

SENATE BILL NO. 115

INTRODUCED BY LYNCH, DAILY, QUILICI, HARPER, VINCENT,
VAUGHN, VAN VALKENBURG, PAVLOVICH, CRIPPEN, MANNING,
HARRINGTON, GALT, BLAYLOCK, JERGESON, JACOBSON,
HANSEN, GAGE, STIMATZ, ABRAMS, PIPINICH

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE SENATE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 31, 1989	SECOND READING, DO PASS.
FEBRUARY 1, 1989	ENGROSSING REPORT.
FEBRUARY 2, 1989	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT.
FEBRUARY 20, 1989	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	PASSED CONSIDERATION FOR THE DAY.
MARCH 6, 1989	PASSED CONSIDERATION FOR THE DAY.
MARCH 7, 1989	SECOND READING, CONCURRED IN.

MARCH 8, 1989

THIRD READING, CONCURRED IN.
AYES, 95; NOES, 1.

RETURNED TO SENATE.

IN THE SENATE

MARCH 9, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *115*
 2 INTRODUCED BY *Sen. Donnelly*
 3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
 4 *Carlson*
 5 A BILL FOR AN ACT ENTITLED: *AN ACT CREATING A REVERSE*
 6 ANNUITY MORTGAGE LOAN PROGRAM; AND AUTHORIZING THE BOARD OF
 7 HOUSING TO MAKE REVERSE ANNUITY MORTGAGE LOANS."
 8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 NEW SECTION. Section 1. Short title. [This act] may
 11 be cited as the "Reverse Annuity Mortgage Loan Act".
 12 NEW SECTION. Section 2. Purpose. Many elderly
 13 citizens in Montana own their own homes and have little or
 14 no remaining mortgage debt. Many of these homeowners are
 15 persons of lower income who would benefit from an additional
 16 income source from the use of the equity in their homes. The
 17 legislature finds that reverse annuity mortgage loans would
 18 enable elderly homeowners to provide more substantially for
 19 their own in-home support and specialized care. The purpose
 20 of [this act] is to:
 21 (1) establish a reverse annuity mortgage loan program
 22 within the board of housing;
 23 (2) authorize the board to make reverse annuity
 24 mortgage loans; and
 25 (3) counsel, assist, and protect elderly homeowners

1 who wish to obtain a reverse annuity mortgage loan.
 2 NEW SECTION. Section 3. Definitions. As used in [this
 3 act], unless the context requires otherwise, the following
 4 terms apply:
 5 (1) "Mortgage" means a mortgage as defined in
 6 90-6-103.
 7 (2) "Mortgagee" means the holder of a mortgage or its
 8 assignee.
 9 (3) "Mortgagor" means a person:
 10 (a) of lower income as determined by the board. In its
 11 determination of lower income, the board shall take into
 12 consideration the criteria in 90-6-103(16).
 13 (b) 68 years of age or older; and
 14 (c) who is the owner and occupant of a single-family
 15 dwelling that is unencumbered by any prior mortgage, lien,
 16 or pledge.
 17 (4) "Reverse annuity mortgage loan" means a loan in
 18 which loan proceeds are advanced to the mortgagor to provide
 19 a monthly tax-free cash payment for 10 years.
 20 (5) "Single-family dwelling" means a one- to
 21 four-family living unit, excluding a condominium as defined
 22 in 70-23-102.
 23 NEW SECTION. Section 4. Reverse annuity mortgage loan
 24 program. The board may make reverse annuity mortgage loans
 25 that are secured by a single family dwelling located in this

1 state. The loans must be made under terms and conditions
2 adopted by the board pursuant to its authority under
3 90-6-104.

4 NEW SECTION. **Section 5.** Repayment or termination of
5 reverse annuity mortgage loan. (1) The mortgagor shall repay
6 the reverse annuity mortgage loan as provided in this
7 section.

8 (2) Repayment of any part of the reverse annuity
9 mortgage loan is not required prior to the maturity of the
10 loan and while the mortgagor resides on the secured
11 property. The mortgagor may pay the outstanding loan balance
12 in full at any time without penalty.

13 (3) The reverse annuity mortgage loan matures,
14 advances under a reverse annuity mortgage loan terminate,
15 and the entire unpaid balance of the loan plus accrued
16 interest becomes due and payable upon the occurrence of any
17 of the following events:

- 18 (a) the death of the last surviving mortgagor;
- 19 (b) the sale or other transfer of the secured property
- 20 to a person other than any of the original mortgagors;
- 21 (c) vacation of the secured property by the mortgagor,
- 22 whether voluntarily, involuntarily, or pursuant to legal
- 23 process; or
- 24 (d) any other occurrence that materially decreases the
- 25 value of the property securing the loan or that will have

1 the likely effect of causing the loan to not be repaid.

