

HOUSE BILL NO. 672

INTRODUCED BY FAGG, R. JOHNSON, SCOTT, LARSON, FRANKLIN,
MCCULLOCH, GAGE, SQUIRES
BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

FEBRUARY 7, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & ECONOMIC DEVELOPMENT.

 FIRST READING.

FEBRUARY 21, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 22, 1991 PRINTING REPORT.

 POSTED ON ALTERNATIVE CONSENT CALENDAR.

FEBRUARY 27, 1991 THIRD READING, PASSED.
 AYES, 100; NOES, 0.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & INDUSTRY.

 FIRST READING.

MARCH 19, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 20, 1991 ON MOTION, CONSIDERATION PASSED
 UNTIL THE 61ST LEGISLATIVE DAY.

MARCH 22, 1991 ON MOTION, CONSIDERATION PASSED
 UNTIL THE 63RD LEGISLATIVE DAY.

MARCH 23, 1991 SECOND READING, CONCURRED IN.

MARCH 25, 1991 THIRD READING, CONCURRED IN.
 AYES, 48; NOES, 0.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 11, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 19, 1991

CONFERENCE COMMITTEE REPORTED.

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

APRIL 20, 1991

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 20, 1991

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *672*
 2 INTRODUCED BY *Jerry DeLoach* *Larson*
 3 *McArthur* BY REQUEST OF THE STATE AUDITOR

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO INSURANCE; ESTABLISHING CONSUMER PROTECTION
 7 MEASURES RELATING TO RELATIONSHIPS WITH LONG-TERM CARE
 8 FACILITIES, PREMIUM INCREASES, AND PREEXISTING CONDITIONS;
 9 AND AMENDING SECTIONS 33-15-1106, 33-18-210, 33-20-101,
 10 33-20-121, 33-20-131, AND 33-22-508, MCA."
 11

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

13 NEW SECTION. Section 1. Prohibited relations with
 14 long-term care facility. An insurance producer that owns,
 15 manages, supervises, operates, maintains, or works in a
 16 long-term care facility as defined in 37-9-101 may not
 17 solicit, negotiate, transact, or effectuate a life or
 18 disability policy or certificate of insurance for a resident
 19 of a long-term care facility.

20 NEW SECTION. Section 2. Premium increase restriction
 21 -- exception. An insurer may not increase a premium in an
 22 individual or group disability insurance policy more
 23 frequently than once during a 12-month period unless failure
 24 to increase the premium more frequently than once during the
 25 12-month period would;

1 (1) place the insurer in violation of the laws of this
 2 state; or

3 (2) cause the financial impairment of the insurer to
 4 the extent that further transaction of insurance by the
 5 insurer injures or is hazardous to its policyholders or to
 6 the public.

7 NEW SECTION. Section 3. Preexisting conditions. (1) A
 8 policy or certificate of disability insurance may not
 9 exclude coverage for a condition for which no medical advice
 10 or treatment was recommended by or received from a provider
 11 of health care services within 5 years preceding the
 12 effective date of coverage of an insured person unless the
 13 condition begins within 6 months following the effective
 14 date of coverage of an insured person.

15 (2) An insurer may use an application form designed to
 16 elicit the complete health history of an applicant and, on
 17 the basis of the answers on that application, perform
 18 underwriting in accordance with the insurer's established
 19 underwriting standards.

20 Section 4. Section 33-15-1106, MCA, is amended to read:

21 "33-15-1106. Renewal with altered terms. (1) If an
 22 insurer offers or purports to renew a policy but on less
 23 favorable terms, at a higher rate, or at a higher rating
 24 plan, the new terms, rate, or rating plan take effect on the
 25 policy renewal date only if the insurer has mailed or

1 delivered notice of the new terms, rate, or rating plan to
 2 the insured at least 30 days before the expiration date. If
 3 the insured has not been so notified, he may cancel the
 4 renewal policy within 30 days after receiving the notice.
 5 The insurer shall continue coverage for a period of not less
 6 than 30 days after mailing or delivery of the notice. If the
 7 insured terminates the policy within the 30-day period, the
 8 insurer shall calculate the earned premium pro rata based
 9 upon the prior policy's rate. The new rate is effective only
 10 after the required 30-day notification period has been met.
 11 If the insured does not terminate the policy, the premium
 12 increase and other changes are effective the day following
 13 the prior policy's expiration or anniversary date.

14 (2) This section does not apply if:

15 ~~{a}--the-change-is-a-rate-or-rating-plan-filed-with--the~~
 16 ~~commissioner--and-applicable-to-the-entire-classification-or~~
 17 ~~classification-system-to-which-the-policy-belongs--or~~

18 {b} the increase in the rate or the rating plan, or
 19 both, results from a classification change based on the
 20 altered nature or extent of the risk insured against."

21 **Section 5.** Section 33-18-210, MCA, is amended to read:

22 "33-18-210. Unfair discrimination and rebates
 23 prohibited -- property, casualty, and surety insurances. (1)
 24 No A title, property, casualty, or surety insurer or any an
 25 employee, representative, insurance producer, or solicitor

1 thereof of an insurer may not, as an inducement to purchase
 2 insurance or after insurance has been effected, pay, allow,
 3 or give or offer to pay, allow, or give, directly or
 4 indirectly, any a:

5 (a) rebate, discount, abatement, credit, or reduction
 6 of the premium named in the insurance policy; any

7 (b) special favor or advantage in the dividends or
 8 other benefits to accrue thereon on the policy; or any

9 (c) valuable consideration or inducement not specified
 10 in the policy, except to the extent provided for in an
 11 applicable filing with the commissioner as provided by law.

12 (2) No An insured named in a policy or any an employee
 13 of the insured may not knowingly receive or accept, directly
 14 or indirectly, any-such a:

15 (a) rebate, discount, abatement, credit, or reduction
 16 of premium;

17 (b) special favor or advantage; or

18 (c) valuable consideration or inducement.

19 (3) No-such An insurer may not make or permit any
 20 unfair discrimination in the premium or rates charged for
 21 insurance, in the dividends or other benefits payable
 22 thereon on insurance, or in any other of the terms and
 23 conditions of the insurance either between insureds or
 24 property having like insuring or risk characteristics or
 25 between insureds because of race, color, creed, religion, or

1 national origin.

2 (4) ~~Nothing--in--this~~ This section may not be construed
3 as prohibiting the payment of commissions or other
4 compensation to duly licensed insurance producers or
5 solicitors or as prohibiting an insurer from allowing or
6 returning lawful dividends, savings, or unabsorbed premium
7 deposits to its participating policyholders, members, or
8 subscribers.

9 (5) ~~No--such~~ An insurer may not make or permit any
10 unfair discrimination between individuals or risks of the
11 same class and of essentially the same hazards by refusing
12 to issue, refusing to renew, canceling, or limiting the
13 amount of insurance coverage on a property or casualty risk
14 because of the geographic location of the risk, unless:

15 (a) the refusal, cancellation, or limitation is for a
16 business purpose which that is not a mere pretext for unfair
17 discrimination; or

18 (b) the refusal, cancellation, or limitation is
19 required by law or regulatory mandate.

20 (6) ~~No--such~~ An insurer may not make or permit any
21 unfair discrimination between individuals or risks of the
22 same class and of essentially the same hazards by refusing
23 to issue, refusing to renew, canceling, or limiting the
24 amount of insurance coverage on a residential property risk,
25 or the personal property contained therein, because of the

1 age of the residential property, unless:

2 (a) the refusal, cancellation, or limitation is for a
3 business purpose which that is not a mere pretext for unfair
4 discrimination; or

5 (b) the refusal, cancellation, or limitation is
6 required by law or regulatory mandate.

7 (7) ~~No--such~~ An insurer may not refuse to insure, refuse
8 to continue to insure, or limit the amount of coverage
9 available to an individual because of the sex or marital
10 status of the individual, but an insurer may take marital
11 status into account for the purpose of defining persons
12 eligible for dependents' benefits.

13 (8) ~~No--such~~ An insurer may not terminate or modify
14 coverage or refuse to issue or refuse to renew any a
15 property or casualty policy or contract of insurance solely
16 because the applicant or insured or any employee of either
17 is mentally or physically impaired; however, this subsection
18 does not apply to accident and health insurance sold by a
19 casualty insurer, and this subsection is may not to be
20 interpreted to modify any other provision of law relating to
21 the termination, modification, issuance, or renewal of any
22 insurance policy or contract.

