# SENATE BILL NO. 316

## INTRODUCED BY TOWE, TURNAGE

IN THE SENATE

January 29, 1981	Introduced and referred to Committee on Judiciary.
February 7, 1981	Committee recommend bill do pass as amended. Report adopted
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading, do pass.
February 11, 1981	Correctly engrossed.
February 12, 1981	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.
IN THE HOU	USE
February 13, 1981	Introduced and referred to Committee on Judiciary.
March 17, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in as amended. Ayes, 98; Noes, 1.
IN THE SEN	ATE
March 25, 1981	Returned from House with amendments.
April 1, 1981	On motion, consideration be passed for the day.

April 2, 1981

April 4, 1981

Second reading, amendments concurred in.

Third reading, amendments concurred in. Ayes, 47; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

Turnage 1 INTRODUCED BY 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COUNTY 4 CLERK TO RECORD A DOCUMENT TERMINATING THE INTEREST IN 5 6 JOINTLY HELD PROPERTY OF A DECEASED JOINT TENANT: AMENDING 7 SECTION 7-4-2613. MCA.\* 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 7-4-2613, MCA, is amended to read: 11 #7-4-2613. Documents subject to recording. The county 12 clerk must, upon payment of his fees for the same, record, 13 photograph, or correctly copy, separately, in large and 14 well-bound or to be bound separate books, either in a fair 15 hand or by printing, typewriting, or photographic process or 16 by the use of prepared blank forms: 17 (1) deeds, grants, transfers, certified copies of 18 final judgments or decrees partitioning or affecting the

19 title or possession of real property any part of which is 20 situated in the county, contracts to sell or convey real 21 estate and mortgages of real estate, releases of mortgages, 22 powers of attorney to convey real estate, leases which have 23 been acknowledged or proved, and abstracts of such 24 instruments which have been acknowledged or proved;

25 (2) notices of buyer's interest in real property.

1 notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract 2 3 for deed, or other document relating to the notice of buyer's interest; however, if the instrument of conveyance 4 5 underlying a notice of buyer's interest would be unrecordable the clerk and recorder shall notify the buyer 6 7 by certified mail that the underlying instrument is unrecordable and may be void: 8

9 (3)\_a\_document\_on\_a\_form\_provided\_by\_the\_department\_of 10 revenue\_certifying\_that\_a\_joint\_tenant\_in\_real\_property\_is 11 deceased\_and\_that\_bis\_interest\_in\_the\_joint\_property\_is 12 terminated.\_The\_document\_may\_be\_on\_the\_form\_used\_by\_the 13 department\_of\_revenue\_for\_responding\_to\_the\_application\_for 14 determination\_of\_inheritance\_or\_estate\_taxe\_It\_shall 15 containi 16 (a) a statement that the joint\_tenant\_has\_died\_and

16 (a) a statement that the joint tenant has died and
17 that his interest in the property is terminated:
18 (b) a certification by the county treasurer that the

19 inheritance or estate tax. if any tax was due, has been paid

- 20 or that no inheritance or estate tax was due:
- 21 (c) a description of the property:
- 22 (3)(4) certificates of births and deaths;
- 23 (4)(5) wills devising real estate admitted to probate;
- 24 <del>(5)(6)</del> official bonds;
- 25 (6)(1) transcripts of judgments which by law are made

-2- INTRODUCED BILL 58 3/6 1 liens upon real estate;

2 (7)(8) instruments describing or relating to the
3 individual property of married persons;

4 (0)(2) all orders and decrees made by the district
5 court in probate matters affecting real estate and which are
6 required to be recorded;

7 (9)(10) notice of preemption claims;

8 field(11) notice and declaration of water rights;

9 (11)(12) assignments for the benefit of creditors;

12 (13)(14) notices of mining locations and declaratory 13 statements;

15 (15)(16) a book containing appraisement of state lands;

16 (16)(17) such other writings as are required or

17 permitted by law to be recorded."

-End-

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### SB 0316/02

#### 47th Legislature

SB 0316/02

## Approved by Committee on Judiciary

SENATE BILL NO. 316 Introduced by Towe, Turnage

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COUNTY
CLERK TO RECORD A DOCUMENT TERMINATING THE INTEREST IN
JOINTLY HELD PROPERTY OF A DECEASED JOINT TENANT; AMENDING
SEEFIGN SECTIONS 7-4-2613 AND 72-16-503, MCA."

