

HOUSE BILL NO. 182

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Judiciary.
January 19, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 20, 1979	Printed and placed on members' desks.
January 23, 1979	Third reading Consent Calendar passed. Transmitted to second house.

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Judiciary.
February 27, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 1, 1979	Second reading, concurred in.
March 3, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 5, 1979	Returned from second house with amendments.
March 6, 1979	Second reading, amendments adopted.
March 7, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

HOUSE BILL NO. 182

INTRODUCED BY Mash

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PROPERTY; AND REPEALING SECTIONS 67-1001 THROUGH 67-1008 AND 34-106, R.C.M. 1947."

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

Section 1. Section 70-2-202, MCA, is amended to read:

"70-2-202. General procedural provisions applicable. The provisions of ~~{93-3001 to 93-3020, inclusive}~~ Title 25, chapter 3, parts 2 and 3, and Rules 4, 12(a), and 41(e), M.R.Civ.P., are hereby made applicable to the action for which provision is made in 70-2-201."

Section 2. Section 70-5-103, MCA, is amended to read:

"70-5-103. Duty to inform owner when known. ~~{1} If the finder of a thing knows or suspects who is the owner, he must, with reasonable diligence, give him notice of the finding, and if he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by him for the recovery of the thing or to any compensation for his trouble or expenses.~~

~~{2} If any person find finds any money, goods, things in action, or other personal property or save saves any~~

domestic animal from drowning or from starvation when such the property is of the a value of \$10 or more and he knows or suspects who the owner is, he must use reasonable diligence to inform the owner thereof, ~~if known,~~ and make restitution without compensation, further than a reasonable charge for saving and taking care thereof. ~~If he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by the owner for the recovery of the thing or to any compensation for his trouble or expenses.~~

Section 3. Section 70-6-504, MCA, is amended to read:

"70-6-504. How exempted from liability -- safe. {1} If an innkeeper keeps a fireproof safe and gives notice to a guest, either personally or by putting up placing a printed notice in a prominent place in the room occupied by the guest, that he keeps such a safe and will not be liable for money, jewelry, documents, or other articles of unusual value and small compass unless placed therein, he is not liable, except so far as his own acts contribute thereto, for any loss of or injury to such articles, ~~if not deposited with him and not required by the guest for present use.~~

~~{2} Whenever the proprietor or proprietors of any hotel or inn shall provide a safe or other secure place of deposit therein for the safekeeping of any money, jewelry, ornaments, or other articles of value belonging to any guest or guests of such hotel or inn and shall cause to be posted~~

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1 ~~and maintained printed notices thereof in the office or~~
 2 ~~public room and within every guest's room of such inn or~~
 3 ~~hotel; the proprietor or proprietors thereof shall not be~~
 4 ~~liable to any such guest or guests who shall neglect to~~
 5 ~~deliver their money, jewels, ornaments, or other articles of~~
 6 ~~value to the proprietor or other person in charge of such~~
 7 ~~safe or place of deposit for deposit and safekeeping therein~~
 8 ~~for any loss of such money or other articles which may be~~
 9 ~~sustained by such guest by theft or otherwise."~~

10 Section 4. Section 70-9-302, MCA, is amended to read:

11 "70-9-302. Notice of property presumed abandoned --
 12 publication -- mail. (1) Within 120 days from the filing of
 13 the report required by 70-9-301, the department of revenue
 14 shall ~~cause~~ publish notice to be ~~published~~ at least once
 15 each week for 2 successive weeks in an English language
 16 newspaper of general circulation in the county in this state
 17 in which is located the last known address of any person to
 18 be named in the notice. If no address is listed or if the
 19 address is outside this state, the notice shall be published
 20 in the county in which the holder of the abandoned property
 21 has his principal place of business within this state.

22 (2) The published notice shall be entitled "Notice of
 23 Names of Persons Appearing to Be Owners of Abandoned
 24 Property" and shall contain:

25 (a) the names in alphabetical order and last known

1 addresses, if any, or person or persons listed in the report
 2 and entitled to notice within the county as hereinbefore
 3 specified;

4 (b) a statement that information concerning the amount
 5 or description of the property and the name and address of
 6 the holder may be obtained by any persons possessing an
 7 interest in the property by addressing an inquiry to the
 8 department;

9 (c) a statement that if proof of claim is not
 10 presented by the owner to the holder and if the owner's
 11 right to receive the property is not established to the
 12 holder's satisfaction within 65 days from the date of the
 13 second published notice, the abandoned property will be
 14 placed not later than 85 days after such publication date in
 15 the custody of the department to whom all further claims
 16 must thereafter be directed.

17 (3) The department is not required to publish in such
 18 notice any item of less than \$25 unless the department deems
 19 considers such publication to be in the public interest.

20 (4) Within 120 days from the receipt of the report
 21 required by 70-9-301, the department shall mail a notice to
 22 each person having an address listed therein who appears to
 23 be entitled to property of the value of \$25 or more presumed
 24 abandoned under parts 1 through 3.

25 (5) The mailed notice shall contain:

1 (a) a statement that, according to a report filed with
2 the department, property is being held to which the
3 addressee appears entitled;

4 (b) the name and address of the person holding the
5 property and any necessary information regarding changes of
6 name and address of the holder;

7 (c) a statement that if satisfactory proof of claim is
8 not presented by the owner to the holder by the date
9 specified in the published notice, the property will be
10 placed in the custody of the department to whom all further
11 claims must be directed.

12 (6) This section is not applicable to sums payable on
13 travelers' checks or money orders presumed abandoned under
14 70-9-201."

15 Section 5. Section 70-16-104, MCA, is amended to read:

16 "70-16-104. Rights of tenant for years or at will. (1)
17 A tenant for years or at will, unless he is a wrongdoer by
18 holding over, may occupy the buildings, take the annual
19 products of the soil, and work mines and quarries open at
20 the commencement of his tenancy; and a tenant at will or for
21 an indefinite term may cultivate and harvest the crops
22 growing at the end of his tenancy.

23 (2) A tenant for years or at will has no other rights
24 to the property than such as are those given to him by the
25 agreement or instrument by which his tenancy is acquired or

1 by subsection (1).

2 ~~(3) Subsection (2) does not apply to arrangements~~
3 ~~governed by chapter 24 of this title."~~

4 Section 6. Section 70-19-413, MCA, is amended to read:

5 "70-19-413. Certain disabilities to suspend running of
6 statutory period. (1) ~~If Subsection (2) applies if~~ a person
7 entitled to commence an action for the recovery of real
8 property or for the recovery of the possession thereof or
9 for dower or to make any entry or defense founded on the
10 title to real property or to rents or services out of the
11 same is, at the same time such title first descends or
12 accrues--either:

13 (a) within ~~under~~ the age of majority;

14 (b) ~~insane~~ seriously mentally ill; or

15 (c) imprisoned on a criminal charge or in execution
16 upon conviction of a criminal offense for a term of less
17 than for life.

18 (2) The time during which disability continues is not
19 deemed ~~considered~~ any portion of the time in this chapter
20 limited for the commencement of such action or the making of
21 such entry or defense, but such action may be commenced or
22 entry or defense made within the period of 5 years after
23 such disability ~~shall cease ceases~~ or after the death of the
24 person entitled who ~~shall die dies~~ under such disability,
25 but such action ~~shall may~~ not be commenced or entry or

1 defense made after that period."

