

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 HOUSE

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 SENATE

March 25, 1981	Returned from House with amendments.
April 1, 1981	On motion, consideration be passed for the day.

April 2, 1981

Second reading, amendments
concurrent in.

April 4, 1981

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

Sent to enrolling.

Reported correctly enrolled.

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Sen. Turner BILL NO. 316
Sen. Turner

INTRODUCED BY _____

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 SECTION 7-4-2613, MCA."

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:

(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,

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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; however, if the instrument of conveyance 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 unrecordable and may be void;

~~(3) a document on a form provided by the department of revenue certifying that a joint tenant in real property is deceased and that his interest in the joint property is terminated. The document may be on the form used by the department of revenue for responding to the application for determination of inheritance or estate tax. It shall contain:~~

~~(a) a statement that the joint tenant has died and that his interest in the property is terminated;~~

~~(b) a certification by the county treasurer that the inheritance or estate tax, if any tax was due, has been paid or that no inheritance or estate tax was due;~~

~~(c) a description of the property;~~

~~(4) certificates of births and deaths;~~

~~(5) wills devising real estate admitted to probate;~~

~~(6) official bonds;~~

~~(7) transcripts of judgments which by law are made~~

1 liens upon real estate;
2 †7†(8) instruments describing or relating to the
3 individual property of married persons;
4 †8†(9) 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 †10†(11) notice and declaration of water rights;
9 †11†(12) assignments for the benefit of creditors;
10 †12†(13) affidavits of annual work done on mining
11 claims;
12 †13†(14) notices of mining locations and declaratory
13 statements;
14 †14†(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."

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 316

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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 SEEFION SECTIONS 7-4-2613 AND 72-16-503, MCA."

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(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; however, if the instrument of conveyance 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 unrecordable and may be void;

(3) a document on a form provided by the department of revenue certifying that a joint tenant in real property is deceased and that his interest in the joint property is terminated. The document may be on the form used by the department of revenue for responding to the application for determination of inheritance or estate tax. It shall contain:

(a) a statement that the joint tenant has died and that his interest in the property is terminated;

(b) a certification by the county treasurer that the inheritance or estate tax, if any tax was due, has been paid or that no inheritance or estate tax was due;

(c) a description of the property;

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~~(5)~~ (6) official bonds;

~~(6)~~ (7) transcripts of judgments which by law are made

1 liens upon real estate;

2 ~~(7)~~(8) instruments describing or relating to the

3 individual property of married persons;

4 ~~(8)~~(9) 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 ~~(10)~~(11) notice and declaration of water rights;

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

10 ~~(12)~~(13) affidavits of annual work done on mining

11 claims;

12 ~~(13)~~(14) notices of mining locations and declaratory

13 statements;

14 ~~(14)~~(15) estrays and lost property;

15 ~~(15)~~(16) a book containing appraisal 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 (2)(b) of 72-16-502~~

2 ~~(b) -- the certificate from the department of revenue~~

3 ~~determining inheritance tax if any~~

4 ~~(c) -- 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 following recording of the documents under

8 subsection (1) constitutes release of any lien for

9 inheritance taxes."

-End-

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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 SECTION SECTIONS 7-4-2613 AND 72-16-503, MCA."

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(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; however, if the instrument of conveyance 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 unrecordable and may be void;

(3) a document on a form provided by the department of revenue certifying that a joint tenant in real property is deceased and that his interest in the joint property is terminated. The document may be on the form used by the department of revenue for responding to the application for determination of inheritance or estate tax. It shall contain:

(a) a statement that the joint tenant has died and that his interest in the property is terminated;

(b) a certification by the county treasurer that the inheritance or estate tax, if any tax was due, has been paid or that no inheritance or estate tax was due;

(c) a description of the property;

~~f3~~(4) certificates of births and deaths;

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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 ~~(8)~~(9) 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 ~~(10)~~(11) notice and declaration of water rights;
 9 ~~(11)~~(12) assignments for the benefit of creditors;
 10 ~~(12)~~(13) affidavits of annual work done on mining
 11 claims;
 12 ~~(13)~~(14) notices of mining locations and declaratory
 13 statements;
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 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-(2)(b)-of-72-16-502+~~
 2 ~~(b)--the--certificate--from--the--department-of-revenue~~
 3 ~~determining-inheritance-tax--if-any+~~
 4 ~~(c)--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 ~~fitting~~ recording of the documents under
 8 subsection (1) constitutes release of any lien for
 9 inheritance taxes."

-End-

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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~~ INTERESTS NOT REQUIRING PROBATE WHEN THE TERMINATION RESULTS FROM THE DEATH OF THE PERSON HOLDING THE INTEREST; AMENDING ~~SECTION~~ SECTIONS 7-4-2613 AND 72-16-503, MCA."

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Section 1. Section 7-4-2613, MCA, is amended to read:

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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; however, if the instrument of conveyance 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 unrecordable and may be void;

(3) a document on a form provided by the department of revenue certifying that a ~~joint-tenant~~ THE HOLDER OF A NONPROBATE INTEREST in real property is deceased and that his interest in ~~the joint-property~~ is terminated. A NONPROBATE INTEREST IN REAL PROPERTY IS A JOINT TENANCY INTEREST, A LIFE ESTATE INTEREST, OR ANY OTHER INTEREST NOT REQUIRING PROBATE. The document may be on the form used by the department of revenue for responding to the application for determination of inheritance or estate tax. It shall contain:

(a) a statement that the ~~joint-tenant~~ HOLDER OF THE NONPROBATE INTEREST has died and that his interest in the property is terminated;

(b) a certification by the county treasurer that the inheritance or estate tax, if any tax was due, has been paid

1 or that no inheritance or estate tax was due;
 2 (C) a description of the property;
 3 ~~(3)~~(4) certificates of births and deaths;
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 4 and recorder of each county in which the real property or
 5 any part thereof is located*
 6 ~~(a) -- a certified copy of the application referred to in~~
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 13 (2) The fitting recording of the documents under
 14 subsection (1) constitutes release of any lien for
 15 inheritance taxes."

-End-

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: "that"

Strike: "a joint tenant"

Insert: "the holder of a nonprobate interest"

3. Page 2, line 11.

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: "that the"

Strike: "joint tenant"

Insert: "holder of the nonprobate interest"