

## SENATE BILL NO. 253

INTRODUCED BY C. SMITH, M. BLASDEL, W. GALT, G. HERTZ, D. KARY, F. MANDEVILLE, S. SALES,  
G. VANCE

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 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 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, 15-18-411, 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 IS NOT REDEEMED IN  
THE TIME ALLOWED UNDER 15-18-111, THE ASSIGNEE MAY FILE AN APPLICATION 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. THE COUNTY TREASURER SHALL CHARGE THE ASSIGNEE A \$25  
APPLICATION FEE. THE FEE MUST BE DEPOSITED IN THE COUNTY GENERAL FUND.

(B) IF THE TAX DEED APPLICATION IS MADE BY THE COUNTY AS PROVIDED IN SUBSECTION (3), NO APPLICATION

1 FEE MAY BE CHARGED.

2 (2) (A) AN ASSIGNEE WHO APPLIES FOR A TAX DEED FOR CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING  
3 SHALL PAY THE COUNTY TREASURER AT THE TIME OF THE TAX DEED APPLICATION:

4 (I) THE AMOUNT REQUIRED TO REDEEM ANY OUTSTANDING TAX LIENS, PENALTIES, AND INTEREST ON THE  
5 PROPERTY;

6 (II) ANY DELINQUENT TAXES, PENALTIES, AND INTEREST;

7 (III) CURRENT TAXES DUE FOR THE PROPERTY; AND

8 (IV) THE COST OF RECORDING THE NOTICE OF A TAX DEED APPLICATION.

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

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

14 (4) (A) THE COUNTY TREASURER SHALL HAVE THE COUNTY CLERK AND RECORDER RECORD A NOTICE OF THE  
15 TAX DEED APPLICATION, WHICH CONSTITUTES NOTICE OF THE PENDENCY OF THE TAX DEED APPLICATION WITH RESPECT  
16 TO THE PROPERTY AND REMAINS EFFECTIVE FOR 1 YEAR FROM THE DATE OF THE RECORDING.

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

21 (C) IF THE PROPERTY IS REDEEMED, THE COUNTY TREASURER SHALL RECORD A RELEASE OF THE NOTICE OF TAX  
22 DEED APPLICATION.

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

29 (6) THE COUNTY TREASURER SHALL GIVE NOTICE TO THE PERSONS IDENTIFIED IN SUBSECTION (5). THE NOTICE  
30 MUST BE IN THE FORM PROVIDED BY 15-18-215 AND BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. THE

COST OF PROVIDING NOTICE MUST BE INCLUDED IN THE COSTS REQUIRED TO BRING THE PROPERTY TO SALE.

**NEW SECTION. Section 2. Sale at public auction -- notice of auction.** (1) Upon receipt of an application for a tax deed pursuant to ~~15-18-211~~ [SECTION 1], the county treasurer shall hold a public auction in the county in which the property is located within 60 days of receipt of the application. The county treasurer shall publish notice of the auction as provided in 7-1-2121 that includes the date, time, and location of the auction. The auction must be held during the regular office hours of the county treasurer.

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

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

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

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

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

(iii) an amount equal to half of the most recent assessed value of the dwelling ~~or structure.~~

(3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid. Except as provided in subsection (3)(b), the high bidder shall post with the county treasurer a nonrefundable deposit of 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 of full payment. Notice of the deposit requirement must be posted at the auction site, and the county treasurer may require bidders to show their ability to post the deposit. The county treasurer may refuse to recognize the bid of a person who has previously bid and refused, for any reason, to honor the bid.

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

(c) If full payment of the purchase price and recording fees is not made within 24 hours of the sale,

1 excluding weekends and legal holidays, the county treasurer shall cancel all bids, readvertise the auction as  
2 provided in subsection (5), and pay costs of the resale from the deposit. Any funds remaining from the deposit  
3 must be applied to the opening bid.

4 (d) The portion of the opening bid that is equal to half of the most recent assessed value of the dwelling  
5 ~~or structure~~ is considered surplus funds and, upon sale of the property, must be distributed as provided in [section  
6 ~~2(3)~~ 3(3)]. If the purchase price is higher than the opening bid, the difference between the purchase price and  
7 the opening bid is considered surplus funds and must be distributed as provided in [section ~~2(3)~~ 3(3)].

