

CHAPTER NO. 88

HOUSE BILL NO. 39

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Business and Industry.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to prefiled bill.
January 12, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 13, 1979	On motion rules suspended and bill placed on second reading this day. Second reading, do pass. On motion rules suspended and bill placed on third reading this day. Third reading, passed. Transmitted to second house. Engrossed before transmitted.

IN THE SENATE

January 15, 1979	Introduced and referred to Committee on Business and Industry.
March 1, 1979	Committee recommend bill be concurred in and be placed on Consent Calendar. Report adopted.
March 3, 1979	Motion pass consideration.

March 5, 1979

Consent Calendar discussion.

March 6, 1979

Consent Calendar concurred in.

IN THE HOUSE

March 7, 1979

Returned from second house.
Concurred in. Sent to
enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 39
 2 INTRODUCTION BY _____
 3 BY REQUEST OF THE CODE COMMISSIONER
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAW RELATING TO CREDIT TRANSACTIONS; AMENDING
 7 SECTIONS 31-1-231, 31-1-243, 31-1-301, 31-2-218, 31-2-224,
 8 AND 31-2-226, MCA."
 9

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

11 Section 1. Section 31-1-231, MCA, is amended to read:
 12 "31-1-231. Requirements of retail installment
 13 contracts. (1) Each retail installment contract shall be in
 14 writing, ~~shall~~ be signed by both the buyer and the seller,
 15 and ~~shall~~ be completed as to all essential provisions prior
 16 to the signing of the contract by the buyer. However, if a
 17 retail installment transaction is a sale of goods other than
 18 a motor vehicle where no title, lien, or other security
 19 interest is retained or taken by the seller, then the retail
 20 installment contract need not be contained in a single
 21 document. In such case, if the contract is contained in more
 22 than one document, then one such document may be an original
 23 document executed by the retail buyer applicable to
 24 purchases of goods or services to be made by the retail
 25 buyer from time to time, and in such case such document,

1 together with the sales slip, account book, or other written
 2 statement relating to each purchase, shall set forth all of
 3 the information required by this section and shall
 4 constitute the retail installment contract for each such
 5 purchase.

6 (2) The printed portion of the contract, other than
 7 instructions for completion, shall be in at least 8-point
 8 type. The contract shall contain the following notice in a
 9 size equal to at least 10-point bold type:

10 "1. Notice to the buyer. Do not sign this contract
 11 before you read it or if it contains any blank spaces.

12 2. You are entitled to an exact copy of the contract
 13 you sign.

14 3. Under the law, you have the right to pay off in
 15 advance the full amount due and to obtain a partial refund
 16 of the finance charge."

17 (3) If the contract covers the sale of a motor
 18 vehicle, it shall also contain, in a size equal to at least
 19 10-point bold type, a specific statement that liability
 20 insurance coverage for bodily injury and property damage
 21 caused to others is not included if that is the case.

22 (4) The contract shall contain the names of the seller
 23 and the buyer, the place of business of the seller, the
 24 residence or place of business of the buyer as specified by
 25 the buyer, and a description of the goods sold or services

1 furnished or to be furnished and shall clearly state and
2 describe any collateral security taken for the buyer's
3 obligation.

- 4 (5) The contract shall contain the following items:
- 5 (a) the cash sale price of the goods or services;
- 6 (b) the amount of the buyer's down payment and whether
7 made in money or goods or partly in money and partly in
8 goods, including a brief description of the goods traded in;
- 9 (c) the difference between items (a) and (b);
- 10 (d) the amount, if any, included for insurance and
11 other benefits if a separate charge is made therefor,
12 specifying the types of coverage and benefits;
- 13 (e) the amount of official fees;
- 14 (f) the principal balance which is the sum of items
15 (c), (d), and (e);
- 16 (g) the amount of the finance charge;
- 17 (h) the total amount of the time balance, stated as
18 one sum in dollars and cents, which is the sum of items (f)
19 and (g), payable in installments by the buyer to the seller;
- 20 (i) the number of installments;
- 21 (j) the amount of each installment; and
- 22 (k) the due date or period thereof of installments.
- 23 (6) The items in (5) need not be stated in the
24 sequence or order set forth and additional items may be
25 included to explain the computations made in determining the

1 amount to be paid by the buyer.

