

SB 79

INTRODUCED BY HALLIGAN  
SMOKE DETECTORS IN HOMES SOLD OR TRANSFERRED

1/09	INTRODUCED		
1/09	REFERRED TO BUSINESS & INDUSTRY		
1/10	FISCAL NOTE REQUESTED		
1/15	FISCAL NOTE RECEIVED		
1/16	HEARING		
2/02	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/05	2ND READING PASS MOTION FAILED	21	25
2/05	2ND READING INDEFINITELY POSTPONE		
	MOTION FAILED	23	24
2/06	2ND READING PASS MOTION FAILED	21	28
2/06	2ND READING INDEFINITELY POSTPONED	30	19

1 Senate BILL NO. 79  
2 INTRODUCED BY Holligan

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION  
5 OF COMPLIANCE WITH THE STATE FIRE MARSHAL'S RULES ON SMOKE  
6 DETECTORS IN RESIDENCES UPON SALE OR TRANSFER OF OWNERSHIP  
7 OF A RESIDENCE OR DWELLING; AND AMENDING SECTIONS 61-3-207  
8 AND 70-21-201, MCA."

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

11 NEW SECTION. Section 1. Certification of smoke  
12 detectors in residences -- inspection of residence upon  
13 request -- prohibition of recording transfer without  
14 certificate. (1) Notwithstanding the single-family exclusion  
15 provision of 50-61-103(6), upon the sale or transfer of  
16 ownership of a residence or dwelling not otherwise required  
17 to have smoke detection equipment:

18 (a) the seller shall certify that the residence or  
19 dwelling complies with the state fire marshal's rules  
20 requiring smoke detectors in a residence or dwelling; or

21 (b) the seller may request a certificate of inspection  
22 of the smoke detection equipment in the residence or  
23 dwelling, and the state fire marshal or a person authorized  
24 under 50-61-114 shall issue the certificate if he finds upon  
25 inspection that the residence or dwelling complies with the

1 state fire marshal's rules requiring smoke detectors in a  
2 residence or dwelling.

3 (2) Upon completion of the inspection described in  
4 subsection (1)(b), the seller shall pay a fee of \$25, which  
5 must be deposited in the state fire marshal account in the  
6 state special revenue fund.

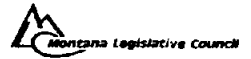
7 (3) A certificate required under subsection (1) must  
8 be attached to the instrument transferring title to the  
9 residence or dwelling, and the instrument may not be  
10 accepted for recording if not accompanied by the  
11 certificate.

12 Section 2. Section 61-3-207, MCA, is amended to read:

13 "61-3-207. Mobile home or housetrailer -- transfer of  
14 interest. Subject to the provisions of [section 1]:

15 (1) Upon upon a transfer of any interest in a mobile  
16 home or housetrailer under the provisions of this chapter,  
17 the application for the transfer shall be made through the  
18 county treasurer's office in the county in which the mobile  
19 home or housetrailer is located at the time of the  
20 transfer; and

21 (2) When when a mobile home or housetrailer is sold  
22 under contract or under such conditions that title is not  
23 immediately conveyed, the parties to the transaction shall  
24 immediately file with the county clerk and recorder a notice  
25 of intention to transfer title. The notice must indicate the



1 name of the party who is thereafter responsible for payment  
 2 of taxes upon the mobile home or housetrailer. The clerk and  
 3 recorder shall immediately notify the county assessor of the  
 4 information in the notice. The penalty provisions of  
 5 61-3-201(2) do not apply if the notice of intent to transfer  
 6 is filed with the county clerk and recorder within 20 days  
 7 after the transfer."

8 Section 3. Section 70-21-201, MCA, is amended to read:

9 "70-21-201. What may be recorded -- recording copy in  
 10 another county. (1) Any Except as provided in (section 1),  
 11 any instrument or judgment affecting the title to or  
 12 possession of real property may be recorded under this part.

