SENATE BILL NO. 423

INTRODUCED BY HALLIGAN, MOHAR, PECK, RANEY, FARRELL

IN THE SENATE

-	IN THE SENATE
February 15, 1985	Introduced and referred to Committee on Business and Industry.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 48; Noes, 2.
	Transmitted to House.
1	IN THE HOUSE
March 7, 1985	Introduced and referred to Committee on Business and Labor.
March 26, 1985	Committee recommend bill be concurred in. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in.
	Returned to Senate.
]	IN THE SENATE
April 1, 1985	Received from House.
	Sent to enrolling.
	Reported correctly enrolled.

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1	INTRODUCED BY Solution More	
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4	A BILL FOR AN ACT EMTTLED: . "AN ACT LIMITING THE	TIME
5	PERIODS IN WHICH BANKS MUST MAKE FUNDS AVAILABLE FOR	ITEMS

A BILL FOR AN ACT ENTITLED: . "AN ACT LIMITING THE TIME PERIODS IN WHICH BANKS MUST MAKE FUNDS AVAILABLE FOR ITEMS DEPOSITED FOR COLLECTION; REQUIRING BANKS TO DISCLOSE TO DEPOSITORS THE TIME PERIODS IN WHICH FUNDS WILL BE AVAILABLE; DECLARING A VIOLATION OF THESE REQUIREMENTS AN UNFAIR TRADE PRACTICE: AND AMENDING SECTION 30-4-213, MCA."

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

NEW SECTION. Section 1. Index of definitions and definition of "local bank". (1) The definitions applying to [sections 2 and 3] and the sections in which they appear are:

- 16 (a) "Account". 30-4-104.
- 17 (b) "Bank", 32-1-102.
- 18 (c) "Banking day". 30-4-104.
- 19 (d) "Depository bank". 30-4-105.
- 20 (e) "Item". 30-4-104.
- 21 (2) "Local bank" means a bank located in the same city
 22 or town or that uses the same clearinghouse as the
 23 depository bank.
- NEW SECTION. Section 2. When certain credits become available for withdrawal -- exceptions. (1) With respect to

items deposited in an account, the depository bank must make funds for the items available for withdrawal within the following periods, subject to individual account agreements

and except as provided in subsections (2) and (3):

- 5 (a) for an item drawn on the depository bank, at the 6 opening of the bank's second banking day following receipt 7 of the item;
 - (b) for an item drawn on a local bank other than the depository bank, at the opening of the depository bank's third banking day following receipt of the item;
- 11 (c) for an item drawn on a bank located in the state 12 other than a local bank, at the opening of the depository 13 bank's third banking day following receipt of the item;
- (d) for an item drawn on any other bank located in the United States, at the opening of the depository bank's fourth banking day following receipt of the item;
- 17 (e) for an item made out in a face amount of \$100 or
 18 less drawn on any bank, at the opening of the depository
 19 bank's first banking day following receipt of the item;
- 20 (f) for items bearing a first endorsement drawn on 21 this state or a political subdivision thereof or the United 22 States treasury, at the opening of the depository bank's 23 first banking day following receipt of the item.
- 24 (2) The following are exceptions to the requirements 25 of subsection (1):

- 1 (a) If the depository bank has received notice that
 2 funds for an item are not collectible or if the depository
 3 bank has good and sufficient reason to doubt the
 4 collectibility of funds for an item, the depository bank may
 5 make funds available for the item according to the bank's
 6 policy.
- 7 (b) Funds for an item deposited within 21 calendar 8 days of the opening of a new account at a depository bank 9 are subject to the depository bank's policy, if the bank 10 makes the funds available for withdrawal on or before the end of the 21st calendar day.
- 12 (c) For an item in an amount greater than \$2.500. other than an item drawn on the depository bank, the 13 14 depository bank may make the funds available according to 15 its policy, or if the customer elects, it shall clear the item on a collection basis. However, any customer depositing 16 an item in an amount greater than \$2,500 is entitled to 17 withdraw, within the time requirements of subsection (1), at 18 19 least \$2,500 if the customer so requests, at the time of 20 deposit.
- 21 (d) For items drawn on a bank or its branch outside 22 the United States, the depository bank may make the funds 23 available according to its policy.
- 24 (3) This section does not affect a bank's right as 25 established by applicable law to apply funds in a customer's

- 1 account to an obligation of the customer.
- (4) A bank may make funds available for withdrawal
 within a shorter period than required by subsection (1).
- MEW SECTION. Section 3. Bank's responsibility to provide notice when funds become available for withdrawal.
- (1) A depository bank shall provide clear and conspicuous

 7 written notice of the time periods provided in {section 2}

 8 and exceptions to the periods, concerning when funds become

 9 available for withdrawal as of right on deposit by check or

 10 similar instrument in the customer's deposit account. The

 11 notice must state the cutoff hour, if any, fixed by the bank
- 12 after which an item is treated as being received at the
- 14 (2) This notice must be:

opening of the next banking day.

