

HOUSE BILL NO. 883

INTRODUCED BY R. DEBRUYCKER, BERGSAGEL, SPRING, ZOOK,
M. HANSON, L. NELSON, STEPLER, R. JOHNSON, HOCKETT,
PECK, BACHINI, NATHE, HARDING, DEVLIN

IN THE HOUSE

FEBRUARY 15, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 16, 1991 FIRST READING.

MARCH 13, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

MARCH 14, 1991 PRINTING REPORT.

MARCH 16, 1991 SECOND READING, DO PASS.

MARCH 18, 1991 ENGROSSING REPORT.

MARCH 19, 1991 THIRD READING, PASSED.
AYES, 94; NOES, 4.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 4, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 9, 1991 ON MOTION, CONSIDERATION PASSED
UNTIL THE 76TH LEGISLATIVE DAY.

APRIL 15, 1991 SECOND READING, CONCURRED IN.

APRIL 16, 1991 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 17, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 883
 2 INTRODUCED BY Donna Kocott Barbara Bergquist John Bergquist
 3 John Bergquist John Bergquist John Bergquist John Bergquist
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS

5 RELATING TO THE PRIOR TAX LIEN ON REAL PROPERTY FOR TAXES
 6 OWED ON PERSONAL PROPERTY; PROVIDING THAT AN OWNER OR HOLDER
 7 OF A MORTGAGE OR OTHER LIEN MAY FILE TO REMOVE THE PRIOR TAX
 8 LIEN ON REAL PROPERTY ONLY WHEN THE TAXABLE VALUE OF
 9 PERSONAL PROPERTY ON WHICH PERSONAL PROPERTY TAXES ARE
 10 DELINQUENT EXCEEDS \$10,000; AND AMENDING SECTION 15-16-402,
 11 MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 15-16-402, MCA, is amended to read:

15 "15-16-402. Tax on personal property lien on realty --
 16 separate assessment -- filing of mortgage satisfaction. (1)
 17 Every The tax due upon personal property is a prior lien
 18 upon any or all of such the personal property ~~which~~. The
 19 lien ~~shall have~~ has precedence over any other lien, claim,
 20 or demand upon such the personal property, ~~and except as~~
 21 hereinafter Except as provided in subsection (2), every the
 22 tax upon personal property is also a lien upon the real
 23 property of the owner thereof on and after January 1 of each
 24 year.

25 (2) The taxes upon personal property based upon a

1 taxable value up to and including ~~\$1,000~~ \$10,000 ~~shall be~~
 2 are a first and prior lien upon the real property of the
 3 owner of such the personal property. Taxes upon personal
 4 property based upon the taxable value thereof in excess of
 5 ~~\$1,000~~ \$10,000 ~~shall be~~ are a first and prior lien upon the
 6 real property of the owner unless the owner or holder of any
 7 mortgage or other lien upon ~~said the~~ real property appearing
 8 of record in the office of the clerk and recorder of the
 9 county where such the real property is situated, at or
 10 before the time such the personal property tax attached
 11 thereto, ~~shall have~~ has filed the a notice hereinafter as
 12 provided for in subsection (3). If the notice is filed, in
 13 ~~which event~~ the personal property taxes upon such the
 14 taxable value in excess of \$1,000 \$10,000 ~~of taxable value~~
 15 ~~shall be~~ are not be a lien on the owner's real property of such
 16 owner. ~~It shall be the duty of the~~ The county treasurer
 17 shall, to issue to any at the request of a mortgagee or lien
 18 holder lienholder, upon his request, issue a statement of
 19 the personal property tax due upon the taxable value up to
 20 and including ~~\$1,000~~ \$10,000. Personal property taxes upon a
 21 taxable value up to ~~\$1,000~~ \$10,000 may be paid, redeemed
 22 from a tax sale as by law provided, or discharged separately
 23 from any personal property taxes in excess of such amount.
 24 Payment of such the taxes upon a taxable value up to ~~\$1,000~~
 25 \$10,000, as herein provided in this subsection, shall



1 operate to discharge the tax lien upon the personal property
2 of the owner to the extent of such payment in the order that
3 the person paying such tax shall direct.

4 (3) The holder of any mortgage or lien upon real
5 property who desires to obtain the benefits of this section
6 shall file each year in the office of the county treasurer
7 of said county a notice giving:

8 (a) the name and address of the mortgagee and holder of
9 the mortgage or lien;

10 (b) the name of the reputed owner of the land;

11 (c) the description of the land;

12 (d) the date of record and expiration of the mortgage
13 or lien;

14 (e) the amount thereof; and

15 (f) a statement that he claims the benefit of the
16 provisions of this section.

