

1 *Rupp* H BILL NO. 536
 2 INTRODUCED BY *Severson, Wyrick, Switzer*
 3 *Drewel Williams*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE GREATER
 5 NOTICE AND PUBLICATION IN THE CASE OF PERSONAL PROPERTY SOLD
 6 AT EXECUTION AND TO REQUIRE SUCH SALES TO BE CONDUCTED BY A
 7 PROFESSIONAL AUCTIONEER; AMENDING SECTIONS 93-5824, 93-5826,
 8 93-5828, 93-5829, AND 93-5830, R.C.M. 1947."

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

11 Section 1. Section 93-5824, R.C.M. 1947, is amended to
 12 read as follows:

13 "93-5824. Notice of sale -- how given -- copy of
 14 notice. Before the sale of the property on execution, notice
 15 thereof must be given as follows:

16 1. In case of perishable property: By posting written
 17 notice of the time and place of the sale in three public
 18 places of the township or city where the sale is to take
 19 place, for such time as may be reasonable, considering the
 20 character and condition of the property.

21 2. In case of other personal property: ~~By posting a~~
 22 ~~similar notice in three public places in the township or~~
 23 ~~city where the sale is to take place, for not less than five~~
 24 ~~days nor more than ten days.~~

25 ~~in case of~~ and real property: By posting a similar

1 notice, particularly describing the property, for twenty
 2 days, in three public places of the township or city where
 3 the property is situated, and also where the property is to
 4 be sold, which may be either at the courthouse or on the
 5 premises, and publishing a copy thereof once a week for the
 6 same period, in some newspaper published in the county, if
 7 there be one; which notice shall be substantially as
 8 follows:

9 SHERIFF'S SALE.

10, Plaintiff,
 11 vs., Defendant,
 12 To be sold at sheriff's sale on the day of,
 13 19... at (Here insert brief description of property.)
 14 Signed,, Sheriff.

15 Any sheriff publishing a notice not in accordance with
 16 this form, and which shall cost more than such a notice,
 17 shall not be entitled to any costs for publication of the
 18 same, but shall be personally liable for the payment of such
 19 publication."

20 Section 2. Section 93-5826, R.C.M. 1947, is amended to
 21 read as follows:

22 "93-5826. Sales -- how conducted. All sales of
 23 property under execution must be made to the highest bidder
 24 at an auction, to the highest bidder sale conducted by a
 25 professional auctioneer who has successfully bid for the

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1 ~~job~~, between the hours of nine in the morning and five in
 2 the afternoon. After sufficient property has been sold to
 3 satisfy the execution, no more can be sold. Neither the
 4 officer holding in charge of the execution nor his deputy
 5 can become a purchaser, or be interested in any purchase, at
 6 such sale. When the sale is of personal property, capable of
 7 manual delivery, it must be within view of those who attend
 8 the sale, and be sold in such parcels as are likely to bring
 9 the highest price; and when the sale is of real property,
 10 consisting of several known lots or parcels, they must be
 11 sold separately, or, when a portion of such real property is
 12 claimed by a third person, and he requires it to be sold
 13 separately, such portion must be thus sold. The judgment
 14 debtor, if present at the sale, may also direct the order in
 15 which property, real or personal, shall be sold, when such
 16 property consists of several known lots or parcels, or of
 17 articles which can be sold to advantage separately, and the
 18 sheriff must follow such directions."

19 Section 3. Section 93-5828, R.C.M. 1947, is amended to
 20 read as follows:

21 "93-5828. Proceedings when purchaser refuses to pay.
 22 If a purchaser refuses to pay the amount bid by him for the
 23 property struck off to him at a sale under execution, the
 24 officer may ~~again sell the property~~ cause the property to
 25 be sold again at any time to the highest bidder, and if any

1 loss be occasioned thereby, the officer may recover the
 2 amount of such loss, with costs, from the bidder so
 3 refusing, in any court of competent jurisdiction, and the
 4 person refusing to pay the costs which have accrued by
 5 reason of his bid shall be deemed guilty of contempt of
 6 court, and punished accordingly."

7 Section 4. Section 93-5829, R.C.M. 1947, is amended to
 8 read as follows:

9 "93-5829. Officer may reject subsequent bids
 10 thereafter. When a purchaser refuses to pay, the officer
 11 may, in his discretion, direct the auctioneer to thereafter
 12 reject any subsequent bid of such purchaser."

13 Section 5. Section 93-5830, R.C.M. 1947, is amended to
 14 read as follows:

15 "93-5830. Officer not liable beyond a certain amount.
 16 The two preceding sections must not be construed to make the
 17 officer or auctioneer liable for any more than the amount
 18 bid by the second or subsequent purchaser, and the amount
 19 collected from the purchaser refusing to pay."

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