

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 517

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO LOCAL IMPROVEMENT DISTRICT ASSESSMENTS; PROVIDING LEGISLATIVE  
2 INTENT; AMENDING SECTION 50-1715, IDAHO CODE, TO REVISE PROVISIONS RE-  
3 GARDING THE COLLECTION OF DELINQUENT INSTALLMENT PAYMENTS AND TO MAKE  
4 TECHNICAL CORRECTIONS; AMENDING SECTION 50-1721, IDAHO CODE, TO REVISE  
5 PROVISIONS REGARDING DELINQUENT ASSESSMENTS AND TO MAKE TECHNICAL COR-  
6 RECTIONS; AMENDING SECTION 63-201, IDAHO CODE, TO REVISE A DEFINITION  
7 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-1009, IDAHO  
8 CODE, TO REVISE PROVISIONS REGARDING THE EFFECT OF A TAX DEED AS A CON-  
9 VEYANCE; AND DECLARING AN EMERGENCY.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to  
13 clarify and confirm the scope and effect of Idaho's statutes relating to the  
14 treatment of delinquent local improvement district assessments certified  
15 to the tax collector for collection. Section 50-1715, Idaho Code, permits,  
16 as an alternative method of collection to the issuance of delinquent cer-  
17 tificates under the Local Improvement District Code, the certification of  
18 delinquent assessment installments to the tax collector. Once certified,  
19 said assessments are to be extended on the tax rolls and collected as are  
20 property taxes. Collection of delinquent property taxes is governed by the  
21 provisions of chapter 10, title 63, Idaho Code. By this legislation, the  
22 Idaho Legislature seeks to clarify any ambiguity that may exist regarding  
23 the treatment and interpretation of delinquent assessments certified to the  
24 tax collector pursuant to section 50-1715, Idaho Code, and to confirm the  
25 interplay between the Local Improvement District Code and the property tax  
26 statutes with respect to any such assessments so certified. It is and has  
27 always been the intent of the Legislature that delinquent local improve-  
28 ment district assessments certified to the tax collector for collection be  
29 governed by the collection provisions of chapter 10, title 63, Idaho Code,  
30 and not the collection provisions of the Local Improvement District Code.  
31 As context should have made evident, said delinquent assessments are to be  
32 treated in the same manner and to the same effect as delinquent property  
33 taxes, including with respect to collection, satisfaction, and extinguish-  
34 ment thereof. The purpose of section 63-1009, Idaho Code, has always been to  
35 convey title absolutely free and clear of liens and mortgages of a monetary  
36 nature; including, specifically, delinquent local improvement district  
37 assessments certified to the tax collector for collection pursuant to sec-  
38 tion 50-1715, Idaho Code. As with property taxes, a tax deed conveys title  
39 to the grantee free and clear of all certified delinquent local improvement  
40 district assessments for which the lien is foreclosed and in satisfaction of  
41 which the property is sold. It was never the intent of the Legislature for  
42 such certified local improvement district assessment amounts to survive the  
43 issuance of a tax deed in a manner inconsistent with the treatment of prop-

1 erty taxes. Sections 50-1721 and 63-1009, Idaho Code, are being amended to  
2 clarify and confirm this intent. Section 50-1715, Idaho Code, imposes a two  
3 percent (2%) penalty on any local improvement district assessment install-  
4 ment that is not paid within twenty (20) days from the date it is due. It was  
5 never the intent of the Legislature for the tax collector to impose a second  
6 two percent (2%) late charge on the same delinquency upon certification of  
7 the same to the tax collector. The definition of "late charge" in section  
8 63-201(12), Idaho Code, has been amended to clarify and confirm this intent.

