

SENATE BILL 213

Introduced by Towe

1/26	Introduced
1/28	Referred to Taxation
1/28	First Reading
1/28	Fiscal Note Requested
1/31	Fiscal Note Received
2/01	Fiscal Note Printed
2/06	Hearing
2/13	Committee Report--Bill Passed as Amended
2/14	2nd Reading Do Pass Motion Failed
2/14	2nd Reading Indefinitely Postponed

*Senate* BILL NO. *213*  
*June*

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NOTICE OF PROPERTY TAX SALES; REQUIRING THAT IN CASES IN WHICH NOTICE SENT BY CERTIFIED MAIL IS RETURNED UNCLAIMED, THE PERSON REQUIRED TO GIVE NOTICE SHALL SERVE NOTICE PURSUANT TO RULE 4 OF THE MONTANA RULES OF CIVIL PROCEDURE AND POST NOTICE ON THE PREMISES; ALLOWING EXCEPTION IN CASES IN WHICH ACTUAL NOTICE BY OTHER MEANS CAN BE ESTABLISHED; AND AMENDING SECTION 15-18-212, MCA."

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

**Section 1.** Section 15-18-212, MCA, is amended to read:

"15-18-212. Notice -- proof of notice -- penalty for failure to notify. (1) Not more than 60 days prior to and not more than 60 days following the expiration of the redemption period provided in 15-18-111, a notice must be given as follows:

(a) for each property for which there has been issued to the county a tax sale certificate or for which the county is otherwise listed as the purchaser or assignee, the county clerk shall notify all persons considered interested parties in the property and the current occupant of the property, if any, 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 for which there has been issued a tax sale certificate to a purchaser other than the county or for which an assignment has been made, the purchaser or assignee, as appropriate, shall notify all persons considered interested parties in the property, if any, that a tax deed will be issued to the purchaser or 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 purchaser, no assignment has 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 clerk must provide notification to all interested parties and the current occupant, if any, in the manner provided in subsection (1)(a). The notification required under this subsection 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



1 the notice required by subsection (1)(a), no additional  
2 notice need be given.

3 (3) (a) If a purchaser other than the county or an  
4 assignee fails or neglects to give notice as required by  
5 subsection (1)(b), which failure or neglect is evidenced by  
6 failure of the purchaser or assignee to file proof of notice  
7 with the county clerk as required in subsection (7), the  
8 county treasurer shall proceed to give notice in the manner  
9 provided in subsection (1)(a).

10 (b) Notice given under this subsection (3) must be  
11 given not less than 60 days or more than 120 days prior to  
12 the date on which the county treasurer will issue the tax  
13 deed.

14 (c) A purchaser or assignee who fails to give notice as  
15 required by subsection (1)(b), thereby forcing notification  
16 to be given under this subsection (3), must be charged a  
17 penalty of \$500 plus all actual costs of notification  
18 incurred by the county proceeding under this subsection (3).

19 (4) The notice required under subsections (1) through  
20 (3) must be made by certified mail to each interested party  
21 and the current occupant, if any, of the property. The  
22 address to which the notice must be sent is, for each  
23 interested party, the address disclosed by the records in  
24 the office of the county clerk and, for the occupant, the  
25 street address or other known address of the subject

1 property. If the notice sent by certified mail is returned  
2 unclaimed, notice must be served pursuant to Rule 4 of the  
3 Montana Rules of Civil Procedure and, unless actual notice  
4 can be established, by posting a notice on the premises.

5 (5) In all cases in which the address of an interested  
6 party is not known, the person required to give notice  
7 shall, within the period described in subsection (1) or not  
8 less than 60 days or more than 120 days prior to the date  
9 upon which the county treasurer will otherwise issue a tax  
10 deed, whichever is appropriate, commence publishing once a  
11 week for 2 successive weeks, in the official newspaper of  
12 the county or such other newspaper as the board of county  
13 commissioners may by resolution designate, a notice  
14 containing the information contained in subsection (6),  
15 plus:

16 (a) the name of the interested party for whom the  
17 address is unknown;

18 (b) a statement that the address of the interested  
19 party is unknown;

20 (c) a statement that the published notice meets the  
21 legal requirements for notice of a pending tax deed  
22 issuance; and

23 (d) a statement that the interested party's rights in  
24 the property may be in jeopardy.

