

HOUSE BILL NO. 244

INTRODUCED BY FABREGA, CHRISTIAENS

IN THE HOUSE

January 14, 1983	Introduced and referred to Committee on Business and Industry.
January 25, 1983	Committee recommend bill do pass as amended. Report adopted.
January 26, 1983	Bill printed and placed on members' desks.
January 27, 1983	Second reading, do pass.
January 28, 1983	Considered correctly engrossed.
January 29, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 31, 1983	Introduced and referred to Committee on Business and Industry.
March 4, 1983	Committee recommend bill be concurred in. Report adopted.
March 7, 1983	Second reading, concurred in.
March 9, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 9, 1983	Returned to House.
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March 10, 1983

Sent to enrolling.

Reported correctly  
enrolled.

1 *House* BILL NO. *244*  
2 INTRODUCED BY *George Christensen*  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE  
5 APPLICATION OF THE RULE OF 78THS METHOD OF COMPUTING  
6 INTEREST AND REFUNDS ON PREPAYMENT TO LOANS AND RETAIL  
7 INSTALLMENT CONTRACTS MADE FOR A TIME PERIOD OF NOT MORE  
8 THAN 61 MONTHS; AMENDING SECTIONS 31-1-242 AND 32-5-301,  
9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN  
10 APPLICABILITY CLAUSE."  
11

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

13 Section 1. Section 31-1-242, MCA, is amended to read:

14 "31-1-242. Refunds on prepayment. (1) Notwithstanding  
15 the provisions of any retail installment contract to the  
16 contrary, any buyer may prepay in full, at any time before  
17 maturity, the debt of any retail installment contract and in  
18 so paying such debt shall receive a refund credit thereon  
19 for such anticipation of payments.

20 ~~(2) In a contract where the period of the contract~~  
21 ~~does not exceed 61 months, the~~ the amount of such refund  
22 shall represent at least as great a proportion of the  
23 finance charge as the sum of the monthly time balances  
24 beginning 1 month after prepayment is made bears to the sum  
25 of all the monthly time balances under the schedule of

1 payment in the contract. Where the amount of credit is less  
2 than \$1, no refund need be made."

3 Section 2. Section 32-5-301, MCA, is amended to read:

4 "32-5-301. Charges, refunds, penalties, filing fees.

5 (1) Every licensee hereunder may contract for and receive on  
6 any loan of money not exceeding \$1,000 in principal amount:

7 (a) charges at rates not in excess of \$20 per year per  
8 \$100 on that part of the principal amount of the loan not  
9 exceeding \$500;

10 (b) \$16 per year per \$100 on that part of the  
11 principal amount of the loan exceeding \$500 but not  
12 exceeding \$1,000.

13 (2) The holder of a supplementary license may contract  
14 for and receive charges at rates authorized for licensees in  
15 subsection (1) for the first \$1,000 of the principal amount  
16 of any loan and may contract for and receive charges at  
17 rates not in excess of \$12 per year per \$100 on that part of  
18 the principal amount of any loan exceeding \$1,000 but not  
19 exceeding \$7,500.

20 (3) Charges in (1) and (2) shall be computed at the  
21 applicable rates on the full, original principal amount of  
22 the loan from the date of the loan to the due date of the  
23 final scheduled installment irrespective of the fact that  
24 the loan is payable in installments. Said charges shall be  
25 added to the principal of the loan and shall not be

1 discounted or deducted therefrom or paid or received at the  
2 time the loan is made. For the purpose of computing charges  
3 for a fraction of a month, a day shall be considered  
4 one-thirtieth of a month.

5 (4) On loans of \$90 or less a licensee may charge, in  
6 lieu of charges specified in (1) of this section, not in  
7 excess of \$1 for each \$5 of cash or credit advanced to the  
8 borrower up to the amount of \$90. A period of at least 15  
9 days must be allowed for the repayment of each \$5 cash or  
10 credit advanced. Such charges cannot be assessed by any  
11 subterfuge or device on any loan over \$90 or on any balance  
12 of \$90 or less when the original loan was greater than \$90.

