

SENATE BILL NO. 132  
INTRODUCED BY MAZUREK

IN THE SENATE

JANUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
FEBRUARY 13, 1989	PRINTING REPORT.
FEBRUARY 14, 1989	SECOND READING, DO PASS.
FEBRUARY 15, 1989	ENGROSSING REPORT.
FEBRUARY 16, 1989	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 20, 1989	FIRST READING.
APRIL 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 3, 1989	PASSED CONSIDERATION FOR THE DAY.
APRIL 4, 1989	PASSED CONSIDERATION FOR THE DAY.
APRIL 5, 1989	PASSED CONSIDERATION FOR THE DAY.
APRIL 6, 1989	SECOND READING, CONCURRED IN AS AMENDED.

APRIL 7, 1989

THIRD READING, CONCURRED IN.  
AYES, 95; NOES, 3.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 11, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

APRIL 12, 1989

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 13, 1989

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 18, 1989

CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1989

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

ON MOTION, RULES SUSPENDED TO PLACE  
BILL ON THIRD READING THIS DAY.

THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1989

CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 132  
 2 INTRODUCED BY Magnum  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 5 COLLECTION OF DELINQUENT PROPERTY TAXES; DEFINING THE TERM  
 6 "COST" FOR PURPOSES OF TITLE 15, CHAPTERS 17 AND 18;  
 7 REVISING THE AMOUNT TO BE PAID BY REDEMPTION; REVISING THE  
 8 DISTRIBUTION OF REDEMPTION PROCEEDS; AMENDING SECTIONS  
 9 15-17-121, 15-18-112, AND 15-18-114, MCA; AND PROVIDING AN  
 10 IMMEDIATE EFFECTIVE DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 15-17-121, MCA, is amended to read:

14 "15-17-121. Definitions. Except as otherwise  
 15 specifically provided, when terms mentioned in Title 15,  
 16 chapters 17 and 18, are used in connection with taxation,  
 17 they are defined in the following manner:

18 (1) "Certificate" or "tax sale certificate" means the  
 19 document described in 15-17-212.

20 (2) (a) "Cost" means the cost incurred by the county  
 21 as a result of a taxpayer's failure to pay taxes when due.  
 22 It includes but is not limited to any actual out-of-pocket  
 23 expenses incurred by the county plus the administrative cost  
 24 of:

25 (i) preparing the list of delinquent taxes;

1 (ii) preparing the notice of pending tax sale;  
 2 (iii) conducting the tax sale;  
 3 (iv) assigning the county's interest in a tax lien to a  
 4 third party;  
 5 (v) identifying interested persons entitled to notice  
 6 of the pending issuance of a tax deed;  
 7 (vi) notifying interested persons;  
 8 (vii) issuing the tax deed; and  
 9 (viii) any other administrative task associated with  
 10 accounting for or collecting delinquent taxes.  
 11 (b) Cost does not include the costs incurred by the  
 12 owner of a property tax lien other than the county.  
 13 {2}(3) "County" means any county government and  
 14 includes those classified as consolidated governments.  
 15 {3}(4) "Property tax lien" means a lien acquired by  
 16 the payment at a tax sale of all outstanding delinquent  
 17 taxes, including penalties, interest, and costs.  
 18 {4}(5) "Purchaser" means any person, other than the  
 19 person to whom the property is assessed, who pays at the tax  
 20 sale the delinquent taxes, including penalties, interest,  
 21 and costs, and receives a certificate representing a lien on  
 22 the property or who is otherwise listed as the purchaser.  
 23 An assignee is a purchaser.  
 24 {5}(6) "Tax", "taxes", or "property taxes" means all  
 25 ad valorem property taxes, property assessments, fees

related to property, and assessments for special improvement districts and rural special improvement districts.

{6}{7} "Tax sale" means:

(a) with respect to real property and improvements, the offering for sale by the county treasurer of a property tax lien representing delinquent taxes, including penalties, interest, and costs; and

(b) with respect to personal property, the offering for sale by the county treasurer of personal property on which the taxes are delinquent or other personal property on which the delinquent taxes are a lien."

**Section 2.** 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--costs,--must--be--distributed~~ the county treasurer shall distribute to the person listed as the

purchaser on the tax sale certificate and in the record kept by the county treasurer the amount the purchaser paid the county for the property tax lien plus any subsequent amount paid pursuant to 15-18-112 plus interest, as specified in 15-16-102, from the date of payment until the date of redemption. Any money remaining after distributing redemption proceeds to the purchaser other than the county must be distributed pursuant to subsection (1).

(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

1 county general fund.

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

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

10 **Section 3.** Section 15-18-112, MCA, is amended to read:

11 \*15-18-112. Redemption from property tax lien. (1) In  
12 all cases where a property tax lien has been acquired, the  
13 purchaser may pay the subsequent taxes assessed against the  
14 property.

15 (2) Upon the redemption of the property from the  
16 property tax lien, the redemptioner shall, in addition to  
17 the amount for which the property tax lien was sold,  
18 including penalties, interest, and costs, pay the subsequent  
19 taxes paid--by--the--purchaser assessed, with interest and  
20 penalty thereon, at the rate established for delinquent  
21 taxes in 15-16-102,--from--the--date-of-the-payment-of-the  
22 taxes,--penalties,--interest,--and--costs."

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

1 [this act].

2 **NEW SECTION. Section 5.** Effective date. [This act] is  
3 effective on passage and approval.

-End-

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 132

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE COLLECTION OF DELINQUENT PROPERTY TAXES; ALLOWING THE PAYMENT OF CURRENT YEAR TAXES WITHOUT THE PAYMENT OF DELINQUENT TAXES; DEFINING THE TERM "COST" FOR PURPOSES OF TITLE 15, CHAPTERS 17 AND 18; REVISING THE AMOUNT TO BE PAID BY REDEMPTION; REVISING THE DISTRIBUTION OF REDEMPTION PROCEEDS; AMENDING SECTIONS 15-16-102, 15-17-121, 15-18-112, AND 15-18-114, AND 15-18-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**SECTION 1.** SECTION 15-16-102, MCA, IS AMENDED TO READ:

"15-16-102. Time for payment -- penalty for delinquency. All taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103 and assessments made on interim production and new production as provided in Title 15, chapter 23, part 6, and payable under 15-16-121, shall be payable as follows:

(1) One-half of the amount of such taxes shall be payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever

is later, and one-half on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of such taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, then such amount so payable shall become delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(4) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

~~(5) If the taxes become delinquent, the A taxpayer may pay his current year taxes without paying delinquent taxes.~~  
The county treasurer may must accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, provided both halves of the current tax year have been paid. Payment of delinquent taxes must be applied to the taxes that have been delinquent the

1 longest. The payment of the current tax year is not a  
 2 redemption of the property tax lien for any delinquent tax  
 3 year."

4 **Section 2.** Section 15-17-121, MCA, is amended to read:

5 "15-17-121. Definitions. Except as otherwise  
 6 specifically provided, when terms mentioned in Title 15,  
 7 chapters 17 and 18, are used in connection with taxation,  
 8 they are defined in the following manner:

9 (1) "Certificate" or "tax sale certificate" means the  
 10 document described in 15-17-212.

11 (2) (a) "Cost" means the cost incurred by the county  
 12 as a result of a taxpayer's failure to pay taxes when due.  
 13 It includes but is not limited to any actual out-of-pocket  
 14 expenses incurred by the county plus the administrative cost  
 15 of:

- 16 (i) preparing the list of delinquent taxes;
- 17 (ii) preparing the notice of pending tax sale;
- 18 (iii) conducting the tax sale;
- 19 (iv) assigning the county's interest in a tax lien to a
- 20 third party;
- 21 (v) identifying interested persons entitled to notice
- 22 of the pending issuance of a tax deed;
- 23 (vi) notifying interested persons;
- 24 (vii) issuing the tax deed; and
- 25 (viii) any other administrative task associated with

1 accounting for or collecting delinquent taxes.

2 (b) Cost does not include the costs incurred by the  
 3 owner of a property tax lien other than the county.

4 (2)(3) "County" means any county government and  
 5 includes those classified as consolidated governments.

6 (3)(4) "Property tax lien" means a lien acquired by  
 7 the payment at a tax sale of all outstanding delinquent  
 8 taxes, including penalties, interest, and costs.

9 (4)(5) "Purchaser" means any person, other than the  
 10 person to whom the property is assessed, who pays at the tax  
 11 sale the delinquent taxes, including penalties, interest,  
 12 and costs, and receives a certificate representing a lien on  
 13 the property or who is otherwise listed as the purchaser.  
 14 An assignee is a purchaser.

15 (5)(6) "Tax", "taxes", or "property taxes" means all  
 16 ad valorem property taxes, property assessments, fees  
 17 related to property, and assessments for special improvement  
 18 districts and rural special improvement districts.

19 (6)(7) "Tax sale" means:

20 (a) with respect to real property and improvements,  
 21 the offering for sale by the county treasurer of a property  
 22 tax lien representing delinquent taxes, including penalties,  
 23 interest, and costs; and

24 (b) with respect to personal property, the offering  
 25 for sale by the county treasurer of personal property on

1 which the taxes are delinquent or other personal property on  
2 which the delinquent taxes are a lien."

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

4 **"15-18-114. Distribution of redemption proceeds.** (1)  
5 When a property tax lien for which the county is listed as  
6 purchaser is redeemed, the money received from the  
7 redemption, including penalties and interest but not costs,  
8 must be distributed to the credit of the various funds to  
9 which the taxes would have originally been distributed and  
10 in the same proportion as the taxes would have originally  
11 been distributed.

12 (2) (a) When a property tax lien for which the  
13 recorded purchaser is other than the county is redeemed, ~~the~~  
14 ~~money received from the redemption, including penalties and~~  
15 ~~interest but not costs, must be distributed~~ the county  
16 treasurer shall distribute to the person listed as the  
17 purchaser on the tax sale certificate and in the record kept  
18 by the county treasurer the amount the purchaser paid the  
19 county for the property tax lien plus any subsequent amount  
20 paid pursuant to 15-18-112 plus interest, as specified in  
21 15-16-102, from the date of payment until the date of  
22 redemption. Any money remaining after distributing  
23 redemption proceeds to the purchaser other than the county  
24 must be distributed pursuant to subsection (1).

25 (b) (i) The distribution must be made by certified

1 mail by the county treasurer to the purchaser at the address  
2 listed on the tax sale certificate as provided in  
3 15-17-212(1)(e).

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

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

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

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

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

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



**Section 4.** Section 15-18-112, MCA, is amended to read:

"15-18-112. Redemption from property tax lien. (1) IN EXCEPT AS PROVIDED IN SUBSECTION (3), IN all cases where a property tax lien has been acquired, the purchaser may pay the subsequent taxes assessed against the property.

(2) Upon the redemption of the property from the property tax lien, the redemptioner shall, in addition to the amount for which the property tax lien was sold, including penalties, interest, and costs, pay the subsequent taxes ~~paid-by-the--purchaser~~ assessed, with interest and ~~penalty~~ thereon, at the rate established for delinquent taxes in 15-16-102, ~~from-the-date--of--the--payment--of--the~~ taxes, ~~penalties, interest, and costs.~~

(3) THE PROPERTY TAX LIEN MAY ALSO BE REDEEMED FOR A PARTICULAR TAX YEAR BY A PARTIAL PAYMENT OF THAT TAX YEAR AS PROVIDED IN 15-16-102(5) IF:

(A) THE PROPERTY TAX LIEN FOR THE YEAR IN WHICH THE PARTIAL PAYMENT IS MADE IS OWNED BY THE COUNTY; AND

(B) THE TAX DEED HAS NOT BEEN ISSUED PURSUANT TO 15-18-211."