23 (9) An insurer may not refuse to insure, refuse to
24 continue to insure, charge higher rates, or limit the amount
25 of coverage available to an individual based on adverse

1 information contained in a driving record that is 3 years
2 old or older.

3 (10) An insurer may not charge points or surcharge a
4 private passenger motor vehicle policy because of a claim
5 submitted under the insured's policy if the insured was not
6 at fault."

7 **Section 6.** Section 33-20-101, MCA, is amended to read:

8 "33-20-101. **Scope. Parts** (1) Except as provided in
9 subsection (2), parts 1 through 5 of this chapter apply only
10 to contracts of life insurance and annuities, other than
11 reinsurance, group life insurance, and group annuities.

12 (2) Section 33-20-131 applies to group life insurance
13 and group annuities."

14 **Section 7.** Section 33-20-121, MCA, is amended to read:

15 "33-20-121. **Prohibited provisions -- limitations on**
16 **liability.** (1) No A policy of life insurance may not be
17 delivered or issued for delivery in this state if it
18 contains any-of-the-following-provisions a provision:

19 (a) a-provision for a period shorter than that provided
20 by statute within which an action at law or in equity may be
21 commenced on the policy; or

22 (b) a---provision--which that excludes or restricts
23 liability for death caused in a certain specified manner or
24 occurring while the insured has a specified status, except
25 that a policy may contain provisions excluding or

1 restricting coverage as specified therein in the policy in
2 the event of death under-any-one-or-more--of--the--following
3 circumstances:

4 (i) death as a result, directly or indirectly, of war,
5 declared or undeclared, or of action by military forces or
6 of any act or hazard of such war or action or of service in
7 the military, naval, or air forces or in civilian forces
8 auxiliary thereto or from any cause while a member of such
9 military, naval, or air forces of any country at war,
10 declared or undeclared, or of any country engaged in such
11 military action;

12 (ii) death as a result of aviation or any air travel or
13 flight;

14 (iii) death as a result of a specified hazardous
15 occupation or occupations;

16 (iv) death while the insured is a resident outside the
17 continental United States and Canada; or

18 (v) death within 2 years from the date of issue of the
19 policy as a result of suicide, while seriously mentally ill
20 or otherwise. If a life insurance policy contains a
21 dependent rider, the dependent coverage may be continued
22 upon payment of the premium for the dependent rider.

23 (2) A policy which that contains any an exclusion or
24 restriction pursuant to subsection (1) of-this-section-shall
25 must also provide that in the event of death under the

1 circumstances to which ~~any-such~~ the exclusion or restriction
 2 is applicable, the insurer will pay an amount not less than
 3 a reserve determined according to the commissioner's reserve
 4 valuation method ~~upon~~ on the basis of the mortality table
 5 and interest rate specified in the policy for the
 6 calculation of nonforfeiture benefits (or if the policy
 7 provides for no such benefits, computed according to a
 8 mortality table and interest rate determined by the insurer
 9 and specified in the policy)), with adjustment for
 10 indebtedness or dividend credit.

11 (3) This section does not apply to industrial life
 12 insurance, group life insurance, disability insurance,
 13 reinsurance, or annuities or to ~~any~~ a provision in a life
 14 insurance policy relating to disability benefits or to
 15 additional benefits in the event of death by accident or
 16 accidental means.

17 (4) ~~Nothing--contained--in--this~~ This section prohibits
 18 ~~any does not prohibit a provision which that~~ in the opinion
 19 of the commissioner is more favorable to the policyholder
 20 than a provision permitted by this section."

21 **Section 8.** Section 33-20-131, MCA, is amended to read:

22 "33-20-131. Policy loan or certificate loan. (1) Except
 23 Subject to the provisions of 33-20-101(2) and except as
 24 provided in 33-20-132 through 33-20-136, there ~~shall~~ must be
 25 a provision that after 3 full years' premiums have been paid

1 and after the policy or certificate has a cash surrender
 2 value and while ~~no~~ a premium is ~~not~~ in default beyond the
 3 grace period for payment, the insurer will advance, on
 4 proper assignment or pledge of the policy or certificate and
 5 on the sole security ~~thereof~~ of the policy or certificate,
 6 at a specified rate of interest not exceeding 6% a year, an
 7 amount equal to or, at the option of the party entitled
 8 ~~thereto~~ to the loan, less than the loan value of the policy
 9 or certificate. The commissioner may authorize a rate of
 10 interest in excess of 6%, but not in excess of 8% a year (or
 11 7.4% if payable annually in advance), for policies or
 12 certificates issued on or after January 1, 1980, if the
 13 insurer provides adequate written certification that the
 14 holders of ~~such~~ the policies will benefit fully from the
 15 increased earnings of the insurer resulting from the use of
 16 an interest rate in excess of the 6% per annum, such as from
 17 higher interest income to the company on policy or
 18 certificate loans, higher investment yield resulting from a
 19 reduction in policy or certificate loans because of the
 20 higher policy or certificate loan interest rate, and any
 21 additional income to the company resulting from the use of
 22 ~~such~~ the higher interest rate in any manner ~~whatsoever.~~
 23 These benefits to the policyholder ~~shall~~ must be reflected
 24 through higher dividends, ~~or~~ lower premiums, or both. The
 25 loan value of the policy ~~shall~~ must be at least equal to the

1 cash surrender value at the end of the then current policy
 2 or certificate year, provided that the insurer may deduct,
 3 either from such the loan value or from the proceeds of the
 4 loan, any existing indebtedness not already deducted in
 5 determining such the cash surrender value (including any
 6 interest then accrued but not due), any an unpaid balance of
 7 the premium for the current policy or certificate year, and
 8 interest on the loan to the end of the current policy or
 9 certificate year unless the policyowner by written notice to
 10 the insurer elects to defer payment of interest until it has
 11 accrued. The policy or certificate may also provide that if
 12 interest on any indebtedness is not paid when due, it shall
 13 then must be added to the existing indebtedness and shall
 14 must bear interest at the same rate, and that if and when
 15 the total indebtedness on the policy or certificate,
 16 including interest due or accrued, equals or exceeds the
 17 amount of the its loan value thereof, then the policy shall
 18 terminate or certificate terminates and become is void. The
 19 policy shall or certificate must reserve to the insurer the
 20 right to defer the granting of a loan, other than for the
 21 payment of any a premium to the insurer, for 6 months after
 22 application therefor for the loan. The policy or
 23 certificate, at the insurer's option, may provide for an
 24 automatic premium loan, subject to an election of the party
 25 entitled to elect.

1 (2) This section ~~shall~~ does not apply to term policies
 2 or to term insurance benefits provided by rider or
 3 supplemental policy provisions or to industrial life
 4 insurance policies."

5 **Section 9.** Section 33-22-508, MCA, is amended to read:
 6 "33-22-508. Conversion on termination of eligibility.
 7 (1) A group disability insurance policy issued or renewed
 8 after October 1, 1981, ~~shall~~ must contain a provision that
 9 if the insurance or any portion of it on a person, his
 10 dependents, or family members covered under the policy
 11 ceases because of termination of his employment or of his
 12 membership in the class or classes eligible for coverage
 13 under the policy or as a result of his employer
 14 discontinuing his business or as a result of his employer
 15 discontinuing the group disability insurance policy and not
 16 providing for any other group disability insurance or plan,
 17 such and if the person shall~~7--provided-he~~ had been insured
 18 for a period of 3 months, be he is entitled to have issued
 19 to him by the insurer, without evidence of insurability,
 20 group coverage or an individual policy issued by the insurer
 21 or, in the absence of an individual policy issued by the
 22 insurer, a group policy issued by the insurer, of hospital
 23 or medical service insurance on himself, his dependents, or
 24 family members,~~7--provided if~~ application for the individual
 25 policy ~~shall-be~~ is made and the first premium tendered to

1 the insurer within 31 days after the termination of group
2 coverage.

3 (2) The individual policy or group policy, at the
4 option of the insured, ~~shall~~ may be on any ~~of-the-forms~~ form
5 then customarily issued by the insurer to individual or
6 group policyholders, with the exception of ~~those--policies~~
7 whose a policy the eligibility for which is determined by
8 affiliation other than by employment with a common entity.

