

CHAPTER NO. 701

SENATE BILL NO. 250

INTRODUCED BY TURNAGE

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Judiciary.
February 10, 1979	Committee recommend bill do pass as amended. Report adopted.
February 13, 1979	Printed and placed on members' desks.
February 14, 1979	Second reading, do pass.
February 16, 1979	Considered correctly engrossed.
February 17, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 19, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 24, 1979	Returned from second house. Concurred in as amended.
March 26, 1979	Second reading, pass consideration until March 28, 1979.

March 28, 1979	Second reading, amendments adopted.
March 29, 1979	Third reading, amendments adopted. Sent to enrolling.
April 2, 1979	Correctly enrolled. Signed by President.
April 4, 1979	Delivered to Governor.
April 10, 1979	Returned from Governor with recommended amendments.
April 11, 1979	On motion, consideration be passed for the day.
April 12, 1979	Second reading, amendments adopted.
April 13, 1979	Third reading, amendments adopted. Transmitted to second house.

IN THE HOUSE

April 16, 1979	Governor's amendments placed on second reading for the 87th Legislative Day.
April 18, 1979	Governor's amendments adopted on second reading. Governor's amendments adopted on third reading.

IN THE SENATE

April 19, 1979	Returned from second house. Sent to enrolling. Reported correctly enrolled.
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*Amix* BILL NO. 250  
*Turnage*

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A STATEMENT OF INTENT TO RECORD FOR INSTRUMENTS WHICH MAY NOT BE RECORDED BECAUSE OF OPERATION OF CERTAIN SUBDIVISION LAWS; ESTABLISHING PROCEDURES AND A 6-MONTH PERIOD OF CONSTRUCTIVE NOTICE; AMENDING SECTIONS 7-4-2617, 7-4-2619, 7-4-2620, 70-21-201, 70-21-302, AND 76-3-302, MCA."

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

Section 1. Section 7-4-2617, MCA, is amended to read:

"7-4-2617. Procedure to record documents. (1) When any instrument, paper, or notice authorized by law to be recorded is deposited for record in the office of the county clerk, as ex officio recorder, and accompanied by the required fee, he must endorse upon the same the time it was received, noting the year, month, day, hour, and minute of its reception, and the reception of the instrument must be immediately entered in the county clerk and recorder's reception book.

(2) The county clerk must record said instrument without delay, together with the acknowledgment, proofs, and certificates written upon or annexed to the same and with the plats, surveys, schedule, and other papers thereto

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annexed, in the order and as of the time when the same was received for record and must note at the foot of the record the exact time of its reception.

(3) The county clerk must also endorse upon each instrument, paper, or notice the time when and the book and pages in which it is recorded and must thereafter deliver it, upon request, to the party leaving the same for record or to his order.

~~(4) If an instrument for which a statement of intent to record, as provided for in 76-3-302, has been filed is deposited for recording within the 6-month period provided for in 70-21-302, the county clerk shall, in addition to the information required by subsections (1) through (3) of this section, indicate on the instrument and on his records the time and date of filing of the statement. If the instrument is not deposited for recording during the 6-month period, the county clerk shall remove the statement of intent and any attached documents from the records and return this material to the person who filed it at the address indicated on the statement."~~

Section 2. Section 7-4-2619, MCA, is amended to read:

"7-4-2619. Indexes to recorded documents. Every county clerk, as ex officio recorder, must keep:

(1) an index of deeds, grants and transfers, and contracts to sell or convey real estate labeled "Grantors",

1 with each page divided into four columns headed,  
2 respectively: "Names of grantors", "Names of grantees",  
3 "Date of deeds, grants, transfers, or contracts", and "Where  
4 recorded";

5 (2) an index of deeds labeled "Grantees", with each  
6 page divided into four columns headed, respectively: "Names  
7 of grantees", "Names of grantors", "Date of deeds, grants,  
8 transfers, or contracts", and "Where recorded";

9 (3) an index of mortgages labeled "Mortgages of real  
10 property", with the pages thereof divided into six columns  
11 headed, respectively: "Names of mortgagors", "Names of  
12 mortgagees", "Dates of mortgages", "Where recorded", "When  
13 filed", and "When canceled";

14 (4) an index of mortgages labeled "Mortgages of real  
15 property", with the pages thereof divided into six columns  
16 headed, respectively: "Names of mortgagees", "Names of  
17 mortgagors", "Date of mortgage", "Where recorded", "When  
18 filed", and "When canceled";

19 (5) an index of mortgages labeled "Releases of  
20 mortgages of real property--Mortgagees", with the pages  
21 thereof divided into six columns headed, respectively:  
22 "Parties whose mortgages are released", "Parties releasing",  
23 "Date of release", "Where recorded", "Dates of mortgages  
24 released", and "Where mortgages released are recorded";

25 (6) an index of powers of attorney labeled "Powers of

1 attorney", with each page divided into five columns headed,  
2 respectively: "Names of parties executing powers", "To whom  
3 powers are executed", "Date of powers", "Date of recording",  
4 and "To whom powers are executed";

5 (7) an index of leases labeled "Leases", with each  
6 page divided into four columns headed, respectively: "Names  
7 of lessors", "Names of lessees", "Date of leases", and "When  
8 and where recorded";

9 (8) an index of leases labeled "Lessees", with each  
10 page divided into four columns headed, respectively: "Names  
11 of lessees", "Names of lessors", "Date of leases", and "When  
12 and where recorded";

13 (9) an index of marriage certificates labeled  
14 "Marriage certificate--Men", with each page divided into six  
15 columns headed, respectively: "Men married", "To whom  
16 married", "When married", "By whom married", "Where  
17 married", and "Where certificates are recorded";

18 (10) an index of marriage certificates labeled  
19 "Marriage certificates--Women", with each page divided into  
20 six columns headed, respectively: "Women married" (and under  
21 this head placing the family names of the women), "To whom  
22 married", "When married", "By whom married", "Where  
23 married", and "Where certificates are recorded";

24 (11) an index of assignments of mortgages and leases  
25 labeled "Assignments of mortgages and leases--Assignments";

1 with each page divided into five columns headed,  
2 respectively: "Assignors", "Assignees", "Instruments  
3 assigned", "Date of assignment", and "When and where  
4 recorded";

5 (12) an index of assignments of mortgages and leases  
6 labeled "Assignments of mortgages and leases--Assignees",  
7 with each page divided into five columns headed,  
8 respectively: "Assignees", "Assignors", "Instruments", "Date  
9 of assignment", and "When and where recorded";

10 (13) an index of wills labeled "Wills", with each page  
11 divided into four columns headed, respectively: "Names of  
12 testators", "Date of will", "Date of probate", and "When and  
13 where recorded";

14 (14) an index of official bonds labeled "Official  
15 bonds", with each page divided into five columns headed,  
16 respectively: "Names of officers", "Names of offices", "Date  
17 of bond", "Amount of bond", and "When and where recorded";

18 (15) an index of notices of mechanics' liens labeled  
19 "Mechanics' liens", with each page divided into three  
20 columns headed, respectively: "Parties claiming liens",  
21 "Against whom claimed", and "Notices, when filed";

22 (16) an index to transcripts of judgments labeled  
23 "Transcripts of judgments", with each page divided into  
24 seven columns headed, respectively: "Judgment debtors",  
25 "Judgment creditors", "Amount of judgment", "Where

1 recovered", "When recovered", "When transcript filed", and  
2 "When judgment satisfied";

3 (17) an index of attachments labeled "Attachments",  
4 with each page divided into six columns headed,  
5 respectively: "Parties against whom attachments are issued",  
6 "Parties issuing attachments", "Notices of attachments",  
7 "When filed", and "When attachments discharged";

8 (18) an index of notices of the pendency of actions  
9 labeled "Notices of actions", with each page divided into  
10 three columns headed, respectively: "Parties to actions",  
11 "Notices, when recorded", and "When filed";

12 (19) an index of certificates of sale of real estate  
13 sold under execution or under orders made in any judicial  
14 proceedings labeled "Certificates of sale", with each page  
15 divided into four columns headed, respectively: "Plaintiff",  
16 "Defendant", "Purchaser at sale", and "Date of sale";

17 (20) an index of the individual property of married  
18 persons and sole trader judgments labeled "Individual  
19 property of married persons and sole traders", with each  
20 page divided into five columns headed, respectively: "Names  
21 of married persons", "Names of their spouses", "Nature of  
22 instruments recorded", "When recorded", and "Where  
23 recorded";

24 (21) an index to affidavits for annual work done on  
25 mining claims labeled "Annual work on mining claims",

1 showing the name of the affiant, the name of the claim,  
2 where situated, and the year when the work was done;

3 (22) an index of mining claims and declaratory  
4 statements labeled "Notices of location of mining claims and  
5 declaratory statements", with each page divided into four  
6 columns headed, respectively: "Locators", "Name of claim",  
7 "Notice, when filed", and "Where recorded";

8 (23) an index to the register of births and deaths;

9 (24) an index to notices and declarations of water  
10 rights;

11 (25) an index to the "estrays and lost property book";

12 (26) an index to the record of assignments for the  
13 benefit of creditors, containing names of assignor and  
14 assignee, date and where recorded, and inventory, when  
15 filed;

16 (27) an index to financing statements as provided in  
17 Part 4 of the Uniform Commercial Code--Secured Transactions;

18 (28) an index to filed subdivision plats, containing  
19 number of lots, number of acres, filing date, and the  
20 location of the quarter section of each subdivision;

21 (29) an index to the book of maps and plats, which must  
22 contain the name of the proprietor of the town, village, or  
23 addition platted and a general description of the same;

24 (30) an index by grantors and an index by grantees of  
25 statements of intent to record, as provided for in 76-3-302,

1 using the attached instrument for the necessary information;

2 ~~(30)(31)~~ a miscellaneous index, in which must be  
3 indexed papers not hereinbefore stated."

