MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
February 18, 1981

The meeting of the House Judiciary Committee was called to order by Chairman Kerry Keyser at 8:00 a.m. in Room 437 of the Capitol. All members were present. Jim Lear, Legislative Council, was present.

HOUSE BILL 741 REP. JACOBSEN, chief sponsor, stated this bill is to clarify games of poker that are legal and those that are illegal.

There were no proponents.

There were no opponents.

REP. JACOBSEN closed the bill.

REP. BENNETT stated there was a game similar to Texas Holdup called Pineapple that allows an extra card. Was there any reason it was left off the list of legal games? The sponsor replied it was not intentionally excluded.

REP. BENNETT asked about three card low games. The sponsor replied the bill is to clarify poker as to legal and illegal. REP. KEYSER asked about the game Kings Wild. The sponsor stated he had no real interest but felt the law should be defined. If the members wanted to include these games they could.

REP. KEEDY asked if other poker games not listed in the bill would be considered as outlawed. REP. JACOBSEN replied yes. Black Jack would be illegal.

HOUSE BILL 742 REP. JACOBSEN, chief sponsor, stated the purpose of this bill is to clarify the law relating to sheriff enforcement of laws and ordinances in a city or a town. REP. JACOBSEN went over the sections of the bill.

DAN MIZNER, Montana League of Cities and Towns was in favor of the bill. MIZNER stated this bill is not trying to force anything upon the sheriffs, but his duties must be defined. Many county sheriffs define the law as outside the city limits. Many sheriffs will not come into the city to help enforce city laws. The taxpayers in the city as well as in the county pay for protection of the sheriff through taxes. If asked the sheriff's department should help out in the city. If the city wants to make a contract to take care of state laws and ordinances then they should, and pay him for the duties. MIZNER felt this bill clears up the matter.

There were no further proponents.

JOHN SCULLY was an opponent to the bill. It becomes a physical impossibility to handle the city and the county. Line 20 states it

should be done without cost. Double taxation is not real until you have a double duty. The taxpayer will have to pay for what they get. Cities and counties split up duties and functions and the payment has been made accordingly. If the committee feels this is necessary, the language concerning without cost should be deleted. The solution is not to change the basic structure within the state. If cities want that extra help they should pay for it.

CHUCK O'REILLY was opposed to the bill. O'REILLY felt this bill transfers a problem. If a city is having a problem and does not have the manpower they should be able to increase their own force. The sheriff officer that patrols Lincoln and the surrounding 1,500 square miles, lives in Lincoln. He is not just for the town of Lincoln but for all the surrounding area. If the town had its own police force, the officer would still be in Lincoln because he would have to patrol the surrounding area. O'REILLY stated he was not aware of any sheriff's officer who refused to go into a city when requested.

In East Helena they wanted a patrolman 24 hours a day but wanted to pay for only one officer. That is not possible.

By law the sheriff's department is the chief law enforcement in the counties. The cities should not be asking for free help.

There were no further opponents.

In closing, REP. JACOBSEN felt the committee will do the right thing.

REP. MATSKO asked how many men would be required to cover a 24 hour patrol including sick leave, vacations, etc. O'REILLY replied 5 1/2 men at the minimum.

REP. MATSKO stated there are certain basic services required of any city that wishes to incorporate. MIZNER said yes, one of the services is the town will have a police force. Depending on the size of the town will depend on the size of the force.

REP. KEYSER stated currently cities and counties, by agreement without this law, contract these services if they wish. MIZNER stated there are some counties that do that. The problem is defining the law. About 40 counties do not have that.

REP. KEYSER stated the present law defines duties of the sheriff when in the community. SCULLY responded there is that provision in the law presently.

That ended the discussion on House Bill 742.

HOUSE BILL 744 REP. HANNAH, chief sponsor, stated this bill's purpose is to prohibit the use of provisions in mortgages, deeds of trust, or contracts relating to real property that allow an acceleration of payments.

REP. HANNAH passed out an amendment to the bill. EXHIBIT 1. REP. HANNAH stressed the real effect of this bill will be on the homeowners. This bill addresses one area of law and clarifies it. It defines what has become a problem with high interest rates. If a person bought a home in Montana today under a conventional market loan, chances are good that there would be a due on sale clause in the contract. The lender reserves the right to be paid off when the buyer choses to sell the home. The security of the home has not changed but the buyer is the one who the lender holds responsible for payment. This bill maintains the homeowner has the freedom to sell the house on a wrap-around contract.

REP. HANNAH gave the example of a homeowner in Montana who is transferred out of state. It is difficult to find a buyer because of the high interest rates. The seller is in a position to take 1/2 of the equity and let the new buyer in on the contract. The lender of the mortgage will not allow that because he wants the full money back. The bank is the same, the house is the same, and the person lent to is the same. REP. HANNAH feels this is not right. The homeowner is forced to sell the house for less money as the lenders feel they deserve a share of the equity.

STEVE BARRETT, Montana Association of Realtors, was in favor of the bill. Relatively speaking the bill is a modest proposal. BARRETT gave EXHIBIT 2, a summary of his support of the bill.

JOHN GREATHOUSE, Greathouse Realty, was in faovr of the bill. He represents the homeowners. Homeowners have no organization on this. The due on sale clause has been one of the most disturbing effects on home sales. The ability to freely buy and sell a home is necessary. If a homeowner leases his home for three years or longer the lender can call the loan due. GREATHOUSE does not feel this is right. GREATHOUSE gave EXHIBITS 3, 4, 5, and 6 to the committee. GREATHOUSE read EXHIBIT 3 to the committee, a letter from homeowner Donna Boykin.

BRUCE BARRETT, representing the consumers supports the bill. Over the years he has worked as a lawyer and advised many college students concerning buying and selling homes. He became aware of the due on sale clause a few years ago. The problem people have in buying their first home is very critical. Interest rates are soaring and a big down payment is required. Most students do not have enough capital to make a down payment unless their parents help out. Others who don't have this need additional financing. This bill is not doing something new. BARRETT told the committee a lady he was

trying to help could not make payments on her house. She decided to sell the house. She found a buyer who was willing to take over the payments and buy her equity. The bank refused the agreement. The sale fell through. The woman is in daily fear of losing her home. This clause is stealing from them the right to allow the person to sell the home and receive equity.

VICKI GREATHOUSE, Greathouse Realty, felt the people need help. When the lenders made the original agreement they should stick by that agreement. If the person was not selling the home the lenders would not raise the interest rates. Most people sell their home because they have to. The due on sale clause is wrong. The homeowners should be protected.

Othe proponents for this bill were SUSAN DOUGLAS, HURLY CAREY, ED OLSON, BERTHA OLSON, DAVID ARCHIBALD, BILL SPILKE, MARILYN LEMM and C. ZEIER.

C. CHRISTIAN, Montana Association Realtors, was in favor of the bill. He sympathizes with the lenders but does not agree that the original contract has changed. There have been 22 court decisions, 15 of which were in favor of this. Legislation stricter than this bill has been passed in other states. The thirty year conventional loan will not be a thing of the future. The liability still rests with the original homeowner.

There were no further proponents.

JOHN ALKE, Montana Bankers Association, opposed the bill. ALKE read from EXHIBIT 8.

LAWRENCE HUSS, Montana Savings and Loan League, opposed the bill. HUSS read from EXHIBIT 9. HUSS also gave the committee EXHIBITS 10, 11 and 12.

JEFF KIRKLAND, Montana Credit Unions League, stated credit unions do make occasional loans although their primary function is to loan money for cars and appliances. This bill would take away the secondary market. His organization deals with the man on the street. It we lose the ability to make the mortgage money available to the people the credit unions lose out, therefore, the credit unions object to the bill.

JIM MEANS, Montana Savings & Loan League, read from written testimony. EXHIBIT 13.

DAVID BROWN, First Bank of Helena, felt the scape goat of this bill is the lender. Financing is not the only problem. FNMA is there. BROWN objected to the feeling it was the corporations against the consumer. We are businessmen doing business in Montana trying to

provide a service. BROWN stated if the committee wanted to pass this bill something should set the fee the realtor receives from the sale of the house.

DICK BOWER was in opposition to the bill. Many of the major savings and loan institutions are federaly chartered. There would be a question of federal preemption. This would not effect the savings and loan institutions because of the federal law.

JIM HONEFF, Board of Investments, opposes the bill. His organization buys real estate mortgages. One of the duties is to obtain the highest possible rate of return.

LINDA FORREY, Board of Housing, was neither a proponent or opponent to the bill. FORREY read from EXHIBIT 14.

There were no further opponents.

In closing, REP. HANNAH gave EXHIBIT 15. This bill states as long as the banker and the borrower enter into a contract and enter into an agreement, then they agree. The due on sale clause is being used as a means to force people to give up their equity. If this bill is passed it will not threaten the mortgage market. FHA and VA Loans constitute 40% of the loans. Total conventional loans were 11% in 1980.

