

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 16, 1981

The forty-fourth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 621:

TO DEFINE AND PROHIBIT COMPUTER-RELATED
CRIME.

Yielding the chair to Vice Chairman O'Hara for the hearing of this bill, Senator Anderson presented the bill. He read from an article written by Sylvia Porter, appearing in THE INDEPENDENT RECORD (attached Exhibit A), relative to computer crime, and pointed out that many of these crimes were never reported because doing so would jeopardize public trust in institutions such as banks and savings and loan companies. Rather than reporting such crimes, these companies take out insurance to cover the losses, and this forces up the cost of the services they provide.

Jim Hughes, representing Mountain Bell, testified in support of the bill as shown on his attached testimony sheet.

George Bennett, representing the Montana Bankers Association, testified in support of the bill and said that it was patterned after federal legislation.

Rep. Meyer spoke as chief sponsor of the bill, saying that he would close the discussion. He said that the world is becoming a computer world, and that this legislation is needed.

Senator Mazurek asked Marge Johnson, representing Mountain Bell, if "may" on line 10 of page 20 should not be changed to "shall". She said that this change would be all right with her.

Senator O'Hara asked if an accounts receivable record was dumped out of a computer, could it ever be recovered. Marge Johnson replied that a large cost would be involved in retrieving these records, and, in the cases where the records were stored only in the computer, it would not be possible to recover them at all.

Senator Berg questioned the harshness of the penalty as

outlined on page 19 under subsection (2), as being at the rate of up to two and one-half times the value of the theft.

CONSIDERATION OF HOUSE BILL 537:

TO PROVIDE A 5-YEAR STATUTE OF LIMITATIONS FOR ACTIONS BASED ON A STATUTORY DEBT CREATED BY THE PAYMENT OF PUBLIC ASSISTANCE.

Rep. Huennekens, Billings, presented the bill and handed out a summary of it (attached Exhibit B). He said that he felt the present system encourages welfare fraud because of the two-year statute of limitations, so the statute of limitations should be changed to the proposed five years from the date of detection of the fraud.

There were no proponents, opponents, or questions from the committee.

CONSIDERATION OF HOUSE BILL 536:

TO AMEND THE UNIFORM PARENTAGE ACT.

Rep. Huennekens presented the bill as a method of helping a child determine parentage by bringing action when he has reached his age of majority. Rep. Huennekens said that the bill would not provide harrassment against the parent, but would allow a child to try to establish his paternity by taking advantage of new methods of tissue analysis, etc.

Senator Mazurek asked Mike Garrity, of the Department of Revenue, if the department's use of this legislation would be to force the father to pay support if he were financially able to do so. Mr. Garrity agreed that this would be their application. Senator Mazurek feared that this might leave the door open for a "disinterested father" to later dispute an adoption of his child. He suggested that for this reason the statute of limitations in these cases should be extended only to legal actions brought by the child, but no one else.

CONSIDERATION OF HOUSE BILL 535:

TO AMEND UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT TO PROVIDE THAT THE DEPARTMENT OF REVENUE MAY REQUEST THE PROSECUTING ATTORNEY TO REPRESENT THE SUPPORT OBLIGEE.

Rep. Huennekens presented the bill.

Mike Garrity, of the Department of Revenue, speaking in

support of the bill, gave the committee some of the background on its conception and said the name of the department as an agency which can request action by the county attorney should have previously been put in the statute.

CONSIDERATION OF HOUSE BILL 761:

TO REQUIRE COUNTY CLERK AND RECORDER
TO NOTIFY OWNER OF PROPERTY SUBJECTED
TO A MECHANIC'S LIEN.

Rep. Fabrega, House District 44, presented the bill and told of an elderly couple's having a fire in their home which the insurance company settled. The couple got a contractor to repair the damage. After ordering nine thousand dollars worth of materials, the contractor left for Idaho, leaving the couple in worse shape than if they had had no insurance. Rep. Fabrega suggested there may be some amendments relative to the filing required by the clerk and recorders.