4 Section 3. Section 7-4-2620, MCA, is amended to read:

5 "7-4-2620. Details relating to indexes. (1) The county  
6 clerk may keep in the same volume any two or more of the  
7 indexes mentioned in 7-4-2619, but the several indexes must  
8 be kept distinct from each other, with the volumes  
9 distinctly marked on the outside in such way as to show all  
10 the indexes kept therein.

11 (2) The names of the parties in the first column of  
12 the several indexes must be arranged in alphabetical order.  
13 When a conveyance is executed by a sheriff, the name of the  
14 sheriff and the party charged in the execution must both be  
15 inserted in the index. When an instrument is recorded to  
16 which an executor, administrator, or trustee is a party, the  
17 name of such executor, administrator, or trustee, together  
18 with the name of the testator or intestate or party for whom  
19 the trust is held, must be inserted in the index.

20 (3) The indexes for statements of intent to record may  
21 not contain an entry for a statement filed more than 6  
22 months previously. After 6 months have elapsed from the  
23 recording date of a statement, the county clerk shall delete  
24 the corresponding index entries."

25 Section 4. Section 70-21-201, MCA, is amended to read:

1 "70-21-201. What may be recorded -- recording copy in  
2 another county. (1) Any instrument or judgment affecting the  
3 title to or possession of real property may be recorded  
4 under this part.

5 (2) A statement of intent to record provided for in  
6 76-3-302 may be recorded under this part.

7 ~~(2)~~(3) When any instrument or judgment affecting the  
8 title to or possession of real property situated in more  
9 than one county in this state has been recorded in either of  
10 such counties, a copy thereof, certified to by the county  
11 clerk of the county in which it has been recorded, may be  
12 recorded in any other county in this state wherein any  
13 portion of the real property affected by such instrument or  
14 judgment is situated, and such records will have the same  
15 effect as if the original instrument or judgment had been so  
16 recorded."

17 Section 5. Section 70-21-302, MCA, is amended to read:

18 "70-21-302. Recording as constructive notice -- effect  
19 of recording copy in other county. (1) Every conveyance of  
20 real property acknowledged or proved and certified and  
21 recorded as prescribed by law, from the time it is filed  
22 with the county clerk for record, is constructive notice of  
23 the contents thereof to subsequent purchasers and  
24 mortgagees.

25 (2) A certified copy of any such recorded conveyance

1 may be recorded in any other county, and when so recorded  
2 the record thereof shall have the same force and effect as  
3 though it was of the original conveyance.

4 (3) From the time a statement of intent to record is  
5 filed with the county clerk for recording and for a 6-month  
6 period thereafter, the statement is constructive notice of  
7 the contents thereof to subsequent purchasers and  
8 mortgagees. If the instrument which gave rise to the  
9 statement is recorded within the 6-month period, then for  
10 purposes of constructive notice, the instrument is  
11 considered to have the same recording date as the statement.  
12 If the instrument is recorded after the 6-month period, then  
13 the recording date is the same as the actual date of  
14 recording the instrument."

15 Section 6. Section 76-3-302, MCA, is amended to read:

16 "76-3-302. Restrictions on recording instruments  
17 relating to land subject to surveying requirements. (1) The  
18 county clerk and recorder of any county shall not record any  
19 instrument which purports to transfer title to or possession  
20 of a parcel or tract of land which is required to be  
21 surveyed by this chapter unless the required certificate of  
22 survey or subdivision plat has been filed with the clerk and  
23 recorder and the instrument of transfer describes the parcel  
24 or tract by reference to the filed certificate or plat.

25 (2) If a person is unable to record an instrument

1 because of the operation of subsection (1), the person may  
2 file a statement of intent to record. The recorded statement  
3 serves as constructive notice for a 6-month period as  
4 provided in 70-21-302. The statement is subject to the  
5 requirements of Title 70, chapter 21, part 2. The underlying  
6 instrument must be attached to the statement and clearly  
7 marked: "This document may not be recorded because of  
8 operation of section 76-3-302, MCA, and is attached only for  
9 purposes of constructive notice as provided in section  
10 70-21-302, MCA." No more than one statement may be filed for  
11 an instrument, and no person may avoid the requirements of  
12 this chapter by filing a series of successive statements."

-End-

Approved by Committee  
on Judiciary

1 SENATE BILL NO. 250  
2 INTRODUCED BY TURNAGE  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A  
5 STATEMENT OF INTENT TO RECORD FOR INSTRUMENTS WHICH MAY NOT  
6 BE RECORDED BECAUSE OF OPERATION OF CERTAIN SUBDIVISION  
7 LAWS; ESTABLISHING PROCEDURES AND A 6-MONTH PERIOD OF  
8 CONSTRUCTING NOTICE; AMENDING SECTIONS 7-4-2617, 7-4-2619,  
9 7-4-2620, 70-21-201, 70-21-302, AND 76-3-302, MCA."  
10

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

12 Section 1. Section 7-4-2617, MCA, is amended to read:

13 "7-4-2617. Procedure to record documents. (1) When any  
14 instrument, paper, or notice authorized by law to be  
15 recorded is deposited for record in the office of the county  
16 clerk, as ex officio recorder, and accompanied by the  
17 required fee, he must endorse upon the same the time it was  
18 received, noting the year, month, day, hour, and minute of  
19 its reception, and the reception of the instrument must be  
20 immediately entered in the county clerk and recorder's  
21 reception book.

22 (2) The county clerk must record said instrument  
23 without delay, together with the acknowledgment, proofs, and  
24 certificates written upon or annexed to the same and with  
25 the plats, surveys, schedule, and other papers thereto

1 annexed, in the order and as of the time when the same was  
2 received for record and must note at the foot of the record  
3 the exact time of its reception.

4 (3) The county clerk must also endorse upon each  
5 instrument, paper, or notice the time when and the book and  
6 pages in which it is recorded and must thereafter deliver  
7 it, upon request, to the party leaving the same for record  
8 or to his order."

9 ~~(4) If an instrument for which a statement of intent~~  
10 ~~to record, as provided for in 76-3-302, has been filed is~~  
11 ~~deposited for recording within the 6-month period provided~~  
12 ~~for in 70-21-302, the county clerk shall, in addition to MAY~~  
13 ~~NOT RECORD THE INSTRUMENT UNLESS the information required by~~  
14 ~~subsections (1) through (3) of this section, indicate on the~~  
15 ~~instrument and on his records the time and date of filing,~~  
16 ~~AS WELL AS THE RECEPTION NUMBER OR BOOK AND PAGE NUMBER, of~~  
17 ~~the statement OF INTENT ARE INCORPORATED IN THE INSTRUMENT,~~  
18 ~~If the instrument is not deposited for recording during the~~  
19 ~~6-month period, the county clerk shall remove the statement~~  
20 ~~of intent and any attached documents from the records and~~  
21 ~~return this material to the person who filed it at the~~  
22 ~~address indicated on the statement. THE STATEMENT OF INTENT~~  
23 ~~IS VOID. THE PERSON WHO FILED THE STATEMENT OF INTENT MAY~~  
24 ~~RELEASE THE STATEMENT WITHIN THE 6-MONTH PERIOD BY FILING~~  
25 ~~WITH THE COUNTY CLERK A RELEASE THAT INCLUDES THE TIME AND~~

1 DATE OF FILING, AS WELL AS THE RECEPTION NUMBER OR BOOK AND  
 2 PAGE NUMBER, OF THE STATEMENT."

3 Section 2. Section 7-4-2619, MCA, is amended to read:

4 "7-4-2619. Indexes to recorded documents. Every county  
 5 clerk, as ex officio recorder, must keep:

6 (1) an index of deeds, grants and transfers, and  
 7 contracts to sell or convey real estate labeled "Grantors",  
 8 with each page divided into four columns headed,  
 9 respectively: "Names of grantors", "Names of grantees",  
 10 "Date of deeds, grants, transfers, or contracts", and "Where  
 11 recorded";

12 (2) an index of deeds labeled "Grantees", with each  
 13 page divided into four columns headed, respectively: "Names  
 14 of grantees", "Names of grantors", "Date of deeds, grants,  
 15 transfers, or contracts", and "Where recorded";

16 (3) an index of mortgages labeled "Mortgages of real  
 17 property", with the pages thereof divided into six columns  
 18 headed, respectively: "Names of mortgagors", "Names of  
 19 mortgagees", "Dates of mortgages", "Where recorded", "When  
 20 filed", and "When canceled";