REP. DAILY asked if this bill passes would it raise interest rates. BARRETT replied the interest rates would go up regardless. The long term of 30 year mortgages is on its way out. BARRETT could not say for certain the bill would cause interest rates to rise.

REP. BENNETT questioned the percentage of mortgages sold on the secondary market. BOWER replied he did not know the percentages but last year federal home loans were 15+ million dollars; FNMA had a similar amount.

REP. KEEDY asked what the intent was for existing homeowners. REP. HANNAH replied to allow the borrower the freedom to sell his home on a contract if that is what he wishes to do.

REP. KEEDY stated the testimony indicated that the due on sale clause has some lenders backing away. PAUL JOHNSTON stated his bank has had many cases concerning this. The bank had not backed down but the borrower usually does.

REP. KEEDY stated it is important the borrower and lender stick to an agreement and the due on sale clause is part of the agreement. If the borrowers believe the clause is not enforceable why are they unable to sell their homes and challenge this.

REP. KEYSER asked if the due on sale clause is required for FNMA loans, FDMCA loans, FHA loans, and VA loans. It was answered yes on the first two and no on the second two.

EXHIBITS 16 and 17 were also given to the committee.

HOUSE BILL 783 REP. TEAGUE, chief sponsor, stated the purpose of this bill is to decrease from $150 to $75 the amount at which a bad check constitutes a felony.

The bad check situation is out of hand. This bill would make writing a bad check over $75.00 a felony charge. This would discourage the writing of bad checks. When a check is deposited and there is insufficient funds the bank returns it to the merchant. The businessman has to seek help to collect. The county attorney, when asked for help, replies they are not collectors. Many checks are never acted upon.

There were no proponents.

There were no opponents.

REP. TEAGUE closed the bill.

No questions were asked by the committee.

HOUSE BILL 785 REP. CONN, chief sponsor, stated the intention of this bill is to require habitual offenders of the prohibition against driving under the influence of alcohol or drugs to display a red warning marker while driving a vehicle.

The first section of the bill defines who is termed as a habitual offender. Third offenders of DWI would come under this. This would serve as a deterrance because family and friends would learn about this.

Secondly, it would be a warning that the person is a potential hazard.

There were 600 people convicted last year. A red sticker would be placed on the car provided by 3M Company. The sticker would be removable because other individuals who are not offenders might drive that vehicle. The sticker would cost no more than $1.00. The offender would be jailed on the third offense for no less than 10 days.

DEWAYNE TOOLEY, Montana Highway Patrol, supports the concept of the bill. Records indicate 10-15 arrests each month. There would be a fiscal impact on the jails but not much.

There were no further proponents.

There were no opponents.

In closing, REP. CONN stated this is a serious attempt to provide the person driving on the highway to know that the other person is a potential hazard.

REP. DAILY asked what the present fine is for the third offense. TOOLE responded up to $1,000 and one year in jail. It goes to the district court. REP. YARDLEY asked if the jail sentence was mandatory. TOOLE replied it can be suspended.

REP. EUDAILY asked if it was possible to take the driver's license away. TOOLE replied it requires a year's revocation. The person can obtain an occupational license.

REP. EUDAILY asked how far away the sticker could be seen. TOOLE replied about 200 yards. He felt that yellor or chrome yellow was a more appropriate color for the sticker than red.

REP. HUENNEKENS asked the reason for the size of 4 x 4. REP. CONN stated if it is too large it will obstruct the vision of the driver. She was not opposed to the sticker being yellow.

REP. SHELDEN asked if the programs for alcoholism reflect any decreases in the percentage of drivers who become constant offenders. TOOLE replied there is usually a small percentage of first offenders who become second or third offenders.

There was no further discussion on House Bill 785.

EXECUTIVE SESSION

The House Judiciary Committee went into executive session at 10:45 a.m.

HOUSE BILL 284 REP. BROWN indicated ROGER MCGLENN was present to answer the committee's questions on this bill.

MCGLENN stated if he took another person's car and was in an accident, that person's insurance would cover only so much of the damage. MCGLENN's insurance would cover the rest.

REP. KEYSER stated the committee had questions on (2)(B) and (2)(C).

REP. HANNAH asked what if there was no insurance on the vehicle at the time of the accident. MCGLENN replied my insurance would

cover it to the limit of one vehicle on my policy. I could not stack two limits on top.

REP. HANNAH asked about section (2)(B). MCGLENN replied if I had two vehicles on one policy and bought another car with another company that prevents stacking between policies. It is not possible to stack from policy to policy.

MCGLENN feels the insurance companies will not change the contracts just for Montana. They will raise the premiums until they can live with it and go from there. Stacking is allowed between multiple cars on one policy but it is not allowed to stack cars from various policies.

REP. EUDAILY asked if (2)(B) was necessary. MCGLENN replied no.

The meeting adjourned at 11:05 a.m.

KERRY KEYSER, CHAIRMAN

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Amendment to House Bill 744

Page 2, line 16, after the word indebtedness insert " or accelerate or call due the payments of the indebtedness".

Page 3, line 14, insert a new paragraph (3) which reads:
(3) "Increase the interest rate or accelerate or call due the payments on an indebtedness on a transfer as set forth in paragraph (1), (a) and (b) of Section 2, unless the existing security agreement specifically permits escalation of interest rates or acceleration of principal payments."

Page 3, line 14, renumber existing paragraph (3) to (4)

Page 3, line 21, renumber existing paragraph (4) to (5)

Exhibit 2

SUMMARY OF TESTIMONY IN SUPPORT OF HOUSE BILL 744

The general principles of House Bill 744 are:

A. To provide that there shall be be no change in the existing interest or any acceleration of payments on a sale unless the original buyer is relieved from liability and the contract provides for such a change.

B. To allow owners of homes to sell those homes on a contract without fear of interference or harassment by a lending institution.

C. To protect the security of the lender in such a contract sale by allowing the lender to prevent a sale if the new buyer is unqualified using the lenders normal credit practices

D. To define a contract sale or "wrap around" contract as on encumbrance within the meaning of the existing trust indenture language to prevent litigation.

The problem of acceleration of payments or increases in interest have increased dramatically throughout the United States. It has spawned litigation and legislation.

In the Western states there is case law or legislation similar too or more restrictive than House Bill 744 in Washington, California, Utah, Colorado, Arizona and New Mexico.

This case law and legislation virtually halt all forms of activity by lenders as a result of a sale under contract. House Bill 744 is more modest than that.

The most signifigant case and the leading authority throughout the country is Wellenkamp vs Bank of America, 582 p2nd 970. In Wellenkamp the California court was constructing section 771 of California Civil Code which says "... conditions restraining alienation (sale), where repugnant to the interest created, are void." Montana Codes Annotated Section 70-1-405 is very similar to that California provision.

The Wellenkamp court felt it was unjust to allow the lender to accelerate payments or interest.

he language the court used to point out this injustice is quite clear.

"We believe, however, that it would be unjust to place the burden of a lender's mistaken economic projections on property owners exercising their right to freely alienate their property through the automatic enforcement of a due-on clause by the lender. As we stated in La Sala, . . . a restraint on alienation cannot be found reasonable merely because it is commercially beneficial to the restrainor. Otherwise one could justify any restraint on alienation upon the ground that the lender could exact a valuable consideration in return for its waiver, and that sensible lenders find such devices profitable."

In the cases around the country a majority of the courts have followed the Wellenkamp principle. The courts have held that the lenders are trying to use the acceleration to solve problems never intended to be addressed in that fashion. The Wellenkamp court said

" We furthermore reject defendant's contention that the lender's interest in maintaining its loan portfolio at current interest rates justifies the restraint imposed by exercise of a due-on clause upon transfer of title in an outright sale. Although we recognize that lenders face increasing costs of doing business and must pay increasing amounts to depositors for the use of their funds in making long-term real estate loans as a result of inflation and a competitive money market, we believe that exercise of the due-on clause to protect against this kind of business risk would not further the purpose for which the due-on clause was legitimately designed, namely to protect against impairment to the lender's security that is shown to result from transfer of title. Economic risks such as those caused by an inflationary economy are among the general risks inherent in every lending transaction. They are neither unforseeable nor unforseen. Lenders who provide funds for long-term real estate loans should and do, as a matter of business necessity, take in to account their projections of future economic conditions when they

and the interest on these long-term loans.

Unfortunately, these projections occasionally prove to be inaccurate."

No Montana case law exist on a sale of real property. However, in Brown vs Avemco Investment Corp (1979) 603 F. 2nd 1367 a Federal Circuit court of appeals reversed a decision by Judge Murray in Butte in a commercial transaction or a sale in Montana which called for the interpetation of general principles of law as well as some specific Texas statutes. That case said:

"Acceleration clauses are designed to protect the creditor from actions by the debtor which jeopardize or impair the creditor's security. They are not to be used offensively, e.g., for the commercial advantage of the creditor. Acceleration is a harsh remedy with draconian consequences for the debtor. Acceleration is a matter of equity and the courts, including those in Texas, have historically been careful to evaluate the fairness of acceleration in the particular facts of a case."

