

IN THE SENATE

SENATE BILL NO. 1347, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO TAX DEED SALES; AMENDING SECTION 31-808, IDAHO CODE, TO ALLOW
2 TRANSFER OF THE AUTHORITY AND RESPONSIBILITY OF HANDLING EXCESS PRO-
3 CEEDS FROM TAX DEED SALES TO THE STATE TREASURER AND TO PROVIDE DUTIES OF
4 THE BOARD OF COUNTY COMMISSIONERS.
5

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

7 SECTION 1. That Section 31-808, Idaho Code, be, and the same is hereby
8 amended to read as follows:

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

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

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

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

12 (c) Once such tax deeded property has been sold, the board of county
13 commissioners shall within thirty (30) days notify all parties in in-
14 terest of such sale and the amount of the excess proceeds. Such parties
15 in interest shall respond to the board of county commissioners, within
16 sixty (60) days of receiving such notice, making claim on the proceeds.
17 No responses postmarked or received after the sixtieth day shall be ac-
18 cepted. Within sixty (60) days of the date a claim on the proceeds is
19 due, tThe board of county commissioners shall ~~then~~ make payment to par-
20 ties in interest in priority of the liens pursuant to law, ~~within sixty~~
21 ~~(60) days or shall transfer the funds to the state treasurer as set forth~~
22 in paragraph (d) of this subsection. All funds available after payment
23 to parties in interest shall be returned to the owner(s) of record of the
24 property at the time the tax deed was issued. All costs associated with
25 the compliance of this section shall be deducted from any amounts re-
26 funded to the parties in interest or owner(s) of record or transferred
27 to the state treasurer.

28 (d) With the consent of the state treasurer, the board of county com-
29 missioners may transfer funds to be paid to parties in interest or the
30 owner(s) of records pursuant to paragraph (c) of this subsection to
31 the state treasurer. Upon transfer, the board of county commissioners
32 shall immediately notify by first-class mail all parties that submit-
33 ted a claim on the proceeds and the owner(s) of record of the transfer.
34 The board of county commissioners shall provide such information to
35 the state treasurer concerning the claims and the proceeds as the state
36 treasurer shall reasonably request. The state treasurer shall keep and
37 distribute the proceeds in accordance with chapter 5, title 14, Idaho
38 Code.

39 (3) Any property sold may be carried on a recorded contract with the
40 county for a term not to exceed ten (10) years and at an interest rate not to
41 exceed the rate of interest specified in section 28-22-104(1), Idaho Code.
42 The board of county commissioners shall have the authority to cancel any con-
43 tract if the purchaser fails to comply with any of the terms of the contract
44 and the county shall retain all payments made on the contract. The title to
45 all property sold on contract shall be retained in the name of the county
46 until full payment has been made by the purchaser. However, the purchaser
47 shall be responsible for payment of all property taxes during the period of
48 the contract.

49 (4) Any sale of property by the county shall vest in the purchaser all
50 of the right, title and interest of the county in the property, including all

1 delinquent taxes which have become a lien on the property since the date of
2 issue of the tax deed, if any.

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

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

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

20 (8) The board of county commissioners may, by resolution, declare cer-
21 tain parcels of real property as odd-lot property, all or portions of which
22 are not needed for public purposes and are excess to the needs of the county.
23 For purposes of this subsection, odd-lot property is defined as that prop-
24 erty that has an irregular shape or is a remnant and has value primarily to
25 an adjoining property owner. Odd-lot property may be sold to an adjacent
26 property owner for fair market value that is estimated by a land appraiser
27 licensed to appraise property in the state of Idaho. If, after thirty (30)
28 days' written notice, an adjoining property owner or owners do not desire to
29 purchase the odd-lot property, the board of county commissioners may sell
30 the property to any other interested party for not less than the appraised
31 value. When a sale of odd-lot property is agreed to, a public advertisement
32 of the pending sale shall be published in one (1) edition of the newspaper as
33 defined in subsection (1) of this section, and the public shall have fifteen
34 (15) days to object to the sale in writing. The board of county commissioners
35 shall make the final determination regarding the sale of odd-lot property in
36 an open meeting.

37 (9) In addition to any other powers granted by law, the board of county
38 commissioners may at their discretion, grant to or exchange with the federal
39 government, the state of Idaho, any political subdivision or taxing district
40 of the state of Idaho or any local historical society which is incorporated
41 as an Idaho nonprofit corporation which operates primarily in the county or
42 maintains a museum in the county, with or without compensation, any real or
43 personal property or any interest in such property owned by the county or
44 acquired by tax deed, after adoption of a resolution by the board of county
45 commissioners that the grant or exchange of property is in the public inter-
46 est. Notice of such grant or exchange shall be as provided in subsection
47 (1) of this section and the decision may be made at any regularly or spe-
48 cially scheduled meeting of the board of county commissioners. The execu-
49 tion and delivery by the county of the deed conveying an interest in the prop-
50 erty shall operate to discharge and cancel all levies, liens and taxes made

1 or created for the benefit of the state, county or any other political subdi-
2 vision or taxing district and to cancel all titles or claims of title includ-
3 ing claims of redemption to such real property asserted or existing at the
4 time of such conveyance. However, if the property conveyed is subject to a
5 lien for one (1) or more unsatisfied special assessments, the lien shall con-
6 tinue until all special assessments have been paid in full. At no time shall
7 a lien for a special assessment be extinguished prior to such special assess-
8 ment having been paid in full. Any property conveyed to any local histori-
9 cal society by the county shall revert to the county when the property is no
10 longer utilized for the purposes for which it was conveyed.

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

18 ~~(11) If there are excess funds and the owner(s) of record of the prop-~~
19 ~~erty at the time the tax deed was issued on the property cannot be located,~~
20 ~~then the county treasurer shall put all remaining excess funds in an inter-~~
21 ~~est-bearing trust for three (3) years. The county may charge for the actual~~
22 ~~costs for performing the search, and after three (3) years, any remaining~~
23 ~~funds shall be transferred to the county indigent fund. The levy set to fund~~
24 ~~this portion of the indigent budget shall be calculated based on the budget~~
25 ~~subject to the limitation in section 63-802, Idaho Code, less the money re-~~
26 ~~ceived from the interest-bearing trust.~~