



AN ACT GENERALLY REVISING THE COLLECTION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES; PROVIDING FOR THE SUSPENSION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES, INTEREST, AND PENALTIES BY THE GOVERNING BODY OF A COUNTY; AUTHORIZING GROSS PROCEEDS OBLIGATIONS TO BE SECURED BY REVENUE FROM INSTALLMENT PAYMENTS; AMENDING SECTIONS 7-6-1101, 7-6-1102, 7-6-1103, 7-6-1105, 7-6-1111, 7-6-1112, 7-6-1115, 15-16-102, 15-16-119, 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404, 15-16-801, 15-17-122, 15-17-911, AND 15-23-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

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

Section 1. Suspension of collection of coal gross proceeds taxes, interest, and penalties -- local government discretion -- payment plan. (1) After receiving written consent from the department, the governing body of a county or consolidated local government unit may suspend collection of delinquent coal gross proceeds taxes, interest, and penalties and enter into a payment plan that allows a coal producer to make installment payments of the delinquent coal gross proceeds taxes, interest, and penalties.

(2) The suspension must be in the best interest of the people of the county or consolidated local government. The governing body may refuse to suspend delinquent coal gross proceeds taxes, interest, and penalties if it determines that the suspension is not in the best interest of the county.

(3) In order for the governing body to grant a suspension and allow installment payments pursuant to this section, after receiving written consent from the department it shall adopt a resolution:

- (a) providing notice, as set forth in 7-1-2121;
- (b) holding a public hearing; and
- (c) notifying the governor's office of budget and program planning and the department of revenue

about a proposed action to suspend delinquent coal gross proceeds taxes, interest, and penalties.

(4) The governor's office of budget and program planning and the department of revenue shall consult with the governing body regarding the impact on programs that would result from the proposed granting of the suspension, and the governing body shall consider the information before reaching a final decision.

(5) The resolution must state that the suspension is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the coal gross proceeds taxpayer as required by the local government.

(6) Any taxing authority affected by the suspension may issue gross proceeds obligations under Title 7, chapter 6, part 11. The governing body of a county or consolidated local government unit may require a coal producer to pledge additional collateral to secure payment as consideration for a payment plan.

Section 2. Application of suspension and installment arrangement. The suspension of delinquent coal gross proceeds taxes pursuant to [section 1] applies to the portion allocated to the state, county, and school district shares in the same manner as the distributions are calculated in 15-23-703.

Section 3. Section 7-6-1101, MCA, is amended to read:

"7-6-1101. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Governing body" means the legislative authority of a local government, by whatever name designated.

(2) "Gross proceeds obligations" are tax anticipation notes or revenue anticipation notes that mature at a time not to exceed 5 years from the date issued and are secured by the collection of certain coal gross proceeds taxes, interest, and penalties pursuant to [section 1].

~~(2)~~(3) "Local government" means any city, town, county, consolidated city-county, or school district.

~~(3)~~(4) "Ordinance" means an ordinance or resolution of the local government.

~~(4)~~(5) "Short-term obligations" are tax anticipation notes or revenue anticipation notes that mature at a time not to exceed 13 months from the date issued."

Section 4. Section 7-6-1102, MCA, is amended to read:

"7-6-1102. ~~Short-term~~ Gross proceeds obligations or short-term obligations authorized. A local government may issue and sell gross proceeds obligations or short-term obligations as provided in this part in anticipation of taxes or revenues budgeted to be received and appropriated for expenditure during the fiscal year in which the obligations are issued. The proceeds of the obligations may be expended solely for the purposes for which the taxes or revenues were appropriated and for costs and expenses incident to the issuance and sale thereof. Pending expenditure, the proceeds may be invested as provided by law. The principal and interest on short-term obligations must be repaid from the money derived from the taxes and revenues in anticipation of which they were issued, income from investment of the proceeds of the obligations, and any money otherwise legally available for this purpose."

Section 5. Section 7-6-1103, MCA, is amended to read:

"7-6-1103. Issuance and sale of gross proceeds obligations and short-term obligations -- procedure. (1) The issuance of gross proceeds obligations or short-term obligations must be authorized by an ordinance of the governing body that fixes the maximum amount of the obligations to be issued or, if applicable, the maximum amount that may be outstanding at any time, the maximum term and interest rate or rates to be borne by the obligations, the manner of sale, the maximum price, the form including bearer or registered as provided in Title 17, chapter 5, part 11, the terms, the conditions, and the covenants of the obligations. ~~Short-term~~ Gross proceeds obligations or short-term obligations issued under this section must bear fixed or variable rate or rates of interest that the governing body considers to be in the best interests of the local government. Variable rates of interest may be fixed in relationship to the standard or index that the governing body designates.

