

February 5, 1977
11:07 a.m.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 11:00 a.m.

ROLL CALL: All members were present.

SENATE BILL 84. "An Act Relating To The Standards And The Regulation Of Manufacture And Distribution Of Petroleum Products."

Senator Bill Lowe, District 33, Chief Sponsor of SB 84 handed out some proposed amendments. They are attached. (Exhibit #1) What these amendments are doing is clearing up confusion that might arise. Senator Lowe then introduced Gary Delano, Administrator of Weights and Measures, Division of Department of Business Regulation.

Mr. Delano went through the bill section by section. He then introduced Jim McFarland, Attorney for the Department of Business Regulation. He went through the rest of the bill section by section stating which sections had been changed and who had not. He explained that the redraft eliminated (1) trade name registration and (2) discriminatory pricing sections.

After some brief discussion, the hearing was closed on SB 84.

SENATE BILL 202. "An Act To Authorize Only Montana-Chartered Building And Loan Associations To Consolidate Or Merge And To Prohibit Branching De Novo."

Senator Allen Kolstad, District 5, Chief Sponsor of SB 202 stated this bill prohibits any building and loan association that isn't chartered to merge with another savings and loan.

Ross Cannon, Montana Savings and Loan League stated Gate City is North Dakota chartered. They applied to acquire Glendive Savings and Loan. There are 12 federal savings and loans and 4 state chartered savings and loans in Montana.

He stated they have no objection to putting a grandfather clause into this bill. Prudential Federal Savings began in Butte and recently applied for a branch in Dillon. Prior to so doing, Pioneer Federal Savings had a branch approved in Dillon. They do approve and permit branching with the state but do not approve of interstate branching. If in fact the savings and loan industry is to survive, they have got to prevent these out of state savings and loan associations from snapping up the savings and loan associations. It is his intention with this bill to prohibit branching by merger and branching de novo. He asked Chairman Hazelbaker if it would be permissible to submit additional written testimony to the committee before the committee decides to take executive action. Senator Hazelbaker stated the committee would not take executive action until Ross Cannon has been able to bring in more written testimony.

On January 10, 1977, Ross Cannon handed out additional written testimony which he stated he would submit on February 5, 1977. These are attached. (Exhibits #2, #3, and #4).

PROPONENTS

Senator Jean Turnage thinks it is a very serious matter for all Montana's financial institutions, not only savings and loans but banks as well. He hopes the committee will give this bill a Do Pass.

Robert Pennington, American Savings and Loan supported Ross Cannon's testimony.

Steve Gross, President of Home Federal Savings supported SB 202.

Harold Pitts representing Montana Independent Banker's Association supports SB 202. He would like to see the grandfather clause put in the bill. He doesn't want to see anymore branching come into the state.

Gene Phillips, Kalispell, Conrad National Bank seconded the comments made by Mr. Cannon. He is in favor of SB 202.

Jim Haviland, Deer Lodge Pioneer Savings and Loan stated he didn't mind one bit having competition.

OPPONENTS:

Pat Hooks, Attorney from Townsend, Montana. He reviewed the litigation that he was involved in with Gate City Savings & Loan in North Dakota. He stated in North Dakota, the industry seems to be more viable. The unanimous decision in April 1975 affirmed Judge Meloy's decision that they could merge. He feels a grandfather clause is necessary in this bill. He handed out two alternative grandfather clauses. (Exhibits 5 & 6) He stated branching is o.k. unless you want to merge with someone out of state. He referred to Findings of Fact and Conclusions of Law. (Exhibit 7)

He then referred to a map entitled "Montana Savings and Loans Facilities." This map indicated branching from January 1974 to 1975. He stated Northwestern Bank in Helena - 94% of its stock is owned by a holding company in Minnesota. He handed out two more exhibits. (Exhibits 7a and 8)

Mr. Bill Artz, President of Fidelity Savings and Loan. His testimony is attached. (Exhibit 9)

Mr. Ken Neill, Secretary-Treasurer, Fidelity Savings and Loan. His concern is that his merger not be hindered or barred. He opposes SB 202. He strongly urges the adoption of an amendment if this bill is passed by the Committee.

