

HOUSE BILL 687

Introduced by Schye

2/14	Introduced
2/14	Referred to Local Government
2/15	Fiscal Note Requested
2/15	Rereferred to Taxation
2/16	Hearing
2/20	Fiscal Note Received
2/22	Fiscal Note Printed
3/03	Hearing
3/20	Tabled in Committee

1 HOUSE BILL NO. 687
 2 INTRODUCED BY deby
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROCEDURES FOR
 5 SALES OF COUNTY TAX-DEED LAND; REVISING THE DEFINITION OF
 6 "FAIR MARKET VALUE"; PROVIDING FOR SALE OTHER THAN BY
 7 AUCTION IF NO BID IS RECEIVED AT TWO SALES; LENGTHENING THE
 8 NOTIFICATION PERIOD REQUIRED; REMOVING THE EXEMPTION FOR A
 9 GOVERNMENT LENDING AGENCY; REVISING THE DISTRIBUTION OF
 10 REDEMPTION PROCEEDS; AMENDING SECTIONS 7-8-2301, 7-8-2304,
 11 15-18-114, AND 15-18-212 THROUGH 15-18-214, MCA; AND
 12 PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 7-8-2301, MCA, is amended to read:

16 "7-8-2301. Auction sale of county tax-deed land. (1)
 17 Whenever the county ~~shall acquire any~~ acquires land by tax
 18 deed, it ~~shall be~~ is the duty of the board of county
 19 commissioners, within 6 months after acquiring title, to
 20 make and enter an order for sale of such the lands at public
 21 auction at the front door of the courthouse.

22 (2) No A sale ~~shall~~ may not be made for a price less
 23 than the fair market value thereof of the land, as
 24 determined and fixed by the board prior to making the order
 25 of sale. ~~In--determining~~ As used in this section and

1 notwithstanding other provisions of Title 15 or of this
 2 title, "fair market value" means an amount equal to the
 3 ~~board shall subtract the amount of--outstanding--assessments~~
 4 ~~that--are--a--lien--on--the--land--from--the--unencumbered--value--of~~
 5 ~~the--land~~ total of all delinquent taxes and all accrued
 6 penalties, interest, and other costs, as provided in
 7 15-17-122(2)(b), assessed against the land, but the minimum
 8 sale price for a parcel of land may not be less than \$10.

9 (3) If no bids are received at a sale of tax-deed land,
 10 the board shall order another auction sale of such the land
 11 under this part within 6 months ~~and shall--if--required--by~~
 12 ~~the--circumstances,--redetermine--the--fair--market--value--of--the~~
 13 ~~land--under--subsection--(2).~~

14 (4) If no bid is received at the sale conducted under
 15 subsection (3), the board may dispose of the land as
 16 provided in 7-8-2218."

17 **Section 2.** Section 7-8-2304, MCA, is amended to read:

18 "7-8-2304. Terms for sale of tax-deed land. (1) Such A
 19 sale ~~shall~~ must be made for cash or, in the case of real
 20 property, on such terms as that the board of county
 21 commissioners ~~may--approve~~ approves.

22 (2) (a) If such the sale is made on terms, at least 20%
 23 of the purchase price ~~shall~~ must be paid in cash at the date
 24 of sale and the remainder may be paid in installments
 25 extending over a period not to exceed 5 years. All such

deferred payments ~~shall~~ bear interest at the rate of 8% per annum.

(b) If a sale is made on terms, the chairman of the board shall execute a contract containing such the terms as shall--be that are provided by a uniform contract prescribed approved by the department of revenue."

Section 3. Section 15-18-114, MCA, is amended to read:

"15-18-114. Distribution of redemption proceeds. (1)

When a property tax lien for which the county is listed as purchaser is redeemed, the money received from the redemption, including penalties and interest but not costs, must be distributed to the credit of the various funds to which the taxes would have originally been distributed and in the same proportion as the taxes would have originally been distributed.

(2) (a) When a property tax lien for which the recorded purchaser is other than the county is redeemed, the money received from the redemption, including penalties, and interest, but-not and costs, must be distributed to the person listed as the purchaser on the tax sale certificate and in the record kept by the county treasurer.

(b) (i) The distribution must be made by certified mail by the county treasurer to the purchaser at the address listed on the tax sale certificate as provided in 15-17-212(1)(e).