Bill Romine, representing the clerk and recorders, passed out suggested amendments (attached Exhibit D) and testified as shown on his attached testimony sheet, adding that the clerk and recorder's job is only custodial, not that of dispensing information. He presented a mechanic's lien which had been filed (attached Exhibit E), and said that a flat two-dollar fee would never compensate sending the notice to over one hundred people, many of whose addresses were unknown. He said that with his amendments the clerk and recorders would support the bill, but without them they would have to oppose. He presented additional papers relating to mechanic's liens (attached Exhibits F through J).

Opposition to the bill was offered in the form of a letter (attached Exhibit K) from Mrs. Joyce Lippert, Clerk and Recorder from Big Horn County.

In closing, Rep. Fabrega said that an official channel is necessary to send such a notice, and the responsibility therefore should be on the clerk and recorders. He suggested that he work with some of the committee and Bill Romine to work out something agreeable to everyone. In cases of multiple ownerships he said the notice could be sent to only the owner of record.

Senator S. Brown offered an amendment to the amendment submitted by the clerk and recorders, and agreed to meet with Bill Romine and Rep. Fabrega to work on the bill.

DISPOSITION OF HOUSE BILL 626:

Senator O'Hara stated that Senator B. Brown, Rep. Keedy,

Mark Racicot, and he had been trying to make the bill as good a bill as possible, and passed out proposed amendments (attached Exhibit L).

Senator Mazurek stated that the remedies provided for in this bill are already available to the public, and therefore the bill would be simply throwing out the exclusionary rule. He said that since it is becoming more and more the practice of the Supreme Court to allow use of evidence obtained incorrectly, even this would be unnecessary.

Senator S. Brown agreed, and suggested that the amendments and the bill be moved to see what would happen.

Senator Crippen moved that the bill be amended according to the attached Exhibit L, and his motion passed unanimously.

Senator S. Brown moved that the bill be amended according to the fourteenth amendment on the attached Committee Report, and his motion passed over the opposition of Senator Crippen.

Senator B. Brown moved that HB 626 be concurred in as amended, and his motion failed, as shown on the attached roll call vote, with everyone voting against it except Senators B. Brown and O'Hara.

Senator S. Brown then moved that the bill BE NOT CONCURRED IN AS AMENDED, on a reversal of the roll call vote, and his motion carried.



Mike Anderson
Chairman, Judiciary Room

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date *March 16, 1981*

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: Jim Hughes

DATE: 3/16/81

ADDRESS: 2020 WINNE HELENA

PHONE: 449-3385 (OFFICE)

REPRESENTING WHOM? MOUNTAIN BELL

APPEARING ON WHICH PROPOSAL: HB 621

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: WRITTEN TESTIMONY ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



There are four main types of computer crime which include:

- (1) Placing fraudulent information into a computer system,
- (2) Using the computer without the consent of the owner,
- (3) Altering or destroying computer information, files or data, and
- (4) Stealing computer related property or services or using computers to steal other types of property, e.g. money, commercial documents, etc.

This proposed bill prohibits all four types of computer crime by first defining the offense of "unlawful use of a computer". As defined this offense includes the first three categories of computer crime and the fourth category to the extent that the use of a computer is involved.

There are a few problems which are peculiar to computer related crime which are dealt with by the bill. For one, it is possible to steal computer information without actually depriving the owner of that information. The proposed bill amends the definition of "value" as used in the Criminal Code to include the situation in which only part of the value of the computer property is taken. It permits a determination of value in those instances which will take into consideration the owner's right to decide who can use his property and how it is to be used.

A second problem which is peculiar to computer related offenses is the fact that they are extremely difficult to detect. Under this bill, a section is added which will extend the time period until the computer related offense is or should have been discovered. This language is similar to existing law with regard to theft by persons

in a position of trust or fiduciary relationship to the victim.

A third problem dealt with by the bill which is peculiar to computer crime is that losses per incident of computer related theft are far greater than those resulting from other forms of theft. This problem has been addressed in the penalty section of the bill. Generally, the penalties for unlawful use of a computer are the same as the penalties for theft. Where the value of the property involved is more than \$150, however, a fine is also authorized which is equal to 2 1/2 times the value of that property. This type of penalty is particularly appropriate in light of the tremendous amounts frequently involved in computer offenses and will also hopefully serve as a deterrent.

