

1 HOUSE BILL NO. 23

2 INTRODUCED BY B. BEARD

3 BY REQUEST OF THE REVENUE INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE TAX LIEN AND TAX DEED
6 PROCESS LAWS; PROVIDING THAT PROPERTY WITH A RESIDENCE IS SUBJECT TO A TAX DEED
7 AUCTION ONLY IF THE OWNER OCCUPIES THE RESIDENCE; CLARIFYING TIMELINES FOR
8 NOTIFICATION REQUIREMENTS; REQUIRING THE HIGH BIDDER TO PAY AUCTION COSTS; PROVIDING
9 FOR CANCELLATION OF AN ASSIGNMENT IF THE AUCTION DOES NOT RESULT IN PURCHASE OF THE
10 TAX DEED; PROVIDING THAT THE COUNTY TREASURER DISTRIBUTES SURPLUS AUCTION
11 PROCEEDS TO THE LEGAL TITLEHOLDER; AMENDING SECTIONS 15-18-112, 15-18-212, 15-18-215, 15-
12 18-216, 15-18-217, 15-18-219, 15-18-220, 15-18-221, AND 70-9-803, MCA; AND PROVIDING AN IMMEDIATE
13 EFFECTIVE DATE AND AN APPLICABILITY DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **Section 1.** Section 15-18-112, MCA, is amended to read:

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

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

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

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

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

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

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

5 (a) the property tax lien for the year in which the partial payment is made is owned by the county; and
6 (b) the tax deed has not been issued pursuant to 15-18-211 or 15-18-220."

7

8 **Section 2.** Section 15-18-212, MCA, is amended to read:

9 **"15-18-212. Notice -- proof of notice -- penalty for failure to notify.** (1) Between May 1 and May 30
10 of the year in which the redemption period expires, a notice must be given as follows:

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

14 (b) for each property other than property provided for in 15-18-219(1)(b) for which the county attached
15 a tax lien and assigned the tax lien pursuant to 15-17-323, the assignee shall notify the parties as required in
16 subsection (4) that a tax deed will be issued to the assignee unless the property tax lien is redeemed prior to
17 the expiration date of the redemption period.

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

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

27 (3) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection
28 (1)(b) between January 1 and January 31 of the year in which the redemption period expires. The notice of

1 obligation ~~may~~must be sent by certified mail, return receipt requested, to the assignee at the address
2 contained on the assignment certificate provided for in 15-17-323.

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

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

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

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

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

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

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

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

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

1 sufficiency of the notice.

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

3

4 **Section 3.** Section 15-18-215, MCA, is amended to read:

5 **"15-18-215. Form of notice that tax deed may issue.** (1) Section 15-18-219 requires that notice be
6 given to all persons considered interested parties and to the current occupant of property that may be lost to a
7 tax deed. The notice must be made as follows for property provided for in 15-18-219(1)(b):

8 NOTICE THAT A TAX DEED MAY BE ISSUED

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

10 TO:.....

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

12 Pursuant to section 15-18-219, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

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

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

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

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

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

19 TAXES:

20 PENALTY:

21 INTEREST:

22 COST:

23 TOTAL:

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

26 7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior
27 to....., which is the date the redemption period expires, a tax deed auction will be held within 60 days of the
28 tax deed application date.

1 8. Any surplus funds resulting from the auction will be distributed to ~~interested parties. A notarized~~
 2 ~~claim for surplus funds must be filed with the county treasurer within 30 days of the auction~~ the legal titleholder
 3 of record.

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

6 FURTHER NOTICE FOR THOSE PERSONS LISTED ABOVE WHOSE ADDRESSES ARE
 7 UNKNOWN:

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

11 DATED at..... this..... (Date).

12

13 Signature

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

15 (2) Section 15-18-212 requires that notice be given to all persons considered interested parties of
 16 property that may be lost to a tax deed. The notice must be made as follows for all property other than property
 17 provided for in 15-18-219(1)(b):

18 NOTICE THAT A TAX DEED MAY BE ISSUED

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

20 TO:.....

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

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

- 23 1. As a result of a property tax delinquency, a property tax lien exists on the following described real
 24 property in which you may have an interest:
 25 2. The property taxes became delinquent on.....
 26 3. The property tax lien was attached on.....
 27 4. The lien was subsequently assigned to..... (if applicable).
 28 5. As of the date of this notice, the amount of tax due is:

1 TAXES:.....
 2 PENALTY:.....
 3 INTEREST:.....
 4 COST:.....
 5 TOTAL:.....

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

8 7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior
 9 to....., which is the date the redemption period expires, a tax deed may be issued to the assignee or county
 10 that is the possessor of the tax lien on the day following the date that the redemption period expires.