2 Section 7. Section 70-20-101, MCA, is amended to read:

3 "70-20-101. Transfer to be in writing -- statute of
4 frauds. ~~(1) An estate in real property, other than an estate~~
5 ~~at will or for a term not exceeding 1 year, can be~~
6 ~~transferred only by operation of law or by an instrument in~~
7 ~~writing subscribed by the party disposing of the same or by~~
8 ~~his agent thereunto authorized by writing.~~

9 (2) No estate or interest in real property, other than
10 ~~for leases~~ an estate at will or for a term not exceeding 1
11 year, or any trust over or power concerning it or in any
12 manner relating thereto can be created, granted, assigned,
13 surrendered, or declared otherwise than by operation of law
14 or a conveyance or other instrument in writing, subscribed
15 by the party creating, granting, assigning, surrendering, or
16 declaring ~~the same~~ it or by his lawful agent thereunto
17 authorized by writing."

18 Section 8. Section 70-20-107, MCA, is amended to read:

19 "70-20-107. Power of attorney of ~~married women~~ person
20 -- how acknowledged. A power of attorney of a ~~married women~~
21 person, authorizing the execution of an instrument
22 transferring an estate in her his separate real property,
23 has no validity for that purpose unless acknowledged by her
24 him in the manner provided in 1-5-206 and 1-5-207."

25 Section 9. Section 70-20-310, MCA, is amended to read:

1 "70-20-310. Conveyance in joint tenancy -- right of
2 survivorship. In all conveyances of real property made in
3 joint tenancy ~~or to tenants in estates by entirety~~ where the
4 right of survivorship is contained in the grant of such
5 conveyance, the right of survivorship ~~is hereby expressly~~
6 ~~declared to exist~~ exists by virtue of such grant."

7 Section 10. Section 70-20-405, MCA, is amended to
8 read:

9 "70-20-405. Other provisions on unlawful transfers --
10 where found. Other provisions concerning unlawful transfers
11 are contained in ~~§29-207 to 29-210 and 10-201 to 10-205~~
12 Title 31, chapter 2, part 3, concerning the special
13 relations of debtor and creditor."

14 Section 11. Section 70-23-204, MCA, is amended to
15 read:

16 "70-23-204. Refund of ~~purchasers'~~ purchaser's funds
17 for change in building plans -- final report. (1)
18 ~~Purchasers'~~ The funds of any purchaser obtained prior to
19 issuance of final reports shall be refunded if there is any
20 change in the condominium building plans subsequent to
21 execution of the contract requiring approval of a city or
22 county officer having jurisdiction over issuance of permits
23 for construction of buildings unless the purchaser's written
24 acceptance of the specific change is obtained.

25 (2) Rights under contracts of sale of condominium

1 units under a preliminary report are not enforceable against
 2 purchasers until purchasers have had a full opportunity to
 3 read the department's final report on the project and to
 4 obtain a refund of any moneys paid as well as a release from
 5 all obligations if the final report differs in any material
 6 respect from the preliminary report.

7 (3) If the final report is not issued within 1 year
 8 from the date of issuance of the preliminary report,
 9 purchasers are entitled to refund of all moneys paid by the
 10 purchasers thereunder without further obligation."

11 Section 12. Section 70-23-611, MCA, is amended to
 12 read:

13 "70-23-611. Joint liability of grantor and grantee for
 14 unpaid common expenses. In a voluntary conveyance of a unit,
 15 the grantee ~~shall be~~ is jointly and severally liable with
 16 the grantor for all unpaid charges against the latter for
 17 his proportionate share of the common expenses up to the
 18 time of the grant or conveyance, without prejudice to the
 19 grantee's right to recover from the grantor the amounts paid
 20 by the grantee therefor. However, upon request of a
 21 prospective purchaser, the manager shall make and deliver a
 22 statement of the unpaid charges against the prospective
 23 grantor, and the grantee in that case ~~shall is~~ is not be liable
 24 for nor ~~shall is~~ is the unit when conveyed be subject to a lien
 25 filed thereafter for any unpaid charges against the grantor

1 in excess of the amount therein set forth."

2 Section 13. Section 70-25-103, MCA, is amended to
 3 read:

4 "70-25-103. Waivers and contrary provisions invalid.
 5 Any provision of a leasehold agreement, either oral or
 6 written, that is contrary to this section ~~shall be~~ chapter
 7 is invalid. Any attempted waiver of this section ~~chapter~~
 8 by the tenant ~~shall be~~ is invalid."

9 Section 14. Section 70-25-201, MCA, is amended to
 10 read:

11 "70-25-201. Security deposit -- deductions authorized
 12 therefrom: (1) Any landlord renting property covered by this
 13 section ~~chapter~~ may deduct from the security deposit a sum
 14 equal to the damage alleged to have been caused by the
 15 tenant, together with a sum equal to the unpaid rent owing
 16 to the landlord at the time of such deduction and a sum for
 17 actual cleaning expenses.

18 (2) No cleaning charges may be imposed for normal
 19 maintenance performed on a cyclical basis by the landlord as
 20 noted by the landlord at the time the tenant occupies the
 21 space unless the landlord is forced to perform this
 22 maintenance because of negligence of the tenant.
 23 Additionally, no cleaning charges ~~can~~ may be deducted until
 24 notice has been given to the tenant. The notice shall
 25 include the cleaning not accomplished by the tenant and the

1 additional and type or types of cleaning which need to be
 2 done by the tenant to bring the premises back to its
 3 condition at the time of its renting. After the delivery of
 4 the notice, the tenant ~~shall have~~ has 48 hours to complete
 5 the required cleaning.

6 (3) No person may deduct or withhold from the security
 7 deposit any amount for purposes other than those set forth
 8 in this subsection ~~section.~~"

9 Section 15. Section 70-26-202, MCA, is amended to
 10 read:

11 "70-26-202. Rent -- when payable. When there is no
 12 usage or contract to the contrary, rents for real property
 13 under an arrangement not governed by chapter 24 of this
 14 title are payable at the termination of the holding when if
 15 it does not exceed 1 year. If the holding is by the day,
 16 week, month, quarter, or year, rent is payable at the
 17 termination of the respective periods, as it successively
 18 becomes due."

19 Section 16. Section 70-26-203, MCA, is amended to
 20 read:

21 "70-26-203. Failure of lessor to repair -- lessee's
 22 remedies. (1) If within a reasonable time after notice to
 23 the lessor of dilapidations which he ought to repair, he
 24 neglects to do so, ~~the lessee may repair the same himself~~
 25 where and if the costs ~~cost~~ of such repairs ~~do~~ does not

1 require an expenditure greater than 1 month's rent of the
 2 premises, ~~the lessee may perform such repairs himself~~ and
 3 deduct the expenses of such repairs from the rent, or the
 4 lessee may vacate the premises, in which case he ~~shall be~~ is
 5 discharged from further payment of rent or performance of
 6 other conditions.

7 ~~(2) Subsection (1) does not apply to real property~~
 8 ~~leased under an arrangement governed by chapter 24 of this~~
 9 ~~title."~~

10 Section 17. Section 70-26-204, MCA, is amended to
 11 read:

12 "70-26-204. Renewal of lease by lessee's continued
 13 possession. If a lessee of real property leased under an
 14 arrangement not governed by chapter 24 of this title remains
 15 in possession thereof after the expiration of the hiring and
 16 the lessor accepts a rent from him, the parties are presumed
 17 to have renewed the hiring on the same terms and for the
 18 same time, not exceeding 1 month when the rent is payable
 19 monthly, or in any case 1 year."

20 Section 18. Section 70-26-205, MCA, is amended to
 21 read:

22 "70-26-205. Notice required to terminate lease. (1) A
 23 hiring of real property for a term not specified by the
 24 parties is ~~deemed to be~~ renewed as stated in 70-26-204 at
 25 the end of the term implied by law unless one of the parties

1 gives notice to the other of his intention to terminate the
2 same hiring at least as long before the expiration thereof
3 as the term of the hiring itself, not exceeding 1 month.

4 (2) Subsection (1) does not apply to real property
5 leased under an arrangement governed by chapter 24 of this
6 title."

