

HOUSE BILL NO. 441

INTRODUCED BY PAVLOVICH, DAILY

IN THE HOUSE

JANUARY 29, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

JANUARY 30, 1991                   FIRST READING.

MARCH 5, 1991                    COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

                                  PRINTING REPORT.

MARCH 9, 1991                    SECOND READING, DO PASS.

MARCH 11, 1991                   ENGROSSING REPORT.

MARCH 12, 1991                   THIRD READING, PASSED.  
AYES, 94; NOES, 4.

                                  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 13, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                  FIRST READING.

APRIL 5, 1991                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

APRIL 8, 1991                    SECOND READING, CONCURRED IN.

APRIL 9, 1991                    THIRD READING, CONCURRED IN.  
AYES, 45; NOES, 0.

                                  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 11, 1991                   RECEIVED FROM SENATE.

                                  SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 12, 1991                   THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 INTROSUCED BY HOUSE BILL NO. 441  
2 *Carroll D. Kelly*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE HOLDER OF  
5 A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR  
6 HOUSETRAILER TO FILE A NOTICE TO GAIN PRIORITY OVER TAX  
7 LIENS; REQUIRING NOTICE OF DELINQUENT TAXES ON A MOBILE HOME  
8 OR HOUSETRAILER TO THE HOLDERS OF PERFECTED SECURITY  
9 INTERESTS IN THE MOBILE HOME OR HOUSETRAILER; ALLOWING A  
10 MOVING DECLARATION FOR A MOBILE HOME OR HOUSETRAILER  
11 PURSUANT TO A REPOSSESSION; LIMITING THE DELINQUENT TAX  
12 LIABILITY OF THE HOLDER OF A PERFECTED SECURITY INTEREST IN  
13 A MOBILE HOME OR HOUSETRAILER; AND AMENDING SECTIONS  
14 15-16-113, 15-16-402, 15-24-202, AND 15-24-206, MCA."  
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 15-16-113, MCA, is amended to read:

18 "15-16-113. Personal property -- duty of treasurer --  
19 penalty. (1) The county treasurer shall collect taxes on all  
20 personal property and, in the case provided in 15-16-111 or  
21 15-16-115(2), shall immediately upon receipt of the report  
22 prescribed by 15-16-111 or upon entry of a notation under  
23 15-16-115(2) concerning a mobile home not taxed as an  
24 improvement to real property notify the person or persons  
25 against whom the tax is assessed and any person who has a

1 properly perfected security interest of record with the  
2 department of justice that the amount of the tax is due and  
3 payable at the county treasurer's office.

4 (2) (a) The Except as provided in subsection (2)(b),  
5 the county treasurer shall, at the time of receiving the  
6 report and in any event within 30 days from the receipt of  
7 such the report, levy upon and take into his possession the  
8 personal property against which a tax is assessed or any  
9 other personal property in the hands of the delinquent  
10 taxpayer and proceed to sell the same property in the same  
11 manner as property is sold on execution by the sheriff.

12 (b) If the taxes on a mobile home or housetrailer  
13 become delinquent, the county treasurer shall give  
14 notification of the delinquency by first-class mail to every  
15 person who has a perfected security interest in the  
16 property. Within 90 days of issuing the notice, the county  
17 treasurer shall levy upon and take into his possession the  
18 mobile home or housetrailer against which the tax is  
19 assessed or any other personal property in the hands of the  
20 delinquent taxpayer and proceed to sell the property in the  
21 same manner as property is sold on execution by the sheriff.

22 (3) The county treasurer shall, for the purpose of  
23 making the levy and sale, direct the sheriff to make the  
24 levy and sale. The sheriff, undersheriff, or any deputy  
25 sheriff of the county is ex officio a deputy county

1 treasurer for such purposes of the sale, and either may act  
2 and receive payment of such the taxes. The sheriff may  
3 receive the same fees as he is entitled to in making a  
4 seizure and sale as provided in 15-17-911.

5 (4) The county treasurer and his sureties are liable on  
6 his official bond for all taxes on personal property  
7 remaining uncollected by reason of the willful failure and  
8 neglect of the treasurer to levy upon and sell such the  
9 personal property for the taxes levied thereon on the  
10 property.

11 (5) Failure by the sheriff, undersheriff, or deputy  
12 sheriff acting as a deputy county treasurer to make the levy  
13 and sale results in a levy against the official bond of the  
14 sheriff, undersheriff, or deputy sheriff for payment of the  
15 delinquent tax.

16 (6) The provisions of this section do not apply to  
17 property for which delinquent property taxes have been  
18 suspended or canceled under the provisions of Title 15,  
19 chapter 24, part 17. (Subsection (6) terminates December 31,  
20 1993--sec. 17, Ch. 631, L. 1989.)"

21 **Section 2.** Section 15-16-402, MCA, is amended to read:

22 "15-16-402. Tax on personal property lien on realty --  
23 separate assessment -- filing of mortgage satisfaction. (1)  
24 Every tax due upon personal property, other than a mobile  
25 home or housetrailer, is a prior lien upon any or all of

1 such the personal property, which lien ~~shall~~--have has  
2 precedence over any other lien, claim, or demand upon such  
3 the property, and except as hereinafter provided in this  
4 section, every tax upon personal property is also a lien  
5 upon the real property of the owner thereof of the personal  
6 property on and after January 1 of each year. Tax due upon a  
7 mobile home or housetrailer is a prior lien upon the owner's  
8 equitable interest in the mobile home or housetrailer but is  
9 subordinate to the claim of a security interest holder who  
10 has filed the notice provided for in subsection (3).

11 (2) The taxes upon personal property based upon a  
12 taxable value up to and including \$1,000 ~~shall~~--be are a  
13 first and prior lien upon the real property of the owner of  
14 such the personal property. Taxes upon personal property  
15 based upon the taxable value thereof of the personal  
16 property in excess of \$1,000 ~~shall~~--be are a first and prior  
17 lien upon the real property of the owner unless the owner or  
18 holder of any mortgage or other lien upon said the real  
19 property appearing of record in the office of the clerk and  
20 recorder of the county where such the real property is  
21 situated, at or before the time such the personal property  
22 tax attached ~~thereto~~ to the personal property, ~~shall~~--have  
23 filed the notice hereinafter provided for in subsection  
24 (3), ~~in which event~~ if the notice was filed before the  
25 personal property tax attached to the property, the taxes

1 upon ~~such~~ the excess of \$1,000 of taxable value ~~shall~~ are  
 2 not be a lien on the real property of ~~such~~ the owner. It  
 3 ~~shall-be-the-duty-of-the~~ The county treasurer to ~~shall~~ issue  
 4 to any mortgagee or ~~lien--holder~~ lienholder, upon his  
 5 request, a statement of the personal property tax due upon  
 6 the taxable value up to and including \$1,000. Personal  
 7 property taxes upon a taxable value up to \$1,000 may be  
 8 paid, redeemed from a tax sale as ~~by-law~~ provided by law, or  
 9 discharged separately from any personal property taxes in  
 10 excess of ~~such~~ that amount. Payment of ~~such~~ personal  
 11 property taxes upon a taxable value up to \$1,000, ~~as--herein~~  
 12 ~~provided,--shall-operate-to-discharge~~ discharges the tax lien  
 13 upon the personal property of the owner to the extent of  
 14 ~~such~~ the payment in the order that the person paying ~~such~~  
 15 the tax ~~shall--direct~~ directs.

16 (3) The holder of any mortgage or lien upon real  
 17 property or a security interest in a mobile home or  
 18 housetrailer who desires to obtain the benefits of this  
 19 section shall file in the office of the county treasurer of  
 20 ~~said~~ the county where the property is located a notice  
 21 giving:

22 (a) the name and address of the mortgagee and holder of  
 23 the mortgage, or lien, or security interest;

24 (b) the name of the reputed owner of the land, mobile  
 25 home, or housetrailer;

1 (c) the description of the land, if applicable;

2 (d) the date of record and expiration of the mortgage,  
 3 or lien, or security interest;

4 (e) the amount ~~thereof~~ of the mortgage, lien, or  
 5 security interest; and

6 (f) a statement that he claims the benefit of the  
 7 provisions of this section.

8 (4) ~~Such~~ The notice ~~shall-be~~ is ineffectual as to any  
 9 taxes ~~which--shall~~ that have become a lien on real property  
 10 prior to the filing of ~~such~~ the notice ~~as-aforsaid~~. If the  
 11 mortgage be is not paid at maturity, ~~such~~ the notice ~~shall~~  
 12 ~~thereafter~~ must be filed annually unless the mortgage be is  
 13 extended for a definite period ~~to-be~~ stated in ~~such~~ the  
 14 notice.