13 (2) When any instrument or judgment affecting the  
 14 title to or possession of real property situated in more  
 15 than one county in this state has been recorded in either of  
 16 such counties, a copy thereof, certified to by the county  
 17 clerk of the county in which it has been recorded, may be  
 18 recorded in any other county in this state wherein any  
 19 portion of the real property affected by such instrument or  
 20 judgment is situated, and such records will have the same  
 21 effect as if the original instrument or judgment had been so  
 22 recorded."

23 NEW SECTION. Section 4. Extension of authority. Any  
 24 existing authority of the state fire marshal to make rules  
 25 on the subject of the provisions of this act is extended to

1 the provisions of this act.

2 NEW SECTION. Section 5. Codification instruction.  
 3 Section 1 is intended to be codified as an integral part of  
 4 Title 50, chapter 61, and the provisions of Title 50,  
 5 chapter 61, apply to section 1.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB079, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring certification of compliance with the state fire marshal's rules on smoke detectors in residences upon sale or transfer of ownership of a residence or dwelling.

ASSUMPTIONS:

1. 26,500 residences will be sold each year.
2. 20% of the sellers will request an inspection for certification by an authorized official.

FISCAL IMPACT:Expenditures:

	<u>Proposed Law FY88</u>	<u>Proposed Law FY89</u>
Special Revenue Fund	\$ 96,100	\$ 98,200

Revenues:

Fees - Special Revenue Fund	<u>99,400</u>	<u>132,500</u>
NET	\$ 3,300	\$ 34,300

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/15/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

Mike Halligan DATE Jan 15, 1987  
 MIKE HALLIGAN, PRIMARY SPONSOR

Fiscal Note for SB079, as introduced.SB-79

APPROVED BY COMM. ON BUSINESS & INDUSTRY

SENATE BILL NO. 79

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION OF COMPLIANCE WITH THE STATE FIRE MARSHAL'S RULES ON SMOKE DETECTORS IN RESIDENCES UPON SALE OR TRANSFER OF OWNERSHIP OF A RESIDENCE OR DWELLING; AND AMENDING SECTIONS 15-7-305 AND 61-3-207 AND 70-21-201, MCA."

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

NEW SECTION. Section 1. Certification of smoke detectors in residences ---inspection--of--residence--upon request -- prohibition of recording transfer without certificate. (1) Notwithstanding the single-family exclusion provision of 50-61-103(6), upon the sale or transfer of ownership of a residence or dwelling not otherwise required to have smoke detection equipment:

(a) the seller shall certify that the residence or dwelling complies--with--the--state--fire--marshal's--rules requiring-smoke-detectors-in-a-residence-or-dwelling; or

(b)--the-seller-may-request-a-certificate-of-inspection of--the--smoke--detection--equipment--in--the--residence--or dwelling,--and-the-state-fire-marshal-or-a-person-authorized under-50-61-114-shall-issue-the-certificate-if-he-finds-upon inspection-that-the-residence-or-dwelling-complies-with--the

state--fire--marshal's--rules-requiring-smoke-detectors-in-a residence-or-dwelling;

(2)--Upon-completion-of--the--inspection--described--in subsection--(1)(b),--the-seller-shall-pay-a-fee-of-\$25, which must-be-deposited-in-the-state-fire-marshal-account--in--the state-special-revenue-fund; IS EQUIPPED WITH SMOKE DETECTION EQUIPMENT.

(3)(2) A certificate CERTIFICATION required under subsection (1) must be attached-to NOTED UPON THE REALTY TRANSFER CERTIFICATE THAT IS SUBMITTED TO THE COUNTY CLERK AND RECORDER WITH the instrument transferring title to the residence or dwelling, and the instrument may not be accepted for recording if not-accompanied-by-the-certificate THE CERTIFICATION IS NOT NOTED ON THE REALTY TRANSFER CERTIFICATE.

