

HOUSE BILL NO. 526

INTRODUCED BY T. JACOBSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TAX LIEN AND TAX DEED LAWS; REQUIRING A
5 COUNTY TREASURER TO SELL A PROPERTY FOR WHICH THE TAX LIEN WAS NOT REDEEMED;
6 REQUIRING A PUBLIC AUCTION AND PROVIDING FOR A PRIVATE SALE IF THE PROPERTY DOES NOT
7 SELL AT AUCTION; PROVIDING FOR MINIMUM SALE PRICES THAT MAY BE ACCEPTED; PROVIDING FOR
8 THE DISTRIBUTION OF PROCEEDS FROM AN AUCTION OR PRIVATE SALE; ALLOWING A PROPERTY
9 OWNER TO CONSENT TO THE SALE OF THE PROPERTY; PROVIDING FOR ISSUANCE OF A TAX DEED
10 IF THE PROPERTY DOES NOT SELL WITHIN 1 YEAR OF EXPIRATION OF THE REDEMPTION PERIOD;
11 REVISING THE REDEMPTION PERIOD; REVISING NOTIFICATION REQUIREMENTS; AMENDING
12 SECTIONS 7-12-4184, 15-17-121, 15-17-212, 15-17-323, 15-18-111, 15-18-112, 15-18-211, 15-18-212,
13 15-18-213, 15-18-214, 15-18-215, 15-18-216, 15-18-217, 15-18-411, 15-18-413, 76-7-204, AND 77-2-315, MCA;
14 AND PROVIDING AN APPLICABILITY DATE."
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17

18 NEW SECTION. **Section 1. Sale of property when tax lien not redeemed.** (1) Except as provided
19 in subsection (5), if the property tax lien is not redeemed in the time allowed under 15-18-111, the county
20 treasurer shall sell the property as provided in this section.

21 (2) Except as provided in subsection (5), the county treasurer shall sell the property at public auction
22 within 60 days of expiration of the redemption period provided for in 15-18-111. The county treasurer shall provide
23 notice of the date and location of the auction as provided in 7-1-2121. The purchase price of the property must
24 be 80% or greater of the market value of the property as determined in the most recent property reappraisal by
25 the department of revenue.

26 (3) If no bid or offer meeting the requirements of subsection (2) is made for the property at public auction,
27 the treasurer may, at any time after the auction, sell the property at private sale and may at the private sale accept
28 as the purchase price an amount not less than 60% of the market value of the property as determined in the most
29 recent property reappraisal by the department of revenue.

30 (4) The county treasurer shall issue a deed to the purchaser of the property at auction or private sale.

1 The form of the deed is provided for in [section 3].

2 (5) If the property is not sold at auction or private sale within 1 year of the redemption period provided
3 for in 15-18-111, the county treasurer shall issue a tax deed to the purchaser or assignee as provided in
4 15-18-211.

5 (6) If the purchaser is the county and no assignment has been made, the county treasurer may not sell
6 the property unless the board of county commissioners, by resolution, directs the county treasurer to sell the
7 property.

8
9 **NEW SECTION. Section 2. Distribution of sale proceeds.** (1) The money received from property sold
10 as provided in [section 1] must be distributed as provided in this section.

11 (2) When a property for which the county is listed as the purchaser of the tax lien is sold as provided in
12 [section 1], the delinquent taxes, penalties, and interest must be distributed to the credit of the various funds to
13 which the taxes would have originally been distributed and in the same proportion as the taxes would have
14 originally been distributed.

15 (3) (a) When a property is sold as provided in [section 1] for which the recorded purchaser of the tax lien
16 is other than the county, the county treasurer shall distribute to the person listed as the purchaser on the tax lien
17 sale certificate and in the record kept by the county treasurer the amount the purchaser paid the county for the
18 property tax lien plus any subsequent amount paid pursuant to 15-18-112 plus interest, as specified in 15-16-102,
19 from the date of payment until the date of sale.

20 (b) The distribution must be made by the county treasurer to the purchaser at the address listed on the
21 tax lien sale certificate within 30 days of the sale.

22 (4) Reasonable costs incurred by the county treasurer in conducting the sale of the property must be
23 credited to the county general fund.

24 (5) Any money remaining after distributing sale proceeds as provided in subsections (2) through (4) must
25 be distributed to the former property owner within 30 days to the street address or other known address of the
26 subject property.

27 (6) (a) If the money distributed to the purchaser or former property owner is returned unopened to the
28 county treasurer, the treasurer shall give notice as provided in 7-1-2121 stating that:

29 (i) the county treasurer is in possession of money belonging to the purchaser or former property owner
30 for the sale of the property named in the tax lien sale certificate;

1 (ii) the money must be held by the county treasurer for a period of 1 year from the date of publication;
2 and

3 (iii) if the money is not claimed by the purchaser or former property owner within the 1-year period, the
4 purchaser or former property owner relinquishes all claim to the money and the money must be credited to the
5 county general fund.

6 (b) The publication required in subsection (6)(a) must be made at least annually, but the 1-year period
7 described in subsection (6)(a)(ii) may not begin until the date of publication.

8 (7) The county treasurer shall keep an accurate account of all money paid after the sale of the property,
9 including a separate accounting of delinquent taxes, interest, penalties, and costs, and when and to whom
10 distributed.

