

1 HOUSE BILL NO. 526

2 INTRODUCED BY E. HILL

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COUNTY TREASURER TO ISSUE A FINAL
 5 NOTICE THAT A TAX DEED MAY BE ISSUED; PROVIDING THAT THE FINAL NOTICE IS ISSUED FOR A
 6 RESIDENTIAL PROPERTY WITH AN OWNER-OCCUPIED DWELLING; REQUIRING THE COUNTY SHERIFF
 7 TO DELIVER THE FINAL NOTICE AND A WRITTEN SUMMARY REGARDING THE COUNTY SHERIFF'S
 8 OBSERVATIONS TO THE COUNTY TREASURER; EXTENDING THE TIME OF REDEMPTION OF A
 9 PROPERTY TAX LIEN FOR AN OWNER AND CERTAIN INTERESTED PARTIES; AMENDING SECTIONS
 10 15-18-111, 15-18-211, AND 15-18-212, MCA; AND PROVIDING AN APPLICABILITY DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 **Section 1.** Section 15-18-111, MCA, is amended to read:
 15 **"15-18-111. Time for redemption -- interested party.** (1) Except as provided in ~~subsection~~ subsections
 16 (2) and (3), redemption of a property tax lien acquired at a tax lien sale or otherwise may be made by the owner,
 17 the holder of an unrecorded or improperly recorded interest, the occupant of the property, or any interested party
 18 within 36 months from the date of the first day of the tax lien sale or within 60 days following the giving of the
 19 notice required in 15-18-212, whichever is later.

20 (2) For property subdivided as a residential or commercial lot upon which special improvement district
 21 assessments or rural special improvement district assessments are delinquent and upon which no habitable
 22 dwelling or commercial structure is situated, redemption of a property tax lien acquired at a tax lien sale or
 23 otherwise may be made by the owner, the holder of an unrecorded or improperly recorded interest, or any
 24 interested party within 24 months from the date of the first day of the tax lien sale or within 60 days following the
 25 giving of the notice required in 15-18-212, whichever is later.

26 (3) For residential property with an owner-occupied dwelling, redemption of a property tax lien acquired
 27 at a tax lien sale or otherwise may be made by the owner-occupant, the holder of an unrecorded or improperly
 28 recorded interest, or any interested party within the later of:

29 (a) 36 months from the date of the first day of the tax lien sale or within 60 days following the giving of
 30 the notice required in 15-18-212, whichever is later; or

1 (b) 45 days of delivery of the final notice to the owner-occupant of the property indicating that a tax deed
2 may be issued as provided in 15-18-212(9).

3 ~~(3)~~(4) For the purposes of this chapter, an "interested party" includes a mortgagee, vendor of a contract
4 for deed or the vendor's successor in interest, lienholder, or other person who has a properly recorded interest
5 in the property. A person who has an interest in property on which there is a property tax lien ~~but for~~ which
6 interest is not properly recorded is not an interested party for the purposes of this chapter."
7

8 **Section 2.** Section 15-18-211, MCA, is amended to read:

9 **"15-18-211. Tax deed -- fee.** (1) Except as provided in subsection (3), if the property tax lien is not
10 redeemed in the time allowed under 15-18-111, the county treasurer shall grant the purchaser a tax deed for the
11 property. The deed must contain the same information as is required in a tax lien sale certificate under 15-17-212,
12 except the description of the property must be the full legal description, and a statement that the property tax lien
13 was not redeemed during the redemption period provided in 15-18-111.

14 (2) (a) Except as provided in subsection (2)(b), the county treasurer shall charge the purchaser \$25 plus
15 all actual costs incurred by the county in giving the ~~notice~~ notices or assisting another purchaser or assignee in
16 giving the ~~notice~~ notices required in 15-18-212 for making the deed, ~~which~~. The fee must be deposited in the
17 county general fund.

18 (b) If the purchaser is the county, no fee may be charged for making the deed.

19 (c) Reasonable costs incurred by the county in searching the county records to identify persons entitled
20 to notice are considered part of the actual costs of the notice provided in subsection (2)(a).

21 (3) If the purchaser is the county and no assignment has been made, the county treasurer may not issue
22 a tax deed to the county unless the board of county commissioners, by resolution, directs the county treasurer
23 to issue a tax deed.

24 (4) Deeds issued to purchasers must be recorded by the county clerk as provided in Title 7, chapter 4,
25 part 26, except that when the county is the purchaser and subsequent tax deed holder, the county clerk may not
26 charge a fee for recording the deed."
27

28 **Section 3.** Section 15-18-212, MCA, is amended to read:

29 **"15-18-212. Notice -- proof of notice -- penalty for failure to notify.** (1) Not more than 60 days prior
30 to and not more than 60 days following the expiration of the redemption period provided in 15-18-111, a notice

1 must be given as follows:

2 (a) for each property for which there has been issued to the county a tax lien sale certificate or for which
3 the county is otherwise listed as the purchaser or assignee, the county clerk and recorder shall notify the parties
4 as required in subsection (4) and the current occupant of the property, if any, that a tax deed may be issued to
5 the county unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

6 (b) for each property for which there has been issued a tax lien sale certificate to a purchaser other than
7 the county or for which an assignment has been made, the purchaser or assignee, as appropriate, shall notify
8 the parties as required in subsection (4), if any, that a tax deed will be issued to the purchaser or assignee unless
9 the property tax lien is redeemed prior to the expiration date of the redemption period.

