

HOUSE BILL NO. 420

INTRODUCED BY K. SEEKINS-CROWE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LIEN AND TAX DEED LAWS;
REVISING THE TIME FOR REDEMPTION BY AN INTERESTED PARTY; PROVIDING THAT A TAX DEED
MAY NOT BE ISSUED UNTIL A DELINQUENCY EXCEEDS CERTAIN EQUITY THRESHOLDS; ~~PROVIDING~~
~~FOR ADDITIONAL NOTICES TO INTERESTED PARTIES; REQUIRING ONLINE BIDDING IN REAL TIME;~~
~~PROVIDING THAT ALL PROPERTY IS SUBJECT TO A TAX DEED AUCTION; CLARIFYING TIMELINES~~
~~FOR NOTIFICATION REQUIREMENTS; PROVIDING FOR THE AUTOMATIC QUIETING OF TITLE FOR~~
~~PROPERTY SOLD PURSUANT TO A TAX DEED AUCTION;~~ PROVIDING FOR DISTRIBUTION OF
SURPLUS FUNDS AS UNCLAIMED PROPERTY; ~~REVISING PROPERTY TYPES THAT ARE SUBJECT TO~~
~~INCREASED PROTECTIONS;~~ AMENDING SECTIONS ~~15-16-101, 15-17-121, 15-17-122,~~ 15-18-111, ~~15-18-~~
~~112,~~ 15-18-211, ~~15-18-212, 15-18-213,~~ 15-18-214, ~~15-18-215, 15-18-216, 15-18-217,~~ 15-18-219, 15-18-220,
~~AND 15-18-221, AND 15-18-225,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 15-18-111, MCA, is amended to read:

"15-18-111. Time for redemption -- interested party. (1) ~~Except as provided in subsection (2),~~
~~redemption-Redemption~~ of a property tax lien may be made by the owner, the holder of an unrecorded or
improperly recorded interest, the occupant of the property, or any interested party by the later of the first
working day in August, 3 years after attachment of the tax lien or prior to completion of the tax deed auction
provided for in 15-18-220.

~~(2) — For property subdivided as a residential or commercial lot upon which special improvement~~

~~district assessments or rural special improvement district assessments are delinquent and upon which no habitable dwelling or commercial structure is situated, redemption of a property tax lien may be made by the owner, the holder of an unrecorded or improperly recorded interest, or any interested party by the first working day in August, 2 years after attachment of the tax lien.~~

~~(3)(2)~~ For the purposes of this chapter, an "interested party" includes a mortgagee, vendor of a contract for deed or the vendor's successor in interest, lienholder, or other person who has a properly recorded interest in the property. A person who has an interest in property on which there is a property tax lien but which interest is not properly recorded is not an interested party for the purposes of this chapter."

Section 2. 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, once delinquent, 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. The lien must be perfected by filing a notice of the lien with the clerk and recorder.

(4) The property tax lien may also be redeemed for a particular 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 15-18-211 or 15-18-220."

Section 3. Section 15-18-211, MCA, is amended to read:

"15-18-211. Tax deed -- fee. (1) ~~Except as provided in 15-18-219 Upon completion of the tax deed auction provided for in 15-18-220 and, except as provided in~~ 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 15-18-219(4)~~. 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-give notice of a tax deed auction pursuant to 15-18-219. A tax deed may not be issued to the county if the issuance violates the equity threshold provided for in 15-18-219(1)(b).~~

(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 4. Section 15-18-212, MCA, is amended to read:

"15-18-212. Notice of obligation -- 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 15-18-219(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 (2)(a) 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)(1) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection (1)(b) 15-18-219(4) between January 1 and January 31 of the year in which the redemption period expires. The notice of obligation must 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) 15-18-219(4), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (7)(2), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate for only the year in which the redemption period has expired. 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 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

1 producer;

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

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

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

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

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

14 (7)(2) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk
15 and recorder. An assignee or the county must file proof of notice with the county clerk and recorder within 30
16 days of the mailing or publishing of the notice required under 15-18-219(4). ~~If the county is the possessor of the~~
17 ~~tax lien, the proof of notice must be filed before the issuance of the tax deed under this chapter.~~ Once filed, the
18 proof of notice is prima facie evidence of the sufficiency of the notice.

