

SENATE BILL NO. 419

INTRODUCED BY LYNCH

IN THE SENATE

FEBRUARY 17, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.
FEBRUARY 22, 1993	SECOND READING, DO PASS.
FEBRUARY 23, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
MARCH 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	SECOND READING, CONCURRED IN.
MARCH 16, 1993	THIRD READING, CONCURRED IN. AYES, 83; NOES, 13.
MARCH 17, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 18, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1                    Senate BILL NO. 419  
2    INTRODUCED BY Lynch  
3  
4    A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5    UTILIZATION OF NONFILING INSURANCE IN LIEU OF FILING,  
6    RECORDING, OR OTHERWISE PERFECTING ANY TITLE OR LIEN OR FOR  
7    SECURING A LOAN TO THE EXTENT THAT THE PREMIUM FOR THE  
8    INSURANCE DOES NOT EXCEED THE FEES THAT WOULD OTHERWISE BE  
9    PAYABLE FOR FILING, RECORDING, OR RELEASING ANY SECURITY  
10   INTEREST; INCREASING TO \$15 THE MAXIMUM DELINQUENCY CHARGE  
11   THAT MAY BE COLLECTED FOR DEFAULT IN PAYMENT OF AN  
12   INSTALLMENT DUE UNDER THE TERMS OF A RETAIL INSTALLMENT  
13   CONTRACT; DELETING THE REQUIREMENT THAT CERTAIN DOLLAR  
14   AMOUNTS SET FORTH IN SECTION 32-5-302, MCA, ARE SUBJECT TO  
15   CHANGE IN ACCORDANCE WITH THE CHANGES IN THE CONSUMER PRICE  
16   INDEX; AND AMENDING SECTIONS 31-1-202, 31-1-235, 32-5-301,  
17   AND 32-5-302, MCA."

18  
19   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20        **Section 1.** Section 31-1-202, MCA, is amended to read:

21        "31-1-202. Definitions. (1) Unless the context requires  
22   otherwise, in this part the following definitions apply:

23        (a) "Cash sale price" means the price stated in a  
24   retail installment contract or in a sales slip or other  
25   memorandum furnished by a retail seller to a retail buyer

1   under or in connection with a retail charge account  
2   agreement for which the seller would have sold or furnished  
3   to the buyer and the buyer would have bought or obtained  
4   from the seller the goods or services which are the subject  
5   matter of the retail installment transaction, if the sale  
6   had been a sale for cash. The cash sale price may include  
7   any taxes, registration, certificate of title, license, and  
8   official fees and cash sale prices for services, if any, and  
9   for accessories and their installation and for delivering,  
10   servicing, repairing, or improving the goods.

11        (b) "Department" means the department of commerce  
12   provided for in Title 2, chapter 15, part 18.

13        (c) "Finance charge" means the amount, as limited by  
14   31-1-241, in addition to the principal balance, agreed upon  
15   between the buyer and the seller, to be paid by the buyer  
16   for the privilege of purchasing goods or services to be paid  
17   for by the buyer in one or more deferred installments.

18        (d) "Goods" means all chattels personal, including  
19   motor vehicles and merchandise certificates or coupons  
20   exchangeable for chattels personal but not including money  
21   or things in action. The term includes goods which that, at  
22   the time of the sale or subsequently, are to be so affixed  
23   to realty as to become a part thereof of the realty, whether  
24   or not severable from it.

25        (e) "Holder" means the retail seller of the goods or

services under the retail installment contract or retail charge account agreement or a person who establishes and administers retail charge account agreements with retail buyers; the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred; or any other person entitled to the rights of the retail seller under any retail installment contract or any retail charge account agreement.

(f) "Manufactured structure" means any structure, transportable in one or more sections, designed to be used as a single-family dwelling or commercial building with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein in the structure.

(g) "Motor vehicle" means any new or used automobile, motorcycle, quadricycle, truck, trailer, semitrailer, truck tractor, and all vehicles with any power, other than muscular power, primarily designed or used to transport persons or property on a public highway, excepting, however, any vehicle which runs only on rails or tracks or in the air.

(h) "Official fees" means:

(i) the fees prescribed by law for filing, recording,

or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction; or

(ii) the premium for insurance in lieu of filing, recording, or otherwise perfecting any title or lien retained or taken by a seller in connection with a retail installment transaction to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction.