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- (a) provided to a potential customer prior to opening a deposit account;
- (b) mailed to each of the bank's present customers on or before December 31, 1985; and
- (c) posted in a conspicuous manner at each bank,
 automatic teller machine location, or other device that
 accepts deposits.
- 22 (3) A deposit slip or envelope, or any other printed 23 form furnished by the depository bank used in connection 24 with deposits, must contain the following notice, printed in 25 a conspicuous manner: "Your deposit may not be available for

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- immediate withdrawal. Consult posted notices for further information."
- NEW SECTION. Section 4. Violation as unfair trade practice. A bank's failure to comply with any of the provisions of [section 2 or 3] is an unfair trade practice under Title 30, chapter 14, parts 1 and 2.
- Section 5. Section 30-4-213, MCA, is amended to read:

 "30-4-213. Final payment of item by payor bank -- when

 provisional debits and credits become final -- when certain

 credits become available for withdrawal. (1) An item is

 finally paid by a payor bank when the bank has done any of

 the following, whichever happens first:
 - (a) paid the item in cash; or

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- (b) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearinghouse rule or agreement; or
- (c) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or
- 20 (d) made a provisional settlement for the item and 21 failed to revoke the settlement in the time and manner 22 permitted by statute, clearinghouse rule or agreement. Upon 23 a final payment under subparagraphs (b), (c) or (d) the 24 payor bank shall be accountable for the amount of the item.
 - (2) If provisional settlement for an item between the

- presenting and payor banks is made through a clearinghouse or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payor bank.
 - (3) If a collecting bank receives a settlement for an item which is or becomes final (subsection (3) of 30-4-211, subsection (2) of 30-4-213) the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.
 - (4) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right; under the provisions of [section 2].
 - fa)--in---any--case--where--the--bank--has--received--a
 provisional-settlement-for-the-item;--when--such--settlement
 becomes--final--and--the--bank--has-had-a-reasonable-time-to
 learn-that-the-settlement-is-final;
 - tb)--in-any-case-where-the-bank-is--both--a--depositary
 bank--and-a-payor-bank-and-the-item-is-finally-paidy--at--the
 opening-of-the-bank+s-second-banking-day--following--receipt

of-the-item-

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5 6 (5) A deposit of money in a bank is final when made but, subject to any right of the bank to apply the deposit to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day following receipt of the deposit."

—End—

APPROVED BY COMM. ON BUSINESS & INDUSTRY

SB 0423/02

1	SENATE BILL NO. 423
2	INTRODUCED BY HALLIGAN, MOHAR, PECK, RANEY, FARRELL
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT SIMIPING THE TIME
5	PERIODSINWHICH-BANKS-MUST-MAKE-FUNDS-AVAILABLE-FOR-ITEMS
6	DEPOSITEDFORCOLLECTION; REQUIRING BANKS FINANCIAL
7	INSTITUTIONS TO DISCLOSE TO DEPOSITORS THE TIME PERIODS IN
8	WHICH FUNDS WILL BE AVAILABLE; DECLARING AVIOLATION OF
9	THESEREQUIREMENTSANUNPAIR-TRADE-PRACTICE;-AND-AMENDING
10	SECTION-30-4-2137-MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	NEW-SECTION: Section-1: Indexofdefinitionsand
14	definition-of-"local-bank",(1)-The-definitions-applying-to
15	{sections2and3}and-the-sections-in-which-they-appear
16	are:
17	(a)"Account":-30-4-104:
18	(b)"Bank":-32-1-102-
19	tc}"Banking-day"30-4-104-
20	(d) Bepository-bank 38-4-105-
21	te)#Item#38-4-184-
22	(2)"bocal-bank"-means-a-bank-located-in-the-same-city
23	ortownorthatusesthesameclearinghouseasthe
24	depository-bank:
25	NEW-SECTION:Section-2:Whencertaincredits-become