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

10 (5) If the sale is canceled for any reason or if the buyer fails to make full payment within the time  
11 required, the county treasurer shall readvertise the sale within 30 days after the buyer's nonpayment or, if  
12 canceled, within 30 days of receipt of the costs of resale from the tax deed applicant. The sale must be held within  
13 30 days of readvertising. The opening bid provided for in subsection (2) must be increased by the cost of  
14 advertising, additional county treasurer's fees, and interest at a rate of 1.5% per month.

15 (6) On property for which there are no bidders at the public auction and for which the tax deed applicant  
16 fails to timely pay costs of resale or fails to pay the amounts due for issuance of a tax deed within 30 days after  
17 the sale pursuant to ~~15-18-211(2)~~ [SECTION 1], the county treasurer shall enter the land on a list of property  
18 available for taxes and shall immediately notify the county commission that the property is available. During the  
19 first 90 days after the property is placed on the list, the county may purchase the property for the opening bid or  
20 may waive its rights to purchase the property. If the county waives its right to purchase the property or after the  
21 90 days have passed, any person, the county, or any other governmental unit may purchase the property from  
22 the county treasurer, without further notice or advertising, for the opening bid. Interest on the opening bid  
23 continues to accrue through the month of sale.

24  
25 **NEW SECTION. Section 3. Distribution of tax deed auction proceeds.** (1) The county treasurer shall  
26 distribute the proceeds of a tax deed auction PURSUANT TO [SECTION 2] or a property purchased pursuant to  
27 [section ~~4(6)~~ 2(6)] as provided in this section.

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

30 (a) the amount paid for the assignment of the tax deed, including delinquent taxes, penalties, interest,

1 and costs; and

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

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

8 (4) (a) The notices must be in substantially the following form:

9 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

10 COUNTY TREASURER

11 ..... COUNTY, MONTANA

12 Tax Deed #.....

13 Tax Lien Number #.....

14 Property Description: .....

15 Pursuant to [section 4 2], Montana Code Annotated, the above property was sold at public auction on  
16 .....(date of sale), and a surplus of \$.....(subject to change) will be held by this office for 120 days  
17 beginning on the date of this notice to benefit the persons having an interest in this property as described in  
18 ~~15-18-212~~ [SECTION 1], MCA, as their interests may appear.

19 To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage  
20 or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former  
21 property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim  
22 with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your  
23 lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

24 A copy of this notice must be attached to your statement of claim. After the office examines the filed claim  
25 statements, it will notify you if you are entitled to any payment.

26 Dated:.....

27 County Treasurer .....

28 (b) The mailed notice must include a form for making a claim as provided in subsection (5). Service  
29 charges and the costs of the mailing must be paid out of the surplus funds held by the county treasurer. If the  
30 county treasurer certifies that the surplus funds are not sufficient to cover the service charges and mailing costs,

1 the county treasurer shall receive the total amount of the surplus funds as a service charge.

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

5 CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

6 Complete and return to:

7 By mail:.....

8 By e-mail:.....

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

10 Claimant's name:.....

11 Contact name, if applicable:.....

12 Address:.....

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

14 Tax No:.....

15 Date of sale.....

16 Check one:

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

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

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

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

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

22 Describe in detail:.....

23 .....

24 .....

