HOUSE BILL NO. 321

INTRODUCED BY FABREGA, GOODOVER, MEYER, MENAHAN

IN THE HOUSE January 19, 1981 Introduced and referred to Committee on Business and Industry. February 6, 1981 Committee recommend bill do pass as amended. Report adopted. February 9, 1981 Bill printed and placed on members' desks. February 10, 1981 Second reading, do pass. February 11, 1981 Correctly engrossed. Pebruary 12, 1981 Third reading, passed. Ayes, 88; Noes, 10. Transmitted to Senate. IN THE SENATE Pepruary 13, 1981 Introduced and referred to Committee on Business and Industry. March 16, 1981 Committee recommend bill be concurred in with statement of intent. Report adopted. March 17, 1981 Motion pass consideration. Second reading, concurred in. March 18, 1981 March 20, 1981 Third reading, concurred in. Ayes, 37; Noes, 11.

IN THE HOUSE

March 21, 1981 Peturned from Senate with statement of intent attached. April 8, 1981 April 9, 1981 April 9, 1981 Third reading, amendments concurred in. Ayes, 94; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

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ORE BILL 10.321 1 INTRODUCED BY Low Sortores Mayer Menahen 2 3

A BILL FOR AN ACT ENTITLED: MAN ACT REVISING THE MONTANA 4 5 CONSUMER LOAN ACT BY PROVIDING FOR THE ADJUSTMENT OF CERTAIN ó DOLLAR AMOUNTS IN THE ACT IN ACCORDANCE WITH CHANGES IN THE 7 CONSUMER PRICE INDEX: INCREASING CERTAIN CHARGES. INCLUDING 8 CERTAIN FEES TO BE PAID TO THIRD PARTIES IN THE PRINCIPAL AMOUNT OF THE LOAN; PROVIDING FOR THE UTILIZATION OF THE 9 10 DISCLOSURES REQUIRED BY THE FEDERAL CONSUMER CREDIT 11 PROTECTION ACT; AND PROVIDING FOR ATTORNEY FEES IN LEGAL 12 ACTIONS; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201, 13 32-5-301 THROUGH 32-5-303, 32-5-306, AND 32-5-402, MCA."

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15 3c IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 Section 1. Section 32-5-102, MCA, is amended to read:
17 "32-5-102. Definitions. Unless the context requires
13 otherwise, in this chapter the following definitions apply:
17 (1) "Person" means individuals, partnerships,
20 associations, corporations, and all legal entities in the

21 loaning business.

(2) "License" means one or both of the licensesprovided for by this chapter.

24 (3) "Licensee" means the person holding a license.

25 (4) "Department" means the department of business

regulation provided for in Title 2, chapter 15, part 18.
 (5) "Consumer type loan business" means the business
 of making loans of \$25,000 or less, which amount is subject
 to change pursuant to the provisions of [section 9];
 generally repayable in substantially equal installments."

6 Section 2. Section 32-5-103, MCA, is amended to read: "32-5-103. Engaging in business of making loans 7 restricted. (1) No person shall engage in the business of 8 3 making loans or advances of money on credit in amounts of \$25,000 or less and contract for, charge, or receive 10 directly or indirectly on or in connection with any such 11 12 loan or advance any charges, whether for interest, 13 compensation, consideration, or expense, which in the 14 aggregate are greater than those provided by 31-1-107(1), 15 except as provided in and authorized by this chapter. A 16 person doing business under the authority of this state or 17 the United States relating to banks, trust companies, savings or building and loan associations, credit unions, or 18 19 a person engaged in business as a licensed pawnbroker or any 20 person who shall extend credit in connection with the sale 21 of a commodity shall not become a licensee under this chapter nor shall any of the provisions of this chapter 22 23 apply to any such exempted person.

24 (2) The provisions of subsection (1) shall apply to25 any person who seeks to evade its applications by any

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1 device, subterfuge, or pretense whatspever. 2 (3) Any contract of loan in the making or collection 3 of which any act shall have been done which violates subsection (1) of this section shall be void, and the lender 4 5 shall have no right to collect, receive, or retain any principal, interest, or charges whatsoever. 6 7 (4) The amount of \$25,000 in subsection (1) is subject 8 to change pursuant to the provisions of [section_9] on 9 adjustment of dollar amounts." Section 3. Section 32-5-201, MCA, is amended to read: 10 11 *32-5-201. License application and fees -supplementary license. (1) (a) A place of business operated 12 13 under this chapter shall properly display on the premises a nontransferable and nonassignable license. The same person 14 15 may obtain additional licenses upon compliance with this chapter as to each license. 16 (b) Application for a license shall be on a form 17 prescribed and furnished by the department. 18 (c) A licensee may move his place of business from one 19 20 place to another within a county without obtaining a new 21 license, provided he obtains written permission from the 22 department. 23 (d) With each application the applicant shall submit

24 \$50 as an investigation fee and \$125 as a license fee. The 25 license fee shall be returned to the applicant if the application is denied. The license year is the calendar
 year, and the license fee for any period less than 6 months
 is \$62.50. A license remains in force until surrendered,
 suspended, cr revoked.

5 (2) No licensee under the provisions of this chapter 6 shall lend money in a total sum greater than \$1,000 to any 7 borrower or to any borrower and spouse except under the 8 following circumstances:

(a) When any person holding a license provided for in
subsection (1) desires to make loans for any amount in
excess of \$1,000 but not exceeding \$25,000, the holder of
such license may apply to the department for a supplementary
license and pay therefor an additional license fee of \$75
per calendar year or one-half of said sum for any period
less than 6 months.

16 (b) The department shall grant, on application, a
17 supplementary license to a holder of a license provided for
18 in subsection (1).

(c) Section 32-5-204 shall be applicable as to time of
payment of supplementary license fee and penalty for failure
to pay the same.

(d) Provisions of 32-5-301 relating to refunds, fees,
and charges and the other provisions of this chapter not
inconsistent with this section shall be applicable to loans
made under authority of a supplementary license.

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1 (3) All moneys collected under the authority of this 2 chapter shall be paid into the state treasury by the 3 department.

4 (4) The amounts of \$1.000 and \$25.000 in subsection
5 (2) are subject to change pursuant to the provisions of
6 [section 9]."

Section 4. Section 32-5-301, MCA, is smended to read:
"32-5-301. Charges, refunds, penalties, filing fees.
(1) Every licensee hereunder may contract for and receive on
any loan of money not exceeding \$1,000 in principal amount:
(a) charges at rates not in excess of \$20 per year per
\$100 on that part of the principal amount of the loan not
exceeding \$300;

(b) \$16 per year per \$100 on that part of the
 principal amount of the loan exceeding \$300 size but not
 exceeding \$500;-and \$1:000.

17 (c)--\$i2--per--year--per--\$i00--on--that--part--of--the 18 principal-amount-of-the-loan--in--excess--of--\$500--but--not 19 exceeding-\$i+000*

(2) The holder of a supplementary license may contract
for and receive charges at rates authorized for licensees in
subsection (1) for the first \$1,000 of the principal amount
of any loan and may contract for and receive charges at
rates not in excess of \$10 \$12 per year per \$100 on that
part of the principal amount of any loan exceeding \$1,000

1 but not exceeding \$7,500.

z (3) Charges in (1) and (2) shall be computed at the applicable rates on the full, original principal amount of 3 the loan from the date of the loan to the due date of the 4 final scheduled installment irrespective of the fact that 5 the loan is payable in installments. Said charges shall be ń 7 added to the principal of the loan and shall not be discounted or deducted therefrom or paid or received at the 8 time the loan is made. For the purpose of computing charges 9 for a fraction of a month, a day shall be considered 10 one-thirtieth of a month. 11

(4) On loans of \$90 or less a licensee may charge, in 12 13 lieu of charges specified in (1) of this section, not in excess of \$1 for each \$5 of cash or credit advanced to the 14 borrower up to the amount of \$90. A period of at least 15 15 days must be allowed for the repayment of each \$5 cash or 16 credit advanced. Such charges cannot be assessed by any 17 18 subterfuge or device on any loan over \$90 or on any balance 19 of \$90 or less when the original loan was greater than \$90. 20 (5) When any loan contract, new loan, renewal, or 21 otherwise, is paid in full by cash 1 month or more before 22 the final installment date, the licensee shall refund or 23 credit the borrower with that portion of the total charges 24 which shall be due the borrower as determined by schedules 25 prepared under the rule of 78ths or sum of the digits

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1 principle as follows: the amount of the refund or credit 2 shall be as great a proportion of the total charges 3 originally contracted for as the sum of the consecutive 4 monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive 5 monthly balances of the contract, both sums to be determined 6 7 according to the payment schedule originally contracted for. 8 (6) (a) If the contract so provides, the additional charge for any amount past due according to the original 9 terms of the contract, whether by reason of default or 10 extension agreement, may be 5% of the amount past due, and 11 12 said amount may be charged once and no more. 13 (b) If two installments or parts thereof of a 14 precomputed loan are in default for 10 days or more, a 15 licensee may elect to convert the loan from a precomputed 16 one to one in which charges are based on unpaid balances.

17In_this_event_be_shall_make_a_rebate_pursuant_to_the18provisions_of_subsection_(5)_as_if_the_date_of_prepayment

19 were 1 day before the maturity date of the delinquent 20 installment nearest to the conversion date, and thereafter 21 may make charges at the single annual percentage rate that

22 would earn the same charges as the graduated charges

23 permitted by subsection (1) when the debt is paid according

- 24 to the actuarial method.
- 25 (7) (a) The licensee may collect-from-the--borrower

include in the principal amount of any loan the actual fees 1 paid a public official or agency of the state for filing. 2 recording, or releasing any instrument securing the loga. 3 4 (b) The licensee may include in the principal amount 5 of any loan bong fide charges related to real state security and paid to third parties, including: 6 7 (i) fees or premiums for title examination. title 9 insurance. or similar purposes including survey: 9 (ii) fees for preparation of a deed. settlement 10 statements or other documents: 11 (iii)_fees_for_notarizing_deeds_and_other_documents: 12 (iv)_appraisal_fees: 13 (v) fees for credit reports: and 14 (vi) fees paid to a trustee for release of a trust 15 deed. 16 (8) No further or other charges shall be directly or 17 indirectly contracted for or received by any licensee except those specifically authorized by this chapter. Ho licenses 18 19 shall divide into separate parts any contract made for the 20 purpose of or with the effect of obtaining charges in excess of those authorized by this chapter. All balances due to a 21 22 licensee from any person as a borrower or as an endorser, quarantor, or surety for any borrower or otherwise or due 23 24 from any husband or wife, jointly or severally, shall be

25 considered a part of any loan being made by a licensee to

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such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this chapter is charged, contracted for, or and received, except as the result of an accidental and bona fide error of computation, the-contract-of-loan--shall--be--void--and the licensee shall have no right to collect or receive any principaly chargesy-or-recompense-whatsoever.