Jack Peterson, Prudential Federal Savings and Loan, Butte. His testimony is attached. (Exhibit 10)

Ross Cannon closed. After some discussion, the hearing was closed on SB 202.

SENATE BILL 219. "An Act Requiring An Agreement Of Bulk Reinsurance By A Foreign Or Alien Insurer To Be Approved By The Commissioner Of Insurance And Allowing The Commissioner To Require A Deposit."

Senator Pat Goodover, District 22, Great Falls stated he was Chief Sponsor of this bill. He stated this is an important bill as far as the consumer is concerned. His testimony is attached. (Exhibit 11)

Terrence J. Meagher, CPA, Chief Examiner, Montana Insurance Department spoke in favor of the bill. His testimony is attached. (Exhibit 12)

Senator Regan made a motion that this bill Do Pass. Senator Devine seconded. All were in favor.

ADJOURN: There being no further business, Chairman Hazelbaker adjourned the meeting at 11:30 a.m.

Frank W. Hazelbaker
FRANK W. HAZELBAKER, CHAIRMAN

DATE 2-5-77

COMMITTEE ON

BILL NO.

SB 219

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
George L. Pennington	AMERICAN FEDERAL SAVINGS	SB 202	
STATE CHIEF	Montana Savings & Loan LEAGUE		
Terry Meaghe	AMERICAN FEDERAL SAVINGS	SB 202	
John L. Peterson	Montana Savings & Loan LEAGUE		
Mark Pitts	State Auditor's Office	SB 219	
Josephine Driscoll	Montana Audited Bankers	SB 202	
John Phillips	STATE Auditor	SB 219	
John Harbin	Conrad National Bank	SB 202	
John H. Art	LOW MEADS, MT	SB 202	SB 202
Connie R. Neill	Montana Audited Bankers		
Pete Hanly	Montana Fidelity Sec.	SB 202	
Julie Farland	Dept. of Bar Reg.	SB 202	
George Belano	Montana Audited Bankers	SB 202	
George Belano	Montana Audited Bankers	SB 202	
John Hanly	Montana Fidelity Sec.	SB 202	

ROLL CALL

Business & Industry COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2-3-22

STANDING COMMITTEE REPORT

February 7

77

19

MR. President.....

Business and Industry

We, your committee on.....

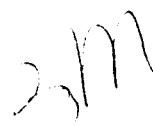
SENATE

219

having had under consideration..... Bill No.....

Respectfully report as follows: That..... SENATE..... Bill No..... 219,

DO PASS



AMENDMENT TO SENATE BILL NO. 34
(Introduced today)

1. Second page 4, section 5, Lines 1 and 2.
Delete: "purchases"
Insert: "to a consumer"
2. Second page 4, section 5, Line 11.
Delete: "\$15.00"
Insert: "\$10.00"
3. Second page 6, section 8, Line 6.
Following: "for"
Strike: "past"
Insert: "part"
4. Second page 6, section 8, Line 13.
Following: "distribution"
Strike: "to a consumer"
5. Second page 6, section 10, line 23 through Line 1 on page 7.
Strike: "Section 10 in its entirety"
Insert: "All subsequent sections"
6. Second page 7, section 11, Line 12.
Following: "F"
Strike: "S"
Insert: "any series of an electronic compensating device which has been approved, calibrated and sealed by the Department,"

MATTERS FOR PROPOSED AMENDMENTS TO SENATE BILL NO. 34

1. Amendments 1 and 4 to sections 5 and 8 are to clarify the fact that the amendments apply not only to sales to a consumer but also to all transactions involving refined petroleum products.
2. Amendments 2 and 3 to sections 5 and 8 are to correct typographical errors.
3. Amendments 5 and 6 to sections 10 and 11 are to clarify the fact that temperature correction applies only to the sale of liquefied petroleum and to avoid any possible conflict with Section 13-312, R.C.M. 1947, which provides as follows:

"13-312. The sale of gasoline in other than 80 proof basis is unlawful. The sale of gasoline on a temperature corrected basis, or on any basis other than the 80 proof volume of gasoline actually delivered, is void. Any contract in violation of this section shall be unenforceable to the extent of the violation."



