

SENATE BILL NO. 165

INTRODUCED BY D. SALOMON

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE CONSUMER LOAN ACT TO REVISE THE LICENSEES THAT ARE EXEMPT FROM THE ACT; AMENDING SECTION 32-5-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 32-5-103, MCA, is amended to read:

"32-5-103. Engaging in business of making consumer loans restricted. (1) Except as provided in subsection (5), a person may not engage in the business of making consumer loans in any amount and contract for, charge, or receive directly or indirectly on or in connection with any loan any compensation, whether for interest, fees, other consideration, or expense, except as provided in and authorized by this chapter.

(2) A licensee may sell its business and assets to a bank, building and loan association, savings and loan association, trust company, credit union, credit association, development credit corporation, other licensee, financial holding company, or bank holding company organized pursuant to state or federal statutory authority and subject to supervision, control, or regulation by an agency of the state of Montana or an agency of the federal government. All contracts for loans and all other contracts entered into by the licensee pursuant to the provisions of this chapter that are sold and transferred to an acquiring organization continue to be governed by the provisions of this chapter.

(3) The provisions of subsection (1) apply to any person who seeks to evade its applications by any device, subterfuge, or pretense.

(4) Any loan made or collected in violation of subsection (1) by a person other than a licensee or a person exempt under subsection (5) is void, and the person does not have the right to collect, receive, or retain any principal, interest, fees, or other charges.

(5) The following are not required to comply with the provisions of this chapter:

(a) ~~a regulated lender, as defined in 31-1-111, to whom the exemption in 31-1-112 applies~~ a bank, building and loan association, savings and loan association, trust company, or credit union; or

(b) a person who:



- 1 (i) makes fewer than four consumer loans a year with the person's own funds;
- 2 (ii) does not represent that the person is a licensee; and
- 3 (iii) complies with the provisions of Title 31, chapter 1, part 1."

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

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