15 (5) Any owner of a mortgage on real estate upon which  
 16 personal property taxes are ~~by-this-section-made~~ a lien,  
 17 ~~where~~ because the owner of ~~such~~ the real estate and personal  
 18 property has failed to pay taxes due upon ~~such~~ the real  
 19 estate and personal property for 1 or more years, may file  
 20 with the department of revenue or its agent in the county in  
 21 which ~~such~~ the property is located a written request to have  
 22 the personal property and real estate of the owner  
 23 separately assessed. ~~Such~~ The request must be made by  
 24 ~~registered-or~~ certified mail at least 10 days prior to  
 25 January 1 in the year for which the property is assessed.

1 Upon receipt by the department or its agent of such the  
 2 request, ~~it-is-hereby-made-the-duty-of~~ the department or its  
 3 agent to shall make a separate assessment of real and  
 4 personal property, ~~of--the--owner--thereof,--and such~~ The  
 5 personal taxes ~~shall~~ are not be a lien upon the real estate  
 6 ~~so-mortgaged-of-the-owner-thereof~~, and the personal property  
 7 taxes ~~shall~~ must be collected in the manner provided by law  
 8 for other personal property.

9 (6) The holder of a mortgage or lien upon real property  
 10 who files a certificate of satisfaction and the proof and  
 11 acknowledgment thereof of the satisfaction, as provided for  
 12 in 71-1-211, shall file a copy of the certificate and the  
 13 proof and acknowledgment with:

14 (a) the county treasurer if the holder has filed a  
 15 notice under subsection (3); and

16 (b) the department of revenue or its agent in the  
 17 county in which the real property is located if the holder  
 18 has filed a written request under subsection (5).

19 (7) The provisions of this section do not apply to  
 20 property for which delinquent property taxes have been  
 21 suspended or canceled under the provisions of Title 15,  
 22 chapter 24, part 17. (Subsection (7) terminates December 31,  
 23 1993--sec. 17, Ch. 631, L. 1989.)"

24 **Section 3.** Section 15-24-202, MCA, is amended to read:

25 "15-24-202. Payment of tax -- interest and penalty --

1 display of tax-paid sticker. (1) (a) The owner of a mobile  
 2 home or housetrailer which is not taxed as an improvement,  
 3 as improvements are defined in 15-1-101, shall pay the  
 4 personal property tax in two payments, except as provided in  
 5 15-24-206.

6 (b) The first payment is due within 30 days from the  
 7 date of the notice of taxes due.

8 (c) The second payment is due no later than September  
 9 30 of the year in which the property is assessed.

10 (d) If not paid on or before the date due, the tax is  
 11 considered delinquent and subject to the penalty and  
 12 interest provisions in 15-16-102 applicable to other  
 13 delinquent property taxes. The penalty must be assessed and  
 14 interest begins to accrue on the first day of delinquency.  
 15 If payment is not made by the due date for the second  
 16 payment, the treasurer shall enter the delinquency in the  
 17 assessment book, as prescribed by 15-16-115(2), on December  
 18 1.

19 (2) Taxes assessed against a mobile home after the  
 20 second payment date must be prorated to reflect the  
 21 remaining portion of the tax year. The prorated taxes must  
 22 be added to the following year's tax roll and, except as  
 23 provided in 15-24-206, are due with and must be collected  
 24 with the first payment due in that year.

25 (3) The department of revenue shall issue tax-paid

1 stickers to the county treasurers. ~~If~~ Except as provided in  
 2 15-24-206 and [section 5], if a mobile home or housetrailer  
 3 is to be moved and all taxes, interest, and penalties on the  
 4 mobile home or housetrailer are paid in full, the treasurer  
 5 shall issue a tax-paid sticker to the owner of the mobile  
 6 home or housetrailer. Prior to and while in the process of  
 7 moving the mobile home or housetrailer, the owner shall  
 8 display the tax-paid sticker, which must be visible from the  
 9 exterior of the mobile home or housetrailer. No mobile home  
 10 movement declaration of destination provided for in  
 11 15-24-206 may be issued unless the taxes have been paid in  
 12 full to the county treasurer.

13 (4) On the movement of a mobile home or housetrailer in  
 14 violation of this part, the county treasurer for the county  
 15 where the mobile home or housetrailer first comes to rest  
 16 shall issue a written notice to the owner, showing the  
 17 amount of delinquent taxes, special assessments, penalties,  
 18 and interest due. In addition to the penalties provided in  
 19 15-16-102, 20% or \$50, whichever is greater, must be added  
 20 to the delinquent taxes as penalty for violation of this  
 21 part. On receipt of the delinquent taxes, special  
 22 assessments, penalties, and interest, the county treasurer  
 23 shall forward all delinquent taxes, special assessments,  
 24 penalties, and interest collected under 15-16-102 to the  
 25 county treasurer for the county of origin. The county of

1 destination shall retain the penalty."

2 **Section 4.** Section 15-24-206, MCA, is amended to read:

3 "15-24-206. Declaration of destination on imported  
 4 mobile homes -- display -- tax receipt -- exemptions. (1)  
 5 ~~Whoever~~ A person who brings a mobile home into the state  
 6 shall immediately upon arrival in the state execute a  
 7 written declaration, verified under oath, stating the  
 8 destination of the mobile home and ~~such~~ any other  
 9 information ~~as~~ the department of revenue may require and  
 10 shall deliver the original of the declaration to whomever is  
 11 on duty at the nearest port of entry station, state vehicle  
 12 weight station, or ~~such~~ other place ~~and--person-as~~ the  
 13 department may prescribe. He shall also immediately upon  
 14 arrival in the state affix a copy of the declaration to the  
 15 mobile home at a conspicuous place.

16 (2) The treasurer shall issue the mobile home movement  
 17 declaration provided for in this section to a person  
 18 required by this section to execute it, in ~~such~~ quantities  
 19 ~~as~~ he requests to a maximum of 100. The treasurer shall  
 20 issue ~~such~~ additional quantities of the declaration to a  
 21 maximum of 100 as the person requests at the discretion of  
 22 the county treasurer upon receipt from the person of the  
 23 previously issued declarations properly executed. ~~in--any~~  
 24 ~~event--executed~~ Executed declarations must be delivered to  
 25 the treasurer within 30 days from their issue.

1 (3) Whoever A person who moves a mobile home from a  
 2 point within the state to another point within or without  
 3 the state shall first:

4 (a) execute the declaration provided for in subsection  
 5 (1) ~~of--this--section~~, deliver the original of it to the  
 6 treasurer of the county in which the move originates or to  
 7 ~~such~~ any other person ~~as~~ the department may prescribe, and  
 8 affix a copy of it in a conspicuous place on the mobile home  
 9 to be moved;

10 (b) obtain from the county treasurer of the county in  
 11 which the move originates a receipt showing payment in full  
 12 of property taxes with respect to that mobile home.

13 (4) The provisions of subsection (3)(b) do not apply  
 14 whenever a person moves a mobile home:

15 (a) from a point without to a point within the state;

16 (b) between places of business of dealers within or  
 17 without the state;

18 (c) from the place of business of a dealer to a point  
 19 within or without the state; or

20 (d) pursuant to the repossession of a mobile home,  
 21 unless the treasurer has furnished the lienholder or secured  
 22 party with timely notice of the delinquent tax due as  
 23 required by 15-16-113."

24 NEW SECTION. Section 5. Limit on delinquent mobile  
 25 home taxes chargeable to security interest holder. The

1 holder of a perfected security interest in a mobile home or  
 2 housetrailer who repossesses the mobile home or housetrailer  
 3 as provided by law and as authorized in the contract between  
 4 the owner and the secured party may not be required to pay  
 5 delinquent property taxes for more than 3 years as a  
 6 condition of moving the mobile home or housetrailer or  
 7 transferring it to another person. Any additional delinquent  
 8 taxes due upon the mobile home or housetrailer are a lien  
 9 upon any other personal or real property of the person who  
 10 was required to pay the delinquent taxes at the time the  
 11 taxes were due.

12 NEW SECTION. Section 6. Codification instruction.

13 [Section 5] is intended to be codified as an integral part  
 14 of Title 15, chapter 16, and the provisions of Title 15,  
 15 chapter 16, apply to [section 5].

-End-



STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0441, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act allowing the holder of a perfected security interest in a mobile home or housetrailer to file a notice to gain priority over tax liens; requiring notice of delinquent taxes on a mobile home or housetrailer to the holders of perfected security interests in the mobile home or housetrailer; allowing a moving declaration for a mobile home or housetrailer pursuant to a repossession; limiting the delinquent tax liability of the holder of a perfected security interest in a mobile home or housetrailer.

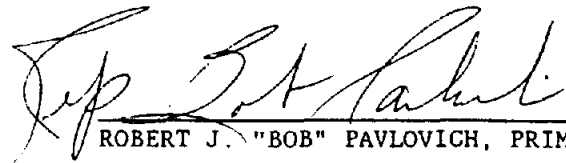
FISCAL IMPACT:

The proposal should have an insignificant impact on state revenues, although it is not possible to estimate the magnitude with available data.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

It is not possible to estimate the potential loss in county revenues.