RAYMOND L. WIRTH
President

DOWNTOWN: Fifth Street—First Avenue North, 59401
SUBURBAN EAST: Tenth Avenue South—25th Street, 59405
SUBURBAN WEST: NW ByPass—Third Street N.W., 59404
GREAT FALLS, MONTANA DOWNTOWN PHONE (406) 454-3473

February 9, 1977

Statement of Raymond L. Wirth President, Great Falls Federal Savings and Loan Association, Great Falls, Montana, in support of Senate Bill 202 as given February 10, 1977.

- 1.) Historically and traditionally savings and loans industry-wide are local community oriented financial institutions.
- 2.) The Federal Home Loan Bank System, since its establishment by Congress in 1934, does not approve of interstate branching for savings and loans even within metropolitan SMSA's that cross state lines in which general commerce may be carried on without regard to such state lines.
- 3.) The community oriented savings and loans obtains savings deposits within its community and makes loans within its community for the benefit of its community.
- 4.) Interstate branching siphons off savings from our state for use in the development of another state, thereby exporting our state resource of money that rightfully belongs within our state for the development of other states.
- 5.) Savings and loans of any state can purchase either whole loans or participate with any FSLIC savings and loan or FDIC bank in another state to purchase loans. This industry-wide secondary market or participation program is available nationwide and has proven to be a substantial and very adequate program for any financial institution which desires to purchase loans intrastate or interstate. Therefore, there is no adequate reason for interstate branching under the cloak or disguise of wanting to make loans within that state.
- 6.) It would be a drastic mistake to give this benevolent privilege of interstate branching within Montana to other states when other states by statute or regulations forbid this practice.

Within the salient points of the above, but not limited only to these, I urge the Committee's support of Senate Bill 202.

Respectfully submitted,

A handwritten signature in cursive ink, appearing to read "Raymond L. Wirth".

Raymond L. Wirth, President
Great Falls Federal Savings and Loan Association

SAVINGS & LOAN



2-9-77

To: Members, Business and Industry Committee
Montana State Senate

Re: SB 202

I am Paul A. Johnson, Chairman of the Legislative Committee for the Montana Savings and Loan League. I am also a member of the Legislative Committee and Executive Committee of the U. S. League of Savings Associations.

This matter of branching or merging across state lines is receiving national attention. There has been no branching or merging across state lines of either savings associations or banks since the insurance of accounts, which was a result of the depression in the early 30's. We had not been faced with this problem in Montana until the request of Gate City Savings and Loan Association of Fargo, North Dakota, to merge with the Fidelity Building and Loan Association in Great Falls and the Glendive Building and Loan Association, in Glendive, Montana. One was a defunct association with assets of only \$564.80, as shown on the enclosed statement and the other was an inactive association. Therefore, the proposed mergers were merely cover-ups for interstate branching.

I just returned from Washington, D. C., where the U. S. League of Savings Associations held their Legislative Conference. Attached is a copy of the report that was adopted by the Conference which had been prepared by a special, Branch Operations Committee who had been appointed to study this matter in detail. This problem received concentrated study on the ramifications of such action and also the historical background. The resolution which appears on page two was a result of this study. The gist of the resolution is contained in the fourth paragraph which states:

"WHEREAS, We believe unrestricted interstate branching should not be permitted."

In keeping with this resolution, we respectfully urge you to give your approval to SB 202. We don't want large savings associations from Washington, Colorado, Minnesota, or North Dakota, moving into our state by merging with existing state associations. We feel we have served and will serve Montana well without being taken over by large, out-of-state associations.

PAJ/ew
Attachments



S.B. 202

INTERSTATE BRANCHING

The purpose of SB 202 is to prevent interstate branching by state-chartered savings and loan associations. The Montana Supreme Court has recently held that the statute being amended by SB 202 does not prevent interstate branching by merger (Gate City Savings and Loan Association v. Pitts, et. al., 32 St.Rptr. 338, April 8, 1975). This decision reversed a 1972 Attorney General's opinion to the contrary and came as a surprise to Montana's savings and loan industry which had never theretofore thought interstate branching was permitted by Montana law.

