

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on January 30, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Members Excused: Rep. Mike Foster (R)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 313

An act revising the procedure for the issuance of a tax deed.

Presentation and Opening Statement by Sponsor:

REP. McCAFFREE, House District 27, Forsyth, said the bill was introduced on behalf of the Treasurer's Association. The county takes a tax deed and is then obligated to contact all interested parties. Under current law, if a person does not go through the notification process, then the County Treasurer has the

requirement to do it. HB 313 changes the requirement. If an individual taking the tax lien does not notify the interested parties, then the County Treasurer can cancel the property tax lien. It takes the burden off the County Treasurers.

Proponents' Testimony:

Cort Harrington, Montana County Treasurer's Association said between the 1985 and 1987 interim, a study was conducted on the tax deed process which resulted in the introduction of SB 162 in 1987, which was a major revision in the tax deed process. The bill attempted to address the assignments of a tax lien that went back to the 1940s and 50s, and an attempt to clean up the county records. Prior to 1987, it was necessary for someone who had an assignment to apply for a tax deed. One of the changes introduced in 1987 was that the tax deed be issued automatically at the end of the reduction period. To accomplish this, interested parties had to be notified. How do you force someone who has an assignment to give notice? At that time, the County Treasurer's Association was concerned about this problem. The solution is amended in HB 313, in that, the County Treasurer would give notice on behalf of the assignee. The solution now is if someone doesn't follow through and apply for a tax deed and get the tax deed issued, then their tax lien would be eliminated.

Stan Hughes, Montana County Treasurer's Association, stated they feel the current statute is unenforceable and unworkable. We are frequently unable to find the assignee as some assignments are 30, 40, or 50 years old. When we do find them, we have the additional problem of how to bill and collect the \$500 fine that the Treasurers are required to levy against the assignee. Statute states that the County Treasurer is given the responsibility of trying to determine who the interested parties are. The problem is that the County Treasurer's Office is not the one who does the original search for the interested parties. The notification is done when the tax fee is pursued by the County Clerk and Recorder. The \$500 is not any incentive for the assignee to pursue their tax deed properly. HB 313 does provide a simple procedure for the taxpayers, the assignees, and the County Treasurers Offices.

Mr. Hughes offered a technical amendment. On Page 6, Line 22, after "county", strike "or if the county treasurer is required to give notice pursuant to subsection (3)".

Dick Michelotti, Cascade County Treasurer, said since 1950, Cascade County has 102 assignments where the assignee took the assignment and has not followed through to get the tax deeds. Many of these people cannot be found or have acquired ownership for the same property through some other means. This is the purpose of HB 313. If someone takes an assignment on property for back taxes and he does not follow through, that person who owns the property will be credited. Their taxes are paid and the lien is removed.

Opponents' Testimony: None

Questions From Committee Members:

REP. HOFFMAN asked Cort Harrington to explain Page 3, Line 19, where it begins the County Treasurer shall cancel the property tax lien. Mr. Harrington said if a person comes in and takes an assignment, they must pay the delinquent taxes. By paying the delinquent taxes, they acquire a lien for the amount paid. It is the county's perspective that those taxes are no longer delinquent because they are not made whole. The person who pays the taxes then has a lien against the property. Under HB 313, if a person does take an assignment and they do get a tax lien, they have certain duties to follow through and get a tax deed. What are the consequences of not following through? The bill suggests that if a person doesn't follow through, the lien lapses and is removed. The original owner gets the benefit of having someone else come in and pay the taxes.

Closing by Sponsor:

REP. McCAFFREE said HB 313 was explain clearly and urged the committee's support.

EXECUTIVE ACTION ON HB 313

Motion: REP. WANZENRIED MOVED HB 313 DO PASS.

Motion/Vote: REP. RANEY moved the amendments to HB 313. Motion carried unanimously by voice vote. EXHIBIT 1

Motion/Vote: REP. RANEY MADE A SUBSTITUTE MOTION THAT HB 313 DO PASS AS AMENDED. Motion carried unanimously.