7 Section 19. Section 70-26-206, MCA, is amended to
8 read:

9 "70-26-206. Rights of tenant for years or at will. (1)
10 A tenant for years or at will, unless he is a wrongdoer by
11 holding over, may occupy the buildings, take the annual
12 products of the soil, and work mines and quarries open at
13 the commencement of his tenancy; and a tenant at will or for
14 an indefinite term may cultivate and harvest the crops
15 growing at the end of his tenancy.

16 (2) A tenant for years or at will has no other rights
17 to the property than such as are those given to him by the
18 agreement or instrument by which his tenancy is acquired or
19 by subsection (1).

20 (3) Subsection (2) does not apply to arrangements
21 governed by chapter 24 of this title."

22 Section 20. Section 70-27-109, MCA, is amended to
23 read:

24 "70-27-109. General rules of practice applicable.
25 Except as otherwise provided in this chapter, the provisions

1 of ~~[93-2301 to 93-0717]~~ Title 25 are applicable to and
2 constitute the rules of practice mentioned in this chapter."

3 Section 21. Section 70-27-115, MCA, is amended to
4 read:

5 "70-27-115. Defendant's appearance and answer. On or
6 before the day fixed for his appearance, the defendant may
7 appear and answer or ~~demonstrate~~ move to dismiss the complaint for
8 failure to state a claim."

9 Section 22. Section 70-28-102, MCA, is amended to
10 read:

11 "70-28-102. General procedural provisions applicable.
12 The provisions of ~~[93-3001 to 93-3020, inclusive Title 25,~~
13 chapter 3, parts 2 and 3,] and Rules 4, 12(a), and 41(e),
14 M.R.Civ.P., so far as ~~the same they~~ are not in conflict with
15 this part, are ~~hereby made~~ applicable to the action herein
16 provided for."

17 Section 23. Section 70-29-113, MCA, is amended to
18 read:

19 "70-29-113. Death or incompetency of parties —
20 proceedings not delayed. (1) If during the pendency of the
21 action any of the parties ~~dies~~ or ~~become insane~~ becomes
22 seriously mentally ill or otherwise incompetent, the
23 proceedings ~~shall~~ may not for that cause be delayed or
24 suspended, but the attorney who has appeared for ~~such the~~
25 party may continue to represent such interest ~~and in case,~~

1 If any such party has not appeared by an attorney, the court
2 shall appoint an attorney to represent the interest which
3 was held by such ~~the~~ party until his heirs or legal
4 representatives or successors in interest shall have
5 appeared in the action.

6 (2) An attorney so appointed shall be allowed by the
7 court a reasonable compensation for his services, which may
8 be taxed as costs against the share or interest represented
9 by such ~~the~~ attorney and may be adjudged a lien thereon, in
10 the discretion of the court."

11 Section 24. Section 70-29-210, MCA, is amended to
12 read:

13 "70-29-210. Consent of guardian to share of ward. The
14 general guardian of an infant and the guardian entitled to
15 the custody and management of the estate of ~~an-insane~~ a
16 seriously mentally ill person, or other person adjudged
17 incapable of conducting his own affairs, who is interested
18 in real estate held in joint tenancy or in common or in any
19 other manner so as to authorize his being made a party to an
20 action, may agree upon the share to be set off to such
21 infant or other person entitled and may execute a release,
22 in his behalf, to the owners of the shares of the parts to
23 which they may be respectively entitled, upon an order of
24 the court."

25 Section 25. Section 70-29-328, MCA, is amended to

1 read:

2 "70-29-328. Incompetent's share of proceeds -- payment
3 to guardian. The guardian who may be entitled to the custody
4 and management of the estate of ~~an-insane~~ a seriously
5 mentally ill person or other person adjudged incapable of
6 conducting his own affairs, whose interest in real property
7 has been sold, may receive in behalf of such person his
8 share of the proceeds of such real property from the
9 referees on executing with sufficient sureties an
10 undertaking, approved by a judge of the court, that he will
11 faithfully discharge the trust reposed in him and will
12 render a true and just account to the person entitled or to
13 his legal representative."

14 Section 26. Section 70-30-201, MCA, is amended to
15 read:

16 "70-30-201. Applicable rules of practice. Except as
17 otherwise provided in this chapter, the provisions of
18 ~~{93-2901--to--93-6717}~~ Title 25 are applicable to and
19 constitute the rules of practice in the proceedings
20 mentioned in this chapter."

21 Section 27. Section 70-30-303, MCA, is amended to
22 read:

23 "70-30-303. Final report and award of commissioners --
24 procedure on failure to agree. (1) The report of
25 commissioners shall be made on such forms as are provided

1 for their use by authority of the court. ~~Such~~ the report
 2 must be filed within 10 days after the completion of the
 3 hearing or within such additional time as ~~may be~~ allowed by
 4 the judge upon a clear showing of necessity therefor and
 5 must be filed with the clerk of court; ~~and the~~ the clerk
 6 ~~must forthwith~~ shall notify the parties interested that such
 7 ~~the~~ report has been filed, with ~~which~~ notice, together with
 8 a true copy of ~~said~~ the report, must be served upon all the
 9 parties interested, in the same manner as a summons.

10 (2) A concurrence of two commissioners ~~shall be~~ is
 11 necessary to the making of a final report or award as to any
 12 parcel of property or interest therein. ~~in the event that~~ if
 13 no two of the commissioners are able to agree as to the
 14 amount of any award, they shall report ~~such~~ the fact to the
 15 judge or court within the time ~~hereinbefore~~ herein specified
 16 and the court ~~must~~ shall forthwith impanel and appoint new
 17 commissioners as ~~hereinbefore~~ herein provided, which
 18 commissioners shall proceed as provided before herein to
 19 determine any award upon which the previous commissioners
 20 failed to agree.

21 (3) The report of ~~said~~ the commissioners shall also
 22 state the number of days or portions thereof consumed by the
 23 commissioners in performance of their duties as prescribed
 24 herein."

25 Section 28. Repealer. Sections 67-1001 through 67-1008

1 (as enacted by sections 1 through 8, chapter 58, Laws 1923)
 2 and 34-106, R.C.M. 1947, are repealed.

-End-

HB 182

Approved by Committee on Judiciary

HOUSE BILL NO. 182

INTRODUCED BY Mark

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PROPERTY; AND REPEALING SECTIONS 67-1001 THROUGH 67-1008 AND 34-106, R.C.M. 1947."

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Section 2. Section 70-5-103, MCA, is amended to read:

"70-5-103. Duty to inform owner when known. (1) If the finder of a thing knows or suspects who is the owner, he must, with reasonable diligence, give him notice of the findings and if he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by him for the recovery of the thing or to any compensation for his trouble or expense.

(2) If any person find finds any money, goods, things in action, or other personal property or save saves any

domestic animal from drowning or from starvation when such the property is of the g value of \$10 or more and he knows or suspects who the owner is, he must use reasonable diligence to inform the owner thereof, if known, and make restitution without compensation, further than a reasonable charge for saving and taking care thereof. If he fails to do so, he is liable in damages to the owner and has no claim to any reward offered by the owner for the recovery of the thing or to any compensation for his trouble or expense."

Section 3. Section 70-6-504, MCA, is amended to read:

"70-6-504. How exempted from liability -- safe. (1) If an innkeeper keeps a fireproof safe and gives notice to a guest, either personally or by putting-up placing a printed notice in a prominent place in the room occupied by the guest, that he keeps such a safe and will not be liable for money, jewelry, documents, or other articles of unusual value and small compass unless placed therein, he is not liable, except so far as his own acts contribute thereto, for any loss of or injury to such articles if not deposited with him and not required by the guest for present use.

