HOUSE BILL NO. 425

- 1/23 Introduced
- 1/23 Referred to Judiciary
- 1/28 Hearing
- 1/28 Committee Report-Bill Do Pass 1/30 2nd Reading Pass
- 1/31 3rd Reading Pass

Transmitted to Senate

- 2/04 Referred to Judiciary
- 3/13 Hearing
- 3/13 Rereferred to Taxation
- 3/29 Hearing
- 4/08 Committee Report-Bill Concurred
- 4/09 Rereferred to Taxation
- 4/15 Tabled in Committee

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HOUSE BILL NO. 425 INTRODUCED BY Space Holy 1 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DELINQUENT TAXES 5 ON LEASEHOLD IMPROVEMENTS A LIEN UPON THOSE IMPROVEMENTS AS 6 IF THEY WERE PERSONAL PROPERTY AND UPON ALL PERSONAL 7 PROPERTY AND REAL PROPERTY IN POSSESSION OF THE PERSON 8 ASSESSED; AMENDING SECTIONS 15-1-101, 15-16-101, 15-16-111, 9 15-16-402, 15-16-503, AND 15-17-901, MCA; AND PROVIDING AN 10 APPLICABILITY DATE."

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

13 Section 1. Section 15-1-101, MCA, is amended to read: 14 "15-1-101. Definitions. (1) When terms mentioned in 15 this section are used in connection with taxation, they are 16 defined in the following manner:

17 (a) The term "agricultural" refers to the raising of
18 livestock, swine, poultry, field crops, fruit, and other
19 animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value ofproperty as defined in 15-8-111.

(c) The term "average wholesale value" means the value
to a dealer prior to reconditioning and profit margin shown
in national appraisal guides and manuals or the valuation
schedules of the department of revenue.

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(d) The term "credit" means solvent debts, secured or unsecured, owing to a person.

3 (e) The term "improvements" includes all buildings, 4 structures, fixtures, fences, and improvements situated upon, erected upon, or affixed to land. When the department 5 of revenue or its agent determines that the permanency of 6 7 location of a mobile home or housetrailer has been 8 established, the mobile home or housetrailer is presumed to 9 be an improvement to real property. A mobile home or 10 housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot 11 12 feasibly be relocated and only when the wheels are removed. 13 (f) The term "leasehold improvements" means improvements to--mobile--homes and mobile homes located on 14 15 land owned by another person. This property is assessed 16 under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. 17 Delinquent taxes on such leasehold improvements are a lien 18 only on such the leasehold improvements, as if they were 19 20 personal property for purposes of collecting property taxes and on all personal property in the possession of the person 21 22 assessed on and after the date of assessment. 23 (q) The term "mobile home" means forms of housing

known as "trailers", "housetrailers", or "trailer coaches"
exceeding B feet in width or 45 feet in length, designed to

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be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

5 (h) The term "personal property" includes everything 6 that is the subject of ownership but that is not included 7 within the meaning of the terms "real estate" and 8 "improvements".

9 (i) The term "poultry" includes all chickens, turkeys,
10 geese, ducks, and other birds raised in domestication to
11 produce food or feathers.

(j) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(k) The term "real estate" includes:

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20 (i) the possession of, claim to, ownership of, or21 right to the possession of land;

(ii) all mines, minerals, and quarries in and under the
land subject to the provisions of 15-23-501 and 15-23-801;
all timber belonging to individuals or corporations growing
or being on the lands of the United States; and all rights

1 and privileges appertaining thereto.

2 (1) The term "taxable value" means the percentage of
3 market or assessed value as provided for in 15-6-131 through
4 15-6-140.

corporation" "municipal or 5 (2) The phrase "municipality" or "taxing unit" shall be deemed to include a 6 county, city, incorporated town, township, school district, 7 irrigation district, drainage district, or any person, 8 persons, or organized body authorized by law to establish 9 tax levies for the purpose of raising public revenue. 10

11 (3) The term "state board" or "board" when used 12 without other qualification shall mean the state tax appeal 13 board."

