

SENATE BILL NO. 142

INTRODUCED BY WEEDING, SCHYE, COMPTON, E. SMITH

IN THE SENATE

JANUARY 19, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

FEBRUARY 20, 1987 ON MOTION, TAKEN FROM COMMITTEE ON
AGRICULTURE, LIVESTOCK & IRRIGATION
AS AMENDED, PRINTED, AND PLACED ON
SECOND READING.

FEBRUARY 21, 1987 PRINTING REPORT.

 SECOND READING, DO PASS.

FEBRUARY 23, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 32; NOES, 17.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 24, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

MARCH 27, 1987 COMMITTEE RECOMMEND BILL BE NOT
CONCURRED IN AS AMENDED.

MARCH 28, 1987 ON MOTION, ADVERSE COMMITTEE
REPORT REJECTED. BILL PLACED ON
SECOND READING.

 ON MOTION, RULES SUSPENDED TO ALLOW
BILL TO BE PLACED ON THIRD READING
THE 70TH LEGISLATIVE DAY.

MARCH 30, 1987 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 65; NOES, 33.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 6, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 Senate BILL NO. 142
 2 INTRODUCED BY Wendy Sabye Cynthia E. Smith
 3

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

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 NEW SECTION. Section 1. Definitions. As used in [this
 13 act], the following definitions apply:

- 14 (1) "Agricultural land" means land eligible for
 15 valuation as agricultural land under 15-7-202.
- 16 (2) "Foreclosed agricultural land" means agricultural
 17 land which has been acquired by process of law in collection
 18 of debts or by any procedure for the enforcement of a claim
 19 thereon, whether created by mortgage or trust indenture.

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

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

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

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

9 NEW SECTION. Section 3. Time to exercise right. A
 10 former owner may not exercise the right to lease
 11 agricultural land later than 15 days after receiving an
 12 offer to lease under [section 2]. A former owner may not
 13 exercise the right to purchase agricultural land later than
 14 60 days after receiving an offer to sell under [section 2].

15 Section 4. Section 25-13-710, MCA, is amended to read:
 16 "25-13-710. Real property -- what interest
 17 transferred. (1) Upon a sale of real property, the purchaser
 18 is substituted to and acquires the right, title, interest,
 19 and claim of the judgment debtor thereto; and when the
 20 estate is less than a leasehold of 2 years' unexpired term,
 21 the sale is absolute. In all other cases, the property is
 22 subject to redemption, as provided in part 8 of this
 23 chapter.

24 (2) A transfer of an interest in agricultural land
 25 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-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

SENATE BILL NO. 142

INTRODUCED BY WEEDING, SCHYE, COMPTON, E. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GIVE THE PRIOR
IMMEDIATELY PRECEDING 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--13-7167--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-~~

{2} "HOLDER OF FORECLOSED AGRICULTURAL LAND" MEANS A
NATIONAL- OR STATE-CHARTERED BANK, A MUTUAL OR STOCK
INSURANCE COMPANY REGULATED BY ANY STATE, A MORTGAGE
COMPANY, A FARM CREDIT SYSTEM LENDER, A STATE OR FEDERAL
AGENCY, OR ANY SUBSTANTIALLY SIMILAR FOREIGN ENTITY WHICH
HAS ACQUIRED THE RIGHT TO DISPOSE OF AGRICULTURAL LAND

THROUGH FORECLOSURE OF A MORTGAGE OR TRUST INDENTURE ON THE
LAND, WHETHER BY JUDICIAL PROCEEDINGS OR OTHERWISE, OR
THROUGH EXECUTION OF A JUDGMENT OBTAINED BY IT AGAINST THE
IMMEDIATELY PRECEDING OWNER OF THE LAND.

