SENATE BILL NO. 16

INTRODUCED BY HALLIGAN

BY REQUEST OF THE INTERIM SUBCOMMITTEE ON LIEN LAWS

IN THE SENATE

	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
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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."
.0	
.1	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
. 2	Section 1. Section 71-3-1203, MCA, is amended to read:
L 3	"71-3-1203. Enforcement of lien sale. If payment
L 4	for such work, labor, feed, or services or material
15	furnished is not made within 30 days after the performance
.6	or furnishing of the same, the person entitled to a lien
.7	under the provisions of this section part may enforce said
.8	lien in the following manner:
9	(1) He shall deliver to the sheriff or a constable of
20	the county in which the property is located astatement an
21	affidavit of the amount of his claim against said property,
2	a description of the property, and the name of the owner
23	thereof er 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. Suchnoticeshall
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

mailing by certified mail a copy of the notice to the

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

- (d) If the sheriff or constable is not able to effect personal service or service by mail because the location and mailing address of the owner or person who contracted for the services or materials are unknown, the sheriff or constable may give notice by posting notice of the sale in three public places in the county in which the property is located.
 - t4)(5) The proceeds of the sale shall be applied by the sheriff to the discharge of the lien and the cost of the proceedings in selling the property and enforcing the lien, and the remainder, if any, or such part as is required to discharge the claims, shall be turned over by the sheriff to the holders, in the order of their precedence, of the chattel mortgages or other lien claimants of record against said property, and the balance of the proceeds shall be turned over to the owner of the property.
- t5†(6) However, before making seizure of any property under the provisions of this section, the sheriff may require an indemnity bond from the lienor in not to exceed double the amount of the claim against said property, said bond and the surety or sureties thereon to be approved by said sheriff."

APPROVED BY COMMITTEE ON JUDICIARY

3	BE REQUEST OF THE INTERIM SUBCOMMITTEE ON LIEN LAWS
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public auction so much of the property covered by said lie
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apprisethe-owner-or-person-who-contracted-for-the-service
or-materials-of-the-sale.
(b) The notice must state:
(i) the time and place of the sale;
(ii) the amount of the claim against the property;
(iii) a description of the property;
(iii) a description of the property;
(iii) a description of the property; (iv) the name of the owner or person who contracted for
<pre>(iii) a description of the property; (iv) the name of the owner or person who contracted for the services or materials; and</pre>

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.
- d) If the sheriff or constable is not able to effect

 personal service or service by mail because the location and

 mailing address of the owner or person who contracted for

 the services or materials are unknown, the sheriff or

 constable may give notice by posting notice of the sale in

 three public places in the county in which the property is

 located.

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- the sheriff to the discharge of the lien and the cost of the proceedings in selling the property and enforcing the lien, and the remainder, if any, or such part as is required to discharge the claims, shall be turned over by the sheriff to the holders, in the order of their precedence, of the chattel mortgages or other lien claimants of record against said property, and the balance of the proceeds shall be 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."

50th Legislature SB 0016/02

1 SENATE BILL NO. 16 2 INTRODUCED BY HALLIGAN BY REQUEST OF THE INTERIM SUBCOMMITTEE ON LIEN LAWS 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING NOTICE TO THE OWNER OR PERSON WHO CONTRACTED FOR THE SERVICES OR MATERIALS PRIOR TO A SHERIFF'S SALE OF PROPERTY SOLD TO ENFORCE AN 7 AGISTER'S LIEN OR LIEN FOR SERVICES: AND AMENDING SECTION 71-3-1203, MCA." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 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 or furnishing of the same, the person entitled to a lien 16 under the provisions of this section part may enforce said 17 18 lien in the following manner: 19

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

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(2) Upon receipt of such statement affidavit, the

sheriff or constable shall proceed to advertise and sel	l at
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- (3) Such sale shall be advertised, conducted, and held in the same manner as provided by law for the sale of mortgaged personal property by sheriffs. Such--notice--shall Public notice of the sale must be given for not less than 5 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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- 18 (i) the time and place of the sale;
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SB 0016/02

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

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- (d) If the sheriff or constable is not able to effect personal service or service by mail because the location and mailing address of the owner or person who contracted for the services or materials are unknown, the sheriff or constable may give notice by posting notice of the sale in three public places in the county in which the property is located.
- (4)(5) The proceeds of the sale shall be applied by the sheriff to the discharge of the lien and the cost of the proceedings in selling the property and enforcing the lien, and the remainder, if any, or such part as is required to discharge the claims, shall be turned over by the sheriff to the holders, in the order of their precedence, of the chattel mortgages or other lien claimants of record against said property, and the balance of the proceeds shall be turned over to the owner of the property.
- t5†(6) However, before making seizure of any property under the provisions of this section, the sheriff may require an indemnity bond from the lienor in not to exceed double the amount of the claim against said property, said bond and the surety or sureties thereon to be approved by said sheriff."

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