TITLE 63
REVENUE AND TAXATION

CHAPTER 10
COLLECTION OF DELINQUENCY ON REAL, PERSONAL AND OPERATING PROPERTY

63-1001. EFFECT OF DELINQUENCY -- INTEREST RATE. To avoid delinquency, total payment must be made in full to the county tax collector by the due date. Any delinquency shall have the force and effect of a sale to the county tax collector as grantee in trust for the county of the property described. Any payment on a delinquency is, in effect, a partial redemption of the property from tax sale. Interest on a delinquency will be charged at one percent (1%) per month calculated from January 1 following the year the tax lien attached, provided however, that the interest shall not be charged on collection costs.

[63-1001 added 1996, ch. 98, sec. 11, p. 381.]

63-1002. PAYMENT OF DELINQUENCY -- ORDER -- RECEIPT. (1) Whenever a delinquency exists for any year, the taxpayer may pay to the tax collector any part of such delinquency together with the costs, late charges and interest. Costs include certified mailings, title searches, advertising and all other expenses for the processing and collection of the delinquency. Provided however, that any delinquency shall be applied to costs, collection costs, special assessments, charges, fees, interest, late charges and property tax in the proportion each bears to the total amount due. Payment applied to the property tax shall be posted directly to the roll.

(2) Payment shall only be paid and accepted upon the oldest delinquency standing on the records of the county tax collector wherein such payment is made unless otherwise authorized by a judicial action. The second one-half (1/2) shall not be considered current if the first one-half (1/2) is delinquent.

(3) Upon payment of a delinquency, the tax collector shall issue to the taxpayer a receipt, if requested by the taxpayer. In the event payment is mailed to the tax collector, the cancelled check may serve as the receipt. Payment of current taxes shall not invalidate any proceeding in the collection of a delinquency.

[63-1002 added 1996, ch. 98, sec. 11, p. 381; am. 2018, ch. 70, sec. 1, p. 165.]

63-1003. LIEN AND EFFECT OF DELINQUENCY. (1) Any delinquency on real property taxes in accordance with the provisions of this title shall constitute a perpetual lien in favor of the county for all property taxes, late charges and interest on the property described and shall entitle the county to a tax deed for such property in the manner provided for in this title. Such delinquency entry shall further constitute prima facie evidence in any legal proceedings in which it may lawfully be used that the property described was subject to appraisal, assessment and taxation at the time the same was assessed, that said property was appraised, assessed and equalized according to law, that the property taxes levied on such property were levied according to law, that such taxes were not paid before the delinquency became effective, and that the property and taxes were entered upon the property roll.

(2) Any delinquency on personal property taxes in accordance with the provisions of this title shall be a first and prior, perpetual lien, except as otherwise provided by law, upon such personal property and all real and personal property of the owner of such personal property until all property taxes due upon such personal property have been paid.

[63-1003 added 1996, ch. 98, sec. 11, p. 381.]

63-1004. PAYMENT OF DELINQUENCY ON SEGREGATED PROPERTY. (1) The record owner or owners or any party in interest of a segregated portion of the property covered by a delinquency may release the lien for property taxes, by paying to the tax collector the amount of property taxes due along with late charges, interest and costs, if any, on that particular piece of property. The county assessor shall determine and provide to the tax collector the market value for assessment purposes of that segregated portion of property, and the tax collector will calculate the property tax to be paid for any prior year or years of delinquency, including the late charges, accrued interest and costs incurred.

(2) The record owner or owners or any party in interest of a segregated portion of property covered by a tax deed may redeem that property at the time and in the manner provided in section 63-1007, Idaho Code, by paying to the tax collector the amount due on that particular piece of property including, but not limited to, the late charges, accrued interest, title search fees and other costs incurred. The county assessor shall determine and provide to the tax collector the market value for assessment purposes of that segregated portion of property, and the tax collector will calculate the property tax to be paid for that current calendar year and all prior years of delinquency.

[63-1004 added 1996, ch. 98, sec. 11, p. 382.]

63-1005. PENDING ISSUE OF TAX DEED -- GENERAL PROVISIONS -- NOTICE. (1) If real property on which there is a delinquency is not redeemed within three (3) years from the date of delinquency, the county tax collector of the county wherein such property is situated must make, in favor of said county, a tax deed for such property. However, the county shall not be entitled to a tax deed for such real property until:

(a) A notice of pending issue of tax deed has been given; and

(b) An affidavit of compliance has been recorded.

