

1 SENATE BILL NO. 253

2 INTRODUCED BY C. SMITH

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LIEN AND TAX DEED LAWS;
 5 PROVIDING THAT A TAX LIEN MAY ONLY BE ATTACHED IF DELINQUENT TAXES EXCEED \$1,000;
 6 REMOVING THE REQUIREMENT THAT CURRENT TAXES BE PAID BEFORE DELINQUENT TAXES;
 7 PROVIDING THAT A TAX LIEN BE ASSIGNED AT AUCTION TO THE PERSON WHO REQUESTS THE
 8 LOWEST INTEREST RATE; REQUIRING THE ASSIGNEE TO APPLY TO THE COUNTY TREASURER FOR
 9 A TAX DEED; PROVIDING THAT UPON APPLICATION OF A TAX DEED, THE TAX DEED BE AUCTIONED
 10 TO THE HIGHEST BIDDER; PROVIDING A REQUIRED OPENING BID AT TAX DEED AUCTION THAT
 11 INCLUDES HALF THE ASSESSED VALUE IF THE PROPERTY INCLUDES A HABITABLE DWELLING OR
 12 COMMERCIAL STRUCTURE; PROVIDING THAT THE TRUE PROPERTY OWNER AND LIENHOLDERS OF
 13 A TAX DEED AUCTIONED PROPERTY CAN REQUEST FUNDS IN EXCESS OF THE DIFFERENCE
 14 BETWEEN THE SALE PRICE AND THE OPENING BID; AMENDING SECTIONS 15-16-102, 15-17-121,
 15 15-17-122, 15-17-125, 15-17-323, 15-17-326, 15-18-112, 15-18-211, 15-18-212, 15-18-213, 15-18-214,
 16 15-18-215, 15-18-411, 15-18-412, 15-18-413, AND 70-9-803, MCA; REPEALING SECTIONS 15-18-216 AND
 17 15-18-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20
 21 NEW SECTION. **Section 1. Sale at public auction -- notice of auction.** (1) Upon receipt of an
 22 application for a tax deed pursuant to 15-18-211, the county treasurer shall hold a public auction in the county
 23 in which the property is located within 60 days of receipt of the application. The county treasurer shall publish
 24 notice of the auction as provided in 7-1-2121 that includes the date, time, and location of the auction. The auction
 25 must be held during the regular office hours of the county treasurer.

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

28 (b) The opening bid for a property on which there is no habitable dwelling or commercial structure is
 29 equal to:

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

1 interest rate applied pursuant to 15-17-323; and

2 (ii) amounts paid by the applicant upon application for the tax deed pursuant to 15-18-211(2)(a) and the
3 costs required as provided in 15-18-211(2)(b) to bring the property to sale.

4 (c) The opening bid for a property on which there is a habitable dwelling or commercial structure is equal
5 to the amounts provided for in subsections (2)(b)(i) and (2)(b)(ii) plus an amount equal to half of the most recent
6 assessed value of the dwelling or structure.

7 (3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid. Except
8 as provided in subsection (3)(b), the high bidder shall post with the county treasurer a nonrefundable deposit of
9 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
10 of full payment. Notice of the deposit requirement must be posted at the auction site, and the county treasurer
11 may require bidders to show their ability to post the deposit. The county treasurer may refuse to recognize the
12 bid of a person who has previously bid and refused, for any reason, to honor the bid.

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

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

22 (d) The portion of the opening bid that is equal to half of the most recent assessed value of the dwelling
23 or structure is considered surplus funds and, upon sale of the property, must be distributed as provided in [section
24 2(3)]. If the purchase price is higher than the opening bid, the difference between the purchase price and the
25 opening bid is considered surplus funds and must be distributed as provided in [section 2(3)].

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

28 (5) If the sale is canceled for any reason or if the buyer fails to make full payment within the time
29 required, the county treasurer shall readvertise the sale within 30 days after the buyer's nonpayment or, if
30 canceled, within 30 days of receipt of the costs of resale from the tax deed applicant. The sale must be held within

1 30 days of readvertising. The opening bid provided for in subsection (2) must be increased by the cost of
2 advertising, additional county treasurer's fees, and interest at a rate of 1.5% per month.