8 (9) On any loan of money exceeding \$7,500 in principal 9 amount, a licensee may not make charges as provided in 10 subsections (1) and (2) but shall make charges in accordance 11 with the provisions of this subsection through subsection 12 (12).

(10) On any loan of money exceeding \$7,500 but not
exceeding \$25,000 in principal amount, a licensee may
contract and receive charges at a rate not in excess of
1-1/2% 22 per month on the principal amount as follows:

17 (a) Charges shall be computed on unpaid balances of 18 the principal amount outstanding from time to time for the actual time outstanding. Each payment shall be applied 19 20 first to accumulated charges and the remainder of the 21 payment applied to the unpaid principal balance, except that 22 if the amount of the payment is insufficient to pay the 23 accumulated charges, unpaid charges continue to accumulate to be paid from the proceeds of subsequent payments and are 24 25 not added to the principal balance.

1 (b) Charges made under this subsection may not be 2 payable in advance or compounded. However, if part or all of ÷ the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount 4 payable under such new loan contract may include any unpaid 5 á charges which have accrued. The resulting loan contract is a 7 new and separate loan transaction for all purposes. The 8 principal balance of a prior loan on which charges have been 9 made pursuant to subsections (1) and (2) is the balance due 10 after refund or credit is given to the borrower pursuant to 11 subsection (5). 12 (11) For purposes of computing charges for a fraction 13 of a month, a day is considered one-thirtieth of a month. 14 (12) The provisions of subsections (5) and (6) do not 15 apply to loans made under subsections (9) through (11). 16 (13) The amounts of \$90. \$500. \$1.000. \$7.500. and 17 \$25,200 in subsections (1), (2), (4), (9), and (10) are 18 subject_to_change_pursuant_to_the_provisions_of_[section_9] 19 on_adjustment_of_dollar_amounts." Section 5. Section 32-5-302, MCA, is amended to read: 20 21 "32-5-302. Installment payment -- contract period. (1) 22 No licensee may enter into any contract of loan: 23 (a) of \$300 or less, exclusive of charges, under which 24 the borrower agrees to make any scheduled repayment of

principal more than 21 calendar months from the date of

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1 making such contract; 1 2 (b) for more than \$300 to and including \$1,000, 2 3 exclusive of charges, under which the borrower earees to 3 4 make any scheduled repayment of principal more than 25 4 5 calendar months from the date of making; or 5 (c) for more than \$1,000 to and including \$2,000, 6 6 \$2,500, exclusive of charges, under which the borrower 7 7 8 agrees to make any scheduled repayment of principal more 8 9 than 37 calendar months from the date of making -or 9 10 fd}--for--more--than--\$2y888--to--and-including-\$2y588y 10 11 exclusive-of-chorgesy-under-which--the--borrower--sarees--to 11 make--any--scheduled--repayment--of--principal--more-than-37 12 12 calendar-months-from-the-date-of-making. 13 13 (2) Every loan contract shall require payment of 14 14 15 principal and charges in installments which shall be payable 15 at approximately equal periodic intervals, except that 16 16 17 payment dates may be omitted to accommodate borrowers with 17 18 seasonal incomes. No installment contracted for may be 18 19 substantially larger than any preceding installment. Mhen a 19 20 20 loan contract provides for monthly installments, the first

subsection_11) are subject to change pursuant to the provisions of [section_9] on adjustment_of_dollar__amounts." Section 6. Section 32-5-303, MCA, is amended to read: #32-5-303. Borrower to receive copy of contract or statement of contents. At the time the loan is made, there will be delivered to the borrower, or if there be two or more borrowers to one of them, <u>sither the disclosures</u> repuired by the Federal Consumer Credit Protection Acta a copy of the loan contract. or a written statement in the English language showing in clear and distinct terms: (1) the name and address of the lender and of one of the borrowers or a maker of the loan; (2) the date of the loan contract; (3) the schedule of installments or description thereof: (4) the principal amount of the loan excluding charges; (5) the rate or amount of charges as the contract may crovide; (6) the amount collected or paid out for each kind of 21 insurance, if any; 22 (7) the amount collected or paid out for filing and 23 other fees as allowed in 32-5-301(7); (8) the collateral or security for the loan including 24

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(3) The amounts of \$300, \$1,000, and \$2,500 in

installment may be payable at any time within 45 days of the

date of the loan and the charges for the number of days in

excess of 30 from the date of making may be added to the

scheduled amount of the installments.

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all other accommodation or other joint makers (comakers);

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1 (9) that the borrower may prepay the loan in whole or 2 in part at any time during a licensee's regular business 3 hours and, in case the charges have been added to the 4 principal of the loan, that such charges are subject to the 5 refund requirements of 32-5-301(5) if such loan is prepaid 6 in full."

Section 7. Section 32-5-306, HCA, is amended to read:
"32-5-306. Insurance. (1) No insurance of any kind
shall be written by a licensee or employee, affiliate, or
associate of the licensee, in connection with any loan
except as hereinafter provided.

12 (2) Insurance permitted under the provisions of this 13 section shall be obtained through an insurance company 14 authorized to conduct such business in Montana by a duly 15 licensed agent or agency of this state. Premiums shall not exceed those fixed by law or current applicable manual 16 17 rates. Insurance written as authorized by this section may 18 contain a mortgagee clause or other appropriate provisions 19 to protect the insurable interest of the licensee.

20 (3) When the principal amount of the loan exceeds \$300 21 exclusive of the portion thereof attributable to insurance 22 premiums and charges, the licensee may require a borrower to 23 insure property offered as security against any substantial 24 risk of loss, damage, or destruction for an amount not to 25 exceed the reasonable value of the property insured or the amount of the loan, whichever is smaller, and for the
 customary term approximating the term of the loan contract.
 It shall be optional with the borrower to obtain such
 insurance in an amount greater than the amount of the loan
 or for a longer term.

6 (4) Subject to the laws of this state, credit life 7 insurance and credit disability insurance may be provided at 8 the expense of the borrower and may be provided by a 9 licensee upon the request of the borrower when the principal amount of the loan exceeds \$300, exclusive of the portion 10 11 thereof attributable to insurance premiums and charges. If 12 any loan shall include amounts advanced for insurance 13 premiums and charges, such loan shall not in any event 14 exceed \$25,000.

15 (5) The insurance authorized by this section may be 16 sold, obtained, or provided by or through a licensee, and 17 the premium or identifiable charge for the insurance may be 18 included in the principal amount of the loan; provided, 19 however, that no licensee shall require a borrower to 20 purchase such insurance from such licensee or from any particular agent, broker, or insurance company as a 21 22 condition precedent for the obtaining of a loan. Any gain or 23 advantage to the licensee or any employee, affiliate, or 24 associate of the licensee from the sale, provision, or obtaining of insurance as authorized by this section shall 25

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not be deemed to be additional charges or a violation of 1 z this chapter. (6) A licensee shall not require insurance under this 3 4 section until any existing insurance of the same type has 5 expired or has been canceled and the unsarned portion of the 6 premium for the canceled insurance has been rebated to the 7 borrower. 8 17) The amounts of \$300 and \$25,000 in subsection (3) 9 and (4) are subject to change pursuant to [section 9] on 10 adjustment of dollar amounts." 11 Section 8. Section 32-5-402, MCA, is amended to read: 12 #32-5-402. Investigations. (11) The department may at any time investigate any transaction with borrowers and may 13 examine the books, accounts, and records in this state to 14 15 discover violations of this chapter by: (a) a licensee; 16 (2)(b) a person who advertises for, solicits, or holds 17 18 himself out as willing to make loans in amounts of \$25,000 19 or less; or 20 (3)(c) a person whom the department has reason to believe is violating or is about to violate this chapter. 21 22 (2) The amount of \$25,000 in subsection (1) is subject 23 to change pursuant to the provisions of [section 9] on adjustment_of_dollar_amounts.* 24 NEW_SECTION. Section 9. Adjustment of dollar amounts. 25 -15-

(1) From time to time the dollar amounts in [this act] 1 2 designated as subject to change shall change, as provided in this section, according to and to the extent of changes in З 4 the Consumer Price Index for Urban Wage Earners and Clerical 5 Workers: U.S. City Average, All Items, 1967 = 100, compiled by the bureau of labor statistics, department of labor, and 6 7 hereafter referred to as the index. The index for December, 8 1980, shall be the reference base index. 9 (2) The designated dollar amounts shall change on July 10 1 of each even-numbered year if the percentage of change, 11 calculated to the nearest whole percentage point, between 12 the index at the end of the preceding year and the reference 13 base index is 10% or more, but: 14 (a) the portion of the percentage change in the index 15 in excess of a multiple of 10% shall be disregarded and the 16 dollar amounts shall change only in multiples of 10% of the 17 amounts appearing in [this act] on [the effective date of this actl: 18 19 (b) the collar amounts shall not change if the amounts 20 required by this section are those currently in effect 21 pursuant to [this act] as a result of earlier application of 22 this section; and

23 (c) the dollar amounts may not be reduced below the 24 amounts appearing in [this act] on [the effective date of 25 this act].

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1 (3) If the index is revised, the percentage of change 2 pursuant to this section shall be calculated on the basis of З the revised index. If a revision of the index changes the reference base index, a revised reference base index shall 4 5 be determined by multiplying the reference base index then 6 applicable by the rebasing factor furnished by the United 7 States bureau of labor statistics. If the index is 8 superseded, the index referred to in this section shall be 9 the one represented by the bureau of labor statistics as reflecting most accurately changes in the purchasing power 10 11 of the dollar for consumers.

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12 (4) The department shall adopt a rule announcing:

(a) on or before April 30 of each year in which dollar
amounts are to change, the changes in dollar amounts
required by subsection (2); and

(5) promptly after the changes occur, changes in the
index required by subsection (3) including, if applicable,
the numerical equivalent of the reference base index under a
revised reference base index and the designation or title of
any index superseding the index.