(i) "Person" means an individual, partnership, corporation, association, and any other group, however organized.

(j) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods.

(k) "Recreational vehicle" means a vehicular type unit that either has its own motor power or is mounted on or drawn by another vehicle, primarily designed as temporary living quarters for recreational, camping, or travel use.

1 (l) "Retail buyer" or "buyer" means a person who buys  
2 goods or obtains services from a retail seller in a retail  
3 installment transaction and not for the purpose of resale.

4 (m) "Retail charge account agreement" means an  
5 instrument in writing prescribing the terms of retail  
6 installment transactions which may be made under it from  
7 time to time under which a retail seller gives to a retail  
8 buyer the privilege of using a credit card issued by the  
9 retail seller or any other person or other credit  
10 confirmation or identification for the purpose of purchasing  
11 goods or services from the retail seller, from the retail  
12 seller and any other person, or from a person licensed or  
13 franchised by the retail seller and under the terms of which  
14 a finance charge ~~as-defined-in-this-section~~ may be computed  
15 in relation to the buyer's average daily balance in the  
16 account during the billing cycle or the buyer's balance from  
17 time to time.

18 (n) "Retail installment contract" or "contract" means  
19 an agreement evidencing a retail installment transaction  
20 entered into in this state under which a buyer promises to  
21 pay in one or more deferred installments the time sale price  
22 of goods or services, or both. The term includes a chattel  
23 mortgage, conditional sales contract, and a contract for the  
24 bailment or leasing of goods by which the bailee or lessee  
25 contracts to pay as compensation for its use a sum

1 substantially equivalent to or in excess of its value and by  
2 which it is agreed that the bailee or lessee is bound to  
3 become, or for no further or a merely nominal consideration  
4 has the option of becoming, the owner of the goods upon full  
5 compliance with the provisions of the contract.

6 (o) "Retail installment transaction" means a written  
7 contract to sell or furnish, or the sale or furnishing of,  
8 goods or services by a retail seller to a retail buyer  
9 pursuant to a retail charge account agreement or under a  
10 retail installment contract.

11 (p) "Retail seller" or "seller" means a person who  
12 sells goods or furnishes services to a retail buyer in a  
13 written retail installment contract or written retail  
14 installment transaction.

15 (q) "Sales finance company" means a person engaged, in  
16 whole or in part, in the business of purchasing retail  
17 installment contracts from one or more sellers. The term  
18 includes but is not limited to a bank, trust company,  
19 investment company, or savings and loan association, if ~~so~~  
20 engaged in purchasing retail installment contracts. The term  
21 does not include a person who makes only isolated purchases  
22 of retail installment contracts, which purchases are not  
23 being made in the course of repeated and successive  
24 purchases of retail installment contracts from the same  
25 seller.

(r) "Services" means work, labor, and services furnished in the delivery, installation, servicing, repair, or improvement of goods.

(s) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits, if a separate identified charge is made therefor for insurance and benefits, and the amounts of the official fees and the finance charge.

(2) This part does not apply to the lending of money by banks or other lending institutions and securing loans by chattel mortgages of goods in the ordinary course of lending by those banks or other lending institutions. However, this part pertains to the extension of credit by those banks or other lending institutions under retail installment contracts or credit cards issued by those banks or other lending institutions."

**Section 2.** Section 31-1-235, MCA, is amended to read:

"31-1-235. Delinquency fee. The holder may collect a delinquency charge on each installment in default for a period not less than 10 days in an amount not in excess of 5% of each installment or \$5 \$15, whichever is less, or, in lieu thereof of the charge, interest after maturity on each such installment not exceeding the highest lawful contract rate. In addition to such a delinquency charge, the contract

may provide for the payment of attorneys' fees not exceeding 15% of the amount due and payable under such the contract ~~where-such~~ when the contract is referred for collection to an attorney not a salaried employee of the holder of the contract and for court costs and actual and reasonable out-of-pocket expenses incurred in connection with such the delinquency."

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

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

(1) Every licensee or holder of a supplementary license hereunder under this part may contract for and receive on any loan of money interest charges as provided under 31-1-112.

(2) Charges in subsection (1) ~~shall~~ must 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 The~~ charges ~~shall~~ must be added to the principal of the loan and ~~shall~~ may not be discounted or deducted ~~therefrom from the principal~~ 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~~ is considered one-thirtieth of a month.