 2-1-91  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/2/91  
ROBERT J. "BOB" PAVLOVICH, PRIMARY SPONSOR      DATE

Fiscal Note for HB0441, as introduced

HB 441

APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 441

INTRODUCED BY PAVLOVICH, DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE HOLDER OF A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR HOUSETRAILER TO FILE A NOTICE TO GAIN PRIORITY OVER TAX LIENS OF THE INTEREST WITH THE COUNTY TREASURER; REQUIRING NOTICE OF DELINQUENT TAXES ON AN IMPENDING SHERIFF'S SALE OF A MOBILE HOME OR HOUSETRAILER TO THE HOLDERS OF PERFECTED SECURITY INTERESTS IN THE MOBILE HOME OR HOUSETRAILER; ALLOWING A MOVING DECLARATION FOR A MOBILE HOME OR HOUSETRAILER PURSUANT TO A REPOSSESSION; LIMITING THE DELINQUENT TAX LIABILITY OF THE HOLDER OF A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR HOUSETRAILER; AND AMENDING SECTIONS 15-16-113, 15-16-402, 15-24-202, AND 15-24-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1, Section 15-16-113, MCA, is amended to read:

"15-16-113. Personal property - duty of treasurer - penalty. (1) The county treasurer shall collect taxes on all personal property and, in the case provided in 15-16-111 or 15-16-115(2), shall immediately upon receipt of the report prescribed by 15-16-111 or upon entry of a notation under 15-16-115(2) concerning a mobile home not taxed as an

~~improvement to real property notify the person or persons against whom the tax is assessed and any person who has a properly perfected security interest of record with the department of justice that the amount of the tax is due and payable at the county treasurer's office.~~

~~(2) (a) The Except as provided in subsection (2)(b), the county treasurer shall, at the time of receiving the report and in any event within 30 days from the receipt of such the report, levy upon and take into his possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the same property in the same manner as property is sold on execution by the sheriff.~~

~~(b) If the taxes on a mobile home or house trailer become delinquent, the county treasurer shall give notification of the delinquency by first class mail to every person who has a perfected security interest in the property. Within 90 days of issuing the notice, the county treasurer shall levy upon and take into his possession the mobile home or house trailer against which the tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the property in the same manner as property is sold on execution by the sheriff.~~

~~(3) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the~~



1 ~~levy and sale. The sheriff, undersheriff, or any deputy~~  
 2 ~~sheriff of the county is ex officio a deputy county~~  
 3 ~~treasurer for such purposes of the sale, and either may act~~  
 4 ~~and receive payment of such the taxes. The sheriff may~~  
 5 ~~receive the same fees as he is entitled to in making a~~  
 6 ~~seizure and sale as provided in 15-17-911.~~

7 (4) ~~The county treasurer and his sureties are liable on~~  
 8 ~~his official bond for all taxes on personal property~~  
 9 ~~remaining uncollected by reason of the willful failure and~~  
 10 ~~neglect of the treasurer to levy upon and sell such the~~  
 11 ~~personal property for the taxes levied thereon on the~~  
 12 ~~property.~~

13 (5) ~~Failure by the sheriff, undersheriff, or deputy~~  
 14 ~~sheriff acting as a deputy county treasurer to make the levy~~  
 15 ~~and sale results in a levy against the official bond of the~~  
 16 ~~sheriff, undersheriff, or deputy sheriff for payment of the~~  
 17 ~~delinquent tax.~~

18 (6) ~~The provisions of this section do not apply to~~  
 19 ~~property for which delinquent property taxes have been~~  
 20 ~~suspended or canceled under the provisions of Title 15,~~  
 21 ~~chapter 24, part 17. (Subsection (6) terminates December 31,~~  
 22 ~~1993--sec 17-2h-6317-b-1989.)<sup>a</sup>~~

23 Section 2. Section 15-16-402, MCA, is amended to read:  
 24 "15-16-402. Tax on personal property lien on realty---  
 25 separate assessment---filing of mortgage satisfaction. (1)

1 ~~Every tax due upon personal property, other than a mobile~~  
 2 ~~home or housetrailer, is a prior lien upon any or all of~~  
 3 ~~such the personal property, which lien shall have has~~  
 4 ~~precedence over any other lien, claim, or demand upon such~~  
 5 ~~the property, and except as hereinafter provided in this~~  
 6 ~~section, every tax upon personal property is also a lien~~  
 7 ~~upon the real property of the owner thereof of the personal~~  
 8 ~~property on and after January 1 of each year. Tax due upon a~~  
 9 ~~mobile home or housetrailer is a prior lien upon the owner's~~  
 10 ~~equitable interest in the mobile home or housetrailer but is~~  
 11 ~~subordinate to the claim of a security interest holder who~~  
 12 ~~has filed the notice provided for in subsection (3).~~

13 (2) ~~The taxes upon personal property based upon a~~  
 14 ~~taxable value up to and including \$17000 shall be are a~~  
 15 ~~first and prior lien upon the real property of the owner of~~  
 16 ~~such the personal property. Taxes upon personal property~~  
 17 ~~based upon the taxable value thereof of the personal~~  
 18 ~~property in excess of \$17000 shall be are a first and prior~~  
 19 ~~lien upon the real property of the owner unless the owner or~~  
 20 ~~holder of any mortgage or other lien upon said the real~~  
 21 ~~property appearing of record in the office of the clerk and~~  
 22 ~~recorder of the county where such the real property is~~  
 23 ~~situated, at or before the time such the personal property~~  
 24 ~~tax attached thereto to the personal property, shall have~~  
 25 ~~filed the notice hereinafter provided for in subsection~~

1 ~~(3), in which event if the notice was filed before the~~  
 2 ~~personal property tax attached to the property, the taxes~~  
 3 ~~upon such the excess of \$1,000 of taxable value shall be~~  
 4 ~~not be a lien on the real property of such the owner. It~~  
 5 ~~shall be the duty of the The county treasurer to shall issue~~  
 6 ~~to any mortgagee or lien holder lienholder, upon his~~  
 7 ~~request, a statement of the personal property tax due upon~~  
 8 ~~the taxable value up to and including \$1,000. Personal~~  
 9 ~~property taxes upon a taxable value up to \$1,000 may be~~  
 10 ~~paid, redeemed from a tax sale as by law provided by law, or~~  
 11 ~~discharged separately from any personal property taxes in~~  
 12 ~~excess of such that amount. Payment of such personal~~  
 13 ~~property taxes upon a taxable value up to \$1,000, as herein~~  
 14 ~~provided, shall operate to discharge discharges the tax lien~~  
 15 ~~upon the personal property of the owner to the extent of~~  
 16 ~~such the payment in the order that the person paying such~~  
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18 ~~(3) The holder of any mortgage or lien upon real~~  
 19 ~~property or a security interest in a mobile home or~~  
 20 ~~housetrailer who desires to obtain the benefits of this~~  
 21 ~~section shall file in the office of the county treasurer of~~  
 22 ~~said the county where the property is located a notice~~  
 23 ~~giving:~~

24 ~~(a) the name and address of the mortgagee and holder of~~  
 25 ~~the mortgage, or lien, or security interest;~~

1 ~~(b) the name of the reputed owner of the land, mobile~~  
 2 ~~home, or housetrailer;~~  
 3 ~~(c) the description of the land, if applicable;~~  
 4 ~~(d) the date of record and expiration of the mortgage,~~  
 5 ~~or lien, or security interest;~~  
 6 ~~(e) the amount thereof of the mortgage, lien, or~~  
 7 ~~security interest; and~~  
 8 ~~(f) a statement that he claims the benefit of the~~  
 9 ~~provisions of this section.~~

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 11 ~~taxes which shall that have become a lien on real property~~  
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 13 ~~mortgage be is not paid at maturity, such the notice shall~~  
 14 ~~thereafter must be filed annually unless the mortgage be is~~  
 15 ~~extended for a definite period to be stated in such the~~  
 16 ~~notice.~~

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 18 ~~personal property taxes are by this section made a lien,~~  
 19 ~~where because the owner of such the real estate and personal~~  
 20 ~~property has failed to pay taxes due upon such the real~~  
 21 ~~estate and personal property for 1 or more years, may file~~  
 22 ~~with the department of revenue or its agent in the county in~~  
 23 ~~which such the property is located a written request to have~~  
 24 ~~the personal property and real estate of the owner~~  
 25 ~~separately assessed. Such The request must be made by~~

1 registered-or-certified-mail--at--least--10--days--prior--to  
 2 January--1--in--the--year--for--which--the--property--is--assessed.  
 3 Upon--receipt--by--the--department--or--its--agent--of--such the  
 4 request,--it--is--hereby--made--the--duty--of--the--department--or--its  
 5 agent--to shall--make--a--separate--assessment--of--real--and  
 6 personal--property, of--the--owner--thereof,--and such The  
 7 personal--taxes--shall are--not--be--a--lien--upon--the--real--estate  
 8 so--mortgaged--of--the--owner--thereof,--and--the--personal--property  
 9 taxes--shall must--be--collected--in--the--manner--provided--by--law  
 10 for--other--personal--property.

