

IN THE SENATE

SENATE BILL NO. 1388, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO TAX DEEDS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION  
2 31-808, IDAHO CODE, TO PROVIDE NONAPPLICATION TO EASEMENTS, HIGHWAYS,  
3 AND RIGHTS-OF-WAY OWNED BY THE COUNTY, UNLESS EXPRESSLY CONVEYED AND TO  
4 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 43-714A, IDAHO CODE, TO  
5 FURTHER DEFINE THE TERM "PARTY IN INTEREST"; AMENDING SECTION 43-720,  
6 IDAHO CODE, TO REVISE WHAT A TAX DEED CONVEYS; AMENDING SECTION 50-1823,  
7 IDAHO CODE, TO REVISE WHAT A TAX DEED CONVEYS; AMENDING SECTION 63-201,  
8 IDAHO CODE, TO FURTHER DEFINE THE TERM "PARTY IN INTEREST" AND TO MAKE  
9 TECHNICAL CORRECTIONS; AMENDING SECTION 63-1009, IDAHO CODE, TO REVISE  
10 WHAT A TAX DEED CONVEYS; AND DECLARING AN EMERGENCY AND PROVIDING APPLI-  
11 CATION.  
12

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

14 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to  
15 clarify the scope and effect of Idaho's statutes governing tax deeds. In  
16 the case of *Regan v. Owen*, the Idaho Supreme Court addressed whether a tax  
17 deed issued pursuant to Section 63-1009, Idaho Code, has the effect of extin-  
18 guishing an otherwise valid private easement across the subject property.  
19 Similar legislative language exists with respect to counties in Section  
20 31-808, Idaho Code, with respect to irrigation entities in Section 43-720,  
21 Idaho Code, and with respect to cities in Section 50-1823, Idaho Code. The  
22 court did not decide the issue, but remanded to a lower court. The lower  
23 court subsequently ruled that, despite the harsh result, the statute has  
24 this effect. While a private access easement was at issue there, the rea-  
25 soning would also result in the elimination of public utility easements,  
26 ditch rights, public highways and rights-of-way, conservation easements,  
27 and all manner of third-party rights in the land including, for example,  
28 interests of remaindermen following a life estate. By this legislation, the  
29 Idaho Legislature rejects that conclusion. It was never the intent of the  
30 Legislature to allow local governments to destroy valid property interests  
31 held by third parties in land that is subject to a sale or other conveyance  
32 based on a tax delinquency, except where notice and opportunity to cure is  
33 provided under the statute. Doing so would constitute an uncompensated  
34 taking of property under both the Idaho Constitution and the United States  
35 Constitution. The Legislature would never have intended such a result and,  
36 by this legislation, makes that clear. As its context should have made evi-  
37 dent, the purpose of Section 63-1009, Idaho Code, and the other referenced  
38 sections, has always been to convey title absolutely free and clear of liens  
39 and mortgages of a monetary nature. It was never the intent of the Legisla-  
40 ture to allow a local governmental entity to convey more than the delinquent  
41 taxpayer owned and thereby to destroy valid property interests held by oth-  
42 ers without notice and an opportunity to cure. This clarification brings the  
43 interpretation of Idaho's tax deed statute into line with the interpretation

1 of similar statutes in other jurisdictions, as had always been the Legisla-  
2 ture's intent.

3 SECTION 2. That Section 31-808, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 31-808. SALE OF COUNTY PROPERTY -- GENERAL PROCEDURE -- SALE OF PROP-  
6 ERTY ACQUIRED THROUGH TAX DEED -- PROCEDURE AFTER ATTEMPTED AUCTION -- EX-  
7 CHANGE OF COUNTY PROPERTY -- SALE OF CERTAIN ODD-LOT PROPERTY -- SALE, EX-  
8 CHANGE OR DONATION OF PROPERTY TO OTHER UNITS OF GOVERNMENT. (1) A board of  
9 county commissioners shall have the power and authority to sell or offer for  
10 sale at public auction any real or personal property belonging to the county  
11 not necessary for its use. However, personal property not exceeding two hun-  
12 dred fifty dollars (\$250) in value may be sold at private sale without no-  
13 tice or public auction. Prior to offering the property for sale, the board  
14 of county commissioners shall advertise notice of the auction in a newspa-  
15 per, as defined in section 60-106, Idaho Code, either published in the county  
16 or having a general circulation in the county, not less than ten (10) cal-  
17 endar days prior to the auction. If the property to be sold is real prop-  
18 erty, the notice to be published shall contain the legal description as well  
19 as the street address of the property. If the property is outside the corpo-  
20 rate limits of a city and does not have a street address, then the description  
21 shall also contain the distance and direction of the location of the real  
22 property from the closest city.

