

SENATE BILL NO. 409

INTRODUCED BY MAZUREK  
BY REQUEST OF THE DEPARTMENT OF STATE LANDS

IN THE SENATE

FEBRUARY 16, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON AGRICULTURE, LIVESTOCK, & IRRIGATION.  
  
                                  FIRST READING.  
  
FEBRUARY 21, 1991           COMMITTEE RECOMMEND BILL  
                                  DO PASS AS AMENDED. REPORT ADOPTED.  
  
FEBRUARY 22, 1991           PRINTING REPORT.  
  
FEBRUARY 23, 1991           SECOND READING, DO PASS.  
  
FEBRUARY 25, 1991           ENGROSSING REPORT.  
  
                                  THIRD READING, PASSED.  
                                  AYES, 49; NOES, 0.  
  
                                  TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON AGRICULTURE, LIVESTOCK, & IRRIGATION.  
  
                                  FIRST READING.  
  
MARCH 23, 1991           COMMITTEE RECOMMEND BILL BE  
                                  CONCURRED IN AS AMENDED. REPORT  
                                  ADOPTED.  
  
APRIL 6, 1991           SECOND READING, CONCURRED IN.  
  
                                  ON MOTION, RULES SUSPENDED. BILL  
                                  PLACED ON THIRD READING THIS DAY.  
  
                                  THIRD READING, CONCURRED IN.  
                                  AYES, 92; NOES, 3.  
  
                                  RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991           RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

APRIL 19, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *409*  
 2 INTRODUCED BY *T Macgill*  
 3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR  
 6 ASSIGNMENT OF LEASES OF STATE LANDS AS MORTGAGE SECURITY;  
 7 ELIMINATING THE NECESSITY TO NAME THE DEPARTMENT OF STATE  
 8 LANDS IN FORECLOSURE ACTIONS; AMENDING SECTIONS 77-6-401,  
 9 77-6-403, AND 77-6-404, MCA; AND REPEALING SECTION 77-6-402,  
 10 MCA."  
 11

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

13 **Section 1.** Section 77-6-401, MCA, is amended to read:

14 "77-6-401. Pledge-or-mortgage Assignment for security  
 15 purposes of leasehold interest in state lands. Any A lessee  
 16 of a grazing or agricultural lease of state lands is--hereby  
 17 authorized--to may pledge said the lease or mortgage or  
 18 assign for security purposes his leasehold interest in said  
 19 the lands as part of a transaction involving the mortgage of  
 20 private lands. The assignment must be on a form prescribed  
 21 by the department and must have attached to it a copy of the  
 22 mortgage of the private lands. The assignment applies to the  
 23 lease and any renewal of the lease as long as the assignee  
 24 remains the lessee or until a release or proof of payment of  
 25 the underlying debt is filed pursuant to 77-6-404. The

1 assignment becomes effective when proof of foreclosure or  
 2 conveyance is filed pursuant to 77-6-403. After an  
 3 assignment is filed, the department shall mail to the  
 4 assignee a copy of each notice of delinquency, notice of  
 5 competitive bid, and notice of cancellation."

6 **Section 2.** Section 77-6-403, MCA, is amended to read:

7 "77-6-403. Transfer of lease. Upon (1) Except as  
 8 provided in subsection (2), upon due proof of--the  
 9 acquisition-of-such--lease--or--leasehold--interest--by--any  
 10 person--under--or--pursuant--to--such--pledge--agreement--or  
 11 mortgage, that the assignee has acquired through foreclosure  
 12 or conveyance the private lands covered in the mortgage  
 13 accompanying the assignment, the board shall transfer said  
 14 the lease to said-person, the assignee who shall--thereupon  
 15 be is subject to all the conditions, obligations, and  
 16 liabilities and entitled to all the rights and privileges  
 17 provided for in said the lease.

18 (2) Nothing in this section may be construed to require  
 19 the board to complete the transfer of a lease to an assignee  
 20 whom the board considers unqualified as a lessee of state  
 21 lands."

22 **Section 3.** Section 77-6-404, MCA, is amended to read:

23 "77-6-404. Proof of termination or release of  
 24 satisfaction of pledge or mortgage to be filed. The lessee  
 25 assignee of any grazing or agricultural lease of or



INTRODUCED BILL  
 -2- SB 409

LC 1260/01

1 leasehold interest in state lands which that is pledged or  
2 mortgaged as provided in this part shall, within 30 days  
3 after payment of the indebtedness secured thereby or within  
4 30 days after the pledge agreement is terminated or the  
5 leasehold interest is released from the mortgage, file with  
6 the department proof of that fact. If the assignee fails to  
7 file the proof within the time required by this section, the  
8 lessee may file the proof anytime thereafter."

