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LC 0262/01

INTRODUCED BY ______ Auch Ramues A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 52-409. R.C.M. 1947, TO REQUIRE SHERIFFS AND CONSTABLES TO POST NOTICES OF SALE UPON REQUEST OF A TRUSTEE IN THE CASE OF A FORECLOSURE OF A TRUST INDENTURE." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 52-409, R.C.M. 1947, is amended to read as follows: *52-409. Notice of sale to be mailed, posted, and published. (1) The trustee shall give notice of the sale in the following manner: (a) At least 120 days before the date fixed for the trustee's sale, a copy of the recorded notice of sale shall be mailed by registered or certified mail to: (i) The the grantor, at the grantor's address as set forth in the trust indenture, or (in the event no address of the grantor is set forth in the trust indenture) at the grantor's last known address; (ii) Each each person designated in the trust indenture to receive notice of sale whose address is set forth therein, at such address; (iii) Each each person who has filed for record a

1 request for a copy of notice of sale within the time and in 2 the manner hereinafter provided, at the address of such person as set forth in such requesta: 3

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

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

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

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

INTRODUCED BILL

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(2) On or before the date of sale, there shall be 1 2 filed for record in the office of the clerk and recorder of 3 each county where the property, or some part thereof, is situated, affidavits of mailing, posting, and publication 4 5 showing compliance with the requirements of this section. On the date and at the time and place designated in the notice 6 7 of sale, the trustee or his attorney shall sell the property 8 at public auction to the highest bidder. The property may be 9 sold in one parcel or in separate parcels: and any person. including the beneficiary under the trust indenturey but 10 excluding the trustee, may bid at the sale. The person 11 making the sale may, for any cause he deems expedient, 12 postpone the sale for a period not exceeding 15 days by 13 public proclamation at the time and place fixed in the 14 notice of sale. No other notice of the postponed sale need 15 be given. 16

17 (3) The purchaser at the sale shall pay the price bid in cash, and, upon receipt of payment, the trustee shall 18 19 execute and deliver a trustee's deed to the purchaser. In the event the purchaser refuses to pay the purchase price, 20 the person conducting the sale shall have the right to 21 22 re-sell the property at any time to the highest 23 bidder. The party refusing to pay shall be liable for any loss occasioned thereby, and the person making the sale may 24 25 also, in his discretion, thereafter reject any other bid of

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1 such person."

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STATE OF MONTANA

REQUEST NO. 39-77

FISCAL NOTE

Form BD-15

In compliance with a written request received <u>January 10</u>, 19 <u>77</u>, there is hereby submitted a Fiscal Note for <u>House Bill 72</u> pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

This bill requires sheriffs and constables to post notices of sale upon request of a trustee in the case of a foreclosure of a trust indenture.

FISCAL IMPACT

The proposed legislation will have no impact on state or local revenues or expenditures.

PREPARED BY THE DEPARTMENT OF REVENUE

Richard Z. Dran

BUDGET DIRECTOR V Office of Budget and Program Planning Date: 1-13-77

45th Legislature

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Approved by Committee on Judiciary

HB BILL NO. 72 Jack Ramues 1 INTRODUCED BY ___ 2 Э

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 5 52-409, R.C.M. 1947, TO REQUIRE SHERIFFS AND CONSTABLES TO 6 POST NOTICES OF SALE UPON REQUEST OF A TRUSTEE IN THE CASE 7 OF A FORECLOSURE OF A TRUST INDENTURE."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 52-409, R.C.M. 1947, is amended to
11 read as follows:

12 "52-409. Notice of sale to be mailed, posted, and
13 published. (1) The trustee shall give notice of the sale in
14 the following manner:

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

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

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

25 (iii) Each each person who has filed for record a

SECOND READING

request for a copy of notice of sale within the time and in Ł the manner hereinafter provided, at the address of such 2 з person as set forth in such requesta: (iv) Any any successor in interest to the grantor whose 4 5 interest and address appear of record at the filing date and 6 time of the notice of sale, at such address; 7 (v) Any any person having a lien or interest subsequent to the interest of the trustee and whose lien or 8 9 interest and address appear of record at the filing date and time of the notice of sale, at such address. 10 (b) At least 20 days before the date fixed for the 11 trustee's sale, a copy of the recorded notice of sale shall 12 be posted in some conspicuous place on the property to be 13 sold; Upon request of the trustee, the notice of sale shall 14 be posted by a sheriff or constable of the county wherein 15 16 the property to be sold is located. 17 (c) A copy of the notice of sale shall be published in a newspaper of general circulation published in any county 13 19 in which the property, or some part thereof, is situated, at least once each week for 3 successive weeks. If there is no 20 21 such newspaper, then copies of the notice of sale shall be 22 posted in at least 3 three public places in each county in 23 which the property, or some part thereof, is situated. The posting or the last publication shall be made at least 20 24 25 days before the date fixed for the trustee's sale.

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i (2) On or before the date of sale, there shall be filed for record in the office of the clerk and recorder of 2 each county where the property, or some part thereof, is 3 situated, affidavits of mailing, posting, and publication 4 showing compliance with the requirements of this section. On 5 6 the date and at the time and place designated in the notice 7 of sale, the trustee or his attorney shall sell the property at public auction to the highest bidder. The property may be 8 9 sold in one parcel or in separate parcels, and any person, 10 including the beneficiary under the trust indenturey but excluding the trustee, may bid at the sale. The person 11 12 making the sale may, for any cause he deems expedient, 13 postpone the sale for a period not exceeding 15 days by 14 public proclamation at the time and place fixed in the 15 notice of sale. No other notice of the postponed sale need 16 be given.

17 (3) The purchaser at the sale shall pay the price bid 18 in cash, and, upon receipt of payment, the trustee shall 19 execute and deliver a trustee's deed to the purchaser. In 20 the event the purchaser refuses to pay the purchase price, 21 the person conducting the sale shall have the right to 22 re-sell the property at any time to the highest 23 bidder. The party refusing to pay shall be liable for any loss occasioned thereby, and the person making the sale may 24 25 also, in his discretion, thereafter reject any other bid of

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1 such person."

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LC 0262/01

HB BILL, NO. 72 INTRODUCED BY Gach Raminer L 2 З A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 4 52-409, R.C.M. 1947, TO REQUIRE SHERIFFS AND CONSTABLES TO 5 POST NOTICES OF SALE UPON REQUEST OF A TRUSTEE IN THE CASE 5 OF A FORECLOSURE OF A TRUST INDENTURE." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 52-409, R.C.M. 1947, is amended to 10 read as follows: 11 #52-409. Notice of sale to be mailed, posted, and 12 published. (1) The trustee shall give notice of the sale in 13 the following manner: 14 (a) At least 120 days before the date fixed for the 15 trustee's sale, a copy of the recorded notice of sale shall 15 be mailed by registered or certified mail to: 17 (i) The the grantor, at the grantor's address as set 18 forth in the trust indentures or (in the event no address of 19 the grantor is set forth in the trust indenture) at the 20 grantor's last known address; 21 (ii) Each each person designated in the trust indenture 22 to receive notice of sale whose address is set forth 23 24 therein, at such address; (iii) Each person who has filed for record a

THIRD READING

1 request for a copy of notice of sale within the time and in the manner hereinafter provided, at the address of such 2 person as set forth in such request; 3 (iv) Any any successor in interest to the grantor whose 4 5 interest and address appear of record at the filing date and 6 time of the notice of sale, at such address; 7 (v) Any any person having a lien or interest 8 subsequent to the interest of the trustee and whose lien or 9 interest and address appear of record at the filing date and 10 time of the notice of sale, at such address. (b) At least 20 days before the date fixed for the 11 12 trustee's sale, a copy of the recorded notice of sale shall be posted in some conspicuous place on the property to be 13 14 soldt. Upon request of the trustee, the notice of sale shall be posted by a sheriff or constable of the county wherein 15