(3) (a) When any loan contract, new loan, renewal, or otherwise for a period of not more than 61 months is paid in

1 full by cash 1 month or more before the final installment  
 2 date, the licensee shall refund or credit the borrower with  
 3 that portion of the total charges ~~which shall be~~ that is due  
 4 the borrower as determined by schedules prepared under the  
 5 rule of 78ths or sum of the digits principle as follows: the  
 6 amount of the refund or credit ~~shall~~ must be as great a  
 7 proportion of the total charges originally contracted for as  
 8 the sum of the consecutive monthly balances of the contract  
 9 scheduled to follow the date of prepayment bears to the sum  
 10 of all the consecutive monthly balances of the contract,  
 11 both sums to be determined according to the payment schedule  
 12 originally contracted for.

13 (b) When any loan contract, new loan, renewal, or  
 14 otherwise for a period of more than 61 months is paid in  
 15 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 that is due the borrower  
 18 that is applicable to all fully unexpired months in the  
 19 contract as originally scheduled or, if deferred, as  
 20 deferred, following the date of prepayment. For this purpose  
 21 the applicable charge is the charge which would have been  
 22 earned for that contract if charges had not been  
 23 precomputed, by applying to the unpaid principal balance, by  
 24 the actuarial method, the annual percentage rate disclosed  
 25 pursuant to federal law, based on the assumption that all

1 payments were made as originally scheduled. For all loans  
 2 that may be subject to this section, charges are computed  
 3 initially in the same manner used to determine the annual  
 4 percentage rate.

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

10 (5) (a) The licensee may include in the principal  
 11 amount of any loan:

12 (i) the actual fees paid a public official or agency of  
 13 the state for filing, recording, or releasing any instrument  
 14 securing the loan; or

15 (ii) the premium for insurance in lieu of filing or  
 16 recording any instrument securing the loan to the extent  
 17 that the premium does not exceed the fees that would  
 18 otherwise be payable for filing, recording, or releasing any  
 19 instrument securing the loan.

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

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

25 (ii) fees for preparation of a deed, settlement

statement, or other documents;

(iii) fees for notarizing deeds and other documents;

(iv) appraisal fees;

(v) fees for credit reports; and

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

(6) ~~No-further~~ Further or other charges ~~shall~~ may not be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. No A licensee ~~shall~~ may not 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. 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 may not collect or receive any charges.

(7) Subsections (2), (3), and (6) of this section apply only to loans on which charges are made on an add-on basis and do not apply to loans on which charges are made on an interest-bearing basis."

**Section 4.** Section 32-5-302, MCA, is amended to read:

"32-5-302. **Installment payment -- contract period.** (1)

No A licensee may not enter into any contract of loan:

(a) of \$300 or less, exclusive of charges, under which the borrower agrees to make any scheduled repayment of

principal more than 21 calendar months from the date of making such the contract;

(b) for more than \$300 to and including \$1,000, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 25 calendar months from the date of making; or

(c) for more than \$1,000 to and including \$2,500, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 48 calendar months from the date of making.

(2) Every Each loan contract ~~shall-require~~ requires payment of principal and charges in installments ~~which-shall~~ be that are payable at approximately equal periodic intervals, except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No An installment contracted for may not be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first 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.

~~{3}--The---amounts---of---\$300,---\$1,000,---and---\$2,500---in subsection---{1}---are---subject---to---change---pursuant---to---the provisions-of-32-5-104-on-adjustment-of-dollar-amounts:-"~~

-End-

-12-

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

1 Senate BILL NO. 419  
2 INTRODUCED BY Lynch  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
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services under the retail installment contract or retail charge account agreement or a person who establishes and administers retail charge account agreements with retail buyers; the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred; or any other person entitled to the rights of the retail seller under any retail installment contract or any retail charge account agreement.

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or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction; or

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(i) "Person" means an individual, partnership, corporation, association, and any other group, however organized.

(j) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods.

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(2) Charges in subsection (1) ~~shall~~ must 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 The~~ The charges ~~shall~~ must be added to the principal of the loan and ~~shall~~ may not be discounted or deducted ~~therefrom from the principal~~ 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~~ is considered one-thirtieth of a month.