**SECTION 5.** 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 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--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 accrued as of the date of expiration of the period for redemption or the date upon which a tax deed was otherwise issued."

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

NEW SECTION. **Section 7.** Effective date. [This act] is effective on passage and approval.

-End-

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 132

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE COLLECTION OF DELINQUENT PROPERTY TAXES; ALLOWING THE PAYMENT OF CURRENT YEAR TAXES WITHOUT THE PAYMENT OF DELINQUENT TAXES; DEFINING THE TERM "COST" FOR PURPOSES OF TITLE 15, CHAPTERS 17 AND 18; REVISING THE AMOUNT TO BE PAID BY REDEMPTION; REVISING THE DISTRIBUTION OF REDEMPTION PROCEEDS; AMENDING SECTIONS 15-16-102, 15-17-121, 15-18-112, AND 15-18-114, AND 15-18-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is not required for this bill but is included to make clear that the purpose of this bill is to clarify the provisions of Senate Bill No. 162 (Chapter 587, Laws of 1987), relating to partial payments of delinquent property taxes and to the procedures governing the sale of property for delinquent taxes.

In addition, this bill defines the term "costs", clarifies how redemption proceeds are distributed, requires a person who redeems property to pay the taxes and other charges that have been assessed since the date of the sale of the tax lien, and clarifies the effect of the tax deed.

In 1987, the legislature enacted 15-16-102(5) authorizing the partial payment of delinquent property taxes. The attorney general in 42 Attorney General Opinion opined, however, that a partial payment made pursuant to 15-16-102(5) does not toll the redemption period. In order to redeem the property, the attorney general stated that the taxpayer had to pay all of the delinquent taxes, including penalty and interest, plus all subsequently assessed taxes.

The intent of this bill is to reverse the attorney general's opinion. It is the intent of the legislature that each tax year for which property taxes are delinquent has a separate 36- or 18-month redemption period. If a partial payment is made for a particular tax year, a tax deed may not be issued based on that tax year because the taxes for that year have been paid.

For example, assume that the 1984, 1985, 1986, 1987, and 1988 property taxes are delinquent. Assume further that a 36-month redemption period applies to the property on which the taxes have not been paid. In February 1989, the current year, as that term is used in 15-16-102(5), is the 1988 tax year for which taxes are due on November 20, 1988, and May 31, 1989. The 36-month redemption period has expired for 1984, and it will expire for the 1985 taxes in the summer of 1989. This bill contemplates that a taxpayer may pay his 1988 taxes, even though the first half is

1 delinquent. After the 1988 taxes are paid, the taxpayer may  
2 redeem the property for the 1984 tax year by paying the 1984  
3 taxes.

4 The taxpayer may still lose his property unless he pays  
5 his 1985 taxes before the tax deed is issued. Because the  
6 current year and the most delinquent year are paid, the  
7 taxpayer may redeem the property for the 1985 tax year by  
8 paying the 1985 taxes.

9 In 1990, the taxpayer would have to pay the 1989 taxes  
10 before he could pay the 1986 taxes to redeem the property  
11 for the 1986 tax year. Following this pattern, the taxpayer  
12 would be current on all taxes after 3 years.

13 As used in this statement of intent, taxes include  
14 penalty, interest, and costs.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **SECTION 1. SECTION 15-16-102, MCA, IS AMENDED TO READ:**

18 "15-16-102. Time for payment -- penalty for  
19 delinquency. All taxes levied and assessed in the state of  
20 Montana, except assessments made for special improvements in  
21 cities and towns payable under 15-16-103 and assessments  
22 made on interim production and new production as provided in  
23 Title 15, chapter 23, part 6, and payable under 15-16-121,  
24 shall be payable as follows:

25 (1) One-half of the amount of such taxes shall be

1 payable on or before 5 p.m. on November 30 of each year or  
2 within 30 days after the tax notice is postmarked, whichever  
3 is later, and one-half on or before 5 p.m. on May 31 of each  
4 year.

5 (2) Unless one-half of such taxes are paid on or  
6 before 5 p.m. on November 30 of each year or within 30 days  
7 after the tax notice is postmarked, whichever is later, then  
8 such amount so payable shall become delinquent and shall  
9 draw interest at the rate of 5/6 of 1% per month from and  
10 after such delinquency until paid and 2% shall be added to  
11 the delinquent taxes as a penalty.

12 (3) All taxes due and not paid on or before 5 p.m. on  
13 May 31 of each year shall be delinquent and shall draw  
14 interest at the rate of 5/6 of 1% per month from and after  
15 such delinquency until paid and 2% shall be added to the  
16 delinquent taxes as a penalty.

17 (4) If the date on which taxes are due falls on a  
18 holiday or Saturday, taxes may be paid without penalty or  
19 interest on or before 5 p.m. of the next business day in  
20 accordance with 1-1-307.

21 ~~If the taxes become delinquent, the~~ A taxpayer may  
22 pay his current year taxes without paying delinquent taxes.  
23 The county treasurer may must accept a partial payment equal  
24 to the delinquent taxes, including penalty and interest, for  
25 one or more full taxable years, provided both halves of the

1 current tax year have been paid. Payment of delinquent taxes  
2 must be applied to the taxes that have been delinquent the  
3 longest. The payment of the current tax year is not a  
4 redemption of the property tax lien for any delinquent tax  
5 year."

6 **Section 2.** Section 15-17-121, MCA, is amended to read:

7 "15-17-121. Definitions. Except as otherwise  
8 specifically provided, when terms mentioned in Title 15,  
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12 document described in 15-17-212.

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14 as a result of a taxpayer's failure to pay taxes when due.  
15 It includes but is not limited to any actual out-of-pocket  
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17 of:

- 18 (i) preparing the list of delinquent taxes;
- 19 (ii) preparing the notice of pending tax sale;
- 20 (iii) conducting the tax sale;
- 21 (iv) assigning the county's interest in a tax lien to a  
22 third party;
- 23 (v) identifying interested persons entitled to notice  
24 of the pending issuance of a tax deed;
- 25 (vi) notifying interested persons;

1 (vii) issuing the tax deed; and  
2 (viii) any other administrative task associated with  
3 accounting for or collecting delinquent taxes.

4 (b) Cost does not include the costs incurred by the  
5 owner of a property tax lien other than the county.

6 (2)(3) "County" means any county government and  
7 includes those classified as consolidated governments.

8 (3)(4) "Property tax lien" means a lien acquired by  
9 the payment at a tax sale of all outstanding delinquent  
10 taxes, including penalties, interest, and costs.

11 (4)(5) "Purchaser" means any person, other than the  
12 person to whom the property is assessed, who pays at the tax  
13 sale the delinquent taxes, including penalties, interest,  
14 and costs, and receives a certificate representing a lien on  
15 the property or who is otherwise listed as the purchaser.  
16 An assignee is a purchaser.

17 (5)(6) "Tax", "taxes", or "property taxes" means all  
18 ad valorem property taxes, property assessments, fees  
19 related to property, and assessments for special improvement  
20 districts and rural special improvement districts.

21 (6)(7) "Tax sale" means:

- 22 (a) with respect to real property and improvements,
- 23 the offering for sale by the county treasurer of a property
- 24 tax lien representing delinquent taxes, including penalties,
- 25 interest, and costs; and

(b) with respect to personal property, the offering for sale by the county treasurer of personal property on which the taxes are delinquent or other personal property on which the delinquent taxes are a lien."

**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--costs,--must--be--distributed~~ the county treasurer shall distribute to the person listed as the purchaser on the tax sale certificate and in the record kept by the county treasurer the amount the purchaser paid the county for the property tax lien plus any subsequent amount paid pursuant to 15-18-112 plus interest, as specified in 15-16-102, from the date of payment until the date of redemption. Any money remaining after distributing redemption proceeds to the purchaser other than the county

must be distributed pursuant to subsection (1).

(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

1 separate accounting of other delinquent taxes, interest,  
2 penalties, and costs, and when and to whom distributed."

3 **Section 4.** Section 15-18-112, MCA, is amended to read:

4 "15-18-112. Redemption from property tax lien. (1) In  
5 EXCEPT AS PROVIDED IN SUBSECTION (3), IN all cases where a  
6 property tax lien has been acquired, the purchaser may pay  
7 the subsequent taxes assessed against the property.

8 (2) Upon the redemption of the property from the  
9 property tax lien, the redemptioner shall, in addition to  
10 the amount for which the property tax lien was sold,  
11 including penalties, interest, and costs, pay the subsequent  
12 taxes ~~paid--by--the--purchaser~~ assessed, with interest and  
13 penalty thereon, at the rate established for delinquent  
14 taxes in 15-16-102, ~~--from--the--date--of--the--payment--of--the~~  
15 ~~taxes, penalties, interest, and costs.~~

16 (3) THE PROPERTY TAX LIEN MAY ALSO BE REDEEMED FOR A  
17 PARTICULAR TAX YEAR BY A PARTIAL PAYMENT OF THAT TAX YEAR AS  
18 PROVIDED IN 15-16-102(5) IF:

19 (A) THE PROPERTY TAX LIEN FOR THE YEAR IN WHICH THE  
20 PARTIAL PAYMENT IS MADE IS OWNED BY THE COUNTY; AND

21 (B) THE TAX DEED HAS NOT BEEN ISSUED PURSUANT TO  
22 15-18-211."

23 **SECTION 5.** SECTION 15-18-214, MCA, IS AMENDED TO READ:

24 "15-18-214. Effect of deed. (1) A deed issued under  
25 this chapter conveys to the grantee absolute title to the

1 property described therein as of the date of the expiration  
2 of the redemption period, free and clear of all liens and  
3 encumbrances, except:

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

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

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

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

14 (c) when ~~an interest in~~ the land is owned by the  
15 United States, this state, or a subdivision of this state.

16 (2) Under the conditions described in subsection (1),  
17 the deed is prima facie evidence of the right of possession  
18 accrued as of the date of expiration of the period for  
19 redemption or the date upon which a tax deed was otherwise  
20 issued."

21 **NEW SECTION. Section 6.** Extension of authority. Any  
22 existing authority to make rules on the subject of the  
23 provisions of [this act] is extended to the provisions of  
24 [this act].

25 **NEW SECTION. Section 7.** Effective date. [This act] is

**SB 0132/02**

**1 effective on passage and approval.**

**-End-**

## SENATE BILL NO. 132

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE COLLECTION OF DELINQUENT PROPERTY TAXES; ALLOWING THE PAYMENT OF CURRENT YEAR TAXES WITHOUT THE PAYMENT OF DELINQUENT TAXES; DEFINING THE TERM "COST" FOR PURPOSES OF TITLE 15, CHAPTERS 17 AND 18; REVISING THE AMOUNT TO BE PAID BY REDEMPTION; REVISING THE DISTRIBUTION OF REDEMPTION PROCEEDS; AMENDING SECTIONS 15-16-102, 15-17-121, 15-18-112, ~~AND 15-18-114~~, AND 15-18-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

## STATEMENT OF INTENT

A statement of intent is not required for this bill but is included to make clear that the purpose of this bill is to clarify the provisions of Senate Bill No. 162 (Chapter 587, Laws of 1987), relating to partial payments of delinquent property taxes and to the procedures governing the sale of property for delinquent taxes.

In addition, this bill defines the term "costs", clarifies how redemption proceeds are distributed, requires a person who redeems property to pay the taxes and other charges that have been assessed since the date of the sale of the tax lien, and clarifies the effect of the tax deed.