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

13 FURTHER NOTICE FOR THOSE PERSONS LISTED
 14 ABOVE WHOSE ADDRESSES ARE UNKNOWN:

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

18 DATED at..... this..... (Date).
 19

20 Signature

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

22
 23 **Section 4.** Section 15-18-216, MCA, is amended to read:

24 **"15-18-216. Form of proof of notice.** Sections 15-18-212 and 15-18-219 require that proof of notice
 25 must be filed with the county clerk. The proof of notice must be made as follows:

26 PROOF OF NOTICE

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

1 1. A "Notice That a Tax Deed May Be Issued" was mailed to the owners, current occupant, and
2 parties, as required by 15-18-212 or 15-18-219, MCA. A copy of each notice is attached or is on file in the office
3 of the county clerk.

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

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

9 DATED:.....

10

11 (Signature)

12 State of.....

13 County of.....

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

15

16 (Signature of notarial officer)

17 (Official stamp)

18

19 Title of officer (if not shown in stamp)"

20

21 **Section 5.** Section 15-18-217, MCA, is amended to read:

22 "**15-18-217. Form of cancellation.** The notice of cancellation of an assignment required by 15-18-
23 212 and 15-18-219 must be made as follows:

24 I,....., the treasurer of..... County, certify that..... (name of the assignee or assignee's agent) of.....
25 (address), purchased a tax lien assignment..... (assignment certificate no.) on the following property..... (full
26 legal description) owned by..... (name of owner of record)- ~~See legal description attached as exhibit "A", Tax~~
27 ~~Receipt No.....~~ on..... (date).

28 I further certify that pursuant to 15-18-212(3)(a) and 15-18-219(6)(a), notice was given to..... (name of

1 assignee or assignee's agent) of the notification obligation and that the tax lien will be canceled if the assignee
 2 does not comply with provisions of 15-18-212 and 15-18-219.

3 I further certify that the treasurer of..... County has no record of notice by the owner of the tax lien in
 4 accordance with 15-18-212(7) or 15-18-219~~(5)~~(6).

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

6

7 Name of County Treasurer"

8

9 **Section 6.** Section 15-18-219, MCA, is amended to read:

10 **"15-18-219. Application for tax deed for residential property -- fee -- notice.** (1) (a) If a property
 11 tax lien attached to the property provided for in subsection (1)(b) is not redeemed in the time allowed under 15-
 12 18-111, the assignee may file an application after the redemption period has expired with the county treasurer
 13 for a tax deed for the property. The tax deed application must contain the same information as is required in 15-
 14 18-211(1). The county treasurer shall charge the assignee a \$25 application fee. The fee must be deposited in
 15 the county general fund.

16 (b) The following property is subject to the provisions of this section if it contains a dwelling that is
 17 currently occupied by the legal titleholder of record:

- 18 (i) land classified as residential pursuant to 15-6-134;
 19 (ii) land classified as agricultural pursuant to 15-6-133(1)(a) and (1)(c); and
 20 (iii) land classified as forest property pursuant to 15-6-143.

21 (c) For the property provided for in subsection (1)(b)(ii) and (1)(b)(iii), the provisions of this section
 22 also apply to other property of the same class that is included on the same tax bill.

23 (2) An assignee who applies for a tax deed pursuant to this section shall pay the county treasurer at
 24 the time of the tax deed application:

- 25 (a) the amount required to redeem any unassigned tax liens or tax liens held by other assignees;
 26 (b) any delinquent taxes, penalties, and interest; and
 27 (c) current taxes due for the property; ~~and~~
 28 ~~(d) the cost of filing the notice of a tax deed application.~~

1 (3) (a) The county treasurer shall have the county clerk and recorder file a notice of the tax deed
 2 application, ~~which constitutes notice of the pendency of the tax deed application with respect to the property~~
 3 ~~and remains effective for 1 year from the date of the filing.~~

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

7 (c) If the property is redeemed, the county treasurer shall file a redemption certificate, which release
 8 ~~of releases~~ the notice of tax deed application.

