193: Senator Paul Boylan, SD 39, Bozeman, said this bill was presented by a group of Wildlife Federation people from Bozeman who were concerned about problems beekeepers are having with bears. He said the bill takes bees out of the livestock classification and makes them a separate entity so you can shoot bears bothering the hives. The bill requires electric fencing to keep the bears out.

PROPONENTS: Jim Flynn, Department of Fish, Wildlife and Parks, said the bill was introduced to address problems that exist concerning the conflict of bears disturbing beehives within certain areas of the state. An incident had occurred causing a meeting between beekeepers and the Department. Damage to the hives was discussed. The meeting was productive because both sides discussed the need to prevent damage to the beehives and the impact to the bee industry. FWP is concerned about the number of bears that will be killed, not only because of the impact upon the resource, but public reception as well. He feels there are some problems with the bill. Electrical fencing is too restrictive to the beekeeper. The department's ability to go out and inspect every bee yard in the state of Montana, with regard to fencing, will be a problem. There are other means available so there should be some flexibility regarding this situation. Another problem this bill may cause would be that not every bee yard would have to have this protection all the time if they didn't have a bear problem. The Department accepts the concept of the bill but asked the committee to be aware of the problems.

Esther Stenberg, an intern representing the MT Wildlife Federation, spoke in favor. Testimony attached as Exhibit #1.

OPPONENTS: Bob Barnes, President, MT Beekeepers Assoc.,

Senate Agriculture Committee
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and also representing Bob Gilbert, Executive Secretary, MT Woolgrowers Assoc., spoke in opposition. Exhibit #2.

Bill Mitchell, Bert Wustner, beekeepers from Missoula; Norman Mitchell, Missoula; Dick Behlow, Lodge Grass, on record as opposed for same reasons as Mr. Barnes.

Dale Cunniff, beekeeper, Choteau; Rich Behlow, beekeeper, Lodge Grass; Daryl Ohmstede, beekeeper, Hardin; Gary Murphy, Livingston; Jim Decker, beekeeper, Billings; Kermit Slater, Miles City; Ron Larson, Billings, all opposed to removal of bees from livestock classification and for Mr. Barnes' reasons.

Ron Barnett, Belgrade, was opposed. For the first time in 40 years, one bee yard by Wilsall, MT was hit, he told the committee. He said this bill would require fencing where it was not needed.

COMMITTEE QUESTIONS: Senator Bengtson asked what classification bees are now in. Mr. Flynn said bees are now considered to be livestock and this bill does not affect that classification.

Bob Barnes thought that line 13 saying "Taking of stock-killing or apiary-damaging animals." meant they were changing the classification.

Bert Wustner felt it changed the livestock classification because, even though they will still be taxed as livestock, the bill is discriminatory because bee people have to fence but sheep people don't have to fence sheep-killing bears out.

Senator Bengtson asked how often bears struck apiaries. Bill Mitchell said he is a 4th generation beekeeper in MT, and it varies from year to year. They have about 100 locations and they sit on a number of different locations every year. Once a bear comes in he will come back every night and will destroy anywhere from 1 to 5 hives of bees. Depending upon the time of year and how much of the honey crop is on the hives, the damage varies between \$100 to \$300 per hive. They had 10 locations hit by bears last year, some with electric fences. Twenty per cent of their operation has fences currently. There were 3 to 4 places the bears went through the fence and 3 to 4 places they never suspected they would have trouble with bears. Out

of that total they had to kill 2 bears. They lost between 40 to 50 hives of bees at about \$4000 - \$5000 minimum. Their objections to having to have all these areas fenced is cost. It takes 2 men 4 hours to put up a fence around 100 yards of bees. This entails 50 days labor for two men plus \$30,000 for equipment. If a new neighbor moved in and did not like the bees, or a landowner decides to plow that area, you have to move them and there is a \$300 bear pen which has to be dismantled and put up again.

Senator Beck asked if it was expensive for FWP to trap the bear and move it to another area and would that be a solution for the beekeepers. Mr. Flynn answered that they do this in some instances, or they can kill the bear.

Senator Beck questioned the bill requiring all colonies be fenced. He thought this might be too severe as all areas may not require this. Mr. Flynn said not all yards have to be fenced every year.

Senator Lybeck asked Mr. Barnett how many bears they had killed and he replied that, in 23 years of business, they had only taken 7 bears, which is less than a sportsman would take in that time. They buy a bear license every year.

Senator Lybeck asked what procedure he would go through if he did not have a license and he killed a bear. Mr. Barnett answered that the first thing they do is contact a state or federal trapper who disposes of the bear. Their trapper takes it to the Fish & Game laboratory for research.

Hearing closed on SB 193.

Senator Boylan resumed the chair.

CONSIDERATION OF SB 142: Senator Cecil Weeding, SD 14, told the committee that this bill is pretty well summarized in the title, and is better known as "the right of first refusal". It is new legislation to Montana. Section 1, a new section, includes the definition of agricultural land and foreclosed agricultural land. Section 2 is the "meat" of the bill and the provision for the option to reacquire land that a former owner has lost to foreclosure. Section 3, a new section, is the time limit the person has to act to exercise this option. Section 4 is existing language, amended to define the length of time which must lapse after notice before a transfer is final. Section 5 is the effective date. This bill is a response to the agricultural crisis. It is in existence in

Minnesota, Iowa, Colorado and Nebraska, according to Senator Weeding. The agricultural crisis was more acute there and we are catching up.

If a prior owner is able to match another offer, after he has lost his land, he will have an opportunity to buy this land back. He said people who are caught up are victims of circumstances. Some bought in when prices were high, acquired debt they were unable to cope with and are desirable people to keep in the communities. Investor owned syndicates are moving in and buying up large pieces of land, insurance companies are buying discounted paper, sod buster people are buying large areas, milking the farm programs. These are transient people. The owner-operator land owner is more desirable. Senator Weeding had some amendments to clarify the leasing provision on page 2, lines 4 and 5. Exhibit #3.

PROPOSERS: Monte Mlekush, Northern Plains Resource Council, in favor. Exhibit #4.

Terry Carmody, MT Farmers Union, MT Cattlemans Assoc., said many of the people who are losing their farms are 4th and 5th generation people. Some had bad advice. Some bought at high prices and need this option. He didn't think 60 days to exercise the right would be much of a burden on creditors.

Roy Patte, President, MT Peoples Action, and a farmer from Ryegate, in favor. Exhibit #5.

Tom Breitback, farmer from McCone County, in favor. Exhibit #6.

Jack Hayneman, Northern Plains Resource Council, said he had 20 letters from individuals showing concern and read the letter from the Board of McCone County Commissioners. Letters, exhibit # 7. He asked other proponents to raise their hands. Many hands were raised.

Ed Mott, rancher, Stillwater County, in favor. Exhibit #8.

Mignon Waterman, MT Assoc. of Churches, in favor. Exhibit #9.

Jim Murry, Exec. Scty. MT AFL-CIO, in favor. Exhibit #10.

Mary Kee, Roundup, Musselshell Chapter of MT Peoples Action, in favor. Exhibit #11.

Lyle Manley, Dept. of ST Lands, in favor, but he offered an amendment to except state lands from the effect of the bill. Exhibit #12.

Anne Moylan, MT Catholic Conf., in favor. Exhibit #13.

Larry Martin, farmer, Twin Bridges MT, member of MT Peoples Action, said he was speaking for a farmer who couldn't make his payments so he gave the place back to the insurance company. The insurance company, in turn, gave the lease to the family of a loan agent for the insurance company for \$1.00. This lease included 3,000 acres of farm ground. The family took more than \$100,000 in profits off the land. If the original owner had been able to have first right of refusal, he could have met the loan obligation and kept his whole farming operation intact and not be facing Chapter 11 right now.

Sue Olsen, Roundup, co-chairman of the Musselshell Agricultural Alliance, in favor. Exhibit #14.

Dale Sailer, Superintendent of Schools, Bainville, MT, said he has watched young farm families leave the area because of farming problems, resulting in a loss of students and putting a strain on small schools in MT.

Joan Voise, Ryegate, MT Peoples Action, in favor.

Senator Ray Lybeck, SD 4, on record in support. He gave an example of a bank in Oregon which had been giving special farm management training to new owners to make their farms produce. It didn't work and they are now trying to keep the farms in the hands of the original owners because, by doing so, banks lost a lot less money.

Keith Kelly, Dept. of Agriculture, in favor. Exhibit #15.

Bill Milton, sheep and cattleman from Roundup, in favor.

OPPONENTS: George Bennett, MT Bankers Assoc., opposed. Exhibit #16.

Phil Johnson, MT Bankers Ag. Committee, did not think this was a well drafted bill and that it would not protect the banks nor the investors.

Kim Enkerrud, MT Stockgrowers, opposed. Exhibit #17.

Tim Gill, President, MT Livestock Ag. Credit Bureau, Helena. He was concerned, as a strictly agricultural lending organization, for his shareholders who are also his borrowers. He said this bill is unfavorable to them as viable producers, as it puts them in an unfair trade competitiveness. Credit is

drying up and he knew of only one insurance company who will give long term credit today. He felt it only benefited a few but it affects many.