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

12
13 **NEW SECTION. Section 2. Distribution of tax deed auction proceeds.** (1) The county treasurer shall
14 distribute the proceeds of a tax deed auction or a property purchased pursuant to [section 1(6)] as provided in
15 this section.

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

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

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

22 (3) The surplus funds provided for in [section 1(3)(d)] must be retained by the county treasurer for the
23 benefit of and distribution to those notified pursuant to 15-18-212(1). The county treasurer shall mail notices to
24 the persons notified pursuant to 15-18-212(1) notifying them of the funds held for their benefit.

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

26 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE
27 COUNTY TREASURER
28 COUNTY, MONTANA
29 Tax Deed #.....
30 Tax Lien Number #.....



1 Property Description:

2 Pursuant to [section 1], Montana Code Annotated, the above property was sold at public auction on
3(date of sale), and a surplus of \$.....(subject to change) will be held by this office for 120 days
4 beginning on the date of this notice to benefit the persons having an interest in this property as described in
5 15-18-212, MCA, as their interests may appear.

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

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

13 Dated:.....

14 County Treasurer

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

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

22 CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

23 Complete and return to:

24 By mail:.....

25 By e-mail:.....

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

27 Claimant's name:.....

28 Contact name, if applicable:.....

29 Address:.....

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



- 1 Tax No:.....
- 2 Date of sale.....
- 3 Check one:
- 4I am not making a claim and waive any claim I might have to the surplus funds on this tax deed sale.
- 5I claim surplus proceeds resulting from the above tax deed sale.
- 6 I am a (check one) Lienholder..... Titleholder.....
- 7 LIENHOLDER INFORMATION (Complete if claim is based on a lien against the sold property).
- 8 Type of Lien: Mortgage.....Court Judgment.....Other.....
- 9 Describe in detail:.....
- 10
- 11
- 12 If your lien is recorded in the county's official records, list the following, if known:
- 13 Recording date:.....
- 14 Instrument #:.....
- 15 Book #:.....
- 16 Page #:.....
- 17 Original amount of lien: \$.....
- 18 Amounts due: \$.....
- 19 Principal remaining due: \$.....
- 20 Interest due: \$.....
- 21 Fees and costs due, including late fees: \$(describe costs in detail, include additional sheet if needed).....
- 22 Attorney fees: \$ (provide amount claimed): \$..... TITLEHOLDER INFORMATION (Complete if claim is
- 23 based on title formerly held on sold property.)
- 24 Nature of title (check one): Deed....Court Judgment...Other.... (describe in detail).....
- 25 If your former title is recorded in the county's official records, list the following, if known:
- 26 Recording date:.....
- 27 Instrument #:.....
- 28 Book #:.....
- 29 Page #:.....
- 30 Amount of surplus tax deed sale proceeds claimed: \$.....



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

2 Date:.....

3 Signature:.....

4 STATE OF MONTANA

5 COUNTY

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

7 NOTARY PUBLIC

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

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

10 Identification Produced:.....

11 (6) A claim may be:

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

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

14 (c) sent by fax or e-mail, as authorized by the county treasurer. The filing date is the date the county
15 treasurer receives the fax or e-mail.

16 (7) Except for claims by a property owner, claims that are not filed on or before close of business on the
17 120th day after the date of the mailed notice as required by subsection (5) are barred. A person, other than the
18 property owner, who fails to file a proper and timely claim is barred from receiving any disbursement of the
19 surplus funds. The failure of any person described in 15-18-212, other than the property owner, to file a claim for
20 surplus funds within the 120 days constitutes a waiver of interest in the surplus funds, and all claims are forever
21 barred.