13 (5) When any loan contract, new loan, renewal, or  
14 otherwise for a period of not more than 61 months is paid  
15 in full by cash 1 month or more before the final installment  
16 date, the licensee shall refund or credit the borrower with  
17 that portion of the total charges which shall be due the  
18 borrower as determined by schedules prepared under the rule  
19 of 78ths or sum of the digits principle as follows: the  
20 amount of the refund or credit shall be as great a  
21 proportion of the total charges originally contracted for as  
22 the sum of the consecutive monthly balances of the contract  
23 scheduled to follow the date of prepayment bears to the sum  
24 of all the consecutive monthly balances of the contract,  
25 both sums to be determined according to the payment schedule

1 originally contracted for.

2 (6) If the contract so provides, the additional charge  
3 for any amount past due according to the original terms of  
4 the contract, whether by reason of default or extension  
5 agreement, may be 5% of the amount past due, and said amount  
6 may be charged once and no more.

7 (7) (a) The licensee may include in the principal  
8 amount of any loan the actual fees paid a public official or  
9 agency of the state for filing, recording, or releasing any  
10 instrument securing the loan.

11 (b) The licensee may include in the principal amount  
12 of any loan bona fide charges related to real estate  
13 security and paid to third parties, including:

14 (i) fees or premiums for title examination, title  
15 insurance, or similar purposes, including survey;

16 (ii) fees for preparation of a deed, settlement  
17 statement, or other documents;

18 (iii) fees for notarizing deeds and other documents;

19 (iv) appraisal fees;

20 (v) fees for credit reports; and

21 (vi) fees paid to a trustee for release of a trust  
22 deed.

23 (8) No further or other charges shall be directly or  
24 indirectly contracted for or received by any licensee except  
25 those specifically authorized by this chapter. No licensee

1 shall divide into separate parts any contract made for the  
 2 purpose of or with the effect of obtaining charges in excess  
 3 of those authorized by this chapter. All balances due to a  
 4 licensee from any person as a borrower or as an endorser,  
 5 guarantor, or surety for any borrower or otherwise or due  
 6 from any husband or wife, jointly or severally, shall be  
 7 considered a part of any loan being made by a licensee to  
 8 such person for the purpose of computing interest or  
 9 charges. If any amount in excess of the charges permitted by  
 10 this chapter is charged, contracted for, and received,  
 11 except as the result of an accidental and bona fide error of  
 12 computation, the licensee shall have no right to collect or  
 13 receive any charges.

14 (9) On any loan of money exceeding \$7,500 in principal  
 15 amount, a licensee may not make charges as provided in  
 16 subsections (1) and (2) but shall make charges in accordance  
 17 with the provisions of this subsection through subsection  
 18 (12).

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

23 (a) Charges shall be computed on unpaid balances of  
 24 the principal amount outstanding from time to time for the  
 25 actual time outstanding. Each payment shall be applied

1 first to accumulated charges and the remainder of the  
 2 payment applied to the unpaid principal balance, except that  
 3 if the amount of the payment is insufficient to pay the  
 4 accumulated charges, unpaid charges continue to accumulate  
 5 to be paid from the proceeds of subsequent payments and are  
 6 not added to the principal balance.

7 (b) Charges made under this subsection may not be  
 8 payable in advance or compounded. However, if part or all of  
 9 the consideration for a new loan contract is the unpaid  
 10 principal balance of a prior loan, the principal amount  
 11 payable under such new loan contract may include any unpaid  
 12 charges which have accrued. The resulting loan contract is a  
 13 new and separate loan transaction for all purposes. The  
 14 principal balance of a prior loan on which charges have been  
 15 made pursuant to subsections (1) and (2) is the balance due  
 16 after refund or credit is given to the borrower pursuant to  
 17 subsection (5).

18 (11) For purposes of computing charges for a fraction  
 19 of a month, a day is considered one-thirtieth of a month.

20 (12) The provisions of subsections (5) and (6) do not  
 21 apply to loans made under subsections (9) through (11).