~~NEW-SECTION:~~ Section 2. Right of first refusal. (1) A
person-holding HOLDER OF 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 IMMEDIATELY
PRECEDING owner is required each time the foreclosed
agricultural land is leased to a third party, EXCEPT THAT
ONCE THE IMMEDIATELY PRECEDING OWNER FAILS TO MEET THE TERMS
OF A LEASE OFFER, THE RIGHT TO MEET FUTURE OFFERS IS
EXTINGUISHED AND NO OFFER TO LEASE IS REQUIRED. An offer to
sell to the former IMMEDIATELY PRECEDING owner is required
only the first time the property is sold TO A THIRD PARTY.

(3) An offer sent by certified mail to the former
~~owner's-last-known-address~~ NAME AND ADDRESS FILED BY THE
IMMEDIATELY PRECEDING OWNER UNDER [SECTION 4] is a good
faith offer.

~~NEW-SECTION:~~ Section 3. Time to exercise right. (1) A



1 ~~former~~ AN IMMEDIATELY PRECEDING owner OF FORECLOSED
 2 AGRICULTURAL LAND may not exercise the right to lease
 3 agricultural land later than 15 days after receiving an
 4 offer to lease under [section 2]. ~~A former owner~~ AND may not
 5 exercise the right to purchase agricultural land later than
 6 60 days after receiving an offer to sell under [section 2].

7 (2) THE RIGHT OF THE IMMEDIATELY PRECEDING OWNER TO
 8 PURCHASE OR LEASE ANY FORECLOSED AGRICULTURAL LAND UNDER
 9 [SECTION 2] APPLIES ONLY FOR THE SAME LENGTH OF TIME THAT
 10 REAL ESTATE MAY BE HELD BY A BANK UNDER 32-1-423(2).

11 ~~Section 4. Section 25-13-710, MCA, is amended to read:~~
 12 ~~"25-13-710. Real property-----what-----interest~~
 13 ~~transferred. (1) Upon a sale of real property, the purchaser~~
 14 ~~is substituted to and acquires the right, title, interest,~~
 15 ~~and claim of the judgment debtor thereto, and when the~~
 16 ~~estate is less than a leasehold of 2 years¹ unexpired term,~~
 17 ~~the sale is absolute. In all other cases, the property is~~
 18 ~~subject to redemption, as provided in part 8 of this~~
 19 ~~chapter.~~

20 ~~(2) A transfer of an interest in agricultural land~~
 21 ~~under this section is subject to {sections 1 through 3} and~~
 22 ~~no certificate of sale under 25-13-711 may be issued until~~
 23 ~~expiration of the time for the exercise of rights under~~
 24 ~~{sections 1 through 3}."~~

25 SECTION 4. NOTICE REQUIRED FROM IMMEDIATELY PRECEDING

1 OWNER. (1) AN IMMEDIATELY PRECEDING OWNER MUST NOTIFY IN
 2 WRITING THE HOLDER OF FORECLOSED AGRICULTURAL LAND OF THE
 3 NAME AND CURRENT ADDRESS OF ONE INDIVIDUAL WHO IS AUTHORIZED
 4 TO EXERCISE THE RIGHT OF FIRST REFUSAL ON BEHALF OF THE
 5 IMMEDIATELY PRECEDING OWNER. IF THE IMMEDIATELY PRECEDING
 6 OWNER IS AN ENTITY FOR WHICH NO SINGLE INDIVIDUAL IS
 7 ORDINARILY AUTHORIZED TO ACT, THE NOTICE SHALL ALSO INDICATE
 8 THE NECESSARY TRANSFER OF AUTHORITY THAT ENABLES THE
 9 INDIVIDUAL NAMED IN THE NOTICE TO ACT.

10 (2) FAILURE OF THE IMMEDIATELY PRECEDING OWNER TO FILE
 11 THE NOTICE REQUIRED BY SUBSECTION (1) WITHIN 25 DAYS AFTER
 12 PUBLICATION OF NOTICE OF FORECLOSURE OR EXECUTION SALE IS
 13 SERVED OR WITHIN 15 DAYS AFTER A CHANGE OF HIS ADDRESS
 14 OPERATES AS A WAIVER OF THE RIGHT OF FIRST REFUSAL.

