

1 HOUSE BILL NO. 135
 2 INTRODUCED BY Lee Harding
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AFFORDING INDIGENT
 5 PROPERTY OWNERS DUE PROCESS IN TAX DEED PROCEEDINGS BY
 6 REMOVING THE DEPOSIT REQUIREMENTS IF INDIGENCY IS FOUND AND
 7 BY PROVIDING THAT DEFENSES ARE NOT WAIVED IF THE INDIGENCY
 8 RESULTS IN AN INABILITY TO PAY THE DEPOSIT; IMPLEMENTING THE
 9 DECISION OF THE MONTANA SUPREME COURT IN BALL V. GEE, 795
 10 P.2D 82, 47 ST. REP. 1196 (1990); AND AMENDING SECTIONS
 11 15-18-411 AND 15-18-412, MCA."
 12

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

14 **Section 1.** Section 15-18-411, MCA, is amended to read:

15 "15-18-411. Action to quiet title to tax deed --
 16 notice. (1) (a) In an action brought to set aside or annul
 17 any tax deed or to determine the rights of a purchaser to
 18 real property claimed to have been acquired through tax
 19 proceedings or a tax sale, the purchaser, upon filing an
 20 affidavit, may obtain from the court an order directed to
 21 the person claiming to:

- 22 (i) own the property;
- 23 (ii) have any interest in or lien upon the property;
- 24 (iii) have a right to redeem the property; or
- 25 (iv) have rights hostile to the tax title.

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

4 (c) The Except as provided in subsection (1)(d), the
 5 order described in subsection (1)(a) may command the true
 6 owner to:

7 (i) deposit with the court for the use of the
 8 purchaser:

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

14 (B) the amount of all sums reasonably paid by the
 15 purchaser following the order and after 3 years from the
 16 date of the tax sale to preserve the property or to make
 17 improvements thereon while in the purchaser's possession, as
 18 the total amount of the taxes, interest, penalties, costs,
 19 and improvements is alleged by the plaintiff and as must
 20 appear in the order; or

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

24 (d) The deposit provided for in subsection (1)(c) may
 25 not be required of a person found to be indigent.



-2- INTRODUCED BILL
 HB 135

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

5 (3) (a) The order must be filed with the county clerk
6 and a copy served personally upon each person shown in the
7 affidavit claiming to be a true owner and who is, at that
8 time, known to be in the state of Montana.

9 (b) Jurisdiction is acquired over all other persons by:

10 (i) publishing the order once in the official newspaper
11 of the county;

12 (ii) posting the order in three public places in the
13 county at least 10 days prior to the hearing; and

14 (iii) giving a copy to the county treasurer."

15 **Section 2.** Section 15-18-412, MCA, is amended to read:

16 "15-18-412. Procedure in tax deed quiet title action.

17 (1) Upon the hearing of the order to show cause, the court
18 has jurisdiction to determine the amount to be deposited and
19 to make an order that the same be paid to the court within a
20 period not exceeding 30 days after the order is made.

21 (2) (a) Except as provided in subsection subsections
22 (2)(b) and (2)(c), if the amount is not paid within the time
23 fixed by the court, the true owner is considered to have
24 waived any defects in the tax proceedings and any right of
25 redemption. In the event of waiver, the true owner has no

1 claim of any kind against the state or purchaser and a
2 decree must be entered in the action quieting the title of
3 the purchaser as against the true owner.

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

6 (c) A deposit is not required if the true owner is
7 indigent.

8 (3) If payment is made to the court and the true owner
9 is successful in the action and the tax proceedings are
10 declared void, the amount deposited with the court must be
11 paid to the purchaser.

12 (4) If the purported true owner is not successful in
13 the action and the title of the purchaser is sustained, the
14 money must be returned to the purported true owner.

15 (5) In any action brought by a purchaser to quiet
16 title, several tracts of land, whether contiguous or
17 noncontiguous or owned by different defendants, may be set
18 forth in one complaint. All persons claiming any title to,
19 interest in, or lien upon any of the premises or any part
20 thereof may be joined as defendants, even though their
21 claims are independent, are not in common, and do not cover
22 the same tracts. The procedure in such an action must
23 follow, as nearly as practicable, the procedure specified in
24 70-28-101 through 70-28-109.

25 (6) In the final judgment, the court shall also

1 determine the rights resulting from any additional taxes on
2 the property accruing or being paid by either party during
3 the pendency of the suit.