11 {6}--The--holder--of--a--mortgage--or--lien--upon--real--property  
 12 who--files--a--certificate--of--satisfaction--and--the--proof--and  
 13 acknowledgment--thereof of--the--satisfaction,--as--provided--for  
 14 in--71-1-211,--shall--file--a--copy--of--the--certificate--and--the  
 15 proof--and--acknowledgment--with:

16 {a}--the--county--treasurer--if--the--holder--has--filed--a  
 17 notice--under--subsection--(3),--and

18 {b}--the--department--of--revenue--or--its--agent--in--the  
 19 county--in--which--the--real--property--is--located--if--the--holder  
 20 has--filed--a--written--request--under--subsection--(5);

21 {7}--The--provisions--of--this--section--do--not--apply--to  
 22 property--for--which--delinquent--property--taxes--have--been  
 23 suspended--or--canceled--under--the--provisions--of--Title--15,  
 24 chapter--24,--part--17,--(Subsection--(7) terminates December 31,  
 25 1993--sec--17,--Ch--631,--B,--1989;)"

1 **Section 1.** Section 15-24-202, MCA, is amended to read:

2 "15-24-202. Payment of tax -- interest and penalty --  
 3 display of tax-paid sticker. (1) (a) The owner of a mobile  
 4 home or housetrailer which is not taxed as an improvement,  
 5 as improvements are defined in 15-1-101, shall pay the  
 6 personal property tax in two payments, except as provided in  
 7 15-24-206.

8 (b) The first payment is due within 30 days from the  
 9 date of the notice of taxes due.

10 (c) The second payment is due no later than September  
 11 30 of the year in which the property is assessed.

12 (d) If not paid on or before the date due, the tax is  
 13 considered delinquent and subject to the penalty and  
 14 interest provisions in 15-16-102 applicable to other  
 15 delinquent property taxes. The penalty must be assessed and  
 16 interest begins to accrue on the first day of delinquency.

17 ~~If--payment--is--not--made--by--the--due--date--for--the--second~~  
 18 ~~payment,--the--treasurer--shall--enter--the--delinquency--in--the~~  
 19 ~~assessment--book,--as--prescribed--by--15-16-115(2),--on--December~~  
 20 ~~1:~~

21 (2) UPON REQUEST, THE TREASURER SHALL NOTIFY A  
 22 LIENHOLDER IF TAXES ON A MOBILE HOME OR HOUSETRAILER HAVE  
 23 BEEN PAID.

24 {2}{3} Taxes assessed against a mobile home after the  
 25 second payment date must be prorated to reflect the

1 remaining portion of the tax year. The prorated taxes must  
 2 be added to the following year's tax roll and, except as  
 3 provided in 15-24-206, are due with and must be collected  
 4 with the first payment due in that year.

5 ~~3~~(4) The department of revenue shall issue tax-paid  
 6 stickers to the county treasurers. If Except as provided in  
 7 15-24-206 and [section 5 3], if a mobile home or  
 8 housetrailer is to be moved and all taxes, interest, and  
 9 penalties on the mobile home or housetrailer are paid in  
 10 full, the treasurer shall issue a tax-paid sticker to the  
 11 owner of the mobile home or housetrailer. Prior to and while  
 12 in the process of moving the mobile home or housetrailer,  
 13 the owner shall display the tax-paid sticker, which must be  
 14 visible from the exterior of the mobile home or  
 15 housetrailer. No mobile home movement declaration of  
 16 destination provided for in 15-24-206 may be issued unless:

17 (A) the taxes have been paid in full to the county  
 18 treasurer; OR

19 (B) THE EXCEPTIONS IN 15-24-206(3) OR [SECTION 3]  
 20 APPLY.

21 ~~4~~(5) On the movement of a mobile home or housetrailer  
 22 in violation of this part, the county treasurer for the  
 23 county where the mobile home or housetrailer first comes to  
 24 rest shall issue a written notice to the owner, showing the  
 25 amount of delinquent taxes, special assessments, penalties,

1 and interest due. In addition to the penalties provided in  
 2 15-16-102, 20% or \$50, whichever is greater, must be added  
 3 to the delinquent taxes as penalty for violation of this  
 4 part. On receipt of the delinquent taxes, special  
 5 assessments, penalties, and interest, the county treasurer  
 6 shall forward all delinquent taxes, special assessments,  
 7 penalties, and interest collected under 15-16-102 to the  
 8 county treasurer for the county of origin. The county of  
 9 destination shall retain the penalty."

10 **Section 2.** Section 15-24-206, MCA, is amended to read:

11 "15-24-206. Declaration of destination on imported  
 12 mobile homes -- display -- tax receipt -- exemptions. (1)  
 13 Whoever A person who brings a mobile home into the state  
 14 shall immediately upon arrival in the state execute a  
 15 written declaration, verified under oath, stating the  
 16 destination of the mobile home and such any other  
 17 information ~~as~~ the department of revenue may require and  
 18 shall deliver the original of the declaration to whomever is  
 19 on duty at the nearest port of entry station, state vehicle  
 20 weight station, or ~~such~~ other place ~~and--person--as~~ the  
 21 department may prescribe. He shall also immediately upon  
 22 arrival in the state affix a copy of the declaration to the  
 23 mobile home at a conspicuous place.

24 (2) The treasurer shall issue the mobile home movement  
 25 declaration provided for in this section to a person

1 required by this section to execute it, in such quantities  
 2 as he requests to a maximum of 100. The treasurer shall  
 3 issue such additional quantities of the declaration to a  
 4 maximum of 100 as the person requests at the discretion of  
 5 the county treasurer upon receipt from the person of the  
 6 previously issued declarations properly executed. ~~in any~~  
 7 ~~event-executed~~ Executed declarations must be delivered to  
 8 the treasurer within 30 days from their issue.

9 (3) Whoever A person who moves a mobile home from a  
 10 point within the state to another point within or without  
 11 the state shall first:

12 (a) execute the declaration provided for in subsection  
 13 ~~(1) of this section~~, deliver the original of it to the  
 14 treasurer of the county in which the move originates or to  
 15 ~~such any~~ other person as the department may prescribe, and  
 16 affix a copy of it in a conspicuous place on the mobile home  
 17 to be moved;

18 (b) obtain from the county treasurer of the county in  
 19 which the move originates a receipt showing:

20 (I) payment in full of property taxes with respect to  
 21 that mobile home; OR

22 (II) PAYMENT OF THE PROPERTY TAXES PROVIDED FOR IN  
 23 [SECTION 3].

24 (4) The provisions of subsection (3)(b) do not apply  
 25 whenever a person moves a mobile home:

- 1 (a) from a point without to a point within the state;
- 2 (b) between places of business of dealers within or
- 3 without the state;
- 4 (c) from the place of business of a dealer to a point
- 5 within or without the state; or
- 6 (d) pursuant to the repossession of a mobile home,
- 7 unless the treasurer has furnished the lienholder or secured
- 8 party with timely notice of the delinquent tax due as
- 9 required--by--15-16-113 WHEN INFORMATION HAS BEEN REQUESTED
- 10 UNDER 15-24-202(2)."

11 NEW SECTION. Section 3. Limit on delinquent mobile  
 12 home taxes chargeable to security interest holder. The  
 13 holder of a perfected security interest in a mobile home or  
 14 housetrailer who repossesses the mobile home or housetrailer  
 15 as provided by law and as authorized in the contract between  
 16 the owner and the secured party may not be required to pay  
 17 delinquent property taxes for more than 3 years as a  
 18 condition of moving the mobile home or housetrailer or  
 19 transferring it to another person. Any additional delinquent  
 20 taxes due upon the mobile home or housetrailer are a lien  
 21 upon any other personal or real property of the person who  
 22 was required to pay the delinquent taxes at the time the  
 23 taxes were due.

24 NEW SECTION. SECTION 4. NOTICE OF IMPENDING SALE TO  
 25 CERTAIN LIENHOLDERS. AFTER ENTRY OF A NOTATION UNDER

1 15-16-115(2) CONCERNING A MOBILE HOME THAT IS NOT TAXED AS  
2 AN IMPROVEMENT TO REAL PROPERTY BUT BEFORE DIRECTING THE  
3 SHERIFF TO MAKE A LEVY AND SALE ON THE MOBILE HOME, THE  
4 TREASURER SHALL NOTIFY A PERSON WHO HAS A PROPERLY PERFECTED  
5 SECURITY INTEREST IN THE MOBILE HOME AND WHO HAS FURNISHED  
6 THE TREASURER A COPY OF THE INSTRUMENT BY WHICH THE INTEREST  
7 WAS PERFECTED OF THE LEVY AND SALE. THE NOTICE MUST STATE  
8 THAT THE SHERIFF MAY SOON BE REQUESTED TO MAKE A LEVY AND  
9 SALE ON THE MOBILE HOME.