In 1987, the legislature enacted 15-16-102(5) authorizing the partial payment of delinquent property taxes. The attorney general in 42 Attorney General Opinion opined, however, that a partial payment made pursuant to 15-16-102(5) does not toll the redemption period. In order to redeem the property, the attorney general stated that the taxpayer had to pay all of the delinquent taxes, including penalty and interest, plus all subsequently assessed taxes.

The intent of this bill is to reverse the attorney general's opinion. It is the intent of the legislature that each tax year for which property taxes are delinquent has a separate 36- or 18-month redemption period. If a partial payment is made for a particular tax year, a tax deed may not be issued based on that tax year because the taxes for that year have been paid.

For example, assume that the 1984, 1985, 1986, 1987, and 1988 property taxes are delinquent. Assume further that a 36-month redemption period applies to the property on which the taxes have not been paid. In February 1989, the current year, as that term is used in 15-16-102(5), is the 1988 tax year for which taxes are due on November 20, 1988, and May 31, 1989. The 36-month redemption period has expired for 1984, and it will expire for the 1985 taxes in the summer of 1989. This bill contemplates that a taxpayer may pay his 1988 taxes, even though the first half is



1 delinquent. After the 1988 taxes are paid, the taxpayer may  
2 redeem the property for the 1984 tax year by paying the 1984  
3 taxes.

4 The taxpayer may still lose his property unless he pays  
5 his 1985 taxes before the tax deed is issued. Because the  
6 current year and the most delinquent year are paid, the  
7 taxpayer may redeem the property for the 1985 tax year by  
8 paying the 1985 taxes.

9 In 1990, the taxpayer would have to pay the 1989 taxes  
10 before he could pay the 1986 taxes to redeem the property  
11 for the 1986 tax year. Following this pattern, the taxpayer  
12 would be current on all taxes after 3 years.

13 As used in this statement of intent, taxes include  
14 penalty, interest, and costs.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **SECTION 1. SECTION 15-16-102, MCA, IS AMENDED TO READ:**

18 "15-16-102. Time for payment -- penalty for  
19 delinquency. All taxes levied and assessed in the state of  
20 Montana, except assessments made for special improvements in  
21 cities and towns payable under 15-16-103 and assessments  
22 made on interim production and new production as provided in  
23 Title 15, chapter 23, part 6, and payable under 15-16-121,  
24 shall be payable as follows:

25 (1) One-half of the amount of such taxes shall be

1 payable on or before 5 p.m. on November 30 of each year or  
2 within 30 days after the tax notice is postmarked, whichever  
3 is later, and one-half on or before 5 p.m. on May 31 of each  
4 year.

5 (2) Unless one-half of such taxes are paid on or  
6 before 5 p.m. on November 30 of each year or within 30 days  
7 after the tax notice is postmarked, whichever is later, then  
8 such amount so payable shall become delinquent and shall  
9 draw interest at the rate of 5/6 of 1% per month from and  
10 after such delinquency until paid and 2% shall be added to  
11 the delinquent taxes as a penalty.

12 (3) All taxes due and not paid on or before 5 p.m. on  
13 May 31 of each year shall be delinquent and shall draw  
14 interest at the rate of 5/6 of 1% per month from and after  
15 such delinquency until paid and 2% shall be added to the  
16 delinquent taxes as a penalty.

17 (4) If the date on which taxes are due falls on a  
18 holiday or Saturday, taxes may be paid without penalty or  
19 interest on or before 5 p.m. of the next business day in  
20 accordance with 1-1-307.

21 ~~(5) If the taxes become delinquent, the A taxpayer may~~  
22 pay his current year taxes without paying delinquent taxes.  
23 The county treasurer may must accept a partial payment equal  
24 to the delinquent taxes, including penalty and interest, for  
25 one or more full taxable years, provided both halves of the

current tax year have been paid. Payment of delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of the current tax year is not a redemption of the property tax lien for any delinquent tax year."

**Section 2.** Section 15-17-121, MCA, is amended to read:

**"15-17-121. Definitions.** Except as otherwise specifically provided, when terms mentioned in Title 15, chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

(1) "Certificate" or "tax sale certificate" means the document described in 15-17-212.

(2) (a) "Cost" means the cost incurred by the county as a result of a taxpayer's failure to pay taxes when due. It includes but is not limited to any actual out-of-pocket expenses incurred by the county plus the administrative cost of:

(i) preparing the list of delinquent taxes;

(ii) preparing the notice of pending tax sale;

(iii) conducting the tax sale;

(iv) assigning the county's interest in a tax lien to a third party;

(v) identifying interested persons entitled to notice of the pending issuance of a tax deed;

(vi) notifying interested persons;

(vii) issuing the tax deed; and  
(viii) any other administrative task associated with accounting for or collecting delinquent taxes.

(b) Cost does not include the costs incurred by the owner of a property tax lien other than the county.

~~(2)~~(3) "County" means any county government and includes those classified as consolidated governments.

~~(3)~~(4) "Property tax lien" means a lien acquired by the payment at a tax sale of all outstanding delinquent taxes, including penalties, interest, and costs.

~~(4)~~(5) "Purchaser" means any person, other than the person to whom the property is assessed, who pays at the tax sale the delinquent taxes, including penalties, interest, and costs, and receives a certificate representing a lien on the property or who is otherwise listed as the purchaser. An assignee is a purchaser.

~~(5)~~(6) "Tax", "taxes", or "property taxes" means all ad valorem property taxes, property assessments, fees related to property, and assessments for special improvement districts and rural special improvement districts.

~~(6)~~(7) "Tax sale" means:

(a) with respect to real property and improvements, the offering for sale by the county treasurer of a property tax lien representing delinquent taxes, including penalties, interest, and costs; and

1 (b) with respect to personal property, the offering  
2 for sale by the county treasurer of personal property on  
3 which the taxes are delinquent or other personal property on  
4 which the delinquent taxes are a lien."

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

6 \*15-18-114. Distribution of redemption proceeds. (1)  
7 When a property tax lien for which the county is listed as  
8 purchaser is redeemed, the money received from the  
9 redemption, including penalties and interest but not costs,  
10 must be distributed to the credit of the various funds to  
11 which the taxes would have originally been distributed and  
12 in the same proportion as the taxes would have originally  
13 been distributed.

14 (2) (a) When a property tax lien for which the  
15 recorded purchaser is other than the county is redeemed, the  
16 ~~money--received-from-the-redemption--including-penalties-and~~  
17 ~~interest-but-not--costs,--must--be--distributed~~ the county  
18 treasurer shall distribute to the person listed as the  
19 purchaser on the tax sale certificate and in the record kept  
20 by the county treasurer the amount the purchaser paid the  
21 county for the property tax lien plus any subsequent amount  
22 paid pursuant to 15-18-112 plus interest, as specified in  
23 15-16-102, from the date of payment until the date of  
24 redemption. Any money remaining after distributing  
25 redemption proceeds to the purchaser other than the county

1 must be distributed pursuant to subsection (1).

2 (b) (i) The distribution must be made by certified  
3 mail by the county treasurer to the purchaser at the address  
4 listed on the tax sale certificate as provided in  
5 15-17-212(1)(e).

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

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

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

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

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

24 (4) The county treasurer shall keep an accurate  
25 account of all money paid in redemption, including a

1 separate accounting of other delinquent taxes, interest,  
2 penalties, and costs, and when and to whom distributed."

3 **Section 4.** Section 15-18-112, MCA, is amended to read:

4 "15-18-112. Redemption from property tax lien. (1) ~~In~~  
5 EXCEPT AS PROVIDED IN SUBSECTION (3), IN all cases where a  
6 property tax lien has been acquired, the purchaser may pay  
7 the subsequent taxes assessed against the property.

8 (2) Upon the redemption of the property from the  
9 property tax lien, the redemptioner shall, in addition to  
10 the amount for which the property tax lien was sold,  
11 including penalties, interest, and costs, pay the subsequent  
12 taxes ~~paid--by--the--purchaser~~ assessed, with interest and  
13 penalty thereon, at the rate established for delinquent  
14 taxes in 15-16-102, ~~--from--the--date--of--the--payment--of--the~~  
15 ~~taxes, penalties, interest, and costs.~~

16 (3) THE PROPERTY TAX LIEN MAY ALSO BE REDEEMED FOR A  
17 PARTICULAR TAX YEAR BY A PARTIAL PAYMENT OF THAT TAX YEAR AS  
18 PROVIDED IN 15-16-102(5) IF:

19 (A) THE PROPERTY TAX LIEN FOR THE YEAR IN WHICH THE  
20 PARTIAL PAYMENT IS MADE IS OWNED BY THE COUNTY; AND

21 (B) THE TAX DEED HAS NOT BEEN ISSUED PURSUANT TO  
22 15-18-211."

23 **SECTION 5.** SECTION 15-18-214, MCA, IS AMENDED TO READ:

24 "15-18-214. Effect of deed. (1) A deed issued under  
25 this chapter conveys to the grantee absolute title to the

1 property described therein as of the date of the expiration  
2 of the redemption period, free and clear of all liens and  
3 encumbrances, except:

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

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

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

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

14 (c) when ~~an interest in~~ the land is owned by the  
15 United States, this state, or a subdivision of this state.

16 (2) Under the conditions described in subsection (1),  
17 the deed is prima facie evidence of the right of possession  
18 accrued as of the date of expiration of the period for  
19 redemption or the date upon which a tax deed was otherwise  
20 issued."

21 **NEW SECTION. Section 6.** Extension of authority. Any  
22 existing authority to make rules on the subject of the  
23 provisions of [this act] is extended to the provisions of  
24 [this act].

25 **NEW SECTION. Section 7.** Effective date. [This act] is

SB 0132/02

1 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

March 31, 1989  
Page 2 of 5

March 31, 1989  
Page 1 of 5

Mr. Speaker: We, the committee on Taxation report that Senate Bill 132 (second reading copy -- yellow) be concurred in as amended.

Signed: 

Dan Harrington, Chairman

[REP. Schye WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 5.  
Following: "TAXES"  
Insert: "AND THE SALE OF TAX-DEED LAND BY THE COUNTY; PROVIDING FOR SALE OTHER THAN BY AUCTION IF NO BID IS RECEIVED AT TWO SALES; LENGTHENING THE NOTIFICATION PERIOD; CHANGING WHEN PROOF OF NOTICE MUST BE FILED BY THE COUNTY CLERK AND COUNTY TREASURER"
2. Title, line 10.  
Following: "SECTIONS"  
Insert: "7-8-2301, 7-8-2304,"
3. Title, line 11.  
Following: "15-18-114,"  
Insert: "15-18-212,"
4. Page 1, line 25.  
Following: "tax lien,"  
Insert: "revises the method by which county tax-deed land is sold, lengthens the notification period prior to issuing a tax deed, changes the time when proof of notice must be filed,"
5. Page 10.  
Following: line 20  
Insert: "Section 6. Section 7-8-2301, MCA, is amended to read:  
"7-8-2301. Auction sale of county tax-deed land. (1) Whenever the county ~~shall acquire any~~ acquires land by tax deed, it ~~shall be~~ is the duty of the board of county commissioners, within 6 months after acquiring title, to

make and enter an order for sale of ~~such~~ the lands at public auction at the front door of the courthouse.

(2) ~~No~~ A sale ~~shall~~ may not be made for a price less than the fair market value ~~thereof~~ of the land, as determined and fixed by the board ~~prior~~ to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than \$10.