The bill is modeled after statutes which now exist in a uniform fashion in 10 other states (Arizona, California, Colorado, Florida, Illinois, Michigan, New Mexico, North Carolina, Rhode Island and Utah).

This area of crime is rapidly emerging, deals with very large possible amounts of money, and is new to us in concept and in the types of statutory language needed to deal with the uniqueness of computer crime.

A good example is one that could occur here at the Capitol by someone who might destroy the computer program for the codes contained in the Legislative Council. The cost for reprogramming would be ^{or} spectacular.

The provision of this bill will not alter those that now exist for other types of crime.

NAME: GEORGE T. BENNETT DATE: 3/16/81

ADDRESS: 406 FULLER AVE HELENA

PHONE: 442-3690

REPRESENTING WHOM? MENT. BURS ASSN

APPEARING ON WHICH PROPOSAL: L 12621

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME William L. Raine BILL No. H.B. 761
ADDRESS Box 1691 Helena DATE 3-16-81
WHOM DO YOU REPRESENT Clerk & Recorder
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The association supports the concept of notice being given to the owner of the property when a mechanic lien is filed. However, the clerks believe the lienor should ~~be~~ be the one to give notice. In many instances there are numerous owners named. (See exhibit, which shows 167 owners). In other instances the addresses are not shown & it is difficult, if not impossible, for the clerk to find the address. In some instances the named owner is not the real owner, and if this is known by the clerk, is he to send notice to the named owner or the true owner.

Since the mechanic lien statute must be strictly followed, any errors created by the Lienor should not become the responsibility of the clerk.

The ~~amendment~~ ^{amendment} submitted by the clerks shifts the burden back to the Lienor, where it should be. It is his responsibility to faithfully follow the statute, and he should be required to give the notice. The clerk is a filing officer only, and should not get involved in the perfecting process at all.

NAME: Merrell H. Lund DATE: 3-16-81

ADDRESS: Billings, Mont, Yellowstone County

PHONE: 252-5181 ext 310

REPRESENTING WHOM? Clerk & Recorder

APPEARING ON WHICH PROPOSAL: HB ~~477~~ 761

DO YOU: SUPPORT? _____ AMEND? ☒ OPPOSE? ☒

COMMENTS: Have testimony to submit

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TCH

DATE March 16, 1981

COMMITTEE ON

JudiciaryHB 761
HB 621 HB 536
HB 537 HB 535

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
William L. Romine	clerk & Recorders	HB 761	Amend.	
Susan Lust	mt Hon. Ed. Desper	HB 536		
Mountain Bell	Mountain Bell	HB 621	X	
Jim Hughes	MOUNTAIN BELL	HB 621	X	
George T. Bennett	Mount. Bell Ass'n	HB 621	X	
P. E. Perry	Flintco. Co			
Michael G. Hurty	Dept. of Revenue	HB 535 HB 536 HB 537	X	
James L. Linnick	Clerk & Recorders	HB 761	Amend	
Joanne P. Tres	" "	HB 761	"	
Harold H. Klundt	" "	HB 761	"	

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Tomorrow: Medical insurance claims.

Gold

Butter & eggs

Selected world gold prices Tuesday:
morning fixing \$563.50, off \$3.25.
fixing \$562.00, off \$4.75.

CHICAGO (AP) — (USDA) — Butter unchanged Tuesday. 93-AA 1.4650-1.4900; 92-A 1.4550-1.4900.
Eggs steady Tuesday; carton sales delivered to

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32 $\frac{1}{2}$
14 $\frac{1}{2}$
15 $\frac{1}{2}$
8 $\frac{1}{2}$ + $\frac{1}{4}$
0 $\frac{1}{2}$
4 $\frac{1}{2}$ — $\frac{1}{4}$
5 $\frac{1}{2}$ + $\frac{1}{4}$
1 $\frac{1}{2}$
3 $\frac{1}{2}$ — $\frac{1}{4}$
8 $\frac{1}{2}$ — $\frac{1}{4}$
6 $\frac{1}{2}$ + $\frac{1}{4}$
16 $\frac{1}{2}$ — $\frac{1}{4}$
35 $\frac{1}{2}$ + $\frac{1}{4}$

YOUR MONEY'S WORTH



Fraud! 1981 varieties Push-button criminals

By SYLVIA PORTER

(Second of four columns)

A new criminal has emerged for the decade of the 1980s — a sophisticated thief who even at this date is stealing as much as \$40 billion a year out of your pocket and mine and whose crimes often go unpunished because they are undetected.