11
12

13 **NEW SECTION. Section 3. Form of deed from sale of tax lien property -- prima facie evidence.**

14 (1) The form of a deed issued as provided in [section 1], executed by a county treasurer, must be made as
15 follows:

16 This deed is made by (name of county treasurer), county treasurer of the county of (name
17 of county), in the state of Montana, to (name of purchaser at auction or private sale), as provided by the
18 laws of the state of Montana:

19 Whereas, there was assessed for (year) the following real property (description of the
20 property); and

21 Whereas, the taxes for (year) levied against the property amounted to \$; and

22 Whereas, the taxes were not paid and a property tax lien for the payment of the taxes attached and was
23 sold to (name of purchaser or the purchaser's agent or assignee) on (date, including year) for the
24 sum of \$, which amount included delinquent taxes in the amount of \$, penalties in the amount of
25 \$, interest in the amount of \$, and other costs in the amount of \$; and

26 Whereas, a tax lien sale certificate was issued and filed or the sale otherwise recorded as required by
27 law; and

28 Whereas, notice was given to required parties in accordance with 15-18-212 that the property may be
29 sold; and

30 Whereas, the property tax lien has not been redeemed by (name of former owner) or any other

1 person entitled to redeem it.

2 Now, therefore, I, (treasurer's name), county treasurer of the county of, in the state of
3 Montana, in consideration of the sum of \$ paid, hereby grant to (name of purchaser at auction or
4 private sale) all the property situated in County, state of Montana, described in this document.

5 Witness my hand on this date (date, including year).

6County Treasurer

7County

8 (2) A deed executed in the form provided in subsection (1) is prima facie evidence that:

9 (a) the property was assessed as required by law;

10 (b) the taxes were levied in accordance with law;

11 (c) the taxes were not paid when due;

12 (d) notice of tax lien sale was given and a property tax lien was sold at the proper time and place as
13 provided by law;

14 (e) the property was not redeemed, and proper notice of a pending sale of property was made as required
15 by law;

16 (f) the person who executed the deed was legally authorized to do so; and

17 (g) if the real property was sold to pay delinquent taxes on personal property, the real property belonged
18 to the person liable to pay the personal property tax.

19

20 **Section 4.** Section 7-12-4184, MCA, is amended to read:

21 **"7-12-4184. Reinstatement of delinquent assessment.** (1) Whenever any special assessment or
22 installment is delinquent, is declared to be delinquent by appropriate resolution of the city or town council, and
23 is certified to the county clerk and county treasurer for collection as provided in this part, the city or town council
24 may, nevertheless, at its option, by appropriate resolution, order the delinquent assessment to be withdrawn from
25 the county treasurer, canceled from the county treasurer's records and proceedings, and reinstated in the office
26 of the city treasurer and on the property tax record upon the payment to the city treasurer of the assessment or
27 the installment and interest up to date.

28 (2) The certified copy of the resolution of the council with reference to the payment, withdrawal, and
29 reinstatement, filed with the county treasurer, is authority for the county treasurer to cancel and withdraw the
30 delinquent special assessment or installment.

1 (3) The withdrawal and reinstatement may be made at any time before or after sale of the property for
2 delinquent taxes and before a ~~tax~~ deed is executed."

3

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

5 **"15-17-121. Definitions.** Except as otherwise specifically provided, when terms mentioned in Title 15,
6 chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

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

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

11 (i) preparing the list of delinquent taxes;

12 (ii) preparing the notice of pending tax lien sale;

13 (iii) conducting the tax lien sale;

14 (iv) assigning the county's interest in a tax lien to a third party;

15 (v) identifying interested persons entitled to notice of the pending ~~issuance of a tax deed~~ sale of property
16 for which a tax lien was not redeemed;

17 (vi) notifying interested persons;

18 (vii) issuing the ~~tax~~ deed; and

19 (viii) any other administrative task associated with accounting for or collecting delinquent taxes.

20 (b) The term includes costs that are required by law and incurred by the purchaser of a property tax lien
21 other than the county. The county treasurer may require the purchaser of the property tax lien to provide receipts
22 or may allow the purchaser of the property tax lien to provide a notarized affidavit of costs to the county treasurer
23 upon issuance of a tax lien sale certificate as required in 15-17-212 and notification that a ~~tax deed may be issued~~
24 property may be sold as required by ~~15-18-212 and 15-18-216~~ [section 1]. A county treasurer may at any time
25 require a purchaser who provided an affidavit of costs to submit the receipted costs upon which the affidavit was
26 based.

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

28 (i) postage for certified mailings and certified mailings with return receipt requested;

29 (ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending
30 ~~issuance of a tax deed~~ sale of the property pursuant to [section 1];

1 (iii) publishing costs for required publications; and

2 (iv) filing costs for proof of notice.

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

4 (4) "Deed" means a deed issued as provided in [section 1] and a tax deed as defined in this section.

5 ~~(4)~~(5) "Property tax lien" means a lien acquired by the payment at a tax lien sale of all outstanding
6 delinquent taxes, including penalties, interest, and costs.