21 (4) an index of mortgages labeled "Mortgages of real  
 22 property", with the pages thereof divided into six columns  
 23 headed, respectively: "Names of mortgagees", "Names of  
 24 mortgagors", "Date of mortgage", "Where recorded", "When  
 25 filed", and "When canceled";

1 (5) an index of mortgages labeled "Releases of  
 2 mortgages of real property--Mortgagees", with the pages  
 3 thereof divided into six columns headed, respectively:  
 4 "Parties whose mortgages are released", "Parties releasing",  
 5 "Date of release", "Where recorded", "Dates of mortgages  
 6 released", and "Where mortgages released are recorded";

7 (6) an index of powers of attorney labeled "Powers of  
 8 attorney", with each page divided into five columns headed,  
 9 respectively: "Names of parties executing powers", "To whom  
 10 powers are executed", "Date of powers", "Date of recording",  
 11 and "To whom powers are executed";

12 (7) an index of leases labeled "Leases", with each  
 13 page divided into four columns headed, respectively: "Names  
 14 of lessors", "Names of lessees", "Date of leases", and "When  
 15 and where recorded";

16 (8) an index of leases labeled "Lessees", with each  
 17 page divided into four columns headed, respectively: "Names  
 18 of lessees", "Names of lessors", "Date of leases", and "When  
 19 and where recorded";

20 (9) an index of marriage certificates labeled  
 21 "Marriage certificate--Men", with each page divided into six  
 22 columns headed, respectively: "Men married", "To whom  
 23 married", "When married", "By whom married", "Where  
 24 married", and "Where certificates are recorded";

25 (10) an index of marriage certificates labeled

1 "Marriage certificates--Women", with each page divided into  
 2 six columns headed, respectively: "Women married" (and under  
 3 this head placing the family names of the women), "To whom  
 4 married", "When married", "By whom married", "Where  
 5 married", and "Where certificates are recorded";

6 (11) an index of assignments of mortgages and leases  
 7 labeled "Assignments of mortgages and leases--Assignors",  
 8 with each page divided into five columns headed,  
 9 respectively: "Assignors", "Assignees", "Instruments  
 10 assigned", "Date of assignment", and "When and where  
 11 recorded";

12 (12) an index of assignments of mortgages and leases  
 13 labeled "Assignments of mortgages and leases--Assignees",  
 14 with each page divided into five columns headed,  
 15 respectively: "Assignees", "Assignors", "Instruments", "Date  
 16 of assignment", and "When and where recorded";

17 (13) an index of wills labeled "Wills", with each page  
 18 divided into four columns headed, respectively: "Names of  
 19 testators", "Date of will", "Date of probate", and "When and  
 20 where recorded";

21 (14) an index of official bonds labeled "Official  
 22 bonds", with each page divided into five columns headed,  
 23 respectively: "Names of officers", "Names of offices", "Date  
 24 of bond", "Amount of bond", and "When and where recorded";

25 (15) an index of notices of mechanics' liens labeled

1 "Mechanics' liens", with each page divided into three  
 2 columns headed, respectively: "Parties claiming liens",  
 3 "Against whom claimed", and "Notices, when filed";

4 (16) an index to transcripts of judgments labeled  
 5 "Transcripts of judgments", with each page divided into  
 6 seven columns headed, respectively: "Judgment debtors",  
 7 "Judgment creditors", "Amount of judgment", "Where  
 8 recovered", "When recovered", "When transcript filed", and  
 9 "When judgment satisfied";

10 (17) an index of attachments labeled "Attachments",  
 11 with each page divided into six columns headed,  
 12 respectively: "Parties against whom attachments are issued",  
 13 "Parties issuing attachments", "Notices of attachments",  
 14 "When filed", and "When attachments discharged";

15 (18) an index of notices of the pendency of actions  
 16 labeled "Notices of actions", with each page divided into  
 17 three columns headed, respectively: "Parties to actions",  
 18 "Notices, when recorded", and "When filed";

19 (19) an index of certificates of sale of real estate  
 20 sold under execution or under orders made in any judicial  
 21 proceedings labeled "Certificates of sale", with each page  
 22 divided into four columns headed, respectively: "Plaintiff",  
 23 "Defendant", "Purchaser at sale", and "Date of sale";

24 (20) an index of the individual property of married  
 25 persons and sole trader judgments labeled "Individual

1 property of married persons and sole traders", with each  
 2 page divided into five columns headed, respectively: "Names  
 3 of married persons", "Names of their spouses", "Nature of  
 4 instruments recorded", "When recorded", and "Where  
 5 recorded";

6 (21) an index to affidavits for annual work done on  
 7 mining claims labeled "Annual work on mining claims",  
 8 showing the name of the affiant, the name of the claim,  
 9 where situated, and the year when the work was done;

10 (22) an index of mining claims and declaratory  
 11 statements labeled "Notices of location of mining claims and  
 12 declaratory statements", with each page divided into four  
 13 columns headed, respectively: "Locators", "Name of claim",  
 14 "Notice, when filed", and "Where recorded";

15 (23) an index to the register of births and deaths;

16 (24) an index to notices and declarations of water  
 17 rights;

18 (25) an index to the "estrays and lost property book";

19 (26) an index to the record of assignments for the  
 20 benefit of creditors, containing names of assignor and  
 21 assignee, date and where recorded, and inventory, when  
 22 filed;

23 (27) an index to financing statements as provided in  
 24 Part 4 of the Uniform Commercial Code--Secured Transactions;

25 (28) an index to filed subdivision plats, containing

1 number of lots, number of acres, filing date, and the  
 2 location of the quarter section of each subdivision;

3 (29) an index to the book of maps and plats, which must  
 4 contain the name of the proprietor of the town, village, or  
 5 addition platted and a general description of the same;

6 ~~(30) an index by grantors and an index by grantees of~~  
 7 ~~statements to record, as provided for in T6-3-302, using the~~  
 8 ~~attached instrument for the necessary information;~~

9 ~~(30)(31) a miscellaneous index, in which must be~~  
 10 ~~indexed papers not hereinbefore stated."~~

11 Section 3. Section 7-4-2620, MCA, is amended to read:

12 "7-4-2620. Details relating to indexes. (1) The county  
 13 clerk may keep in the same volume any two or more of the  
 14 indexes mentioned in 7-4-2619, but the several indexes must  
 15 be kept distinct from each other, with the volumes  
 16 distinctly marked on the outside in such way as to show all  
 17 the indexes kept therein.

18 (2) The names of the parties in the first column of  
 19 the several indexes must be arranged in alphabetical order.  
 20 When a conveyance is executed by a sheriff, the name of the  
 21 sheriff and the party charged in the execution must both be  
 22 inserted in the index. When an instrument is recorded to  
 23 which an executor, administrator, or trustee is a party, the  
 24 name of such executor, administrator, or trustee, together  
 25 with the name of the testator or intestate or party for whom

1 the trust is held, must be inserted in the index."

2 ~~(3) The indexes for statements of intent to record may~~  
 3 ~~not contain an entry for a statement filed more than 6~~  
 4 ~~months previously. After 6 months have elapsed from the~~  
 5 ~~recording FILING date of a statement, the county clerk shall~~  
 6 ~~delete MARK "VOID" ON the corresponding index entries. IF~~  
 7 ~~WITHIN THE 6-MONTH PERIOD A RELEASE IS FILED AS PROVIDED IN~~  
 8 ~~7-4-2617141, THE COUNTY CLERK SHALL NOTE THE RECEPTION~~  
 9 ~~NUMBER OR BOOK AND PAGE NUMBER OF THE RELEASE OF THE~~  
 10 ~~STATEMENT OF INTENT ON THE CORRESPONDING INDEX ENTRIES."~~

11 Section 4. Section 70-21-201, MCA, is amended to read:  
 12 "70-21-201. What may be recorded -- recording copy in  
 13 another county. (1) Any instrument or judgment affecting the  
 14 title to or possession of real property may be recorded  
 15 under this part.

16 ~~(2) A statement of intent to record provided for in~~  
 17 ~~76-3-302 may be recorded FILED under this part.~~

18 ~~(2)(3)~~ When any instrument or judgment affecting the  
 19 title to or possession of real property situated in more  
 20 than one county in this state has been recorded in either of  
 21 such counties, a copy thereof, certified to by the county  
 22 clerk of the county in which it has been recorded, may be  
 23 recorded in any other county in this state wherein any  
 24 portion of the real property affected by such instrument or  
 25 judgment is situated, and such records will have the same

1 effect as if the original instrument or judgment had been so  
 2 recorded."

3 Section 5. Section 70-21-302, MCA, is amended to read:  
 4 "70-21-302. Recording as constructive notice -- effect  
 5 of recording copy in other county. (1) Every conveyance of  
 6 real property acknowledged or proved and certified and  
 7 recorded as prescribed by law, from the time it is filed  
 8 with the county clerk for record, is constructive notice of  
 9 the contents thereof to subsequent purchasers and  
 10 mortgagees.

11 (2) A certified copy of any such recorded conveyance  
 12 may be recorded in any other county, and when so recorded  
 13 the record thereof shall have the same force and effect as  
 14 though it was of the original conveyance.

