

Senate Bill 446

In The Senate

February 12, 1981

Introduced and referred  
to Committee on Taxation.

April 23, 1981

Died in Committee.

1 *Senate* BILL NO. *446*  
2 INTRODUCED BY *Bob Brown*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE PERSONAL  
5 PROPERTY AND MOBILE HOME TAX COLLECTION LAWS; AMENDING  
6 SECTIONS 7-21-2104, 15-17-901, 15-24-202, 15-24-203, AND  
7 15-24-302, MCA; AND PROVIDING AN EFFECTIVE DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Due dates -- penalty and  
11 interest. (1) A person liable for a personal property tax  
12 must pay the tax in full within 30 days from the date of the  
13 mailing of the written notice and demand required by  
14 [section 2].

15 (2) A person liable for the tax imposed on a mobile  
16 home may pay the tax in two installments as follows:

17 (a) The first installment is due within 30 days from  
18 the date of the mailing of the written notice and demand  
19 required by [section 2].

20 (b) The second installment is due no later than  
21 September 30 of the year of assessment.

22 (3) If personal property tax is not paid on or before  
23 the due date or if an installment of taxes imposed on a  
24 mobile home is not paid on or before the due date, the  
25 amount then due will be delinquent and will accrue interest

1 and penalties in accordance with 15-16-102.

2 (4) Penalties and interest may not be charged on motor  
3 vehicles as provided for in Title 61, chapter 3.

4 NEW SECTION. Section 2. Treasurer to mail notice of  
5 tax due -- contents of notice. Within 10 days after receipt  
6 of the report required in 15-16-111, the county treasurer  
7 shall serve a written demand on the person against whom a  
8 tax is assessed for the payment of personal property tax or  
9 a tax on a mobile home. The written demand shall be served  
10 upon the taxpayer by mail. The written demand shall contain:

11 (1) a statement that the taxpayer is required to pay  
12 personal property taxes or mobile home taxes within the time  
13 period specified in [section 1];

14 (2) the amount of the tax due; and

15 (3) a statement that if the personal property tax or  
16 mobile home tax is not paid by the due date, penalty,  
17 interest, and collection expenses specified in [sections 1  
18 and 8], will be added to the personal property tax or mobile  
19 home tax that is delinquent.

20 NEW SECTION. Section 3. Delinquency notice --  
21 contents. (1) After an installment becomes delinquent but  
22 before 90 days of delinquency have passed, the county  
23 treasurer shall serve a written demand on the person for  
24 whom the personal property tax or mobile home tax is  
25 delinquent and on any person who has properly perfected a

1 security interest of record on the affected property with  
 2 the division of motor vehicles, department of justice. The  
 3 written demand may be served upon the taxpayer:

- 4 (a) by registered or certified mail; or
- 5 (b) in person by the treasurer, the county sheriff, or  
 6 a deputy of either.

7 (2) The written demand for payment of the delinquent  
 8 tax shall contain:

- 9 (a) a statement that the taxpayer is delinquent in the  
 10 payment of personal property taxes or mobile home taxes;
- 11 (b) the amount of the delinquent tax;
- 12 (c) the penalty and interest due on the delinquent  
 13 tax;
- 14 (d) the collection expenses that the taxpayer owes;  
 15 and

16 (e) a statement that if the delinquent tax, penalty,  
 17 interest, and collection expenses are not paid or  
 18 arrangements are not made for payment within 15 days from  
 19 the date the demand is made, then:

- 20 (i) sufficient personal property of the taxpayer shall  
 21 be sold by the county sheriff to satisfy the total tax,  
 22 penalty, interest, and collection expenses due; or
- 23 (ii) a judgment may be entered against the taxpayer in  
 24 the district court of the county for payment of the total  
 25 tax, penalty, interest, and collection expenses due.

1 NEW SECTION. Section 4. Failure to comply with  
 2 delinquency demand. If a taxpayer fails to comply with  
 3 [section 3] within the time provided, the county treasurer  
 4 shall notify the county sheriff of the name and address of  
 5 the delinquent taxpayer and the county sheriff shall seize  
 6 sufficient personal property of the taxpayer to pay the  
 7 delinquent tax, penalty, interest, and collection expenses  
 8 due.

