# 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	2
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.

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HOLDE BILL NO. 163 1 INTRODUCED BY Metcoll 2 BY REDUEST OF THE ATTORNEY GENERAL 3 4

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL THE STATUTORY 5 AUTHORIZATION FOR FORECLOSURE OF A SECURITY INTEREST IN 6 PERSONAL PROPERTY BY SHERIFF'S ATTACHMENT AND SALE WITHOUT 7 NOTICE TO THE PARTY IN POSSESSION OR PRIOR HEARING; AMENDING 8 SECTIONS 30-9-508 AND 61-3-103, HCA; REPEALING SECTIONS 9 30-9-509 AND 30-9-510. MCA.\* 10

11

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTAWA: 12 Section 1. Section 30-9-508, NCA, 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 Z3 subject to this chapter is governed by this part.

t21--A-security-agreement--covering--personal--property 24 may--contain--a-clause-authorizing-the-sheriff-of-the-county 25

in-which-said-property--or--any--part--thereof--may--bey--on 1 2 request-of-the-secured-party-and-the-delivery-to-the-sheriff 3 of--s-copy-of-such-security-agreementy-to-take-possession-of such-property-in-case-of-default-and-to-sell-the-same-lf--a 4 security--agreement--contains-such-clause-and-if-the-secured 5 perty-complies-with-the-terms-thereofy-it-is-hereby-mode-the ñ 7 duty-of-such-sheriffy-upon-the-request-of-the-secured--party or--his--legal-representative-or-assionsy-to-tyke-possession R 9 of-such-property-and-ta-advartise-and-sell-the-whole-or--any 10 part-of-the-samet-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-thereofy-The-sheriff-shall require-a-reasonable-indernity-bond-from-the--secured--party 13 14 or--his--assians--before-taking-possession-of-or-selling-the property-Notice--of--saley--application--of--the--proceeday 15 16 Hisbility-for-deficiency-and-effect-of-disposition-shall-be 17 as-provided-in-38-9-584\*\* 16 Section 2. Section 61-3-103, MCA, is amended to read: 19 #61-3-103. Filing of liens, rights, procedure, fees. (1) No chattel mortgage, conditional sales contract, lease, 20 or other lien on a motor vehicle shall be valid as against 21 22 creditors, subsequent purchasers or encumbrancers unless and until such mortgage, conditional sales contract, lease, or 23 other lien, or a true copy thereof certified by a notary 24 public has been filed with the division as hereinafter 25 HB 163 INTRODUCED BIL

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

(2) Satisfactions or statements of release filed with 20 the division under this chapter shall be retained by it for 21 a period of 8 years after receipt, after which they may be 2? destroyed. Chattel mortgages, conditional sales contracts. 23 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 such mortgage, conditional sales contract, lease, or other lien, or renewal, or if no maturity date is therein stated, for a period of 13 years after recaipt, after which they may be destroyed.

(3) From and after the filing of any mortgage. 6 7 conditional sales contract, lease, or other lien, or copy thereof on any motor vehicle, as herein provided, then and 8 9 in that event such mortgage, conditional sales contract, lease, or other lien shall be constructive notice of the 10 mortgage, conditional sales contract, lease, or other lien 11 and its contents to subsequent purchasers and encumbrancers. 12 13 (4) Upon default under a chattel mortgage or conditional sules contract covering a motor vehicle the 14 15 mortgagee or vendor has the same remedies as in the case of 16 other personal property-except-that-the-remedy-of-setzure prescribed-by-30-9-508-shall-be-available-upon--delivery--to 17 18 the--sheriff--of-the-original-instrument-or-a-copy-certified 19 by-the-division-and-such-undertaking-as-may-be--required--by the--sheriff. In case of attachment of motor vehicles all 20 the provisions of 27-18-413, 27-18-414, and 27-18-804 shall 21 by applicable except that deposits must be made with the 23 23 division. 24 (5) In the event any conditional sales vendor or

25 chattel mortgagee or assignee fails to file a satisfaction

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

(6) Upon receipt of any leins, or notice of liens 7 dependent on possession, or attachments, etc., against the 8 record of any motor vehicle registered in this state, the 9 within 24 hours mail to the owner. 10 division shall n 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 the action and the name of the attorneys for the plaintiff 15 and/or attaching creditor. 16

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

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

satisfaction or release on the face of the certificate of 1 2 ownership or on the records of the division or both. A fee 3 of \$2 shall be paid the division for issuing a certified copy of a chattel wortgage, conditional sales contract, or 4 5 other lien or instrument of encumbrance on file in the office of the division, or for filing any assignment of any 6 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."