(2) The county tax collector of the county wherein the real property for which a tax deed may issue shall serve or cause to be served written notice of pending issue of tax deed upon the record owner or owners and parties in interest of record in the following exclusive manner:

(a) By serving or causing to be served a copy of such notice by certified mail with return receipt demanded upon the record owner or owners and parties in interest of record at their last known address, such service of notice to be made no more than five (5) months nor less than two (2) months before the time set for the tax deed to issue;

(b) In the event that such notice is served as above described and returned undelivered after attempting to locate and serve the record owner or owners and parties in interest of record, by publishing a summary of such notice in a newspaper having general circulation in the county wherein the real property is situated. Such publication must be made at least once a week for four (4) consecutive weeks, the last

publication of which is to be no more than two (2) months nor less than fourteen (14) days before the time set for the tax deed to issue.

(3) The record owner or owners and parties in interest of record shall be liable and pay to the county tax collector all costs and fees in the preparation, service and publication of such notice and the tax deed process and such costs shall become a perpetual lien upon the property in favor of the county tax collector.

(4) Such notice and summary thereof must contain the following items:

(a) The name and last known address of the record owner or owners;

(b) An accurate description of the property on which the delinquency stands, or, in lieu thereof, the tax number of record or parcel number used in assessing the same;

(i) A street address or other information which would be of assistance to the public in ascertaining the location of the property; or

(ii) The name and telephone number of a person, firm or business office from whom information concerning the location of the property may be obtained;

(c) The year for which the property tax was assessed and for which the delinquency exists;

(d) An itemized statement detailing the delinquency and all costs and fees incident to the delinquency and notice up to and including the date of the making of such notice;

(e) The date the delinquency occurred;

(f) The time, date, place at which, and by whom the tax deed will issue; and

(g) A statement that the record owner or owners or any party in interest shall have adequate opportunity to be heard, to confront and cross-examine any evidence or witness against the record owner or owners, and obtain and present evidence on behalf of the record owner or owners or any party in interest. Such statement shall also contain notice of to whom inquiries and objections shall be directed concerning the notice and information contained therein and by what date such inquiries and objections must be received.

(5) Any party in interest may file a written request for such notice in the office of the county tax collector of the county wherein the property for which the delinquency stands have been made is situated. Such request shall contain the following items:

(a) The name and address of the record owner or owners;

(b) An accurate description of the property covered by the interest, or, in lieu thereof, the tax number of record or parcel number used in assessing the same;

(c) The name and address of the party in interest;

(d) An accurate description of the interest held; and

(e) The date of expiration of the interest held.

(6) If a record owner or owners or a party in interest shall have actual notice of the notice of pending issue of tax deed or that issuance of a tax deed is pending, it shall be deemed sufficient notice under this section.

(7) Service shall be deemed completed upon depositing the certified letter containing the original or a copy of the notice of pending issue of tax deed with return receipt demanded in any United States post office, or upon physical delivery of such notice or copy thereof by the county tax collector

or his appointed agent to the record owner or owners or party in interest, or upon the date of last publication.

(8) No less than five (5) working days prior to the date on which the tax deed shall be issued, the county tax collector shall make an affidavit of compliance stating that he has complied with the conditions of issuance of notice of pending issue of tax deed described in this section, and stating particularly the facts relied on as constituting such compliance.

(9) Such affidavit shall be recorded in the office of the county recorder. Such record of affidavit shall be prima facie evidence that such notice has been given.

(10) Any person who knowingly and intentionally swears falsely to facts averred in any affidavit shall be guilty of perjury and be punished by a fine of not more than three hundred dollars ($300).

[63-1005 added 1996, ch. 98, sec. 11, p. 382.]

63-1006. HEARING AND ISSUANCE OF TAX DEED. (1) When a record owner or owners or any party in interest upon whom a notice of pending issue of tax deed is served or who has actual knowledge of such notice or its contents fails, to appear or otherwise defend and answer at the time set for hearing in such notice and the county commissioners are satisfied that the county tax collector has fulfilled the requirements of section 63-1005, Idaho Code, the county commissioners shall, without further notice, immediately direct the county tax collector to issue and record a tax deed in favor of the county.