You will hear testimony that passage of House Bill 744 will damage the resale of mortgages on the secondary market. There are no facts to substantiate this charge. FHA and VA mortgages do not allow acceleration, and they have not only sold on the secondary market for years, but are considered highly desirable.

You will hear testimony that the Federally chartered Savings and Loan Associations will be exempted from this legislation. That is not true. There are cases on both sides of the issue.

A 1979 Florida case held that the Federal Savings and Loan were not exempt from state law. The court said

". . . federal law . . . does not preempt this court of its traditional equitable jurisdiction . . . when a federally chartered Savings and Loan seeks to foreclose its mortgage in sole reliance on its due-on-sale clause . . . The federal laws . . . are . . . invalid and unenforceable and must yield to state law. . ."

This federal preemption question is clearly unsettled. A U. S. Congressional resolution, H.R. 2719, in the 1980 Housing Authorization bill requires the Secretary of Housing and Urban Development to report to Congress on this problem. This report is due by April 1, 1981. Until the U.S. Congress studies this report and acts the federal preemption question is unsettled.

You will hear testimony that a sale under a contract is a "transfer" or something else, and it isn't the creation of an encumbrance within the meaning of the trust indenture. This is just not true.

The plain meaning of the words is clear. The court decisions are clear. Common sense tells us the creation of a contract while the lender still holds a first mortgage is an encumbrance subordinate to the original loan.

To be sure there is no doubt as to meaning, Section 4 of House Bill 744 purposefully and intentionally defines a sale under contract as being within the meaning of the trust indenture language.

YOU WILL HEAR MANY ARGUMENTS PRO AND CON ON HOUSE BILL 744. THE GUIDING PRINCIPAL **IS** THAT WE LIVE IN A FREE COUNTRY WITH A FREE ECONOMY. AN INDIVIDUAL MUST BE FREE TO SELL HIS HOME WITHOUT INTERFERENCE FROM LENDING INSTITUTIONS. THE LENDERS CANNOT PAY FOR THEIR IMPROPER BUSINESS DECISIONS OUT OF THE POCKETS OF MONTANA CITIZENS. SUPPORT HOUSE BILL 744.

Exhibit 3

February 16, 1981

Sirs:

My name is Donna Boykin. I am a school teacher, who teaches handicapped children. I reside at 2424 4th Ave. S., Great Falls, Mt.

I own a home in Missoula, located at 3219 Eldora Lane which was my residence before my transfer to Great Falls.

I pay $225.00 per month for rent in Great Falls and $498.00 per month for my home in Missoula, which totals $723.00 per month. My teaching salary is $900.00 per month. This leaves me $177.00 for ALL OTHER EXPENSES!!

My home in Missoula has been on the market since July 12, 1980. There is a "Due on Sale Clause" in my loan. I would be happy to carry a 2nd Trust Deed or a Contract for Deed for part of my equity to help a buyer purchase this home. There have been several buyers interested in my home during these 8 months, but when they find out that they either must refinance at today's high interest rates or that the interest on the present loan will be increased to 14 or 15%, they immmediately lose all desire to purchase even if they have the income to qualify.

The bank has told my Realtor, they don't care, that the interest will be increased to current market rates.

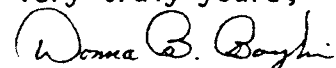
When I purchased this home and paid $30,000.00 down, financing the balance, I had no idea there was a "Due on Sale Clause" in the Trust Indenture. Even if I would have known, I am sure that I would not have understood the true ramifications of it.

My understanding is that many, many homeowners in Montana are in the same predicament because of the banker's arbitrary and unjust position. I would like to purchase a home in Great Falls, but cannot do so until I can get my home in Missoula sold.

I plead with you to sponsor and hopefully pass legislation to prohibit the banks from taking this arbitrary and unfair stand.

Thank you very much for your time and attention.

Very truly yours,



Donna Boykin

Exhibit 4

February 17, 1981

Sirs:

We purchased our first home in Missoula at 221 West Sussex. Our names are Rick and Terry Gray. I am employed as a mechanic and my wife is a salesperson at a local retail department store. After purchasing our first home, my wife became unexpectedly pregnant. This home is a small starter home in a good area of Missoula and we had originally planned to stay in the home and start building our equity.

Since my wife can no longer work full time because of her pregnancy, our home has become an unbearable expense and we wish to sell. The "Due on Sale Clause" in the Trust Indenture has prevented the sale of our home and placed a hardship on my family.

Please vote to pass the legislation prohibiting the bank from enforcing the due on sale provision.

Thank you.

Sincerely,

Mrs Rick D Gray

Exhibit 5

February 17, 1981

Sirs:

We are property owners at 2516 Gleason in Missoula, Montana and our names' are Robert and Diana Winn. We purchased a home 2 years ago in Missoula and originated a conventional loan because the sellers would not sell the home FHA-VA and pay the points. We put our total savings of $8,000.00 down and since then have remodeled at the cost of $5,000.00 in additional savings.

This is the first home we have ever purchased. We have been taught, and we believe, that home ownership in America is the foundation of our way of life. When we purchased our home, we were not aware that there was a "Due on Sale Clause" in our Trust Indenture. Now that we have discovered this and because of the bank's position, we are either unable to sell our home at all or sell it at a drastically reduced price.

Would you please vote to pass the legislation prohibiting the bank from enforcing this due on sale provision.

Thank you very much,

Exhibit 6

February 17, 1981

Dear Committee Members:

My name is Vern Hoven. I purchased a home for my private residence at 3815 Bellecrest, Missoula, Montana.

Upon advice from my legal council, and according to the exemptions in the "Due on Sale Clause" in the existing Trust Indenture, I purchased this home on a Contract for Deed which takes 2nd on junior position to the bank's loan. The bank attempted to extract from me the sum of $700 in points plus an increase in interest of 2%.

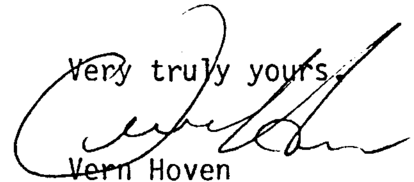
When I informed them that it was my attorney's opinion that they did not have the right to do so; the banker threatened foreclosure, and turned it over to their legal council to begin foreclosure proceedings.

Even though my record of earnings and collateral is greater than the previous owner, and all payments have been made in a timely manner; I am living under the threat of foreclosure and possibly losing my home.

Would you please vote to pass the proposed legislation prohibiting the banker from acting in this arbitrary manner.

Thank you.

Very truly yours,



Vern Hoven

event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Deed of Trust such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Deed of Trust immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower or if after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days of the date of such notice, Lender is authorized to collect and apply the proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

10. Borrower Not Released. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower and Borrower's successors in interest.

11. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

12. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

14. Notice. Any notice to Borrower provided for in this Deed of Trust shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address stated below, except for any notice required under paragraph 18 hereof to be given to Borrower in the manner prescribed by applicable law. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower when given in the manner designated herein.

15. Uniform Deed of Trust; Governing Law; Severability. This form of deed of trust combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Deed of Trust shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflicts shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, ~~and to this end the provisions of the Deed of Trust and the Note are declared to be severable.~~

16. Borrower's Copy. Borrower shall be furnished a conformed copy of this Deed of Trust at the time of execution or after recordation hereof.

17. Transfer of the Property; Assumption. [illegible] part of the Property [illegible] sold [illegible] Borrower [illegible] encumbrance subordinate [illegible] Trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Deed of Trust shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17 and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

18. Acceleration; Remedies. Except as provided in paragraph 17 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 14 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall give Trustee notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Lender or Trustee shall record a notice of sale in each county in which the Property or some part thereof is located, and Trustee shall mail copies of such notice in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the lapse of such time as may be required by applicable law and after posting on the Property and publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited

Exhibit 8

TESTIMONY OF THE MONTANA BANKERS ASSOCIATION

BEFORE THE HOUSE JUDICIARY COMMITTEE

ON HOUSE BILL 744

February 18, 1981

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am John Alke of Helena, Montana, representing the Montana Bankers Association. The Association has as its dues-paying members all 165 banks and trust companies doing business in the State of Montana. The Association appears here today in opposition to House Bill 744.

The banking industry, and in fact all lenders, now use a standard deed of trust form in real estate loans which contains a clause 17 providing for acceleration of the entire debt "if all or any part of the property or an interest therein is sold or transferred by borrower without lender's prior written consent. This clause is commonly referred to as a "due on sale" clause. The clause serves two purposes. First, it protects the lender's interest in the collateral and his special relationship with the borrower who applied for the loan. Secondly, it allows periodic adjustment of the bank's loan portfolio to account for fluctuations in our economy. This bill would prohibit in its entirety the second purpose of the clause, and severely inhibit the first purpose.

The home loan industry has traditionally operated on the assumption that, on average, mortgages will "turn over" every seven years. This assumption is, in short, that a homeowner will sell his house in seven years and the mortgage will be paid in full. Any change

in interest rates, either up or down, will be reflected in the new mortgage resulting from a sale of the residence. This assumption is based on the actual experience of lenders.