15 ~~(3) From the time a statement of intent to record is~~  
 16 ~~filed with the county clerk for recording and for a 6-month~~  
 17 ~~period thereafter, the statement is constructive notice of~~  
 18 ~~the contents thereof to subsequent purchasers and~~  
 19 ~~mortgagees. If the instrument which gave rise to the~~  
 20 ~~statement is recorded within the 6-month period, then for~~  
 21 ~~purposes of constructive notice, THE RECORDING DATE OF the~~  
 22 ~~instrument is considered to have BE the same recording date~~  
 23 ~~as the FILING DATE OF THE statement. If the instrument is~~  
 24 ~~recorded after the 6-month period, then the recording date~~  
 25 ~~is the same as the actual date of recording the instrument."~~

1 Section 6. Section 76-3-302, MCA, is amended to read:  
 2 "76-3-302. Restrictions on recording instruments  
 3 relating to land subject to surveying requirements. 111 The  
 4 county clerk and recorder of any county shall not record any  
 5 instrument which purports to transfer title to or possession  
 6 of a parcel or tract of land which is required to be  
 7 surveyed by this chapter unless the required certificate of  
 8 survey or subdivision plat has been filed with the clerk and  
 9 recorder and the instrument of transfer describes the parcel  
 10 or tract by reference to the filed certificate or plat.

11 (2) If a person is unable to record an instrument  
 12 because of the operation of subsection (1), the person may  
 13 file a statement of intent to record. The recorded FILED  
 14 statement serves as constructive notice for a 6-month period  
 15 as provided in 70-21-302. The statement is subject to the  
 16 requirements of Title 70, chapter 21, part 2. The A COPY OF  
 17 THE underlying instrument must be attached to the statement  
 18 and clearly marked: "This THE ORIGINAL OF THIS document may  
 19 not be recorded because of operation of section 76-3-302 OR  
 20 76-4-121, MCA, and THIS COPY is attached only for purposes  
 21 of constructive notice as provided in section 70-21-302.  
 22 MCA." SUCH CONSTRUCTIVE NOTICE AUTOMATICALLY BECOMES INVALID  
 23 UPON THE FILING OF A RELEASE OF THE STATEMENT OF INTENT TO  
 24 WHICH THIS COPY IS ATTACHED OR UPON THE EXPIRATION OF 6  
 25 MONTHS FROM THE DATE OF FILING OF THE STATEMENT OF INTENT TO

1 WHICH THIS COPY IS ATTACHED IF THE ORIGINAL IS NOT RECORDED  
 2 WITHIN THAT TIME. No more than one statement may be filed  
 3 for an instrument, and no person may avoid the requirements  
 4 of this chapter by filing a series of successive  
 5 statements."

-End-

1                   SENATE BILL NO. 250  
2                   INTRODUCED BY TURNAGE  
3

4   A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A  
5   STATEMENT OF INTENT TO RECORD FOR INSTRUMENTS WHICH MAY NOT  
6   BE RECORDED BECAUSE OF OPERATION OF CERTAIN SUBDIVISION  
7   LAWS; ESTABLISHING PROCEDURES AND A 6-MONTH PERIOD OF  
8   CONSTRUCTING NOTICE; AMENDING SECTIONS 7-4-2617, 7-4-2619,  
9   7-4-2620, 70-21-201, 70-21-302, AND 76-3-302, MCA."

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

12       Section 1. Section 7-4-2617, MCA, is amended to read:

13       "7-4-2617. Procedure to record documents. (1) When any  
14   instrument, paper, or notice authorized by law to be  
15   recorded is deposited for record in the office of the county  
16   clerk, as ex officio recorder, and accompanied by the  
17   required fee, he must endorse upon the same the time it was  
18   received, noting the year, month, day, hour, and minute of  
19   its reception, and the reception of the instrument must be  
20   immediately entered in the county clerk and recorder's  
21   reception book.

22       (2) The county clerk must record said instrument  
23   without delay, together with the acknowledgment, proofs, and  
24   certificates written upon or annexed to the same and with  
25   the plats, surveys, schedule, and other papers thereto

1   annexed, in the order and as of the time when the same was  
2   received for record and must note at the foot of the record  
3   the exact time of its reception.

4       (3) The county clerk must also endorse upon each  
5   instrument, paper, or notice the time when and the book and  
6   pages in which it is recorded and must thereafter deliver  
7   it, upon request, to the party leaving the same for record  
8   or to his order."

9       ~~(4) If an instrument for which a statement of intent~~  
10   ~~to record, as provided for in 76-3-302, has been filed is~~  
11   ~~deposited for recording within the 6-month period provided~~  
12   ~~for in 70-21-302, the county clerk shall, in addition to MAY~~  
13   ~~NOT RECORD THE INSTRUMENT UNLESS the information required by~~  
14   ~~subsections (1) through (3) of this section, indicate on the~~  
15   ~~instrument and on his records the time and date of filing,~~  
16   ~~AS WELL AS THE RECEPTION NUMBER OR BOOK AND PAGE NUMBER, of~~  
17   ~~the statement OF INTENT ARE INCORPORATED IN THE INSTRUMENT.~~  
18   ~~If the instrument is not deposited for recording during the~~  
19   ~~6-month period, the county clerk shall remove the statement~~  
20   ~~of intent and any attached documents from the records and~~  
21   ~~return this material to the person who filed it at the~~  
22   ~~address indicated on the statement, THE STATEMENT OF INTENT~~  
23   ~~IS VOID. THE PERSON WHO FILED THE STATEMENT OF INTENT MAY~~  
24   ~~RELEASE THE STATEMENT WITHIN THE 6-MONTH PERIOD BY FILING~~  
25   ~~WITH THE COUNTY CLERK A RELEASE THAT INCLUDES THE TIME AND~~

1 DATE OF FILING, AS WELL AS THE RECEPTION NUMBER OR BOOK AND  
 2 PAGE NUMBER, OF THE STATEMENT."

3 Section 2. Section 7-4-2619, MCA, is amended to read:

4 "7-4-2619. Indexes to recorded documents. Every county  
 5 clerk, as ex officio recorder, must keep:

6 (1) an index of deeds, grants and transfers, and  
 7 contracts to sell or convey real estate labeled "Grantors",  
 8 with each page divided into four columns headed,  
 9 respectively: "Names of grantors", "Names of grantees",  
 10 "Date of deeds, grants, transfers, or contracts", and "Where  
 11 recorded";

12 (2) an index of deeds labeled "Grantees", with each  
 13 page divided into four columns headed, respectively: "Names  
 14 of grantees", "Names of grantors", "Date of deeds, grants,  
 15 transfers, or contracts", and "Where recorded";

16 (3) an index of mortgages labeled "Mortgages of real  
 17 property", with the pages thereof divided into six columns  
 18 headed, respectively: "Names of mortgagors", "Names of  
 19 mortgagees", "Dates of mortgages", "Where recorded", "When  
 20 filed", and "When canceled";

21 (4) an index of mortgages labeled "Mortgages of real  
 22 property", with the pages thereof divided into six columns  
 23 headed, respectively: "Names of mortgagees", "Names of  
 24 mortgagors", "Date of mortgage", "Where recorded", "When  
 25 filed", and "When canceled";

1 (5) an index of mortgages labeled "Releases of  
 2 mortgages of real property--Mortgagees", with the pages  
 3 thereof divided into six columns headed, respectively:  
 4 "Parties whose mortgages are released", "Parties releasing",  
 5 "Date of release", "Where recorded", "Dates of mortgages  
 6 released", and "Where mortgages released are recorded";

7 (6) an index of powers of attorney labeled "Powers of  
 8 attorney", with each page divided into five columns headed,  
 9 respectively: "Names of parties executing powers", "To whom  
 10 powers are executed", "Date of powers", "Date of recording",  
 11 and "To whom powers are executed";

12 (7) an index of leases labeled "Leases", with each  
 13 page divided into four columns headed, respectively: "Names  
 14 of lessors", "Names of lessees", "Date of leases", and "When  
 15 and where recorded";

16 (8) an index of leases labeled "Lessees", with each  
 17 page divided into four columns headed, respectively: "Names  
 18 of lessees", "Names of lessors", "Date of leases", and "When  
 19 and where recorded";

20 (9) an index of marriage certificates labeled  
 21 "Marriage certificate--Men", with each page divided into six  
 22 columns headed, respectively: "Men married", "To whom  
 23 married", "When married", "By whom married", "Where  
 24 married", and "Where certificates are recorded";

25 (10) an index of marriage certificates labeled

1 "Marriage certificates--Women", with each page divided into  
2 six columns headed, respectively: "Women married" (and under  
3 this head placing the family names of the women), "To whom  
4 married", "When married", "By whom married", "Where  
5 married", and "Where certificates are recorded";

6 (11) an index of assignments of mortgages and leases  
7 labeled "Assignments of mortgages and leases--Assignors",  
8 with each page divided into five columns headed,  
9 respectively: "Assignors", "Assignees", "Instruments  
10 assigned", "Date of assignment", and "When and where  
11 recorded";

12 (12) an index of assignments of mortgages and leases  
13 labeled "Assignments of mortgages and leases--Assignees",  
14 with each page divided into five columns headed,  
15 respectively: "Assignees", "Assignors", "Instruments", "Date  
16 of assignment", and "When and where recorded";

17 (13) an index of wills labeled "Wills", with each page  
18 divided into four columns headed, respectively: "Names of  
19 testators", "Date of will", "Date of probate", and "When and  
20 where recorded";

