

SENATE BILL NO. 55

INTRODUCED BY TOWE

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Taxation.
January 11, 1985	On motion, taken from Committee on Taxation and rereferred to Committee on Judiciary. Motion adopted.
February 18, 1985	Committee recommend bill do pass as amended. Report adopted.
February 19, 1985	Bill printed and placed on members' desks.
February 20, 1985	Second reading, do pass.
February 21, 1985	Considered correctly engrossed.
February 22, 1985	Third reading, passed. Ayes, 48; Noes, 1.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Taxation.
March 20, 1985	Committee recommend bill be concurred in. Report adopted.
March 23, 1985	Second reading, pass consideration.
March 25, 1985	Second reading, concurred in.
March 27, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

March 27, 1985

Received from House.

April 2, 1985

Sent to enrolling.

Reported correctly enrolled.

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4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE TIME
5 WITHIN WHICH AN ACTION MAY BE COMMENCED TO DETERMINE THE
6 VALIDITY OF A ROYALTY OR MINERAL INTEREST OF A COUNTY IN
7 LAND ACQUIRED BY TAX DEED; AMENDING SECTIONS 15-17-312 AND
8 27-2-210, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

11 Section 1. Section 15-17-312, MCA, is amended to read:

12 "15-17-312. Voided sale -- refund to purchaser --
13 limitation on action for mineral interest. (1) Where a sale
14 of land for delinquent taxes thereon is declared void by
15 judgment of court for irregularity in the assessment, levy,
16 or sale, the money paid by the purchaser at the sale or by
17 any assignee of the state, county, city, town, or district
18 upon taking the assignment shall, with interest at the rate
19 of 8% per annum from the date of such payment, be refunded
20 to the purchaser or owner of such tax certificate upon the
21 order of the chairman of the board of county commissioners
22 of the county in which such land lies.

23 (2) The county shall then have a lien upon said
24 property for the legal taxes on said property for the year
25 in which it was sold, together with the penalty and

1 interest; and so much of such money as has been paid to the
2 state, city, town, or district by the treasurer of such
3 county shall be charged to the state, city, town, or
4 district by such treasurer and deducted from the next money
5 due the state, city, town, or district, respectively, on
6 account of taxes paid or collected. Purchasers of such
7 certificate or owners thereof by assignment where sales have
8 been made by cities or towns which by resolution or
9 ordinance collect their own taxes instead of having the same
10 collected by the county treasurer shall be reimbursed in
11 similar manner and in similar circumstances out of the city
12 or town treasury upon order of the mayor, with proper
13 charges and deductions against the respective funds of the
14 said city or town, upon the next collection of taxes by said
15 city or town.

16 (3) If such purchaser or owner of such certificate
17 after such purchase or assignment from the state, county,
18 city, town, or district has paid the taxes, penalty, and
19 interest upon such piece or parcel of land, he or his
20 assignee thereof shall have a lien upon such piece or parcel
21 for the amount of taxes, penalty, and interest so paid, with
22 interest as now provided by law to be collected upon
23 delinquent taxes, which lien shall have the same priority as
24 is now provided by law; and if he is in possession of such
25 piece or parcel of land, he shall not be ejected therefrom



1 until such amount and interest and penalty shall be paid.

2 (4) An action against a county to recover a royalty or

3 mineral interest in land acquired by the county by tax deed

4 must be brought within the period prescribed in 27-2-210."

5 Section 2. Section 27-2-210, MCA, is amended to read:

6 "27-2-210. Actions arising from the seizure or sale of

7 property for taxes. (1) Within 1 year is the period

8 prescribed for the commencement of an action against an

9 officer or officer de facto:

10 (a) to recover any goods, wares, merchandise, or other

11 property seized by any such officer in his official capacity

12 as tax collector;

13 (b) to recover the price or value of any goods, wares,

14 merchandise, or other personal property so seized;

15 (c) for damages for the seizure, detention, or sale of

16 or injury to any goods, wares, merchandise, or other

17 personal property seized; or

18 (d) for damages done to any person or property in

19 making any such seizure.

20 (2) The period prescribed for the commencement of an

21 action to recover stock sold for a delinquent assessment is

22 within 6 months.

23 (3) An action against a county to recover a royalty or

24 mineral interest in land acquired by the county by tax deed

25 must be brought within 5 years after the commencement of

1 commercial production of oil, gas, or other minerals from

2 the land."

3 NEW SECTION. Section 3. Action to recover mineral

4 interest in land sold for taxes. An action against a county

5 to recover a royalty or mineral interest in land acquired by

6 the county by tax deed must be brought within the period

7 prescribed in 27-2-210.

8 NEW SECTION. Section 4. Applicability date. This act

9 applies to actions filed after September 30, 1985.

-End-

RE-REFERRED AND APPROVED BY COMMITTEE ON JUDICIARY

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7 LAND ACQUIRED BY TAX DEED; AMENDING SECTIONS 15-17-312 AND
8 27-2-210, MCA; AND PROVIDING AN APPLICABILITY DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 NEW SECTION. SECTION 1. PURPOSE. NOTHING CONTAINED
12 IN [THIS ACT] SHALL CHANGE THE NATURE OF A ROYALTY INTEREST
13 PRIOR TO ACTUAL PRODUCTION. THE PURPOSE OF [THIS ACT] IS TO
14 PLACE A LIMITATION ON ACTIONS SEEKING ROYALTY INTERESTS
15 RESERVED BY THE COUNTY, ONCE PRODUCTION HAS COMMENCED,
16 WITHOUT IN ANY WAY AFFECTING THE VALIDITY OF ANY CLAIMS A
17 COUNTY MAY HAVE PRIOR TO THE COMMENCEMENT OF PRODUCTION.