15 (3) A FORECLOSING CREDITOR, WITHIN THE DEFINITION OF
 16 HOLDER OF FORECLOSED AGRICULTURAL LAND, OR A SHERIFF MUST
 17 ADVISE THE IMMEDIATELY PRECEDING OWNER AT THE TIME NOTICE OF
 18 FORECLOSURE OR WRIT OF EXECUTION IS SERVED OF THE RIGHT OF
 19 FIRST REFUSAL GRANTED IN [SECTION 2] AND OF THE NOTICE
 20 REQUIREMENT OF SUBSECTION (1).

21 SECTION 5. RECORDING REQUIRED. THE IMMEDIATELY
 22 PRECEDING OWNER SHALL, WITHIN 3 WORKING DAYS FOLLOWING THE
 23 NOTICE TO THE HOLDER, FILE A COPY OF THE NOTICE FURNISHED
 24 THE HOLDER UNDER [SECTION 4] WITH THE CLERK AND RECORDER OF
 25 THE COUNTY IN WHICH THE LAND IS LOCATED IN ORDER TO ASSERT

1 HIS RIGHT OF FIRST REFUSAL AGAINST A THIRD-PARTY PURCHASER
2 OR LESSEE OF THE HOLDER. THE CLERK AND RECORDER SHALL RECORD
3 EACH RIGHT OF FIRST REFUSAL SO RECORDED AS AN INTEREST IN
4 THE LAND. THE IMMEDIATELY PRECEDING OWNER SHALL FILE A
5 RELEASE UPON TERMINATION OF THE RIGHT GRANTED IN [SECTION
6 2].

7 NEW-SECTION Section 6. Effective date. This act is
8 effective on passage and approval.

-End-

1 SENATE BILL NO. 142

2 INTRODUCED BY WEEDING, SCHYE, COMPTON, E. SMITH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GIVE THE PRIOR
5 IMMEDIATELY PRECEDING OWNER OF FORECLOSED AGRICULTURAL LAND
6 THE RIGHT TO PURCHASE OR LEASE SUCH LAND BY MEETING THE
7 TERMS AND CONDITIONS OF THE HIGHEST OFFER MADE TO PURCHASE
8 OR LEASE SUCH LAND; AMENDING--SECTION--25-13-718,--MEA; AND
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 NEW-SECTION: Section 1. Definitions. As used in [this
13 act], the following definitions apply:14 (1) "Agricultural land" means land eligible for
15 valuation as agricultural land under 15-7-202.16 ~~{2}--"Foreclosed-agricultural-land"--means--agricultural~~
17 ~~land-which-has-been-acquired-by-process-of-law-in-collection~~
18 ~~of--debts-or-by-any-procedure-for-the-enforcement-of-a-claim~~
19 ~~thereon,--whether-created-by-mortgage-or-trust-indenture.~~20 (2) "HOLDER OF FORECLOSED AGRICULTURAL LAND" MEANS A
21 NATIONAL- OR STATE-CHARTERED BANK, A MUTUAL OR STOCK
22 INSURANCE COMPANY REGULATED BY ANY STATE, A MORTGAGE
23 COMPANY, A FARM CREDIT SYSTEM LENDER, A STATE OR FEDERAL
24 AGENCY, OR ANY SUBSTANTIALLY SIMILAR FOREIGN ENTITY WHICH
25 HAS ACQUIRED THE RIGHT TO DISPOSE OF AGRICULTURAL LAND1 THROUGH FORECLOSURE OF A MORTGAGE OR TRUST INDENTURE ON THE
2 LAND, WHETHER BY JUDICIAL PROCEEDINGS OR OTHERWISE, OR
3 THROUGH EXECUTION OF A JUDGMENT OBTAINED BY IT AGAINST THE
4 IMMEDIATELY PRECEDING OWNER OF THE LAND.5 NEW-SECTION: Section 2. Right of first refusal. (1) A
6 person-holding HOLDER OF foreclosed agricultural land shall,
7 when leasing or selling such land or any portion thereof to
8 a third party, make a good faith offer to sell or lease the
9 land or portion thereof to the immediately preceding former
10 owner for the same price and upon the same terms and
11 conditions offered by a third party that are acceptable to
12 the seller or lessor.13 (2) An offer to lease to the former IMMEDIATELY
14 PRECEDING owner is required each time the foreclosed
15 agricultural land is leased to a third party, EXCEPT THAT
16 ONCE THE IMMEDIATELY PRECEDING OWNER FAILS TO MEET THE TERMS
17 OF A LEASE OFFER, THE RIGHT TO MEET FUTURE OFFERS IS
18 EXTINGUISHED AND NO OFFER TO LEASE IS REQUIRED. An offer to
19 sell to the former IMMEDIATELY PRECEDING owner is required
20 only the first time the property is sold TO A THIRD PARTY.21 (3) An offer sent by certified mail to the former
22 owner's-last-known-address NAME AND ADDRESS FILED BY THE
23 IMMEDIATELY PRECEDING OWNER UNDER [SECTION 4] is a good
24 faith offer.25 NEW-SECTION: Section 3. Time to exercise right. (1) A