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

10 Section 1. Section 7-4-2613, MCA, is amended to read: 11 "7-4-2613. Documents subject to recording. The county 12 clerk must, upon payment of his fees for the same, record, 13 photograph, or correctly copy, separately, in large and 14 well-bound or to be bound separate books, either in a fair 15 hand or by printing, typewriting, or photographic process or 16 by the use of prepared blank forms:

(1) deeds, grants, transfers, certified copies of 17 18 final judgments or decrees partitioning or affecting the 19 title or possession of real property any part of which is 20 situated in the county, contracts to sell or convey real 21 estate and mortgages of real estate, releases of mortgages, 22 powers of attorney to convey real estate, leases which have 23 been acknowledged or proved, and abstracts of such 24 instruments which have been acknowledged or proved;

25 (2) notices of buyer's interest in real property.

1 notwithstanding any other requirement of law or rule 2 relating to eligibility for recording of the deed, contract 3 for deed, or other document relating to the notice of 4 buyer's interest; however, if the instrument of conveyance 5 underlying a notice of buyer's interest would be 6 unrecordable the clerk and recorder shall notify the buyer 7 by certified mail that the underlying instrument is В unrecordable and may be void;

9 (3) a document on a form provided by the department of 10 revenue certifying that a joint tenant in real property is 11 deceased and that his interest in the joint property is 12 terminated. The document may be on the form used by the 13 department of revenue for responding to the application for 14 <u>determination of inheritance or estate tax. It shall</u> 15 contain: 16 (a) a statement that the joint tenant has died and 17 that his interest in the property is terminated; 18 (b) a certification by the county treasurer that the 19 inheritance or estate tax, if any tax was due, has been paid 20 or that no inheritance or estate tax was due;

- 21 (c) a description of the property;
- 22 (3)(4) certificates of births and deaths;
- 23 (4)(5) wills devising real estate admitted to probate;
- 24 (5)(6) official bonds;
- 25 t6t[7] transcripts of judgments which by law are made

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#### SB 0316/02

liens upon real estate; +7+(B) instruments describing or relating to the individual property of married persons: (9) all orders and decrees made by the district court in probate matters affecting real estate and which are required to be recorded; +9)(10) notice of preemption claims; (10) notice and declaration of water rights; filtf(12) assignments for the benefit of creditors; (13) affidavits of annual work done on mining claims; (13)(14) notices of mining locations and declaratory statements; f14/(15) estrays and lost property; ft5f(l6) a book containing appraisement of state lands; fi6+(17) such other writings as are required or permitted by law to be recorded." SECTION 2. SECTION 72-16-503, MCA, IS AMENDED TO READ: "72-16-503. Additional filings required when real property involved and no representative -- release of lien. (1) If an interest in real property is involved under 72-16-502, the applicant shall file record with the clerk and recorder of each county in which the real property or any part thereof is located+ (a)--a-certified-copy-of-the-application-referred-to-in

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1	subsection-1211b1-of-72-16-5021
Z	(b)thecertificatefromthedepartment-of-revenue
3	determining-inheritance-tax+-if-any;
4	{c}the-receipt-from-the-county-treasurer-showingthe
5	inheritaneetaxhasbeen-paid a document containing those
6	matters required by 7-4-2613(3).
7	(2) The fiting recording of the documents under
8	subsection (1) constitutes release of any lien for

inheritance taxes."

