

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 25, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present except Rep. Kadas who was excused.

### HOUSE BILL 213

REP. ROBERT DOZIER, District 61, sponsor, opened by saying there were some basic protections that are missing from the statute that should be there. One is that the developer be required to furnish the buyer a copy of the bylaws and laws and regulations covering the project. There are a few condo developers who are not 100 percent on the up and up. They will sell nine condos and rent eleven, thereby keeping the controlling majority for themselves. Also, that receipts be kept in the manager's office and available during normal business hours so owners can look at them, and that prospective buyers be informed when the developer owns a controlling interest in the project. Rep. Dozier said there are a lot of senior citizens who own condos and they should be protected.

#### PROPOSERS:

DENNIS REHBERG, Montana Association of Realtors, Helena, said we need further regulations and some overview on the condo problems. He would like definitions of "what constitutes a developer;" "who has responsibility, the developer or the owner of the condo unit?" and, "what notice is." Another question is who are prospective buyers - anyone who walks in off the street, or perhaps someone who has put down earnest money.

OPPOSERS: none

REP. DOZIER, in closing, said he agrees with Dennis that someone off the street should not receive a copy of the bylaws. He would have no problem with an amendment to that effect.

#### QUESTIONS:

REP. HANSEN: Mr. Rehberg, wouldn't the agent determine who is a serious client? Mr. Rehberg: Under this section, anyone who expresses a desire would get a copy.

REP. ELLERD: If you buy interest in a condo and the rest are not sold, are you responsible to share the costs? Mr. Rehberg: Normally, it is spelled out what your costs will be. Rep. Ellerd: How long is the fee set for? Mr. Rehberg: The majority owner has the ability to call a meeting at any time and say we are going to raise the fee. This will hold the developer responsible for informing owners that he has the controlling interest and can do so.

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HOUSE BILL 244

REP. JAY FABREGA, District 44, sponsor, opened by saying this bill will eliminate the rule of 78ths which is a problem when you get into long term contracts. This bill amends the Montana Retail Installment Sales Act and the Montana Consumer Loan Act to require that upon prepayment in full of any contract originally written for a period of not more than 61 months the buyer shall receive a refund equalling the proportion that the finance charges or interest due on the prepayment bear to the total of such charges under the contract. He said they looked at Idaho, Utah and Washington and they are limiting it to 61 months, which gives leeway for repayment which might start on the 15th of the month.

PROPONENTS:

JERRY LOENDORF, Montana Consumer Finance Association, said the rule of 78ths was originally used to finance items like automobiles which cost \$3,000. The rule of 78ths provided a method of refund and was designed for smaller, short-term loans. If you make a long term, larger loan and its paid off in the early months, you will get some bad results. This bill does not provide a substitute method of computation, therefore, we have presented an amendment to accomplish this.

JOHN CADBY, Montana Bankers Association, said his organization supports this bill.

OPPONENTS: none

QUESTIONS:

REP. ELLISON: What is the advantage of the rule of 78ths?  
Mr. Loendorf: The only advantage is the ease in computation.  
Mr. Fabrega: They didn't have the computers we have today and it was an easy method of computation. It will probably never be used again now that we have the computers. Mr. Cadby: Computers are replacing the rule of 78ths. Small communities don't have a micro-computer and they still need this.

REP. METCALF: Mr. Loendorf, would you explain the amendment for us? Mr. Loendorf: It is two amendments - the first saying any contract where the contract exceeds 61 months, you use the actuarial method, based on the assumption that all payments were made as originally scheduled. So in effect, we have interest times principle times rate times time....that is what all of this means.

REP. METCALF: Assume someone has a 20 year loan and paid it off in five years with interest. Basically, if they have prepaid the rest of that loan, they wouldn't be charged a penalty or they wouldn't receive back much because they were current with the agreement. Mr. Loendorf: They would come back and recompute

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the loan as if it were made on an actuarial basis. Rep. Metcalf: Would they net out getting a little bit more or paying a little bit more? Mr. Leondorf: They would get the same as if it had been made on an actuarial basis. Rep. Fabrega: When you pre-pay early, you actually pay less.

