



AN ACT GENERALLY REVISING TAX LIEN AND TAX DEED LAWS; REVISING THE TAX LIEN AND TAX DEED PROCESS FOR RESIDENTIAL, AGRICULTURAL, AND FOREST PROPERTY WITH A DWELLING; REQUIRING THE ASSIGNEE TO APPLY TO THE COUNTY TREASURER FOR A TAX DEED; PROVIDING THAT UPON APPLICATION FOR A TAX DEED, THE TAX DEED BE AUCTIONED TO THE HIGHEST BIDDER; PROVIDING A REQUIRED OPENING BID AT TAX DEED AUCTION THAT INCLUDES HALF THE ASSESSED VALUE OF THE PROPERTY; 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 15-17-121, 15-18-112, 15-18-211, 15-18-212, 15-18-213, 15-18-214, 15-18-215, 15-18-216, 15-18-217, 15-18-411, 15-18-412, 15-18-413, AND 70-9-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

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

(b) The following property is subject to the provisions of this section if it contains a dwelling:

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

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

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

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

(3) (a) The county treasurer shall have the county clerk and recorder file a notice of the tax deed application, 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 filing.

(b) A person acquiring an interest in the property after the tax deed application notice has been filed 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 filed notice of tax deed application for the property.

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

(4) (a) Prior to applying for a tax deed, the assignee shall notify the parties as required in subsection (4)(b) that a tax deed will be auctioned unless the property tax lien is redeemed before the date of the auction.

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

- (i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;
- (ii) was ordered on the property by the person required to give notice; and
- (iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

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

(d) If the assignee fails to give notice as required by this subsection (4), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (5), 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.

(5) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and 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. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

**Section 2. Sale at public auction -- notice of auction.** (1) Upon receipt of an application for a tax deed pursuant to [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 legal description of the property, the deposit requirement, and the minimum opening bid. 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), and the county treasurer may not accept a bid below the opening bid.

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

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

(ii) amounts paid by the assignee upon application for the tax deed pursuant to [section 1(2)]; and

(iii) an amount equal to half of the most recent assessed value of the land and of the dwelling or half of the value of the land and of the dwelling as determined in an independent appraisal. If the opening bid is based on an independent appraisal, the appraisal must be provided to the county treasurer, must meet the standards set by the Montana board of real estate appraisers, and must have been conducted within 6 months of the date of the auction.

(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 filing fees, tax deed fees, and one-half of the most recent assessed value of the land and of the dwelling. The amounts paid with the tax deed application 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, excluding weekends and legal holidays, the county treasurer shall cancel all bids, notice the auction as provided in subsection (5), and pay costs of the resale from the deposit. Any funds remaining from the deposit must be applied to the opening bid.

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

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

(5) If the sale is canceled for any reason or if the buyer fails to make full payment within the time required, the county treasurer shall, within 30 days after the buyer's nonpayment or cancellation of the sale, notice the sale as provided in subsection (1). The sale must be held within 30 days of the date of the notice. The opening bid provided for in subsection (2) must be increased by the cost of giving notice and additional county treasurer's fees.

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

**Section 3. Distribution of tax deed auction proceeds.** (1) The county treasurer shall distribute the proceeds of a tax deed auction pursuant to [section 2] as provided in this section.

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

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

(b) all amounts paid pursuant to [section 1(2)] plus interest at the rate of 1.5% per month for the period

from the month after the date of the application for the tax deed through the month of the sale.

(3) The surplus funds provided for in [section 2(3)(d)] must be retained by the county treasurer for the benefit of and distribution to those notified pursuant to [section 1(4)]. To the extent possible, the surplus funds must be distributed by the county treasurer to satisfy in full each person notified pursuant to [section 1(4)] with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, the claimant must file a notarized statement of claim with the county treasurer within 30 days of the auction. The claim must include the particulars of the lien and the amounts currently due. Any lienholder claim that is not filed within the 30-day deadline is barred.

(4) Except for claims by a property owner, claims that are not filed on or before close of business on the 30th day after the date of the auction are barred. A person, other than the property owner, who fails to file a proper and timely claim is barred from receiving any disbursement of the surplus funds. The failure of any person described in [section 1(4)], other than the property owner, to file a claim for surplus funds within the 30 days constitutes a waiver of interest in the surplus funds, and all claims are forever barred.

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

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

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

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

(1) "Assignee" means any a person, other than the person to whom the property is assessed, other than the person to whom the property is assessed, who pays the delinquent taxes, including penalties, interest, and

costs, and receives a tax lien certificate representing a lien on the property and an assignment certificate.

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

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

- (i) preparing the list of delinquent taxes;
- (ii) preparing the notice of pending attachment of a tax lien;
- (iii) assigning the county's interest in a tax lien to a third party;
- (iv) identifying interested persons entitled to notice of the pending ~~issuance~~ issuance of a tax deed;
- (v) notifying interested persons;
- (vi) sale or resale;
- ~~(vi)~~(vii) issuing the tax deed; and
- ~~(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, 15-18-216, and [section 1]. 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) 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 or auction 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) (a) "Dwelling" means a house or other structure intended for human habitation, including buildings attached to the dwelling.

(b) The term does not include a dwelling that is not on a permanent foundation and that is classified by the department of revenue as personal property.

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

~~(6)~~(7) "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)~~(8) "Tax lien certificate" means the document described in 15-17-125.

~~(8)~~(9) "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."