22 (13) The amounts of \$90, \$500, \$1,000, \$7,500, and  
 23 \$25,000 in subsections (1), (2), (4), (9), and (10) are  
 24 subject to change pursuant to the provisions of 32-5-104 on  
 25 adjustment of dollar amounts."

1        NEW SECTION. Section 3. Limitation of rule of 78ths.  
2        The sum of the monthly-time balances method of computing  
3        interest or refunds on prepayment, which is also known as  
4        the rule of 78ths, may not be used in any loan agreement or  
5        retail installment contract unless the term of the loan or  
6        contract does not exceed 61 months.

7        NEW SECTION. Section 4. Effective date. This act is  
8        effective on passage and approval.

9        NEW SECTION. Section 5. Applicability. This act  
10       applies only to loan agreements and installment contracts  
11       entered into after the effective date of this act.

-End-

Approved by Committee  
on Business and Industry

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

Section 1. Section 31-1-242, MCA, is amended to read:

"31-1-242. Refunds on prepayment. (1) Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may prepay in full, at any time before maturity, the debt of any retail installment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments.

~~(2) In a contract where the period of the contract does not exceed 61 months, the~~ the amount of such refund shall represent at least as great a proportion of the finance charge as the sum of the monthly time balances beginning 1 month after prepayment is made bears to the sum

of all the monthly time balances under the schedule of payment in the contract. Where the amount of credit is less than \$1, no refund need be made.

~~(3) IN ANY CONTRACT WHERE THE PERIOD OF THE CONTRACT EXCEEDS 61 MONTHS, THE AMOUNT OF SUCH REFUND IS THE PORTION OF THE ORIGINAL FINANCE CHARGE THAT IS APPLICABLE TO ALL FULLY UNEXPIRED MONTHS IN THE CONTRACT AS ORIGINALLY SCHEDULED OR IF DEFERRED, AS DEFERRED, FOLLOWING THE DATE OF PREPAYMENT. FOR THIS PURPOSE, THE APPLICABLE CHARGE IS THE CHARGE THAT WOULD HAVE BEEN EARNED FOR THAT PERIOD, IF THE CONTRACT WERE NOT PRECOMPUTED, BY APPLYING TO THE UNPAID PRINCIPAL BALANCE, ACCORDING TO THE ACTUARIAL METHOD, THE ANNUAL PERCENTAGE RATE DISCLOSED PURSUANT TO FEDERAL LAW, BASED ON THE ASSUMPTION THAT ALL PAYMENTS WERE MADE AS ORIGINALLY SCHEDULED."~~

Section 2. Section 32-5-301, MCA, is amended 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 \$500;

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

(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 \$12 per year per \$100 on that part of the principal amount of any loan exceeding \$1,000 but not exceeding \$7,500.

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

(4) On loans of \$90 or less a licensee may charge, in lieu of charges specified in (1) of this section, not in excess of \$1 for each \$5 of cash or credit advanced to the borrower up to the amount of \$90. A period of at least 15 days must be allowed for the repayment of each \$5 cash or credit advanced. Such charges cannot be assessed by any subterfuge or device on any loan over \$90 or on any balance of \$90 or less when the original loan was greater than \$90.

(5) ~~(A) When any loan contract, new loan, renewal, or otherwise, for a period of not more than 61 months is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: the amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.~~

~~(B) WHEN ANY LOAN CONTRACT, NEW LOAN, RENEWAL, OR OTHERWISE, FOR A PERIOD OF MORE THAN 61 MONTHS, IS PAID IN FULL BY CASH ONE MONTH OR MORE BEFORE THE FINAL INSTALLMENT DATE, THE LICENSEE SHALL REFUND OR CREDIT THE BORROWER WITH THAT PORTION OF THE TOTAL CHARGES THAT IS DUE THE BORROWER THAT IS APPLICABLE TO ALL FULLY UNEXPIRED MONTHS IN THE CONTRACT AS ORIGINALLY SCHEDULED OR IF DEFERRED, AS DEFERRED, FOLLOWING THE DATE OF PREPAYMENT. FOR THIS PURPOSE THE APPLICABLE CHARGE IS THE CHARGE WHICH WOULD HAVE BEEN EARNED FOR THAT CONTRACT, IF CHARGES HAD NOT BEEN PRECOMPUTED, BY APPLYING TO THE UNPAID PRINCIPAL BALANCE, BY~~