21 (5) A person does not violate [this act] with respect 22 to a transaction otherwise complying with [this act] if he 23 relias on dollar amounts either determined according to 24 subsection (2) or appearing in the last rule of the 25 department announcing the then current dollar amounts. <u>NEW_SECTION.</u> Section 10. Attorney fees. If the
 contract so provides, reasonable attorney fees may be
 awarded to the party in whose favor final judgment is
 rendered in any action on a contract entered into pursuant
 to the provisions of this chapter.

Section 11. Codification instruction. Sections 9 and
are intended to be codified as an integral part of Title
32, chapter 5, and the provisions of Title 32, chapter 5,
apply to sections 9 and 10.

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47th Legislature

HB 0321/02

Approved by Committee

ON BUSINESS and Industry HOUSE BILL NO. 321 INTRODUCED BY FABREGA, GOODOVER, MEYER, MENAHAN A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA CONSUMER LOAN ACT BY PROVIDING FOR THE ADJUSTMENT OF CERTAIN DOLLAR AMOUNTS IN THE ACT IN ACCORDANCE WITH CHANGES IN THE CONSUMER PRICE INDEX; INCREASING CERTAIN CHARGES, INCLUDING CERTAIN FEES TO BE PAID TO THIRD PARTIES IN THE PRINCIPAL AMOUNT OF THE LOAN; PROVIDING FOR THE UTILIZATION OF THE DISCLOSURES REQUIRED BY THE FEDERAL CONSUMER CREDIT PROTECTION ACT; AND PROVIDING FOR ATTORNEY FEES IN LEGAL

12 ACTIONS; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201, 13 32-5-301 THROUGH 32-5-303, 32-5-306, AND 32-5-402, MCA.*

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24 (3) "Licensee" means the person holding a license.

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regulation provided for in Title 2, chapter 15, part 18. Ł 2 (5) "Consumer type loan business" means the pusiness of making loans of \$25,000 or less, which amount is subject 3 to change pursuant to the provisions of [section 9]. 4 generally repayable in substantially equal installments." 5 Section 2. Section 32-5-103, MCA, is amended to read: 6 7 #32-5-103. Engaging in business of making loans restricted. (1) No person shall engage in the business of 8 making loans or advances of money on credit in amounts of 9 \$25,000 or less and contract for, charge, or receive 10 11 directly or indirectly on or in connection with any such 12 loan or advance any charges, whether for interest, 13 compensation, consideration, or expense, which in the aggregate are greater than those provided by 31-1-107(1)+ 14 15 except as provided in and authorized by this chapter. A person doing business under the authority of this state or 16 17 the United States relating to banks, trust companies, 18 savings or building and loan associations, credit unions, or 19 a person engaged in business as a licensed pawnbroker or any 20 person who shall extend credit in connection with the sale 21 of a commodity shall not become a licensee under this 22 chapter nor shall any of the provisions of this chapter 23 apply to any such exempted person.

24 (2) The provisions of subsection (1) shall apply to25 any person who seeks to evade its applications by any

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SECOND READING

1 device, subterfuge, or pretense whatsoever. 2 (3) Any contract of loan in the making or collection of which any act shall have been done which violates -3 4 subsection (1) of this section shall be void, and the lender shall have no right to collect, receive, or retain any 5 principal, interest, or charges whatsoever. 6 7 (4) The amount of \$25,000 in subsection (1) is subject 8 to change pursuant to the provisions of [section 9] on 9 adjustment of dollar amounts." 10 Section 3. Section 32-5-201, MCA, is amended to read: #32-5-201. License 11 application and fees 12 supplementary license. (1) (a) A place of business operated 13 under this chapter shall properly display on the premises a 14 nontransferable and nonassignable license. The same person may obtain additional licenses upon compliance with this 15 16 chapter as to each license. 17 (b) Application for a license shall be on a form 18 prescribed and furnished by the department. 19 (c) A licensee may move his place of business from one 20 place to another within a county without obtaining a new 21 license, provided he obtains written permission from the 22 department. 23 (d) with each application the applicant shall submit 24 \$50 as an investigation fee and \$125 as a license fee. The license fee shall be returned to the applicant if the 25 -3-HB 321

application is denied. The license year is the calendar
 year, and the license fee for any period less than 6 months
 is \$62.50. A license remains in force until surrendered,
 suspended, or revoked.

5 (2) No licensee under the provisions of this chapter 6 shall lend money in a total sum greater than \$1,000 to any 7 borrower or to any borrower and spouse except under the 8 following circumstances:

9 (a) When any person holding a license provided for in subsection (1) desires to make loans for any amount in excess of \$1,000 but not exceeding \$25,000, the holder of such license may apply to the department for a supplementary 13 license and pay therefor an additional license fee of \$75 14 per calendar year or one-half of said sum for any period 15 less than 6 months.

(b) The department shall grant, on application, a
supplementary license to a holder of a license provided for
in subsection (1).

(c) Section 32-5-204 shall be applicable as to time of
payment of supplementary license fee and penalty for fuilure
to pay the same.

(d) Provisions of 32-5-301 relating to refunds, fees,
and charges and the other provisions of this chapter not
inconsistent with this section shall be applicable to loans
made under authority of a supplementary license.

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1 (3) All moneys collected under the authority of this 2 chapter shall be paid into the state treasury by the 3 department.

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5 [2] are subject to change pursuant to the provisions of
6 [section 9]."

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(1) Every licensee hereunder may contract for and receive on
any loan of money not exceeding \$1,000 in principal amount:
(a) charges at rates not in excess of \$20 per year per
\$100 on that part of the principal amount of the loan not
exceeding \$380 \$500;

14 (b) \$16 per year per \$10d on that part of the
15 principal amount of the loan exceeding \$300 but not
16 exceeding \$500;-and \$1,000.

17 tet--st2--per--year--per--st00--on--that--part--af--tha 18 principal-amount-af-the-loan--in--excess--of--s500--but--not 19 exceeding-sty000*

(2) The nolder of a supplementary license may contract
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subsection (1) for the first \$1,000 of the principal amount
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rates not in excess of \$10 \$12 per year per \$100 on that
part of the principal amount of any loan exceeding \$1,000

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1 but not exceeding \$7,500.

2 (3) Charges in (1) and (2) shall be computed at the З applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the 4 5 final scheduled installment irrespective of the fact that 6 the loan is payable in installments. Said charges shall be 7 added to the principal of the loan and shall not be discounted or deducted therefrom or paid or received at the 8 9 time the loan is made. For the purpose of computing charges 10 for a fraction of a month, a day shall be considered 11 one-thirtieth of a month.

12 (4) On loans of \$90 or less a licensee may charge, in 13 lieu of charges specified in (1) of this section, not in 14 excess of \$1 for each \$5 of cash or credit advanced to the 15 borrower up to the amount of \$90. A period of at least 15 16 days must be allowed for the repayment of each \$5 cash or 17 credit advanced. Such charges cannot be assessed by any subterfuge or device on any loan over \$90 or on any balance 18 of \$90 or less when the original loan was greater than \$90. 19 20 (5) When any loan contract, new loan, renewal, or 21 otherwise, is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or 22 credit the borrower with that portion of the total charges 23 24 which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits 25

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principle as follows: the amount of the refund or credit 1 2 shall be as great a proportion of the total charges 3 originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the 4 5 date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined 6 7 according to the payment schedule originally contracted for. (6) total if the contract so provides, the additional 8

9 charge for any amount past due according to the original 10 terms of the contract, whether by reason of default or 11 extension agreement, may be 5% of the amount past due, and 12 said amount may be charged once and no more.

13 tb1--If---two---installments--or--parts--thereof--of--a 14 precomputed-loan-are-in-default--for--l0--days--or--more--a 15 ticensee -- may -- elect -- to-convert - the -loan-from-a-precomputed 16 one-to-one-in-which-charges-ore-based--on--unpaid--balances. 17 fn_-this_-event-the_-shall-make__a_rebate_-pursuant-to-the 18 provisions-of-subsection-(5)-os-if-the--date--of--prepayment 19 were--i--day--before--the--maturity--date--of-the-delinguent 20 installment_nearest_to_the_conversion_datey__ond__thereafter 21 <u>may__make__charges_at_the_single_annual_percentage_rate_that</u> 22 would--earn--the--same--charges-as--the--graduated--charges 23 permitted--by-subsection_fil-when-the-debt-is-poid-according 24 to-the-actuarial-methody 25 (7) (a) The licensee may collect-from-the-borrower

1 include in the principal amount of any loan the actual fees 2 paid a public official or agency of the state for filing. 3 recording, or releasing any instrument securing the loan. 4 (b) The licensee may include in the principal amount 5 of any loan pond fide charges related to real estate 6 security and paid to third parties, including: 7 (i) fees or premiums for title examination+ title R insurance, or similar purposes including survey; (ii) fees for preparation of a deed, settlement 9 10 statement; or other documents; 11 (iii) fees for notarizing deeds and other documents; 12 (iv) appraisal fees; 13 (v) fees for credit reports; and 14 (vi) fees paid to a trustee for release of a trust 15 deed. 16 (8) No further or other charges shall be directly or 17 indirectly contracted for or received by any licensee except 18 those specifically authorized by this chapter. No licensee 19 shall divide into separate parts any contract made for the 20 purpose of or with the effect of outaining charges in excess 21 of those authorized by this chapter. All balances due to a 22 licensee from any person as a borrower or as an endorser, quarantor, or surety for any borrower or otherwise or due 23 from any husband or wife, jointly or severally, shall be 24 25 considered a part of any loan being made by a licensee to

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such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this chapter is charged, contracted for, or and received, except as the result of an accidental and bona fide error of computation, the-contract-of-loan-shall-be--void--and the licensee shall have no right to collect or receive any principaly chargesy-or-recompense-whatsoever.

8 (9) On any loan of money exceeding \$7,500 in principal 9 amount, a licensee may not make charges as provided in 10 subsections (1) and (2) but shall make charges in accordance 11 with the provisions of this subsection through subsection 12 (12).

(10) On any loan of money exceeding \$7,500 but not
 exceeding \$25,000 in principal amount, a licensee may
 contract and receive charges at a rate not in excess of
 1-1/2% 2% per month on the principal amount as follows:

17 (a) Charges shall be computed on unpaid balances of 18 the principal amount outstanding from time to time for the 19 actual time outstanding. Each payment shall be applied 20 first to accumulated charges and the remainder of the 21 payment applied to the unpaid principal balance, except that 22 if the amount of the payment is insufficient to pay the 23 accumulated charges, unpaid charges continue to accumulate to be paid from the proceeds of subsequent payments and are 24 25 not added to the principal balance.

