

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 517, As Amended

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 63-1009, IDAHO CODE, TO REVISE PROVISIONS
7 REGARDING THE EFFECT OF A TAX DEED AS A CONVEYANCE; AND DECLARING AN
8 EMERGENCY.
9

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

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

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

5 50-1715. CONFIRMATION OF ASSESSMENT ROLL. (1) After said hearing,
6 the council shall pass an ordinance confirming the assessment roll as cor-
7 rected by ~~them~~ the council in relation to the benefits accruing thereon as
8 a result of the improvements being made. The ordinance shall be the final
9 determination of the regularity, validity and correctness of the assessment
10 roll, of each assessment contained therein, and of the amount thereof levied
11 on each lot or parcel of land, which ordinance shall contain a finding that
12 each lot or parcel of land is benefited to the amount of assessment levied
13 thereon subject to appeal as provided herein. Upon passage of the ordi-
14 nance, the clerk shall certify and file the confirmed assessment roll with
15 the treasurer of the municipality and the assessments therein shall be due
16 and payable to the treasurer within thirty (30) days from the date of the
17 adoption of the ordinance. The confirmed assessment roll and the assess-
18 ments made by the confirmed assessment roll shall be a lien upon the property
19 assessed from and after the date the following notice is recorded. Immedi-
20 ately upon passage of the confirming ordinance, the clerk shall file with
21 the county recorder a notice which shall contain the date of the confirming
22 ordinance and a description of the area or boundaries of the district. If
23 any assessment is not paid in full within said thirty (30) day period, such
24 assessment shall become delinquent and shall be collected in the same man-
25 ner and with the same penalties and interest added thereto as hereinafter
26 provided for delinquent assessments. The council may, in the alternative,
27 determine to make assessments unpaid at the end of said thirty (30) day pe-
28 riod payable in installments and to issue and sell registered warrants or
29 installment bonds payable from such unpaid installments as herein provided.
30 If the council chooses to do so, it shall provide in said ordinance that any
31 property owner who has not paid his assessment in full within said thirty
32 (30) day period will be conclusively presumed to have chosen to pay the same
33 in installments, and the ordinance shall then establish the number of years
34 said installments shall run, the dates of payment of the same, and the rate
35 of interest that the unpaid assessments shall bear, which rate shall not be
36 less than the rate of interest borne by the warrants or bonds payable there-
37 from, said interest running from the date of the passage of the assessment
38 ordinance, irrespective of the date of its official publication, and being
39 payable at the same time and place as the installment payments of assess-
40 ments. Said installments shall be due and payable in not to exceed thirty
41 (30) years to the treasurer or other proper officer as provided by the coun-
42 cil. The ordinance shall establish the due date of the first installment
43 payment and that the local or special assessments may be carried on the rolls
44 of the municipality and collected as hereinafter provided. If any install-
45 ment is not paid within twenty (20) days from the date it is due, the same
46 shall become delinquent and the treasurer shall add a penalty of two ~~per cent~~
47 percent (2%) thereto. In addition to any other method of collection provided
48 in this code, the council may certify delinquent installments to the tax
49 collector, and when so certified they shall be extended on the tax rolls and

1 collected as are property taxes, pursuant to the provisions of chapter 10,
 2 title 63, Idaho Code. In the event that any property owner should choose to
 3 pay his assessment in full after such time as it has been conclusively pre-
 4 sumed that he will pay in installments, such payment in full shall include
 5 the full amount of the unpaid assessment plus penalties and all interest
 6 payable on the same plus additional interest thereon at the rate provided in
 7 the bonds from the date of the last installment due to one (1) year after the
 8 next interest date of said bonds.

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

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

21 50-1721. LIEN OF ASSESSMENT -- FORECLOSURE. (1) Assessments levied to
 22 pay the cost and expense of any improvement authorized by the provisions of
 23 this code, or any law of this state, shall constitute a lien upon and against
 24 the property upon which such assessment or assessments are made and levied
 25 from and after the date upon which the ordinance levying such assessment or
 26 assessments is passed, which lien shall be superior to the lien of any mort-
 27 gage or other encumbrance, whether prior in time or not, and shall consti-
 28 tute such lien until paid, and until paid, such lien shall not, except as oth-
 29 erwise provided in this section, be subject to extinguishment ~~for any rea-~~
 30 ~~son whatsoever,~~ including but not limited to extinguishment by reason of the
 31 sale of the property assessed on account of the nonpayment of general taxes
 32 or the conveyance of such property by any means to the United States of Amer-
 33 ica, or any agency thereof, the state of Idaho, or any county, city, school
 34 district, junior community college district, or other public body, agency
 35 or taxing unit in said state. When bonds have not been issued and said as-
 36 sessments made payable in installments as herein provided, such assessments
 37 shall be collected, or the property therein shall be foreclosed and sold for
 38 such assessments and costs, in a suit for that purpose by the municipality.
 39 Delinquent assessments certified to the tax collector for collection as pro-
 40 vided in section 50-1715, Idaho Code, shall be governed by the provisions
 41 of chapter 10, title 63, Idaho Code. All provisions of chapter 10, title
 42 63, Idaho Code, specifically including those governing collection, satis-
 43 faction, and extinguishment of delinquent amounts, shall apply to certified
 44 delinquent assessments in the same manner and to the same effect as delin-
 45 quent property taxes.

46 (2) Such suit shall be in the name of the municipality as plaintiff and
 47 against any one (1) or more owners of property failing to pay such assessment
 48 or assessments as defendants. In any such proceedings where the court try-
 49 ing the same shall be satisfied that the improvements have been made or have

1 been contracted for, which according to the true intent of this code would be
2 properly chargeable to such property, a recovery shall be permitted and the
3 lien enforced to the extent of the cost and expenses of the improvement which
4 would be chargeable on such property notwithstanding any informality, ir-
5 regularity or defect in any of the proceedings of such municipality or any of
6 its officers, and such property shall be ordered sold for the payment of the
7 assessment or assessments against it and the costs and expenses of such suit,
8 including reasonable attorney's fees, to be fixed by the court and prorated
9 to each separate piece of property.

10 SECTION 4. That Section 63-1009, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 63-1009. EFFECT OF TAX DEED AS CONVEYANCE. The deed conveys to the
13 grantee the right, title, and interest held by the record owner or owners,
14 provided that the title conveyed by the deed shall be free of any recorded
15 purchase contract, mortgage, deed of trust, security interest, lien, or
16 lease, ~~so~~ as long as notice has been sent to the party in interest as provided
17 in sections 63-201(17) and 63-1005, Idaho Code, and the lien for property
18 taxes, assessments, amounts certified to the tax collector pursuant to sec-
19 tion 50-1715, Idaho Code, charges, interest, and penalties for which the
20 lien is foreclosed and in satisfaction of which the property is sold.

21 SECTION 5. An emergency existing therefor, which emergency is hereby
22 declared to exist, this act shall be in full force and effect on and after its
23 passage and approval.