(2) The governing body may sell the gross proceeds obligations or short-term obligations at par or at a discount:

- (a) at private negotiated sale to the board of investments as provided in Title 17, chapter 5, part 16; or
- (b) at public sale to any other person. Any public sale must be noticed as provided in 7-7-4434."

Section 6. Section 7-6-1105, MCA, is amended to read:

"7-6-1105. Refunding and renewal of short-term obligations. (1) Gross proceeds obligations may, from time to time, be renewed or refunded by the issuance of gross proceeds obligations. Gross proceeds obligations may not be renewed or refunded to a date later than 5 years from the end of the fiscal year in which the original short-term obligation was issued.

(2) Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations. Short-term obligations may not be renewed or refunded to a date later than 6 months from the end of the fiscal year in which the original short-term obligation was issued."

Section 7. Section 7-6-1111, MCA, is amended to read:

"7-6-1111. ~~Short-term~~ Gross proceeds and short-term obligations -- security. (1) Gross proceeds obligations are not general obligations of the local government and are collectible only from the collection of coal gross proceeds taxes, interest, and penalties pursuant to [section 1].

(2) Short-term obligations are general obligations of the local government and must be secured by the taxes and revenues in anticipation of which the short-term obligations were issued and in such other manner as set forth in the ordinance authorizing their issuance."

Section 8. Section 7-6-1112, MCA, is amended to read:

"7-6-1112. Funds for payment of principal and interest. For the purpose of providing funds for the payment of principal of and interest on gross proceeds obligations or short-term obligations, the governing body may authorize the creation of a special fund or funds and provide for the payment from authorized sources to such funds of amounts sufficient to meet principal and interest requirements."

Section 9. Section 7-6-1115, MCA, is amended to read:

"7-6-1115. Local government debt limitations not to apply to short-term obligations. The debt limitations for local governments in Title 7, chapter 7, and Title 20, chapter 9, do not apply to gross proceeds obligations or short-term obligations issued in accordance with this part."

Section 10. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606, [section 1], or Title 15, chapter 24, part 17, 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, are payable as follows:

(1) One-half of the taxes are 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 are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the 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, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must 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 are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) 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.

(b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-305 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes currently due for the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be

waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

Section 11. Section 15-16-119, MCA, is amended to read:

"15-16-119. Taxation of personal property -- duty of department -- collection by department of administration. (1) If the taxes on personal property are not a lien upon real property in the same county in an amount sufficient to secure the payment of the taxes, the department shall assess the property and compute the tax for the assessment. The department shall notify the county treasurer of the assessment and the amount of taxes due. To compute the taxes due on the personal property, the department shall use the appropriate mills levied during the previous year.

(2) The county treasurer shall notify the person against whom the tax is assessed and any other person having a properly perfected security interest of record of the amount and due date of the tax. The tax is due and payable 30 days from the date the treasurer mails the notice. Taxes not paid within 30 days become delinquent, and the penalty and interest provisions of 15-16-101 must be applied.

(3) The county treasurer shall, after the tax becomes delinquent, either proceed under subsection (7) or levy upon and take into possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer. The county treasurer may proceed to sell the property in the same manner as property is sold on execution by the sheriff.

(4) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the levy and sale. The sheriff, undersheriff, or any deputy sheriff of the county is ex officio a deputy county treasurer for sale purposes and may receive payment of the taxes, penalty, and interest. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) The county treasurer and the treasurer's sureties are liable on the treasurer's official bond for all taxes on personal property remaining uncollected by reason of the willful failure and neglect of the treasurer to

levy upon and sell the personal property for the taxes levied upon the property, including penalty and interest.

(6) Failure by the sheriff, undersheriff, or deputy sheriff acting as a deputy county treasurer to make the levy and sale results in a levy against the official bond of the sheriff, undersheriff, or deputy sheriff for payment of the delinquent tax, including penalty and interest.

(7) The county treasurer shall give the board of county commissioners a list of delinquent personal property taxpayers and the taxes due. The board may order the county treasurer to verify the list under oath and to send a copy of the list to the department of administration for collection under Title 17, chapter 4, part 1.

(8) The provisions of this section do not apply to property for which delinquent coal gross proceeds taxes or property taxes have been suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17."

Section 12. Section 15-16-301, MCA, is amended to read:

"15-16-301. Delinquent list -- list of taxes suspended or canceled -- real property. (1) On the third Monday of June of each year, the county treasurer shall make a report to the county clerk and recorder in detail, showing the amount of taxes collected and a complete list of all persons and property then owing taxes. The report may be submitted to the county clerk and recorder electronically.

(2) The county treasurer shall make a separate report to the county clerk and recorder showing the amount of taxes suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17, during the 1-year period immediately preceding the date of the report.