22 (8) Within 90 days after the claim period expires, the county treasurer may either file an interpleader
23 action in district court, if potentially conflicting claims to the funds exist, or pay the surplus funds according to the
24 county treasurer's determination of the priority of claims using the information provided by the claimants. Fees
25 and costs incurred by the county treasurer in determining whether an interpleader action should be filed must be
26 paid from the surplus funds. If the county treasurer files an interpleader action, the court shall determine the
27 distribution of funds based upon the priority of liens filed. The county treasurer may move the court to award
28 reasonable fees and costs from the interpleaded funds. An action to require payment of surplus funds is not ripe
29 until the claim and review periods expire. The failure of a person described in 15-18-212, other than the property
30 owner, to file a claim for surplus funds within the 120 days constitutes a waiver of all interest in the surplus funds,



1 and all claims for them are forever barred.

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

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

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

16

17 **Section 3.** Section 15-16-102, MCA, is amended to read:

18 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the
19 provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,
20 except assessments made for special improvements in cities and towns payable under 15-16-103, are payable
21 as follows:

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

25 (2) ~~Unless~~ Except as provided in subsection (3)(b), unless one-half of the taxes are paid on or before
26 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the
27 amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency
28 until paid and 2% must be added to the delinquent taxes as a penalty.

29 (3) ~~At~~ (a) Except as provided in subsection (3)(b), all taxes due and not paid on or before 5 p.m. on May
30 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency

1 until paid, and 2% must be added to the delinquent taxes as a penalty.

2 (b) Unless 15-17-323(1)(b) applies, the interest rate for a property for which a tax lien is auctioned and
 3 assigned pursuant to 15-17-323 is the interest rate bid by the person to whom the tax lien was assigned.

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

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

10 (5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall
 11 accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax
 12 years ~~if taxes currently due for the current tax year have been paid~~. Payment of taxes for delinquent taxes must
 13 be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is
 14 not a redemption of the property tax lien for any delinquent tax year.

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

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

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

21 (8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided
 22 in 76-3-207."
 23

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

25 **"15-17-121. Definitions.** Except as otherwise specifically provided, when terms mentioned in Title 15,
 26 chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

27 (1) "Assignee" means ~~any a person, other than the person to whom the property is assessed,~~ who pays
 28 the delinquent taxes, including penalties, interest, and costs, and receives a tax lien certificate representing a lien
 29 on the property and an assignment certificate.

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

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

4 (i) preparing the list of delinquent taxes;

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

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

7 (iv) identifying interested persons entitled to notice of the pending ~~issuance~~ auction of a tax deed;

8 (v) notifying interested persons;

9 (vi) sale or resale;

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

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

12 (b) The term includes costs that are required by law and incurred by an assignee. The county treasurer
 13 may require the assignee to provide receipts or may allow the assignee to provide a notarized affidavit of costs
 14 to the county treasurer ~~upon issuance of a tax lien certificate as required in 15-17-125 and notification that a tax~~
 15 ~~deed may be issued as required by 15-18-212 and 15-18-216.~~ A county treasurer may at any time require an
 16 assignee who provided an affidavit of costs to submit the receipted costs upon which the affidavit was based.

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

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

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

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

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

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

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

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

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

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

1 are a lien."

2

3 **Section 5.** Section 15-17-122, MCA, is amended to read:

4 **"15-17-122. Notice of pending attachment of tax lien.** (1) The county treasurer shall publish or post
5 a notice of a pending attachment of a tax lien. The notice must include:

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

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

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

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

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

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

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

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

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

22

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

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

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

- 1 (2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must contain:
- 2 (a) the date on which the delinquent property taxes ~~became delinquent~~ exceeded \$1,000;
- 3 (b) the date on which a property tax lien was attached to the property;
- 4 (c) the name and address of record of the person to whom the taxes were assessed;
- 5 (d) a description of the property on which the taxes were assessed;
- 6 (e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;
- 7 (f) a statement that the tax lien certificate represents a lien on the property that may lead to the issuance
- 8 of a tax deed for the property;
- 9 (g) a statement specifying the date on which the county ~~or~~ will auction the tax lien and the date on which
- 10 an assignee ~~will be entitled to~~ may apply for a tax deed; and
- 11 (h) an identification number corresponding to the tax lien certificate.
- 12 (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate must
- 13 be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be mailed to
- 14 the person to whom the taxes were assessed, at the address of record, together with a notice that the person may
- 15 contact the county treasurer for further information on property tax liens.
- 16 (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending
- 17 attachment of a tax lien to the person to whom the property was assessed. The notice must include the
- 18 information listed in subsection (2), state that the tax lien may be assigned to a third party at auction, and provide
- 19 notice of the availability of all the property tax assistance programs available to property taxpayers, including the
- 20 property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the
- 21 elderly under 15-30-2337 through 15-30-2341. The notice must have been mailed at least 2 weeks prior to the
- 22 date on which the county treasurer attaches the tax lien.
- 23 (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."
- 24