9 SECTION 2. That Section 50-1715, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 50-1715. CONFIRMATION OF ASSESSMENT ROLL. (1) After said hearing,  
12 the council shall pass an ordinance confirming the assessment roll as cor-  
13 rected by ~~them~~ the council in relation to the benefits accruing thereon as  
14 a result of the improvements being made. The ordinance shall be the final  
15 determination of the regularity, validity and correctness of the assessment  
16 roll, of each assessment contained therein, and of the amount thereof levied  
17 on each lot or parcel of land, which ordinance shall contain a finding that  
18 each lot or parcel of land is benefited to the amount of assessment levied  
19 thereon subject to appeal as provided herein. Upon passage of the ordi-  
20 nance, the clerk shall certify and file the confirmed assessment roll with  
21 the treasurer of the municipality and the assessments therein shall be due  
22 and payable to the treasurer within thirty (30) days from the date of the  
23 adoption of the ordinance. The confirmed assessment roll and the assess-  
24 ments made by the confirmed assessment roll shall be a lien upon the property  
25 assessed from and after the date the following notice is recorded. Immedi-  
26 ately upon passage of the confirming ordinance, the clerk shall file with  
27 the county recorder a notice which shall contain the date of the confirming  
28 ordinance and a description of the area or boundaries of the district. If  
29 any assessment is not paid in full within said thirty (30) day period, such  
30 assessment shall become delinquent and shall be collected in the same man-  
31 ner and with the same penalties and interest added thereto as hereinafter  
32 provided for delinquent assessments. The council may, in the alternative,  
33 determine to make assessments unpaid at the end of said thirty (30) day pe-  
34 riod payable in installments and to issue and sell registered warrants or  
35 installment bonds payable from such unpaid installments as herein provided.  
36 If the council chooses to do so, it shall provide in said ordinance that any  
37 property owner who has not paid his assessment in full within said thirty  
38 (30) day period will be conclusively presumed to have chosen to pay the same  
39 in installments, and the ordinance shall then establish the number of years  
40 said installments shall run, the dates of payment of the same, and the rate  
41 of interest that the unpaid assessments shall bear, which rate shall not be  
42 less than the rate of interest borne by the warrants or bonds payable there-  
43 from, said interest running from the date of the passage of the assessment  
44 ordinance, irrespective of the date of its official publication, and being  
45 payable at the same time and place as the installment payments of assess-  
46 ments. Said installments shall be due and payable in not to exceed thirty  
47 (30) years to the treasurer or other proper officer as provided by the coun-  
48 cil. The ordinance shall establish the due date of the first installment  
49 payment and that the local or special assessments may be carried on the rolls

1 of the municipality and collected as hereinafter provided. If any install-  
 2 ment is not paid within twenty (20) days from the date it is due, the same  
 3 shall become delinquent and the treasurer shall add a penalty of two ~~per cent~~  
 4 percent (2%) thereto. In addition to any other method of collection provided  
 5 in this code, the council may certify delinquent installments to the tax  
 6 collector, and when so certified they shall be extended on the tax rolls and  
 7 collected as are property taxes, pursuant to the provisions of chapter 10,  
 8 title 63, Idaho Code. In the event that any property owner should choose to  
 9 pay his assessment in full after such time as it has been conclusively pre-  
 10 sumed that he will pay in installments, such payment in full shall include  
 11 the full amount of the unpaid assessment plus penalties and all interest  
 12 payable on the same plus additional interest thereon at the rate provided in  
 13 the bonds from the date of the last installment due to one (1) year after the  
 14 next interest date of said bonds.

15 (2) Any errors in description, ownership of property, or amounts in any  
 16 assessment ordinance adopted pursuant to this section may be corrected by  
 17 the passage of an amendatory ordinance, which need set forth only the cor-  
 18 rected descriptions or amounts. The passage of such amendatory ordinance  
 19 shall serve only to postpone the thirty (30) day period for payment in full  
 20 of the assessments actually affected by such amendatory ordinance, and the  
 21 due dates of installments of such affected assessments shall be the same as  
 22 the due dates of installments not affected. Notice of any assessments so af-  
 23 fected shall be given in the same manner as hereinafter provided for the giv-  
 24 ing of notice of assessments.

