

SENATE BILL NO. 16
INTRODUCED BY WEEDING

IN THE SENATE

JANUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 6, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 7, 1989	PRINTING REPORT.
JANUARY 9, 1989	SECOND READING, DO PASS.
JANUARY 10, 1989	ENGROSSING REPORT.
JANUARY 11, 1989	THIRD READING, PASSED. AYES, 40; NOES, 5.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
FEBRUARY 20, 1989	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 6, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 9, 1989	THIRD READING, CONCURRED IN. AYES, 93; NOES, 0.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 14, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 16, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 16

INTRODUCED BY WEEDING

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE FILING OF A COPY OF MORTGAGE SATISFACTION BY A PERSON CLAIMING THE BENEFIT OF SECTION 15-16-402, MCA, CONCERNING THE LIEN OF PERSONAL PROPERTY TAXES AGAINST REAL PROPERTY; AMENDING SECTION 15-16-402, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-16-402, MCA, is amended to read:

"15-16-402. Tax on personal property lien on realty -- separate assessment -- filing of mortgage satisfaction. (1)

Every tax due upon personal property is a prior lien upon any or all of such property, which lien shall have precedence over any other lien, claim, or demand upon such property, and except as hereinafter provided, every tax upon personal property is also a lien upon the real property of the owner thereof on and after January 1 of each year.

(2) The taxes upon personal property based upon a taxable value up to and including \$1,000 shall be a first and prior lien upon the real property of the owner of such personal property. Taxes upon personal property based upon the taxable value thereof in excess of \$1,000 shall be a

first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon said real property appearing of record in the office of the clerk and recorder of the county where such real property is situated, at or before the time such personal property tax attached thereto, shall have filed the notice hereinafter provided for, in which event the taxes upon such excess of \$1,000 of taxable value shall not be a lien on the real property of such owner. It shall be the duty of the county treasurer to issue to any mortgagee or lien holder, upon his request, a statement of the personal property tax due upon the taxable value up to and including \$1,000. Personal property taxes upon a taxable value up to \$1,000 may be paid, redeemed from a tax sale as by law provided, or discharged separately from any personal property taxes in excess of such amount. Payment of such taxes upon a taxable value up to \$1,000, as herein provided, shall operate to discharge the tax lien upon the personal property of the owner to the extent of such payment in the order that the person paying such tax shall direct.

(3) The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file in the office of the county treasurer of said county a notice giving:

(a) the name and address of the mortgagee and holder

1 of the mortgage or lien;

2 (b) the name of the reputed owner of the land;

3 (c) the description of the land;

4 (d) the date of record and expiration of the mortgage
5 or lien;

6 (e) the amount thereof; and

7 (f) a statement that he claims the benefit of the
8 provisions of this section.

9 (4) Such notice shall be ineffectual as to any taxes
10 which shall have become a lien on real property prior to the
11 filing of such notice as aforesaid. If the mortgage be not
12 paid at maturity, such notice shall thereafter be filed
13 annually unless the mortgage be extended for a definite
14 period to be stated in such notice.

15 (5) Any owner of a mortgage on real estate upon which
16 personal property taxes are by this section made a lien,
17 where the owner of such real estate and personal property
18 has failed to pay taxes due upon such real estate and
19 personal property for 1 or more years, may file with the
20 department of revenue or its agent in the county in which
21 such property is located a written request to have the
22 personal property and real estate of the owner separately
23 assessed. Such request must be made by registered or
24 certified mail at least 10 days prior to January 1 in the
25 year for which property is assessed. Upon receipt by the

1 department or its agent of such request, it is hereby made
2 the duty of the department or its agent to make a separate
3 assessment of real and personal property of the owner
4 thereof, and such personal taxes shall not be a lien upon
5 the real estate so mortgaged of the owner thereof, and the
6 personal property taxes shall be collected in the manner
7 provided by law for other personal property.

