

SENATE BILL NO. 77

INTRODUCED BY N. SWANDAL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE INSURANCE REQUIREMENTS IN TAX DEED LAWS; REVISING NOTICE REQUIREMENTS; AND AMENDING SECTION 15-18-212, MCA."

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

Section 1. 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 lien sale certificate or for which the county is otherwise listed as the purchaser or assignee, the county clerk and recorder shall notify the parties as required in subsection (4) 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 lien 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 the parties as required in subsection (4), 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, an assignment has not 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 and recorder shall provide notification to the parties as required in subsection (4) 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 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), additional notice need not 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) and the failure or neglect is evidenced by failure of the purchaser or assignee to file proof of notice with the county clerk and recorder as required in subsection (8), the county treasurer shall notify the purchaser or assignee of the obligation to give notice under subsection (1)(b). The notice of obligation may be sent by certified mail, return receipt requested, to the purchaser or assignee at the address contained on the tax lien sale certificate provided for in 15-17-212 or on the assignment form provided for in 15-17-323.

(b) If within 120 days after the county treasurer mails the notice of obligation the purchaser or assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (8), the county treasurer shall cancel the property tax lien evidenced by the tax lien sale certificate or the assignment. Upon cancellation of the property tax lien, the county treasurer shall file or record with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(4) (a) The notice required under subsections (1) and (2) must be made by certified mail, return receipt requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a ~~property title~~ litigation guarantee, provided that the guarantee:

(i) ~~the guarantee~~ has been approved by the insurance commissioner and issued by a licensed title insurance producer; ~~and~~

(ii) ~~the guarantee~~ was ordered on the property by the person required to give notice; ~~and~~

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(b) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the ~~title~~ litigation guarantee 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 120 days prior to the date upon which the county treasurer will otherwise issue a tax deed, whichever is appropriate, commence publishing once a week for 2 successive weeks, in the official newspaper of the county or another 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 party for whom the address is unknown;

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

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

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

4 (6) The notices required by subsections (1), (2), and (5) must contain the following:

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

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

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

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

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

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

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

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

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

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

22 (7) The amount of interest and costs provided for in subsection (6)(e) continues to accrue until the date
23 of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the
24 county treasurer as of the date of payment.

25 (8) Proof of notice in whatever manner given must be filed with the county clerk and recorder. If the
26 purchaser or assignee is other than the county, the proof of notice must be filed with the county clerk and recorder
27 within 30 days of the mailing or publishing of the notice. If the purchaser or assignee is the county, the proof of
28 notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima
29 facie evidence of the sufficiency of the notice.

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

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