

SB 268 INTRODUCED BY YELLOWTAIL, JR., RUSSELL, HOFMAN, S.,
ET AL.
PARTIAL REDEMPTION OF FORECLOSED AGRICULTURAL LAND

2/02	INTRODUCED		
2/02	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
2/13	HEARING		
2/18	ADVERSE COMMITTEE REPORT REJECTED	24	25
2/18	PLACED ON 2ND READING	30	20
2/24	2ND READING PASS MOTION FAILED	12	37
2/24	2ND READING INDEFINITELY POSTPONED	38	10

1 *Senate* BILL NO. *268*
 2 INTRODUCED BY *Yellowtail Russell Hays Richard E. Hennin*
 3 *Ueeding Ferguson Selby Compton Demar*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PARTIAL
 5 REDEMPTION OF AGRICULTURAL LAND SOLD IN FORECLOSURE OF A
 6 MORTGAGE OR IN EXECUTION OF A JUDGMENT; AMENDING SECTIONS
 7 25-13-710 AND 25-13-801, MCA; AND PROVIDING AN APPLICABILITY
 8 DATE AND AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

15 (2) "Redemption" means the person who formerly
16 occupied and owned an equitable interest in agricultural
17 land that was sold in foreclosure of a mortgage granted by
18 the person or in execution of judgment on a debt incurred by
19 the person.

20 NEW SECTION. Section 2. Partial redemption. (1) If
21 agricultural land is sold pursuant to mortgage foreclosure
22 proceedings or execution of judgment, the redemptioner may
23 redeem separately a portion of the land, which he may
24 designate as provided in [section 3].

25 (2) The period of redemption for the parcel is the

1 same as the period of redemption for the entire property
2 under 25-13-802.

3 (3) Notice of the right of partial redemption provided
4 in this section must be included in any notice of
5 foreclosure of a mortgage or writ of execution on
6 agricultural land.

7 NEW SECTION. Section 3. Designation of property to be
8 redeemed -- bond required. (1) Not later than 90 days prior
9 to the end of the 1-year redemption period provided in
10 25-13-802, the redemptioner may file with the court in which
11 foreclosure or judgment was obtained a petition to redeem a
12 portion of the property subject to redemption. The petition
13 must include a legal description of the portion sought to be
14 redeemed.

15 (2) The designation of the portion must be made in
16 such manner that the division conforms to local land use
17 ordinances and the remainder is not unreasonably decreased
18 in value.

19 (3) At the time of filing the petition for partial
20 redemption, the redemptioner must post a bond in an amount
21 determined by the court to cover survey, appraisal, and
22 court costs necessary to effect the partial redemption.

23 NEW SECTION. Section 4. Valuation. (1) Within 5 days
24 of the filing of the petition for partial redemption, the
25 court shall notify the current owner of the foreclosed



1 agricultural land that a petition for partial redemption has
 2 been filed. Within 10 days of the filing, the court shall
 3 appoint a licensed appraiser to determine the percentage of
 4 the value of the entire property that is attributable to the
 5 portion to be redeemed, and the percentage attributable to
 6 the remaining portion, with both percentages reflecting the
 7 effect of partial redemption on the value of each portion.
 8 The appraiser must submit his determination to the court or
 9 trustee within 30 days after his appointment.

10 (2) The court shall multiply the percentage of total
 11 value attributable to the portion to be redeemed, as
 12 determined by appraisal, times the amount of the purchase
 13 price at foreclosure, to determine the value of the portion
 14 to be redeemed. The court shall notify the redemptioner and
 15 the current owner of such value by certified mail within 5
 16 days after receiving the appraiser's determination.

17 NEW SECTION. Section 5. Method of redemption. The
 18 redemptioner may redeem the designated property not later
 19 than the close of business on the last day of the redemption
 20 period by payment of:

21 (1) the value of the parcel to be redeemed, as
 22 determined in [section 4];

23 (2) all survey, appraisal, and court costs;

24 (3) all unpaid taxes and assessments attributable to
 25 the redeemed portion; and

1 (4) interest attributable to the redeemed portion at
 2 the rate specified in 31-1-106.

3 NEW SECTION. Section 6. Resolution of disputes. The
 4 value of the portion to be redeemed, as determined under
 5 [section 4], is presumed to be its proper value in
 6 redemption. The court shall consider any objection raised by
 7 the current owner concerning the proper designation of the
 8 portion, the effect of partial redemption on the value of
 9 the remaining property, or the appraised proportional
 10 values, and may make such adjustments in the designation,
 11 appraisal, or other matters as it determines proper to
 12 preserve the interest of the parties consistent with
 13 [sections 1 through 6].

14 Section 7. Section 25-13-710, MCA, is amended to read:

15 "25-13-710. Real property -- what interest
 16 transferred. Upon a sale of real property, the purchaser is
 17 substituted to and acquires the right, title, interest, and
 18 claim of the judgment debtor thereto; and when the estate is
 19 less than a leasehold of 2 years' unexpired term, the sale
 20 is absolute. In all other cases, the property is subject to
 21 redemption, as provided in part 8 of this chapter, or
 22 partial redemption, as provided in [sections 1 through 6],
 23 if the property is agricultural land."

24 Section 8. Section 25-13-801, MCA, is amended to read:

25 "25-13-801. Who may redeem. (1) Property Except as

1 provided otherwise in [sections 1 through 6] for
2 agricultural land, property sold subject to redemption, as
3 provided by 25-13-710, or any part sold separately may be
4 redeemed in the manner hereinafter provided by the following
5 persons or their successors in interest:

6 (a) the judgment debtor, the judgment debtor's spouse,
7 or his successor in interest in the whole or any part of the
8 property and, if the judgment debtor or successor be a
9 corporation, a stockholder thereof;

10 (b) a creditor having a lien by judgment, mortgage, or
11 attachment on the property sold or on some share or part
12 thereof subsequent to that on which the property is sold.
13 If a corporation be such creditor, then any stockholder
14 thereof may redeem.

15 (2) The persons mentioned in subsection (1)(b) of this
16 section are, in this part, termed "redemptioners".

17 NEW SECTION. Section 9. Effective date --
18 applicability. This act is effective on passage and
19 approval, and applies to agricultural land sold in
20 foreclosure of a mortgage or in execution of a judgment
21 after the effective date of this act.

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