

HOUSE BILL NO. 592
INTRODUCED BY DRISCOLL

IN THE HOUSE

FEBRUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 7, 1989	FIRST READING.
FEBRUARY 18, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
FEBRUARY 21, 1989	SECOND READING, DO PASS. ENGROSSING REPORT.
FEBRUARY 22, 1989	THIRD READING, PASSED. AYES, 97; NOES, 1. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. FIRST READING.
MARCH 21, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 22, 1989	SECOND READING, CONCURRED IN.
MARCH 27, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0. RETURNED TO HOUSE.

MARCH 28, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 592
2 INTRODUCED BY Waller
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO CIVIL
5 RECOVERY FOLLOWING A FIRE CAUSED BY ARSON; REGULATING THE
6 FINANCIAL EFFECTS AND COSTS OF ARSON; PROVIDING FOR THE
7 PAYMENT OF COSTS TO SUPPRESS AND INVESTIGATE A FIRE;
8 PROHIBITING THE PAYMENT OF FIRE LOSS INSURANCE CLAIMS UNTIL
9 REAL AND PERSONAL PROPERTY TAXES ON THE DESTROYED OR DAMAGED
10 PROPERTY ARE PAID; AND PROVIDING AN APPLICABILITY DATE."

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

13 NEW SECTION. **Section 1. Recovery of suppression and**
14 **investigation expenses for fires caused by arson. (1) A**
15 **person convicted of arson, negligent arson, or solicitation**
16 **of or conspiracy to commit arson or negligent arson must be**
17 **ordered, as part of the sentence, to reimburse law**
18 **enforcement and firefighting agencies for the cost of**
19 **suppressing and investigating a fire that occurred during**
20 **the commission of the crime, unless the court finds that the**
21 **person is not able to pay the costs and will not be able to**
22 **pay them in the foreseeable future.**

23 (2) The court may order a person doing a presentence
24 investigation and report to include documentation of the
25 costs of suppressing and investigating the fire and of the

1 defendant's ability to pay and may receive evidence
2 concerning the matters at the time of sentencing.

3 (3) The court shall specify the amount, method, and
4 time of payment, which may include but is not limited to
5 installment payments. The court may order a probation
6 officer or other appropriate officer attached to or working
7 closely with the court in the administration of justice to
8 supervise payment and report any default to the court.

9 (4) Upon petition by the offender and after a hearing,
10 the payment may be modified. Agencies receiving payment at
11 that time must be notified of and allowed to participate in
12 the hearing.

13 (5) This section does not limit the right of a law
14 enforcement or firefighting agency to recover from the
15 offender in a civil action, but the findings in the
16 sentencing hearing and the fact that payment of costs was
17 part of the sentence are inadmissible in and have no legal
18 effect on the merits of a civil action. Costs paid by the
19 offender must be deducted from a recovery awarded in a civil
20 action.

21 NEW SECTION. **Section 2. Fire loss insurance claims --**
22 **payment of taxes as prerequisite. An insurance company may**
23 **not pay a fire loss claim if taxes on the property are due**
24 **and unpaid.**

25 NEW SECTION. **Section 3.** Extension of authority. Any

LC 1086/01

1 existing authority to make rules on the subject of the
2 provisions of [this act] is extended to the provisions of
3 [this act].

4 NEW SECTION. Section 4. Codification instruction. (1)
5 [Section 1] is intended to be codified as an integral part
6 of Title 46, chapter 18, and the provisions of Title 46
7 apply to [section 1].

8 (2) [Section 2] is intended to be codified as an
9 integral part of Title 33 and the provisions of Title 33
10 apply to [section 2].

11 NEW SECTION. Section 5. Applicability. [Section 2]
12 applies to insurance contracts entered into on or after
13 October 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB592, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB592 relates to civil recovery following a fire caused by arson, regulating the financial effects and costs of arson, providing for the payment of costs to suppress and investigate a fire, prohibiting the payment of fire loss insurance claims until real and personal property taxes on the destroyed or damaged property are paid, and providing an applicability date.

ASSUMPTIONS:


1. There would be no fiscal impact on the Dept. of State Lands, the State Auditor, Dept. of Justice, Dept. of Commerce, Dept. of Revenue, the Supreme Court or the district courts.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local government entities will benefit from recovery of suppression and investigation expenses, as well as payment of taxes as a prerequisite to payment of a fire loss claim.. There is insufficient data to estimate this impact.