He (she) is the high technology crook, operating in the field of electronics, concentrating on computer frauds. And the irony is that such is the secret, impersonal nature of the computer that even when a computer fraud is discovered, it may be impossible to find who actually pressed the button.

So relatively easy is computer fraud that smaller companies particularly are deeply alarmed about their vulnerability. The cost of retaining trained personnel capable of trapping the technically adept crooks is prohibitive for all except the giants.

For business in general, even larger problems may lie ahead along with the proliferation of home computers and electronic transfer of funds via data banks that are accessible through telephone lines. Billions of dollars will pass through these systems, notes the Insurance Information Institute. And as the transfer systems gain in acceptance, security experts well may find it extremely difficult to keep the computer crook under control.

Not even the federal government is immune. In sensitive agencies, millions of dollars are being invested to safeguard vital information that could be beyond price to foreign agents and would-be terrorists in this age of terror.

Exhibit B

DEPARTMENT OF REVENUE

HOUSE BILL NO. 537

HB 537 provides for a 5 year statute of limitations for actions to enforce a statutory debt created by the payment of public assistance. The 5-year period begins to run when the debt arises unless fraud is involved. When fraud is present, the 5-year period commences upon discovery of the fraud. Basically, the 2-year period that is available for statutorily created debts under section 27-2-211, MCA, is not sufficient, and hence the Department of Revenue requests an additional 3 years, providing a 5-year period altogether.

Section Analysis

Section 1. Amends 27-2-211, MCA. Subsection (1) is amended (page 1, lines 21 through 24) to provide an exception from the 2-year statute of limitations for debts based upon payment of public assistance. A new subsection (4) (page 2, lines 10 through 14) is added to spell out the nature of the exception.

Exhibit C

DEPARTMENT OF REVENUE

HOUSE BILL NO. 535

HB535 adds the Department of Revenue to the list of entities that may request that the prosecuting attorney (generally the county attorney) initiate a URESA (Uniform Reciprocal Enforcement of Support Act) action on behalf of a support obligee. This is already being done at present, and arguably the Department could fall within the umbrella of SRS because of the way the support laws are written. However, the Department of Revenue considers it advisable to explicitly add the Department to the list.

Section Analysis

Section 1. Amends 40-5-113, MCA. The term "Department of Revenue" is added to the list of requestor agencies on page 1, lines 16 and 17.

DEPARTMENT OF REVENUE

HOUSE BILL NO. 535

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Section Analysis

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Exhibit C

Northwest Rfy.
Big Sky - Deer Lodge

HALLIN LUMBER CO.
BOZEMAN, MONTANA • PHONE 586-5495

Roofing
DATE 9-7-77
JOB ADDRESS Big Sky Deer Lodge

AND CLERICAL ERRORS SUBJECT TO CORRECTION
TURNED STOCK ITEMS. SPECIAL ORDERS ARE SUBJECT TO FACTORY RETURN CONDITIONS

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DESCRIPTION	FEET	PRICE	AMOUNT
# 2x4 Bkr Gr.	1067	294	313 70
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	3400	305	732 00
	2800	305	854 00
	3	11890	37 80
Box Ring Shank Connector	2	3520	70 40
			25 00
			2425 10
		TOTAL	

DUE AND PAYABLE 10th PROX.
Sample

Thank You!

SIMKINS HALLIN LUMBER CO.

124 NORTH WALLACE • BOZEMAN, MONTANA • PHONE 586-5495

15591

SOLD TO Northwest Rfy. DATE 7-26-77
MAIL ADDRESS Big Sky - Deer Lodge

STENOGRAPHICAL AND CLERICAL ERRORS SUBJECT TO CORRECTION

ROLLING CHARGE WILL BE MADE ON ALL RETURNED STOCK ITEMS. SPECIAL ORDERS ARE SUBJECT TO FACTORY RETURN CONDITIONS

QUANT	QUAN.	DESCRIPTION	FEET	PRICE	AMOUNT
	792	4x8 SG CD P 9 T Fry. P 9 T	2714	455	10803.5

Proposed Amendment to H.B. 761, submitted by Clerk & Records Assn.