The seven year turnover has been an integral part of the process of setting a market rate for home mortgages. Since a potential homeowner can only afford to buy a home on credit using a 20 or 30 year repayment plan, the seven year turnover has allowed lenders to focus on the actual experience with their loan portfolios instead of the theoretical maximum provided in the morgages themselves. Long-term investments are more risky than short-term investments, other things equal. The price of home loans would have to account for such risk.

In the absence of a due on sale clause, lenders will have to do two things. The first is to raise the price of home loans, relative to other loans, as a reflection of the increased risk posed by the long-term nature of a home loan in the absence of an enforceable due on sale clause. The second thing is to shorten the term of the mortgage in an effort to minimize risk. The due on sale clause has permitted a compromise between the lenders need for a reasonable profit and the homeowner's need for a long-term commitment for a fixed price loan.

Legislation such as House Bill 744 consistently loses sight of the fact that the banking industry has consistently, if not exclusively relied on secondary mortgage markets as a method of financing new home purchases. Because of the risk involved in long-term loans, banks have been able to minimize this risk and increase the value of their home loans through the simple expedient of selling the mortgages in the secondary market. It is the wishes and desires of the secondary market which dictate to the banking industry the terms and practices utilized by

it in making home loans. The simple fact of the matter is that the due on sale clause is a required ingredient of any mortgage which will be sold to a secondary market. The passage of House Bill 744 will simply deny Montana residents access to the secondary mortgage market, a vital source of capital for investment in housing. The banking industry simply will not be able to make home loans if it cannot meet the standards imposed upon it by the secondary market.

This problem is further exacerbated by the fact that this bill cannot affect home mortgages made by federally-chartered savings and loan institutions. These institutions are governed by federal law which specifically permits due on sale clauses. This federal provision controls over any inconsistent state provision. Unless Montana wants to rely solely on savings and loan institutions as a source for financing home loans, House Bill 744 should not be passed into law.

As an example of the effect this type of legislation has on homeowners, the reaction of the Federal National Mortgage Association, commonly called Fannie Mae, to such legislation should be examined. Eleven states have prohibited the use of due on sale clauses. Fannie Mae has required that any mortgage in such a jurisdiction have a rider permitting a call option after seven years. Without such an option Fannie Mae simply will not purchase the mortgage. This call option is far more onerous to the homeowner than a due on sale clause, as the power to call the loans exists independently of any sale or proposed sale of the home itself. Unless Montana wants such restrictions imposed upon its homeowners, it should not pass House Bill 744.

It should be clearly emphasized that this proposed legislation will not inure to the benefit of all Montana homeowners. In fact, because

of the effect it will have on the secondary mortgage market, and the risks involved in making a home loan, it can be expected to adversely affect all prospective homeowners through decreased credit availability and increased credit costs. The bill will benefit only those existing homeowners who have a favorable interest rate, and are desirous of selling their home in today's market. The bill will obviously benefit the realtors who are attempting to find qualified buyers for those homes. The bill will give this limited class of individuals a windfall in that their homes will command a premium price because of the desirability of the homeowners financing. This desirable financing was not bargained for nor paid for by the homeowner, but was simply bestowed upon him by today's virulent inflation.

There is much current discussion about non-conventional alternatives to straight mortgages such as the variable rate mortgage, the renegotiable rate mortgage, the shared appreciation mortgage, or the price level adjustment mortgage. As an example, you will find attached to this testimony a copy of a recent article in the Helena Independent Record. These alternatives to conventional financing are not currently available to the banking industry, because the all important secondary mortgage market has not yet become adapted or attuned to purchasing such mortgages. Only those institutions which hold their own home mortgages are able to utilize these experimental methods of financing. Additionally, it should be emphasized that each of these alternative methods of financing will be more expensive in the long-run to the home buyer.

It is respectfully submitted that this legislature should be committed to a policy which would make it easier for our young people,

as they grow up, to become homeowners. It has traditionally been the dream of every American to own his own home. This legislation will frustrate that tradition by making new mortgages more expensive. The legislation is not in the best interest of the people of the State of Montana.

-END-

Financing your home:

High interest rates are making the traditional long-term fixed-rate home mortgage a thing of the past. In its place are a variety of non-conventional or "creative" mortgages.

Although they may allow you to buy a house despite rising interest rates, because of these plans, you may have to pay more in the long run.

Before you agree to any mortgage, says the Montana Society of CPAs, be sure you understand what each one costs in light of your present and projected financial situation. This way, you can choose the mortgage that suits your pocketbook.

Variable-rate, renegotiable-rate and shared appreciation mortgages come with a built-in element of risk. The interest rate you pay several years from now could be higher than the starting rate.

Graduated-payment mortgages and the wraparound have a constant rate of interest, but they, too, are unconventional.

• The graduated payment mortgage is offered by the Federal Housing Administration (FHA). It may fit your needs, if your income is growing and you plan to occupy the house for ten years or less.

The interest rate usually stays the same during the entire length of the loan with this type of mortgage, but monthly payments are low during the first few years. Payments increase annually at a predetermined rate over a period of five or 10 years, then level off for the remainder of the loan.

There are tax advantages to a graduated payment mortgage, say CPAs. The interest portion of the monthly payment on any mortgage is deductible on your federal income tax return.

Since your early mortgage payments comprise more interest than principal, you can deduct a large portion of those payments. Once the payments level off, however, they are generally higher than if you had a level-payment mortgage.

• The variable-rate mortgage is generally available from federal and some state chartered savings and loan associations.

The interest rate increase is now limited to one-half of one percent a year. The maximum amount the interest rate can be raised during the life of the mortgage is two-and-a-half percent.

Let's say you take on a variable-rate mortgage with an initial interest rate of 13 percent. It's possible you could be charged 13½ percent during the second year of the loan, 14 percent during the third year, 14½ percent the fourth year, 15 percent the fifth year and 15½ percent the sixth year. After this point, the rate could only be adjusted downward.

The lowest interest rate that could be charged on a 13 percent mortgage is 10½ percent. When the rate is adjusted on a variable-rate mortgage, the term of the loan may be extended, but it's more likely that your monthly payment will be raised.

An increase from 13 to 13½ percent, for examp, could increase your monthly payment on a $70,000, 25-year mortgage from $789.48 to $815.95. Or, the interest could remain at 13 percent while the loan is extended from 25 to 30 years. Your monthly payments would then be $774.33.

• The renegotiable-rate mortgage is a long-term loan (25 to 30 years) that is treated like a series of short-term loans. The interest rate can be adjusted up or down every three to five years. The maximum interest rate change is one-half of one percent multiplied by the number of years between rate adjustments.

figure total cost before using the new mortgages

Here's how it works: your mortgage rate is "renegotiated" every four years. If your initial interest rate is 12 percent, your interest can vary by two percent. The highest yo ur interest can be is 14 percent and the lowest is 10 percent. If you don't wish to contue the mortgage at the new rate, you can pay off the loan in full with no penalty for prepayment.

With both variable-rate and renegotiable-rate mortgages, you're gambling that interest rates will fall in the future, reducing the interest you pay on your loan. Should interest rates rise, you lose the bet, as the interest on your mortgage also goes up.

If you have a fixed income, you may not want to risk higher monthly payments, CPAs suggest. Should you expect your own income to increase, or your spouse to return to the workforce sometime in the future, a flexible interest rate may fit into your budget.

• The shared-appreciation (or equity) mortgage is only available in certain states, so check your bank or savings and loan to see if it's available in your area.

In return for a below-market interest rate on your mortgage, you agree to give the lending institution a portion of the profit expected, either from your home's appreciation or its sale.

A shared-appreciation mortgage may help you afford a first house that would be out of reach otherwise.

Even after you sold the house, your two-thirds share of the profit could come close to the full profit on a less expensive piece of property, CPAs say. This mortgage may not be the best choice if you expect to own your house for a long period of time, since eventually you may have to pay the lender its share of the appraised value of the property. To do this, you may have to raise the cash by refinancing your mortgage at current interest rates, which could mean much higher monthly payments.

• The wraparound. You assume the seller's first mortgage with a lower interest rate and piggyback onto that a new long-term mortgage at today's higher interest rates. In effect, the newer mortgage "wraps" around the older one. Your monthly payments are lower than if you financed the entire home purchase with a new mortgage, and they remain steady over the life of the loan.

Exhibit 9

HOUSE BILL 744

MONTANA SAVINGS AND LOAN LEAGUE

* * * * * * * * * *

Since the inception of the Small Tract Financing Act of Montana in 1963, the majority of residential financing has been secured through what is commonly known as a trust indenture or deed of trust. These instruments have routinely contained a clause identified as a "due-on-sale" clause, a "pay-on-sale" clause or now "Paragraph 17". In each instance this clause refers to the right of the lender to accelerate the payment of principal upon the sale of the property by the original borrower.