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

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

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

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

(2) (a) If ~~such~~ the sale is made on terms, at least 20% of the purchase price ~~shall~~ must be paid in cash at the date of sale and the remainder may be paid in installments 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 8. 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 not more than 60 days following the expiration of the redemption period provided in 15-18-111, a notice must be given as follows:

(a) for each property for which there has been issued to the county a tax sale certificate or for which the county is otherwise listed as the purchaser or assignee, the county clerk shall notify all persons considered interested parties in the property and the current occupant of the property, if any, that a tax deed may be issued to the county unless the

property tax lien is redeemed prior to the expiration date of the redemption period; or

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

(2) (a) Except as provided in subsection (2) (b), if the county is the purchaser, no assignment has been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the county clerk must provide notification to all interested parties and the current occupant, if any, in the manner provided in subsection (1) (a). The notification required under this subsection must be made not less than 60 days or more than 90 120 days prior to the date on which the county treasurer will issue the tax deed.

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

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

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

(c) A purchaser or assignee who fails to give notice as required by subsection (1) (b), thereby forcing notification to be given under this subsection (3), must be charged a penalty of \$500 plus all actual costs of notification incurred by the county proceeding under this subsection (3).

(4) The notice required under subsections (1) through (3) must be made by certified mail to each interested party and the current occupant, if any, of the property. The address to which the notice must be sent is, for each interested party, the address disclosed by the records in

the office of the county clerk and, for the occupant, the street address or other known address of the subject property.

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

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

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

(c) a statement that the published notice meets the legal requirements for notice of a pending tax deed issuance; and

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

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

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

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

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

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

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

(f) the name and address of the purchaser;

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

(h) the date that the redemption period expires or expired;

(i) a statement that if all taxes, penalties, interest, and costs are not paid to the county treasurer on or prior to the date on which the redemption period expires or on or prior to the date on which the county treasurer

will otherwise issue a tax deed that a tax deed may be issued to the purchaser on the day following the date on which the redemption period expires or on the date on which the county treasurer will otherwise issue a tax deed; and

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

(7) ~~In all cases, proof~~ Proof of notice in whatever manner given must be filed by the county clerk, county treasurer, purchaser, or assignee, as appropriate, with the county clerk not less than 30 days following the mailing or publication of the notice. If the purchaser or assignee is other than the county, the proof of notice must be filed with the county clerk within 30 days of the mailing or publishing of the notice. If the purchaser or assignee is the county or if the county treasurer is required to give notice pursuant to subsection (3), the proof of notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

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

Renumber: subsequent sections



COMMITTEE OF THE WHOLE AMENDMENT  
SENATE BILL 132  
Representative Bert Guthrie

April 6, 1989 1:28 pm  
Page 1 of 3

Mr. Chairman: I move to amend SENATE BILL 132 (third reading copy -- blue).

Signed: Bert Guthrie  
Representative Bert Guthrie

And, that such amendments to SENATE BILL 132 read as follows:

1. Title, line 5.

Following: "TAXES;"

Insert: "REVISING THE PENALTY AND INTEREST CHARGED ON DELINQUENT TAXES;"

2. Title, line 10.

Following: "SECTIONS"

Insert: "15-16-101,"

3. Title, line 12.

Following: "DATE"

Insert: "AND AN APPLICABILITY PROVISIONS"

4. Page 3.

Following: line 16

Insert: "Section 1. 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:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on November 30 next thereafter or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of ~~5/6~~ of 1/2 per month from and after such delinquency until paid and 2% will be added to the delinquent taxes as a penalty provided in [section 3];

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

ADOPT

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Page 2 of 3

provided in [section 3]; and

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

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

- (a) the taxable value of the property;
- (b) the total mill levy applied to that taxable value;
- (c) the value of each mill in that county;
- (d) itemized city services and special improvement district assessments collected by the county;
- (e) the number of the school district in which the 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.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(d) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any of his liabilities. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax. ""

Renumber: subsequent sections

5. Page 4, lines 9 through 11.

Following: "rate" on line 9

Strike: "of" through "penalty" on line 11

Insert: "provided in [section 3]"

6. Page 4, lines 14 through 16.

Following: "rate" on line 14

Strike: "of" through "penalty" on line 16

Insert: "provided in [section 3]"

7. Page 5.

Following: line 5

Insert: "NEW SECTION. Section 3. Interest rate for delinquent property taxes. (1)(a) The county treasurer shall add to delinquent real and personal property taxes interest in an amount equal to 1/12 of the interest rate reported to him by the department as provided in subsection (2) for each month or part of a month that the tax is delinquent.

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Page 3 of 3

(b) The most recent rate of interest reported to the county treasurer must be applied to all delinquent property taxes, regardless of the date of delinquency.

(2) No later than November 1 in each year, the department shall notify each county treasurer of the rate of interest to be charged on delinquent property taxes. The rate of interest that the department must report is two percentage points above the prime rate of major New York banks as published in the Wall Street Journal on October 15 of the taxable year, or the first day of publication following October 15 if the prime rate or the Wall Street Journal is not published on ~~October~~ 15." (b)

Renumber: subsequent sections ~~October~~

8. Page 11.

Following: line 1

Insert: "NEW SECTION. Section 10. Special applicability. The provisions in [sections 1 through 3] regarding the changes in interest on delinquent taxes apply:

(1) to real and personal property taxes that become due on or after November 30, 1989, and that remain unpaid on or after November 30, 1989; and

(2) retroactively, within the meaning of 1-2-109, to real and personal property taxes that became due prior to November 30, 1989, and that remain unpaid on or after November 30, 1989."

## 1 SENATE BILL NO. 132

2 INTRODUCED BY MAZUREK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
5 COLLECTION OF DELINQUENT PROPERTY TAXES AND THE SALE OF  
6 TAX-DEED LAND BY THE COUNTY; PROVIDING FOR SALE OTHER THAN  
7 BY AUCTION IF NO BID IS RECEIVED AT TWO SALES; LENGTHENING  
8 THE NOTIFICATION PERIOD; CHANGING WHEN PROOF OF NOTICE MUST  
9 BE FILED BY THE COUNTY CLERK AND COUNTY TREASURER; REVISING  
10 THE PENALTY AND INTEREST CHARGED ON DELINQUENT TAXES;  
11 ALLOWING THE PAYMENT OF CURRENT YEAR TAXES WITHOUT THE  
12 PAYMENT OF DELINQUENT TAXES; DEFINING THE TERM "COST" FOR  
13 PURPOSES OF TITLE 15, CHAPTERS 17 AND 18; REVISING THE  
14 AMOUNT TO BE PAID BY REDEMPTION; REVISING THE DISTRIBUTION  
15 OF REDEMPTION PROCEEDS; AMENDING SECTIONS 7-8-2301,  
16 7-8-2304, 15-16-101, 15-16-102, 15-17-121, 15-18-112, AND  
17 15-18-114, 15-18-212, AND 15-18-214, MCA; AND PROVIDING AN  
18 IMMEDIATE EFFECTIVE DATE AND APPLICABILITY PROVISIONS."

19  
20 STATEMENT OF INTENT

21 A statement of intent is not required for this bill but  
22 is included to make clear that the purpose of this bill is  
23 to clarify the provisions of Senate Bill No. 162 (Chapter  
24 587, Laws of 1987), relating to partial payments of  
25 delinquent property taxes and to the procedures governing

1 the sale of property for delinquent taxes.

2 In addition, this bill defines the term "costs",  
3 clarifies how redemption proceeds are distributed, requires  
4 a person who redeems property to pay the taxes and other  
5 charges that have been assessed since the date of the sale  
6 of the tax lien, REVISES THE METHOD BY WHICH COUNTY TAX-DEED  
7 LAND IS SOLD, LENGTHENS THE NOTIFICATION PERIOD PRIOR TO  
8 ISSUING A TAX DEED, CHANGES THE TIME WHEN PROOF OF NOTICE  
9 MUST BE FILED, and clarifies the effect of the tax deed.

10 In 1987, the legislature enacted 15-16-102(5)  
11 authorizing the partial payment of delinquent property  
12 taxes. The attorney general in 42 Attorney General Opinion  
13 opined, however, that a partial payment made pursuant to  
14 15-16-102(5) does not toll the redemption period. In order  
15 to redeem the property, the attorney general stated that the  
16 taxpayer had to pay all of the delinquent taxes, including  
17 penalty and interest, plus all subsequently assessed taxes.

18 The intent of this bill is to reverse the attorney  
19 general's opinion. It is the intent of the legislature that  
20 each tax year for which property taxes are delinquent has a  
21 separate 36- or 18-month redemption period. If a partial  
22 payment is made for a particular tax year, a tax deed may  
23 not be issued based on that tax year because the taxes for  
24 that year have been paid.

25 For example, assume that the 1984, 1985, 1986, 1987,

1 and 1988 property taxes are delinquent. Assume further that  
 2 a 36-month redemption period applies to the property on  
 3 which the taxes have not been paid. In February 1989, the  
 4 current year, as that term is used in 15-16-102(5), is the  
 5 1988 tax year for which taxes are due on November 20, 1988,  
 6 and May 31, 1989. The 36-month redemption period has expired  
 7 for 1984, and it will expire for the 1985 taxes in the  
 8 summer of 1989. This bill contemplates that a taxpayer may  
 9 pay his 1988 taxes, even though the first half is  
 10 delinquent. After the 1988 taxes are paid, the taxpayer may  
 11 redeem the property for the 1984 tax year by paying the 1984  
 12 taxes.

13 The taxpayer may still lose his property unless he pays  
 14 his 1985 taxes before the tax deed is issued. Because the  
 15 current year and the most delinquent year are paid, the  
 16 taxpayer may redeem the property for the 1985 tax year by  
 17 paying the 1985 taxes.

18 In 1990, the taxpayer would have to pay the 1989 taxes  
 19 before he could pay the 1986 taxes to redeem the property  
 20 for the 1986 tax year. Following this pattern, the taxpayer  
 21 would be current on all taxes after 3 years.

22 As used in this statement of intent, taxes include  
 23 penalty, interest, and costs.

24  
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **SECTION 1. SECTION 15-16-101, MCA, IS AMENDED TO READ:**

2 **"15-16-101. Treasurer to publish notice -- manner of**  
 3 **publication. (1) Within 10 days after the receipt of the**  
 4 **assessment book, the county treasurer must publish a notice**  
 5 **specifying:**

6 (a) that one-half of all taxes levied and assessed  
 7 will be due and payable before 5 p.m. on November 30 next  
 8 thereafter or within 30 days after the notice is postmarked  
 9 and that unless paid prior to that time the amount then due  
 10 will be delinquent and will draw interest at the rate of 5/6  
 11 of 1% per month from and after such delinquency until it is paid  
 12 and 2% will be added to the delinquent taxes as a penalty  
 13 provided in [section 3];

14 (b) that one-half of all taxes levied and assessed  
 15 will be due and payable on or before 5 p.m. on May 31 next  
 16 thereafter and that unless paid prior to that time the taxes  
 17 will be delinquent and will draw interest at the rate of 5/6  
 18 of 1% per month from and after such delinquency until it is paid  
 19 and 2% will be added to the delinquent taxes as a penalty  
 20 provided in [section 3]; and

21 (c) the time and place at which payment of taxes may  
 22 be made.

23 (2) He must send to the last-known address of each  
 24 taxpayer written notice, postage prepaid, showing the amount  
 25 of taxes and assessments due the current year and the amount

1 due and delinquent for other years. The written notice shall  
2 include:

- 3 (a) the taxable value of the property;
- 4 (b) the total mill levy applied to that taxable value;
- 5 (c) the value of each mill in that county;
- 6 (d) itemized city services and special improvement  
7 district assessments collected by the county;
- 8 (e) the number of the school district in which the  
9 property is located; and
- 10 (f) the amount of the total tax due that is levied as  
11 city tax, county tax, state tax, school district tax, and  
12 other tax.
- 13 (3) The municipality shall, upon request of the county  
14 treasurer, provide the information to be included under  
15 subsection (2)(d) ready for mailing.
- 16 (4) The notice in every case must be published once a  
17 week for 2 weeks in a weekly or daily newspaper published in  
18 the county, if there is one, or if there is not, then by  
19 posting it in three public places. Failure to publish or  
20 post notices does not relieve the taxpayer from any of his  
21 liabilities. Any failure to give notice of the tax due for  
22 the current year or of delinquent tax will not affect the  
23 legality of the tax."