7 ~~(5)~~(6) "Purchaser" means any person, other than the person to whom the property is assessed, who
8 pays at the tax lien sale the delinquent taxes, including penalties, interest, and costs, and receives a certificate
9 representing a lien on the property or who is otherwise listed as the purchaser. An assignee is a purchaser.

10 ~~(6)~~(7) "Tax", "taxes", or "property taxes" means all ad valorem property taxes, property assessments,
11 fees related to property, and assessments for special improvement districts and rural special improvement
12 districts.

13 (8) "Tax deed" means a deed issued as provided in [section 1(5)] and 15-18-211.

14 ~~(7)~~(9) "Tax lien sale" means:

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

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

19

20 **Section 6.** Section 15-17-212, MCA, is amended to read:

21 **"15-17-212. Tax lien sale certificate.** (1) After receiving proof of mail notice to the person to whom the
22 property was assessed, as required by subsection (3), and upon receipt of all delinquent taxes, penalties, interest,
23 and costs, the county treasurer shall prepare a tax lien sale certificate that must contain:

24 (a) the date on which the property taxes became delinquent;

25 (b) the date on which a property tax lien was sold at a tax lien sale;

26 (c) the name and address of record of the person to whom the taxes were assessed;

27 (d) a description of the property on which the taxes were assessed;

28 (e) the name and mailing address of the purchaser;

29 (f) the amount paid to liquidate the delinquency, including a separate listing of the amount of the
30 delinquent taxes, penalties, interest, and costs;

1 (g) a statement that the certificate represents a lien on the property that may lead to the sale of the
 2 property or issuance of a tax deed for the property;

3 (h) a statement specifying the date on which the ~~purchaser will be entitled to a tax deed~~ property will be
 4 eligible to be sold; and

5 (i) an identification number corresponding to the tax lien sale certificate number recorded by the county
 6 treasurer as required in 15-17-213.

7 (2) The certificate must be signed by the county treasurer and delivered to the purchaser. A copy of the
 8 certificate must be filed by the treasurer in the office of the county clerk. A copy of the certificate must also be
 9 mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the
 10 person may contact the county treasurer for further information on property tax lien sales.

11 (3) Prior to paying delinquent taxes, penalties, interests, and costs received by the county treasurer
 12 under subsection (1), a person shall send notice of the proposed payment, by certified mail, to the person to
 13 whom the property was assessed. The form of the notice must be adopted by the department by rule. The notice
 14 must have been mailed at least 2 weeks prior to the date of the payment but may not be mailed earlier than 60
 15 days prior to the date of the payment. The person making the payment shall provide proof of the mailing."
 16

17 **Section 7.** Section 15-17-323, MCA, is amended to read:

18 **"15-17-323. Assignment of rights -- form.** (1) A tax lien sale certificate or other official record in which
 19 the county is listed as the purchaser must be assigned by the county treasurer to any person who, after providing
 20 proof of mail notice to the person to whom the property was assessed, as required by subsection (5), pays to the
 21 county the amount of the delinquent taxes, including penalties, interest, and costs, accruing from the date of
 22 delinquency.

23 (2) (a) The assignment made under subsection (1) must be in the form of an assignment certificate in
 24 substantially the following form:

25 I,, the treasurer of County, state of Montana, hereby certify that a tax lien sale for tax year
 26 20..., in the county of, was held on (date), for the purpose of liquidating delinquent assessments,
 27 and I further certify that a property tax lien for delinquent taxes in the following property (insert property
 28 description) was offered for sale and that there was no purchaser of the property tax lien. Accordingly, the county
 29 was listed as the purchaser as required by 15-17-214, MCA. As of the date of this certificate, the delinquency,
 30 including penalties, interest, and costs amounting to \$, has not been liquidated by the person to whom the

1 property was assessed, nor has the delinquency been otherwise redeemed.

2 Because there has been no liquidation of the delinquency or other redemption, I hereby assign all rights,
3 title, and interest of the county of, state of Montana, acquired in the property by virtue of the tax lien sale
4 to (name and address of assignee) to proceed to receive payment upon redemption of the lien or sale of
5 the property or to obtain a tax deed to the property or receive payment in case of redemption as provided by law.

6 Witness my hand and official seal of office this day of, 20...

7 County Treasurer

8 County

9 (b) A copy of an assignment certificate must be mailed to the person to whom the taxes were assessed,
10 at the address of record, together with a notice that the person may contact the county treasurer for further
11 information on lien assignments and property tax lien sales.

12 (3) An assignment made by a purchaser other than the county, by an assignee of the county, or by a
13 previous assignee may be made for any consideration whatsoever. An assignment so made is legal and binding
14 only upon filing with the county treasurer a statement that the purchaser's or other assignee's interest in the
15 property has been assigned. The statement must contain:

- 16 (a) the name and address of the new assignee;
- 17 (b) the name and address of the original purchaser of the tax lien sale certificate;
- 18 (c) the name and address of each previous assignee, if any;
- 19 (d) a description of the property upon which the property tax lien was issued, which must contain the
20 same information as contained in the tax lien sale certificate or assignment certificate, as appropriate;
- 21 (e) the signature of the party, whether it is the purchaser or the assignee, making the assignment;
- 22 (f) the signature of the new assignee; and
- 23 (g) the date on which the statement was signed.