1	available for withdrawar - exceptions. (1) with respect to
2	items-deposited-in-an-account;-the-depository-bank-must-make
3	funds-for-the-itemsavailableforwithdrawalwithinthe
4	followingperiods;-subject-to-individual-account-agreements
5	and-except-as-provided-in-subsections-(2)-and-(3)+
6	(a)for-an-item-drawn-on-the-depository-bank;atthe
7	openingofthe-bank's-second-banking-day-following-receipt
8	of-the-item?
9	(b)for-an-item-drawn-on-a-local-bank-otherthanthe
10	depositorybankyattheopening-of-the-depository-bank's
11	third-banking-day-following-receipt-of-the-item;
12	<pre>{c}for-an-item-drawn-on-a-bank-located-inthestate</pre>
13	otherthanałocał-bank;-at-the-opening-of-the-depository
14	bank's-third-banking-day-following-receipt-of-the-item;
15	(d)for-an-item-drawn-on-any-other-bank-located-in-the
16	United-States;-attheopeningofthedepositorybank+s
17	fourth-banking-day-following-receipt-of-the-item;
18	(e)foranitem-made-out-in-a-face-amount-of-\$100-or
19	less-drawn-on-any-banky-at-theopeningofthedepository
20	bank's-first-banking-day-following-receipt-of-the-item;
21	(f)foritemsbearingafirst-endorsement-drawn-on
22	this-state-or-a-political-subdivision-thereof-or-theUnited
23	Statestreasury,attheopening-of-the-depository-bank's
24	first-banking-day-following-receipt-of-the-item-



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+2}--The-following-are-exceptions-to--the--requirements

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1985: and

of-subsection-(1):
ta)Ifthedepositorybank-has-received-notice-that
funds-for-an-item-are-not-collectible-or-ifthedepository
bankhasgoodandsufficientreasontodoubtthe
collectibility-of-funds-for-an-item7-the-depository-bank-may
make-funds-available-for-the-item-accordingtothebank-s
policy
(b)Pundsforanitemdeposited-within-21-calendar
days-of-the-opening-of-a-new-account-atadepositorybank
aresubjecttothedepository-bank's-policy;-if-the-bank
makes-the-funds-avaitable-for-withdrawal-onorbeforethe
end-of-the-21st-calendar-day.
te}Poraniteminanamount-greater-than-\$2,500,
other-thananitemdrawnonthedepositorybank,the
depositorybankmaymake-the-funds-available-according-to
its-policy,-or-if-the-customer-elects,-itshallclearthe
item-on-a-collection-basis:-However;-any-customer-depositing
aniteminanamountgreater-than-\$2,588-is-entitled-to
withdrawy-within-the-time-requirements-of-subsection-(1)y-at
least-\$2,500-if-the-customer-so-requests;atthetimeof
deposit.
td+Poritemsdrawnon-a-bank-or-its-branch-outside
the-United-States; -the-depository-bank-maymakethefunds

+3}--This--section--does--not--affect-a-bank+s-right-as

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established-by-applicable-law-to-apply-funds-in-a-eustomer's
      account-to-an-obligation-of-the-customer-
          f4)--A-bank-may-make--funds--available--for--withdrawal
      within-a-shorter-period-than-required-by-subsection-(1)+
 5
          NEW-SECTION: Section 1. Bank's
      INSTITUTION'S responsibility to provide notice when funds
      become available for withdrawal. (1) A depository bank shall
      provide clear and conspicuous written notice of the time
      periods provided--in--{section--2} and exceptions to the
10
      periods, concerning when funds become available for
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      withdrawal as of right on deposit by check or similar
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      instrument in the customer's deposit account. The notice
      must state the cutoff hour, if any, fixed by the bank
14
      FINANCIAL INSTITUTION after which an item is treated as
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      being received at the opening of the next banking BUSINESS
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     day.
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          (2) This notice must be:
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          (a) provided to a potential customer prior to opening
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     a deposit account;
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other device that accepts deposits.