10 NEW SECTION. Section 5. Codification instruction.  
11 [Section-5]-is SECTIONS 3 AND 4] ARE intended to be codified  
12 as an integral part of Title 15, chapter 167 24, PART 2, and  
13 the provisions of Title 15, chapter 167 24, PART 2, apply to  
14 [section-5 SECTIONS 3 AND 4].

-End-



## HOUSE BILL NO. 441

INTRODUCED BY PAVLOVICH, DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE HOLDER OF A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR HOUSETRAILER TO FILE A NOTICE ~~TO GAIN PRIORITY OVER TAX LIENS OF THE INTEREST WITH THE COUNTY TREASURER;~~ REQUIRING NOTICE OF ~~DELINQUENT TAXES ON AN IMPENDING SHERIFF'S SALE OF~~ A MOBILE HOME OR HOUSETRAILER TO THE HOLDERS OF PERFECTED SECURITY INTERESTS IN THE MOBILE HOME OR HOUSETRAILER; ALLOWING A MOVING DECLARATION FOR A MOBILE HOME OR HOUSETRAILER PURSUANT TO A REPOSSESSION; LIMITING THE DELINQUENT TAX LIABILITY OF THE HOLDER OF A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR HOUSETRAILER; AND AMENDING SECTIONS ~~15-16-113, 15-16-402, 15-24-202, AND 15-24-206, MCA.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 15-16-113, MCA, is amended to read:~~  
~~"15-16-113. Personal property - duty of treasurer - penalty. (1) The county treasurer shall collect taxes on all personal property and, in the case provided in 15-16-111 or 15-16-115(2), shall immediately upon receipt of the report prescribed by 15-16-111 or upon entry of a notation under 15-16-115(2) concerning a mobile home not taxed as an~~

~~improvement to real property notify the person or persons against whom the tax is assessed and any person who has a properly perfected security interest of record with the department of justice that the amount of the tax is due and payable at the county treasurer's office.~~

~~(2) (a) The Except as provided in subsection (2)(b), the county treasurer shall, at the time of receiving the report and in any event within 30 days from the receipt of such the report, levy upon and take into his possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the same property in the same manner as property is sold on execution by the sheriff.~~

~~(b) If the taxes on a mobile home or house trailer become delinquent, the county treasurer shall give notification of the delinquency by first class mail to every person who has a perfected security interest in the property. Within 90 days of issuing the notice, the county treasurer shall levy upon and take into his possession the mobile home or house trailer against which the tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the property in the same manner as property is sold on execution by the sheriff.~~

~~(3) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the~~

1 levy and sale. The sheriff, undersheriff, or any deputy  
 2 sheriff of the county is ex officio a deputy county  
 3 treasurer for such purposes of the sale, and either may act  
 4 and receive payment of such the taxes. The sheriff may  
 5 receive the same fees as he is entitled to in making a  
 6 seizure and sale as provided in 15-17-911.

7 (4) The county treasurer and his sureties are liable on  
 8 his official bond for all taxes on personal property  
 9 remaining uncollected by reason of the willful failure and  
 10 neglect of the treasurer to levy upon and sell such the  
 11 personal property for the taxes levied thereon on the  
 12 property.

13 (5) Failure by the sheriff, undersheriff, or deputy  
 14 sheriff acting as a deputy county treasurer to make the levy  
 15 and sale results in a levy against the official bond of the  
 16 sheriff, undersheriff, or deputy sheriff for payment of the  
 17 delinquent tax.

18 (6) The provisions of this section do not apply to  
 19 property for which delinquent property taxes have been  
 20 suspended or canceled under the provisions of Title 15,  
 21 chapter 24, part 17. (Subsection (6) terminates December 31,  
 22 1993. sec. 17, Ch. 631, B. 1989.)

23 Section 2, Section 15-16-402, MCA, is amended to read:  
 24 "15-16-402. Tax on personal property lien on realty ---  
 25 separate assessment --- filing of mortgage satisfaction. (1)

1 Every tax due upon personal property, other than a mobile  
 2 home or housetrailer, is a prior lien upon any or all of  
 3 such the personal property, which lien shall have has  
 4 precedence over any other lien, claim, or demand upon such  
 5 the property, and except as hereinafter provided in this  
 6 section, every tax upon personal property is also a lien  
 7 upon the real property of the owner thereof of the personal  
 8 property on and after January 1 of each year. Tax due upon a  
 9 mobile home or housetrailer is a prior lien upon the owner's  
 10 equitable interest in the mobile home or housetrailer but is  
 11 subordinate to the claim of a security interest holder who  
 12 has filed the notice provided for in subsection (3).

13 (2) The taxes upon personal property based upon a  
 14 taxable value up to and including \$1,000 shall be are a  
 15 first and prior lien upon the real property of the owner of  
 16 such the personal property. Taxes upon personal property  
 17 based upon the taxable value thereof of the personal  
 18 property in excess of \$1,000 shall be are a first and prior  
 19 lien upon the real property of the owner unless the owner or  
 20 holder of any mortgage or other lien upon said the real  
 21 property appearing of record in the office of the clerk and  
 22 recorder of the county where such the real property is  
 23 situated, at or before the time such the personal property  
 24 tax attached thereto to the personal property, shall have  
 25 filed the notice hereinafter provided for in subsection

1 ~~(3)~~ in which event ~~if the notice was filed before the~~  
 2 ~~personal property tax attached to the property,~~ the taxes  
 3 upon such ~~the excess of \$1,000 of taxable value shall~~ are  
 4 not be a lien on the real property of such ~~the owner,~~ it  
 5 shall be the duty of the ~~the county treasurer to shall~~ issue  
 6 to any mortgagee or lien holder ~~lienholder,~~ upon his  
 7 request, a statement of the personal property tax due upon  
 8 the taxable value up to and including \$1,000. Personal  
 9 property taxes upon a taxable value up to \$1,000 may be  
 10 paid, redeemed from a tax sale as by law provided by law, or  
 11 discharged separately from any personal property taxes in  
 12 excess of such ~~that~~ amount. Payment of such ~~personal~~  
 13 ~~property taxes upon a taxable value up to \$1,000, as herein~~  
 14 ~~provided, shall operate to discharge discharges the tax lien~~  
 15 ~~upon the personal property of the owner to the extent of~~  
 16 ~~such the payment in the order that the person paying such~~  
 17 ~~the tax shall direct directs.~~

18 (3) The holder of any mortgage or lien upon real  
 19 property or a security interest in a mobile home or  
 20 housetrailer who desires to obtain the benefits of this  
 21 section shall file in the office of the county treasurer of  
 22 said ~~the county where the property is located~~ a notice  
 23 giving:

24 (a) the name and address of the mortgagee and holder of  
 25 the mortgage, or lien, or security interest;

1 (b) the name of the reputed owner of the land, mobile  
 2 home, or housetrailer;  
 3 (c) the description of the land, if applicable;  
 4 (d) the date of record and expiration of the mortgage,  
 5 or lien, or security interest;  
 6 (e) the amount thereof ~~of the mortgage, lien, or~~  
 7 ~~security interest,~~ and  
 8 (f) a statement that he claims the benefit of the  
 9 provisions of this section.

10 (4) Such ~~the~~ notice shall be ~~is~~ ineffectual as to any  
 11 taxes which shall ~~that~~ have become a lien on real property  
 12 prior to the filing of such ~~the~~ notice as aforesaid. If the  
 13 mortgage be ~~is~~ not paid at maturity, such ~~the~~ notice shall  
 14 thereafter ~~must~~ be filed annually unless the mortgage be ~~is~~  
 15 extended for a definite period to be stated in such ~~the~~  
 16 notice.

17 (5) Any owner of a mortgage on real estate upon which  
 18 personal property taxes are by this section made a lien,  
 19 where ~~because~~ the owner of such ~~the~~ real estate and personal  
 20 property has failed to pay taxes due upon such ~~the~~ real  
 21 estate and personal property for 1 or more years, may file  
 22 with the department of revenue or its agent in the county in  
 23 which such ~~the~~ property is located a written request to have  
 24 the personal property and real estate of the owner  
 25 separately assessed. Such ~~the~~ request must be made by

1 registered ~~or certified mail~~ at least 10 days prior to  
 2 January 1 in the year for which the property is assessed.  
 3 Upon receipt by the department or its agent of such the  
 4 request, it is hereby made the duty of the department or its  
 5 agent to shall make a separate assessment of real and  
 6 personal property of the owner thereof, and such the  
 7 personal taxes shall are not be a lien upon the real estate  
 8 so mortgaged of the owner thereof, and the personal property  
 9 taxes shall must be collected in the manner provided by law  
 10 for other personal property.