21 (14) an index of official bonds labeled "Official  
22 bonds", with each page divided into five columns headed,  
23 respectively: "Names of officers", "Names of offices", "Date  
24 of bond", "Amount of bond", and "When and where recorded";

25 (15) an index of notices of mechanics' liens labeled

1 "Mechanics' liens", with each page divided into three  
2 columns headed, respectively: "Parties claiming liens",  
3 "Against whom claimed", and "Notices, when filed";

4 (16) an index to transcripts of judgments labeled  
5 "Transcripts of judgments", with each page divided into  
6 seven columns headed, respectively: "Judgment debtors",  
7 "Judgment creditors", "Amount of judgment", "Where  
8 recovered", "When recovered", "When transcript filed", and  
9 "When judgment satisfied";

10 (17) an index of attachments labeled "Attachments",  
11 with each page divided into six columns headed,  
12 respectively: "Parties against whom attachments are issued",  
13 "Parties issuing attachments", "Notices of attachments",  
14 "When filed", and "When attachments discharged";

15 (18) an index of notices of the pendency of actions  
16 labeled "Notices of actions", with each page divided into  
17 three columns headed, respectively: "Parties to actions",  
18 "Notices, when recorded", and "When filed";

19 (19) an index of certificates of sale of real estate  
20 sold under execution or under orders made in any judicial  
21 proceedings labeled "Certificates of sale", with each page  
22 divided into four columns headed, respectively: "Plaintiff",  
23 "Defendant", "Purchaser at sale", and "Date of sale";

24 (20) an index of the individual property of married  
25 persons and sole trader judgments labeled "Individual

1 property of married persons and sole traders", with each  
 2 page divided into five columns headed, respectively: "Names  
 3 of married persons", "Names of their spouses", "Nature of  
 4 instruments recorded", "When recorded", and "Where  
 5 recorded";

6 (21) an index to affidavits for annual work done on  
 7 mining claims labeled "Annual work on mining claims",  
 8 showing the name of the affiant, the name of the claim,  
 9 where situated, and the year when the work was done;

10 (22) an index of mining claims and declaratory  
 11 statements labeled "Notices of location of mining claims and  
 12 declaratory statements", with each page divided into four  
 13 columns headed, respectively: "Locators", "Name of claim",  
 14 "Notice, when filed", and "Where recorded";

15 (23) an index to the register of births and deaths;

16 (24) an index to notices and declarations of water  
 17 rights;

18 (25) an index to the "estrays and lost property book";

19 (26) an index to the record of assignments for the  
 20 benefit of creditors, containing names of assignor and  
 21 assignee, date and where recorded, and inventory, when  
 22 filed;

23 (27) an index to financing statements as provided in  
 24 Part 4 of the Uniform Commercial Code--Secured Transactions;

25 (28) an index to filed subdivision plats, containing

1 number of lots, number of acres, filing date, and the  
 2 location of the quarter section of each subdivision;

3 (29) an index to the book of maps and plats, which must  
 4 contain the name of the proprietor of the town, village, or  
 5 addition platted and a general description of the same;

6 (30) an index by grantors and an index by grantees of  
 7 statements to record, as provided for in 76-3-302, using the  
 8 attached instrument for the necessary information;

9 ~~(30)~~ (31) a miscellaneous index, in which must be  
 10 indexed papers not hereinbefore stated."

11 Section 3. Section 7-4-2620, MCA, is amended to read:

12 "7-4-2620. Details relating to indexes. (1) The county  
 13 clerk may keep in the same volume any two or more of the  
 14 indexes mentioned in 7-4-2619, but the several indexes must  
 15 be kept distinct from each other, with the volumes  
 16 distinctly marked on the outside in such way as to show all  
 17 the indexes kept therein.

18 (2) The names of the parties in the first column of  
 19 the several indexes must be arranged in alphabetical order.  
 20 When a conveyance is executed by a sheriff, the name of the  
 21 sheriff and the party charged in the execution must both be  
 22 inserted in the index. When an instrument is recorded to  
 23 which an executor, administrator, or trustee is a party, the  
 24 name of such executor, administrator, or trustee, together  
 25 with the name of the testator or intestate or party for whom

1 the trust is held, must be inserted in the index."  
 2 ~~(3) The indexes for statements of intent to record may~~  
 3 ~~not contain an entry for a statement filed more than 6~~  
 4 ~~months previously. After 6 months have elapsed from the~~  
 5 ~~recording FILING date of a statement, the county clerk shall~~  
 6 ~~delete MARK "VOID" ON the corresponding index entries. IF~~  
 7 ~~WITHIN THE 6-MONTH PERIOD A RELEASE IS FILED AS PROVIDED IN~~  
 8 ~~7-9-2617(4), THE COUNTY CLERK SHALL NOTE THE RECEPTION~~  
 9 ~~NUMBER OR BOOK AND PAGE NUMBER OF THE RELEASE OF THE~~  
 10 ~~STATEMENT OF INTENT ON THE CORRESPONDING INDEX ENTRIES."~~

11 Section 4. Section 70-21-201, MCA, is amended to read:  
 12 "70-21-201. What may be recorded -- recording copy in  
 13 another county. (1) Any instrument or judgment affecting the  
 14 title to or possession of real property may be recorded  
 15 under this part.

16 ~~(2) A statement of intent to record provided for in~~  
 17 ~~76-3-302 may be recorded FILED under this part.~~

18 ~~(2)(3) When any instrument or judgment affecting the~~  
 19 ~~title to or possession of real property situated in more~~  
 20 ~~than one county in this state has been recorded in either of~~  
 21 ~~such counties, a copy thereof, certified to by the county~~  
 22 ~~clerk of the county in which it has been recorded, may be~~  
 23 ~~recorded in any other county in this state wherein any~~  
 24 ~~portion of the real property affected by such instrument or~~  
 25 ~~judgment is situated, and such records will have the same~~

1 effect as if the original instrument or judgment had been so  
 2 recorded."

3 Section 5. Section 70-21-302, MCA, is amended to read:  
 4 "70-21-302. Recording as constructive notice -- effect  
 5 of recording copy in other county. (1) Every conveyance of  
 6 real property acknowledged or proved and certified and  
 7 recorded as prescribed by law, from the time it is filed  
 8 with the county clerk for record, is constructive notice of  
 9 the contents thereof to subsequent purchasers and  
 10 mortgagees.

11 (2) A certified copy of any such recorded conveyance  
 12 may be recorded in any other county, and when so recorded  
 13 the record thereof shall have the same force and effect as  
 14 though it was of the original conveyance.

15 ~~(3) From the time a statement of intent to record is~~  
 16 ~~filed with the county clerk for recording and for a 6-month~~  
 17 ~~period thereafter, the statement is constructive notice of~~  
 18 ~~the contents thereof to subsequent purchasers and~~  
 19 ~~mortgagees. If the instrument which gave rise to the~~  
 20 ~~statement is recorded within the 6-month period, then for~~  
 21 ~~purposes of constructive notice, THE RECORDING DATE OF the~~  
 22 ~~instrument is considered to have BE the same recording-date~~  
 23 ~~as the FILING DATE OF THE statement. If the instrument is~~  
 24 ~~recorded after the 6-month period, then the recording date~~  
 25 ~~is the same as the actual date of recording the instrument."~~

1 Section 6. Section 76-3-302, MCA, is amended to read:  
 2 "76-3-302. Restrictions on recording instruments  
 3 relating to land subject to surveying requirements. (1) The  
 4 county clerk and recorder of any county shall not record any  
 5 instrument which purports to transfer title to or possession  
 6 of a parcel or tract of land which is required to be  
 7 surveyed by this chapter unless the required certificate of  
 8 survey or subdivision plat has been filed with the clerk and  
 9 recorder and the instrument of transfer describes the parcel  
 10 or tract by reference to the filed certificate or plat.

11 (2) If a person is unable to record an instrument  
 12 because of the operation of subsection (1), the person may  
 13 file a statement of intent to record. The recorded FILED  
 14 statement serves as constructive notice for a 6-month period  
 15 as provided in 70-21-302. The statement is subject to the  
 16 requirements of Title 70, chapter 21, part 2. The A COPY OF  
 17 THE underlying instrument must be attached to the statement  
 18 and clearly marked: "This THE ORIGINAL OF THIS document may  
 19 not be recorded because of operation of section 76-3-302 OR  
 20 76-4-121, MCA, and THIS COPY is attached only for purposes  
 21 of constructive notice as provided in section 70-21-302,  
 22 MCA." SUCH CONSTRUCTIVE NOTICE AUTOMATICALLY BECOMES INVALID  
 23 UPON THE FILING OF A RELEASE OF THE STATEMENT OF INTENT TO  
 24 WHICH THIS COPY IS ATTACHED OR UPON THE EXPIRATION OF 6  
 25 MONTHS FROM THE DATE OF FILING OF THE STATEMENT OF INTENT TO

1 WHICH THIS COPY IS ATTACHED IF THE ORIGINAL IS NOT RECORDED  
 2 WITHIN THAT TIME. No more than one statement may be filed  
 3 for an instrument, and no person may avoid the requirements  
 4 of this chapter by filing a series of successive  
 5 statements."