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 18 otherwise be payable for filing, recording, or releasing any  
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20 (b) The licensee may include in the principal amount of  
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7 be directly or indirectly contracted for or received by any  
8 licensee except those specifically authorized by this  
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10 parts any contract made for the purpose of or with the  
11 effect of obtaining charges in excess of those authorized by  
12 this chapter. If any amount in excess of the charges  
13 permitted by this chapter is charged, contracted for, and  
14 received, except as the result of an accidental and bona  
15 fide error of computation, the licensee ~~shall-have-no--right~~  
16 to may not collect or receive any charges.

17 (7) Subsections (2), (3), and (6) of this section apply  
18 only to loans on which charges are made on an add-on basis  
19 and do not apply to loans on which charges are made on an  
20 interest-bearing basis."

21 **Section 4.** Section 32-5-302, MCA, is amended to read:

22 "32-5-302. Installment payment -- contract period. (1)

23 No A licensee may not enter into any contract of loan:

24 (a) of \$300 or less, exclusive of charges, under which  
25 the borrower agrees to make any scheduled repayment of

1 principal more than 21 calendar months from the date of  
2 making such the contract;

3 (b) for more than \$300 to and including \$1,000,  
4 exclusive of charges, under which the borrower agrees to  
5 make any scheduled repayment of principal more than 25  
6 calendar months from the date of making; or

7 (c) for more than \$1,000 to and including \$2,500,  
8 exclusive of charges, under which the borrower agrees to  
9 make any scheduled repayment of principal more than 48  
10 calendar months from the date of making.

11 (2) Every Each loan contract ~~shall-require~~ requires  
12 payment of principal and charges in installments which-~~shall~~  
13 be that are payable at approximately equal periodic  
14 intervals, except that payment dates may be omitted to  
15 accommodate borrowers with seasonal incomes. No An  
16 installment contracted for may not be substantially larger  
17 than any preceding installment. When a loan contract  
18 provides for monthly installments, the first installment may  
19 be payable at any time within 45 days of the date of the  
20 loan and the charges for the number of days in excess of 30  
21 from the date of making may be added to the scheduled amount  
22 of the installments.

23 ~~{3}--The---amounts---of--\$300,--\$1,000,--and--\$2,500--in~~  
24 ~~subsection--{1}--are--subject--to--change--pursuant--to--the~~  
25 ~~provisions-of-32-5-104-on-adjustment-of-dollar-amounts."~~

-End-

-12-

1 Senate BILL NO. 419  
2 INTRODUCED BY Lynch  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5 UTILIZATION OF NONFILING INSURANCE IN LIEU OF FILING,  
6 RECORDING, OR OTHERWISE PERFECTING ANY TITLE OR LIEN OR FOR  
7 SECURING A LOAN TO THE EXTENT THAT THE PREMIUM FOR THE  
8 INSURANCE DOES NOT EXCEED THE FEES THAT WOULD OTHERWISE BE  
9 PAYABLE FOR FILING, RECORDING, OR RELEASING ANY SECURITY  
10 INTEREST; INCREASING TO \$15 THE MAXIMUM DELINQUENCY CHARGE  
11 THAT MAY BE COLLECTED FOR DEFAULT IN PAYMENT OF AN  
12 INSTALLMENT DUE UNDER THE TERMS OF A RETAIL INSTALLMENT  
13 CONTRACT; DELETING THE REQUIREMENT THAT CERTAIN DOLLAR  
14 AMOUNTS SET FORTH IN SECTION 32-5-302, MCA, ARE SUBJECT TO  
15 CHANGE IN ACCORDANCE WITH THE CHANGES IN THE CONSUMER PRICE  
16 INDEX; AND AMENDING SECTIONS 31-1-202, 31-1-235, 32-5-301,  
17 AND 32-5-302, MCA."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 31-1-202, MCA, is amended to read:

21 "31-1-202. Definitions. (1) Unless the context requires  
22 otherwise, in this part the following definitions apply:

23 (a) "Cash sale price" means the price stated in a  
24 retail installment contract or in a sales slip or other  
25 memorandum furnished by a retail seller to a retail buyer

1 under or in connection with a retail charge account  
2 agreement for which the seller would have sold or furnished  
3 to the buyer and the buyer would have bought or obtained  
4 from the seller the goods or services which are the subject  
5 matter of the retail installment transaction, if the sale  
6 had been a sale for cash. The cash sale price may include  
7 any taxes, registration, certificate of title, license, and  
8 official fees and cash sale prices for services, if any, and  
9 for accessories and their installation and for delivering,  
10 servicing, repairing, or improving the goods.

