

HOUSE BILL NO. 779

INTRODUCED BY CROMLEY, MERCER, TOOLE, BENEDICT

IN THE HOUSE

FEBRUARY 12, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & ECONOMIC DEVELOPMENT.

FEBRUARY 13, 1991           FIRST READING.

FEBRUARY 19, 1991           COMMITTEE RECOMMEND BILL  
DO PASS.   REPORT ADOPTED.

FEBRUARY 20, 1991           PRINTING REPORT.

FEBRUARY 21, 1991           POSTED ON ALTERNATE CONSENT CALENDAR.

FEBRUARY 23, 1991           THIRD READING, PASSED.  
AYES, 93; NOES, 5.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 25, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

FIRST READING.

MARCH 8, 1991                COMMITTEE RECOMMEND BILL BE  
CONCURRED IN.   REPORT ADOPTED.

MARCH 13, 1991               SECOND READING, CONCURRED IN.

MARCH 14, 1991               THIRD READING, CONCURRED IN.  
AYES, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 15, 1991               RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *779*  
 2 INTRODUCED BY *Paula Mercer Torle Benedict*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SMALL  
 5 TRACT FINANCING ACT OF MONTANA; PROVIDING A LIMITATION ON  
 6 THE TIME THAT NONJUDICIAL FORECLOSURES MAY BE DELAYED BY THE  
 7 INTERVENTION OF STAYS; AND AMENDING SECTION 71-1-315, MCA."  
 8

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

10 **Section 1.** Section 71-1-315, MCA, is amended to read:

11 "71-1-315. Notice -- sale -- payment. A trust deed may  
 12 be foreclosed by advertisement and sale in the manner  
 13 hereinafter provided:

14 (1) The trustee shall give notice of the sale in the  
 15 following manner:

16 (a) At least 120 days before the date fixed for the  
 17 trustee's sale, a copy of the recorded notice of sale shall  
 18 be mailed by registered or certified mail to:

19 (i) the grantor, at the grantor's address as set forth  
 20 in the trust indenture or (in the event no address of the  
 21 grantor is set forth in the trust indenture) at the  
 22 grantor's last known address;

23 (ii) each person designated in the trust indenture to  
 24 receive notice of sale whose address is set forth therein,  
 25 at such address;

1 (iii) each person who has filed for record a request for  
 2 a copy of notice of sale within the time and in the manner  
 3 hereinafter provided, at the address of such person as set  
 4 forth in such request;

5 (iv) any successor in interest to the grantor whose  
 6 interest and address appear of record at the filing date and  
 7 time of the notice of sale, at such address;

8 (v) any person having a lien or interest subsequent to  
 9 the interest of the trustee and whose lien or interest and  
 10 address appear of record at the filing date and time of the  
 11 notice of sale, at such address.

12 (b) At least 20 days before the date fixed for the  
 13 trustee's sale, a copy of the recorded notice of sale shall  
 14 be posted in some conspicuous place on the property to be  
 15 sold. Upon request of the trustee, the notice of sale shall  
 16 be posted by a sheriff or constable of the county wherein  
 17 the property to be sold is located.

18 (c) A copy of the notice of sale shall be published in  
 19 a newspaper of general circulation published in any county  
 20 in which the property or some part thereof is situated, at  
 21 least once each week for 3 successive weeks. If there is no  
 22 such newspaper, then copies of the notice of sale shall be  
 23 posted in at least three public places in each county in  
 24 which the property or some part thereof is situated. The  
 25 posting or the last publication shall be made at least 20



1 days before the date fixed for the trustee's sale.

2 (2) On or before the date of sale, there shall be  
3 recorded in the office of the clerk and recorder of each  
4 county where the property or some part thereof is situated,  
5 affidavits of mailing, posting, and publication showing  
6 compliance with the requirements of this section.