1 former AN IMMEDIATELY PRECEDING owner OF FORECLOSED
 2 AGRICULTURAL LAND may not exercise the right to lease
 3 agricultural land later than 15 days after receiving an
 4 offer to lease under [section 2],--A-former-owner AND may not
 5 exercise the right to purchase agricultural land later than
 6 60 days after receiving an offer to sell under [section 2].

7 (2) THE RIGHT OF THE IMMEDIATELY PRECEDING OWNER TO
 8 PURCHASE OR LEASE ANY FORECLOSED AGRICULTURAL LAND UNDER
 9 [SECTION 2] APPLIES ONLY FOR THE SAME LENGTH OF TIME THAT
 10 REAL ESTATE MAY BE HELD BY A BANK UNDER 32-1-423(2).

11 ~~Section 4.--Section 25-13-710, NEA, is amended to read:~~
 12 ~~*25-13-710.--Real----property-----what----interest~~
 13 ~~transferred: (1) Upon a sale of real property, the purchaser~~
 14 ~~is substituted to and acquires the right, title, interest,~~
 15 ~~and claim of the judgment debtor thereto, and when the~~
 16 ~~estate is less than a leasehold of 2 years' unexpired term,~~
 17 ~~the sale is absolute, in all other cases, the property is~~
 18 ~~subject to redemption, as provided in part 8 of this~~
 19 ~~chapter.~~

20 ~~(2) A transfer of an interest in agricultural land~~
 21 ~~under this section is subject to [sections 1 through 3], and~~
 22 ~~no certificate of sale under 25-13-711 may be issued until~~
 23 ~~expiration of the time for the exercise of rights under~~
 24 ~~[sections 1 through 3].*~~

25 SECTION 4. NOTICE REQUIRED FROM IMMEDIATELY PRECEDING

1 OWNER. (1) AN IMMEDIATELY PRECEDING OWNER MUST NOTIFY IN
 2 WRITING THE HOLDER OF FORECLOSED AGRICULTURAL LAND OF THE
 3 NAME AND CURRENT ADDRESS OF ONE INDIVIDUAL WHO IS AUTHORIZED
 4 TO EXERCISE THE RIGHT OF FIRST REFUSAL ON BEHALF OF THE
 5 IMMEDIATELY PRECEDING OWNER. IF THE IMMEDIATELY PRECEDING
 6 OWNER IS AN ENTITY FOR WHICH NO SINGLE INDIVIDUAL IS
 7 ORDINARILY AUTHORIZED TO ACT, THE NOTICE SHALL ALSO INDICATE
 8 THE NECESSARY TRANSFER OF AUTHORITY THAT ENABLES THE
 9 INDIVIDUAL NAMED IN THE NOTICE TO ACT.