1 (b) Charges made under this subsection may not be payable in advance or compounded. However, if part or all of 2 3 the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount 4 payable under such new loan contract may include any unpaid 5 charges which have accrued. The resulting loan contract is a 6 new and separate loan transaction for all purposes. The 7 principal balance of a prior loan on which charges have been я made pursuant to subsections (1) and (2) is the balance due 9 after refund or credit is given to the borrower pursuant to 10 11 subsection (5). (11) For purposes of computing charges for a fraction 12 13 of a month, a day is considered one-thirtieth of a month. ì4 (12) The provisions of subsections (5) and (6) do not 15 apply to loans made under subsections (9) through (11). (13) The amounts of \$90, \$500, \$1,000, \$7,500, and 16 17 \$25,000 in subsections (1), (2), (4), (9), and (10) are 18 subject to change pursuant to the provisions of [section 9] 19 on adjustment of dollar amounts." Section 5. Section 32-5-302, MCA, is amended to read: 20 21 "32-5-302. Installment payment -- contract period. (1) 22 No licensee may enter into any contract of loan: (a) of \$300 or less, exclusive of charges, under which 23 the borrower agrees to make any scheduled repayment of 24 25 principal more than 21 calendar months from the date of

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1	making such contract;
z	(b) for more than \$300 to and including \$1,000,
3	exclusive of charges, under which the borrower agrees to
4	make any scheduled repayment of principal more than 25
5	calendar months from the date of making; <u>or</u>
6	{c} for more than \$1,000 to and including \$2,000,
7	<u>\$2,500,</u> exclusive of charges, under which the borrower
8	agrees to make any scheduled repayment of principal more
9	than 37 calendar months from the date of making t-or
10	{d}formorethan\$2y000toand-including-\$2y50uy
11	exclusive-of-chargesy-under-whichtheborroweragreesto
12	makeanyscheduledrepaymentofprincipalmore-than-37
13	calendar-months-from-the-date-of-making.
14	(2) Every loan contract shall require payment of
15	principal and charges in installments which shall be payable
16	at approximately equal periodic intervals, except that
17	payment dates may be omitted to accommodate borrowers with
18	seasonal incomes. No installment contracted for may be
19	substantially larger than any preceding installment. When a
20	loan contract provides for monthly installments, the first

21 installment may be payable at any time within 45 days of the
 22 date of the loan and the charges for the number of Jays in
 23 excess of 30 from the date of making may be added to the
 24 scheduled amount of the installments.

25 (3) The amounts of \$300, \$1,000, and \$2,500 in

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1	subsection (1) are subject to change pursuant to the
2	provisions of [section 9] on adjustment of dollar amounts."
3	Section 6. Section 32-5-303, MCA, is amended to read:
4	"32-5-303. Borrower to receive copy of contract or
5	statement of contents. At the time the loan is made, there
6	will be delivered to the borrower, or if there be two or
7	more borrowers to one of them, <u>either the disclosures</u>
8	required by the Federal Consumer Credit Protection Act, a
9	copy of the loan contract, or a written statement in the
10	English language showing in clear and distinct terms:
11	(i) the name and address of the lender and of one of
12	the borrowers or a maker of the loan;
13	(2) the date of the loan contract;
14	(3) the schedule of installments or description
15	thereof;
16	(4) the principal amount of the loan excluding
17	charges;
18	(5) the rate or amount of charges as the contract may
19	provide;
20	(b) the amount collected or paid out for each kind of
21	insurance, if any;
22	(7) the amount collected or paid out for filing and
23	other fees as allowed in 32-5-301(7);
24	(8) the collateral or security for the loan including
25	all other accommodation or other joint makers (comakers);

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I (9) that the borrower may prepay the loan in whole or in part at any time during a licensee's regular ousiness hours and, in case the charges have been added to the principal of the loan, that such charges are subject to the refund requirements of 32-5-301(5) if such loan is prepaid in full.*

Section 7. Section 32-5-306, MCA, is amended to read:
*32-5-306. Insurance. (1) No insurance of any kind
shall be written by a licensee or employee, affiliate, or
associate of the licensee, in connection with any loan
except as hereinafter provided.

12 (2) Insurance permitted under the provisions of this 13 section shall be obtained through an insurance company 14 authorized to conduct such business in Montana by a duly licensed agent or agency of this state. Premiums shall not 15 16 exceed those fixed by law or current applicable manual 17 rates. Insurance written as authorized by this section may 18 contain a mortgagee clause or other appropriate provisions 19 to protect the insurable interest of the licensee.

20 (3) When the principal amount of the loan exceeds \$300
21 exclusive of the portion thereof attributable to insurance
22 premiums and charges, the licensee may require a borrower to
23 insure property offered as security against any substantial
24 risk of loss, damage, or destruction for an amount not to
25 exceed the reasonable value of the property insured or the

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amount of the loan, whichever is smaller, and for the
 customary term approximating the term of the loan contract.
 It shall be optional with the borrower to obtain such
 insurance in an amount greater than the amount of the loan
 or for a longer term.

(4) Subject to the laws of this state, credit life 6 7 insurance and credit disability insurance may be provided at 8 the expense of the borrower and may be provided by a 9 licensee upon the request of the borrower when the principal amount of the loan exceeds \$300, exclusive of the portion 10 thereof attributable to insurance premiums and charges. If 11 any loan shall include amounts advanced for insurance 12 premiums and charges, such loan shall not in any event 13 exceed \$25,000. 14

15 (5) The insurance authorized by this section may be sold, obtained, or provided by or through a licensee, and 16 17 the premium or identifiable charge for the insurance may be 18 included in the principal amount of the loan; provided. however, that no licensee shall require a borrower to 19 purchase such insurance from such licensee or from any 20 21 particular agent, broker, or insurance company as a condition precedent for the obtaining of a loan. Any gain or 22 23 advantage to the licensee or any employee, affiliate, or 24 associate of the licensee from the sale, provision, or obtaining of insurance as authorized by this section shall 25

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not be deemed to be additional charges or a violation of
 this chapter.

3 (6) A licensee shall not require insurance under this
4 section until any existing insurance of the same type has
5 expired or has been canceled and the unearned portion of the
6 premium for the canceled insurance has been rebated to the
7 borrower.

8 [7]__The__amounts_of_\$300_and \$25,000_in_subsection_[3]
9 and [4]_are_subject_to_change_pursuant_to_[section_9]_on
10 adjustment_of_dollar_amounts.**

Section 8. Section 32-5-402, MCA, is amended to read: "32-5-402. Investigations. [1] The department may at any time investigate any transaction with borrowers and may examine the books. accounts, and records in this state to discover violations of this chapter by:

16 t1;(a) a licensee;

17 (2)(b) a person who advertises for, solicits, or holds
18 himself out as willing to make loans in amounts of \$25,000
19 or less: or

20 (3)(c) a person whom the department has reason to
21 believe is violating or is about to violate this chapter.

22 (2) The amount of \$25,000 in subsection (1) is subject
23 to change pursuant to the provisions of isection 9] on
24 adjustment of dollar amounts."

25 <u>NEW_SECTION</u> Section 9. Adjustment of dollar amounts.

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(1) From time to time the dollar amounts in [this act] 1 designated as subject to change shall change, as provided in 2 this section, according to and to the extent of changes in 3 the Consumer Price Index for Urban Wage Earners and Clerical 4 Workers: U.S. City Average, All Items, 1967 = 100, compiled 5 by the bureau of labor statistics, department of labor, and 6 hereafter referred to as the index. The index for December. 7 1980, shall be the reference base index. 8

9 (2) The designated dollar amounts shall change on July 10 1 of each even-numbered year if the percentage of change. 11 calculated to the nearest whole percentage point, between 12 the index at the end of the preceding year and the reference 13 base index is 10% or more, but:

14 (a) the portion of the percentage change in the index 15 in excess of a multiple of 10% shall be disregarded and the 16 dollar amounts shall change only in multiples of 10% of the 17 amounts appearing in [this act] on [the effective date of 18 this act];

(b) the dollar amounts shall not change if the amounts
required by this section are those currently in effect
pursuant to [this act] as a result of earlier application of
this section; and

23 (c) the dollar amounts may not be reduced below the
24 amounts appearing in [this act] on [the effective date of
25 this act].

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ł (3) If the index is revised, the percentage of change pursuant to this section shall be calculated on the pasis of 2 3 the revised index. If a revision of the index changes the 4 reference base index, a revised reference base index shall 5 be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the United 6 7 States bureau of labor statistics. If the index is 8 superseded, the index referred to in this section shall be 9 the one represented by the bureau of labor statistics as reflecting most accurately changes in the purchasing power 10 11 of the dollar for consumers.

12 (4) The department shall adopt a rule announcing:

13 (a) on or before April 30 of each year in which dollar
14 amounts are to change, the changes in dollar amounts
15 required by subsection (2); and

16 (b) promptly after the changes occur, changes in the 17 index required by subsection (3) including, if applicable, 18 the numerical equivalent of the reference base index under a 19 revised reference base index and the designation or title of 20 any index superseding the index.

(5) A person does not violate [this act] with respect
to a transaction otherwise complying with [this act] if he
relies on dollar amounts either determined according to
subsection (2) or appearing in the last rule of the
department announcing the then current dollar amounts.

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<u>NEW SECTION</u>. Section 10. Attorney fees. If the
 contract so provides, reasonable attorney fees may be
 awarded to the party in whose favor final judgment is
 rendered in any action on a contract entered into pursuant
 to the provisions of this chapter.

6 Section 11. Codification instruction. Sections 9 and 7 10 are intended to be codified as an integral part of Title 8 32, chapter 5, and the provisions of Title 32, chapter 5, 9 apply to sections 9 and 10.