23 If the property to be sold is acquired by tax deed, the notice required  
24 to be published shall include, next to the description of the property, the  
25 name of the taxpayer as it appears in the delinquent tax certificate upon  
26 which the tax deed was issued. The property shall be sold to the highest bid-  
27 der. However, the board of county commissioners shall set the minimum bid  
28 for the tax deeded property to include all property taxes owing, interest and  
29 costs but they may reserve the right to reject any and all bids and shall have  
30 discretionary authority to reject or accept any bid which may be made for an  
31 amount less than the total amount of all delinquent taxes, late charges, in-  
32 terest and costs, including other costs associated with the property, ad-  
33 vertising, and sale, which may have accrued against any property so offered  
34 for sale, including the amount specified in the tax deed to the county. Such  
35 action by the board in setting the minimum bid shall be duly noted in their  
36 minutes. Failure to do so shall not invalidate a sale. For tax deeded prop-  
37 erty, the board of county commissioners shall conduct an auction no later  
38 than fourteen (14) months from the issuance of the tax deed.

39 (2) (a) Proceeds from the sale of county property not acquired by tax  
40 deed shall be paid into the county treasury for the general use of the  
41 county.

42 (b) If the property to be sold has been acquired by tax deed, pursuant  
43 to the provisions of chapter 10, title 63, Idaho Code, the proceeds from  
44 the sale, after payment of all delinquent taxes, late charges, inter-  
45 est and costs, including the cost for maintaining the property, shall  
46 be apportioned by the board of county commissioners to parties in inter-  
47 est as defined in section 63-201, Idaho Code, and then to the owner(s) of  
48 record of such property at the time the tax deed was issued on the prop-  
49 erty.

1 (c) Once such tax deeded property has been sold, the board of county  
2 commissioners shall within thirty (30) days notify all parties in in-  
3 terest of such sale and the amount of the excess proceeds. Such parties  
4 in interest shall respond to the board of county commissioners, within  
5 sixty (60) days of receiving such notice, making claim on the proceeds.  
6 No responses postmarked or received after the sixtieth day shall be  
7 accepted. The board of county commissioners shall then make payment  
8 to parties in interest in priority of the liens pursuant to law, within  
9 sixty (60) days. All funds available after payment to parties in inter-  
10 est shall be returned to the owner(s) of record of the property at the  
11 time the tax deed was issued. All costs associated with the compliance  
12 of this section shall be deducted from any amounts refunded to the par-  
13 ties in interest or owner(s) of record.

14 (3) Any property sold may be carried on a recorded contract with the  
15 county for a term not to exceed ten (10) years and at an interest rate not to  
16 exceed the rate of interest specified in section 28-22-104(1), Idaho Code.  
17 The board of county commissioners shall have the authority to cancel any con-  
18 tract if the purchaser fails to comply with any of the terms of the contract  
19 and the county shall retain all payments made on the contract. The title to  
20 all property sold on contract shall be retained in the name of the county  
21 until full payment has been made by the purchaser. However, the purchaser  
22 shall be responsible for payment of all property taxes during the period of  
23 the contract.

24 (4) Any sale of property by the county shall vest in the purchaser all  
25 of the right, title and interest of the county in the property, including  
26 all delinquent taxes ~~which~~ that have become a lien on the property since the  
27 date of issue of the tax deed, if any, but excluding easements, highways, and  
28 rights-of-way owned by the county, unless expressly conveyed.