19 (8)(3) Prior to ~~issuance of a tax deed for residential property with an owner-occupied dwelling the tax~~
20 ~~deed auction pursuant to 15-18-220~~ and after all other notice requirements have been met, the sheriff, the
21 county treasurer, or a designee of the sheriff or county treasurer shall make reasonable attempts to personally
22 deliver a copy of the notice that was sent by certified mail to the ~~owner-occupant-owner~~ of the property for the
23 purpose of discussing the consequences of a failure to respond. If personal delivery attempts are unsuccessful,
24 the sheriff, county treasurer, or designee shall attempt all reasonable means of informing the ~~owner-occupant~~
25 ~~owner~~ of the consequences of a failure to respond, including but not limited to a phone call to the ~~owner-~~
26 ~~occupant-owner~~ or a relative of the ~~owner-occupant owner~~.

27 (9)(4) A county or any officer of a county may not be held liable for any error of notification."
28

Section 5. 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 or assignee's agent, high bidder or high bidder's agent, 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 15-18-219 that the 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 assignee's agent, high bidder or high bidder's agent, 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 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 6. Section 15-18-214, MCA, is amended to read:

"15-18-214. Effect of deed -- possession. (1) ~~Subject Except as provided in subsection (2) and subject~~ to 15-18-411 and 15-18-413, a deed issued and recorded under this chapter conveys to the grantee absolute title to the property described in the deed as of the date of the tax deed, ~~except: The tax deed is prima facie evidence in any court of the truth of the matters set forth in the recitals, except that the recitals are conclusive evidence in favor of subsequent bona fide purchasers and encumbrancers for value and without notice.~~

(2) The tax deed does not convey absolute title to the property described in the deed:

(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; ~~or~~

(d) when a deed was issued contrary to the equity threshold provided in 15-18-219(1)(b).

~~(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession accrued as of the date on which a tax deed was issued.~~

(3) Except as provided in subsection (2), the purchaser at the tax deed auction is entitled to

possession of the property on the 10th day following the tax deed auction. A person remaining in possession of the property after that date under any interest must be deemed a tenant at will."

Section 7. Section 15-18-215, MCA, is amended to read:

"15-18-215. Form of notice that tax deed may issue. ~~(1)~~ Section 15-18-219 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 15-18-219(1)(b):~~

NOTICE THAT A TAX DEED MAY BE ISSUED

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

TO:

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

Pursuant to section 15-18-219, 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, plus additional interest and costs, 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 auction will be held within 60 days of the tax deed application date.

8. Any surplus funds resulting from the auction will be distributed ~~to the legal titleholder of record pursuant to 15-18-221.~~

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 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 15-18-219(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, plus additional interest and costs, 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~~

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

Section 8. Section 15-18-216, MCA, is amended to read:

"15-18-216. Form of proof of notice. ~~Sections 15-18-212 and Section~~ 15-18-219 ~~require~~ **requires** 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~~ 15-18-219, 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.

DATED:

.....

(Signature)

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 9. 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 15-18-219 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 the following property(full legal description) owned by.....(name of owner of record) on..... (date).

I further certify that pursuant to 15-18-212~~(3)(a)(1)(a)~~ and ~~15-18-219(6)(a)~~, notice was given to.....

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

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)(2) or 15-18-219(6)~~.

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

.....

Name of County Treasurer"

Section 10. Section 15-18-219, MCA, is amended to read:

"15-18-219. Application for tax deed ~~for residential property~~ -- fee -- notice. (1) (a) ~~If Except as provided in subsection (1)(b), 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 prior to the first working day in August, 3 years after attachment of the tax lien,~~ the assignee may file an application ~~after the redemption period has expired~~ with the county treasurer for a tax deed ~~for auction of~~ the property. The tax deed application must contain the same information as is required in 15-18-211(1) ~~and include a copy of the litigation guarantee required under subsection (4)(b) of this section.~~ The county treasurer shall charge the assignee a \$25 application fee. The fee must be deposited in the county general fund.

~~(b) A property tax lien may be redeemed until the time of the tax deed auction, regardless of the amount of the delinquency. A tax deed may not be issued unless the amount of the delinquent taxes, penalties, interest, and costs exceeds the lesser of:~~

~~(i) 2% of the parcel's most recent assessed value; or~~

~~(ii) \$5,000.~~

~~(c) 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 auction may result unless the property tax lien is redeemed prior to the expiration date of the redemption period.~~

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

~~(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; and

(c) current taxes due for the property.