9 NEW SECTION. Section 4. Repealer. Section 77-6-402,  
10 MCA, is repealed.

11 NEW SECTION. Section 5. Saving clause. [This act] does  
12 not affect rights and duties that matured, penalties that  
13 were incurred, or proceedings that were begun before [the  
14 effective date of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0409, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


This bill provides for assignment of leases of state lands as mortgage security, and eliminates the necessity to name the Department of State Lands in foreclosure actions.

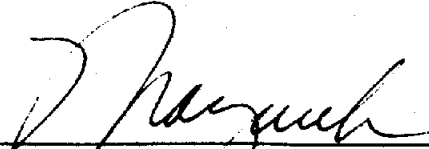
ASSUMPTIONS:

1. Under existing law the Department of State Lands is named as a defendant in approximately 10 foreclosure actions per year. This bill would eliminate the need to mortgage state lands and thereby gradually eliminate the department participation in these suits.

FISCAL IMPACT:

No fiscal impact.

  
ROD SUNDSTED, BUDGET DIRECTOR      2-20-91  
Office of Budget and Program Planning      DATE

  
JOSEPH P. MAZUREK, PRIMARY SPONSOR      2/20/91  
Fiscal Note for SB0409, as introduced      SB409  
DATE

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

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7 ELIMINATING THE-NECESSITY-TO-NAME-THE--DEPARTMENT--OF--STATE  
8 LANDS--IN--FORECLOSURE--ACTIONS MORTGAGES AND PLEDGES OF  
9 LEASEHOLD INTERESTS IN STATE LANDS; AMENDING SECTIONS  
10 77-6-401, 77-6-403, AND 77-6-404, MCA; AND REPEALING SECTION  
11 77-6-402, MCA."  
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17 of a grazing or agricultural lease of state lands is--hereby  
18 authorized--to may NOT pledge said the lease or mortgage or  
19 HIS LEASEHOLD INTEREST, BUT HE MAY assign for security  
20 purposes his leasehold interest in said the lands as part of  
21 a transaction involving the mortgage of private lands. The  
22 assignment must be on a form prescribed by the department  
23 and must have attached to it a copy of the mortgage of the  
24 private lands. The assignment applies to the lease and any  
25 renewal of the lease as long as the assignee remains the

1 lessee or until a release or proof of payment of the  
2 underlying debt is filed pursuant to 77-6-404. The  
3 assignment becomes effective when proof of foreclosure or  
4 conveyance is filed pursuant to 77-6-403. After an  
5 assignment is filed, the department shall mail to the  
6 assignee a copy of each notice of delinquency, notice of  
7 competitive bid, and notice of cancellation."

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11 acquisition-of-such--lease--or--leasehold--interest--by--any  
12 person--under--or--pursuant--to--such--pledge--agreement--or  
13 mortgage, that the assignee has acquired through foreclosure  
14 or conveyance the private lands covered in the mortgage  
15 accompanying the assignment, the board shall transfer said  
16 the lease to said-person, the assignee who shall-thereupon  
17 be is subject to all the conditions, obligations, and  
18 liabilities and entitled to all the rights and privileges  
19 provided for in said the lease.

20 (2) Nothing in this section may be construed to require  
21 the board to complete the transfer of a lease to an assignee  
22 whom the board considers unqualified as a lessee of state  
23 lands."

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SB 0409/02

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2 assignee of any grazing or agricultural lease of or  
3 leasehold interest in state lands which that is pledged-or  
4 mortgaged ASSIGNED as provided in this part shall, within 30  
5 days after payment of the indebtedness secured thereby or  
6 within 30 days after the pledge agreement OR MORTGAGE is  
7 terminated or-the-leasehold-interest-is--released--from--the  
8 mortgage, file with the department proof of that fact. If  
9 the assignee fails to file the proof within the time  
10 required by this section, the lessee may file the proof  
11 anytime thereafter."

12 NEW SECTION. Section 4. Repealer. Section 77-6-402,  
13 MCA, is repealed.

14 NEW SECTION. Section 5. Saving clause. [This act] does  
15 not affect rights and duties that matured, penalties that  
16 were incurred, or proceedings that were begun before [the  
17 effective date of this act].