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ı HOUSE BILL NO. 321 1 regulation provided for in Title 2, chapter 15, part 18. (5) "Consumer type loan business" means the pusiness INTRODUCED BY FABREGA, GODDOVER, MEYER, MENAHAN 2 Z 3 3 of making loans of \$25,000 or less, which amount is subject A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA to change pursuant to the provisions of [section 9]. 4 4 CONSUMER LOAN ACT BY PROVIDING FOR THE ADJUSTMENT OF CERTAIN 5 generally repayable in substantially equal installments." 5 Section 2. Section 32-5-103, MCA, is amended to read: DOLLAR AMOUNTS IN THE ACT IN ACCORDANCE WITH CHANGES IN THE 6 6 7 CONSUMER PRICE INDEX: INCREASING CERTAIN CHARGES. INCLUDING 7 #32-5-103. Engaging in business of making loans 8 CERTAIN FEES TO BE PAID TO THIRD PARTIES IN THE PRINCIPAL 8 restricted. (1) No person shall engage in the business of AMOUNT OF THE LOAN; PROVIDING FOR THE UTILIZATION OF THE 9 9 making loans or advances of money on credit in amounts of DISCLOSURES REQUIRED BY THE FEDERAL CONSUMER CREDIT 10 \$25,000 or less and contract for, charge, or receive 10 11 PROTECTION ACT: AND PROVIDING FOR ATTORNEY FEES IN LEGAL directly or indirectly on or in connection with any such ¥1 ACTIONS: AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201, 12 12 loan or advance any charges, whether for interest, 13 32-5-301 THROUGH 32-5-303, 32-5-306, AND 32-5-402, MCA." 13 compensation, consideration, or expense, which in the 14 aggregate are greater than those provided by 31-1-107(1), 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 15 except as provided in and authorized by this chapter. A 16 Section 1. Section 32-5-102, MCA, is amended to read: 16 person doing business under the authority of this state or 17 "32-5-102. Definitions. Unless the context requires 17 the United States relating to banks, trust companies, 18 otherwise, in this chapter the following definitions apply: 18 savings or building and loan associations, credit unions, or 19 (1) "Person" means individuals, partnerships. 19 a person engaged in pusiness as a licensed pawnbroker or any associations, corporations, and all legal entities in the 20 person who shall extend credit in connection with the sale 20 21 loaning business. 21 of a commodity shall not become a licensee under this chapter nor shall any of the provisions of this chapter 22 (2) "License" means one or both of the licenses 22 23 apply to any such exempted person. 23 provided for by this chapter. (3) "Licensee" means the person holding a license. (2) The provisions of subsection (1) shall apply to 24 24 any person who seeks to evade its applications by any 25 (4) "Department" means the department of business 25

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1 device, subterfuge, or pretense whatsoever.

2 (3) Any contract of loan in the making or collection
3 of which any act shall have been done which violates
4 subsection (1) of this section shall be void, and the lender
5 shall have no right to collect, receive, or retain any
6 principal, interest, or charges whatsoever.

7 (4) The amount of \$25,000 in subsection (1) is subject 8 to change pursuant to the provisions of [section 9] on 9 adjustment of dollar amounts."

10 Section 3. Section 32-5-201, MCA, is amended to read: 11 #32-5-201. License application and fees --12 supplementary license. (1) (a) A place of business operated under this chapter shall properly display on the premises a 13 14 nontransferable and nonassignable license. The same person 15 may obtain additional licenses upon compliance with this chapter as to each license. 16

17 (b) Application for a license shall be on a form18 prescribed and furnished by the department.

19 (c) A licensee may move his place of business from one
20 place to another within a county without obtaining a new
21 license, provided he obtains written permission from the
22 department.

23 (d) with each application the applicant shall submit
24 \$50 as an investigation fee and \$125 as a license fee. The
25 license fee shall be returned to the applicant if the

application is denied. The license year is the calendar
 year, and the license fee for any period less than 6 months
 is \$62.50. A license remains in force until surrendered,
 suspended, or revoked.

5 (2) No licensee under the provisions of this chapter 6 shall lend money in a total sum greater than \$1,000 to any 7 borrower or to any borrower and spouse except under the 8 following circumstances:

9 (a) When any person holding a license provided for in 10 subsection (1) desires to make loans for any amount in 11 excess of \$1,000 but not exceeding \$25,000, the holder of 12 such license may apply to the department for a supplementary 13 license and pay therefor an additional license fee of \$75 14 per calendar year or one-half of said sum for any period 15 less than 6 months.

16 (b) The department shall grant, on application, a
17 supplementary license to a holder of a license provided for
18 in subsection (1).

(c) Section 32-5-204 shall be applicable as to time of
payment of supplementary license fee and penalty for failure
to pay the same.

(d) Provisions of 32-5-301 relating to refunds, fees,
and charges and the other provisions of this chapter not
inconsistent with this section shall be applicable to loans
made under authority of a supplementary license.

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1 (3) All moneys collected under the authority of this 2 chapter shall be paid into the state treasury by the 3 department-

4 (4) The amounts of \$1,000 and \$25,000 in subsection
5 (2) are subject to change pursuant to the provisions of
6 (section 9):"

7 Section 4. Section 32-5-301, MCA, is amended to read: 8 "32-5-301. Charges, refunds, penalties, filing fees. 9 (1) Every licensee hereunder may contract for and receive on any Toan of money not exceeding \$1,000 in principal amount: 11 (a) charges at rates not in excess of \$20 per year per \$100 on that part of the principal amount of the Toan not exceeding #380 \$500;

(b) \$16 per year per \$100 on that part of the
 principal amount of the loan exceeding \$300 but not
 exceeding \$500; and \$1,000;

17 tet--===tet--per--year--per--=\$100--on--thot--port--of--the 18 principal-amount-of-the-toan--in--excess--of--====000 19 exceeding=========

20 (2) The nolder of a supplementary license may contract 21 for and receive charges at rates authorized for licensees in 22 subsection (1) for the first ±1+000 of the principal uncount 23 of any loan and may contract for and receive charges at 24 rates not in excess of 5±0 <u>\$12</u> per year µer \$100 on that 25 µart of the principal amount of any loan exceeding £1+000

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1 but not exceeding \$7,500.

(3) Charges in (1) and (2) shall be computed at the z 3 applicable rates on the full, original principal amount of 4 the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that 5 6 the loan is payable in installments. Said charges shall be 7 added to the principal of the loan and shall not be 8 discounted or deducted therefrom or paid or received at the 9 time the loan is made. For the purpose of computing charges 10 for a fraction of a month, a day shall be considered 11 one-thirtieth of a month.

12 (4) Un loans of \$90 or less a licensee may charge+ in 13 lieu of charges specified in (1) of this section, not in 14 excess of \$1 for each \$5 of cash or credit advanced to the 15 borrower up to the amount of \$90. A period of at least 15 16 days must be allowed for the repayment of each \$5 cash or 17 credit advanced. Such charges cannot be assessed by any 18 subterfuge or device on any loan over \$90 or on any balance 19 of \$90 or less when the original loan was greater than \$90. 20 (5) When any loan contract, new loan, renewal, or 21 otherwise, is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or 22 23 credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules 24 25 prepared under the rule of 78ths or sum of the digits

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1 principle as follows: the amount of the refund or credit 2 shall be as great a proportion of the total charges 3 originally contracted for as the sum of the consecutive 4 monthly balances of the contract scheduled to follow the 5 date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined 6 7 according to the payment schedule originally contracted for. 8 (6) tat if the contract so provides, the additional 9 charge for any amount past due according to the original 10 terms of the contract, whether by reason of default or 11 extension agreement, may be 5% of the amount past due, and

said amount may be charged once and no more.

12

13 fbj--If---two---installments--or--parts--thereof--of--a 14 precomputed-toon-are-in-default--for--t0--days--or--morey--a 15 ticensee -- may--elect--to-convert-the-toan-from-a-precomputed 16 one-to-one-in-which-charges-age-based--on--unpaid--balances* 17 in_this_event--he_-shall--make_-a-_rebate--pursuant-to-the 18 provisions_of_subsection_f51-as_if_the__date__of_sprepayment 19 were-i--day--before--the--maturity--date--of-the-delinguent 20 installment:nearest:to-the-conversion-datey--and-thereafter 21 may--make--charges-st-the-sinsle-annual-percentage-rate-that 22 would __earn-_the-_some-_charges-_cs--the--graduated--charges 23 permitted -- by subsection -fit when the debt-is paid according 24 to-the-actuarial-methods (7) [a] The licensee may collect--from--the--borrower 25

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1	include in the principal amount of any loan the actual fees
z	paid a public official or agency of the state for filing.
3	recording, or releasing any instrument securing the loan.
4	(b) The licensee may include in the principal amount
5	<u>of any loan sona fide charges related to real estate</u>
6	security and paid to third parties, including:
7	(i) fees or gremiums for title examination, title
8	insurance, or similar purposes including survey:
9	<u>(ii) fees for preparation of a deed, settlement</u>
10	<u>statement, or other documents;</u>
11	(iii) fees for notarizing deeds and other documents;
12	<u>liv) appraisal fees;</u>
13	(v) fees for credit reports; and
14	(vi) fees paid to a trustee for release of a trust
15	deed.
16	(8) No further or other charges shall be directly or
17	indirectly contracted for or received by any licensee except
18	those specifically authorized by this chapter. No licensee
19	shall divide into separate parts any contract made for the
20	purpose of or with the effect of outaining charges in excess
21	of those authorized by this chapter. All balances due to a
22	licensee from any person as a borrower or as an endorser.
23	guarantor, or surety for any borrower or otherwise or due
24	from any husband or wife, jointly or severally, snall be

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such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this chapter is charged, contracted for, or and received, except as the result of an accidental and bona fide error of computation, the-contract-of-bon--shall--be--void--and the licensee shall have no right to collect or receive any principaly chargesy-or-recompense-whatsoever.

8 (9) On any loan of money exceeding \$7,500 in principal
9 amount, a licensee may not make charges as provided in
10 subsections (1) and (2) but shall make charges in accordance
11 with the provisions of this subsection through subsection
12 (12).

13 (10) Un any loan of money exceeding \$7,500 but not exceeding \$25,000 in principal amount, a licensee may 14 contract and receive charges at a rate not in excess of 15 1-1/2% 2% per month on the principal amount as follows: 16 17 (a) Charges shall be computed on unpaid balances of the principal amount outstanding from time to time for the 18 19 actual time ourstanding. Each payment shall be applied first to accumulated charges and the remainder of the 20 payment applied to the unpaid principal balance, except that 21 22 if the amount of the payment is insufficient to pay the 23 accumulated charges, unpaid charges continue to accumulate to be baid from the proceeds of subsequent payments and are 24 25 not added to the principal balance.

