

CHAPTER NO. 189.

HOUSE BILL NO. 163

INTRODUCED BY METCALF

BY REQUEST OF THE ATTORNEY GENERAL

IN THE HOUSE

January 15, 1979	Introduced and referred to Committee on Local Government.
January 30, 1979	Committee recommend bill do pass. Report adopted.
January 31, 1979	Printed and placed on members' desks.
February 1, 1979	Second reading, do pass.
February 2, 1979	Considered correctly engrossed.
February 3, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 3, 1979	Introduced and referred to Committee on Judiciary.
February 28, 1979	Committee recommend bill be concurred in as amended.
March 2, 1979	Second reading, concurred in.
March 5, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 6, 1979	Returned from second house. Concurred in as amended.
March 7, 1979	Second reading, amendments adopted.
March 8, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 HOUSE BILL NO. 163
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL THE STATUTORY
 6 AUTHORIZATION FOR FORECLOSURE OF A SECURITY INTEREST IN
 7 PERSONAL PROPERTY BY SHERIFF'S ATTACHMENT AND SALE WITHOUT
 8 NOTICE TO THE PARTY IN POSSESSION OR PRIOR HEARING; AMENDING
 9 SECTIONS 30-9-508 AND 61-3-103, MCA; REPEALING SECTIONS
 10 30-9-509 AND 30-9-510, MCA."

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

12 Section 1. Section 30-9-508, MCA, is amended to read:

13 "30-9-508. Foreclosure of security interests in
 14 personal property. ~~††~~ An action for the foreclosure of a
 15 security interest in personal property may be commenced and
 16 conducted and the property subsequently disposed of in the
 17 same manner as provided by law for the foreclosure by action
 18 of mortgages upon real property, and the same may be joined
 19 in an action for the recovery of the possession of the
 20 property subject to the security interest, but the remedial
 21 scope of proceedings for the foreclosure of interests
 22 subject to this chapter is governed by this part.

23 ~~††--A security agreement covering personal property~~
 24 ~~may contain a clause authorizing the sheriff of the county~~
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1 in which said property or any part thereof may be on
 2 request of the secured party and the delivery to the sheriff
 3 of a copy of such security agreement to take possession of
 4 such property in case of default and to sell the same if a
 5 security agreement contains such clause and if the secured
 6 party complies with the terms thereof it is hereby made the
 7 duty of such sheriff upon the request of the secured party
 8 or his legal representative or assigns to take possession
 9 of such property and to advertise and sell the whole or any
 10 part of the same and at such sale the secured party or his
 11 representatives or assigns may in good faith purchase the
 12 property so sold or any part thereof the sheriff shall
 13 require a reasonable indemnity bond from the secured party
 14 or his assigns before taking possession of or selling the
 15 property. Notice of sale application of the proceeds
 16 liability for deficiency and effect of disposition shall be
 17 as provided in 30-9-504."

18 Section 2. Section 61-3-103, MCA, is amended to read:

19 "61-3-103. Filing of liens, rights, procedure, fees.
 20 (1) No chattel mortgage, conditional sales contract, lease,
 21 or other lien on a motor vehicle shall be valid as against
 22 creditors, subsequent purchasers or encumbrancers unless and
 23 until such mortgage, conditional sales contract, lease, or
 24 other lien, or a true copy thereof certified by a notary
 25 public has been filed with the division as hereinafter

1 provided. The division shall not file any mortgage,
 2 conditional sales contract, lease, or other lien unless such
 3 mortgage, conditional sales contract, lease, or other lien
 4 is accompanied by the certificate of ownership of such
 5 vehicle, except in the sale of a new motor vehicle by a duly
 6 licensed dealer, and when such mortgage, conditional sales
 7 contract, lease, or other lien or certified copy thereof is
 8 so presented for filing the division shall file the same
 9 entering upon its records the name and address of the
 10 mortgagee, conditional sales vendor, lessor, or other lienor
 11 together with the amount of the lien and shall at the same
 12 time endorse the same information upon the face of the
 13 certificate of ownership, mailing a statement certifying to
 14 the filing of such mortgage, conditional sales contract,
 15 lease, or other lien to the mortgagee, vendor, or other
 16 lienor, and mail the certificate of ownership to the owner
 17 at the address given on said certificate, the owner being
 18 the person entitled to operate and possess such motor
 19 vehicle.

20 (2) Satisfactions or statements of release filed with
 21 the division under this chapter shall be retained by it for
 22 a period of 8 years after receipt, after which they may be
 23 destroyed. Chattel mortgages, conditional sales contracts,
 24 leases, or other liens filed with the division, and all
 25 renewals and assignments thereof, shall be retained by it

1 for a period of 8 years after the maturity date stated in
 2 such mortgage, conditional sales contract, lease, or other
 3 lien, or renewal, or if no maturity date is therein stated,
 4 for a period of 13 years after receipt, after which they may
 5 be destroyed.