29 (5) In addition to the purchase price, a purchaser of county property,  
30 including property acquired by tax deed, shall pay all fees required by law  
31 for the transfer of property. No deed for any real estate purchased pursuant  
32 to the provisions of this section shall be delivered to a purchaser until  
33 such deed has been recorded in the county making the sale.

34 (6) Should the county be unable to sell at a public auction any real or  
35 personal property belonging to the county, including property acquired by  
36 tax deed, it may sell the property without further notice by public or pri-  
37 vate sale upon such terms and conditions as the county deems necessary. Dis-  
38 tribution of the proceeds of sale shall be as set forth in subsection (2) of  
39 this section.

40 (7) The board of county commissioners may at its discretion, when in the  
41 county's best interest, exchange and do all things necessary to exchange any  
42 of the real property now or hereafter held and owned by the county for real  
43 property of equal value, public or private, to consolidate county real prop-  
44 erty or aid the county in the control and management or use of county real  
45 property.

46 (8) The board of county commissioners may, by resolution, declare cer-  
47 tain parcels of real property as odd-lot property, all or portions of which  
48 are not needed for public purposes and are excess to the needs of the county.  
49 For purposes of this subsection, odd-lot property is defined as that prop-  
50 erty that has an irregular shape or is a remnant and has value primarily to

1 an adjoining property owner. Odd-lot property may be sold to an adjacent  
2 property owner for fair market value that is estimated by a land appraiser  
3 licensed to appraise property in the state of Idaho. If, after thirty (30)  
4 days' written notice, an adjoining property owner or owners do not desire to  
5 purchase the odd-lot property, the board of county commissioners may sell  
6 the property to any other interested party for not less than the appraised  
7 value. When a sale of odd-lot property is agreed to, a public advertisement  
8 of the pending sale shall be published in one (1) edition of the newspaper as  
9 defined in subsection (1) of this section, and the public shall have fifteen  
10 (15) days to object to the sale in writing. The board of county commissioners  
11 shall make the final determination regarding the sale of odd-lot property in  
12 an open meeting.

13 (9) In addition to any other powers granted by law, the board of county  
14 commissioners may at their discretion, grant to or exchange with the federal  
15 government, the state of Idaho, any political subdivision or taxing district  
16 of the state of Idaho or any local historical society which is incorporated  
17 as an Idaho nonprofit corporation which operates primarily in the county or  
18 maintains a museum in the county, with or without compensation, any real or  
19 personal property or any interest in such property owned by the county or  
20 acquired by tax deed, after adoption of a resolution by the board of county  
21 commissioners that the grant or exchange of property is in the public inter-  
22 est. Notice of such grant or exchange shall be as provided in subsection  
23 (1) of this section and the decision may be made at any regularly or spe-  
24 cially scheduled meeting of the board of county commissioners. The execu-  
25 tion and delivery by the county of the deed conveying an interest in the prop-  
26 erty shall operate to discharge and cancel all levies, liens and taxes made  
27 or created for the benefit of the state, county or any other political subdivi-  
28 sion or taxing district and to cancel all titles or claims of title includ-  
29 ing claims of redemption to such real property asserted or existing at the  
30 time of such conveyance. However, if the property conveyed is subject to a  
31 lien for one (1) or more unsatisfied special assessments, the lien shall con-  
32 tinue until all special assessments have been paid in full. At no time shall  
33 a lien for a special assessment be extinguished prior to such special assess-  
34 ment having been paid in full. Any property conveyed to any local histori-  
35 cal society by the county shall revert to the county when the property is no  
36 longer utilized for the purposes for which it was conveyed.

37 (10) When the county has title to mineral rights severed from the prop-  
38 erty to which they attach, and the mineral rights have value of less than  
39 twenty-five dollars (\$25.00) per acre, the board of county commissioners may  
40 act to return the mineral rights to the land from which they were severed in  
41 the following manner: the proposed action must appear on the agenda of a reg-  
42 ular meeting of the board of county commissioners; and the motion to make the  
43 return must be adopted unanimously by the board voting in open meeting.