11 (6) ~~The holder of a mortgage or lien upon real property~~  
 12 ~~who files a certificate of satisfaction and the proof and~~  
 13 ~~acknowledgment thereof of the satisfaction, as provided for~~  
 14 ~~in 71-1-211, shall file a copy of the certificate and the~~  
 15 ~~proof and acknowledgment with:~~

16 (a) ~~the county treasurer if the holder has filed a~~  
 17 ~~notice under subsection (3), and~~

18 (b) ~~the department of revenue or its agent in the~~  
 19 ~~county in which the real property is located if the holder~~  
 20 ~~has filed a written request under subsection (5);~~

21 (7) ~~The provisions of this section do not apply to~~  
 22 ~~property for which delinquent property taxes have been~~  
 23 ~~suspended or canceled under the provisions of Title 15,~~  
 24 ~~chapter 24, part 17. (Subsection (7) terminates December 31,~~  
 25 ~~1993. Sec. 17, Ch. 6317-B, 1989.)<sup>4</sup>~~

1 **Section 1.** Section 15-24-202, MCA, is amended to read:

2 "15-24-202. Payment of tax -- interest and penalty --  
 3 display of tax-paid sticker. (1) (a) The owner of a mobile  
 4 home or housetrailer which is not taxed as an improvement,  
 5 as improvements are defined in 15-1-101, shall pay the  
 6 personal property tax in two payments, except as provided in  
 7 15-24-206.

8 (b) The first payment is due within 30 days from the  
 9 date of the notice of taxes due.

10 (c) The second payment is due no later than September  
 11 30 of the year in which the property is assessed.

12 (d) If not paid on or before the date due, the tax is  
 13 considered delinquent and subject to the penalty and  
 14 interest provisions in 15-16-102 applicable to other  
 15 delinquent property taxes. The penalty must be assessed and  
 16 interest begins to accrue on the first day of delinquency.  
 17 ~~if payment is not made by the due date for the second~~  
 18 ~~payment, the treasurer shall enter the delinquency in the~~  
 19 ~~assessment book, as prescribed by 15-16-115(2), on December~~  
 20 ~~1.~~

21 (2) UPON REQUEST, THE TREASURER SHALL NOTIFY A  
 22 LIENHOLDER IF TAXES ON A MOBILE HOME OR HOUSETRAILER HAVE  
 23 BEEN PAID.

24 (2)(3) Taxes assessed against a mobile home after the  
 25 second payment date must be prorated to reflect the

1 remaining portion of the tax year. The prorated taxes must  
2 be added to the following year's tax roll and, except as  
3 provided in 15-24-206, are due with and must be collected  
4 with the first payment due in that year.

5 {3}(4) The department of revenue shall issue tax-paid  
6 stickers to the county treasurers. if Except as provided in  
7 15-24-206 and [section 5 3], if a mobile home or  
8 housetrailer is to be moved and all taxes, interest, and  
9 penalties on the mobile home or housetrailer are paid in  
10 full, the treasurer shall issue a tax-paid sticker to the  
11 owner of the mobile home or housetrailer. Prior to and while  
12 in the process of moving the mobile home or housetrailer,  
13 the owner shall display the tax-paid sticker, which must be  
14 visible from the exterior of the mobile home or  
15 housetrailer. No mobile home movement declaration of  
16 destination provided for in 15-24-206 may be issued unless:

17 (A) the taxes have been paid in full to the county  
18 treasurer; OR

19 (B) THE EXCEPTIONS IN 15-24-206(3) OR [SECTION 3]  
20 APPLY.

21 {4}(5) On the movement of a mobile home or housetrailer  
22 in violation of this part, the county treasurer for the  
23 county where the mobile home or housetrailer first comes to  
24 rest shall issue a written notice to the owner, showing the  
25 amount of delinquent taxes, special assessments, penalties,

1 and interest due. In addition to the penalties provided in  
2 15-16-102, 20% or \$50, whichever is greater, must be added  
3 to the delinquent taxes as penalty for violation of this  
4 part. On receipt of the delinquent taxes, special  
5 assessments, penalties, and interest, the county treasurer  
6 shall forward all delinquent taxes, special assessments,  
7 penalties, and interest collected under 15-16-102 to the  
8 county treasurer for the county of origin. The county of  
9 destination shall retain the penalty."

10 **Section 2.** Section 15-24-206, MCA, is amended to read:

11 "15-24-206. Declaration of destination on imported  
12 mobile homes -- display -- tax receipt -- exemptions. (1)  
13 Whoever A person who brings a mobile home into the state  
14 shall immediately upon arrival in the state execute a  
15 written declaration, verified under oath, stating the  
16 destination of the mobile home and such any other  
17 information as the department of revenue may require and  
18 shall deliver the original of the declaration to whomever is  
19 on duty at the nearest port of entry station, state vehicle  
20 weight station, or such other place and--person--as the  
21 department may prescribe. He shall also immediately upon  
22 arrival in the state affix a copy of the declaration to the  
23 mobile home at a conspicuous place.

24 (2) The treasurer shall issue the mobile home movement  
25 declaration provided for in this section to a person

1 required by this section to execute it, in such quantities  
 2 as he requests to a maximum of 100. The treasurer shall  
 3 issue such additional quantities of the declaration to a  
 4 maximum of 100 as the person requests at the discretion of  
 5 the county treasurer upon receipt from the person of the  
 6 previously issued declarations properly executed. ~~in any~~  
 7 ~~event-executed~~ Executed declarations must be delivered to  
 8 the treasurer within 30 days from their issue.

9 (3) Whoever A person who moves a mobile home from a  
 10 point within the state to another point within or without  
 11 the state shall first:

12 (a) execute the declaration provided for in subsection  
 13 (1) ~~of this section~~, deliver the original of it to the  
 14 treasurer of the county in which the move originates or to  
 15 ~~such any~~ other person as the department may prescribe, and  
 16 affix a copy of it in a conspicuous place on the mobile home  
 17 to be moved;

18 (b) obtain from the county treasurer of the county in  
 19 which the move originates a receipt showing:

20 (I) payment in full of property taxes with respect to  
 21 that mobile home; OR

22 (II) PAYMENT OF THE PROPERTY TAXES PROVIDED FOR IN  
 23 [SECTION 3].

24 (4) The provisions of subsection (3)(b) do not apply  
 25 whenever a person moves a mobile home:

1 (a) from a point without to a point within the state;  
 2 (b) between places of business of dealers within or  
 3 without the state;

4 (c) from the place of business of a dealer to a point  
 5 within or without the state; or

6 (d) pursuant to the repossession of a mobile home,  
 7 unless the treasurer has furnished the lienholder or secured  
 8 party with timely notice of the delinquent tax due as  
 9 required--by--15-16-113 WHEN INFORMATION HAS BEEN REQUESTED  
 10 UNDER 15-24-202(2)."

11 NEW SECTION. Section 3. Limit on delinquent mobile  
 12 home taxes chargeable to security interest holder. The  
 13 holder of a perfected security interest in a mobile home or  
 14 housetrailer who repossesses the mobile home or housetrailer  
 15 as provided by law and as authorized in the contract between  
 16 the owner and the secured party may not be required to pay  
 17 delinquent property taxes for more than 3 years as a  
 18 condition of moving the mobile home or housetrailer or  
 19 transferring it to another person. Any additional delinquent  
 20 taxes due upon the mobile home or housetrailer are a lien  
 21 upon any other personal or real property of the person who  
 22 was required to pay the delinquent taxes at the time the  
 23 taxes were due.

24 NEW SECTION. SECTION 4. NOTICE OF IMPENDING SALE TO  
 25 CERTAIN LIENHOLDERS. AFTER ENTRY OF A NOTATION UNDER

1 15-16-115(2) CONCERNING A MOBILE HOME THAT IS NOT TAXED AS  
2 AN IMPROVEMENT TO REAL PROPERTY BUT BEFORE DIRECTING THE  
3 SHERIFF TO MAKE A LEVY AND SALE ON THE MOBILE HOME, THE  
4 TREASURER SHALL NOTIFY A PERSON WHO HAS A PROPERLY PERFECTED  
5 SECURITY INTEREST IN THE MOBILE HOME AND WHO HAS FURNISHED  
6 THE TREASURER A COPY OF THE INSTRUMENT BY WHICH THE INTEREST  
7 WAS PERFECTED OF THE LEVY AND SALE. THE NOTICE MUST STATE  
8 THAT THE SHERIFF MAY SOON BE REQUESTED TO MAKE A LEVY AND  
9 SALE ON THE MOBILE HOME.

10 NEW SECTION. Section 5. Codification instruction.  
11 [~~Section-5~~ is SECTIONS 3 AND 4] ARE intended to be codified  
12 as an integral part of Title 15, chapter ~~16~~ 24, PART 2, and  
13 the provisions of Title 15, chapter ~~16~~ 24, PART 2, apply to  
14 [~~section-5~~ SECTIONS 3 AND 4].

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 5, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 441 (third reading copy -- blue), respectfully report that House Bill No. 441 be amended and as so amended be concurred in:

1. Page 8, line 22.

Following: "HAVE"

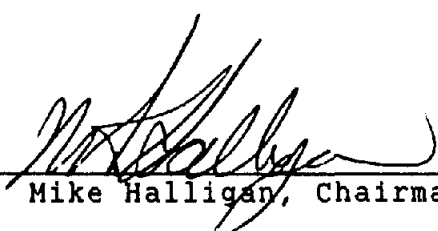
Insert: "not"

2. Page 12, line 22.

Following: "required"

Insert: "by law"

Signed: \_\_\_\_\_

  
Mike Halligan, Chairman

MA 4-5-91  
And. Coord.