10 (2) FAILURE OF THE IMMEDIATELY PRECEDING OWNER TO FILE
 11 THE NOTICE REQUIRED BY SUBSECTION (1) WITHIN 25 DAYS AFTER
 12 PUBLICATION OF NOTICE OF FORECLOSURE OR EXECUTION SALE IS
 13 SERVED OR WITHIN 15 DAYS AFTER A CHANGE OF HIS ADDRESS
 14 OPERATES AS A WAIVER OF THE RIGHT OF FIRST REFUSAL.

15 (3) A FORECLOSING CREDITOR, WITHIN THE DEFINITION OF
 16 HOLDER OF FORECLOSED AGRICULTURAL LAND, OR A SHERIFF MUST
 17 ADVISE THE IMMEDIATELY PRECEDING OWNER AT THE TIME NOTICE OF
 18 FORECLOSURE OR WRIT OF EXECUTION IS SERVED OF THE RIGHT OF
 19 FIRST REFUSAL GRANTED IN [SECTION 2] AND OF THE NOTICE
 20 REQUIREMENT OF SUBSECTION (1).

21 SECTION 5. RECORDING REQUIRED. THE IMMEDIATELY
 22 PRECEDING OWNER SHALL, WITHIN 3 WORKING DAYS FOLLOWING THE
 23 NOTICE TO THE HOLDER, FILE A COPY OF THE NOTICE FURNISHED
 24 THE HOLDER UNDER [SECTION 4] WITH THE CLERK AND RECORDER OF
 25 THE COUNTY IN WHICH THE LAND IS LOCATED IN ORDER TO ASSERT

SB 0142/02

1 HIS RIGHT OF FIRST REFUSAL AGAINST A THIRD-PARTY PURCHASER
2 OR LESSEE OF THE HOLDER. THE CLERK AND RECORDER SHALL RECORD
3 EACH RIGHT OF FIRST REFUSAL SO RECORDED AS AN INTEREST IN
4 THE LAND. THE IMMEDIATELY PRECEDING OWNER SHALL FILE A
5 RELEASE UPON TERMINATION OF THE RIGHT GRANTED IN (SECTION
6 2).

7 ~~NEW-SECTION:~~ Section 6. Effective date. This act is
8 effective on passage and approval.

-End-

SENATE BILL NO. 142

INTRODUCED BY WEEDING, SCHYE, COMPTON, E. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GIVE THE PRIOR IMMEDIATELY PRECEDING 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 APPLICABILITY DATE, AND AN IMMEDIATE EFFECTIVE DATE, AND A TERMINATION 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~~ REAL PROPERTY THAT IS PRINCIPALLY USED FOR THE PRODUCTION OF LIVESTOCK, POULTRY, FIELD CROPS, FRUIT, OR OTHER ANIMAL OR VEGETABLE MATTER FOR FOOD OR FIBER.

~~{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-~~

(2) "HOLDER OF FORECLOSED AGRICULTURAL LAND" MEANS A NATIONAL- OR STATE-CHARTERED BANK, A MUTUAL OR STOCK

INSURANCE COMPANY REGULATED BY ANY STATE, A MORTGAGE COMPANY, A FARM CREDIT SYSTEM LENDER, OR A STATE OR FEDERAL AGENCY, OR ANY SUBSTANTIALLY SIMILAR FOREIGN ENTITY WHICH THAT HAS ACQUIRED THE RIGHT TO DISPOSE OF AGRICULTURAL LAND THROUGH FORECLOSURE OF A MORTGAGE OR TRUST INDENTURE ON THE LAND, WHETHER BY JUDICIAL PROCEEDINGS OR OTHERWISE, OR THROUGH EXECUTION OF A JUDGMENT OBTAINED BY IT AGAINST THE IMMEDIATELY PRECEDING OWNER OF THE LAND.

