

HOUSE BILL NO. 470

INTRODUCED BY C. CLARK

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FEES PAID UNDER A GUARANTEED ASSET PROTECTION WAIVER TO BE INCLUDED IN THE PRINCIPAL AMOUNT OF A CONSUMER LOAN; AMENDING SECTION 32-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 32-5-301, MCA, is amended to read:

"32-5-301. Fees charged to consumers. (1) A licensee may contract for and receive interest on the principal amount of any loan. The interest, excluding the fees authorized in subsections (3) and (4), may not exceed 36% a year.

(2) The following third-party fees may be financed at the borrower's option and included in the principal amount of any loan:

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

(b) the premium for insurance in lieu of filing or recording any instrument securing the loan to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or releasing any instrument securing the loan;

(c) the premium for any credit insurance;

(d) bona fide fees or charges related to real estate security paid to third parties;

(e) fees or premiums for title examination, title insurance, or similar purposes, including survey;

(f) fees for preparation of a deed, settlement statement, or other documents;

(g) fees for notarizing deeds and other documents;

(h) appraisal fees;

(i) fees for credit reports; and

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

(3) (a) If provided for in the contract, a licensee may grant a deferral at any time. A deferral postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled



1 or as previously deferred for a period equal to the agreed-upon deferral period. The deferral period is that period
2 during which an installment is not scheduled to be paid by reason of the deferral.

3 (b) A licensee may charge an additional fee for each deferral. The fee charged may be the greater of
4 \$15 or 5% of the amount currently due, not to exceed \$50.

5 (c) Other fees may not be charged by the lender for any deferrals granted by the lender.

6 (4) If provided for in the contract, a licensee may charge a fee for any amount past due, whether as a
7 result of a default under the original contract terms or of a default under the terms of an extension agreement.
8 The fee charged may be the greater of \$15 or 5% of the amount past due, not to exceed \$50. The fee charged
9 for any past-due amount may be charged only once. Other fees may not be charged for any default of the contract
10 by the borrower.

11 (5) At the borrower's option, a licensee may finance and include in the principal amount of any loan a
12 guaranteed asset protection waiver provided under the Guaranteed Asset Protection Waiver Act as provided in
13 30-14-151 through 30-14-157.

14 ~~(5)(6)~~ (a) No other fees or charges may be directly or indirectly contracted for or received by any licensee
15 except those specifically authorized by this chapter. A licensee may not divide into separate parts any contract
16 made for the purpose of or with the effect of obtaining fees in excess of those authorized by this chapter. In
17 addition to other remedies and penalties provided for in this chapter, if any amount in excess of the fees permitted
18 by this chapter is charged, contracted for, or received, the licensee shall forfeit to the borrower a sum that is
19 double the amount that is in excess of the fees authorized by this chapter.

20 (b) This section does not apply to fees for services rendered in connection with a loan after the loan has
21 been consummated and if the borrower's participation in the services is strictly voluntary."
22

23 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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