(ii) If the money distributed to the purchaser is returned unopened to the county treasurer, the treasurer shall publish once a week for 2 consecutive weeks in the official newspaper of the county a notice stating that:

(A) the county treasurer is in possession of money belonging to the purchaser for the redemption of the delinquency on the property named in the tax sale certificate;

(B) the money will be held by the county treasurer for a period of 1 year from the date of publication; and

(C) if the money is not claimed by the purchaser within the 1-year period, the purchaser relinquishes all claim to the money and the money will be credited to the county general fund.

(3) The publication required in subsection (2)(b)(ii) must be made at least annually, but the 1-year period described in subsection (2)(b)(ii)(B) may not begin until the date of publication.

(4) The county treasurer shall keep an accurate account of all money paid in redemption, including a separate accounting of other delinquent taxes, interest, penalties, and costs, and when and to whom distributed."

Section 4. 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

1 not more than 60 days following the expiration of the
2 redemption period provided in 15-18-111, a notice must be
3 given as follows:

4 (a) for each property for which there has been issued
5 to the county a tax sale certificate or for which the county
6 is otherwise listed as the purchaser or assignee, the county
7 clerk shall notify all persons considered interested parties
8 in the property and the current occupant of the property, if
9 any, that a tax deed may be issued to the county unless the
10 property tax lien is redeemed prior to the expiration date
11 of the redemption period; or

12 (b) for each property for which there has been issued a
13 tax sale certificate to a purchaser other than the county or
14 for which an assignment has been made, the purchaser or
15 assignee, as appropriate, shall notify all persons
16 considered interested parties in the property, if any, that
17 a tax deed will be issued to the purchaser or assignee
18 unless the property tax lien is redeemed prior to the
19 expiration date of the redemption period.

20 (2) (a) Except as provided in subsection (2)(b), if the
21 county is the purchaser, no assignment has been made, and
22 the board of county commissioners has not directed the
23 county treasurer to issue a tax deed during the period
24 described in subsection (1) but the board of county
25 commissioners at a time subsequent to the period described

1 in subsection (1) does direct the county treasurer to issue
2 a tax deed, the county clerk must provide notification to
3 all interested parties and the current occupant, if any, in
4 the manner provided in subsection (1)(a). The notification
5 required under this subsection must be made not less than 60
6 days or more than ~~90~~ 120 days prior to the date on which the
7 county treasurer will issue the tax deed.

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

12 (3) (a) If a purchaser other than the county or an
13 assignee fails or neglects to give notice as required by
14 subsection (1)(b), which failure or neglect is evidenced by
15 failure of the purchaser or assignee to file proof of notice
16 with the county clerk as required in subsection (7), the
17 county treasurer shall proceed to give notice in the manner
18 provided in subsection (1)(a).

19 (b) Notice given under this subsection (3) must be
20 given not less than 60 days or more than ~~90~~ 120 days prior
21 to the date on which the county treasurer will issue the tax
22 deed.

23 (c) A purchaser or assignee who fails to give notice as
24 required by subsection (1)(b), thereby forcing notification
25 to be given under this subsection (3), must be charged a

1 penalty of \$500 plus all actual costs of notification
2 incurred by the county proceeding under this subsection (3).

3 (4) The notice required under subsections (1) through
4 (3) must be made by certified mail to each interested party
5 and the current occupant, if any, of the property. The
6 address to which the notice must be sent is, for each
7 interested party, the address disclosed by the records in
8 the office of the county clerk and, for the occupant, the
9 street address or other known address of the subject
10 property.

11 (5) In all cases in which the address of an interested
12 party is not known, the person required to give notice
13 shall, within the period described in subsection (1) or not
14 less than 60 days or more than ~~90~~ 120 days prior to the date
15 upon which the county treasurer will otherwise issue a tax
16 deed, whichever is appropriate, publish once a week for 2
17 successive weeks, in the official newspaper of the county or
18 such other newspaper as the board of county commissioners
19 may by resolution designate, a notice containing the
20 information contained in subsection (6), plus:

21 (a) the name of the interested party for whom the
22 address is unknown;

23 (b) a statement that the address of the interested
24 party is unknown;

25 (c) a statement that the published notice meets the

1 legal requirements for notice of a pending tax deed
2 issuance; and

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

5 (6) The notices required by subsections (1) through (3)
6 and (5) must contain the following:

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

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

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

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

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

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

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

25 (h) the date that the redemption period expires or

1 expired;

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

10 (j) the business address and telephone number of the
11 county treasurer who is responsible for issuing the tax
12 deed.

13 (7) In all cases, proof of notice in whatever manner
14 given must be filed by the county clerk, county treasurer,
15 purchaser, or assignee, as appropriate, with the county
16 clerk ~~not--less--than--30--days--following--the--mailing--or~~
17 ~~publication-of-the-notice before the issuance of the tax~~
18 ~~deed under this chapter.~~ Once filed, the proof of notice is
19 prima facie evidence of the sufficiency of the notice.