(b) mailed to each of the bank's FINANCIAL

(c) posted in a conspicuous manner at each bank

INSTITUTION'S present customers on or before December 31,

FINANCIAL INSTITUTION, automatic teller machine location, or

1	(3) A deposit slip or envelope, or any other printe
2	form furnished by the depository bank FINANCIAL INSTITUTIO
3	used in connection with deposits, must contain the following
4	notice, printed in a conspicuous manner: "Your deposit may
5	not be available for immediate withdrawal. Consult poster
6	notices for further information."
7	NEW-SECTION:Section-4:Violationasunfairbrade
8	practice:A-bank'sfailuretocomplywithanyofthe
9	provisionsof{section-2-or-3}-is-an-unfair-trade-practice
10	under-Title-30,-chapter-14,-parts-1-and-2;
11	Section-5Section-30-4-213MCAis-amended-toread:
12	#38-4-213Pinal-payment-of-item-by-payor-bankwhen
13	provisionaldebits-and-credits-become-finalwhen-certain
14	credits-become-available-for-withdrawal(l)Anitemis
15	finallypaidby-a-payor-bank-when-the-bank-has-done-any-of
16	the-following; -whichever-happens-first:
17	(a)paid-the-item-in-cash;-or
18	<pre>tb)settled-for-the-item-without-reserving-a-rightto</pre>
19	revokethesettlementand-without-having-such-right-under
20	statute;-clearinghouse-rule-or-agreement;-or
21	(c)completed-the-process-of-posting-the-itemtothe
22	indicated-account-of-the-drawer;-maker-or-other-person-to-be
23	charged-therewith;-or
24	fd;madeaprovisionalsettlementfor-the-item-and
25	failed-to-revoke-thesettlementinthetimeandmanner

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1	permittedby-statute;-clearinghouse-rule-or-agreement:-Upon
2	a-final-payment-under-subparagraphs{b};{c}or{d}the
3	payorbank-shall-be-accountable-for-the-amount-of-the-item-
4	(2)If-provisional-settlement-for-an-item-betweenthe
5	presentingandpayor-banks-is-made-through-a-clearinghouse
6	or-by-debits-or-credits-in-an-account-between-them;-thento
7	theextentthat-provisional-debits-or-credits-for-the-item
8	are-entered-in-accounts-betweenthepresentingandpayor
9	banksorbetweenthepresentingandsuccessiveprior
10	collecting-banks-seriatimytheybecomefinaluponfinal
11	payment-of-the-item-by-the-payor-bank-
12	(3)ffa-collecting-bank-receives-a-settlement-for-an
13	item-which-is-or-becomes-final-(subsection-(3)-of30-4-2117
14	subsection(2)of-30-4-213)-the-bank-is-accountable-to-its
15	customer-for-the-amount-oftheitemandanyprovisional
16	creditgivenforthe-item-in-an-account-with-its-customer
17	becomes-final-
18	(4)Subject-to-any-right-ofthebanktoapplythe
19	credittoan-obligation-of-the-customer,-credit-given-by-a
20	bank-for-an-item-in-an-accountwithitscustomerbecomes
21	availableforwithdrawal-as-of-right: under-the-provisions

fa)--in--any--case--where--the--bank--has--received---a

provisional--settlement--for-the-itemy--when-such-settlement

becomes-final-and-the-bank-has--had--a--reasonable--time--to

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of-{section-2}-

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learn-that-the-settlement-is-final; 2 tb)--in--any--case--where-the-bank-is-both-a-depositary 3 bank-and-a-payor-bank-and-the-item-is-finally-paid;--at--the opening--of--the-bank's-second-banking-day-following-receipt of-the-item-(5)--A-deposit-of-money-in-a-bank-is--final--when--made buty--subject--to-any-right-of-the-bank-to-apply-the-deposit to-an--obligation--of--the--customery--the--deposit--becomes available--for--withdrawal-as-of-right-at-the-opening-of-the bank's-next-banking-day-following-receipt-of--the--deposit-" -End-

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1	SENATE BILL NO. 423
2	INTRODUCED BY HALLIGAN, MOHAR, PECK, RANEY, FARRELL
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT SIMIPINGTHETIME
5	Periods—-in—-which-banks—must-mare-funds-available—por—items
6	BBPOSITEBPORCOLLECTION; REQUIRING BANKS FINANCIAL
7	INSTITUTIONS TO DISCLOSE TO DEPOSITORS THE TIME PERIODS IN
8	WHICH FUNDS WILL BE AVAILABLE; DECLARING AVIOLATION OF
9	Theserequirementsanunpair-trade-practice;-and-amending
10	SBETION-38-4-2137-MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	NEW-SECTION: Section-1 Indexofdefinitions and
14	definition-of-#local-bank#;(l)-The-definitions-applying-to
15	factions2and3}and-the-sections-in-which-they-appear
16	are:
17	(a)*Account*30-4-104-
18	(b)*Bank*32-1-102-
19	(c)*Banking-day*:-30-4-104:
20	td)*Bepository-bank*30-4-105-
21	te}#Item#=-38-4-104-
22	(2)*bocai-bank*-means-a-bank-located-in-the-same-city
23	ortownorthatusesthesameclearinghouseasthe
24 .	depository-bank:
25	NEW-SECTION: Section-2: Whencertaincredits-become