25 (6) The notices required by subsections (1) through (3)

1 and (5) must contain the following:

2 (a) a statement that a property tax lien exists on the  
3 property as a result of a property tax delinquency;

4 (b) a description of the property on which the taxes  
5 are or were delinquent, which description must be the same  
6 as the description of the property on the tax sale  
7 certificate or in the record described in 15-17-214(2)(b);

8 (c) the date that the property taxes became delinquent;

9 (d) the date that the property tax lien attached as the  
10 result of a tax sale;

11 (e) the amount of taxes due, including penalties,  
12 interest, and costs, as of the date of the notice of pending  
13 tax deed issuance, which amount must include a separate  
14 listing of the delinquent taxes, penalties, interest, and  
15 costs that must be paid for the property tax lien to be  
16 liquidated;

17 (f) the name and address of the purchaser;

18 (g) the name of the assignee if an assignment was made  
19 as provided in 15-17-323;

20 (h) the date that the redemption period expires or  
21 expired;

22 (i) a statement that if all taxes, penalties, interest,  
23 and costs are not paid to the county treasurer on or prior  
24 to the date on which the redemption period expires or on or  
25 prior to the date on which the county treasurer will

1 otherwise issue a tax deed that a tax deed may be issued to  
2 the purchaser on the day following the date on which the  
3 redemption period expires or on the date on which the county  
4 treasurer will otherwise issue a tax deed; and

5 (j) the business address and telephone number of the  
6 county treasurer who is responsible for issuing the tax  
7 deed.

8 (7) Proof of notice in whatever manner given must be  
9 filed with the county clerk. If the purchaser or assignee is  
10 other than the county, the proof of notice must be filed  
11 with the county clerk within 30 days of the mailing or  
12 publishing of the notice. If the purchaser or assignee is  
13 the county or if the county treasurer is required to give  
14 notice pursuant to subsection (3), the proof of notice must  
15 be filed before the issuance of the tax deed under this  
16 chapter. Once filed, the proof of notice is prima facie  
17 evidence of the sufficiency of the notice.

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

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0213, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act revising the notice of property tax sales; requiring that in cases in which notice sent by certified mail is returned unclaimed, the person required to give notice shall serve notice pursuant to rule 4 of the Montana Rules of Civil Procedure and post notice on the premises; allowing exception in cases in which actual notice by other means can be established.


FISCAL IMPACT:

This proposal has no impact on state expenditures or revenues.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties may incur additional costs in being required to post notice of property tax sales on the premises.

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
THOMAS E. "TOM" TOWE, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0213, as introduced

SB 213

APPROVED BY COMMITTEE  
ON TAXATION

1 SENATE BILL NO. 213  
 2 INTRODUCED BY TOWE  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NOTICE OF  
 5 PROPERTY TAX SALES DEEDS; REQUIRING THAT IN CASES IN WHICH  
 6 NOTICE SENT BY CERTIFIED MAIL IS RETURNED UNCLAIMED, THE  
 7 PERSON REQUIRED TO GIVE NOTICE SHALL SERVE NOTICE PURSUANT  
 8 ~~TO RULE 4 OF THE MONTANA RULES OF CIVIL PROCEDURE~~ BY  
 9 ORDINARY MAIL AND BY ONE EFFORT TO PERSONALLY SERVE THE  
 10 NOTICE AND SHALL POST NOTICE ON THE PREMISES WHEN THERE IS  
 11 AN ACTUAL STRUCTURE; ALLOWING EXCEPTION IN CASES IN WHICH  
 12 ACTUAL NOTICE BY OTHER MEANS CAN BE ESTABLISHED; AND  
 13 AMENDING SECTION 15-18-212, MCA."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 15-18-212, MCA, is amended to read:

17 "15-18-212. Notice -- proof of notice -- penalty for  
 18 failure to notify. (1) Not more than 60 days prior to and  
 19 not more than 60 days following the expiration of the  
 20 redemption period provided in 15-18-111, a notice must be  
 21 given as follows:

22 (a) for each property for which there has been issued  
 23 to the county a tax sale certificate or for which the county  
 24 is otherwise listed as the purchaser or assignee, the county  
 25 clerk shall notify all persons considered interested parties

1 in the property and the current occupant of the property, if  
 2 any, that a tax deed may be issued to the county unless the  
 3 property tax lien is redeemed prior to the expiration date  
 4 of the redemption period; or

5 (b) for each property for which there has been issued a  
 6 tax sale certificate to a purchaser other than the county or  
 7 for which an assignment has been made, the purchaser or  
 8 assignee, as appropriate, shall notify all persons  
 9 considered interested parties in the property, if any, that  
 10 a tax deed will be issued to the purchaser or assignee  
 11 unless the property tax lien is redeemed prior to the  
 12 expiration date of the redemption period.