9 (3) The premium on the individual policy ~~shall~~ or group
10 policy must be at the insurer's then customary rate
11 applicable to the coverage of the individual or group
12 policy."

13 NEW SECTION. Section 10. Codification instruction. (1)
14 [Section 1] is intended to be codified as an integral part
15 of Title 33, chapter 17, part 11, and the provisions of
16 Title 33, chapter 17, part 11, apply to [section 1].

17 (2) [Section 2] is intended to be codified as an
18 integral part of Title 33, chapter 22, part 1, and the
19 provisions of Title 33, chapter 22, part 1, apply to
20 [section 2].

21 (3) [Section 3] is intended to be codified as an
22 integral part of Title 33, chapter 22, part 2, and the
23 provisions of Title 33, chapter 22, part 2, apply to
24 [section 3].

-End-

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 672

INTRODUCED BY FAGG, R. JOHNSON, SCOTT, LARSON, FRANKLIN, MCCULLOCH, GAGE, SQUIRES BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO INSURANCE; ESTABLISHING CONSUMER PROTECTION MEASURES RELATING TO RELATIONSHIPS WITH LONG-TERM CARE FACILITIES, PREMIUM INCREASES, AND PREEXISTING CONDITIONS; AND AMENDING SECTIONS 33-15-1106, 33-18-210, 33-20-101, 33-20-121, 33-20-131, AND 33-22-508, MCA."

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

NEW SECTION. Section 1. Prohibited relations with long-term care facility. An insurance producer that owns, manages, supervises, operates, maintains, or works in a long-term care facility as defined in 37-9-101 may not solicit, negotiate, transact, or effectuate a life or disability policy or certificate of insurance for a resident of a long-term care facility.

NEW SECTION. Section 2. Premium increase restriction -- exception. (1) An insurer may not increase a premium in an individual INDIVIDUAL'S or group AN INDIVIDUAL GROUP'S disability insurance policy more frequently than once during a 12-month period unless failure to increase the premium

more frequently than once during the 12-month period would: (A) place the insurer in violation of the laws of this state; or (B) cause the financial impairment of the insurer to the extent that further transaction of insurance by the insurer injures or is hazardous to its policyholders or to the public.

(2) SUBSECTION (1) DOES NOT APPLY TO A PREMIUM INCREASE NECESSITATED BY A STATE OR FEDERAL LAW, COURT DECISION, OR RULE ADOPTED BY AN AGENCY OF COMPETENT JURISDICTION OF THE STATE OR FEDERAL GOVERNMENT.

NEW SECTION. Section 3. Preexisting conditions. (1) A policy or certificate of disability insurance may not exclude coverage for a condition for which no medical advice or treatment was recommended by or received from a provider of health care services UNLESS THE CONDITION OCCURRED within 5 years preceding the effective date of coverage of an insured person OR unless the condition begins within 6 12 months following the effective date of coverage of an insured person.

(2) An insurer may use an application form designed to elicit the complete health history of an applicant and, on the basis of the answers on that application, perform underwriting in accordance with the insurer's established underwriting standards.



1 **Section 4.** Section 33-15-1106, MCA, is amended to read:
 2 **"33-15-1106. Renewal with altered terms.** (1) If an
 3 insurer offers or purports to renew a policy but on less
 4 favorable terms, at a higher rate, or at a higher rating
 5 plan, the new terms, rate, or rating plan take effect on the
 6 policy renewal date only if the insurer has mailed or
 7 delivered notice of the new terms, rate, or rating plan to
 8 the insured at least 30 days before the expiration date. If
 9 the insured has not been so notified, he may cancel the
 10 renewal policy within 30 days after receiving the notice.
 11 The insurer shall continue coverage for a period of not less
 12 than 30 days after mailing or delivery of the notice. If the
 13 insured terminates the policy within the 30-day period, the
 14 insurer shall calculate the earned premium pro rata based
 15 upon the prior policy's rate. The new rate is effective only
 16 after the required 30-day notification period has been met.
 17 If the insured does not terminate the policy, the premium
 18 increase and other changes are effective the day following
 19 the prior policy's expiration or anniversary date.
 20 (2) This section does not apply if:
 21 (a) ~~the change is a rate or rating plan filed with the~~
 22 ~~commissioner and applicable to the entire classification or~~
 23 ~~classification system to which the policy belongs; or~~
 24 (b) the increase in the rate or the rating plan, or
 25 both, results from a classification change based on the

1 altered nature or extent of the risk insured against."

2 **Section 5.** Section 33-18-210, MCA, is amended to read:
 3 **"33-18-210. Unfair discrimination and rebates**
 4 **prohibited -- property, casualty, and surety insurances.** (1)
 5 **No A title, property, casualty, or surety insurer or any an**
 6 **employee, representative, insurance producer, or solicitor**
 7 **thereof of an insurer may not, as an inducement to purchase**
 8 **insurance or after insurance has been effected, pay, allow,**
 9 **or give or offer to pay, allow, or give, directly or**
 10 **indirectly, any a:**
 11 **(a)** rebate, discount, abatement, credit, or reduction
 12 of the premium named in the insurance policy; **any**
 13 **(b)** special favor or advantage in the dividends or
 14 other benefits to accrue **thereon on the policy;** or **any**
 15 **(c)** valuable consideration or inducement not specified
 16 in the policy, except to the extent provided for in an
 17 applicable filing with the commissioner as provided by law.
 18 (2) **No An insured named in a policy or any an employee**
 19 **of the insured may not knowingly receive or accept, directly**
 20 **or indirectly, any-such a:**
 21 **(a)** rebate, discount, abatement, credit, or reduction
 22 of premium;
 23 **(b)** special favor or advantage; or
 24 **(c)** valuable consideration or inducement.
 25 (3) **No-such An insurer may not make or permit any**

1 unfair discrimination in the premium or rates charged for
 2 insurance, in the dividends or other benefits payable
 3 thereon on insurance, or in any other of the terms and
 4 conditions of the insurance either between insureds or
 5 property having like insuring or risk characteristics or
 6 between insureds because of race, color, creed, religion, or
 7 national origin.

8 (4) ~~Nothing--in--this~~ This section may not be construed
 9 as prohibiting the payment of commissions or other
 10 compensation to duly licensed insurance producers or
 11 solicitors or as prohibiting an insurer from allowing or
 12 returning lawful dividends, savings, or unabsorbed premium
 13 deposits to its participating policyholders, members, or
 14 subscribers.

15 (5) ~~No--such~~ An insurer may not make or permit any
 16 unfair discrimination between individuals or risks of the
 17 same class and of essentially the same hazards by refusing
 18 to issue, refusing to renew, canceling, or limiting the
 19 amount of insurance coverage on a property or casualty risk
 20 because of the geographic location of the risk, unless:

21 (a) the refusal, cancellation, or limitation is for a
 22 business purpose which that is not a mere pretext for unfair
 23 discrimination; or

24 (b) the refusal, cancellation, or limitation is
 25 required by law or regulatory mandate.

1 (6) ~~No--such~~ An insurer may not make or permit any
 2 unfair discrimination between individuals or risks of the
 3 same class and of essentially the same hazards by refusing
 4 to issue, refusing to renew, canceling, or limiting the
 5 amount of insurance coverage on a residential property risk,
 6 or the personal property contained therein, because of the
 7 age of the residential property, unless:

8 (a) the refusal, cancellation, or limitation is for a
 9 business purpose which that is not a mere pretext for unfair
 10 discrimination; or

11 (b) the refusal, cancellation, or limitation is
 12 required by law or regulatory mandate.

13 (7) ~~No--such~~ An insurer may not refuse to insure, refuse
 14 to continue to insure, or limit the amount of coverage
 15 available to an individual because of the sex or marital
 16 status of the individual, but an insurer may take marital
 17 status into account for the purpose of defining persons
 18 eligible for dependents' benefits.

19 (8) ~~No--such~~ An insurer may not terminate or modify
 20 coverage or refuse to issue or refuse to renew any a
 21 property or casualty policy or contract of insurance solely
 22 because the applicant or insured or any employee of either
 23 is mentally or physically impaired; however, this subsection
 24 does not apply to accident and health insurance sold by a
 25 casualty insurer, and this subsection ~~is~~ may not ~~to~~ be

1 interpreted to modify any other provision of law relating to
2 the termination, modification, issuance, or renewal of any
3 insurance policy or contract.