44 (11) If there are excess funds and the owner(s) of record of the prop-  
45 erty at the time the tax deed was issued on the property cannot be located,  
46 then the county treasurer shall put all remaining excess funds in an inter-  
47 est-bearing trust for three (3) years. The county may charge for the actual  
48 costs for performing the search, and after three (3) years, any remaining  
49 funds shall be transferred to the county indigent fund. The levy set to fund  
50 this portion of the indigent budget shall be calculated based on the budget

1 subject to the limitation in section 63-802, Idaho Code, less the money re-  
2 ceived from the interest-bearing trust.

3 SECTION 3. That Section 43-714A, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 43-714A. DEFINITIONS. Words and terms used in this chapter, unless the  
6 context otherwise requires, are defined as follows:

7 (1) "District" means an irrigation district organized under the provi-  
8 sions of title 43, Idaho Code.

9 (2) "Board" means the board of directors of a district.

10 (3) "Treasurer" means the duly appointed officer of an irrigation dis-  
11 trict, and his or her deputies or employees. Such treasurer acts as ex offi-  
12 cio tax collector for the purposes of this chapter.

13 (4) The term "delinquent assessments" as herein used shall be deemed  
14 and construed to include all general and special assessments and charges for  
15 operation and maintenance, bond or loan contract payments, or other autho-  
16 rized expenditures, entered in irrigation district assessment rolls, not  
17 paid when due, and collectible in the manner provided in chapter 7, title 43,  
18 Idaho Code.

19 (5) "Facsimile" means the reproduction or supplying of an exact copy  
20 from an original document.

21 (6) "Party in interest" means a person or persons, partnership, cor-  
22 poration, business venture, or other entity ~~which that~~ holds a ~~valid and~~  
23 ~~legally binding~~ recorded purchase contract, mortgage, ~~or~~ deed of trust,  
24 ~~properly recorded, or lease~~ in and for the property for which a delinquency  
25 entry has been made. For purposes of notice requirements in this chapter,  
26 recording includes documents recorded in full or by memorandum providing  
27 notice thereof.

28 (7) "Record owner or owners" means the person or entity in whose name or  
29 names the property stands upon the records in the county recorder's office.  
30 Where the record owners are husband and wife at the time the notice described  
31 in section 43-717, Idaho Code, shall issue, notice to one (1) spouse shall be  
32 deemed and imputed as notice to the other spouse.

33 (8) "Tax certificate" means a written assignment of a district's right  
34 to a tax deed as provided in section 43-715, Idaho Code.

35 SECTION 4. That Section 43-720, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 43-720. TAX DEED -- RECITALS -- EFFECT AS EVIDENCE -- TITLE CON-  
38 VEYED. The matters recited in the delinquency entry must be recited in the  
39 deed, and such deed duly acknowledged or proved is prima facie evidence that:

40 (1) Benefits were apportioned to the property as required by law or wa-  
41 ter rights were properly allocated to the property.

42 (2) The assessment was levied in accordance with law.

43 (3) The assessment was equalized as required by law.

44 (4) The assessment, together with statutory penalties, interest and  
45 any other charges, was unpaid.

46 (5) At the proper time the delinquency entry was made as prescribed by  
47 law and by the proper officer.

1 (6) The property was unredeemed within the time allowed by the first  
2 paragraph of section 43-712, Idaho Code.

3 (7) The person who executed the tax deed was the proper officer. Such  
4 deed duly acknowledged and proved is prima facie evidence of the regular-  
5 ity of all other proceedings for the assessment, inclusive, up to the exe-  
6 cution of the deed. The deed conveys to the grantee the absolute title to  
7 the lands described therein, free of all encumbrances, except purchase con-  
8 tracts, mortgages, deeds of trust or leases of record to the holders of which  
9 notice as has not been sent as in this chapter provided, and except any lien  
10 for assessments which that have attached subsequent to the assessment re-  
11 sulting in the issuance of the tax deed, and except any lien for state and  
12 county taxes. For purposes of this section, the term "encumbrances" does not  
13 include any easements, highways or rights-of-way of any type, whether public  
14 or private.

15 Any number of descriptions of land in the same district may be included  
16 in one (1) deed where the certificates are held by one (1) person, or the dis-  
17 trict.