1 (b) Charges made under this subsection may not be 2 payable in advance or compounded. However, if part or all of 3 the consideration for a new loan contract is the unpaid 4 principal balance of a prior loan, the principal amount payable under such new loan contract may include any unpaid 5 charges which have accrued. The resulting loan contract is a 6 7 new and separate loan transaction for all purposes. The 8 principal palance of a prior loan on which charges have been made pursuant to subsections (1) and (2) is the balance due 9 10 after refund or credit is given to the borrower pursuant to 11 subsection (5). 12 (11) For purposes of computing charges for a fraction 13 of a month, a day is considered one-thirtieth of a month. 14 (12) The provisions of subsections (5) and (6) do not apply to loans made under subsections (9) through (11). 15 16 (13) The amounts of \$90, \$500, \$1,000, \$7,500, and 17 \$25,300 in subsections (1), (2), (4), (9), and (10) are 18 subject to change pursuant to the provisions of [section 9]

19 on adjustment of dollar amounts."

Section 5. Section 32-5-302, MCA, is amended to read:
 "32-5-302. Installment payment -- contract period. (1)
 No licensee may enter into any contract of loan:

23 (a) of \$300 or less, exclusive of charges, under which 24 the borrower agrees to make any scheduled repayment of 25 principal more than 21 calendar months from the date of

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making such contract;	1 <u>subsection [1] are subject to change pursuant to the</u>
(b) for more than \$300 to and including \$1,000,	<pre>2 provisions_of [section_9] on adjustment_of_dollar_amounts."</pre>
exclusive of charges, under which the borrower agrees to	3 Section 6. Section 32-5-303, MCA, is amended to read:
make any scheduled repayment of principal more than 25	4 #32-5-303. Borrower to receive copy of contract or
calendar months from the date of making; <u>or</u>	5 statement of contents. At the time the loan is made, there
{c} for more than \$1,000 to and including \$2,000,	6 will be delivered to the borrower, or if there be two or
\$2,500, exclusive of charges, under which the borrower	7 more borrowers to one of them, <u>either the disclosures</u>
agrees to make any scheduled repayment of principal more	8 required by the Federal Consumer Credit Protection Act: a
than 37 calendar months from the date of making ;-or	9 copy of the loan contracts or a written statement in the
tdjformorethan\$2;000toand-ineluding-\$2;500v	10 English language showing in clear and distinct terms:
exclusive-of-chargesy-under-whichtheborroweragreesto	11 (1) the name and address of the lender and of one of
makeonyschedułedrepaymentofprincipałmore-tnan-37	12 the borrowers or a maker of the loan;
calendar-months-from-the-date-of-making.	13 (2) the date of the loan contract;
(2) Every loan contract shall require payment of	14 (3) the schedule of installments or description
principal and charges in installments which shall be payable	15 thereof;
at approximately equal periodic intervals. except that	16 (4) the principal amount of the loan excluding
payment dates may be omitted to accommodate borrowers with	17 charges;
seasonal incomes. No installment contracted for may be	18 (5) the rate or amount of charges as the contract may
substantially larger than any preceding installment. When a	19 provide;
loan contract provides for monthly installments, the first	20 (b) the amount collected or paid out for each kind of
installment may be payable at any time within 45 days of the	21 insurance, if any:
date of the loan and the charges for the number of Jays in	22 (7) the amount collected or paid out for filing and

22 (7) the amount collected or paid out for filing and 23 other fees as allowed in 32-5-301(7);

(8) the collateral or security for the loan including 24

all other accommodation or other joint makers (comakers); 25

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scheduled amount of the installments.

excess of 30 from the date of making may be added to the

(3) The amounts of \$300, \$1,000, and \$2,500 in

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1 (9) that the borrower may prepay the loan in whole or 2 in part at any time during a licensee's regular obsiness 3 hours and, in case the charges have been added to the 4 principal of the loan, that such charges are subject to the 5 refund requirements of 32-5-301(5) if such loan is prepaid 6 in full."

7 Section 7. Section 32-5-306, MCA, is amended to read: 8 **32-5-306. Insurance. (1) No insurance of any kind 9 shall be written by a licensee or employee, affiliate, or 10 associate of the licensee, in connection with any loan 11 except as hereinafter provided.

(2) Insurance permitted under the provisions of this 12 13 section shall be obtained through an insurance company 14 authorized to conduct such business in Nontana by a duly 15 licensed agent or agency of this state. Premiums shall not 16 exceed those fixed by law or current applicable manual rates. Insurance written as authorized by this section may 17 18 contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee. 19

20 (3) when the principal amount of the loan exceeds \$300
21 exclusive of the portion thereof attributable to insurance
22 premiums and charges, the licensee may require a borrower to
23 insure property offered as security against any substantial
24 risk of loss, damage, or destruction for an amount not to
25 exceed the reasonable value of the property insured or the

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amount of the loan, whichever is smaller, and for the
 customary term approximating the term of the loan contract.
 It shall be optional with the borrower to obtain such
 insurance in an amount greater than the amount of the loan
 or for a longer term.

(4) Subject to the laws of this state, credit life 6 7 insurance and credit disability insurance may be provided at 8 the expense of the borrower and may be provided by a licensee upon the request of the borrower when the principal 9 10 amount of the loan exceeds \$300, exclusive of the portion 11 thereof attributable to insurance premiums and charges. If 12 any loan shall include amounts advanced for insurance 13 premiums and charges, such loan shall not in any event exceed \$25,000. 14

15 (5) 'The insurance authorized by this section may be sold, obtained, or provided by or through a licensee, and 16 17 the premium or identifiable charge for the insurance may be included in the principal amount of the loan; provided. 18 19 however, that no licensee shall require a borrower to 20 purchase such insurance from such licensee or from any 21 particular agent, broker, or insurance company as a condition precedent for the obtaining of a loan. Any gain or 22 23 advantage to the licensee or any employee, affiliate, or 24 associate of the licensee from the sale, provision, or 25 obtaining of insurance as authorized by this section shall

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not be deemed to be additional charges or a violation of
 this chapter.

3 (6) A licensee shall not require insurance under this 4 section until any existing insurance of the same type has 5 expired or has been canceled and the unearned portion of the 6 premium for the canceled insurance has been rebated to the 7 borrower.

8 (7) The amounts of \$300 and \$25,000 in subsection (3)
 9 and (4) are subject to change pursuant to [section 9] on
 10 adjustment of dollar amounts."

Section 8. Section 32-5-402. MCA, is amended to read: "32-5-402. Investigations. (1) The department may at any time investigate any transaction with borrowers and may examine the books. accounts, and records in this state to discover violations of this chapter by:

16 tt)(a) a licensee;

17 (2)(b) a person who advertises for, solicits, or holds
18 himself out as willing to make loans in amounts of \$25,000
19 or less; or

20 (3)(c) a person whom the department has reason to
21 believe is violating or is about to violate this chapter.

22 (2) The amount of \$25,000 in subsection (1) is subject

23 to change pursuant to the provisions of (section 9] on

- 24 adjustment of Jollar amounts."
- 25 <u>NEW_SECTION</u>. Section 9. Adjustment of dollar amounts.

1 (1) From time to time the dollar amounts in [this act] 2 designated as subject to change shall change, as provided in 3 this section, according to and to the extent of changes in 4 the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1967 = 100, compiled 5 6 by the bureau of labor statistics, department of labor, and 7 hereafter referred to as the index. The index for December, 1980, shall be the reference base index. R

9 (2) The designated dollar amounts shall change on July 10 1 of each even-numbered year if the percentage of change, 11 calculated to the nearest whole percentage point, between 12 the index at the end of the preceding year and the reference 13 base index is 10% or more, but:

14 (a) the portion of the percentage change in the index
15 in excess of a multiple of 10% shall be disregarded and the
16 dollar amounts shall change only in multiples of 10% of the
17 amounts appearing in [this act] on [the effective date of
18 this act];

(b) the dollar amounts shall not change if the amounts
required by this section are those currently in effect
pursuant to [this act] as a result of earlier application of
this section; and

23 (c) the dollar amounts may not be reduced below the
24 amounts appearing in [this act] on [the effective date of
25 this act].

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(3) If the index is revised, the percentage of change 1 pursuant to this section shall be calculated on the basis of 2 the revised index. If a revision of the index changes the 3 4 reference base index, a revised reference base index shall be determined by multiplying the reference base index then 5 applicable by the rebasing factor furnished by the United 6 States bureau of labor statistics. If the index is 7 8 superseded, the index referred to in this section shall be the one represented by the bureau of labor statistics as 9 10 reflecting most accurately changes in the purchasing power of the dullar for consumers. 11

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(4) The department shall adopt a rule announcing:

(a) on or before April 30 of each year in which dollar 13 amounts are to change, the changes in dollar amounts 14 15 required by subsection (2); and

16 (p) promptly after the changes occur, changes in the 17 index required by subsection (3) including, if applicable, 18 the numerical equivalent of the reference base index under a 19 revised reference pase index and the designation or title of any index superseding the index. 20

21 (5) A person does not violate [this act] with respect 22 to a transaction otherwise complying with [this act] if he relies on dollar amounts either determined according to 23 24 subsection (2) or appearing in the last rule of the 25 department announcing the then current dollar amounts+

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1 NEW_SECTION. Section 10. Attorney fees. If the 2 contract so provides, reasonable attorney fees may be 3 awarded to the party in whose favor final judgment is rendered in any action on a contract entered into pursuant 4 5 to the provisions of this chapter. Section 11. Codification instruction. Sections 9 and 6

7 10 are intended to be codified as an integral part of Title

8 32, chapter 5, and the provisions of Title 32, chapter 5,

apply to sections 9 and 10.