John Cadby, MT Bankers Assoc., said the laws that were created in the four other states and the incidents stated by the proponents all occurred before the passage of Chapter 12 by Congress last Thanksgiving day. He felt the passage of Chapter 12 made this bill unnecessary as he didn't see why anyone would go through a foreclosure and lose his farm when a chapter 12 would get him a reduction and restructuring of his debt. He felt the right of first refusal was a slim hope of getting the place back.

COMMITTEE QUESTIONS: Senator Jergeson asked Mr. Cadby that, with a farmer's reputation at stake, shouldn't there be other choices. Mr. Cadby said they did not encourage anyone to use Chapter 12 because the borrower gets a reduction of the debt but the lender will have to absorb that loss. The farmer will stay in business under the restructured program and he couldn't see that it would be any more embarrassing to utilize Chapter 12 than it would to go through a lengthy court procedure utilizing Chapter 11.

Senator Jergeson asked what Mr. Cadby's organization has been doing regarding Chapter 12 to get out of the binds they are in. Cadby answered, mandatory mediation, 1st liens for other suppliers and elimination of providing clear title to ag. buyers simply destroys the incentive to make an ag. loan. In the ag. lending business they know if a farmer goes down the tube, so goes the bank.

Senator Jergeson asked how SB 142 added to his risk. Mr. Cadby said the reasons cited by Mr. Gill, Johnson and Bennett were adequate reasons for making the lender more cautious in renewing his loans to the 20,000 farmers they are trying to save. He said they want to make it as easy as possible for the lender to recover his debt.

Senator Bengtson asked if a farmer or rancher took a Chapter 12, could he also take the right of first refusal using the new debt figure. Mr. Cadby said he wouldn't need a right of first refusal in that case because he wasn't transferring ownership of the property.

Senator Beck thought this bill offered false hope and many people may not be able to come up with the dollars to save their farm. Senator Weeding said there will be cases where it won't help but it may help some.

Senator Galt asked how multiple ownership was addressed.

Senator Weeding said it would be the registered owner.

Senator Galt asked about a corporation dissolving. Senator Weeding didn't think they would disband if they were doing something like this.

Senator Galt asked about families with 5 people involved and Senator Weeding said it would be the name on the mortgage instrument. They would operate under the laws of partnership.

Regarding Senator Weeding's amendment, Senator Galt asked if he wanted the lease to go on forever. Senator Weeding answered that the bill puts a limit of 10 years or 5 years on it.

Senator Galt said this would not be the case should an individual foreclose or if the farmer gives the lease to his rich uncle or a bank walks away from it. Senator Weeding said there has to be a legal process to constitute a foreclosure.

Senator Galt said a person could foreclose on another person and wouldn't come under the banking restrictions. If this person wants to lease it, he could negotiate the lease forever. Weeding didn't comment.

Senator Thayer, in reference to Senator Galt's question - should somebody sell the farm under a normal contract for deed, when land prices were higher and wanted to get out of it, then he could purchase it later at a reduced price. Senator Weeding said the new owner establishes the price he is willing to sell it to a third party for.

The committee had concerns about a person losing the place a second time, problems with land values going down, losses that would be incurred if a person who has purchased the land and was losing it had not kept the property up and it was in a rundown condition at the time of foreclosure.

In closing, Senator Weeding said these laws are working in four states. They must have encountered most of the problems the committee spoke of and there may be some technical questions that can be ironed out. He said personal property doesn't enter into this at all. If the third party comes up with more than the former owner can pay, the former owner is out. This bill is similar to Chapter 12 but not as rigid. He said testimony today came from the MT Bankers Assoc., the independent bankers had not testified. Banks are getting out of the ag. loan business. He

Senate Agriculture Committee
January 28, 1987
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felt the bill has merit and he would like to work out the problems in the bill.

Senator Galt asked if Dave Cogley would get a copy of the law from the four states Senator Weeding mentioned.

Hearing closed on SB 142.

There being no further business, the meeting adjourned.



PAUL F. BOYLAN, Chairman

ROLL CALL

AGRICULTURE

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-28-87

NAME	PRESENT	ABSENT	EXCUSED
ABRAMS, Hubert J.	✓		
BENGTSON, Esther G.	✓		
BECK, Tom	✓		
JERGESON, Greg	✓		
KOLSTAD, ALLEN C.	✓		
LYBECK, Ray	✓		
STORY, Peter R.	✓		
THAYER, Gene	✓		
GALT, Jack VICE CHAIRMAN	✓		
BOYLAN, Paul CHAIRMAN	✓		

Each day attach to minutes.

1-28-87

COMMITTEE ON AGRICULTURE

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with a

DATE

1-28-87

COMMITTEE ON

Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Lyle Mauley	Dept of State Lands	SB 142	✓	
Mike Dwyer	Beantooth Honey	SB 193		✓
Jim Smith	" "			✓
Jim White	" "			✓
Don Larson	Larson Honey Co	193		✓
R. G. Behlow Sr	Lodge Grass Apiaries	193		✓
R. G. Behlow Jr.	Lodge Grass Apiaries	193		✓
Bob Barnes	Beaverhead Honey Co.	193		✓
Jim Decker	Beantooth Apiaries	193		✓
DALE CUNIFF	BEEKEEPER CHOTEAU	193		✓
Daryl Olmsted	Beekeeper Hardin	193		✓
HERMIT SLATER	Beekeeper Miles City	193		
Jack Hyman	NPRC	142	✓	
ESTHER STENBERG	MWF	193	✓	
BILL MITCHELL	BEEKEEPER MSLA	193		✓
Monte Melkush	NPRC	190	-	
Gary Murphy	Beekeeper Livingston	193		
RON BARNETT	BOARD OF DIRECTORS MONTANA BEEKEEPERS	193		✓
ED MOTT	RANCHER-REEDPOINT	142	✓	
Jeanne Charter	MAAA	142	✓	
Jim Olson	MAA	142	✓	
Norman Mitchell	Beekeeper Teton	193		✓
Port Gustafson	Beekeeper Miles	193		✓
Kim Enkegood	MT Stockgrower			✓
Yon Brubaker		142	✓	

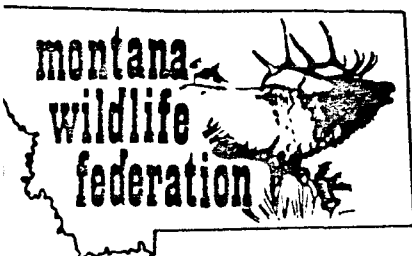
DATE 1-28-87

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
ROBBIE GREEN	NPRC	\$142	X	
John Beck	NPRC	S142	X	
Tom Tully	NPRE	S142	X	
Richard BERLO	SELF	S142	X	
Bill Gillin	NPPC.	S142	X	
Dan Hughes	Bell	S142	X	
Terry Connolly	St Patrick's V	S142	X	
Anne Morgan	Mont. Cath Cong	S142	X	
Meggin Waterman	Mont. Assoc of Churches	SB142	X	
Galen Arthurini	Mt Catholic Cong.	142-	X	
Linda Chaney	Women's Lobbyist Fund	\$B142	X	
Jane Martin	MPA	SB142	X	
Jim FLYNN	FNF	\$B142	X	
Dale Sartin	Barnwell Schest	SB142	X	
Ashley BALK	Maslow-James	SB142	X	
Michelle	Mt People Action	SB142	X	
Jean Hodge	Mt Peoples Action	SB142	X	
()				

(Please leave prepared statement with _____)



EDUCATION - CONSERVATION

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

P.O. Box 3526
Bozeman, MT 59715
(406) 587-1713

Testimony on SB 193

Senate Agriculture Committee

January 28, 1987

Mr. Chairman, members of the committee, my name is Esther Stenberg. I stand before you today representing the Montana Wildlife Federation in their support of SB 193.

The Montana Wildlife Federation, comprised of 4600 members is a statewide conservation organization dedicated to promoting wildlife, wildlife habitat and sportsmen's interests. My organization is proud to recognize that Montana boasts the finest huntable wildlife populations to be found anywhere in the country.

The Montana Wildlife Federation supports SB 193 because we feel there is a need to educate the legislature on a problem stemming from increased numbers of conflicts between the bee-keepers and honey-loving bears. These conflicts result in damage to the bee-keepers' hives and in some cases the killing of the bear responsible. First and foremost we recognize the importance of both parties involved --- bee-keeping as a viable industry on one hand and the value of the black bear as a much sought after trophy animal that the sportsmen treasure on the other hand.

The Montana Wildlife Federation is seeking a cooperative solution between bears and bee-keepers with a focus on prevention. We believe it is in the best interest of both the bee-keeper and the sportsman to prevent damage to beehives before it occurs. Bee-keepers are at a financial loss when a bear damages their hives and a dead bear is of no value to the sportsman nor to Montana's wildlife heritage in general.