18 SECTION 5. That Section 50-1823, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 50-1823. TAX DEED -- FORM AND CONTENTS -- TITLE CONVEYED. The matters  
21 recited in the delinquency entry must be recited in the deed to the city, and  
22 such deed duly acknowledged or proved shall be prima facie evidence in that:  
23 (1) the property was assessed as required by law; (2) that the property was  
24 equalized as required by law; (3) that the assessments were levied in accor-  
25 dance with law; (4) that the assessments were unpaid; (5) that at the proper  
26 time the delinquency entry was made as prescribed by law and by the proper of-  
27 ficer; (6) that the property was unredeemed; (7) that the person who executed  
28 the deed was the proper officer of the city. Such deed duly acknowledged and  
29 proved shall be prima facie evidence of the regularity of all proceedings for  
30 the assessments up to and including the execution and delivery of the deed.  
31 The said deed shall convey to the grantee ~~the absolute title to the lands de-~~  
32 ~~scribed therein free and clear of all liens and encumbrances except mort-~~  
33 ~~gages of record, holders of liens and bondholders to which notice has not~~  
34 ~~been sent after request, as provided in this act, and except any liens for as-~~  
35 ~~sessments which have attached subsequent to assessment resulting in the sale~~  
36 ~~and except any lien for state and county taxes~~ the right, title, and interest  
37 in the property as provided in section 63-1009, Idaho Code.

38 SECTION 6. That Section 63-201, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40 63-201. DEFINITIONS. As used for property tax purposes in chapters 1  
41 through 23, title 63, Idaho Code, the terms defined in this section shall  
42 have the following meanings, unless the context clearly indicates another  
43 meaning:

44 (1) "Appraisal" means an estimate of property value for property tax  
45 purposes.

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

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

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

12 (3) "Cogenerators" means facilities ~~which~~ that produce electric en-  
13 ergy, and steam or forms of useful energy ~~which~~ that are used for industrial,  
14 commercial, heating or cooling purposes.

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

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

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

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

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

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

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

43 (11) "Improvements" means all buildings, structures, manufactured  
44 homes, as defined in section 39-4105(8), Idaho Code, mobile homes as de-  
45 fined in section 39-4105(9), Idaho Code, and modular buildings, as defined  
46 in section 39-4301(7), Idaho Code, erected upon or affixed to land, fences,  
47 water ditches constructed for mining, manufacturing or irrigation purposes,  
48 fixtures, and floating homes, whether or not such improvements are owned  
49 separately from the ownership of the land upon or to which the same may be  
50 erected, affixed or attached. The term "improvements" also includes all

1 fruit, nut-bearing and ornamental trees or vines not of natural growth,  
2 growing upon the land, except nursery stock.

3 (12) "Late charge" means a charge of two percent (2%) of the delin-  
4 quency.

5 (13) "Lawful money of the United States" means currency and coin of the  
6 United States at par value and checks and drafts ~~which~~ that are payable in  
7 dollars of the United States at par value, payable upon demand or present-  
8 ment.

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

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

16 (16) "Operating property" means real and personal property operated  
17 in connection with any public utility, railroad or private railcar fleet,  
18 wholly or partly within this state, and which property is necessary to the  
19 maintenance and operation of the public utility, railroad or private railcar  
20 fleet, and the roads or lines thereof, and includes all rights-of-way ac-  
21 companied by title; roadbeds; tracks; pipelines; bargelines; equipment and  
22 docks; terminals; rolling stock; equipment; power stations; power sites;  
23 lands; reservoirs, generating plants, transmission lines, distribution  
24 lines and substations; and all title and interest in such property, as owner,  
25 lessee or otherwise. The term includes electrical generation plants under  
26 construction, whether or not owned by or operated in connection with any  
27 public utility. For the purpose of the appraisal, assessment and taxation of  
28 operating property, pursuant to chapter 4, title 63, Idaho Code, the value of  
29 intangible personal property shall be excluded from the taxable value of op-  
30 erating property in accordance with the provisions of section 63-602L, Idaho  
31 Code, and the value of personal property, other than intangible personal  
32 property, shall be excluded from the taxable value of operating property in  
33 accordance with the provisions of section 63-602KK, Idaho Code.