24 (4) If the certificate described in subsection (1) or the statement described in subsection (3) is lost or
25 destroyed, the county treasurer shall, upon adequate proof and signed affidavit by the assignee that loss or
26 destruction has occurred, issue a duplicate certificate to the assignee.

27 (5) Prior to making a payment under subsection (1), a person shall send notice of the proposed payment,
28 by certified mail, to the person to whom the property was assessed. The form of the notice must be adopted by
29 the department by rule. The notice must have been mailed at least 2 weeks prior to the date of the payment. The
30 person making the payment shall provide proof of the mailing.

1 (6) The provisions of this section apply to any sale of land for which a treasurer's deed was not issued
 2 on or before March 5, 1917, or for which a tax deed was not issued on or before April 23, 1987, and the holder
 3 of any certificate described in subsection (1) has the same rights, powers, and privileges with regard to securing
 4 a deed as any purchaser of land at a tax lien sale may now have."

5

6 **Section 8.** Section 15-18-111, MCA, is amended to read:

7 **"15-18-111. Time for redemption -- interested party.** (1) Except as provided in subsection (2),
 8 redemption of a property tax lien acquired at a tax lien sale or otherwise may be made by the owner, the holder
 9 of an unrecorded or improperly recorded interest, the occupant of the property, or any interested party within 36
 10 months from the date of the first day of the tax lien sale ~~or within 60 days following the giving of the notice~~
 11 ~~required in 15-18-212, whichever is later.~~

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

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

22

23 **Section 9.** Section 15-18-112, MCA, is amended to read:

24 **"15-18-112. Redemption from property tax lien -- lien on interest in property for taxes paid.** (1)
 25 Except as provided in subsection (4), in all cases in which a property tax lien has been acquired, the purchaser
 26 may pay the subsequent taxes assessed against the property.

27 (2) Upon the redemption of the property from the property tax lien, the redemptioner shall, in addition
 28 to the amount for which the property tax lien was sold, including penalties, interest, and costs, pay the subsequent
 29 taxes assessed, with interest and penalty at the rate established for delinquent taxes in 15-16-102.

30 (3) An owner of less than all of the interest or a lienholder with an interest in real property who redeems

1 a property tax lien on the property has a lien for the taxes paid on the interests of the property that are not owned
2 by the redemptioner.

3 (4) The property tax lien may also be redeemed for a particular tax year by a partial payment of that tax
4 year, as provided in 15-16-102(5), if:

5 (a) the property tax lien for the year in which the partial payment is made is owned by the county;

6 (b) the property has not been sold at auction or private sale pursuant to [section 1]; and

7 ~~(b)~~(c) the tax deed has not been issued pursuant to 15-18-211."
8

9 **Section 10.** Section 15-18-211, MCA, is amended to read:

10 "**15-18-211. Tax deed -- fee.** (1) Except as provided in subsection (3), if the property ~~tax lien~~ is not
11 ~~redeemed~~ sold in the time allowed under ~~15-18-111~~ [section 1(5)], the county treasurer shall grant the purchaser
12 a tax deed for the property. The deed must contain the same information as is required in a tax lien sale certificate
13 under 15-17-212, except the description of the property must be the full legal description, and a statement that
14 the property tax lien was not redeemed during the redemption period provided in 15-18-111 or sold as provided
15 in [section 1].

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

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

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

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

26 (4) Deeds issued to purchasers must be recorded by the county clerk as provided in Title 7, chapter 4,
27 part 26, except that when the county is the purchaser and subsequent tax deed holder, the county clerk may not
28 charge a fee for recording the deed."
29

30 **Section 11.** Section 15-18-212, MCA, is amended to read:

1 **"15-18-212. Notice -- proof of notice -- penalty for failure to notify.** (1) Not more than 60 days prior
 2 to and not more than 60 days following the expiration of the redemption period provided in 15-18-111, a notice
 3 must be given as follows:

4 (a) for each property for which there has been issued to the county a tax lien sale certificate or for which
 5 the county is otherwise listed as the purchaser or assignee, the county clerk and recorder shall notify the parties
 6 as required in subsection (4) and the current occupant of the property, if any, that ~~a tax deed may be issued to~~
 7 ~~the county~~ the property may be sold as provided in [section 1] unless the property tax lien is redeemed prior to
 8 the expiration date of the redemption period; or

9 (b) for each property for which there has been issued a tax lien sale certificate to a purchaser other than
 10 the county or for which an assignment has been made, the purchaser or assignee, as appropriate, shall notify
 11 the parties as required in subsection (4), if any, that ~~a tax deed will be issued to the purchaser or assignee~~ the
 12 property will be sold as provided in [section 1] unless the property tax lien is redeemed prior to the expiration date
 13 of the redemption period.

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

22 (b) If the county commissioners direct the county treasurer to ~~issue a tax deed~~ sell the property within
 23 6 months after giving the notice required by subsection (1)(a), additional notice need not be given.