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

26 **"15-17-323. Assignment of rights -- auction -- form.** (1) (a) ~~A tax lien certificate or other official record~~

27 ~~in which the county is listed as the possessor of the tax lien must be assigned by the county treasurer to any~~

28 ~~person who, after providing proof of mail notice to the person to whom the property was assessed, as required~~

29 ~~by subsection (5), pays to the county the amount of the delinquent taxes, including penalties, interest, and costs,~~

30 ~~accruing from the date of delinquency. The county treasurer shall hold an auction to assign a tax lien certificate~~

1 or other official record in which the county is listed as the possessor. A person wishing to purchase a tax lien at
2 auction shall bid on the interest rate for the delinquent taxes, penalties, and costs accruing from the date of
3 delinquency. Except as provided in subsection (1)(b), the county treasurer shall assign the tax lien to the person
4 who submits the lowest interest rate bid and pays the delinquent taxes, penalties, costs, and interest rate bid.

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

7 ~~(b)(c)~~ The county treasurer shall develop a policy for conducting tax lien auctions and for assigning a
8 tax lien when more than one person seeks the assignment and provides proof of mail notice to the person to
9 whom the property was assessed submits a bid for the same lowest interest rate. The county treasurer shall seek
10 input from the county clerk and recorder and the county attorney in developing the policy.

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

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

20 Because there has been no liquidation of the delinquency or other redemption, I hereby assign all rights,
21 title, and interest of the county of, state of Montana, acquired in the property by virtue of attachment of a
22 tax lien to (name and address of assignee) to proceed to ~~obtain~~ apply for a tax deed to the property or
23 receive payment in case of redemption as provided by law. The interest rate applied to the delinquent taxes is
24

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

26 County Treasurer

27 County

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

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

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

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

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

20 (6) The notice must be in the following form:

21 NOTICE OF PENDING ASSIGNMENT AUCTION

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

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

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

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

27 (Required Information):

28 Owner of record

29 Mailing address

30 Legal description



- 1 Parcel number
- 2 Geocode(s)
- 3 Date of notice
- 4
- 5 Signature of ~~interested assignee~~ county treasurer
- 6
- 7 Printed name of ~~interested assignee~~ county treasurer"

8

9 **Section 8.** Section 15-17-326, MCA, is amended to read:

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

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

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

30 (4) All affirmative defenses at law or equity, including but not limited to estoppel, laches, and adverse

1 possession, may apply in a suit brought to challenge the title to a royalty interest in land claimed to have been
2 acquired by a county by tax deed.

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

5

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

7 **"15-18-112. Redemption from property tax lien -- lien on interest in property for taxes paid.** (1) (a)

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

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

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

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

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

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

23 (b) the tax deed has not been issued pursuant to ~~15-18-214~~ section 11."

24

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

26 **"15-18-211. Tax Application for tax deed -- fee -- notice.** (1) Except as provided in subsection (3), if

27 the property tax lien is not redeemed in the time allowed under 15-18-111, ~~the county treasurer shall grant the~~
28 assignee may file an application with the county treasurer for a tax deed for the property. The deed application
29 must contain the same information as is required in a tax lien certificate under 15-17-125 and an assignment
30 certificate under 15-17-323, except the description of the property must be the full legal description.

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

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

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

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

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

11 (ii) any delinquent taxes, penalties, and interest;

12 (iii) current taxes due for the property; and

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

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

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

20 ~~(4) Deeds issued to assignees or the county must be recorded by the county clerk as provided in Title~~
 21 7, chapter 4, part 26, except that when the county is issued the tax deed, the county clerk may not charge a fee
 22 for recording the deed.