-End-

SENATE BILL NO. 250  
INTRODUCED BY TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A STATEMENT OF INTENT TO RECORD FOR INSTRUMENTS WHICH MAY NOT BE RECORDED BECAUSE OF OPERATION OF CERTAIN SUBDIVISION LAWS; ESTABLISHING PROCEDURES AND A 6-MONTH PERIOD OF CONSTRUCTIVE NOTICE AMENDING SECTIONS 7-4-2617, 7-4-2619, 7-4-2620, 7-4-2621, 7-4-2622, AND 7-4-302, MCA; THAT A NOTICE OF BUYER'S INTEREST IN REAL PROPERTY MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER; AMENDING SECTIONS 7-4-2613 AND 7-4-2619, MCA."

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

Section 7-4-2617, MCA, is amended to read: "7-4-2617. Procedure to record documents. (1) When any instrument, paper, or notice authorized by law to be recorded is deposited for record in the office of the county clerk, as ex-officio recorder, and accompanied by the required fee, he must endorse upon the same the time it was received, noting the year, month, day, hour, and minute of its reception, and the reception of the instrument must be immediately entered in the county clerk and recorder's reception book.

(2) The county clerk must record said instrument

without delay, together with the acknowledgments, proofs, and certificates written upon or annexed to the same and with the plats, surveys, schedules, and other papers thereto annexed, in the order and as of the time when the same was received for record and must note at the foot of the record the exact time of its reception.

(3) The county clerk must also endorse upon each instrument, paper, or notice the time when and the book and pages in which it is recorded and must thereafter deliver it upon request to the party leaving the same for record or to his order.

(4) If an instrument for which a statement of intent to record is provided for in 16-1-302 has been filed and deposited for recording within the 6-month period provided for in 7-4-302, the county clerk shall, in addition to MAY NOT RECORD THE INSTRUMENT UNLESS the information required by subsections (1) through (3) of this section, indicate on the instrument and on his records the time and date of filing AS WELL AS THE RECEIPTION NUMBER OR BOOK AND PAGE NUMBER of the statement OF INTENT ARE INCORPORATED IN THE INSTRUMENT. If the instrument is not deposited for recording during the 6-month period, the county clerk shall remove the statement of intent and any attached documents from the records and return this material to the person who filed it at the address indicated on the statement. THE STATEMENT OF INTENT

1 ~~IS VOID: THE PERSON WHO FILED THE STATEMENT OF INTENT MAY~~  
 2 ~~RELEASE THE STATEMENT WITHIN THE 6 MONTH PERIOD BY FILING~~  
 3 ~~WITH THE COUNTY CLERK A RELEASE THAT INEVOLVES THE TIME AND~~  
 4 ~~DATE OF FILING AS WELL AS THE RECEPTION NUMBER OR BOOK AND~~  
 5 ~~PAGE NUMBER OF THE STATEMENT"~~

6 SECTION 1. SECTION 7-4-2613, MCA, IS AMENDED TO READ:

7 "7-4-2613. Documents subject to recording. The county  
 8 clerk must, upon payment of his fees for the same, record,  
 9 photograph, or correctly copy, separately, in large and  
 10 well-bound or to be bound separate books, either in a fair  
 11 hand or by printing, typewriting, or photographic process or  
 12 by the use of prepared blank forms:

13 (1) deeds, grants, transfers, certified copies of  
 14 final judgments or decrees partitioning or affecting the  
 15 title or possession of real property any part of which is  
 16 situated in the county, contracts to sell or convey real  
 17 estate and mortgages of real estate, releases of mortgages,  
 18 powers of attorney to convey real estate, leases which have  
 19 been acknowledged or proved, and abstracts of such  
 20 instruments which have been acknowledged or proved;

21 (2) notices of buyer's interest in real property,  
 22 notwithstanding any other requirement of law or rule  
 23 relating to eligibility for recording of the deed, contract  
 24 for deeds, or other document relating to the notice of  
 25 buyer's interest;

1 (2)(3) certificates of births and deaths;  
 2 (3)(4) wills devising real estate admitted to probate;  
 3 (4)(5) official bonds;  
 4 (5)(6) transcripts of judgments which by law are made  
 5 liens upon real estate;  
 6 (6)(7) instruments describing or relating to the  
 7 individual property of married persons and sole trader  
 8 judgments;  
 9 (7)(8) all orders and decrees made by the district  
 10 court in probate matters affecting real estate and which are  
 11 required to be recorded;  
 12 (8)(9) notice of preemption claims;  
 13 (9)(10) notice and declaration of water rights;  
 14 (10)(11) assignments for the benefit of creditors;  
 15 (11)(12) affidavits of annual work done on mining  
 16 claims;  
 17 (12)(13) notices of mining locations and declaratory  
 18 statements;  
 19 (13)(14) estrays and lost property;  
 20 (14)(15) a book containing appraisalment of state lands;  
 21 (15)(16) such other writings as are required or  
 22 permitted by law to be recorded."

23 Section 2. Section 7-4-2619, MCA, is amended to read:

24 "7-4-2619. Indexes to recorded documents. Every county  
 25 clerk, as ex officio recorder, must keep:

1 (1) an index of deeds, grants and transfers, and  
 2 contracts to sell or convey real estate AND NOTICES OF  
 3 BUYER'S INTEREST IN REAL PROPERTY labeled "Grantors", with  
 4 each page divided into four columns headed, respectively:  
 5 "Names of grantors", "Names of grantees", "Date of deeds,  
 6 grants, transfers, or contracts, OR NOTICES", and "Where  
 7 recorded";

8 (2) an index of deeds AND NOTICES OF BUYER'S INTEREST  
 9 IN REAL PROPERTY labeled "Grantees", with each page divided  
 10 into four columns headed, respectively: "Names of grantees",  
 11 "Names of grantors", "Date of deeds, grants, transfers, or  
 12 contracts, OR NOTICES", and "Where recorded";

13 (3) an index of mortgages labeled "Mortgages of real  
 14 property", with the pages thereof divided into six columns  
 15 headed, respectively: "Names of mortgagors", "Names of  
 16 mortgagees", "Dates of mortgages", "Where recorded", "When  
 17 filed", and "When canceled";

18 (4) an index of mortgages labeled "Mortgages of real  
 19 property", with the pages thereof divided into six columns  
 20 headed, respectively: "Names of mortgagees", "Names of  
 21 mortgagors", "Date of mortgage", "Where recorded", "When  
 22 filed", and "When canceled";

23 (5) an index of mortgages labeled "Releases of  
 24 mortgages of real property--Mortgagees", with the pages  
 25 thereof divided into six columns headed, respectively:

1 "Parties whose mortgages are released", "Parties releasing",  
 2 "Date of release", "Where recorded", "Dates of mortgages  
 3 released", and "Where mortgages released are recorded";

4 (6) an index of powers of attorney labeled "Powers of  
 5 attorney", with each page divided into five columns headed,  
 6 respectively: "Names of parties executing powers", "To whom  
 7 powers are executed", "Date of powers", "Date of recording",  
 8 and "To whom powers are executed";

9 (7) an index of leases labeled "Leases", with each  
 10 page divided into four columns headed, respectively: "Names  
 11 of lessors", "Names of lessees", "Date of leases", and "When  
 12 and where recorded";

13 (8) an index of leases labeled "Lessees", with each  
 14 page divided into four columns headed, respectively: "Names  
 15 of lessees", "Names of lessors", "Date of leases", and "When  
 16 and where recorded";

17 (9) an index of marriage certificates labeled  
 18 "Marriage certificate--Men", with each page divided into six  
 19 columns headed, respectively: "Men married", "To whom  
 20 married", "When married", "By whom married", "Where  
 21 married", and "Where certificates are recorded";

22 (10) an index of marriage certificates labeled  
 23 "Marriage certificates--Women", with each page divided into  
 24 six columns headed, respectively: "Women married" (and under  
 25 this head placing the family names of the women), "To whom

1 married", "When married", "By whom married", "Where  
2 married", and "Where certificates are recorded";

3 (11) an index of assignments of mortgages and leases  
4 labeled "Assignments of mortgages and leases--Assignors",  
5 with each page divided into five columns headed,  
6 respectively: "Assignors", "Assignees", "Instruments  
7 assigned", "Date of assignment", and "When and where  
8 recorded";

9 (12) an index of assignments of mortgages and leases  
10 labeled "Assignments of mortgages and leases--Assignees",  
11 with each page divided into five columns headed,  
12 respectively: "Assignees", "Assignors", "Instruments", "Date  
13 of assignment", and "When and where recorded";

14 (13) an index of wills labeled "Wills", with each page  
15 divided into four columns headed, respectively: "Names of  
16 testators", "Date of will", "Date of probate", and "When and  
17 where recorded";

18 (14) an index of official bonds labeled "Official  
19 bonds", with each page divided into five columns headed,  
20 respectively: "Names of officers", "Names of offices", "Date  
21 of bond", "Amount of bond", and "When and where recorded";

22 (15) an index of notices of mechanics' liens labeled  
23 "Mechanics' liens", with each page divided into three  
24 columns headed, respectively: "Parties claiming liens",  
25 "Against whom claimed", and "Notices, when filed";