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

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 135

INTRODUCED BY LEE, HARDING

A BILL FOR AN ACT ENTITLED: "AN ACT AFFORDING INDIGENT
PROPERTY OWNERS DUE PROCESS IN TAX DEED PROCEEDINGS BY
REMOVING THE DEPOSIT REQUIREMENTS IF INDIGENCY IS FOUND AND
BY PROVIDING THAT DEFENSES ARE NOT WAIVED IF THE INDIGENCY
RESULTS IN AN INABILITY TO PAY THE DEPOSIT; IMPLEMENTING THE
DECISION OF THE MONTANA SUPREME COURT IN BALL V. GEE, 795
P.2D 82, 47 ST. REP. 1196 (1990); AND AMENDING SECTIONS
15-18-411 AND 15-18-412, MCA."

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

Section 1. Section 15-18-411, MCA, is amended to read:

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

- (i) own the property;
- (ii) have any interest in or lien upon the property;
- (iii) have a right to redeem the property; or
- (iv) have rights hostile to the tax title.

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

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

(i) deposit with the court for the use of the
purchaser:

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

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

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

(d) The deposit provided for in subsection (1)(c) may
not be required of a person found BY THE COURT to be

1 indigent FOLLOWING AN EXAMINATION INTO THE MATTER BY THE
 2 COURT UPON THE REQUEST OF A TRUE OWNER CLAIMING TO BE
 3 INDIGENT.

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

8 (3) (a) The order must be filed with the county clerk
 9 and a copy served personally upon each person shown in the
 10 affidavit claiming to be a true owner and who is, at that
 11 time, known to be in the state of Montana.

12 (b) Jurisdiction is acquired over all other persons by:

13 (i) publishing the order once in the official newspaper
 14 of the county;

15 (ii) posting the order in three public places in the
 16 county at least 10 days prior to the hearing; and

17 (iii) giving a copy to the county treasurer."

18 **Section 2.** Section 15-18-412, MCA, is amended to read:

19 "15-18-412. Procedure in tax deed quiet title action.

20 (1) Upon the hearing of the order to show cause, the court
 21 has jurisdiction to determine the amount to be deposited and
 22 to make an order that the same be paid to the court within a
 23 period not exceeding 30 days after the order is made.

24 (2) (a) Except as provided in subsection subsections
 25 (2)(b) and (2)(c), if the amount is not paid within the time

1 fixed by the court, the true owner is considered to have
 2 waived any defects in the tax proceedings and any right of
 3 redemption. In the event of waiver, the true owner has no
 4 claim of any kind against the state or purchaser and a
 5 decree must be entered in the action quieting the title of
 6 the purchaser as against the true owner.

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

9 (c) A deposit is not required if the true owner is
 10 FOUND BY THE COURT TO BE INDIGENT FOLLOWING AN EXAMINATION
 11 INTO THE MATTER BY THE COURT UPON THE REQUEST OF A TRUE
 12 OWNER CLAIMING TO BE indigent.

13 (3) If payment is made to the court and the true owner
 14 is successful in the action and the tax proceedings are
 15 declared void, the amount deposited with the court must be
 16 paid to the purchaser.

17 (4) If the purported true owner is not successful in
 18 the action and the title of the purchaser is sustained, the
 19 money must be returned to the purported true owner.

20 (5) In any action brought by a purchaser to quiet
 21 title, several tracts of land, whether contiguous or
 22 noncontiguous or owned by different defendants, may be set
 23 forth in one complaint. All persons claiming any title to,
 24 interest in, or lien upon any of the premises or any part
 25 thereof may be joined as defendants, even though their

1 claims are independent, are not in common, and do not cover
2 the same tracts. The procedure in such an action must
3 follow, as nearly as practicable, the procedure specified in
4 70-28-101 through 70-28-109.