24 (3) (a) ~~If a purchaser other than the county or an assignee fails or neglects to give notice as required by~~
 25 ~~subsection (1)(b) and the failure or neglect is evidenced by failure of the purchaser or assignee to file proof of~~
 26 ~~notice with the county clerk and recorder as required in subsection (8);~~ Between January 1 and January 31 of
 27 the year in which the redemption period expires, the county treasurer shall notify the purchaser or assignee of
 28 the obligation to give notice under subsection (1)(b). The notice of obligation may be sent by certified mail, return
 29 receipt requested, to the purchaser or assignee at the address contained on the tax lien sale certificate provided
 30 for in 15-17-212 or on the assignment form provided for in 15-17-323.

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

6 (4) (a) The notice required under subsections (1) and (2) must be made by certified mail, return receipt
 7 requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a
 8 property title guarantee, provided that:

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

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

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

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

21 ~~—— (a) the name of the party for whom the address is unknown;~~

22 ~~—— (b) a statement that the address of the party is unknown;~~

23 ~~—— (c) a statement that the published notice meets the legal requirements for notice of a pending tax deed~~
 24 ~~issuance; and~~

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

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

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

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

30 ~~—— (c) the date that the property taxes became delinquent;~~

- 1 ~~_____ (d) the date that the property tax lien attached as the result of a tax lien sale;~~
 2 ~~_____ (e) the amount of taxes due, including penalties, interest, and costs, as of the date of the notice of~~
 3 ~~pending tax deed issuance, which amount must include a separate listing of the delinquent taxes, penalties,~~
 4 ~~interest, and costs that must be paid for the property tax lien to be liquidated;~~
 5 ~~_____ (f) the name and address of the purchaser;~~
 6 ~~_____ (g) the name of the assignee if an assignment was made as provided in 15-17-323;~~
 7 ~~_____ (h) the date that the redemption period expires or expired;~~
 8 ~~_____ (i) a statement that if all taxes, penalties, interest, and costs are not paid to the county treasurer on or~~
 9 ~~prior to the date on which the redemption period expires or on or prior to the date on which the county treasurer~~
 10 ~~will otherwise issue a tax deed, a tax deed may be issued to the purchaser on the day following the date on which~~
 11 ~~the redemption period expires or on the date on which the county treasurer will otherwise issue a tax deed; and~~
 12 ~~_____ (j) the business address and telephone number of the county treasurer who is responsible for issuing~~
 13 ~~the tax deed, give notice in the form required by 15-18-215.~~

14 ~~(7)(6)~~ The amount of interest and costs provided for in subsection ~~(6)(e)~~ continues to accrue until the
 15 date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated
 16 by the county treasurer as of the date of payment.

17 (7) The owner of a property for which a tax lien has not been redeemed and which is subject to the sale
 18 provisions of [section 1] may consent to the sale provided for in [section 1] by filing with the county treasurer an
 19 affidavit consenting to the sale. The fact that the owner consented to the sale must be included in the notice of
 20 the auction required in [section 1].

21 (8) Proof of notice ~~in whatever manner~~ must be given as provided in 15-18-216 and must be filed with
 22 the county clerk and recorder. If the purchaser or assignee is other than the county, the proof of notice must be
 23 filed with the county clerk and recorder within 30 days of the mailing or publishing of the notice. If the purchaser
 24 or assignee is the county, the proof of notice must be filed before the ~~issuance of the tax deed~~ sale of the property
 25 under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

26 (9) A county or any officer of a county may not be held liable for any error of notification."
 27

28 **Section 12.** Section 15-18-213, MCA, is amended to read:

29 **"15-18-213. Form of tax deed -- prima facie evidence.** (1) The form of a tax deed issued under the
 30 provisions of this chapter, executed by a county treasurer, must be made in substance as follows:

1 This deed is made by (name of county treasurer), county treasurer of the county of (name
2 of county), in the state of Montana, to (name of purchaser, the purchaser's agent, or assignee), as
3 provided by the laws of the state of Montana:

4 Whereas, there was assessed for (year) the following real property (description of the
5 property); and

6 Whereas, the taxes for (year) levied against the property amounted to \$; and

7 Whereas, the taxes were not paid and a property tax lien for the payment of the taxes attached and was
8 sold to (name of purchaser or the purchaser's agent or assignee) on (date, including year) for the
9 sum of \$, which amount included delinquent taxes in the amount of \$, penalties in the amount of
10 \$, interest in the amount of \$, and other costs in the amount of \$; and

11 Whereas, a tax lien sale certificate was issued and filed or the sale otherwise recorded as required by
12 law; and

13 Whereas, notice was given to required parties in accordance with 15-18-212 that the ~~issuance of a tax~~
14 ~~deed was~~ sale of the property was pending; and

15 Whereas, the property was offered at public auction on (date) and available for private sale until
16 (date) as provided in [section 1] but was not sold; and

17 Whereas, the property tax lien has not been redeemed by (name of former owner) or any other
18 person entitled to redeem it.

19 Now, therefore, I, (treasurer's name), county treasurer of the county of, in the state of
20 Montana, in consideration of the sum of \$ paid, hereby grant to (name of purchaser or the
21 purchaser's agent or assignee) all the property situated in County, state of Montana, described in this
22 document.