The Montana Wildlife Federation supports the use of electric fencing to prevent bears from damaging beehives because it has been proven to be an effective method in many cases. However, we are also aware of other methods that may be more applicable due to situation. Furthermore, we recognize the efforts of the Department of Fish, Wildlife and Parks to develop the best method of prevention available.

Once again, our concern is for prevention - to prevent the damage and destruction of beehives and to prevent the killing of the black bear which is valued as a trophy animal. We encourage positive measures to be made by the bee-keeper to protect his hives against damage by a bear.

The Montana Wildlife Federation supports the intent of SB 193. Thank you.

Bob Gilbert, Ex. Sec. of MT. Woolgrowers Assn. had to attend a wool meeting, but asked me to say they were opposed to bill, also & had passed a resolution at their state meeting supporting the beekeepers. Stated simply, the Montana State Beekeepers Assn. are opposed to SB 193 for the following reasons:

While beekeepers do not want to see the wanton destruction of the bears, we want to be able to take care of problem bears when the problem occurs and where the problem occurs.

SB 193 would keep us from being able to protect our livestock

~~because~~ ^{because} This bill addresses only beekeepers - is discriminatory.

2) Cost factor - financially impossible to erect electrical fences on all bee yards - many of us have over ~~200~~¹⁰⁰ spots or locations which would have to be fenced - at an estimated cost of between \$300-\$700 per yard.

3) Time factor - as all parts of agriculture, our time is valuable and it is not practical for us to check fences & batteries with regularity as would have to be the case. Some of our yards are 100-150 miles from our home base, and it is not practical time-wise.

4) Damaged Beeyards are over charging - Bears are, by nature, unpredictable - you just don't know when or where they will cause the damage - seems to change yearly, and also with the changing seasons, i.e., spring - fall. Once a bear gets started in a yard, it will keep coming back until either it is destroyed or it has destroyed the entire bee yard.

5) Each time a colony of bees is destroyed, we loose anywhere from \$100. to upwards of \$350, depending upon what time of year the damage is done.

6) Liability question - will beekeepers have to bear the total responsibility if someone or something other than a bear is shot? Our liability insurance is nearly prohibitive now - what would it be then?

DATE

1-28-87

Bob Barnes

BILL NO.

SB 193

PROPOSED AMENDMENTS - SB 142

Page 2, lines 4 and 5.
Section 2 (2)

An offer to lease to the former owner is required each time the terms of the lease are renegotiated ~~foreclosed~~
~~agricultural-land-is-leased-to-a-third-party.~~

COMMITTEE AGRICULTURE
COMMITTEE NO. 3
DATE 1-28-87
BILL NO. SB 142

Mr. Chairman, members of the committee. I'm Monte Mlekush, testifying on behalf of the Northern Plains Resource Council. ^{Witness, etc.} NPRC is a grassroot membership based organization working on natural resource and agricultural issues. I'm here today to testify in support of SB 142.

The intent of this legislation is to give people who have lost their operation the opportunity to meet a third party bid for the lease or purchase of their foreclosed land.

For instance, if I lost my place and the creditor accepted a third party bid, I would have the opportunity to match the same terms and conditions of that bid. According to SB 142, I would have 15 days to match a lease agreement and 60 days to match "bid" for purchase.

Opponents claim this legislation will put the so called "bad managers" back into business. We must recognize that "bad managers" are a symptom of a larger problem within the industry. We must also recognize that in order to use this specific legislation, the ability to match a third party bid is absolutely dependant on access to capitol. We believe that only the best operators will be able to use this legislation. "Bad managers" will be weeded out simply because they will not be able to secure further financing.

We're familiar with arguements claiming that this legislation will "dry up" credit. That arguement has been so frequently used over the last two years, that we're reminded of the parable of the boy who cried wolf. We challenge those individuals to fully explain the basis in fact for using that arguement.

SENATE AGRICULTURE

EXHIBIT NO. 4

DATE 1-28-87

BILL NO. SB 142

SB 142 is just one tool to assist troubled farmers and ranchers and to help stabilize rural communities. The financial community has been considered by the favorable passage of SB 59. Now is the time to give the same consideration to the agricultural community.

Thank you for your consideration of SB 142.

Right of First Refusal

Senators, Members of this Committee, Ladies and Gentlemen,

My name is Roy Patte, President of Montana Peoples' Action and a farmer from Ryegate, Montana.

You as well as we farmers and ranchers are aware of the economic situation of agriculture in this State and the nation as a whole. This applies to the city and urban people as well. As you know, the principal industry of this State is agriculture. What happens in agriculture has a direct bearing and relationship to all of us in our cities, towns and urban areas of Montana.

The escalation of foreclosures and forced liquidation of farms and ranches in this state has placed a heavy burden, physically and especially mentally on those of us in the rural areas. The crosses on the front lawn of our Capital is a daily reminder of what is happening in agriculture every day and every week.

Lending agencies, banks, Farm Credit Services, FmHA, have been very reluctant to advise borrowers of their rights. Many foreclosures and forced liquidation could have been prevented by ag counseling or mediation, or both. These programs will be extremely essential in the next year or two.

In most cases, the lender has acted in bad faith. Some examples are -

1. The lender has given extensive advise not related to the collateral for the loan or the farmer's ability to repay the loan,
2. Consistently renews loans, then suddenly severs credit.
3. Is dishonest with the borrower, such as telling the borrower the loan is due when it is not,
4. fails to follow its own procedures when acting on a loan;
5. Does not follow the terms of the note, or violates State or Federal law when trying to collect on the loan.
6. Having the borrower sell machinery, cattle, production, etc. to make payments due and then advising the borrower the lender will then provide the necessary finances to continue his operation. Then denying any loans because of little or no collateral.

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These are just a few of the tactics that have been used against borrowers in my area of the State that I am aware of. These same tactics and many others have been and are being used throughout this state to cause foreclosure or liquidation of personal property, real estate, farms and ranches.

We have amongst us people that have been through these situations with lenders. The actions, attitudes, and heartache that people have had to contend with can only be addressed by them personally. I ask you to listen to them when they give their testimony. Only they can describe the hardships they have had and the consequences they are still experiencing.

In a large number of foreclosures by the lender, the same property is offered to another person at a greatly reduced price, if sold, reduced lease arrangement or considerably less interest than what the original owner had to provide, in payments, interest or lease arrangements.

Why shouldn't the original owner be given these same consideration? He knows the land better than anyone else, the highest productive area, the poorer production areas, the best husbandry techniques, and of course his home.

Consider the financial savings to lenders by giving the owner the first right of refusal. Consider too, the tax dollar revenue that the counties could receive by personal property and real estate taxes. Consider the impact loss to communities and rural areas, as well as the increased suicide rate among farmers and ranchers, wife abuse, child abuse, drinking, etc.

Why wait until the 12th hour. Lets get our heads out of the sand and take a look at reality. If we try, we can accomplish something beneficial to all. Acts and Legislation was passed in the depression years to protect the rights of the landowner. It was done then and can be done again. Using our enabled rights and God given rights we can succeed together.

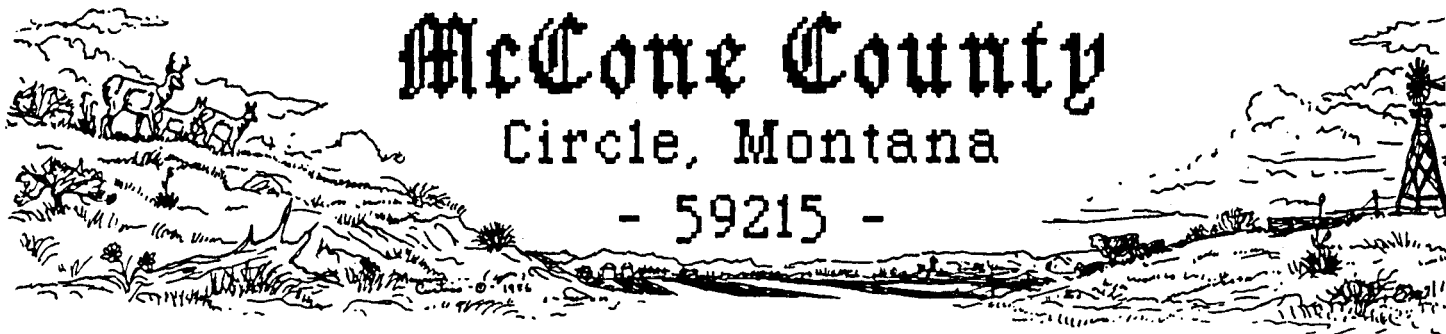
I urge you to support and pass SB-142 THE FIRST RIGHT OF REFUSAL.

