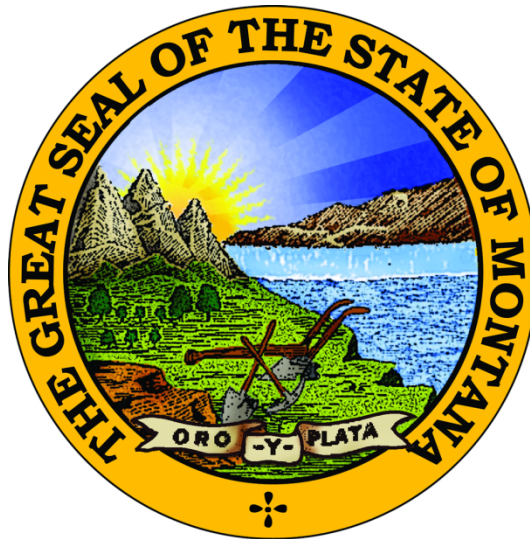


STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

ADMINISTRATIVE RULES RELATING TO  
CONSUMER LOAN LICENSEES



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### **2.59.301 ADVERTISING**

(1) Licensees shall maintain a file of all advertising, (written, printed, radio, television, etc.) for a period of at least 12 months after the last date of its use or until an examination of the licensee has been accomplished by the Montana Consumer Loan Commissioner.

(a) All advertising copy shall have noted thereon the name or names of all advertising media used and the dates when such advertising appeared.

(b) The full text of radio or television advertising shall be retained.

(2) Licensees shall not use any advertising which is false, misleading or deceptive.

(3) Licensees shall not use so-called blind advertisements as, for example, an advertisement giving only a telephone number, post office or newspaper box number or a name other than that of the licensee.

(4) Licensees shall not use any advertising which is inconsistent with the Federal or Montana Consumer Protection Acts or the regulations promulgated thereunder governing advertising.

**History: 32-5-401, MCA; IMP, 32-5- 401, MCA; AMD, 1986 MAR p. 793, Eff. 5/16/86; AMD, 1992 MAR p. 137, Eff. 1/31/92; TRANS, from Commerce, 2001 MAR p. 1178.**

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### **2.59.302 SCHEDULE OF CHARGES**

(1) Every applicant for license under the Montana Consumer Loan Act shall file with the commissioner in duplicate, at the time of filing application for such license, a full and accurate schedule of all charges, fees and costs to be exacted in connection with any and all loans to be made by such applicant and the method of computing the same.

(2) Licensees shall thereafter maintain on file with the commissioner in duplicate a current schedule of all charges, fees and costs to be exacted in connection with all loans to be made by such licensee and shall not exact charges, fees or costs in excess of those contained in the schedule.

(3) Licensees shall display such schedule, which shall include examples of principal, add-on charges, monthly payments, and the contract period covered, prominently in each licensed place of business where loans are made or negotiated so as to be easily readable by borrowers and prospective borrowers.

(4) Licensees shall not make loans without such schedule being displayed.

(5) Licensees operating more than one licensed location in Montana shall advise the commissioner at which location or locations each such schedule is to be used, if there be more than one schedule.

(6) Licensees shall observe the following definitions and procedures in computing charges:

(a) a calendar month is that period of time from one date in the month to the corresponding date in the next month. If there is no corresponding date, then the last date of the next month will be used.

(b) the term "month" as used in the Act and in this regulation shall mean calendar month;

(c) charges shall be computed at the applicable rate on the amount of the loan from the date of the loan to the due date of the final installment irrespective of the fact that the loan is payable in installments;

(d) licensees shall compute monthly charges for a period of less than one year at 1/12th of the annual rate for each month;

(e) licensees shall compute daily charges for a period of less than one month at 1/30th of 1/12th of the annual rate for each day;

(7) Licensees shall not fix the due date of the first installment on any loan contract providing for monthly installments, for a term exceeding 45 actual days from the date of loan.

(a) When the first payment on any such contract may be due on a date beyond a calendar month as defined above, licensees will be permitted to make an additional charge for the number of days in excess of 30 or of one calendar month from the date of loan, whichever is less.

(b) The number of days in excess will be at the daily rate for actual number of days.

(8) Licensees shall compute prepayment refunds under the rule of 78ths:

(a) Licensees may disregard any earned charge made for an extended first payment. (e.g. if a 10-day first payment extension charge was made, the charge becomes earned with the elapse of the 10 days.)

(b) When any loan contract is prepaid after the first scheduled installment date by cash, a new loan, renewal, or otherwise, on other than scheduled dates, licensees shall elect to use either the 15-day rule or a daily basis to compute the refund due.