23 Witness my hand on this date (date, including year).

24County Treasurer

25County

26 (2) A tax deed executed in substantially the form provided in subsection (1) is prima facie evidence that:

27 (a) the property was assessed as required by law;

28 (b) the taxes were levied in accordance with law;

29 (c) the taxes were not paid when due;

30 (d) notice of tax lien sale was given and a property tax lien was sold at the proper time and place as

1 provided by law;

2 (e) the property was not redeemed; and proper notice of a pending ~~tax deed issuance~~ sale of property
3 was made as required by law;

4 (f) the property was offered for public auction and private sale as provided in [section 1];

5 ~~(f)(g)~~ the person who executed the deed was legally authorized to do so; and

6 ~~(g)(h)~~ if the real property was sold to pay delinquent taxes on personal property, the real property
7 belonged to the person liable to pay the personal property tax."

8

9 **Section 13.** Section 15-18-214, MCA, is amended to read:

10 **"15-18-214. Effect of deed.** (1) A deed issued under this chapter conveys to the grantee absolute title
11 to the property described in the deed as of the date ~~of the expiration of the redemption period~~ the deed is issued,
12 free and clear of all liens and encumbrances, except:

13 (a) when the claim is payable after the execution of the deed and:

14 (i) a property tax lien attaches subsequent to the tax lien sale; or

15 (ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the
16 property;

17 (b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully
18 imposed on the property; or

19 (c) when the land is owned by the United States, this state, or a subdivision of this state.

20 (2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of
21 possession accrued as of the date ~~of expiration of the period for redemption or the date upon which a tax deed~~
22 ~~was otherwise issued.~~"

23

24 **Section 14.** Section 15-18-215, MCA, is amended to read:

25 **"15-18-215. Form of notice that ~~tax deed may issue~~ property may be sold.** Section 15-18-212
26 requires that notice be given to all persons considered interested parties and to the current occupant of property
27 that may be ~~lost to a tax deed~~ sold if the tax lien is not redeemed. The notice ~~may~~ must be made as follows:

28 NOTICE THAT A ~~TAX DEED~~ PROPERTY MAY BE ISSUED SOLD

29 TO:.....

30 (Name)

.....

(Address, when unknown, so state)



1 Pursuant to section 15-18-212, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

2 1. As a result of a property tax delinquency, a property tax lien exists on the following described real
3 property in which you may have an interest:

4
5

6 2. The property taxes became delinquent on

7 3. The property tax lien was attached as the result of a tax lien sale held on

8 4. The property tax lien was purchased at a tax lien sale on by (Name) (Address).

9 5. The lien was subsequently assigned to (if applicable).

10 6. As of the date of this notice, the amount of tax due is:

11 TAXES:.....

12 PENALTY:.....

13 INTEREST:.....

14 COST:.....

15 TOTAL:.....

16 7. For the property tax lien to be liquidated, the total amount listed in paragraph 6 must be paid by,
17 which is the date that the redemption period expires or expired.

18 8. If all taxes, penalties, interest, and costs are not paid to the county treasurer on or prior to, which
19 is the date the redemption period expires, ~~or on or prior to the date on which the county treasurer will otherwise~~
20 ~~issue a tax deed, a tax deed may be issued to the purchaser~~ the property may be sold on the day following the
21 date that the redemption period expires ~~or on the date the county treasurer will otherwise issue a tax deed.~~

22 9. The property owner may consent to the sale of the property by filing an affidavit with the county
23 treasurer. Upon sale of the property, delinquent taxes, penalties, and costs will be subtracted from the sale price
24 and the owner will receive any remaining funds. If the property does not sell within 1 year, the possessor of the
25 tax lien will be eligible to receive a tax deed for the property.

26 10. The business address and telephone number of the county treasurer who is responsible for ~~issuing~~
27 ~~the tax deed~~ selling the property is: County Treasurer, (Address), (Telephone).

28 FURTHER NOTICE FOR THOSE PERSONS LISTED
29 ABOVE WHOSE ADDRESSES ARE UNKNOWN:

30 1. The address of the interested party is unknown.



1 2. The published notice meets the legal requirements for notice of a pending ~~tax deed issuance~~ sale of
2 property.

3 3. The interested party's rights in the property may be in jeopardy.

4 DATED at this (Date).

5
6 "Signature"

8 **Section 15.** Section 15-18-216, MCA, is amended to read:

9 **"15-18-216. Form of proof of notice.** Section 15-18-212 requires that proof of notice must be filed with
10 the county clerk. The proof of notice ~~may~~ must be made as follows:

11 PROOF OF NOTICE

12 I, (Name and Address), acting as or on behalf of the owner of the property tax lien, have complied
13 with the notice requirements of Title 15, chapter 18, MCA, as follows:

14 1. A "Notice of ~~Issuance of Tax Deed~~ That Property May Be Sold" was mailed to the owners, current
15 occupant, and parties, as required by 15-18-212, MCA. A copy of each notice is attached or is on file in the office
16 of the county clerk.

17 2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are
18 attached or are on file in the office of the county clerk.

19 3. Notice was given to parties with unknown addresses by publishing in the official newspaper of the
20 county, which is, on and Proof of publication is attached.

