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MEMORANDUM

To: Consumer Loan Licensees

From: Christopher Romano, Consumer Finance Examination Manager
Division of Banking and Financial Institutions

Re: Interest Calculations

Date: March 21, 2011

The Division of Banking and Financial Institutions has reviewed methods for calculating interest due on consumer loans. The Division has given consideration to whether using an interest factor based on a 360 day year and applied to payments based on either 30 day months or the actual number of days between payments is permissible.

While both methods have been common for many years, the Division's position is that the time has passed where approximations are acceptable. Lenders now must be more exact in their calculations. The ready availability of calculators and computers neutralize the argument that a 30/360 method is justified because working with actual numbers of days is too complicated for loan staff.

It is also critical for consumer loan licensees to evaluate the manner in which they calculate interest in light of the passage of Ballot Initiative No. 164 (I-164). The rate cap contained within I-164 amended Section 32-5-301(1), MCA, of the Montana Consumer Loan Act to read "a licensee may contract for and receive interest on any loan of money. Such interest, including fees and charges incurred in the making of the loan but excluding the fees authorized in subsections (2) and (3), may not exceed 36% per annum." The rate cap was effective on all consumer loans originated on or after January 1, 2011.

Besides the stated rate of interest, it is important what the *effective* rate of interest is on a loan, i.e., how much interest is charged, based on the calculation method, versus stated contract terms. Please be advised that the manner in which licensees calculate and collect interest must be consistent with how the interest calculation is disclosed to the borrower(s) within the loan documents.

It is the Division's position that Montana consumer loan licensees should, at a minimum, base their interest calculations on a 365 day year: calculating their interest factors using 365 days, and applying that factor to the actual number of days for which interest is due at the time payment is made. In addition, in order to be completely accurate licensees also should be making a one day adjustment to the factor during leap years.

Any consumer loan licensee which violates 32-5-301(1), MCA, will be subject to an enforcement action which may include civil money penalties and restitution to borrowers.