8 (6) The holder of a mortgage or lien upon real
9 property who files a certificate of satisfaction and the
10 proof and acknowledgment thereof, as provided for in
11 71-1-211, shall file a copy of the certificate and the proof
12 and acknowledgment with:

13 (a) the county treasurer if the holder has filed a
14 notice under subsection (3); and

15 (b) the department of revenue or its agent in the
16 county in which the real property is located if the holder
17 has filed a written request under subsection (5)."

18 **Section 2. Extension of authority.** Any existing
19 authority to make rules on the subject of the provisions of
20 [this act] is extended to the provisions of [this act].

21 **Section 3. Applicability.** [This act] applies to
22 notices and written requests filed under the provisions of
23 15-16-402 after September 30, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB016, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require the filing of a copy of mortgage satisfaction by a person claiming the benefit of section 15-16-402, MCA, concerning the lien of personal property taxes against real property and providing an applicability date.

FISCAL IMPACT:

This proposal has no impact on department revenues. Additional expenses are minimal and can be absorbed using existing resources.

Ray Shackelford 1/7/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Cecil Weeding 1/10/89
CECIL WEEDING, PRIMARY SPONSOR DATE
Fiscal Note for SB016, as introduced

SB 16

APPROVED BY COMM. ON
BUSINESS & INDUSTRYSENATE BILL NO. 16INTRODUCED BY WEEDING

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

Section 1. Section 15-16-402, MCA, is amended to read:

"15-16-402. Tax on personal property lien on realty -- separate assessment -- filing of mortgage satisfaction. (1) Every tax due upon personal property is a prior lien upon any or all of such property, which lien shall have precedence over any other lien, claim, or demand upon such property, and except as hereinafter provided, every tax upon personal property is also a lien upon the real property of the owner thereof on and after January 1 of each year.

(2) The taxes upon personal property based upon a taxable value up to and including \$1,000 shall be a first and prior lien upon the real property of the owner of such personal property. Taxes upon personal property based upon the taxable value thereof in excess of \$1,000 shall be a

first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon said real property appearing of record in the office of the clerk and recorder of the county where such real property is situated, at or before the time such personal property tax attached thereto, shall have filed the notice hereinafter provided for, in which event the taxes upon such excess of \$1,000 of taxable value shall not be a lien on the real property of such owner. It shall be the duty of the county treasurer to issue to any mortgagee or lien holder, upon his request, a statement of the personal property tax due upon the taxable value up to and including \$1,000. Personal property taxes upon a taxable value up to \$1,000 may be paid, redeemed from a tax sale as by law provided, or discharged separately from any personal property taxes in excess of such amount. Payment of such taxes upon a taxable value up to \$1,000, as herein provided, shall operate to discharge the tax lien upon the personal property of the owner to the extent of such payment in the order that the person paying such tax shall direct.

(3) The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file in the office of the county treasurer of said county a notice giving:

(a) the name and address of the mortgagee and holder

1 of the mortgage or lien;

2 (b) the name of the reputed owner of the land;

3 (c) the description of the land;

4 (d) the date of record and expiration of the mortgage
5 or lien;

6 (e) the amount thereof; and

7 (f) a statement that he claims the benefit of the
8 provisions of this section.

9 (4) Such notice shall be ineffectual as to any taxes
10 which shall have become a lien on real property prior to the
11 filing of such notice as aforesaid. If the mortgage be not
12 paid at maturity, such notice shall thereafter be filed
13 annually unless the mortgage be extended for a definite
14 period to be stated in such notice.