As a result of the decision Gate City Savings and Loan Association, located in Fargo, North Dakota, applied to merge with Fidelity Savings and Loan Association of Great Falls and Glendive Building and Loan Association of Glendive. The Director of the Department of Business Regulation heard the application and by order dated July 19, 1976, granted the application as to Fidelity and denied it as to Glendive. That decision is on appeal in the district court in Helena.

Recently also Prudential Federal Savings and Loan Association of Salt Lake City, Utah, applied to establish a branch office in Dillon. This application was heard before the Federal Home Loan Bank Board in May, 1976 and has not yet been acted upon. Montana's savings and loan institutions opposed this application invoking the Board's published policy statement prohibiting interstate branching.

Federal savings and loans are permitted by the Board's rules to branch within a state but not across state lines. Banks have frequently fought over the question of branching within the state and are likely to do so again. On the other hand, banks are not permitted to branch across state lines. Group banks are prohibited from doing so by the Bank Holding Company Act and individual banks are prohibited from doing so by state law which also binds national banks in this respect.

At the time of the hearing in Gate City, it had assets in excess of \$310,000,000. Prudential has assets in excess of \$500,000,000. Prudential's testimony at the hearing was that it indeed intended to apply for branches throughout Montana. Inasmuch as Gate City has applied to merge with Glendive once the possibility of another such application at a later date cannot be discounted. Who is to say, either, that Gate City or another foreign state-chartered savings and loan might not apply for de novo branches in Montana rather than attempting to branch into Montana by merger. The Gate City decision is silent on this point.

Interstate branching is a frightening spectacle to Montana's savings and loan industry as it is to at least Montana's independent banks. The Montana Bankers Association and Montana Independent Bankers Association appeared with

Section 2 prospective application.

Insofar as this act limits or reduces the rights, powers or privileges of building and loan associations previously granted by law, it shall apply only to proposed consolidations or mergers of associations which are initiated by action taken by their boards of directors and shareholders subsequent to the effective date of this act.

This act does not affect the rights of any building and loan association organized and chartered under the laws of the State of Montana or any other state to take all such steps before any appropriate administrative body or court as are necessary to effectuate any agreement to consolidate and merge which was the subject matter of an application for the approval of the department prior to the effective date of this act.

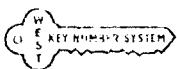
BEFORE THE DEPARTMENT OF BUSINESS REGULATION
STATE OF MONTANA

This administrative proceeding came on for hearing before
the Department of Business Regulation of the State of Montana
(Department) in the Montana Historical Society Conference Room
in Helena, Montana, on September 23, 1975, before James W.
McFarland, Esq., Hearing Examiner.

At the time of the hearing, Gate City was represented by Peter G. Pauly and C. Bruce Loble, attorneys at law of the firm of Loble, Picotte & Pauly, P. C. of Helena, Montana; Missoula was represented by Kenneth R. Neill, attorney at law of the firm of Scott, Linnell, Neill and Newhall of Great Falls, Montana, and Glendive was represented by Patrick F. Hooks, attorney at law of

plaintiff, and an order was then issued by this Court requiring that such appeal be rejected and that the stay order then in effect should remain in effect until the further order of this Court.

The Court having this day rendered and filed its opinion in 533 P.2d 1079, being the final court action as above entitled, which disposes of the questions involved in this proceeding, therefore ordered that the writ herein sought be, and it is hereby, dismissed, and this proceeding is ordered dismissed.



**GATE CITY SAVINGS AND LOAN ASSOC.
et al., Plaintiffs and Respondents,**

v.

Arnold PITTS, Director, Department of Business Regulation of the State of Montana, et al., Defendants,

Montana Savings & Loan League and Great Falls Federal Savings & Loan Assoc. et al., Defendant in Intervention and Appellants.

No. 12766.

Supreme Court of Montana.

Submitted March 3, 1975.

Decided April 8, 1975.