Chairman and members of the committee
I am Tom Breitbach and I farm and ranch in McCone County

I wish to thank the agriculture committee for the opportunity to testify on SB142

I am not an attorney, but we have had to reclaim property through the foreclosure method. Very briefly I will tell how I think the process works and how this process is affected by SB142

- 1 Failure of debtor to make timely payments on debt
- 2 Filing of claim by seller or financial institution
- 3 Court order that plaintiff has a judgement to enforce
- 4 Execution of judgement by sheriff
- 5 Issue of court deed to plaintiff
- 6 Offer by third party to lease or buy
- 7 At this point SB142 comes into effect
- 8 Original debtor has the opportunity to meet the offer for purchase once and once only
- 9 Each time the lease terms are changed the original debtor has the right to meet the offer
- 10 This in no way inhibits the present owner from writing the terms of the lease. It simply means that they must provide the original owner and a third party with the same terms

**COMMISSIONERS**

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Melvin Skyberg
Chuck Kleppelid
Box 199
485-3505

ASSESSOR

Mari Youngkin
Box 179
485-3565

CLERK & RECORDER

Paula L. Kuntz
Box 199
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CLERK OF THE COURT

Betty L. Robinette
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Arnie A. Hove
Box 184
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COUNTY HEALTH DEPT.

Mae Rittal PHN
Pauline Wischmann PHN
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COUNTY PLANNER

Mary Garfield
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JUSTICE OF THE PEACE

Gene LaRowe
Blanche Elverud
485-3548

SHERIFF

Robert A. Jensen
Box 207
485-3405

**TREASURER/
SUPT. OF SCHOOLS**

Kay H. Wolff
Box 180
485-3590

January 27, 1987

Senate Agriculture Committee
Paul Boylan, Chairman

RE: SENATE BILL NO. 142

Dear Committee Members:

The Board of McCone County Commissioners would like to take this means to express our support for Senate Bill No. 142.

We feel that the original landowner should have first right to accept or reject any offer made to a third party.

Thank you for your consideration.

Sincerely yours,

McCone County Commissioners

Lyle Quick
Lyle Quick, Chairman

Chuck Kleppelid
Chuck Kleppelid, Member

Aron King
Aron King, Member

LQ:plk

SENATE AGRICULTURE

SENATE NO. 7

DATE 1-28-87

BILL NO. SB142

Box 1388

Glendive, Mont.

Jan. 24, 1987

Chairman, Paul Boylan

Vice-chairman, Jack Galt

Senate Agriculture Committee

Montana Legislature

Helena, Mont.

Dear Senator Boylan, and Senator Galt:

Please give your support to SB 142--The Right of
First Refusal.

This bill is one which gives to those farmers
and ranchers whose property has been foreclosed, a
chance to remain on their land and to make a comeback.
You are well aware of the status of farmers in this
state. It is well worth your favorable consideration.

Sincerely,

Louise Cross

(Mrs. J. M. Cross)

SENATE AGRICULTURE
ENCLAVE NO. 7
DATE 1-28-87
BILL NO. SB142

Box 1388

Glendive, Mont.

Jan. 24, 1987

Chairman, Paul Boylan

Vice-chairman, Jack Galt

Senate Agriculture Committee

Montana Legislature

Helena, Mont.

Dear Senator Boylan, and Senator Galt:

Please give your support to SB 142—The Right of
First Refusal.

This bill is one which gives to those farmers
and ranchers whose property has been foreclosed, a
chance to remain on their land and to make a comeback.
You are well aware of the status of farmers in this
state. It is well worth your favorable consideration.

Sincerely,

Louise Cross

(Mrs. J. M. Cross)

*Copy -
Sen. Hugh Abrams*

FILED NO. 7
DATE 1-28-87
BILL NO. SB 142

Jan 24, 1987
Hallow, Mont 59326

Hi Meg.

We would appreciate if you take my letter to the hearing in the Senate ag on Jan 28.

We would like to see Senate Bill 142 passed. We have read the bill and feel it is fair to both the lessee and former owner.

Sincerely,
Don & Irene Moffett

7
1-28-87
BILL NO. SB 142

1-26-87

Ronald Harwood
South Star, Box 215
Tosqua, Mt. 59248

785-4781

Senate Ag Committee

My name is Ronald Harwood and I would like to give written testimony. I am a farmer from Tosqua in Valley County. We, as farmers and Ranchers are going through tough times with low commodity prices and depreciating land values. We need to pass Senate Bill 142 (The Right of First Refusal) so that a farmer or rancher that has been foreclosed on by a lender, can stay on the land by having a chance to match the best offer by a third party.

The right of first refusal has already been passed in Colorado, Minnesota and Iowa. We need this bill passed here in Montana. So I ask you on the Senate Ag Committee, to pass SB 142.

Sincerely
Ronald Harwood

7

1-28-87

SB 142

TO WHOM IT MAY CONCERN

I support the Right For First Refusal Bill for all
Lending Agencies. The FMHA already gives the Right of
First Refusal to foreclosed borrowers.

Jed Tihista

Jed Tihista
HC 67 Box 152
Nashua, Mont. 59248

7
DATE 1-28-87
BILL NO. SB 142

Senate Ag Committee
Helena, Mont.

We wish to express our sup-
port for SB 142. and strongly urge
you to pass the bill, giving a
foreclosed farmer or rancher the
right of refusal.

Thank you.

Arthur Neubauer
Helen Neubauer
Rt 1- Box 4069
Glasgow Mt 59230

OFFICE OF THE CLERK

SENATOR NO. 7
DATE 1-28-87
BILL NO. SB 142

Jan. 26, 1987

Senate Ag Committee,

I am a farmer from Nashua in Valley County, Montana. This is my written testimony for Senate bill 142.

I just could be that the lender were as much at fault as the borrower, because of once inflated land prices and interest rates. Now, land prices going down and also interest rates, the fellow being foreclosed on should have the right of first refusal.

I am in favor of SB 142 being passed.

Sincerely,

Edgar Garwood
South Star Route BOX 212
Nashua, Montana

Phone 785-4871

7
DATE 1-28-87
BILL NO. SB 142

ROBERT A. POTTER
923- VALLEY VIEW
GLASGOW, MT 59230

TO AG COMMITTEE MEMBERS-

I URGE YOU TO VOTE FOR SB 142.

IF THE FARMERS LOSE THEIR PLACE BECAUSE
OF HIGH LAND PRICES, LOW COMMODITY PRICES ETC.
AND HE HAS BEEN WORKING HARD TO SAVE HIS
FARM ~~THE~~ I FEEL THAT HE IS ENTITLED
TO BUY HIS FARM BACK AT A PRICE MEETING
TERM & CONDITIONS OF HIGHEST OFFER -

Sincerely

Robert A. Potter

DATE 1-28-87
BILL NO. SB 142

Dear Senators:

1-27-87

Please consider this letter of support for SB 142.

In these times of great difficulty, not only for our farmers & ranchers, but also for the rural towns & communities that if they support, we need some stabilizing influences. SB 142, by giving the occupying operator the opportunity to meet the terms of a lease or sale, that the financing institution may be offering a 3rd party, will help stabilize the tumultuous situation we are witnessing in our rural economy.

Montana & Montanans stand only to lose & not gain by an exodus of our people from the land & the surrounding rural communities. As we are witnessing here in Circle most of the dislocated are not simply moving to Billings or some other larger Montana urban center, they are leaving for Arizona, Georgia & other hopefully more economically opportune areas.

By supporting SB 142 I believe you can help to bring stability to our hard hit state.

Thank you for your consideration,

Jerry Schilling

Box 147

Circle, MT.

SIGNATURE

DATE 1-28-87

BILL NO. 59515

SB 142

PL # 485-2479

January 26, 1987
Box 406
Nashua, Montana 59248

Montana Senate Ag Committee
Capitol Building
Helena, Montana

Dear Senate Ag Committee:

This letter is written in support of SB 142. Allowing a foreclosed farmer the right to buy, rent or lease his foreclosed property if they are able to match the best offer the foreclosing lender would get for the property from a third party would help keep the farmers on the land. We are in favor of the right of first refusal.

The States of Iowa, Minnesota and Colorado already have laws allowing farmers and ranchers the right of first refusal. Let's do the same and help our rural people in the State of Montana keep their homes and land.

Very truly yours,
Kenneth D. Turner
Marjorie P. Turner

7
DATE 1-28-87
BILL NO. SB 142

NORMA + DARVZ J. BETZ
HCR 271-2168
Glasgow, MT
59230

Jan. 26, 1987

We feel that the Rancher should definitely be given 'first refusal' on his land that is being foreclosed on. We would like to see the continuance of small farms. The original owner is the person who has put all of his life into the land and has also paid much interest on his loan, and he should be given the chance to continue farming at the current value of his land.

This would also stabilize the economy and Tax base

Norma + Darvz J. Betz
(Darvz J. Betz)

7
FILED 1-28-87
BILL NO. SB 142

To: Senate Ag Committee

We feel that SB 142,
The right of first refusal, should
be made law in Montana.
This would give a borrower
the opportunity to stay on the
land, and keep him out of an
already depressed job market.