1 (16) an index to transcripts of judgments labeled  
2 "Transcripts of judgments", with each page divided into  
3 seven columns headed, respectively: "Judgment debtors",  
4 "Judgment creditors", "Amount of judgment", "Where  
5 recovered", "When recovered", "When transcript filed", and  
6 "When judgment satisfied";

7 (17) an index of attachments labeled "Attachments",  
8 with each page divided into six columns headed,  
9 respectively: "Parties against whom attachments are issued",  
10 "Parties issuing attachments", "Notices of attachments",  
11 "When filed", and "When attachments discharged";

12 (18) an index of notices of the pendency of actions  
13 labeled "Notices of actions", with each page divided into  
14 three columns headed, respectively: "Parties to actions",  
15 "Notices, when recorded", and "When filed";

16 (19) an index of certificates of sale of real estate  
17 sold under execution or under orders made in any judicial  
18 proceedings labeled "Certificates of sale", with each page  
19 divided into four columns headed, respectively: "Plaintiff",  
20 "Defendant", "Purchaser at sale", and "Date of sale";

21 (20) an index of the individual property of married  
22 persons and sole trader judgments labeled "Individual  
23 property of married persons and sole traders", with each  
24 page divided into five columns headed, respectively: "Names  
25 of married persons", "Names of their spouses", "Nature of

1 instruments recorded", "When recorded", and "Where  
2 recorded";

3 (21) an index to affidavits for annual work done on  
4 mining claims labeled "Annual work on mining claims",  
5 showing the name of the affiant, the name of the claim,  
6 where situated, and the year when the work was done;

7 (22) an index of mining claims and declaratory  
8 statements labeled "Notices of location of mining claims and  
9 declaratory statements", with each page divided into four  
10 columns headed, respectively: "Locators", "Name of claim",  
11 "Notice, when filed", and "Where recorded";

12 (23) an index to the register of births and deaths;

13 (24) an index to notices and declarations of water  
14 rights;

15 (25) an index to the "estrays and lost property book";

16 (26) an index to the record of assignments for the  
17 benefit of creditors, containing names of assignor and  
18 assignee, date and where recorded, and inventory, when  
19 filed;

20 (27) an index to financing statements as provided in  
21 Part 4 of the Uniform Commercial Code--Secured Transactions;

22 (28) an index to filed subdivision plats, containing  
23 number of lots, number of acres, filing date, and the  
24 location of the quarter section of each subdivision;

25 (29) an index to the book of maps and plats, which must

1 contain the name of the proprietor of the town, village, or  
2 addition platted and a general description of the same;

3 ~~(29) an index by grantors and an index by grantees of~~  
4 ~~statements to records as provided for in 7-4-2629 using the~~  
5 ~~attached instrument for the necessary information~~

6 (30) ~~(29)~~ a miscellaneous index, in which must be  
7 indexed papers not hereinbefore stated."

8 Section 3, Section 7-4-2629, 46A, is amended to read:

9 "7-4-2629--Details--relating--to--indexes--(1)--The  
10 county clerk may keep in the same volume any two or more of  
11 the indexes mentioned in 7-4-2619, but the several indexes  
12 must be kept distinct from each other, with the volumes  
13 distinctly marked on the outside in such way as to show off  
14 the indexes kept therein.

15 (2)--The names of the parties in the first column of  
16 the several indexes must be arranged in alphabetical order.  
17 When a conveyance is executed by a sheriff, the name of the  
18 sheriff and the party charged in the execution must both be  
19 inserted in the index. When an instrument is recorded to  
20 which an executor, administrator or trustee is a party, the  
21 name of such executor, administrator or trustee, together  
22 with the name of the testator or intestate or party for whom  
23 the trust is held, must be inserted in the index."

24 (3)--The indexes for statements of intent to record may  
25 not contain an entry for a statement filed more than 6

1 months--previously--after--6--months--have--elapsed--from--the  
 2 recording--filing--date--of--a--statement--the--county--clerk--shall  
 3 delete--MARK--"VOID"--ON--the--corresponding--index--entries--if  
 4 within--THE--6--MONTH--PERIOD--A--RELEASE--IS--FILED--AS--PROVIDED--IN  
 5 7-4-2017--THE--COUNTY--CLERK--SHALL--NOTE--THE--RECEPTION  
 6 NUMBER--OR--BOOK--AND--PAGE--NUMBER--OF--THE--RELEASE--OF--THE  
 7 STATEMENT--OF--INTENT--ON--THE--CORRESPONDING--INDEX--ENTRIES"

8 Section--4v--Section--70-21-201v--MCAv--is--amended--to--read+  
 9 "70-21-201v--What--may--be--recorded-----recording--copy--in  
 10 another--county-----(1)--Any--instrument--or--judgment--affecting  
 11 the--title--to--or--possession--of--real--property--may--be--recorded  
 12 under--this--partv

13 (2)--A--statement--of--intent--to--record--provided--for--in  
 14 7-3-302v--may--be--recorded--FILED--under--this--partv

15 (2)(2)--When--any--instrument--or--judgment--affecting--the  
 16 title--to--or--possession--of--real--property--situated--in--more  
 17 than--one--county--in--this--state--has--been--recorded--in--either--of  
 18 such--countiesv--a--copy--thereofv--certified--to--by--the--county  
 19 clerk--of--the--county--in--which--it--has--been--recordedv--may--be  
 20 recorded--in--any--other--county--in--this--state--wherein--any  
 21 portion--of--the--real--property--affected--by--such--instrument--or  
 22 judgment--is--situatedv--and--such--records--will--have--the--same  
 23 effect--as--if--the--original--instrument--or--judgment--had--been--so  
 24 recordedv"

25 Section--5v--Section--70-21-302v--MCAv--is--amended--to--read+

1 "70-21-302v--Recording--as--constructive--notice-----effect  
 2 of--recording--copy--in--other--countyv--(1)--Every--conveyance--of  
 3 real--property--acknowledged--or--proved--and--certified--and  
 4 recorded--as--prescribed--by--law--from--the--time--it--is--filed  
 5 with--the--county--clerk--for--recordv--is--constructive--notice--of  
 6 the--contents--thereof--to--subsequent--purchasers--and  
 7 mortgageesv

8 (2)--A--certified--copy--of--any--such--recorded--conveyance  
 9 may--be--recorded--in--any--other--countyv--and--when--so--recorded  
 10 the--record--thereof--shall--have--the--same--force--and--effect--as  
 11 though--it--was--of--the--original--conveyancev

12 (2)--From--the--time--a--statement--of--intent--to--record--is  
 13 filed--with--the--county--clerk--for--recording--and--for--a--6--month  
 14 period--thereafterv--the--statement--is--constructive--notice--of  
 15 the--contents--thereof--to--subsequent--purchasers--and  
 16 mortgageesv--if--the--instrument--which--gave--rise--to--the  
 17 statement--is--recorded--within--the--6--month--periodv--then--for  
 18 purposes--of--constructive--noticev--THE--REGARDING--DATE--OF--the  
 19 instrument--is--considered--to--have--BE--the--same--recording--date  
 20 as--the--filing--DATE--OF--THE--statementv--if--the--instrument--is  
 21 recorded--after--the--6--month--periodv--then--the--recording--date  
 22 is--the--same--as--the--actual--date--of--recording--the--instrumentv"

23 Section--6v--Section--76-3-302v--MCAv--is--amended--to--read+

24 "76-3-302v--Restrictions--on--recording--instruments  
 25 relating--to--and--subject--to--surveying--requirementsv--(1)--The

1 county clerk and recorder of any county shall not record any  
 2 instrument which purports to transfer title to or possession  
 3 of a parcel or tract of land which is required to be  
 4 surveyed by this chapter unless the required certificate of  
 5 survey or subdivision plat has been filed with the clerk and  
 6 recorder and the instrument of transfer describes the parcel  
 7 or tract by reference to the filed certificate or plats

8 ~~It is if a person is unable to record an instrument~~  
 9 ~~because of the operation of subsection 11x the person may~~  
 10 ~~file a statement of intent to record the recorded filed~~  
 11 ~~statement serves as constructive notice for a 6-month period~~  
 12 ~~as provided in 10-21-302x the statement is subject to the~~  
 13 ~~requirements of title 10, chapter 21, part 2x the A COPY OF~~  
 14 ~~THE underlying instrument must be attached to the statement~~  
 15 ~~and clearly marked "THIS THE ORIGINAL OF THIS document may~~  
 16 ~~not be recorded because of operation of section 10-3-302 OR~~  
 17 ~~10-4-121x MEX and THIS COPY is attached only for purposes~~  
 18 ~~of constructive notice as provided in section 10-21-302x~~  
 19 ~~MEX" WHEN CONSTRUCTIVE NOTICE UNWITTINGLY BECOMES INVOLVED~~  
 20 ~~UPON THE FILING OF A RELEASE OF THE STATEMENT OF INTENT IS~~  
 21 ~~WHEN THIS COPY IS ATTACHED OR UPON THE EXPIRATION OF 6~~  
 22 ~~MONTHS FROM THE DATE OF FILING OF THE STATEMENT OF INTENT IS~~  
 23 ~~WHEN THIS COPY IS ATTACHED IF THE ORIGINAL IS NOT RECEIVED~~  
 24 ~~WITHIN THAT TIME No more than one statement may be filed~~  
 25 ~~for an instrument and no person may avoid the requirements~~