14 Section 2. Section 15-16-101, MCA, is amended to read: 15 "15-16-101. Treasurer to publish notice -- manner of 16 publication. (1) Within 10 days after the receipt of the 17 assessment book, the county treasurer must publish a notice 18 specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on November 30 next thereafter and that unless paid prior thereto the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

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1 (b) that one-half of all taxes levied and assessed 2 will be due and payable on or before 5 p.m. on May 31 next 3 thereafter and that unless paid prior to said date said 4 taxes will be delinquent and will draw interest at the rate 5 of 5/6 of 1% per month from and after such delinquency until 6 paid and 2% will be added to the delinquent taxes as a 7 penalty; and

8 (c) the time and place at which payment of taxes may9 be made.

10 (2) He must send to the last-known address of each 11 taxpayer written notice, postage prepaid, showing the amount 12 of taxes and assessments due the current year and the amount 13 due and delinquent for other years. The written notice shall 14 include:

15 (a) the taxable value of the property;

16 (b) the total mill levy applied to that taxable value;

17 (c) the value of each mill in that county;

18 (d) itemized city services and special improvement19 district assessments collected by the county;

20 (e) the number of the school district in which the21 property is located; and

(f) the amount of the total tax due that is levied as
city tax, county tax, state tax, school district tax, and
other tax; and

25 (g) if the taxable property includes leasehold

1 improvements, a statement that delinquent taxes on leasehold 2 improvements are a lien on the leasehold improvements as if 3 they were personal property for purposes of collecting property taxes and on all personal property in the 4 5 possession of the person assessed on and after the date of 6 assessment. 7 (3) The municipality shall, upon request of the county 8 treasurer, provide the information to be included under 9 subsection (2)(d) ready for mailing. 10 (4) The notice in every case must be published for 2 11 weeks in some weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting 12 13 it in three public places. The failure to publish or post notices does not relieve the taxpayer from any of his 14 liabilities. Any failure to give notice of the tax due for 15 16 the current year or of delinquent tax will not affect the legality of the tax." 17 Section 3. Section 15-16-111, MCA, is amended to read: 18 19 "15-16-111. Personal Leasehold improvements and personal property -- duty of department. (1) It shall be 20 the duty of the department of revenue or its agent, upon 21 discovery of any leasehold improvements or personal property 22 23 in the county the taxes upon which are not a lien upon real property sufficient to secure the payment of such taxes, to 24 25 immediately and in any event not more than 5 days thereafter make a report to the treasurer, setting forth the nature, kind, description, and character of such property in such a definite manner that the treasurer can identify the same, the amount and assessed valuation of such property, where the same is located, the amount of taxes due thereon, and the name and address of the owner, claimant, or other person in possession of the same.

(2) Where such leasehold improvements or personal 8 property is located in any city or town which shall have 9 10 provided by ordinance for the collection of its taxes for general, municipal, and administrative purposes by its city 11 treasurer or town clerk, the department also and at the same 12 time shall furnish to said city treasurer or town clerk a 13 duplicate of such notice to the county treasurer. For the 14 purpose of determining the taxes due on such leasehold 15 improvements or personal property, the department or its 16 17 agent must use the levy made during the previous year."

Section 4. Section 15-16-402, MCA, is amended to read: 18 "15-16-402. Tax on personalty lien on realty --19 separate assessment -- leasehold improvements. (1) Every tax 20 due upon personal property is a prior lien upon any or all 21 of such property, which lien shall have precedence over any 22 23 other lien, claim, or demand upon such property, and except as hereinafter provided, every tax upon personal property is 24 also a lien upon the real property of the owner thereof from 25

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1 and after 12 midnight of January 1 in each year.

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

person paying such tax shall direct. 1

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

6 (a) the name and address of the mortgagee and holder 7 of the mortgage or lien;

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

(c) the description of the land;

(d) the date of record and expiration of the mortgage 10 11 or lien:

(e) the amount thereof; and

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13 (f) a statement that he claims the benefit of the 14 provisions of this section.