9 (4) (a) ~~Prior to applying~~ Between May 1 and May 30 of the year in which the redemption period
 10 expires, an assignee applying for a tax deed, ~~the assignee~~ shall notify the parties as required in subsection
 11 (4)(b) that a tax deed will be auctioned unless the property tax lien is redeemed before the date of the auction.

12 (b) The notice required under subsection (4)(a) must ~~be in the form required by 15-18-215(1) and be~~
 13 ~~made by certified mail, return receipt requested, in the form required by 15-18-215 and as provided in 7-1-2121,~~
 14 to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation
 15 guarantee, provided that the guarantee:

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

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

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

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

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

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

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

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

9 ~~(5)~~(c) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk
 10 and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the
 11 mailing or publishing of the notice. Once filed, the proof of notice is prima facie evidence of the sufficiency of
 12 the notice."
 13

14 **Section 7.** Section 15-18-220, MCA, is amended to read:

15 **"15-18-220. Sale at public auction -- notice of auction -- cancellation of assignment for**
 16 **unsuccessful auction.** (1) Upon receipt of an application for a tax deed pursuant to 15-18-219, the county
 17 treasurer shall hold a public auction in the county in which the property is located within 60 days of receipt of
 18 the application. The county treasurer shall publish notice of the auction as provided in 7-1-2121 that includes
 19 the date, time, and location of the auction, the legal description of the property, the deposit requirement, and
 20 the minimum opening bid. The auction must be held during the regular office hours of the county treasurer.

21 (2) (a) The opening bid on the property must be the amount required in subsection (2)(b), and the
 22 county treasurer may not accept a bid below the opening bid.

23 (b) The opening bid for the property is equal to the sum of:

24 (i) the amount required to redeem the tax lien, which includes delinquent taxes, penalties, interest,
 25 and costs;

26 (ii) amounts paid by the assignee upon application for the tax deed pursuant to 15-18-219(2);

27 (iii) tax deed fees provided for in 15-18-211(2)(a) and recording fees; and

28 ~~(iii)~~(iv) an amount equal to half of the most recent assessed value of the land and of the dwelling or

1 half of the value of the land and of the dwelling as determined in an independent appraisal. If the opening bid is
2 based on an independent appraisal, the appraisal must be provided to the county treasurer, must meet the
3 standards set by the Montana board of real estate appraisers, and must have been conducted within 6 months
4 of the date of the auction.

5 (3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid plus
6 auction costs incurred by the county treasurer. Except as provided in subsection (3)(b), the high bidder shall
7 post with the county treasurer a nonrefundable deposit of 5% of the bid or \$200, whichever is greater, at the
8 time of sale. The deposit is applied to the sale price at the time of full payment. Notice of the deposit
9 requirement must be posted at the auction site, and the county treasurer may require bidders to show their
10 ability to post the deposit. The county treasurer may refuse to recognize the bid of a person who has previously
11 bid and refused, for any reason, to honor the bid.

12 (b) If the ~~tax deed applicant assignee~~ is the high bidder, the ~~tax deed applicant assignee~~ shall pay to
13 the county treasurer auction costs and any amounts included in the opening bid and not already paid, including
14 filing fees, tax deed fees, and one-half of the most recent assessed value of the land and of the dwelling. ~~The~~
15 ~~amounts paid with the tax deed application must be subtracted from the deposit required in subsection (3)(a).~~ If
16 the assignee does not make full payment within 24 hours, excluding weekends and legal holidays, the county
17 treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a
18 form provided for in [section 8].