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		1	notwithstanding any other requirement of law or rule
1	SENATE BILL NO. 316	2	relating to eligibility for recording of the deed, contract
2	INTRODUCED BY TOWE, TURNAGE	3	for deed, or other document relating to the notice of
3		4	buyer's interest; however, if the instrument of conveyance
4	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COUNTY	5	underlying a notice of buyer's interest would be
5	CLERK TO RECURD A DOCUMENT TERMINATING THE INTEREST IN	6	unrecordable the clerk and recorder shall notify the buyer
6	JOINTLY HELD PROPERTY OF A DECEASED JOINT TENANT; AMENDING	ד	by certified mail that the underlying instrument is
7	SECTIONS 7-4-2613 AND 72-10-503+ MCA+"	8	unrecordable and may be void;
8		9	(3) a document on a form provided by the department of
9	5E 11 ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	revenue certifying that a joint tenant in real property is
10	Section 1. Section 7-4-2613, MCA, is amended to read:	11	deceased and that his interest in the joint property is
11	"7-4-2613. Documents subject to recording. The county '	12	terminated. The document may be on the form used by the
12	clerk must, upon payment of his fees for the same, record,	13	<u>department of revenue for responding to the application for</u>
13	photograph, or correctly copy, separately, in large and	14	determination of inheritance or estate tax. It shall
14	well-bound or to be bound separate books, either in a fair	15	<u>contain:</u>
15	hand or by printing, typewriting, or photographic process or	16	(a) a statement that the joint tenant has died and
16	by the use of prepared blank forms:	17	<u>that his interest in the property is terminated;</u>
17	(1) deeds, grants, transfers, certified copies of	18	(b) a certification by the county treasurer that the
18	final judgments or decrees partitioning or affecting the	19	inheritance or estate tax, if any tax was due, has been paid
19	title or possession of real property any part of which is	20	<u>or that no inheritance or estate tax was due;</u>
20	situated in the county, contracts to sell or convey real	21	<pre>(c) a description of the property;</pre>
21	estate and mortgages of real estate, releases of mortgages,	22	<pre>t3+(4) certificates of births and deaths;</pre>
22	powers of attorney to convey real estate, leases which have	23	$\frac{1}{100}$ wills devising real estate admitted to probate;
23	peen acknowledged or proved, and abstracts of such	24	(5)(6) official bonds;
24	instruments which have been acknowledged or proved;	25	transcripts of judgments which by law are made
25	(2) notices of buyer's interest in real property,		

- icial bonds;
- nscripts of judgments which by law are made

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THIRD READING

## SB 0316/02

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1 liens upon real estate; 2 (7)(8) instruments describing or relating to the 3 individual property of married persons; 4 t8+[9] all orders and decrees made by the district 5 court in probate matters affecting real estate and which are required to be recorded: 6 7 (9)(10) notice of preemption claims; 8 tt0till notice and declaration of water rights; 9 fit(12) assignments for the benefit of creditors; 10 11 claims; 12 (13)(14) notices of mining locations and declaratory 13 statements; 14 ft4+(15) estrays and lost property; 15 {15;(16) a book containing appraisement of state lands; 16 (16)(17) such other writings as are required or 17 permitted by law to be recorded." 18 SECTION 2. SECTION 72-16-503, MCA. IS AMENDED TO READ: 19 \*72-16-503. Additional filings required when real 20 property involved and no representative -- release of lien. 21 (1) If an interest in real property is involved under 22 72-16-502, the applicant shall file record with the clerk 23 and recorder of each county in which the real property or 24 any part thereof is located+ 25 (a)--a-certified-copy-of-the-application-referred-to-in

1 subsection-t2)tb)-of-72-t6-502t 2 tb)--the--certificate--from--the--department-of-revenue 3 determining-inheritonce-taxv-if-onyt 4 tc)--the-receipt-from-the-county-treasurer-showing--the 5 inheritance--tax--has--been-paid a document containing those 6 matters required by 7:4:2613(3). 7 (2) The fifting recording of the documents under

subsection (1) constitutes release of any lien for inheritance taxes."

-End-

1 SENATE BILL NO. 316 2 INTRODUCED BY TOWE, TURNAGE 3 A SILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COUNTY 4 5 CLERK TO RECORD A DOCUMENT TERMINATING THE-INTEREST-IN JOINTLY-HELO-PROPERTY-OF-A-DECEASED-JOINT--TENANT INTERESTS 6 7 NOT REQUIREING PROBATE WHEN THE TERMINATION RESULTS FROM THE 8 DEATH OF THE PERSON HOLDING THE INTEREST; AMENDING SECTION 9 SECTIONS 7-4-2613 AND 72-16-503, MCA." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. 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:

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

1 instruments which have been acknowledged or proved;

2 (2) notices of buyer's interest in real property. 3 notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract 4 for deed, or other document relating to the notice of 5 6 buyer's interest; however, if the instrument of conveyance 7 underlying a notice of buyer's interest would be unrecordable the clerk and recorder shall notify the buyer by certified mail that the underlying instrument is q 10 unrecordable and may be void;