24 **SECTION 2. SECTION 15-16-102, MCA, IS AMENDED TO READ:**  
25 "15-16-102. Time for payment -- penalty for

1 delinquency. All taxes levied and assessed in the state of  
2 Montana, except assessments made for special improvements in  
3 cities and towns payable under 15-16-103 and assessments  
4 made on interim production and new production as provided in  
5 Title 15, chapter 23, part 6, and payable under 15-16-121,  
6 shall be payable as follows:

7 (1) One-half of the amount of such taxes shall be  
8 payable on or before 5 p.m. on November 30 of each year or  
9 within 30 days after the tax notice is postmarked, whichever  
10 is later, and one-half on or before 5 p.m. on May 31 of each  
11 year.

12 (2) Unless one-half of such taxes are paid on or  
13 before 5 p.m. on November 30 of each year or within 30 days  
14 after the tax notice is postmarked, whichever is later, then  
15 such amount so payable shall become delinquent and shall  
16 draw interest at the rate of ~~5/6 of 1% per month from and~~  
17 ~~after such delinquency until paid and 2% shall be added to~~  
18 ~~the delinquent taxes as a penalty~~ PROVIDED IN [SECTION 3].

19 (3) All taxes due and not paid on or before 5 p.m. on  
20 May 31 of each year shall be delinquent and shall draw  
21 interest at the rate of ~~5/6 of 1% per month from and after~~  
22 ~~such delinquency until paid and 2% shall be added to the~~  
23 ~~delinquent taxes as a penalty~~ PROVIDED IN [SECTION 3].

24 (4) If the date on which taxes are due falls on a  
25 holiday or Saturday, taxes may be paid without penalty or

1 interest on or before 5 p.m. of the next business day in  
2 accordance with 1-1-307.

3 ~~(5) If the taxes become delinquent, the~~ A taxpayer may  
4 ~~pay his current year taxes without paying delinquent taxes.~~  
5 The county treasurer may must accept a partial payment equal  
6 to the delinquent taxes, including penalty and interest, for  
7 one or more full taxable years, provided both halves of the  
8 current tax year have been paid. Payment of delinquent taxes  
9 must be applied to the taxes that have been delinquent the  
10 longest. The payment of the current tax year is not a  
11 redemption of the property tax lien for any delinquent tax  
12 year."

13 NEW SECTION. SECTION 3. INTEREST RATE FOR DELINQUENT  
14 PROPERTY TAXES. (1) (A) THE COUNTY TREASURER SHALL ADD TO  
15 DELINQUENT REAL AND PERSONAL PROPERTY TAXES INTEREST IN AN  
16 AMOUNT EQUAL TO 1/12 OF THE INTEREST RATE REPORTED TO HIM BY  
17 THE DEPARTMENT AS PROVIDED IN SUBSECTION (2) FOR EACH MONTH  
18 OR PART OF A MONTH THAT THE TAX IS DELINQUENT.

19 (B) THE MOST RECENT RATE OF INTEREST REPORTED TO THE  
20 COUNTY TREASURER MUST BE APPLIED TO ALL DELINQUENT PROPERTY  
21 TAXES, REGARDLESS OF THE DATE OF DELINQUENCY.

22 (2) NO LATER THAN NOVEMBER 1 IN EACH YEAR, THE  
23 DEPARTMENT SHALL NOTIFY EACH COUNTY TREASURER OF THE RATE OF  
24 INTEREST TO BE CHARGED ON DELINQUENT PROPERTY TAXES. THE  
25 RATE OF INTEREST THAT THE DEPARTMENT MUST REPORT IS TWO

1 PERCENTAGE POINTS ABOVE THE PRIME RATE OF MAJOR NEW YORK  
2 BANKS AS PUBLISHED IN THE WALL STREET JOURNAL ON OCTOBER 15  
3 OF THE TAXABLE YEAR, OR THE FIRST DAY OF PUBLICATION  
4 FOLLOWING OCTOBER 15 IF THE PRIME RATE OR THE WALL STREET  
5 JOURNAL IS NOT PUBLISHED ON OCTOBER 15.

6 **Section 4.** Section 15-17-121, MCA, is amended to read:

7 "15-17-121. **Definitions.** Except as otherwise  
8 specifically provided, when terms mentioned in Title 15,  
9 chapters 17 and 18, are used in connection with taxation,  
10 they are defined in the following manner:

11 (1) "Certificate" or "tax sale certificate" means the  
12 document described in 15-17-212.

13 (2) (a) "Cost" means the cost incurred by the county  
14 as a result of a taxpayer's failure to pay taxes when due.  
15 It includes but is not limited to any actual out-of-pocket  
16 expenses incurred by the county plus the administrative cost  
17 of:

- 18 (i) preparing the list of delinquent taxes;
- 19 (ii) preparing the notice of pending tax sale;
- 20 (iii) conducting the tax sale;
- 21 (iv) assigning the county's interest in a tax lien to a  
22 third party;
- 23 (v) identifying interested persons entitled to notice  
24 of the pending issuance of a tax deed;
- 25 (vi) notifying interested persons;

1       (vii) issuing the tax deed; and  
 2       (viii) any other administrative task associated with  
 3       accounting for or collecting delinquent taxes.

4       (b) Cost does not include the costs incurred by the  
 5       owner of a property tax lien other than the county.

6       {2}{3} "County" means any county government and  
 7       includes those classified as consolidated governments.

8       {3}{4} "Property tax lien" means a lien acquired by  
 9       the payment at a tax sale of all outstanding delinquent  
 10      taxes, including penalties, interest, and costs.

11      {4}{5} "Purchaser" means any person, other than the  
 12      person to whom the property is assessed, who pays at the tax  
 13      sale the delinquent taxes, including penalties, interest,  
 14      and costs, and receives a certificate representing a lien on  
 15      the property or who is otherwise listed as the purchaser.  
 16      An assignee is a purchaser.

17      {5}{6} "Tax", "taxes", or "property taxes" means all  
 18      ad valorem property taxes, property assessments, fees  
 19      related to property, and assessments for special improvement  
 20      districts and rural special improvement districts.

21      {6}{7} "Tax sale" means:

22      (a) with respect to real property and improvements,  
 23      the offering for sale by the county treasurer of a property  
 24      tax lien representing delinquent taxes, including penalties,  
 25      interest, and costs; and

1       (b) with respect to personal property, the offering  
 2       for sale by the county treasurer of personal property on  
 3       which the taxes are delinquent or other personal property on  
 4       which the delinquent taxes are a lien."

5       **Section 5.** Section 15-18-114, MCA, is amended to read:

6       "15-18-114. Distribution of redemption proceeds. (1)

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

14      (2) (a) When a property tax lien for which the  
 15      recorded purchaser is other than the county is redeemed, ~~the~~  
 16      ~~money-received-from-the-redemption-including-penalties--and~~  
 17      ~~interest--but--not--costs,--must--be--distributed~~ the county  
 18      treasurer shall distribute to the person listed as the  
 19      purchaser on the tax sale certificate and in the record kept  
 20      by the county treasurer the amount the purchaser paid the  
 21      county for the property tax lien plus any subsequent amount  
 22      paid pursuant to 15-18-112 plus interest, as specified in  
 23      15-16-102, from the date of payment until the date of  
 24      redemption. Any money remaining after distributing  
 25      redemption proceeds to the purchaser other than the county

1 must be distributed pursuant to subsection (1).

2 (b) (i) The distribution must be made by certified  
3 mail by the county treasurer to the purchaser at the address  
4 listed on the tax sale certificate as provided in  
5 15-17-212(1)(e).

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

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

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

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

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

24 (4) The county treasurer shall keep an accurate  
25 account of all money paid in redemption, including a

1 separate accounting of other delinquent taxes, interest,  
2 penalties, and costs, and when and to whom distributed."

3 **Section 6.** Section 15-18-112, MCA, is amended to read:

4 "15-18-112. Redemption from property tax lien. (1) In  
5 EXCEPT AS PROVIDED IN SUBSECTION (3), IN all cases where a  
6 property tax lien has been acquired, the purchaser may pay  
7 the subsequent taxes assessed against the property.

8 (2) Upon the redemption of the property from the  
9 property tax lien, the redemptioner shall, in addition to  
10 the amount for which the property tax lien was sold,  
11 including penalties, interest, and costs, pay the subsequent  
12 taxes ~~paid by the purchaser~~ assessed, with interest and  
13 penalty thereon, at the rate established for delinquent  
14 taxes in 15-16-102, ~~from the date of the payment of the~~  
15 ~~taxes, penalties, interest, and costs.~~

16 (3) THE PROPERTY TAX LIEN MAY ALSO BE REDEEMED FOR A  
17 PARTICULAR TAX YEAR BY A PARTIAL PAYMENT OF THAT TAX YEAR AS  
18 PROVIDED IN 15-16-102(5) IF:

19 (A) THE PROPERTY TAX LIEN FOR THE YEAR IN WHICH THE  
20 PARTIAL PAYMENT IS MADE IS OWNED BY THE COUNTY; AND

21 (B) THE TAX DEED HAS NOT BEEN ISSUED PURSUANT TO  
22 15-18-211."

23 **SECTION 7.** SECTION 15-18-214, MCA, IS AMENDED TO READ:

24 "15-18-214. Effect of deed. (1) A deed issued under  
25 this chapter conveys to the grantee absolute title to the



1 property described therein as of the date of the expiration  
2 of the redemption period, free and clear of all liens and  
3 encumbrances, except:

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

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

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

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

14 (c) when an--interest--in the land is owned by the  
15 United States, this state, or a subdivision of this state.

16 (2) Under the conditions described in subsection (1),  
17 the deed is prima facie evidence of the right of possession  
18 accrued as of the date of expiration of the period for  
19 redemption or the date upon which a tax deed was otherwise  
20 issued."

21 **SECTION 8. SECTION 7-8-2301, MCA, IS AMENDED TO READ:**

22 "7-8-2301. Auction sale of county tax-deed land. (1)  
23 Whenever the county ~~shall-acquire-any~~ acquires land by tax  
24 deed, it ~~shall-be~~ is the duty of the board of county  
25 commissioners, within 6 months after acquiring title, to

1 make and enter an order for sale of such the lands at public  
2 auction at the front door of the courthouse.

3 (2) ~~No A sale shall may not~~ be made for a price less  
4 than the fair market value thereof of the land, as  
5 determined and fixed by the board prior to making the order  
6 of sale. In determining fair market value, the board shall  
7 subtract the amount of outstanding assessments that are a  
8 lien on the land from the unencumbered value of the land,  
9 but the minimum sale price for a parcel of land may not be  
10 less than \$10.

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

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

19 **SECTION 9. SECTION 7-8-2304, MCA, IS AMENDED TO READ:**

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

24 (2) (a) If such the sale is made on terms, at least  
25 20% of the purchase price ~~shall must~~ be paid in cash at the

1 date of sale and the remainder may be paid in installments  
2 extending over a period not to exceed 5 years. All such  
3 deferred payments shall bear interest at the rate of 8% per  
4 annum.

