

1 Senate BILL NO. 446
2 INTRODUCED BY Committee on Taxation *Notches*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DECLARE PREPAYMENT
5 PENALTIES UNENFORCEABLE IN CERTAIN REAL ESTATE MORTGAGES."

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. There is a new section in Title 52, chapter
9 2, R.C.M. 1947, that reads as follows:

10 Prepayment penalties not enforceable in certain
11 mortgages. (1) Any mortgage held by an institutional lender
12 executed after July 1, 1977, may be satisfied prior to the
13 date on which satisfaction is required by the mortgage
14 agreement without liability for any prepayment penalty. A
15 prepayment penalty is against public policy and
16 unenforceable in the case of mortgages executed after July
17 1, 1977.

18 (2) As used in this section, "institutional lender"
19 means a bank, savings and loan association, credit union
20 chartered by an agency of a state, provincial, or national
21 government, or an insurance company.

22 Section 2. Findings as to classification. The
23 legislature finds grounds for classifying institutional
24 lenders and other lenders into separate categories for
25 purposes of defining the powers of a mortgagee, in that the

1 mortgage terms offered by an institutional lender are more
2 frequently a contract of adhesion in which the mortgagor has
3 less bargaining power.

-End-

INTRODUCED BILL

SB 446

Approved by Committee
on Taxation

1 SENATE BILL NO. 446
2 INTRODUCED BY MATHERS
3 COMMITTEE ON TAXATION
4

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

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10 2, R.C.M. 1947, that reads as follows:

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12 mortgages. (1) Any mortgage held by an institutional lender
13 executed after July 1, 1977, may be satisfied prior to the
14 date on which satisfaction is required by the mortgage
15 agreement without liability for any prepayment penalty. A
16 prepayment penalty is against public policy and
17 unenforceable in the case of SUCH mortgages executed BY
18 INSTITUTIONAL LENDERS after July 1, 1977, WHERE THE SUBJECT
19 REAL ESTATE IS THE RESIDENCE OF, OR A FARM OR RANCH OPERATED
20 BY THE MORTGAGOR OR HIS SUCCESSOR IN INTEREST.

21 (2) As used in this section, "institutional lender"
22 means a bank, savings and loan association, credit union
23 chartered by an agency of a state, provincial, or national
24 government, or an insurance company.

25 Section 2. Findings as to classification. The

1 legislature finds grounds for classifying institutional
2 lenders and other lenders into separate categories for
3 purposes of defining the powers of a mortgagee, in that the
4 mortgage terms offered by an institutional lender are more
5 frequently a contract of adhesion in which the mortgagor has
6 less bargaining power AND NONINSTITUTIONAL LENDERS OR
7 INDIVIDUALS MAY HAVE A GREATER NEED TO REFUSE ACCELERATED
8 PAYMENT FOR TAX OR OTHER REASONS.

-End-