REP. HARPER: What I'm worried about is if you can figure them down to thousandths and you've got the word "may" in there; if he is to benefit he'll round it and if he doesn't, he won't round it. Do you have any objection to being more specific with that? Mr. Leondorf: None at all.

REP. METCALF: When you say the actuarial method of computing... would that be the same thing as simple interest? Mr. Leondorf: Yes.

#### HOUSE BILL 338

REP. JAY FABREGA, District 44, sponsor, opened by saying this bill amends the Montana Consumer Loan Act to remove the ceiling of \$25,000 on loans made under the applicable laws and to allow holders of supplementary licenses to make open-end loans of any amount. He said if someone needs \$27,000 they have to get \$25,000 from one company and the other \$2,000 from another. The \$25,000 limit seems to serve no purpose, he said.

#### PROPONENTS:

JERRY LEONDORF, Montana Consumer Finance Association, said each Legislature they have to ask that the limit be raised. He continued that they see no reason for a limit and we should go with what is going on nationally.

OPPONENTS: none

#### QUESTIONS:

REP. SCHULTZ: In a certain situation, would someone have a 24 percent interest put on them? Mr. Leondorf: The highest consumer loan in this town is at 19 percent, but that could go to 24 percent.

#### HOUSE BILL 339

REP. JAY FABREGA, District 44, sponsor, opened by saying this bill will allow licensees to sell their business and assets to a financial institution not licensed under that act but regulated by the state or federal government.

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JERRY LEONDORF, Montana Consumer Finance Association, said finance companies have decreased in this state from 130 to approximately 32. There are not many buyers left. The consumer finance companies lost money in this state in 1981 and I suspect they will have lost in 1982, he said. This bill would open up a new group of buyers.

OPPONENTS: none

QUESTIONS: none

EXECUTIVE SESSION:

REP. FAGG made the motion that HOUSE BILL 339 DO PASS.

Question:

The motion that HOUSE BILL 339 DO PASS carried unanimously with Rep. Ellison abstaining.

REP. JENSEN made the motion that HOUSE BILL 338 DO PASS.

Question:

The motion carried by unanimous vote with Rep. Ellison abstaining.

HOUSE BILL 244:

REP. FABREGA: I suggest that we give our legal council a chance to look over the amendment and come up with the proper language.

REP. HANSEN: Jay, there is no ceiling made on the amount of the loan only on the 61 months? Rep. Fabrega: That's right.

REP. METCALF: If rounding the annual percentage rate to the nearest onehalf of one percent wasn't included, what method would be used? Mr. Leondorf: They wouldn't round it. They would use the normal procedure of going to the fourth decimal point. I would suggest that you strike that line and let them do it the way they normally would.

REP. HARPER: I move that we delete the two lines from the amendment on rounding out annual percentage rates.

Question: The motion carried unanimously.

REP. HARPER: I move the amendment with whatever Paul can figure out language-wise.

REP. METCALF: Mr. Leondorf: Is there a reason why there is different language in the two paragraphs? Mr. Leondorf: They can be made uniform.

Question: The motion carried unanimously.

REP. HARPER: I move HOUSE BILL 244 DO PASS AS AMENDED.

Question: The motion carried unanimously with Rep. Ellison abstaining.

HOUSE BILL 213

REP. METCALF: We need to defin "prospective buyer" to tighten this bill up. Rep. Kitselman: If they have placed earnest money down that should clarify. Rep. Hansen: I think there should be something to protect the client and the agent from full-time lookers. The agent has the ability to sort them out. Rep. Fabrega: "Prior to signing a buy and sell agreement" should work

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REP. FABREGA: Generally the developer does not intend to retain most of the units. In the beginning the developer is the majority owner. Rep. Ellison: Instead of developer, use "person." Paul Verdon: The word person is defined to include even corporations. REP. METCALF: We will allow Paul Verdon to work out the language on this amendment and return with his suggestions.

The hearing adjourned at 11:00 a.m.

