

1 SENATE BILL NO. 192

2 INTRODUCED BY B. DEPRATU

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING, AS A RESULT OF THE REPEAL OF MONTANA'S
 5 INHERITANCE TAX, THE FILING REQUIREMENTS BY A PERSON WITH AN INTEREST IN NONPROBATE
 6 REAL PROPERTY OF A DECEDENT; AMENDING ~~SECTION~~ SECTIONS 7-4-2613 AND 72-16-503, MCA;
 7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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11 SECTION 1. SECTION 7-4-2613, MCA, IS AMENDED TO READ:

12 **"7-4-2613. Documents subject to recording.** The county clerk shall, upon the payment of the
 13 appropriate fees, record by printing, typewriting, or photographic, micrographic, or electronic process or
 14 by the use of prepared blank forms:

15 (1) (a) subject to subsection (1)(b), deeds, grants, transfers, certified copies of final judgments
 16 or decrees partitioning or affecting the title or possession of real property any part of which is situated in
 17 the county, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages,
 18 powers of attorney to convey real estate, leases that have been acknowledged or proved, and abstracts
 19 of the instruments that have been acknowledged or proved;

20 (b) an instrument or deed evidencing either a division of real property or a merger of real property
 21 only if the instrument or deed is accompanied by a certification from the county treasurer that taxes and
 22 special assessments that have been assessed and levied have been paid;

23 (2) notices of buyer's interest in real property, notwithstanding any other requirement of law or
 24 rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the
 25 notice of buyer's interest. However, if the instrument of conveyance underlying a notice of buyer's interest
 26 would be unrecordable, the clerk and recorder shall notify the buyer by certified mail that the underlying
 27 instrument is unrecordable and may be void_{7,2};

28 (3) ~~except as provided in 72-16-503, a document on a form provided by the department of~~
 29 ~~revenue certifying that the holder of~~ an acknowledged statement indicating that the holder of a nonprobate
 30 interest in real property is deceased ~~and that the deceased's interest is terminated~~. A nonprobate interest

1 in real property is a joint tenancy interest, or a life estate interest, ~~or any other interest not requiring~~
 2 probate. ~~The document may be on the form used by the department of revenue for responding to the~~
 3 ~~application for determination of estate tax. It~~ The acknowledged statement must contain:

4 (a) a statement that the holder of the nonprobate interest has died and that the holder's interest
 5 in the property is terminated; and

6 ~~(b) a certification by the county treasurer that the estate tax, if any tax was due, has been paid~~
 7 ~~or that estate tax was not due;~~

8 ~~(c)~~(b) a legal description of the property; and

9 (4) certificates of births and deaths;

10 (5) wills devising real estate admitted to probate;

11 (6) official bonds;

12 (7) transcripts of judgments that by law are made liens upon real estate;

13 (8) instruments describing or relating to the individual property of married persons;

14 (9) all orders and decrees made by the district court in probate matters affecting real estate and
 15 that are required to be recorded;

16 (10) notice of preemption claims;

17 (11) notice and declaration of water rights;

18 (12) assignments for the benefit of creditors;

19 (13) affidavits of annual work done on mining claims;

20 (14) notices of mining locations and declaratory statements;

21 (15) estrays and lost property;

22 (16) a book containing appraisal of state lands; and

23 (17) other writings that are required or permitted by law to be recorded."
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25 **Section 2.** Section 72-16-503, MCA, is amended to read:

26 **"72-16-503. ~~Additional filings~~ Filings required when holder of nonprobate interest in real property**
 27 **~~involved and no representative has died.~~ (1) If A person with an interest in real property is ~~involved that~~**
 28 **was owned by a decedent, as defined under 72-16-502, ~~the applicant~~ shall record with the clerk and**
 29 **recorder of each county in which the real property or any part of the property is located a document**
 30 **containing those matters required by 7-4-2613(3). ~~A surviving joint tenant described in 72-16-313(1) or~~**

1 ~~(2) subsection (3) is not subject to the recording requirements under 7-4-2613(3).~~

2 ~~—— (2) A surviving joint tenant described in 72-16-313(1) or (2) subsection (3) with an interest in real~~
3 ~~property that was owned by a decedent, as defined under 72-16-502, shall record with the clerk and~~
4 ~~recorder of each county in which the real property is located an acknowledged statement that the holder~~
5 ~~of the nonprobate interest has died and that the holder's interest in the property is terminated. The~~
6 ~~acknowledged statement must include a legal description of the real property.~~

7 ~~—— (3) For the purposes of this section, surviving joint tenant includes:~~

8 ~~—— (a) the surviving spouse of the decedent;~~

9 ~~—— (b) any child or lineal descendant of the decedent. A determination as to establishment of the~~
10 ~~parent and child relationship or establishment of a person as a lineal descendant must be made in~~
11 ~~accordance with the rules for determining relationship for purposes of intestate succession under Title 72,~~
12 ~~chapter 2, part 1.~~

13 ~~—— (c) any stepchild, as defined in 72-2-613, of the decedent."~~

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15 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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17 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the
18 meaning of 1-2-109, to deaths occurring after December 31, 2000.

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