9 NEW SECTION. Section 5. Notice of sale by sheriff.  
 10 After seizing a delinquent taxpayer's personal property, the  
 11 sheriff shall give public notice of the time and place of  
 12 the sale at least 5 days before the date of sale. The notice  
 13 shall contain a list of the property to be sold and shall be  
 14 published one time in a newspaper published in the county  
 15 and be posted at three public places in the county.

16 NEW SECTION. Section 6. Sale by sheriff. (1) If the  
 17 delinquent tax, penalty, interest, and collection expenses  
 18 are not paid in full before the time set for sale, the  
 19 sheriff shall sell sufficient personal property of the  
 20 taxpayer to pay the delinquent tax, penalty, interest, and  
 21 collection expenses. The county sheriff shall:

- 22 (a) sell the personal property at public auction to  
 23 the highest bidder;
- 24 (b) deposit the proceeds of the sale into the county  
 25 treasury; and

1 (c) keep a record of all sales.

2 (2) The proceeds deposited in accordance with  
3 subsection (1)(b) shall be applied as follows:

4 (a) first, to the collection expenses;

5 (b) second, to the payment of the delinquent tax,  
6 interest, and penalty;

7 (c) third, to the payment of other delinquent taxes,  
8 if any, of the taxpayer;

9 (d) fourth, to the payment of any lienholder of  
10 record; and

11 (e) fifth, the remaining balance, if any, to the  
12 taxpayer in accordance with 15-17-902.

13 (3) On the payment of the price bid for any property  
14 sold, the delivery thereof, with the bill of sale, vests the  
15 title thereto in the purchaser.

16 NEW SECTION. Section 7. Scope of seizure and sale  
17 provisions. The scope of the seizure and sale provisions of  
18 [sections 4 through 6] is not limited to a taxpayer's  
19 personal property subject to assessment and taxation, but  
20 all of the taxpayer's personal property is subject to  
21 seizure and sale under [sections 4 through 6].

22 NEW SECTION. Section 8. Collection expenses. (1) The  
23 treasurer and the sheriff shall charge the following  
24 collection expenses to each delinquent taxpayer with respect  
25 to the collection of delinquent personal property tax or

1 mobile home tax for:

2 (a) making the demand for delinquent taxes, \$3;

3 (b) making a levy, \$10 plus mileage;

4 (c) selling personal property, 10% of the sale price;

5 and

6 (d) advertising a sale, the actual expense incurred.

7 (2) The fees collected under this section shall be  
8 deposited to the credit of the county general fund. The  
9 collection expenses incurred in connection with the seizure  
10 and the sale of personal property shall be paid from the  
11 county general fund without prior appropriation.

12 NEW SECTION. Section 9. Delinquencies over one year  
13 -- district court judgment. (1) If a personal property tax  
14 or a mobile home tax remains delinquent for 1 year, the  
15 county treasurer may, in his discretion, prepare a record of  
16 delinquencies for each delinquent taxpayer and file the  
17 record with the clerk of the district court. When the record  
18 is filed, the amount of delinquent tax, penalty, interest,  
19 and collection expenses stated in the record constitute a  
20 debt of the named taxpayer. This debt has the same force and  
21 effect in all respects as a judgment. A judgment so entered  
22 shall be in favor of the county for the benefit of all  
23 taxing units within the county having an interest in it. The  
24 delinquent taxpayer shall pay interest on the judgment  
25 beginning the day the record is filed at the same rate

1 imposed on other judgments.

2 (2) On the date the record is filed in the office of  
3 the clerk of the district court, the treasurer shall mail to  
4 the delinquent taxpayer at his last-known address a notice  
5 that a judgment has been entered against him and that if the  
6 judgment is not paid within 10 days of the date of mailing  
7 the notice, the county treasurer shall cause the clerk of  
8 the district court to issue a writ of execution to satisfy  
9 the judgment.

10 NEW SECTION. Section 10. Notice to other counties --  
11 district court judgment. (1) The treasurer of a county in  
12 which a judgment is entered under [section 9] shall send a  
13 transcript of the judgment to the treasurer of another  
14 county if he determines that:

15 (a) the delinquent taxpayer does not have property in  
16 the county in which the judgment is entered of sufficient  
17 value to satisfy the judgment; and

18 (b) the delinquent taxpayer has property in the other  
19 county.