4 (9) An insurer may not refuse to insure, refuse to
5 continue to insure, charge higher rates, or limit the amount
6 of coverage available to an individual based on adverse
7 information contained in a driving record that is 3 years
8 old or older.

9 (10) An insurer may not charge points or surcharge a
10 private passenger motor vehicle policy because of a claim
11 submitted under the insured's policy if the insured was not
12 at fault."

13 **Section 6.** Section 33-20-101, MCA, is amended to read:

14 "33-20-101. Scope. Parts (1) Except as provided in
15 subsection (2), parts 1 through 5 of this chapter apply only
16 to contracts of life insurance and annuities, other than
17 reinsurance, group life insurance, and group annuities.

18 (2) Section 33-20-131 applies to group life insurance
19 and group annuities."

20 **Section 7.** Section 33-20-121, MCA, is amended to read:

21 "33-20-121. Prohibited provisions -- limitations on
22 liability. (1) No A policy of life insurance may not be
23 delivered or issued for delivery in this state if it
24 contains any-of-the-following-provisions a provision:

25 (a) ~~a-provision~~ for a period shorter than that provided

1 by statute within which an action at law or in equity may be
2 commenced on the policy; or

3 (b) ~~a---provision--which~~ that excludes or restricts
4 liability for death caused in a certain specified manner or
5 occurring while the insured has a specified status, except
6 that a policy may contain provisions excluding or
7 restricting coverage as specified ~~therein~~ in the policy in
8 the event of death ~~under-any-one-or-more--of--the--following~~
9 ~~circumstances:~~

10 (i) ~~death~~ as a result, directly or indirectly, of war,
11 declared or undeclared, or of action by military forces or
12 of any act or hazard of ~~such~~ war or action or of service in
13 the military, naval, or air forces or in civilian forces
14 auxiliary thereto or from any cause while a member of ~~such~~
15 military, naval, or air forces of any country at war,
16 declared or undeclared, or of any country engaged in ~~such~~
17 military action;

18 (ii) ~~death~~ as a result of aviation or any air travel or
19 flight;

20 (iii) ~~death~~ as a result of a specified hazardous
21 occupation or occupations;

22 (iv) ~~death~~ while the insured is a resident outside the
23 continental United States and Canada; or

24 (v) ~~death~~ within 2 years from the date of issue of the
25 policy as a result of suicide, while seriously mentally ill

1 or otherwise. If a life insurance policy contains a
 2 dependent rider, the dependent coverage may be continued
 3 upon payment of the premium for the dependent rider.

4 (2) A policy ~~which that~~ contains any an exclusion or
 5 restriction pursuant to subsection (1) ~~of this section shall~~
 6 must also provide that in the event of death under the
 7 circumstances to which ~~any such~~ the exclusion or restriction
 8 is applicable, the insurer will pay an amount not less than
 9 a reserve determined according to the commissioner's reserve
 10 valuation method upon on the basis of the mortality table
 11 and interest rate specified in the policy for the
 12 calculation of nonforfeiture benefits (or if the policy
 13 provides for no such benefits, computed according to a
 14 mortality table and interest rate determined by the insurer
 15 and specified in the policy) l with adjustment for
 16 indebtedness or dividend credit.

17 (3) This section does not apply to industrial life
 18 insurance, group life insurance, disability insurance,
 19 reinsurance, or annuities or to any a provision in a life
 20 insurance policy relating to disability benefits or to
 21 additional benefits in the event of death by accident or
 22 accidental means.

23 (4) ~~Nothing--contained--in--this~~ This section prohibits
 24 any does not prohibit a provision which that in the opinion
 25 of the commissioner is more favorable to the policyholder

1 than a provision permitted by this section."

2 **Section 8.** Section 33-20-131, MCA, is amended to read:

3 "33-20-131. Policy loan or certificate loan. (1) ~~Except~~
 4 Subject to the provisions of 33-20-101(2) and except as
 5 provided in 33-20-132 through 33-20-136, there shall must be
 6 a provision that after 3 full years' premiums have been paid
 7 and after the policy or certificate has a cash surrender
 8 value and while ~~no a~~ premium is not in default beyond the
 9 grace period for payment, the insurer will advance, on
 10 proper assignment or pledge of the policy or certificate and
 11 on the sole security thereof of the policy or certificate,
 12 at a specified rate of interest not exceeding 6% a year, an
 13 amount equal to or, at the option of the party entitled
 14 thereto to the loan, less than the loan value of the policy
 15 or certificate. The commissioner may authorize a rate of
 16 interest in excess of 6%, but not in excess of 8% a year (or
 17 7.4% if payable annually in advance), for policies or
 18 certificates issued on or after January 1, 1980, if the
 19 insurer provides adequate written certification that the
 20 holders of such the policies will benefit fully from the
 21 increased earnings of the insurer resulting from the use of
 22 an interest rate in excess of the 6% per annum, such as from
 23 higher interest income to the company on policy or
 24 certificate loans, higher investment yield resulting from a
 25 reduction in policy or certificate loans because of the

1 higher policy or certificate loan interest rate, and any
 2 additional income to the company resulting from the use of
 3 such the higher interest rate in any manner whatsoever.
 4 These benefits to the policyholder ~~shall~~ must be reflected
 5 through higher dividends, ~~or~~ lower premiums, or both. The
 6 loan value of the policy ~~shall~~ must be at least equal to the
 7 cash surrender value at the end of the then current policy
 8 or certificate year, provided that the insurer may deduct,
 9 either from such the loan value or from the proceeds of the
 10 loan, any existing indebtedness not already deducted in
 11 determining such the cash surrender value (including any
 12 interest then accrued but not due), any an unpaid balance of
 13 the premium for the current policy or certificate year, and
 14 interest on the loan to the end of the current policy or
 15 certificate year unless the policyowner by written notice to
 16 the insurer elects to defer payment of interest until it has
 17 accrued. The policy or certificate may also provide that if
 18 interest on any indebtedness is not paid when due, it ~~shall~~
 19 then must be added to the existing indebtedness and ~~shall~~
 20 must bear interest at the same rate, and that if and when
 21 the total indebtedness on the policy or certificate,
 22 including interest due or accrued, equals or exceeds the
 23 amount of the its loan value thereof, then the policy ~~shall~~
 24 terminate or certificate terminates and become is void. The
 25 policy ~~shall~~ or certificate must reserve to the insurer the

1 right to defer the granting of a loan, other than for the
 2 payment of any a premium to the insurer, for 6 months after
 3 application therefor for the loan. The policy or
 4 certificate, at the insurer's option, may provide for an
 5 automatic premium loan, subject to an election of the party
 6 entitled to elect.

7 (2) This section ~~shall~~ does not apply to term policies
 8 or to term insurance benefits provided by rider or
 9 supplemental policy provisions or to industrial life
 10 insurance policies."

11 **Section 9.** Section 33-22-508, MCA, is amended to read:

12 **"33-22-508. Conversion on termination of eligibility.**

13 (1) A group disability insurance policy issued or renewed
 14 after October 1, 1981, ~~shall~~ must contain a provision that
 15 if the insurance or any portion of it on a person, his
 16 dependents, or family members covered under the policy
 17 ceases because of termination of his employment or of his
 18 membership in the class or classes eligible for coverage
 19 under the policy or as a result of his employer
 20 discontinuing his business or as a result of his employer
 21 discontinuing the group disability insurance policy and not
 22 providing for any other group disability insurance or plan,
 23 such and if the person shall ~~provided he~~ had been insured
 24 for a period of 3 months, be he is entitled to have issued
 25 to him by the insurer, without evidence of insurability,

1 group coverage or an individual policy issued by the insurer
 2 or, in the absence of an individual policy issued by the
 3 insurer, a group policy issued by the insurer, of hospital
 4 or medical service insurance on himself, his dependents, or
 5 family members, ~~provided if~~ application for the individual
 6 policy ~~shall be~~ is made and the first premium tendered to
 7 the insurer within 31 days after the termination of group
 8 coverage.

9 (2) The individual policy or group policy, at the
 10 option of the insured, ~~shall may~~ be on any ~~of-the-forms~~ form
 11 then customarily issued by the insurer to individual or
 12 group policyholders, with the exception of ~~those--policies~~
 13 whose a policy the eligibility for which is determined by
 14 affiliation other than by employment with a common entity.

15 (3) The premium on the individual policy ~~shall or group~~
 16 policy must be at the insurer's then customary rate
 17 applicable to the coverage of the individual or group
 18 policy."