(2) Whenever the proprietor or proprietors of any hotel or inn shall provide a safe or other secure place of deposit therein for the safekeeping of any money, jewelry, ornaments, or other articles of value belonging to any guest or guests of such hotel or inn and shall cause to be posted

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~~1 and maintained printed notices thereof in the office or
2 public room and within every guest's room of such inn or
3 hotel; the proprietor or proprietors thereof shall not be
4 liable to any such guest or guests who shall neglect to
5 deliver their money, jewels, ornaments, or other articles of
6 value to the proprietor or other person in charge of such
7 safe or place of deposit for deposit and safekeeping therein
8 for any loss of such money or other articles which may be
9 sustained by such guest by theft or otherwise."~~

10 Section 4. Section 70-9-302, MCA, is amended to read:

11 "70-9-302. Notice of property presumed abandoned --
12 publication -- mail. (1) Within 120 days from the filing of
13 the report required by 70-9-301, the department of revenue
14 shall cause publish notice to be published at least once
15 each week for 2 successive weeks in an English language
16 newspaper of general circulation in the county in this state
17 in which is located the last known address of any person to
18 be named in the notice. If no address is listed or if the
19 address is outside this state, the notice shall be published
20 in the county in which the holder of the abandoned property
21 has his principal place of business within this state.

22 (2) The published notice shall be entitled "Notice of
23 Names of Persons Appearing to Be Owners of Abandoned
24 Property" and shall contain:

25 (a) the names in alphabetical order and last known

1 addresses, if any, or person or persons listed in the report
2 and entitled to notice within the county as hereinbefore
3 specified;

4 (b) a statement that information concerning the amount
5 or description of the property and the name and address of
6 the holder may be obtained by any persons possessing an
7 interest in the property by addressing an inquiry to the
8 department;

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10 presented by the owner to the holder and if the owner's
11 right to receive the property is not established to the
12 holder's satisfaction within 65 days from the date of the
13 second published notice, the abandoned property will be
14 placed not later than 85 days after such publication date in
15 the custody of the department to whom all further claims
16 must thereafter be directed.

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18 notice any item of less than \$25 unless the department deems
19 considers such publication to be in the public interest.

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22 each person having an address listed therein who appears to
23 be entitled to property of the value of \$25 or more presumed
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1 (a) a statement that, according to a report filed with
2 the department, property is being held to which the
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6 name and address of the holder;

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20 the commencement of his tenancy; and a tenant at will or for
21 an indefinite term may cultivate and harvest the crops
22 growing at the end of his tenancy.

23 (2) A tenant for years or at will has no other rights
24 to the property than such as are ~~those~~ given to him by the
25 agreement or instrument by which his tenancy is acquired or

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3 ~~governed by chapter 24 of this title."~~

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5 "70-19-413. Certain disabilities to suspend running of
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7 entitled to commence an action for the recovery of real
8 property or for the recovery of the possession thereof or
9 for dower or to make any entry or defense founded on the
10 title to real property or to rents or services out of the
11 same is, at the same time such title first descends or
12 accrues, either:

13 (a) ~~within~~ under the age of majority;

14 (b) ~~insane~~ seriously mentally ill; or

15 (c) imprisoned on a criminal charge or in execution
16 upon conviction of a criminal offense for a term of less
17 than for life.

18 (2) The time during which disability continues is not
19 deemed ~~considered~~ any portion of the time in this chapter
20 limited for the commencement of such action or the making of
21 such entry or defense, but such action may be commenced or
22 entry or defense made within the period of 5 years after
23 such disability ~~shall cease~~ ceases or after the death of the
24 person entitled who ~~shall die~~ dies under such disability,
25 but such action ~~shall~~ may not be commenced or entry or

1 defense made after that period."

2 Section 7. Section 70-20-101, MCA, is amended to read:

3 "70-20-101. Transfer to be in writing -- statute of
4 frauds. ~~{1} An estate in real property, other than an estate
5 at will or for a term not exceeding 1 year, can be
6 transferred only by operation of law or by an instrument in
7 writing subscribed by the party disposing of the same or by
8 his agent thereunto authorized by writing.~~

9 {2} No estate or interest in real property, other than
10 for leases an estate at will or for a term not exceeding 1
11 year, or any trust over or power concerning it or in any
12 manner relating thereto can be created, granted, assigned,
13 surrendered, or declared otherwise than by operation of law
14 or a conveyance or other instrument in writing, subscribed
15 by the party creating, granting, assigning, surrendering, or
16 declaring the ~~same~~ it or by his lawful agent thereunto
17 authorized by writing."

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20 -- how acknowledged. A power of attorney of a married women
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2 survivorship. In all conveyances of real property made in
3 joint tenancy ~~or to tenants in estates by entirety~~ where the
4 right of survivorship is contained in the grant of such
5 conveyance, the right of survivorship ~~is hereby expressly~~
6 ~~declared to exist~~ exists by virtue of such grant."

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8 read:

9 "70-20-405. Other provisions on unlawful transfers --
10 where found. Other provisions concerning unlawful transfers
11 are contained in ~~{29-207 to 29-210 and 10-201 to 10-205}~~
12 Title 31, chapter 2, part 3, concerning the special
13 relations of debtor and creditor."

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16 "70-23-204. Refund of ~~purchasees'~~ purchaser's funds
17 for change in building plans -- final report. (.
18 ~~Purchasees'~~ The funds of any purchaser obtained prior to
19 issuance of final reports shall be refunded if there is any
20 change in the condominium building plans subsequent to
21 execution of the contract requiring approval of a city or
22 county officer having jurisdiction over issuance of permits
23 for construction of buildings unless the purchaser's written
24 acceptance of the specific change is obtained.

25 (2) Rights under contracts of sale of condominium

1 units under a preliminary report are not enforceable against
 2 purchasers until purchasers have had a full opportunity to
 3 read the department's final report on the project and to
 4 obtain a refund of any moneys paid as well as a release from
 5 all obligations if the final report differs in any material
 6 respect from the preliminary report.

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 8 from the date of issuance of the preliminary report,
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 10 purchasers thereunder without further obligation."

11 Section 12. Section 70-23-611, MCA, is amended to
 12 read:

13 "70-23-611. Joint liability of grantor and grantee for
 14 unpaid common expenses. In a voluntary conveyance of a unit,
 15 the grantee ~~shall be~~ is jointly and severally liable with
 16 the grantor for all unpaid charges against the latter for
 17 his proportionate share of the common expenses up to the
 18 time of the grant or conveyance, without prejudice to the
 19 grantee's right to recover from ~~the grantor~~ the amounts paid
 20 by the grantee therefor. However, upon request of a
 21 prospective purchaser, the manager shall make and deliver a
 22 statement of the unpaid charges against the prospective
 23 grantor, and the grantee in that case ~~shall be~~ is not be liable
 24 for nor ~~shall be~~ is the unit when conveyed be subject to a lien
 25 filed thereafter for any unpaid charges against the grantor

1 in excess of the amount therein set forth."

2 Section 13. Section 70-25-103, MCA, is amended to
 3 read:

4 "70-25-103. Waivers and contrary provisions invalid.
 5 Any provision of a leasehold agreement, either oral or
 6 written, that is contrary to this section ~~shall be~~ chapter
 7 is invalid. Any attempted waiver of this section ~~chapter~~ by
 8 the tenant ~~shall be~~ is invalid."

9 Section 14. Section 70-25-201, MCA, is amended to
 10 read:

11 "70-25-201. Security deposit — deductions authorized
 12 ~~therefrom.~~ (1) Any landlord renting property covered by this
 13 section ~~chapter~~ may deduct from the security deposit a sum
 14 equal to the damage alleged to have been caused by the
 15 tenant, together with a sum equal to the unpaid rent owing
 16 to the landlord at the time of such deduction and a sum for
 17 actual cleaning expenses.