(3) The county clerk and recorder shall compare the reports with the books of the county treasurer and shall keep a record of the reports in the county clerk and recorder's office."

Section 13. Section 15-16-303, MCA, is amended to read:

"15-16-303. Treasurer charged with delinquent taxes. After settlement with the county treasurer as prescribed in 15-16-302, the county clerk and recorder ~~must~~ shall charge the treasurer with the amount of taxes due on the delinquent tax list, minus taxes suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17, and within 3 days thereafter deliver the list, duly certified, to the county treasurer."

Section 14. Section 15-16-401, MCA, is amended to read:

"15-16-401. Tax due as a judgment or lien. Unless suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17, every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal property in the possession of the person assessed from and after the date the assessment is made. The county treasurer may issue a writ of execution for delinquent personal property taxes, unless suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17, and deliver the writ to the sheriff of any county in the state in which the property or some part of the property is located. Writs of execution may be issued at the same time to different counties. The sheriff shall proceed upon the writ in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment of the taxes."

Section 15. Section 15-16-402, MCA, is amended to read:

"15-16-402. Tax on personal property lien on realty -- separate assessment -- filing of mortgage satisfaction. (1) The tax due on personal property is a prior lien upon the personal property. The lien has precedence over any other lien, claim, or demand upon the personal property. Except as provided in subsection (2), the tax on personal property is also a lien upon the real property of the owner of the personal property on and after January 1 of each year.

(2) The taxes on personal property based on a taxable value up to and including \$10,000 are a first and prior lien upon the real property of the owner of the personal property. Taxes on personal property based on a taxable value in excess of \$10,000 are a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon the real property appearing of record in the office of the clerk and recorder of the county where the real property is situated, at or before the time the personal property tax attached to the real property, has filed a notice as provided in subsection (3). If the notice is filed, the personal property taxes on the taxable value in excess of \$10,000 are not a lien upon the owner's real property. The county treasurer shall, at the request of a mortgagee or lienholder, issue a statement of the personal

property tax due on the taxable value up to and including \$10,000. Personal property taxes on a taxable value up to \$10,000 may be paid, redeemed from a tax lien sale as provided by law, or discharged separately from any personal property taxes in excess of that amount. Payment of the taxes on a taxable value up to \$10,000, as provided in this subsection, discharge the tax lien upon the personal property of the owner to the extent of the payment in the order that the person paying the tax directs.

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

- (a) the name and address of the mortgagee and holder of the mortgage or lien;
- (b) the name of the reputed owner of the land;
- (c) the description of the land;
- (d) the date of record and expiration of the mortgage or lien;
- (e) the amount of the mortgage or lien; and
- (f) a statement that the holder claims the benefit of the provisions of this section.

(4) The notice is ineffectual as to any taxes that are a lien upon real property prior to the filing of the notice as provided in subsection (3).

(5) A holder of a mortgage on real property upon which personal property taxes are a lien under this section, when the owner of the real property and personal property has failed to pay taxes due on the real property and personal property for 1 or more years, may file with the department a written request to have the personal property and real property of the owner separately assessed. The request must be made by certified mail at least 10 days prior to January 1 in the year for which property is assessed. Upon receipt by the department of the request, the department shall make a separate assessment of real and personal property of the owner of the property, and the personal property taxes may not be a lien upon the mortgaged real property. The personal property taxes must be collected in the manner provided by law for other personal property.

(6) The holder of a mortgage or lien upon real property who files a certificate of satisfaction and the proof and acknowledgment of filing the certificate, as provided for in 71-1-211, shall file a copy of the certificate and the proof and acknowledgment with:

- (a) the county treasurer if the holder has filed a notice under subsection (3); and

(b) the department if the holder has filed a written request under subsection (5).

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17."

Section 16. Section 15-16-404, MCA, is amended to read:

"15-16-404. County lien on moneys of taxpayer. The county has a general lien, dependent on possession, upon any moneys in its possession belonging to any taxpayer for any amounts due the county for any delinquent personal property taxes that are not a lien on real estate of the taxpayer and that are not delinquent personal property taxes suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17. Due notice shall be given the lienholder, if known."

Section 17. Section 15-16-801, MCA, is amended to read:

"15-16-801. Payment of suspended delinquent property taxes. If collection of delinquent coal gross proceeds or property taxes has been suspended in accordance with [section 1] or Title 15, chapter 24, part 17, but the coal gross proceeds taxpayer or purchaser of the commercial property fails to comply with any of the provisions of the resolution granting suspension under [section 1] or Title 15, chapter 24, part 17, the governing body that adopted the resolution may revoke the suspension. Upon revocation, the tax lien for the delinquent taxes, penalties, and interest is reinstated. Penalties and interest are to be calculated from the date of delinquency as if there had been no suspension of collection of the delinquent taxes."