17 (4) Such notice shall be ineffectual as to any taxes
18 which shall have become a lien on real property prior to the
19 filing of such notice as aforesaid provided in subsection
20 ~~(3). If the mortgage be not paid at maturity, such notice~~
21 ~~shall thereafter be filed annually unless the mortgage be~~
22 ~~extended for a definite period to be stated in such notice.~~

23 (5) Any owner of a mortgage on real estate property
24 upon which personal property taxes are by this section made
25 a lien, where the owner of such real estate property and

1 personal property has failed to pay taxes due upon such real
2 estate property and personal property for 1 or more years,
3 may file with the department of revenue or its agent in the
4 county in which such property is located a written request
5 to have the personal property and real estate property of
6 the owner separately assessed. Such request must be made by
7 registered or certified mail at least 10 days prior to
8 January 1 in the year for which property is assessed. Upon
9 receipt by the department or its agent of such request, it
10 is hereby--made the duty of the department or its agent to
11 make a separate assessment of real and personal property of
12 the owner thereof, and such personal taxes shall not be a
13 lien upon the real estate property so mortgaged of the owner
14 thereof, and the personal property taxes shall be collected
15 in the manner provided by law for other personal property.

16 (6) The holder of a mortgage or lien upon real property
17 who files a certificate of satisfaction and the proof and
18 acknowledgment thereof, as provided for in 71-1-211, shall
19 file a copy of the certificate and the proof and
20 acknowledgment with:

21 (a) the county treasurer if the holder has filed a
22 notice under subsection (3); and

23 (b) the department of revenue or its agent in the
24 county in which the real property is located if the holder
25 has filed a written request under subsection (5).

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1 (7) The provisions of this section do not apply to
2 property for which delinquent property taxes have been
3 suspended or canceled under the provisions of Title 15,
4 chapter 24, part 17. (Subsection (7) terminates December 31,
5 1993--sec. 17, Ch. 631, L. 1989.)"

-End-

APPROVED BY COMMITTEE
ON TAXATION

1 *House* BILL NO. *883*
2 INTRODUCED BY *[Signature]*
3 *[Signature]*
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS *[Signature]*

5 RELATING TO THE PRIOR TAX LIEN ON REAL PROPERTY FOR TAXES
6 OWED ON PERSONAL PROPERTY; PROVIDING THAT AN OWNER OR HOLDER
7 OF A MORTGAGE OR OTHER LIEN MAY FILE TO REMOVE THE PRIOR TAX
8 LIEN ON REAL PROPERTY ONLY WHEN THE TAXABLE VALUE OF
9 PERSONAL PROPERTY ON WHICH PERSONAL PROPERTY TAXES ARE
10 DELINQUENT EXCEEDS \$10,000; AND AMENDING SECTION 15-16-402,
11 MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 15-16-402, MCA, is amended to read:

15 "15-16-402. Tax on personal property lien on realty --
16 separate assessment -- filing of mortgage satisfaction. (1)
17 Every The tax due upon personal property is a prior lien
18 upon any or all of such the personal property ~~7-which~~. The
19 lien ~~shall-have~~ has precedence over any other lien, claim,
20 or demand upon such the personal property ~~7~~, and ~~except-as~~
21 hereinafter Except as provided in subsection (2), every the
22 tax upon personal property is also a lien upon the real
23 property of the owner thereof on and after January 1 of each
24 year.

25 (2) The taxes upon personal property based upon a

1 taxable value up to and including ~~\$17,000~~ \$10,000 ~~shall-be~~
2 are a first and prior lien upon the real property of the
3 owner of such the personal property. Taxes upon personal
4 property based upon the taxable value thereof in excess of
5 ~~\$17,000~~ \$10,000 ~~shall-be~~ are a first and prior lien upon the
6 real property of the owner unless the owner or holder of any
7 mortgage or other lien upon ~~said the~~ real property appearing
8 of record in the office of the clerk and recorder of the
9 county where such the real property is situated, at or
10 before the time such the personal property tax attached
11 thereto, ~~shall--have~~ has filed the a notice hereinafter as
12 provided for in subsection (3). If the notice is filed, in
13 ~~which--event~~ the personal property taxes upon such the
14 taxable value in excess of \$17,000 \$10,000 ~~of--taxable--value~~
15 ~~shall~~ are not be a lien on the owner's real property ~~of--such~~
16 ~~owner. It--shall--be--the--duty--of--the~~ The county treasurer
17 shall, to-issue-to-any at the request of a mortgagee or lien
18 holder lienholder, upon-his-request, issue a statement of
19 the personal property tax due upon the taxable value up to
20 and including ~~\$17,000~~ \$10,000. Personal property taxes upon a
21 taxable value up to ~~\$17,000~~ \$10,000 may be paid, redeemed
22 from a tax sale as by law provided, or discharged separately
23 from any personal property taxes in excess of such amount.
24 Payment of such the taxes upon a taxable value up to ~~\$17,000~~
25 \$10,000, as herein provided in this subsection, shall