(4) Such notice shall be ineffectual as to any taxes 15 which shall have become a lien on real property prior to the 16 filing of such notice as aforesaid. If the mortgage be not 17 paid at maturity, such notice shall thereafter be filed 18 annually unless the mortgage be extended for a definite 19 20 period to be stated in such notice.

21 (5) Any owner of a mortgage on real estate upon which personal property taxes are by this section made a lien, 22 where the owner of such real estate and personal property 23 has failed to pay taxes due upon such real estate and 24 personal property for 1 or more years, may file with the 25

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

14 (6) For purposes of collecting taxes, leasehold 15 improvements are considered to be personal property."

Section 5. Section 15-16-503, MCA, is amended to read: 16 17 "15-16-503. Collection by suit of personal property taxes when taxpayer moves to another county. If any person 18 19 removes from one county to another after being assessed on 20 leasehold improvements or personal property, the treasurer 21 of the county in which he was assessed may sue for and 22 collect the same in the name of the county where the 23 assessment was made."

24 Section 6. Section 15-17-901, MCA, is amended to read: 25

"15-17-901. Sale of leasehold improvements or personal

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property for delinquent taxes. (1) The tax on leasehold 1 2 improvements or personal property may be collected and the 3 payment thereof enforced by the seizure and sale of the 4 leasehold improvements or any personal property in the 5 possession of the person assessed at any time after the date the assessment is made or by the institution of a civil 6 7 action for its collection in any court of competent 8 jurisdiction. A resort to any one of the methods provided 9 for does not bar the right to resort to either or both of 10 the other methods. Any of the methods provided for may be used until the full amount of the tax is collected. 11

12 (2) The provisions of this part and 15-16-113 apply to13 such seizure and sale.

14 (3) The sale must be at public auction and of a
15 sufficient amount of the property to pay the taxes,
16 percentages, and costs.

17 (4) For seizing or selling <u>leasehold improvements or</u> 18 personal property, the treasurer may charge in each case the 19 sum of \$3 for the use of the county and the same mileage as 20 is allowed by law to the sheriff of the county and 21 reasonable expenses for seizing, handling, keeping, or 22 caring for any property so seized or sold.

23 (5) On the payment of the price bid for any property
24 sold, the delivery thereof, with a bill of sale, vests the
25 title thereto in the purchaser."

<u>NEW SECTION.</u> Section 7. Extension of authority. Any
 existing authority of the department of revenue to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

5 <u>NEW SECTION.</u> Section 8. Applicability. This act 6 applies to taxable years beginning after December 31, 1985. -End-

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49th Legislature

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APPROVED BY COMMITTEE ON JUDICIARY

HOUSE BILL NO. 425 INTRODUCED BY Space Hay 1 2 3

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DELINQUENT TAXES 4 ON LEASEHOLD IMPROVEMENTS A LIEN UPON THOSE IMPROVEMENTS AS 5 IF THEY WERE PERSONAL PROPERTY AND UPON ALL PERSONAL б PROPERTY AND REAL PROPERTY IN POSSESSION OF THE PERSON 7 ASSESSED; AMENDING SECTIONS 15-1-101, 15-16-101, 15-16-111, 8 15-16-402, 15-16-503, AND 15-17-901, MCA; AND PROVIDING AN 9 APPLICABILITY DATE." 10

11

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 15-1-101, MCA, is amended to read: 13 "15-1-101. Definitions. (1) When terms mentioned in 14 this section are used in connection with taxation, they are 15 defined in the following manner: 16

(a) The term "agricultural" refers to the raising of 17 livestock, swine, poultry, field crops, fruit, and other 18 animal and vegetable matter for food or fiber. 19

(b) The term "assessed value" means the value of 20 property as defined in 15+8-111. 21

(c) The term "average wholesale value" means the value 22 to a dealer prior to reconditioning and profit margin shown 23 in national appraisal guides and manuals or the valuation 24 schedules of the department of revenue. 25