6 (3) From and after the filing of any mortgage,
 7 conditional sales contract, lease, or other lien, or copy
 8 thereof on any motor vehicle, as herein provided, then and
 9 in that event such mortgage, conditional sales contract,
 10 lease, or other lien shall be constructive notice of the
 11 mortgage, conditional sales contract, lease, or other lien
 12 and its contents to subsequent purchasers and encumbrancers.

13 (4) Upon default under a chattel mortgage or
 14 conditional sales contract covering a motor vehicle the
 15 mortgagee or vendor has the same remedies as in the case of
 16 other personal property, ~~except that the remedy of seizure~~
 17 ~~prescribed by 30-9-508 shall be available upon delivery to~~
 18 ~~the sheriff of the original instrument or a copy certified~~
 19 ~~by the division and such undertaking as may be required by~~
 20 ~~the sheriff.~~ In case of attachment of motor vehicles all
 21 the provisions of 27-18-413, 27-18-414, and 27-18-804 shall
 22 be applicable except that deposits must be made with the
 23 division.

24 (5) In the event any conditional sales vendor or
 25 chattel mortgagee or assignee fails to file a satisfaction

1 of a chattel mortgage, assignment, or conditional sales
 2 contract within 15 days after receiving final payment on
 3 such mortgage, assignment, or conditional sales contract he
 4 shall be required to pay the division the sum of \$1 for each
 5 and every day thereafter that he fails to file such
 6 satisfaction.

7 (6) Upon receipt of any liens, or notice of liens
 8 dependent on possession, or attachments, etc., against the
 9 record of any motor vehicle registered in this state, the
 10 division shall within 24 hours mail to the owner,
 11 conditional sale vendor, mortgagees, or assignees of any
 12 thereof a notice showing the name and address of the lien
 13 claimant, amount of the lien, date of execution of lien, and
 14 in the case of attachment the full title of the court and
 15 the action and the name of the attorneys for the plaintiff
 16 and/or attaching creditor.

17 (7) It shall not be necessary to refile with the
 18 division any instruments on file in the offices of the
 19 county clerk and recorders at the time this law takes
 20 effect.

21 (8) A fee of \$2 shall be paid to the division upon and
 22 for filing any lien or lien instrument against any motor
 23 vehicle, and said fee of \$2 shall further include and cover
 24 the cost of filing a satisfaction or release of the lien or
 25 lien instrument and also the cost of endorsing such

1 satisfaction or release on the face of the certificate of
 2 ownership or on the records of the division or both. A fee
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 4 copy of a chattel mortgage, conditional sales contract, or
 5 other lien or instrument of encumbrance on file in the
 6 office of the division, or for filing any assignment of any
 7 instrument on file with the division. All fees provided for
 8 in this section shall be deposited by the division in the
 9 earmarked revenue fund."

10 Section 3. Repealer. Sections 30-9-509 and 30-9-510,
 11 MCA, are repealed.

-End-

Approved by Comm.
on Local Government

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6 ~~party complies with the terms thereof, it is hereby made the~~
7 ~~duty of such sheriff, upon the request of the secured party~~
8 ~~or his legal representative or assigns, to take possession~~
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16 ~~liability for deficiency, and effect of disposition shall be~~
17 ~~as provided in 30-9-504."~~

18 Section 2. Section 61-3-103, MCA, is amended to read:
19 "61-3-103. Filing of liens, rights, procedure, fees.
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 4 is accompanied by the certificate of ownership of such
 5 vehicle, except in the sale of a new motor vehicle by a duly
 6 licensed dealer, and when such mortgage, conditional sales
 7 contract, lease, or other lien or certified copy thereof is
 8 so presented for filing the division shall file the same
 9 entering upon its records the name and address of the
 10 mortgagee, conditional sales vendor, lessor, or other lienor
 11 together with the amount of the lien and shall at the same
 12 time endorse the same information upon the face of the
 13 certificate of ownership, mailing a statement certifying to
 14 the filing of such mortgage, conditional sales contract,
 15 lease, or other lien to the mortgagee, vendor, or other
 16 lienor, and mail the certificate of ownership to the owner
 17 at the address given on said certificate, the owner being
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 21 the division under this chapter shall be retained by it for
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 2 contract within 15 days after receiving final payment on
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10 Section 3. Repealer. Sections 30-9-509 and 30-9-510,
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(2) ~~A security agreement covering personal property may contain a clause authorizing the sheriff of the county~~

~~in which said property or any part thereof may be, on request of the secured party and the delivery to the sheriff of a copy of such security agreement to take possession of such property in case of default and to sell the same if a security agreement contains such clause and if the secured party complies with the terms thereof, it is hereby made the duty of such sheriff upon the request of the secured party or his legal representative or assignor to take possession of such property and to advertise and sell the whole or any part of the same and at such sale the secured party or his representatives or assigns may in good faith purchase the property so sold or any part thereof. The sheriff shall require a reasonable indemnity bond from the secured party or his assigns before taking possession of or selling the property. Notice of sale, application of the proceeds, liability for deficiency, and effect of disposition shall be as provided in 30-9-504.~~

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February 28, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 163 be amended as follows:

1. Page 1, line 17.

Strike: "and the property subsequently disposed of"