The purpose of the clause was two-fold: 1) to protect lenders from the sale of the mortgage contract to uncredit-worthy purchasers; and 2) to insure a regular review and up-date of the lender's loan portfolio to provide an acceptable ratio of short term borrowing to long term lending. While interest rates remained relatively unchanged, the lender used the clause primarily for the former purpose. While today with escalating rates of interest, the lender is forced to use the clause as much for the second purpose as the first. This handout is an economist's view of the legitimacy and desireability of the "due-on" clause, and we commend it to you for your information prior to action on this bill.

When the lender originally made the loan to the owner of the residential property, it did so with the purpose of providing a fixed rate of interest for that owner for as long as the owner continued to hold the property or until amortization of the loan, whichever occurred first. The lender also made the original loan with the knowledge that the average person owns his home between seven and ten years, thus affording the lender the opportunity to periodically renegotiate the loan with a subsequent buyer. It was not the intention of the lender to provide the borrower a negotiable instrument which itself increased in value in addition to the rapid escalation in the value of the real property. In voiding the "due-on clause" you tend to lock in the financing for a longer period of time and thus further distort the ratio of short-term borrowing to long-term lending and cause severe financial strain to the saving and loan business - a business which has already been severely battered by the giant fluctuations in the interest rates. Additionally, you will have enacted a law impairing the obligation of existing contracts contrary to Article II, Section 13, Constitution of Montana, 1972.

The material I am handing out now is instructions from the Federal National Mortgage Association, known as "Fanny-Mae", one of the primary secondary mortgage markets. (A secondary mortgage market is an institution that buys mortgages and trust indentures from lenders in order to permit the lenders capital to make further loans.) The handout

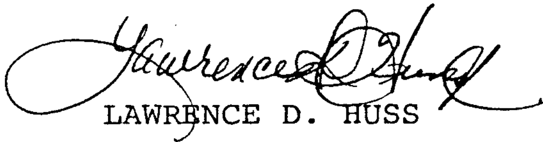
basically states that Fanny Mae will not purchase any long term mortgages without requisite enforceability of the "due-on" clause. Failing that, Fanny Mae will require lenders to repurchase the contracts after seven years -- an impossibility for Montana's lenders. This same requirement is imposed by the Federal Home Loan Mortgage Corporation and, we understand, the State Board of Housing and the State Board of Investment. These four institutions comprise virtually 100% of the secondary market. Without these secondary markets, the savings and loan associations will be unable to provide new financing and the home mortgage market will be severely curtailed. No lender today will provide long term financing without a secondary market. The alternative is 5 to 7 year mortgage - renegotiable at the end of each such term.

We appreciate the depressed condition of the housing market today and understand the strife of the real estate people. What was once a horn of plenty for hundreds of real estate licensees, is now a tough and competitive market providing sustenance for substantially fewer. But it is inappropriate for the legislature to now convert these people into mortgage brokers, rather than real estate agents, at the expense of the lenders. I close with a quote from a respected and experienced REALTOR from Helena, Vern Cougill, in his letter to the Realtors Association and the state's financial institutions, a copy of which is distributed:

"The mast head of MONTANA REALTOR has a fine logo with an American eagle clutching a banner "Let's Free Enterprise". Introducing and aggressively lobbying for governmental regulation of our long term partners in the Real Estate Industry is certainly not supportive of that slogan.

We have discussed this very serious matter with all of our associates in this office and are of one mind. We, as REALTORS, would make a grave error in proposing regulatory legislation on a major industry in which we have no equity position. This goes against every principle REALTORS profess to uphold.

REALTOR Members in our office cannot in all good conscience support the proposed legislation."



LAWRENCE D. HUSS

FEB 09 1981

Exhibit 10

THE DUE ON SALE CLAUSE IN THE UTAH RESIDENTIAL REAL ESTATE MARKET

by

Richard T. Pratt

and

Tim S. Campbell

Richard T. Pratt is a professor and Tim S. Campbell is an associate professor in the Department of Finance, Graduate School of Business, University of Utah. Both Drs. Pratt and Campbell have been actively involved in research and writing on questions of the "due on sale" clause in the State of California and elsewhere.

THE DUE ON SALE CLAUSE IN THE
UTAH RESIDENTIAL REAL ESTATE MARKET

The acceleration clause or "due on sale" clause included in most Utah residential mortgage contracts has been receiving substantial attention both in the press and in local legal and regulatory circles. Those who wish to see this clause ruled unenforceable or eliminated from mortgage contracts have couched their arguments in terms of consumer benefits, implying that both purchasers and sellers of residential real estate will be benefited by the elimination of the "due on sale" clause. This issue is, in fact, of great importance to consumers; however, consumers' interest is precisely the opposite of that which has been suggested. The "due on sale" clause provides a substantial benefit to the public and allows a significant and valuable option to the potential home purchaser. Its elimination would harm those who find mortgage credit most difficult to obtain and those who are seeking to participate for the first time in the process of home ownership which has been so beneficial to Utah citizens.

The "due on sale" clause has historically been incorporated in the mortgages and notes associated with residential real estate financing, in both the state of Utah and in the nation generally. The clause, as worded, allows the mortgage lender to terminate or call the mortgage loan at the time of the sale of the property by the mortgagor. In earlier years, when interest rates were relatively constant over extended periods of time, the primary use of the "due on sale" clause

was to assure the credit worthiness of the potential assumer of a mortgage loan. In this use the "due on sale" clause maintained the security position of the lender.

As interest rates began their steady upward climb through the 1960's and 1970's, the primary use of the "due on sale" clause changed. In this new environment the "due on sale" clause provided a vehicle for shortening the effective maturity of mortgage loans from a nominal 25 to 30 years to a much shorter 5 to 10 years, characteristic of the average tenure of homeowners in a given residence.

The effect of an enforceable "due on sale" clause can be summarized as follows:

1. The homeowner borrowing under a fixed-rate mortgage is protected as to interest rate, maturity, and payment for the shorter of the life of the loan or his ownership of the property. As long as a borrower retains title, the maturity, interest rate, and payment cannot be changed by the lending institution.
2. The financial institution makes no future commitment to the borrower as to the availability or cost of credit to a subsequent purchaser. In the event that a borrower should decide to sell his property at some future date, it is understood by borrower and lender that financing is subject to credit market conditions existing at the time of sale.

As a result of the "due on sale" clause, the financial institution is able to plan on actual mortgage maturities being shorter than the nominal contract maturities. This benefits both the lender and the

borrower--the lending institution is able to keep its mortgage portfolio closer to current market rates, and the borrower can obtain mortgage credit at a lower interest rate because the lender is not guaranteeing interest rates for the full nominal maturity of the loan.

The immediate effect of a removal of the "due on sale" clause is to substantially alter the position of lenders, borrowers, and prospective borrowers. Economically, the effect gives a property right to existing borrowers which they had not contemplated receiving and for which they were not charged in terms of the mortgage loan which they received. Both borrowers and lenders understand that the interest rate and terms which they are negotiating on a residential mortgage loan are effective for the life of the loan or the borrower's tenure in the title of the property, whichever should terminate earlier. By eliminating the "due on sale" clause a property right is conferred on borrowers which is very substantial. This value can easily exceed 20 percent of the value of the loan. The implications of eliminating the "due on sale" clause seem especially unfortunate. This would generate a substantial windfall gain to previous borrowers who have already received extremely high rates of return on their investment in their owner-occupied dwelling. For example, a Utahn who purchased a $35,000 home in 1972 has seen his investment value grow to at least $100,000. In addition to providing a windfall gain to homeowners who tend to be of above average income, this imposes a tax in the form

Lenders have had a tax imposed upon them which they could not have foreseen and for which they did not charge the consumer, while prospective borrowers will be required to buy a more costly mortgage which may be an inferior product to the one which was available when the "due on sale" was allowed.

Effects on Services Provided by Savings and Loan Associations and Other Mortgage Lenders

Mortgage lenders are in the business of borrowing short-term funds and converting them into long-term, fixed interest rate mortgages. By borrowing short and lending long, mortgage lenders have created a large volume of long-term housing funds at guaranteed rates of interest and, at the same time, have provided liabilities in the form of savings accounts which are the primary liquid assets of Utah's households. The operation of borrowing short and lending long is not without risk. Mortgage lenders are locked into a given return on their investments for a period of up to 30 years, while paying current market rates for their savings accounts. When interest rates on liabilities plus normal operating costs exceed the contract return on existing mortgages, losses are incurred by the financial institution. The greater the difference in maturity between the institution's assets and liabilities, the more risk the institution will face from changing interest rates. For a financial intermediary, the risk of loss in mortgage portfolios is an ordinary and necessary cost of doing business, and the cost of this risk must be included in the pricing of the institution's services. In general, the

greater the difference in maturities, the greater the cost of intermediating between those maturities. If the "due on sale" clause is disallowed, this will effectively extend the maturity of fixed-rate, fixed-term mortgage loans. The cost of mortgage credit will be increased to compensate for the increased risk. This cost must be recovered through increased rates or the lender will cease to offer long term mortgages to the borrowing public. The persistent increase in interest rates during the past decade and a half may have conditioned lenders to incorporate an expectation of increasing interest rates into their pricing of fixed-rate, fixed-term mortgages. To the extent this happens, interest rates on the mortgage without an effective "due on sale" clause will be increased over that for an identical mortgage having an enforceable "due on sale" clause.