(d) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(e) The term "improvements" includes all buildings, З structures, fixtures, fences, and improvements situated 4 upon, erected upon, or affixed to land. When the department 5 of revenue or its agent determines that the permanency of 6 7 location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to 8 be an improvement to real property. A mobile home or 9 housetrailer may be determined to be permanently located 10 only when it is attached to a foundation which cannot 11 feasibly be relocated and only when the wheels are removed. 12 "leasehold improvements" 13 (f) The term means improvements to--mobile--homes and mobile homes located on 14 land owned by another person. This property is assessed 15 under the appropriate classification, and the taxes are due 16 and payable in two payments as provided in 15-24-202. 17 Delinguent taxes on such leasehold improvements are a lien 18 19 only on such the leasehold improvements, as if they were personal property for purposes of collecting property taxes 20 and on all personal property in the possession of the person 21 assessed on and after the date of assessment. 22 (q) The term "mobile home" means forms of housing 23

known as "trailers", "housetrailers", or "trailer coaches" 24 exceeding 8 feet in width or 45 feet in length, designed to 25

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be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

5 (h) The term "personal property" includes everything 6 that is the subject of ownership but that is not included 7 within the meaning of the terms "real estate" and 8 "improvements".

9 (i) The term "poultry" includes all chickens, turkeys,
10 geese, ducks, and other birds raised in domestication to
11 produce food or feathers.

(j) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

19 (k) The term "real estate" includes:

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20 (i) the possession of, claim to, ownership of, or 21 right to the possession of land;

(ii) all mines, minerals, and quarries in and under the
land subject to the provisions of 15-23-501 and 15-23-801;
all timber belonging to individuals or corporations growing
or being on the lands of the United States; and all rights

1 and privileges appertaining thereto.

2 (1) The term "taxable value" means the percentage of
3 market or assessed value as provided for in 15-6-131 through
4 15-6-140.

"municipal corporation" or 5 (2) The phrase "municipality" or "taxing unit" shall be deemed to include a 6 county, city, incorporated town, township, school district, 7 irrigation district, drainage district, or any person, 8 persons, or organized body authorized by law to establish 9 tax levies for the purpose of raising public revenue. 10

11 (3) The term "state board" or "board" when used 12 without other qualification shall mean the state tax appeal 13 board."

Section 2. Section 15-16-101, MCA, is amended to read: "15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt of the assessment book, the county treasurer must publish a notice specifying:

19 (a) that one-half of all taxes levied and assessed 20 will be due and payable before 5 p.m. on November 30 next 21 thereafter and that unless paid prior thereto the amount 22 then due will be delinquent and will draw interest at the 23 rate of 5/6 of 1% per month from and after such delinquency 24 until paid and 2% will be added to the delinquent taxes as a 25 penalty;

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1 (b) that one-half of all taxes levied and assessed 2 will be due and payable on or before 5 p.m. on May 31 next 3 thereafter and that unless paid prior to said date said 4 taxes will be delinquent and will draw interest at the rate 5 of 5/6 of 1% per month from and after such delinquency until 6 paid and 2% will be added to the delinquent taxes as a 7 penalty; and

8 (c) the time and place at which payment of taxes may9 be made.

10 (2) He must send to the last-known address of each 11 taxpayer written notice, postage prepaid, showing the amount 12 of taxes and assessments due the current year and the amount 13 due and delinquent for other years. The written notice shall 14 include:

15 (a) the taxable value of the property;

16 (b) the total mill levy applied to that taxable value;

17 (c) the value of each mill in that county;

18 (d) itemized city services and special improvement
 19 district assessments collected by the county;

20 (e) the number of the school district in which the 21 property is located; and

22 (f) the amount of the total tax due that is levied as 23 city tax, county tax, state tax, school district tax, and 24 other tax=; and

