

## SENATE BILL NO. 253

INTRODUCED BY C. SMITH, M. BLASDEL, W. GALT, G. HERTZ, D. KARY, F. MANDEVILLE, S. SALES,  
G. VANCE, T. JACOBSON, F. THOMAS, B. TSCHIDA

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LIEN AND TAX DEED LAWS;  
REVISING THE TAX LIEN AND TAX DEED PROCESS FOR RESIDENTIAL, AGRICULTURAL, AND FOREST  
PROPERTY WITH A DWELLING; PROVIDING THAT A TAX LIEN MAY ONLY BE ATTACHED IF DELINQUENT  
TAXES EXCEED \$1,000; REMOVING THE REQUIREMENT THAT CURRENT TAXES BE PAID BEFORE  
DELINQUENT TAXES; PROVIDING THAT A TAX LIEN BE ASSIGNED AT AUCTION TO THE PERSON WHO  
REQUESTS THE LOWEST INTEREST RATE; REQUIRING THE ASSIGNEE TO APPLY TO THE COUNTY  
TREASURER FOR A TAX DEED; PROVIDING THAT UPON APPLICATION OF FOR A TAX DEED, THE TAX  
DEED BE AUCTIONED TO THE HIGHEST BIDDER; PROVIDING A REQUIRED OPENING BID AT TAX DEED  
AUCTION THAT INCLUDES HALF THE ASSESSED VALUE IF OF THE PROPERTY INCLUDES A HABITABLE  
DWELLING OR COMMERCIAL STRUCTURE; PROVIDING THAT THE TRUE PROPERTY OWNER AND  
LIENHOLDERS OF A TAX DEED AUCTIONED PROPERTY CAN REQUEST FUNDS IN EXCESS OF THE  
DIFFERENCE BETWEEN THE SALE PRICE AND THE OPENING BID; AMENDING SECTIONS ~~15-16-102,~~  
15-17-121, ~~15-17-122, 15-17-125, 15-17-323, 15-17-326,~~ 15-18-112, 15-18-211, 15-18-212, 15-18-213,  
15-18-214, 15-18-215, 15-18-216, 15-18-217, 15-18-411, 15-18-412, 15-18-413, AND 70-9-803, MCA;  
REPEALING SECTIONS ~~15-18-216 AND 15-18-217, MCA;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE  
DATE AND AN APPLICABILITY DATE."

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

**NEW SECTION. SECTION 1. APPLICATION FOR TAX DEED FOR RESIDENTIAL PROPERTY -- FEE -- NOTICE. (1)**

(A) IF A PROPERTY TAX LIEN ATTACHED TO ~~CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING~~ THE PROPERTY  
PROVIDED FOR IN SUBSECTION (1)(B) IS NOT REDEEMED IN THE TIME ALLOWED UNDER 15-18-111, THE ASSIGNEE MAY FILE  
AN APPLICATION AFTER THE REDEMPTION PERIOD HAS EXPIRED WITH THE COUNTY TREASURER FOR A TAX DEED FOR THE  
PROPERTY. THE DEED APPLICATION MUST CONTAIN THE SAME INFORMATION AS IS REQUIRED IN ~~A TAX LIEN CERTIFICATE~~  
~~UNDER 15-17-125 AND AN ASSIGNMENT CERTIFICATE UNDER 15-17-323,~~ EXCEPT THE DESCRIPTION OF THE PROPERTY  
~~MUST BE THE FULL LEGAL DESCRIPTION~~ 15-18-211(1). THE COUNTY TREASURER SHALL CHARGE THE ASSIGNEE A \$25

1 APPLICATION FEE. THE FEE MUST BE DEPOSITED IN THE COUNTY GENERAL FUND.

2 ~~(B) IF THE TAX DEED APPLICATION IS MADE BY THE COUNTY AS PROVIDED IN SUBSECTION (3), NO APPLICATION~~  
3 ~~FEE MAY BE CHARGED.~~

4 (B) THE FOLLOWING PROPERTY IS SUBJECT TO THE PROVISIONS OF THIS SECTION IF IT CONTAINS A DWELLING:

5 (I) LAND CLASSIFIED AS RESIDENTIAL PURSUANT TO 15-6-134;

6 (II) LAND CLASSIFIED AS AGRICULTURAL PURSUANT TO 15-6-133(1)(A) AND (1)(C); AND

7 (III) LAND CLASSIFIED AS FOREST PROPERTY PURSUANT TO 15-6-143.

8 (C) FOR THE PROPERTY PROVIDED FOR IN SUBSECTION (1)(B)(II) AND (1)(B)(III), THE PROVISIONS OF THIS  
9 SECTION ALSO APPLY TO OTHER PROPERTY OF THE SAME CLASS THAT IS INCLUDED ON THE SAME TAX BILL.

10 (2) ~~(A) AN ASSIGNEE WHO APPLIES FOR A TAX DEED FOR CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING~~  
11 PURSUANT TO THIS SECTION SHALL PAY THE COUNTY TREASURER AT THE TIME OF THE TAX DEED APPLICATION:

12 ~~(I) THE AMOUNT REQUIRED TO REDEEM ANY OUTSTANDING TAX LIENS, PENALTIES, AND INTEREST ON THE~~  
13 ~~PROPERTY;~~

14 (A) THE AMOUNT REQUIRED TO REDEEM ANY UNASSIGNED TAX LIENS OR TAX LIENS HELD BY OTHER ASSIGNEES;

15 ~~(II)(B) ANY DELINQUENT TAXES, PENALTIES, AND INTEREST;~~

16 ~~(III)(C) CURRENT TAXES DUE FOR THE PROPERTY; AND~~

17 ~~(IV)(D) THE COST OF RECORDING FILING THE NOTICE OF A TAX DEED APPLICATION.~~

18 ~~(B) THE ASSIGNEE SHALL ALSO PAY WITHIN 30 DAYS OF NOTICE BY THE COUNTY TREASURER THE COSTS~~  
19 ~~REQUIRED TO BRING THE PROPERTY TO SALE, INCLUDING COSTS FOR PROPERTY INFORMATION SEARCHES, MAILING COSTS,~~  
20 ~~AND COSTS OF RESALE, IF APPLICABLE.~~

21 ~~\_\_\_\_\_ (3) IF NO ASSIGNMENT HAS BEEN MADE, THE BOARD OF COUNTY COMMISSIONERS MAY, BY RESOLUTION, DIRECT~~  
22 ~~THE COUNTY TREASURER TO FILE AN APPLICATION FOR A TAX DEED.~~

23 ~~(4)(3) (A) THE COUNTY TREASURER SHALL HAVE THE COUNTY CLERK AND RECORDER RECORD~~ FILE A NOTICE OF  
24 THE TAX DEED APPLICATION, WHICH CONSTITUTES NOTICE OF THE PENDENCY OF THE TAX DEED APPLICATION WITH  
25 RESPECT TO THE PROPERTY AND REMAINS EFFECTIVE FOR 1 YEAR FROM THE DATE OF THE RECORDING FILING.

26 (B) A PERSON ACQUIRING AN INTEREST IN THE PROPERTY AFTER THE TAX DEED APPLICATION NOTICE HAS BEEN  
27 RECORDED FILED IS CONSIDERED TO BE ON NOTICE OF THE PENDING TAX DEED SALE, AND NO ADDITIONAL NOTICE IS  
28 REQUIRED. THE SALE OF THE PROPERTY AUTOMATICALLY RELEASES ANY RECORDED FILED NOTICE OF TAX DEED  
29 APPLICATION FOR THE PROPERTY.

30 (C) IF THE PROPERTY IS REDEEMED, THE COUNTY TREASURER SHALL RECORD FILE A RELEASE OF THE NOTICE

1 OF TAX DEED APPLICATION.

2 ~~(5) UPON APPLICATION FOR A TAX DEED, THE COUNTY TREASURER SHALL CONTRACT WITH A TITLE COMPANY OR~~  
 3 ~~AN ABSTRACT COMPANY FOR PURPOSES OF DETERMINING THE NAMES AND ADDRESSES OF THE PERSONS REQUIRED TO~~  
 4 ~~BE NOTICED OF A PENDING PUBLIC AUCTION. NOTICE MUST BE GIVEN TO THE OWNER OF RECORD OF THE PROPERTY, THE~~  
 5 ~~CURRENT OCCUPANT, IF ANY, AND TO EACH PARTY, OTHER THAN A UTILITY THAT HAS AN INTEREST OR POSSIBLE CLAIM~~  
 6 ~~OF AN INTEREST IN THE PROPERTY AND WOULD BE NECESSARY TO NAME IN A QUIET TITLE ACTION. THE COST OF THE~~  
 7 ~~REPORT MUST BE INCLUDED IN THE COSTS REQUIRED TO BRING THE PROPERTY TO SALE.~~

8 ~~—— (6) THE COUNTY TREASURER SHALL GIVE NOTICE TO THE PERSONS IDENTIFIED IN SUBSECTION (5). THE NOTICE~~  
 9 ~~MUST BE IN THE FORM PROVIDED BY 15-18-215 AND BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. THE~~  
 10 ~~COST OF PROVIDING NOTICE MUST BE INCLUDED IN THE COSTS REQUIRED TO BRING THE PROPERTY TO SALE.~~

11 (4) (A) PRIOR TO APPLYING FOR A TAX DEED, THE ASSIGNEE SHALL NOTIFY THE PARTIES AS REQUIRED IN  
 12 SUBSECTION (4)(B) THAT A TAX DEED WILL BE AUCTIONED UNLESS THE PROPERTY TAX LIEN IS REDEEMED BEFORE THE  
 13 DATE OF THE AUCTION.

14 (B) THE NOTICE REQUIRED UNDER SUBSECTION (4)(A) MUST BE IN THE FORM REQUIRED BY 15-18-215(1) AND  
 15 BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE CURRENT OCCUPANT, IF ANY, OF THE PROPERTY AND  
 16 TO EACH PARTY, OTHER THAN A UTILITY, LISTED ON A LITIGATION GUARANTEE, PROVIDED THAT THE GUARANTEE:

17 (I) HAS BEEN APPROVED BY THE INSURANCE COMMISSIONER AND ISSUED BY A LICENSED TITLE INSURANCE  
 18 PRODUCER;

19 (II) WAS ORDERED ON THE PROPERTY BY THE PERSON REQUIRED TO GIVE NOTICE; AND

20 (III) LISTS THE IDENTITIES AND ADDRESSES OF THE PARTIES OF RECORD THAT HAVE AN INTEREST OR POSSIBLE  
 21 CLAIM OF AN INTEREST IN THE PROPERTY DESIGNED TO DISCLOSE ALL PARTIES OF RECORD THAT WOULD OTHERWISE BE  
 22 NECESSARY TO NAME IN A QUIET TITLE ACTION.

23 (C) THE ADDRESS TO WHICH THE NOTICE MUST BE SENT IS, FOR EACH PARTY, THE ADDRESS DISCLOSED BY THE  
 24 RECORDS IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OR IN THE LITIGATION GUARANTEE AND, FOR THE  
 25 OCCUPANT, THE STREET ADDRESS OR OTHER KNOWN ADDRESS OF THE SUBJECT PROPERTY.