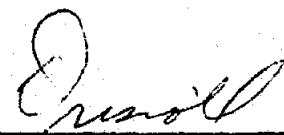
TECHNICAL NOTES:

Section 1(1) requires a person to reimburse law enforcement and firefighting agencies for "the cost" of investigating and suppressing...unless the court finds that the person is not able to pay "the costs". Insertion on line 18 of all or a portion of before "the cost" would prevent possible misinterpretation to require reimbursement only if the defendant can pay all the costs. For a major fire, virtually no defendant could pay all costs.


RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

2/14/89


JERRY L. DRISCOLL, PRIMARY SPONSOR

DATE

2/15/89

Fiscal Note for HB592, as introduced

HB 592

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 592

INTRODUCED BY DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO CIVIL RECOVERY FOLLOWING A FIRE CAUSED BY ARSON; REGULATING THE FINANCIAL EFFECTS AND COSTS OF ARSON; PROVIDING FOR THE PAYMENT OF COSTS TO SUPPRESS AND INVESTIGATE A FIRE; ~~PROHIBITING THE PAYMENT OF FIRE LOSS INSURANCE CLAIMS UNTIL REAL AND PERSONAL PROPERTY TAXES ON THE DESTROYED OR DAMAGED PROPERTY ARE PAID~~ PROVIDING FOR A TAX LIEN AGAINST FIRE INSURANCE PROCEEDS; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Recovery of suppression and investigation expenses for fires caused by arson. (1) A person convicted of arson, negligent arson, or solicitation of or conspiracy to commit arson or negligent arson must MAY be ordered, as part of the sentence, to reimburse law enforcement and firefighting agencies for the cost of suppressing and investigating a fire that occurred during the commission of the crime, ~~unless the court finds that the person is not able to pay the costs and will not be able to pay them in the foreseeable future.~~

(2) The court may order a person doing a presentence investigation and report to include documentation of the

costs of suppressing and investigating the fire and of the defendant's ability to pay and may receive evidence concerning the matters at the time of sentencing.

(3) The court shall specify the amount, method, and time of payment, which may include but is not limited to installment payments. The court may order a probation officer or other appropriate officer attached to or working closely with the court in the administration of justice to supervise payment and report any default to the court.

(4) Upon petition by the offender and after a hearing, the payment may be modified. Agencies receiving payment at that time must be notified of and allowed to participate in the hearing.

(5) This section does not limit the right of a law enforcement or firefighting agency to recover from the offender in a civil action, but the findings in the sentencing hearing and the fact that payment of costs was part of the sentence are inadmissible in and have no legal effect on the merits of a civil action. Costs paid by the offender must be deducted from a recovery awarded in a civil action.

NEW SECTION. Section 2. ~~Fire loss insurance claims— payment of taxes as prerequisite. An insurance company may not pay a fire loss claim if taxes on the property are due and unpaid.~~ TAX LIEN ON INSURED PROPERTY DESTROYED BY FIRE.

1 IF TAXES ARE DUE AND UNPAID ON PROPERTY COVERED BY FIRE
2 INSURANCE AND DAMAGED OR DESTROYED BY FIRE, THE GOVERNMENT
3 ENTITY OWED THE TAXES HAS A LIEN ON FIRE INSURANCE PROCEEDS
4 PAID IN RELATION TO THAT PROPERTY IN THE AMOUNT OF THE
5 UNPAID TAXES.

6 **NEW SECTION. Section 3. Extension of authority.** Any
7 existing authority to make rules on the subject of the
8 provisions of [this act] is extended to the provisions of
9 [this act].

10 **NEW SECTION. Section 4. Codification instruction.** (1)
11 [Section 1] is intended to be codified as an integral part
12 of Title 46, chapter 18, and the provisions of Title 46
13 apply to [section 1].

14 (2) [Section 2] is intended to be codified as an
15 integral part of Title 33 and the provisions of Title 33
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17 **NEW SECTION. Section 5. Applicability.** [Section 2]
18 applies to insurance contracts entered into on or after
19 October 1, 1989.

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