SB 4-5  
Sec. of Senate

4:25

SENATE  
HB 441



## HOUSE BILL NO. 441

INTRODUCED BY PAVLOVICH, DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE HOLDER OF A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR HOUSETRAILER TO FILE A NOTICE ~~TO GAIN PRIORITY OVER TAX~~ LIENS OF THE INTEREST WITH THE COUNTY TREASURER; REQUIRING NOTICE OF ~~DELINQUENT TAXES ON AN IMPENDING SHERIFF'S SALE OF~~ A MOBILE HOME OR HOUSETRAILER TO THE HOLDERS OF PERFECTED SECURITY INTERESTS IN THE MOBILE HOME OR HOUSETRAILER; ALLOWING A MOVING DECLARATION FOR A MOBILE HOME OR HOUSETRAILER PURSUANT TO A REPOSSESSION; LIMITING THE DELINQUENT TAX LIABILITY OF THE HOLDER OF A PERFECTED SECURITY INTEREST IN A MOBILE HOME OR HOUSETRAILER; AND AMENDING SECTIONS ~~15-16-113, 15-16-402, 15-24-202, AND 15-24-206, MCA.~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1, Section 15-16-113, MCA, is amended to read:

~~"15-16-113. Personal property-----duty of treasurer---penalty. (1) The county treasurer shall collect taxes on all personal property and, in the case provided in 15-16-111 or 15-16-115(2), shall immediately upon receipt of the report prescribed by 15-16-111 or upon entry of a notation under 15-16-115(2) concerning a mobile home not taxed as an~~

~~improvement to real property notify the person or persons against whom the tax is assessed and any person who has a properly perfected security interest of record with the department of justice that the amount of the tax is due and payable at the county treasurer's office.~~

~~(2) (a) The Except as provided in subsection (2)(b), the county treasurer shall, at the time of receiving the report and in any event within 30 days from the receipt of such the report, levy upon and take into his possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the same property in the same manner as property is sold on execution by the sheriff.~~

~~(b) If the taxes on a mobile home or house trailer become delinquent, the county treasurer shall give notification of the delinquency by first class mail to every person who has a perfected security interest in the property. Within 90 days of issuing the notice, the county treasurer shall levy upon and take into his possession the mobile home or house trailer against which the tax is assessed or any other personal property in the hands of the delinquent taxpayer and proceed to sell the property in the same manner as property is sold on execution by the sheriff.~~

~~(3) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the~~

1 levy and sale. The sheriff, undersheriff, or any deputy  
 2 sheriff of the county is ex officio a deputy county  
 3 treasurer for such purposes of the sale, and either may act  
 4 and receive payment of such the taxes. The sheriff may  
 5 receive the same fees as he is entitled to in making a  
 6 seizure and sale as provided in 15-17-911.

7 (4) The county treasurer and his sureties are liable on  
 8 his official bond for all taxes on personal property  
 9 remaining uncollected by reason of the willful failure and  
 10 neglect of the treasurer to levy upon and sell such the  
 11 personal property for the taxes levied thereon on the  
 12 property.

13 (5) Failure by the sheriff, undersheriff, or deputy  
 14 sheriff acting as a deputy county treasurer to make the levy  
 15 and sale results in a levy against the official bond of the  
 16 sheriff, undersheriff, or deputy sheriff for payment of the  
 17 delinquent tax.

18 (6) The provisions of this section do not apply to  
 19 property for which delinquent property taxes have been  
 20 suspended or canceled under the provisions of Title 15,  
 21 chapter 24, part 17. (Subsection (6) terminates December 31,  
 22 1993, sec. 17, Ch. 631, S. 1989.)

23 Section 2, Section 15-16-402, MCA, is amended to read:  
 24 "15-16-402. Tax on personal property lien on realty ---  
 25 separate assessment --- filing of mortgage satisfaction. (1)

1 Every tax due upon personal property, other than a mobile  
 2 home or housetrailer, is a prior lien upon any or all of  
 3 such the personal property, which lien shall have has  
 4 precedence over any other lien, claim, or demand upon such  
 5 the property, and except as hereinafter provided in this  
 6 section, every tax upon personal property is also a lien  
 7 upon the real property of the owner thereof of the personal  
 8 property on and after January 1 of each year. Tax due upon a  
 9 mobile home or housetrailer is a prior lien upon the owner's  
 10 equitable interest in the mobile home or housetrailer but is  
 11 subordinate to the claim of a security interest holder who  
 12 has filed the notice provided for in subsection (3).

13 (2) The taxes upon personal property based upon a  
 14 taxable value up to and including \$1,000 shall be a first  
 15 and prior lien upon the real property of the owner of  
 16 such the personal property. Taxes upon personal property  
 17 based upon the taxable value thereof of the personal  
 18 property in excess of \$1,000 shall be a first and prior  
 19 lien upon the real property of the owner unless the owner or  
 20 holder of any mortgage or other lien upon said the real  
 21 property appearing of record in the office of the clerk and  
 22 recorder of the county where such the real property is  
 23 situated, at or before the time such the personal property  
 24 tax attached thereto to the personal property, shall have  
 25 filed the notice hereinafter provided for in subsection

1 ~~{3}~~ in which event ~~if the notice was filed before the~~  
 2 ~~personal property tax attached to the property, the taxes~~  
 3 ~~upon such the excess of \$1,000 of taxable value shall are~~  
 4 ~~not be a lien on the real property of such the owner, it~~  
 5 ~~shall be the duty of the The county treasurer to shall issue~~  
 6 ~~to any mortgagee or lien holder lienholder, upon his~~  
 7 ~~request, a statement of the personal property tax due upon~~  
 8 ~~the taxable value up to and including \$1,000. Personal~~  
 9 ~~property taxes upon a taxable value up to \$1,000 may be~~  
 10 ~~paid, redeemed from a tax sale as by law provided by law, or~~  
 11 ~~discharged separately from any personal property taxes in~~  
 12 ~~excess of such that amount. Payment of such personal~~  
 13 ~~property taxes upon a taxable value up to \$1,000, as herein~~  
 14 ~~provided, shall operate to discharge discharges the tax lien~~  
 15 ~~upon the personal property of the owner to the extent of~~  
 16 ~~such the payment in the order that the person paying such~~  
 17 ~~the tax shall direct directs.~~

18 {3} The holder of any mortgage or lien upon real  
 19 property or a security interest in a mobile home or  
 20 housetrailer who desires to obtain the benefits of this  
 21 section shall file in the office of the county treasurer of  
 22 said the county where the property is located a notice  
 23 giving:

24 (a) the name and address of the mortgagee and holder of  
 25 the mortgage, or lien, or security interest;

1 (b) the name of the reputed owner of the land, mobile  
 2 home, or housetrailer;

3 (c) the description of the land, if applicable;

4 (d) the date of record and expiration of the mortgage,  
 5 or lien, or security interest;

6 (e) the amount thereof of the mortgage, lien, or  
 7 security interest; and

8 (f) a statement that he claims the benefit of the  
 9 provisions of this section.

10 {4} Such The notice shall be is ineffectual as to any  
 11 taxes which shall that have become a lien on real property  
 12 prior to the filing of such the notice as aforesaid; if the  
 13 mortgage be is not paid at maturity, such the notice shall  
 14 thereafter must be filed annually unless the mortgage be is  
 15 extended for a definite period to be stated in such the  
 16 notice.

17 {5} Any owner of a mortgage on real estate upon which  
 18 personal property taxes are by this section made a lien,  
 19 where because the owner of such the real estate and personal  
 20 property has failed to pay taxes due upon such the real  
 21 estate and personal property for 1 or more years, may file  
 22 with the department of revenue or its agent in the county in  
 23 which such the property is located a written request to have  
 24 the personal property and real estate of the owner  
 25 separately assessed. Such The request must be made by

1 registered-or-certified-mail--at--least--10--days--prior--to  
 2 January--1--in--the--year--for--which--the--property--is--assessed.  
 3 Upon--receipt--by--the--department--or--its--agent--of--such--the  
 4 request,--it--is--hereby--made--the--duty--of--the--department--or--its  
 5 agent--to--shall--make--a--separate--assessment--of--real--and  
 6 personal--property;--of--the--owner--thereof;--and--such--The  
 7 personal--taxes--shall--are--not--be--a--lien--upon--the--real--estate  
 8 so--mortgaged--of--the--owner--thereof;--and--the--personal--property  
 9 taxes--shall--must--be--collected--in--the--manner--provided--by--law  
 10 for--other--personal--property.