26 (D) IF THE ASSIGNEE FAILS TO GIVE NOTICE AS REQUIRED BY THIS SUBSECTION (4), AS EVIDENCED BY FAILURE  
 27 TO FILE PROOF OF NOTICE WITH THE COUNTY CLERK AND RECORDER AS REQUIRED IN SUBSECTION (5), THE COUNTY  
 28 TREASURER SHALL CANCEL THE PROPERTY TAX LIEN EVIDENCED BY THE TAX LIEN CERTIFICATE AND THE ASSIGNMENT  
 29 CERTIFICATE. UPON CANCELLATION OF THE PROPERTY TAX LIEN, THE COUNTY TREASURER SHALL FILE WITH THE COUNTY  
 30 CLERK AND RECORDER A NOTICE OF CANCELLATION ON A FORM PROVIDED FOR IN 15-18-217.

1           (5) PROOF OF NOTICE MUST BE GIVEN AS PROVIDED IN 15-18-216 AND MUST BE FILED WITH THE COUNTY CLERK  
 2 AND RECORDER. AN ASSIGNEE MUST FILE PROOF OF NOTICE WITH THE COUNTY CLERK AND RECORDER WITHIN 30 DAYS  
 3 OF THE MAILING OR PUBLISHING OF THE NOTICE. ONCE FILED, THE PROOF OF NOTICE IS PRIMA FACIE EVIDENCE OF THE  
 4 SUFFICIENCY OF THE NOTICE.

5  
 6           **NEW SECTION. Section 2. Sale at public auction -- notice of auction.** (1) Upon receipt of an  
 7 application for a tax deed pursuant to ~~15-18-211~~ [SECTION 1], the county treasurer shall hold a public auction in  
 8 the county in which the property is located within 60 days of receipt of the application. The county treasurer shall  
 9 publish notice of the auction as provided in 7-1-2121 that includes the date, time, and location of the auction, THE  
 10 LEGAL DESCRIPTION OF THE PROPERTY, THE DEPOSIT REQUIREMENT, AND THE MINIMUM OPENING BID. The auction must  
 11 be held during the regular office hours of the county treasurer.

12           (2) (a) The opening bid on the property must be the amount required in subsection (2)(b) ~~or (2)(c), as~~  
 13 ~~applicable~~, and the county treasurer may not accept a bid below the opening bid.

14           (b) The opening bid for ~~a property on which there is no habitable dwelling or commercial structure~~ THE  
 15 PROPERTY is equal to THE SUM OF:

16           (i) the amount required to redeem the tax lien, which includes delinquent taxes, penalties, ~~and the~~  
 17 ~~interest rate applied pursuant to 15-17-323~~ INTEREST, AND COSTS; and

18           (ii) amounts paid by the ~~applicant~~ ASSIGNEE upon application for the tax deed pursuant to ~~15-18-211(2)(a)~~  
 19 ~~and the costs required as provided in 15-18-211(2)(b)~~ [SECTION 1(2)] to bring the property to sale.; AND

20           ~~(c) The opening bid for a property on which there is a habitable dwelling or commercial structure is equal~~  
 21 ~~to the amounts provided for in subsections (2)(b)(i) and (2)(b)(ii) plus~~

22           (iii) an amount equal to half of the most recent assessed value of the dwelling LAND AND OF THE DWELLING  
 23 OR HALF OF THE VALUE OF THE LAND AND OF THE DWELLING AS DETERMINED IN AN INDEPENDENT APPRAISAL. IF THE  
 24 OPENING BID IS BASED ON AN INDEPENDENT APPRAISAL, THE APPRAISAL MUST BE PROVIDED TO THE COUNTY TREASURER,  
 25 MUST MEET THE STANDARDS SET BY THE MONTANA BOARD OF REAL ESTATE APPRAISERS, AND MUST HAVE BEEN  
 26 CONDUCTED WITHIN 6 MONTHS OF THE DATE OF THE AUCTION ~~or structure.~~

27           (3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid. Except  
 28 as provided in subsection (3)(b), the high bidder shall post with the county treasurer a nonrefundable deposit of  
 29 5% of the bid or \$200, whichever is greater, at the time of sale. The deposit is applied to the sale price at the time  
 30 of full payment. Notice of the deposit requirement must be posted at the auction site, and the county treasurer

1 may require bidders to show their ability to post the deposit. The county treasurer may refuse to recognize the  
2 bid of a person who has previously bid and refused, for any reason, to honor the bid.

3 (b) If the tax deed applicant is the high bidder, the tax deed applicant shall pay to the county treasurer  
4 any amounts included in the opening bid and not already paid, including ~~recording~~ FILING fees, tax deed fees, and;  
5 ~~if the property includes a dwelling or structure~~; one-half of the most recent assessed value of the improvement  
6 LAND AND OF THE DWELLING. The amounts paid with the tax deed application ~~and for the costs of bringing the~~  
7 ~~property to sale~~ must be subtracted from the deposit required in subsection (3)(a).

8 (c) If full payment of the purchase price and recording fees is not made within 24 hours of the sale,  
9 excluding weekends and legal holidays, the county treasurer shall cancel all bids, ~~readvertise~~ NOTICE the auction  
10 as provided in subsection (5), and pay costs of the resale from the deposit. Any funds remaining from the deposit  
11 must be applied to the opening bid.

12 (d) The portion of the opening bid that is equal to half of the most recent assessed value of the LAND AND  
13 OF THE dwelling ~~or structure~~ is considered surplus funds and, upon sale of the property, must be distributed as  
14 provided in [section ~~2(3)~~ 3(3)]. If the purchase price is higher than the opening bid, the difference between the  
15 purchase price and the opening bid is considered surplus funds and must be distributed as provided in [section  
16 ~~2(3)~~ 3(3)].

17 (4) Upon full payment of the purchase price, the county treasurer shall issue the tax deed in the form  
18 provided in 15-18-213 and distribute the funds as provided in [section ~~2~~ 3].

19 (5) If the sale is canceled for any reason or if the buyer fails to make full payment within the time  
20 required, the county treasurer shall ~~readvertise the sale~~, within 30 days after the buyer's nonpayment or, if  
21 ~~canceled, within 30 days of receipt of the costs of resale from the tax deed applicant~~ CANCELLATION OF THE SALE,  
22 NOTICE THE SALE AS PROVIDED IN SUBSECTION (1). The sale must be held within 30 days of ~~readvertising~~ THE DATE  
23 OF THE NOTICE. The opening bid provided for in subsection (2) must be increased by the cost of ~~advertising~~; GIVING  
24 NOTICE AND additional county treasurer's fees, ~~and interest at a rate of 1.5% per month~~.

25 (6) ~~On property for which there are no bidders at the public auction and for which the tax deed applicant~~  
26 ~~fails to timely pay costs of resale or fails to pay the amounts due for issuance of a tax deed within 30 days after~~  
27 ~~the sale pursuant to 15-18-211(2) [SECTION 1], the county treasurer shall enter the land on a list of property~~  
28 ~~available for taxes and shall immediately notify the county commission that the property is available. During the~~  
29 ~~first 90 days after the property is placed on the list, the county may purchase the property for the opening bid or~~  
30 ~~may waive its rights to purchase the property. If the county waives its right to purchase the property or after the~~

1 90 days have passed, any person, the county, or any other governmental unit may purchase the property from  
2 the county treasurer, without further notice or advertising, for the opening bid. Interest on the opening bid  
3 continues to accrue through the month of sale.

4 (6) AN AUCTION REQUIRED PURSUANT TO THIS SECTION MAY BE CONDUCTED ELECTRONICALLY.

5  
6 **NEW SECTION. Section 3. Distribution of tax deed auction proceeds.** (1) The county treasurer shall  
7 distribute the proceeds of a tax deed auction PURSUANT TO [SECTION 2] or a property purchased pursuant to  
8 ~~[section 1(6) 2(6)]~~ as provided in this section.

9 (2) If the tax deed is purchased by a person other than the person who applied for the tax deed, the  
10 county treasurer shall pay to the applicant for the tax deed:

11 (a) the amount paid for the assignment of the tax deed, including delinquent taxes, penalties, interest,  
12 and costs; and

13 (b) all amounts paid pursuant to ~~15-18-211(2)~~ [SECTION 1(2)] plus interest at the rate of 1.5% per month  
14 for the period from the month after the date of the application for the tax deed through the month of the sale.

15 (3) The surplus funds provided for in ~~[section 1(3)(d) 2(3)(D)]~~ must be retained by the county treasurer  
16 for the benefit of and distribution to those notified pursuant to ~~15-18-212(1) [SECTION 1(6) 1(4)]~~. ~~The county~~  
17 ~~treasurer shall mail notices to the persons notified pursuant to 15-18-212(1) [SECTION 1(6)] notifying them of the~~  
18 ~~funds held for their benefit.~~

19 ~~———— (4) (a) The notices must be in substantially the following form:~~

20 ~~———— NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE~~

21 ~~COUNTY TREASURER~~

22 ~~..... COUNTY, MONTANA~~

23 ~~Tax Deed #.....~~

24 ~~Tax Lien Number #.....~~

25 ~~Property Description: .....~~

26 ~~———— Pursuant to [section 1 2], Montana Code Annotated, the above property was sold at public auction on~~  
27 ~~.....(date of sale), and a surplus of \$.....(subject to change) will be held by this office for 120 days~~  
28 ~~beginning on the date of this notice to benefit the persons having an interest in this property as described in~~  
29 ~~15-18-212 [SECTION 1], MCA, as their interests may appear.~~

30 ~~———— To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage~~

1 or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former  
 2 property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim  
 3 with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your  
 4 lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.  
 5 \_\_\_\_\_ A copy of this notice must be attached to your statement of claim. After the office examines the filed claim  
 6 statements, it will notify you if you are entitled to any payment.

7 \_\_\_\_\_ Dated:.....  
 8 \_\_\_\_\_ County Treasurer .....

9 \_\_\_\_\_ (b) The mailed notice must include a form for making a claim as provided in subsection (5). Service  
 10 charges and the costs of the mailing must be paid out of the surplus funds held by the county treasurer. If the  
 11 county treasurer certifies that the surplus funds are not sufficient to cover the service charges and mailing costs,  
 12 the county treasurer shall receive the total amount of the surplus funds as a service charge.

13 \_\_\_\_\_ (5) A person receiving the notice provided for in subsection (4) has 120 days from the date of the notice  
 14 to file a written claim with the county treasurer for the surplus funds. A claim in substantially the following form  
 15 is deemed sufficient:

16 \_\_\_\_\_ CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

17 Complete and return to:

18 By mail:.....

19 By e-mail:.....

20 Note: The County Treasurer must pay all valid liens before distributing surplus funds to a titleholder.

21 Claimant's name:.....

22 Contact name, if applicable:.....

23 Address:.....

24 Telephone number:.....E-mail address:.....

25 Tax No:.....

26 Date of sale:.....

27 Check one:

28 .....I am not making a claim and waive any claim I might have to the surplus funds on this tax deed sale.

29 .....I claim surplus proceeds resulting from the above tax deed sale.

30 I am a (check one) Lienholder..... Titleholder.....



1 LIENHOLDER INFORMATION (Complete if claim is based on a lien against the sold property):

2 Type of Lien: Mortgage.....Court Judgment.....Other.....

3 Describe in detail:.....

4 .....

5 .....

