

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



ANGELA McLEAN
LT. GOVERNOR

April 29, 2015

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 280 (SB 280), "AN ACT REVISING LAWS REGARDING THE LIABILITY OF REGULATED LENDERS FOR CERTAIN TRANSACTIONS CONDUCTED THROUGH WRITTEN DOCUMENTS; AND AMENDING SECTION 31-1-116, MCA."

SB 280 is one of two bills that were promulgated in response to a Montana Supreme Court decision holding Bank of America liable for fraudulent statements to struggling homeowners, *Morrow v. Bank of America*, 2014 MT 117. As I stated in my veto letter for the companion bill, Senate Bill 281, as Attorney General, I participated in litigation against five of the biggest banks, including Bank of America, that alleged that these institutions routinely violated state and federal law and engaged in deceptive practices. In February of 2012, I joined a landmark agreement that held these banks financially liable and imposed national standards to protect consumers from future abuse. In the process, my office handled hundreds of complaints by Montana homeowners who had been mistreated and deceived by the large, national banks. I also heard from Montana bankers who were frustrated by the way some of their borrowers were treated by the national banks, after their home loans were sold on the secondary mortgage market.

I recognize that SB 280 was amended to narrow its scope and impact; it does not apply to loans secured solely by a trust indenture on a single family residential real property that is owned and occupied by the borrower. However, there are many other types of secured loans, some of which are secured by a trust indenture. These include, for example, small business properties, rental properties, agricultural lands, timberlands, manufactured homes, homes on more than 40 acres, loans for purchases of high cost vehicles or equipment, operating lines of credit, or other business loans. For all of these types of loans, SB 280 would prohibit any action in tort or contract that is not based on a writing signed by a regulated lender.

As with respect to its companion bill, SB 280 sweeps too broadly. The bill's proponents misapprehend the effect of the Supreme Court's decision in *Morrow*. I do not believe that Montana banks and credit unions engage in the type of conduct that was at issue in the *Morrow* case, and there

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was no evidence introduced in the legislative process that would suggest that to be the case. The changes proposed by 280 are, therefore, not necessary to protect Montana lenders.

For these reasons, I veto SB 280.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Bullock", with a long horizontal flourish extending to the right.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Debby Barrett, President of the Senate
Austin Knudsen, Speaker of the House