1 of this chapter by filing a series of successive  
 2 statements"

-End-

1 SENATE BILL NO. 250  
 2 INTRODUCED BY TURNAGE  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR--A  
 5 STATEMENT--OF--INTENT--TO--RECORD--FOR--INSTRUMENTS--WHICH--MAY--NOT  
 6 BE--RECORDED--BECAUSE--OF--OPERATION--OF--CERTAIN--SUBDIVISION  
 7 LAWS--ESTABLISHING--PROCEDURES--AND--A--6--MONTH--PERIOD--OF  
 8 CONSTRUCTING--NOTICE--AMENDING--SECTIONS--7-4-2617,--7-4-2619,  
 9 7-4-2620,--70-21-201,--70-21-302,--AND--76-3-302,--MCA, THAT A  
 10 NOTICE OF BUYER'S INTEREST IN REAL PROPERTY MAY BE RECORDED  
 11 WITH THE COUNTY CLERK AND RECORDER; AMENDING SECTIONS  
 12 7-4-2613 AND 7-4-2619, MCA."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 15 Section 13, Section 7-4-2617, MCA, is amended to read  
 16 "7-4-2617. Procedure to record documents--(1) When  
 17 any instrument, paper, or notice authorized by law to be  
 18 recorded is deposited for record in the office of the county  
 19 clerk, as ex officio recorder, and accompanied by the  
 20 required fee, he must endorse upon the same the time it was  
 21 received, noting the year, month, day, hour, and minute of  
 22 its reception, and the reception of the instrument must be  
 23 immediately entered in the county clerk and recorder's  
 24 reception book.  
 25 (2) The county clerk must record said instrument

1 without delay, together with the acknowledgment, proofs, and  
 2 certificates written upon or annexed to the same, and with  
 3 the plats, surveys, schedules, and other papers thereto  
 4 annexed, in the order and as of the time when the same was  
 5 received for record, and must note at the foot of the record  
 6 the exact time of its reception.  
 7 (3) The county clerk must also endorse upon each  
 8 instrument, paper, or notice the time when and the book and  
 9 pages in which it is recorded, and must thereafter deliver  
 10 it, upon request, to the party leaving the same for record  
 11 or to his order.  
 12 (4) If an instrument for which a statement of intent  
 13 to record, as provided for in 76-3-302, has been filed, is  
 14 deposited for recording within the 6-month period provided  
 15 for in 70-21-302, the county clerk shall, in addition to MAY  
 16 NOT RECORD THE INSTRUMENT UNLESS the information required by  
 17 subsections (1) through (3) of this section, indicate on the  
 18 instrument and on his records the time and date of filing,  
 19 AS WELL AS THE RECEIPTION NUMBER OR BOOK AND PAGE NUMBER, of  
 20 the statement OF INTENT ARE INCORPORATED IN THE INSTRUMENT,  
 21 if the instrument is not deposited for recording during the  
 22 6-month period, the county clerk shall remove the statement  
 23 of intent and any attached documents from the records and  
 24 return this material to the person who filed it at the  
 25 address indicated on the statement. THE STATEMENT OF INTENT

*Please insert in Original Ref. Copy*

1 ~~IS VOID BY THE PERSON WHO FILED THE STATEMENT OF INTENT MAY~~  
 2 ~~RELEASE THE STATEMENT WITHIN THE 6 MONTH PERIOD BY FILING~~  
 3 ~~WITH THE COUNTY CLERK A RELEASE THAT INCLUDES THE TIME AND~~  
 4 ~~DATE OF FILING, AS WELL AS THE RECEIPTION NUMBER OR BOOK AND~~  
 5 ~~PAGE NUMBER OF THE STATEMENT."~~

6 SECTION 1. SECTION 7-4-2613, MCA, IS AMENDED TO READ:

7 "7-4-2613. Documents subject to recording. The county  
 8 clerk must, upon payment of his fees for the same, record,  
 9 photograph, or correctly copy, separately, in large and  
 10 well-bound or to be bound separate books, either in a fair  
 11 hand or by printing, typewriting, or photographic process or  
 12 by the use of prepared blank forms:

13 (1) deeds, grants, transfers, certified copies of  
 14 final judgments or decrees partitioning or affecting the  
 15 title or possession of real property any part of which is  
 16 situated in the county, contracts to sell or convey real  
 17 estate and mortgages of real estate, releases of mortgages,  
 18 powers of attorney to convey real estate, leases which have  
 19 been acknowledged or proved, and abstracts of such  
 20 instruments which have been acknowledged or proved;

21 (2) notices of buyer's interest in real property,  
 22 notwithstanding any other requirement of law or rule  
 23 relating to eligibility for recording of the deed, contract  
 24 for deed, or other document relating to the notice of  
 25 buyer's interest; HOWEVER, IF THE INSTRUMENT OF CONVEYANCE

1 UNDERLYING A NOTICE OF BUYER'S INTEREST WOULD BE  
 2 UNRECORDABLE THE CLERK AND RECORDER SHALL NOTIFY THE BUYER  
 3 BY CERTIFIED MAIL THAT THE UNDERLYING INSTRUMENT IS  
 4 UNRECORDABLE AND MAY BE VOID.

5 ~~(3)~~ certificates of births and deaths;

6 ~~(4)~~ wills devising real estate admitted to probate;

7 ~~(5)~~ official bonds;

8 ~~(6)~~ transcripts of judgments which by law are made  
 9 liens upon real estate;

10 ~~(7)~~ instruments describing or relating to the  
 11 individual property of married persons and sole trader  
 12 judgments;

13 ~~(8)~~ all orders and decrees made by the district  
 14 court in probate matters affecting real estate and which are  
 15 required to be recorded;

16 ~~(9)~~ notice of preemption claims;

17 ~~(10)~~ notice and declaration of water rights;

18 ~~(11)~~ assignments for the benefit of creditors;

19 ~~(12)~~ affidavits of annual work done on mining  
 20 claims;

21 ~~(13)~~ notices of mining locations and declaratory  
 22 statements;

23 ~~(14)~~ estrays and lost property;

24 ~~(15)~~ a book containing appraisalment of state lands;

25 ~~(16)~~ such other writings as are required or

March 16, 1979

HOUSE OF REPRESENTATIVES

Judiciary Committee amendments to SENATE BILL NO. 250,  
third reading copy, as follows:

1. Title, lines 4 through 9.

Following: "TO PROVIDE"

Strike: remainder of line 4 through line 9 in their entirety

Insert: "THAT A NOTICE OF BUYER'S INTEREST IN REAL PROPERTY MAY BE  
RECORDED WITH THE COUNTY CLERK AND RECORDER; AMENDING SECTIONS  
7-4-2613 AND 7-4-2619, MCA."

2. Page 1, line 12 through line 2, page 3.

Following: "Section 1."

Strike: remainder of line 12 through line 2, page 3 in their entirety

Insert: "SECTION 7-4-2613, MCA, IS AMENDED TO READ:

"7-4-2613. Documents subject to recording. The county clerk must, upon payment of his fees for the same, record, photograph, or correctly copy, separately, in large and well-bound or to be bound separate books, either in a fair hand or by printing, typewriting, or photographic process or by the use of prepared blank forms:

(1) deeds, grants, transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property any part of which is situated in the county, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, leases which have been acknowledged or proved, and abstracts of such instruments which have been acknowledged or proved;

(2) notices of buyer's interest in real property, notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the notice of buyer's interest;

~~(2)~~ (3) certificates of births and deaths;  
~~(3)~~ (4) wills devising real estate admitted to probate;  
~~(4)~~ (5) official bonds;  
~~(5)~~ (6) transcripts of judgments which by law are made liens upon real estate;

~~(6)~~ (7) instruments describing or relating to the individual property of married persons and sole trader judgments;

~~(7)~~ (8) all orders and decrees made by the district court in probate matters affecting real estate and which are required to be recorded;

~~(8)~~ (9) notice of preemption claims;  
~~(9)~~ (10) notice and declaration of water rights;  
~~(10)~~ (11) assignments for the benefit of creditors;  
~~(11)~~ (12) affidavits of annual work done on mining claims;  
~~(12)~~ (13) notices of maining locations and declaratory statements;  
~~(13)~~ (14) estrays and lost property;  
~~(14)~~ (15) a book containing appraisement of state lands;  
~~(15)~~ (16) such other writings as are required or permitted by law to be recorded."

SENATE BILL NO. 250

Page 2

3. Page 3, line 7.

Following: "estate"

Insert: "and notices of buyer's interest in real property"

4. Page 3, line 10.

Following: "transfers,"

Strike: "or"

Following: "contracts"

Insert: ", or notices"

5. Page 3, line 12.

Following: "deeds"

Insert: "and notices of buyer's interest in real property"

6. Page 3, line 15.

Following: "transfers,"

Strike: "or"

Following: "contracts"

Insert: ", or notices"

7. Page 8, lines 6 through 8.

Strike: subsection (30) in its entirety

Renumber: subsequent subsection

8. Page 8, line 11 through line 5, page 12.

Strike: line 11, page 8 through line 5, page 12 in their entirety