

SENATE BILL NO. 365
INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INSTALLMENT PAYMENTS OF DELINQUENT PROPERTY TAXES, PENALTIES, AND INTEREST; PROVIDING THAT A TAXPAYER MUST HAVE LESS THAN \$9,000 IN COUNTYWIDE PROPERTY TAX DELINQUENCIES, PENALTIES, AND INTEREST TO QUALIFY FOR INSTALLMENT PAYMENTS; PROVIDING THAT THE PAYMENTS MUST BE MADE IN NOT MORE THAN SIX PAYMENTS OVER A 24-MONTH PERIOD; AND AMENDING SECTIONS 15-16-102, 15-16-103, 15-16-303, 15-16-401, AND 15-17-121, MCA."

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

Section 1. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(5) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable

~~tax years, provided that~~ if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(6) A taxpayer with less than a countywide total of \$9,000 in delinquent taxes, penalties, and interest may pay the delinquent taxes, penalty, and interest in not more than six installments over a period not to exceed 24 months. A taxpayer shall apply to the county treasurer to make installment payments, and if the taxpayer qualifies, the taxpayer shall sign an installment payment agreement with the treasurer that must include a schedule for payments and a provision that the taxpayer shall pay current property taxes as they become due. If the taxpayer fails to pay current taxes when due, fails to make scheduled payments as provided in the agreement, or otherwise materially breaches the agreement, the treasurer may treat unpaid delinquent taxes, penalty, and interest as due immediately. Installment payments must be applied to the taxes that have been delinquent the longest. Property tax liens for the underlying property taxes are not extinguished until an installment payment agreement has been paid in full.

~~(6)(7)~~ The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

~~(7)(8)~~ If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared."

Section 2. Section 15-16-103, MCA, is amended to read:

"15-16-103. Special improvement districts with annual interest payments -- collection of special assessments for all special improvements. (1) Special assessments or installments of special assessments made for special improvements in towns and cities, the bonds for which annual interest payments have been specified and that were issued after July 1, 1981, and that have been duly and regularly made and levied by resolution according to law, ~~shall be~~ are payable as follows:

(a) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year. If the taxes are not paid on or before that date, they are subject to the same interest and penalty for nonpayment as delinquent property taxes under 15-16-102. The penalty and interest may be waived by resolution of the city council, as provided in 15-16-102~~(6)(7)~~.

(b) One-half of the taxes are payable on or before 5 p.m. on May 31 of each year. If the taxes are not paid on or before that date, they are subject to the same interest and penalty for nonpayment as delinquent property taxes under 15-16-102. The penalty and interest may be waived by resolution of the city council, as

provided in 15-16-102~~(6)~~(7).

(2) The collection of special assessments or installments of special assessments made for special improvements in towns and cities are as provided by 7-12-4181."

Section 3. Section 15-16-303, MCA, is amended to read:

"15-16-303. Treasurer charged with delinquent taxes. (1) After settlement with the county treasurer as prescribed in 15-16-302, the county clerk and recorder ~~must~~ shall charge the treasurer with the amount of taxes due on the delinquent tax list, ~~minus taxes suspended or canceled under the provisions of Title 15, chapter 24, part 17,~~ and within 3 days ~~thereafter~~ after settlement deliver the list, duly certified, to the county treasurer.

(2) Taxes suspended or canceled under the provisions of Title 15, chapter 24, part 17, and taxes being paid by an installment agreement under 15-16-102(6) must be subtracted from the amount of taxes due on the delinquent list."

Section 4. Section 15-16-401, MCA, is amended to read:

"15-16-401. Tax due as a judgment or lien. Unless suspended or canceled under the provisions of Title 15, chapter 24, part 17, every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution ~~due~~ levied against all personal property in the possession of the person assessed from and after the date the assessment is made. The county treasurer may issue a writ of execution for delinquent personal property taxes, unless suspended or canceled under the provisions of Title 15, chapter 24, part 17, or unless the taxes are being paid by an installment agreement under 15-16-102(6), and deliver the writ to the sheriff of any county in the state in which the property or some part of the property is located. Writs of execution may be issued at the same time to different counties. The sheriff shall proceed upon the writ in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment of the taxes."

Section 5. Section 15-17-121, MCA, is amended to read:

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

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

(2) (a) "Cost" means the cost incurred by the county as a result of a taxpayer's failure to pay taxes when due. It includes but is not limited to any actual out-of-pocket expenses incurred by the county plus the administrative cost of:

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

(b) Cost does not include the costs incurred by the owner of a property tax lien other than the county.

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

(4) "Property tax lien" means a lien acquired by the payment at a tax sale of all outstanding delinquent taxes, including penalties, interest, and costs. Delinquent taxes, penalties, and interest that are being paid by an installment agreement under 15-16-102(6) are not considered delinquent taxes. Upon breach of an installment agreement, the underlying taxes are delinquent and are considered to have been delinquent from the date on which the underlying tax was due.

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

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

(7) "Tax sale" means:

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

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

- END -