15 (5) Any owner of a mortgage on real estate upon which
16 personal property taxes are by this section made a lien,
17 where the owner of such real estate and personal property
18 has failed to pay taxes due upon such real estate and
19 personal property for 1 or more years, may file with the
20 department of revenue or its agent in the county in which
21 such property is located a written request to have the
22 personal property and real estate of the owner separately
23 assessed. Such request must be made by registered or
24 certified mail at least 10 days prior to January 1 in the
25 year for which property is assessed. Upon receipt by the

1 department or its agent of such request, it is hereby made
2 the duty of the department or its agent to make a separate
3 assessment of real and personal property of the owner
4 thereof, and such personal taxes shall not be a lien upon
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9 property who files a certificate of satisfaction and the
10 proof and acknowledgment thereof, as provided for in
11 71-1-211, shall file a copy of the certificate and the proof
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14 notice under subsection (3); and

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16 county in which the real property is located if the holder
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18 **Section 2. Extension of authority.** Any existing
19 authority to make rules on the subject of the provisions of
20 [this act] is extended to the provisions of [this act].

21 **Section 3. Applicability.** [This act] applies to
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-End-

STANDING COMMITTEE REPORT

March 1, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that SENATE BILL 16 (first reading REFERENCE copy -- BLUE) be concurred in as amended .

Signed:


Robert Pavlovich, Chairman

[REP. JOHNSON WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 4, lines 11 through 17.

Following: "shall" on line 11

Strike: remainder of line 11 through "(5)" on line 17

Insert: ", if the holder has filed a notice under subsection (3), deliver to the clerk and recorder two additional copies of the certificate and the proof and acknowledgment, and the clerk and recorder shall deliver one of the additional copies of each to the county treasurer and to the department of revenue or its agent"

HOUSE

481439SC.HRT

RT

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 16
Representative Lloyd McCormick

March 6, 1989 1:37 pm
Page 1 of 1

(B0)

Mr. Chairman: I move to amend the House Committee on Business and Economic Developments amendment to SENATE BILL 16, dated March 1, 1989, as follows:

Signed: Lloyd McCormick
Representative Lloyd McCormick

And, that such amendment to SENATE BILL 16, as amended, read:

1. Page 4, lines 11 through 17.
Strike: committee amendment number 1 in its entirety

ADOPT

REJECT

HOUSE

(B0)

501336CW.HBV

SB 16

SENATE BILL NO. 16
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 20 department of revenue or its agent in the county in which
 21 such property is located a written request to have the
 22 personal property and real estate of the owner separately
 23 assessed. Such request must be made by registered or
 24 certified mail at least 10 days prior to January 1 in the
 25 year for which property is assessed. Upon receipt by the

1 department or its agent of such request, it is hereby made
 2 the duty of the department or its agent to make a separate
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 9 property who files a certificate of satisfaction and the
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 11 71-1-211, shall file a copy of the certificate and the proof
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13 (a) the county treasurer if the holder has filed a
 14 notice under subsection (3); and
 15 (b) the department of revenue or its agent in the
 16 county in which the real property is located if the holder
 17 has filed a written request under subsection (5); if the
 18 holder has filed a notice under subsection (3), deliver to
 19 the clerk and recorder two additional copies of the
 20 certificate and the proof and acknowledgment, and the clerk
 21 and recorder shall deliver one of the additional copies of
 22 each to the county treasurer and to the department of
 23 revenue or its agent file a copy of the certificate and the
 24 proof and acknowledgment with:

25 (A) THE COUNTY TREASURER IF THE HOLDER HAS FILED A

1 NOTICE UNDER SUBSECTION (3); AND
2 (B) THE DEPARTMENT OF REVENUE OR ITS AGENT IN THE
3 COUNTY IN WHICH THE REAL PROPERTY IS LOCATED IF THE HOLDER
4 HAS FILED A WRITTEN REQUEST UNDER SUBSECTION (5)."

5 NEW SECTION. **Section 2. Extension of authority.** Any
6 existing authority to make rules on the subject of the
7 provisions of [this act] is extended to the provisions of
8 [this act].

9 NEW SECTION. **Section 3. Applicability.** [This act]
10 applies to notices and written requests filed under the
11 provisions of 15-16-402 after September 30, 1989.

-End-