

Senate Bill 290

In The Senate

January 27, 1981	Introduced and referred to Committee on Judiciary.
February 18, 1981	Committee recommend bill do pass.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Motion pass consideration.
February 21, 1981	Second reading pass consideration.
	On motion taken from second reading and referred to Committee on Highways and Transportation. Motion adopted.
April 23, 1981	Died in Committee.

1 *Scott* BILL NO. *290*  
2 INTRODUCED BY *Hayes*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE A COUNTY  
5 CLERK AND RECORDER TO REFUSE TO RECEIVE AND RECORD AN  
6 ILLEGIBLE DOCUMENT; AMENDING SECTIONS 7-4-2617, 7-4-2618,  
7 AND 7-4-2623, MCA."

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

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

11 "7-4-2617. Procedure to record documents. (1) When any  
12 instrument, paper, or notice authorized by law to be  
13 recorded is deposited for record in the office of the county  
14 clerk, as ex officio recorder, and accompanied by the  
15 required fee, he must endorse upon the same the time it was  
16 received, noting the year, month, day, hour, and minute of  
17 its reception, and the reception of the instrument must be  
18 immediately entered in the county clerk and recorder's  
19 reception book except as provided in 7-4-2618.

20 (2) The county clerk must record said instrument  
21 without delay, together with the acknowledgment, proofs, and  
22 certificates written upon or annexed to the same and with  
23 the plats, surveys, schedule, and other papers thereto  
24 annexed, in the order and as of the time when the same was  
25 received for record and must note at the foot of the record

1 the exact time of its reception.

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

7 Section 2. Section 7-4-2618, MCA, is amended to read:

8 "7-4-2618. Addresses required to record certain  
9 documents. (1) The county clerk shall not receive for  
10 recording any deed, mortgage, or assignment of mortgage  
11 unless the post-office current mailing address of the  
12 grantee, mortgagee, or assignee of the mortgagee, as the  
13 case may be, is contained therein. This requirement shall  
14 not affect the validity of the record of any instrument  
15 which has been or may be recorded.

16 (2) The county clerk and recorder may, in his  
17 discretion, refuse to receive for recording any instrument,  
18 paper, or notice authorized by law to be recorded that is  
19 illegible, unreproducible, or unreadable in any material  
20 particular. Upon refusing to receive an instrument for lack  
21 of legibility or readability, the county clerk and recorder  
22 must state with particularity the reasons for such refusal.  
23 The refusal to receive any such instrument does not affect  
24 the validity of the record of any instrument that has been  
25 recorded."

1 Section 3. Section 7-4-2623, MCA, is amended to read:  
 2 \*7-4-2623. Liability of clerk relating to duties as  
 3 recorder. A county clerk is liable to the party aggrieved  
 4 for three times the amount of the damages which may be  
 5 occasioned thereby and is punishable as provided in this  
 6 code if the county clerk, as ex officio recorder to whom an  
 7 instrument, proved or acknowledged according to law, or any  
 8 paper or notice which may be recorded by law is delivered  
 9 for record:

10 (1) neglects or refuses to record, other than on  
 11 stated grounds as provided in 7-4-2618, such instrument,  
 12 paper, or notice within reasonable time after receiving the  
 13 same;

14 (2) records any instruments, papers, or notices  
 15 untruly or in any other manner than as hereinbefore  
 16 directed;

17 (3) neglects or refuses to keep in his office such  
 18 indexes as are required by this part or to make the proper  
 19 entries therein;

20 (4) neglects or refuses to make the searches and to  
 21 give the certificates required by this part or if such  
 22 searches or certificates are incomplete or defective when  
 23 such incompleteness or defect is due to his direct  
 24 responsibility particularly affecting the property in  
 25 respect to which it is requested;

1 (5) alters, changes, or obliterates any records  
 2 deposited in his office or inserts any new matter therein."

-End-

Approved by Committee  
on Judiciary

1 *Sen. Hagan* BILL NO. *290*  
2 INTRODUCED BY *Hagan*  
3 \_\_\_\_\_

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE A COUNTY  
5 CLERK AND RECORDER TO REFUSE TO RECEIVE AND RECORD AN  
6 ILLEGIBLE DOCUMENT; AMENDING SECTIONS 7-4-2617, 7-4-2618,  
7 AND 7-4-2623, MCA."

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

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

11 "7-4-2617. Procedure to record documents. (1) When any  
12 instrument, paper, or notice authorized by law to be  
13 recorded is deposited for record in the office of the county  
14 clerk, as ex officio recorder, and accompanied by the  
15 required fee, he must endorse upon the same the time it was  
16 received, noting the year, month, day, hour, and minute of  
17 its reception, and the reception of the instrument must be  
18 immediately entered in the county clerk and recorder's  
19 reception book except as provided in 7-4-2618.

20 (2) The county clerk must record said instrument  
21 without delay, together with the acknowledgment, proofs, and  
22 certificates written upon or annexed to the same and with  
23 the plats, surveys, schedule, and other papers thereto  
24 annexed, in the order and as of the time when the same was  
25 received for record and must note at the foot of the record

1 the exact time of its reception.

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

7 Section 2. Section 7-4-2618, MCA, is amended to read:

8 "7-4-2618. Addresses required to record certain  
9 documents. 11 The county clerk shall not receive for  
10 recording any deed, mortgage, or assignment of mortgage  
11 unless the post-office current mailing address of the  
12 grantee, mortgagee, or assignee of the mortgagee, as the  
13 case may be, is contained therein. This requirement shall  
14 not affect the validity of the record of any instrument  
15 which has been or may be recorded.

16 (2) The county clerk and recorder may, in his  
17 discretion, refuse to receive for recording any instrument,  
18 paper, or notice authorized by law to be recorded that is  
19 illegible, unreproducible, or unreadable in any material  
20 particular. Upon refusing to receive an instrument for lack  
21 of legibility or readability, the county clerk and recorder  
22 must state with particularity the reasons for such refusal.  
23 The refusal to receive any such instrument does not affect  
24 the validity of the record of any instrument that has been  
25 recorded."

1 Section 3. Section 7-4-2623, MCA, is amended to read:

2 "7-4-2623. Liability of clerk relating to duties as  
3 recorder. A county clerk is liable to the party aggrieved  
4 for three times the amount of the damages which may be  
5 occasioned thereby and is punishable as provided in this  
6 code if the county clerk, as ex officio recorder to whom an  
7 instrument, proved or acknowledged according to law, or any  
8 paper or notice which may be recorded by law is delivered  
9 for record:

10 (1) neglects or refuses to record, other than on  
11 stated grounds as provided in 7-4-2618, such instrument,  
12 paper, or notice within reasonable time after receiving the  
13 same;

14 (2) records any instruments, papers, or notices  
15 untruly or in any other manner than as hereinbefore  
16 directed;

17 (3) neglects or refuses to keep in his office such  
18 indexes as are required by this part or to make the proper  
19 entries therein;

20 (4) neglects or refuses to make the searches and to  
21 give the certificates required by this part or if such  
22 searches or certificates are incomplete or defective when  
23 such incompleteness or defect is due to his direct  
24 responsibility particularly affecting the property in  
25 respect to which it is requested;

1 (5) alters, changes, or obliterates any records  
2 deposited in his office or inserts any new matter therein."

-End-