Section 18. Section 15-17-122, MCA, is amended to read:

"15-17-122. Notice of pending attachment of tax lien. (1) The county treasurer shall publish or post a notice of a pending attachment of a tax lien. The notice must include:

(a) the specific date on which the county will attach a property tax lien to property on which the taxes are delinquent; and

(b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the specified date, a tax lien will be attached and may be assigned to a third party.

(2) The notice required in subsection (1) must also include a statement that a list of each property on which the taxes are delinquent is on file in the office of the county treasurer and open to inspection. The list must include:

- (a) the name and address of the person to whom the delinquent taxes are assessed;
- (b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and
- (c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be given as provided in 7-1-2121. The notice must be first published or posted on or before the last Monday in June.

(4) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17."

Section 19. Section 15-17-911, MCA, is amended to read:

"15-17-911. Sale of personal property for delinquent taxes -- fee -- disposition of proceeds -- unsold property. (1) The tax on personal property may be collected and payment enforced by the seizure and sale of any personal property in the possession of the person assessed. Seizure and sale are authorized at any time after the date the taxes become delinquent or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to one method does not bar the right to resort to any other method. Any of the methods provided may be used until the full amount of the tax is collected.

(2) The provisions of 15-16-119 and this section apply to a seizure and sale under subsection (1).

(3) (a) A sale under subsection (1) must be:

- (i) conducted at public auction;
- (ii) conducted under the provisions of 25-13-701(1)(b); and
- (iii) noticed as a treasurer's sale of personal property seized for taxes.

(b) The return on the levy and sale must be signed by the sheriff or deputy sheriff as ex officio deputy county treasurer.

(4) (a) The county treasurer shall charge \$25 or a fee set by the county commissioners, plus the cost, as defined in 15-17-121, of the collection of delinquent personal property taxes. The cost must be assessed against the delinquent taxpayer and is in addition to any sheriff's fees, mileage, and costs charged under

subsection (4)(b).

(b) The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) After sale of the property, the proceeds of the sale must be used first to reimburse the county for all costs and charges incurred in seizing the property and conducting the sale. Any excess, up to the total amount of the taxes owed, must be distributed proportionally to the funds that would have received the taxes if they had been paid before becoming delinquent. Any remaining excess, up to the amount of the penalty and interest owed, must then be distributed proportionally to the fund that would have received the penalty and interest if they had been paid in full.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it.

(7) Any property seized for the purpose of liquidating a delinquency by a tax lien sale that remains unsold following a sale may be left at the place of sale at the risk of the owner.

(8) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17.

(9) The county commission, in its discretion, may cancel any personal property taxes, including penalty, interest, costs, and charges that remain unsatisfied after the property upon which the taxes were assessed had been seized and sold. If the taxes are canceled, one copy of the order of cancellation must be filed with the county clerk and recorder and one copy with the county treasurer."

Section 20. Section 15-23-704, MCA, is amended to read:

"15-23-704. Lien of tax -- enforcement of payment. The tax on gross proceeds from coal must be levied as taxes on other forms of property, and this tax and the severance tax on coal production are each a

lien upon the coal mine and a prior lien upon all personal property and improvements used to produce the coal. ~~These~~ Unless suspended under the provisions of [section 1], taxes may be collected by the seizure and sale of the property used as collateral in consideration of a payment plan and personal property on which the tax is a lien as provided under 15-16-119 and 15-17-911."

Section 21. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 23, part 7, and the provisions of Title 15, chapter 23, part 7, apply to [sections 1 and 2].

Section 22. Effective date. [This act] is effective on passage and approval.

Section 23. Retroactive applicability -- applicability. [This act] applies:

- (1) retroactively, within the meaning of 1-2-109, to installment payments of delinquent coal gross proceeds taxes, interest, and penalties that were due on or before [the effective date of this act]; and
- (2) to installment payments of delinquent coal gross proceeds taxes, interest, and penalties due after [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 154, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 154

INTRODUCED BY J. SMALL

AN ACT GENERALLY REVISING THE COLLECTION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES; PROVIDING FOR THE SUSPENSION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES, INTEREST, AND PENALTIES BY THE GOVERNING BODY OF A COUNTY; AUTHORIZING GROSS PROCEEDS OBLIGATIONS TO BE SECURED BY REVENUE FROM INSTALLMENT PAYMENTS; AMENDING SECTIONS 7-6-1101, 7-6-1102, 7-6-1103, 7-6-1105, 7-6-1111, 7-6-1112, 7-6-1115, 15-16-102, 15-16-119, 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404, 15-16-801, 15-17-122, 15-17-911, AND 15-23-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.