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

26 Recording date:.....

27 Instrument #:.....

28 Book #:.....

29 Page #:.....

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

- 1 Amounts due: \$.....
- 2 Principal remaining due: \$.....
- 3 Interest due: \$.....
- 4 Fees and costs due, including late fees: \$(describe costs in detail, include additional sheet if needed).....
- 5 Attorney fees: \$(provide amount claimed): \$..... TITLEHOLDER INFORMATION (Complete if claim is  
6 based on title formerly held on sold property.)
- 7 Nature of title (check one): Deed....Court Judgment....Other.... (describe in detail).....
- 8 If your former title is recorded in the county's official records, list the following, if known:
- 9 Recording date:.....
- 10 Instrument #:.....
- 11 Book #:.....
- 12 Page #:.....
- 13 Amount of surplus tax deed sale proceeds claimed: \$.....
- 14 I hereby swear or affirm that all of the above information is true and correct.
- 15 Date:.....
- 16 Signature:.....
- 17 STATE OF MONTANA
- 18 ..... COUNTY
- 19 Sworn to or affirmed and signed before me on.....(date) by.....(name of affiant).
- 20 NOTARY PUBLIC
- 21 Print, Type, or Stamp Commissioned Name of Notary)
- 22 Personally Known,.....or Produced Identification:.....
- 23 Identification Produced:.....
- 24 (6) A claim may be:
- 25 (a) mailed using the United States postal service. The filing date is the postmark on the mailed claim.
- 26 (b) delivered using either a commercial delivery service or in person. The filing date is the day of delivery.
- 27 (c) sent by fax or e-mail, as authorized by the county treasurer. The filing date is the date the county  
28 treasurer receives the fax or e-mail.
- 29 (7) Except for claims by a property owner, claims that are not filed on or before close of business on the  
30 120th day after the date of the mailed notice as required by subsection (5) are barred. A person, other than the

1 property owner, who fails to file a proper and timely claim is barred from receiving any disbursement of the  
2 surplus funds. The failure of any person described in ~~45-18-242~~ SECTION 1, other than the property owner, to  
3 file a claim for surplus funds within the 120 days constitutes a waiver of interest in the surplus funds, and all  
4 claims are forever barred.

5 (8) Within 90 days after the claim period expires, the county treasurer may either file an interpleader  
6 action in district court, if potentially conflicting claims to the funds exist, or pay the surplus funds according to the  
7 county treasurer's determination of the priority of claims using the information provided by the claimants. Fees  
8 and costs incurred by the county treasurer in determining whether an interpleader action should be filed must be  
9 paid from the surplus funds. If the county treasurer files an interpleader action, the court shall determine the  
10 distribution of funds based upon the priority of liens filed. The county treasurer may move the court to award  
11 reasonable fees and costs from the interpleaded funds. An action to require payment of surplus funds is not ripe  
12 until the claim and review periods expire. The failure of a person described in ~~45-18-242~~ SECTION 1, other than  
13 the property owner, to file a claim for surplus funds within the 120 days constitutes a waiver of all interest in the  
14 surplus funds, and all claims for them are forever barred.

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

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

24 (11) If the county treasurer does not receive claims for surplus funds within the 120-day claim period, as  
25 required in subsection (7), there is a conclusive presumption that the legal titleholder of record described is  
26 entitled to the surplus funds. The county treasurer shall process the surplus funds regardless of whether the legal  
27 titleholder is a resident of the state or not. The surplus funds are considered to be unclaimed property if not  
28 claimed within 5 years as provided in 70-9-803(1)(q).

29  
30 **Section 4.** Section 15-16-102, MCA, is amended to read:

1       **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the  
2 provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,  
3 except assessments made for special improvements in cities and towns payable under 15-16-103, are payable  
4 as follows:

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

8           (2) ~~Unless~~ Except as provided in subsection (3)(b), unless one-half of the taxes are paid on or before  
9 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the  
10 amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency  
11 until paid and 2% must be added to the delinquent taxes as a penalty.

12           (3) ~~All (a)~~ Except as provided in subsection (3)(b), all taxes due and not paid on or before 5 p.m. on May  
13 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency  
14 until paid, and 2% must be added to the delinquent taxes as a penalty.

15           **(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**  
16 **is auctioned and assigned pursuant to ~~15-17-323~~ 15-17-323(1)(B) is the interest rate bid by the person to whom**  
17 **the tax lien was assigned.**

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

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

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

30           **(B) THE OWNER OF CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING MAY PAY DELINQUENT TAXES BEFORE**

1 PAYING TAXES CURRENTLY DUE FOR THE CURRENT TAX YEAR.

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

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

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

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

10  
11 **Section 5.** Section 15-17-121, MCA, is amended to read:

12 **"15-17-121. Definitions.** Except as otherwise specifically provided, when terms mentioned in Title 15,  
13 chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

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

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

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

22 (i) preparing the list of delinquent taxes;

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

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

25 (iv) identifying interested persons entitled to notice of the pending ~~issuance~~ ISSUANCE OR auction of a tax  
26 deed;