1 operate to discharge the tax lien upon the personal property
2 of the owner to the extent of such payment in the order that
3 the person paying such tax shall direct.

4 (3) The holder of any mortgage or lien upon real
5 property who desires to obtain the benefits of this section
6 shall file each year in the office of the county treasurer
7 of said county a notice giving:

8 (a) the name and address of the mortgagee and holder of
9 the mortgage or lien;

10 (b) the name of the reputed owner of the land;

11 (c) the description of the land;

12 (d) the date of record and expiration of the mortgage
13 or lien;

14 (e) the amount thereof; and

15 (f) a statement that he claims the benefit of the
16 provisions of this section.

17 (4) Such notice shall be ineffectual as to any taxes
18 which shall have become a lien on real property prior to the
19 filing of such notice as aforesaid provided in subsection
20 ~~(3). If the mortgage be not paid at maturity, such notice~~
21 ~~shall thereafter be filed annually unless the mortgage be~~
22 ~~extended for a definite period to be stated in such notice.~~

23 (5) Any owner of a mortgage on real estate property
24 upon which personal property taxes are by this section made
25 a lien, where the owner of such real estate property and

1 personal property has failed to pay taxes due upon such real
2 estate property and personal property for 1 or more years,
3 may file with the department of revenue or its agent in the
4 county in which such property is located a written request
5 to have the personal property and real estate property of
6 the owner separately assessed. Such request must be made by
7 registered or certified mail at least 10 days prior to
8 January 1 in the year for which property is assessed. Upon
9 receipt by the department or its agent of such request, it
10 is hereby--made the duty of the department or its agent to
11 make a separate assessment of real and personal property of
12 the owner thereof, and such personal taxes shall not be a
13 lien upon the real estate property so mortgaged of the owner
14 thereof, and the personal property taxes shall be collected
15 in the manner provided by law for other personal property.

16 (6) The holder of a mortgage or lien upon real property
17 who files a certificate of satisfaction and the proof and
18 acknowledgment thereof, as provided for in 71-1-211, shall
19 file a copy of the certificate and the proof and
20 acknowledgment with:

21 (a) the county treasurer if the holder has filed a
22 notice under subsection (3); and

23 (b) the department of revenue or its agent in the
24 county in which the real property is located if the holder
25 has filed a written request under subsection (5).

LC 1825/01

1 (7) The provisions of this section do not apply to
2 property for which delinquent property taxes have been
3 suspended or canceled under the provisions of Title 15,
4 chapter 24, part 17. (Subsection (7) terminates December 31,
5 1993--sec. 17, Ch. 631, L. 1989.)"

-End-

HOUSE BILL NO. 883

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS RELATING TO THE PRIOR TAX LIEN ON REAL PROPERTY FOR TAXES OWED ON PERSONAL PROPERTY; PROVIDING THAT AN OWNER OR HOLDER OF A MORTGAGE OR OTHER LIEN MAY FILE TO REMOVE THE PRIOR TAX LIEN ON REAL PROPERTY ONLY WHEN THE TAXABLE VALUE OF PERSONAL PROPERTY ON WHICH PERSONAL PROPERTY TAXES ARE DELINQUENT EXCEEDS \$10,000; AND AMENDING SECTION 15-16-402, MCA."

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

Section 1. Section 15-16-402, MCA, is amended to read:

"15-16-402. Tax on personal property lien on realty -- separate assessment -- filing of mortgage satisfaction. (1) Every The tax due upon personal property is a prior lien upon any or all of such the personal property which. The lien ~~shall have~~ has precedence over any other lien, claim, or demand upon such the personal property, and ~~except as~~ hereinafter Except as provided in subsection (2), every the tax upon personal property is also a lien upon the real property of the owner thereof on and after January 1 of each year.

