

House Bill 243

In The House

January 15, 1981

Introduced and referred  
to Committee on Business  
and Industry.

April 23, 1981

Died in Committee.

1 HOUSE BILL NO. 243  
 2 INTRODUCED BY Salenge Wesley Meyer  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE  
 5 FEES AND INTEREST RATES ALLOWED ON INSTALLMENT SALES AND  
 6 LOANS; AMENDING SECTIONS 31-1-234, 31-1-241, 31-1-243, AND  
 7 32-1-436, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 8

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

10 Section 1. Section 31-1-234, MCA, is amended to read:  
 11 "31-1-234. Transfer of equity -- fee. A buyer may  
 12 transfer his equity in the goods at any time to another  
 13 person upon agreement by the holder, but in such event the  
 14 holder of the contract shall be entitled to a transfer of  
 15 equity fee which shall not exceed \$15 \$50."

16 Section 2. Section 31-1-241, MCA, is amended to read:  
 17 "31-1-241. Finance charge limitation. (1)  
 18 Notwithstanding the provisions of any other law, the finance  
 19 charge included in a retail installment contract shall not  
 20 exceed the following schedule greater of:

- 21 (a) as to motor vehicles;
- 22 (i) class 1--any new motor vehicle designated by the
- 23 manufacturer by a year model not earlier than the year in
- 24 which the sale is made, \$7 per \$100 per year;
- 25 (ii) class 2--any new motor vehicle not in class 1--and

1 any used motor vehicle designated by the manufacturer by a  
 2 year model of the same or not more than 2 years prior to the  
 3 year in which the sale is made, \$9 per \$100 per year;  
 4 (iii) class 3--any used motor vehicle not in class 2  
 5 and designated by the manufacturer by a year model more than  
 6 2 years prior to the year in which the sale is made, \$11 per  
 7 \$100 per year;  
 8 (b) as to any industrial or construction equipment  
 9 primarily designed for or used in construction, logging,  
 10 mining or other industrial business, the price of which is  
 11 over \$5,000, \$9 per \$100 per year. This subsection shall not  
 12 apply to agricultural equipment;  
 13 (c) as to any manufactured structure or recreational  
 14 vehicle, \$9 per \$100 per year;  
 15 (d) as to services and goods other than as provided  
 16 under subsections (i)(a), (i)(b), and (i)(c) above;  
 17 (i) on so much of the principal balance as does not  
 18 exceed \$300, \$11 per \$100 per year;  
 19 (ii) if the principal balance exceeds \$300 but is less  
 20 than \$1,000, \$9 per \$100 per year on that portion over \$300;  
 21 (iii) if the principal balance exceeds \$1,000, \$7 per  
 22 \$100 per year on that portion over \$1,000.  
 23 (a) 12% per annum; or  
 24 (b) the rate of interest that is 7 percentage points  
 25 in excess of the discount rate on 90-day commercial paper in

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1 effect at the federal reserve bank in the ninth federal  
2 reserve district.

3 (2) Such finance charge shall be computed on the  
4 principal balance as determined under 31-1-231(5) on  
5 contracts payable in successive monthly payments  
6 substantially equal in amount from the date of the contract  
7 until the maturity of the final installment, notwithstanding  
8 that the total time balance thereof is required to be paid  
9 in installments. A minimum finance charge of \$20 ~~25~~ may be  
10 charged on any retail installment contract.

11 ~~(3) When a retail installment contract provides for~~  
12 ~~payment other than in equal successive monthly installments,~~  
13 ~~the finance charge may be a rate which will provide the same~~  
14 ~~yield as is permitted on monthly payment contracts under~~  
15 ~~subsections (1) and (2) hereof, having due regard for the~~  
16 ~~schedule of payments in the contract.~~

17 ~~(4)(3)~~ Notwithstanding the provisions of any other  
18 law, a retail charge account agreement may provide for and  
19 the seller or holder may charge, collect, and receive a  
20 finance charge as specified herein for the privilege of  
21 paying in installments thereunder. The finance charge may be  
22 computed from month to month (which need not be a calendar  
23 month) or other regular billing cycle period by applying a  
24 rate not to exceed 1 1/2% for each such monthly period to an  
25 amount (not including any unpaid finance charge) not in

1 excess of the greatest of:

2 (a) the average daily balance in the account in the  
3 billing cycle period;

4 (b) the ending balance of the account as of the last  
5 day of the billing cycle less the amount of purchases  
6 charged to the account during that billing cycle; or

7 (c) the median amount within a \$10 range within which  
8 such average daily balance or beginning balance falls,  
9 provided the seller applies the same rate of finance charge  
10 to all such balances within such range.

11 ~~(5)(4)~~ If the finance charge so determined pursuant to  
12 ~~(4)(3)~~ above for such monthly period is less than 50 cents,  
13 a maximum finance charge not in excess of 50 cents may be  
14 charged, received, and collected for such period.\*

15 Section 3. Section 31-1-243, MCA, is amended to read:  
16 "31-1-243. Refinancing retail installment contract.  
17 The holder of a contract, upon request by the buyer, may  
18 extend the scheduled due date of all or any part of any  
19 installment or installments or defer payment or payments or  
20 renew or restate the unpaid time balance of such contract,  
21 the amount of the installments, and the time schedule  
22 therefor and may collect for such extension, deferral,  
23 renewal, or restatement a refinance charge. The holder may  
24 compute, at the interest rate of the finance charge  
25 specified in 31-1-241(1), the refinance charge on the unpaid

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

25 Section 4. Section 32-1-436, MCA, is amended to read:

1 \*32-1-436. Interest not to exceed lawful rate ~~is~~  
 2 minimum finance charge. (1) No bank or savings and loan  
 3 association shall demand or receive for loans or discounts a  
 4 rate of interest exceeding that allowed by law, excepting  
 5 that it shall be lawful for any bank to receive interest in  
 6 advance according to the ordinary usages of banking  
 7 institutions.