11 (b) "Department" means the department of commerce  
12 provided for in Title 2, chapter 15, part 18.

13 (c) "Finance charge" means the amount, as limited by  
14 31-1-241, in addition to the principal balance, agreed upon  
15 between the buyer and the seller, to be paid by the buyer  
16 for the privilege of purchasing goods or services to be paid  
17 for by the buyer in one or more deferred installments.

18 (d) "Goods" means all chattels personal, including

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

## SENATE BILL NO. 419

INTRODUCED BY LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE UTILIZATION OF NONFILING INSURANCE IN LIEU OF FILING, RECORDING, OR OTHERWISE PERFECTING ANY TITLE OR LIEN OR FOR SECURING A LOAN TO THE EXTENT THAT THE PREMIUM FOR THE INSURANCE DOES NOT EXCEED THE FEES THAT WOULD OTHERWISE BE PAYABLE FOR FILING, RECORDING, OR RELEASING ANY SECURITY INTEREST; INCREASING TO \$15 THE MAXIMUM DELINQUENCY CHARGE THAT MAY BE COLLECTED FOR DEFAULT IN PAYMENT OF AN INSTALLMENT DUE UNDER THE TERMS OF A RETAIL INSTALLMENT CONTRACT; DELETING THE REQUIREMENT THAT CERTAIN DOLLAR AMOUNTS SET FORTH IN SECTION 32-5-302, MCA, ARE SUBJECT TO CHANGE IN ACCORDANCE WITH THE CHANGES IN THE CONSUMER PRICE INDEX; AND AMENDING SECTIONS 31-1-202, 31-1-235, 32-5-301, AND 32-5-302, MCA."

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

**Section 1.** Section 31-1-202, MCA, is amended to read:

"31-1-202. Definitions. (1) Unless the context requires otherwise, in this part the following definitions apply:

(a) "Cash sale price" means the price stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer

under or in connection with a retail charge account agreement for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of the retail installment transaction, if the sale had been a sale for cash. The cash sale price may include any taxes, registration, certificate of title, license, and official fees and cash sale prices for services, if any, and for accessories and their installation and for delivering, servicing, repairing, or improving the goods.

(b) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(c) "Finance charge" means the amount, as limited by 31-1-241, in addition to the principal balance, agreed upon between the buyer and the seller, to be paid by the buyer for the privilege of purchasing goods or services to be paid for by the buyer in one or more deferred installments.

(d) "Goods" means all chattels personal, including motor vehicles and merchandise certificates or coupons exchangeable for chattels personal but not including money or things in action. The term includes goods which that, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof of the realty, whether or not severable from it.

(e) "Holder" means the retail seller of the goods or

services under the retail installment contract or retail charge account agreement or a person who establishes and administers retail charge account agreements with retail buyers; the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred; or any other person entitled to the rights of the retail seller under any retail installment contract or any retail charge account agreement.

(f) "Manufactured structure" means any structure, transportable in one or more sections, designed to be used as a single-family dwelling or commercial building with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein in the structure.

(g) "Motor vehicle" means any new or used automobile, motorcycle, quadricycle, truck, trailer, semitrailer, truck tractor, and all vehicles with any power, other than muscular power, primarily designed or used to transport persons or property on a public highway, excepting, however, any vehicle which runs only on rails or tracks or in the air.

(h) "Official fees" means:

(i) the fees prescribed by law for filing, recording,

or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction; or

(ii) the premium for insurance in lieu of filing, recording, or otherwise perfecting any title or lien retained or taken by a seller in connection with a retail installment transaction to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction.

(i) "Person" means an individual, partnership, corporation, association, and any other group, however organized.

(j) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods.

(k) "Recreational vehicle" means a vehicular type unit that either has its own motor power or is mounted on or drawn by another vehicle, primarily designed as temporary living quarters for recreational, camping, or travel use.



1 (l) "Retail buyer" or "buyer" means a person who buys  
2 goods or obtains services from a retail seller in a retail  
3 installment transaction and not for the purpose of resale.