Foreign savings and loan association and two Montana savings and loan associations with which foreign association intended to merge brought action for declaratory judgment against the Director of the Department of Business Regulation to construe the provisions of a statute governing the operations and activities of building and loan associations and to overrule two official opinions of the Attorney General. Competitor savings and loan associations intervened. The First District Court, Lewis and Clark County, Peter G. Meloy, rendered declaratory judgment in favor

of the plaintiffs, and the Director and intervenors appealed. The Supreme Court, Castles, J., held that the foreign savings and loan association was not required to seek the approval of the Federal Home Loan Bank Board for the proposed merger before the action was ripe for declaratory judgment; that there was no requirement that the merger agreements be ratified by two-thirds of the members of each of the three associations involved before the application of merger could be filed and acted upon by the Director; and that the foreign chartered savings and loan association could merge with two state chartered savings and loan associations and maintain their separate existing facilities.

Declaratory judgment rendered.

1. Declaratory Judgment \Leftrightarrow 204

Where foreign savings and loan association had applied to Director of Department of Business Regulation to merge with two state savings and loan associations, and Director had denied application on basis of statutory interpretation rendered by Attorney General, foreign savings and loan association was not required to apply for approval of Federal Home Loan Bank Board before issue was ripe for declaratory judgment. R.C.M.1947, §§ 7-113(22), 93-8901 to 93-8916.

2. Building and Loan Associations \Leftrightarrow 44

There is no requirement that merger agreements among savings and loan associations be ratified by two-thirds of members of each association involved before application for merger may be filed and acted upon by Director of Business Regulation. R.C.M.1947, § 7-113(22).

3. Building and Loan Associations \Leftrightarrow 46

Where foreign savings and loan association applied for certificate of authority to conduct business in state and permission to merge with two state savings and loan associations, state savings and loan association should have joined in application for merger. R.C.M.1947, § 7-113(22).

STATUS OF BRANCHING OF FEDERAL SAVINGS AND LOAN
ASSOCIATIONS IN STATE OF MONTANA FOR PERIOD FROM
JANUARY OF 1974 THROUGH JANUARY OF 1977

Applications Made: 23
Applications Approved: 20
Branches Opened: 18
Applications Pending: 2
Applications Denied: 1 - Havre Federal Savings & Loan Association for Glendive

MR. CHAIRMAN AND MEMBERS OF THE SENATE BUSINESS AND INDUSTRY COMMITTEE:

My name is Bill Artz. I have been a resident of Great Falls since 1946. I have been a Certified Public Accountant since 1951. I was a delegate to the Montana Constitutional Convention from Cascade County. At present I am chairperson of the Great Falls Local Government Study Commission and President and Chairman of the Board of Fidelity Savings and Loan of Great Falls, Montana.

Along with W. W. Kelly and Ingvald Nordby I have been a Director of Fidelity Savings and Loan since 1961.

We felt there was and still is a need for a third viable savings and loan in Great Falls. We tried to make Fidelity fill this need. After ten years, December 31, 1971, equity capital had reached \$154,000 in Fidelity. The big stumbling block was FSLIC insurance. It takes \$500,000 and 350 members to qualify. The average savings and loan depositor is very reluctant to invest unless there is insurance.

On May 10, 1972, we thought we had accomplished our goal when an agreement of merger was entered into between Gate City of Fargo, North Dakota. They had surplus funds to invest in Great Falls.

How mistaken we were. The merger was finally approved by Mr. Pitts (former Director of Business Regulation) on July 19, 1976. This decision has been appealed and is now in the district court of Lewis and Clark County.

McCaffery & Peterson
Jan 31, 1977

McCAFFERY AND PETERSON, P.C.

JOSEPH J. McCAFFERY, JR.
JOHN L. PETERSON
W. D. MURRAY, JR.