34 (17) "Party in interest" means a person who holds a ~~properly~~ recorded  
35 purchase contract, mortgage, deed of trust, or security interest, lien or  
36 lease upon the property. For purposes of notice requirements in section  
37 63-1009, Idaho Code, recording includes documents recorded in full or by  
38 memorandum providing notice thereof.

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

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

44 (20) "Private railcar fleet" means railroad cars or locomotives owned  
45 by, leased to, occupied by or franchised to any person other than a railroad  
46 company operating a line of railroad in Idaho or any company classified as a  
47 railroad by the interstate commerce commission and entitled to possess such  
48 railroad cars and locomotives except those possessed solely for the purpose  
49 of repair, rehabilitation or remanufacturing of such locomotives or rail-  
50 road cars.



1 (21) "Public utility" means electrical companies, pipeline companies,  
2 natural gas distribution companies, or power producers included within fed-  
3 eral law, bargelines, and water companies which are under the jurisdiction  
4 of the Idaho public utilities commission. The term also includes telephone  
5 corporations, as that term is defined in section 62-603, Idaho Code, except  
6 as hereinafter provided, whether or not such telephone corporation has been  
7 issued a certificate of convenience and necessity by the Idaho public utili-  
8 ties commission.

9 This term does not include cogenerators, mobile telephone service or  
10 companies, nor does it include pager service or companies, except when such  
11 services are an integral part of services provided by a certificated utility  
12 company, nor does the term "public utility" include companies or persons  
13 engaged in the business of providing solely on a resale basis, any telephone  
14 or telecommunication service ~~which~~ that is purchased from a telephone cor-  
15 poration or company.

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

22 (23) "Real property" means land and all rights and privileges thereto  
23 belonging or any way appertaining, all quarries and fossils in and under the  
24 land, and all other property ~~which~~ that the law defines, or the courts may in-  
25 terpret, declare and hold to be real property under the letter, spirit, in-  
26 tent and meaning of the law, improvements and all standing timber thereon,  
27 including standing timber owned separately from the ownership of the land  
28 upon which the same may stand, except as modified in chapter 17, title 63,  
29 Idaho Code. Timber, forest, forest land, and forest products shall be de-  
30 fined as provided in chapter 17, title 63, Idaho Code.

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

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

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

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

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

46 (29) "Taxable value" means market value for assessment purposes, less  
47 applicable exemptions or other statutory provisions.

48 (30) "Transient personal property" is personal property, specifically  
49 such construction, logging or mining machinery and equipment which is kept,  
50 moved, transported, shipped, hauled into or remaining for periods of not

1 less than thirty (30) days, in more than one (1) county in the state during  
2 the same year.

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

7 SECTION 7. That Section 63-1009, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 63-1009. EFFECT OF TAX DEED AS CONVEYANCE. The deed conveys to the  
10 grantee the ~~absolute title to the land described therein, free of all encum-~~  
11 ~~brances except mortgages of record to the holders of which notice has not~~  
12 ~~been sent as provided in section 63-1005, Idaho Code, any lien for property~~  
13 ~~taxes which may have attached subsequently to the assessment and any lien~~  
14 ~~for special assessments~~ right, title, and interest held by the record owner  
15 or owners, provided that the title conveyed by the deed shall be free of any  
16 recorded purchase contract, mortgage, deed of trust, security interest,  
17 lien, or lease, so long as notice has been sent to the party in interest as  
18 provided in sections 63-201(17) and 63-1005, Idaho Code, and the lien for  
19 property taxes, assessments, charges, interest, and penalties for which the  
20 lien is foreclosed and in satisfaction of which the property is sold.

21 SECTION 8. An emergency existing therefor, which emergency is hereby  
22 declared to exist, this act shall be in full force and effect on and after  
23 its passage and approval. Being a clarification of existing law, the Legis-  
24 lature does not view the application of this amendment to prior conveyances  
25 as retroactive legislation. In any event, the Legislature expressly in-  
26 tends that these amendments shall be interpreted to apply to any and all  
27 conveyances by tax deed, past or future.