25 (g) if the taxable property includes leasehold

improvements, a statement that delinquent taxes on leasehold 1 improvements are a lien on the leasehold improvements as if 2 they were personal property for purposes of collecting 3 property taxes and on all personal property in the 4 5 possession of the person assessed on and after the date of 6 assessment. 7 (3) The municipality shall, upon request of the county treasurer, provide the information to be included under 8 subsection (2)(d) ready for mailing. 9 (4) The notice in every case must be published for 2 10 11 weeks in some weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting 12 it in three public places. The failure to publish or post 13 notices does not relieve the taxpayer from any of his 14 liabilities. Any failure to give notice of the tax due for 15 the current year or of delinguent tax will not affect the 16 17 legality of the tax." 18 Section 3. Section 15-16-111, MCA, is amended to read: Leasehold improvements and 19 "15-16-111. Personal personal property -- duty of department. (1) It shall be 20 the duty of the department of revenue or its agent, upon 21 discovery of any leasehold improvements or personal property 22

24 property sufficient to secure the payment of such taxes, to

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25 immediately and in any event not more than 5 days thereafter

in the county the taxes upon which are not a lien upon real

make a report to the treasurer, setting forth the nature, kind, description, and character of such property in such a definite manner that the treasurer can identify the same, the amount and assessed valuation of such property, where the same is located, the amount of taxes due thereon, and the name and address of the owner, claimant, or other person in possession of the same.

8 (2) Where such leasehold improvements or personal 9 property is located in any city or town which shall have 10 provided by ordinance for the collection of its taxes for 11 general, municipal, and administrative purposes by its city 12 treasurer or town clerk, the department also and at the same 13 time shall furnish to said city treasurer or town clerk a 14 duplicate of such notice to the county treasurer. For the 15 purpose of determining the taxes due on such leasehold 16 improvements or personal property, the department or its 17 agent must use the levy made during the previous year."

18 Section 4. Section 15-16-402, MCA, is amended to read: 19 "15-16-402. Tax on personalty lien on realty --20 separate assessment -- leasehold improvements. (1) Every tax 21 due upon personal property is a prior lien upon any or all 22 of such property, which lien shall have precedence over any other lien, claim, or demand upon such property, and except 23 24 as hereinafter provided, every tax upon personal property is 25 also a lien upon the real property of the owner thereof from 1 and after 12 midnight of January 1 in each year.

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

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person paying such tax shall direct. 1 (3) The holder of any mortgage or lien upon real 2 property who desires to obtain the benefits of this section 3 shall file in the office of the county treasurer of said 4 county a notice giving: 5 (a) the name and address of the mortgagee and holder 6 of the mortgage or lien; 7 (b) the name of the reputed owner of the land; ы (c) the description of the land; 9 (d) the date of record and expiration of the mortgage 10 or lien: 11 (e) the amount thereof; and 12 (f) a statement that he claims the benefit of the 13 provisions of this section. 14 (4) Such notice shall be ineffectual as to any taxes 15 which shall have become a lien on real property prior to the 16

17 filing of such notice as aforesaid. If the mortgage be not 18 paid at maturity, such notice shall thereafter be filed 19 annually unless the mortgage be extended for a definite 20 period to be stated in such notice.

(5) Any owner of a mortgage on real estate upon which personal property taxes are by this section made a lien, where the owner of such real estate and personal property has failed to pay taxes due upon such real estate and personal property for 1 or more years, may file with the

department of revenue or its agent in the county in which 1 such property is located a written request to have the 2 personal property and real estate of the owner separately 3 assessed. Such request must be made by registered or 4 5 certified mail at least 10 days prior to January 1 in the year for which property is assessed. Upon receipt by the 6 department or its agent of such request, it is hereby made 7 the duty of the department or its agent to make a separate 8 assessment of real and personal property of the owner 9 thereof, and such personal taxes shall not be a lien upon 10 11 the real estate so mortgaged of the owner thereof, and the 12 personal property taxes shall be collected in the manner provided by law for other personal property. 13 (6) For purposes of collecting taxes, leasehold 14 15 improvements are considered to be personal property." 16 Section 5. Section 15-16-503, MCA, is amended to read: 17 "15-16-503. Collection by suit of personal property 18 taxes when taxpayer moves to another county. If any person removes from one county to another after being assessed on 19 20 leasehold improvements or personal property, the treasurer of the county in which he was assessed may sue for and 21 collect the same in the name of the county where the 22 assessment was made." 23 Section 6. Section 15-17-901, MCA, is amended to read: 24

