



AN ACT PROVIDING AN ALTERNATE SOURCE FOR AN OUTDATED REFERENCE TO INTEREST RATES BASED ON THE PRIME RATE; AMENDING SECTIONS 7-8-2304, 31-1-107, AND 33-3-431, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE AND APPLICABILITY DATE.

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

Section 1. Section 7-8-2304, MCA, is amended to read:

"7-8-2304. Terms for sale of tax-deed land. (1) A sale must be made for cash or, in the case of real property, on terms that the board of county commissioners approves.

(2) (a) If the sale is made on terms, at least 20% of the purchase price must be paid in cash at the date of sale and the remainder may be paid in installments extending over a period not to exceed 5 years. All deferred payments bear interest at a rate established by the board of county commissioners. The rate may not exceed more than 4 percentage points a year above the prime rate of major New York banks, as published in the Wall Street Journal published by the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans dated within 7 days prior to the date of sale.

(b) If a sale is made on terms, the presiding officer of the board shall execute a contract containing the terms that are provided by a contract approved by the department of revenue."

Section 2. Section 31-1-107, MCA, is amended to read:

"31-1-107. Interest rate allowed by agreement. (1) Parties may agree in writing for to the payment of any rate of interest that does not exceed the greater of 15% or an amount that is 6 percentage points per annum year above the prime rate of major New York banks, as published in the Wall Street Journal edition published by the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans dated 3 business days prior to the execution of the agreement. Interest must be allowed according to the terms of the agreement.

(2) A loan that is not usurious when made is lawful for the duration of the loan, provided the loan

agreement is not substantially changed. This subsection does not apply to loan renewals.

(3) The provisions of this section do not apply to regulated lenders as defined in 31-1-111."

Section 3. Section 33-3-431, MCA, is amended to read:

"33-3-431. Borrowed surplus. (1) A domestic stock or mutual insurer may borrow money to defray the expenses of the insurer's organization, to provide the insurer with surplus funds, or for any purpose of the insurer's business upon a written agreement that the money is required to be repaid only out of the insurer's surplus in excess of that stipulated in the agreement. The agreement may provide for interest at a rate not to exceed the greater of the rate established in 25-9-205 or a rate that is 6 percentage points per year higher than the prime rate of major New York banks as published in the Wall Street Journal edition published by the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans dated 3 business days prior to the execution of the agreement. The agreement must specify whether the interest constitutes a liability of the insurer. A commission or promotion expense may not be paid in connection with a loan of the type described in this section.

(2) Money borrowed, together with the interest if stipulated in the agreement, does not form a part of the insurer's legal liabilities except as to the insurer's surplus in excess of the amount stipulated in the agreement or the basis of any setoff. However, until the money or interest, or both, are repaid, financial statements filed or published by the insurer must show as a footnote the amount then unpaid together with any interest accrued but unpaid.

(3) A loan of this type to a mutual or stock insurer is subject to the commissioner's approval. The insurer shall, in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement are approved unless within 15 days after filing the insurer is notified of the commissioner's disapproval and reasons for the disapproval. The commissioner shall disapprove any proposed loan or agreement if the commissioner finds the loan is unnecessary or excessive for the purpose intended or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information filed by the insurer is inadequate.

(4) A loan to a mutual or stock insurer or a substantial portion of the loan must be repaid by the insurer when the loan is no longer reasonably necessary for the purpose originally intended. Repayment of either principal or interest on the loan may not be made by a mutual or stock insurer unless approved in advance by

the commissioner.

(5) This section does not apply to loans obtained by the insurer in the ordinary course of business from banks and other financial institutions or to loans secured by pledge or mortgage of assets."

Section 4. Effective date -- applicability. [This act] is effective on passage and approval and applies to all interest rate agreements governed by 7-8-2304, 31-1-107, or 33-3-431 made on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
HB 0348, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 348

INTRODUCED BY S. MALEK

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