1	######################################
2	items-deposited-in-an-accounty-the-depository-bank-must-mak
3	funds-for-the-itemsavailableforwithdrawalwithinth
4	followingperiods;-subject-to-individual-account-agreement
5	and-except-as-provided-in-subsections-{2}-and-{3}+
6	(a)for-an-item-drawn-on-the-depository-bank,atth
7	openingofthe-bank's-second-banking-day-following-receip
8	of-the-item;
9	(b)for-an-item-drawn-on-a-local-bank-otherthanth
.0	${ t depositorybank_7attheopening-of-the-depository-bank_+}$
.1	third-banking-day-following-receipt-of-the-item;
.2	(c)for-an-item-drawn-on-a-bank-located-inthestat
. 3	otherthanalocal-bank;-at-the-opening-of-the-depositor
.4	bank's-third-banking-day-following-receipt-of-the-item;
. 5	(d)for-an-item-drawn-on-any-other-bank-located-in-the
6	United-States,-attheopeningofthedepositorybank+
.7	fourth-banking-day-following-receipt-of-the-item;
8	(e)foranitem-made-out-in-a-face-amount-of-\$100-o
9	less-drawn-on-any-banky-at-theopeningofthedepositor
20	bank-s-first-banking-day-following-receipt-of-the-item;
21	(f)foritemsbearingafirst-endorsement-drawn-o
22	this-state-or-a-political-subdivision-thereof-or-theUnite
23	Statestreasury,attheopening-of-the-depository-bank+
24	first-banking-day-following-receipt-of-the-item:

+2}--The-following-are-exceptions-to--the--requirements

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ta;--If--the--depository--bank-has-received-notice-that funds-for-an-item-are-not-collectible-or-if--the--depository bank---has---good---and---sufficient--reason--to--doubt--the collectibility-of-funds-for-an-itemy-the-depository-bank-may make-funds-available-for-the-item-according--to--the--bank-s policy:

tb)--Punds--for--an--item--deposited-within-21-calendar days-of-the-opening-of-a-new-account-at--a--depository--bank are--subject--to--the--depository--bank's-policy;-if-the-bank makes-the-funds-available-for-withdrawal-on--or--before--the end-of-the-21st-calendar-day;

(c)--Por--an--item--in--an--amount-greater-than-\$2,7500, other-than--an--item--drawn--on--the--depository--bank,--the depository--bank--may--make-the-funds-available-according-to its-policy,-or-if-the-customer-electsy-it--shall--clear--the item-on-a-collection-basis;-However,-any-customer-depositing an--item--in--an--amount--greater-than-\$2,500-is-entitled-to withdrawy-within-the-time-requirements-of-subsection-(1),-at least-\$2,500-if-the-customer-so-requestsy--at--the--time--of deposity

(d)--Por--items--drawn--on-a-bank-or-its-branch-outside
the-United-Statesy-the-depository-bank-may--make--the--funds
available-according-to-its-policy;

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+31--This--section--does--not--affect-a-bank-s-right-as

1	established-by-applicable-law-to-apply-funds-in-a-customer-s
2	account-to-an-obligation-of-the-customer.

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 (4)--A-bank-may-make--funds--available--for--withdrawal
4 within-a-shorter-period-than-required-by-subsection-(1)+

NEW-SECTION: Section 1. Bank's FINANCIAL INSTITUTION'S responsibility to provide notice when funds become available for withdrawal. (1) A depository bank shall provide clear and conspicuous written notice of the time periods provided -- in -- {section -- 2} and exceptions to the periods, concerning when funds become available for 10 11 withdrawal as of right on deposit by check or similar 12 instrument in the customer's deposit account. The notice 13 must state the cutoff hour, if any, fixed by the bank 14 FINANCIAL INSTITUTION after which an item is treated as 15 being received at the opening of the next banking BUSINESS 16 day.

- 17 (2) This notice must be:
- (a) provided to a potential customer prior to openinga deposit account;
- 20 (b) mailed to each of the bank's <u>FINANCIAL</u>
 21 <u>INSTITUTION'S</u> present customers on or before December 31,
 22 1985; and
- 23 (c) posted in a conspicuous manner at each bank
 24 FINANCIAL INSTITUTION, automatic teller machine location, or
 25 other device that accepts deposits.

