

HOUSE BILL NO. 621

INTRODUCED BY T. JACOBSON

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCESS FOR THE SALE OF A TAX LIEN AND ISSUANCE OF A TAX DEED FOR DELINQUENT TAXES WHEN THE DELINQUENT PROPERTY IS A PRINCIPAL RESIDENCE; AMENDING SECTIONS 7-6-4414, 15-17-121, 15-17-318, 15-17-319, 15-17-320, 15-17-321, 15-17-322, AND 15-18-211, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Sale of principal residence for tax lien.** (1) Whenever a tax lien sale certificate has been issued on a principal residence and a tax deed would be issued pursuant to 15-18-211, the county treasurer shall notify the county commissioners that a tax lien sale certificate for a principal residence has been issued and the county commissioners shall proceed to auction the property as provided for in Title 7, chapter 8, part 23, as if the property had been acquired by the county by tax deed.

(2) If the property does not sell at auction under subsection (1), the county is considered to be the purchaser and the county treasurer shall proceed under 15-18-211(3).

(3) If the property sells at auction under this section less than 6 months after the tax lien sale certificate is issued and the person who purchases the property at auction:

(a) is the person, other than the county, who holds the tax lien sale certificate, the county treasurer may reimburse the person for taxes or assessments not collected from the property owner, including penalties, interests, or costs, if any, but shall allocate to the county the amount of all delinquent and current taxes and assessments, including penalties and interest, if any, which must be distributed as provided in 15-17-322, and all costs, which must be deposited in the county general fund, and forward the remainder to the person who owned the property at the time the tax sale certificate was issued;

(b) is the county, the county treasurer shall allocate to the county the amount of all delinquent and current taxes and assessments, including penalties and interest, if any, which must be distributed as provided for in 15-17-322, and all costs, which must be deposited in the county general fund, and forward the remainder to the person who owned the property at the time the property was sold at auction; or



1 (c) is not the person who holds the tax lien sale certificate or the county, the county treasurer shall
2 allocate the proceeds from the sale of the property in the following order:

3 (i) to the person holding the tax lien sale certificate, the amount of all delinquent taxes and assessments,
4 including penalties, interest, and costs, paid by the person in acquiring the tax lien sale certificate and not
5 collected from the property owner;

6 (ii) to the county, the amount of all delinquent and current taxes and assessments, including penalties
7 and interest, if any, which must be distributed as provided for in 15-17-322, and all costs, which must be
8 deposited in the county general fund; and

9 (iii) the remainder to the person who owned the property at the time the tax sale certificate was issued.

10 (4) If the property is sold, by auction or otherwise, 6 months or more after the tax lien sale certificate is
11 issued, the county treasurer shall reimburse the county for all unreimbursed costs incurred by the county in regard
12 to the property, which must be deposited in the county general fund, and shall allocate to the county all remaining
13 proceeds, which must be distributed as provided for in 15-17-322.

14 (5) As soon as practicable after sale of the property under this section, the county treasurer shall issue
15 a tax deed in the manner provided for in 15-18-211 as if the property was not a principal residence.

16

17 **Section 2.** Section 7-6-4414, MCA, is amended to read:

18 **"7-6-4414. Sales for delinquent taxes when county collects municipal tax.** (1) All publications of
19 sales for delinquent taxes shall include city or town taxes. There is only one sale for each piece of property. The
20 sale shall cover the aggregate of city or town, county, and state taxes, with the penalties, interest, and cost of
21 advertising provided by law.

22 (2) All money received from sales, after a deed is given by the county treasurer as provided by law, shall
23 ~~be credited to the state, county, and city or town pro-rata in the same proportions~~ distributed as provided in
24 15-17-322 or [section 1], as applicable.

25

26 **Section 3.** Section 15-17-121, MCA, is amended to read:

27 **"15-17-121. Definitions.** Except as otherwise specifically provided, when terms mentioned in Title 15,
28 chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

29 (1) "Certificate" or "tax lien sale certificate" means the document described in 15-17-212.

30 (2) (a) "Cost" means the cost incurred by the county as a result of a taxpayer's failure to pay taxes when

1 due. It includes but is not limited to any actual out-of-pocket expenses incurred by the county plus the
2 administrative cost of:

- 3 (i) preparing the list of delinquent taxes;
- 4 (ii) preparing the notice of pending tax lien sale;
- 5 (iii) conducting the tax lien sale;
- 6 (iv) assigning the county's interest in a tax lien to a third party;
- 7 (v) identifying interested persons entitled to notice of the pending issuance of a tax deed;
- 8 (vi) notifying interested persons;
- 9 (vii) issuing the tax deed; and
- 10 (viii) any other administrative task associated with accounting for or collecting delinquent taxes.

