

SENATE BILL NO. 302

INTRODUCED BY MCCARTHY, LEWIS, GRIMES, LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE WAY UNDIVIDED OWNERSHIP INTERESTS IN PROPERTY ARE ASSESSED FOR PROPERTY TAX PURPOSES; PROVIDING THAT THE OWNERS OF UNDIVIDED INTERESTS MAY BE ASSESSED SEPARATELY UPON REQUEST; PROVIDING THAT PAYMENT OF THE TOTAL PROPERTY TAX DUE BY A SINGLE OWNER ~~IS~~ MAY BE PAYMENT ON BEHALF OF ALL OF THE OWNERS OR THAT A PAYING CO-OWNER MAY, AFTER 3 YEARS OF PAYMENTS AND NOTICES TO THE NONPAYING CO-OWNER, TAKE A PROPERTY TAX LIEN ON THE NONPAYING CO-OWNER'S INTEREST; PROVIDING THAT NONPAYMENT BY A SEPARATELY ASSESSED CO-OWNER SUBJECTS ONLY THE NONPAYING CO-OWNER'S INTEREST TO A TAX SALE; AND AMENDING SECTIONS 15-7-138 AND 15-16-102, MCA."

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

NEW SECTION. Section 1. Common undivided ownership interest -- separate assessment -- property tax payments. (1) ~~Payment~~ EXCEPT AS PROVIDED IN SUBSECTION (2), PAYMENT of all property taxes on a parcel by any co-owner is considered payment by all owners, whether or not the property is assessed and taxed separately to co-owners or to a single owner. Any payment by a co-owner in excess of the amount assessed to the co-owner must be the total amount due on the parcel or a partial payment amounting to a year of deficiency, as provided in 15-16-102(5)(a). The nonpayment of taxes by a co-owner who is separately assessed and taxed subjects only the interest of the nonpaying co-owner to a tax sale.

(2) (A) A CO-OWNER MAY RECEIVE A TAX LIEN ON PROPERTY IN WHICH THE CO-OWNER HAS AN UNDIVIDED INTEREST IF:

(I) THE CO-OWNER PAYS THE PROPORTIONAL AMOUNT OF TAXES ON THAT CO-OWNER'S INTEREST AND ON ANOTHER CO-OWNER'S INTEREST;

(II) THE PAYING CO-OWNER HAS NOTIFIED THE NONPAYING CO-OWNER OF THE PROPERTY TAX PAYMENTS AND ANNUALLY DEMANDS REIMBURSEMENT IN WRITING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE NONPAYING CO-OWNER'S LAST-KNOWN MAILING ADDRESS; AND

(III) THE PAYING CO-OWNER HAS PAID THE PROPERTY TAXES FOR 3 CONSECUTIVE YEARS WITHOUT REIMBURSEMENT.

(B) UPON PROOF THAT A CO-OWNER HAS COMPLIED WITH THE PROVISIONS OF THIS SUBSECTION (2), THE PAYING CO-OWNER IS CONSIDERED THE PURCHASER OF A TAX LIEN ON THE OWNERSHIP INTEREST OF THE NONPAYING CO-OWNER AND THE COUNTY TREASURER SHALL PREPARE A TAX SALE CERTIFICATE WITH THE PAYING CO-OWNER AS THE PURCHASER. THE CERTIFICATE SHALL CONFORM TO THE PROVISIONS OF 15-17-212, EXCEPT THE CERTIFICATE NEED NOT CONTAIN THE INFORMATION REQUIRED IN 15-17-212(1)(A) AND (1)(B). THE TREASURER SHALL COMPLY WITH THE PROVISIONS OF 15-17-212(2) REGARDING THE CERTIFICATE.

(C) FOR THE PURPOSES OF THIS SUBSECTION (2), IF THERE ARE MORE THAN TWO CO-OWNERS, SINGLE AND MULTIPLE PAYING CO-OWNERS CAN RECEIVE A TAX LIEN ON THE UNDIVIDED INTERESTS OF SINGLE AND MULTIPLE NONPAYING CO-OWNERS.

Section 2. Section 15-7-138, MCA, is amended to read:

"15-7-138. Notice of classification and appraisal to single address for owners of undivided interest. (1) (a) (i) Subject to subsection (2), in the case of multiple, undivided interests in a parcel of land, the department shall send the notice of classification and appraisal required by 15-7-102 to a single owner of the land, as provided in this section.

(ii) For multiple undivided interests that are mining claims, upon request of ALL the owners, the department shall send the notice of classification and appraisal required by 15-7-102 AND SEPARATE ASSESSMENTS to each owner of an undivided interest.

(iii) Requests for separate assessment and receipt of separate notice under subsection (1)(a)(ii) are limited to mining claims as the multiple undivided interests existed on ~~January 1~~ OR PRIOR TO APRIL 30, 2001. Additional division of interests after ~~January 1~~ APRIL 30, 2001, may not result in additional separate assessments.

(b) Except as provided in subsection (1)(c), the owners of the land shall provide to the department the name and address of the owner to whom the notice is to be sent and shall notify the department of a change in name or address. If an address is not provided, then the department shall send the notice to the address to which previous notices were sent.

(c) In the case of multiple, undivided interests in a parcel of land created after April 30, 2001, the department shall send the notice to the name and address shown on the recorded document creating the multiple, undivided interests in the land. If more than one name and address is shown on the document, the department shall send the notice to the first name and address shown on the document.

(2) A copy of the notice must be sent to other persons upon request of an owner of the land. If a parcel of land is located within the boundaries of a federally recognized Indian reservation, each individual fee patent,

even when it is an undivided interest, will be treated as a separate assessment and receive a separate notice of classification and appraisal."

Section 3. 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) (a) 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.

(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) 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.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) 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) 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."

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 17, and the provisions of Title 15, chapter 17, apply to [section 1].

- END -