NEW-SECTION: Section 2. Right of first refusal. (1) A person holding HOLDER OF 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 IF SUCH OWNER HAS FINANCIAL RESOURCES AND FARM MANAGEMENT SKILLS AND EXPERIENCE TO ASSURE A REASONABLE PROSPECT OF SUCCESS IN THE PROPOSED FARMING OPERATION. THE OFFER TO SELL OR LEASE LAND TO THE IMMEDIATELY PRECEDING OWNER MUST BE 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) A HOLDER OF FORECLOSED AGRICULTURAL LAND SHALL, WHEN SELLING SUCH LAND OR ANY PORTION THEREOF TO A THIRD PARTY, MAKE A GOOD FAITH OFFER TO SELL THE LAND OR PORTION THEREOF TO THE IMMEDIATELY PRECEDING OWNER FOR THE SAME PRICE OFFERED BY A THIRD PARTY THAT IS ACCEPTABLE TO THE

1 SELLER.
 2 {2}(3) An offer to lease to the former IMMEDIATELY
 3 PRECEDING owner is required each time the foreclosed
 4 agricultural land is leased to a third party, EXCEPT THAT
 5 ONCE THE IMMEDIATELY PRECEDING OWNER FAILS TO MEET THE TERMS
 6 OF A LEASE OFFER, THE RIGHT TO MEET FUTURE OFFERS IS
 7 EXTINGUISHED AND NO OFFER TO LEASE IS REQUIRED. An offer to
 8 sell to the former IMMEDIATELY PRECEDING owner is required
 9 only the first time the property is sold TO A THIRD PARTY.
 10 {3}(4) An offer sent by certified mail to the former
 11 owner's last known address NAME AND ADDRESS FILED BY THE
 12 IMMEDIATELY PRECEDING OWNER UNDER [SECTION 4] is a good
 13 faith offer.
 14 {4}(5) THIS SECTION DOES NOT APPLY TO FORECLOSED
 15 AGRICULTURAL LAND IF SUCH LAND IS OWNED BY THE STATE
 16 PURSUANT TO THE ENABLING ACT (ACT OF FEBRUARY 22, 1889, CH.
 17 180, 25 STAT. 676).
 18 NEW-SECTION: Section 3. Time to exercise right. (1) A
 19 former AN IMMEDIATELY PRECEDING owner OF FORECLOSED
 20 AGRICULTURAL LAND may not exercise the right to lease
 21 agricultural land later than 15 days after receiving an
 22 offer to lease under [section 2] A former owner AND may not
 23 exercise the right to purchase agricultural land later than
 24 60 days after receiving an offer to sell under [section 2].
 25 (2) THE RIGHT OF THE IMMEDIATELY PRECEDING OWNER TO