(2) When a record owner or owners or any party in interest upon whom such notice is served or who has actual knowledge of such notice or its contents appears or answers at the date specified in such notice, the county commissioners shall hear evidence and witnesses and make a final decision in writing. Such final decision shall be mailed by registered or certified mail return receipt demanded upon all parties affected by its action. If the county commissioners shall find that the county tax collector has conformed to the requirements of section 63-1005, Idaho Code, and that a delinquency was owing on the property described and that such delinquency has not been paid, the county commissioners shall immediately direct the county tax collector to issue a tax deed in favor of the county. Such final decision shall include findings of fact and conclusions of law.

(3) A record of the proceedings shall be kept and entered into the county minutes.

(4) Any person who is aggrieved by a final decision of the county commissioners concerning the issuance of a tax deed is entitled to have that decision reviewed by the district court of the district wherein the county is located by filing a petition in the district court within thirty (30) days after receipt of the final decision of the county commissioners. Such filing does not itself stay enforcement of the county commissioners' decision; however, the county commissioners may grant, or the reviewing court may order, a stay upon appropriate terms. Review shall be conducted by the court without a jury and shall be confined to the record in the county minutes. The court may reverse or modify the decision of the county commissioners if substantial rights of the appellant have been prejudiced because the county commissioners' findings, conclusions or decisions are:

(a) Made upon unlawful procedure;

(b) Clearly erroneous in view of reliable, probative and substantial evidence on the whole record; or

(c) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(5) All costs and fees of any hearing or proceeding shall be awarded to the prevailing party or in the discretion of the reviewing court each party shall be responsible for their own costs and fees; provided however, the costs and fees shall not be ordered paid by any county or its officials in absence of a showing of gross negligence, gross nonfeasance or gross malfeasance by the county or its officers and a showing of substantial and definite injury to the petitioning party.

(6) The form of the tax deed issued must contain the following items:

(a) The name and address of the former record owner or owners;

(b) The name of the county in whose favor the tax deed issues;

(c) An accurate description of the property using a township, range, section and division of section, together with a statement as to acreage, or in the appropriate case, using block and lot numbers or as described in a city plat; and if appropriate, include the tax number;

(d) A statement that the tax deed issues out of a delinquency and hearing; and

(e) The tax deed must be signed by the county tax collector and acknowledged before the county recorder and shall be recorded as provided by law.

[63-1006 added 1996, ch. 98, sec. 11, p. 384.]

63-1007. REDEMPTION -- EXPIRATION OF RIGHT. (1) After the issuance of a tax deed, real property may be redeemed only by the record owner or owners, or party in interest, up to the time the county commissioners have entered into a contract of sale or the property has been transferred by county deed. In order to redeem real property, the record owner or owners, or party in interest, shall pay any delinquency including the late charges, accrued interest, and costs, including, but not limited to, title search and other professional fees. The property taxes accrued against such property subsequent to the issuance of a tax deed to the county shall be extended upon a valuation to be given by the assessor upon application of the tax collector. The property taxes shall be computed according to the authorized levies for the year or years to be extended, including the current calendar year which shall be calculated using the previous year's levies until the current levies are authorized.

(2) Should such payments be made, a redemption deed shall be issued by the county tax collector into the name of the redemptioner and the rights, title and interest acquired by the county shall cease and terminate; provided however, that such right of redemption shall expire fourteen (14) months from the date of issuance of a tax deed to the county, in the event the county commissioners have not extinguished the right of redemption by contract of sale or transfer by county deed during said redemption period. In the event a tax deed is issued and payment is not received within fourteen (14) months of the issuance of such tax deed, then said tax deed to the county is presumptive evidence of the regularity of all proceedings prior thereto and the fee simple title, after the issuance of said tax deed, rests in the county.

[63-1007 added 1996, ch. 98, sec. 11, p. 385; am. 2001, ch. 193, sec. 1, p. 658; am. 2014, ch. 15, sec. 1, p. 23.]

63-1008. EFFECT OF TAX DEED AS EVIDENCE. (1) The matters recited in the delinquency must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

(a) The property was appraised and assessed as required by law;

(b) The property was equalized as required by law;

(c) The property taxes were levied in accordance with law;

(d) The property taxes were not paid;

(e) The delinquency took effect at the proper time as prescribed by law;

(f) The property was not redeemed;

(g) The person who executed the deed was the proper officer;

(h) Where the real property was sold to pay property taxes on personal property that the real property belonged to the person liable to pay the property tax.