In recent years, the escalation in housing prices and interest rates has made it more difficult for first time homeowners to buy a home. A substantial portion of this problem is caused by the inability of potential homeowners to qualify for the payments required. By disallowing the mortgage loan with an exercisable "due on sale" clause, we are insisting that fixed-rate mortgage lenders must offer only the more expensive mortgages with interest rate protection for the full nominal maturity of the loan. Any factor tending to increase costs and delay the entry of first-time home purchasers into the housing market denies them the opportunities which previous purchasers have enjoyed in their housing investment.

If the "due on sale" clause is eliminated, the fixed-rate, fixed-term mortgage may largely disappear from the State of Utah.

If so, consumers will have been hurt and competition among financial institutions will have been decreased.

Utah Mortgages in the Secondary Market

Utah citizens have been consumers of large amounts of mortgage credit. The State's demand for mortgage credit has exceeded its institutions' ability to generate capital from within Utah. The State of Utah and the western United States in general depend heavily on secondary markets to provide mortgage funds to home buyers.

A major factor leading to the increasing effectiveness of the secondary mortgage market has been the increasing standardization of mortgage instruments and the acceptance of assumptions concerning the expected mortgage maturity. Historically, prices for conventional mortgages have been based on an assumption that the average life of purchased mortgages will be 12 years. The elimination of the "due on sale" clause will likely cause a decreasing acceptance of Utah loans. Fixed-rate, fixed-term mortgages originated by Utah mortgage lenders will suffer a disadvantage in that they will be dissimilar to mortgages originated elsewhere which have an enforceable "due on sale" clause.

Conclusions

The disallowance of the use of the "due on sale" clause for interest rate adjustment purposes would provide a plethora of unfavorable effects while lacking substantial redeeming attributes. This decision would create a windfall gain and a windfall loss which have no economic or public interest rationale. Potential homeowners

would be denied the opportunity to obtain mortgages which are available to nearly every other citizen in the United States. In not allowing lenders to make, nor consumers to obtain, mortgages incorporating a "due on sale" clause for interest rate adjustment purposes, institutions are precluded from offering what would be lower cost mortgages which may be preferred by a majority of borrowers.

Exhibit 11

FEDERAL NATIONAL MORTGAGE ASSOCIATION

FNMA

RUSSELL B. CLIFTON

October 27,1980

TO: All FNMA Conventional Seller/Servicers

SUBJECT: Special Documentation Related to FNMA's Policy on Enforcement of the Acceleration-Upon-Sale Provision

Change No. 87 to the FNMA Conventional Home Mortgage Selling Contract Supplement and Change No.64 to the FNMA Home Mortgage Servicing Contract Supplement describe FNMA's policy on enforcement of the Acceleration-Upon-Sale Provision.

In order to assist you in computing the new Note rate on transfers of ownership, a chart entitled <u>Data Required for Computation of Coupon Rates on Transfers of Ownership</u> is attached. This chart will be updated monthly and mailed to all Conventional Seller/ Servicers.

In those jurisdictions where FNMA cannot fully enforce the Acceleration-Upon-Sale Provision, FNMA requires that the Note be modified and a Call Option Rider executed and attached to the security instrument. This requirement will not apply to mortgages originated and sold to FNMA by federally-chartered savings and loan associations. These institutions are exempt from state law restrictions on Acceleration-Upon-Sale enforcement under regulations of the Federal Home Loan Bank Board.

Attached for your guidance is a sample 1 to 4 Family Note, indicating the required reference to the provision concerning the call option which should be inserted on the front side, and the required language for the call option which should be typed on the reverse side.

Also attached is a camera-ready copy of the Call Option Rider which must be executed by the borrower(s) and attached to the security instrument. In addition, the following provision must be inserted in the security instrument:

The Call Option Rider attached hereto and executed of even date herewith is incorporated herein and the covenants and agreements of the Rider shall amend and supplement the covenants and agreements of this (Mortgage, Deed of Trust, Deed) as if the Rider were a part hereof.

A limited number will be initially available in the FNMA regional offices; however, Sellers are required to reproduce this form for future use.

Russell B. Clifton
Vice President for Mortgage Programs

Attachment

CALL OPTION RIDER

THIS RIDER is made this .... day of ...., 19......., and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to ....
.... (the "Lender") of the same date (the "Note") and covering the property described in the Security Instrument and located at:

....
(Property Address)

ADDITIONAL COVENANT. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. Lender's Call Option. During the thirty day period beginning on a date seven years from the date of the Note, Lender shall have the option to require payment in full of the sums secured by the Security Instrument. If Lender elects to exercise this call option, notice of such election shall be given to Borrower who shall pay all such sums to Lender on the payment date specified in the notice, which date shall be at least 60 days from the date of mailing. If Borrower fails to pay such sums when due, Lender may invoke any remedies permitted by the Security Instrument.

IN WITNESS WHEREOF, Borrower has executed this Call Option Rider.

______________________________ — Borrower

______________________________ — Borrower

REAL ESTATE
•
INVESTMENT COUNSELORS

330 FULLER AVENUE • HELENA, MONTANA 59601 • (406) 442-333

January 16, 1981

A call for a second opinion.

The TV ads advise that, if your doctor recommends major surgery, it is prudent to ask for a second opinion from another doctor before proceeding with the surgery.

The Montana Realtors, with the support of a majority of the Board Presidents, the Legislative Committee and the State Board of Directors, are introducing legislation in Montana to regulate Financial Institutions in their application of "Pay on Sale" clauses. These financial institutions look upon this as a surgical procedure separating the marketing leg of the Real Estate Industry from the financing leg of that industry which will tend to permanently cripple the structure.

So let's take a second look. There is little question that the imposition of "pay on sale" imposes a strong restriction on the marketing of Real Estate, but -- if there is no financing available for financing Real Estate there is no marketing.

We have in the past relied primarily on Banks and Savings and Loan institutions to provide us with such financing.

The large majority of Bank deposits are invested in short term Commercial loans with long term Real Estate loans using only a relatively small portion of those deposits. In serving the Real Estate Industry, Banks depend on secondary money markets to purchase those loans, with the individual Bank acting as a conduit. The secondary markets have recently taken a second look and have determined that they want the "pay on sale" clause enforced. The individual Bank has no other option than to comply.

Savings and Loans have been in a different position. Historically, due largely to controls imposed on them, a very large percentage of their deposits are invested in long term Real Estate Loans. This position is currently undergoing changes which will allow them to shift a more material portion into other income producing loans. While it would seem reasonable to expect that the majority of deposits will continue to be invested in long term mortgages, they now have more freedom for alternative investment in short term contracts.

Thus both of our primary sources of financing Real Estate are in a much better position to make adjustments in their loan portfolios, replacing the volume of loans formerly created by Real Estate marketing. If they do in fact make such an adjustment we in marketing will be hard pressed to find a new source of money to take care of our needs.

Where then are we to look for financing? The State? The Federal Government? There just is no private financing system in existance and available to us that can come even remotely close to absorbing the financing requirements of the Real Estate Industry. It will have to be created.

The mast head of MONTANA REALTOR has a fine logo with an American eagle clutching a banner "Lets Free Enterprise". Introducing and aggressively lobbying for governmental regulation of our long term partners in the Real Estate Industry is certainly not supportive of that slogan.

We have discussed this very serious matter with all of our associates in this office and are of one mind. We, as REALTORS, would make a grave error in proposing regulatory legislation on a major industry in which we have no equity position. This goes against every principle REALTORS profess to uphold.

REALTOR Members in our office cannot in all good conscience support the proposed legislation. We suggest consideration be given to an alternative - Negotiation.

REALTORS in each community meet with financing institutions in their community. Ask them to consider our problem and listen to their problems. Then negotiate to find an answer that is acceptable to both. It may be not fully satisfactory to either, but it can be much more productive for both.

Very truly yours,

Vernon E. Cougill

Noral Johnson

Exhibit 13

COMMITTEE COPY

The Due On Sale Clause In The Montana Residential Real Estate Market

Presented By
James E. Means, Vice President/Loan Administration
First Federal Savings and Loan Association
Great Falls, Montana

FOR THE MONTANA SAVINGS & LOAN LEAGUE

The acceleration clause or "due on sale" clause included in most Montana residential mortgage contracts has been receiving substantial attention both in the press and in local and legal regulatory circles. Those who wish to see this clause ruled unenforceable or eliminated from mortgage contracts have couched their arguments in terms of consumer benefits, implying that both purchasers and sellers of residential real estate will be benefited by the elimination of the "due on sale" clause. This issue is, in fact, of great importance to consumers; however, consumers' interest is precisely the opposite of that which has been suggested. The "due on sale" clause provides a substantial benefit to the public and allows a significant and valuable option to the potential home purchaser. Its elimination would harm those who find mortgage credit most difficult to obtain and those who are seeking to participate for the first time in the process of home ownership which has been so beneficial to Montana citizens.