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

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

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

1

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

3 "**15-18-212. Notice of pending auction -- proof of notice -- penalty for failure to notify.** (1) Between

4 May 1 and May 30 of the year in which the redemption period expires, a notice must be given as follows:

5 — (a) for each property for which the county attached a tax lien and has not assigned the tax lien, the

6 county treasurer shall notify the parties as required in subsection (4) that a tax deed may be issued to the county

7 unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

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

9 15-17-323, the assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the

10 assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period:

11 — (2) (a) Except as provided in subsection (2)(b), if the county is the possessor of the tax lien, an

12 assignment has not been made, and the board of county commissioners has not directed the county treasurer

13 to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time

14 subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the

15 county treasurer shall provide notification to the parties as required in subsection (4) in the manner provided in

16 subsection (1)(a). The notification required under this subsection must be made not less than 60 days or more

17 than 120 days prior to the date on which the county treasurer will issue the tax deed:

18 — (b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after

19 giving the notice required by subsection (1)(a), additional notice need not be given.

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

21 (1)(b) between January 1 and January 31 of the year in which the redemption period expires. The notice of

22 obligation may be sent by certified mail, return receipt requested, to the assignee at the address contained on

23 the assignment certificate provided for in 15-17-323.

24 — (b) If the assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file

25 proof of notice with the county clerk and recorder as required in subsection (7), the county treasurer shall cancel

26 the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the

27 property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a

28 form provided for in 15-18-217.

29 (4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and

30 be made by certified mail, return receipt requested;

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

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

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

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

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

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

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

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

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

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

29
 30 **Section 12.** Section 15-18-213, MCA, is amended to read:

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

3 This deed is made by (name of county treasurer), county treasurer of the county of (name
4 of county), in the state of Montana, to (name of ~~assignee, the assignee's~~ high bidder or high bidder's agent;
5 ~~or county that is the possessor of the tax lien~~), as provided by the laws of the state of Montana:

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

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

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

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

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

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

18 Now, therefore, I, (treasurer's name), county treasurer of the county of, in the state of
19 Montana, in consideration of the sum of \$ paid, hereby grant to (name of ~~assignee or the assignee's~~
20 high bidder or high bidder's agent or county that is the possessor of the tax lien) all the property situated in
21 County, state of Montana, described in this document.

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

23 County Treasurer

24 County

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

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

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

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

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

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

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

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

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

8 **"15-18-214. Effect of deed.** (1) Subject to 15-18-411 and 15-18-413, a deed issued under this chapter
9 conveys to the grantee absolute title to the property described in the deed as of the date of the ~~expiration of the~~
10 ~~redemption period, free and clear of all liens and encumbrances~~ tax deed, except:

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

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

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

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

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

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

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

23 **"15-18-215. Form of notice that tax deed may issue.** Section 15-18-212 requires that notice be given
24 to all persons considered interested parties and to the current occupant of property that may be lost to a tax deed.
25 The notice must be made as follows:

26 NOTICE THAT A TAX DEED MAY BE ISSUED

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

28 TO:.....

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

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



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

3

4

5 2. The property taxes became delinquent on

6 3. The property tax lien was attached on

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

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

9 TAXES:

10 PENALTY:

11 INTEREST:

12 COST:

13 TOTAL:

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

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

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

22 FURTHER NOTICE FOR THOSE PERSONS LISTED

23 ABOVE WHOSE ADDRESSES ARE UNKNOWN:

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

25 2. The published notice meets the legal requirements for notice of a pending tax deed ~~issuance~~ auction.

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

27 DATED at this (Date).

28

29 Signature

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



1

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

3 **"15-18-411. Action to quiet title to tax deed -- notice.** (1) (a) In an action brought to set aside or annul
4 any tax deed or to determine the rights of an assignee to real property claimed to have been acquired through
5 tax proceedings or a tax lien assignment, the assignee or the purchaser of a tax deed pursuant to [section 1],
6 upon filing an affidavit, may obtain from the court an order directed to the person claiming to:

7 (i) own the property;

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

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

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

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

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

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

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

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

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

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

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

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

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

2

3 **Section 16.** Section 15-18-412, MCA, is amended to read:

4 **"15-18-412. Procedure in tax deed quiet title action.** (1) Upon the hearing of the order to show cause,
5 the court has jurisdiction to determine the amount to be deposited and to make an order that the same be paid
6 to the court within a period not exceeding 30 days after the order is made.