4 (m) "Retail charge account agreement" means an  
5 instrument in writing prescribing the terms of retail  
6 installment transactions which may be made under it from  
7 time to time under which a retail seller gives to a retail  
8 buyer the privilege of using a credit card issued by the  
9 retail seller or any other person or other credit  
10 confirmation or identification for the purpose of purchasing  
11 goods or services from the retail seller, from the retail  
12 seller and any other person, or from a person licensed or  
13 franchised by the retail seller and under the terms of which  
14 a finance charge ~~as-defined-in-this-section~~ may be computed  
15 in relation to the buyer's average daily balance in the  
16 account during the billing cycle or the buyer's balance from  
17 time to time.

18 (n) "Retail installment contract" or "contract" means  
19 an agreement evidencing a retail installment transaction  
20 entered into in this state under which a buyer promises to  
21 pay in one or more deferred installments the time sale price  
22 of goods or services, or both. The term includes a chattel  
23 mortgage, conditional sales contract, and a contract for the  
24 bailment or leasing of goods by which the bailee or lessee  
25 contracts to pay as compensation for its use a sum

1 substantially equivalent to or in excess of its value and by  
2 which it is agreed that the bailee or lessee is bound to  
3 become, or for no further or a merely nominal consideration  
4 has the option of becoming, the owner of the goods upon full  
5 compliance with the provisions of the contract.

6 (o) "Retail installment transaction" means a written  
7 contract to sell or furnish, or the sale or furnishing of,  
8 goods or services by a retail seller to a retail buyer  
9 pursuant to a retail charge account agreement or under a  
10 retail installment contract.

11 (p) "Retail seller" or "seller" means a person who  
12 sells goods or furnishes services to a retail buyer in a  
13 written retail installment contract or written retail  
14 installment transaction.

15 (q) "Sales finance company" means a person engaged, in  
16 whole or in part, in the business of purchasing retail  
17 installment contracts from one or more sellers. The term  
18 includes but is not limited to a bank, trust company,  
19 investment company, or savings and loan association, if so  
20 engaged in purchasing retail installment contracts. The term  
21 does not include a person who makes only isolated purchases  
22 of retail installment contracts, which purchases are not  
23 being made in the course of repeated and successive  
24 purchases of retail installment contracts from the same  
25 seller.

(r) "Services" means work, labor, and services furnished in the delivery, installation, servicing, repair, or improvement of goods.

(s) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits, if a separate identified charge is made therefor for insurance and benefits, and the amounts of the official fees and the finance charge.

(2) This part does not apply to the lending of money by banks or other lending institutions and securing loans by chattel mortgages of goods in the ordinary course of lending by those banks or other lending institutions. However, this part pertains to the extension of credit by those banks or other lending institutions under retail installment contracts or credit cards issued by those banks or other lending institutions."

**Section 2.** Section 31-1-235, MCA, is amended to read:

"31-1-235. Delinquency fee. The holder may collect a delinquency charge on each installment in default for a period not less than 10 days in an amount not in excess of 5% of each installment or \$5 \$15, whichever is less, or, in lieu thereof of the charge, interest after maturity on each such installment not exceeding the highest lawful contract rate. In addition to such a delinquency charge, the contract

may provide for the payment of attorneys' fees not exceeding 15% of the amount due and payable under such the contract ~~where-such~~ when the contract is referred for collection to an attorney not a salaried employee of the holder of the contract and for court costs and actual and reasonable out-of-pocket expenses incurred in connection with such the delinquency."

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

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

(1) Every licensee or holder of a supplementary license ~~hereunder~~ under this part may contract for and receive on any loan of money interest charges as provided under 31-1-112.

(2) Charges in subsection (1) ~~shall~~ must 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 The~~ charges ~~shall~~ must be added to the principal of the loan and ~~shall~~ may not be discounted or deducted ~~therefrom~~ from the principal 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~~ is considered one-thirtieth of a month.

(3) (a) When any loan contract, new loan, renewal, or otherwise for a period of not more than 61 months is paid in

1 full by cash 1 month or more before the final installment  
 2 date, the licensee shall refund or credit the borrower with  
 3 that portion of the total charges ~~which shall be~~ that is due  
 4 the borrower as determined by schedules prepared under the  
 5 rule of 78ths or sum of the digits principle as follows: the  
 6 amount of the refund or credit ~~shall~~ must be as great a  
 7 proportion of the total charges originally contracted for as  
 8 the sum of the consecutive monthly balances of the contract  
 9 scheduled to follow the date of prepayment bears to the sum  
 10 of all the consecutive monthly balances of the contract,  
 11 both sums to be determined according to the payment schedule  
 12 originally contracted for.