20 (2) A county treasurer who receives a transcript of  
21 judgment in accordance with subsection (1) shall file the  
22 transcript of judgment with the clerk of the district court  
23 of the county the treasurer serves. The county treasurer  
24 shall proceed to have writs of execution issued upon the  
25 judgment in the same manner as if the judgment had been

1 originally entered in the county he serves.

2 NEW SECTION. Section 11. Treasurer to furnish  
3 department of revenue copy of judgments. On or before April  
4 1 of each year, each county treasurer shall provide the  
5 department of revenue with a copy of the judgments entered  
6 under [section 9].

7 NEW SECTION. Section 12. Delinquent tax deducted from  
8 state individual income tax refund. The department of  
9 revenue, upon determination that a delinquent taxpayer and  
10 judgment debtor is entitled to a refund for state individual  
11 income taxes, must first pay to the appropriate county  
12 treasurer all sums required to satisfy any judgment obtained  
13 pursuant to [section 9 or 10]. The excess funds, if any,  
14 shall be refunded to the taxpayer.

15 NEW SECTION. Section 13. Movement or sale of mobile  
16 home -- permit. (1) A mobile home may not be moved from one  
17 location to another unless the owner or occupier obtains a  
18 permit from the county treasurer to move the mobile home.

19 (2) The bureau of motor vehicles, department of  
20 justice, may not transfer the title to a mobile home unless  
21 the owner obtains a permit to transfer the title from the  
22 county treasurer.

23 (3) No other legal transfer of ownership may be  
24 recorded without a permit to so transfer from the county  
25 treasurer.

1 (4) A county treasurer shall issue a permit to move a  
2 mobile home or transfer ownership to a new owner if the  
3 taxes due on the mobile home have been paid in full. The  
4 permit shall state on its face the date it was issued.

5 (5) The owner of a mobile home who sells the mobile  
6 home to another person shall provide the purchaser with the  
7 permit issued in accordance with this section.

8 **NEW SECTION.** Section 14. Permit required by mover.  
9 (1) A person who is engaged to move a mobile home may not do  
10 so until the owner or occupier furnishes him with a valid  
11 permit to move the mobile home. A valid permit must not  
12 have been issued more than 1 month before the date of the  
13 actual movement of the mobile home.

14 (2) The mover must retain possession of the permit  
15 while the mobile home is in transit.

16 (3) The mover must return the permit to the owner or  
17 occupier of the mobile home when the move is complete.

18 **NEW SECTION.** Section 15. Owner of land on which  
19 mobile home placed to notify county treasurer. (1) A person  
20 who allows a mobile home to be placed on land that he owns,  
21 possesses, or controls shall inform the assessor of the  
22 county in which the land is located of the placement of the  
23 mobile home within 10 days after it is placed on his land.  
24 The 10-day period begins the day after the day that the  
25 mobile home is placed upon the land.

1 (2) A person who violates this section is guilty of a  
2 misdemeanor. A person convicted of violating this section  
3 shall be fined not less than \$25 or more than \$100.

4 Section 16. Section 7-21-2104, MCA, is amended to  
5 read:

6 \*7-21-2104. Lien arising from license. (1) All  
7 property held or used in any trade, occupation, or  
8 profession for which a license is required by the provisions  
9 of this part is liable for such license and subject to a  
10 lien for the amount thereof. This lien has precedence of any  
11 other lien, claim, or demand.

12 (2) If any person fails or refuses to procure a  
13 license before the transaction of the business specified,  
14 the county treasurer must seize such property or any other  
15 property belonging to such person and sell the same in the  
16 manner provided in ~~15-17-901~~ through 15-17-903 Title 15,  
17 chapter 17, part 9.\*

18 Section 17. Section 15-17-901, MCA, is amended to  
19 read:

20 \*15-17-901. Sale of personal property for delinquent  
21 taxes. (1) The tax on personal property may be collected and  
22 the payment thereof enforced by the seizure and sale of any  
23 personal property in the possession of the person assessed  
24 at any time after the date the assessment is made or by the  
25 institution of a civil action for its collection in any

1 court of competent jurisdiction. A resort to any one of the  
2 methods provided for does not bar the right to resort to  
3 either or both of the other methods. Any of the methods  
4 provided for may be used until the full amount of the tax is  
5 collected.