6 If your lien is recorded in the county's official records, list the following, if known:

7 Recording date:.....

8 Instrument #:.....

9 Book #:.....

10 Page #:.....

11 Original amount of lien: \$.....

12 Amounts due: \$.....

13 Principal remaining due: \$.....

14 Interest due: \$.....

15 Fees and costs due, including late fees: \$(describe costs in detail, include additional sheet if needed).....

16 Attorney fees: \$(provide amount claimed): \$..... TITLEHOLDER INFORMATION (Complete if claim is  
17 based on title formerly held on sold property.)

18 Nature of title (check one): Deed.....Court Judgment...Other.... (describe in detail).....

19 If your former title is recorded in the county's official records, list the following, if known:

20 Recording date:.....

21 Instrument #:.....

22 Book #:.....

23 Page #:.....

24 Amount of surplus tax deed sale proceeds claimed: \$.....

25 I hereby swear or affirm that all of the above information is true and correct.

26 Date:.....

27 Signature:.....

28 STATE OF MONTANA

29 ..... COUNTY

30 Sworn to or affirmed and signed before me on.....(date) by.....(name of affiant):





1 NOTARY PUBLIC

2 Print, Type, or Stamp Commissioned Name of Notary)

3 Personally Known,.....or Produced Identification:.....

4 Identification Produced:.....

5 \_\_\_\_\_ (6) A claim may be:

6 \_\_\_\_\_ (a) mailed using the United States postal service. The filing date is the postmark on the mailed claim.

7 \_\_\_\_\_ (b) delivered using either a commercial delivery service or in person. The filing date is the day of delivery.

8 \_\_\_\_\_ (c) sent by fax or e-mail, as authorized by the county treasurer. The filing date is the date the county

9 treasurer receives the fax or e-mail. TO THE EXTENT POSSIBLE, THE SURPLUS FUNDS MUST BE DISTRIBUTED BY THE

10 COUNTY TREASURER TO SATISFY IN FULL EACH PERSON NOTIFIED PURSUANT TO [SECTION 1(4)] WITH A SENIOR MORTGAGE

11 OR LIEN IN THE PROPERTY BEFORE DISTRIBUTION OF ANY FUNDS TO ANY JUNIOR MORTGAGE OR LIEN CLAIMANT OR TO THE

12 FORMER PROPERTY OWNER. TO BE CONSIDERED FOR FUNDS WHEN THEY ARE DISTRIBUTED, THE CLAIMANT MUST FILE A

13 NOTARIZED STATEMENT OF CLAIM WITH THE COUNTY TREASURER WITHIN 30 DAYS OF THE AUCTION. THE CLAIM MUST

14 INCLUDE THE PARTICULARS OF THE LIEN AND THE AMOUNTS CURRENTLY DUE. ANY LIENHOLDER CLAIM THAT IS NOT FILED

15 WITHIN THE 30-DAY DEADLINE IS BARRED.

16 (7)(4) Except for claims by a property owner, claims that are not filed on or before close of business on

17 the 420th 30TH day after the date of the mailed notice as required by subsection (5) AUCTION are barred. A

18 person, other than the property owner, who fails to file a proper and timely claim is barred from receiving any

19 disbursement of the surplus funds. The failure of any person described in 45-18-212 [SECTION 1(4)], other than

20 the property owner, to file a claim for surplus funds within the 420 30 days constitutes a waiver of interest in the

21 surplus funds, and all claims are forever barred.

22 (8) Within 90 days after the claim period expires, the county treasurer may either file an interpleader

23 action in district court, if potentially conflicting claims to the funds exist, or pay the surplus funds according to the

24 county treasurer's determination of the priority of claims using the information provided by the claimants. Fees

25 and costs incurred by the county treasurer in determining whether an interpleader action should be filed must be

26 paid from the surplus funds. If the county treasurer files an interpleader action, the court shall determine the

27 distribution of funds based upon the priority of liens filed. The county treasurer may move the court to award

28 reasonable fees and costs from the interpleaded funds. An action to require payment of surplus funds is not ripe

29 until the claim and review periods expire. The failure of a person described in 15-18-212 [SECTION 1], other than

30 the property owner, to file a claim for surplus funds within the 120 days constitutes a waiver of all interest in the



1 surplus funds, and all claims for them are forever barred.

2 ~~———(9) A holder of a recorded governmental lien, other than a federal government lien, shall file a request~~  
 3 ~~for disbursement of surplus funds within 120 days after the mailing of the notice of surplus funds. The county~~  
 4 ~~treasurer shall distribute payments to each governmental unit to pay any lien of record held by a governmental~~  
 5 ~~unit against the property, including any tax lien not incorporated in the tax deed application and any delinquent~~  
 6 ~~taxes, before disbursing the surplus funds to nongovernmental claimants.~~

7 ~~———(10) The tax deed recipient may directly pay off all liens to governmental units that could otherwise have~~  
 8 ~~been requested from surplus funds, and, upon filing a timely claim under subsection (5) with proof of payment,~~  
 9 ~~the tax deed recipient may receive the same amount of funds from the surplus funds for all amounts paid to each~~  
 10 ~~governmental unit in the same priority as the original lienholder.~~

11 (5) WITHIN 90 DAYS AFTER THE CLAIM PERIOD EXPIRES, THE COUNTY TREASURER SHALL PAY THE SURPLUS  
 12 FUNDS ACCORDING TO THE COUNTY TREASURER'S DETERMINATION OF THE PRIORITY OF CLAIMS USING THE INFORMATION  
 13 PROVIDED BY THE CLAIMANTS. FEES AND COSTS INCURRED BY THE COUNTY TREASURER IN DETERMINING THE PRIORITY  
 14 OF THE CLAIMS MUST BE PAID FROM THE SURPLUS FUNDS.

15 ~~(11)~~(6) If the county treasurer does not receive claims for surplus funds within the ~~420-day~~ 30-DAY claim  
 16 period, as required in subsection ~~(7)~~ (4), there is a conclusive presumption that the legal titleholder of record  
 17 described is entitled to the surplus funds. The county treasurer shall process the surplus funds regardless of  
 18 whether the legal titleholder is a resident of the state or not. The surplus funds are considered to be unclaimed  
 19 property if not claimed within 5 years as provided in 70-9-803(1)(q).

20  
 21 ~~———~~ **Section 4.** Section ~~15-16-102~~, MCA, is amended to read:  
 22 ~~———"15-16-102. Time for payment -- penalty for delinquency.~~ Unless suspended or canceled under the  
 23 provisions of ~~10-1-606~~ or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,  
 24 except assessments made for special improvements in cities and towns payable under ~~15-16-103~~, are payable  
 25 ~~as follows:~~

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

29 ~~———(2) Unless~~ Except as provided in subsection (3)(b), unless one-half of the taxes are paid on or before  
 30 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the

1 amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency  
2 until paid and 2% must be added to the delinquent taxes as a penalty.

3 ~~——— (3) All (a) Except as provided in subsection (3)(b), all taxes due and not paid on or before 5 p.m. on May  
4 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency  
5 until paid, and 2% must be added to the delinquent taxes as a penalty.~~

6 ~~——— (b) Unless 15-17-323(1)(b) 15-17-323(1)(B)(ii) applies, the interest rate for a property for which a tax lien  
7 is auctioned and assigned pursuant to 15-17-323 15-17-323(1)(B) is the interest rate bid by the person to whom  
8 the tax lien was assigned.~~

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

11 ~~——— (b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-305  
12 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty  
13 or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and  
14 interest accrues from the date on which the taxes were due.~~

15 ~~——— (5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The EXCEPT AS PROVIDED  
16 IN SUBSECTION (5)(B), THE county treasurer shall accept a partial payment equal to the delinquent taxes, including  
17 penalty and interest, for one or more full tax years if taxes currently due for the current tax year have been paid  
18 IF TAXES CURRENTLY DUE FOR THE CURRENT TAX YEAR HAVE BEEN PAID. Payment of taxes for delinquent taxes must  
19 be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is  
20 not a redemption of the property tax lien for any delinquent tax year.~~

21 ~~——— (B) THE OWNER OF CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING MAY PAY DELINQUENT TAXES BEFORE  
22 PAYING TAXES CURRENTLY DUE FOR THE CURRENT TAX YEAR.~~

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

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

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

29 ~~——— (8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided  
30 in 76-3-207."~~

1

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

3 **"15-17-121. Definitions.** Except as otherwise specifically provided, when terms mentioned in Title 15,  
4 chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

5 (1) "Assignee" means ~~any a person, other than the person to whom the property is assessed, OTHER~~  
6 ~~THAN THE PERSON TO WHOM THE PROPERTY IS ASSESSED,~~ who pays the delinquent taxes, including penalties,  
7 interest, and costs, and receives a tax lien certificate representing a lien on the property and an assignment  
8 certificate.

9 (2) "Assignment certificate" means the document described in 15-17-323.

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

13 (i) preparing the list of delinquent taxes;

14 (ii) preparing the notice of pending attachment of a tax lien;

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

16 (iv) identifying interested persons entitled to notice of the pending ~~issuance~~ ISSUANCE OR AUCTION of a tax  
17 deed;

18 (v) notifying interested persons;

19 (vi) sale or resale;

20 ~~(vi)~~(vii) issuing the tax deed; and

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

22 (b) The term includes costs that are required by law and incurred by an assignee. The county treasurer  
23 may require the assignee to provide receipts or may allow the assignee to provide a notarized affidavit of costs  
24 to the county treasurer ~~upon issuance of a tax lien certificate as required in 15-17-125 and notification that a tax~~  
25 ~~deed may be issued as required by 15-18-212 and 15-18-216~~ UPON ISSUANCE OF A TAX LIEN CERTIFICATE AS  
26 REQUIRED IN 15-17-125 AND NOTIFICATION THAT A TAX DEED MAY BE ISSUED AS REQUIRED BY 15-18-212 AND,  
27 15-18-216, AND [SECTION 1]. A county treasurer may at any time require an assignee who provided an affidavit  
28 of costs to submit the receipted costs upon which the affidavit was based.

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

30 ~~—— (i) postage for certified mailings and certified mailings with return receipt requested;~~

1 ~~—— (ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending~~  
2 ~~issuance of a tax deed;~~

3 ~~—— (iii) publishing costs for required publications; and~~

4 ~~—— (iv) filing costs for proof of notice.~~

5 (C) FOR PROPERTY OTHER THAN CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING, THE TERM DOES  
6 NOT INCLUDE INTEREST FOR PAYMENTS FOR THE FOLLOWING:

7 (I) POSTAGE FOR CERTIFIED MAILINGS AND CERTIFIED MAILINGS WITH RETURN RECEIPT REQUESTED;

8 (II) A TITLE SEARCH, TO THE EXTENT NECESSARY TO IDENTIFY INTERESTED PERSONS ENTITLED TO NOTICE OF THE  
9 PENDING ISSUANCE OR AUCTION OF A TAX DEED;

10 (III) PUBLISHING COSTS FOR REQUIRED PUBLICATIONS; AND

11 (IV) FILING COSTS FOR PROOF OF NOTICE.

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

13 (5) (A) "DWELLING" MEANS A HOUSE OR OTHER STRUCTURE INTENDED FOR HUMAN HABITATION, INCLUDING  
14 BUILDINGS ATTACHED TO THE DWELLING.

15 (B) THE TERM DOES NOT INCLUDE A DWELLING THAT IS NOT ON A PERMANENT FOUNDATION AND THAT IS  
16 CLASSIFIED BY THE DEPARTMENT OF REVENUE AS PERSONAL PROPERTY.