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1	STATEMENT OF INTENT
2	HOUSE BILL 321
3	Senate Susiness and Industry Committee
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5	A statement of intent is required for this bill because
6	it requires the Department of Business Regulation to adopt a
7	rule by April 30 of each even-numbered year, reflecting
8	adjustment of designated dollar amounts according to
9	fluctuations in the consumer price index.
10	The legislature intends that the amounts be computed as
11	required in [section 9]. The department may adopt a rule for
12	revision of the reference base index in the event that the
13	consumer price index is revised as provided in subsection
14	<pre>(3) of [section 9].</pre>

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	HOUSE BILL NO. 321	1	regulation provided for in Title 2, chapter 15, part 18.
	2 INTRODUCED BY FABREGA, GODDOVER, MEYER, MENAHAN	2	(5) "Consumer type loan business" means the business
	3	3	of making loans of \$25,000 or less, which amount is subject
	4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA	4	to change pursuant to the provisions of [section 9],
	5 CONSUMER LOAN ACT BY PROVIDING FOR THE ADJUSTMENT OF CERTAIN	5	generally repayable in substantially equal installments."
	6 DOLLAR AMOUNTS IN THE ACT IN ACCORDANCE WITH CHANGES IN THE	6	Section 2. Section 32-5-103, MCA, is amended to read:
	7 CONSUMER PRICE INDEX; INCREASING CERTAIN CHARGES, INCLUDING	7	#32-5-103. Engaging in business of making loans
	8 CERTAIN FEES TO BE PAID TO THIRD PARTIES IN THE PRINCIPAL	8	restricted. (1) No person shall engage in the business of
	9 AMOUNT OF THE LOAN; PROVIDING FOR THE UTILIZATION OF THE	9	making loans or advances of money on credit in amounts of
1	O DISCLOSURES REQUIRED BY THE FEDERAL CONSUMER CREDIT	10	\$25,000 or less and contract for, charge, or receive
1	LI PRUTECTION ACT; AND PROVIDING FOR ATTORNEY FEES IN LEGAL	11	directly or indirectly on or in connection with any such
1	2 ACTIONS; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201,	12	loan or advance any charges, whether for interest,
I	L3 32-5-301 THROUGH 32-5-303, 32-5-306, AND 32-5-402, MCA."	13	compensation, consideration, or expense, which in the
l	4	14	aggregate are greater than those provided by 31+1-107(1),
1	5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	15	except as provided in and authorized by this chapter. A
1	Section 1. Section 32-5-102, MCA, is amended to read:	16	person doing business under the authority of this state or
I	17 #32-5-102. Definitions. Unless the context requires	17	the United States relating to banks, trust companies,
1	18 otherwise, in this chapter the following definitions apply:	16	savings or building and loan associations, credit unions, or
1	9 (1) "Person" means individuals, partnerships,	19	a person engaged in business as a licensed pawnbroker or any
ž	0 associations, corporations, and all legal entities in the	20	person who shall extend credit in connection with the sale
ž	1 loaning business.	21	of a commodity shall not become a licensee under this
2	22 (2) "License" means one or both of the licenses	22	chapter nor shall any of the provisions of this chapter
ž	23 provided for by this chapter.	23	apply to any such exempted person.
ē	24 (3) "Licensee" means the person holding a license.	24	(2) The provisions of subsection (1) shall apply to
ź	25 (4) "Department" means the department of business	25	any person who seeks to evade its applications by any

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1 device, subterfuge, or pretense whatsoever. 2 (3) Any contract of loan in the making or collection 3 of which any act shall have been done which violates 4 subsection (1) of this section shall be void, and the lender 5 shall have no right to collect. receive, or retain any 6 principal, interest, or charges whatsoever. (4) The amount of \$25,000 in subsection (1) is subject 7 8 to change pursuant to the provisions of [section 9] on 9 adjustment of dollar amounts." 10 Section 3. Section 32-5-201, MCA, is amended to read: 11 "32-5-201. License application and fees 12 supplementary license. (1) (a) A place of business operated under this chapter shall properly display on the premises a 13 14 nontransferable and nonassignable license. The same person 15 may obtain additional licenses upon compliance with this 16 chapter as to each license. 17 (b) Application for a license shall be on a form 18 prescribed and furnished by the department. 19 (c) A licensee may move his place of business from one 20 place to another within a county without obtaining a new 21 license, provided he obtains written permission from the 22 department. 23 (d) With each application the applicant shall submit 24 \$50 as an investigation fee and \$125 as a license fee. The 25 license fee shall be returned to the applicant if the

1 application is denied. The license year is the calendar 2 year, and the license fee for any period less than 6 months з is \$62.50. A license remains in force until surrendered, 4 suspended, or revoked. (2) No licensee under the provisions of this chapter 5

6 shall lend money in a total sum greater than \$1,000 to any 7 borrower or to any borrower and spouse except under the following circumstances: 8

9 (a) When any person holding a license provided for in 10 subsection (1) desires to make loans for any amount in 11 excess of \$1,000 but not exceeding \$25,000, the holder of such license may apply to the department for a supplementary 12 13 license and pay therefor an additional license fee of \$75 14 per calendar year or one-half of said sum for any period 15 less than 6 months.

16 (b) The department shall grant, on application, a 17 supplementary license to a holder of a license provided for 18 in subsection (1).

19 (c) Section 32-5-204 shall be applicable as to time of payment of supplementary license fee and penalty for failure 20 21 to pay the same.

22 (d) Provisions of 32-5-301 relating to refunds, fees, 23 and charges and the other provisions of this chapter not 24 inconsistent with this section shall be applicable to loans 25 made under authority of a supplementary license.

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1 (3) All moneys collected under the authority of this 2 chapter shall be paid into the state treasury by the 3 department.

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4 (4) The amounts of \$1:000 and \$25:000 in subsection
5 (2) are subject to change pursuant to the provisions of
6 [section 9].*

7 Section 4. Section 32-5-301, MCA, is amended to read: 8 "32-5-301. Charges, refunds, penalties, filing fees. 9 (1) Every licensee hereunder may contract for and receive on 10 any loan of money not exceeding \$1,000 in principal amount: 11 (a) charges at rates not in excess of \$20 per year per 12 \$100 on that part of the principal amount of the loan not 13 exceeding \$300 \$500;

14 (b) \$16 per year per \$100 on that part of the 15 principal amount of the loan exceeding \$300 but not 16 exceeding \$500;-and \$1,000.

17 tc)--\$12--per--year--per--\$100--on--that--part--of--the 18 principal-amount-of-the-loan--in--excess--of--\$500--but--not 19 exceeding=\$1y000+

(2) The holder of a supplementary license may contract
for and receive charges at rates authorized for licensees in
subsection (1) for the first \$1,000 of the principal amount
of any loan and may contract for and receive charges at
rates not in excess of \$10 \$12 per year per \$100 on that
part of the principal amount of any loan exceeding \$1,000

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1 but not exceeding \$7,500.

2 (3) Charges in (1) and (2) shall be computed at the applicable rates on the full+ original principal amount of З the loan from the date of the loan to the due date of the 4 5 final scheduled installment irrespective of the fact that the loan is payable in installments. Said charges shall be 6 added to the principal of the loan and shall not be 7 discounted or deducted therefrom or paid or received at the 8 q time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered 10 11 one-thirtieth of a month.

12 (4) On loans of \$90 or less a licensee may charge, in 13 lieu of charges specified in (1) of this section, not in excess of \$1 for each \$5 of cash or credit advanced to the 14 borrower up to the amount of \$90. A period of at least 15 15 days must be allowed for the repayment of each \$5 cash or 16 credit advanced. Such charges cannot be assessed by any 17 subterfuge or device on any loan over \$90 or on any balance 18 19 of \$90 or less when the original loan was greater than \$90. (5) When any loan contract, new loan, renewal, or 20 otherwise, is paid in full by cash 1 month or more before 21 22 the final installment date, the licensee shall refund or 23 credit the borrower with that portion of the total charges 24 which shall be due the borrower as determined by schedules 25 prepared under the rule of 78ths or sum of the digits

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1 principle as follows: the amount of the refund or credit 2 shall be as great a proportion of the total charges 3 originally contracted for as the sum of the consecutive 4 monthly balances of the contract scheduled to follow the 5 date of prepayment bears to the sum of all the consecutive 6 monthly balances of the contract, both sums to be determined 7 according to the payment schedule originally contracted for. 8 (6) (a) If the contract so provides, the additional 9 charge for any amount past due according to the original 10 terms of the contract, whether by reason of default or 11 extension agreement, may be 5% of the amount past due, and 12 said amount may be charged once and no more. 13 tb)--if---two---installments--or--parts--thereof--of--a 14 precomputed_loan-are-in-default_-for-_10--days-_or-_morey--a 15 licensee-may-elect-to-convert-the-loan-from-a-precomputed 16 one-to-one-in-which-charges-are-based--on--unpaid--balances. 17 <u>in-this_revent-he-shall-make-a-rebate-pursuant-to-the</u> 18 provisions-of-subsection_(5)-as_if_the--date--of--prepayment 19 were--1--day--before--the--maturity--date--of-the-detinguent 20 21 <u>may--make--charges-at-the-single-onnual-percentage-rate-that</u> 22 would-earn-the--same--charges-as-the--graduated-charges 23 permitted--by-subsection-flj-when-the-debt-is-paid-according 24 to-the-actuarial-methods

(7) <u>(a)</u> The licensee may collect--from--the--borrower

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1	include in the principal amount of any loan the actual fees
2	paid a public official or agency of the state for filing,
3	recording, or releasing any instrument securing the loan.
4	<u>[b] The licensee may include in the principal amount</u>
5	<u>of any loan bona fide charges related to real estate</u>
6	security and paid to third parties, including:
7	(i) fees or premiums for title examination, title
8	insurance, or similar purposes including survey;
9	(ii) fees for preparation of a deed, settlement
10	statement, or other documents;
11	<pre>(iii) fees for notarizing deeds and other documents;</pre>
12	(iv)_appraisal_fees;
13	<pre>(v) fees for credit reports; and</pre>
14	<u>{vi} fees paid to a trustee for release of a trust</u>
15	deed.
16	(8) No further or other charges shall be directly or
17	indirectly contracted for or received by any licensee except
18	those specifically authorized by this chapter. No licensee
19	shall divide into separate parts any contract made for the
20	purpose of or with the effect of obtaining charges in excess
21	of those authorized by this chapter. All balances due to a
22	licensee from any person as a borrower or as an endorser.
23	guarantor, or surety for any borrower or otherwise or due
24	from any husband or wife, jointly or severally, shall be
25	considered a part of any loan being made by a licensee to

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such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this chapter is charged, contracted for, or and received, except as the result of an accidental and bona fide error of computation, the-contract-of-loan-shall--be--void--and the licensee shall have no right to collect or receive any principaly chargesy-or-recompense-whatsoever.

8 (9) On any loan of money exceeding \$7.500 in principal 9 amount, a licensee may not make charges as provided in 10 subsections (1) and (2) but shall make charges in accordance 11 with the provisions of this subsection through subsection 12 {12}.

13 (10) On any loan of money exceeding \$7,500 but not 14 exceeding \$25,000 in principal amount, a licensee may 15 contract and receive charges at a rate not in excess of 16 1-1/2% 2% per month on the principal amount as follows: (a) Charges shall be computed on unpaid balances of 17 the principal amount outstanding from time to time for the 18 19 actual time outstanding. Each payment shall be applied first to accumulated charges and the remainder of the 20 21 payment applied to the unpaid principal balance, except that 22 if the amount of the payment is insufficient to pay the 23 accumulated charges, unpaid charges continue to accumulate 24 to be paid from the proceeds of subsequent payments and are 25 not added to the principal balance.

