

HOUSE BILL NO. 481
INTRODUCED BY S. MENDENHALL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PROPERTY TAXES MUST BE DELINQUENT FOR AT LEAST 2 YEARS BEFORE THE TAX LIEN MAY BE OFFERED AT A TAX SALE; AMENDING SECTIONS 15-17-121, 15-17-122, AND 15-17-211, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. 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 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) The term includes receipted costs that are required by law and incurred by the purchaser of a property tax lien other than the county. The purchaser of the property tax lien shall provide receipts to the county treasurer upon issuance of a tax sale certificate as required in 15-17-212 and notification that a tax deed may be issued as required by 15-18-212 and 15-18-216.

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

- (i) postage for certified mailings and certified mailings with return receipt requested;
- (ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending

issuance of a tax deed;

(iii) publishing costs for required publications; and

(iv) filing costs for proof of notice.

(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.

(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 not less than 2 tax years of 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."

Section 2. Section 15-17-122, MCA, is amended to read:

"15-17-122. Notice of pending tax sale. (1) The county treasurer shall publish or post a notice of a pending tax sale. The notice must include:

(a) the specific time, date, and place that an interest in the property on which the taxes are at least 2 years delinquent will be offered for sale;

(b) a statement that the 2 or more years' delinquent taxes, including penalties, interest, and costs, are a lien upon the property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the time of the tax sale, the lien will be offered for sale at the time and place specified in subsection (1)(a).

(2) The notice required in subsection (1) must also include a statement that a list of each property on which the taxes are at least 2 years delinquent is on file in the office of the county treasurer and open to inspection. The list must include:

(a) the name and address of the person to whom the delinquent taxes are assessed;

(b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and

(c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be published once a week for 3 consecutive weeks in the newspaper designated for county printing as provided in 7-5-2411. If no newspaper is published in the county, the notice must be posted by the county treasurer in three public places. The notice must be first published or posted on or before the last Monday in June.

(4) Except as provided in ~~45-17-211(2)~~ 15-17-211(3), the sale may not be held less than 21 days or more than 28 days from the date of first publication or first day the notice is posted.

(5) The sale must be held at the county courthouse.

(6) Property on which taxes are delinquent but for which proper notification was not made may not be included in the current year's notice and sale. In the event of improper notification, the sale may be held on all property properly noticed.

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of Title 15, chapter 24, part 17."

Section 3. Section 15-17-211, MCA, is amended to read:

"15-17-211. Conduct of tax sale. (1) A tax sale may not be held on property unless 2 years of delinquent taxes are due upon the property.

~~(1)(2)~~ On the date and at the time and place specified in the notice, the county treasurer shall, except as provided in 15-17-124, begin the tax sale of all property described in the list required in 15-17-122(2). The tax sale must continue until the county treasurer declares it over, but must continue for a period of not less than 1 day. The treasurer is not required to read the list but shall make a copy of the list available for public inspection during regular business hours.

~~(2)(3)~~ The treasurer may postpone the day of commencing the sale on a day-to-day basis without publishing a new notice, ~~provided that if~~ the sale is held within 3 weeks from the day first fixed.

~~(3)(4)~~ Property assessed under 15-17-324 that has not been sold to a purchaser other than the county may, at the discretion of the county treasurer, be offered for sale at tax sales subsequent to the sale at which it was first offered."

NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 5. Applicability.** [This act] applies to property tax delinquencies for tax years beginning after December 31, 2007.

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