Thank you
Mel & Linda Novak
Nashua, Mt 59248

SENATE COMMITTEE
7
DATE 1-28-87
BILL NO. SB142

January 26, 1987

To the members of the Senate Agriculture Committee:

Many farm borrowers are now unable to make payments on loans which were based on inflated land values. However, they might be able to make it if their payments were based on current land values or the current market value of commodities. SB 142 will allow some borrowers to operate at a lower loan level because their payments would be based on the deflated value of their collateral. It would give the farm borrower the option of matching a third party bid to buy or lease all or part of his land -- a bid which would be based on current market values. Also, if a lender knew that he would have to allow me to try to match a third party offer for some or all of my foreclosed property, he might think twice about going through the cost of foreclosure and work something out with me beforehand, like refinancing my loan.

I strongly urge you to vote yes on SB 142.

Arthur J. Neiffer

Art Neiffer
CB Route
Glendive MT 59330
DATE 1-28-87
BILL NO. SB142

Jan. 26, 1987

Sen. Paul Boylan:
Capitol Station
Helena, Mt. 59620

Dear Senator:

Since I am unable to travel the 250 miles to attend the hearing to testify on SB 142, I would like to let you know that we believe this bill is essential to keep farm land available to farmers if and when agriculture prices and economics improve. If the present trend is continued, the majority of Montana land will be held by speculators who will make the farming community a transient tenant population without regard for the well being of the land or future.

Please do what you can to get this bill passed so the farmer foreclosed on will have a chance to buy, rent or lease back at the present rates what he lost due to inflated prices. It is a chance to show our basic economic base they will have some protection.

Sincerely,

Nell Kubesh

Mrs. John E. Kubesh, President
Dawson Resource Council
Bloomfield Rt., Glendive, Mt. 59330

*Originals sent to Esther Benton
Hugh Abrams*

SENATE AGRICULTURE

EXHIBIT NO. 7

DATE 1-28-87

BILL NO. SB142

Senator Hubert L. Abrams
Montana Legislature
Capitol Station
Helena, Montana 59620

RE: Senate Bill No. 142

January 25, 1987

Dear Senator Abrams,

As members of Dawson Resource Council and landowners in Dawson County, we urge you to support Senate Bill 142 entitled "An act to give the prior owner of foreclosed agricultural land the right to purchase or lease such land by meeting the terms and conditions of the highest offer made to purchase or lease such land; amending Section 25-13-710, MCA; and providing an immediate effective date."

We feel that the owners of foreclosed land and/or equipment should have an opportunity to re-construct their lives while still maintaining the concept of the family farm and possibly eventually being able to re-establish themselves in the lifestyle of a farm family again. To lose one's land because over extending themselves in purchasing equipment and supplies and have the equipment sold by financial institutions at an amount much lower than their worth is devastating. To compensate, the institution then takes the land.

We would like to see some sort of legislation enacted that the foreclosed land cannot be purchased by brokers for out of state corporations or for foreign business corporations. The foreign and out of state ownerships of land not only take out the tax base but also take our tax money through farm subsidy programs and pay no federal, state or local taxes.

Thank you for your attention in this matter. Urge you to support Senate Bill 142.

Sincerely,

Donald and Betty Shearer

Donald and Betty Shearer
411 So. Taylor Ave.
Glendive, Montana 59330

CC: Hubert Abrams

7
1-28-87
BILL NO. SB 142

1-26-87

We think that the farmers and ranches should have the right to meet the price of the person that is planning to buy your ranch. It would be better for the country or community to have more people out on the land. It would also help local business and help create a better tax basis for state and local areas and stabilize the economy. The refused law will be a good one.

Julius Bruton
Earl Britsch
Box 146
Glenade, Mt. 59241

7
1-28-87
30142

my name is Ed Mott. I am from Reed Point. Where we are now is in a friendly foreclosure. We are trying to work thru a negotiation to come up with a reasonable lease back.

The right of first refusal would do us some good. I also feel it is moral + fair and does not ~~unduly encumber~~ ^{BURDEN} the lender.

In my own case, I have a fear of a sweetheart deal coming down ~~that shuts us out and~~ where lenders would take advantage for a relative or another they have business connections with. SB 142 would ~~do a lot~~ help keep things honest.

In our area, in a 5 mile radius, I am aware of at least 9 other operators besides ourselves who ~~are for~~ have either been foreclosed, in the process of foreclosure, for sale, or a portion of the place is for sale in order to stay in business. With all we've put in and all we've lost, haven't we earned the right to at least meet a 3rd party bid.

I would be willing to answer any questions ~~of a general~~ the committee might have about my operation.

STATE AGRICULTURE

EXHIBIT NO. 8

DATE 1-28-87

BILL NO. SB142



January 28, 1987

WORKING TOGETHER:

American Baptist Churches
of the Northwest

American Lutheran Church
Rocky Mountain District

Christian Church
(Disciples of Christ)
in Montana

Episcopal Church
Diocese of Montana

Lutheran Church
in America
Pacific Northwest Synod

Roman Catholic Diocese
of Great Falls-Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
MT-N.WY Conference

United Methodist Church
Yellowstone Conference

Presbyterian Church (U.S.A.)
Glacier Presbytery

Presbyterian Church (U.S.A.)
Yellowstone Presbytery

SENATOR BOYLAN AND MEMBERS OF THE SENATE AGRICULTURE
COMMITTEE:

I am Mignon Waterman of Helena and I represent the
Montana Association of Churches.

The Montana Association of Churches supports SB142
because we believe it will provide Montana farmers
an opportunity to buy or lease back their property
after it has been liquidated.

The Montana Association of Churches supports public
policies at the state level that will help preserve
the family farm system and the vitality of rural
communities. We believe the right of first refusal
is such a policy.

We urge this committee to support SB142.

SENATE AGRICULTURE

EXHIBIT NO. 9

DATE 1-28-87

BILL NO. SB142



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY ON SENATE BILL 142 BEFORE THE SENATE AGRICULTURE,
LIVESTOCK AND IRRIGATION COMMITTEE, JANUARY 28, 1987

Mr. Chairman, my name is Jim Murry and I'm here today on behalf of the Montana State AFL-CIO to testify in support of Senate Bill 142.

We support this bill because the farmers, ranchers and workers of this state have a common heritage. This common heritage is based on a strong work ethic, a belief in social and economic fairness, and a belief in the protection of the rights of individuals.

Montana is confronted with a financial crisis. Every basic industry (agriculture, minerals, timber, oil and gas) in our state is in decline. The state's budget deficit, the high unemployment, the loss of population and tax base are all symptoms of the basic underlying problem, which is a depression in our natural wealth industries.

Montana is an agricultural-based state. Agriculture is the largest industry in Montana. The secondary industries that service agriculture provide jobs and income for many more Montanans. The economic condition of agriculture is directly linked to the overall strength of our state's and nation's economy. In simple economic terms, we cannot afford to lose our farmers.

The question that is being addressed by this Montana Legislature is not just one of how to increase revenue or decrease expenditures. It is not just a question of what type of new tax should be imposed on the people of our state, nor is it only a question of which service or program the economically disadvantaged really don't need. A major question that this legislature, and this committee, must answer is: Are we going to fight for the survival of rural America?

If we choose not to act, the trend toward corporate and institutional ownership of our land, which has already started, will become the basis of Montana's agriculture industry. Montana already has had enough experience with the type of social and economic implications arising from out-of-state ownership.

Senate Bill 142 is not the answer to all of the problems in agriculture, but it is a step in the right direction, and it is a step that can be made here at the state level. The "right to first refusal" simply allows the original owner of a piece of property the opportunity to buy, lease or rent their foreclosed property at the price which the lending institution is willing to sell the property to a third party. Adopting the right to first refusal will help keep our family farmers on their land.

SENATE AGRICULTURE

EXHIBIT

DATE

BILL NO.

10

1-28-87

SB 142

Senate Bill 142 is not a give-away. It does not create additional costs for the lending institution that is selling the property. It does not cost the state anything. The original owner can only purchase the property if he or she can arrange financing.

We urge you to vote for Senate Bill 142. A vote for this bill is not only a vote for our farmers and ranchers, but it also is a vote for rural America. It tells the people of this state that even though Montana and its financial problems have been largely ignored by the administration in Washington, D.C., the legislators we have elected have not.

We hope you agree with our position and vote for Senate Bill 142.

MONTANA PEOPLES ACTION

208 E. Main
Missoula, MT 59802
(406) 728-5297

436 N. Jackson
Helena, MT 59601
(406) 449-6597

Members of the Legislature and fellow Montanans,

I am Mary Kee of Roundup, Montana and represent the

Musselshell Chapter of Montana People's Action.

I am here in support of SB142. The Federal Land Bank has offered our place to a neighbor, verbally at \$50 Per acre, This is only 40¢ on the dollar of what it was sold for at sheriff's sale September 11th, 1986.

My husband Dan and I have spent over 30 years building a registered Angus Ranch. The Farm Credit System has forcefully sold us out and denies our right of possession for one year.

The right of first refusal will give us a chance to remain in agriculture.

Mary Kee

SENATE AGRICULTURE

EXHIBIT 11

DATE 1-28-87

BILL NO. SB142

Mortgagee in Escrow

TESTIMONY FOR SB 142

(January 28, 1987 413/415 1:00 P.M.)