(3) A SELLER IS NOT LIABLE IN A CIVIL ACTION FOR FAILURE TO COMPLY WITH, OR NEGLIGENCE IN COMPLYING WITH, THE REQUIREMENTS OF THIS SECTION. EVIDENCE OF SUCH FAILURE OR NEGLIGENCE IS NOT ADMISSIBLE IN A CIVIL ACTION.

Section 2. Section 61-3-207, MCA, is amended to read: "61-3-207. Mobile home or housetrailer -- transfer of interest. Subject to the provisions of [section 1]:

(1) Upon upon a transfer of any interest in a mobile home or housetrailer under the provisions of this chapter, the application for the transfer shall be made through the



1 county treasurer's office in the county in which the mobile  
2 home or housetrailer is located at the time of the  
3 transfer; and

4 (2) When when a mobile home or housetrailer is sold  
5 under contract or under such conditions that title is not  
6 immediately conveyed, the parties to the transaction shall  
7 immediately file with the county clerk and recorder a notice  
8 of intention to transfer title. The notice must indicate the  
9 name of the party who is thereafter responsible for payment  
10 of taxes upon the mobile home or housetrailer. The clerk and  
11 recorder shall immediately notify the county assessor of the  
12 information in the notice. The penalty provisions of  
13 61-3-201(2) do not apply if the notice of intent to transfer  
14 is filed with the county clerk and recorder within 20 days  
15 after the transfer."

16 ~~Section 3.--Section 70-21-201, MCA, is amended to read:~~  
17 ~~"70-21-201.--What may be recorded---recording copy--in~~  
18 ~~another--county.--(1)--Any Except as provided in {section 1},~~  
19 ~~any instrument--or--judgment--affecting--the--title--to--or~~  
20 ~~possession-of-real-property-may-be-recorded-under-this-part,~~  
21 ~~{2}--When--any--instrument--or--judgment--affecting-the~~  
22 ~~title-to-or-possession-of-real-property--situated--in--more~~  
23 ~~than-one-county-in-this-state-has-been-recorded-in-either-of~~  
24 ~~such--counties;--a--copy--thereof;--certified-to-by-the-county~~  
25 ~~clerk-of-the-county-in-which-it-has-been--recorded;--may--be~~

1 ~~recorded--in--any--other--county--in--this-state-wherein-any~~  
2 ~~portion-of-the-real-property-affected-by-such-instrument--or~~  
3 ~~judgment--is--situated;--and-such-records-will-have-the-same~~  
4 ~~effect-as-if-the-original-instrument-or-judgment-had-been-so~~  
5 ~~recorded."~~

6 SECTION 3. SECTION 15-7-305, MCA, IS AMENDED TO READ:

7 "15-7-305. Certificate of county clerk and recorder.  
8 (1) The county clerk and recorder shall cause to be executed  
9 by the parties to the transaction or their agents or  
10 representatives a certificate declaring the consideration  
11 paid or to be paid for the real estate transferred.

12 (2) (a) No instrument or deed evidencing a transfer of  
13 real estate may be accepted for recordation until the  
14 certificate has been received by the county clerk and  
15 recorder. The certificate must contain the notation  
16 required by [section 1].

17 (b) The validity or effectiveness of an instrument or  
18 deed as between the parties to it shall not be affected by  
19 the failure to comply with the provisions in this part.

20 (3) The form of certificate shall be prescribed by the  
21 department of revenue, and the department shall provide an  
22 adequate supply of such forms to each county clerk and  
23 recorder in the state.

24 (4) The clerk and recorder shall prepare a like  
25 certificate for each contract for deed filed for recording.

1 (5) The clerk and recorder shall transmit each  
2 executed certificate to the department."

3 ~~NEW SECTION. Section 4. Extension of authority. Any~~  
4 ~~existing authority of the state fire marshal to make rules~~  
5 ~~on the subject of the provisions of this act is extended to~~  
6 ~~the provisions of this act.~~

7 NEW SECTION. Section 4. Codification instruction.  
8 Section 1 is intended to be codified as an integral part of  
9 Title 50, chapter 61, and the provisions of Title 50,  
10 chapter 61, apply to section 1.

-End-