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

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

-End-

1 HOUSE BILL NO. 135

2 INTRODUCED BY LEE, HARDING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AFFORDING INDIGENT
5 PROPERTY OWNERS DUE PROCESS IN TAX DEED PROCEEDINGS BY
6 REMOVING THE DEPOSIT REQUIREMENTS IF INDIGENCY IS FOUND AND
7 BY PROVIDING THAT DEFENSES ARE NOT WAIVED IF THE INDIGENCY
8 RESULTS IN AN INABILITY TO PAY THE DEPOSIT; IMPLEMENTING THE
9 DECISION OF THE MONTANA SUPREME COURT IN BALL V. GEE, 795
10 P.2D 82, 47 ST. REP. 1196 (1990); AND AMENDING SECTIONS
11 15-18-411 AND 15-18-412, MCA."
12

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

14 **Section 1.** Section 15-18-411, MCA, is amended to read:

15 "15-18-411. Action to quiet title to tax deed --
16 notice. (1) (a) In an action brought to set aside or annul
17 any tax deed or to determine the rights of a purchaser to
18 real property claimed to have been acquired through tax
19 proceedings or a tax sale, the purchaser, upon filing an
20 affidavit, may obtain from the court an order directed to
21 the person claiming to:

- 22 (i) own the property;
23 (ii) have any interest in or lien upon the property;
24 (iii) have a right to redeem the property; or
25 (iv) have rights hostile to the tax title.

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

4 (c) The Except as provided in subsection (1)(d), the
5 order described in subsection (1)(a) may command the true
6 owner to:

7 (i) deposit with the court for the use of the
8 purchaser:

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

14 (B) the amount of all sums reasonably paid by the
15 purchaser following the order and after 3 years from the
16 date of the tax sale to preserve the property or to make
17 improvements thereon while in the purchaser's possession, as
18 the total amount of the taxes, interest, penalties, costs,
19 and improvements is alleged by the plaintiff and as must
20 appear in the order; or

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

24 (d) The deposit provided for in subsection (1)(c) may
25 not be required of a person found BY THE COURT to be

1 indigent FOLLOWING AN EXAMINATION INTO THE MATTER BY THE
 2 COURT UPON THE REQUEST OF A TRUE OWNER CLAIMING TO BE
 3 INDIGENT.

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

8 (3) (a) The order must be filed with the county clerk
 9 and a copy served personally upon each person shown in the
 10 affidavit claiming to be a true owner and who is, at that
 11 time, known to be in the state of Montana.

12 (b) Jurisdiction is acquired over all other persons by:

13 (i) publishing the order once in the official newspaper
 14 of the county;

15 (ii) posting the order in three public places in the
 16 county at least 10 days prior to the hearing; and

17 (iii) giving a copy to the county treasurer."

18 **Section 2.** Section 15-18-412, MCA, is amended to read:

19 "15-18-412. Procedure in tax deed quiet title action.

20 (1) Upon the hearing of the order to show cause, the court
 21 has jurisdiction to determine the amount to be deposited and
 22 to make an order that the same be paid to the court within a
 23 period not exceeding 30 days after the order is made.

24 (2) (a) Except as provided in subsection subsections
 25 (2)(b) and (2)(c), if the amount is not paid within the time

1 fixed by the court, the true owner is considered to have
 2 waived any defects in the tax proceedings and any right of
 3 redemption. In the event of waiver, the true owner has no
 4 claim of any kind against the state or purchaser and a
 5 decree must be entered in the action quieting the title of
 6 the purchaser as against the true owner.

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

9 (c) A deposit is not required if the true owner is
 10 FOUND BY THE COURT TO BE INDIGENT FOLLOWING AN EXAMINATION
 11 INTO THE MATTER BY THE COURT UPON THE REQUEST OF A TRUE
 12 OWNER CLAIMING TO BE indigent.

13 (3) If payment is made to the court and the true owner
 14 is successful in the action and the tax proceedings are
 15 declared void, the amount deposited with the court must be
 16 paid to the purchaser.

17 (4) If the purported true owner is not successful in
 18 the action and the title of the purchaser is sustained, the
 19 money must be returned to the purported true owner.

20 (5) In any action brought by a purchaser to quiet
 21 title, several tracts of land, whether contiguous or
 22 noncontiguous or owned by different defendants, may be set
 23 forth in one complaint. All persons claiming any title to,
 24 interest in, or lien upon any of the premises or any part
 25 thereof may be joined as defendants, even though their

1 claims are independent, are not in common, and do not cover
2 the same tracts. The procedure in such an action must
3 follow, as nearly as practicable, the procedure specified in
4 70-28-101 through 70-28-109.