The "due on sale" clause has historically been incorporated in the mortgages and notes associated with residential real estate financing, in both the State of Montana and in the nation generally. The clause, as worded, allows the mortgage lender to terminate or call the mortgage loan at the time of the sale of the property by the mortgagor. In earlier years, when interest rates were relatively constant over extended periods of time, the primary use of the "due on sale" clause was to assure the credit worthiness of the potential assumer of a mortgage loan. In this use the "due on sale" clause maintained the security position of the lender.

As interest rates began their steady upward climb through the 1960's and 1970's, the primary use of the "due on sale" clause changed. In this new environment the "due on sale" clause provided a vehicle for shortening the effective maturity of mortgage loans from a nominal 25 to 30 years to a much shorter 5 to 10 years, characteristic of the average tenure of homeowners in a given residence.

The effect of an enforceable "due on sale" clause can be summarized as follows:

1. The homeowner borrowing under a fixed-rate mortgage is protected as to interest rate, maturity, and payment for the shorter of the life of the loan or his ownership of the property. As long as a borrower retains title, the maturity, interest rate, and payment cannot be changed by the lending institution.

2. The financial institution makes no future commitment to the borrower as to the availability or cost of credit to a subsequent purchaser. In the event that a borrower should decide to sell his property at some future date, it is understood by borrower and lender that financing is subject to credit market conditions existing at the time of sale.

As a result of the "due on sale" clause, the financial institution is able to plan on actual mortgage maturities being shorter than the nominal contract maturities. This benefits both the lender and the borrower--the lender is able to keep its mortgage portfolio closer to current market rates, and the borrower can obtain mortgage credit at a lower interest rate because the lender is not guaranteeing interest rates for the full nominal maturity of the loan.

The immediate effect of a removal of the "due on sale" clause is to substantially alter the position of lenders, borrowers, and prospective borrowers. Economically, the effect gives a property right to existing borrowers which they had not contemplated receiving and for which they were not charged in terms of the mortgage loan which they received. Both borrowers and lenders understand that the interest rate and terms which they are negotiating on a residential mortgage loan are effective for the life of the loan or the borrower's tenure in the title of the property, whichever should terminate earlier. By eliminating the "due on sale" clause a property right is conferred on borrowers which is very substantial. This value can easily exceed 20 percent of the value of the loan. The implications of eliminating the "due on sale" clause seem especially unfortunate. This would generate a substantial windfall gain to previous borrowers who have already received extremely high rates of return on their investment in their owner-occupied dwelling. For example, a Montanan who purchased a $35,000 home in 1972 has seen his investment value grow to at least $65,000 to $70,000. In addition to providing a windfall gain to homeowners who tend to be of above average income, this imposes a tax in the form of higher prospective interest costs on those individuals who will be buying homes in the future, a tax which appears to be highly regressive. Both lenders and prospective borrowers are disadvantaged. Lenders have had a tax imposed upon them which they could not have foreseen and for which they did not charge the consumer, while prospective borrowers will be required to buy a more costly mortgage which may be an inferior product to the one which was available when the "due on sale" was allowed.

Effects on Services Provided by Savings and Loan Associations and Other Mortgage Lenders

Mortgage lenders are in the business of borrowing short-term funds and converting them into long-term, fixed interest rate mortgages. By borrowing short and lending long, mortgage lenders have created a large volume of long-term housing funds at guaranteed rates of interest and, at the same time, have provided liabi-

lities in the form of savings accounts which are the primary liquid assets of Montana's households. The operation of borrowing short and lending long is not without risk. Mortgage lenders are locked into a given return on their investments for a period of up to 30 years, while paying current market rates for their savings accounts. When interest rates on savings plus normal operating costs exceed the contract return on existing mortgages, losses are incurred by the financial institution. The greater the difference in maturity between the institution's assets, mortgages, and liabilities, savings, the more risk the institution will face from changing interest rates. For a financial intermediary, the risk of loss in mortgage portfolios is an ordinary and necessary cost of doing business, and the cost of this risk must be included in the pricing of the institution's services. In general, the greater the difference in maturities, the greater the cost of intermediating between those maturities. If the "due on sale" clause is disallowed, this will effectively extend the maturity of fixed rate, fixed-term mortgage loans. The cost of mortgage credit will be increased to compensate for the increased risk. This cost must be recovered through increased rates or the lender will cease to offer long term mortgages to the borrowing public. The persistent increase in interest rates during the past decade and a half may have conditioned lenders to incorporate an expectation of increasing interest rates into their pricing of fixed-rate, fixed-term mortgages. To the extent this happens, interest rates on the mortgage without an effective "due on sale" clause will be increased over that for an identical mortgage having an enforceable "due on sale" clause.

In recent years, the escalation in housing prices and interest rates has made it more difficult for first time homebuyers to own a home. A substantial portion of this problem is caused by the inability of potential homeowners to qualify for the payments required. By disallowing the mortgage loan with an exercisable

"due on sale" clause, we are insisting that fixed-rate mortgage lenders must offer only the more expensive mortgages with interest rate protection for the full nominal maturity of the loan. Any factor tending to increase costs and delay the entry of first-time home purchasers into the housing market denies them the opportunities which previous purchasers have enjoyed in their housing investment.

If the "due on sale" clause is eliminated, the fixed-rate, fixed-term mortgage may largely disappear from the State of Montana. If so, consumers will have been hurt and competition among financial institutions will have been decreased.

Montana Mortgages in the Secondary Market

Montana citizens have been consumers of large amounts of mortgage credit. The State's demand for mortgage credit has exceeded its institution's ability to generate capital from within Montana. The State of Montana and the western United States in general depend heavily on secondary markets to provide mortgage funds to home buyers.

A major factor leading to the increasing effectiveness of the secondary mortgage market has been the increasing standardization of mortgage instruments and the acceptance of assumptions concerning the expected mortgage maturity. Historically, prices for conventional mortgages have been based on an assumption that the average life of purchased mortgages will be 12 years. The elimination of the "due on sale" clause will likely cause a decreasing acceptance of Montana loans. Fixed-rate, fixed-term mortgages originated by Montana mortgage lenders will suffer a disadvantage in that they will be dissimilar to mortgages originated elsewhere which have an enforceable "due on sale" clause.

Conclusions

The disallowance of the use of the "due on sale" clause for interest rate adjustment purposes would provide a plethora of unfavorable effects while lacking substantial redeeming attributes. This decision would create a windfall gain and a windfall loss which have no economic or public interest rationale. Potential homeowners would be denied the opportunity to obtain mortgages which are available to nearly every other citizen in the United States. In not allowing lenders to make, nor consumers to obtain, mortgages incorporating a "due on sale" clause for interest rate adjustment purposes, institutions are precluded from offering what would be lower cost mortgages which may be preferred by a majority of borrowers.

The result of this type of legislation in 17 states has been to force the Federal National Mortgage Association to the unheard of requirement of demanding from the sellers of mortgages to the Mortgage Association a seven year buy-back. This means from the day of sale of the loan the seller would have to start accumulating cash reserves to enable that seller to repurchase the loan in seven years. This clause effectively eliminates a lender, mortgage banker, bank or savings and loan from selling to the Mortgage Association. The significance of this action only registers when you realize the Federal National Mortgage Association is the largest buyer of mortgages in the United States and the only marketing source to better than 50 % of the mortgage sellers in the United States.

In actual operation First Federal has negotiated an interest rate change half way between the rate on the existing loan and the rate we are quoting at the time the sale occurs when it enforces the "due on sale" clause.

TESTIMONY ON HB 744

Exhibit 14

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Lyle Olson, Administrator of the Montana Board of Housing, is testifying at another hearing this morning and asked me to represent the Board's view on HB 744. My name is Linda Forrey, Single Family Program Officer of the Board. We have reviewed the provisions of HB 744 and would like to ask the committee to exempt the Board of Housing from this bill.

Presently the housing board finances only FHA Insured or VA Guaranteed Mortgage Loans and does not allow the interest rate or monthly payments to accelerate upon assumption. However, the Board does have the authority to issue tax-exempt bonds to finance conventional mortgages but the interest rate on the mortgage would remain constant throughout the life of the loan. If in the future the Board can finance conventional mortgages at below market rates and still maintain its current bond rating, federal legislation enacted in December 1980 provides that all mortgages financed with tax-exempt securities allow assumptions only if (1) the property is the principal residence of the new mortgagor; (2) the new mortgagor has not owned a home within the last three years; and (3) the selling price of the residence does not exceed 90% of the average selling price for the county in which the mortgage is assumed. Technically, the assumption rule would preclude the use of FHA/VA insurance in tax-exempt programs unless the new law is amended or the federal agencies change their well-established rules in allowing assumptions. If the above-requirements are not met, the Board's bonds shall become taxable and any financing programs offered through the sale of tax-exempt securities, whether it be FHA/VA or conventional mortgages, would become prohibitive.