the property to be sold is located. 16

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

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(2) On or before the date of sale, there shall be 1 2 filed for record in the office of the clerk and recorder of each county where the property, or some part thereof, is 3 situated, affidavits of mailing, posting, and publication 4 5 showing compliance with the requirements of this section. On the date and at the time and place designated in the notice 6 7 of sale, the trustee or his attorney shall sell the property 8 at public auction to the highest bidder. The property may be 9 sold in one parcel or in separate parcels, and any person, including the beneficiary under the trust indenturey but 10 excluding the trustee, may bid at the sale. The person 11 making the sale may, for any cause he deems expedient, 12 13 postpone the sale for a period not exceeding 15 days by public proclamation at the time and place fixed in the 14 notice of sale. No other notice of the postponed sale need 15 16 be given.

17 (3) The purchaser at the sale shall pay the price bid 18 in cash, and, upon receipt of payment, the trustee shall 19 execute and deliver a trustee's deed to the purchaser. In 20 the event the purchaser refuses to pay the purchase price, the person conducting the sale shall have the right to 21 re-sell the property at any time to the highest 22 23 bidder. The party refusing to pay shall be liable for any loss occasioned thereby, and the person making the sale may 24 25 also, in his discretion, thereafter reject any other bid of 1 such person."

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Hd 0072/02

HOUSE BILL NO. 72 **INTRODUCED BY RAMIREZ** A BILL FUR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 52-409, R.C.N. 1947, TO REQUIRE SHERIFFS AND CONSTABLES TO POST NUTICES OF SALE UPON REQUEST OF A TRUSTEE IN THE CASE OF A FORECLOSURE OF A TRUST INDENTURE." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 52-409, R.C.M. 1947, is amended to read as follows: "52-409. Notice of sale to be mailed, posted_ and published. (1) The trustee shall give notice of the sale in the following manner: (a) At least 120, days before the date fixed for the trustee's sale, a copy of the recorded notice of sale shall be mailed by registered or certified mail to: (i) The the grantor, at the grantor's address as set forth in the trust indenturey or (in the event no address of the grantor is set forth in the trust indenture) at the grantor's last known address; (ii) Each each person designated in the trust indenture to receive notice of sale whose address is set forth therein, at such address; (iii) Each each person who has filed for record a

request for a copy of notice of sale within the time and in 1 2 the manner hereinafter provided, at the address of such 3 person as set forth in such requested (iv) Any any successor in interest to the grantor whose 4 5 interest and address appear of record at the filing date and time of the notice of sale, at such address; 6 7 (v) Any any person having a lien or interest 8 subsequent to the interest of the trustee and whose lien or 9 interest and address appear of record at the filing date and time of the notice of sale, at such address. 10

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

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

REFERENCE BILL

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(2) On or before the date of sale, there shall be 1 2 filed for record in the office of the clerk and recorder of 3 each county where the property, or some part thereof, is situated, affidavits of mailing, posting, and publication 4 showing compliance with the requirements of this section. On 5 6 the date and at the time and place designated in the notice of sale, the trustee or his attorney shall sell the property 7 8 at public auction to the highest bidder. The property may be sold in one parcel or in separate parcels, and any person, 9 including the beneficiary under the trust indenturey but 10 excluding the trustee, may bid at the sale. The person 11 12 making the sale may, for any cause he deems expedient, 13 postpone the sale for a period not exceeding 15 days by 14 public proclamation at the time and place fixed in the notice of sale. No other notice of the postponed sale need 15 be given. 16

(3) The purchaser at the sale shall pay the price bid 17 18 in cash, and, upon receipt of payment, the trustee shall 19 execute and deliver a trustee's deed to the purchaser. In the event the purchaser refuses to pay the purchase price, 20 the person conducting the sale shall have the right to 21 re-sell the property at any time to the highest 22 bidder. The party refusing to pay shall be liable for any 23 loss occasioned thereby, and the person making the sale may 24 also, in his discretion, thereafter reject any other bid of 25

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1 such person.*

-End-

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