25 SECTION 3. That Section 50-1721, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 50-1721. LIEN OF ASSESSMENT -- FORECLOSURE. (1) Assessments levied to  
 28 pay the cost and expense of any improvement authorized by the provisions of  
 29 this code, or any law of this state, shall constitute a lien upon and against  
 30 the property upon which such assessment or assessments are made and levied  
 31 from and after the date upon which the ordinance levying such assessment or  
 32 assessments is passed, which lien shall be superior to the lien of any mort-  
 33 gage or other encumbrance, whether prior in time or not, and shall consti-  
 34 tute such lien until paid, and until paid, such lien shall not, except as oth-  
 35 erwise provided in this section, be subject to extinguishment ~~for any rea-~~  
 36 ~~son whatsoever,~~ including but not limited to extinguishment by reason of the  
 37 sale of the property assessed on account of the nonpayment of general taxes  
 38 or the conveyance of such property by any means to the United States of Amer-  
 39 ica, or any agency thereof, the state of Idaho, or any county, city, school  
 40 district, ~~junior~~ community college district, or other public body, agency  
 41 or taxing unit in said state. When bonds have not been issued and said as-  
 42 sessments made payable in installments as herein provided, such assessments  
 43 shall be collected, or the property therein shall be foreclosed and sold for  
 44 such assessments and costs, in a suit for that purpose by the municipality.  
 45 Delinquent assessments certified to the tax collector for collection as pro-  
 46 vided in section 50-1715, Idaho Code, shall be governed by the provisions  
 47 of chapter 10, title 63, Idaho Code. All provisions of chapter 10, title  
 48 63, Idaho Code, specifically including those governing collection, satis-  
 49 faction, and extinguishment of delinquent amounts, shall apply to certified

1 delinquent assessments in the same manner and to the same effect as delin-  
 2 quent property taxes.

3 (2) Such suit shall be in the name of the municipality as plaintiff and  
 4 against any one (1) or more owners of property failing to pay such assessment  
 5 or assessments as defendants. In any such proceedings where the court try-  
 6 ing the same shall be satisfied that the improvements have been made or have  
 7 been contracted for, which according to the true intent of this code would be  
 8 properly chargeable to such property, a recovery shall be permitted and the  
 9 lien enforced to the extent of the cost and expenses of the improvement which  
 10 would be chargeable on such property notwithstanding any informality, ir-  
 11 regularity or defect in any of the proceedings of such municipality or any of  
 12 its officers, and such property shall be ordered sold for the payment of the  
 13 assessment or assessments against it and the costs and expenses of such suit,  
 14 including reasonable attorney's fees, to be fixed by the court and prorated  
 15 to each separate piece of property.

16 SECTION 4. That Section 63-201, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18 63-201. DEFINITIONS. As used for property tax purposes in chapters 1  
 19 through 23, title 63, Idaho Code, the terms defined in this section shall  
 20 have the following meanings, unless the context clearly indicates another  
 21 meaning:

22 (1) "Appraisal" means an estimate of property value for property tax  
 23 purposes.

24 (a) For the purpose of estimated property value to place the value on  
 25 any assessment roll, the value estimation must be made by the assessor  
 26 or a certified property tax appraiser.

27 (b) For the purpose of estimating property value to present for an ap-  
 28 peal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code,  
 29 the value estimation may be made by the assessor, a certified property  
 30 tax appraiser, a licensed appraiser, or a certified appraiser or any  
 31 party as specified by law.

32 (2) "Bargeline" means those water transportation tugs, boats, barges,  
 33 lighters and other equipment and property used in conjunction with waterways  
 34 for bulk transportation of freight or ship assist.

35 (3) "Cogenerators" means facilities that produce electric energy, and  
 36 steam or forms of useful energy that are used for industrial, commercial,  
 37 heating or cooling purposes.

38 (4) "Collection costs" are amounts authorized by law to be added after  
 39 the date of delinquency and collected in the same manner as property tax.

40 (5) "Credit card" means a card or device, whether known as a credit card  
 41 or by any other name, issued under an arrangement pursuant to which a card is-  
 42 suer gives to a cardholder the privilege of obtaining credit from the card  
 43 issuer or other person in purchasing or leasing property or services, ob-  
 44 taining loans, or otherwise.

45 (6) "Debit card" means any instrument or device, whether known as a  
 46 debit card or by any other name, issued with or without a fee by an issuer for  
 47 the use of the cardholder in depositing, obtaining or transferring funds.

1 (7) "Delinquency" means any property tax, special assessment, fee,  
2 collection cost, or charge collected in the same manner as property tax, that  
3 has not been paid in the manner and within the time limits provided by law.

4 (8) "Electronic funds transfer" means any transfer of funds that is  
5 initiated by electronic means, such as an electronic terminal, telephone,  
6 computer, ATM or magnetic tape.

7 (9) "Fixtures" means those articles that, although once movable chat-  
8 tels, have become accessory to and a part of improvements to real property  
9 by having been physically incorporated therein or annexed or affixed thereto  
10 in such a manner that removing them would cause material injury or damage to  
11 the real property, the use or purpose of such articles is integral to the use  
12 of the real property to which it is affixed, and a person would reasonably  
13 be considered to intend to make the articles permanent additions to the real  
14 property. "Fixtures" includes systems for the heating, air conditioning,  
15 ventilation, sanitation, lighting and plumbing of such building.