(i) The daily basis, if elected, shall be at the rate of 1/30th of the total earned charges determined under the rule of 78ths for that month in which prepayment occurs times the number of days which follow the prepayment date to the next scheduled payment date;

(ii) Licensees electing the 15-day rule are entitled to earned charges under the rule of 78ths for the month in which prepayment occurs provided the prepayment date is 16 days or more after the preceding regularly scheduled payment date;

(iii) Licensees are prohibited from using both methods.

(c) Licensees who elect to use the 15-day rule in determining the refund due a borrower under the provisions of (8)(b)(ii) above may use the following formula in determining the service charge due from borrowers who repay any loan contract within 15 days or less from the date the loan is made:

(i) lenders are authorized to divide the original add-on charge by the number of months in the contract period of the original term of loan. If a first payment extension was made, that charge is to be entirely refunded if it has not been earned by elapse of time; if earned, the 15 days or less is determined from the date which is one month prior to the first scheduled payment;

(ii) whenever the resulting quotient is less than \$2, the lender may collect \$2 as a minimum service charge.

(d) a borrower who prepays one whole installment or more in advance shall be entitled to a refund credit of unearned charges for such prepayment, if the loan contract is repaid within the time allowed in its original terms. Such refund shall be computed by subtracting from the original add-on charge as great a proportion of such charge as the sum of all monthly balances as originally contracted for. Monthly balances are those on the date of origination and on the consecutive scheduled monthly payment dates of the original loan contract;

(9) Licensees shall interpret 32-5-301(2), MCA, of the Act "only once" to mean on the same default; i.e., a borrower who defaults in one or more payments may be subject to a penalty of 5% of each payment in default;

(10) Licensees shall not add to the amount of any balance, which remains after the terminal date of a loan contract, including extensions or charges for payments in default, interest or charges which in the aggregate exceed the legal rate authorized by 31-1-106, MCA.

**History: 32-5-401, MCA; IMP, 31-1-106, 32-5-301, MCA; Eff. 12/31/72; TRANS, from Commerce, 2001 MAR p. 1178; AMD, 2010 MAR p. 213, Eff. 1/29/10.**

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### **2.59.303 CREDIT LIFE INSURANCE**

(1) Licensee shall not place credit life insurance nor credit disability insurance for its borrowers unless all applicable requirements of the Montana Insurance Code (Title 33, MCA) concerning licensing of agents are complied with. Any license acquired from the Commissioner of Insurance of the state of Montana must be conspicuously displayed in the office of licensee.

(2) Licensee shall not place any credit life or disability insurance with an insurer who has not been authorized to transact such insurance in this state under the provision of the Montana Insurance Code.

(3) Licensee shall not require any borrower or prospective borrower to purchase or contract for credit life or disability insurance as a condition precedent to granting any loan.

(4) Licensee may advise borrowers or prospective borrowers that such insurance is available at additional cost to the borrower.

(5) Licensee may advertise generally and publicly that credit life insurance and/or credit disability insurance is available to borrowers on loans of more than \$300 in principal amount exclusive of charges for insurance premiums.

(6) Licensee shall not place credit life and/or credit disability insurance on any loan of \$300 or less in principal amount exclusive of charges for insurance premiums.

(7) Licensee shall not make any loan including amounts advanced for insurance premiums that exceeds \$1,000 in total amount advanced. A licensee who has been issued a supplementary license shall not make any loan including amounts advanced for insurance premiums that exceeds \$2,500 in total amount advanced.

(8) The amount and term of credit life and/or credit disability insurance placed by a licensee must conform to the provisions of 33-21-202 and 33-21-203 , MCA.

(9) The individual insurance policy, the certificate of group insurance, the copy of the application for insurance, or the notice of proposed insurance, must be delivered to the borrower at the time the indebtedness is incurred, in accordance with the provisions of 33-21-204 , MCA, and all the provisions of this law relative to statements concerning the coverage provided must be strictly complied with.

(10) Licensee must have on file for each credit life and disability insurance transaction a signed statement from the borrower that procurement of such insurance was not made a condition precedent to the granting of the loan. Such statement may be a part of the loan statement, certificate of group insurance, or application for insurance, if such document is to be retained in borrower's file for the two years required by 32-5-307 , MCA. If a separate signed statement is used, such statement must be retained in borrower's file for the same period.

(11) Refunds of unearned premiums for credit life and disability insurance shall be computed in accordance with the Montana Insurance Code ( 32-21-206 , MCA) and regulations issued by the Commissioner of Insurance of the state of Montana.

(12) Licensee shall enter on each borrower's loan account record the amount of credit life insurance premium and credit disability insurance premium charged in connection with the loan.

(13) Before any credit life insurance or credit disability insurance premium is placed by licensee on any loan contract, licensee must file with the Consumer Loan Commissioner a statement containing the following information:

(a) the name and home address of the insurer or insurers with whom licensee intends to place such insurance;

(b) the rate of charge for premiums on such insurance to be collected from the borrower, expressed in terms of dollars and cents per month (or per year) per one hundred dollars of original balance of the loan;

(c) those borrowers who do not qualify for credit life or disability insurance because of advanced age or other stipulated reasons;

(d) the basis or schedule upon which refunds to borrowers of unearned premiums are to be computed.

