

SENATE BILL NO. 306

INTRODUCED BY K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A COUNTY TREASURER MAY NOT SELL A TAX DEED TO RESIDENTIAL PROPERTY TO A FOREIGN ENTITY; DEFINING "FOREIGN ENTITY" AND "DOMESTIC ENTITY"; AMENDING SECTIONS 15-17-121 AND 15-18-220, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 15-17-121, MCA, is amended to read:

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

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

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

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

(i) preparing the list of delinquent taxes;

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

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

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

(v) notifying interested persons;

(vi) sale or resale;

(vii) issuing the tax deed; and

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

(b) The term includes costs that are required by law and incurred by an assignee. The county treasurer may require the assignee to provide receipts or may allow the assignee to provide a notarized affidavit of costs to the county treasurer upon issuance of a tax lien certificate as required in 15-17-125 and notification that a tax deed may be issued as required by 15-18-212, 15-18-216, and 15-18-219. A county treasurer may at any time require an assignee who provided an affidavit of costs to submit the receipted costs upon which the affidavit was based.

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

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

(ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending issuance or auction of a tax deed;

(iii) publishing costs for required publications; and

(iv) filing costs for proof of notice.

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

(5) "Domestic entity" means an entity that:

(a) is organized under or created under federal law or state law; or

(b) (i) is organized under or created under the law of another place subject to the jurisdiction of the United States; and

(ii) has its principal place of business within the United States.

~~(5)(6)~~ (a) "Dwelling" means a house or other structure intended for human habitation, including buildings attached to the dwelling.

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

~~(6)(7)~~ "Foreign entity" means:

(a) a government of a foreign country;

(b) a political party of a foreign country;

(c) an entity located outside of the United States unless that entity:

(i) is organized under or created under federal law, state law, or the law of another place subject

1 to the jurisdiction of the United States; and

2 (ii) has its principal place of business within the United States; or

3 (d) an entity that:

4 (i) is organized under the laws of a foreign country; or

5 (ii) has its principal place of business in a foreign country.

6 ~~(6)(7)(8)~~ "Property tax lien" or "tax lien" means a lien attached by the county for nonpayment of  
7 property taxes, including penalties, interest, and costs.

8 ~~(7)(8)(9)~~ "Tax", "taxes", or "property taxes" means all ad valorem property taxes, property  
9 assessments, fees related to property, and assessments for special improvement districts and rural special  
10 improvement districts.

11 ~~(8)(9)(10)~~ "Tax lien certificate" means the document described in 15-17-125.

12 ~~(9)(10)(11)~~ "Tax lien sale" means, with respect to personal property, the offering for sale by the  
13 county treasurer of personal property on which the taxes are delinquent or other personal property on which the  
14 delinquent taxes are a lien."

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16 **Section 2.** Section 15-18-220, MCA, is amended to read:

17 **"15-18-220. Sale at public auction -- notice of auction -- cancellation of assignment for**

18 **unsuccessful auction.** (1) Upon receipt of an application for a tax deed pursuant to 15-18-219, the county  
19 treasurer shall hold a public auction in the county in which the property is located within 60 days of receipt of  
20 the application. The county treasurer shall publish notice of the auction as provided in 7-1-2121 that includes  
21 the date, time, and location of the auction, the legal description of the property, the deposit requirement, ~~and~~  
22 the minimum opening bid, and a requirement that an entity provide proof of domestic entity status as provided  
23 in subsection (7). The auction must be held during the regular office hours of the county treasurer.

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

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

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

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

(3) (a) ~~The~~ Except as provided in subsection (7), ~~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. 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~~ Except as provided in subsection (7), 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, 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~~ Except as provided in subsection (7), if full payment of the purchase price and auction costs is not made within 24 hours of the sale, excluding weekends and legal holidays, by a high bidder who is not the assignee, the county treasurer shall cancel the high bid and allow the next highest bidder to purchase the tax deed for the amount bid. If the next highest bidder does not make full payment of the purchase price and the auction costs within 24 hours, excluding weekends and legal holidays, of notification by the county treasurer, the county treasurer shall repeat the process and contact the next highest bidder until the purchase price and auction costs are paid or until there are no bidders remaining. If no bidder pays the purchase price and auction costs, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of

1 cancellation on a form provided for in 15-18-225.

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

4 (4) The portion of the opening bid that is equal to half of the most recent assessed value of the  
5 land and of the dwelling is considered surplus funds and, upon sale of the property, must be distributed as  
6 provided in 15-18-221. If the purchase price is higher than the opening bid, the difference between the  
7 purchase price and the opening bid is considered surplus funds and must be distributed as provided in 15-18-  
8 221.

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

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

12 (7) (a) A county treasurer may not sell a property under this section to a foreign entity.

13 (b) A county treasurer may not accept an opening bid on property under this section unless the  
14 entity provides written proof that it is a domestic entity."

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16 NEW SECTION. **Section 3. Effective date.** [This act] is effective October 1, 2025.

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