

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 15, 1979

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 10:00 a.m.

ROLL CALL: All members were present.

SENATE BILL 421: Chairman Hazelbaker called on Senator Goodover, sponsor of SB 421, to explain the bill to the Committee. Senator Goodover stated that Senate Bill 421 would allow a business licensed as a consumer loan business by the Department of Business Regulation to make loans up to \$25,000. Formerly such a licensee was limited to loans of \$7,500.

PROPOSERS OF SENATE BILL 421: Mr. Jerry Loendorf, representing Montana Consumer Finance Association, further stated that the bill also provides a different method of calculating maximum allowable charges for loans over \$7,500 than that used for loans of \$7,500 or less.

Mr. Harold Pitts, representing the Montana Bankers Association, stated they support Senate Bill 421.

There were no opponents to the bill.

There was a question and answer period from the Committee.

The hearing on Senate Bill 421 was closed.

SENATE BILL 427: Chairman Hazelbaker called on Senator Turnage, sponsor of Senate Bill 427, to explain the bill to the Committee. Senator Turnage stated that this bill was requested by the Administrative Code Committee. This bill fixes statutory standards for advertising by a real estate broker under a franchise agreement and prohibits the Board of Real Estate from adopting more stringent standards. The bill also defines "franchise agreement".

Senator Turnage stated that this applies to Senate Joint Resolution 24 as well as to Senate Bill 427.

Senator Turnage distributed an exhibit from the Department of Professional and Occupational Licensing to the Committee. This exhibit is attached.

Mr. Dennis Rehberg, representing the Montana Association of Realtors, stated they support SB 427.

There was a question and answer period from the Committee.

There were no opponents to the bill.

The hearing on Senate Bill 427 was closed.

DISPOSITION OF SENATE BILL 421: Senator Goodover moved that Senate Bill 421 Do Pass. Senator Dover seconded the motion. The Committee voted that SENATE BILL 421 DO PASS. Senator Regan abstained on the vote and Senator Hager was the only dissenting vote.

DISPOSITION OF SENATE BILL 427: Senator Regan moved that Senate Bill 427 Do Pass. Senator Dover seconded the motion. The Committee voted that SENATE BILL 427 DO PASS. Senator Lowe abstained on the vote.

DISPOSITION OF SENATE JOINT RESOLUTION 24: Senator Lowe moved that SJR 24 Do Pass. Senator Mehrens seconded the motion. The Committee voted unanimously that SENATE JOINT RESOLUTION 24 DO PASS.

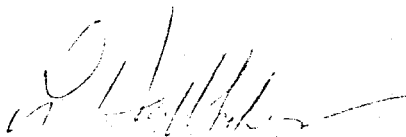
SENATE BILL 302: Senator Regan moved that the proposed amendment to SB 302 be adopted. Senator Dover seconded the motion. The amendment to SB 302 was adopted unanimously by the Committee.

DISPOSITION OF SENATE BILL 302: Senator Regan moved that Senate Bill 302 Do Pass As Amended. Senator Hager seconded the motion. A Roll Call Vote was taken on the Do Pass As Amended motion. The Committee voted 6-4 that SENATE BILL 302 DO PASS AS AMENDED.

DISPOSITION OF SENATE BILL 359: Proposed amendments to SB 359 were distributed to the Committee by Senator Regan, sponsor of the bill. Senator Regan moved that the amendments be adopted. Senator Dover seconded the motion. The Committee voted unanimously that the proposed amendments be adopted.

Senator Regan moved that Senate Bill 359 Do Pass. Senator Lowe seconded the motion. A Roll Call Vote was taken on SB 359. The Committee voted 6-4 that SENATE BILL 359 DO NOT PASS AS AMENDED.

ADJOURN: There being no further business, the meeting was adjourned at 11:05 a.m.



Senator Frank Hazelbaker, Chairman

STANDING COMMITTEE REPORT

February 15 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 421

Respectfully report as follows: That Senate Bill No. 421

DO PASS

STANDING COMMITTEE REPORT

February 15, 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 427

Respectfully report as follows: That Senate Bill No. 427

DO PASS

JC

STANDING COMMITTEE REPORT

February 15, 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Joint Resolution Bill No. 24

Respectfully report as follows: That Senate Joint Resolution Bill No. 24

DO PASS

STANDING COMMITTEE REPORT

February 15, 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 302

Respectfully report as follows: That Senate introduced bill, be amended as follows: Bill No. 302

1. Page 2, line 10.
Following: line 9
Strike: "church,"

And, as so amended,
DO PASS

SENATE COMMITTEE BUSINESS & INDUSTRY

Date Feb 15, 1979

Bill No. 302

Time 10:50

NAME	YES	NO
Pat M. Goodover, Vice Chairman	✓	
Chet Blaylock	✓	
Harold Dover		✓
Tom Hager	✓	
Allen Kolstad		✓
Bill Lowe	✓	
John Mehrens		✓
Bob Peterson		✓
Pat Regan	✓	
Frank Hazelbaker, Chairman	✓	

