

HOUSE BILL NO. 834

Introduced: 02/15/83

Referred to Committee on Business & Industry: 02/15/83

Hearing: 2/18/83

Died in Committee

1 *Jim Jensen* *House* BILL NO. *834*
 2 INTRODUCED BY *Brand* *003* *Dussell* *Johno*
 3 *Nutcoff* *Harvey* *Daily* *Menaha*

4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE AMOUNT OF
 5 COMMISSIONS PAID TO REAL ESTATE BROKERS AND SALESMEN ON THE
 6 SALE OF REAL PROPERTY; PROVIDING FOR INCREASES NO GREATER
 7 THAN CONSUMER PRICE INDEX INCREASES; PROVIDING FOR COVERAGE
 8 OF FLAT RATE FEES OR COMMISSIONS; PROVIDING A LEGISLATIVE
 9 PURPOSE; AND PROVIDING AN APPLICABILITY DATE."

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

12 Section 1. Legislative purpose. It is the express
 13 purpose of the legislature in enacting [this act] to avail
 14 itself of the immunity from the Sherman Antitrust Act (15
 15 U.S.C. 1, et seq.) available under the decision of the
 16 United States supreme court in *Packer v. Brown*, 317 US 341
 17 (1943).

18 Section 2. Limitation on realty sales commissions.
 19 Except as provided in [section 3], no real estate broker or
 20 salesman licensed under the provisions of Title 37, chapter
 21 51, may establish or charge a fee or collect any
 22 compensation for the sale of real property in excess of the
 23 following percentages of the total sale price for the types
 24 of property indicated:

25 (1) for residential property, a maximum of 4.5%;

1 (2) for commercial property, a maximum of 7%; and
 2 (3) for farm and ranch property, a maximum of 8%.

3 Section 3. Increases allowed. The maximum rates of
 4 compensation provided in [section 2] may be increased no
 5 more often than once every year after October 1, 1983, and
 6 by no amount greater than a percentage increase of the
 7 previous fee equaling the percentage increase in the
 8 consumer price index shown for that year.

9 Section 4. Flat rate fees not prohibited. Nothing in
 10 [sections 1 and 2] prevents any real estate broker or
 11 salesman covered by [this act] from collecting a flat rate
 12 fee or from increasing that fee. However, the amount of such
 13 fee and the amount and time of any such increase must comply
 14 with [sections 1 and 2].

15 Section 5. Civil penalty. Any person paying a fee or
 16 commission established, charged, or collected in violation
 17 of [sections 1 through 3] may maintain a civil action in the
 18 district court of the county in which he resides or in which
 19 the real property in question is located to recover three
 20 times the amount of that fee or commission.

21 Section 6. Applicability. This act applies to
 22 contracts for the sale of real property made after October
 23 1, 1983.

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