18 (2) No cleaning charges may be imposed for normal
 19 maintenance performed on a cyclical basis by the landlord as
 20 noted by the landlord at the time the tenant occupies the
 21 space unless the landlord is forced to perform this
 22 maintenance because of negligence of the tenant.
 23 Additionally, no cleaning charges can ~~may~~ be deducted until
 24 notice has been given to the tenant. The notice shall
 25 include the cleaning not accomplished by the tenant and the

1 additional and type or types of cleaning which need to be
 2 done by the tenant to bring the premises back to its
 3 condition at the time of its renting. After the delivery of
 4 the notice, the tenant ~~shall have~~ has 48 hours to complete
 5 the required cleaning.

6 (3) No person may deduct or withhold from the security
 7 deposit any amount for purposes other than those set forth
 8 in this subsection ~~section.~~"

9 Section 15. Section 70-26-202, MCA, is amended to
 10 read:

11 "70-26-202. Rent — when payable. When there is no
 12 usage or contract to the contrary, rents for real property
 13 under an arrangement not governed by chapter 24 of this
 14 title are payable at the termination of the holding when if
 15 it does not exceed 1 year. If the holding is by the day,
 16 week, month, quarter, or year, rent is payable at the
 17 termination of the respective periods, as it successively
 18 becomes due."

19 Section 16. Section 70-26-203, MCA, is amended to
 20 read:

21 "70-26-203. Failure of lessor to repair -- lessee's
 22 remedies. (1) If within a reasonable time after notice to
 23 the lessor of dilapidations which he ought to repair, he
 24 neglects to do so, ~~the lessee may repair the same himself~~
 25 where and if the costs cost of such repairs do does not

1 require an expenditure greater than 1 month's rent of the
 2 premises, the lessee may perform such repairs himself and
 3 deduct the expenses of such repairs from the rent, or the
 4 lessee may vacate the premises, in which case he ~~shall be~~ is
 5 discharged from further payment of rent or performance of
 6 other conditions.

7 (2) Subsection (1) does not apply to real property
 8 leased under an arrangement governed by chapter 24 of this
 9 title."

10 Section 17. Section 70-26-204, MCA, is amended to
 11 read:

12 "70-26-204. Renewal of lease by lessee's continued
 13 possession. If a lessee of real property leased under an
 14 arrangement not governed by chapter 24 of this title remains
 15 in possession thereof after the expiration of the hiring and
 16 the lessor accepts a rent from him, the parties are presumed
 17 to have renewed the hiring on the same terms and for +
 18 same time, not exceeding 1 month when the rent is payable
 19 monthly, or in any case 1 year."

20 Section 18. Section 70-26-205, MCA, is amended to
 21 read:

22 "70-26-205. Notice required to terminate lease. (1) A
 23 hiring of real property for a term not specified by the
 24 parties is ~~deemed to be~~ renewed as stated in 70-26-204 at
 25 the end of the term implied by law unless one of the parties

1 gives notice to the other of his intention to terminate the
2 same hiring at least as long before the expiration thereof
3 as the term of the hiring itself, not exceeding 1 month.

4 (2) Subsection (1) does not apply to real property
5 leased under an arrangement governed by chapter 24 of this
6 title."

7 Section 19. Section 70-26-206, MCA, is amended to
8 read:

9 "70-26-206. Rights of tenant for years or at will. (1)
10 A tenant for years or at will, unless he is a wrongdoer by
11 holding over, may occupy the buildings, take the annual
12 products of the soil, and work mines and quarries open at
13 the commencement of his tenancy; and a tenant at will or for
14 an indefinite term may cultivate and harvest the crops
15 growing at the end of his tenancy.

16 (2) A tenant for years or at will has no other rights
17 to the property than such as are ~~those~~ given to him by the
18 agreement or instrument by which his tenancy is acquired or
19 by subsection (1).

20 (3) Subsection (2) does not apply to arrangements
21 governed by chapter 24 of this title."

22 Section 20. Section 70-27-109, MCA, is amended to
23 read:

24 "70-27-109. General rules of practice applicable.
25 Except as otherwise provided in this chapter, ~~the~~ provisions

1 of ~~[93-2301 to 93-8717]~~ Title 25 are applicable to and
2 constitute the rules of practice mentioned in this chapter."

3 Section 21. Section 70-27-115, MCA, is amended to
4 read:

5 "70-27-115. Defendant's appearance and answer. On or
6 before the day fixed for his appearance, the defendant may
7 appear and answer or ~~demonstrate~~ move to dismiss the complaint for
8 failure to state a claim."

9 Section 22. Section 70-28-102, MCA, is amended to
10 read:

11 "70-28-102. General procedural provisions applicable.
12 The provisions of ~~[93-3001 to 93-3020, inclusive Title 25,~~
13 ~~chapter 3, parts 2 and 3,]~~ and Rules 4, 12(a), and 41(e),
14 M.R.Civ.P., so far as ~~the same~~ they are not in conflict with
15 ~~this part,~~ are hereby made applicable to the action herein
16 provided for."

17 Section 23. Section 70-29-113, MCA, is amended to
18 read:

19 "70-29-113. Death or incompetency of parties —
20 proceedings not delayed. (1) If during the pendency of the
21 action any of the parties ~~dies dies~~ or ~~become insane~~ becomes
22 seriously mentally ill or otherwise incompetent, the
23 proceedings ~~shall~~ may not for that cause be delayed or
24 suspended, but the attorney who has appeared for ~~such the~~
25 party may continue to represent such interest ~~and in case,~~

HB 182

1 If any such party has not appeared by an attorney, the court
2 shall appoint an attorney to represent the interest which
3 was held by such ~~the~~ party until his heirs or legal
4 representatives or successors in interest shall have
5 appeared in the action.

6 (2) An attorney so appointed shall be allowed by the
7 court a reasonable compensation for his services, which may
8 be taxed as costs against the share or interest represented
9 by such ~~the~~ attorney and may be adjudged a lien thereon, in
10 the discretion of the court."

11 Section 24. Section 70-29-210, MCA, is amended to
12 read:

13 "70-29-210. Consent of guardian to share of ward. The
14 general guardian of an infant and the guardian entitled to
15 the custody and management of the estate of ~~an-insane a~~
16 seriously mentally ill person, or other person adjudged
17 incapable of conducting his own affairs, who is interested
18 in real estate held in joint tenancy or in common or in any
19 other manner so as to authorize his being made a party to an
20 action, may agree upon the share to be set off to such
21 infant or other person entitled and may execute a release,
22 in his behalf, to the owners of the shares of the parts to
23 which they may be respectively entitled, upon an order of
24 the court."

25 Section 25. Section 70-29-328, MCA, is amended to

1 read:

2 "70-29-328. Incompetent's share of proceeds -- payment
3 to guardian. The guardian who may be entitled to the custody
4 and management of the estate of ~~an-insane a~~ seriously
5 mentally ill person or other person adjudged incapable of
6 conducting his own affairs, whose interest in real property
7 has been sold, may receive in behalf of such person his
8 share of the proceeds of such real property from the
9 referees on executing with sufficient sureties an
10 undertaking, approved by a judge of the court, that he will
11 faithfully discharge the trust reposed in him and will
12 render a true and just account to the person entitled or to
13 his legal representative."

14 Section 26. Section 70-30-201, MCA, is amended to
15 read:

16 "70-30-201. Applicable rules of practice. Except as
17 otherwise provided in this chapter, the provisions of
18 ~~[93-2901 to 93-0717]~~ Title 25 are applicable to and
19 constitute the rules of practice in the proceedings
20 mentioned in this chapter."