16 (10) "Floating home" means a floating structure that is designed and  
17 built to be used, or is modified to be used, as a stationary waterborne resi-  
18 dential dwelling.

19 (11) "Improvements" means all buildings, structures, manufactured  
20 homes, as defined in section 39-4105(8), Idaho Code, mobile homes as defined  
21 in section 39-4105(9), Idaho Code, and modular buildings, as defined in  
22 section 39-4301(10), Idaho Code, erected upon or affixed to land, fences,  
23 water ditches constructed for mining, manufacturing or irrigation purposes,  
24 fixtures, and floating homes, whether or not such improvements are owned  
25 separately from the ownership of the land upon or to which the same may be  
26 erected, affixed or attached. The term "improvements" also includes all  
27 fruit, nut-bearing and ornamental trees or vines not of natural growth,  
28 growing upon the land, except nursery stock.

29 (12) "Late charge" means a charge of two percent (2%) of the delin-  
30 quency, except that no late charge shall be imposed on delinquent local  
31 improvement district assessments certified to the tax collector for collec-  
32 tion, as provided in section 50-1715, Idaho Code.

33 (13) "Lawful money of the United States" means currency and coin of the  
34 United States at par value and checks and drafts that are payable in dollars  
35 of the United States at par value, payable upon demand or presentment.

36 (14) "Legal tender" means lawful money as defined in subsection (13) of  
37 this section.

38 (15) "Market value" means the amount of United States dollars or equiva-  
39 lent for which, in all probability, a property would exchange hands between a  
40 willing seller, under no compulsion to sell, and an informed, capable buyer,  
41 with a reasonable time allowed to consummate the sale, substantiated by a  
42 reasonable down or full cash payment.

43 (16) "Operating property" means real and personal property operated  
44 in connection with any public utility, railroad or private railcar fleet,  
45 wholly or partly within this state, and which property is necessary to the  
46 maintenance and operation of the public utility, railroad or private railcar  
47 fleet, and the roads or lines thereof, and includes all rights-of-way ac-  
48 companied by title; roadbeds; tracks; pipelines; bargelines; equipment and  
49 docks; terminals; rolling stock; equipment; power stations; power sites;  
50 lands; reservoirs, generating plants, transmission lines, distribution

1 lines and substations; and all title and interest in such property, as owner,  
2 lessee or otherwise. The term includes electrical generation plants under  
3 construction, whether or not owned by or operated in connection with any  
4 public utility. For the purpose of the appraisal, assessment and taxation of  
5 operating property, pursuant to chapter 4, title 63, Idaho Code, the value of  
6 intangible personal property shall be excluded from the taxable value of op-  
7 erating property in accordance with the provisions of section 63-602L, Idaho  
8 Code, and the value of personal property, other than intangible personal  
9 property, shall be excluded from the taxable value of operating property in  
10 accordance with the provisions of section 63-602KK, Idaho Code. Operating  
11 property shall be included in taxable value for the purpose of making a levy,  
12 as required in section 63-803, Idaho Code, except when an exemption is pro-  
13 vided or when said levy is to be made against real property only.

14 (17) "Party in interest" means a person who holds a recorded purchase  
15 contract, mortgage, deed of trust, security interest, lien or lease upon the  
16 property. For purposes of notice requirements in section 63-1009, Idaho  
17 Code, recording includes documents recorded in full or by memorandum provid-  
18 ing notice thereof.

19 (18) "Person" means any entity, individual, corporation, partnership,  
20 firm, association, limited liability company, limited liability partner-  
21 ship or other such entities as recognized by the state of Idaho.

22 (19) "Personal property" means everything that is the subject of owner-  
23 ship and that is not included within the term "real property."

24 (20) "Private railcar fleet" means railroad cars or locomotives owned  
25 by, leased to, occupied by or franchised to any person other than a railroad  
26 company operating a line of railroad in Idaho or any company classified as a  
27 railroad by the interstate commerce commission and entitled to possess such  
28 railroad cars and locomotives except those possessed solely for the purpose  
29 of repair, rehabilitation or remanufacturing of such locomotives or rail-  
30 road cars.