Section 6. Section 15-1/-901, MCA, is amended to read:
 "15-17-901. Sale of leasehold improvements or personal

1 property for delinquent taxes. (1) The tax on leasehold 2 improvements or personal property may be collected and the 3 payment thereof enforced by the seizure and sale of the leasehold improvements or any personal property in the 4 5 possession of the person assessed at any time after the date the assessment is made or by the institution of a civil 6 7 action for its collection in any court of competent 8 jurisdiction. A resort to any one of the methods provided for does not bar the right to resort to either or both of 9 the other methods. Any of the methods provided for may be 10 11 used until the full amount of the tax is collected.

12 (2) The provisions of this part and 15-16-113 apply to13 such seizure and sale.

14 (3) The sale must be at public auction and of a
15 sufficient amount of the property to pay the taxes,
16 percentages, and costs.

17 (4) For seizing or selling <u>leasehold improvements or</u> 18 personal property, the treasurer may charge in each case the 19 sum of \$3 for the use of the county and the same mileage as 20 is allowed by law to the sheriff of the county and 21 reasonable expenses for seizing, handling, keeping, or 22 caring for any property so seized or sold.

23 (5) On the payment of the price bid for any property
24 sold, the delivery thereof, with a bill of sale, vests the
25 title thereto in the purchaser."

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<u>NEW SECTION.</u> Section 7. Extension of authority. Any
 existing authority of the department of revenue to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

5 <u>NEW SECTION.</u> Section 8. Applicability. This act
 6 applies to taxable years beginning after December 31, 1985.
 -End-

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HOUSE BILL NO. 425 INTRODUCED BY Spall Hay 1 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DELINQUENT TAXES 5 ON LEASEHOLD IMPROVEMENTS A LIEN UPON THOSE IMPROVEMENTS AS 6 IF THEY WERE PERSONAL PROPERTY AND UPON ALL PERSONAL 7 PROPERTY AND REAL PROPERTY IN POSSESSION OF THE PERSON 8 ASSESSED; AMENDING SECTIONS 15-1-101, 15-16-101, 15-16-111, 9 15-16-402, 15-16-503, AND 15-17-901, MCA; AND PROVIDING AN 10 APPLICABILITY DATE."

11

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

13 Section 1. Section 15-1-101, MCA, is amended to read:
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15 this section are used in connection with taxation, they are
16 defined in the following manner:

17 (a) The term "agricultural" refers to the raising of
18 livestock, swine, poultry, field crops, fruit, and other
19 animal and vegetable matter for food or fiber.

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(c) The term "average wholesale value" means the value
to a dealer prior to reconditioning and profit margin shown
in national appraisal guides and manuals or the valuation
schedules of the department of revenue.



(d) The term "credit" means solvent debts, secured or unsecured, owing to a person.

3 (e) The term "improvements" includes all buildings. 4 structures, fixtures, fences, and improvements situated upon, erected upon, or affixed to land. When the department 5 6 of revenue or its agent determines that the permanency of 7 location of a mobile home or housetrailer has been 8 established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or 9 housetrailer may be determined to be permanently located 10 11 only when it is attached to a foundation which cannot 12 feasibly be relocated and only when the wheels are removed. 13 (f) The term "leasehold improvements" means 14 improvements to--mobile-homes and mobile homes located on land owned by another person. This property is assessed 15 16 under the appropriate classification, and the taxes are due 17 and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien 18 19 only on such the leasehold improvements as if they were 20 personal property for purposes of collecting property taxes 21 and on all personal property in the possession of the person 22 assessed on and after the date of assessment. 23 (g) The term "mobile home" means forms of housing

24 known as "trailers", "housetrailers", or "trailer coaches"
25 exceeding 8 feet in width or 45 feet in length, designed to
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be moved from one place to another by an independent power 1 2 connected to them, or any "trailer", "housetrailer", or 3 "trailer coach" up to 8 feet in width or 45 feet in length 4 used as a principal residence.