1 PURCHASE OR LEASE ANY FORECLOSED AGRICULTURAL LAND UNDER
 2 [SECTION 2] APPLIES ONLY FOR THE SAME LENGTH OF TIME THAT
 3 REAL ESTATE MAY BE HELD BY A BANK UNDER 32-1-423(2).
 4 Section-4--Section-25-13-710;MCA, is amended to read:
 5 "25-13-710--Real---property-----what---interest
 6 transferred: {1} Upon a sale of real property, the purchaser
 7 is substituted to and acquires the right, title, interest,
 8 and claim of the judgment debtor thereto, and when the
 9 estate is less than a leasehold of 2 years' unexpired term,
 10 the sale is absolute. In all other cases, the property is
 11 subject to redemption, as provided in part 8 of this
 12 chapter.
 13 {2}--A--transfer--of--an--interest--in--agricultural--land
 14 under this section is subject to {sections 1 through 3}, and
 15 no certificate of sale under 25-13-711 may be issued until
 16 expiration of the time for the exercise of rights under
 17 {sections 1 through 3}."
 18 SECTION 4. NOTICE REQUIRED FROM IMMEDIATELY PRECEDING
 19 OWNER. (1) AN IMMEDIATELY PRECEDING OWNER MUST NOTIFY IN
 20 WRITING THE HOLDER OF FORECLOSED AGRICULTURAL LAND OF THE
 21 NAME AND CURRENT ADDRESS OF ONE INDIVIDUAL WHO IS AUTHORIZED
 22 TO EXERCISE THE RIGHT OF FIRST REFUSAL ON BEHALF OF THE
 23 IMMEDIATELY PRECEDING OWNER. IF THE IMMEDIATELY PRECEDING
 24 OWNER IS AN ENTITY FOR WHICH NO SINGLE INDIVIDUAL IS
 25 ORDINARILY AUTHORIZED TO ACT, THE NOTICE SHALL ALSO INDICATE

1 THE NECESSARY TRANSFER OF AUTHORITY THAT ENABLES THE
2 INDIVIDUAL NAMED IN THE NOTICE TO ACT.

3 (2) FAILURE OF THE IMMEDIATELY PRECEDING OWNER TO FILE
4 THE NOTICE REQUIRED BY SUBSECTION (1) WITHIN 25 DAYS AFTER
5 PUBLICATION OF NOTICE OF FORECLOSURE OR EXECUTION SALE IS
6 SERVED OR WITHIN 15 DAYS AFTER A CHANGE OF HIS ADDRESS
7 OPERATES AS A WAIVER OF THE RIGHT OF FIRST REFUSAL.

8 (3) A FORECLOSING CREDITOR, WITHIN THE DEFINITION OF
9 HOLDER OF FORECLOSED AGRICULTURAL LAND, OR A SHERIFF MUST
10 ADVISE THE IMMEDIATELY PRECEDING OWNER AT THE TIME NOTICE OF
11 FORECLOSURE OR WRIT OF EXECUTION IS SERVED OF THE RIGHT OF
12 FIRST REFUSAL GRANTED IN [SECTION 2] AND OF THE NOTICE
13 REQUIREMENT OF SUBSECTION (1).

14 ~~SECTION 5.--RECORDING REQUIRED.--THE IMMEDIATELY~~
15 ~~PRECEDING OWNER SHALL, WITHIN 3 WORKING DAYS FOLLOWING THE~~
16 ~~NOTICE TO THE HOLDER, FILE A COPY OF THE NOTICE FURNISHED~~
17 ~~THE HOLDER UNDER {SECTION 4} WITH THE CLERK AND RECORDER OF~~
18 ~~THE COUNTY IN WHICH THE LAND IS LOCATED IN ORDER TO ASSERT~~
19 ~~HIS RIGHT OF FIRST REFUSAL AGAINST A THIRD PARTY PURCHASER~~
20 ~~OR LESSEE OF THE HOLDER. THE CLERK AND RECORDER SHALL RECORD~~
21 ~~EACH RIGHT OF FIRST REFUSAL SO RECORDED AS AN INTEREST IN~~
22 ~~THE LAND, THE IMMEDIATELY PRECEDING OWNER SHALL FILE A~~
23 ~~RELEASE UPON TERMINATION OF THE RIGHT GRANTED IN {SECTION~~
24 ~~2}.~~

25 SECTION 5. APPLICABILITY. THIS ACT APPLIES TO

1 AGRICULTURAL LAND ACQUIRED BY FORECLOSURE OR BY JUDGMENT IN
2 SATISFACTION OF DEBT AFTER THE EFFECTIVE DATE OF THIS ACT
3 UNTIL JUNE 30, 1991, AND NO RIGHT OF FIRST REFUSAL UNDER
4 THIS ACT MAY ACCRUE AFTER JUNE 30, 1991.