  
JERRY METCALF, CHAIRMAN

  
Linda Palmer, Secretary

# STANDING COMMITTEE REPORT

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January 25

19 83

**Speaker:**

MR. ....

**BUSINESS & INDUSTRY**

We, your committee on .....

**HOUSE**

having had under consideration ..... Bill No. **244** .....

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color

**A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE APPLICATION OF THE RULE OF 78THS METHOD OF COMPUTING INTEREST AND REFUNDS ON PREPAYMENT TO LOANS AND RETAIL INSTALLMENT CONTRACTS MADE FOR A TIME PERIOD OF NOT MORE THAN 61 MONTHS; AMENDING SECTIONS 31-1-242 AND 32-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY CLAUSE."**

**HOUSE**

Respectfully report as follows: That ..... Bill No. **244** .....

**Be amended as follows:**

**Title, line 8**

**Following: "MONTHS;"**

**Insert: "AND PROVIDING FOR REFUND OR CREDIT ON PREPAYMENT ON LOANS OR CONTRACTS EXCEEDING 61 MONTHS;"**

**Page 2, following line 2:**

**Insert: "(3) In any contract where the period of the contract exceeds 61 months, the amount of such refund is the portion of the original finance charge that is applicable to all fully unexpired months in the contract as originally scheduled or if deferred, as deferred, following the date of prepayment. For this purpose, the applicable charge is the charge that would have been earned for that period, if the contract were not precomputed, by applying to the unpaid principal balance, according to the actuarial method, the annual percentage rate disclosed pursuant to federal law, based on the assumption that all payments were made as originally scheduled."**

~~XXXXX~~ **Page 3, line 13**  
~~DO PASS~~ **Following: "(5)"**  
**Insert: "(a)"**

Page 4, following line 1

Insert: "(b) When any loan contract, new loan, renewal, or otherwise, for a period of more than 61 months, is paid in full by cash one month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges that is due the borrower that is applicable to all fully unexpired months in the contract as originally scheduled or if deferred, as deferred, following the date of prepayment. For this purpose the applicable charge is the charge which would have been earned for that contract, if charges had not been precomputed, by applying to the unpaid principal balance, by the actuarial method, the annual percentage rate disclosed pursuant to federal law based on the assumption that all payments were made as originally scheduled. For all loans that may be subject to this section, charges are computed initially in the same manner used to determine the annual percentage rate."

AND AS AMENDED

DO PASS

# STANDING COMMITTEE REPORT

January 25

19 83

MR. Speaker

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE Bill No. 328 338

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT SUPPLEMENTARY  
LICENSEES UNDER THE CONSUMER LOAN ACT TO MAKE LOANS IN ANY  
AMOUNT; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201,  
32-5-301, 32-5-306, 32-5-402, AND 32-5-501, MCA."

HOUSE

328

Respectfully report as follows: That..... Bill No. ....

DO PASS



# STANDING COMMITTEE REPORT

January 25

83

19.....

MR. **Speaker:** .....

We, your committee on ..... **BUSINESS & INDUSTRY** .....

having had under consideration ..... **HOUSE** ..... Bill No. **339** .....

first reading copy ( white )  
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**A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A CONSUMER  
LOAN LICENSEE TO SELL ITS BUSINESS AND ASSETS TO CERTAIN  
FINANCIAL INSTITUTIONS NOT LICENSED UNDER THE MONTANA  
CONSUMER LOAN ACT; AMENDING SECTION 32-5-103, MCA."**

**HOUSE**

**339**

Respectfully report as follows: That..... Bill No.....

DO PASS

## VISITORS' REGISTER

HOUSE

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COMMITTEE

BILL

244

Date \_\_\_\_\_

1-25

SPONSOR

Fabrega

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE

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COMMITTEE

BILL

339

Date \_\_\_\_\_

1-25

SPONSOR

Fabrega

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## VISITORS' REGISTER

HOUSE

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COMMITTEE

BILL

338

Date \_\_\_\_\_

1-25

SPONSOR

Fabrega

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