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1	(3) A deposit slip or envelope, or any other printed
2	form furnished by the depository bank FINANCIAL INSTITUTION
3	used in connection with deposits, must contain the following
4	notice, printed in a conspicuous manner: "Your deposit may
5	not be available for immediate withdrawal. Consult posted
6	notices for further information."
7	NEW-SECTION: Section-4: Violation asunfairtrade
8	practice:A-bank'sfailuretocomplywithanyofthe
9	provisionsof{section-2-or-3}-is-an-unfair-trade-practice
0	under-Title-307-chapter-147-parts-1-and-2-
1	Section-5:Section-30-4-2:3;-MCA;-is-amended-toread:
2	#30-4-213:Pinal-payment-of-item-by-payor-bankwhen
3	provisionaldebits-and-credits-become-finalwhen-certain
4	credits-become-available-for-withdrawal(1)Anitemis
5	finallypaidby-a-payor-bank-when-the-bank-has-done-any-of
6	the-following,-whichever-happens-first:
7	(a)paid-the-item-in-cash;-or
8	<pre>tb)settled-for-the-item-without-reserving-a-rightto</pre>
9	revokethesettlementand-without-having-such-right-under
0	statute;-clearinghouse-rule-or-agreement;-or
1	<pre>fc;completed-the-process-of-posting-the-itemtothe</pre>
2	indicated-account-of-the-drawer,-maker-or-other-person-to-be
3	charged-therewith;-or
4	(d)madeaprovisionalsettlementfor-the-item-and

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permitted--by-statute--clearinghouse-rule-or-agreement--Upon
a-final-payment-under-subparagraphs--{b};--{c}--or--{d}--the
payor--bank-shall-be-accountable-for-the-amount-of-the-item-
     +2)--If-provisional-settlement-for-an-item-between--the
presenting--and--payor-banks-is-made-through-a-clearinghouse
or-by-debits-or-credits-in-an-account-between-them;-then--to-
the--extent--that-provisional-debits-or-credits-for-the-item
are-entered-in-accounts-between--the--presenting--and--payor
banks---or--between--the--presenting--and--successive--prior
collecting-banks-seriatim; -- they -- become -- final -- upon -- final
payment-of-the-item-by-the-payor-bank-
    +31--Ff--a-collecting-bank-receives-a-settlement-for-an
item-which-is-or-becomes-final-(subsection-(3)-of--30-4-211;
subsection--(2)--of-30-4-213)-the-bank-is-accountable-to-its
customer-for-the-amount-of--the--item--and--any--provisional
credit--given--for--the-item-in-an-account-with-its-customer
becomes-final.
     +4)--Subject-to-any-right-of--the--bank--to--apply--the
credit--to--an-obligation-of-the-customery-credit-given-by-a
bank-for-an-item-in-an-account--with--its--customer--becomes
available--for--withdrawal-as-of-right: under-the-provisions
of-{section-2}+
     faj--in--any--case--where--the--bank--has--received---a
provisional--settlement--for-the-item7--when-such-settlement
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failed-to-revoke-the--settlement--in--the--time--and--manner

becomes-final-and-the-bank-has--had--a--reasonable--time--to

(b)inanycasewhere-the-bank-is-both-a-depositar
bank-and-a-payor-bank-and-the-item-is-finally-paid;atth
openingofthe-bank-s-second-banking-day-following-receip
of-the-items
(5)A-deposit-of-money-in-a-bank-isfinalwhenmad
butysubjectto-any-right-of-the-bank-to-apply-the-deposi
to-anobligationofthecustomer;thedepositbecome
.availableforwithdrawal-as-of-right-at-the-opening-of-th
bank's-next-banking-day-following-receipt-ofthedeposit:
-End-