21 Section 27. Section 70-30-303, MCA, is amended to
22 read:

23 "70-30-303. Final report and award of commissioners --
24 procedure on failure to agree. (1) The report of
25 commissioners shall be made on such forms as are provided

1 for their use by authority of the court. Such ~~the~~ report
 2 must be filed within 10 days after the completion of the
 3 hearing or within such additional time as may be allowed by
 4 the judge upon a clear showing of necessity therefor and
 5 must be filed with the clerk of court, ~~and the~~ ~~the~~ clerk
 6 ~~must forthwith~~ shall notify the parties interested that such
 7 ~~the~~ report has been filed, with which notice, together with
 8 a true copy of said ~~the~~ report, must be served upon all the
 9 parties interested, in the same manner as a summons.

10 (2) A concurrence of two commissioners ~~shall be~~ is
 11 necessary to the making of a final report or award as to any
 12 parcel of property or interest therein. ~~in the event that~~ if
 13 no two of the commissioners are able to agree as to the
 14 amount of any award, they shall report such ~~the~~ fact to the
 15 judge or court within the time ~~hereinbefore~~ ~~herein~~ specified
 16 and the court ~~must~~ shall forthwith impanel and appoint new
 17 commissioners as ~~hereinbefore~~ ~~herein~~ provided, which
 18 commissioners shall proceed as provided before herein to
 19 determine any award upon which the previous commissioners
 20 failed to agree.

21 (3) The report of said ~~the~~ commissioners shall also
 22 state the number of days or portions thereof consumed by the
 23 commissioners in performance of their duties as prescribed
 24 herein."

25 Section 28. Repealer. Sections 67-1001 through 67-1008

1 (as enacted by sections 1 through 8, chapter 58, Laws 1923)
 2 and 34-106, R.C.M. 1947, are repealed.

-End-

HB 182

1 HOUSE BILL NO. 182

2 INTRODUCED BY MARKS

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO PROPERTY; AND REPEALING
7 SECTIONS 67-1001 THROUGH 67-1008 AND 34-106, R.C.M. 1947."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 70-2-202, MCA, is amended to read:

11 "70-2-202. General procedural provisions applicable.
12 The provisions of ~~[93-3001 to 93-3020]~~ inclusive Title 25,
13 chapter 3, parts 2 and 3, and Rules 4, 12(a), and 41(e),
14 M.R.Civ.P., are hereby made applicable to the action for
15 which provision is made in 70-2-201."

16 Section 2. Section 70-5-103, MCA, is amended to read:

17 "70-5-103. Duty to inform owner when known. ~~{1} If the~~
18 ~~finder of a thing knows or suspects who is the owner, he~~
19 ~~must, with reasonable diligence, give him notice of the~~
20 ~~finding and if he fails to do so, he is liable in damages~~
21 ~~to the owner and has no claim to any reward offered by him~~
22 ~~for the recovery of the thing or to any compensation for his~~
23 ~~trouble or expenses.~~

24 {2} If any person find finds any money, goods, things
25 in action, or other personal property or save saves any

1 domestic animal from drowning or from starvation when such
2 the property is of the a value of \$10 or more and he knows
3 or suspects who the owner is, he must use reasonable
4 diligence to inform the owner thereof ~~if known,~~ and make
5 restitution without compensation, further than a reasonable
6 charge for saving and taking care thereof. If he fails to do
7 so, he is liable in damages to the owner and has no claim to
8 any reward offered by the owner for the recovery of the
9 thing or to any compensation for his trouble or expenses."

10 Section 3. Section 70-6-504, MCA, is amended to read:

11 "70-6-504. How exempted from liability -- safe. ~~{1}~~ If
12 an innkeeper keeps a fireproof safe and gives notice to a
13 guest, either personally or by putting up placing a printed
14 notice in a prominent place in the room occupied by the
15 guest, that he keeps such a safe and will not be liable for
16 money, jewelry, documents, or other articles of ~~unusual~~
17 value and small compass unless placed therein, he is not
18 liable, except so far as his own acts contribute thereto,
19 for any loss of or injury to such articles, ~~if~~ not deposited
20 with him and not required by the quest for present use.

21 {2} Whenever the proprietor or proprietors of any
22 hotel or inn shall provide a safe or other secure place of
23 deposit therein for the safekeeping of any money, jewelry
24 ornaments, or other articles of value belonging to any guest
25 or guests of such hotel or inn and shall cause to be posted

1 ~~and maintained printed notices thereof in the office or~~
 2 ~~public room and within every guest's room of such inn or~~
 3 ~~hotel; the proprietor or proprietors thereof shall not be~~
 4 ~~liable to any such guest or guests who shall neglect to~~
 5 ~~deliver their money, jewelry, ornaments, or other articles of~~
 6 ~~value to the proprietor or other person in charge of such~~
 7 ~~safe or place of deposit for deposit and safekeeping therein~~
 8 ~~for any loss of such money or other articles which may be~~
 9 ~~sustained by such guest by theft or otherwise."~~

10 Section 4. Section 70-9-302, MCA, is amended to read:

11 "70-9-302. Notice of property presumed abandoned --
 12 publication -- mail. (1) Within 120 days from the filing of
 13 the report required by 70-9-301, the department of revenue
 14 shall cause publish notice to be published at least once
 15 each week for 2 successive weeks in an English language
 16 newspaper of general circulation in the county in this state
 17 in which is located the last known address of any person to
 18 be named in the notice. If no address is listed or if the
 19 address is outside this state, the notice shall be published
 20 in the county in which the holder of the abandoned property
 21 has his principal place of business within this state.

22 (2) The published notice shall be entitled "Notice of
 23 Names of Persons Appearing to Be Owners of Abandoned
 24 Property" and shall contain:

25 (a) the names in alphabetical order and last known

1 addresses, if any, or person of persons listed in the report
 2 and entitled to notice within the county as hereinbefore
 3 specified;

4 (b) a statement that information concerning the amount
 5 or description of the property and the name and address of
 6 the holder may be obtained by any persons possessing an
 7 interest in the property by addressing an inquiry to the
 8 department;

9 (c) a statement that if proof of claim is not
 10 presented by the owner to the holder and if the owner's
 11 right to receive the property is not established to the
 12 holder's satisfaction within 65 days from the date of the
 13 second published notice, the abandoned property will be
 14 placed not later than 85 days after such publication date in
 15 the custody of the department to whom all further claims
 16 must thereafter be directed.

17 (3) The department is not required to publish in such
 18 notice any item of less than \$25 unless the department deems
 19 considers such publication to be in the public interest.

20 (4) Within 120 days from the receipt of the report
 21 required by 70-9-301, the department shall mail a notice to
 22 each person having an address listed therein who appears to
 23 be entitled to property of the value of \$25 or more presumed
 24 abandoned under parts 1 through 3.

25 (5) The mailed notice shall contain:

1 (a) a statement that, according to a report filed with
2 the department, property is being held to which the
3 addressee appears entitled;

4 (b) the name and address of the person holding the
5 property and any necessary information regarding changes of
6 name and address of the holder;

7 (c) a statement that if satisfactory proof of claim is
8 not presented by the owner to the holder by the date
9 specified in the published notice, the property will be
10 placed in the custody of the department to whom all further
11 claims must be directed.

12 (6) This section is not applicable to sums payable on
13 travelers' checks or money orders presumed abandoned under
14 70-9-201."

15 Section 5. Section 70-16-104, MCA, is amended to read:

16 "70-16-104. Rights of tenant for years or at will. (1)
17 A tenant for years or at will, unless he is a wrongdoer by
18 holding over, may occupy the buildings, take the annual
19 products of the soil, and work mines and quarries open at
20 the commencement of his tenancy; and a tenant at will or for
21 an indefinite term may cultivate and harvest the crops
22 growing at the end of his tenancy.