(14) For the purpose of providing adequate information for the annual report of licensee required by 32-5-308 , MCA, licensee must keep accurate accounts to reflect the following:

(a) total net charges to borrowers for credit life insurance and credit disability insurance placed by licensee;

(b) total premiums remitted to insurers for such coverage;

(c) total commissions or dividends received by licensee from insurers;

(d) total of loans paid by insurers upon death of borrowers;

(e) total of payments on loans received from insurers under credit disability policies.

**History: 32-5-308, MCA; IMP, 32-5-401, MCA; Eff. 12/31/72; TRANS, from Commerce, 2001 MAR p. 1178.**

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### **2.59.304 FEES PAID TO PUBLIC OFFICIALS**

(1) Licensees who collect fees of any kind to be paid to a public official for filing or recording any instrument used to secure a loan, assume responsibility for releasing such instrument from the public record when the obligation has been satisfied.

(2) Licensees shall record on the borrower's ledger card each amount collected as a fee for recording, filing, or releasing any instrument executed by a borrower to secure a loan.

(3) Licensees shall not collect any notary fee required in connection with any instrument tendered by a borrower as security for any loan.

**History: 32-5-401, MCA; IMP, 32-5-401, MCA; Eff. 12/31/72; TRANS, from Commerce, 2001 MAR p. 1178.**

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### **2.59.305 RECEIPT FORM**

(1) Licensees shall give to the borrower or mail to him at his address of record a plain and complete receipt for each payment made.

(2) Licensees receipt forms shall contain the following minimum information:

- (a) name of borrower;
- (b) account number;
- (c) amount of installment payment;
- (d) penalty collection, if any;
- (e) balance remaining on loan; and
- (f) amount of refund.

(3) Licensees shall indelibly record on borrower's loan card as separate items the amount of each installment payment, refund or collection.

**History: 32-5-401, MCA; IMP, 32-5-401, MCA; Eff. 12/31/72; TRANS, from Commerce, 2001 MAR p. 1178.**

### **2.59.306 RECORDS OF LICENSEE**

(1) On and after January 1, 1960, each licensee shall establish and maintain in current condition a general ledger, located in the place of business maintained in this state for contracting consumer loans.

(2) Each general ledger shall contain as a minimum the following accounts appropriate to the licensed organization:

Assets	Liabilities and Capital
Cash on Hand	Capital
Cash in Bank	Surplus
Notes Receivable	Net Worth
Real Estate	Notes Payable
Furniture and Fixtures	Due Parent Company
Expenses	Income
Other Assets	Other Liabilities

(3) Please bear in mind that the foregoing list is intended as a minimum guide only. Any reasonable change in title or additional breakdown of information will be satisfactory.

(4) The general ledger of each licensee shall be sufficiently complete to show all assets, liabilities, income and expense. Every ledger entry shall be supported by original source documents, which must be available for examination.

**History: 32-5-401, MCA; IMP, 32-5-401, MCA; Eff. 12/31/72; TRANS, from Commerce, 2001 MAR p. 1178.**

### **2.59.307 DOLLAR AMOUNTS TO WHICH CONSUMER LOAN RATES ARE TO BE APPLIED**

This rule has been repealed.

History: 32-5-104, MCA; IMP, 32-5-104, 32-5-201, 32-5-301, 32-5-302, 32-5-306, MCA; NEW, 1984 MAR p. 922, Eff. 6/15/84; AMD, 1988 MAR p. 2034, Eff. 9/23/88; AMD, 1991 MAR p. 1274, Eff. 7/26/91; AMD, 1992 MAR p. 1353, Eff. 6/26/92; AMD, 1994 MAR p. 953, Eff. 4/15/94; AMD, 1996 MAR p. 2165, Eff. 8/9/96; AMD, 1998 MAR p. 2479, Eff. 9/11/98; TRANS, from Commerce, 2001 MAR p. 1178; AMD, 2006 MAR p. 1138, Eff. 5/5/06; REP, 2010 MAR p. 63, Eff. 1/15/10.

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### **2.59.308 EXAMINATION FEES**

(1) A consumer loan business shall pay the Division of Banking and Financial Institutions a fee in the amount of \$37.50 per hour for each examiner required to conduct an investigation or examination under 32-5-402 or 32-5-403, MCA.

History: 32-5-401, 32-5-403, MCA; IMP, 32-5-402, 32-5-403, MCA; NEW, 2003 MAR p. 1802, Eff. 8/15/03; AMD, 2010 MAR p. 63, Eff. 1/15/10