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

9 **SECTION 10. SECTION 15-18-212, MCA, IS AMENDED TO**  
10 **READ:**

11 "15-18-212. Notice -- proof of notice -- penalty for  
12 failure to notify. (1) Not more than 60 days prior to and  
13 not more than 60 days following the expiration of the  
14 redemption period provided in 15-18-111, a notice must be  
15 given as follows:

16 (a) for each property for which there has been issued  
17 to the county a tax sale certificate or for which the county  
18 is otherwise listed as the purchaser or assignee, the county  
19 clerk shall notify all persons considered interested parties  
20 in the property and the current occupant of the property, if  
21 any, that a tax deed may be issued to the county unless the  
22 property tax lien is redeemed prior to the expiration date  
23 of the redemption period; or

24 (b) for each property for which there has been issued  
25 a tax sale certificate to a purchaser other than the county

1 or for which an assignment has been made, the purchaser or  
2 assignee, as appropriate, shall notify all persons  
3 considered interested parties in the property, if any, that  
4 a tax deed will be issued to the purchaser or assignee  
5 unless the property tax lien is redeemed prior to the  
6 expiration date of the redemption period.

7 (2) (a) Except as provided in subsection (2)(b), if  
8 the county is the purchaser, no assignment has been made,  
9 and the board of county commissioners has not directed the  
10 county treasurer to issue a tax deed during the period  
11 described in subsection (1) but the board of county  
12 commissioners at a time subsequent to the period described  
13 in subsection (1) does direct the county treasurer to issue  
14 a tax deed, the county clerk must provide notification to  
15 all interested parties and the current occupant, if any, in  
16 the manner provided in subsection (1)(a). The notification  
17 required under this subsection must be made not less than 60  
18 days or more than 90 120 days prior to the date on which the  
19 county treasurer will issue the tax deed.

20 (b) If the county commissioners direct the county  
21 treasurer to issue a tax deed within 6 months after giving  
22 the notice required by subsection (1)(a), no additional  
23 notice need be given.

24 (3) (a) If a purchaser other than the county or an  
25 assignee fails or neglects to give notice as required by

1 subsection (1)(b), which failure or neglect is evidenced by  
 2 failure of the purchaser or assignee to file proof of notice  
 3 with the county clerk as required in subsection (7), the  
 4 county treasurer shall proceed to give notice in the manner  
 5 provided in subsection (1)(a).

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

10 (c) A purchaser or assignee who fails to give notice  
 11 as required by subsection (1)(b), thereby forcing  
 12 notification to be given under this subsection (3), must be  
 13 charged a penalty of \$500 plus all actual costs of  
 14 notification incurred by the county proceeding under this  
 15 subsection (3).

16 (4) The notice required under subsections (1) through  
 17 (3) must be made by certified mail to each interested party  
 18 and the current occupant, if any, of the property. The  
 19 address to which the notice must be sent is, for each  
 20 interested party, the address disclosed by the records in  
 21 the office of the county clerk and, for the occupant, the  
 22 street address or other known address of the subject  
 23 property.

24 (5) In all cases in which the address of an interested  
 25 party is not known, the person required to give notice

1 shall, within the period described in subsection (1) or not  
 2 less than 60 days or more than ~~90~~ 120 days prior to the date  
 3 upon which the county treasurer will otherwise issue a tax  
 4 deed, whichever is appropriate, publish commence publishing  
 5 once a week for 2 successive weeks, in the official  
 6 newspaper of the county or such other newspaper as the board  
 7 of county commissioners may by resolution designate, a  
 8 notice containing the information contained in subsection  
 9 (6), plus:

10 (a) the name of the interested party for whom the  
 11 address is unknown;

12 (b) a statement that the address of the interested  
 13 party is unknown;

14 (c) a statement that the published notice meets the  
 15 legal requirements for notice of a pending tax deed  
 16 issuance; and

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

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

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

23 (b) a description of the property on which the taxes  
 24 are or were delinquent, which description must be the same  
 25 as the description of the property on the tax sale

1 certificate or in the record described in 15-17-214(2)(b);

2 (c) the date that the property taxes became  
3 delinquent;

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

6 (e) the amount of taxes due, including penalties,  
7 interest, and costs, as of the date of the notice of pending  
8 tax deed issuance, which amount must include a separate  
9 listing of the delinquent taxes, penalties, interest, and  
10 costs that must be paid for the property tax lien to be  
11 liquidated;

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

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

15 (h) the date that the redemption period expires or  
16 expired;

17 (i) a statement that if all taxes, penalties,  
18 interest, and costs are not paid to the county treasurer on  
19 or prior to the date on which the redemption period expires  
20 or on or prior to the date on which the county treasurer  
21 will otherwise issue a tax deed that a tax deed may be  
22 issued to the purchaser on the day following the date on  
23 which the redemption period expires or on the date on which  
24 the county treasurer will otherwise issue a tax deed; and

25 (j) the business address and telephone number of the

1 county treasurer who is responsible for issuing the tax  
2 deed.

3 (7) ~~In all cases, proof~~ Proof of notice in whatever  
4 manner given must be filed ~~by the county clerk, county~~  
5 ~~treasurer, purchaser, or assignee, as appropriate,~~ with the  
6 county clerk ~~not less than 30 days following the mailing or~~  
7 ~~publication of the notice. If the purchaser or assignee is~~  
8 ~~other than the county, the proof of notice must be filed~~  
9 ~~with the county clerk within 30 days of the mailing or~~  
10 ~~publishing of the notice. If the purchaser or assignee is~~  
11 ~~the county or if the county treasurer is required to give~~  
12 ~~notice pursuant to subsection (3), the proof of notice must~~  
13 ~~be filed before the issuance of the tax deed under this~~  
14 ~~chapter. Once filed, the proof of notice is prima facie~~  
15 evidence of the sufficiency of the notice.

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

18 NEW SECTION. Section 11. Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 NEW SECTION. Section 12. Effective date. [This act]  
23 is effective on passage and approval.

24 NEW SECTION. SECTION 13. SPECIAL APPLICABILITY. THE  
25 PROVISIONS IN [SECTIONS 1 THROUGH 3] REGARDING THE CHANGES

SB 0132/03

1 IN INTEREST ON DELINQUENT TAXES APPLY:

2 (1) TO REAL AND PERSONAL PROPERTY TAXES THAT BECOME  
3 DUE ON OR AFTER NOVEMBER 30, 1989, AND THAT REMAIN UNPAID ON  
4 OR AFTER NOVEMBER 30, 1989; AND

5 (2) RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO  
6 REAL AND PERSONAL PROPERTY TAXES THAT BECAME DUE PRIOR TO  
7 NOVEMBER 30, 1989, AND THAT REMAIN UNPAID ON OR AFTER  
8 NOVEMBER 30, 1989.

-End-

Conference Committee Report  
on SB 132  
Report No. 1, April 18, 1989  
page 1 of 2

CONFERENCE COMMITTEE, SB 132  
April 18, 1989  
page 2 of 2

Mr President and Mr. Speaker:

We, your Conference Committee on SB 132 met and considered:

The House Committee on Taxation amendments to SB 132 (third reading copy -- blue) dated March 31, 1989; and

The House Committee of the Whole amendments to SB 132 (third reading copy -- blue) offered by Rep. Guthrie and dated April 6, 1989.

We recommend that:

The House Taxation committee amendments be accepted;

The House Committee of the Whole amendments offered by Rep. Guthrie be rejected; and

that SB 132 (reference copy -- salmon) be amended as follows:

1. Title, lines 9 and 10.

Following: "TREASURER;" on line 9

Strike: remainder of line 9 through "TAXES;" on line 10

2. Title, line 16.

Strike: "15-16-101."

3. Title, line 18.

Strike: "AND APPLICABILITY PROVISIONS"

4. Page 4, line 1 through page 5, line 23.

Strike: section 1 in its entirety

Renumber: subsequent section

5. Page 6, lines 18 and 23.

Strike: "PROVIDED IN SECTION 31"

Insert: "of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty"

6. Page 7, line 13 through page 8, line 5.

Strike: section 3 in its entirety

Renumber: subsequent sections

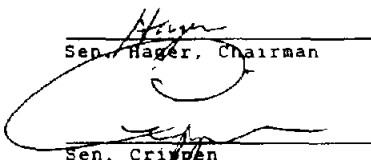
7. Page 20, line 24 through page 21, line 8.

Strike: section 13 in its entirety


And that this Conference Committee Report be adopted.

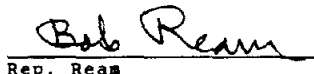
FOR THE SENATE

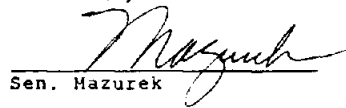
FOR THE HOUSE

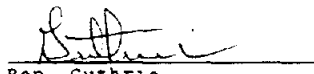
  
Sen. Hager, Chairman

  
Rep. Schye, Chairman

  
Sen. Crispin

  
Rep. Ream

  
Sen. Mazurek

  
Rep. Guthrie

ADOPT

REJECT

## 1 SENATE BILL NO. 132

2 INTRODUCED BY MAZUREK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
5 COLLECTION OF DELINQUENT PROPERTY TAXES AND THE SALE OF  
6 TAX-DEED LAND BY THE COUNTY; PROVIDING FOR SALE OTHER THAN  
7 BY AUCTION IF NO BID IS RECEIVED AT TWO SALES; LENGTHENING  
8 THE NOTIFICATION PERIOD; CHANGING WHEN PROOF OF NOTICE MUST  
9 BE FILED BY THE COUNTY CLERK AND COUNTY TREASURER; REVISING  
10 THE--PENALTY--AND--INTEREST--CHARGED--ON--DELINQUENT--TAXES;  
11 ALLOWING THE PAYMENT OF CURRENT YEAR TAXES WITHOUT THE  
12 PAYMENT OF DELINQUENT TAXES; DEFINING THE TERM "COST" FOR  
13 PURPOSES OF TITLE 15, CHAPTERS 17 AND 18; REVISING THE  
14 AMOUNT TO BE PAID BY REDEMPTION; REVISING THE DISTRIBUTION  
15 OF REDEMPTION PROCEEDS; AMENDING SECTIONS 7-8-2301,  
16 7-8-2304, 15-16-101, 15-16-102, 15-17-121, 15-18-112, AND  
17 15-18-114, 15-18-212, AND 15-18-214, MCA; AND PROVIDING AN  
18 IMMEDIATE EFFECTIVE DATE AND-APPLICABILITY-PROVISIONS."

19  
20 STATEMENT OF INTENT

21 A statement of intent is not required for this bill but  
22 is included to make clear that the purpose of this bill is  
23 to clarify the provisions of Senate Bill No. 162 (Chapter  
24 587, Laws of 1987), relating to partial payments of  
25 delinquent property taxes and to the procedures governing

1 the sale of property for delinquent taxes.

2 In addition, this bill defines the term "costs",  
3 clarifies how redemption proceeds are distributed, requires  
4 a person who redeems property to pay the taxes and other  
5 charges that have been assessed since the date of the sale  
6 of the tax lien, REVISES THE METHOD BY WHICH COUNTY TAX-DEED  
7 LAND IS SOLD, LENGTHENS THE NOTIFICATION PERIOD PRIOR TO  
8 ISSUING A TAX DEED, CHANGES THE TIME WHEN PROOF OF NOTICE  
9 MUST BE FILED, and clarifies the effect of the tax deed.

10 In 1987, the legislature enacted 15-16-102(5)  
11 authorizing the partial payment of delinquent property  
12 taxes. The attorney general in 42 Attorney General Opinion  
13 opined, however, that a partial payment made pursuant to  
14 15-16-102(5) does not toll the redemption period. In order  
15 to redeem the property, the attorney general stated that the  
16 taxpayer had to pay all of the delinquent taxes, including  
17 penalty and interest, plus all subsequently assessed taxes.