11 [3] a document on a form provided by the department of 12 revenue certifying that a--joint--tenant THE\_HOLDER\_OF\_A 13 NONPROBATE INTEREST in real property is deceased and that 14 his\_interest in-the--joint-property is terminated. A 15 NONPROBATE INTEREST IN REAL PROPERTY IS A JOINT TENANCY 16 INTEREST, A LIFE ESTATE INTEREST, OR ANY OTHER INTEREST NOT 17 REQUIRING PROBATE. The document may be on the form used by 18 the department of revenue for responding to the \_application 19 for determination of inheritance or estate tax. It shall 20 contain: 21 (a) a statement that the joint-tenant HOLDER OF THE 22 NONPROBATE INTEREST has died and that his interest in the 23 property is terminated; 24 (b) a certification by the county treasurer that the 25 inheritance or estate tax, if any tax was due, has been paid

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REFERENCE BILL

## SB 0316/03

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L	<u>or that no inheritance or estate tax was due;</u>
2	(c) a description of the property;
3	(3) (4) certificates of births and deaths;
4	<pre>f47(5) wills devising real estate admitted to probate;</pre>
5	<del>(5)<u>(6)</u> official bonds;</del>
6	<del>f67<u>(7)</u> transcripts of judgments which by law are made</del>
7	liens upon real estate;
8	<del>†7)<u>(8)</u> instruments describing or relating to the</del>
9	individual property of married persons;
10	<pre>f8j(9) all orders and decrees made by the district</pre>
11	court in probate matters affecting real estate and which are
12	required to be recorded;
13	<pre>(10) notice of preemption claims;</pre>
14	<pre>tt0;[11] notice and declaration of water rights;</pre>
15	<pre>fit;[12] assignments for the benefit of creditors;</pre>
16	<del>[12][13]</del> affidavits of annual work done on mining
17	claims;
18	<del>(13)(14)</del> notices of mining locations and declaratory
19	statements;
20	<pre>ti4;(15) estrays and lost property;</pre>
21	<pre>t45+(16) a book containing appraisement of state lands;</pre>
22	<del>{16}[<u>17]</u> such other writings as are required or</del>
23	permitted by law to be recorded."
24	SECTION 2. SECTION 72-16-503, MCA, IS AMENDED TO READ:
25	"72-16-503. Additional filings required when real

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1	property involved and no representative release of lien.
z	<ol> <li>If an interest in real property is involved under</li> </ol>
3	72-16-502, the applicant shall <del>file <u>record</u> with the clerk</del>
4	and recorder of each county in which the real property or
5	any part thereof is located:
6	tala-certified-copy-of-the-application-referred-ta-in
7	subsection-{2}{b}-of-72-16-502+
8	{b}the-certificate-fromthedepartmentofrevenue
9	determining-inheritance-taxy-if-anyt
10	{c}thereceipt-from-the-county-treasurer-showing-the
11	inheritance-tax-has-been-paid <u>a document containing those</u>
12	matters required by 7-4-2613[3].
13	(2) The filing recording of the documents under
14	subsection (1) constitutes release of any lien for
15	inheritance taxes."

-End-

SB 0316/03

HOUSE JUDICIARY COMMITTEE

March 14, 1981

AMENDMENT TO SENATE BILL 316

1. Title, line 5. Following: "TERMINATING" Strike: "THE INTEREST IN JOINTLY HELD PROPERTY OF A DECEASED JOINT TENANT" Insert: "INTERESTS NOT REQUIRING PROBATE WHEN THE TERMINATION RESULTS FROM THE DEATH OF THE PERSON HOLDING THE INTEREST" 2. Page 2, line 10.
Following: <u>"that"</u>
Strike: <u>a joint tenant</u>" Insert: "the holder of a nonprobate interest" 3. Page 2, line ll. Following: "interest" Strike: "in the joint property" 4. Page 2, line 12. Following: "terminated." Insert: "A nonprobate interest in real property is a joint tenancy interest, a life estate interest, or any other interest not requiring probate." 5. Page 2, line 16. Following: "<u>that the</u>" Strike: "joint\_tenant" Insert: "holder of the nonprobate interest"