

SENATE BILL NO. 378

INTRODUCED BY R. ZINKE

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MAIL NOTICE BEFORE FILLING AN INSTRUMENT AFFECTING THE TITLE TO OR POSSESSION OF REAL PROPERTY; PROVIDING FOR CONTENTS OF THE NOTICE; AMENDING SECTION 70-21-203, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 70-21-203, MCA, is amended to read:

"70-21-203. Acknowledgment and notice of instruments required -- exceptions. (1) Unless an instrument affecting the title to or possession of real property belongs to a class provided for in either 70-21-205 or 70-21-207, before the instrument can be recorded;

(a) its execution must be acknowledged as provided in subsection ~~(1)~~ (2) or proved as provided in subsection ~~(2)~~ (3); and

(b) proof must be provided that notice that the instrument will be recorded has been sent by mail to the last-known address of each party to the instrument who is not a signatory of the instrument. The notice must contain a copy of the instrument and a statement that a party may maintain an action in district court for the recordation to be set aside for mistake, fraud, or other valid reason.

~~(1)~~(2) Execution of the instrument must be acknowledged, as acknowledgment is defined in 1-5-602:

(a) by the person executing it; or

(b) if executed by a corporation, by its president, vice president, secretary, or assistant secretary or by any other person duly authorized by resolution by the corporation to act on behalf of the corporation.

~~(2)~~(3) Execution of the instrument must be proved by a subscribing witness or as provided in 1-5-302 and 1-5-303. Proof of execution as provided for in this subsection must be notarized as provided in Title 1, chapter 5."

NEW SECTION. **Section 2. Applicability.** [This act] applies to instruments recorded after December 31, 2011.

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