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

22 **Section 5.** Section 15-18-213, MCA, is amended to read:

23 **"15-18-213. Form of tax deed -- prima facie evidence.**

24 (1) The form of a tax deed issued under the provisions of
25 this chapter, executed by a county treasurer, must be made

1 in substance as follows:

2 This deed is made by (name of county
3 treasurer), county treasurer of the county of
4 (name of county), in the state of Montana, to
5 (name of purchaser, his agent, or assignee), as provided by
6 the laws of the state of Montana:

7 Whereas, there was assessed for (year) the
8 following real property (description of the
9 property); and

10 Whereas, the taxes for (year) levied against
11 the property amounted to \$.....; and

12 Whereas, the taxes were not paid and a property tax lien
13 for the payment of the taxes attached and was sold to
14 (name of purchaser or his agent or assignee) on
15 (date, including year) for the sum of
16 \$....., which amount included delinquent taxes in the
17 amount of \$....., penalties in the amount of
18 \$....., interest in the amount of \$....., and
19 other costs in the amount of \$.....; and

20 Whereas, a tax sale certificate was duly issued and
21 filed or the sale otherwise recorded as required by law; and

22 Whereas, not less than 60 days or more than 90 120 days
23 prior to this date, notice was given to interested parties
24 that the issuance of a tax deed was pending.

25 Now, therefore, I, (treasurer's name), county

treasurer of the county of, in the state of Montana, in consideration of the sum of \$..... paid, which amount includes payment of all taxes, penalties, interest, and costs accrued subsequent to the issuance of the tax sale certificate, hereby grant to (name of purchaser or his agent or assignee) all the property situated in County, state of Montana, described hereinabove.

Witness my hand on this date (date, including year).

..... County Treasurer

..... County

(2) A tax deed executed in substantially the form provided in subsection (1) is prima facie evidence that:

(a) the property was assessed as required by law;

(b) the taxes were levied in accordance with law;

(c) the taxes were not paid when due;

(d) notice of tax sale was given and a property tax lien was sold at the proper time and place as provided by law;

(e) the property was not redeemed, and proper notice of a pending tax deed issuance was made as required by law;

(f) the person who executed the deed was legally authorized to do so; and

(g) if the real property was sold to pay delinquent

taxes on personal property, the real property belonged to the person liable to pay the personal property tax."

Section 6. Section 15-18-214, MCA, is amended to read:

"15-18-214. Effect of deed. (1) A deed issued under this chapter conveys to the grantee absolute title to the property described therein in the deed as of the date of the expiration of the redemption period, free and clear of all liens and encumbrances, except:

(a) when the claim is payable after the execution of the deed and:

(i) a property tax lien attaches subsequent to the tax sale; or

(ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the property;

(b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully imposed on the property; or

(c) when an interest, except the interest of a government agency acquired by the agency as security for a loan assigned by a private lending institution to the agency, in the land is owned by the United States, this state, or a subdivision of this state.

(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession

1 accrued as of the date of expiration of the period for
2 redemption or the date upon which a tax deed was otherwise
3 issued."

4 NEW SECTION. **Section 7.** Extension of authority. Any
5 existing authority to make rules on the subject of the
6 provisions of [this act] is extended to the provisions of
7 [this act].

8 NEW SECTION. **Section 8.** Applicability. [This act]
9 applies to the proceedings of any sale of county tax-deed
10 land commenced after [the effective date of this act].

11 NEW SECTION. **Section 9.** Effective date. [This act] is
12 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB687, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

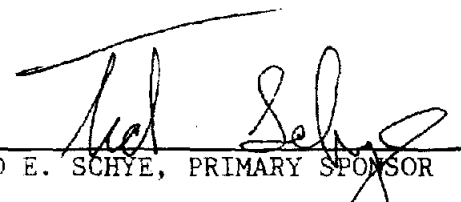
An act revising procedures for sales of county tax-deed land; revising the definition of "fair market value"; providing for sale other than by auction if no bid is received at two sales; lengthening the notification period required; removing the exemption for government lending agency; revising the distribution of redemption proceeds; and providing an applicability date and an effective date.

FISCAL IMPACT:

Revenue Impact:

Adequate information is not available to estimate the revenue impact associated with the proposal.

 2/20/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/21/89
TED E. SCHYE, PRIMARY SPONSOR DATE
Fiscal Note for HB687, as introduced

HB 687