18 The intent of this bill is to reverse the attorney  
19 general's opinion. It is the intent of the legislature that  
20 each tax year for which property taxes are delinquent has a  
21 separate 36- or 18-month redemption period. If a partial  
22 payment is made for a particular tax year, a tax deed may  
23 not be issued based on that tax year because the taxes for  
24 that year have been paid.

25 For example, assume that the 1984, 1985, 1986, 1987,

1 and 1988 property taxes are delinquent. Assume further that  
 2 a 36-month redemption period applies to the property on  
 3 which the taxes have not been paid. In February 1989, the  
 4 current year, as that term is used in 15-16-102(5), is the  
 5 1988 tax year for which taxes are due on November 20, 1988,  
 6 and May 31, 1989. The 36-month redemption period has expired  
 7 for 1984, and it will expire for the 1985 taxes in the  
 8 summer of 1989. This bill contemplates that a taxpayer may  
 9 pay his 1988 taxes, even though the first half is  
 10 delinquent. After the 1988 taxes are paid, the taxpayer may  
 11 redeem the property for the 1984 tax year by paying the 1984  
 12 taxes.

13 The taxpayer may still lose his property unless he pays  
 14 his 1985 taxes before the tax deed is issued. Because the  
 15 current year and the most delinquent year are paid, the  
 16 taxpayer may redeem the property for the 1985 tax year by  
 17 paying the 1985 taxes.

18 In 1990, the taxpayer would have to pay the 1989 taxes  
 19 before he could pay the 1986 taxes to redeem the property  
 20 for the 1986 tax year. Following this pattern, the taxpayer  
 21 would be current on all taxes after 3 years.

22 As used in this statement of intent, taxes include  
 23 penalty, interest, and costs.

24  
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **SECTION 1--SECTION 15-16-101, MCA, IS AMENDED TO READ:**

2 "15-16-101--Treasurer--to--publish--notice--manner--of  
 3 publication--(1)--Within--30--days--after--the--receipt--of--the  
 4 assessment--book,--the--county--treasurer--must--publish--a--notice  
 5 specifying:

6 {a)--that--one--half--of--all--taxes--levied--and--assessed  
 7 will--be--due--and--payable--before--5--p.m.--on--November--30--next  
 8 thereafter--or--within--30--days--after--the--notice--is--postmarked  
 9 and--that--unless--paid--prior--to--that--time--the--amount--then--due  
 10 will--be--delinquent--and--will--draw--interest--at--the--rate--of--5/6  
 11 of--1%--per--month--from--and--after--such--delinquency--until--paid  
 12 and--2%--will--be--added--to--the--delinquent--taxes--as--a--penalty  
 13 provided--in--(section--3);

14 {b)--that--one--half--of--all--taxes--levied--and--assessed  
 15 will--be--due--and--payable--on--or--before--5--p.m.--on--May--31--next  
 16 thereafter--and--that--unless--paid--prior--to--that--time--the--taxes  
 17 will--be--delinquent--and--will--draw--interest--at--the--rate--of--5/6  
 18 of--1%--per--month--from--and--after--such--delinquency--until--paid  
 19 and--2%--will--be--added--to--the--delinquent--taxes--as--a--penalty  
 20 provided--in--(section--3);--and

21 {c)--the--time--and--place--at--which--payment--of--taxes--may  
 22 be--made;

23 {2)--He--must--send--to--the--last--known--address--of--each  
 24 taxpayer--written--notice,--postage--prepaid,--showing--the--amount  
 25 of--taxes--and--assessments--due--the--current--year--and--the--amount



1 ~~due-and-delinquent-for-other-years;-The-written-notice-shall~~  
 2 ~~include:-~~  
 3 ~~{a}--the-taxable-value-of-the-property;~~  
 4 ~~{b}--the-total-mill-levy-applied-to-that-taxable-value;~~  
 5 ~~{c}--the-value-of-each-mill-in-that-county;~~  
 6 ~~{d}--itemized-city--services--and--special--improvement~~  
 7 ~~district-assessments-collected-by-the-county;~~  
 8 ~~{e}--the--number--of--the--school-district-in-which-the~~  
 9 ~~property-is-located;-and~~  
 10 ~~{f}--the-amount-of-the-total-tax-due-that-is-levied--as~~  
 11 ~~city--tax;-county--tax;-state-tax;-school-district-tax;-and~~  
 12 ~~other-tax;-~~  
 13 ~~{3}--The-municipality-shall;-upon-request-of-the-county~~  
 14 ~~treasurer;-provide-the--information--to--be--included--under~~  
 15 ~~subsection-(2){d}-ready-for-mailing;-~~  
 16 ~~{4}--The--notice-in-every-case-must-be-published-once-a~~  
 17 ~~week-for-2-weeks-in-a-weekly-or-daily-newspaper-published-in~~  
 18 ~~the-county;-if-there-is-one;-or-if-there--is--not;-then--by~~  
 19 ~~posting--it--in--three-public-places;-Failure-to-publish-or~~  
 20 ~~post-notices-does-not-relieve-the-taxpayer-from-any--of--his~~  
 21 ~~liabilities;-Any--failure-to-give-notice-of-the-tax-due-for~~  
 22 ~~the-current-year-or-of-delinquent-tax-will--not--affect--the~~  
 23 ~~legality-of-the-tax;"~~

24 **SECTION 1. SECTION 15-16-102, MCA, IS AMENDED TO READ:**

25 "15-16-102. Time for payment -- penalty for

1 delinquency. All taxes levied and assessed in the state of  
 2 Montana, except assessments made for special improvements in  
 3 cities and towns payable under 15-16-103 and assessments  
 4 made on interim production and new production as provided in  
 5 Title 15, chapter 23, part 6, and payable under 15-16-121,  
 6 shall be payable as follows:

7 (1) One-half of the amount of such taxes shall be  
 8 payable on or before 5 p.m. on November 30 of each year or  
 9 within 30 days after the tax notice is postmarked, whichever  
 10 is later, and one-half on or before 5 p.m. on May 31 of each  
 11 year.

12 (2) Unless one-half of such taxes are paid on or  
 13 before 5 p.m. on November 30 of each year or within 30 days  
 14 after the tax notice is postmarked, whichever is later, then  
 15 such amount so payable shall become delinquent and shall  
 16 draw interest at the rate of 5/6 of 1% per month from and  
 17 after such delinquency until paid and 2% shall be added to  
 18 the delinquent taxes as a penalty PROVIDED IN {SECTION 3} OF  
 19 5/6 OF 1% PER MONTH FROM AND AFTER SUCH DELINQUENCY UNTIL  
 20 PAID AND 2% SHALL BE ADDED TO THE DELINQUENT TAXES AS A  
 21 PENALTY.

22 (3) All taxes due and not paid on or before 5 p.m. on  
 23 May 31 of each year shall be delinquent and shall draw  
 24 interest at the rate of 5/6 of 1% per month from and after  
 25 such delinquency until paid and 2% shall be added to the

1 delinquent-taxes-as-a-penalty PROVIDED IN {SECTION 3} OF 5/6  
 2 OF 1% PER MONTH FROM AND AFTER SUCH DELINQUENCY UNTIL PAID  
 3 AND 2% SHALL BE ADDED TO THE DELINQUENT TAXES AS A PENALTY.

4 (4) If the date on which taxes are due falls on a  
 5 holiday or Saturday, taxes may be paid without penalty or  
 6 interest on or before 5 p.m. of the next business day in  
 7 accordance with 1-1-307.

8 (5) if-the-taxes-become-delinquent, the A taxpayer may  
 9 pay his current year taxes without paying delinquent taxes.  
 10 The county treasurer may must accept a partial payment equal  
 11 to the delinquent taxes, including penalty and interest, for  
 12 one or more full taxable years, provided both halves of the  
 13 current tax year have been paid. Payment of delinquent taxes  
 14 must be applied to the taxes that have been delinquent the  
 15 longest. The payment of the current tax year is not a  
 16 redemption of the property tax lien for any delinquent tax  
 17 year."

18 NEW-SECTION--SECTION 3--INTEREST-RATE-FOR--DELINQUENT  
 19 PROPERTY--TAXES--{1}-{A}-THE-COUNTY-TREASURER-SHALL-ADD-TO  
 20 DELINQUENT-REAL-AND-PERSONAL-PROPERTY-TAXES-INTEREST--IN--AN  
 21 AMOUNT-EQUAL-TO-1/12-OF-THE-INTEREST-RATE-REPORTED-TO-HIM-BY  
 22 THE--DEPARTMENT-AS-PROVIDED-IN-SUBSECTION-(2)-FOR-EACH-MONTH  
 23 OR-PART-OF-A-MONTH-THAT-THE-TAX-IS-DELINQUENT.

24 {B}--THE-MOST-RECENT-RATE-OF-INTEREST-REPORTED--TO--THE  
 25 COUNTY--TREASURER-MUST-BE-APPLIED-TO-ALL-DELINQUENT-PROPERTY

1 TAXES, REGARDLESS OF THE DATE OF DELINQUENCY.

2 {2}--NO--LATER--THAN--NOVEMBER--1--IN--EACH--YEAR,--THE  
 3 DEPARTMENT-SHALL-NOTIFY-EACH-COUNTY-TREASURER-OF-THE-RATE-OF  
 4 INTEREST--TO--BE--CHARGED--ON-DELINQUENT-PROPERTY-TAXES--THE  
 5 RATE-OF-INTEREST-THAT-THE-DEPARTMENT--MUST--REPORT--IS--TWO  
 6 PERCENTAGE--POINTS--ABOVE--THE--PRIME-RATE-OF-MAJOR-NEW-YORK  
 7 BANKS-AS-PUBLISHED-IN-THE-WALL-STREET-JOURNAL-ON-OCTOBER--15  
 8 OF--THE--TAXABLE--YEAR,--OR--THE--FIRST--DAY--OF-PUBLICATION  
 9 FOLLOWING-OCTOBER-15-IF-THE-PRIME-RATE-OR--THE--WALL--STREET  
 10 JOURNAL-IS-NOT-PUBLISHED-ON-OCTOBER-15.

11 **Section 2.** Section 15-17-121, MCA, is amended to read:  
 12 "15-17-121. Definitions. Except as otherwise  
 13 specifically provided, when terms mentioned in Title 15,  
 14 chapters 17 and 18, are used in connection with taxation,  
 15 they are defined in the following manner:

16 (1) "Certificate" or "tax sale certificate" means the  
 17 document described in 15-17-212.

18 (2) (a) "Cost" means the cost incurred by the county  
 19 as a result of a taxpayer's failure to pay taxes when due.  
 20 It includes but is not limited to any actual out-of-pocket  
 21 expenses incurred by the county plus the administrative cost  
 22 of:

- 23 (i) preparing the list of delinquent taxes;  
 24 (ii) preparing the notice of pending tax sale;  
 25 (iii) conducting the tax sale;

1     (iv) assigning the county's interest in a tax lien to a  
 2     third party;  
 3     (v) identifying interested persons entitled to notice  
 4     of the pending issuance of a tax deed;  
 5     (vi) notifying interested persons;  
 6     (vii) issuing the tax deed; and  
 7     (viii) any other administrative task associated with  
 8     accounting for or collecting delinquent taxes.  
 9     (b) Cost does not include the costs incurred by the  
 10    owner of a property tax lien other than the county.  
 11    {2}{3} "County" means any county government and  
 12    includes those classified as consolidated governments.  
 13    {3}{4} "Property tax lien" means a lien acquired by  
 14    the payment at a tax sale of all outstanding delinquent  
 15    taxes, including penalties, interest, and costs.  
 16    {4}{5} "Purchaser" means any person, other than the  
 17    person to whom the property is assessed, who pays at the tax  
 18    sale the delinquent taxes, including penalties, interest,  
 19    and costs, and receives a certificate representing a lien on  
 20    the property or who is otherwise listed as the purchaser.  
 21    An assignee is a purchaser.  
 22    {5}{6} "Tax", "taxes", or "property taxes" means all  
 23    ad valorem property taxes, property assessments, fees  
 24    related to property, and assessments for special improvement  
 25    districts and rural special improvement districts.