2 (7) No retail installment contract ~~shall~~ may be signed
3 by any party thereto when it contains blank spaces to be
4 filled in after it has been signed, except that if delivery
5 of the goods is not made at the time of the execution of the
6 contract, the identifying numbers or marks of the goods or
7 similar information and the due date of the first
8 installment may be inserted in the contract after its
9 execution. The buyer's written acknowledgment, conforming to
10 the requirements of 31-1-232, of delivery of a copy of a
11 contract shall, in any action or proceeding by or against a
12 holder of the contract without knowledge to the contrary
13 when he purchases the contract, be conclusive proof:

- 14 (a) of such delivery;
- 15 (b) that the contract when signed did not contain any
16 blank spaces except as herein provided; and
- 17 (c) of compliance with 31-1-231 through 31-1-236."

18 Section 2. Section 31-1-243, MCA, is amended to read:
19 "31-1-243. Refinancing retail installment contract.
20 The holder of a contract, upon request by the buyer, may
21 extend the scheduled due date of all or any part of any
22 installment or installments or defer payment or payments or
23 renew or restate the unpaid time balance of such contract,
24 the amount of the installments, and the time schedule
25 therefor and may collect for such extension, deferment,

1 renewal, or restatement a refinance charge--~~computed--as~~
 2 ~~follows~~. The holder may compute the refinance charge on the
 3 unpaid time balance to be extended, deferred, renewed, or
 4 restated by adding to such unpaid time balance the cost for
 5 any insurance and other benefits incidental to the
 6 refinancing plus any accrued delinquency and collection
 7 charges, after deducting any refund which may be due the
 8 buyer as for a prepayment pursuant to 31-1-242 at the rate
 9 of the finance charge specified in 31-1-241(1) and by
 10 reclassifying in the case of motor vehicles by its then year
 11 model for the term of the refinancing agreement but
 12 otherwise subject to the provisions of this part governing
 13 computation of the original finance charge. The provisions
 14 of this part relating to ~~minimum~~ finance charges under
 15 31-1-241(2) ~~and an acquisition cost under 31-1-242~~ shall not
 16 apply in calculating refinance charges on the contract
 17 extended, deferred, renewed, or restated. If all unpaid
 18 installments are deferred for not more than 2 months, the
 19 holder may at his election charge and collect for such
 20 deferment an amount equal to the difference between the
 21 refund required for prepayment in full under 31-1-242 as of
 22 the scheduled due date of the first deferred installment and
 23 the refund required for prepayment in full as of 1 month
 24 prior to said date, times the number of months in which no
 25 scheduled payment is made."

1 Section 3. Section 31-1-301, MCA, is amended to read:
 2 "31-1-301. Wage brokers to procure license and give
 3 bond. ~~From and after February 27, 1987, no~~ No person,
 4 company, corporation, or association ~~shall~~ may establish or
 5 conduct the business of wage broker within the state of
 6 Montana unless such person, company, corporation, or
 7 association ~~shall have first procured~~ procures a license
 8 from the proper authorities ~~as herein provided and shall~~
 9 ~~have executed~~ executes a bond in such sum as ~~said the~~
 10 authorities may require for the faithful carrying out of the
 11 provisions of this part and of the ordinances of any town or
 12 city in which ~~such the~~ business may be carried on."

13 Section 4. Section 31-2-218, MCA, is amended to read:
 14 "31-2-218. Assignment of real property. When an
 15 assignment for the benefit of creditors embraces real
 16 property, it is subject to the provisions of ~~[73-201 through~~
 17 ~~73-205] as well as to those of this part, 70-21-102, and~~
 18 Title 70, chapter 21, part 3."