2 (4) Any occurrence allowing the termination of a loan
3 as provided in subsection (3)(d) must be clearly recited in
4 the mortgage, deed of trust, or trust indenture.

5 (5) Payment of the reverse annuity mortgage loan may
6 not be required from any source other than the secured
7 property.

8 NEW SECTION. **Section 6.** Mortgage requirements. (1)
9 Any mortgage securing payments made by a mortgagee to a
10 mortgagor pursuant to a reverse annuity mortgage loan must
11 be sufficiently definite, certain, and valid to secure all
12 money actually advanced pursuant to and in accordance with
13 its terms. The mortgage must secure money advanced at or
14 subsequent to closing of the loan, up to but not exceeding
15 the full amount of the loan. A reverse annuity mortgage has
16 the same priority as if all money had been advanced at the
17 time the mortgage was delivered. The mortgage must include
18 but not be limited to the following:

- 19 (a) a statement that it is a reverse annuity mortgage
- 20 loan;
- 21 (b) the full amount of the loan authorized;
- 22 (c) a statement of the dates on which advancements are
- 23 to be made and the amounts of such advancements; and
- 24 (d) the events that will give rise to the maturity of
- 25 the loan.

1 (2) The mortgagee and the mortgagor may modify the
2 advancement dates in the mortgage by a statement signed by
3 all parties to the mortgage and properly recorded with the
4 original mortgage instrument. The modification may not limit
5 or otherwise affect the priority of the mortgage.

6 NEW SECTION. **Section 7. Rulemaking authority.** The
7 board shall adopt all procedural and substantive rules
8 necessary for the administration of [this act], including
9 rules required to secure, implement, and administer the
10 reverse annuity mortgage loan program.

11 NEW SECTION. **Section 8. Codification instruction.**
12 [Sections 1 through 7] are intended to be codified as an
13 integral part of Title 90, chapter 6, and the provisions of
14 Title 90, chapter 6, apply to [sections 1 through 7].

15 NEW SECTION. **Section 9. Severability.** If a part of
16 [this act] is invalid, all valid parts that are severable
17 from the invalid part remain in effect. If a part of [this
18 act] is invalid in one or more of its applications, the part
19 remains in effect in all valid applications that are
20 severable from the invalid applications.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB115, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

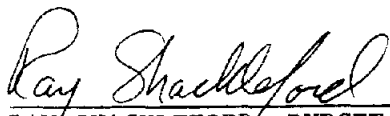
SB115 - Reverse Annuity Mortgage Loan Act to establish this program within the Montana Board of Housing to enable qualifying lower-income elderly homeowners to convert a significant portion of the equity in their homes into a taxfree monthly cash flow for a period up to ten years.

ASSUMPTIONS:

1. There will be 50 loans originated in each year of the 1991 biennium.
2. The loans will be assigned to a master services for accounting, reporting and advancing monthly payments.
3. The administrative costs will be self-funding and recorded in the board's proprietary account.
4. There is no fiscal impact cited in this note because there is a recommended modification for the general appropriations act in the executive budget (page 314) in the amount of \$24,300 each year of the 1991 biennium.

FISCAL IMPACT:

To be included in the general appropriations act.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/19/89

DATE



JOHN "J.D" LYNCH, PRIMARY SPONSOR

DATE

Fiscal Note for SB115, as introduced

SB 115

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A REVERSE
ANNUITY MORTGAGE LOAN PROGRAM; AND AUTHORIZING THE BOARD OF
HOUSING TO MAKE REVERSE ANNUITY MORTGAGE LOANS."

STATEMENT OF INTENT

A statement of intent is required for this bill because
it grants the board of housing authority to adopt rules to
secure, implement, and administer a reverse annuity mortgage
loan program to be utilized by elderly Montanans. The
legislature intends that the rules adopted by the board
recognize the necessity for some elderly Montanans to draw
income for essential living expenses and other purposes from
the equity accumulated in their single-family homes during
their lifetimes while continuing to enjoy the shelter and
security afforded by those residences. The rules must afford
the elderly homeowner monthly payments over 10 years, as
provided in the loan agreement, under terms that assure life
tenancy and the right to repay the loan balance at any time.

The rules must be consistent with other statutory or
regulatory provisions requiring sufficient security for a
loan provided by the board. The rules must prescribe forms
and procedures necessary to apply for and receive reverse
annuity mortgages.

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

NEW SECTION. Section 1. Short title. [This act] may
be cited as the "Reverse Annuity Mortgage Loan Act".