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

(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 auction, and no additional notice is required. The sale at auction 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 redemption certificate, which releases the notice of tax deed application.

(4) (a) Between May 1 and May 30 of the year in which the redemption period expires, an assignee applying for a tax deed auction 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 made by certified mail, return receipt requested, in the form required by 15-18-215 and as provided in 7-1-2121, 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.

(5) 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.

~~(6) — (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection (4) between January 1 and January 31 of the year in which the redemption period expires. The notice of obligation must 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 (4), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (6)(c), 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.~~

~~(c) — 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 11. Section 15-18-220, MCA, is amended to read:

"15-18-220. Sale at public auction -- notice of auction -- cancellation of assignment for unsuccessful auction. (1) Upon receipt of an application for a tax deed pursuant to 15-18-219, 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 mail notice to the legal titleholder of record of the subject property to the address or addresses of record and 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, attorney fees supported by an affidavit of counsel that do not exceed \$1,000, and costs;

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

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

(iv) — 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.

(c) The assignee may enter a credit bid up to the opening bid amount provided for in subsection (2)(b).

(3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid plus auction costs incurred by the county treasurer. 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. A deposit is not required if the assignee is the high bidder. 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 assignee is the high bidder, the assignee shall pay to the county treasurer auction costs and any amounts included in the opening bid and not already paid, including filing fees, and tax deed fees, and one-half of the most recent assessed value of the land and of the dwelling. If the assignee does not make full payment within 24 hours, excluding weekends and legal holidays, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-225.

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

1 excluding weekends and legal holidays, by a high bidder who is not the assignee, the county treasurer shall
2 cancel the high bid and allow the next highest bidder to purchase the tax deed for the amount of the bid. If the
3 next highest bidder does not make full payment of the purchase price and the auction costs within 24 hours,
4 excluding weekends and legal holidays, of notification by the county treasurer, the county treasurer shall repeat
5 the process and contact the next highest bidder until the purchase price and auction costs are paid or until
6 there are no bidders remaining. If no bidder pays the purchase price and auction costs, the county treasurer
7 shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form
8 provided for in 15-18-225.

9 (d) If there are no bidders at the auction, the county treasurer shall cancel the assignment and file
10 with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-225.

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

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

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

19 (7) The county treasurer shall maintain a list of tax deed auctions and pertinent information related
20 to the tax deed auctions in a conspicuous place on the county treasurer's website."

21
22 **Section 12.** Section 15-18-221, MCA, is amended to read:

23 **"15-18-221. Distribution of tax deed auction proceeds -- unclaimed property.** (1) The county
24 treasurer shall distribute the proceeds of a tax deed auction pursuant to 15-18-220 as provided in this section.

25 (2) If the tax deed is purchased by a person other than the assignee, the county treasurer shall
26 pay to the assignee:

27 (a) the amount paid for the assignment of the tax lien, including delinquent taxes, penalties,
28 interest, attorney fees supported by an affidavit of counsel that do not exceed \$1,000, and costs; and

(b) all amounts paid pursuant to 15-18-219(2).

(3) Within 30 days of receiving payment from the purchaser of the tax deed, the county treasurer shall distribute surplus funds to the legal titleholder of record. The county treasurer shall process the surplus funds regardless of whether the legal titleholder is a resident of the state or not.

(4) Surplus funds that remain unclaimed for 1 year must be forwarded to the department of revenue and classified as unclaimed property subject to the provisions of Title 70, chapter 9, part 8."

Section 13. Section 15-18-225, MCA, is amended to read:

"15-18-225. Form of cancellation -- unsuccessful auction. The notice of cancellation of an assignment required by 15-18-220 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 the following property.....(full legal description) owned by.....(name of owner of record) on..... (date).

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

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

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

Therefore, the assignment of the tax lien is canceled this..... (date).

.....

Name of County Treasurer"

NEW SECTION. **Section 14. 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].

NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

- 2025

Drafter: Megan Moore,

1 NEW SECTION. **Section 16. Applicability.** [This act] applies to tax liens for which the redemption
2 period expires on or after [the effective date of this act].

3 - END -

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