7 (2) (a) Except as provided in subsections (2)(b) and (2)(c), if the amount is not paid within the time fixed
8 by the court, the true owner is considered to have waived any defects in the tax proceedings and any right of
9 redemption. In the event of waiver, the true owner has no claim of any kind against the state, a county that is the
10 possessor of the tax lien, ~~or an assignee,~~ or the purchaser of a tax deed pursuant to [section 1], and a decree
11 must be entered in the action quieting the title of the county, ~~or the assignee,~~ or the purchaser of a tax deed as
12 against the true owner.

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

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

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

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

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

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

30 (7) In the quiet title action, the court has complete jurisdiction to fix the amount of taxes that should have

1 been paid, including penalties, interest, and costs, and to determine all questions necessary in granting full relief,
 2 including the power to order the department or any tax officer to make and certify to the court a corrected or new
 3 assessment or to do any other act necessary to enable the court to do complete justice. Errors may be reviewed
 4 on appeal from the final judgment."

5

6 **Section 17.** Section 15-18-413, MCA, is amended to read:

7 **"15-18-413. Title conveyed by deed -- defects.** (1) All deeds executed ~~more than 3 years after the~~
 8 ~~applicable attachment of the tax lien pursuant to [section 1]~~ convey to the grantee absolute title to the property
 9 described in the deed as of ~~3 years following the date of attachment of the tax lien~~ the date of issuance of the
 10 deed.

11 (2) The conveyance includes:

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

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

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

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

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

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

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

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

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

30 ~~—— (v) contain a statement that demand is made that the true owner shall, within 30 days after the later of~~

1 ~~service or the first publication of the notice, pay to the county treasurer for use by the claimant the amount of~~
 2 ~~taxes, interest, penalties, and costs as the same appear in the records of the county treasurer to redeem the~~
 3 ~~property or the true owner may bring a suit to quiet the true owner's title or to set aside the tax deed.~~

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

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

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

14

15 **Section 18.** Section 70-9-803, MCA, is amended to read:

16 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is
 17 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular
 18 property:

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

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

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

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

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

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

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

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

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

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

18 (i) property distributable by a business association or financial organization in a course of dissolution,
19 1 year after the property becomes distributable;

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

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

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

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

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

1 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 community
6 in which the cooperative is located, 5 years after the distribution date; ~~and~~

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

8 ~~(r)~~ all other property, 5 years after the owner's right to demand the property or after the obligation to
9 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 has
14 not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf
15 of the holder with the holder concerning the property or the account in which the property is held and has not
16 otherwise indicated an interest in the property. A communication with an owner by a person other than the holder
17 or its representative who has not in writing identified the property to the owner is not an indication of interest in
18 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 organization
22 or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been
23 received;

24 (b) owner-directed activity in the account in which the property is held, including a direction by the owner
25 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
29 policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the
30 beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender

1 value of a policy by the application of those provisions.

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

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

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

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

9
10 **NEW SECTION. Section 19. Repealer.** The following sections of the Montana Code Annotated are
11 repealed:

12 15-18-216. Form of proof of notice.

13 15-18-217. Form of cancellation.

14
15 **NEW SECTION. Section 20. Codification instruction.** [Sections 1 and 2] are intended to be codified
16 as an integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2, apply to
17 [sections 1 and 2].

18
19 **NEW SECTION. Section 21. Saving clause.** [This act] does not affect rights and duties that matured,
20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

21
22 **NEW SECTION. Section 22. Effective date.** [This act] is effective on passage and approval.

23
24 **NEW SECTION. Section 23. Applicability.** [This act] applies to tax liens attached and assigned on or
25 after [the effective date of this act].

26 - END -