5 ~~NEW SECTION:~~ Section 6. Effective date -- TERMINATION
6 DATE. This act is effective on passage and approval AND
7 TERMINATES JUNE 30, 1996.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 27 19 87

SB 142
Page 2

March 27 19 87

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report SENATE BILL 142

- do pass
- do not pass
- be concurred in
- be not concurred in
- as amended
- statement of intent attached

Duane W. Compton
 REP. DUANE W. COMPTON Chairman

RIGHT OF FIRST REFUSAL ON SALE OF FORECLOSED AGRICULTURAL LAND

Be Amended as Follows:

1. Title, line 9.
Following: "PROVIDING"
Insert: "AN APPLICABILITY DATE AND"
2. Page 1, lines 14 and 15.
Following: "means" on line 14
Strike: remainder of line 14 through "15-7-202" on line 15
Insert: "real property that is principally used for the production of livestock, poultry, field crops, fruit, or other animal or vegetable matter for food or fiber"
3. Page 1, lines 23 and 24.
Following: "LENDER," on line 23
Insert: "or"
Following: "AGENCY," on line 24
Strike: remainder of line 24 in its entirety
Insert: "that"
4. Page 2, line 1.
Strike: "OR TRUST INDENTURE"
5. Page 2, line 10.
Following: "owner"
Insert: "if such owner has financial resources and farm management skills and experience to assure a reasonable prospect of success in the proposed farming operation. The offer to sell or lease land to the immediately preceding owner must be"
6. Page 2, line 25.
Following: line 24
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)."

(Continued)

First reading copy (White color)

7. Page 4, line 21 through line 6, page 5.
Strike: section 5 in its entirety
Insert: "Section 5. Applicability. This act applies to agricultural land acquired by foreclosure or by judgment in satisfaction of debt after the effective date of this act."

Renumber: subsequent sections

Duane W. Compton
 REP. DUANE W. COMPTON Chairman

MS

MS

COMMITTEE OF THE WHOLE AMENDMENT

111

3-30-87
DATE
13:15
TIME

HOUSE

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill 142

3rd reading copy (blue) as follows:
Color

PASSED

Amending the House Agriculture Standing Committee Report on SB 142, Dated 3-27-87
1) Amend instruction no. 7.
Following: "date of this act"
Insert: "until June 30, 1991, and no right of first refusal under this act may accrue after June 30, 1991"

2) Title, line 8 (of the bill).
Strike: "AND"

3) Title, line 9.
Following: "DATE"
Insert: ", AND A TERMINATION DATE"

4) Page 5, line 7.
Following: "date"
Insert: "-- termination date"

5) Page 5, line 8.
Following: "approval"
Insert: "and terminates June 30, 1996"

COMMITTEE OF THE WHOLE AMENDMENT

113

3-30-87
DATE
14:00
TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 142

3rd reading copy (blue) as follows:
Color

PASSED

Amending House AGriculture Standing Committee Report on SB 142, dated March 27, 1987.

1) Amend instruction No. 5, second sentence of inserted language.
Following: "The offer to"
Strike: "sell or"

The following amendments are on the bill

2) Page 2, line 7.
Strike: "or selling"

3) Page 2, line 8.
Strike: "sell or"

4) Page 2, line 10.
Strike: "for the same price and"

5) Page 2, line 12.
Strike: "seller or"

6) Page 2
Following: line 12
Insert: "(2) A holder of foreclosed agricultural land shall, when selling such land or any portion thereof to a third party, make a good faith offer to sell the land or portion thereof to the immediately preceding owner for the same price offered by a third party that is acceptable to the seller."

Renumber: subsequent subsections.

81

300

ADOPT

REJECT

3301315S.CW

Dirk Corne

Rep. Corne

ADOPT

REJECT

3301400S.CW

Rep. Jenkins

Rep. Jenkins