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24 to the property than ~~such as are those~~ given to him by the
25 agreement or instrument by which his tenancy is acquired or

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8 property or for the recovery of the possession thereof or
9 for dower or to make any entry or defense founded on the
10 title to real property or to rents or services out of the
11 same is, at the same time such title first descends or
12 accrues, either:

13 (a) within ~~under~~ the age of majority;

14 (b) ~~insane seriously mentally ill;~~ or

15 (c) imprisoned on a criminal charge or in execution
16 upon conviction of a criminal offense for a term of less
17 than for life.

18 (2) The time during which disability continues is not
19 deemed ~~considered~~ any portion of the time in this chapter
20 limited for the commencement of such action or the making of
21 such entry or defense, but such action may be commenced or
22 entry or defense made within the period of 5 years after
23 such disability ~~shall cease ceases~~ or after the death of the
24 person entitled who ~~shall die dies~~ under such disability,
25 but such action ~~shall may~~ not be commenced or entry or

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3 "70-20-101. Transfer to be in writing -- statute of
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5 ~~at will or for a term not exceeding 1 year, can be~~
6 ~~transferred only by operation of law or by an instrument in~~
7 ~~writing subscribed by the party disposing of the same or by~~
8 ~~his agent thereunto authorized by writing.~~

9 ~~{2} No estate or interest OR INTEREST in real~~
10 ~~property, other than for leases an estate at will or for a~~
11 ~~term not exceeding 1 year, or any trust over or power~~
12 ~~concerning it or in any manner relating thereto can be~~
13 ~~created, granted, assigned, surrendered, or declared~~
14 ~~otherwise than by operation of law or a conveyance or other~~
15 ~~instrument in writing, subscribed by the party creating,~~
16 ~~granting, assigning, surrendering, or declaring the same it~~
17 ~~or by his lawful agent thereunto authorized by writing."~~

18 Section 8. Section 70-20-107, MCA, is amended to read:

19 "70-20-107. Power of attorney of married women ~~PERSON~~
20 -- now acknowledged. A power of attorney of a married women
21 ~~PERSON~~, authorizing the execution of an instrument
22 transferring an estate in her ~~his~~ separate real property,
23 has no validity for that purpose unless acknowledged by her
24 ~~him~~ in the manner provided in 1-5-206 and 1-5-207."

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4 right of survivorship is contained in the grant of such
5 conveyance, the right of survivorship ~~is hereby expressly~~
6 ~~declared to exist~~ exists by virtue of such grant."

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8 read:

9 "70-20-405. Other provisions on unlawful transfers --
10 where found. Other provisions concerning unlawful transfers
11 are contained in ~~{29-207 to 29-210 and 10-201 to 10-205}~~
12 ~~Title 31, chapter 2, part 3,~~ concerning the special
13 relations of debtor and creditor."

14 Section 11. Section 70-23-204, MCA, is amended to
15 read:

16 "70-23-204. Refund of purchaser's ~~purchaser's~~ funds
17 for change in building plans -- final report. (1)
18 Purchaser's ~~the~~ funds of any purchaser obtained prior to
19 issuance of final reports shall be refunded if there is any
20 change in the condominium building plans subsequent to
21 execution of the contract requiring approval of a city or
22 county officer having jurisdiction over issuance of permits
23 for construction of buildings unless ~~the~~ purchaser's written
24 acceptance of the specific change is obtained.

25 (2) Rights under contracts of sale of condominium

1 units under a preliminary report are not enforceable against
 2 purchasers until purchasers have had a full opportunity to
 3 read the department's final report on the project and to
 4 obtain a refund of any moneys paid as well as a release from
 5 all obligations if the final report differs in any material
 6 respect from the preliminary report.

7 (3) If the final report is not issued within 1 year
 8 from the date of issuance of the preliminary report,
 9 purchasers are entitled to refund of all moneys paid by the
 10 purchasers thereunder without further obligation."

11 Section 12. Section 70-23-611, MCA, is amended to
 12 read:

13 "70-23-611. Joint liability of grantor and grantee for
 14 unpaid common expenses. In a voluntary conveyance of a unit,
 15 the grantee ~~shall--be~~ is jointly and severally liable with
 16 the grantor for all unpaid charges against the latter for
 17 his proportionate share of the common expenses up to the
 18 time of the grant or conveyance, without prejudice to the
 19 grantee's right to recover from ~~the grantor~~ the amounts paid
 20 by the grantee therefor. However, upon request of a
 21 prospective purchaser, the manager shall make and deliver a
 22 statement of the unpaid charges against the prospective
 23 grantor, and the grantee in that case ~~shall is~~ not be liable
 24 for nor ~~shall is~~ the unit when conveyed be subject to a lien
 25 filed thereafter for any unpaid charges against the grantor

1 in excess of the amount therein set forth."

2 Section 13. Section 70-25-103, MCA, is amended to
 3 read:

4 "70-25-103. Waivers and contrary provisions invalid.
 5 Any provision of a leasehold agreement, either oral or
 6 written, that is contrary to this ~~section--shall--be~~ chapter
 7 is invalid. Any attempted waiver of this ~~section~~ chapter by
 8 the tenant ~~shall--be~~ is invalid."

9 Section 14. Section 70-25-201, MCA, is amended to
 10 read:

11 "70-25-201. Security deposit -- deductions authorized
 12 therefrom. (1) Any landlord renting property covered by this
 13 ~~section~~ chapter may deduct from the security deposit a sum
 14 equal to the damage alleged to have been caused by the
 15 tenant, together with a sum equal to the unpaid rent owing
 16 to the landlord at the time of such deduction and a sum for
 17 actual cleaning expenses.

18 (2) No cleaning charges may be imposed for normal
 19 maintenance performed on a cyclical basis by the landlord as
 20 noted by the landlord at the time the tenant occupies the
 21 space unless the landlord is forced to perform this
 22 maintenance because of negligence of the tenant.
 23 Additionally, no cleaning charges ~~can~~ may be deducted until
 24 notice has been given to the tenant. The notice shall
 25 include the cleaning not accomplished by the tenant and the

1 additional and type or types of cleaning which need to be
 2 done by the tenant to bring the premises back to its
 3 condition at the time of its renting. After the delivery of
 4 the notice, the tenant shall have ~~has~~ 48 hours to complete
 5 the required cleaning.

6 (3) No person may deduct or withhold from the security
 7 deposit any amount for purposes other than those set forth
 8 in this subsection ~~section~~."

9 Section 15. Section 70-26-202, MCA, is amended to
 10 read:

11 "70-26-202. Rent -- when payable. When there is no
 12 usage or contract to the contrary, rents for real property
 13 under an arrangement not governed by chapter 24 of this
 14 title are payable at the termination of the holding when if
 15 it does not exceed 1 year. If the holding is by the day,
 16 week, month, quarter, or year, rent is payable at the
 17 termination of the respective periods, as it successively
 18 becomes due."

19 Section 16. Section 70-26-203, MCA, is amended to
 20 read:

21 "70-26-203. Failure of lessor to repair -- lessee's
 22 remedies. (1) If within a reasonable time after notice to
 23 the lessor of dilapidations which he ought to repair, he
 24 neglects to do so, ~~the lessee may repair the same himself~~
 25 where and if the costs ~~cost~~ of such repairs ~~do~~ does not

1 require an expenditure greater than 1 month's rent of the
 2 premises, ~~the lessee may perform such repairs himself~~ and
 3 deduct the expenses of such repairs from the rent, or the
 4 lessee may vacate the premises, in which case he shall be is
 5 discharged from further payment of rent or performance of
 6 other conditions.

7 (2) Subsection (1) does not apply to real property
 8 leased under an arrangement governed by chapter 24 of this
 9 title."