HEARING ON HB 265

Presentation and Opening Statement by Sponsor:

REP. M.E. CONNELLY, House District 8, Kalispell, stated HB 265 provides that a corporation whose interest on its bonds total 80 percent or more of all interest, dividends, and other debts paid in a tax year may not deduct the interest paid on the bonds from its gross income for corporation license and income tax purposes. The reason for HB 265 is because of the problems that junk bonds have caused for the state. It has a retroactive applicability date.

In computing the tax, a corporation starts with its gross income and this income is adjusted to get net income. One of the ways to compute the net income from gross income is the amount of interest on their debt. HB 265 would set up a system whereby a corporation couldn't use junk bonds to pay back debts.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. THOMAS stated he is perplexed with the language and asked REP. CONNELLY to explain the problems the bill is addressing. REP. CONNELLY stated industry and business are using junk bonds as a method of financing their business. As a result, they become very unstable. HB 265 would limit the amount of interest a business may use for income tax purposes. REP. THOMAS said the language seems to disallow the entire deduction and asked if this was her intention. REP. CONNELLY said no.

REP. NELSON said the title uses the word bonds and doesn't differentiate between regular and junk bonds. Junk bonds refer to a poor quality of corporate bonding and asked if the bill took care of this problem. REP. CONNELLY said originally they had planned on having a sliding scale to take care of the small businesses. When the bill was drafted, it was omitted. REP. NELSON and REP. HARRINGTON asked if there was a definition of junk bonds in the code. REP. CONNELLY had no answer.

REP. THOMAS said on Page 3, it states "unless paid to stop or to attempt to stop a hostile takeover". He assumed by this language that the full deduction is allowable and asked why would we want to allow the deduction in this case. REP. CONNELLY said often a company will have to use junk bonds as a method to raise money in the event of a hostile takeover.

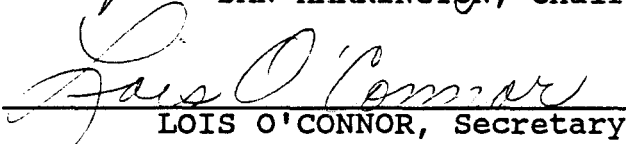
Closing by Sponsor:

REP. CONNELLY said checks and balances are needed when corporations get themselves into trouble by the use of junk bonds.

ADJOURNMENT

Adjournment: 9:32 a.m.


DAN HARRINGTON, Chair


LOIS O'CONNOR, Secretary

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 1-30-91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON, CHAIRMAN	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER			✓
REP. BOB GILBERT	✓	+	
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
7. REP. TOM NELSON	✓	+	
REP. MARK O'KEEFE	✓	+	
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓	+	
REP. DAVE WANZENRIED	✓		

HOUSE STANDING COMMITTEE REPORT

January 30, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 313 (first reading copy -- white) do pass as amended.

Signed: _____

Dan Harrington
Dan Harrington, Chairman

And, that such amendments read:

1. Page 6, lines 22 and 23.

Strike: "or" on line 22 through "(3)" on line 23

EXHIBIT 1
DATE 1-30-91
HB 313

Amendments to House Bill No. 313
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 30, 1991

1. Page 6, lines 22 and 23.

Strike: "or" on line 22 through "(3)" on line 23

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. HB 313
DATE 4/30/91 SPONSOR(S) Rep. McCutcheon

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
STAN HUGHES 311 W. MAIN Tm 202 BOZEMAN	MT. COUNTY TREASURERS' ASSOC. ✓	✓	
DICK MICHELOTTI Gt Falls	MT County Treas. Assoc ✓	✓	
CORT HARRINGTON	" "	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

TAXATION

COMMITTEE

BILL NO. HB265

DATE 4/30/91 SPONSOR(S) Rep. Connelly

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

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