

House of Intro
To Com. No. _____
Stand Report Do ___ Amd ___ Not ___
Com Whole Do ___ Amd ___ Not ___
2nd Reading Amd ___
3rd Reading Amd ___ Pass ___ Fail ___

Second House
To Com No. _____
Stand Report Do ___ Amd ___ Not ___
Com Whole Do ___ Amd ___ Not ___
2nd Reading Amd ___
3rd Reading Amd ___ Pass ___ Fail ___

INTRODUCED

1987

STATE OF WYOMING

87LSO-0444.01

HOUSE BILL NO. 0353

Ag land - right of first refusal.

Sponsored by: Representative(s) MURPHY and CROSS and
Senator(s) CUNDALL and TWIFORD

A BILL

for

1 AN ACT relating to lease or sale of agricultural land
2 after acquisition by a creditor; providing upon the lease
3 or sale of such land it must first be offered to the prior
4 owner for a specified time; specifying procedures and lim-
5 itations; specifying applicability; providing for damages;
6 providing for repeal of the act; and providing for an
7 effective date.

8 Be It Enacted by the Legislature of the State of Wyoming:

9 Section 1. Short title. This act is known and may be
10 cited as the "Right Of First Refusal Act of 1987".

- 1 -

NO SIGNIFICANT FISCAL IMPACT

HB 0353

1 Section 2. Definitions.

2 (a) As used in this act:

3 (i) "Agricultural land" means land suitable
4 for use in farming;

5 (ii) "Agricultural production input" means
6 crop production inputs and livestock production inputs;

7 (iii) "Crop production input" means agricul-
8 tural chemicals, seeds, petroleum products, custom appli-
9 cation of agricultural chemicals and seeds and labor fur-
10 nished in planting, cultivating, growing, producing, har-
11 vesting, drying and storing crops or crop products;

12 (iv) "Farming" means the cultivation of land
13 for the production of agricultural crops, the raising of
14 poultry, the production of eggs, the production of milk,
15 the production of fruit or other horticultural crops,
16 grazing or the production of livestock but does not
17 include the production of timber, forest products, nursery
18 products or sod and any contract to provide spraying,
19 harvesting or other farm services;

20 (v) "Feed" means commercial feeds, feed ingre-
21 dients, mineral feeds, drugs, animal health products, sup-

1 plements, customer-formula feeds or other products,
2 including grain, that are used for feeding livestock;

3 (vi) "Livestock production input" means feed
4 and labor furnished in raising livestock, but does not
5 include feed or labor for which any statutory lien relat-
6 ing to confinement feeding of livestock applies, which
7 shall remain subject to the statutory lien requirements;

8 (vii) "Prior owner" means the owner immedi-
9 ately preceding any creditor acquisition as specified in
10 Section 3. (a) of this act.

11 Section 3. Offer of lease of agricultural land to
12 prior owner; procedure.

13 (a) If any creditor acquires agricultural land
14 located within this state by process of law in the collec-
15 tion of debts, or pursuant to a contract for deed, or by
16 any procedure for the enforcement of a lien or claim
17 thereon, whether created by mortgage or otherwise, that
18 creditor, in addition to other conditions prescribed by
19 law for the disposition of such property, is subject to
20 the conditions prescribed by this chapter.

21 (b) If any creditor proposes to lease any land spec-
22 ified in this section for farming, the creditor shall

1 notify the prior owner by certified mail, return receipt
2 requested, to the last known address of the prior owner of
3 the creditor's intent to lease the land for farming.
4 Within fifteen (15) days from the date the notice is
5 mailed the prior owner may request a meeting with the
6 creditor or representative of the creditor for the purpose
7 of conferring with the creditor about the lease of the
8 agricultural land. If the prior owner requests a meeting,
9 it shall take place within ten (10) days after the request
10 by the prior owner is made unless the parties, by mutual
11 agreement, establish a meeting time at a later date. If
12 no request for a meeting is made within the specified
13 time, the creditor may lease the land to any person as
14 otherwise authorized by law. If the prior owner requests
15 a meeting and has advance cash rent or adequate implements
16 and access to the necessary agricultural production inputs
17 to carry on a viable farming operation under the lease
18 arrangement, which shall be based on lease conditions for
19 farming operations then prevailing in the area, and is
20 capable of farming the land, he shall be allowed first
21 opportunity to lease the land for farming upon terms and
22 conditions as may be reasonable and which will be offered
23 to any other potential lessee for lease of the land.

24 (c) No agricultural land described in subsection (a)

1 of this section may be leased by the creditor unless the
2 creditor has complied with subsection (b) of this section,
3 except that failure of the prior owner to comply with the
4 requirements of this section releases the creditor from
5 any duty of compliance.

6 Section 4. Offer of sale of agricultural land to
7 prior owner; procedure.

8 (a) Any creditor who acquires agricultural land in
9 this state in any manner specified in subsection 3. (a) of
10 this act, when selling that land, shall first offer or
11 make a good-faith effort to offer the land for sale to the
12 prior owner at a price no higher than any price offered by
13 a third party acceptable to the seller. An offer by cer-
14 tified mail, return receipt requested, to the prior
15 owner's last known address constitutes a good-faith offer.

16 (b) If the prior owner does not exercise his right
17 to purchase agricultural land within sixty (60) days from
18 the date the offer to purchase is mailed, the creditor may
19 offer the land for sale to any other person.

20 Section 5. Applicability of act.

21 (a) This act does not apply to any lease or sale of
22 agricultural land:

1 (i) After the first lease or sale following
2 acquisition;

3 (ii) Occurring after the creditor has held the
4 land for five (5) or more years; or

5 (iii) If the prior owner is a bankruptcy
6 estate.

7 Section 6. Cause of action; damages.

8 (a) Failure by a creditor to comply with this act
9 constitutes a cause of action for a prior owner in any
10 court of competent jurisdiction and subjects the creditor
11 to damages of two hundred fifty dollars (\$250.00) for each
12 day the failure to comply continues. If the prior owner
13 is the prevailing party in any action under this section,
14 in addition to the damages specified, the prior owner is
15 entitled to reasonable attorneys fees as determined by the
16 court.

17 (b) No award or attorneys fees recovered under this
18 section are subject to setoff or attachment for any preex-
19 isting debt.

20 Section 7. Repeal of act. This act is repealed
21 effective July 1, 1991, unless continued by an affirmative

1 act of the legislature. Any lease agreement executed pur-
2 suant to this act and in effect on the date this act is
3 repealed continues in effect until the date of expiration
4 specified in the lease or as may otherwise be provided by
5 law.

6 Section 8. This act is effective immediately upon
7 completion of all acts necessary for a bill to become law
8 as provided by Article 4, Section 8 of the Wyoming Consti-
9 tution.

10

(END)

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

HB 0353 HSI

Cheyenne, February 6, 1987

Mr. Speaker:

Your Committee No. 5 on AGRICULTURE to whom was referred HB No. 0353

respectfully reports same back to the House with the recommendation that HB 0353

DO PASS with the following amendments:

Page 4 - line 15 After "rent" insert "or evidence of credit,".

Page 5 - line 16 After "not" insert "notify the creditor within ten (10) days of receipt of the offer of his intent to attempt to purchase and does not".

Page 6 - line 4 Delete "five (5)" insert "two (2)".

Ayes

Noes

Excused

Absent

Dickey
Grant
Hageman
Hines
Humphrey
O'Toole
Wolfley

Simons

Behrens

0

MARLENE J. SIMONS

Chairman

Handwritten initials