21 DATED:

22
23 (Signature)

24 SUBSCRIBED AND SWORN TO before me this (Date).

25

26 Notary Public for the State of Montana

27 Residing in

28 My Commission Expires"

29

30 **Section 16.** Section 15-18-217, MCA, is amended to read:

1 **"15-18-217. Form of cancellation.** The notice of cancellation required by 15-18-212 of a tax lien as
2 evidenced by a tax lien sale certificate or assignment may be made as follows:

3 I,, the treasurer of County, certify that (name of the purchaser or the purchaser's agent or
4 assignee) of (address), purchased a tax lien (tax lien sale certificate no. or tax lien assignment no.) on
5 property owned by (name of owner of record). See legal description attached as exhibit "A", Tax Receipt No.
6 on (date).

7 I further certify that pursuant to 15-18-212(3)(a), notice was given to (name of purchaser or the
8 purchaser's agent or assignee) that the tax lien will be canceled if the purchaser does not comply with provisions
9 of 15-18-212 ~~within 120 days from~~ (date of mailing of certified letter).

10 I further certify that the treasurer of County has no record of notice by the owner of the tax lien in
11 accordance with 15-18-212(8).

12 Therefore, noncompliance by the assignee has caused the tax lien to be canceled this (date).

13

14 Name of County Treasurer"

15

16 **Section 17.** Section 15-18-411, MCA, is amended to read:

17 **"15-18-411. Action to quiet title to tax deed -- notice.** (1) (a) In an action brought to set aside or annul
18 any tax deed or to determine the rights of a purchaser to real property claimed to have been acquired through
19 tax proceedings or a tax lien sale, the purchaser, upon filing an affidavit, may obtain from the court an order
20 directed to the person claiming to:

- 21 (i) own the property;
- 22 (ii) have any interest in or lien upon the property;
- 23 (iii) have a right to redeem the property; or
- 24 (iv) have rights hostile to the tax title.

25 (b) The person described in subsections (1)(a)(i) through (1)(a)(iv) is referred to as the true owner.

26 (c) Except as provided in subsection (1)(d), the order described in subsection (1)(a) may command the
27 true owner to:

- 28 (i) deposit with the court for the use of the purchaser:

29 (A) the amount of all taxes, interest, penalties, and costs that would have accrued if the property had
30 been regularly and legally assessed and taxed as the property of the true owner and was about to be redeemed

1 by the true owner; and

2 (B) the amount of all sums reasonably paid by the purchaser following the order and after 3 years from
3 the date of the tax lien sale to preserve the property or to make improvements on the property while in the
4 purchaser's possession, as the total amount of the taxes, interest, penalties, costs, and improvements is alleged
5 by the plaintiff and as must appear in the order; or

6 (ii) show cause on a date to be fixed in the order, not exceeding 30 days from the date of the order, why
7 the payment should not be made.

8 (d) The deposit provided for in subsection (1)(c) may not be required of a person found by the court to
9 be indigent following an examination into the matter by the court upon the request of a true owner claiming to be
10 indigent.

11 (2) The affidavit must list the name and address of the true owner and whether the owner is in the state
12 of Montana, if known to the plaintiff, or state that the address of the true owner is not known to the plaintiff.

13 (3) (a) The order must be filed with the county clerk and a copy served personally upon each person
14 shown in the affidavit claiming to be a true owner and whose name and address are reasonably ascertainable.

15 (b) Jurisdiction is acquired over all other persons by:

16 (i) publishing the order once in the official newspaper of the county;

17 (ii) posting the order in three public places in the county at least 10 days prior to the hearing; and

18 (iii) giving a copy to the county treasurer."
19

20 **Section 18.** Section 15-18-413, MCA, is amended to read:

21 **"15-18-413. Title conveyed by deed -- defects.** (1) All deeds executed more than 3 years after the
22 applicable tax lien sale convey to the grantee absolute title to the property described in the deed as of 3 years
23 following the date of sale of the property interest at the tax lien sale.

24 (2) The conveyance includes:

25 (a) all right, title, interest, estate, lien, claim, and demand of the state of Montana and of the county in
26 and to the property; and

27 (b) the right, if the tax deed, deed issued pursuant to [section 1], tax lien sale, or any of the tax
28 proceedings upon which the deed may be based are attacked and held irregular or void, to recover the unpaid
29 taxes, interest, penalties, and costs that would accrue if the tax proceedings had been regular and it was desired
30 to redeem the property.

1 (3) The ~~tax~~ deed is free of all encumbrances except as provided in 15-18-214(1)(a) through (1)(c).

2 (4) A ~~tax~~ deed is prima facie evidence of the right of possession accruing as of the date of the ~~expiration~~
3 ~~of the redemption period described in 15-18-114~~ issuance of the deed.

4 (5) (a) Subject to subsection (5)(b), if any ~~tax deed or deed purporting to be a tax deed~~ is issued ~~more~~
5 ~~than 3 years and 30 days after the date of the sale of the property interest at the applicable tax lien sale~~ pursuant
6 to [section 1] or 15-18-211, the grantee may publish in the official newspaper of the county, once a week for 2
7 consecutive weeks, a notice entitled "Notice of Claim of a Tax Title". The notice must:

8 (i) describe all property claimed to have been acquired by a ~~tax~~ deed;

9 (ii) contain an estimate of the amount due on the property for delinquent taxes, interest, penalties, and
10 costs;

11 (iii) contain a statement that for further specific information, reference must be made to the records in the
12 office of the county treasurer;

13 (iv) list the name and address of record of the person in whose name the property was assessed or
14 taxed; and

15 (v) contain a statement that demand is made that the true owner shall, within 30 days after the later of
16 service or the first publication of the notice, pay to the county treasurer for use by the claimant the amount of
17 taxes, interest, penalties, and costs as the same appear in the records of the county treasurer to redeem the
18 property or the true owner may bring a suit to quiet the true owner's title or to set aside the ~~tax~~ deed.