19 Section 5. Section 31-2-224, MCA, is amended to read:
 20 "31-2-224. Power of court. The court shall have power
 21 to:

22 (1) authorize the business of the assignor to be
 23 conducted for a limited period by assignee, if necessary in
 24 the best interests of the estate, and allow additional
 25 compensation for such services;

1 (2) reopen estates when it appears they were closed
2 before being fully administered and for that purpose to
3 appoint another assignee who will take title to the property
4 not administered upon;

5 (3) direct upon the final settlement of the estate
6 that the assignee pay to the lawful creditors their
7 proportionate dividend, notwithstanding their claim has not
8 been presented in accordance with the notice sent out by the
9 assignee, provided that 4 months have not elapsed since the
10 first publication of notice to creditors;

11 (4) approve the final report and discharge the
12 assignee and his surety from all further liabilities upon
13 matters included in the accounting to creditors appearing
14 and to creditors not having appeared after due citation or
15 not having presented their claims after due advertisement."

16 Section 6. Section 31-2-226, MCA, is amended to read:

17 "31-2-226. Accounting of assignee. After 6 months from
18 the date of an assignment for the benefit of creditors, the
19 assignee may be required, on petition of any creditor, to
20 ~~account in the manner prescribed by [Title 93]~~ make an
21 accounting before the district court of the county where the
22 accompanying inventory was filed."

-End-

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LC 0031

1979 Legislature
Code Commissioner Bill - Summary

 H Bill No. 39

TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO CREDIT TRANSACTIONS AND RELATIONSHIPS; AMENDING 31-1-231, 31-1-243, 31-1-301, 31-2-218, 31-2-224, and 31-2-226.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 31-1-231. The proposed amendment clarifies the meaning of 31-1-231(5)(k) by specifically requiring retail installment contracts to state the period of installments.

Section 2. 31-1-243. The proposed amendment deletes the reference to "an acquisition cost under 31-1-242". There is no mention of an "acquisition cost" in 31-1-242.

Section 3. 31-1-301. In R.C.M. 1947 the statute read "from and after the passage of this act." Recodification required the deletion of "this act". The proposed amendment eliminates the phrase "From and after February 27, 1911" as temporary and unnecessary. Also minor grammatical changes.

Section 4. 31-2-218. In recodification, former R.C.M. sections 73-201 through 73-204 were placed in 70-21-102 and in part 3, Chapter 21 of Title 70 of the MCA. Amendment is required because other former R.C.M. sections (16-2908, 39-132, 73-206, and 73-213) are also included in part 3, Chapter 21 of Title 70. Thus the reference to part 3, Chapter 21 of Title 70 is not an accurate statement of existing law. The proposed amendment would not change substantive law.

LC 0031

Section 5. 31-2-224. "upon" is deleted as redundant.

Section 6. 31-2-226. The reference "in the manner prescribed by [title 93]" is deleted because there is no procedure in the former Title 93 for an accounting by an assignee of an assignment for the benefit of creditors. The method and procedure is left to the discretion of the district court.

Approved by Committee
on Business and Industry

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 21 document. In such case, if the contract is contained in more
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 23 and the buyer, the place of business of the seller, the
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On motion rules suspended,
yellow printing dispensed.

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15 (c), (d), and (e);

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18 one sum in dollars and cents, which is the sum of items (f)
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10 the requirements of 31-1-232, of delivery of a copy of a
11 contract shall, in any action or proceeding by or against a
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25 therefor and may collect for such extension, deferment,

1 renewal, or restatement a refinance charge--~~computed as~~
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 5 any insurance and other benefits incidental to the
 6 refinancing plus any accrued delinquency and collection
 7 charges, after deducting any refund which may be due the
 8 buyer as for a prepayment pursuant to 31-1-242 at the rate
 9 of the finance charge specified in 31-1-241(1) and by
 10 reclassifying in the case of motor vehicles by its then year
 11 model for the term of the refinancing agreement but
 12 otherwise subject to the provisions of this part governing
 13 computation of the original finance charge. The provisions
 14 of this part relating to ~~minimum~~ finance charges under
 15 31-1-241(2) ~~and an acquisition cost under 31-1-242~~ shall not
 16 apply in calculating refinance charges on the contract
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 25 scheduled payment is made."