(2) The deed duly acknowledged or proved is prima facie evidence of the regularity of all other proceedings, from the assessment by the assessor inclusive up to the execution of the deed.

[63-1008 added 1996, ch. 98, sec. 11, p. 386.]

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

[63-1009 added 1996, ch. 98, sec. 11, p. 386; am. 2016, ch. 273, sec. 7, p. 758; am. 2020, ch. 273, sec. 4, p. 808.]

63-1010. DEEDS UPON REDEMPTION. In all cases where real property has been or may hereafter be sold for delinquency and a deed has been issued to the county therefor, and redemption has been made in the manner provided and in accordance with the provisions of section 63-1007, Idaho Code, the county tax collector, must issue a deed to the redemptioner; and upon the giving of such deed, such tax deed so issued to the county and the delinquency and tax sale upon which the same is based and all delinquencies and sales for prior year delinquencies shall become null and void, and all right, title and interest acquired by the county, under and by virtue of such tax deed, or tax sales, or delinquencies, shall cease and terminate.

[63-1010 added 1996, ch. 98, sec. 11, p. 386.]

63-1011. POSSESSION UNDER TAX DEED CONCLUSIVE AS TO REGULARITY OF PROCEEDINGS. (1) Any and all tax deeds issued by counties, or any other municipal or quasi-municipal corporations of the state of Idaho, authorized by law to issue deeds for delinquencies or assessments, shall, when the property has been sold by such counties or other municipal or quasi-municipal corporations and held and peaceably possessed by the purchaser or his successors in interest for more than one (1) year and upon which the purchaser or his successors in interest have paid all property taxes lawfully assessed thereon for such period, be conclusive as to the regularity and validity of

all proceedings required by law to be done in making the levy, assessment, or sale of such property for the delinquency or assessment for which such property was sold.

(2) No action shall be maintained to contest any delinquency or assessment, or the proceedings upon which the tax deed has been issued after such property has been sold by the taxing agency, and the purchaser or his successors in interest have paid all property taxes legally levied or assessed thereon for a period of one (1) year, and such purchaser's deed from such county or other taxing agency, shall be conclusive evidence of the doing of each and all of the acts, and taking of each and all proceedings required by law as to the issuance of a valid tax deed to such property.

[63-1011 added 1996, ch. 98, sec. 11, p. 386; am. 2001, ch. 193, sec. 2, p. 658.]

63-1012. SALE OF PERSONAL PROPERTY UPON DELINQUENCY. (1) Upon a delinquency of any personal property tax, the county tax collector shall issue a warrant of distraint for the collection of the delinquency. The warrant of distraint shall bear the date of its issuance, and shall be directed to the county sheriff. The warrant shall give the name of the delinquent taxpayer and his mailing address as ascertained by the county tax collector. The warrant shall also describe generally the personal property upon which the delinquency exists and give the amount of each delinquency. The warrant shall contain a direction to the county sheriff to seize and sell a sufficient amount of the property, or any other personal property of the delinquent taxpayer to be found within the county, with the minimum bid sufficient to pay the delinquency, together with interest and late charges thereon and together with all fees, commissions, mileage and costs accruing thereon.

(2) The county tax collector shall keep a record of the date of the issuance of each warrant of distraint and of the return, showing in detail the amount collected or the fact that no personal property belonging to the delinquent taxpayer was found. A record of all warrants of distraint shall, upon their return, be kept by the tax collector for a period of two (2) years. The collection of any delinquency, or the return of a warrant of distraint showing no property found, shall relieve the county sheriff and tax collector and their bondsmen from responsibility of that delinquency. Upon the return of any warrant of distraint showing property taxes uncollected it shall be the duty of the tax collector, when directed by the county commissioners, to commence and prosecute to judgment an action against the delinquent taxpayer, and no property shall be exempt from levy and sale upon execution issued on the judgment.

[63-1012 added 1996, ch. 98, sec. 11, p. 387.]

63-1013. WARRANTS OF DISTRAINT -- SERVICE AND EXECUTION. (1) All warrants of distraint issued by the tax collector shall be served and executed by the sheriff in the manner provided by law for the services of executions by levy upon personal property and he shall make return of the same to the tax collector of the county within ninety (90) days from the date of his receipt thereof with an endorsement thereon showing that the delinquency therein described, together with interest, late charges and costs, as provided by law, have been collected, or that, no property can be found to seize under the warrant. For making a false return the sheriff shall be liable to the county for double the amount of the property taxes, with interest and costs.