7 (3) On the date and at the time and place designated in  
8 the notice of sale, the trustee or his attorney shall sell  
9 the property at public auction to the highest bidder. The  
10 property may be sold in one parcel or in separate parcels,  
11 and any person, including the beneficiary under the trust  
12 indenture but excluding the trustee, may bid at the sale.  
13 The person making the sale may, for any cause he deems  
14 expedient, postpone the sale for a period not exceeding 15  
15 days by public proclamation at the time and place fixed in  
16 the notice of sale. No other notice of the postponed sale  
17 need be given. In the event a sale cannot be held at the  
18 scheduled time by reason of the automatic stay provision of  
19 the United States Bankruptcy Code, 11 U.S.C. 362, or of a  
20 stay order issued by any court of competent jurisdiction,  
21 the person making the sale may, as often as he considers  
22 expedient, postpone the sale. Each postponement may not  
23 exceed 30 days, and all postponements, in the aggregate, may  
24 not exceed 120 days. Each postponement must be effected by a  
25 public proclamation at the time and place fixed in the

1 notice of sale or fixed by previous postponement. No other  
2 notice of the postponed sale need be given.

3 (4) The purchaser at the sale shall pay the price bid  
4 in cash, and upon receipt of payment, the trustee shall  
5 execute and deliver a trustee's deed to the purchaser. In  
6 the event the purchaser refuses to pay the purchase price,  
7 the person conducting the sale shall have the right to  
8 resell the property at any time to the highest bidder. The  
9 party refusing to pay shall be liable for any loss  
10 occasioned thereby, and the person making the sale may also,  
11 in his discretion, thereafter reject any other bid of such  
12 person."

-End-

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

1  
2 INTRODUCED BY HOUSE BILL NO. 779  
Carly MERCER Trust Benedict

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SMALL  
5 TRACT FINANCING ACT OF MONTANA; PROVIDING A LIMITATION ON  
6 THE TIME THAT NONJUDICIAL FORECLOSURES MAY BE DELAYED BY THE  
7 INTERVENTION OF STAYS; AND AMENDING SECTION 71-1-315, MCA."

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12 be foreclosed by advertisement and sale in the manner  
13 hereinafter provided:

14 (1) The trustee shall give notice of the sale in the  
15 following manner:

16 (a) At least 120 days before the date fixed for the  
17 trustee's sale, a copy of the recorded notice of sale shall  
18 be mailed by registered or certified mail to:

19 (i) the grantor, at the grantor's address as set forth  
20 in the trust indenture or (in the event no address of the  
21 grantor is set forth in the trust indenture) at the  
22 grantor's last known address;

23 (ii) each person designated in the trust indenture to  
24 receive notice of sale whose address is set forth therein,  
25 at such address;

1 (iii) each person who has filed for record a request for  
2 a copy of notice of sale within the time and in the manner  
3 hereinafter provided, at the address of such person as set  
4 forth in such request;

5 (iv) any successor in interest to the grantor whose  
6 interest and address appear of record at the filing date and  
7 time of the notice of sale, at such address;

8 (v) any person having a lien or interest subsequent to  
9 the interest of the trustee and whose lien or interest and  
10 address appear of record at the filing date and time of the  
11 notice of sale, at such address.

12 (b) At least 20 days before the date fixed for the  
13 trustee's sale, a copy of the recorded notice of sale shall  
14 be posted in some conspicuous place on the property to be  
15 sold. Upon request of the trustee, the notice of sale shall  
16 be posted by a sheriff or constable of the county wherein  
17 the property to be sold is located.

18 (c) A copy of the notice of sale shall be published in  
19 a newspaper of general circulation published in any county  
20 in which the property or some part thereof is situated, at  
21 least once each week for 3 successive weeks. If there is no  
22 such newspaper, then copies of the notice of sale shall be  
23 posted in at least three public places in each county in  
24 which the property or some part thereof is situated. The  
25 posting or the last publication shall be made at least 20

1 days before the date fixed for the trustee's sale.

2 (2) On or before the date of sale, there shall be  
3 recorded in the office of the clerk and recorder of each  
4 county where the property or some part thereof is situated,  
5 affidavits of mailing, posting, and publication showing  
6 compliance with the requirements of this section.

7 (3) On the date and at the time and place designated in  
8 the notice of sale, the trustee or his attorney shall sell  
9 the property at public auction to the highest bidder. The  
10 property may be sold in one parcel or in separate parcels,  
11 and any person, including the beneficiary under the trust  
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14 expedient, postpone the sale for a period not exceeding 15  
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