19 NEW SECTION. Section 10. Codification instruction. (1)
 20 [Section 1] is intended to be codified as an integral part
 21 of Title 33, chapter 17, part 11, and the provisions of
 22 Title 33, chapter 17, part 11, apply to [section 1].

23 (2) [Section 2] is intended to be codified as an
 24 integral part of Title 33, chapter 22, part 1, and the
 25 provisions of Title 33, chapter 22, part 1, apply to

1 [section 2].

2 (3) [Section 3] is intended to be codified as an
 3 integral part of Title 33, chapter 22, part 2, and the
 4 provisions of Title 33, chapter 22, part 2, apply to
 5 [section 3].

-End-

1 HOUSE BILL NO. 672
2 INTRODUCED BY FAGG, R. JOHNSON, SCOTT, LARSON, FRANKLIN,
3 MCCULLOCH, GAGE, SQUIRES
4 BY REQUEST OF THE STATE AUDITOR
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 LAWS RELATING TO INSURANCE; ESTABLISHING CONSUMER PROTECTION
8 MEASURES RELATING TO RELATIONSHIPS WITH LONG-TERM CARE
9 FACILITIES, PREMIUM INCREASES, AND PREEXISTING CONDITIONS;
10 AND AMENDING SECTIONS 33-15-1106, 33-18-210, 33-20-101,
11 33-20-121, 33-20-131, AND 33-22-508, MCA."
12

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

14 NEW SECTION. **Section 1.** Prohibited relations with
15 long-term care facility. An insurance producer that owns,
16 manages, supervises, operates, maintains, or works in a
17 long-term care facility as defined in 37-9-101 may not
18 solicit, negotiate, transact, or effectuate a life or
19 disability policy or certificate of insurance for a resident
20 of a long-term care facility.

21 NEW SECTION. **Section 2.** Premium increase restriction
22 -- exception. (1) An insurer may not increase a premium in
23 an individual INDIVIDUAL'S or group AN INDIVIDUAL GROUP'S
24 disability insurance policy more frequently than once during
25 a 12-month period unless failure to increase the premium

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 19, 1991

(4) is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible.

(5) contains any provision that violates the provisions of 49-2-309."

Renumber: subsequent section

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 672 (third reading copy -- blue), respectfully report that House Bill No. 672 be amended and as so amended be concurred in:

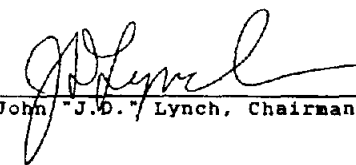
1. Title, line 9.
Following: "INCREASES,"
Insert: "DISCRIMINATION IN INSURANCE,"

2. Title, line 10.
Following: "SECTIONS"
Insert: "33-1-502"

3. Page 2, lines 18 through 20.
Strike: "OR" on line 18 through "person" on line 20
Following: "."
Insert: "The condition may only be excluded for a maximum of 12 months."

4. Page 7, line 6.
Following: "based"
Insert: "solely"

5. Page 13, line 19.
Following: line 18
Insert: "Section 10. Section 33-1-502, MCA, is amended to read:
"33-1-502. Grounds for disapproval. The commissioner shall disapprove any form filed under 33-1-501 or withdraw any previous approval thereof only if the form:
(1) is in any respect in violation of or does not comply with this code;
(2) contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract, including a provision in a casualty insurance form permitting defense costs within limits, except as permitted by the commissioner in his discretion;
(3) has any title, heading, or other indication of its provisions which is misleading;

Signed: 
John "J.D." Lynch, Chairman

LB 3/19/91
Amd. Coord.

STB 3/19 12:40
Sec. of Senate

HOUSE BILL NO. 672

INTRODUCED BY FAGG, R. JOHNSON, SCOTT, LARSON, FRANKLIN,
MCCULLOCH, GAGE, SQUIRES
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
LAWS RELATING TO INSURANCE; ESTABLISHING CONSUMER PROTECTION
MEASURES RELATING TO RELATIONSHIPS WITH LONG-TERM CARE
FACILITIES, PREMIUM INCREASES, DISCRIMINATION IN INSURANCE,
AND PREEXISTING CONDITIONS; AND AMENDING SECTIONS 33-1-502,
33-15-1106, 33-18-210, 33-20-101, 33-20-121, 33-20-131, AND
33-22-508, MCA."

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

NEW SECTION. Section 1. Prohibited relations with
long-term care facility. An insurance producer that owns,
manages, supervises, operates, maintains, or works in a
long-term care facility as defined in 37-9-101 may not
solicit, negotiate, transact, or effectuate a life or
disability policy or certificate of insurance for a resident
of a long-term care facility.

NEW SECTION. Section 2. Premium increase restriction
-- exception. (1) An insurer may not increase a premium in
an ~~individual~~ INDIVIDUAL'S or group AN INDIVIDUAL GROUP'S
disability insurance policy more frequently than once during

a 12-month period unless failure to increase the premium
more frequently than once during the 12-month period would:
~~(A)~~ place the insurer in violation of the laws of
this state; or
~~(B)~~ cause the financial impairment of the insurer to
the extent that further transaction of insurance by the
insurer injures or is hazardous to its policyholders or to
the public.

(2) SUBSECTION (1) DOES NOT APPLY TO A PREMIUM INCREASE
NECESSITATED BY A STATE OR FEDERAL LAW, COURT DECISION, OR
RULE ADOPTED BY AN AGENCY OF COMPETENT JURISDICTION OF THE
STATE OR FEDERAL GOVERNMENT.

NEW SECTION. Section 3. Preexisting conditions. (1) A
policy or certificate of disability insurance may not
exclude coverage for a condition for which no medical advice
or treatment was recommended by or received from a provider
of health care services UNLESS THE CONDITION OCCURRED within
5 years preceding the effective date of coverage of an
insured person ~~OR unless the condition begins within 6 12~~
~~months following the effective date of coverage of an~~
~~insured person.~~ THE CONDITION MAY ONLY BE EXCLUDED FOR A
MAXIMUM OF 12 MONTHS.

(2) An insurer may use an application form designed to
elicit the complete health history of an applicant and, on
the basis of the answers on that application, perform

1 underwriting in accordance with the insurer's established
2 underwriting standards.

3 **Section 4.** Section 33-15-1106, MCA, is amended to read:

4 "33-15-1106. **Renewal with altered terms.** (1) If an
5 insurer offers or purports to renew a policy but on less
6 favorable terms, at a higher rate, or at a higher rating
7 plan, the new terms, rate, or rating plan take effect on the
8 policy renewal date only if the insurer has mailed or
9 delivered notice of the new terms, rate, or rating plan to
10 the insured at least 30 days before the expiration date. If
11 the insured has not been so notified, he may cancel the
12 renewal policy within 30 days after receiving the notice.
13 The insurer shall continue coverage for a period of not less
14 than 30 days after mailing or delivery of the notice. If the
15 insured terminates the policy within the 30-day period, the
16 insurer shall calculate the earned premium pro rata based
17 upon the prior policy's rate. The new rate is effective only
18 after the required 30-day notification period has been met.
19 If the insured does not terminate the policy, the premium
20 increase and other changes are effective the day following
21 the prior policy's expiration or anniversary date.

22 (2) This section does not apply if:

23 ~~(a) the change is a rate or rating plan filed with the~~
24 ~~commissioner and applicable to the entire classification or~~
25 ~~classification system to which the policy belongs; or~~

1 (b) the increase in the rate or the rating plan, or
2 both, results from a classification change based on the
3 altered nature or extent of the risk insured against."

4 **Section 5.** Section 33-18-210, MCA, is amended to read:

5 "33-18-210. **Unfair discrimination and rebates**
6 **prohibited -- property, casualty, and surety insurances.** (1)
7 **No A title, property, casualty, or surety insurer or any an**
8 **employee, representative, insurance producer, or solicitor**
9 **thereof of an insurer may not,** as an inducement to purchase
10 insurance or after insurance has been effected, pay, allow,
11 or give or offer to pay, allow, or give, directly or
12 indirectly, **any a:**

13 (a) rebate, discount, abatement, credit, or reduction
14 of the premium named in the insurance policy; **any**

15 (b) special favor or advantage in the dividends or
16 other benefits to accrue thereon on the policy; or **any**

17 (c) valuable consideration or inducement not specified
18 in the policy, except to the extent provided for in an
19 applicable filing with the commissioner as provided by law.