1. Amend Title:

Line 8, strike words "THE COUNTY CLERK AND RECORDER TO".

Line 9, strike word "NOTIFY" and insert "NOTIFICATION TO".

Line 10, strike entire line.

2. Amend Section 1, line 15, by striking the word "FEE".

3. Amend Section 1 further:

Strike lines 22 through 25, page 1 and lines 1 through 6,
page 2,

Insert following:

(2) THE CLERK SHALL NOT FILE THE LIEN UNLESS THERE IS
ATTACHED THERETO A CERTIFICATION BY THE LIEN HOLDER OR HIS
AGENT THAT A COPY OF THE LIEN HAS BEEN SERVED UPON THE OWNER
OF THE PROPERTY NAMED IN THE LIEN. SERVICE SHALL BE MADE
BY DELIVERING A COPY TO THE OWNER OR BY MAILING IT TO HIM
AT HIS LAST KNOWN ADDRESS. THE CERTIFICATION SHALL STATE
WHETHER SERVICE WAS MADE BY DELIVERY OR MAIL.

Exhibit

NOTICE AND CLAIM OF MECHANIC'S LIEN

LeROY D. SWIER,

Claimant,

-vs-

JANES G. HOUBY and
ADRIANNA B. HOUBY,

Owners,

and

THE RUSHMORE CORPORATION,

Contractor.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, LeROY D. SWIER, did furnish labor and material for carpet installation upon that certain condominium located in the Mountain Village, Madison County, Montana, more particularly located on lands described as follows, to-wit:

Unit B-12, Stillwater Condominiums, Big Sky of Montana, Inc., Mountain Village, Madison County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of Madison County, Montana,

the record title of which stands in the name of the Owners, and that they are the owners and purported owners of the same.

That between the dates of March 1, 1974 and March 5, 1974, at the special instance and request of the said JANES G. HOUBY and ADRIANNA B. HOUBY, Owners, and THE RUSHMORE CORPORATION, Contractor, and at the agreed and reasonable price of One Hundred Thirty and 50/100ths Dollars (\$130.50), the Claimant supplied all of the labor

Exhibit C

NOTICE OF MECHANIC'S LIEN

Notice is hereby given by F. L. DYE CO., INC., a Montana Corporation of 529 East Main Street, Bozeman, Montana - 59715, herein referred to as lienholder, that the lienholder did supply unto ORA CLARK, JAMES VERN MEEKS, MARY MEEKS, ROBERT P. NELSON, MARY RUTH NELSON, ROBERT W. REILLEY, FREDERICK J. SHIVELY, R. S. N., INC., DAN J. LEWIEN and ROSALYN LEWIEN, as owners, sellers and purchasers, dba THE LONGBRANCH SALOON, labor and certain material for plumbing on the following described real property situated in the County of Madison, State of Montana, to-wit:

The West One-Half (W $\frac{1}{2}$) of Lot 15
in Block 2 of the Original Townsite
of Ennis, Montana, according to the
official plat thereof on file and
of record in the office of the County
Clerk and Recorder of Madison County,
Montana.

The lienholder furnished plumbing and materials to the said owners dba THE LONGBRANCH SALOON, and the gross amount due and owing to lienholder is the total sum of Five Hundred Forty Two Dollars (\$542.00).

Ninety days have not elapsed since that last portion of said labor and materials were supplied or furnished to the owners, dba THE LONGBRANCH SALOON.

The lienholder has completed, or has completed as far as possible under the conditions existing, the work contracted for.

That ORA CLARK, JAMES VERN MEEKS, MARY MEEKS, ROBERT P. NELSON, MARY RUTH NELSON, ROBERT W. REILLEY, FREDERICK J. SHIVELY, R.S.N., INC., DAN J. LEWIEN and ROSALYN LEWIEN, are the owners, sellers and purchasers of the said real property which is sought to be charged with this lien, which real property is hereinabove described.