After reading SB 142 it was uncertain to the Department of State Lands how the Bill would affect school trust lands that are currently being leased for agricultural purposes. At the present time many of these leases are mortgaged by the lessee. On occasion the mortgage companies will foreclose on the mortgage and become the lessee of record. Oftentimes this is accomplished by placing an assignment, signed by the lessee, in escrow, and upon foreclosure, the assignment is presented to the Department of State Lands. The Department must then approve the assignment.

SB 142 seems to say that the state land must be offered to the former lessee by the mortgage company. However, under current state law governing the management of state lands, the mortgage company can not allow the former lessee to farm the land unless there is an approved assignment or sublease. SB 142 does not seem to account for this requirement as presently written. Therefore, in order to keep the two sets of laws consistent, the Department offers this amendment to exempt school trust lands.

SENATE AGRICULTURE

EXHIBIT 12

DATE 1-28-87

BILL NO. SB 142

#12

Amendment to SB 142; Introduced Bill - White Copy

1. Page 2.

Following: line 8

Insert: "(4) This section does not apply to foreclosed agricultural land if such land is owned by the state pursuant to Montana's Enabling Act (Act of February 22, 1889, ch. 180, 25 Stat. 676)."

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Senate BILL NO. 142
Introduced by U. S. Smith

A BILL FOR AN ACT ENTITLED: "AN ACT TO GIVE THE PRIOR OWNER
OF FORECLOSED AGRICULTURAL LAND THE RIGHT TO PURCHASE OR
LEASE SUCH LAND BY MEETING THE TERMS AND CONDITIONS OF THE
HIGHEST OFFER MADE TO PURCHASE OR LEASE SUCH LAND; AMENDING
SECTION 25-13-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [this
act], the following definitions apply:

(1) "Agricultural land" means land eligible for
valuation as agricultural land under 15-7-202.

(2) "Foreclosed agricultural land" means agricultural
land which has been acquired by process of law in collection
of debts or by any procedure for the enforcement of a claim
thereon, whether created by mortgage or trust indenture.

NEW SECTION. Section 2. Right of first refusal. (1) A
person holding foreclosed agricultural land shall, when
leasing or selling such land or any portion thereof to a
third party, make a good faith offer to sell or lease the
land or portion thereof to the immediately preceding former
owner for the same price and upon the same terms and

conditions offered by a third party that are acceptable to
the seller or lessor.

(2) An offer to lease to the former owner is required
each time the foreclosed agricultural land is leased to a
third party. An offer to sell to the former owner is
required only the first time the property is sold.

(3) An offer sent by certified mail to the former
owner's last-known address is a good faith offer.

NEW SECTION. Section 3. Time to exercise right. A
former owner may not exercise the right to lease
agricultural land later than 15 days after receiving an
offer to lease under [section 2]. A former owner may not
exercise the right to purchase agricultural land later than
60 days after receiving an offer to sell under [section 2].

Section 4. Section 25-13-710, MCA, is amended to read:
"25-13-710. Real property -- what interest
transferred. (1) Upon a sale of real property, the purchaser

is substituted to and acquires the right, title, interest,
and claim of the judgment debtor thereto; and when the
estate is less than a leasehold of 2 years' unexpired term,
the sale is absolute. In all other cases, the property is
subject to redemption, as provided in part 8 of this
chapter.

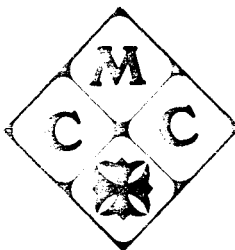
(2) A transfer of an interest in agricultural land
under this section is subject to [sections 1 through 3], and



LC 0616/01

1 no certificate of sale under 25-13-711 may be issued until
2 expiration of the time for the exercise of rights under
3 [sections 1 through 3]."
4 NEW SECTION. Section 5. Effective date. This act is
5 effective on passage and approval.

-End-



Montana Catholic Conference

January 28, 1987

CHAIRMAN BOYLAN AND MEMBERS OF THE SENATE AGRICULTURE COMMITTEE:

My name is Anne Moylan. I am an intern representing the Montana Catholic Conference. The Montana Catholic Conference serves as the liaison between the two Roman Catholic Bishops of Montana in the matters concerning public policy.

As stated in the most recent U.S. Bishops' Pastoral Message and Letter, the loss of a farm and being forced to leave the land is a tragic experience. It often means the sacrifice of a family heritage and a way of life. Once farmers sell their land and equipment, their move is practically irreversible. The costs of returning are so great that few who leave ever come back. ...Society should help those who would and could continue effectively in farming.

Because Senate Bill 142 offers Montana farmers an opportunity to continue in farming, the Montana Catholic Conference urges the committee to support this bill.

SENATE AGRICULTURE

EXHIBIT NO. 13

DATE 1-28-87

BILL NO. SB 142



Tel. (406) 442-5761

P.O. BOX 1708

530 N. EWING

HELENA, MONTANA 59624



Mr. Chairman, members of the committee
and gentlemen

I'm Sue Olson co-chairman of the
Mississippi Agricultural Alliance, an organization
of farmer, ranchers, townspeople working
to keep agricultural operators and rural
communities intact. I am here today
to support SB 142.

I feel that in order for our rural
communities to survive we must keep
our family farmers and ranchers on the
land.

This bill is beneficial for both
borrowers and lenders. It gives ^{foreclosed} farmers
and ranchers an opportunity to get back
into business - if, and only if, they can
match a 3rd party bid. Lenders are
sufficiently protected because they can
write terms and conditions of the 3rd party
bid. Competitive bidding can ~~increase~~
~~increase income to the lender, only~~ only
be helpful to the lender in securing a
higher bid for the land.

SENATE AGRICULTURE

EX. BILL NO.

DATE 1-28-87

BILL NO.

SB 142

It is imperative that the

~~this is only one tool of many to help~~
~~the agricultural community to regain~~
stability. ~~this bill is one of many that~~
and I urge your support for
S.B. 142.

EXHIBIT # 14



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.
CAPITOL STATION
HELENA, MONTANA 59620-0201

TELEPHONE:
AREA CODE 406
444-3144

KEITH KELLY
DIRECTOR

TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
DIRECTOR KEITH KELLY
FOR THE SENATE AGRICULTURAL, LIVESTOCK, AND IRRIGATION COMMITTEE
ON SENATE BILL 142
WEDNESDAY, JANUARY 28, 1987
HELENA, MONTANA

Chairman Boylan, members of the Committee. The Montana Department of Agriculture is here to provide technical information .

Agricultural foreclosures are increasing in Montana as the agriculture crisis deepens. Studies such as that of the American Bankers Association and the Montana Farm Finance Summary, conducted by the Montana Department of Agriculture, indicate that our financial problems in Montana are among the worst in the nation and will continue for some time. Continued land devaluation and inadequate cashflow are compounding the magnitude of the financial stress. These problems put continued stress on the farmers and ranchers as well as lenders in the state. These stress factors have also had a serious impact on the availability of agricultural credit, thereby reducing the number of potential buyers of agricultural land.

The Department of Agriculture is currently completing the 1986 Montana Farm Finance Survey. We hope to have survey results compiled and available for your review within the next ten days.

SENATE AGRICULTURE

EXHIBIT NO. 15

DATE 1-28-87

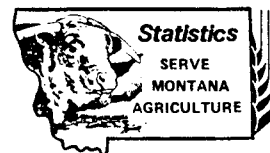
An Affirmative Action/Equal Employment Opportunity Employer BILL NO. SB142



(406) 444-3144

MONTANA

1985 FARM FINANCE REPORT



(406) 449-5303

FEBRUARY 1986

Drouth and low farm prices have continued to depress Montana's agriculture. Wheat production during 1985 was the lowest since 1939 and heavy livestock liquidation has reduced the cattle herd to the lowest count in 23 years. Low farm income has depressed land values and further stressed farm and ranch finances. These conditions have also impacted the rural community and the farm credit system. This report provides an update to a farm finance survey conducted in October of 1984. It provides a measurement of the financial status of Montana farmers and ranchers throughout the 1985 calendar year.

