

HOUSE BILL NO. 341
INTRODUCED BY MCCORMICK

IN THE HOUSE

JANUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 23, 1989	FIRST READING.
FEBRUARY 7, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 8, 1989	PRINTING REPORT.
FEBRUARY 9, 1989	SECOND READING, DO PASS.
FEBRUARY 10, 1989	ENGROSSING REPORT.
FEBRUARY 11, 1989	THIRD READING, PASSED. AYES, 75; NOES, 17.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 341
2 INTRODUCED BY Mr. Kinich

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE SMALL
5 TRACT FINANCING ACT OF MONTANA BY AUTHORIZING THE USE OF
6 TRUST INDENTURES IN TRANSACTIONS IN WHICH THE REAL PROPERTY
7 DOES NOT EXCEED 30 ACRES; AND AMENDING SECTIONS 71-1-302
8 THROUGH 71-1-304, MCA."

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

11 **Section 1.** Section 71-1-302, MCA, is amended to read:

12 "71-1-302. Policy. Because the financing of homes and
13 business expansion is essential to the development of the
14 state of Montana and because ~~such~~ financing of homes and
15 business expansion, usually involving areas of real estate
16 of not more than ±5 30 acres, has been restricted by the
17 laws relating to mortgages of real property and because more
18 ~~such~~ financing of homes and business expansion is available
19 if the parties can use security instruments and procedures
20 not subject to all the provisions of the mortgage laws, it
21 is hereby declared to be the public policy of the state of
22 Montana to permit the use of trust indentures for estates in
23 real property of not more than ±5 30 acres as hereinafter
24 provided in this part."

25 **Section 2.** Section 71-1-303, MCA, is amended to read:

1 "71-1-303. Definitions. As used in this part, unless
2 the context requires otherwise, the following definitions
3 apply:

4 (1) "Beneficiary" means the person named or otherwise
5 designated in a trust indenture as the person for whose
6 benefit a trust indenture is given or his successor in
7 interest, and who shall not be the trustee.

8 (2) "~~Fifteen~~ Thirty acres" means ±5 30 acres of land.

9 (3) "Grantor" means the person conveying real property
10 by a trust indenture as security for the performance of an
11 obligation.

12 (4) "Trust indenture" means an indenture executed in
13 conformity with this part and conveying real property to a
14 trustee in trust to secure the performance of an obligation
15 of the grantor or other person named in the indenture to a
16 beneficiary.

17 (5) "Trustee" means a person to whom the legal title
18 to real property is conveyed by a trust indenture or his
19 successor in interest."

20 **Section 3.** Section 71-1-304, MCA, is amended to read:

21 "71-1-304. Trust indentures authorized -- power of
22 sale for breach in trustee. (1) Transfers in trust of any
23 interest in real property of an area not exceeding ±5 30
24 acres may be made to secure the performance of an obligation
25 of a grantor or any other person named in the indenture to



-2- INTRODUCED BILL
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1 a beneficiary provided that it ~~shall--be~~ is unlawful to
2 substitute a trust indenture for any mortgage in existence
3 on March 5, 1963.

4 (2) Where any transfer in trust of any interest in
5 real property is hereafter made to secure the performance of
6 ~~such--an~~ the obligation referred to in subsection (1), a
7 power of sale is hereby conferred upon the trustee to be
8 exercised after a breach of the obligation for which ~~such~~
9 the transfer is security.

10 (3) A trust indenture executed in conformity with this
11 part may be foreclosed by advertisement and sale in the
12 manner ~~hereinafter~~ provided in this part or, at the option
13 of the beneficiary, by judicial procedure as provided by law
14 for the foreclosure of mortgages on real property. The power
15 of sale may be exercised by the trustee without express
16 provision ~~therefor~~ in the trust indenture.

17 (4) Where the trust indenture states that the real
18 property involved does not exceed 15 30 acres, ~~such the~~
19 statement ~~shall---be~~ is binding upon all parties and
20 conclusive as to compliance with the provisions of this part
21 relative to the power to make a transfer, trust, and power
22 of sale."

-End-

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

1 HOUSE BILL NO. 341
2 INTRODUCED BY W. Kinch

3
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25 of a grantor or any other person named in the indenture to

1 a beneficiary provided that it ~~shall--be~~ is unlawful to
2 substitute a trust indenture for any mortgage in existence
3 on March 5, 1963.

4 (2) Where any transfer in trust of any interest in
5 real property is ~~hereafter~~ made to secure the performance of
6 ~~such--an~~ the obligation referred to in subsection (1), a
7 power of sale is ~~hereby~~ conferred upon the trustee to be
8 exercised after a breach of the obligation for which ~~such~~
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