-End-

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11 acquisition of such--lease--or--leasehold--interest--by--any  
12 person--under--or--pursuant--to--such--pledge--agreement--or  
13 mortgage, that the assignee has acquired through foreclosure  
14 or conveyance the private lands covered in the mortgage  
15 accompanying the assignment, the board shall transfer said  
16 the lease to said person, the assignee who shall thereupon  
17 be is subject to all the conditions, obligations, and  
18 liabilities and entitled to all the rights and privileges  
19 provided for in said the lease.

20 (2) Nothing in this section may be construed to require  
21 the board to complete the transfer of a lease to an assignee  
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24 **Section 3.** Section 77-6-404, MCA, is amended to read:25 "77-6-404. Proof of termination or release--of



1 satisfaction of pledge or mortgage to be filed. The lessee  
2 assignee of any grazing or agricultural lease of or  
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5 days after payment of the indebtedness secured thereby or  
6 within 30 days after the pledge agreement OR MORTGAGE is  
7 terminated or-the-leasehold-interest-is--released--from--the  
8 mortgage, file with the department proof of that fact. If  
9 the assignee fails to file the proof within the time  
10 required by this section, the lessee may file the proof  
11 anytime thereafter."

12 NEW SECTION. Section 4. Repealer. Section 77-6-402,  
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14 NEW SECTION. Section 5. Saving clause. [This act] does  
15 not affect rights and duties that matured, penalties that  
16 were incurred, or proceedings that were begun before [the  
17 effective date of this act].

-End-

HOUSE STANDING COMMITTEE REPORT

March 22, 1991  
Page 2 of 2

March 22, 1991  
Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 409 (third reading copy -- blue) be concurred in as amended.

Signed:   
Linda Nelson, Chairman

Carried by: Rep. Stepler

And, that such amendments read:

1. Title, lines 5 through 7.  
Following: the second "ACT" on line 4  
Strike: remainder of line 4 through "ELIMINATING" on line 7  
Insert: "CLARIFYING THE PROCEDURE FOR FORECLOSING ON"
2. Title, line 9.  
Strike: "SECTIONS"  
Insert: "SECTION"
3. Title, lines 10 and 11.  
Strike: "77-6-401," on line 10  
Following: "77-6-403,"  
Strike: remainder of line 10 through "77-6-402," on line 11
4. Page 1, line 14 through page 2, line 7.  
Strike: section 1 in its entirety  
Renumber: subsequent sections.
5. Page 2, line 13.  
Strike: "the assignee"  
Insert: "a person"
6. Page 2, lines 14 and 15.  
Following: "conveyance the" on line 14  
Strike: remainder of line 14 through "assignment" on line 15  
Insert: "pledgor's or mortgagor's leasehold interest"
7. Page 2, line 16.  
Strike: "the assignee"  
Insert: "that person,"

8. Page 2, line 19.  
Following: "lease."  
Insert: "To authorize transfer of a lease, a decree of foreclosure must specifically refer to the lease or the leased premises, but neither the board nor the department is required to be named as a party to the action. The plaintiff shall, however, file a copy of the complaint with the department at the time it is filed with the court."

9. Page 2, line 24 through page 3, line 13.  
Strike: sections 3 and 4 in their entirety  
Renumber: subsequent section

HOUSE

5/3 409

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INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

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~~renewal of the lease as long as the assignee remains the lessee or until a release or proof of payment of the underlying debt is filed pursuant to 77-6-404. The assignment becomes effective when proof of foreclosure or conveyance is filed pursuant to 77-6-403. After an assignment is filed, the department shall mail to the assignee a copy of each notice of delinquency, notice of competitive bid and notice of cancellation."~~

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1 FILE A COPY OF THE COMPLAINT WITH THE DEPARTMENT AT THE TIME  
2 IT IS FILED WITH THE COURT.

3 (2) Nothing in this section may be construed to require  
4 the board to complete the transfer of a lease to an assignee  
5 whom the board considers unqualified as a lessee of state  
6 lands."

7 Section 3, Section 77-6-404, MCA, is amended to read:

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9 satisfaction of pledge or mortgage to be filed. The lessee  
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13 days after payment of the indebtedness secured thereby or  
14 within 30 days after the pledge agreement OR MORTGAGE is  
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20 NEW SECTION. Section 4, Repealer. Section 77-6-402,  
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25 effective date of this act].