SURVEY PROCEDURE

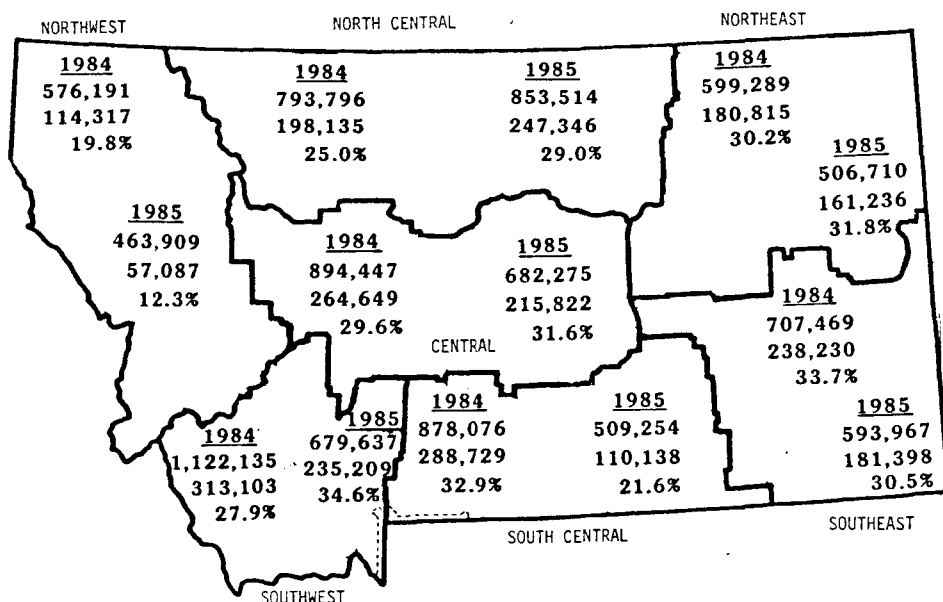
Most of the questions asked in this year's survey were designed to measure financial status using standard statistical indicators similar to the 1984 survey. Additional details about assets and debt were asked this year to improve the accuracy of those figures. Questionnaires were mailed to 1289 farmers and ranchers selected randomly by size of operation. Mail returns totaled 285 or 22% of those surveyed. An additional 398 questionnaires were completed by telephone from a sample of those not responding by mail.

DEBT TO ASSETS UNCHANGED

Results of the 1985 survey show the Montana debt to asset ratio at 27.8%--virtually unchanged from the 28.2% ratio reported in 1984. The debt to asset ratio is a standard measure of economic health used in financial analysis. It means the average farm debt in Montana was 27.8% of average farm assets.

Total assets averaged \$623,844 per farm or ranch, down 19% from 1984, for a statewide reduction of \$3.4 billion. Debt per operation also declined, averaging \$173,563, down 20%, resulting in a total drop in net worth to Montana agriculture of \$2.3 billion--down 18%. Based on crop and livestock inventory reductions, it appears assets have been sold off to pay off debt. Respondents seemed to have difficulty appraising the value of their real estate. Many are hesitant to accept reductions that are indicated by distressed sales and prefer to keep an optimistic balance sheet. Adopting lower land prices would result in even higher debt to asset ratios.

AVERAGE FARM ASSETS, DEBT, and DEBT/ASSET RATIO, 1984 & 1985



1984
(414 Reports)

Assets	769,114
Debt	216,854
Ratio	28.2%

1985
(561 Reports)

Assets	623,844
Debt	173,563
Ratio	27.8%

STATE AGRICULTURE

EXH. NO. 15

DATE 1-28-87

BILL NO. 58142

A look at debt to assets by crop reporting district shows conditions have improved in northwest, south central, and southeastern areas while conditions have deteriorated in north central, northeast, central and southwestern areas. Producers in the southwest now have the highest debt to asset ratios. In that area 25% have had loan applications turned down and 73% of those have been unable to get credit elsewhere. Statewide, 15.6% have had loan applications turned down and 53.4% of those were unable to obtain credit elsewhere.

MONTANA FARM NUMBERS, ASSETS, and DEBT COMPARISONS

YEAR	NUMBER OF FARMS	AVG. VALUE PER ACRE	AVG. FARM ASSETS	AVG. TOTAL DEBT	DEBT/ASSETS RATIO
		(Dollars)	(Thousand Dollars)		(Percent)
1979	23,700	196	677,004	118,873	17.6
1980	23,800	235	842,983	151,302	17.9
1981	23,900	251	887,029	167,657	18.9
1982	24,000	271	862,250	179,542	20.8
1983	24,000	259	873,125	186,458	21.4
1984	23,900	264	757,322	180,000	23.8
1985	23,600	222	623,844*	173,563*	27.8*

SOURCE: 1979-1984 from: USDA, Economic Research Service

*Survey of Montana Farmers, February 1986.

DELINQUENCY RATE UP

The delinquency rate on real estate loans has increased. From 18% in 1984 to 24% in 1985. Operating loan delinquencies went from 31% to 33%. A closer look shows both real estate and operating loan delinquencies were much higher for operations smaller than 3,000 acres.

Sixteen percent had loan applications turned down, but nearly half of those obtained credit elsewhere.

LOAN DELINQUENCY RATE BY SIZE OF FARM

SIZE OF FARM	REAL ESTATE LOANS DELINQUENT		NON-REAL ESTATE LOANS DELINQUENT	
	1984	1985	1984	1985
-Acres-	-----Percent-----			
499 or Less	25.0	21.5	31.8	36.7
500-999	28.6	39.3	37.5	34.5
1,000-1,999	14.3	25.3	24.5	41.9
2,000-2,999	18.8	29.5	34.1	39.0
3,000-4,999	13.6	18.9	32.1	19.6
5,000-9,999	8.6	19.5	31.8	19.0
10,000 +	12.7	18.5	28.3	28.2
STATE TOTAL	17.6	24.1	30.6	32.7

OVER HALF WON'T SURVIVE OVER 5 YEARS

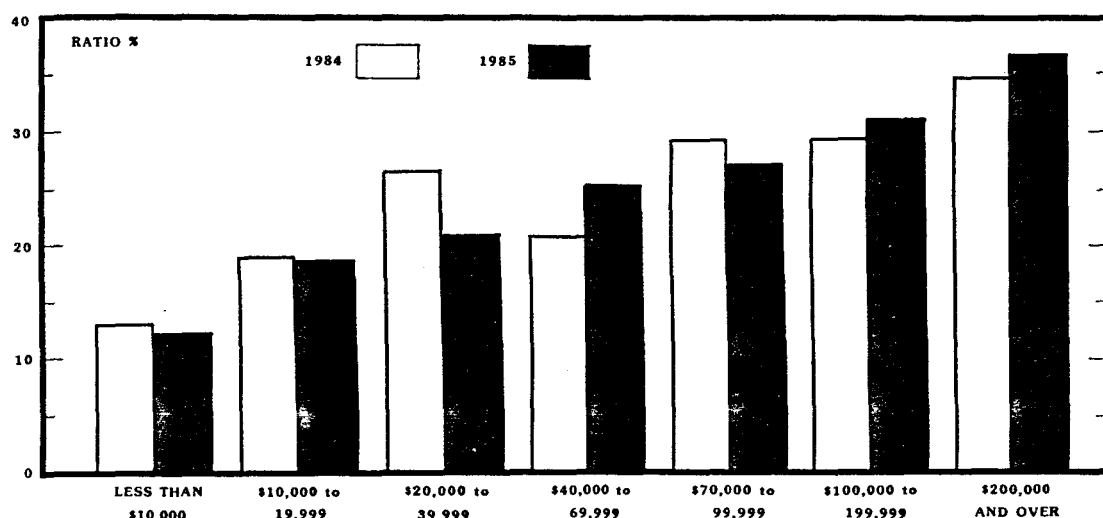
Given current trends in farm income and expenses, 51.5 percent of Montana producers said they would quit farming in five years or less. Forty-two percent said they could continue until retirement--down from 48% in 1984. Economic conditions are especially bad in the southwest where 82% would quit in five years. In the northeast two-thirds said they wouldn't survive.

MONTANA FARM FINANCE BALANCE SHEET BY AGE OF OPERATOR

AGE CATEGORY OF OPERATOR	NUMBER OF REPORTS		DEBT TO ASSET RATIO AVERAGE		FARM ASSETS AVERAGE		FARM DEBT AVERAGE	
	1984	1985	1984	1985	1984	1985	1984	1985
	--Percent--				-----Dollars-----			
24 or Less	2	2	35.1	42.0	1/	1/	1/	1/
25 - 34	50	54	35.9	32.1	855,443	490,589	307,429	157,432
35 - 44	65	119	32.1	37.0	837,180	635,967	269,033	235,479
45 - 54	102	124	37.2	32.9	762,777	718,591	283,717	236,586
55 - 64	138	163	20.3	24.9	787,887	647,467	159,969	161,006
65 +	57	94	16.7	12.0	568,179	517,177	94,816	62,255
STATE TOTAL	414	556	28.2	27.8	769,114	620,820	216,854	173,701

1/ Information withheld to avoid disclosure of individual data.