Know All Men by These Presents:

Exhibit 1

THAT Northwest Erection, Inc. a Montana corporation

did during a period of time commencing on the 20th day of August A. D., 1979

and ending on the 19th day of December A. D., 1980,

perform certain work and labor and furnish material, machinery and fixture for

that certain building and improvements

erected upon that certain lot, piece or parcel of land hereinafter described; that the value of the said work, labor, material, machinery and fixtures

amounted to the sum of \$1,537,691.00 Dollars

as will more fully appear, reference being had to an itemized statement of account of said

work, labor, material, machinery & fixtures hereunto annexed, and marked "Exhibit A,"

and hereof made a part; that said work, labor, material, machinery & fixtures was

reasonably worth the prices charged therefor; that said work, labor, material, machinery

and fixtures

and the whole thereof was done at the special instance and request of

Spring Creek Coal Company, Fred J. Early Company

Morgan Manufacturing, and Paper, Calmenson Company

the owner and general and contractors of said property and improvements and the

person for whose immediate use and benefit the said work, labor, material, machinery and fixtures

was done; that, desiring to avail itself of the benefit of

Part 5, Chapter 3, Title 71, M.C.A., Chapter 5 of Title 45 of the Revised Codes of Montana, 1947, it is the undersigned's

intention to file this statement of account with the County Recorder of the said

county of BIG HORN within the time in that behalf provided by law to

secure the payment of the amount due upon said account; that no part of the amount

aforesaid has been paid except as shown on the account attached hereto,

and that the

sum of \$1,537,691.00 Dollars

is justly due and unpaid on said account after allowing all credits and offsets that

piece or parcel of land hereinbefore mentioned, and to which this lien applies and attaches

situate, lying and being in NW 1/4 SW 1/4 Section 19, Township 8S, Range 40E

County of BIG HORN State of Montana, particularly described as follows, to-wit:

To the extent of the building or structure and one acre of real property

surrounding it, or on which it is situated, known more specifically as

storage to loadout conveyor - conveyor #4.

STATE OF MONTANA,

County of Missoula

} ss.

Vern E. Cheff, Jr. 2-25-81
NORTHWEST ERECTION, INC.

By: Vern E. Cheff, Jr.
Its President

Exhibit I

"EXHIBIT A"

DESIGNATION OF OWNER

First Continental Corp., a corporation, either as the legal owner, equitable owner, contract purchaser, permittee, grantee, lessee or entitled to the right to either repair, construct, or otherwise work on fences and fence improvements as specified in the Mechanic's Lien, by agreement, consent, estoppel or laches, or by a combination of any of the above, and

Christian Land and Cattle Co.

Eugene McFerran and Frances McFerran

Leachman Cattle Co.

Robert Downs

The State of Montana

The United States of America, Trustee

The heirs, devisees, representatives and assigns of Edward K. Macer, deceased

John R. Scott, Jr.

Donald Lee and Pauline Lee

Harriet J. Josephson

Pirrie J. Trask and Margaret J. Trask

James Trask Cox.

Charles Finley

Kenneth L. Finley and Esther D. Finley

either as the legal owners, equitable owners, contract sellers, permittors, grantors, lessors or as parties who by agreement, consent, estoppel or laches or by a combination of any of the above have permitted, allowed or acquiesced in the repair, construction, and other work on fences and fence improvements, as in this Mechanic's Lien specified all of which parties, including First Continental Corp, are collectively and severally herein referred to in this Mechanic's Lien as OWNER.

DATED this 10th day of October, 1980.

Bryson Klein
LIEN CLAIMANT

NOTICE OF MECHANIC'S LIEN

TO: CLERK AND RECORDER, MADISON COUNTY, STATE OF MONTANA AND
TO WHOM ELSE IT MAY CONCERN:

PLEASE TAKE NOTICE that MARION C. MUSGROVE, doing business under the name and style of "THE FLOOR STORE", at 701 Utah Ave., Butte, Montana, has and claims a Mechanic's Lien on the property hereinafter described:

1. The name and residence of the Lienor is: Marion C. Musgrove, residing at 1216 W. Aluminum St., Butte, Montana.

2. The name and owners of the property hereinafter described and against whose interest therein a lien is claimed is J. D. EASLEY and MAE EASLEY, and/or ROBERT D. FORD, of McAllister, Madison County, Montana, and as far as Lienor can determine such person or persons are the owner of said property.