19 (b) The notice described in subsection (5)(a) must be served on a taxpayer whose name and address
20 are reasonably ascertainable.

21 (6) (a) Provided that the statutory requirements for a notice of intended ~~issuance of a tax deed sale of~~
22 a property required by 15-18-212 have been complied with and if within the 30-day period ~~the taxes, interest,~~
23 ~~penalties, and costs are not paid or~~ a quiet title action is not brought, all defects in the tax proceedings and any
24 right of redemption are considered waived. Except as provided in subsection (6)(b), after the 30-day period, the
25 title to the property described in the notice and in the ~~tax~~ deed is valid and binding, irrespective of any
26 irregularities, defects, or omissions in any of the provisions of the laws of Montana regarding the assessment,
27 levying of taxes, or sale of property for taxes, whether or not the irregularities, defects, or omissions could void
28 the proceedings.

29 (b) The proceedings in subsection (6)(a) are void if the taxes were not delinquent or have been paid."
30

1 **Section 19.** Section 76-7-204, MCA, is amended to read:

2 **"76-7-204. Environmental control easement conveyances.** (1) The designated grantee of an
3 environmental control easement granted under this chapter is one or more of the following entities:

4 (a) a federal public entity;

5 (b) the state of Montana, acting by and through the department or any other state agency;

6 (c) any other public body having jurisdiction over the environmental control site; or

7 (d) a qualified private organization.

8 (2) A grantee's acceptance of the easement interest and related obligations must be evidenced by the
9 grantee's execution of the instrument creating the environmental control easement.

10 (3) Prior to or contemporaneously with the conveyance of an environmental control easement to a
11 designated grantee, the environmental control site owner shall:

12 (a) obtain documents demonstrating that every person or entity holding an interest in the environmental
13 control site or any part of the site, including without limitation each mortgagee, lienholder, lessee, and
14 encumbrancer, irrevocably subordinates the entity's interest to the environmental control easement;

15 (b) record the documents required under subsection (3)(a) in the appropriate county; and

16 (c) submit those documents required under subsection (3)(a) to the designated grantee.

17 (4) An environmental control easement may not be separated from the land and survives foreclosure
18 of a mortgage, lien, or other encumbrance, as well as tax lien sales, a sale pursuant to [section 1], and the
19 issuance of a tax deed."

20

21 **Section 20.** Section 77-2-315, MCA, is amended to read:

22 **"77-2-315. Participation in irrigation districts -- lien status of land.** (1) A purchaser of state lands
23 is authorized and empowered to sign any petition that the purchaser may desire to sign for the creation of an
24 irrigation district and the inclusion of the land purchased from the state in the irrigation district and any other
25 petition relating to irrigation districts affecting the land purchased by the person from the state. The petition or
26 petitions have the effect of making all the interest that the person then has in the land purchased from the state
27 and all interest that the person may subsequently acquire in the land subject to the same liens and charges as
28 privately owned lands under the irrigation district. If for any reason the person's certificate to the state lands and
29 the person's rights under the certificate are canceled and the certificate is reinstated or a new certificate is issued,
30 the liens and charges are valid against the interest in the lands of the holder of the certificate.

1 (2) The board for and on behalf of the state of Montana may sign a petition for the inclusion of any lands
2 belonging to the state in an irrigation district organized or to be organized for the purpose of cooperating with the
3 United States under the federal reclamation laws or any act of congress relating to reclamation projects and to
4 sign any petition for the execution of a contract between the district and the United States. The interest of the
5 state in any lands within an irrigation district is not subject to assessment or taxation for any purpose, and the
6 state is not liable for the payment of any costs or charges arising from the fact that its lands are included within
7 an irrigation district.

8 (3) The interest of a purchaser of state lands in the land purchased is subject to the same liens as other
9 real estate. However, in the case of sale, only the interest of the purchaser or of the assignee may be sold. In the
10 case of any sale under the provisions of this section, including the sale for taxes, the purchaser shall succeed
11 to all the rights of the purchaser from the state under the certificate of purchase and a new certificate of purchase
12 must be issued to the person entitled to the certificate upon satisfactory proof being submitted to the board. In
13 the case of sale under execution or court decree, the new certificate of purchase may not be issued by the board
14 until the period of redemption from the sale has expired and the sheriff's deed has been issued. In the case of
15 sale for taxes, the new certificate may not be issued until the ~~tax~~ deed has been issued."

16
17 NEW SECTION. **Section 21. Codification instruction.** [Sections 1 through 3] are intended to be
18 codified as an integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2, apply
19 to [sections 1 through 3].

20
21 NEW SECTION. **Section 22. Applicability.** [This act] applies to tax lien sales initiated on or after [the
22 effective date of this act].

23

- END -