11 (b) The term includes costs that are required by law and incurred by the purchaser of a property tax lien
12 other than the county. The county treasurer may require the purchaser of the property tax lien to provide receipts
13 or may allow the purchaser of the property tax lien to provide a notarized affidavit of costs to the county treasurer
14 upon issuance of a tax lien sale certificate as required in 15-17-212 and notification that a tax deed may be issued
15 as required by 15-18-212 and 15-18-216. A county treasurer may at any time require a purchaser who provided
16 an affidavit of costs to submit the receipted costs upon which the affidavit was based.

17 (c) The term does not include interest for payments for the following:

- 18 (i) postage for certified mailings and certified mailings with return receipt requested;
- 19 (ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending
20 issuance of a tax deed;
- 21 (iii) publishing costs for required publications; and
- 22 (iv) filing costs for proof of notice.

23 (3) "County" means any county government and includes those classified as consolidated governments.

24 (4) "Prime rate" means the prime rate published by the federal reserve system in its statistical release

25 H.15 Selected Interest Rates for bank prime loans.

26 (5) "Principal residence" means a residential dwelling that is a single-family dwelling unit, unit of a
27 multiple-unit dwelling, trailer, manufactured home, or mobile home that is occupied by the owner for at least 7
28 months during the tax year.

29 ~~(4)~~(6) "Property tax lien" means a lien acquired by the payment at a tax lien sale of all outstanding
30 delinquent taxes, including penalties, interest, and costs.

1 ~~(5)~~(7) "Purchaser" means any person, other than the person to whom the property is assessed, who
 2 pays at the tax lien sale the delinquent taxes, including penalties, interest, and costs, and receives a certificate
 3 representing a lien on the property or who is otherwise listed as the purchaser. An assignee is a purchaser.

4 ~~(6)~~(8) "Tax", "taxes", or "property taxes" means all ad valorem property taxes, property assessments,
 5 fees related to property, and assessments for special improvement districts and rural special improvement
 6 districts.

7 ~~(7)~~(9) "Tax lien sale" means:

8 (a) with respect to real property and improvements, the offering for sale by the county treasurer of a
 9 property tax lien representing delinquent taxes, including penalties, interest, and costs; and

10 (b) with respect to personal property, the offering for sale by the county treasurer of personal property
 11 on which the taxes are delinquent or other personal property on which the delinquent taxes are a lien."
 12

13 **Section 4.** Section 15-17-318, MCA, is amended to read:

14 **"15-17-318. Assignment of municipality's interest.** (1) (a) At any time after a parcel of land that is not
 15 all or part of a principal residence has been acquired by a municipality, as provided in 15-17-317, and has not
 16 been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to
 17 any person who pays:

18 ~~(a)~~(i) the purchase price paid by the municipality;

19 ~~(b)~~(ii) the delinquent assessments;

20 ~~(c)~~(iii) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month or,
 21 for taxes due on a principal residence, at a rate of 4% above the prime rate, as published on the date of
 22 delinquency, a month; and

23 ~~(d)~~(iv) penalties and costs as provided by law.

24 (b) If the parcel of land is all or part of a principal residence that has been acquired by a municipality,
 25 as provided in 15-17-317, but on which the delinquent taxes and assessments, including penalties, interest, and
 26 costs, have not been redeemed, the treasurer of the municipality may request the county treasurer to proceed
 27 with the sale of the property pursuant to [section 1].

28 (2) The treasurer of the municipality shall execute to the person a certificate of sale ~~for~~ of the
 29 municipality's interests in the parcel, which may be in substantially the form provided in 15-17-212 for the
 30 assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed by the

1 assignee, the treasurer of the municipality shall issue a duplicate certificate to the assignee after the assignee
 2 delivers to the treasurer evidence satisfactory to the treasurer, including an affidavit of the assignee, that the
 3 certificate has been lost or destroyed.

4 (3) An assignment by a municipality under this section discharges the trust created under 15-17-317.
 5 ~~The~~ If the property for which the municipality's interest is assigned is not a principal residence, the municipality
 6 may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the
 7 delinquent assessments and interest accrued on the assessments.

8 (4) If the property in which the municipality has a tax lien interest is a principal residence, the municipality
 9 may request that the county treasurer proceed with the sale of the property pursuant to [section 1]. Sale of the
 10 property pursuant to [section 1] discharges the trust created under 15-17-317."
 11

12 **Section 5.** Section 15-17-319, MCA, is amended to read:

13 **"15-17-319. Sale or lease and disposition of proceeds from lands acquired by municipality.** A
 14 municipality may sell, donate, or lease property it acquires under ~~15-17-317~~ 15-17-318(1)(a) or (4) in the same
 15 manner as a county may sell, donate, or lease tax-deed property under Title 7, chapter 8, part 23. All money
 16 received by the municipality from the sale or lease of the ~~land~~ property, after payment of the cost of sale, not to
 17 exceed \$25, must be paid into the improvement fund to the extent of the delinquent assessments, interest, and
 18 penalties. The surplus, if any, must be paid into any revolving fund that secures payment of special assessments
 19 or, if there ~~are none~~ is no revolving fund, to the general fund of the municipality."
 20