1 (b) Charges made under this subsection may not be 2 payable in advance or compounded. Howevery if part or all of А. the consideration for a new loan contract is the unpaid 4 principal balance of a prior loan, the principal amount 5 payable under such new loan contract may include any unpaid charges which have accrued. The resulting loan contract is a 6 7 new and separate loan transaction for all purposes. The principal balance of a prior loan on which charges have been 8 9 made pursuant to subsections (1) and (2) is the balance due after refund or credit is given to the borrower pursuant to 10 11 subsection (5). 12 (11) For purposes of computing charges for a fraction 13 of a month, a day is considered one-thirtieth of a month. 14 (12) The provisions of subsections (5) and (6) do not apply to loans made under subsections (9) through (11). 15 16 (13) The amounts of \$90, \$500, \$1,000, \$7,500, and \$25,000 in subsections (1), (2), (4), (9), and (10) are 17 18 subject to change pursuant to the provisions of [section 9] 19 on adjustment of dollar amounts." Section 5. Section 32+5-302, MCA, is amended to read: 20 21 "32-5-302. Installment payment -- contract period. (1) 22 No licensee may enter into any contract of loan: 23 (a) of \$300 or less, exclusive of charges, under which 24 the borrower agrees to make any scheduled repayment of

principal more than 21 calendar months from the date of

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ł	making such contract;	1	subsection (1) are subject to change pursuant to the
2	(b) for more than \$300 to and including \$1,000,	2	provisions of [section 9] on adjustment of dollar_amounts."
3	exclusive of charges, under which the borrower agrees to	3	Section 6. Section 32-5-303, MCA, is amended to read:
4	make any scheduled repayment of principal more than 25	4	"32-5-303. Borrower to receive copy of contract or
5	calendar months from the date of making; or	5	statement of contents. At the time the loan is made, there
6	(c) for more than \$1,000 to and including \$2,000,	6	will be delivered to the borrower, or if there be two or
7	<u>\$2,500</u> , exclusive of charges, under which the borrower	7	more borrowers to one of them, <u>either the disclosures</u>
8	agrees to make any scheduled repayment of principal more	8	required by the Federal Consumer Credit Protection Act, a
9	than 37 calendar months from the date of making t-or	9	copy of the loan contracty or a written statement in the
10	td;formorethan\$2+000toand-including-\$2+500+	10	English language showing in clear and distinct terms:
11	exclusive-of-chargesy-under-whichtheborroweragreesto	11	 the name and address of the lender and of one of
12	makeanyscheduledrepaymentofprincipalmore-than-37	12	the borrowers or a maker of the loan;
13	calendar-months-from-the-date-of-making.	13	(2) the date of the loan contract;
14	(2) Every loan contract shall require payment of	14	(3) the schedule of installments or description
15	principal and charges in installments which shall be payable	15	the reof;
16	at approximately equal periodic intervals, except that	16	{4} the principal amount of the loan excluding
17	payment dates may be omitted to accommodate borrowers with	17	charges;
18	seasonal incomes. No installment contracted for may be	18	(5) the rate or amount of charges as the contract may
19	substantially larger than any preceding installment. When a	19	provide;
20	loan contract provides for monthly installments, the first	20	(6) the amount collected or paid out for each kind of
21	installment may be payable at any time within 45 days of the	21	insurance, if any;
22	date of the loan and the charges for the number of days in	22	(7) the amount collected or paid out for filing and
23	excess of 30 from the date of making may be added to the	23	other fees as allowed in 32-5-301(7);
24	scheduled amount of the installments.	24	(8) the collateral or security for the loan including
25	[3] The amounts of \$300, \$1,000, and \$2,500 in	25	all other accommodation or other joint makers (comakers);
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1 (9) that the borrower may prepay the loan in whole or 2 in part at any time during a licensee's regular business 3 hours and, in case the charges have been added to the 4 principal of the loan, that such charges are subject to the 5 refund requirements of 32-5-301(5) if such loan is prepaid 6 in full.*

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7 Section 7. Section 32-5-306, MCA, is amended to read: 8 "32-5-306. Insurance. (1) No insurance of any kind 9 shall be written by a licensee or employee, affiliate, or 10 associate of the licensee, in connection with any loan 11 except as hereinafter provided.

[2] Insurance permitted under the provisions of this 12 section shall be obtained through an insurance company 13 authorized to conduct such business in Montana by a duly 14 15 licensed agent or agency of this state. Premiums shall not 16 exceed those fixed by law or current applicable manual 17 rates. Insurance written as authorized by this section may 18 contain a mortgagee clause or other appropriate provisions 19 to protect the insurable interest of the licensee.

20 (3) When the principal amount of the loan exceeds \$300
21 exclusive of the portion thereof attributable to insurance
22 premiums and charges, the licensee may require a borrower to
23 insure property offered as security against any substantial
24 risk of loss, damage, or destruction for an amount not to
25 exceed the reasonable value of the property insured or the

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amount of the loan, whichever is smaller, and for the
 customary term approximating the term of the loan contract.
 It shall be optional with the borrower to obtain such
 insurance in an amount greater than the amount of the loan
 or for a longer term.

(4) Subject to the laws of this state, credit life 6 7 insurance and credit disability insurance may be provided at я the expense of the borrower and may be provided by a 9 licensee upon the request of the borrower when the principal 10 amount of the loan exceeds \$300, exclusive of the portion thereof attributable to insurance premiums and charges. If 11 12 any loan shall include amounts advanced for insurance premiums and charges, such loan shall not in any event 13 exceed \$25,000. 14

15 (5) The insurance authorized by this section may be 16 sold, obtained, or provided by or through a licensee, and 17 the premium or identifiable charge for the insurance may be 18 included in the principal amount of the loan; provided. 19 however, that no licensee shall require a borrower to 20 purchase such insurance from such licensee or from any 21 particular agent, broker, or insurance company as a 22 condition precedent for the obtaining of a loan. Any gain or 23 advantage to the licensee or any employee, affiliate, or 24 associate of the licensee from the sale, provision, or 25 obtaining of insurance as authorized by this section shall

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not be deemed to be additional charges or a violation of 1 this chapter. 2 (6) A licensee shall not require insurance under this 3 section until any existing insurance of the same type has 4 5 expired or has been canceled and the unearned portion of the premium for the canceled insurance has been rebated to the 6 7 borrower. 8 [7] The amounts of \$300 and \$25,000 in subsection [3] 9 and (4) are subject to change pursuant to [section 9] on 10 adjustment of dollar amounts." 11 Section 8. Section 32-5-402. NCA. is amended to read: "32-5-402. Investigations. [1] The department may at 12 any time investigate any transaction with borrowers and may 13 examine the books, accounts, and records in this state to 14 15 discover violations of this chapter by: 16 (tt)(a) a licensee; f2t(b) a person who advertises for, solicits, or holds 17 18 himself out as willing to make loans in amounts of \$25,000 19 or less: or 20 +3+(c) a person whom the department has reason to believe is violating or is about to violate this chapter. 21 22 (2) The amount of \$25,000 in subsection (1) is subject 23 to change pursuant to the provisions of [section 9] on adjustment of dollar amounts." 24 25 NEW_SECTION. Section 9. Adjustment of dollar amounts. 1 (1) From time to time the dollar amounts in [this act] 2 designated as subject to change shall change, as provided in this section, according to and to the extent of changes in 3 4 the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1967 = 100, compiled 5 by the bureau of labor statistics, department of labor, and 6 hereafter referred to as the index. The index for December, 7 1980, shall be the reference base index. 8

9 (2) The designated dollar amounts shall change on July 10 1 of each even-numbered year if the percentage of change, 11 calculated to the nearest whole percentage point, between 12 the index at the end of the preceding year and the reference 13 base index is 10% or more, but: 14 (a) the portion of the percentage change in the index

15 in excess of a multiple of 10% shall be disregarded and the 16 dollar amounts shall change only in multiples of 10% of the 17 amounts appearing in [this act] on [the effective date of 18 this act];

(b) the dollar amounts shall not change if the amounts
required by this section are those currently in effect
pursuant to [this act] as a result of earlier application of
this section; and

23 (c) the dollar amounts may not be reduced below the
24 amounts appearing in [this act] on [the effective date of
25 this act].

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1 (3) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of 2 the revised index. If a revision of the index changes the з 4 reference base index, a revised reference base index shall 5 be determined by multiplying the reference base index then 6 applicable by the rebasing factor furnished by the United 7 States bureau of labor statistics. If the index is superseded, the index referred to in this section shall be 8 q the one represented by the bureau of labor statistics as 10 reflecting most accurately changes in the purchasing power 11 of the dollar for consumers.

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12 (4) The department shall adopt a rule announcing:

13 (a) on or before April 30 of each year in which dollar
14 amounts are to change, the changes in dollar amounts
15 required by subsection (2); and

(b) promptly after the changes occur, changes in the
index required by subsection (3) including, if applicable,
the numerical equivalent of the reference base index under a
revised reference base index and the designation or title of
any index superseding the index.

21 (5) A person does not violate [this act] with respect 22 to a transaction otherwise complying with [this act] if he 23 relies on dollar amounts either determined according to 24 subsection (2) or appearing in the last rule of the 25 department announcing the then current dollar amounts.

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<u>NEW_SECTION</u>. Section 10. Attorney fees. If the
 contract so provides, reasonable attorney fees may be
 awarded to the party in whose favor final judgment is
 rendered in any action on a contract entered into pursuant
 to the provisions of this chapter.

Section 11. Codification instruction. Sections 9 and
are intended to be codified as an integral part of Title
32, chapter 5, and the provisions of Title 32, chapter 5,
apply to sections 9 and 10.

-End-

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SENATE STATEMENT OF INTENT ON HOUSE BILL NO. 321 (Business & Industry)

A statement of intent is required for this bill because it requires the department of business regulation to adopt a rule by April 30 of each even numbered year, reflecting adjustment of designated dollar amounts according to fluctuations in the consumer price index.

The legislature intends that the amounts be computed as required in [section 9]. The department may adopt a rule for revision of the reference base index in the event that the consumer price index is revised as provided in subsection (3) of [section 9].