

SENATE BILL NO. 16
INTRODUCED BY HALLIGAN
BY REQUEST OF THE INTERIM SUBCOMMITTEE ON LIEN LAWS

IN THE SENATE

JANUARY 5, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 21, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 22, 1987 PRINTING REPORT.

JANUARY 24, 1987 SECOND READING, DO PASS.

JANUARY 26, 1987 ENGROSSING REPORT.

JANUARY 27, 1987 THIRD READING, PASSED.
TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

MARCH 3, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 4, 1987 SECOND READING, CONCURRED IN.

MARCH 5, 1987 THIRD READING, CONCURRED IN.
AYES, 90; NOES, 8.
RETURNED TO SENATE.

IN THE SENATE

MARCH 6, 1987 RECEIVED FROM HOUSE.
SENT TO ENROLLING.

1 SENATE BILL NO. 16
 2 INTRODUCED BY HALLIGAN
 3 BY REQUEST OF THE INTERIM SUBCOMMITTEE ON LIEN LAWS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING NOTICE TO THE
 6 OWNER OR PERSON WHO CONTRACTED FOR THE SERVICES OR MATERIALS
 7 PRIOR TO A SHERIFF'S SALE OF PROPERTY SOLD TO ENFORCE AN
 8 AGISTER'S LIEN OR LIEN FOR SERVICES; AND AMENDING SECTION
 9 71-3-1203, MCA."

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

12 Section 1. Section 71-3-1203, MCA, is amended to read:
 13 "71-3-1203. Enforcement of lien -- sale. If payment
 14 for such work, labor, feed, or services or material
 15 furnished is not made within 30 days after the performance
 16 or furnishing of the same, the person entitled to a lien
 17 under the provisions of this section part may enforce said
 18 lien in the following manner:

19 (1) He shall deliver to the sheriff or a constable of
 20 the county in which the property is located ~~a--statement~~ an
 21 affidavit of the amount of his claim against said property,
 22 a description of the property, and the name of the owner
 23 thereof or of the person at whose request the work, labor,
 24 or services were performed or the materials furnished.

25 (2) Upon receipt of such statement affidavit, the

1 sheriff or constable shall proceed to advertise and sell at
 2 public auction so much of the property covered by said lien
 3 as will satisfy same.

4 (3) Such sale shall be advertised, conducted, and held
 5 in the same manner as provided by law for the sale of
 6 mortgaged personal property by sheriffs. ~~Such--notice--shall~~
 7 Public notice of the sale must be given for not less than 5
 8 or more than 10 days prior to the date of sale.

9 (4) Before the sheriff or constable sells the property
 10 at public auction, he shall give notice of the sale to the
 11 owner or person at whose request the work, labor, or
 12 services were performed or the materials furnished.

13 (a) Notice to the owner must be given at least 10 days
 14 before the sale in the manner most reasonably calculated to
 15 apprise the owner or person who contracted for the services
 16 or materials of the sale.

17 (b) The notice must state:

18 (i) the time and place of the sale;

19 (ii) the amount of the claim against the property;

20 (iii) a description of the property;

21 (iv) the name of the owner or person who contracted for
 22 the services or materials; and

23 (v) the name of the person claiming the lien.

24 (c) The notice may be given by personal service or by
 25 mailing by certified mail a copy of the notice to the

1 last-known post office address of the owner or person who
2 contracted for the services or materials.

3 (d) If the sheriff or constable is not able to effect
4 personal service or service by mail because the location and
5 mailing address of the owner or person who contracted for
6 the services or materials are unknown, the sheriff or
7 constable may give notice by posting notice of the sale in
8 three public places in the county in which the property is
9 located.

10 †4)5) The proceeds of the sale shall be applied by
11 the sheriff to the discharge of the lien and the cost of the
12 proceedings in selling the property and enforcing the lien,
13 and the remainder, if any, or such part as is required to
14 discharge the claims, shall be turned over by the sheriff to
15 the holders, in the order of their precedence, of the
16 chattel mortgages or other lien claimants of record against
17 said property, and the balance of the proceeds shall be
18 turned over to the owner of the property.

19 †5)6) However, before making seizure of any property
20 under the provisions of this section, the sheriff may
21 require an indemnity bond from the lienor in not to exceed
22 double the amount of the claim against said property, said
23 bond and the surety or sureties thereon to be approved by
24 said sheriff."

-End-

APPROVED BY COMMITTEE
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25 (2) Upon receipt of such statement affidavit, the

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4 (3) Such sale shall be advertised, conducted, and held
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7 Public notice of the sale must be given for not less than 5
8 or more than 10 days prior to the date of sale.

9 (4) Before the sheriff or constable sells the property
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14 before the sale in-the-manner-most-reasonably-calculated--to
15 apprise--the-owner-or-person-who-contracted-for-the-services
16 or-materials-of-the-sale.

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