

HOUSE BILL NO. 238

INTRODUCED BY FABREGA, GOODOVER, SIVERTSEN, SALES,
THOMAS, HARPER, PISTORIA, VINGER, FEDA, PHILLIPS

IN THE HOUSE

January 15, 1981	Introduced and referred to Committee on Business and Industry.
January 30, 1981	Committee recommend bill do pass. Report adopted.
January 31, 1981	Bill printed and placed on members' desks.
February 2, 1981	Second reading, pass consideration until February 3, 1981.
February 3, 1981	Second reading, do pass.
February 4, 1981	Considered correctly engrossed.
February 6, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 7, 1981	Introduced and referred to Committee on Business and Industry.
March 9, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 10, 1981	Second reading, pass consideration. On motion taken from second reading and referred to Committee on Business and Industry. Motion adopted.
March 16, 1981	Committee recommend bill be concurred in as amended. Report adopted.

March 18, 1981 Second reading, concurred in.
March 20, 1981 Third reading, concurred in
as amended. Ayes, 42; Noes,
6.

IN THE HOUSE

March 21, 1981 Returned from Senate with
amendments.
March 24, 1981 Second reading, amendments
concurred in.
March 26, 1981 Third reading, amendments
concurred in. Ayes, 88;
Noes, 8. Sent to enrolling.
Reported correctly enrolled.

HOUSE BILL NO. 238

INTRODUCED BY

Philip Gordon Livingston Phillips
House Rep. Victoria Vinograd Feder Sels

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT REGULATED LENDERS FROM LIMITATIONS ON THE RATE OF INTEREST WHICH REGULATED LENDERS MAY CHARGE AND TO EXEMPT REGULATED LENDERS FROM ALL USURY STATUTES; AMENDING SECTIONS 31-1-106, 31-1-107, 32-2-402, AND 32-3-601, MCA; REPEALING SECTION 32-1-436, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definition. The term "regulated lenders" as used in [section 2] means:

(1) a bank, building and loan association, savings and loan association, trust company, credit union, credit association, development credit corporation, or bank holding company organized pursuant to state or federal statutory authority and subject to supervision, control, or regulation by:

- (a) an agency of the state of Montana; or
- (b) an agency of the federal government;
- (2) a subsidiary of an entity described in subsection (1);
- (3) a Montana state agency or a federal agency that is authorized to lend money;

(4) a corporation or other entity established by congress or the state of Montana that is owned, in whole or in part, by the United States or the state of Montana and that is authorized to lend money.

NEW SECTION. Section 2. Exemption. A regulated lender is exempt from all limitations on the rate of interest that it may charge and is exempt from the operation and effect of all usury statutes.

Section 3. Section 31-1-106, MCA, is amended to read:

"31-1-106. Legal interest. (1) Except as otherwise provided by the Uniform Commercial Code or [sections 1 and 2], unless there is an express contract in writing fixing a different rate or a law or ordinance or resolution of a public body fixing a different rate on its obligations, interest is payable on all moneys at the rate of 6% a year after they become due on:

- (a) any instrument of writing, except a judgment;
- (b) an account stated;
- (c) moneys lent or due on any settlement of accounts from the date on which the balance is ascertained; and
- (d) moneys received for the use of another and detained from him.

(2) In the computation of interest for a period of less than 1 year, 365 days constitute a year."

Section 4. Section 31-1-107, MCA, is amended to read:

1 "31-1-107. Interest rate allowed by agreement. (1) On
2 amounts up to \$150,000, parties may agree in writing for the
3 payment of any rate of interest not more than 10% per annum
4 or more than 4 percentage points in excess of the discount
5 rate on 90-day commercial paper in effect at the federal
6 reserve bank in the ninth federal reserve district,
7 whichever is greater, and such interest shall be allowed
8 according to the terms of the agreement.

9 (2) On amounts exceeding \$150,000 and up to \$300,000,
10 parties may agree in writing for the payment of any rate of
11 interest not more than 10% per annum or more than 5
12 percentage points in excess of the discount rate on 90-day
13 commercial paper in effect at the federal reserve bank in
14 the ninth federal reserve district, whichever is greater,
15 and such interest shall be allowed according to the terms of
16 the agreement.

17 (3) On amounts exceeding \$300,000, parties may agree
18 in writing to the payment of any rate of interest, without
19 limitation, and such interest shall be allowed according to
20 the terms of the agreement.

21 ~~(4) The provisions of this section do not apply to~~
22 ~~regulated lenders as defined in [section 1]."~~

23 Section 5. Section 32-2-402, MCA, is amended to read:

24 "32-2-402. Limit on interest and penalties. (1) ~~The~~
25 ~~combined--total--of--the--amounts--paid--to--an--association--for~~

1 ~~interest, commission, bonus, discount, and other similar~~
2 ~~charges, less a proper deduction for all dividends, refunds,~~
3 ~~and cash credits of all kinds, shall not create an actual~~
4 ~~net cost to the borrower in excess of the maximum lawful~~
5 ~~contract rate of interest in this state. Interest not~~
6 ~~exceeding the maximum lawful contract rate may also be~~
7 ~~charged on unpaid interest; principal payments on both~~
8 ~~from the time those interest payments are due. Interest not~~
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11 ~~payments are credited with dividends. The interest shall in~~
12 ~~no event be at a rate exceeding the rate percent of the~~
13 ~~dividend declared on the same unpaid stock payments.~~

14 (2) An association may not charge or collect from a
15 stockholder, member, or borrower any fines, premiums, or
16 penalties of any kind; except that a late payment penalty
17 not to exceed \$5 may be charged for payments more than 15
18 days late.

