

1 HB BILL NO. 72
 2 INTRODUCED BY Jack Ramsey

3
 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."

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 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;

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

25 (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
 3 person as set forth in such request;

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
 9 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
 23 which the property, or some part thereof, is situated. The
 24 posting or the last publication shall be made at least 20
 25 days before the date fixed for the trustee's sale.

1 (2) On or before the date of sale, there shall be
 2 filed for record in the office of the clerk and recorder of
 3 each county where the property, or some part thereof, is
 4 situated, affidavits of mailing, posting, and publication
 5 showing compliance with the requirements of this section. On
 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
 8 at public auction to the highest bidder. The property may be
 9 sold in one parcel or in separate parcels, and any person,
 10 including the beneficiary under the trust indenture, but
 11 excluding the trustee, may bid at the sale. The person
 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~~ resell the property at any time to the highest
 23 bidder. The party refusing to pay shall be liable for any
 24 loss occasioned thereby, and the person making the sale may
 25 also, in his discretion, thereafter reject any other bid of

1 such person."

-End-

STATE OF MONTANA

REQUEST NO. 39-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, 19 77, there is hereby submitted a Fiscal Note for House Bill 72 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 L. Drury
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-13-77

Approved by Committee on Judiciary

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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;

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

25 (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
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5 interest and address appear of record at the filing date and
6 time of the notice of sale, at such address;

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8 subsequent to the interest of the trustee and whose lien or
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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
23 which the property, or some part thereof, is situated. The
24 posting or the last publication shall be made at least 20
25 days before the date fixed for the trustee's sale.

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17 (3) The purchaser at the sale shall pay the price bid
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1 HOUSE BILL NO. 72

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