27 (v) notifying interested persons;

28 (vi) sale or resale;

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

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

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

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

- ~~—— (i) postage for certified mailings and certified mailings with return receipt requested;~~
- ~~—— (ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending issuance of a tax deed;~~
- ~~—— (iii) publishing costs for required publications; and~~
- ~~—— (iv) filing costs for proof of notice.~~

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

- (I) POSTAGE FOR CERTIFIED MAILINGS AND CERTIFIED MAILINGS WITH RETURN RECEIPT REQUESTED;
- (II) A TITLE SEARCH, TO THE EXTENT NECESSARY TO IDENTIFY INTERESTED PERSONS ENTITLED TO NOTICE OF THE PENDING ISSUANCE OF A TAX DEED;
- (III) PUBLISHING COSTS FOR REQUIRED PUBLICATIONS; AND
- (IV) FILING COSTS FOR PROOF OF NOTICE.

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

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

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

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

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

1       ~~Section 5.~~ Section 15-17-122, MCA, is amended to read:

2       ~~"15-17-122. Notice of pending attachment of tax lien.~~ (1) The county treasurer shall publish or post  
3 a notice of a pending attachment of a tax lien. The notice must include:

4       ~~(a) the specific date on which the county will attach a property tax lien to property on which the taxes are~~  
5 ~~delinquent taxes exceed \$1,000; and~~

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

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

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

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

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

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

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

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

20  
21       ~~Section 6.~~ Section 15-17-125, MCA, is amended to read:

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

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

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

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

- ~~\_\_\_\_\_ (b) the date on which a property tax lien was attached to the property;~~  
~~\_\_\_\_\_ (c) the name and address of record of the person to whom the taxes were assessed;~~  
~~\_\_\_\_\_ (d) a description of the property on which the taxes were assessed;~~  
~~\_\_\_\_\_ (e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;~~  
~~\_\_\_\_\_ (f) a statement that the tax lien certificate represents a lien on the property that may lead to the issuance of a tax deed for the property;~~  
~~\_\_\_\_\_ (g) a statement specifying the date on which the county or will auction the tax lien and the date on which an assignee will be entitled to may apply for a tax deed; and~~  
~~\_\_\_\_\_ (h) an identification number corresponding to the tax lien certificate.~~  
~~\_\_\_\_\_ (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate must be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the person may contact the county treasurer for further information on property tax liens.~~  
~~\_\_\_\_\_ (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending attachment of a tax lien to the person to whom the property was assessed. The notice must include the information listed in subsection (2), state that the tax lien may be assigned to a third party at auction, and provide notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341. The notice must have been mailed at least 2 weeks prior to the date on which the county treasurer attaches the tax lien.~~  
~~\_\_\_\_\_ (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."~~

**SECTION 6. SECTION 15-17-122, MCA, IS AMENDED TO READ:**

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

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

(b) all other property on which taxes are delinquent.

(2) The notice must include:

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

1 delinquent; 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 or auctioned to a third party;

5 (c) a statement of the date, location, and rules of the auction to be held to assign tax liens for class four  
6 residential property with a dwelling.

7 ~~(2)~~(3) The notice required in subsection ~~(4)~~ (2) must also include a statement that a list of each property  
8 on which the taxes are delinquent is on file in the office of the county treasurer and open to inspection. The list  
9 must include:

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

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

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

13 ~~(3)~~(4) The notice must be given as provided in 7-1-2121. The notice must be first published or posted  
14 on or before the last Monday in June.

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

17  
18 **SECTION 7. SECTION 15-17-125, MCA, IS AMENDED TO READ:**

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

24 (b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for  
25 which proper notice was not given.

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

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

29 (b) the date on which a property tax lien was attached to the property;

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

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

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

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

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

(h) an identification number corresponding to the tax lien certificate.

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

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

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

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

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

(B) (I) The county treasurer shall hold an auction to assign a tax lien certificate or other official record in which the county is listed as the possessor FOR CLASS FOUR RESIDENTIAL PROPERTY WITH A DWELLING. A person wishing to purchase a tax lien at auction shall bid on the interest rate for the delinquent taxes, penalties, and costs accruing from the date of delinquency. Except as provided in subsection (1)(b) (1)(B)(II), the county treasurer shall assign the tax lien to the person who submits the lowest interest rate bid and pays the delinquent taxes, penalties, costs, and interest rate bid. THE INTEREST RATE BID MAY NOT EXCEED 11%.