1 Section 3. Section 31-1-301, MCA, is amended to read:
 2 "31-1-301. Wage brokers to procure license and give
 3 bond. ~~From--and--after--February--27--1911--no~~ No person,
 4 company, corporation, or association ~~shall~~ may establish or
 5 conduct the business of wage broker within the state of
 6 Montana unless such person, company, corporation, or
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 8 from the proper authorities ~~as--herein--provided~~ and ~~shall~~
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 10 authorities may require for the faithful carrying out of the
 11 provisions of this part and of the ordinances of any town or
 12 city in which ~~such~~ the business may be carried on."

13 Section 4. Section 31-2-218, MCA, is amended to read:
 14 "31-2-218. Assignment of real property. When an
 15 assignment for the benefit of creditors embraces real
 16 property, it is subject to the provisions of ~~[73-201 through~~
 17 ~~73-205]~~ ~~as--well--as--to--those--of~~ this part, 70-21-102, and
 18 Title 70, chapter 21, part 3."

19 Section 5. Section 31-2-224, MCA, is amended to read:
 20 "31-2-224. Power of court. The court shall have power
 21 to:
 22 (1) authorize the business of the assignor to be
 23 conducted for a limited period by assignee, if necessary in
 24 the best interests of the estate, and allow additional
 25 compensation for such services;

1 (2) reopen estates when it appears they were closed
2 before being fully administered and for that purpose to
3 appoint another assignee who will take title to the property
4 not administered upon;

5 (3) direct upon the final settlement of the estate
6 that the assignee pay to the lawful creditors their
7 proportionate dividend, notwithstanding their claim has not
8 been presented in accordance with the notice sent out by the
9 assignee, provided that 4 months have not elapsed since the
10 first publication of notice to creditors;

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12 assignee and his surety from all further liabilities upon
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16 Section 6. Section 31-2-226, MCA, is amended to read:

17 "31-2-226. Accounting of assignee. After 6 months from
18 the date of an assignment for the benefit of creditors, the
19 assignee may be required, on petition of any creditor, to
20 ~~account in the manner prescribed by [Title 93]~~ make an
21 accounting before the district court of the county where the
22 accompanying inventory was filed."

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13 Section 4. Section 31-2-218, MCA, is amended to read:
 14 "31-2-218. Assignment of real property. When an
 15 assignment for the benefit of creditors embraces real
 16 property, it is subject to the provisions of ~~[73-201 through~~
 17 ~~73-205], as well as to those of this part, 70-21-102, and~~
 18 Title 70, chapter 21, part 3."

19 Section 5. Section 31-2-224, MCA, is amended to read:
 20 "31-2-224. Power of court. The court shall have power
 21 to:
 22 (1) authorize the business of the assignor to be
 23 conducted for a limited period by assignee, if necessary in
 24 the best interests of the estate, and allow additional
 25 compensation for such services;

1 (2) reopen estates when it appears they were closed
2 before being fully administered and for that purpose to
3 appoint another assignee who will take title to the property
4 not administered upon;

5 (3) direct upon the final settlement of the estate
6 that the assignee pay to the lawful creditors their
7 proportionate dividend, notwithstanding their claim has not
8 been presented in accordance with the notice sent out by the
9 assignee, provided that 4 months have not elapsed since the
10 first publication of notice to creditors;

11 (4) approve the final report and discharge the
12 assignee and his surety from all further liabilities upon
13 matters included in the accounting to creditors appearing
14 and to creditors not having appeared after due citation or
15 not having presented their claims after due advertisement."

16 Section 6. Section 31-2-226, MCA, is amended to read:
17 "31-2-226. Accounting of assignee. After 6 months from
18 the date of an assignment for the benefit of creditors, the
19 assignee may be required, on petition of any creditor, to
20 ~~account in the manner prescribed by [title 93]~~ make an
21 accounting before the district court of the county where the
22 accompanying inventory was filed."

-End-