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THAT MAY BE SUBJECT TO THIS SECTION, CHARGES ARE COMPUTED  
INITIALLY IN THE SAME MANNER USED TO DETERMINE THE ANNUAL  
PERCENTAGE RATE.~~

(6) If the contract so provides, the additional charge for any amount past due according to the original terms of the contract, whether by reason of default or extension agreement, may be 5% of the amount past due, and said amount may be charged once and no more.

(7) (a) The licensee may include in the principal amount of any loan the actual fees paid a public official or agency of the state for filing, recording, or releasing any instrument securing the loan.

(b) The licensee may include in the principal amount of any loan bona fide charges related to real estate security and paid to third parties, including:

(i) fees or premiums for title examination, title insurance, or similar purposes, including survey;

(ii) fees for preparation of a deed, settlement statement, or other documents;

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(v) fees for credit reports; and

(vi) fees paid to a trustee for release of a trust deed.

(8) No further or other charges shall be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. No licensee shall divide into separate parts any contract made for the purpose of or with the effect of obtaining charges in excess of those authorized by this chapter. All balances due to a licensee from any person as a borrower or as an endorser, guarantor, or surety for any borrower or otherwise or due from any husband or wife, jointly or severally, shall be considered a part of any loan being made by a licensee to 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, and received, except as the result of an accidental and bona fide error of computation, the licensee shall have no right to collect or receive any charges.

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

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11 not added to the principal balance.

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13 payable in advance or compounded. However, if part or all of  
14 the consideration for a new loan contract is the unpaid  
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2 (13) The amounts of \$90, \$500, \$1,000, \$7,500, and  
3 \$25,000 in subsections (1), (2), (4), (9), and (10) are  
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8 interest or refunds on prepayment, which is also known as  
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THIRD READING

(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 \$12 per year per \$100 on that part of the principal amount of any loan exceeding \$1,000 but not exceeding \$7,500.

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(5) ~~(A) When any loan contract, new loan, renewal, or otherwise, for a period of not more than 61 months is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: the amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.~~

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(6) If the contract so provides, the additional charge for any amount past due according to the original terms of the contract, whether by reason of default or extension agreement, may be 5% of the amount past due, and said amount may be charged once and no more.

(7) (a) The licensee may include in the principal amount of any loan the actual fees paid a public official or agency of the state for filing, recording, or releasing any instrument securing the loan.

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

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3 \$25,000 in subsections (1), (2), (4), (9), and (10) are  
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-End-

## HOUSE BILL NO. 244

INTRODUCED BY FABREGA, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE APPLICATION OF THE RULE OF 78THS METHOD OF COMPUTING INTEREST AND REFUNDS ON PREPAYMENT TO LOANS AND RETAIL INSTALLMENT CONTRACTS MADE FOR A TIME PERIOD OF NOT MORE THAN 61 MONTHS; ~~PROVIDING FOR REFUND OR CREDIT ON PREPAYMENT ON LOANS OR CONTRACTS EXCEEDING 61 MONTHS;~~ AMENDING SECTIONS 31-1-242 AND 32-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY CLAUSE."

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

Section 1. Section 31-1-242, MCA, is amended to read:

"31-1-242. Refunds on prepayment. (1) Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may prepay in full, at any time before maturity, the debt of any retail installment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments.

~~(2) In a contract where the period of the contract does not exceed 61 months, the~~ the amount of such refund shall represent at least as great a proportion of the finance charge as the sum of the monthly time balances beginning 1 month after prepayment is made bears to the sum

of all the monthly time balances under the schedule of payment in the contract. Where the amount of credit is less than \$1, no refund need be made.