SB 423

1	SENATE BILL NO. 423
2	INTRODUCED BY HALLIGAN, MOHAR, PECK, RANEY, FARRELL
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT bimifingTHETIME
5	PERIODSINWHICH-BANKS-MUST-MAKE-PUNDS-AVAILABLE-POR-ITEMS
6	DEPOSITEDPORCOLLECTION; REQUIRING BANKS FINANCIAL
7	INSTITUTIONS TO DISCLOSE TO DEPOSITORS THE TIME PERIODS IN
8	WHICH FUNDS WILL BE AVAILABLE; BECLARING A VIOLATION OF
9	THESEREQUIREMENTSANUNFAIR-TRADE-PRACTICE;-AND-AMENDING
10	SECTION-30-4-2137-MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	NEW-SECTION: Section-1: Indexofdefinitions and
14	definition-of-"local-bank":(1)-The-definitions-applying-to
15	fsections2and3}and-the-sections-in-which-they-appear
16	are:
17	(a)"Account":-30-4-104;
18	†b}"Bank":-32-1-102-
19	te}"Banking-day";-30-4-104;
20	(d)"Bepository-bank":-30-4-105:
21	(e)"Iteem":-30-4-104-
22	(2)"Bocal-bank"-means-a-bank-located-in-the-same-city
23	ortownorthatusesthesameclearinghouseasthe
24	depository-bankt

NEW-SECTION: -- Section-2; -- When--certain--credits-become

25

1	avaitabte-rof-withdrawaiexceptions(i)-with-respect-to
2	items-deposited-in-an-account;-the-depository-bank-must-make
3	funds-for-the-itemsavailableforwithdrawalwithinthe
4	followingperiods;-subject-to-individual-account-agreements
5	and-except-as-provided-in-subsections-(2)-and-(3):
6	<pre>fa)for-an-item-drawn-on-the-depository-bank;atthe</pre>
7	openingofthe-bank's-second-banking-day-following-receipt
8	of-the-item7
9	(b)for-an-item-drawn-on-a-local-bank-otherthanthe
10	depositorybank;attheopening-of-the-depository-bank's
11	third-banking-day-following-receipt-of-the-item;
12	(c)for-an-item-drawn-on-a-bank-located-inthestate
13	otherthanalocal-bank;-at-the-opening-of-the-depositor;
14	bank's-third-bar'ting-day-following-receipt-of-the-item;
15	<pre>(d)for-an-item-drawn-on-any-other-bank-located-in-the</pre>
16	United-States,-attheopeningofthedepositorybank's
17	fourth-banking-day-following-receipt-of-the-item;
18	(e)foranitem-made-out-in-a-face-amount-of-\$100-or
19	less-drawn-on-any-bank,-at-theopeningofthedepository
20	bank-s-first-banking-day-following-receipt-of-the-item;
21	(f)foritemsbearingafirst-endorsement-drawn-on
22	this-state-or-a-political-subdivision-thereof-or-theUnited
23	Statestreasury;attheopening-of-the-depository-bank's
24	first-banking-day-following-receipt-of-the-item-