19 (c) If full payment of the purchase price and ~~recording fees~~ auction costs is not made within 24 hours
20 of the sale, excluding weekends and legal holidays, by a high bidder who is not the assignee, the county
21 treasurer shall cancel ~~all bids, notice the auction as provided in subsection (5), and pay costs of the resale from~~
22 ~~the deposit. Any funds remaining from the deposit must be applied to the opening bid~~ the high bid and allow the
23 next highest bidder to purchase the tax deed for the amount bid. If the next highest bidder does not make full
24 payment of the purchase price and the auction costs within 24 hours, excluding weekends and legal holidays,
25 of notification by the county treasurer, the county treasurer shall repeat the process and contact the next
26 highest bidder until the purchase price and auction costs are paid or until there are no bidders remaining. If no
27 bidder pays the purchase price and auction costs, the county treasurer shall cancel the assignment and file with
28 the county clerk and recorder a notice of cancellation on a form provided for in [section 8].

1 (d) If there are no bidders at the auction, the county treasurer shall cancel the assignment and file
 2 with the county clerk and recorder a notice of cancellation on a form provided for in [section 8].

3 ~~(4)~~(4) The portion of the opening bid that is equal to half of the most recent assessed value of the
 4 land and of the dwelling is considered surplus funds and, upon sale of the property, must be distributed as
 5 provided in 15-18-221~~(3)~~. If the purchase price is higher than the opening bid, the difference between the
 6 purchase price and the opening bid is considered surplus funds and must be distributed as provided in 15-18-
 7 221~~(3)~~.

8 ~~(4)~~(5) Upon full payment of the purchase price, the county treasurer shall issue the tax deed in the
 9 form provided in 15-18-213 and distribute the funds as provided in 15-18-221.

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, within 30 days after the buyer's nonpayment or cancellation of the sale,~~
 12 ~~notice the sale as provided in subsection (1). The sale must be held within 30 days of the date of the notice.~~
 13 ~~The opening bid provided for in subsection (2) must be increased by the cost of giving notice and additional~~
 14 ~~county treasurer's fees.~~

15 (6) An auction required pursuant to this section may be conducted electronically."
 16

17 **NEW SECTION. Section 8. Form of cancellation -- unsuccessful auction.** The notice of
 18 cancellation of an assignment required by 15-18-220 must be made as follows:

19 I,....., the treasurer of..... County, certify that..... (name of the assignee or assignee's agent) of.....
 20 (address) purchased a tax lien assignment..... (assignment certificate no.) on the following property (full
 21 legal description) owned by..... (name of owner of record) on..... (date).

22 I further certify that pursuant to 15-18-219(1), the assignee made an application for a tax deed after the
 23 redemption period expired.

24 I further certify that pursuant to 15-18-220(1) and 7-1-2121, notice of the auction was given on
 25 (date) and (date) in (newspaper).

26 I further certify that there were no bidders at auction or no bidder made payment as required in 15-18-
 27 220(3).

28 Therefore, the ASSIGNMENT OF THE tax lien is canceled this..... (date).

1
 2 Name of County Treasurer

3

4 **Section 9.** Section 15-18-221, MCA, is amended to read:

5 **"15-18-221. Distribution of tax deed auction proceeds.** (1) The county treasurer shall distribute the
 6 proceeds of a tax deed auction pursuant to 15-18-220 as provided in this section.

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

9 (a) the amount paid for the assignment of the tax deed ~~lien~~, including delinquent taxes, penalties,
 10 interest, and costs; and

11 (b) all amounts paid pursuant to 15-18-219(2) ~~plus interest at the rate of 1.5% per month for the~~
 12 ~~period from the month after the date of the application for the tax deed through the month of the sale.~~

13 ~~(3) The surplus funds provided for in 15-18-220(3)(d) must be retained by the county treasurer for the~~
 14 ~~benefit of and distribution to those notified pursuant to 15-18-219(4). To the extent possible, the surplus funds~~
 15 ~~must be distributed by the county treasurer to satisfy in full each person notified pursuant to 15-18-219(4) with a~~
 16 ~~senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or~~
 17 ~~to the former property owner. To be considered for funds when they are distributed, the claimant shall file a~~
 18 ~~notarized statement of claim with the county treasurer within 30 days of the auction. The claim must include the~~
 19 ~~particulars of the lien and the amounts currently due. Any lienholder claim that is not filed within the 30-day~~
 20 ~~deadline is barred.~~