10 (2) (a) Except as provided in subsection (2)(b), if the county is the purchaser, an assignment has not
11 been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed
12 during the period described in subsection (1) but the board of county commissioners at a time subsequent to the
13 period described in subsection (1) does direct the county treasurer to issue a tax deed, the county clerk and
14 recorder shall provide notification to the parties as required in subsection (4) and the current occupant, if any, in
15 the manner provided in subsection (1)(a). The notification required under this subsection must be made not less
16 than 60 days or more than 120 days prior to the date on which the county treasurer will issue the tax deed.

17 (b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after
18 giving the notice required by subsection (1)(a), additional notice need not be given.

19 (3) (a) If a purchaser other than the county or an assignee fails or neglects to give notice as required by
20 subsection (1)(b) and the failure or neglect is evidenced by failure of the purchaser or assignee to file proof of
21 notice with the county clerk and recorder as required in subsection (8), the county treasurer shall notify the
22 purchaser or assignee of the obligation to give notice under subsection (1)(b). The notice of obligation may be
23 sent by certified mail, return receipt requested, to the purchaser or assignee at the address contained on the tax
24 lien sale certificate provided for in 15-17-212 or on the assignment form provided for in 15-17-323.

25 (b) If within 120 days after the county treasurer mails the notice of obligation the purchaser or assignee
26 fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county
27 clerk and recorder as required in subsection (8), the county treasurer shall cancel the property tax lien evidenced
28 by the tax lien sale certificate or the assignment. Upon cancellation of the property tax lien, the county treasurer
29 shall file or record with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

30 (4) (a) The notice required under subsections (1) and (2) must be made by certified mail, return receipt

1 requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a
2 property title guarantee, provided that:

3 (i) the guarantee has been approved by the insurance commissioner and issued by a licensed title
4 insurance producer; and

5 (ii) the guarantee was ordered on the property by the person required to give notice.

6 (b) The address to which the notice must be sent is, for each party, the address disclosed by the records
7 in the office of the county clerk and recorder or in the title guarantee and, for the occupant, the street address or
8 other known address of the subject property.

9 (5) In all cases in which the address of an interested party is not known, the person required to give
10 notice shall, within the period described in subsection (1) or not less than 60 days or more than 120 days prior
11 to the date upon which the county treasurer will otherwise issue a tax deed, whichever is appropriate, commence
12 publishing once a week for 2 successive weeks, in the official newspaper of the county or another newspaper
13 as the board of county commissioners may by resolution designate, a notice containing the information contained
14 in subsection (6), plus:

15 (a) the name of the party for whom the address is unknown;

16 (b) a statement that the address of the party is unknown;

17 (c) a statement that the published notice meets the legal requirements for notice of a pending tax deed
18 issuance; and

19 (d) a statement that the party's rights in the property may be in jeopardy.

20 (6) The notices required by subsections (1), (2), and (5) must contain the following:

21 (a) a statement that a property tax lien exists on the property as a result of a property tax delinquency;

22 (b) a description of the property on which the taxes are or were delinquent, which must be the same as
23 the description of the property on the tax lien sale certificate or in the record described in 15-17-214(2)(b);

24 (c) the date that the property taxes became delinquent;

25 (d) the date that the property tax lien attached as the result of a tax lien sale;

26 (e) the amount of taxes due, including penalties, interest, and costs, as of the date of the notice of
27 pending tax deed issuance, which amount must include a separate listing of the delinquent taxes, penalties,
28 interest, and costs that must be paid for the property tax lien to be liquidated;

29 (f) the name and address of the purchaser;

30 (g) the name of the assignee if an assignment was made as provided in 15-17-323;

1 (h) the date that the redemption period expires or expired;

2 (i) a statement that if all taxes, penalties, interest, and costs are not paid to the county treasurer on or
3 prior to the date on which the redemption period expires or on or prior to the date on which the county treasurer
4 will otherwise issue a tax deed, a tax deed may be issued to the purchaser on the day following the date on which
5 the redemption period expires or on the date on which the county treasurer will otherwise issue a tax deed; and

6 (j) the business address and telephone number of the county treasurer who is responsible for issuing
7 the tax deed.

8 (7) The amount of interest and costs provided for in subsection (6)(e) continues to accrue until the date
9 of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the
10 county treasurer as of the date of payment.

11 (8) Proof of notice in whatever manner given must be filed with the county clerk and recorder. If the
12 purchaser or assignee is other than the county, the proof of notice must be filed with the county clerk and recorder
13 within 30 days of the mailing or publishing of the notice. If the purchaser or assignee is the county, the proof of
14 notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima
15 facie evidence of the sufficiency of the notice.

16 (9) Prior to issuance of a tax deed for residential property with an owner-occupied dwelling, and after
17 all other notice requirements have been met, the county treasurer shall issue a final notice that a tax deed may
18 be issued unless the property tax lien is redeemed within 45 days of the delivery of the final notice. The final
19 notice must be given to the county sheriff for delivery. The county sheriff shall:

20 (a) deliver the final notice to the owner-occupant of the property;

21 (b) perform a brief welfare check to determine if the owner-occupant understands the ramifications of
22 the final notice;

23 (c) provide the county treasurer with a written summary report detailing the sheriff's observations during
24 the welfare check, including observations regarding the owner-occupant's apparent alertness and ability to
25 understand the ramifications of the final notice; and

26 (d) provide the county treasurer with proof of delivery of the final notice to the owner-occupant.

27 ~~(9)~~(10) A county or any officer of a county may not be held liable for any error of notification."
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29 **NEW SECTION. Section 4. Applicability.** [This act] applies to a redemption of a property tax lien
30 acquired at a tax lien sale or otherwise and the issuance of a tax deed after [the effective date of this act].

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