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

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

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

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

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

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

..... County Treasurer

..... County

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

(3) An assignment made by an assignee of the county or by a previous assignee may be made for any consideration whatsoever. An assignment so made is legal and binding only upon filing with the county treasurer a statement that the assignee's interest in the property has been assigned. The county treasurer shall file a copy of the statement with the clerk and recorder. The statement must contain:

(a) the name and address of the new assignee;

(b) the name and address of the original assignee;

(c) the name and address of each previous assignee, if any;

(d) a description of the property upon which the property tax lien was issued, which must contain the same information as contained in the tax lien certificate or assignment certificate, as appropriate;

(e) the signature of the party making the assignment;

(f) the signature of the new assignee; and

(g) the date on which the statement was signed.

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

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

(6) THE NOTICE MUST BE IN THE FOLLOWING FORM:

NOTICE OF PENDING ASSIGNMENT

(PURSUANT TO 15-17-125 AND 15-17-323, MCA)

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

PLEASE CONTACT THE ..... COUNTY TREASURER AT (406) ..... WITH QUESTIONS OR TO PAY THE DELINQUENT TAXES.

1 (REQUIRED INFORMATION):

2 OWNER OF RECORD .....

3 MAILING ADDRESS .....

4 LEGAL DESCRIPTION .....

5 PARCEL NUMBER .....

6 GEOCODE(S) .....

7 DATE OF NOTICE .....

8 .....

9 SIGNATURE OF INTERESTED ASSIGNEE

10 .....

11 PRINTED NAME OF INTERESTED ASSIGNEE

12 ~~(5)(7)~~ Prior to ~~making a payment~~ holding an auction under subsection ~~(4) (1)(B)~~, ~~a person~~ the county  
 13 treasurer shall send notice of the ~~proposed payment~~ auction, by certified mail, to the person to whom the property  
 14 was assessed. The notice must have been mailed at least 2 weeks prior to the date of the ~~payment~~ auction but  
 15 not earlier than August 15. ~~The person making the payment shall provide proof of the mailing.~~

16 ~~(6)(8)~~ The notice must be in the following form:

17 NOTICE OF PENDING ASSIGNMENT AUCTION

18 (Pursuant to 15-17-125 and 15-17-323, MCA)

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

21 THIS COULD RESULT IN THE LOSS OF YOUR PROPERTY LISTED BELOW.

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

23 (Required Information):

24 Owner of record .....

25 Mailing address .....

26 Legal description .....

27 Parcel number .....

28 Geocode(s) .....

29 Date of notice .....

30 .....

1 Signature of ~~interested assignee~~ county treasurer  
2 .....  
3 Printed name of ~~interested assignee~~ county treasurer"  
4

5 **Section 9.** Section 15-17-326, MCA, is amended to read:

6 **"15-17-326. Voided tax lien -- refund -- limitation on action for royalty interest.** (1) If a tax lien  
7 attached under the provisions of this chapter is declared void by a court for irregularity in the assessment, levy,  
8 or assignment or if a tax lien is assigned in error, the money paid by the assignee must be refunded, with interest  
9 at the rate payable upon delinquencies, as provided in 15-16-102, or the rate bid as provided in ~~15-17-323~~  
10 15-17-323(1)(B), from the date of the payment, to the assignee, together with any penalty paid by the assignee.

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

22 (3) The assignee has a lien upon the property for the amount of taxes, penalties, interest, and costs paid,  
23 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~~  
24 15-17-323(1)(B). If the assignee is in possession of the property and resides on the property, the assignee may  
25 not be ejected from the property until the assignee's lien has been liquidated.

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

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

1  
2       **Section 10.** Section 15-18-112, MCA, is amended to read:

3       **"15-18-112. Redemption from property tax lien -- lien on interest in property for taxes paid.** (1) (a)

4 Except as provided in subsections (1)(b) and (4), in all cases in which a property tax lien has been assigned, the  
5 assignee may pay the subsequent taxes assessed against the property on or after June 1 and prior to July 31  
6 if the taxes have not been paid by the property owner.