3. The name of the person by whom the Lienor was employed and to whom Lienor furnished labor and materials is ROBERT D. FORD, of McAllister, Montana.

4. The labor and materials performed and furnished are as follows:

Furnished and installed floor covering, base, underlayment and carpet, of the reasonable and agreed total cost of \$2069.33, upon which a payment of \$300.00 has been paid, leaving a balance due, owing and unpaid of the sum of \$1769.33. That all the labor and materials were furnished and completed on March 6, 1974.

5. The property upon which said work and materials were furnished is located in Madison County, Montana, and consists of a log structure, designated as "McTana Bar and Cafe", McAllister, Montana

Lienor is informed and believes that the description of said real property upon which such structure is located is described as follows:

A parcel of land 150 feet by 266 feet, in the Northwest Quarter of the Southeast Quarter of Section 33, Township 4 South Range 1 West, M. P. M., in McAllister, Madison County, Montana.

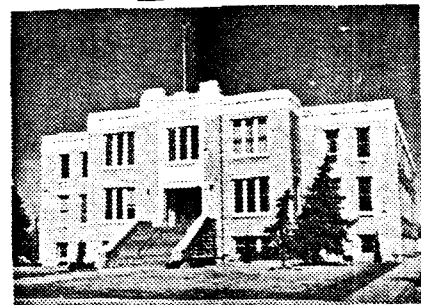
That Lienor, doing business as "The Floor Store", has and claims a Mechanic's lien for the agreed value of the materials and labor furnished upon said real property, improved and to be improved thereby, and upon such improvements, for the amount unpaid as aforesaid, pursuant to the statutes of the State of Montana, in such case made and provided.

THE FLOOR STORE
Marion C. Musgrove

STATE OF MONTANA)
COUNTY OF SILVER BOW) ss

Marion C. Musgrove, being first duly sworn on oath deposes and says:
That she is the owner of The Floor Store, the same being located in Butte, Montana, and is the lienor described in the foregoing Notice of Lien; that she has read said

BIG HORN COUNTY



HARDIN, MONTANA 59034

March 11, 1981

Senator Mike Anderson, Chairman
Senate Judiciary Committee
State of Montana
Capitol Building
Helena, MT 59601

Dear Senator Anderson:

House Bill No. 761 requiring the county clerk and recorder to notify the owner of property subjected to a mechanic's lien has been assigned to your committee for hearing. I would like to comment on the proposal.

The owner of any property subjected to a lien certainly should have the right of a notice. However, I don't feel that it should be in the scope of the clerk and recorder's duties to perform. The lienholder should be required to give whatever notices are deemed proper.

The bill is vague and does not define the proper method of notification. It merely says, "shall notify in writing". I could whip out a note and slip it to the owner of the property and apparently satisfy this legislation.

There are many reasons why I feel this duty shouldn't be imposed on the clerk and recorder. There is no authority to refuse a lien for the fact that it is incomplete. There are numerous liens of record that more or less abstract the owner and any other person or organization that has ever had an interest in the property without any addresses. As long as the attorney or whoever is doing the lien has researched the ownership, why should it have to be done again? The responsibility of notification should lie with that person.

Section 7-4-2611 (2), M.C.A. 1979 sets forth the standard duties of the clerk as follows: (a) take charge of and safely keep or dispose of according to law all books, papers, maps, and records which may be filed or deposited in the clerk's office. This certainly does not include abstracting.

Your consideration of my comments will be appreciated.