17 ~~(5)(6)~~ "Property tax lien" or "tax lien" means a lien attached by the county for nonpayment of property  
18 taxes, including penalties, interest, and costs.

19 ~~(6)(7)~~ "Tax", "taxes", or "property taxes" means all ad valorem property taxes, property assessments,  
20 fees related to property, and assessments for special improvement districts and rural special improvement  
21 districts.

22 ~~(7)(8)~~ "Tax lien certificate" means the document described in 15-17-125.

23 ~~(8)(9)~~ "Tax lien sale" means, with respect to personal property, the offering for sale by the county  
24 treasurer of personal property on which the taxes are delinquent or other personal property on which the  
25 delinquent taxes are a lien."

26  
27 ~~—— Section 5. Section 15-17-122, MCA, is amended to read:~~

28 ~~—— "15-17-122. Notice of pending attachment of tax lien. (1) The county treasurer shall publish or post~~  
29 ~~a notice of a pending attachment of a tax lien. The notice must include:~~

30 ~~—— (a) the specific date on which the county will attach a property tax lien to property on which the taxes are~~

1 ~~delinquent taxes exceed \$1,000; and~~

2 ~~—— (b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the~~  
 3 ~~property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the specified date,~~  
 4 ~~a tax lien will be attached and may be assigned to a third party at auction; and~~

5 ~~—— (c) a statement of the date, location, and rules of the auction.~~

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

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

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

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

12 ~~—— (3) The notice must be given as provided in 7-1-2121. The notice must be first published or posted on~~  
 13 ~~or before the last Monday in June.~~

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

16

17 ~~—— **Section 6.** Section 15-17-125, MCA, is amended to read:~~

18 ~~—— **"15-17-125. Attachment of tax lien and preparation of tax lien certificate.** (1) (a) The county~~  
 19 ~~treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are~~  
 20 ~~delinquent taxes exceed \$1,000 and for which proper notification was given as provided in 15-17-122 and~~  
 21 ~~subsection (4) of this section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless~~  
 22 ~~the tax lien is assigned auctioned pursuant to 15-17-323.~~

23 ~~—— (b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for~~  
 24 ~~which proper notice was not given or for property with delinquent taxes of \$1,000 or less.~~

25 ~~—— (2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must contain:~~

26 ~~—— (a) the date on which the delinquent property taxes became delinquent exceeded \$1,000;~~

27 ~~—— (b) the date on which a property tax lien was attached to the property;~~

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

29 ~~—— (d) a description of the property on which the taxes were assessed;~~

30 ~~—— (e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;~~

1 ~~\_\_\_\_\_ (f) a statement that the tax lien certificate represents a lien on the property that may lead to the issuance~~  
 2 ~~of a tax deed for the property;~~

3 ~~\_\_\_\_\_ (g) a statement specifying the date on which the county or will auction the tax lien and the date on which~~  
 4 ~~an assignee will be entitled to may apply for a tax deed; and~~

5 ~~\_\_\_\_\_ (h) an identification number corresponding to the tax lien certificate.~~

6 ~~\_\_\_\_\_ (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate must~~  
 7 ~~be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be mailed to~~  
 8 ~~the person to whom the taxes were assessed, at the address of record, together with a notice that the person may~~  
 9 ~~contact the county treasurer for further information on property tax liens.~~

10 ~~\_\_\_\_\_ (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending~~  
 11 ~~attachment of a tax lien to the person to whom the property was assessed. The notice must include the~~  
 12 ~~information listed in subsection (2), state that the tax lien may be assigned to a third party at auction, and provide~~  
 13 ~~notice of the availability of all the property tax assistance programs available to property taxpayers, including the~~  
 14 ~~property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the~~  
 15 ~~elderly under 15-30-2337 through 15-30-2341. The notice must have been mailed at least 2 weeks prior to the~~  
 16 ~~date on which the county treasurer attaches the tax lien.~~

17 ~~\_\_\_\_\_ (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."~~

18

19 ~~\_\_\_\_\_ **SECTION 6. SECTION 15-17-122, MCA, IS AMENDED TO READ:**~~

20 ~~\_\_\_\_\_ **"15-17-122. Notice of pending attachment of tax lien.** (1) The county treasurer shall publish or post~~  
 21 ~~a notice of a pending attachment of a tax lien for:~~

22 ~~\_\_\_\_\_ (a) class four residential property with a dwelling for which delinquent taxes, penalties, and interest~~  
 23 ~~exceed \$1,000; and~~

24 ~~\_\_\_\_\_ (b) all other property on which taxes are delinquent.~~

25 ~~\_\_\_\_\_ (2) The notice must include:~~

26 ~~\_\_\_\_\_ (a) the specific date on which the county will attach a property tax lien to property on which the taxes are~~  
 27 ~~delinquent; and~~

28 ~~\_\_\_\_\_ (b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the~~  
 29 ~~property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the specified date,~~  
 30 ~~a tax lien will be attached and may be assigned or auctioned to a third party;~~

1 ~~\_\_\_\_\_ (c) a statement of the date, location, and rules of the auction to be held to assign tax liens for class four~~  
 2 ~~residential property with a dwelling.~~

3 ~~\_\_\_\_\_ (2)(3) The notice required in subsection (1) (2) must also include a statement that a list of each property~~  
 4 ~~on which the taxes are delinquent is on file in the office of the county treasurer and open to inspection. The list~~  
 5 ~~must include:~~

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

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

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

9 ~~\_\_\_\_\_ (3)(4) The notice must be given as provided in 7-1-2121. The notice must be first published or posted~~  
 10 ~~on or before the last Monday in June.~~

11 ~~\_\_\_\_\_ (4)(5) The provisions of this section do not apply to property for which delinquent property taxes have~~  
 12 ~~been suspended or canceled under the provisions of Title 15, chapter 24, part 17."~~

13

14 ~~\_\_\_\_\_ **SECTION 7. SECTION 15-17-125, MCA, IS AMENDED TO READ:**~~

15 ~~\_\_\_\_\_ **"15-17-125. Attachment of tax lien and preparation of tax lien certificate.** (1) (a) The county~~  
 16 ~~treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are~~  
 17 ~~delinquent provided for in 15-17-122(1) and for which proper notification was given as provided in 15-17-122 and~~  
 18 ~~subsection (4) of this section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless~~  
 19 ~~the tax lien is assigned or auctioned pursuant to 15-17-323.~~

20 ~~\_\_\_\_\_ (b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for~~  
 21 ~~which proper notice was not given:~~

22 ~~\_\_\_\_\_ (2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must contain:~~

23 ~~\_\_\_\_\_ (a) the date on which the property taxes became delinquent or, for class four residential property with~~  
 24 ~~a dwelling, the date on which the delinquent taxes, penalties, and interest exceeded \$1,000;~~

25 ~~\_\_\_\_\_ (b) the date on which a property tax lien was attached to the property;~~

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) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;~~

29 ~~\_\_\_\_\_ (f) a statement that the tax lien certificate represents a lien on the property that may lead to the issuance~~  
 30 ~~or auction of a tax deed for the property;~~



1 ~~\_\_\_\_\_ (g) a statement specifying the date on which the county or an assignee will be entitled to a tax deed or,~~  
 2 ~~for class four residential property with a dwelling, the date on which an assignee may apply for a tax deed; and~~

3 ~~\_\_\_\_\_ (h) an identification number corresponding to the tax lien certificate.~~

4 ~~\_\_\_\_\_ (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate must~~  
 5 ~~be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be mailed to~~  
 6 ~~the person to whom the taxes were assessed, at the address of record, together with a notice that the person may~~  
 7 ~~contact the county treasurer for further information on property tax liens.~~

8 ~~\_\_\_\_\_ (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending~~  
 9 ~~attachment of a tax lien to the person to whom the property was assessed. The notice must include the~~  
 10 ~~information listed in subsection (2), state that the tax lien may be assigned to a third party, and provide notice of~~  
 11 ~~the availability of all the property tax assistance programs available to property taxpayers, including the property~~  
 12 ~~tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly~~  
 13 ~~under 15-30-2337 through 15-30-2341. The notice must have been mailed at least 2 weeks prior to the date on~~  
 14 ~~which the county treasurer attaches the tax lien.~~

15 ~~\_\_\_\_\_ (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."~~

16

17 ~~\_\_\_\_\_ **Section 8.** Section 15-17-323, MCA, is amended to read:~~

18 ~~\_\_\_\_\_ **"15-17-323. Assignment of rights -- auction -- form.** (1)(a) A tax lien certificate or other official record~~  
 19 ~~in which the county is listed as the possessor of the tax lien must be assigned by the county treasurer to any~~  
 20 ~~person who, after providing proof of mail notice to the person to whom the property was assessed, as required~~  
 21 ~~by subsection (5), pays to the county the amount of the delinquent taxes, including penalties, interest, and costs,~~  
 22 ~~accruing from the date of delinquency. EXCEPT AS PROVIDED IN SUBSECTION (1)(B), A TAX LIEN CERTIFICATE OR OTHER~~  
 23 ~~OFFICIAL RECORD IN WHICH THE COUNTY IS LISTED AS THE POSSESSOR OF THE TAX LIEN MUST BE ASSIGNED BY THE~~  
 24 ~~COUNTY TREASURER TO ANY PERSON WHO, AFTER PROVIDING PROOF OF MAIL NOTICE TO THE PERSON TO WHOM THE~~  
 25 ~~PROPERTY WAS ASSESSED, AS REQUIRED BY SUBSECTION (5), PAYS TO THE COUNTY THE AMOUNT OF THE DELINQUENT~~  
 26 ~~TAXES, INCLUDING PENALTIES, INTEREST, AND COSTS, ACCRUING FROM THE DATE OF DELINQUENCY.~~

27 ~~\_\_\_\_\_ (b) (i) The county treasurer shall hold an auction to assign a tax lien certificate or other official record in~~  
 28 ~~which the county is listed as the possessor FOR CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING. A person~~  
 29 ~~wishing to purchase a tax lien at auction shall bid on the interest rate for the delinquent taxes, penalties, and costs~~  
 30 ~~accruing from the date of delinquency. Except as provided in subsection (1)(b) (1)(b)(ii), the county treasurer shall~~

1 ~~assign the tax lien to the person who submits the lowest interest rate bid and pays the delinquent taxes, penalties,~~  
2 ~~costs, and interest rate bid. THE INTEREST RATE BID MAY NOT EXCEED 11%.~~

3 ~~———— (b)(ii) If there is only one bid for assignment of the tax lien, the interest rate may not be lower than the~~  
4 ~~rate provided for in 15-16-102(3)(a).~~

5 ~~———— (b)(c) The county treasurer shall develop a policy for conducting tax lien auctions and for assigning a~~  
6 ~~tax lien when more than one person seeks the assignment and provides proof of mail notice to the person to~~  
7 ~~whom the property was assessed SEEKS THE ASSIGNMENT AND PROVIDES PROOF OF MAIL NOTICE TO THE PERSON TO~~  
8 ~~WHOM THE PROPERTY WAS ASSESSED OR submits a bid for the same lowest interest rate. The county treasurer shall~~  
9 ~~seek input from the county clerk and recorder and the county attorney in developing the policy.~~

10 ~~———— (2) (a) The assignment made under subsection (1) must be in the form of an assignment certificate in~~  
11 ~~the following form:~~