21 ~~(4) Except for claims by a property owner, claims that are not filed on or before close of business on~~
 22 ~~the 30th day after the date of the auction are barred. A person, other than the property owner, who fails to file a~~
 23 ~~proper and timely claim is barred from receiving any disbursement of the surplus funds. The failure of any~~
 24 ~~person described in 15-18-219(4), other than the property owner, to file a claim for surplus funds within the 30~~
 25 ~~days constitutes a waiver of interest in the surplus funds, and all claims are forever barred.~~

26 ~~(5) Within 90 days after the claim period expires, the county treasurer shall pay the surplus funds~~
 27 ~~according to the county treasurer's determination of the priority of claims using the information provided by the~~
 28 ~~claimants. Fees and costs incurred by the county treasurer in determining the priority of the claims must be paid~~

1 ~~from the surplus funds.~~

2 ~~(6)(3) If the county treasurer does not receive claims for surplus funds within the 30-day claim period,~~
 3 ~~as required in subsection (4), there is a conclusive presumption that Within 30 days of receiving payment from~~
 4 ~~the purchaser of the tax deed, the county treasurer shall distribute surplus funds to the legal titleholder of record~~
 5 ~~described is entitled to the surplus funds. The county treasurer shall process the surplus funds regardless of~~
 6 ~~whether the legal titleholder is a resident of the state or not. The surplus funds are considered to be unclaimed~~
 7 ~~property if not claimed within 5 years as provided in 70-9-803(1)(g)."~~

8

9 **Section 10.** Section 70-9-803, MCA, is amended to read:

10 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is
 11 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular
 12 property:

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

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

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

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

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

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

25 (e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years
 26 after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a
 27 deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of
 28 maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in

1 writing or is evidenced by a memorandum or other record on file with the holder;

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

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

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

15 (i) property distributable by a business association or financial organization in a course of dissolution,
16 1 year after the property becomes distributable;

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

19 (k) ~~except as provided in subsection (1)(g),~~ property held by a court, government, governmental
20 subdivision, agency, or instrumentality, 1 year after the property becomes distributable;

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

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

25 (n) property in an individual retirement account, defined benefit plan, or other account or plan that is
26 qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of
27 the distribution or attempted distribution of the property, the date of the required distribution as stated in the
28 plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income

- 1 tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;
- 2 (o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under
3 Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution
4 date;
- 5 (p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the
6 community in which the cooperative is located, 5 years after the distribution date; and
- 7 ~~(q) surplus funds held by a county treasurer pursuant to 15-18-221, 5 years; and~~
- 8 ~~(+)(q)~~ all other property, 5 years after the owner's right to demand the property or after the obligation
9 to pay or distribute the property arises, whichever first occurs.
- 10 (2) At the time that an interest is presumed abandoned under subsection (1), any other property right
11 accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also
12 presumed abandoned.
- 13 (3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner
14 has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on
15 behalf of the holder with the holder concerning the property or the account in which the property is held and has
16 not otherwise indicated an interest in the property. A communication with an owner by a person other than the
17 holder or its representative who has not in writing identified the property to the owner is not an indication of
18 interest in the property by the owner.
- 19 (4) An indication of an owner's interest in property includes:
- 20 (a) the presentment of a check or other instrument of payment of a dividend or other distribution made
21 with respect to an account or underlying stock or other interest in a business association or financial
22 organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution
23 has been received;
- 24 (b) owner-directed activity in the account in which the property is held, including a direction by the
25 owner to increase, decrease, or change the amount or type of property held in the account;
- 26 (c) the making of a deposit to or withdrawal from an account in a financial organization; and
- 27 (d) the payment of a premium with respect to a property interest in an insurance policy; however, the
28 application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance

1 policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the
2 beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash
3 surrender value of a policy by the application of those provisions.

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

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

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

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

11
12 **NEW SECTION. Section 11. Codification instruction.** [Section 8] is intended to be codified as an
13 integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2, apply to [section 8].

14
15 **NEW SECTION. Section 12. Saving clause.** [This act] does not affect rights and duties that
16 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

17
18 **NEW SECTION. Section 13. Effective date.** [This act] is effective on passage and approval.

19
20 **NEW SECTION. Section 14. Applicability.** [This act] applies to tax liens for which the redemption
21 period expires on or after [the effective date of this act].

22

23

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