19 (3) An officer, agent, or employee of an association
20 collecting or attempting to collect a penalty, fine, or
21 premium of any kind, except the late payment penalty, or
22 interest at a rate higher than provided in the note or other
23 evidence of debt or in this chapter is guilty of a
24 misdemeanor."

25 Section 6. Section 32-3-601, MCA, is amended to read:

1 "32-3-601. Loans -- purposes, terms, and interest
2 rate. A credit union may loan to members for such purpose
3 and upon such security and terms as the credit committee,
4 credit manager, or loan officer approves ~~at rates of~~
5 ~~interest not exceeding 1 1/4% per month on the unpaid~~
6 ~~monthly balances."~~

7 Section 7. Repealer. Section 32-1-436, MCA, is
8 repealed.

9 Section 8. Effective date. This act is effective on
10 passage and approval.

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 238

INTRODUCED BY

Felipe Gordon Livingston Phillips
James Hays Pistoria U/1092 Jeda Siles

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT REGULATED LENDERS FROM LIMITATIONS ON THE RATE OF INTEREST WHICH REGULATED LENDERS MAY CHARGE AND TO EXEMPT REGULATED LENDERS FROM ALL USURY STATUTES; AMENDING SECTIONS 31-1-106, 31-1-107, 32-2-402, AND 32-3-601, MCA; REPEALING SECTION 32-1-436, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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- (a) an agency of the state of Montana; or
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- (2) a subsidiary of an entity described in subsection (1);
- (3) a Montana state agency or a federal agency that is authorized to lend money;

(4) a corporation or other entity established by congress or the state of Montana that is owned, in whole or in part, by the United States or the state of Montana and that is authorized to lend money.

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- (a) any instrument of writing, except a judgment;
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2 amounts up to \$150,000, parties may agree in writing for the
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5 rate on 90-day commercial paper in effect at the federal
6 reserve bank in the ninth federal reserve district,
7 whichever is greater, and such interest shall be allowed
8 according to the terms of the agreement.

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10 parties may agree in writing for the payment of any rate of
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22 regulated lenders as defined in [section 1]."

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24 "32-2-402. Limit on interest and penalties. (1) The
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23 evidence of debt or in this chapter is guilty of a
24 misdemeanor."

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LC 0571/01

1 "32-3-601. Loans -- purposes, terms, and interest
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4 credit manager, or loan officer approves ~~at rates of~~
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7 Section 7. Repealer. Section 32-1-436, MCA, is
8 repealed.
9 Section 8. Effective date. This act is effective on
10 passage and approval.

-End-

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INTRODUCED BY

*Felipe Gordon Livingston Phillips
James Ray Pistoria U10902 Jeda Sels*

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7 Section 7. Repealer. Section 32-1-436, MCA, is
8 repealed.

9 Section 8. Effective date. This act is effective on
10 passage and approval.

-End-

HB 238

1 HOUSE BILL NO. 238
 2 INTRODUCED BY FABREGA, GOODOVER, SIVERTSEN, SALES,
 3 THOMAS, HARPER, PISTORIA, VINGER, FEDA, PHILLIPS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT REGULATED
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5 and upon such security and terms as the credit committee,
6 credit manager, or loan officer approves at--rates--of
7 interest--not--exceeding--1-1/4%--per--month--on--the--unpaid
8 monthly-balances."

9 Section 7. Repeater. Section---32-1-436,---MCA,---is
10 repeated. SUSPENSION. THE OPERATION OF SECTION 32-1-436,
11 MCA, IS SUSPENDED FROM THE EFFECTIVE DATE OF THIS ACT UNTIL
12 JULY 1, 1983.

13 Section 8. Effective date -- TERMINATION. This act is
14 effective on passage and approval AND TERMINATES ON JULY 1,
15 1983.

-End-

March 9, 1981

SENATE STANDING COMMITTEE REPORT
(Business and Industry)

That House Bill No. 238 be amended as follows:

1. Title, line 9.

Following: "DATE"

Insert: "AND TERMINATION DATE"

2. Page 5, line 9.

Following: "date"

Insert: "-- termination"

3. Page 5, line 10.

Following: "approval"

Insert: "and terminates on July 1, 1983"

March 16, 1981

SENATE STANDING COMMITTEE REPORT
(Business and Industry)

That House Bill No. 238 be amended as follows:

1. Title, line 8

Following: "MCA;"

Strike: "REPEALING"

Insert: "SUSPENDING THE OPERATION OF"

2. Page 5, lines 7 and 8.

Following: "Section 7."

Strike: remainder of lines 7 and 8.

Insert: "Suspension. The operation of section 32-1-436, MCA, is
suspended from the effective date of this act until July 1, 1983."