12 ~~———— I, ....., the treasurer of ..... County, state of Montana, hereby certify that tax lien ..... (insert tax~~  
13 ~~lien certificate number) was attached on ..... (date), for the purpose of liquidating delinquent assessments on~~  
14 ~~the following property ..... (insert property description). Because delinquent taxes, penalties, interest, and costs~~  
15 ~~remained unpaid on the date of attachment of the tax lien, the county is the possessor of the tax lien. As of the~~  
16 ~~date of this assignment certificate, the delinquency, including penalties, interest, and costs amounting to \$ .....,~~  
17 ~~has not been liquidated by the person to whom the property was assessed, nor has the delinquency been~~  
18 ~~otherwise redeemed.~~

19 ~~———— Because there has been no liquidation of the delinquency or other redemption, I hereby assign all rights,~~  
20 ~~title, and interest of the county of ....., state of Montana, acquired in the property by virtue of attachment of a~~  
21 ~~tax lien to ..... (name and address of assignee) to proceed to obtain OBTAIN OR apply for a tax deed to the~~  
22 ~~property or receive payment in case of redemption as provided by law. The interest rate applied to the delinquent~~  
23 ~~taxes is .....~~

24 ~~———— Witness my hand and official seal of office this ..... day of ....., 20...~~

25 ~~———— ..... County Treasurer~~

26 ~~———— ..... County~~

27 ~~———— (b) A copy of an assignment certificate must be mailed to the person to whom the taxes were assessed,~~  
28 ~~at the address of record, together with a notice that the person may contact the county treasurer for further~~  
29 ~~information on lien assignments, property tax liens, and property tax assistance programs.~~

30 ~~———— (3) An assignment made by an assignee of the county or by a previous assignee may be made for any~~

1 consideration whatsoever. An assignment so made is legal and binding only upon filing with the county treasurer  
2 a statement that the assignee's interest in the property has been assigned. The county treasurer shall file a copy  
3 of the statement with the clerk and recorder. The statement must contain:

- 4 ~~\_\_\_\_\_ (a) the name and address of the new assignee;~~
- 5 ~~\_\_\_\_\_ (b) the name and address of the original assignee;~~
- 6 ~~\_\_\_\_\_ (c) the name and address of each previous assignee, if any;~~
- 7 ~~\_\_\_\_\_ (d) a description of the property upon which the property tax lien was issued, which must contain the~~  
8 ~~same information as contained in the tax lien certificate or assignment certificate, as appropriate;~~
- 9 ~~\_\_\_\_\_ (e) the signature of the party making the assignment;~~
- 10 ~~\_\_\_\_\_ (f) the signature of the new assignee; and~~
- 11 ~~\_\_\_\_\_ (g) the date on which the statement was signed.~~

12 ~~\_\_\_\_\_ (4) If the assignment certificate described in subsection (3) is lost or destroyed, the county treasurer~~  
13 ~~shall, upon adequate proof and signed affidavit by the assignee that loss or destruction has occurred, issue a~~  
14 ~~duplicate assignment certificate to the assignee.~~

15 ~~\_\_\_\_\_ (5) PRIOR TO MAKING A PAYMENT UNDER SUBSECTION (1)(A), A PERSON SHALL SEND NOTICE OF THE PROPOSED~~  
16 ~~PAYMENT, BY CERTIFIED MAIL, TO THE PERSON TO WHOM THE PROPERTY WAS ASSESSED. THE NOTICE MUST HAVE BEEN~~  
17 ~~MAILED AT LEAST 2 WEEKS PRIOR TO THE DATE OF THE PAYMENT BUT NOT EARLIER THAN AUGUST 15. THE PERSON~~  
18 ~~MAKING THE PAYMENT SHALL PROVIDE PROOF OF THE MAILING.~~

19 ~~\_\_\_\_\_ (6) THE NOTICE MUST BE IN THE FOLLOWING FORM:~~

20 ~~\_\_\_\_\_ NOTICE OF PENDING ASSIGNMENT~~

21 ~~\_\_\_\_\_ (PURSUANT TO 15-17-125 AND 15-17-323, MCA)~~

22 ~~\_\_\_\_\_ THIS NOTICE IS VERY IMPORTANT WITH REGARD TO THE TAX LIEN, WHICH ..... COUNTY HOLDS ON THE~~  
23 ~~FOLLOWING PROPERTY. IF THE DELINQUENT TAXES ARE NOT PAID BY ....., AN ASSIGNMENT OF THE TAX LIEN WILL BE~~  
24 ~~PURCHASED. THIS COULD RESULT IN THE LOSS OF YOUR PROPERTY LISTED BELOW:~~

25 ~~\_\_\_\_\_ PLEASE CONTACT THE ..... COUNTY TREASURER AT (406) ..... WITH QUESTIONS OR TO PAY THE~~  
26 ~~DELINQUENT TAXES:~~

27 ~~(REQUIRED INFORMATION):~~

28 ~~OWNER OF RECORD .....~~

29 ~~MAILING ADDRESS .....~~

30 ~~LEGAL DESCRIPTION .....~~



1 PARCEL NUMBER .....

2 GEOCODE(S) .....

3 DATE OF NOTICE .....

4 .....

5 SIGNATURE OF INTERESTED ASSIGNEE

6 .....

7 PRINTED NAME OF INTERESTED ASSIGNEE

8 ~~..... (5)(7) Prior to making a payment holding an auction under subsection (1) (1)(B), a person the county~~  
9 ~~treasurer shall send notice of the proposed payment auction, by certified mail, to the person to whom the property~~  
10 ~~was assessed. The notice must have been mailed at least 2 weeks prior to the date of the payment auction but~~  
11 ~~not earlier than August 15. The person making the payment shall provide proof of the mailing.~~

12 ~~..... (6)(8) The notice must be in the following form:~~

13 ~~..... NOTICE OF PENDING ASSIGNMENT AUCTION~~

14 ~~..... (Pursuant to 15-17-125 and 15-17-323, MGA)~~

15 ~~THIS NOTICE IS VERY IMPORTANT with regard to the tax lien, which ..... County holds on the following~~  
16 ~~property. If the delinquent taxes are not paid by ....., an assignment of the tax lien will be purchased auctioned.~~

17 ~~THIS COULD RESULT IN THE LOSS OF YOUR PROPERTY LISTED BELOW:~~

18 ~~Please contact the ..... County Treasurer at (406) ..... with questions or to pay the delinquent taxes:~~

19 ~~(Required Information):~~

20 ~~Owner of record .....~~

21 ~~Mailing address .....~~

22 ~~Legal description .....~~

23 ~~Parcel number .....~~

24 ~~Geocode(s) .....~~

25 ~~Date of notice .....~~

26 ~~.....~~

27 ~~Signature of interested assignee county treasurer~~

28 ~~.....~~

29 ~~Printed name of interested assignee county treasurer"~~

30

1 ~~Section 9.~~ Section 15-17-326, MCA, is amended to read:

2 ~~"15-17-326. Voided tax lien -- refund -- limitation on action for royalty interest. (1) If a tax lien~~  
 3 ~~attached under the provisions of this chapter is declared void by a court for irregularity in the assessment, levy,~~  
 4 ~~or assignment or if a tax lien is assigned in error, the money paid by the assignee must be refunded, with interest~~  
 5 ~~at the rate payable upon delinquencies, as provided in 15-16-102, or the rate bid as provided in 15-17-323~~  
 6 ~~15-17-323(1)(B), from the date of the payment, to the assignee, together with any penalty paid by the assignee.~~

7 ~~(2) Following the payment of a refund as provided in subsection (1), the county is the possessor of the~~  
 8 ~~tax lien upon the property for the legal taxes on the property accruing from the date of delinquency, plus penalties~~  
 9 ~~and interest as provided in 15-16-102. Any money refunded that was received, as provided in 15-17-323, and~~  
 10 ~~distributed by the treasurer to the state or a city, town, or district must be charged to the state, city, town, or~~  
 11 ~~district, respectively, by the treasurer and deducted from the next money due the state, city, town, or district on~~  
 12 ~~account of taxes paid or collected. An assignment made by a city or town that by resolution or ordinance collects~~  
 13 ~~its own taxes instead of having the taxes collected by the county treasurer must be reimbursed in similar manner~~  
 14 ~~and in similar circumstances out of the city or town treasury upon order of the mayor or, when applicable, the city~~  
 15 ~~manager or presiding officer of the city commission. The city or town clerk or city or town treasurer, as~~  
 16 ~~appropriate, shall make proper charges and deductions against the respective funds of the city or town upon the~~  
 17 ~~next collection of taxes by the city or town.~~

18 ~~(3) The assignee has a lien upon the property for the amount of taxes, penalties, interest, and costs paid,~~  
 19 ~~with the interest to be at the rate specified for delinquencies in 15-16-102 or the rate bid as provided in 15-17-323~~  
 20 ~~15-17-323(1)(B). If the assignee is in possession of the property and resides on the property, the assignee may~~  
 21 ~~not be ejected from the property until the assignee's lien has been liquidated.~~

22 ~~(4) All affirmative defenses at law or equity, including but not limited to estoppel, laches, and adverse~~  
 23 ~~possession, may apply in a suit brought to challenge the title to a royalty interest in land claimed to have been~~  
 24 ~~acquired by a county by tax deed.~~

25 ~~(5) An action against a county to recover a royalty interest in land acquired by the county by tax deed~~  
 26 ~~must be brought within the period prescribed in 27-2-210."~~

27

28 **Section 5.** Section 15-18-112, MCA, is amended to read:

29 **"15-18-112. Redemption from property tax lien -- lien on interest in property for taxes paid. (1) (a)**

30 Except as provided in subsections (1)(b) and (4), in all cases in which a property tax lien has been assigned, the

1 assignee may pay the subsequent taxes assessed against the property on or after June 1 and prior to July 31  
2 if the taxes have not been paid by the property owner.

3 (b) If the property qualifies for the property tax assistance program provided for in 15-6-305 and the taxes  
4 have not been paid by the property owner, the subsequent taxes may be paid after the time period provided for  
5 in 15-16-102(4)(b) and prior to July 31.

6 (2) Upon redemption of the property tax lien, the redemptioner shall pay, in addition to the amount of the  
7 property tax lien, including penalties, interest, and costs, the subsequent taxes assessed, with interest and  
8 penalty at the rate established for delinquent taxes in 15-16-102.

9 (3) An owner of less than all of the interest or a lienholder with an interest in real property who redeems  
10 a property tax lien on the property has a lien for the taxes paid on the interests of the property that are not owned  
11 by the redemptioner.

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

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

15 (b) the tax deed has not been issued pursuant to ~~45-18-214~~ 15-18-211 OR [section 4 2]."

16

17 ~~Section 10.~~ Section 15-18-211, MCA, is amended to read:

18 ~~"15-18-211. Tax Application for tax deed -- fee -- notice.~~ (1) Except as provided in subsection (3), if  
19 the property tax lien is not redeemed in the time allowed under 15-18-111, the county treasurer shall grant the  
20 assignee may file an application with the county treasurer for a tax deed for the property. The deed application  
21 must contain the same information as is required in a tax lien certificate under 15-17-125 and an assignment  
22 certificate under 15-17-323, except the description of the property must be the full legal description.