~~(3) IN ANY CONTRACT WHERE THE PERIOD OF THE CONTRACT EXCEEDS 61 MONTHS, THE AMOUNT OF SUCH REFUND IS THE PORTION OF THE ORIGINAL FINANCE CHARGE THAT IS APPLICABLE TO ALL FULLY UNEXPIRED MONTHS IN THE CONTRACT AS ORIGINALLY SCHEDULED OR IS DEFERRED, AS DEFERRED, FOLLOWING THE DATE OF PREPAYMENT. FOR THIS PURPOSE, THE APPLICABLE CHARGE IS THE CHARGE THAT WOULD HAVE BEEN EARNED FOR THAT PERIOD, IF THE CONTRACT WERE NOT PRECOMPUTED, BY APPLYING TO THE UNPAID PRINCIPAL BALANCE, ACCORDING TO THE ACTUARIAL METHOD, THE ANNUAL PERCENTAGE RATE DISCLOSED PURSUANT TO FEDERAL LAW, BASED ON THE ASSUMPTION THAT ALL PAYMENTS WERE MADE AS ORIGINALLY SCHEDULED."~~

Section 2. Section 32-5-301, MCA, is amended 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 \$500;

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

(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 \$12 per year per \$100 on that part of the principal amount of any loan exceeding \$1,000 but not exceeding \$7,500.

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

(4) On loans of \$90 or less a licensee may charge, in lieu of charges specified in (1) of this section, not in excess of \$1 for each \$5 of cash or credit advanced to the borrower up to the amount of \$90. A period of at least 15 days must be allowed for the repayment of each \$5 cash or credit advanced. Such charges cannot be assessed by any subterfuge or device on any loan over \$90 or on any balance of \$90 or less when the original loan was greater than \$90.

(5) ~~(A) When any loan contract, new loan, renewal, or otherwise for a period of not more than 61 months is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: the amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.~~

~~(B) WHEN ANY LOAN CONTRACT, NEW LOAN, RENEWAL, OR OTHERWISE FOR A PERIOD OF MORE THAN 61 MONTHS, IS PAID IN FULL BY CASH ONE MONTH OR MORE BEFORE THE FINAL INSTALLMENT DATE, THE LICENSEE SHALL REFUND OR CREDIT THE BORROWER WITH THAT PORTION OF THE TOTAL CHARGES THAT IS DUE THE BORROWER THAT IS APPLICABLE TO ALL FULLY UNEXPIRED MONTHS IN THE CONTRACT AS ORIGINALLY SCHEDULED OR IF DEFERRED, AS DEFERRED, FOLLOWING THE DATE OF PREPAYMENT. FOR THIS PURPOSE THE APPLICABLE CHARGE IS THE CHARGE WHICH WOULD HAVE BEEN EARNED FOR THAT CONTRACT, IF CHARGES HAD NOT BEEN PRECOMPUTED BY APPLYING TO THE UNPAID PRINCIPAL BALANCE, BY~~



1 ~~THE ACTUARIAL METHOD, THE ANNUAL PERCENTAGE RATE DISCLOSED~~  
 2 ~~PURSUANT TO FEDERAL LAW BASED ON THE ASSUMPTION THAT ALL~~  
 3 ~~PAYMENTS WERE MADE AS ORIGINALLY SCHEDULED, FOR ALL LOANS~~  
 4 ~~THAT MAY BE SUBJECT TO THIS SECTION, CHARGES ARE COMPUTED~~  
 5 ~~INITIALLY IN THE SAME MANNER USED TO DETERMINE THE ANNUAL~~  
 6 ~~PERCENTAGE RATE.~~

7 (6) If the contract so provides, the additional charge  
 8 for any amount past due according to the original terms of  
 9 the contract, whether by reason of default or extension  
 10 agreement, may be 5% of the amount past due, and said amount  
 11 may be charged once and no more.

12 (7) (a) The licensee may include in the principal  
 13 amount of any loan the actual fees paid a public official or  
 14 agency of the state for filing, recording, or releasing any  
 15 instrument securing the loan.