(2) Fees allowed for issuing warrants of distraint, collection, levy and return of the same, shall be set by ordinance by the board of county commissioners. When levying on a warrant of distraint, the provisions of section 31-3203, Idaho Code, shall apply in determining service fees.

(3) If the sheriff returns the warrant of distraint showing that no property can be found upon which a levy can be made to collect the delinquency, he shall note in the return the county, if any, in this state to which the delinquent taxpayer may have moved together with his mailing address and the date of his departure shall also be noted on the returns. Upon the filing of the sheriff's return showing that any delinquent taxpayer has moved to another county in this state, it shall be the duty of the tax collector to immediately issue and mail another warrant of distraint to the sheriff of the county to which the delinquent taxpayer is so shown to have moved, or in which personal property belonging to him may be found, and the sheriff to whom the other warrant of distraint is issued shall serve and return the warrant in the manner provided for the service and return of original warrants of distraint, making return of fees and commissions earned by him to the county auditor of his county, and paying any delinquency and fees collected, shown by the other warrant of distraint to be due, to the tax collector issuing the other warrant. Should a sheriff to whom the other warrant of distraint is issued be unable to find any property out of which the delinquency may be collected, he shall so return to the tax collector issuing the warrant.

[63-1013, added 1996, ch. 98, sec. 11, p. 387; am. 1997, ch. 117, sec. 34, p. 332; am. 2010, ch. 115, sec. 1, p. 241.]

63-1014. REMOVAL OR SALE OR REPOSSESSION OF PERSONAL PROPERTY BEFORE PAYMENT OF PROPERTY TAXES ON PROPERTY ROLLS. (1) Whenever any person, firm or corporation owning any personal property shall desire to remove the personal property from the county or sell or repossess the property before all property taxes due and payable including the current year's taxes have been paid upon the personal property, the property taxes shall be paid to the tax collector upon demand and before the removal of the property from the county. It shall be the duty of the tax collector to collect the property taxes provided for in this section, and all the provisions of this chapter are hereby made available to the tax collector in the collection of such taxes.

(a) If a person holding a purchase money security interest desires to repossess and sell a specific piece of personal property and the market value of that personal property exceeds twenty thousand dollars ($20,000), that person shall provide to the tax collector a request to segregate that specific piece of personal property from the personal property tax parcel. The person holding the purchase money security interest shall provide a copy of the purchase money security interest agreement with the request for segregation.

(b) The county assessor shall determine and provide to the tax collector the market value for assessment purposes of that segregated portion of personal property. The tax collector shall calculate property tax to be paid for any delinquencies, including late charges, accrued interest, costs incurred and the estimated taxes for the current year relating to that segregated portion of personal property.

(c) The person holding the purchase money security interest shall pay all personal property taxes owed, including late charges, accrued interest and costs incurred on the specific segregated personal property

to the tax collector before taking possession of the personal property or selling the property.

(d) The segregation of specific personal property from the personal property tax parcel shall not affect the priority of the tax lien on the remaining personal property items in the parcel.

(2) It shall be a misdemeanor for any person, firm or corporation to move from the county or sell or repossess any personal property or manufactured home without the payment of the current year's property taxes or without paying property taxes due and owing, and upon conviction the person, firm or corporation shall, in addition to any penalty which the court may impose, pay to the tax collector a sum not in excess of double the amount of property tax which was collectible on the property removed or sold or repossessed, together with all costs and late charges provided for in this chapter. The excess sum shall be collected by the tax collector in the same manner as the original property tax.

[63-1014 added 1996, ch. 98, sec. 11, p. 388; am. 2012, ch. 307, sec. 1, p. 848.]

63-1015. APPORTIONMENT OF PROCEEDS FROM REDEMPTION. Upon the redemption from tax sale of any property described in any delinquency entry, the amount paid on account of such redemption, shall be paid into the county treasury by the tax collector, upon the certificate of the county auditor, to be apportioned among the several state and county funds and taxing districts, as provided for the apportionment of property taxes.

[63-1015 added 1996, ch. 98, sec. 11, p. 388.]