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

26 ~~(b) If the tax deed is issued to application is made by the county as provided in subsection (3), no~~  
27 ~~application fee may be charged for making the deed.~~

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

30 ~~(2) (a) An assignee who applies for a tax deed shall pay the county treasurer at the time of the tax deed~~

1 application:

2 ~~—— (i) the amount required to redeem any outstanding tax liens, penalties, and interest on the property;~~

3 ~~—— (ii) any delinquent taxes, penalties, and interest;~~

4 ~~—— (iii) current taxes due for the property; and~~

5 ~~—— (iv) the cost of recording the notice of a tax deed application;~~

6 ~~—— (b) The assignee shall also pay within 30 days of notice by the county treasurer the costs required to~~  
7 ~~bring the property to sale, including costs for property information searches, mailing costs, and costs of resale,~~  
8 ~~if applicable.~~

9 ~~—— (3) If no assignment has been made, the county treasurer may not issue a tax deed to the county unless~~  
10 ~~the board of county commissioners may, by resolution, directs direct the county treasurer to issue file an~~  
11 ~~application for a tax deed.~~

12 ~~—— (4) Deeds issued to assignees or the county must be recorded by the county clerk as provided in Title~~  
13 ~~7, chapter 4, part 26, except that when the county is issued the tax deed, the county clerk may not charge a fee~~  
14 ~~for recording the deed.~~

15 ~~—— (4) (a) The county treasurer shall record a notice of the tax deed application in the official records, which~~  
16 ~~constitutes notice of the pendency of the tax deed application with respect to the property and remains effective~~  
17 ~~for 1 year from the date of the recording.~~

18 ~~—— (b) A person acquiring an interest in the property after the tax deed application notice has been recorded~~  
19 ~~is considered to be on notice of the pending tax deed sale, and no additional notice is required. The sale of the~~  
20 ~~property automatically releases any recorded notice of tax deed application for the property.~~

21 ~~—— (c) If the property is redeemed, the county treasurer shall record a release of the notice of tax deed~~  
22 ~~application."~~

23

24 ~~—— **Section 11.** Section 15-18-212, MCA, is amended to read:~~

25 ~~—— **"15-18-212. Notice of pending auction -- proof of notice -- penalty for failure to notify.** (1) Between~~  
26 ~~May 1 and May 30 of the year in which the redemption period expires, a notice must be given as follows:~~

27 ~~—— (a) for each property for which the county attached a tax lien and has not assigned the tax lien, the~~  
28 ~~county treasurer shall notify the parties as required in subsection (4) that a tax deed may be issued to the county~~  
29 ~~unless the property tax lien is redeemed prior to the expiration date of the redemption period; or~~

30 ~~—— (b) for each property for which the county attached a tax lien and assigned the tax lien pursuant to~~

1 15-17-323, the assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the  
2 assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period:

3 ~~——— (2) (a) Except as provided in subsection (2)(b), if the county is the possessor of the tax lien, an~~  
4 ~~assignment has not been made, and the board of county commissioners has not directed the county treasurer~~  
5 ~~to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time~~  
6 ~~subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the~~  
7 ~~county treasurer shall provide notification to the parties as required in subsection (4) in the manner provided in~~  
8 ~~subsection (1)(a). The notification required under this subsection must be made not less than 60 days or more~~  
9 ~~than 120 days prior to the date on which the county treasurer will issue the tax deed.~~

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

12 ~~——— (3) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection~~  
13 ~~(1)(b) between January 1 and January 31 of the year in which the redemption period expires. The notice of~~  
14 ~~obligation may be sent by certified mail, return receipt requested, to the assignee at the address contained on~~  
15 ~~the assignment certificate provided for in 15-17-323.~~

16 ~~——— (b) If the assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file~~  
17 ~~proof of notice with the county clerk and recorder as required in subsection (7), the county treasurer shall cancel~~  
18 ~~the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the~~  
19 ~~property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a~~  
20 ~~form provided for in 15-18-217.~~

21 ~~——— (4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and~~  
22 ~~be made by certified mail, return receipt requested;~~

23 ~~——— (1) Upon application for a tax deed pursuant to 15-18-211, the county treasurer shall contract with a title~~  
24 ~~company or an abstract company for purposes of determining the names and addresses of the persons required~~  
25 ~~to be noticed of a pending public auction. Notice must be given to the owner of record of the property, the current~~  
26 ~~occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided~~  
27 ~~that the guarantee:~~

28 ~~——— (i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;~~

29 ~~——— (ii) was ordered on the property by the person required to give notice; and~~

30 ~~——— (iii) lists the identities and addresses of the parties of record that have that has an interest or possible~~



1 claim of an interest in the property designed to disclose all parties of record that and would otherwise be  
 2 necessary to name in a quiet title action. The cost of the report must be included in the costs required to bring  
 3 the property to sale.

4 ~~——— (2) The county treasurer shall give notice to the persons identified in subsection (1). The notice must be~~  
 5 ~~in the form provided by 15-18-215 and be made by certified mail, return receipt requested. The cost of providing~~  
 6 ~~notice must be included in the costs required to bring the property to sale.~~

7 ~~——— (b) The address to which the notice must be sent is, for each party, the address disclosed by the records~~  
 8 ~~in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address~~  
 9 ~~or other known address of the subject property.~~

10 ~~——— (5) The person required to give notice shall, within the period described in subsection (1), give notice~~  
 11 ~~as provided in 7-1-2121 and in the form required by 15-18-215.~~

12 ~~——— (6) The amount of interest and costs continues to accrue until the date of redemption. The total amount~~  
 13 ~~of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date~~  
 14 ~~of payment.~~

15 ~~——— (7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and~~  
 16 ~~recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing~~  
 17 ~~or publishing of the notice. If the county is the possessor of the tax lien, the proof of notice must be filed before~~  
 18 ~~the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the~~  
 19 ~~sufficiency of the notice.~~

20 ~~——— (8) A county or any officer of a county may not be held liable for any error of notification."~~

21

22 **SECTION 6. SECTION 15-18-211, MCA, IS AMENDED TO READ:**

23 **"15-18-211. Tax deed -- fee.** (1) Except as provided in [section 1] and subsection (3) of this section, if  
 24 the property tax lien is not redeemed in the time allowed under 15-18-111, the county treasurer shall grant the  
 25 assignee a tax deed for the property. The deed must contain the same information as is required in a tax lien  
 26 certificate under 15-17-125 and an assignment certificate under 15-17-323, except the description of the property  
 27 must be the full legal description.

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

- 1 (b) If the tax deed is issued to 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) If no assignment has been made, the county treasurer may not issue a tax deed to the county unless  
5 the board of county commissioners, by resolution, directs the county treasurer to issue a tax deed.
- 6 (4) Deeds issued to assignees or the county must be recorded by the county clerk as provided in Title  
7 7, chapter 4, part 26, except that when the county is issued the tax deed, the county clerk may not charge a fee  
8 for recording the deed."

9

10 **SECTION 7. SECTION 15-18-212, MCA, IS AMENDED TO READ:**

11 **"15-18-212. Notice -- proof of notice -- penalty for failure to notify.** (1) Between May 1 and May 30  
12 of the year in which the redemption period expires, a notice must be given as follows:

13 (a) for each property ~~other than class four residential property with a dwelling~~ for which the county  
14 attached a tax lien and has not assigned the tax lien, the county treasurer shall notify the parties as required in  
15 subsection (4) that a tax deed may be issued to the county unless the property tax lien is redeemed prior to the  
16 expiration date of the redemption period; or

17 (b) for each property ~~other than class four residential property with a dwelling~~ PROPERTY PROVIDED FOR  
18 IN [SECTION 1(1)(B)] for which the county attached a tax lien and assigned the tax lien pursuant to 15-17-323, the  
19 assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the assignee unless  
20 the property tax lien is redeemed prior to the expiration date of the redemption period.

21 (2) (a) Except as provided in subsection (2)(b), if the county is the possessor of the tax lien, an  
22 assignment has not been made, and the board of county commissioners has not directed the county treasurer  
23 to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time  
24 subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the  
25 county treasurer shall provide notification to the parties as required in subsection (4) in the manner provided in  
26 subsection (1)(a). The notification required under this subsection must be made not less than 60 days or more  
27 than 120 days prior to the date on which the county treasurer will issue the tax deed.

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

30 (3) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection

1 (1)(b) between January 1 and January 31 of the year in which the redemption period expires. The notice of  
2 obligation may be sent by certified mail, return receipt requested, to the assignee at the address contained on  
3 the assignment certificate provided for in 15-17-323.

4 (b) If the assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file  
5 proof of notice with the county clerk and recorder as required in subsection (7), the county treasurer shall cancel  
6 the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the  
7 property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a  
8 form provided for in 15-18-217.

9 (4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and  
10 be made by certified mail, return receipt requested, to ~~the current occupant, if any, of the property and to THE~~  
11 CURRENT OCCUPANT, IF ANY, OF THE PROPERTY AND TO each party, other than a utility, listed on a litigation  
12 guarantee, provided that the guarantee:

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

14 (ii) was ordered on the property by the person required to give notice; and

15 (iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an  
16 interest in the property designed to disclose all parties of record that would otherwise be necessary to name in  
17 a quiet title action.

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

21 (5) The person required to give notice shall, within the period described in subsection (1), give notice  
22 as provided in 7-1-2121 and in the form required by 15-18-215.

23 (6) The amount of interest and costs continues to accrue until the date of redemption. The total amount  
24 of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date  
25 of payment.

26 (7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and  
27 recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing  
28 or publishing of the notice. If the county is the possessor of the tax lien, the proof of notice must be filed before  
29 the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the  
30 sufficiency of the notice.

1 (8) A county or any officer of a county may not be held liable for any error of notification."

2

3 **Section 8.** Section 15-18-213, MCA, is amended to read:

4 **"15-18-213. Form of tax deed -- prima facie evidence.** (1) The form of a tax deed issued under the  
5 provisions of this chapter, executed by a county treasurer, must be made as follows:

6 This deed is made by ..... (name of county treasurer), county treasurer of the county of ..... (name  
7 of county), in the state of Montana, to ..... (name of ~~assignee, the assignee's~~ ASSIGNEE OR ASSIGNEE'S AGENT,  
8 high bidder or high bidder's agent, or county that is the possessor of the tax lien, OR COUNTY THAT IS THE  
9 POSSESSOR OF THE TAX LIEN), as provided by the laws of the state of Montana:

10 Whereas, there was assessed for ..... (year) the following real property ..... (description of the  
11 property); and

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

13 Whereas, the taxes were not paid and a property tax lien for the payment of the taxes was attached by  
14 ..... (name of county) and was assigned to ..... (if applicable, name of assignee) on ..... (date, including  
15 year) for the sum of \$ ....., which amount included delinquent taxes in the amount of \$ ....., penalties in the  
16 amount of \$ ....., interest in the amount of \$ ....., and other costs in the amount of \$ .....; and

17 Whereas, a tax lien certificate was issued and filed as required by law; and

18 Whereas, notice was given to required parties in accordance with 15-18-212 OR [SECTION 1] that the  
19 ~~issuance~~ ISSUANCE OR auction of a tax deed was pending; and

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

22 Now, therefore, I, ..... (treasurer's name), county treasurer of the county of ....., in the state of  
23 Montana, in consideration of the sum of \$ ..... paid, hereby grant to ..... (name of ~~assignee or the assignee's~~  
24 ASSIGNEE OR ASSIGNEE'S AGENT, high bidder or high bidder's agent or county that is the possessor of the tax lien,  
25 OR COUNTY THAT IS THE POSSESSOR OF THE TAX LIEN) all the property situated in ..... County, state of Montana,  
26 described in this document.