13 (2) (a) Except as provided in subsection (2)(b), if the  
 14 county is the purchaser, no assignment has been made, and  
 15 the board of county commissioners has not directed the  
 16 county treasurer to issue a tax deed during the period  
 17 described in subsection (1) but the board of county  
 18 commissioners at a time subsequent to the period described  
 19 in subsection (1) does direct the county treasurer to issue  
 20 a tax deed, the county clerk must provide notification to  
 21 all interested parties and the current occupant, if any, in  
 22 the manner provided in subsection (1)(a). The notification  
 23 required under this subsection must be made not less than 60  
 24 days or more than 120 days prior to the date on which the  
 25 county treasurer will issue the tax deed.

**SECOND READING**



1 (b) If the county commissioners direct the county  
2 treasurer to issue a tax deed within 6 months after giving  
3 the notice required by subsection (1)(a), no additional  
4 notice need be given.

5 (3) (a) If a purchaser other than the county or an  
6 assignee fails or neglects to give notice as required by  
7 subsection (1)(b), which failure or neglect is evidenced by  
8 failure of the purchaser or assignee to file proof of notice  
9 with the county clerk as required in subsection (7), the  
10 county treasurer shall proceed to give notice in the manner  
11 provided in subsection (1)(a).

12 (b) Notice given under this subsection (3) must be  
13 given not less than 60 days or more than 120 days prior to  
14 the date on which the county treasurer will issue the tax  
15 deed.

16 (c) A purchaser or assignee who fails to give notice as  
17 required by subsection (1)(b), thereby forcing notification  
18 to be given under this subsection (3), must be charged a  
19 penalty of \$500 plus all actual costs of notification  
20 incurred by the county proceeding under this subsection (3).

21 (4) The notice required under subsections (1) through  
22 (3) must be made by certified mail to each interested party  
23 and the current occupant, if any, of the property. The  
24 address to which the notice must be sent is, for each  
25 interested party, the address disclosed by the records in

1 the office of the county clerk and, for the occupant, the  
2 street address or other known address of the subject  
3 property. If the notice sent by certified mail is returned  
4 unclaimed, notice must be served pursuant-to-Rule-4--of--the  
5 Montana--Rules--of--Civil--Procedure BY ORDINARY MAIL and,  
6 unless actual notice can be established, by AT LEAST ONE  
7 EFFORT TO PERSONALLY SERVE THE NOTICE AND BY posting a  
8 notice on the premises WHEN THERE IS AN ACTUAL STRUCTURE.

9 (5) In all cases in which the address of an interested  
10 party is not known, the person required to give notice  
11 shall, within the period described in subsection (1) or not  
12 less than 60 days or more than 120 days prior to the date  
13 upon which the county treasurer will otherwise issue a tax  
14 deed, whichever is appropriate, commence publishing once a  
15 week for 2 successive weeks, in the official newspaper of  
16 the county or such other newspaper as the board of county  
17 commissioners may by resolution designate, a notice  
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21 address is unknown;

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23 party is unknown;

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25 legal requirements for notice of a pending tax deed

1 issuance; and

2 (d) a statement that the interested party's rights in  
3 the property may be in jeopardy.

4 (6) The notices required by subsections (1) through (3)  
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11 certificate or in the record described in 15-17-214(2)(b);

12 (c) the date that the property taxes became delinquent;

13 (d) the date that the property tax lien attached as the  
14 result of a tax sale;

15 (e) the amount of taxes due, including penalties,  
16 interest, and costs, as of the date of the notice of pending  
17 tax deed issuance, which amount must include a separate  
18 listing of the delinquent taxes, penalties, interest, and  
19 costs that must be paid for the property tax lien to be  
20 liquidated;

21 (f) the name and address of the purchaser;

22 (g) the name of the assignee if an assignment was made  
23 as provided in 15-17-323;

24 (h) the date that the redemption period expires or  
25 expired;

1 (i) a statement that if all taxes, penalties, interest,  
2 and costs are not paid to the county treasurer on or prior  
3 to the date on which the redemption period expires or on or  
4 prior to the date on which the county treasurer will  
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6 the purchaser on the day following the date on which the  
7 redemption period expires or on the date on which the county  
8 treasurer will otherwise issue a tax deed; and

9 (j) the business address and telephone number of the  
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12 (7) Proof of notice in whatever manner given must be  
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18 notice pursuant to subsection (3), the proof of notice must  
19 be filed before the issuance of the tax deed under this  
20 chapter. Once filed, the proof of notice is prima facie  
21 evidence of the sufficiency of the notice.

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

-End-