16 (b) The licensee may include in the principal amount  
 17 of any loan bona fide charges related to real estate  
 18 security and paid to third parties, including:

19 (i) fees or premiums for title examination, title  
 20 insurance, or similar purposes, including survey;

21 (ii) fees for preparation of a deed, settlement  
 22 statement, or other documents;

23 (iii) fees for notarizing deeds and other documents;

24 (iv) appraisal fees;

25 (v) fees for credit reports; and

1 (vi) fees paid to a trustee for release of a trust  
 2 deed.

3 (8) No further or other charges shall be directly or  
 4 indirectly contracted for or received by any licensee except  
 5 those specifically authorized by this chapter. No licensee  
 6 shall divide into separate parts any contract made for the  
 7 purpose of or with the effect of obtaining charges in excess  
 8 of those authorized by this chapter. All balances due to a  
 9 licensee from any person as a borrower or as an endorser,  
 10 guarantor, or surety for any borrower or otherwise or due  
 11 from any husband or wife, jointly or severally, shall be  
 12 considered a part of any loan being made by a licensee to  
 13 such person for the purpose of computing interest or  
 14 charges. If any amount in excess of the charges permitted by  
 15 this chapter is charged, contracted for, and received,  
 16 except as the result of an accidental and bona fide error of  
 17 computation, the licensee shall have no right to collect or  
 18 receive any charges.

19 (9) On any loan of money exceeding \$7,500 in principal  
 20 amount, a licensee may not make charges as provided in  
 21 subsections (1) and (2) but shall make charges in accordance  
 22 with the provisions of this subsection through subsection  
 23 (12).

24 (10) On any loan of money exceeding \$7,500 but not  
 25 exceeding \$25,000 in principal amount, a licensee may

1 contract and receive charges at a rate not in excess of 2%  
2 per month on the principal amount as follows:

3 (a) Charges shall be computed on unpaid balances of  
4 the principal amount outstanding from time to time for the  
5 actual time outstanding. Each payment shall be applied  
6 first to accumulated charges and the remainder of the  
7 payment applied to the unpaid principal balance, except that  
8 if the amount of the payment is insufficient to pay the  
9 accumulated charges, unpaid charges continue to accumulate  
10 to be paid from the proceeds of subsequent payments and are  
11 not added to the principal balance.

12 (b) Charges made under this subsection may not be  
13 payable in advance or compounded. However, if part or all of  
14 the consideration for a new loan contract is the unpaid  
15 principal balance of a prior loan, the principal amount  
16 payable under such new loan contract may include any unpaid  
17 charges which have accrued. The resulting loan contract is a  
18 new and separate loan transaction for all purposes. The  
19 principal balance of a prior loan on which charges have been  
20 made pursuant to subsections (1) and (2) is the balance due  
21 after refund or credit is given to the borrower pursuant to  
22 subsection (5).

23 (11) For purposes of computing charges for a fraction  
24 of a month, a day is considered one-thirtieth of a month.

25 (12) The provisions of subsections (5) and (6) do not

1 apply to loans made under subsections (9) through (11).

2 (13) The amounts of \$90, \$500, \$1,000, \$7,500, and  
3 \$25,000 in subsections (1), (2), (4), (9), and (10) are  
4 subject to change pursuant to the provisions of 32-5-104 on  
5 adjustment of dollar amounts."

6 NEW\_SECTION. Section 3. Limitation of rule of 78ths.  
7 The sum of the monthly time balances method of computing  
8 interest or refunds on prepayment, which is also known as  
9 the rule of 78ths, may not be used in any loan agreement or  
10 retail installment contract unless the term of the loan or  
11 contract does not exceed 61 months.

12 NEW\_SECTION. Section 4. Effective date. This act is  
13 effective on passage and approval.

14 NEW\_SECTION. Section 5. Applicability. This act  
15 applies only to loan agreements and installment contracts  
16 entered into after the effective date of this act.

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