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

28 .....County Treasurer

29 .....County

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

- 1 (a) the property was assessed as required by law;
- 2 (b) the taxes were levied in accordance with law;
- 3 (c) the taxes were not paid when due;
- 4 (d) notice of the pending attachment of a tax lien was given and the tax lien was attached at the proper
- 5 time and place as provided by law;
- 6 (e) the property was not redeemed, and proper notice of a pending tax deed ~~issuance~~ ISSUANCE OR
- 7 auCTION was made as required by law;
- 8 (f) the person who executed the deed was legally authorized to do so; and
- 9 (g) if the real property was sold to pay delinquent taxes on personal property, the real property belonged
- 10 to the person liable to pay the personal property tax."

11

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

13 **"15-18-214. Effect of deed.** (1) Subject to 15-18-411 and 15-18-413, a deed issued under this chapter

14 conveys to the grantee absolute title to the property described in the deed as of the date of the ~~expiration of the~~

15 ~~redemption period, free and clear of all liens and encumbrances~~ tax deed, except:

- 16 (a) when the claim is payable after the execution of the deed and:
- 17 (i) a subsequent property tax lien is attached; or
- 18 (ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the
- 19 property;
- 20 (b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully
- 21 imposed on the property; or
- 22 (c) when the land is owned by the United States, this state, or a subdivision of this state.

23 (2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of

24 possession accrued as of the date of ~~expiration of the period for redemption or the date upon~~ on which a tax deed

25 was ~~otherwise~~ issued."

26

27 **Section 10.** Section 15-18-215, MCA, is amended to read:

28 **"15-18-215. Form of notice that tax deed may issue.** (1) ~~Section 15-18-212~~ [SECTION 1] requires that

29 notice be given to all persons considered interested parties and to the current occupant of property that may be

30 lost to a tax deed. The notice must be made as follows FOR PROPERTY PROVIDED FOR IN [SECTION 1(1)(B)]:

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:.....

(Name) (Address, when unknown, so state)

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

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

.....

2. The property taxes became delinquent on .....

3. The property tax lien was attached on .....

4. The lien was subsequently assigned to ..... (if applicable).

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

TAXES: .....

PENALTY: .....

INTEREST: .....

COST: .....

TOTAL: .....

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5 must be paid by ....., which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to ....., which is the date the redemption period expires, a tax deed ~~may be issued to the assignee or county that is the possessor of the tax lien on the day following the date that the redemption period expires~~ auction will be held on.....(date) WITHIN 60 DAYS.

8. ANY SURPLUS FUNDS RESULTING FROM THE AUCTION WILL BE DISTRIBUTED TO INTERESTED PARTIES. A NOTARIZED CLAIM FOR SURPLUS FUNDS MUST BE FILED WITH THE COUNTY TREASURER WITHIN 30 DAYS OF THE AUCTION.

9. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is: ..... County Treasurer, ..... (Address), ..... (Telephone).

FURTHER NOTICE FOR THOSE PERSONS LISTED

ABOVE WHOSE ADDRESSES ARE UNKNOWN:



- 1           1. The address of the interested party is unknown.
- 2           2. The published notice meets the legal requirements for notice of a pending tax deed ~~issuance~~ auction.
- 3           3. The interested party's rights in the property may be in jeopardy.

4           DATED at ..... this ..... (Date).  
 5  
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Signature

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

(2) SECTION 15-18-212 REQUIRES THAT NOTICE BE GIVEN TO ALL PERSONS CONSIDERED INTERESTED PARTIES OF PROPERTY THAT MAY BE LOST TO A TAX DEED. THE NOTICE MUST BE MADE AS FOLLOWS FOR ALL PROPERTY OTHER THAN PROPERTY PROVIDED FOR IN [SECTION 1(1)(B)]:

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:..... .....

(NAME)           (ADDRESS, WHEN UNKNOWN, SO STATE)

PURSUANT TO SECTION 15-18-212, MONTANA CODE ANNOTATED, NOTICE IS HEREBY GIVEN:

1. AS A RESULT OF A PROPERTY TAX DELINQUENCY, A PROPERTY TAX LIEN EXISTS ON THE FOLLOWING DESCRIBED REAL PROPERTY IN WHICH YOU MAY HAVE AN INTEREST:

2. THE PROPERTY TAXES BECAME DELINQUENT ON .....

3. THE PROPERTY TAX LIEN WAS ATTACHED ON .....

4. THE LIEN WAS SUBSEQUENTLY ASSIGNED TO ..... (IF APPLICABLE).

5. AS OF THE DATE OF THIS NOTICE, THE AMOUNT OF TAX DUE IS:

TAXES: .....

PENALTY: .....

INTEREST: .....

COST: .....

TOTAL: .....

6. FOR THE PROPERTY TAX LIEN TO BE LIQUIDATED, THE TOTAL AMOUNT LISTED IN PARAGRAPH 5 MUST BE PAID BY ....., WHICH IS THE DATE THAT THE REDEMPTION PERIOD EXPIRES OR EXPIRED.

7. IF ALL TAXES, PENALTIES, INTEREST, AND COSTS ARE NOT PAID TO THE COUNTY TREASURER ON OR PRIOR TO ....., WHICH IS THE DATE THE REDEMPTION PERIOD EXPIRES, A TAX DEED MAY BE ISSUED TO THE ASSIGNEE OR



1 COUNTY THAT IS THE POSSESSOR OF THE TAX LIEN ON THE DAY FOLLOWING THE DATE THAT THE REDEMPTION PERIOD  
2 EXPIRES.

3 8. THE BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE COUNTY TREASURER WHO IS RESPONSIBLE FOR  
4 ISSUING THE TAX DEED IS: ..... COUNTY TREASURER, ..... (ADDRESS), ..... (TELEPHONE).

5 FURTHER NOTICE FOR THOSE PERSONS LISTED

6 ABOVE WHOSE ADDRESSES ARE UNKNOWN:

- 7 1. THE ADDRESS OF THE INTERESTED PARTY IS UNKNOWN.
- 8 2. THE PUBLISHED NOTICE MEETS THE LEGAL REQUIREMENTS FOR NOTICE OF A PENDING TAX DEED ISSUANCE.
- 9 3. THE INTERESTED PARTY'S RIGHTS IN THE PROPERTY MAY BE IN JEOPARDY.

10 DATED AT ..... THIS ..... (DATE).

11 .....  
12 SIGNATURE"

14 **SECTION 11. SECTION 15-18-216, MCA, IS AMENDED TO READ:**

15 **"15-18-216. Form of proof of notice. Section Sections 15-18-212 requires and [section 1] require that**  
16 **proof of notice must be filed with the county clerk. The proof of notice must be made as follows:**

17 **PROOF OF NOTICE**

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

20 1. A "Notice That a Tax Deed May Be Issued" was mailed to the owners, current occupant, and parties,  
21 as required by 15-18-212 or [section 1], MCA. A copy of each notice is attached or is on file in the office of the  
22 county clerk.

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

25 3. Notice was given by publishing in the newspaper as required by 7-1-2121, which is ....., on .....  
26 and ..... or posting in the three public places designated by the governing body, which are ....., ....., and  
27 ..... . Proof of publication is attached.

28 State of .....

29 County of .....

30 The record was signed before me on (date) by (name(s) of individual(s)) .....



1 .....  
2 (Signature of notarial officer)

3 (Official stamp)  
4 .....  
5 Title of officer (if not shown in stamp)"

7 **SECTION 12.** SECTION 15-18-217, MCA, IS AMENDED TO READ:

8 **"15-18-217. Form of cancellation.** The notice of cancellation of an assignment required by 15-18-212  
9 and [section 1] must be made as follows:

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

13 I further certify that pursuant to 15-18-212(3)(a), notice was given to ..... (name of assignee or assignee's  
14 agent) of the notification obligation and that the tax lien will be canceled if the assignee does not comply with  
15 provisions of 15-18-212 and [section 1].

16 I further certify that the treasurer of ..... County has no record of notice by the owner of the tax lien in  
17 accordance with 15-18-212(7) or [section 1(5)].

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

19 .....  
20 Name of County Treasurer"

22 **Section 13.** Section 15-18-411, MCA, is amended to read:

23 **"15-18-411. Action to quiet title to tax deed -- notice.** (1) (a) In an action brought to set aside or annul  
24 any tax deed or to determine the rights of an assignee to real property claimed to have been acquired through  
25 tax proceedings or a tax lien assignment, the assignee or the RECIPIENT OR purchaser of a tax deed pursuant to  
26 15-18-211 OR [section 4 2], upon filing an affidavit, may obtain from the court an order directed to the person  
27 claiming to:

- 28 (i) own the property;
- 29 (ii) have any interest in or lien upon the property;
- 30 (iii) have a right to redeem the property; or

1 (iv) have rights hostile to the tax title.

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

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

5 (i) deposit with the court for the use of the assignee:

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

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

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

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

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

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

22 (b) Jurisdiction is acquired over all other persons by giving a copy of the order to the county treasurer."  
23

24 **Section 14.** Section 15-18-412, MCA, is amended to read:

25 **"15-18-412. Procedure in tax deed quiet title action.** (1) Upon the hearing of the order to show cause,  
26 the court has jurisdiction to determine the amount to be deposited and to make an order that the same be paid  
27 to the court within a period not exceeding 30 days after the order is made.

28 (2) (a) Except as provided in subsections (2)(b) and (2)(c), if the amount is not paid within the time fixed  
29 by the court, the true owner is considered to have waived any defects in the tax proceedings and any right of  
30 redemption. In the event of waiver, the true owner has no claim of any kind against the state, a county that is the

1 possessor of the tax lien, ~~or an assignee,~~ or the RECIPIENT OR purchaser of a tax deed pursuant to 15-18-211 OR  
 2 [section 4 2], and a decree must be entered in the action quieting the title of the county, ~~or the assignee,~~ or the  
 3 RECIPIENT OR purchaser of a tax deed as against the true owner.

4 (b) The proceedings are void if the taxes were not delinquent or have been paid.

5 (c) A deposit is not required if the true owner is found by the court to be indigent following an examination  
 6 into the matter by the court upon the request of a true owner claiming to be indigent.

7 (3) If payment is made to the court and the true owner is successful in the action and the tax proceedings  
 8 are declared void, the amount deposited with the court must be paid to the county that is the possessor of the  
 9 tax lien, ~~or the assignee,~~ or the RECIPIENT OR purchaser of the tax deed.

10 (4) If the purported true owner is not successful in the action and the title of the county that is the  
 11 possessor of the tax lien, ~~or the assignee,~~ or the RECIPIENT OR purchaser of the tax deed is sustained, the money  
 12 must be returned to the purported true owner.

13 (5) In any action brought by a county that is the possessor of the tax lien, ~~or the assignee,~~ or the  
 14 RECIPIENT OR purchaser of the tax deed to quiet title, several tracts of land, whether contiguous or noncontiguous  
 15 or owned by different defendants, may be set forth in one complaint. All persons claiming any title to, interest in,  
 16 or lien upon any of the premises or any part of the premises may be joined as defendants, even though their  
 17 claims are independent, are not in common, and do not cover the same tracts. The procedure in the action must  
 18 follow, as nearly as practicable, the procedure specified in 70-28-101 through 70-28-109.