20 (2) **No An insured named in a policy or any an employee**
21 **of the insured may not knowingly receive or accept, directly,**
22 **or indirectly, any-such a:**

23 (a) rebate, discount, abatement, credit, or reduction
24 of premium;

25 (b) special favor or advantage; or

1 (C) valuable consideration or inducement.

2 (3) ~~No-such~~ An insurer may not make or permit any
3 unfair discrimination in the premium or rates charged for
4 insurance, in the dividends or other benefits payable
5 thereon on insurance, or in any other of the terms and
6 conditions of the insurance either between insureds or
7 property having like insuring or risk characteristics or
8 between insureds because of race, color, creed, religion, or
9 national origin.

10 (4) ~~Nothing--in--this~~ This section may not be construed
11 as prohibiting the payment of commissions or other
12 compensation to duly licensed insurance producers or
13 solicitors or as prohibiting an insurer from allowing or
14 returning lawful dividends, savings, or unabsorbed premium
15 deposits to its participating policyholders, members, or
16 subscribers.

17 (5) ~~No--such~~ An insurer may not make or permit any
18 unfair discrimination between individuals or risks of the
19 same class and of essentially the same hazards by refusing
20 to issue, refusing to renew, canceling, or limiting the
21 amount of insurance coverage on a property or casualty risk
22 because of the geographic location of the risk, unless:

23 (a) the refusal, cancellation, or limitation is for a
24 business purpose which that is not a mere pretext for unfair
25 discrimination; or

1 (b) the refusal, cancellation, or limitation is
2 required by law or regulatory mandate.

3 (6) ~~No-such~~ An insurer may not make or permit any
4 unfair discrimination between individuals or risks of the
5 same class and of essentially the same hazards by refusing
6 to issue, refusing to renew, canceling, or limiting the
7 amount of insurance coverage on a residential property risk,
8 or the personal property contained therein, because of the
9 age of the residential property, unless:

10 (a) the refusal, cancellation, or limitation is for a
11 business purpose which that is not a mere pretext for unfair
12 discrimination; or

13 (b) the refusal, cancellation, or limitation is
14 required by law or regulatory mandate.

15 (7) ~~No-such~~ An insurer may not refuse to insure, refuse
16 to continue to insure, or limit the amount of coverage
17 available to an individual because of the sex or marital
18 status of the individual, but an insurer may take marital
19 status into account for the purpose of defining persons
20 eligible for dependents' benefits.

21 (8) ~~No--such~~ An insurer may not terminate or modify
22 coverage or refuse to issue or refuse to renew any a
23 property or casualty policy or contract of insurance solely
24 because the applicant or insured or any employee of either
25 is mentally or physically impaired; however, this subsection

1 does not apply to accident and health insurance sold by a
2 casualty insurer, and this subsection ~~is~~ may not ~~to~~ be
3 interpreted to modify any other provision of law relating to
4 the termination, modification, issuance, or renewal of any
5 insurance policy or contract.

6 (9) An insurer may not refuse to insure, refuse to
7 continue to insure, charge higher rates, or limit the amount
8 of coverage available to an individual based SOLELY on
9 adverse information contained in a driving record that is 3
10 years old or older.

11 (10) An insurer may not charge points or surcharge a
12 private passenger motor vehicle policy because of a claim
13 submitted under the insured's policy if the insured was not
14 at fault."

15 **Section 6.** Section 33-20-101, MCA, is amended to read:

16 **"33-20-101. Scope. Parts (1) Except as provided in**
17 **subsection (2), parts 1 through 5 of this chapter apply only**
18 **to contracts of life insurance and annuities, other than**
19 **reinsurance, group life insurance, and group annuities.**

20 **(2) Section 33-20-131 applies to group life insurance**
21 **and group annuities."**

22 **Section 7.** Section 33-20-121, MCA, is amended to read:

23 **"33-20-121. Prohibited provisions -- limitations on**
24 **liability. (1) No a policy of life insurance may not be**
25 **delivered or issued for delivery in this state if it**

1 contains ~~any-of-the-following-provisions~~ a provision:

2 (a) ~~a-provision~~ for a period shorter than that provided
3 by statute within which an action at law or in equity may be
4 commenced on the policy; or

5 (b) ~~a---provision---which~~ that excludes or restricts
6 liability for death caused in a certain specified manner or
7 occurring while the insured has a specified status, except
8 that a policy may contain provisions excluding or
9 restricting coverage as specified ~~therein~~ in the policy in
10 the event of death ~~under-any-one-or-more--of--the--following~~
11 ~~circumstances~~:

12 (i) ~~death~~ as a result, directly or indirectly, of war,
13 declared or undeclared, or of action by military forces or
14 of any act or hazard of ~~such~~ war or action or of service in
15 the military, naval, or air forces or in civilian forces
16 auxiliary thereto or from any cause while a member of ~~such~~
17 military, naval, or air forces of any country at war,
18 declared or undeclared, or of any country engaged in ~~such~~
19 military action;

20 (ii) ~~death~~ as a result of aviation or any air travel or
21 flight;

22 (iii) ~~death~~ as a result of a specified hazardous
23 occupation or occupations;

24 (iv) ~~death~~ while the insured is a resident outside the
25 continental United States and Canada; or

1 (v) death within 2 years from the date of issue of the
 2 policy as a result of suicide, while seriously mentally ill
 3 or otherwise. If a life insurance policy contains a
 4 dependent rider, the dependent coverage may be continued
 5 upon payment of the premium for the dependent rider.

6 (2) A policy which that contains any an exclusion or
 7 restriction pursuant to subsection (1) ~~of this section shall~~
 8 must also provide that in the event of death under the
 9 circumstances to which ~~any such~~ the exclusion or restriction
 10 is applicable, the insurer will pay an amount not less than
 11 a reserve determined according to the commissioner's reserve
 12 valuation method upon on the basis of the mortality table
 13 and interest rate specified in the policy for the
 14 calculation of nonforfeiture benefits (or if the policy
 15 provides for no such benefits, computed according to a
 16 mortality table and interest rate determined by the insurer
 17 and specified in the policy), with adjustment for
 18 indebtedness or dividend credit.

19 (3) This section does not apply to industrial life
 20 insurance, group life insurance, disability insurance,
 21 reinsurance, or annuities or to any a provision in a life
 22 insurance policy relating to disability benefits or to
 23 additional benefits in the event of death by accident or
 24 accidental means.

25 (4) ~~Nothing--contained--in--this~~ This section prohibits

1 any does not prohibit a provision which that in the opinion
 2 of the commissioner is more favorable to the policyholder
 3 than a provision permitted by this section."

4 **Section 8.** Section 33-20-131, MCA, is amended to read:

5 "33-20-131. Policy loan or certificate loan. (1) ~~Except~~
 6 Subject to the provisions of 33-20-101(2) and except as
 7 provided in 33-20-132 through 33-20-136, there ~~shall~~ must be
 8 a provision that after 3 full years' premiums have been paid
 9 and after the policy or certificate has a cash surrender
 10 value and while no a premium is not in default beyond the
 11 grace period for payment, the insurer will advance, on
 12 proper assignment or pledge of the policy or certificate and
 13 on the sole security thereof of the policy or certificate,
 14 at a specified rate of interest not exceeding 6% a year, an
 15 amount equal to or, at the option of the party entitled
 16 thereto to the loan, less than the loan value of the policy
 17 or certificate. The commissioner may authorize a rate of
 18 interest in excess of 6%, but not in excess of 8% a year (or
 19 7.4% if payable annually in advance), for policies or
 20 certificates issued on or after January 1, 1980, if the
 21 insurer provides adequate written certification that the
 22 holders of such the policies will benefit fully from the
 23 increased earnings of the insurer resulting from the use of
 24 an interest rate in excess of the 6% per annum, such as from
 25 higher interest income to the company on policy or