Attached to this oral and written testimony is correspondence from the Board's Bond Counsel, John Oitzinger, asking for an exemption of HB 744 so the Board of Housing may continue to function under the new federal tax law to provide housing at affordable interest rates to qualified homebuyers. Thank you for your consideration.

Respectfully submitted by

THE MONTANA BOARD OF HOUSING

Exhibit 15

HOUSE BILL 744 FACT SHEET

House Bill No. 744 addresses the long standing problem of banks calling due loans because the borrower has sold the property. This has been true even when the new buyer is as credit worthy as the original and even when the original buyer is still obligated on the loan. The banks call due the loans to allow them to increase the interest rate. This is in direct contradiction to the express terms of the loan agreement. Selling on a contract is the "creation of a lien or encumbrance subordinate to the original loan". The loan agreement allows this but the lenders are trying to change the meaning of the contract.

This problem is not unique to Montana. Other states have recognized the problem and have taken action to stop the lenders from stripping a home owner from his mortgage loan when he sells his house. Five states, Colorado, Georgia, Iowa, Minnesota and New Mexico, have passed laws which prevent lending institutions from calling due such loans. Many states have court decisions with similar results.

Naturally the lending institutions are opposed to either legislation or court cases such as these. It costs them money. This fact sheet has been prepared to counter objections made by the lending insitutions and to put aside erroneous assumptions and information that have developed.

NOT TRUE	TRUE
	these states show no attributable change in loan patterns and housing sale patterns. There is no reason Montana would be any different.
Once House Bill 744 has passed federally chartered savings and loans won't fall under the law. They will still be able to raise interest rates.	When House Bill 744 is passed the federally chartered savings and loans will have to convince the courts that only state chartered savings and loans must now obey the law. Recent court cases in other states have indicated that the issue of federal pre-emption of state law is strongly being attacked. In addition, Congressional action has been taken to clarify this problem.
House Bill 744 is changing the contract rights and taking something away from the lenders.	House Bill 744 is only asking the legislature to enforce the loan documents as they exist. The court cases around the country are almost unanimous in their opinion that selling a home on a contract is a sale within the exclusion on a lien or encumbrance subordinate to the original loan.

Exhibit 16

JACKSON, OITZINGER & MURDO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
203 NORTH EWING STREET
HELENA, MONTANA 59601

DAVID L. JACKSON
JOHN J. OITZINGER
ROBERT M. MURDO
JOHN H. GRANT

L. V. HARRIS
COUNSEL

TELEPHONE
(406) 442-1300

February 17, 1981

Mr. Lyle E. Olson
Montana Board of Housing
2001 11th Avenue
Helena, Montana 59601

Re: House Bill 744

Dear Lyle:

At your request I have reviewed the provisions of House Bill 744 which would prohibit the owner of a mortgage from disapproving an assumption for reasons other than credit-worthiness of the transfer.

This bill is at variance with recently enacted federal tax law which governs the ability of the Board of Housing to issue tax exempt bonds. Specifically, Section 103A(k) of the Internal Revenue Code states that all mortgages financed with tax exempt bonds may permit assumptions only if certain requirements are met. These include a requirement that the residence be the principal residence of the mortgagor, that the mortgagor not have been a homeowner within the preceding three years and that the selling price of the residence not exceed 90% of the average selling price for the county during the most recent twelve month period for which statistics are available. Due to the difficulties of meeting these criteria and the risk of bonds becoming taxable if they are not met, the Board will probably have to prohibit assumptions completely in order to satisfy the concerns of investors.

Accordingly, it would appear necessary to obtain an exemption for the Board from House Bill 744 if the Board is going to be able to function at all under the new tax law.

Please let me know if you need anything further.

Best regards,

John J. Oitzinger

JJO:jj

Exhibit 17

LAW OFFICES

BERGER, ANDERSON, SINCLAIR, MURPHY,
NELSON, EDWARDS, McGIMPSEY & MOLLOY

CONSOLIDATED PROFESSIONAL CORPORATIONS

2508 Third Avenue North
BILLINGS, MONTANA 59103

Arnold A. Berger
Richard W. Anderson
James J. Sinclair
James P. Murphy
Chris J. Nelson
A. Clifford Edwards
Philip P. McGimpsey
Donald W. Molloy

P.O. Box 1914
406-252-3439
406-259-4274

December 12, 1980

Mr. Charles H. Hamwey
Floberg Realtors
923 Broadwater Square
Billings, Montana 59102

Dear Charlie:

The Federal Regulation to which I have referred to at the Realtor's meeting last week is 12 C.F.R., Section 545. 8-3(f). It provides in part as follows:

> "Due on sale clauses. An association continues to have the power to include, as a matter of contract between it and the borrower, a provision in its loan instrument whereby the association may, at its option, declare immediately due and payable sums secured by the associations security instrument if all or any part of the real property securing the loan is sold or transferred by the borrower without the associations's prior written consent. Except as provided in paragraph (g) of this section with respect to loans made after July 31, 1976 on the security of the home occupied or to be occupied by the borrower, exercised by the association of such option (hereafter called a due on sale clause) shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the association and borrower shall be fixed and governed by that contract.

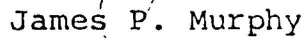
> (g) Limitations on the exercise of due on sale clauses. With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, a federal association: (1) shall not exercise a due on sale clause because of (i) creation of lien or other encumbrance subordinate to the association's security instrument . . . (3) waives its option to exercise a due on sale clause as to a specific transfer if, before the transfer, the association and the person to whom the property is to be sold or transferred (the existing borrower's successor in interest) agree in writing that the person's credit is satisfactory to the association and that interest on sums secured by the association's security interest will be payable at a rate the association shall request. Upon such agreement and resultant waiver, the association shall release the existing borrower from all obligations under the loan instruments, and the association is deemed to have made a new loan to the existing borrower's successor in interest."

I must note that a legal question exists as to whether a contract for deed is a "lien or encumbrance" on the property. Arguments can, however, be made on both sides of that question.

It is my view that the people at FNMA must be made aware of this regulation. I had the impression that the left hand does not know what the right hand is doing when an FNMA threatens to stop funding in Montana if due on sale is held illegal. Perhaps you or the bankers with whom you deal will know the proper person to approach.

If I may be of further assistance, please let me know.

Yours truly,



James P. Murphy

cb

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL 742 Date 1/18/81

SPONSOR JACOBSEN

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Dan K. Mizner	Helena	Mont League of C & T	X	
Chuck O'Reilly	Helena	Mt. Sheriffs & Peace Off		X
John Smith	Bozz	" " "		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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1-81

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

LL 785

Date 2/18/81

ONSOR CONN

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
B. Tooley	Helena	MHP		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL 744 Date 1/18/81

SPONSOR HANNAH, ET AL.

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Steve Barrett	Bozeman	Mont Assoc Realtors	X	
C Christian	Helena	" " "	X	
James E. Means	Great Falls	Mont Savings & Loan League		X
[illegible]	Helena	[illegible]		✓
Steve Groff	Helena	Mont Svgs & Loan League		X
		[illegible]		
Ed Olson	Gt Fls	Olson Realty	✓	
Bertha Olson	Gt Fls	Olson Realty	✓	
David Archibald	Gt Fls	Olson Realty	✓	
Hurly Carey	Helena	Mt Assn of Rltrs	✓	
Richard Maurer	Kalispell	Mont Bankers Assoc.		X
[illegible] Bryan	Helena	First Bank Helena		X
[illegible]	"	Mont Bankers Assn		✓
Bruce Barrett	Missoula	Law Practice/consumers		
[illegible]	Helena	Broker-Owner Pioneer [illegible]	X	
Diana Kihler	Helena	Broker-Owner Pioneer Properties	X	
[illegible]	Helena	Broker Owner New Horizon	✓	
Vicki Greathouse	Missoula	Greystone Realty	X	
John R. [illegible]	Missoula	" "	X	
Susan [illegible]	Missoula	" "	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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Steve Susan Helena [illegible]

Nancy Carol Helena [illegible]

VISITORS' REGISTER

HOUSE ______________________ COMMITTEE

BILL 744 ______________________ Date ______________________

SPONSOR ______________________

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
[illegible]	Helena	[illegible]	X	
[illegible]	Helena	[illegible]	X	
[illegible]	Helena	Self	X	
Bill Spilker	"	Self	X	
John [illegible]	Missoula	Home Owners	X	
[illegible]	Townsend	[illegible] - exempt		
[illegible]	Helena	MT Svgs + Loan League		X
[illegible]	Great Falls	" " "		X
[illegible]		Mt Bankers Assoc		x
Ron [illegible]	Helena	mt. Savings + Loan		X
Marilyn [illegible]	Helena	Mt Ass'n of Realtors	X	
Jim [illegible]	"	Board of [illegible]		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
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