31 (21) "Public utility" means electrical companies, pipeline companies,  
32 natural gas distribution companies, or power producers included within fed-  
33 eral law, bargelines, and water companies which are under the jurisdiction  
34 of the Idaho public utilities commission. The term also includes telephone  
35 corporations, as that term is defined in section 62-603, Idaho Code, except  
36 as hereinafter provided, whether or not such telephone corporation has been  
37 issued a certificate of convenience and necessity by the Idaho public utili-  
38 ties commission. This term does not include cogenerators, mobile telephone  
39 service or companies, nor does it include pager service or companies, except  
40 when such services are an integral part of services provided by a certifi-  
41 cated utility company, nor does the term "public utility" include companies  
42 or persons engaged in the business of providing solely on a resale basis, any  
43 telephone or telecommunication service that is purchased from a telephone  
44 corporation or company.

45 (22) "Railroad" means every kind of railway, whether its line of rails  
46 or tracks be at, above or below the surface of the earth, and without regard  
47 to the kind of power used in moving its rolling stock, and shall be consid-  
48 ered to include every kind of street railway, suburban railway or interur-  
49 ban railway excepting facilities established solely for maintenance and re-  
50 building of railroad cars or locomotives.

1 (23) "Real property" means land and all rights and privileges thereto  
 2 belonging or any way appertaining, all quarries and fossils in and under the  
 3 land, and all other property that the law defines, or the courts may inter-  
 4 pret, declare and hold to be real property under the letter, spirit, intent  
 5 and meaning of the law, improvements and all standing timber thereon, in-  
 6 cluding standing timber owned separately from the ownership of the land upon  
 7 which the same may stand, except as modified in chapter 17, title 63, Idaho  
 8 Code. Timber, forest, forest land, and forest products shall be defined as  
 9 provided in chapter 17, title 63, Idaho Code.

10 (24) "Record owner" means the person or persons in whose name or names  
 11 the property stands upon the records of the county recorder's office. Where  
 12 the record owners are husband and wife at the time of notice of pending issue  
 13 of tax deed, notice to one (1) shall be deemed and imputed as notice to the  
 14 other spouse.

15 (25) "Special assessment" means a charge imposed upon property for a  
 16 specific purpose, collected and enforced in the same manner as property  
 17 taxes.

18 (26) "System value" means the market value for assessment purposes of  
 19 the operating property when considered as a unit.

20 (27) "Tax code area" means a ~~geographical~~ geographic area made up of one  
 21 (1) or more taxing districts with one (1) total levy within the geographic  
 22 area, except as otherwise provided by law.

23 (28) "Taxing district" means any entity or unit with the statutory au-  
 24 thority to levy a property tax.

25 (29) "Taxable value" means market value for assessment purposes, less  
 26 applicable exemptions or other statutory provisions. When statutory pro-  
 27 visions define taxable value as limited to real property for the purpose of  
 28 making a levy, operating property shall not be included.

29 (30) "Transient personal property" is personal property, specifically  
 30 such construction, logging or mining machinery and equipment ~~which~~ that is  
 31 kept, moved, transported, shipped, hauled into or remaining for periods of  
 32 not less than thirty (30) days, in more than one (1) county in the state dur-  
 33 ing the same year.

34 (31) "Warrant of distraint" means a warrant ordering the seizure of per-  
 35 sonal property to enforce payment of property tax, special assessment, ex-  
 36 pense, fee, collection cost or charge collected in the same manner as per-  
 37 sonal property tax.

38 SECTION 5. That Section 63-1009, Idaho Code, be, and the same is hereby  
 39 amended to read as follows:

40 63-1009. EFFECT OF TAX DEED AS CONVEYANCE. The deed conveys to the  
 41 grantee the right, title, and interest held by the record owner or owners,  
 42 provided that the title conveyed by the deed shall be free of any recorded  
 43 purchase contract, mortgage, deed of trust, security interest, lien, or  
 44 lease, ~~so~~ as long as notice has been sent to the party in interest as provided  
 45 in sections 63-201(17) and 63-1005, Idaho Code, and the lien for property  
 46 taxes, assessments, amounts certified to the tax collector pursuant to sec-  
 47 tion 50-1715, Idaho Code, charges, interest, and penalties for which the  
 48 lien is foreclosed and in satisfaction of which the property is sold.

1           SECTION 6. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after its  
3 passage and approval.