NEW SECTION. Section 2. Purpose. Many elderly
citizens in Montana own their own homes and have little or
no remaining mortgage debt. Many of these homeowners are
persons of lower income who would benefit from an additional
income source from the use of the equity in their homes. The
legislature finds that reverse annuity mortgage loans would
enable elderly homeowners to provide more substantially for
their own in-home support and specialized care. The purpose
of [this act] is to:

(1) establish a reverse annuity mortgage loan program
within the board of housing;

(2) authorize the board to make reverse annuity
mortgage loans; and

(3) counsel, assist, and protect elderly homeowners
who wish to obtain a reverse annuity mortgage loan; AND

(4) ADMINISTER A REVERSE ANNUITY MORTGAGE LOAN PROGRAM

1 THAT DOES NOT JEOPARDIZE THE MORTGAGOR'S ELIGIBILITY FOR
 2 MEDICAID AND OTHER MEANS-TESTED PROGRAMS.

3 NEW SECTION. Section 3. Definitions. As used in [this
 4 act], unless the context requires otherwise, the following
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 7 90-6-103.

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 12 determination of lower income, the board shall take into
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14 (b) 68 years of age or older; and

15 (c) who is the owner and occupant of a single-family
 16 dwelling that is unencumbered by any prior mortgage, lien,
 17 or pledge; AND

18 (D) WHO HAS COMPLETED A REVERSE ANNUITY MORTGAGE
 19 COUNSELING PROGRAM APPROVED BY THE BOARD.

20 (4) "Reverse annuity mortgage loan" means a loan in
 21 which loan proceeds are advanced to the mortgagor to provide
 22 a monthly tax-free cash payment for 10 years.

23 (5) "Single-family dwelling" means a one- to
 24 four-family living unit, excluding a condominium as defined
 25 in 70-23-102.

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 12 mortgage loan is not required prior to the maturity of the
 13 loan and while the mortgagor resides on the secured
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16 (3) The reverse annuity mortgage loan matures,
 17 advances under a reverse annuity mortgage loan terminate,
 18 and the entire unpaid balance of the loan plus accrued
 19 interest becomes due and payable ONLY upon the occurrence of
 20 any of the following events:

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 23 to a person other than any of the original mortgagors;

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 25 whether voluntarily, involuntarily, or pursuant to legal

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1 process; or

2 (d) any other occurrence that materially decreases the
3 value of the property securing the loan or that will have
4 the likely effect of causing the loan to not be repaid.

5 (4) Any occurrence allowing the termination of a loan
6 as provided in subsection (3)(d) must be clearly recited in
7 the mortgage, deed of trust, or trust indenture.

8 (5) Payment of the reverse annuity mortgage loan may
9 not be required from any source other than the secured
10 property.

11 NEW SECTION. Section 6. Mortgage requirements. (1)
12 Any mortgage securing payments made by a mortgagee to a
13 mortgagor pursuant to a reverse annuity mortgage loan must
14 be sufficiently definite, certain, and valid to secure all
15 money actually advanced pursuant to and in accordance with
16 its terms. The mortgage must secure money advanced at or
17 subsequent to closing of the loan, up to but not exceeding
18 the full amount of the loan. A reverse annuity mortgage has
19 the same priority as if all money had been advanced at the
20 time the mortgage was delivered. The mortgage must include
21 but not be limited to the following:

22 (a) a statement that it is a reverse annuity mortgage
23 loan;

24 (b) the full amount of the loan authorized;

25 (c) a statement of the dates on which advancements are

1 to be made and the amounts of such advancements; and

2 (d) the events that will give rise to the maturity of
3 the loan.

4 (2) The mortgagee and the mortgagor may modify the
5 advancement dates in the mortgage by a statement signed by
6 all parties to the mortgage and properly recorded with the
7 original mortgage instrument. The modification may not limit
8 or otherwise affect the priority of the mortgage.

9 NEW SECTION. Section 7. Rulemaking authority. The
10 board shall adopt all procedural and substantive rules
11 necessary for the administration of [this act], including
12 rules required to secure, implement, and administer the
13 reverse annuity mortgage loan program.

14 NEW SECTION. Section 8. Codification instruction.
15 [Sections 1 through 7] are intended to be codified as an
16 integral part of Title 90, chapter 6, and the provisions of
17 Title 90, chapter 6, apply to [sections 1 through 7].

18 NEW SECTION. Section 9. Severability. If a part of
19 [this act] is invalid, all valid parts that are severable
20 from the invalid part remain in effect. If a part of [this
21 act] is invalid in one or more of its applications, the part
22 remains in effect in all valid applications that are
23 severable from the invalid applications.

-End-