19 (6) In the final judgment, the court shall also determine the rights resulting from any additional taxes on  
 20 the property accruing or being paid by either party during the pendency of the suit.

21 (7) In the quiet title action, the court has complete jurisdiction to fix the amount of taxes that should have  
 22 been paid, including penalties, interest, and costs, and to determine all questions necessary in granting full relief,  
 23 including the power to order the department or any tax officer to make and certify to the court a corrected or new  
 24 assessment or to do any other act necessary to enable the court to do complete justice. Errors may be reviewed  
 25 on appeal from the final judgment."

26

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

28 **"15-18-413. Title conveyed by deed -- defects.** (1) All deeds executed ~~more than 3 years after the~~  
 29 ~~applicable attachment of the tax lien~~ MORE THAN 3 YEARS AFTER THE APPLICABLE ATTACHMENT OF THE TAX LIEN OR  
 30 pursuant to [section 4 2] convey to the grantee absolute title to the property described in the deed as of ~~3 years~~

1 ~~following the date of attachment of the tax lien~~ the date of issuance of the deed.

2 (2) The conveyance includes:

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

5 (b) the right, if the tax deed, tax lien attachment, or any of the tax proceedings upon which the deed may  
6 be based are attacked and held irregular or void, to recover the unpaid taxes, interest, penalties, and costs that  
7 would accrue if the tax proceedings had been regular and it was desired to redeem the property.

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

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

11 ~~(5) (a) Subject to subsection (5)(b), if any tax deed or deed purporting to be a tax deed is issued more~~  
12 ~~than 3 years and 30 days after the date of the attachment of the tax lien, the grantee may give notice entitled~~  
13 ~~"Notice of Claim of a Tax Title" as provided in 7-1-2121. The notice must:~~

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

15 ~~—— (ii) contain an estimate of the amount due on the property for delinquent taxes, interest, penalties, and~~  
16 ~~costs;~~

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

19 ~~—— (iv) list the name and address of record of the person in whose name the property was assessed or~~  
20 ~~taxed; and~~

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

25 ~~—— (b) The notice described in subsection (5)(a) must be served on a taxpayer whose name and address~~  
26 ~~are reasonably ascertainable.~~

27 ~~—— (6) (a) Provided that the statutory requirements for a notice of intended issuance of a tax deed required~~  
28 ~~by 15-18-212 have been complied with and if within the 30-day period the taxes, interest, penalties, and costs~~  
29 ~~are not paid or a quiet title action is not brought, all defects in the tax proceedings and any right of redemption~~  
30 ~~are considered waived. Except as provided in subsection (6)(b), after the 30-day period, the title to the property~~

1 ~~described in the notice and in the tax deed is valid and binding, irrespective of any irregularities, defects, or~~  
 2 ~~omissions in any of the provisions of the laws of Montana regarding the assessment, levying of taxes, or sale of~~  
 3 ~~property for taxes, whether or not the irregularities, defects, or omissions could void the proceedings.~~

4 ~~—— (b) The proceedings in subsection (6)(a) are void if the taxes were not delinquent or have been paid.~~

5 (5) (A) SUBJECT TO [SECTION 2] AND SUBSECTION (5)(B) OF THIS SECTION, IF ANY TAX DEED OR DEED  
 6 PURPORTING TO BE A TAX DEED IS ISSUED MORE THAN 3 YEARS AND 30 DAYS AFTER THE DATE OF THE ATTACHMENT OF  
 7 THE TAX LIEN PURSUANT TO 15-18-211, THE GRANTEE MAY GIVE NOTICE ENTITLED "NOTICE OF CLAIM OF A TAX TITLE"  
 8 AS PROVIDED IN 7-1-2121. THE NOTICE MUST:

9 (I) DESCRIBE ALL PROPERTY CLAIMED TO HAVE BEEN ACQUIRED BY A TAX DEED;

10 (II) CONTAIN AN ESTIMATE OF THE AMOUNT DUE ON THE PROPERTY FOR DELINQUENT TAXES, INTEREST,  
 11 PENALTIES, AND COSTS;

12 (III) CONTAIN A STATEMENT THAT FOR FURTHER SPECIFIC INFORMATION, REFERENCE MUST BE MADE TO THE  
 13 RECORDS IN THE OFFICE OF THE COUNTY TREASURER;

14 (IV) LIST THE NAME AND ADDRESS OF RECORD OF THE PERSON IN WHOSE NAME THE PROPERTY WAS ASSESSED  
 15 OR TAXED; AND

16 (V) CONTAIN A STATEMENT THAT DEMAND IS MADE THAT THE TRUE OWNER SHALL, WITHIN 30 DAYS AFTER THE  
 17 LATER OF SERVICE OR THE FIRST PUBLICATION OF THE NOTICE, PAY TO THE COUNTY TREASURER FOR USE BY THE  
 18 CLAIMANT THE AMOUNT OF TAXES, INTEREST, PENALTIES, AND COSTS AS THE SAME APPEAR IN THE RECORDS OF THE  
 19 COUNTY TREASURER TO REDEEM THE PROPERTY OR THE TRUE OWNER MAY BRING A SUIT TO QUIET THE TRUE OWNER'S  
 20 TITLE OR TO SET ASIDE THE TAX DEED.

21 (B) THE NOTICE DESCRIBED IN SUBSECTION (5)(A) MUST BE SERVED ON A TAXPAYER WHOSE NAME AND ADDRESS  
 22 ARE REASONABLY ASCERTAINABLE.

23 (6) (A) PROVIDED THAT THE STATUTORY REQUIREMENTS FOR A NOTICE OF INTENDED ISSUANCE OF A TAX DEED  
 24 REQUIRED BY 15-18-212 HAVE BEEN COMPLIED WITH AND IF WITHIN THE 30-DAY PERIOD THE TAXES, INTEREST,  
 25 PENALTIES, AND COSTS ARE NOT PAID OR A QUIET TITLE ACTION IS NOT BROUGHT, ALL DEFECTS IN THE TAX PROCEEDINGS  
 26 AND ANY RIGHT OF REDEMPTION ARE CONSIDERED WAIVED. EXCEPT AS PROVIDED IN SUBSECTION (6)(B), AFTER THE  
 27 30-DAY PERIOD, THE TITLE TO THE PROPERTY DESCRIBED IN THE NOTICE AND IN THE TAX DEED IS VALID AND BINDING,  
 28 IRRESPECTIVE OF ANY IRREGULARITIES, DEFECTS, OR OMISSIONS IN ANY OF THE PROVISIONS OF THE LAWS OF MONTANA  
 29 REGARDING THE ASSESSMENT, LEVYING OF TAXES, OR SALE OF PROPERTY FOR TAXES, WHETHER OR NOT THE  
 30 IRREGULARITIES, DEFECTS, OR OMISSIONS COULD VOID THE PROCEEDINGS.

1           (B) THE PROCEEDINGS IN SUBSECTION (6)(A) ARE VOID IF THE TAXES WERE NOT DELINQUENT OR HAVE BEEN  
2 PAID."

3

4           **Section 16.** Section 70-9-803, MCA, is amended to read:

5           **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is  
6 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular  
7 property:

8           (a) traveler's check, 15 years after issuance;

9           (b) money order, 7 years after issuance;

10           (c) stock or other equity interest in a business association or financial organization, including a security  
11 entitlement under Title 30, chapter 8, 5 years after the earlier of:

12           (i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the  
13 apparent owner; or

14           (ii) the date of the second mailing of a statement of account or other notification or communication that  
15 was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the  
16 apparent owner;

17           (d) debt of a business association or financial organization, other than a bearer bond or an original issue  
18 discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the apparent  
19 owner;

20           (e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after  
21 the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit  
22 that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity  
23 unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or  
24 is evidenced by a memorandum or other record on file with the holder;

25           (f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the  
26 obligation accrued;

27           (g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if  
28 redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value.  
29 A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year  
30 sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the

1 inflation factor defined in 15-30-2101. The amount considered abandoned for a person who sells more than the  
 2 amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.

3 (h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has  
 4 matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon  
 5 proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the  
 6 mortality table on which the reserve is based;

7 (i) property distributable by a business association or financial organization in a course of dissolution,  
 8 1 year after the property becomes distributable;

9 (j) property received by a court as proceeds of a class action and not distributed pursuant to the  
 10 judgment, 1 year after the distribution date;

11 (k) except as provided in subsection (1)(q), property held by a court, government, governmental  
 12 subdivision, agency, or instrumentality, 1 year after the property becomes distributable;

13 (l) wages or other compensation for personal services, 1 year after the compensation becomes payable;

14 (m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes  
 15 payable;

16 (n) property in an individual retirement account, defined benefit plan, or other account or plan that is  
 17 qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of  
 18 the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan  
 19 or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws  
 20 of the United States by which distribution of the property must begin in order to avoid a tax penalty;

21 (o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under  
 22 Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution  
 23 date;

24 (p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the community  
 25 in which the cooperative is located, 5 years after the distribution date; ~~and~~

26 (q) surplus funds held by a county treasurer pursuant to [section 2 3], 5 years; and

27 ~~(q)(r)~~ all other property, 5 years after the owner's right to demand the property or after the obligation to  
 28 pay or distribute the property arises, whichever first occurs.

29 (2) At the time that an interest is presumed abandoned under subsection (1), any other property right  
 30 accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also

1 presumed abandoned.

2 (3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner has  
3 not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf  
4 of the holder with the holder concerning the property or the account in which the property is held and has not  
5 otherwise indicated an interest in the property. A communication with an owner by a person other than the holder  
6 or its representative who has not in writing identified the property to the owner is not an indication of interest in  
7 the property by the owner.

8 (4) An indication of an owner's interest in property includes:

9 (a) the presentment of a check or other instrument of payment of a dividend or other distribution made  
10 with respect to an account or underlying stock or other interest in a business association or financial organization  
11 or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been  
12 received;

13 (b) owner-directed activity in the account in which the property is held, including a direction by the owner  
14 to increase, decrease, or change the amount or type of property held in the account;

15 (c) the making of a deposit to or withdrawal from an account in a financial organization; and

16 (d) the payment of a premium with respect to a property interest in an insurance policy; however, the  
17 application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance  
18 policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the  
19 beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender  
20 value of a policy by the application of those provisions.

21 (5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure to  
22 make demand or present an instrument or document otherwise required to obtain payment.

23 (6) The presumption provided in subsection (1) does not apply to:

24 (a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative uses the  
25 refunds exclusively for educational purposes; or

26 (b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or civic  
27 purposes in the community in which the cooperative is located."

28  
29 ~~NEW SECTION. Section 19. Repealer. The following sections of the Montana Code Annotated are~~  
30 ~~repealed:~~



1 ~~15-18-216. Form of proof of notice.~~

2 ~~15-18-217. Form of cancellation.~~

3

4 NEW SECTION. Section 17. Codification instruction. [Sections 1 ~~and 2~~ THROUGH 3] are intended to  
5 be codified as an integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2,  
6 apply to [sections 1 ~~and 2~~ THROUGH 3].

7

8 NEW SECTION. Section 18. Saving clause. [This act] does not affect rights and duties that matured,  
9 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

10

11 NEW SECTION. Section 19. Effective date. [This act] is effective on passage and approval.

12

13 NEW SECTION. Section 20. Applicability. [This act] applies to tax liens attached ~~and~~ OR assigned on  
14 or after [the effective date of this act].

15

- END -