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

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

-End-

1 HOUSE BILL NO. 135

2 INTRODUCED BY LEE, HARDING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AFFORDING INDIGENT
5 PROPERTY OWNERS DUE PROCESS IN TAX DEED PROCEEDINGS BY
6 REMOVING THE DEPOSIT REQUIREMENTS IF INDIGENCY IS FOUND AND
7 BY PROVIDING THAT DEFENSES ARE NOT WAIVED IF THE INDIGENCY
8 RESULTS IN AN INABILITY TO PAY THE DEPOSIT; IMPLEMENTING THE
9 DECISION OF THE MONTANA SUPREME COURT IN BALL V. GEE, 795
10 P.2D 82, 47 ST. REP. 1196 (1990); AND AMENDING SECTIONS
11 15-18-411 AND 15-18-412, MCA."
12

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

14 **Section 1.** Section 15-18-411, MCA, is amended to read:

15 "15-18-411. Action to quiet title to tax deed --
16 notice. (1) (a) In an action brought to set aside or annul
17 any tax deed or to determine the rights of a purchaser to
18 real property claimed to have been acquired through tax
19 proceedings or a tax sale, the purchaser, upon filing an
20 affidavit, may obtain from the court an order directed to
21 the person claiming to:

- 22 (i) own the property;
23 (ii) have any interest in or lien upon the property;
24 (iii) have a right to redeem the property; or
25 (iv) have rights hostile to the tax title.

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

4 (c) The Except as provided in subsection (1)(d), the
5 order described in subsection (1)(a) may command the true
6 owner to:

7 (i) deposit with the court for the use of the
8 purchaser:

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

14 (B) the amount of all sums reasonably paid by the
15 purchaser following the order and after 3 years from the
16 date of the tax sale to preserve the property or to make
17 improvements thereon while in the purchaser's possession, as
18 the total amount of the taxes, interest, penalties, costs,
19 and improvements is alleged by the plaintiff and as must
20 appear in the order; or

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

24 (d) The deposit provided for in subsection (1)(c) may
25 not be required of a person found BY THE COURT to be

REFERENCE BILL
HB 135

1 indigent FOLLOWING AN EXAMINATION INTO THE MATTER BY THE
 2 COURT UPON THE REQUEST OF A TRUE OWNER CLAIMING TO BE
 3 INDIGENT.

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

8 (3) (a) The order must be filed with the county clerk
 9 and a copy served personally upon each person shown in the
 10 affidavit claiming to be a true owner and who is, at that
 11 time, known to be in the state of Montana.

12 (b) Jurisdiction is acquired over all other persons by:

13 (i) publishing the order once in the official newspaper
 14 of the county;

15 (ii) posting the order in three public places in the
 16 county at least 10 days prior to the hearing; and

17 (iii) giving a copy to the county treasurer."

18 **Section 2.** Section 15-18-412, MCA, is amended to read:

19 "15-18-412. Procedure in tax deed quiet title action.

20 (1) Upon the hearing of the order to show cause, the court
 21 has jurisdiction to determine the amount to be deposited and
 22 to make an order that the same be paid to the court within a
 23 period not exceeding 30 days after the order is made.

24 (2) (a) Except as provided in subsection subsections
 25 (2)(b) and (2)(c), if the amount is not paid within the time

1 fixed by the court, the true owner is considered to have
 2 waived any defects in the tax proceedings and any right of
 3 redemption. In the event of waiver, the true owner has no
 4 claim of any kind against the state or purchaser and a
 5 decree must be entered in the action quieting the title of
 6 the purchaser as against the true owner.

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

9 (c) A deposit is not required if the true owner is
 10 FOUND BY THE COURT TO BE INDIGENT FOLLOWING AN EXAMINATION
 11 INTO THE MATTER BY THE COURT UPON THE REQUEST OF A TRUE
 12 OWNER CLAIMING TO BE indigent.

13 (3) If payment is made to the court and the true owner
 14 is successful in the action and the tax proceedings are
 15 declared void, the amount deposited with the court must be
 16 paid to the purchaser.

17 (4) If the purported true owner is not successful in
 18 the action and the title of the purchaser is sustained, the
 19 money must be returned to the purported true owner.

20 (5) In any action brought by a purchaser to quiet
 21 title, several tracts of land, whether contiguous or
 22 noncontiguous or owned by different defendants, may be set
 23 forth in one complaint. All persons claiming any title to,
 24 interest in, or lien upon any of the premises or any part
 25 thereof may be joined as defendants, even though their

1 claims are independent, are not in common, and do not cover
2 the same tracts. The procedure in such an action must
3 follow, as nearly as practicable, the procedure specified in
4 70-28-101 through 70-28-109.

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

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

-End-