MONTANA DEBT TO ASSET RATIO BY GROSS FARM INCOME, 1984 & 1985

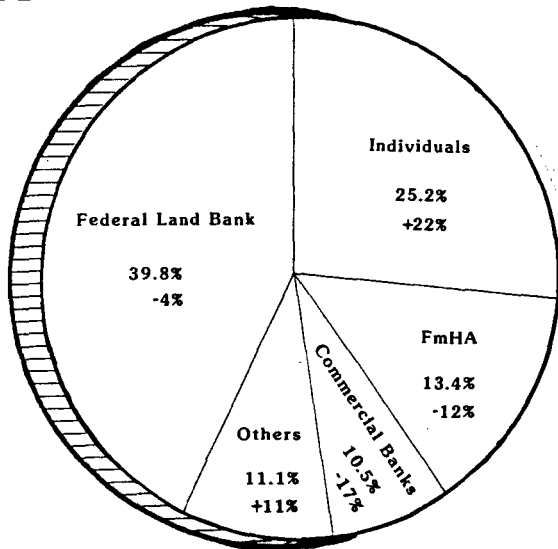


MONTANA FARM FINANCE BALANCE SHEET BY DEBT/ASSET RATIO

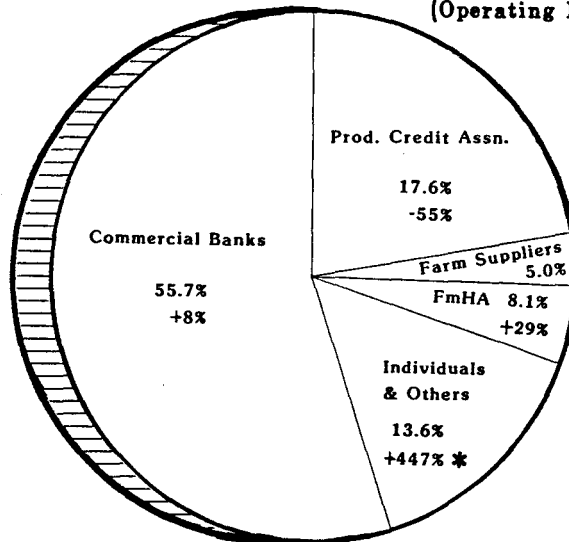
DEBT/ASSET RATIO CATEGORY	NUMBER OF REPORTS		DEBT TO ASSET RATIO AVERAGE		FARM ASSETS AVERAGE		FARM DEBT AVERAGE	
	1984	1985	1984	1985	1984	1985	1984	1985
	--Percent--				-----Dollars-----			
0	77	112	0	0	573,702	438,124	0	0
0 - 10	58	96	4.3	4.5	805,751	732,682	34,866	33,051
10 - 20	53	66	14.0	15.4	883,587	652,199	123,679	100,731
20 - 30	41	53	24.6	25.2	1,097,016	738,728	270,009	186,468
30 - 40	43	69	33.8	35.1	907,062	672,585	306,881	235,963
40 - 50	43	63	43.7	44.2	894,245	761,583	390,499	336,638
50 - 60	52	34	53.8	55.7	764,533	502,950	411,426	280,208
60 - 70	19	25	63.8	64.6	470,708	533,836	300,628	345,112
70 +	28	43	82.2	89.4	601,765	714,430	494,965	638,896
STATE TOTAL	414	561	28.2	27.8	769,114	623,844	216,854	173,563

MONTANA FARM DEBT BY LENDER 1985 & PERCENT CHANGE FROM 1984

REAL ESTATE DEBT



**NON-REAL ESTATE DEBT
(Operating Loans)**



* Includes Farm Suppliers.

MONTANA FARM FINANCE BALANCE SHEET BY TYPE OF FARM

TYPE OF FARM	NUMBER OF REPORTS		DEBT TO ASSET RATIO AVERAGE		FARM ASSETS AVERAGE		FARM DEBT AVERAGE	
	1984	1985	1984	1985	1984	1985	1984	1985
			--Percent--		-----Dollars-----			
Cash Grains Only	78	103	23.4	20.6	799,472	635,350	186,710	131,185
Mostly Crops	106	118	30.8	34.5	763,397	725,824	235,281	250,094
Livestock Only	91	156	24.5	21.8	681,227	487,139	166,685	106,233
Mostly Livestock	119	147	30.1	31.2	787,260	739,031	237,107	230,656
All Other	20	30	34.4	33.5	912,546	566,783	313,605	189,860
STATE TOTAL	414	554	28.2	27.8	769,114	629,432	216,854	175,474

OTHER FACTS and FIGURES

- Real estate debt has shifted since the '84 survey with less debt being held by Federal Land Bank, FmHA, and commercial banks and more held by individuals and others.
- Operating loan debt has shifted away from PCAs to commercial banks, FmHA, farm suppliers, individuals and others. Interest rate averaged 12.9%, down 1% from '84.
- Farms specializing in either cash grains only and livestock only have lower debt to asset ratios than those with mixed crops and livestock.
- Twenty-nine percent of farmers in the 1985 survey had debt to asset ratios over 40--down from 34% in 1984.
- Operations with gross farm income exceeding \$100,000 have higher debt to asset ratios than those grossing less--these ratios have increased since 1984.
- Farm operators under 55 years old have much higher debt to asset ratios than those over 55.
- Average Montana farm debt has increased by 46% since 1979 and debt to asset ratio is up 58%.
- Twenty percent of the farmers surveyed in 1985 reported no debt.
- Eighty-two percent cited financial reasons as the reason they would quit farming prior to retirement.

**TESTIMONY OF MONTANA BANKERS ASSOCIATION
IN OPPOSITION TO SENATE BILL 142**

FORECLOSED AGRICULTURAL LAND - RIGHT OF FIRST REFUSAL

By George T. Bennett, MBA Counsel

Montana Bankers Association, representing state and national commercial banks in Montana, opposes Senate Bill 142.

The bill on its face seems both fair and simple. It purports to grant to the "former owner" the right of first refusal in the case of a lease or sale of foreclosed agricultural land as to the "person holding foreclosed agricultural land."

However, in operation the bill creates so many problems that it will work to the disadvantage of borrowers, lenders, and the public in general. Some of the problems are that the bill:

1. Fails to specify the "foreclosures" to which it applies. The definition of "foreclosed agricultural land" contained in subsection (2) of Section 1 implies that the bill covers all foreclosures by which agricultural land would be sold, including mortgage and trust indentures. If this is true, then it would include sales for federal income and local property taxes which are subject to other procedures. It apparently would include foreclosure of mechanics, agisters, crop dusters, and other liens, and fails to recognize that once a foreclosure is commenced all lienholders may join in the action. For example, does this bill apply to a sale for local property taxes under our tax collection statutes?

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2. Fails to address the problem of identifying the "person holding foreclosed agricultural land." Is this the high bidder at the foreclosure sale? Is it a redemptioner? Is it the last person to redeem? Is it the mortgage debtor in the case of a mortgage?

Also agricultural lands can be held in many ways. It can be held by a number of individuals as tenants in common, it can be held by spouses, it can be held by families, it can be held by a corporation or a partnership, it can be held in trust by a trustee. Also the status of a "former owner" may change. Marriages, partnerships and corporations can be dissolved. Persons can die and their rights pass to their heirs, devisees or assignees.

3. Fails to establish a time frame. The right of first refusal as to a sale exists only as to the "first time the property is sold" under subsection (2) of Section 2. But what constitutes the first sale? Is a redemption a sale? Suppose the first proposed sale by a "person holding" occurs ten or twenty or thirty years after the foreclosure, does a right still exist? The bill implies that the right of first refusal exists only during the one year period of redemption, but this is not in any way made clear. If the right exists during the period of redemption then the "former owner" would be the judgment debtor, and the right of redemption serves a better purpose than the right of "first refusal" because on redemption all that need be paid is the indebtedness interest and costs.

As to the leasing, every time the land is leased there is a right of first refusal, apparently in perpetuity. This would

make leasing negotiations very difficult.

4. Fails to recognize LIEN LAWS. This bill ignores our existing lien laws, and particularly the fact that under a trust indenture the property can be sold by judicial sale as in the case of a mortgage, or by private sale under a power of sale. This is true also of a mortgage containing a power of sale where a private sale may occur.

5. Fails to place the "person holding foreclosed agricultural land" in a position to sell or lease. The bill denies to the "holder" the right to obtain a certificate of sale under § 25-13-711, MCA, until there is compliance with the act. Since there is a possibility the land may be leased or sold at any time after foreclosure, without time limit, the "holder" can never be deemed to have complied and, therefore, cannot receive a certificate of sale. If the "holder" does not receive the certificate of sale then the "holder" is not truly a "purchaser" and is in no position in terms of title to either lease or sell. No "holder" would subject himself to liability for purporting to sell or lease absent clear title, and no prospective lessee or purchaser would lease or purchase from a person not holding clear title.

CONCLUSION:

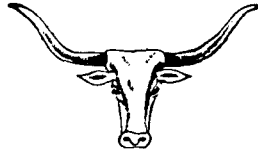
We would submit to the committee that our present mortgage and lien laws adequately protect the debtor; that such laws have worked in good and bad times through depressions and booms, and should not be changed. Change will only cause uncertainty and uncertainty only causes expensive and unnecessary lawsuits. Senate Bill 142 should not pass.

MONTANA STOCKGROWERS ASSOCIATION, INC.

P. O. BOX 1679 — 420 NO. CALIFORNIA ST. — PHONE (406) 442-3420 — HELENA, MONTANA 59624

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TESTIMONY SB 142

My name is Kim Enkerud and I am representing the Montana Stockgrowers.

After review of the bill by the Montana Stockgrowers Ag Credit Committee and the Executive Committee, these people determined this bill to be unfavorable to the agricultural sector of the State of Montana.

We urge a do not pass on SB 142.

Thank you.

SENATE AGRICULTURE

EXHIBIT NO. SB 17

DATE 1-28-87

BILL NO. SB 142