

*Senate* BILL NO. *428*  
*Hayes*

1  
2 INTRODUCED BY \_\_\_\_\_  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE LENDING  
5 INSTITUTIONS LOANING MONEY ON NEW RESIDENTIAL CONSTRUCTION  
6 TO WITHHOLD 5% OF THE COST OF CONSTRUCTION FROM THE  
7 CONTRACTOR FOR A PERIOD OF 1 YEAR, UNLESS THE CONTRACTOR  
8 POSTS A BOND."  
9

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

11 Section 1. Withholding of construction costs. (1) A  
12 bank, savings and loan association, or other lending agency  
13 lending money in the state on the construction of a new  
14 residence shall withhold from the general contractor  
15 constructing the residence 5% of the total construction cost  
16 for a period of 1 year. The balance shall be paid at the end  
17 of the 1-year period or when all warranty work has been  
18 performed or settlement has been reached on warranty claims  
19 arising within the 1-year period, whichever occurs later.

20 (2) Subsection (1) does not apply when:

21 (a) the person building the residence is the owner  
22 thereof;

23 (b) the general contractor posts a bond with the  
24 lending institution in the amount of 5% of the total  
25 construction cost conditioned upon the faithful performance

1 of required warranty service.  
2 (3) The lending institution shall pay interest at a  
3 rate of 5 1/2% to the contractor on all money withheld under  
4 subsection (1).  
5 (4) The provisions of subsection (1) may not be waived  
6 by agreement between the contractor and the homeowner or  
7 lending institution.

-End-

STATE OF MONTANA

REQUEST NO. 492-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 14, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 428 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 428 requires lending institutions loaning money on new residential construction to withhold five percent (5%) of the cost of construction from the contractor for a period of one year, unless the contractor posts a bond.

FISCAL IMPACT:

None. The bill does not require any agency of state government to issue rules or supervise the lending agencies for compliance.

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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-77