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

-End-

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45th Legislature

LC 0374/01

Approved by Comm. on Local Government

1	HOLDE BILL NO. 163
2	INTRODUCED BY
3	BY REQUEST OF THE ATTORNEY GENERAL
4	
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	NUTICE 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	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section is Section 30-9-508, NCA, is amended to read:
14	"30-9-508. Foreclosure of security interests in
15	personal property. (1) An action for the foreclosure of a
16	security interest in personal property may be commenced and
17	conducted and the property subsequently disposed of in the
18	same manner as provided by law for the foreclosure by action
19	of mortgages upon real property, and the same may be joined
20	in an action for the recovery of the possession of the
21	property subject to the security interest, but the remedial
22	scope of proceedings for the foreclosure of Interests
23	subject to this chapter is governed by this part.

24 (2)--A-security-agreement--covering--personal--property
 25 may--contain--a-slause-authorizing-the-sheriff-of-the-county

1	in-which-said-propertyoranypartthereofmaybeyon
z	<del>request-of-the-secured-porty-ond-the-delivery-to-the-sheriff</del>
3	ofa-copy-of-such-security-agreementy-to-take-possession-of
4	such-property-in-cose-of-defoult-ond-to-sell-the-some-lfo
5	<del>socurityogreementcontains-such-clouse-ond-if-the-secured</del>
6	party-complies-with-the-terns-thereofy-it-is-hereby-mode-the
7	<del>duty-of-such-shariffy-upon-th</del> e-request-of-th <del>e-securedparty</del>
8	<del>orhislegal-representative-or-assignsv-to-toke-possession</del>
9	of <del>-such-proparty-and-to-advartise-and-sell-th</del> e- <del>whole-orany</del>
10	partof-the-somet-and-at-such-sole-the-secured-party-or-his
11	<del>representatives-or-assig</del> as- <del>a</del> ey-in-goodfoithpurchasethe
12	<del>property-so-sold-or-any-part-thereofs-The</del> -sh <del>eriff-shall</del>
13	require-a-reasonable-indemnity-bond-from-thesecuredparty
14	orhisassignsbefore-toking-possession-of-or-selling-the
15	property. Notice-of-sale epplication-of-the-proceeds.
16	<del>lisbility-for-deficiency-and-effect-of-disposition-shall-b</del> e
17	<del>as-provided-in-38-9-584</del> #"
18	Section 2. Section 61-3-103, HEA, is amended to read:
19	#61-3-103. Filing of liens, rights, procedure, fees.
20	<ol> <li>No chattel mortgage, conditional sales contract, lease,</li> </ol>
21	or other lien on a motor vehicle shall be valid as against
22	creditors, subsequent purchasers or encumbrancers unless and
23	untH1 such wortgages conditional sales contracts leases or
24	other lien, or a true copy thereof certified by a notary
25	public has been filed with the division as hereinafter $HB/G3$

-2- SECOND READING

provided. The division shall not file any mortgage. 1 2 conditional sales contract, lease, or other lien unless such mortgage, conditional sales contract, lease, or other lien 3 is accompanied by the certificate of ownership of such 4 vehicle, except in the sale of a new motor vehicle by a duly 5 6 licensed dealer, and when such mortgage, conditional sales 7 contract, lease, or other lien or certified copy thereof is so presented for filing the division shall file the same 8 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 certificate of ownership, mailing a statement certifying to 13 14 the filing of such mortgage, conditional sales contract, 15 lease, or other lien to the mortgages, 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

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

(3) From and after the filing of any mortgage, ٠ conditional sales contract, lease, or other lien, or copy 7 thereof on any motor vehicle, as herein provided, then and 8 in that event such mortgage, conditional sales contract, 9 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 mortgagee or vendor has the same remedies as in the case of 15 16 other personal property-except-that-the-remedy-of-seizure 17 prescribed-by-30-9-508-shail-be-available-upon--delivery--tr the--sheriff--of-the-original-instrument-or-a-copy-certified 18 by-the-division-and-such-undertaking-as-may-be--required--by 19 20 the--sheriff. In case of attachment of motor vehicles all the provisions of 27-18-413, 27-18-414, and 27-18-804 shall 21 be applicable except that deposits must be made with the 22 division. 23

24 (5) In the event any conditional sales vendor or25 chattel mortgagee or assignee fails to file a satisfaction

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

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.

(8) A fee of \$2 shall be paid to the division upon and
for filing any lien or lien instrument against any motor
vehicle, and said fee of \$2 shall further include and cover
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10 Section 3. Repeater. Sections 30-9-509 and 30-9-510.
11 MCA, are repeated.