6 (2) The provisions of this part and 15-16-113 apply to  
7 such seizure and sale.

8 ~~{3}--The sale must be at public auction and of a~~  
9 ~~sufficient amount of the property to pay the taxes~~  
10 ~~percentages and costs~~

11 ~~{4}--For seizing or selling personal property, the~~  
12 ~~treasurer may charge in each case the sum of \$3 for the use~~  
13 ~~of the county and the same mileage as is allowed by law to~~  
14 ~~the sheriff of the county and reasonable expenses for~~  
15 ~~seizing, handling, keeping, or caring for any property so~~  
16 ~~seized or sold.~~

17 ~~{5}--On the payment of the price bid for any property~~  
18 ~~sold, the delivery thereof with a bill of sale, vests the~~  
19 ~~title thereto in the purchaser.~~

20 Section 18. Section 15-24-202, MCA, is amended to  
21 read:

22 \*15-24-202. Tax-paid sticker -- display required. The  
23 owner of a mobile home or housetrailer which is not taxed as  
24 an improvement, as improvements are defined in 15-1-101,  
25 shall ~~may~~ pay the personal property tax in two payments

1 except as provided in ~~15-24-206~~{2} [section 1]. ~~The first~~  
2 ~~payment is due within 30 days from the date of the notice of~~  
3 ~~taxes due. The second payment is due no later than September~~  
4 ~~30 of the year in which the property is assessed. The~~  
5 ~~department of revenue shall issue tax-paid stickers to the~~  
6 ~~county treasurers. The treasurers shall issue the stickers~~  
7 ~~to the owners of mobile homes and housetrailer if the taxes~~  
8 ~~are paid in full. An owner shall then display the sticker,~~  
9 ~~which must be visible from the exterior of the mobile home~~  
10 ~~or housetrailer. No mobile home movement permit provided for~~  
11 ~~in 15-24-206 may be issued unless the taxes have been paid~~  
12 ~~in full to the county treasurers."~~

13 Section 19. Section 15-24-203, MCA, is amended to  
14 read:

15 \*15-24-203. Tax receipt -- when production required ==  
16 penalty. (1) Any person who moves a mobile home on which the  
17 property taxes are unpaid or a permit has not been issued by  
18 the county treasurer in accordance with [sections 13 and 14]  
19 is guilty of a misdemeanor.

20 (2) If stopped on a highway or at a state vehicle  
21 weight station by a state highway patrolman or state vehicle  
22 weight station attendant, a person transporting a mobile  
23 home or housetrailer must produce, if requested, the  
24 property-tax-paid receipt or a duplicate issued by the  
25 county treasurer where the vehicle was taxed.

1 (3) A person convicted of violating this section shall  
2 be fined not less than \$100 or more than \$200."

3 Section 20. Section 15-24-302, MCA, is amended to  
4 read:

5 "15-24-302. Collection procedure. All property  
6 mentioned in 15-24-301 is assessed at the same value as  
7 property of like kind and character, and the assessment,  
8 levy, and collection of the tax are governed by the  
9 provisions of 15-8-408; 15-16-111 through 15-16-115 and  
10 [sections 1 through 3 and 8 through 12]; 15-16-404; chapter  
11 17, part 9; and ~~15-24-202(1)~~ chapter 24, part 2; as amended,  
12 except livestock taxation governed by 81-7-104 and Title 81,  
13 chapter 7, part 2."

14 Section 21. Codification instruction. (1) Sections 1  
15 through 3 and 8 through 12 are intended to be codified as  
16 integral parts of Title 15, chapter 16, part 1, and the  
17 provisions of Title 15, chapter 16, part 1, apply to  
18 sections 1 through 3 and 8 through 12.

19 (2) Sections 4 through 7 are intended to be codified  
20 as integral parts of Title 15, chapter 17, part 9, and the  
21 provisions of Title 15, chapter 17, part 9, apply to  
22 sections 4 through 7.

23 (3) Sections 13 through 15 are intended to be codified  
24 as integral parts of Title 15, chapter 24, part 2, and the  
25 provisions of Title 15, chapter 24, part 2, apply to

1 sections 13 through 15.

2 Section 22. Effective date. Sections 1 through 21 are  
3 effective on passage and approval.

-End-

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