21 **Section 6.** Section 15-17-320, MCA, is amended to read:

22 **"15-17-320. Taxes and subsequent installments of special assessments on land acquired by a**
 23 **municipality.** For property that is acquired by a municipality as provided in ~~15-17-317~~ 15-17-318(1)(a) or (4),
 24 subsequent installments of the special assessment or assessments, if any, and other special assessments not
 25 then delinquent must be levied, and taxes for the following years must be assessed in the same manner as if the
 26 property had not been so acquired. If the special assessments, ~~or installments thereof~~ of special assessments,
 27 or taxes are not paid when due, the property must again be sold in the manner provided by law and the levies
 28 of special assessments, assessments of taxes, and the sale of the property for delinquent special assessments
 29 and taxes must continue until the time when the property has been redeemed from ~~such~~ the sale."
 30

1 **Section 7.** Section 15-17-321, MCA, is amended to read:

2 **"15-17-321. Resale for nonpayment.** (1) ~~If Except as provided in subsection (2), if~~ a purchaser other
3 than the county does not pay the delinquent taxes, including penalties, interest, and costs, before 10 a.m. on the
4 next business day following the day of purchase at a tax lien sale, the property must be made available for sale
5 for the amount of the delinquent taxes, including penalties, interest, and costs, on the following business day of
6 the tax lien sale, ~~except as provided in subsection (2)~~.

7 (2) (a) If the sale was made on the last day of the tax lien sale and payment was not received as
8 provided in subsection (1), the county is considered to be the purchaser as provided in 15-17-214.

9 (b) If the nonpayment pertains to property that is a principal residence that has not been subject to sale
10 under [section 1], the county shall proceed as provided in [section 1]."
11

12 **Section 8.** Section 15-17-322, MCA, is amended to read:

13 **"15-17-322. Disposition of money from tax lien sale.** All money received from purchasers for
14 delinquent taxes, penalties, interest, and costs must be deposited in the county treasury. ~~The Except as provided~~
15 in [section 1]:

16 (1) the money received, other than costs, must be credited to the various funds to which the taxes would
17 have originally been distributed and in the same proportion as the taxes would have originally been distributed:
18 ~~Any; and~~

19 (2) the money received for costs ~~or~~ and any money remaining after crediting the separate funds must
20 be deposited to the credit of the county general fund."
21

22 **Section 9.** Section 15-18-211, MCA, is amended to read:

23 **"15-18-211. Tax deed -- fee.** (1) Except as provided in subsection (3), if the property tax lien is not
24 redeemed in the time allowed under 15-18-111, the county treasurer shall grant the purchaser a tax deed for the
25 property. The deed must contain the same information as is required in a tax lien sale certificate under 15-17-212,
26 except the description of the property must be the full legal description, and a statement that the property tax lien
27 was not redeemed during the redemption period provided in 15-18-111.

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

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

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

4 (3) (a) If the property tax lien is on a principal residence and is not redeemed within the time allowed
5 under 15-18-111, the county treasurer may not immediately issue a tax deed to the holder of the tax lien sale
6 certificate, but shall proceed as provided in [section 1]. Subsequent to the sale of the principal residence pursuant
7 to [section 1] or if the county is considered to be the purchaser under [section 1(2)], the county treasurer shall
8 issue a tax deed as provided by law.

9 (b) If the county is the purchaser of a tax lien ~~is the county~~ and no assignment has been made, the
10 county treasurer may not issue a tax deed to the county unless the board of county commissioners, by resolution,
11 directs the county treasurer to issue a tax deed.

12 (c) The county treasurer may issue a tax deed for a principal residence only as provided in [section 1].

13 (4) ~~Deeds~~ A deed issued to ~~purchasers~~ a purchaser must be recorded by the county clerk as provided
14 in Title 7, chapter 4, part 26, except that when the county is the purchaser and subsequent tax deed holder, the
15 county clerk may not charge a fee for recording the deed."
16

17 NEW SECTION. Section 10. Codification instruction. [Section 1] is intended to be codified as an
18 integral part of Title 15, chapter 18, and the provisions of Title 15, chapter 18, apply to [section 1].
19

20 NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that matured,
21 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
22

23 NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 2015.
24

25 NEW SECTION. Section 13. Applicability -- nonapplicability. (1) [This act] applies only to tax
26 delinquencies that begin on or after [the effective date of this act] and only to principal residences, as defined in
27 15-17-121 as amended by [this act].

28 (2) [This act] does not affect or apply to any property on which taxes were delinquent prior to [the
29 effective date of this act] or to any tax lien that attached or any tax lien sale, tax lien sale certificate, tax lien
30 assignment, or tax deed that was begun, concluded, or issued pursuant to Title 15 prior to [the effective date of

1 this act].

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- END -