(2)--The-following-are-exceptions-to--the--requirements

1	of-subsection-(1):
2	ta)Ifthedepositorybank-has-received-notice-that
3	funds-for-an-item-are-not-collectible-or-ifthedepository
4	bankhasgoodandsufficientreasontodoubtthe
5	collectibility-of-funds-for-an-item;-the-depository-bank-may
6	make-funds-available-for-the-item-accordingtothebank-s
7	policy.
8	(b)Pundsforanitemdeposited-within-21-calendar
9	days-of-the-opening-of-a-new-account-atadepositorybank
10	aresubjecttothedepository-bank's-policy;-if-the-bank
11	makes-the-funds-available-for-withdrawal-onorbeforethe
12	end-of-the-2ist-calendar-day.
13	(c)Poraniteminanamount-greater-than-\$2,588,
14	other-thananitemdrawnonthedepositorybank;the
15	depositorybankmaymake-the-funds-available-according-to
16	its-policy;-or-if-the-customer-elects;-itshallclearthe
17	item-on-a-collection-basis;-However;-any-custome;-depositing
18	aniteminanamountgreater-than-\$2,580-is-entitled-to
19	withdrawy-within-the-time-requirements-of-subsection-(1);-at
20	least-\$2,500-if-the-customer-so-requests,atthetimeof
21	deposit:
22	<pre>fdjPoritemsdrawnon-a-bank-or-its-branch-outside</pre>
23	the-United-States,-the-depository-bank-maymakethefunds
24	available-according-to-its-policy+
25	+3+Thissectiondoesnotaffect-a-bank-s-right-as

```
1
     established-by-applicable-law-to-apply-funds-in-a-customer's
2
     account-to-an-obligation-of-the-customerr
3
          +4} -- A-bank-may-make--funds--available--for--withdrawal
     within-a-shorter-period-than-required-by-subsection-(1);
5
          NEW-SECTION: Section 1. Bank's
                                                      FINANCIAL
     INSTITUTION'S responsibility to provide notice when funds
7
     become available for withdrawal. (1) A depository bank shall
     provide clear and conspicuous written notice of the time
     periods provided -- in -- {section -- 2} and exceptions to the
9
     periods, concerning when funds become available for
10
11
     withdrawal as of right on deposit by check or similar
     instrument in the customer's deposit account. The notice
12
     must state the cutoff hour, if any, fixed by the bank
13
14
     FINANCIAL INSTITUTION after which an item is treated as
15
     being received at the opening of the next banking BUSINESS
16
     day.
17
          (2) This notice must be:
          (a) provided to a potential customer prior to opening
18
19
     a deposit account;
20
          (b) mailed to each of the bank's FINANCIAL
21
     INSTITUTION'S present customers on or before December 31,
22
     1985; and
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FINANCIAL INSTITUTION, automatic teller machine location, or

other device that accepts deposits.

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(c) posted in a conspicuous manner at each bank

SB 423

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(3) A deposit slip or envelope, or any other printe
form furnished by the depository bank FINANCIAL INSTITUTIO
used in connection with deposits, must contain the following
notice, printed in a conspicuous manner: "Your deposit ma
not be available for immediate withdrawal. Consult poster
notices for further information."
NEW-SECTION: Section-4 Violation asunfairtrade
practiceA-bank-sfailuretocomplywithanyofthe
provisionsof{section-2-or-3}-is-an-unfair-trade-practice
under-Title-307-chapter-147-parts-1-and-2-
Section-5:Section-30-4-213;-MCA;-is-amended-toread-
438-4-213Pinal-payment-of-item-by-payor-bankwher
provisionaldebits-and-credits-become-finalwhen-certain
credits-become-available-for-withdrawal;(1)Anitemis
finallypaidby-a-payor-bank-when-the-bank-has-done-any-or
the-following,-whichever-happens-first:
<pre>fa)paid-the-item-in-cash;-or</pre>
<pre>fb)settled-for-the-item-without-reserving-a-rightte</pre>
revokethesettlementand-without-having-such-right-under
statuteclearinghouse-rule-or-agreement;-or
(c)completed-the-process-of-posting-the-itemtothe
indicated-account-of-the-drawer,-maker-or-other-person-to-be
charged-therewith;-or
+d+madeaprovisionalsettlementfor-the-item-and

failed-to-revoke-the--settlement--in--the--time--and--manner

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permitted--by-statute;-clearinghouse-rule-or-agreement;-Bpon
a-final-payment-under-subparagraphs--{b};--{c}--or--{d}--the
payor -- bank-shail-be-accountable-for-the-amount-of-the-item-
     presenting--and--payor-banks-is-made-through-a-clearinghouse
or-by-debits-or-credits-in-an-account-between-themy-then--to
the--extent--that-provisional-debits-or-credits-for-the-item
are-entered-in-accounts-between-the--presenting--and--pavor
banks---or--between--the--presenting--and--successive--prior
collecting-banks-seriatimy--they--become--final--upon--final
payment-of-the-item-by-the-payor-bank-
     +3}--If--a-collecting-bank-receives-a-settlement-for-an
item-which-is-or-becomes-final-(subsection-(3)-of--30-4-211-
subsection--(2)--of-30-4-213)-the-bank-is-accountable-to-its
customer-for-the-amount-of--the--item--and--any--provisional
credit--given--for--the-item-in-an-account-with-its-customer
becomes-final-
     (4)--Subject-to-any-right-of--the--bank--to--apply--the
credit--to--an-obligation-of-the-customery-credit-given-by-a
bank-for-an-item-in-an-account--with--its--customer--becomes
available--for--withdrawal-as-of-right: under-the-provisions
of-{section-2}-
    fat--in--any--case--where--the--bank--has--received---e
provisional--settlement--for-the-item; --when-such-settlement
```

becomes-final-and-the-bank-has--had--a--reasonable--time--to

1	learn-that-the-settlement-is-final;
2	<pre>fb}inanycasewhere-the-bank-is-both-a-depositary</pre>
3	bank-and-a-payor-bank-and-the-item-is-finally-paid;atthe
4	openingofthe-bank's-second-banking-day-following-receipt
5	of-the-item.
6	(5)A-deposit-of-money-in-a-bank-isfinalwhenmade
7	but;subjectto-any-right-of-the-bank-to-apply-the-deposit
8	to-anobligationofthecustomerythedepositbecomes
9	availableforwithdrawal-as-of-right-at-the-opening-of-the
10	bank's-next-banking-day-following-receipt-ofthedeposit:
	-End-