5 (h) The term "personal property" includes everything 6 that is the subject of ownership but that is not included within the meaning of the terms "real estate" and 7 8 "improvements".

9 (i) The term "poultry" includes all chickens, turkeys, 10 geese, ducks, and other birds raised in domestication to 11 produce food or feathers.

(j) The term "property" includes moneys, credits, 12 13 bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. 14 15 This definition must not be construed to authorize the 16 taxation of the stocks of any company or corporation when 17 the property of such company or corporation represented by 18 the stocks is within the state and has been taxed.

(k) The term "real estate" includes:

19

20 (i) the possession of, claim to, ownership of, or 21 right to the possession of land;

22 (ii) all mines, minerals, and guarries in and under the 23 land subject to the provisions of 15-23-501 and 15-23-801; 24 all timber belonging to individuals or corporations growing 25 or being on the lands of the United States; and all rights

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and privileges appertaining thereto. 1

3

2 (1) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

5 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a 6 7 county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, 8 9 persons, or organized body authorized by law to establish 10 tax levies for the purpose of raising public revenue.

11 (3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal 12 13 board."

14 Section 2. Section 15-16-101, MCA, is amended to read: *15-16-101. Treasurer to publish notice -- manner of 15 publication. (1) Within 10 days after the receipt of the 16 assessment book, the county treasurer must publish a notice 17 18 specifying:

(a) that one-half of all taxes levied and assessed 19 20 will be due and payable before 5 p.m. on November 30 next 21 thereafter and that unless paid prior thereto the amount 22 then due will be delinguent and will draw interest at the 23 rate of 5/6 of 1% per month from and after such delinguency 24 until paid and 2% will be added to the delinquent taxes as a 25 penalty;

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(b) that one-half of all taxes levied and assessed 1 will be due and payable on or before 5 p.m. on May 31 next 2 thereafter and that unless paid prior to said date said 3 taxes will be delinquent and will draw interest at the rate 4 of 5/6 of 1% per month from and after such delinquency until 5 paid and 2% will be added to the delinquent taxes as a 6 7 penalty; and (c) the time and place at which payment of taxes may 8 be made. 9 (2) He must send to the last-known address of each 10 taxpayer written notice, postage prepaid, showing the amount 11 of taxes and assessments due the current year and the amount 12 due and delinquent for other years. The written notice shall 13 14 include: (a) the taxable value of the property; 15 (b) the total mill levy applied to that taxable value; 16 (c) the value of each mill in that county; 17 (d) itemized city services and special improvement 18 district assessments collected by the county; 19 (e) the number of the school district in which the 20 property is located; and 21 (f) the amount of the total tax due that is levied as 22 city tax, county tax, state tax, school district tax, and 23 other tax; and 24 (g) if the taxable property includes leasehold 25

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improvements, a statement that delinquent taxes on leasehold 1 improvements are a lien on the leasehold improvements as if 2 they were personal property for purposes of collecting 3 property taxes and on all personal property in the 4 possession of the person assessed on and after the date of 5 6 assessment. 7 (3) The municipality shall, upon request of the county treasurer, provide the information to be included under 8 subsection (2)(d) ready for mailing. g 10 (4) The notice in every case must be published for 2 weeks in some weekly or daily newspaper published in the 11 county, if there is one, or if there is not, then by posting 12 13 it in three public places. The failure to publish or post 14 notices does not relieve the taxpayer from any of his liabilities. Any failure to give notice of the tax due for 15 the current year or of delinguent tax will not affect the 16 legality of the tax." 17 18 Section 3. Section 15-16-111, MCA, is amended to read: "15-16-111. Personal 19 Leasehold improvements and personal property -- duty of department. (1) It shall be 20 the duty of the department of revenue or its agent, upon 21 discovery of any leasehold improvements or personal property 22 in the county the taxes upon which are not a lien upon real 23 property sufficient to secure the payment of such taxes, to 24 immediately and in any event not more than 5 days thereafter 25

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make a report to the treasurer, setting forth the nature, kind, description, and character of such property in such a definite manner that the treasurer can identify the same, the amount and assessed valuation of such property, where the same is located, the amount of taxes due thereon, and the name and address of the owner, claimant, or other person in possession of the same.