11 (6)--The--holder--of--a--mortgage--or--lien--upon--real--property  
 12 who--files--a--certificate--of--satisfaction--and--the--proof--and  
 13 acknowledgment--thereof--of--the--satisfaction;--as--provided--for  
 14 in--71-1-211;--shall--file--a--copy--of--the--certificate--and--the  
 15 proof--and--acknowledgment--with:

16 (a)--the--county--treasurer--if--the--holder--has--filed--a  
 17 notice--under--subsection--(3);--and

18 (b)--the--department--of--revenue--or--its--agent--in--the  
 19 county--in--which--the--real--property--is--located--if--the--holder  
 20 has--filed--a--written--request--under--subsection--(5);

21 (7)--The--provisions--of--this--section--do--not--apply--to  
 22 property--for--which--delinquent--property--taxes--have--been  
 23 suspended--or--canceled--under--the--provisions--of--Title--15,  
 24 chapter--24,--part--17,--(Subsection--(7)--terminates--December--31,  
 25 1993--sec--17-6317-B-1989.)"

1 **Section 1.** Section 15-24-202, MCA, is amended to read:

2 "15-24-202. Payment of tax -- interest and penalty --  
 3 display of tax-paid sticker. (1) (a) The owner of a mobile  
 4 home or housetrailer which is not taxed as an improvement,  
 5 as improvements are defined in 15-1-101, shall pay the  
 6 personal property tax in two payments, except as provided in  
 7 15-24-206.

8 (b) The first payment is due within 30 days from the  
 9 date of the notice of taxes due.

10 (c) The second payment is due no later than September  
 11 30 of the year in which the property is assessed.

12 (d) If not paid on or before the date due, the tax is  
 13 considered delinquent and subject to the penalty and  
 14 interest provisions in 15-16-102 applicable to other  
 15 delinquent property taxes. The penalty must be assessed and  
 16 interest begins to accrue on the first day of delinquency.  
 17 if--payment--is--not--made--by--the--due--date--for--the--second  
 18 payment,--the--treasurer--shall--enter--the--delinquency--in--the  
 19 assessment--book,--as--prescribed--by--15-16-115(2),--on--December  
 20 1.

21 (2) UPON REQUEST, THE TREASURER SHALL NOTIFY A  
 22 LIENHOLDER IF TAXES ON A MOBILE HOME OR HOUSETRAILER HAVE  
 23 NOT BEEN PAID.

24 (2)(3) Taxes assessed against a mobile home after the  
 25 second payment date must be prorated to reflect the

1 remaining portion of the tax year. The prorated taxes must  
 2 be added to the following year's tax roll and, except as  
 3 provided in 15-24-206, are due with and must be collected  
 4 with the first payment due in that year.

5 ~~(3)~~(4) The department of revenue shall issue tax-paid  
 6 stickers to the county treasurers. ~~if~~ Except as provided in  
 7 15-24-206 and [section 5 3], if a mobile home or  
 8 housetrailer is to be moved and all taxes, interest, and  
 9 penalties on the mobile home or housetrailer are paid in  
 10 full, the treasurer shall issue a tax-paid sticker to the  
 11 owner of the mobile home or housetrailer. Prior to and while  
 12 in the process of moving the mobile home or housetrailer,  
 13 the owner shall display the tax-paid sticker, which must be  
 14 visible from the exterior of the mobile home or  
 15 housetrailer. No mobile home movement declaration of  
 16 destination provided for in 15-24-206 may be issued unless:

17 (A) the taxes have been paid in full to the county  
 18 treasurer; OR

19 (B) THE EXCEPTIONS IN 15-24-206(3) OR [SECTION 3]  
 20 APPLY.

21 ~~(4)~~(5) On the movement of a mobile home or housetrailer  
 22 in violation of this part, the county treasurer for the  
 23 county where the mobile home or housetrailer first comes to  
 24 rest shall issue a written notice to the owner, showing the  
 25 amount of delinquent taxes, special assessments, penalties,

1 and interest due. In addition to the penalties provided in  
 2 15-16-102, 20% or \$50, whichever is greater, must be added  
 3 to the delinquent taxes as penalty for violation of this  
 4 part. On receipt of the delinquent taxes, special  
 5 assessments, penalties, and interest, the county treasurer  
 6 shall forward all delinquent taxes, special assessments,  
 7 penalties, and interest collected under 15-16-102 to the  
 8 county treasurer for the county of origin. The county of  
 9 destination shall retain the penalty."

10 **Section 2.** Section 15-24-206, MCA, is amended to read:

11 "15-24-206. Declaration of destination on imported  
 12 mobile homes -- display -- tax receipt -- exemptions. (1)  
 13 Whoever A person who brings a mobile home into the state  
 14 shall immediately upon arrival in the state execute a  
 15 written declaration, verified under oath, stating the  
 16 destination of the mobile home and such any other  
 17 information as the department of revenue may require and  
 18 shall deliver the original of the declaration to whomever is  
 19 on duty at the nearest port of entry station, state vehicle  
 20 weight station, or such other place and--person--as the  
 21 department may prescribe. He shall also immediately upon  
 22 arrival in the state affix a copy of the declaration to the  
 23 mobile home at a conspicuous place.

24 (2) The treasurer shall issue the mobile home movement  
 25 declaration provided for in this section to a person

1 required by this section to execute it, in such quantities  
 2 as he requests to a maximum of 100. The treasurer shall  
 3 issue such additional quantities of the declaration to a  
 4 maximum of 100 as the person requests at the discretion of  
 5 the county treasurer upon receipt from the person of the  
 6 previously issued declarations properly executed. In any  
 7 event-executed Executed declarations must be delivered to  
 8 the treasurer within 30 days from their issue.

9 (3) Whoever A person who moves a mobile home from a  
 10 point within the state to another point within or without  
 11 the state shall first:

12 (a) execute the declaration provided for in subsection  
 13 (1) ~~of this section~~, deliver the original of it to the  
 14 treasurer of the county in which the move originates or to  
 15 such any other person as the department may prescribe, and  
 16 affix a copy of it in a conspicuous place on the mobile home  
 17 to be moved;

18 (b) obtain from the county treasurer of the county in  
 19 which the move originates a receipt showing:

20 (I) payment in full of property taxes with respect to  
 21 that mobile home; OR

22 (II) PAYMENT OF THE PROPERTY TAXES PROVIDED FOR IN  
 23 [SECTION 3].

24 (4) The provisions of subsection (3)(b) do not apply  
 25 whenever a person moves a mobile home:

1 (a) from a point without to a point within the state;  
 2 (b) between places of business of dealers within or  
 3 without the state;  
 4 (c) from the place of business of a dealer to a point  
 5 within or without the state; or  
 6 (d) pursuant to the repossession of a mobile home,  
 7 unless the treasurer has furnished the lienholder or secured  
 8 party with timely notice of the delinquent tax due as  
 9 required--by--15-16-113 WHEN INFORMATION HAS BEEN REQUESTED  
 10 UNDER 15-24-202(2)."

11 NEW SECTION. Section 3. Limit on delinquent mobile  
 12 home taxes chargeable to security interest holder. The  
 13 holder of a perfected security interest in a mobile home or  
 14 houstrailer who repossesses the mobile home or houstrailer  
 15 as provided by law and as authorized in the contract between  
 16 the owner and the secured party may not be required to pay  
 17 delinquent property taxes for more than 3 years as a  
 18 condition of moving the mobile home or houstrailer or  
 19 transferring it to another person. Any additional delinquent  
 20 taxes due upon the mobile home or houstrailer are a lien  
 21 upon any other personal or real property of the person who  
 22 was required BY LAW to pay the delinquent taxes at the time  
 23 the taxes were due.

24 NEW SECTION. SECTION 4. NOTICE OF IMPENDING SALE TO  
 25 CERTAIN LIENHOLDERS. AFTER ENTRY OF A NOTATION UNDER

1 15-16-115(2) CONCERNING A MOBILE HOME THAT IS NOT TAXED AS  
2 AN IMPROVEMENT TO REAL PROPERTY BUT BEFORE DIRECTING THE  
3 SHERIFF TO MAKE A LEVY AND SALE ON THE MOBILE HOME, THE  
4 TREASURER SHALL NOTIFY A PERSON WHO HAS A PROPERLY PERFECTED  
5 SECURITY INTEREST IN THE MOBILE HOME AND WHO HAS FURNISHED  
6 THE TREASURER A COPY OF THE INSTRUMENT BY WHICH THE INTEREST  
7 WAS PERFECTED OF THE LEVY AND SALE. THE NOTICE MUST STATE  
8 THAT THE SHERIFF MAY SOON BE REQUESTED TO MAKE A LEVY AND  
9 SALE ON THE MOBILE HOME.

10 NEW SECTION. Section 5. Codification instruction.  
11 [Section-5]-is SECTIONS 3 AND 4] ARE intended to be codified  
12 as an integral part of Title 15, chapter 167 24, PART 2, and  
13 the provisions of Title 15, chapter 167 24, PART 2, apply to  
14 [section-5 SECTIONS 3 AND 4].

-End-