Margaret Nichols
Secretary

F. Hazelbaker
Chairman

Motion: AB 302 Do Pass as amended

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 15, 1970

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 359

Respectfully report as follows: That Senate Bill No. 359

introduced bill, be amended as follows:

1. Title, line 7.

Following: "SECTIONS"

Insert: "16-4-203,"

Following: "16-4-206"

Insert: ", "

2. Title, line 8.

Following: "16-4-105"

Strike: "AND"

Insert: ", "

Following: "16-4-201"

Insert: ", "

3. Title, line 9.

Following: line 8

Strike: "THROUGH 16-4-203"

Insert: "AND 16-4-202"

DO-PASS-

Continued

4. Page 3.

Following: line 13

Insert: "Section 6. Section 16-4-203, MCA, is amended to read:
"16-4-203. Determination of public convenience and necessity.
Any original license issued pursuant to [section 4] subsequent to
July 1, 1979, shall be issued only upon the department having
first determined, upon a hearing held pursuant to the Montana
Administrative Procedure Act, that the issuance of such license
is justified by public convenience and necessity."

Renumber: all subsequent sections

5. Page 8, line 14.

Following: "sections"

Strike: "7"

Insert: "8"

Following: "through"

Strike: "9"

Insert: "10"

6. Page 9, lines 13 and 14.

Following: "as of" on line 13

Strike: "June 30, 1978"

Insert: "February 13, 1979"

7. Page 9, line 15.

Following: line 14

Strike: "deduction in computing net income for"

Insert: "credit against his"

8. Page 9, line 16.

Following: line 15

Strike: "purposes"

9. Page 9, lines 17 and 18.

Following: "The" on line 17

Strike: "deduction shall be considered in the nature of a loss and"

Insert: "credit"

10. Page 9, lines 19 through 25.

Following: "1978." on line 19

Strike: the remainder of line 19 through "applied" on line 25

Insert: "any unused credit may be carried over into subsequent
taxable years"

(Continued)

11. Page 9, line 25 and line 1 on page 10.

Following: "may the" on line 25 on page 9

Strike: "net taxable income so computed"

Insert: "tax, after application of the credit,"

12. Page 10, line 1.

Following: "zero."

Insert: "Upon the death of the licensee, the heir or devisee who succeeds to the license also succeeds to the unused portion of the credit; and he may apply the credit to his Montana income tax for the taxable year in which the death occurred and may carry over any unused credit into subsequent taxable years."

13. Page 10, lines 3 and 4.

Following: "as of" on line 3

Strike: "June 30, 1978"

Insert: "February 13, 1979"

14. Page 10, line 4.

Following: "a"

Strike: "deduction in computing"

Insert: "credit against"

Following: "its"

Strike: "net"

15. Page 10, line 5.

Following: "or"

Strike: "net"

16. Page 10, line 7.

Following: line 6

Strike: line 7 in its entirety

Insert: "credit"

17. Page 10, line 9.

Following: "over"

Strike: "the loss"

Insert: "any unused credit"

Following: "to"

Strike: "each"

Insert: "subsequent"

(Continued)

18. Page 10, lines 9 through 15.

Following: "each taxable" on lines 9 and 10

Strike: the remainder of line 10 through "applied" on line 14

Insert: "periods"

19. Page 10, line 15.

Following: line 14

Strike: "net taxable income so computed"

Insert: "tax, after application of the credit,"

Following: "zero."

Insert: "Upon the dissolution, merger, or consolidation of the corporation, the person, corporation, or other entity that succeeds to the license also succeeds to the unused portion of the credit; and he or it may apply the credit to his or its Montana income, corporation income, or corporation license tax for the taxable period in which the dissolution, merger, or consolidation occurred and may carry over any unused credit into subsequent taxable periods."

20. Page 10, line 16.

Following: "16-4-105"

Strike: "and"

Insert: ", "

Following: "16-4-201"

Insert: ", "

21. Page 10, line 17.

Following: line 16

Strike: "through 16-4-203"

Insert: "and 16-4-202"

22. Page 10, line 23.

Following: "sections"

Strike: "8"

Insert: "9"

Following: "through"

Strike: "10"

Insert: "11"

And, as so amended,

DO NOT PASS

PA.

SENATE COMMITTEE BUSINESS & INDUSTRY

Date February 15, 1979 Bill No. HB 359 Time 11:00

NAME	YES	NO
Pat M. Goodover, Vice Chairman		✓
Chet Blaylock	✓	
Harold Dover		✓
Tom Hager	✓	
Allen Kolstad		✓
Bill Lowe	✓	
John Mehrens		✓
Bob Peterson		✓
Pat Regan	✓	
Frank Hazelbaker, Chairman		✓

Margie Nichols
Secretary

[Signature]
Chairman

Motion: HB 359 O. Pass

(include enough information on motion--put with yellow copy of committee report.)