1 certificate loans, higher investment yield resulting from a
 2 reduction in policy or certificate loans because of the
 3 higher policy or certificate loan interest rate, and any
 4 additional income to the company resulting from the use of
 5 such the higher interest rate in any manner whatsoever.
 6 These benefits to the policyholder ~~shall~~ must be reflected
 7 through higher dividends, or lower premiums, or both. The
 8 loan value of the policy ~~shall~~ must be at least equal to the
 9 cash surrender value at the end of the then current policy
 10 or certificate year, provided that the insurer may deduct,
 11 either from such the loan value or from the proceeds of the
 12 loan, any existing indebtedness not already deducted in
 13 determining such the cash surrender value (including any
 14 interest then accrued but not due), any an unpaid balance of
 15 the premium for the current policy or certificate year, and
 16 interest on the loan to the end of the current policy or
 17 certificate year unless the policyowner by written notice to
 18 the insurer elects to defer payment of interest until it has
 19 accrued. The policy or certificate may also provide that if
 20 interest on any indebtedness is not paid when due, it ~~shall~~
 21 then must be added to the existing indebtedness and ~~shall~~
 22 must bear interest at the same rate, and that if and when
 23 the total indebtedness on the policy or certificate,
 24 including interest due or accrued, equals or exceeds the
 25 amount of the its loan value thereof, then the policy ~~shall~~

1 ~~terminate~~ or certificate terminates and become is void. The
 2 policy ~~shall~~ or certificate must reserve to the insurer the
 3 right to defer the granting of a loan, other than for the
 4 payment of any a premium to the insurer, for 6 months after
 5 application ~~therefor~~ for the loan. The policy or
 6 certificate, at the insurer's option, may provide for an
 7 automatic premium loan, subject to an election of the party
 8 entitled to elect.

9 (2) This section ~~shall~~ does not apply to term policies
 10 or to term insurance benefits provided by rider or
 11 supplemental policy provisions or to industrial life
 12 insurance policies."

13 **Section 9.** Section 33-22-508, MCA, is amended to read:

14 **"33-22-508. Conversion on termination of eligibility.**

15 (1) A group disability insurance policy issued or renewed
 16 after October 1, 1981, ~~shall~~ must contain a provision that
 17 if the insurance or any portion of it on a person, his
 18 dependents, or family members covered under the policy
 19 ceases because of termination of his employment or of his
 20 membership in the class or classes eligible for coverage
 21 under the policy or as a result of his employer
 22 discontinuing his business or as a result of his employer
 23 discontinuing the group disability insurance policy and not
 24 providing for any other group disability insurance or plan,
 25 such and if the person shall; provided he had been insured

1 for a period of 3 months, ~~be he~~ is entitled to have issued
 2 to him by the insurer, without evidence of insurability,
 3 group coverage or an individual policy issued by the insurer
 4 or, in the absence of an individual policy issued by the
 5 insurer, a group policy issued by the insurer, of hospital
 6 or medical service insurance on himself, his dependents, or
 7 family members, ~~provided if~~ provided if application for the individual
 8 policy ~~shall be~~ is made and the first premium tendered to
 9 the insurer within 31 days after the termination of group
 10 coverage.

11 (2) The individual policy or group policy, at the
 12 option of the insured, ~~shall may~~ may be on any ~~of-the-forms form~~
 13 then customarily issued by the insurer to individual or
 14 group policyholders, with the exception of ~~these--policies~~
 15 whose a policy the eligibility for which is determined by
 16 affiliation other than by employment with a common entity.

17 (3) The premium on the individual policy ~~shall or group~~
 18 policy must be at the insurer's then customary rate
 19 applicable to the coverage of the individual or group
 20 policy."

21 **SECTION 10. SECTION 33-1-502, MCA, IS AMENDED TO READ:**

22 "33-1-502. Grounds for disapproval. The commissioner
 23 shall disapprove any form filed under 33-1-501 or withdraw
 24 any previous approval thereof only if the form:

25 (1) is in any respect in violation of or does not

1 comply with this code;

2 (2) contains or incorporates by reference, where such
 3 incorporation is otherwise permissible, any inconsistent,
 4 ambiguous, or misleading clauses or exceptions and
 5 conditions which deceptively affect the risk purported to be
 6 assumed in the general coverage of the contract, including a
 7 provision in a casualty insurance form permitting defense
 8 costs within limits, except as permitted by the commissioner
 9 in his discretion;

10 (3) has any title, heading, or other indication of its
 11 provisions which is misleading;

12 (4) is printed or otherwise reproduced in such manner
 13 as to render any provision of the form substantially
 14 illegible.

15 (5) contains any provision that violates the provisions
 16 of 49-2-309."

17 **NEW SECTION. Section 11. Codification instruction.** (1)

18 [Section 1] is intended to be codified as an integral part
 19 of Title 33, chapter 17, part 11, and the provisions of
 20 Title 33, chapter 17, part 11, apply to [section 1].

21 (2) [Section 2] is intended to be codified as an
 22 integral part of Title 33, chapter 22, part 1, and the
 23 provisions of Title 33, chapter 22, part 1, apply to
 24 [section 2].

25 (3) [Section 3] is intended to be codified as an

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1 integral part of Title 33, chapter 22, part 2, and the
2 provisions of Title 33, chapter 22, part 2, apply to
3 [section 3].

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Conference Committee
on House Bill 672
Report No. 1, April 19, 1991

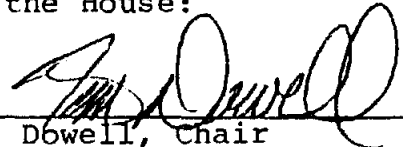
Mr. Speaker and Mr. President:


We, your Conference Committee on House Bill 672 met and considered Senate committee on Business and Industry amendments, dated March 19, 1991, and recommend that the Senate amendments be accepted in their entirety.

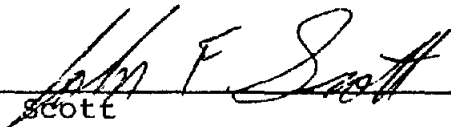
And this Conference Committee report be adopted.

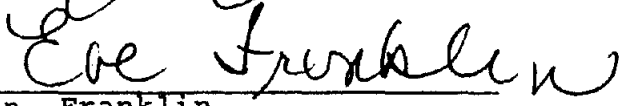
For the House:

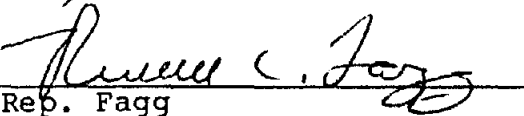
For the Senate:


Rep. Dowell, Chair


Sen. Fritz, Chair


Rep. Scott


Sen. Franklin


Rep. Fagg

Sen. Brown

ADOPT
REJECT

CCR #1
HB 672



AN ACT TO GENERALLY REVISE THE LAWS RELATING TO INSURANCE; ESTABLISHING CONSUMER PROTECTION MEASURES RELATING TO RELATIONSHIPS WITH LONG-TERM CARE FACILITIES, PREMIUM INCREASES, DISCRIMINATION IN INSURANCE, AND PREEXISTING CONDITIONS; AND AMENDING SECTIONS 33-1-502, 33-15-1106, 33-18-210, 33-20-101, 33-20-121, 33-20-131, AND 33-22-508, MCA.

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

Section 1. **Prohibited relations with long-term care facility.** An insurance producer that owns, manages, supervises, operates, maintains, or works in a long-term care facility as defined in 37-9-101 may not solicit, negotiate, transact, or effectuate a life or disability policy or certificate of insurance for a resident of a long-term care facility.

Section 2. **Premium increase restriction -- exception.** (1) An insurer may not increase a premium in an individual's or an individual group's disability insurance policy more frequently than once during a 12-month period unless failure to increase the premium more frequently than once during the 12-month period would:

- (a) place the insurer in violation of the laws of this state;
- or
- (b) cause the financial impairment of the insurer to the extent that further transaction of insurance by the insurer injures or is hazardous to its policyholders or to the public.

(2) Subsection (1) does not apply to a premium increase necessitated by a state or federal law, court decision, or rule adopted by an agency of competent jurisdiction of the state or federal government.

Section 3. **Preexisting conditions.** (1) A policy or certificate of disability insurance may not exclude coverage for a condition for which medical advice or treatment was recommended by or received from a provider of health care services unless the condition occurred within 5 years preceding the effective date of coverage of an insured person. The condition may only be excluded for a maximum of 12 months.

(2) An insurer may use an application form designed to elicit the complete health history of an applicant and, on the basis of the answers on that application, perform underwriting in accordance with the insurer's established underwriting standards.