Sincerely,

Joyce Lippert (Mrs.)
Clerk and Recorder

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Amendments to House Bill 626

1. Title, line 9.

Following: "FOR"

Strike: "A NONELECTED"

Insert: "AN"

2. Page 2, line 25 through line 1 on page 3.

Following: "is" on line 25

Insert: "exclusively"

Following: "liable" on line 25

Strike: remainder of line 25 through "agent," on line 1, page 3

Insert: "for damages in a civil action and no cause of action
lies against its employee or agent"

3. Page 3, lines 6 through 11.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

4. Page 3, line 15.

Following: "law"

Insert: "or uses deception or subterfuge in securing a warrant"

5. Page 3, line 17.

Following: "(5)"

Strike: "A nonelected"

Insert: "An agent or"

6. Page 3, lines 20 through 22.

Following: "." on line 20

Strike: remainder of line 20 through line 22 in their entirety

7. Page 4, line 18.

Following: "in"

Strike: "2-9-104"

Insert: "2-9-104(1)(a)"

8. Page 6, line 15.

Following: "against"

Strike: "a nonelected"

Insert: "an"

9. Page 6, line 17.

Following: ","

Strike: "a nonelected"

Insert: "an"

10. Page 7.

Following: line 8

Insert: "(4) The disciplinary actions provided for herein are
in addition to and not in limitation of the employing agency's
rights to otherwise discipline."

Amendments to House Bill 626

Page 2

11. Page 7, line 25.

Following: "16."

Strike: "Severability"

Insert: "Nonseverability"

12. Page 8, line 1.

Following: "all"

Strike: "valid"

Following: "parts"

Strike: "that are severable from the"

Insert: "are"

13. Page 8, lines 2 through 5.

Following: line 1

Strike: "part"

Insert: "and do not"

Following: "." on line 2

Strike: remainder of line 2 through line 5 in their entirety

ReNUMBER: subsequent section

SENATE COMMITTEE JUDICIARY

Date March 16, 1981 HOUSE Bill No. 626 Time 11:30 a.m.

NAME	YES	NO
Anderson, Mike		✓
O'Hara, Jesse A.	✓	
Olson, S. A.		✓
Brown, Bob	✓	
Crippen, Bruce D.		✓
Tveit, Larry J.		✓
Brown, Steve		✓
Berg, Harry K.		✓
Mazurek, Joseph P.		✓
Halligan, Michael		✓

John Campbell
Secretary

Mike Anderson
Chairman

Motion: Be Concurred in as Amended.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 16, 19 81

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 626

Respectfully report as follows: That HOUSE Bill No. 626,
third reading copy, be amended as follows:

1. Title, line 9.

Following: "FOR"

Strike: "A NONELECTED"

Insert: "AN"

2. Page 2, line 25 through line 1 on page 3.

Following: "is" on line 25

Insert: "exclusively"

Following: "liable" on line 25

Strike: remainder of line 25 through "agent," on line 1, page 3

Insert: "For damages in a civil action and no cause of action lies
against its employee or agent"

3. Page 3, lines 6 through 11.

Strike: subsection (3) in its entirety

Re-number: subsequent subsections

~~EXHIBIT~~
~~EXHIBIT~~
~~EXHIBIT~~

continued

March 16, 1981

4. Page 3, line 15.
Following: "law"
Insert: "or uses deception or subterfuge in securing a warrant"

5. Page 3, line 17.
Following: "(5)"
Strike: "A nonelected"
Insert: "An agent or"

6. Page 3, lines 20 through 22.
Following: "." on line 20
Strike: remainder of line 20 through line 22 in their entirety

7. Page 4, line 18.
Following: "in"
Strike: "2-9-104"
Insert: "2-9-104(1)(a)"

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Strike: "a nonelected"
Insert: "an"

10. Page 7.
Following: line 8
Insert: "(4) The disciplinary actions provided for herein are in addition to and not in limitation of the employing agency's rights to otherwise discipline."

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Following: "16."
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Insert: "Nonseverability"

12. Page 8, line 1.
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Following: "parts"
Strike: "that are severable from the"
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13. Page 8, lines 2 through 5.
Following: line 1
Strike: "part"
Insert: "and do not"
Following: "." on line 2
Strike: remainder of line 2 through line 5 in their entirety

continued

March 16, 1981

14. Page 7, line 3.

Following: ". "

Insert: "However, if it is determined that an employee or agent of the state purposely or knowingly acted in violation of a person's constitutional rights he shall be permanently dismissed notwithstanding the provisions of subsection (2)."

And, as so amended,
BE NOT CONCURRED IN