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

**"15-18-112. Redemption from property tax lien -- lien on interest in property for taxes paid.** (1) (a) Except as provided in subsections (1)(b) and (4), in all cases in which a property tax lien has been assigned, the assignee may pay the subsequent taxes assessed against the property on or after June 1 and prior to July 31 if the taxes have not been paid by the property owner.

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

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

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

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

- (a) the property tax lien for the year in which the partial payment is made is owned by the county; and
- (b) the tax deed has not been issued pursuant to ~~15-18-214~~ 15-18-211 or [section 2]."

**Section 6.** Section 15-18-211, MCA, is amended to read:

**"15-18-211. Tax deed -- fee.** (1) Except as provided in [section 1] and subsection (3) of this section, if the property tax lien is not redeemed in the time allowed under 15-18-111, the county treasurer shall grant the assignee a tax deed for the property. The deed 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.

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

(b) If the tax deed is issued to the county, no 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).

(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, by resolution, directs the county treasurer to issue 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."

**Section 7.** Section 15-18-212, MCA, is amended to read:

**"15-18-212. Notice -- 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 other than property provided for in [section 1(1)(b)] 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, to ~~the current occupant, if any, of the property and to the~~ current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;  
 (ii) was ordered on the property by the person required to give notice; and  
 (iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

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

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

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

(7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and 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 8.** 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 or [section 1] 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 9.** 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 10.** Section 15-18-215, MCA, is amended to read:

**"15-18-215. Form of notice that tax deed may issue.** (1) ~~[Section 1] Section 15-18-212~~ 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 for property provided for in [section 1(1)(b)]:

NOTICE THAT A TAX DEED MAY BE ISSUED

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

TO:.....

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

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

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

.....  
.....

- 2. The property taxes became delinquent on .....
- 3. The property tax lien was attached on .....
- 4. The lien was subsequently assigned to ..... (if applicable).
- 5. As of the date of this notice, the amount of tax due is:

TAXES: .....

PENALTY: .....

INTEREST: .....

COST: .....

TOTAL: .....

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

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

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

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

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

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

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

.....

Signature

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

(2) Section 15-18-212 requires that notice be given to all persons considered interested parties of

property that may be lost to a tax deed. The notice must be made as follows for all property other than property provided for in [section 1(1)(b)]:

NOTICE THAT A TAX DEED MAY BE ISSUED

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

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

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

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

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

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

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

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

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

TAXES: .....

PENALTY: .....

INTEREST: .....

COST: .....

TOTAL: .....

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

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to ....., which is the date the redemption period expires, a tax deed may be issued to the assignee or 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 11.** Section 15-18-216, MCA, is amended to read:

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

PROOF OF NOTICE

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

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

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

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

State of .....

County of .....

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

.....  
(Signature of notarial officer)

(Official stamp)

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

**Section 12.** Section 15-18-217, MCA, is amended to read:



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

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

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

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

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

.....

Name of County Treasurer"

**Section 13.** 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 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 14.** 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 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 tax lien, ~~or the assignee, or the recipient or purchaser of the tax deed.~~

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

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

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

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

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

**"15-18-413. Title conveyed by deed -- defects.** (1) All deeds executed ~~more than 3 years after the applicable attachment of the tax lien~~ more than 3 years after the applicable attachment of the tax lien or pursuant to [section 2] convey to the grantee absolute title to the property described in the deed as of ~~3 years following the date of attachment of the tax lien~~ the date of issuance of the deed.

(2) The conveyance includes:

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

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

(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 [section 2] and subsection (5)(b) of this section, 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;

(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."

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

**"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is

presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (a) traveler's check, 15 years after issuance;
- (b) money order, 7 years after issuance;
- (c) stock or other equity interest in a business association or financial organization, including a security entitlement under Title 30, chapter 8, 5 years after the earlier of:
  - (i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the apparent owner; or
  - (ii) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;
- (d) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the apparent owner;
- (e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;
- (f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;
- (g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value. A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the inflation factor defined in 15-30-2101. The amount considered abandoned for a person who sells more than the amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.
- (h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon

proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

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

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

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

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

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

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

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

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

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

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

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

(3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf

of the holder with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

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

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

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

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

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

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

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

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

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

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

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

**Section 19. Effective date.** [This act] is effective on passage and approval.

**Section 20. Applicability.** [This act] applies to tax liens attached or assigned on or after [the effective date of this act].

- END -



I hereby certify that the within bill,  
SB 0253, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

SENATE BILL NO. 253

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

AN ACT GENERALLY REVISING TAX LIEN AND TAX DEED LAWS; REVISING THE TAX LIEN AND TAX DEED PROCESS FOR RESIDENTIAL, AGRICULTURAL, AND FOREST PROPERTY WITH A DWELLING; REQUIRING THE ASSIGNEE TO APPLY TO THE COUNTY TREASURER FOR A TAX DEED; PROVIDING THAT UPON APPLICATION FOR A TAX DEED, THE TAX DEED BE AUCTIONED TO THE HIGHEST BIDDER; PROVIDING A REQUIRED OPENING BID AT TAX DEED AUCTION THAT INCLUDES HALF THE ASSESSED VALUE OF THE PROPERTY; 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 15-17-121, 15-18-112, 15-18-211, 15-18-212, 15-18-213, 15-18-214, 15-18-215, 15-18-216, 15-18-217, 15-18-411, 15-18-412, 15-18-413, AND 70-9-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.