(2) The taxes upon personal property based upon a

taxable value up to and including ~~\$17,000~~ \$10,000 shall ~~be~~ are a first and prior lien upon the real property of the owner of such the personal property. Taxes upon personal property based upon the taxable value thereof in excess of ~~\$17,000~~ \$10,000 shall ~~be~~ are a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon ~~said the~~ the real property appearing of record in the office of the clerk and recorder of the county where such the real property is situated, at or before the time such the personal property tax attached thereto, ~~shall have~~ has filed the a notice hereinafter as provided for in subsection (3). If the notice is filed, in which ~~event~~ the personal property taxes upon such the taxable value in excess of \$17,000 \$10,000 of ~~taxable value~~ shall are not be a lien on the owner's real property of ~~such~~ owner. ~~It shall be the duty of the~~ The county treasurer shall, to issue to any at the request of a mortgagee or lien holder lienholder, upon ~~his request~~ issue a statement of the personal property tax due upon the taxable value up to and including ~~\$17,000~~ \$10,000. Personal property taxes upon a taxable value up to ~~\$17,000~~ \$10,000 may be paid, redeemed from a tax sale as by law provided, or discharged separately from any personal property taxes in excess of such amount. Payment of such the taxes upon a taxable value up to ~~\$17,000~~ \$10,000, as herein provided in this subsection, shall



1 operate to discharge the tax lien upon the personal property
2 of the owner to the extent of such payment in the order that
3 the person paying such tax shall direct.

4 (3) The holder of any mortgage or lien upon real
5 property who desires to obtain the benefits of this section
6 shall file each year in the office of the county treasurer
7 of said county a notice giving:

8 (a) the name and address of the mortgagee and holder of
9 the mortgage or lien;

10 (b) the name of the reputed owner of the land;

11 (c) the description of the land;

12 (d) the date of record and expiration of the mortgage
13 or lien;

14 (e) the amount thereof; and

15 (f) a statement that he claims the benefit of the
16 provisions of this section.

17 (4) Such notice shall be ineffectual as to any taxes
18 which shall have become a lien on real property prior to the
19 filing of such notice as aforesaid provided in subsection
20 (3). ~~if the mortgage be not paid at maturity; such notice~~
21 ~~shall thereafter be filed annually unless the mortgage be~~
22 ~~extended for a definite period to be stated in such notice.~~

23 (5) Any owner of a mortgage on real estate property
24 upon which personal property taxes are by this section made
25 a lien, where the owner of such real estate property and

1 personal property has failed to pay taxes due upon such real
2 estate property and personal property for 1 or more years,
3 may file with the department of revenue or its agent in the
4 county in which such property is located a written request
5 to have the personal property and real estate property of
6 the owner separately assessed. Such request must be made by
7 registered or certified mail at least 10 days prior to
8 January 1 in the year for which property is assessed. Upon
9 receipt by the department or its agent of such request, it
10 is hereby--made the duty of the department or its agent to
11 make a separate assessment of real and personal property of
12 the owner thereof, and such personal taxes shall not be a
13 lien upon the real estate property so mortgaged of the owner
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16 (6) The holder of a mortgage or lien upon real property
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LC 1825/01

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2 property for which delinquent property taxes have been
3 suspended or canceled under the provisions of Title 15,
4 chapter 24, part 17. (Subsection (7) terminates December 31,
5 1993--sec. 17, Ch. 631, L. 1989.)"

-End-

HOUSE BILL NO. 883

INTRODUCED BY R. DEBRUYCKER, BERGSAGEL, SPRING, ZOOK,
M. HANSON, L. NELSON, STEPLER, R. JOHNSON, HOCKETT,
PECK, BACHINI, NATHE, HARDING, DEVLIN

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taxable value up to and including ~~\$17,000~~ \$10,000 ~~shall be~~
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taxable value up to ~~\$17,000~~ \$10,000 may be paid, redeemed
from a tax sale as by law provided, or discharged separately
from any personal property taxes in excess of such amount.



1 Payment of such the taxes upon a taxable value up to ~~\$17,000~~
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 3 operate to discharge the tax lien upon the personal property
 4 of the owner to the extent of such payment in the order that
 5 the person paying such tax shall direct.

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 7 property who desires to obtain the benefits of this section
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 9 of said county a notice giving:

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 11 the mortgage or lien;

12 (b) the name of the reputed owner of the land;

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 24 notice under subsection (3); and

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2 has filed a written request under subsection (5).

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6 chapter 24, part 17. (Subsection (7) terminates December 31,
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