Section 4. Section 33-15-1106, MCA, is amended to read:

"33-15-1106. Renewal with altered terms. (1) If an insurer offers or purports to renew a policy but on less favorable terms, at a higher rate, or at a higher rating plan, the new terms, rate, or rating plan take effect on the policy renewal date only if the insurer has mailed or delivered notice of the new terms, rate, or rating plan to the insured at least 30 days before the expiration date. If the insured has not been so notified, he may cancel the renewal policy within 30 days after receiving the notice. The insurer shall continue coverage for a period of not less than 30

days after mailing or delivery of the notice. If the insured terminates the policy within the 30-day period, the insurer shall calculate the earned premium pro rata based upon the prior policy's rate. The new rate is effective only after the required 30-day notification period has been met. If the insured does not terminate the policy, the premium increase and other changes are effective the day following the prior policy's expiration or anniversary date.

(2) This section does not apply if:

~~(a) the change is a rate or rating plan filed with the commissioner and applicable to the entire classification or classification system to which the policy belongs; or~~

~~(b) the increase in the rate or the rating plan, or both, results from a classification change based on the altered nature or extent of the risk insured against."~~

Section 5. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances. (1) No A title, property, casualty, or surety insurer or any an employee, representative, insurance producer, or solicitor thereof of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, any a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy; any

(b) special favor or advantage in the dividends or other benefits to accrue thereon on the policy; or any

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) No An insured named in a policy or any an employee of the insured may not knowingly receive or accept, directly or indirectly, any-such a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) ~~No-such~~ An insurer may not make or permit any unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable thereon on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) ~~Nothing-in-this~~ This section may not be construed as prohibiting the payment of commissions or other compensation to duly licensed insurance producers or solicitors or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

(5) ~~No-such~~ An insurer may not make or permit any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose which that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(6) ~~No-such~~ An insurer may not make or permit any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose which that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(7) ~~No-such~~ An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the

individual, but an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

(8) ~~No--such~~ An insurer may not terminate or modify coverage or refuse to issue or refuse to renew any a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; however, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection ~~is~~ may not to be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual based solely on adverse information contained in a driving record that is 3 years old or older.

(10) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault."

Section 6. Section 33-20-101, MCA, is amended to read:

"33-20-101. Scope. Parts (1) Except as provided in subsection (2), parts 1 through 5 of this chapter apply only to contracts of life insurance and annuities, other than reinsurance, group life insurance, and group annuities.

(2) Section 33-20-131 applies to group life insurance and

group annuities."

Section 7. Section 33-20-121, MCA, is amended to read:

"33-20-121. Prohibited provisions -- limitations on liability. (1) No a policy of life insurance may not be delivered or issued for delivery in this state if it contains ~~any--of--the following-provisions~~ a provision:

(a) ~~a--provision~~ for a period shorter than that provided by statute within which an action at law or in equity may be commenced on the policy; or

(b) ~~a--provision--which~~ that excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the policy in the event of death ~~under-any-one-or-more of-the-following-circumstances~~:

(i) death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces or of any act or hazard of such war or action or of service in the military, naval, or air forces or in civilian forces auxiliary thereto or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(ii) death as a result of aviation or any air travel or flight;

(iii) death as a result of a specified hazardous occupation or

occupations;

(iv) death while the insured is a resident outside the continental United States and Canada; or

(v) death within 2 years from the date of issue of the policy as a result of suicide, while seriously mentally ill or otherwise. If a life insurance policy contains a dependent rider, the dependent coverage may be continued upon payment of the premium for the dependent rider.

(2) A policy ~~which~~ that contains any an exclusion or restriction pursuant to subsection (1) ~~of-this-section-shall~~ must also provide that in the event of death under the circumstances to which ~~any-such~~ the exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioner's reserve valuation method upon on the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy), with adjustment for indebtedness or dividend credit.

(3) This section does not apply to industrial life insurance, group life insurance, disability insurance, reinsurance, or annuities or to any a provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(4) ~~Nothing contained in this~~ This section prohibits any does not prohibit a provision which that in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section."

Section 8. Section 33-20-131, MCA, is amended to read:

"33-20-131. Policy loan or certificate loan. (1) Except Subject to the provisions of 33-20-101(2) and except as provided in 33-20-132 through 33-20-136, there ~~shall~~ must be a provision that after 3 full years' premiums have been paid and after the policy or certificate has a cash surrender value and while ~~no a~~ a premium is not in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy or certificate and on the sole security thereof of the policy or certificate, at a specified rate of interest not exceeding 6% a year, an amount equal to or, at the option of the party entitled ~~thereto to the loan~~, less than the loan value of the policy or certificate. The commissioner may authorize a rate of interest in excess of 6%, but not in excess of 8% a year (or 7.4% if payable annually in advance), for policies or certificates issued on or after January 1, 1980, if the insurer provides adequate written certification that the holders of such the policies will benefit fully from the increased earnings of the insurer resulting from the use of an interest rate in excess of the 6% per annum, such as from higher interest income to the company on policy or certificate loans, higher investment yield resulting from a

reduction in policy or certificate loans because of the higher policy or certificate loan interest rate, and any additional income to the company resulting from the use of such the higher interest rate in any manner whatsoever. These benefits to the policyholder ~~shall~~ must be reflected through higher dividends, or lower premiums, or both. The loan value of the policy ~~shall~~ must be at least equal to the cash surrender value at the end of the then current policy or certificate year, provided that the insurer may deduct, either from such the loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such the cash surrender value (including any interest then accrued but not due), any an unpaid balance of the premium for the current policy or certificate year, and interest on the loan to the end of the current policy or certificate year unless the policyowner by written notice to the insurer elects to defer payment of interest until it has accrued. The policy or certificate may also provide that if interest on any indebtedness is not paid when due, it ~~shall then~~ must be added to the existing indebtedness and ~~shall~~ must bear interest at the same rate, and that if and when the total indebtedness on the policy or certificate, including interest due or accrued, equals or exceeds the amount of the its loan value thereof, then the policy ~~shall terminate or certificate terminates~~ and become is void. The policy ~~shall or certificate must~~ must reserve to the insurer the right to defer the granting of a loan, other than for the payment of any a

premium to the insurer, for 6 months after application therefor for the loan. The policy or certificate, at the insurer's option, may provide for an automatic premium loan, subject to an election of the party entitled to elect.

(2) This section shall does not apply to term policies or to term insurance benefits provided by rider or supplemental policy provisions or to industrial life insurance policies."

Section 9. Section 33-22-508, MCA, is amended to read:

"33-22-508. Conversion on termination of eligibility. (1) A group disability insurance policy issued or renewed after October 1, 1981, shall must contain a provision that if the insurance or any portion of it on a person, his dependents, or family members covered under the policy ceases because of termination of his employment or of his membership in the class or classes eligible for coverage under the policy or as a result of his employer discontinuing his business or as a result of his employer discontinuing the group disability insurance policy and not providing for any other group disability insurance or plan, such and if the person shall-provided-he had been insured for a period of 3 months, be he is entitled to have issued to him by the insurer, without evidence of insurability, group coverage or an individual policy issued by the insurer or, in the absence of an individual policy issued by the insurer, a group policy issued by the insurer, of hospital or medical service insurance on himself, his dependents, or family members, provided if application for the

individual policy shall-be is made and the first premium rendered to the insurer within 31 days after the termination of group coverage.

(2) The individual policy or group policy, at the option of the insured, shall may be on any of--the--forms form then customarily issued by the insurer to individual or group policyholders, with the exception of those-policies-whose a policy the eligibility for which is determined by affiliation other than by employment with a common entity.

(3) The premium on the individual policy shall or group policy must be at the insurer's then customary rate applicable to the coverage of the individual or group policy."

Section 10. Section 33-1-502, MCA, is amended to read:

"33-1-502. Grounds for disapproval. The commissioner shall disapprove any form filed under 33-1-501 or withdraw any previous approval thereof only if the form:

(1) is in any respect in violation of or does not comply with this code;

(2) contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract, including a provision in a casualty insurance form permitting defense costs within limits, except as permitted by the commissioner in his discretion;

(3) has any title, heading, or other indication of its provisions which is misleading;

(4) is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible;

(5) contains any provision that violates the provisions of 49-2-309."

Section 11. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 33, chapter 17, part 11, and the provisions of Title 33, chapter 17, part 11, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 33, chapter 22, part 2, and the provisions of Title 33, chapter 22, part 2, apply to [section 3].