10 Section 17. Section 70-26-204, MCA, is amended to
 11 read:

12 "70-26-204. Renewal of lease by lessee's continued
 13 possession. If a lessee of real property leased under an
 14 arrangement not governed by chapter 24 of this title remains
 15 in possession thereof after the expiration of the hiring and
 16 the lessor accepts a rent from him, the parties are presumed
 17 to have renewed the hiring on the same terms and for the
 18 same time, not exceeding 1 month when the rent is payable
 19 monthly, or in any case 1 year."

20 Section 18. Section 70-26-205, MCA, is amended to
 21 read:

22 "70-26-205. Notice required to terminate lease. (1) A
 23 hiring of real property for a term not specified by the
 24 parties is deemed to be PRESUMED TO BE renewed as stated in
 25 70-26-204 at the end of the term implied by law unless one

1 of the parties gives notice to the other of his intention to
 2 terminate the same hiring at least as long before the
 3 expiration thereof as the term of the hiring itself, not
 4 exceeding 1 month.

5 ~~(2) Subsection (1) does not apply to real property~~
 6 ~~leased under an arrangement governed by chapter 24 of this~~
 7 ~~title."~~

8 Section 19. Section 70-26-206, MCA, is amended to
 9 read:

10 "70-26-206. Rights of tenant for years or at will. (1)
 11 A tenant for years or at will, unless he is a wrongdoer by
 12 holding over, may occupy the buildings, take the annual
 13 products of the soil, and work mines and quarries open at
 14 the commencement of his tenancy; and a tenant at will or for
 15 an indefinite term may cultivate and harvest the crops
 16 growing at the end of his tenancy.

17 (2) A tenant for years or at will has no other rights
 18 to the property than such as are those given to him by the
 19 agreement or instrument by which his tenancy is acquired or
 20 by subsection (1).

21 ~~(3) Subsection (2) does not apply to arrangements~~
 22 ~~governed by chapter 24 of this title."~~

23 Section 20. Section 70-27-109, MCA, is amended to
 24 read:

25 "70-27-109. General rules of practice applicable.

1 Except as otherwise provided in this chapter, the provisions
 2 of ~~{93-2301--to--93-8717}~~ Title 25 are applicable to and
 3 constitute the rules of practice mentioned in this chapter."

4 Section 21. Section 70-27-115, MCA, is amended to
 5 read:

6 "70-27-115. Defendant's appearance and answer. On or
 7 before the day fixed for his appearance, the defendant may
 8 appear and answer or ~~demur~~ ~~move to dismiss the complaint for~~
 9 ~~failure to state a claim."~~

10 Section 22. Section 70-28-102, MCA, is amended to
 11 read:

12 "70-28-102. General procedural provisions applicable.
 13 The provisions of ~~{93-3001-to-93-3020, inclusive~~ Title 25,
 14 ~~chapter 3, parts 2 and 3,~~ and Rules 4, 12(a), and 41(e),
 15 M.R.Civ.P., so far as the same they are not in conflict with
 16 this part, are hereby made applicable to the action herein
 17 provided for."

18 Section 23. Section 70-29-113, MCA, is amended to
 19 read:

20 "70-29-113. Death or incompetency of parties --
 21 proceedings not delayed. (1) If during the pendency of the
 22 action any of the parties ~~dies~~ dies or become ~~insane~~ becomes
 23 ~~seriously mentally ill~~ seriously mentally ill or otherwise incompetent, the
 24 proceedings ~~shall~~ may not for that cause be delayed or
 25 suspended, but the attorney who has appeared for such the

1 party may continue to represent such interest~~and in case~~
 2 If any such party has not appeared by an attorney, the court
 3 shall appoint an attorney to represent the interest which
 4 was held by such ~~the~~ party until his heirs or legal
 5 representatives or successors in interest ~~shall~~ have
 6 appeared in the action.

7 (2) An attorney so appointed shall be allowed by the
 8 court a reasonable compensation for his services, which may
 9 be taxed as costs against the share or interest represented
 10 by such ~~the~~ attorney and may be adjudged a lien thereon, in
 11 the discretion of the court."

12 Section 24. Section 70-29-210, MCA, is amended to
 13 read:

14 "70-29-210. Consent of guardian to share of ward. The
 15 general guardian of an infant and the guardian entitled to
 16 the custody and management of the estate of an--insane a
 17 ~~seriously mentally ill~~ person, or other person adjudged
 18 incapable of conducting his own affairs, who is interested
 19 in real estate held in joint tenancy or in common or in any
 20 other manner so as to authorize his being made a party to an
 21 action, may agree upon the share to be set off to such
 22 infant or other person entitled and may execute a release,
 23 in his behalf, to the owners of the shares of the parts to
 24 which they may be respectively entitled, upon an order of
 25 the court."

1 Section 25. Section 70-29-328, MCA, is amended to
 2 read:

3 "70-29-328. Incompetent's share of proceeds -- payment
 4 to guardian. The guardian who may be entitled to the custody
 5 and management of the estate of an--insane a ~~seriously~~
 6 ~~mentally ill~~ person or other person adjudged incapable of
 7 conducting his own affairs, whose interest in real property
 8 has been sold, may receive in behalf of such person his
 9 share of the proceeds of such real property from the
 10 referees on executing with sufficient sureties an
 11 undertaking, approved by a judge of the court, that he will
 12 faithfully discharge the trust reposed in him and will
 13 render a true and just account to the person entitled or to
 14 his legal representative."

15 Section 26. Section 70-30-201, MCA, is amended to
 16 read:

17 "70-30-201. Applicable rules of practice. Except as
 18 otherwise provided in this chapter, the provisions of
 19 ~~[93-2301---to--93-8717]~~ Title 25 are applicable to and
 20 constitute the rules of practice in the proceedings
 21 mentioned in this chapter."

22 Section 27. Section 70-30-303, MCA, is amended to
 23 read:

24 "70-30-303. Final report and award of commissioners --
 25 procedure on failure to agree. (1) The report of

1 commissioners shall be made on such forms as are provided
 2 for their use by authority of the court. ~~Such~~ ~~the~~ report
 3 must be filed within 10 days after the completion of the
 4 hearing or within such additional time as may be allowed by
 5 the judge upon a clear showing of necessity therefor and
 6 must be filed with the clerk of court ~~and the~~ ~~the~~ clerk
 7 ~~must forthwith~~ shall notify the parties interested that such
 8 ~~the~~ report has been filed, with ~~which~~ notice, together with
 9 a true copy of ~~said the~~ report, must be served upon all the
 10 parties interested in the same manner as a summons.

11 (2) A concurrence of two commissioners ~~shall be~~ ~~is~~
 12 necessary to the making of a final report or award as to any
 13 parcel of property or interest therein. ~~in the event that~~ ~~if~~
 14 no two of the commissioners are able to agree as to the
 15 amount of any award, they shall report such ~~the~~ fact to the
 16 judge or court within the time hereinbefore ~~herein~~ specified
 17 and the court must ~~shall~~ forthwith ~~impanel~~ and appoint new
 18 commissioners as ~~hereinbefore~~ ~~herein~~ provided, which
 19 commissioners shall proceed as provided before herein to
 20 determine any award upon which the previous commissioners
 21 failed to agree.

22 (3) The report of ~~said the~~ commissioners shall also
 23 state the number of days or portions thereof consumed by the
 24 commissioners in performance of their duties as prescribed
 25 herein."

1 Section 28. Repealer. Sections 67-1001 through 67-1008
 2 (as enacted by sections 1 through 8, chapter 58, Laws 1923)
 3 and 34-106, R.C.M. 1947, are repealed.

-End-

February 27, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 182 be amended as follows:

1. Page 7, line 9.

Following: "~~interest~~"

Insert: "or interest"

2. Page 12, line 24.

Following: "~~be~~"

Insert: "presumed to be"