13 (b) When any loan contract, new loan, renewal, or  
 14 otherwise for a period of more than 61 months is paid in  
 15 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 that is due the borrower  
 18 that is applicable to all fully unexpired months in the  
 19 contract as originally scheduled or, if deferred, as  
 20 deferred, following the date of prepayment. For this purpose  
 21 the applicable charge is the charge which would have been  
 22 earned for that contract if charges had not been  
 23 precomputed, by applying to the unpaid principal balance, by  
 24 the actuarial method, the annual percentage rate disclosed  
 25 pursuant to federal law, based on the assumption that all

1 payments were made as originally scheduled. For all loans  
 2 that may be subject to this section, charges are computed  
 3 initially in the same manner used to determine the annual  
 4 percentage rate.

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

10 (5) (a) The licensee may include in the principal  
 11 amount of any loan:

12 (i) the actual fees paid a public official or agency of  
 13 the state for filing, recording, or releasing any instrument  
 14 securing the loan; or

15 (ii) the premium for insurance in lieu of filing or  
 16 recording any instrument securing the loan to the extent  
 17 that the premium does not exceed the fees that would  
 18 otherwise be payable for filing, recording, or releasing any  
 19 instrument securing the loan.

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

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

25 (ii) fees for preparation of a deed, settlement

1 statement, or other documents;  
 2 (iii) fees for notarizing deeds and other documents;  
 3 (iv) appraisal fees;  
 4 (v) fees for credit reports; and  
 5 (vi) fees paid to a trustee for release of a trust deed.  
 6 (6) ~~No-further~~ Further or other charges ~~shall~~ may not  
 7 be directly or indirectly contracted for or received by any  
 8 licensee except those specifically authorized by this  
 9 chapter. ~~No~~ A licensee ~~shall~~ may not divide into separate  
 10 parts any contract made for the purpose of or with the  
 11 effect of obtaining charges in excess of those authorized by  
 12 this chapter. If any amount in excess of the charges  
 13 permitted by this chapter is charged, contracted for, and  
 14 received, except as the result of an accidental and bona  
 15 fide error of computation, the licensee ~~shall-have-no--right~~  
 16 to may not collect or receive any charges.  
 17 (7) Subsections (2), (3), and (6) of this section apply  
 18 only to loans on which charges are made on an add-on basis  
 19 and do not apply to loans on which charges are made on an  
 20 interest-bearing basis."

21 **Section 4.** Section 32-5-302, MCA, is amended to read:

22 "32-5-302. **Installment payment -- contract period.** (1)  
 23 ~~No~~ A licensee may not enter into any contract of loan:  
 24 (a) of \$300 or less, exclusive of charges, under which  
 25 the borrower agrees to make any scheduled repayment of

1 principal more than 21 calendar months from the date of  
 2 making ~~such the~~ contract;  
 3 (b) for more than \$300 to and including \$1,000,  
 4 exclusive of charges, under which the borrower agrees to  
 5 make any scheduled repayment of principal more than 25  
 6 calendar months from the date of making; or  
 7 (c) for more than \$1,000 to and including \$2,500,  
 8 exclusive of charges, under which the borrower agrees to  
 9 make any scheduled repayment of principal more than 48  
 10 calendar months from the date of making.

11 (2) ~~Every~~ Each loan contract ~~shall-require~~ requires  
 12 payment of principal and charges in installments ~~which-shall~~  
 13 be that are payable at approximately equal periodic  
 14 intervals, except that payment dates may be omitted to  
 15 accommodate borrowers with seasonal incomes. ~~No~~ An  
 16 installment contracted for may not be substantially larger  
 17 than any preceding installment. When a loan contract  
 18 provides for monthly installments, the first installment may  
 19 be payable at any time within 45 days of the date of the  
 20 loan and the charges for the number of days in excess of 30  
 21 from the date of making may be added to the scheduled amount  
 22 of the installments.

23 ~~{3}--The--amounts--of--\$300,--\$1,000,--and--\$2,500--in~~  
 24 ~~subsection--(1)--are--subject--to--change--pursuant--to--the~~  
 25 ~~provisions-of-32-5-104-on-adjustment-of-dollar-amounts,"~~

-End-

-12-