8 (2) On loans to be repaid in one or more deferred  
 9 installments, other than loans for purchase of real estate,  
 10 a bank or savings and loan association may charge ~~not to~~  
 11 exceed the following schedule any rate of interest not more  
 12 than the greater of:

13 (a) ~~on so much of the principal balance as does not~~  
 14 ~~exceed \$300, \$11 per \$100 per year 12% per annum; or~~

15 (b) ~~if the principal balance exceeds \$300 but is less~~  
 16 ~~than \$1,000, \$9 per \$100 per year on that portion over \$300;~~  
 17 the rate of interest that is 7 percentage points in excess  
 18 of the discount rate on 90-day commercial paper in effect at  
 19 the federal reserve bank in the ninth federal reserve  
 20 district.

21 (c) ~~if the principal balance exceeds \$1,000, \$7 per~~  
 22 ~~\$100 per year on that portion over \$1,000.~~

23 (3) ~~Such charges shall be computed on the principal~~  
 24 ~~balance on contracts payable in successive monthly payments~~  
 25 ~~substantially equal in amount from the date of the contract~~

1 ~~until the maturity of the final installment, notwithstanding~~  
 2 ~~that the total balance thereof is required to be paid in~~  
 3 ~~installments.~~

4 ~~(4)(3)~~ A minimum charge of \$26 ~~is~~ may be made with  
 5 respect to any installment loan made by a bank or savings  
 6 and loan association.

7 ~~(5)(4)~~ When an installment loan contract provides for  
 8 payment other than in equal successive monthly installments,  
 9 the charge may be at a rate which will provide the same  
 10 yield as is permitted monthly payment contracts, having due  
 11 regard for the schedule of payments in the contract."

12 NEW SECTION. Section 5. Installment loan -- transfer  
 13 of equity -- fee. A borrower may at any time transfer his  
 14 equity in property securing a loan subject to 32-1-436 to  
 15 another person upon agreement of the lender bank or savings  
 16 and loan association, but in such event the lender bank or  
 17 savings and loan association shall be entitled to a transfer  
 18 of equity fee, which may not exceed \$50.

19 NEW SECTION. Section 6. Installment loan --  
 20 delinquency fee. A lender bank or savings and loan  
 21 association may collect a delinquency charge on each  
 22 installment of an installment loan in default for a period  
 23 of not less than 10 days in an amount not in excess of 5% of  
 24 each installment or \$5, whichever is less or, in lieu  
 25 thereof, interest after maturity on each such installment

1 not exceeding the highest lawful contract rate. In addition  
 2 to such delinquency charge, the contract may provide for the  
 3 payment of attorney fees not exceeding 15% of the amount due  
 4 and payable under such contract where such contract is  
 5 referred for collection to an attorney who is not a salaried  
 6 employee of the lender bank or savings and loan association  
 7 and for court costs and actual and reasonable out-of-pocket  
 8 expenses incurred in connection with such delinquency.

9 NEW SECTION. Section 7. Refinancing installment loan.  
 10 A lender bank or savings and loan association may, upon  
 11 request by the borrower, extend the scheduled due date of  
 12 all or any part of any installment or installments or defer  
 13 payment or payments or renew or restate the unpaid time  
 14 balance of such contract, the amount of the installments,  
 15 and the time schedule therefor and may collect for such  
 16 extension, deferment, renewal, or restatement a refinance  
 17 charge. The bank or savings and loan association may  
 18 compute, at the interest rate of the finance charge  
 19 specified in 32-1-436, the refinance charge on the unpaid  
 20 time balance to be extended, deferred, renewed, or restated  
 21 by adding to such unpaid time balance the cost for any  
 22 insurance and other benefits incidental to the refinancing  
 23 plus any accrued delinquency and collection charges. The  
 24 provisions of this part relating to minimum finance charges  
 25 under 32-1-436(3) do not apply in calculating refinance

1 charges on the contract extended, deferred, renewed, or  
2 restated. A minimum of \$10 may be charged for the extension,  
3 deferral, renewal, or restatement of any installment loan  
4 subject to this part.

5 Section 8. Codification instruction. Sections 5  
6 through 7 are intended to be codified as an integral part of  
7 Title 32, chapter 1, part 4, and the provisions of Title 32,  
8 chapter 1, part 4, apply to sections 5 through 7.

9 Section 9. Saving clause. This act does not affect  
10 rights and duties that matured, penalties that were  
11 incurred, or proceedings that were begun before the  
12 effective date of this act.

13 Section 10. Severability. If a part of this act is  
14 invalid, all valid parts that are severable from the invalid  
15 part remain in effect. If a part of this act is invalid in  
16 one or more of its applications, the part remains in effect  
17 in all valid applications that are severable from the  
18 invalid applications.

19 Section 11. Effective date. This act is effective on  
20 passage and approval.

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