8 (2) Where such leasehold improvements or personal 9 property is located in any city or town which shall have 10 provided by ordinance for the collection of its taxes for 11 general, municipal, and administrative purposes by its city 12 treasurer or town clerk, the department also and at the same 13 time shall furnish to said city treasurer or town clerk a 14 duplicate of such notice to the county treasurer. For the 15 purpose of determining the taxes due on such leasehold 16 improvements or personal property, the department or its 17 agent must use the levy made during the previous year."

18 Section 4. Section 15-16-402, MCA, is amended to read: 19 "15-16-402. Tax on personalty lien on realty -separate assessment -- leasehold improvements. (1) Every tax 20 21 due upon personal property is a prior lien upon any or all 22 of such property, which lien shall have precedence over any 23 other lien, claim, or demand upon such property, and except 24 as hereinafter provided, every tax upon personal property is 25 also a lien upon the real property of the owner thereof from 1 and after 12 midnight of January 1 in each year.

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

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1 person paying such tax shall direct.

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

6 (a) the name and address of the mortgagee and holder
7 of the mortgage or lien;

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

(c) the description of the land;

10 (d) the date of record and expiration of the mortgage
11 or lien;

12 (e) the amount thereof; and

9

13 (f) a statement that he claims the benefit of the14 provisions of this section.

15 (4) Such notice shall be ineffectual as to any taxes 16 which shall have become a lien on real property prior to the 17 filing of such notice as aforesaid. If the mortgage be not 18 paid at maturity, such notice shall thereafter be filed 19 annually unless the mortgage be extended for a definite 20 period to be stated in such notice.

(5) Any owner of a mortgage on real estate upon which personal property taxes are by this section made a lien, where the owner of such real estate and personal property has failed to pay taxes due upon such real estate and personal property for 1 or more years, may file with the

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

14 (6) For purposes of collecting taxes, leasehold
 15 improvements are considered to be personal property."

16 Section 5. Section 15-16-503, MCA, is amended to read: "15-16-503. Collection by suit of personal property 17 18 taxes when taxpayer moves to another county. If any person 19 removes from one county to another after being assessed on leasehold improvements or personal property, the treasurer 20 of the county in which he was assessed may sue for and 21 22 collect the same in the name of the county where the 23 assessment was made."

Section 6. Section 15-17-901, MCA, is amended to read:
"15-17-901. Sale of leasehold improvements or personal

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1 property for delinguent taxes. (1) The tax on leasehold 2 improvements or personal property may be collected and the 3 payment thereof enforced by the seizure and sale of the 4 leasehold improvements or any personal property in the 5 possession of the person assessed at any time after the date 6 the assessment is made or by the institution of a civil 7 action for its collection in any court of competent 8 jurisdiction. A resort to any one of the methods provided 9 for does not bar the right to resort to either or both of 10 the other methods. Any of the methods provided for may be 11 used until the full amount of the tax is collected.

12 (2) The provisions of this part and 15-16-113 apply to13 such seizure and sale.

14 (3) The sale must be at public auction and of a
15 sufficient amount of the property to pay the taxes,
16 percentages, and costs.

17 (4) For seizing or selling <u>leasehold improvements or</u> 18 personal property, the treasurer may charge in each case the 19 sum of \$3 for the use of the county and the same mileage as 20 is allowed by law to the sheriff of the county and 21 reasonable expenses for seizing, handling, keeping, or 22 caring for any property so seized or sold.

23 (5) On the payment of the price bid for any property
24 sold, the delivery thereof, with a bill of sale, vests the
25 title thereto in the purchaser."

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<u>NEW SECTION.</u> Section 7. Extension of authority. Any
 existing authority of the department of revenue to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

 5 <u>NEW SECTION.</u> Section 8. Applicability. This act
 6 applies to taxable years beginning after December 31, 1985. -End-

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