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

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

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

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

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

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

20  
21       ~~Section 10.~~ Section 15-18-211, MCA, is amended to read:

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

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

30       ~~(b) If the tax deed is issued to~~ application is made by the county as provided in subsection (3), no

~~application fee may be charged for making the deed.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~——— (b) for each property for which the county attached a tax lien and assigned the tax lien pursuant to 15-17-323, the assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period.~~

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

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

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

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

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

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

1 that the guarantee:

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

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

4 ~~—— (iii) lists the identities and addresses of the parties of record that have that has an interest or possible~~  
5 ~~claim of an interest in the property designed to disclose all parties of record that and would otherwise be~~  
6 ~~necessary to name in a quiet title action. The cost of the report must be included in the costs required to bring~~  
7 ~~the property to sale.~~

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

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

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

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

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

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

25  
26 **SECTION 11. SECTION 15-18-211, MCA, IS AMENDED TO READ:**

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

1 must be the full legal description.

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

5 (b) If the tax deed is issued to the county, no fee may be charged for making the deed.

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

8 (3) If no assignment has been made, the county treasurer may not issue a tax deed to the county unless  
9 the board of county commissioners, by resolution, directs the county treasurer to issue a tax deed.

10 (4) Deeds issued to assignees or the county must be recorded by the county clerk as provided in Title  
11 7, chapter 4, part 26, except that when the county is issued the tax deed, the county clerk may not charge a fee  
12 for recording the deed."

13  
14 **SECTION 12. SECTION 15-18-212, MCA, IS AMENDED TO READ:**

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

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

21 (b) for each property other than class four residential property with a dwelling for which the county  
22 attached a tax lien and assigned the tax lien pursuant to 15-17-323, the assignee shall notify the parties as  
23 required in subsection (4) that a tax deed will be issued to the assignee unless the property tax lien is redeemed  
24 prior to the expiration date of the redemption period.

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

1 than 120 days prior to the date on which the county treasurer will issue the tax deed.

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

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

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

13 (4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and  
14 be made by certified mail, return receipt requested, to ~~the current occupant, if any, of the property and to each~~  
15 party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

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

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

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

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

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

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

29 (7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and  
30 recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing

or publishing of the notice. If the county is the possessor of the tax lien, the proof of notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

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

**Section 13.** Section 15-18-213, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

.....County Treasurer

.....County

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

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

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

(c) the taxes were not paid when due;

(d) notice of the pending attachment of a tax lien was given and the tax lien was attached at the proper time and place as provided by law;

(e) the property was not redeemed, and proper notice of a pending tax deed ~~issuance~~ ISSUANCE OR auction was made as required by law;

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

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

**Section 14.** Section 15-18-214, MCA, is amended to read:

**"15-18-214. Effect of deed.** (1) Subject to 15-18-411 and 15-18-413, a deed issued under this chapter conveys to the grantee absolute title to the property described in the deed as of the date of the ~~expiration of the redemption period, free and clear of all liens and encumbrances~~ tax deed, except:

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

(i) a subsequent property tax lien is attached; or

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

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

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

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

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

**"15-18-215. Form of notice that tax deed may issue.** ~~(1) Section 15-18-212~~ [SECTION 1] requires that notice be given to all persons considered interested parties and to the current occupant of property that may be lost to a tax deed. The notice must be made as follows:

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).

8. 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

## 1 ABOVE WHOSE ADDRESSES ARE UNKNOWN:

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

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

6 .....  
7 Signature

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

9 (2) SECTION 15-18-212 REQUIRES THAT NOTICE BE GIVEN TO ALL PERSONS CONSIDERED INTERESTED PARTIES  
10 OF PROPERTY THAT MAY BE LOST TO A TAX DEED. THE NOTICE MUST BE MADE AS FOLLOWS:

11 NOTICE THAT A TAX DEED MAY BE ISSUED

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

13 TO:..... .....

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

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

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

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

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

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

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

22 TAXES: .....

23 PENALTY: .....

24 INTEREST: .....

25 COST: .....

26 TOTAL: .....

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

29 7. IF ALL TAXES, PENALTIES, INTEREST, AND COSTS ARE NOT PAID TO THE COUNTY TREASURER ON OR PRIOR  
30 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.

