

HOUSE BILL 629

Introduced by Grady

2/10	Introduced
2/10	Referred to Business & Economic Development
2/17	Hearing
2/18	Committee Report--Bill Not Passed as Amended
2/20	Adverse Committee Report Adopted

1 House BILL NO. 629
 2 INTRODUCED BY Sen. [Signature]
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A POSSESSORY
 5 LIEN ON A MOBILE HOME BY A LANDLORD OR LESSOR OF LAND
 6 OCCUPIED BY THE MOBILE HOME IN ORDER TO RECOVER UNPAID RENT;
 7 AND PROVIDING FOR THE PRIORITY OF THE LIEN, ENFORCEMENT OF
 8 THE LIEN, SALE OF THE MOBILE HOME, AND CONDITIONS OF
 9 POSSESSION."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Definition. As used in [this
 13 act], "mobile home" means a housetrailer or a mobile home as
 14 those terms are defined in 15-24-201.

15 NEW SECTION. Section 2. Mobile home rental lien. If
 16 there is an express or implied contract for lease or rental
 17 of a parcel of land for the occupancy of a mobile home, the
 18 lessor or landlord may retain possession of the mobile home
 19 occupying the land if rental payments are at least 60 days
 20 past due. The lessor or landlord may retain possession of
 21 the mobile home until the sum due is paid or the mobile home
 22 is sold as provided in [this act].

23 NEW SECTION. Section 3. Priority. (1) The lien created
 24 under [section 2] does not take precedence over perfected
 25 security interests under the Uniform Commercial

1 Code--Secured Transactions or other recorded liens on the
 2 property involved unless the lessor or landlord desiring to
 3 assert the lien gives notice in writing, before rental
 4 payments are 90 days past due, to any secured party or other
 5 lienholder, stating his intention to assert a lien on the
 6 mobile home under the terms of [this act]. The notice must
 7 also state the amount of rental payments past due and the
 8 monthly or weekly rental charges that will continue to
 9 accrue as the mobile home occupies the rented or leased
 10 land.

11 (2) Service of the notice may be made either by
 12 personal service or by mailing by certified mail a copy of
 13 the notice to the secured party or other lienholder at his
 14 last-known post-office address. Service is considered
 15 complete upon mailing the notice.

16 (3) Within 10 days after personal service or within 20
 17 days after the date of the mailing, the secured party or
 18 other lienholder or his representative may take possession
 19 of the mobile home upon payment of the amount of the lien
 20 then accrued. If the secured party or other lienholder does
 21 not make payment and take possession, he has waived the
 22 priority of his security interest or other lien over the
 23 lien created by [this act].

24 NEW SECTION. Section 4. Enforcement of lien -- sale.
 25 (1) If a rental payment becomes more than 90 days overdue,

1 the person entitled to a lien under the provisions of [this
2 act] may enforce the lien as provided in this section.

3 (2) The person shall deliver to the sheriff of the
4 county in which the mobile home is located an affidavit
5 containing:

6 (a) the amount of his claim against the mobile home and
7 the date of the last rent payment;

8 (b) a description of the mobile home and its address or
9 location;

10 (c) the name and last-known address of the owner; and

11 (d) the names and last-known addressees of any known
12 holders of security interests or liens against the mobile
13 home.

14 (3) Before making seizure of any property under the
15 provisions of this section, the sheriff may require an
16 indemnity bond from the lienor that may not exceed double
17 the amount of the claim against the mobile home. The bond
18 and the surety or sureties on it must be approved by the
19 sheriff.

20 (4) Upon receipt of the affidavit, the sheriff shall
21 begin the process of selling the mobile home at public
22 auction. Except as otherwise provided in this section, the
23 sale must be advertised, conducted, and held in the same
24 manner as prescribed in 25-13-701(1)(b).

25 (5) Before the sheriff or constable sells the property

1 at public auction, he shall give notice of the sale to the
2 owner of the mobile home and to any person known to have a
3 security interest or lien on the mobile home, and he shall
4 post a notice of the sale of the mobile home. The notice
5 must be given at least 10 days before the sale.

6 (a) The notice must state:

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

8 (ii) the amount of the claim against the mobile home;

9 (iii) a description of the mobile home and its address
10 or location;

11 (iv) the name of the owner of the mobile home; and

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

13 (b) The notice may be given by personal service or by
14 mailing by certified mail a copy of the notice to the
15 last-known post-office addresses of the owner of the mobile
16 home, the secured parties, and the lienholders.

17 (c) If the sheriff is not able to effect personal
18 service or service by mail because the location and mailing
19 address of the owner is unknown, he may give notice by
20 posting notice of the sale in three public places in the
21 county in which the mobile home is located.

22 (6) After the sale has been conducted, the sheriff
23 shall apply the proceeds of the sale to the discharge of the
24 lien and the costs of the proceedings in selling the mobile
25 home and enforcing the lien. The remainder, if any, or such

1 part as is required to discharge the claims must be given by
2 the sheriff to the holders, in the order of their
3 precedence, of the chattel mortgages or other secured
4 parties or lien claimants of record against the mobile home.
5 The balance of the proceeds must be given to the owner of
6 the mobile home.

7 (7) A sale conducted pursuant to this section is an
8 involuntary transfer of ownership of the mobile home by
9 operation of law as provided in 61-3-201. Upon completion of
10 the sale, the sheriff shall forward to the county
11 treasurer's office a statement of transfer of interest in
12 favor of the purchaser as provided in 61-3-201 and 61-3-207.

13 NEW SECTION. **Section 5.** Lien not lost by fraudulent
14 taking of the mobile home. The lien created by [this act] is
15 not lost by reason of any forcible or fraudulent taking of
16 the mobile home from the possession of the person entitled
17 to the lien. The person entitled to the lien may recover
18 possession of the mobile home by proper action instituted in
19 court against any person who has possession of the mobile
20 home.

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