18 Section 2. Section 15-17-312, MCA, is amended to read:
19 "15-17-312. Voided sale -- refund to purchaser --
20 limitation on action for mineral ROYALTY interest. (1) Where
21 a sale of land for delinquent taxes thereon is declared void
22 by judgment of court for irregularity in the assessment,
23 levy, or sale, the money paid by the purchaser at the sale
24 or by any assignee of the state, county, city, town, or
25 district upon taking the assignment shall, with interest at

1 the rate of 8% per annum from the date of such payment, be
2 refunded to the purchaser or owner of such tax certificate
3 upon the order of the chairman of the board of county
4 commissioners of the county in which such land lies.

5 (2) The county shall then have a lien upon said
6 property for the legal taxes on said property for the year
7 in which it was sold, together with the penalty and
8 interest; and so much of such money as has been paid to the
9 state, city, town, or district by the treasurer of such
10 county shall be charged to the state, city, town, or
11 district by such treasurer and deducted from the next money
12 due the state, city, town, or district, respectively, on
13 account of taxes paid or collected. Purchasers of such
14 certificate or owners thereof by assignment where sales have
15 been made by cities or towns which by resolution or
16 ordinance collect their own taxes instead of having the same
17 collected by the county treasurer shall be reimbursed in
18 similar manner and in similar circumstances out of the city
19 or town treasury upon order of the mayor, with proper
20 charges and deductions against the respective funds of the
21 said city or town, upon the next collection of taxes by said
22 city or town.

23 (3) If such purchaser or owner of such certificate
24 after such purchase or assignment from the state, county,
25 city, town, or district has paid the taxes, penalty, and



1 interest upon such piece or parcel of land, he or his
 2 assignee thereof shall have a lien upon such piece or parcel
 3 for the amount of taxes, penalty, and interest so paid, with
 4 interest as now provided by law to be collected upon
 5 delinquent taxes, which lien shall have the same priority as
 6 is now provided by law; and if he is in possession of such
 7 piece or parcel of land, he shall not be ejected therefrom
 8 until such amount and interest and penalty shall be paid.

9 (4) ALL AFFIRMATIVE DEFENSES AT LAW OR EQUITY,
 10 INCLUDING BUT NOT LIMITED TO ESTOPPEL, LACHES, ADVERSE
 11 POSSESSION, PLUS ANY APPLICABLE STATUTE OF LIMITATIONS,
 12 SHALL APPLY IN ANY SUIT BROUGHT TO CHALLENGE THE TITLE TO A
 13 ROYALTY INTEREST IN LAND CLAIMED TO HAVE BEEN ACQUIRED BY A
 14 COUNTY BY TAX DEED.

15 †4†(5) An action against a county to recover a royalty
 16 or-mineral interest in land acquired by the county by tax
 17 deed must be brought within the period prescribed in
 18 27-2-210."

19 Section 3. Section 27-2-210, MCA, is amended to read:

20 "27-2-210. Actions arising from the seizure or sale of
 21 property for taxes. (1) Within 1 year is the period
 22 prescribed for the commencement of an action against an
 23 officer or officer de facto:

24 (a) to recover any goods, wares, merchandise, or other
 25 property seized by any such officer in his official capacity

1 as tax collector;

2 (b) to recover the price or value of any goods, wares,
 3 merchandise, or other personal property so seized;

4 (c) for damages for the seizure, detention, or sale of
 5 or injury to any goods, wares, merchandise, or other
 6 personal property seized; or

7 (d) for damages done to any person or property in
 8 making any such seizure.

9 (2) The period prescribed for the commencement of an
 10 action to recover stock sold for a delinquent assessment is
 11 within 6 months.

12 (3) An action against a county to recover a royalty or
 13 mineral interest in land acquired by the county by tax deed
 14 must be brought within 5 3 years after the commencement of
 15 commercial production of oil, gas, or other minerals from
 16 the land."

17 NEW SECTION. Section 4. Action to recover mineral
 18 ROYALTY interest in land sold for taxes. An action against a
 19 county to recover a royalty or-mineral interest in land
 20 acquired by the county by tax deed must be brought within
 21 the period prescribed in 27-2-210.

22 NEW SECTION. Section 5. Applicability date. This act
 23 applies to actions filed after September 30, 1985.

-End-

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23 levy, or sale, the money paid by the purchaser at the sale
24 or by any assignee of the state, county, city, town, or
25 district upon taking the assignment shall, with interest at

1 the rate of 8% per annum from the date of such payment, be
2 refunded to the purchaser or owner of such tax certificate
3 upon the order of the chairman of the board of county
4 commissioners of the county in which such land lies.

5 (2) The county shall then have a lien upon said
6 property for the legal taxes on said property for the year
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22 city or town.

23 (3) If such purchaser or owner of such certificate
24 after such purchase or assignment from the state, county,
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THIRD READING

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1 interest upon such piece or parcel of land, he or his
 2 assignee thereof shall have a lien upon such piece or parcel
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REFERENCE BILL

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