ATTORNEYS AT LAW
27 WEST BROADWAY STREET
BUTTE, MONTANA 59701

AREA CODE 406
TELEPHONE 792-1221

January 31, 1977

STATEMENT OF PRUDENTIAL FEDERAL SAVINGS AND LOAN
ASSOCIATION

RE: SENATE BILL 202 AND RELATED LEGISLATION ON
BRANCHING OF SAVINGS AND LOANS ASSOCIATIONS

In 1976, Prudential Federal Savings and Loan Association, a United States Corporation, (PFS), made application to the Federal Home Loan Bank Board for approval of a branch office in Dillon, Montana. PFS had over \$6,000,000 in deposits in the primary trading area surrounding Dillon and was inconveniently serving over 1,000 customers from its Butte office which is over 60 miles distant. The Department of Business Regulation lodged a protest to that branch application suggesting that PFS was not properly serving the State of Montana in that it had savings in its Butte, Montana office totaling \$125,000,000 but that it had loans outstanding of only \$20,000,000.

That criticism may stem from PFS's failure to keep all concerned informed about the operations of PFS in Montana and the contributions that it makes to our Montana savers, borrowers and stockholders. Furthermore, one might not know of PFS's objective to serve Montanans better and provide real estate financing services in areas of the state which are, as a practical matter, out of its reach at present since its only office facility is in Butte, which it has continuously maintained for over 60 years.

The following is a summary of the contributions that PFS made in Montana in 1976:

Montana savings customers will earn interest of	\$ 8,500,000
Montana borrowers will obtain loans from PFS totaling	7,000,000
PFS employees will receive a payroll in Montana approximating	180,000
Montana savings customers who own PFS stock will receive dividends of approximately	180,000
Total recurring contribution	<u>\$15,860.00</u>
Montana stockholders of PFS received free and without cost as a result of the PFS conversion, stock valued at the time of conversion totaling approximately	<u>8,000,000</u>
1976 TOTAL	\$23,860,000

*Sen. Anderson
D. B. Anderson
Exhibit II*

BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

SENATE BILL NO. 219 (INTRODUCED AT REQUEST OF INSURANCE
COMMISSIONER)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN AGREEMENT OF BULK REINSURANCE BY A FOREIGN OR ALIEN INSURER TO BE APPROVED BY THE COMMISSIONER OF INSURANCE AND ALLOWING THE COMMISSIONER TO REQUIRE A DEPOSIT."

This act is similar to existing laws, sections 40-4747 and 40-4748, R.C.M., 1947, which require approval by the Commissioner of bulk reinsurance by a domestic (Montana) insurer. Present laws do not apply to foreign or alien insurers.

Purpose of this bill is to prevent recurrence of a recent situation where the entire block of Montana business was bulk reinsured with an out-of-state company, not authorized in Montana, removing it from the control and jurisdiction of our Department.

Such bulk reinsurance with an unauthorized insurer, no longer affords the policyholder the protection of the Montana Insurance Guaranty laws.

MONTANA INSURANCE DEPARTMENT

BY *Paul E. Anderson*

February 5, 1977

To: Mr. Chairman and Ladies and Gentlemen of the Committee

From: Terrence J. Meagher, C.P.A.
Chief Examiner
Montana Insurance Department

Re: Senate Bill No. 219
Proposed by the Mont. Dept. of Insurance under the State Auditor.

This is a highly consumer oriented bill.

The insurance industry is highly technical and reinsurance can be one of the most complicated parts. Because of that and the fact that Commissioner Bmholt feels this is one of our most important pieces of legislation, we are inviting you to please ask questions to help clarify your understanding of this bill and our intent.

DEFINITIONS:

Domestic Insurance Company - one which is incorporated under the laws of Montana

Foreign Insurance Company - one which is incorporated under the laws of any other state of the United States, eg. Idaho, California, etc.

Alien Insurance Company - one which is incorporated under the laws of any other country, eg. Canada, Mexico, etc.

Reinsurance - the insuring of insurance between companies. Spreading all or part of the risk of certain policies for a portion of the premium collected from the policyholder.

Ceding Company - collects the premium from the policyholder....services and retains the policy....pays claims directly to the policyholder.

Assuming Company - (or reinsurer) usually collects a premium from the ceding company based on the predetermined share of the risk involved and its pro-rata share of the premium actually collected by the ceding company.