1     {6}{7} "Tax sale" means:  
 2     (a) with respect to real property and improvements,  
 3     the offering for sale by the county treasurer of a property  
 4     tax lien representing delinquent taxes, including penalties,  
 5     interest, and costs; and  
 6     (b) with respect to personal property, the offering  
 7     for sale by the county treasurer of personal property on  
 8     which the taxes are delinquent or other personal property on  
 9     which the delinquent taxes are a lien."  
 10    **Section 3.** Section 15-18-114, MCA, is amended to read:  
 11    **"15-18-114. Distribution of redemption proceeds. (1)**  
 12    **When a property tax lien for which the county is listed as**  
 13    **purchaser is redeemed, the money received from the**  
 14    **redemption, including penalties and interest but not costs,**  
 15    **must be distributed to the credit of the various funds to**  
 16    **which the taxes would have originally been distributed and**  
 17    **in the same proportion as the taxes would have originally**  
 18    **been distributed.**  
 19    **(2) (a) When a property tax lien for which the**  
 20    **recorded purchaser is other than the county is redeemed, the**  
 21    **~~money--received-from-the-redemption,--including-penalties-and~~**  
 22    **~~interest-but-not--costs,--must--be--distributed~~ the county**  
 23    **treasurer shall distribute to the person listed as the**  
 24    **purchaser on the tax sale certificate and in the record kept**  
 25    **by the county treasurer the amount the purchaser paid the**

1 county for the property tax lien plus any subsequent amount  
 2 paid pursuant to 15-18-112 plus interest, as specified in  
 3 15-16-102, from the date of payment until the date of  
 4 redemption. Any money remaining after distributing  
 5 redemption proceeds to the purchaser other than the county  
 6 must be distributed pursuant to subsection (1).

7 (b) (i) The distribution must be made by certified  
 8 mail by the county treasurer to the purchaser at the address  
 9 listed on the tax sale certificate as provided in  
 10 15-17-212(1)(e).

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

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

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

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

25 (3) The publication required in subsection (2)(b)(ii)

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

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

8 **Section 4.** Section 15-18-112, MCA, is amended to read:

9 "15-18-112. Redemption from property tax lien. (1) IN  
 10 EXCEPT AS PROVIDED IN SUBSECTION (3), IN all cases where a  
 11 property tax lien has been acquired, the purchaser may pay  
 12 the subsequent taxes assessed against the property.

13 (2) Upon the redemption of the property from the  
 14 property tax lien, the redemptioner shall, in addition to  
 15 the amount for which the property tax lien was sold,  
 16 including penalties, interest, and costs, pay the subsequent  
 17 taxes ~~paid-by-the-purchaser~~ assessed, with interest and  
 18 penalty thereon, at the rate established for delinquent  
 19 taxes in 15-16-102, ~~from the date of the payment of the~~  
 20 ~~taxes, penalties, interest, and costs.~~

21 (3) THE PROPERTY TAX LIEN MAY ALSO BE REDEEMED FOR A  
 22 PARTICULAR TAX YEAR BY A PARTIAL PAYMENT OF THAT TAX YEAR AS  
 23 PROVIDED IN 15-16-102(5) IF:

24 (A) THE PROPERTY TAX LIEN FOR THE YEAR IN WHICH THE  
 25 PARTIAL PAYMENT IS MADE IS OWNED BY THE COUNTY; AND

(B) THE TAX DEED HAS NOT BEEN ISSUED PURSUANT TO 15-18-211."

**SECTION 5. 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 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 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 accrued as of the date of expiration of the period for redemption or the date upon which a tax deed was otherwise issued."

**SECTION 6. SECTION 7-8-2301, MCA, IS AMENDED TO READ:**

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

(2) ~~No A~~ A sale ~~shall may not~~ be made for a price less than the fair market value ~~thereof of the land~~, as determined and fixed by the board prior to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than \$10.

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

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

**SECTION 7. SECTION 7-8-2304, MCA, IS AMENDED TO READ:**

"7-8-2304. Terms for sale of tax-deed land. (1) Such A

1 sale ~~shall~~ must be made for cash or, in the case of real  
2 property, on such terms as that the board of county  
3 commissioners ~~may approve~~ approves.

4 (2) (a) If such the sale is made on terms, at least  
5 20% of the purchase price ~~shall~~ must be paid in cash at the  
6 date of sale and the remainder may be paid in installments  
7 extending over a period not to exceed 5 years. All such  
8 deferred payments ~~shall~~ bear interest at the rate of 8% per  
9 annum.

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

14 **SECTION 8. SECTION 15-18-212, MCA, IS AMENDED TO READ:**

15 "15-18-212. Notice -- proof of notice -- penalty for  
16 failure to notify. (1) Not more than 60 days prior to and  
17 not more than 60 days following the expiration of the  
18 redemption period provided in 15-18-111, a notice must be  
19 given as follows:

20 (a) for each property for which there has been issued  
21 to the county a tax sale certificate or for which the county  
22 is otherwise listed as the purchaser or assignee, the county  
23 clerk shall notify all persons considered interested parties  
24 in the property and the current occupant of the property, if  
25 any, that a tax deed may be issued to the county unless the

1 property tax lien is redeemed prior to the expiration date  
2 of the redemption period; or

3 (b) for each property for which there has been issued  
4 a tax sale certificate to a purchaser other than the county  
5 or for which an assignment has been made, the purchaser or  
6 assignee, as appropriate, shall notify all persons  
7 considered interested parties in the property, if any, that  
8 a tax deed will be issued to the purchaser or assignee  
9 unless the property tax lien is redeemed prior to the  
10 expiration date of the redemption period.

11 (2) (a) Except as provided in subsection (2)(b), if  
12 the county is the purchaser, no assignment has been made,  
13 and the board of county commissioners has not directed the  
14 county treasurer to issue a tax deed during the period  
15 described in subsection (1) but the board of county  
16 commissioners at a time subsequent to the period described  
17 in subsection (1) does direct the county treasurer to issue  
18 a tax deed, the county clerk must provide notification to  
19 all interested parties and the current occupant, if any, in  
20 the manner provided in subsection (1)(a). The notification  
21 required under this subsection must be made not less than 60  
22 days or more than 90 120 days prior to the date on which the  
23 county treasurer will issue the tax deed.

24 (b) If the county commissioners direct the county  
25 treasurer to issue a tax deed within 6 months after giving

1 the notice required by subsection (1)(a), no additional  
2 notice need be given.

3 (3) (a) If a purchaser other than the county or an  
4 assignee fails or neglects to give notice as required by  
5 subsection (1)(b), which failure or neglect is evidenced by  
6 failure of the purchaser or assignee to file proof of notice  
7 with the county clerk as required in subsection (7), the  
8 county treasurer shall proceed to give notice in the manner  
9 provided in subsection (1)(a).

10 (b) Notice given under this subsection (3) must be  
11 given not less than 60 days or more than 90 120 days prior  
12 to the date on which the county treasurer will issue the tax  
13 deed.

14 (c) A purchaser or assignee who fails to give notice  
15 as required by subsection (1)(b), thereby forcing  
16 notification to be given under this subsection (3), must be  
17 charged a penalty of \$500 plus all actual costs of  
18 notification incurred by the county proceeding under this  
19 subsection (3).

20 (4) The notice required under subsections (1) through  
21 (3) must be made by certified mail to each interested party  
22 and the current occupant, if any, of the property. The  
23 address to which the notice must be sent is, for each  
24 interested party, the address disclosed by the records in  
25 the office of the county clerk and, for the occupant, the

1 street address or other known address of the subject  
2 property.

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

14 (a) the name of the interested party for whom the  
15 address is unknown;

16 (b) a statement that the address of the interested  
17 party is unknown;

18 (c) a statement that the published notice meets the  
19 legal requirements for notice of a pending tax deed  
20 issuance; and

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

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

25 (a) a statement that a property tax lien exists on the

1 property as a result of a property tax delinquency;

2 (b) a description of the property on which the taxes

3 are or were delinquent, which description must be the same

4 as the description of the property on the tax sale

5 certificate or in the record described in 15-17-214(2)(b);

6 (c) the date that the property taxes became

7 delinquent;

8 (d) the date that the property tax lien attached as

9 the result of a tax sale;

10 (e) the amount of taxes due, including penalties,

11 interest, and costs, as of the date of the notice of pending

12 tax deed issuance, which amount must include a separate

13 listing of the delinquent taxes, penalties, interest, and

14 costs that must be paid for the property tax lien to be

15 liquidated;

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

17 (g) the name of the assignee if an assignment was made

18 as provided in 15-17-323;

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

20 expired;

21 (i) a statement that if all taxes, penalties,

22 interest, and costs are not paid to the county treasurer on

23 or prior to the date on which the redemption period expires

24 or on or prior to the date on which the county treasurer

25 will otherwise issue a tax deed that a tax deed may be

1 issued to the purchaser on the day following the date on

2 which the redemption period expires or on the date on which

3 the county treasurer will otherwise issue a tax deed; and

4 (j) the business address and telephone number of the

5 county treasurer who is responsible for issuing the tax

6 deed.

7 (7) ~~in--all--cases,--proof~~ Proof of notice in whatever

8 manner given must be filed ~~by--the--county--clerk,--county~~

9 ~~treasurer,--purchaser,--or--assignee,--as--appropriate,~~ with the

10 county clerk ~~not--less--than--30--days--following--the--mailing--or~~

11 ~~publication--of--the--notice.~~ If the purchaser or assignee is

12 other than the county, the proof of notice must be filed

13 with the county clerk within 30 days of the mailing or

14 publishing of the notice. If the purchaser or assignee is

15 the county or if the county treasurer is required to give

16 notice pursuant to subsection (3), the proof of notice must

17 be filed before the issuance of the tax deed under this

18 chapter. Once filed, the proof of notice is prima facie

19 evidence of the sufficiency of the notice.

20 (8) A county or any officer of a county may not be

21 held liable for any error of notification."

22 **NEW SECTION. Section 9. Extension of authority.** Any

23 existing authority to make rules on the subject of the

24 provisions of [this act] is extended to the provisions of

25 [this act].



1        NEW SECTION. Section 10. Effective date. [This act]  
2        is effective on passage and approval.

3        NEW SECTION. --SECTION 13. --SPECIAL APPLICABILITY. --THE  
4        PROVISIONS--IN--{SECTIONS 1 THROUGH 3} REGARDING THE CHANGES  
5        IN INTEREST ON DELINQUENT TAXES APPLY:

6        {1}--TO REAL AND PERSONAL PROPERTY TAXES--THAT--BECOME  
7        DUE ON OR AFTER NOVEMBER 30, 1989, AND THAT REMAIN UNPAID ON  
8        OR AFTER NOVEMBER 30, 1989, AND

9        {2}--RETROACTIVELY,--WITHIN--THE MEANING OF 1-2-109, TO  
10       REAL AND PERSONAL PROPERTY TAXES THAT BECAME--DUE--PRIOR--TO  
11       NOVEMBER--30,--1989,--AND--THAT--REMAIN--UNPAID--ON OR AFTER  
12       NOVEMBER 30, 1989.

-End-