

HOUSE BILL NO. 557

INTRODUCED BY BUTCHER

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A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING THE AMOUNT OF INSURANCE THAT A LENDER MAY REQUIRE A BORROWER TO MAINTAIN ON A LOAN SECURED BY REAL PROPERTY; AND AMENDING SECTION 32-5-306, MCA."

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

Section 1. Section 32-5-306, MCA, is amended to read:

"32-5-306. Insurance -- real property security -- definitions. (1) Except as provided in this section, insurance may not be written by a licensee or employee, affiliate, or associate of the licensee; in connection with any loan.

(2) Insurance permitted under the provisions of this section ~~shall~~ must be obtained through an insurance company authorized to conduct business in Montana by a ~~duly licensed agent~~ licensed insurance producer or agency of this state. Premiums may not exceed those fixed by law or current applicable manual rates. Insurance written as authorized by this section may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

(3) (a) When the principal amount of the loan exceeds \$300 exclusive of the portion of the loan attributable to insurance premiums and charges, the licensee may require a borrower to insure property offered as security against any substantial risk of loss, damage, or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, whichever is smaller, and for the customary term approximating the term of the loan contract. It ~~shall be~~ is optional with the borrower to obtain insurance in an amount greater than the amount of the loan or for a longer term.

(b) A lender may not require a borrower, as a condition of obtaining or maintaining a loan secured by real property, to provide insurance on improvements to real property in an amount that exceeds the reasonable replacement value of the improvements.

(4) Subject to the laws of this state, credit life insurance, credit disability insurance, and loss of income insurance may be provided at the expense of the borrower and may be provided by a licensee upon the request of the borrower when the principal amount of the loan exceeds \$300, exclusive of the portion of the loan

1 attributable to insurance premiums and charges.

2 (5) The insurance authorized by this section may be sold, obtained, or provided by or through a
3 licensee, and the premium or identifiable charge for the insurance may be included in the principal amount of
4 the loan; ~~provided, however~~ However, that a licensee may not require a borrower to purchase insurance from
5 the licensee or from any particular ~~agent~~ insurance producer, broker, or insurance company as a condition
6 precedent for obtaining a loan. Any gain or advantage to the licensee or any employee, affiliate, or associate
7 of the licensee from the sale, provision, or obtaining of insurance as authorized by this section may not be
8 considered to be additional charges or a violation of this chapter.

9 (6) A licensee may not require insurance under this section until any existing insurance of the same type
10 has expired or has been canceled and the unearned portion of the premium for the canceled insurance has been
11 rebated to the borrower.

12 (7) The amount of \$300 in subsections (3) and (4) is subject to change pursuant to 32-5-104 on
13 adjustment of dollar amounts.

14 (8) As used in this section:

15 (a) "borrower" means a mortgagor, grantor of a deed of trust, or other debtor;

16 (b) "improvement to real property" means a fixture, building, or other structure attached to real property
17 and intended as a permanent addition to the real property; and

18 (c) "lender" means a mortgagee, beneficiary of a deed of trust, or other creditor who holds a mortgage,
19 deed of trust, or other instrument that encumbers real property as security for the repayment of a debt."

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21 NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured,
22 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

23 - END -