8. 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. THE ADDRESS OF THE INTERESTED PARTY IS UNKNOWN.

2. THE PUBLISHED NOTICE MEETS THE LEGAL REQUIREMENTS FOR NOTICE OF A PENDING TAX DEED ISSUANCE.

3. THE INTERESTED PARTY'S RIGHTS IN THE PROPERTY MAY BE IN JEOPARDY.

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

.....  
SIGNATURE"

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

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

(i) own the property;

(ii) have any interest in or lien upon the property;

(iii) have a right to redeem the property; or

(iv) have rights hostile to the tax title.

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

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

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

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

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

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

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

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

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

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

**Section 17.** Section 15-18-412, MCA, is amended to read:

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

(2) (a) Except as provided in subsections (2)(b) and (2)(c), if the amount is not paid within the time fixed by the court, the true owner is considered to have waived any defects in the tax proceedings and any right of redemption. In the event of waiver, the true owner has no claim of any kind against the state, a county that is the possessor of the tax lien, ~~or an assignee,~~ or the RECIPIENT OR purchaser of a tax deed pursuant to 15-18-211 OR [section 4 2], and a decree must be entered in the action quieting the title of the county, ~~or the assignee,~~ or the RECIPIENT OR purchaser of a tax deed as against the true owner.

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

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

(3) If payment is made to the court and the true owner is successful in the action and the tax proceedings are declared void, the amount deposited with the court must be paid to the county that is the possessor of the

1 tax lien, ~~or the assignee, or the RECIPIENT OR purchaser of the tax deed.~~

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

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

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

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

18

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

20 **"15-18-413. Title conveyed by deed -- defects.** (1) All deeds executed ~~more than 3 years after the~~  
21 ~~applicable attachment of the tax lien~~ MORE THAN 3 YEARS AFTER THE APPLICABLE ATTACHMENT OF THE TAX LIEN OR  
22 pursuant to [section 4 2] convey to the grantee absolute title to the property described in the deed as of ~~3 years~~  
23 ~~following the date of attachment of the tax lien~~ the date of issuance of the deed.

24 (2) The conveyance includes:

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

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

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

(4) A tax deed is prima facie evidence of the right of possession accruing as of the date of the expiration of the redemption period described in 15-18-111 issuance of the tax deed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24  
25 **Section 19.** Section 70-9-803, MCA, is amended to read:

26 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is  
27 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular  
28 property:

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

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

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

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

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

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

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

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

18 (g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if  
19 redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value.  
20 A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year  
21 sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the  
22 inflation factor defined in 15-30-2101. The amount considered abandoned for a person who sells more than the  
23 amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.

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

28 (i) property distributable by a business association or financial organization in a course of dissolution,  
29 1 year after the property becomes distributable;

30 (j) property received by a court as proceeds of a class action and not distributed pursuant to the

1 judgment, 1 year after the distribution date;

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

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

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

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

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

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

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

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

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

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

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

30 (a) the presentment of a check or other instrument of payment of a dividend or other distribution made

1 with respect to an account or underlying stock or other interest in a business association or financial organization  
2 or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been  
3 received;

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

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

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

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

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

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

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

19  
20 ~~NEW SECTION. Section 19. Repealer. The following sections of the Montana Code Annotated are~~  
21 ~~repealed:~~

22 ~~15-18-216. Form of proof of notice.~~

23 ~~15-18-217. Form of cancellation.~~

24  
25 NEW SECTION. Section 20. Codification instruction. [Sections 1 ~~and 2~~ THROUGH 3] are intended to  
26 be codified as an integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2,  
27 apply to [sections 1 ~~and 2~~ THROUGH 3].

28  
29 NEW SECTION. Section 21. Saving clause. [This act] does not affect rights and duties that matured,  
30 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

1

2 NEW SECTION. **Section 22. Effective date.** [This act] is effective on passage and approval.

3

4 NEW SECTION. **Section 23. Applicability.** [This act] applies to tax liens attached and assigned on or

5 after [the effective date of this act].

6 - END -