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LC 0374/01

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HOLLOE BILL NO. 163 1 INTRODUCED BY \_\_\_\_\_\_ Metcallz BY REQUEST OF THE ATTORNEY GENERAL 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL THE STATUTORY

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."

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24 (2)--A-security-agreement--covering--personal--property
 25 may--contain--a-clause-authorizing-the-sheriff-of-the-county

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creditors, subsequent purchasers or encumbrancers unless and

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other lien, or a true copy thereof certified by a notary

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HB163 THIRD READING

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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 way be
23 destroyed. Chattel mortgages, conditional sales contracts,
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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.

(8) A fee of \$2 shall be paid to the division upon and
for filing any lien or lien instrument against any motor
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10 Section 3. Repeater. Sections 30-9-509 and 30-9-510. 11 MCA, are repeated.

-End-

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HB 163

#### LC 0374/01

#### 46th Legislature

HB 0163/02

1	HOUSE BILL NO. 163
2	INTRODUCED BY METCALF
3	BY REQUEST OF THE ATTORNEY GENERAL
4	

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."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 30-9-508, MCA, is amended to read: 13 14 "30-9-508. Foreclosure of security interests in 15 personal property. (1) An action for the foreclosure of a 16 security interest in personal property may be commenced and 17 conducted and-the-property-subsequently-disposed of in the same manner as provided by law for the foreclosure by action 18 19 of mortgages upon real property, and the same may be joined 20 in an action for the recovery of the possession of the 21 property subject to the security interest, but the remedial 22 scope of proceedings for the foreclosure of interests 23 subject to this chapter is governed by this part.

24 t2)--A-security-agreement--covering--personal--property
 25 may--contain--a-clause-authorizing-the-sheriff-of-the-county

1	in-which-said-propertyorenypartthereofwaybeyon
2	request-of-the-secured-party-and-the-delivery-to-the-sheriff
3	ofa-copy-of-such-security-agreementy-to-take-possession-of
4	such-property-in-cose-of-default-end-to-sell-the-some+-ifo
5	securityagreementcontains-such-clause-and-if-the-secured
6	party-complies-with-tha-terms-thereofy-it-is-hereby-mode-the
7	duty-of-such-sheriffy-upon-the-request-of-the-securedparty
8	orhisleasi-representative-or-assignsv-to-take-possession
9	of-such-property-and-to-advortise-and-soll-the-whole-orany
10	partof-the-somet-and-ot-such-sale-the-secured-party-or-his
11	representatives-or-assigns-may-in-goodfaithpurchasethe
12	propertysosoldoranypart-thereofs-The-sheriff-shall
13	require-o-reasonable-indemnity-bond-from-thosecuredparty
14	orhisassignsbefore-taking-possession-of-or-selling-the
15	property-Noticeofsolarapplicationoftheproceeds.
16	<del>liability-for-deficiency-and-effect-of-disposition-sholl-be</del>
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 chattal markeness conditional rates contract, loaco.

(1) No chattel mortgage, conditional sales contract, lease,
or other lien on a motor vehicle shall be valid as against
creditors, subsequent purchasers or encumbrancers unless and
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other lien, or a true copy thereof certified by a notary
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-2-REFERENCE BILL

HB 163

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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 wortgages, conditional sales contracts, 24 leases, or other liens filed with the division, and all 25 renewals and assignments thereof, shall be retained by it

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

(3) From and after the filing of any mortgage. 6 7 conditional sales contract, lease, or other lien, or copy 8 thereof on any motor vehicle, as herein provided, then and q in that event such mortgage, conditional sales contract, lease, or other lien shall be constructive notice of the 10 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 propertyy-except-that-the-remedy-of-seizure 17 prescribed-by-30-9-500-shall-be-available-upon--delivery--to the--sheriff--of-the-original-instrument-or-o-copy-certified 18 by-the-division-and-such-undertaking-os-may-be--required--by 19 the--sheriff. In case of attachment of motor vehicles all 20 the provisions of 27-18-413, 27-18-414, and 27-18-804 shall 21 be applicable except that deposits must be made with the 22 division. 23

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

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

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.

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

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satisfaction or release on the face of the certificate of 1 ownership or on the records of the division or both. A fee 2 of \$2 shall be paid the division for issuing a certified 3 copy of a chattel mortgage, conditional sales contract, or 4 5 other lien or instrument of encumbrance on file in the office of the division, or for filing any assignment of any ь 7 instrument on file with the division. All fees provided for 8 in this section shall be deposited by the division in the earmarked revenue fund.\* Q

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10 Section 3. Repealer. Sections 30-9-509 and 30-9-510.

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MCA, are repealed.

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-End-

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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"