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF REAL ESTATE

THE MATTER OF THE PROPOSED) NOTICE OF HEARING ON THE
ADOPTION OF NEW RULES) PROPOSED ADOPTION OF NEW RULES
REGULATING FRANCHISING) REGULATING FRANCHISING

TO: ALL INTERESTED PERSONS:

1. On August 5, 1978 at 10:00 o'clock A.M. in the Viking
Edge, Whitefish, Montana, a public hearing will be held to
receive testimony in the above entitled matter.
2. The rules as proposed will read as follows:

- 1. Franchising means a contract or agreement,
either expressed or implied, whether oral or written,
between two or more persons by which:
 - a. a franchisee is granted the right to engage in
the business or services under a marketing plan or
system prescribed in substantial part by the franchisor;
and
 - b. the operation of the franchisee's business pursuant
to such plan or system is substantially associated with
the franchisor's trade mark, service mark, trade name,
logo-type, advertising or other commercial symbols desig-
nating the franchisor or his affiliate;
- c. the franchisee is required to pay, directly or
indirectly, a franchise fee.
- 2. 'Franchisor' is a person or business entity to whom
a franchise is granted.
- 3. 'Franchisee' is a person or business entity who
grants a franchise.
- 4. 'Franchise fee' is any fee or charge that a franchisee
or subfranchisor is required to pay or agrees to pay for
the right to enter into and operate a business under a
franchise agreement.
- 5. Any broker who operates under, or uses, a franchise
name shall:
 - a. register such franchise name with the Board of Real
Estate on a form to be supplied by the Board.
 - b. incorporate in the franchise name and logo-type,
his own name; however, the broker's name may not be less
than fifty percent (50%) of the surface area of the entire
combined area of both the broker's name and the franchise
name or logo-type; and
 - c. conspicuously display on or in all of his adver-
tising, and on his letterhead, deposit receipt forms,
listing agreements and other printed materials generally
available to the public, a statement to the effect that
his real estate brokerage office is independently owned
and operated.
- 3. The franchisee will not pay or split any portion of

the compensation or commission directly or indirectly,
with the franchisor, in violation of section 66-1936
(1) R.C.M. 1947 as amended.

6. For the purpose of this rule, the term "broker's
name" is that name which appears on the real estate
broker's license granted by the Board of Real Estate
of the State of Montana, or the name of the business
entity under which the broker, franchisee, does busi-
ness, but does not include the name of the franchisor.

3. The reasons for the proposed rules are as follows:

A. Many people believe that when dealing with a real estate
franchisee they are dealing with a nation-wide real estate broker-
age agency, when, in fact, they are actually dealing with a
local real estate licensee or agency who happens to have pur-
chased a franchise from a franchisor. The franchisor is a real
estate advertising and promotion agency, and as such, does
advertise nationally, however, is not involved in the actual
real estate transactions of local real estate licensees.

B. Often times, a person contacts one franchise office in
regard to the purchase of certain real estate, believing he is
dealing with a national chain of real estate licensees. At a
later date, he may contact another of the franchise offices, and
at that time, possibly enter into a contract for purchase of
property in which he showed an interest to the licensee initially
contacted. This licensee could then bring suit against the lic-
ensee who finalized the transaction, regarding commission earned
and the public then becomes involved in litigation through
confusion as to the actual relationship between the franchisee
and the franchisor.

C. There are times when a problem arises in the course of
a real estate transaction. The person doing business with a
franchisee is often confused by the fact that he cannot take his
problem to another franchisee for advice, etc., as he finds that
although franchised by the same franchisor, the two broker agents
are in no way connected as to business matters. They are, in
fact, two absolutely separate entities. The person, frustrated,
turns to the franchisor and finds that the franchisor has no
obligations as to the local franchisees real estate business.
The franchisor is not a Montana Real Estate Licensee, merely a
real estate marketing corporation, an advertiser of real estate
licensees.

D. The manner in which the franchisor and franchisee
present advertising to the general public leads to the confusion
of the public regarding identification of the local real estate
licensees. Therefore, in the interest of the protection of the
public, and to avoid confusion which arises in that public, the
Board of Real Estate has proposed the above stated rules.

4. All interested persons will be afforded opportunity to
make oral presentation as to their comments on the proposed

Exhibit by Plaintiff

NAME: James T. Condit DATE: 2-17-79

ADDRESS: Palmdale, Md.

PHONE: 442-6350

REPRESENTING WHOM? Mt. Carmel Finance Association

APPEARING ON WHICH PROPOSAL: S421

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Frank R. Hill DATE: 2-15-71

ADDRESS: Helena, Montana

PHONE: 443-7109

REPRESENTING WHOM? Montana Bankers Assoc.

APPEARING ON WHICH PROPOSAL: S.B. 421

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William R. Patterson DATE: 2/1/70

ADDRESS: 11110 1/2 D Street

PHONE: 304-9240

REPRESENTING WHOM? AAU (Assoc of Authors)

APPEARING ON WHICH PROPOSAL: 2800M

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: See attached page 4

Handwritten notes in the comments section, including the word "revision" at the bottom.

