

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 17, 1981

The regular meeting of the Business and Industry Committee was called to order at 10 a.m. in room 404 of the Capitol Building by Chairman Hazelbaker. All members were present except Senator Blaylock and Senator Kolstad, excused.

HOUSE BILL NO. 257: The bill was presented to the committee by Representative Wallin, District #76. This bill provides that persons seeking to be licensed to sell mechanical breakdown insurance will not be required to take an examination. It covers exclusions on types of insurance, line 17, page 3, pertains to this bill, the mechanical breakdown insurance. This would extend most of the features that go into a new car warranty. He discussed the rising cost of repairs.

GERALD RAUNIG representing the Montana Automobile Association spoke in support of the bill. We have discussed this procedure with the dealers. This is pretty much limited to being sold by auto dealers. Our feeling is, we do not see any need for this, the examination.

REPRESENTATIVE KITSELMAN: We really feel that this is a part of the auto industry and the exam should not necessarily be required.

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR REGAN: This is what we normally cover in a service contract. Why would this bill even come before us. Are you contemplating changing the name.

MR. WALLIN: This is just to clear up the confusion.

MR. RAUNIG: Mechanical breakdown insurance is the most proper term. He explained the terms of the insurance. This is for the protection of the insured.

SENATOR REGAN commented, these then come under the federal law, and are either full or limited.

MR. RAUNIG: I don't believe so. It is the difference between the warranty and a service contract.

CHAIRMAN HAZELBAKER: How do you estimate the premium?

MR. RAUNIG: They are a specified contract for a specific dollar amount. Those things covered are exactly what are specified in the contract.

BUSINESS AND INDUSTRY
March 17, 1981
Page 2

There was some general discussion and the hearing closed on House Bill No. 257.

HOUSE BILL NO. 574: Representative Kitselman, District #60 spoke on the bill. This bill repeals the premium. It establishes reciprocity with other states regarding countersignature requirements on insurance policies written by nonresident agents on coverage pertaining to Montana. If the home state of the nonresident agent requires a Montana agent writing insurance in that state to get a countersignature from a resident agent in that state, Montana will apply the same rule.

The testimony will involve HB 710 also. We have had people basically circumventing the statutes. There is no reporting required under current codes. This is to try to prevent abuses by out-of-state agents. Page 1, line 11, requires reciprocity, and it also gets rid of the countersignature.

House bill 710 in the new section requires that you report and the statement of intent allows the insurance department to decide what that report will require. He read the provisions for penalties to put teeth into compliance.

PROPONENTS:

ROGER McGLENN representing the Independent Insurance Agents spoke for the bill. I have a prepared amendment.

HOUSE BILL NO. 710: provides additional regulation of the countersigning of policies addressed in HB 574, by requiring nonresident agents to pay personal income tax, business income tax, or corporate license tax on income from policies sold in Montana. The bill also requires annual reports by nonresident agents selling insurance in Montana. A nonresident agent violating any provision of his license is subject to fines up to \$10,000 and revocation or suspension of his license for up to 5 years. The nonresident agent would be required to pay a premium tax on policies covering property or risks in Montana.

PAT MELBY: Alliance of American Insurers. I am here testifying in support of House bill 574, but we do not take a position on HB 710. We feel the laws are archaic. If you want to retain control at the local level we have to clean these up.

BUSINESS AND INDUSTRY

March 17, 1981

Page 3

ROGER McGLENN in support of House Bills 574 and 710 I would like to present the following. We feel that the current countersignature laws in Montana are not working. The 5% of premium, not to exceed 50% of the total commission, due the Montana agent is in many cases not being paid. That in some cases the premium tax on policies written in Montana are not paid to the Insurance Commissioners office as required. We also feel that nonresident licensees should pay taxes to the State of Montana on personal income, business income, or corporate license taxes, on all income earned on insurance policies issued in Montana. There is no reporting required on this business written by nonresident agents under the current codes. These bills would solve these problems.

These bills will provide a more workable form of regulation on policies written by out-of-state firms on risks in Montana. We feel the Montana insurance consumer can best benefit from an open insurance market, and not a market closed in by false, provincial legislation designed to "protect" the agents of the state. Proper safeguards and requirements have been written into these bills to prevent abuses by out-of-state agents, collect the taxes rightfully due on all such insurance, strengthen the enforcement muscle of the insurance commissioner's office on this business and yet allow an honest, open, and competitive insurance market to exist for our Montana consumers.

CHAIRMAN HAZELBAKER: Did I understand you to say that the state is not getting the 5% premium tax.

MR. KITSELMAN: There are considerably large numbers that do not. Those that are circumventing the law now will be required to file a report with the state.

MR. HAZELBAKER: Does the agent in Montana sign a statement with the Commissioner.

MR. McGLENN: We require a non-resident to file a report because in many cases they are not doing this. In many cases, policies being written in the State of Montana does not show up on the insurance forms. He elaborated on this at some length.

MR. HAZELBAKER: Presently an agent in North Dakota does not have a license in Montana, but he can write in Montana by having a Montana agent countersign and he gets 5%. Would this erase the countersignature.

MR. McGLENN: If they require countersignatures in the other state then it would be also required here in Montana.

CHAIRMAN HAZELBAKER: Are we trying to get reciprocity with all the states surrounding Montana.

MR. McGLENN: Yes, we are.

SENATOR GOODOVER: If the insurance people selling here now are not reporting or paying their fees, what will force them to do this after this bill is passed.

MR. KITSELMAN: There is no penalty now. He read the proposed penalty in the bill.

SENATOR REGAN: Why have you made it discretionary.

MR. KITSELMAN: Because of the penalty of removing a person's livelihood for five years.

SENATOR REGAN: When this bill was heard in the House, was there someone from the Commission over there.

MR. KITSELMAN: Yes, and they support the bill.

There was no other discussion and the hearing closed on HB 574 and House Bill 710. ATTACHMENTS INCLUDED - EXHIBIT "A"

HOUSE BILL NO. 706: Representative Andreason, District #24 presented the bill to the committee. This bill requires 10 days written notice prior to cancellation of insurance on a residence for nonpayment of premiums. 30 days notice must be given for renewal of premiums before they are due. There are some problems in terms of insurance that occur quite often. He read through the bill and discussed the 30 days grace period. The purpose of this bill was to get that period down by 20 days, so it can be cancelled after a 10 day period. The House Committee added line 21.

LARRY HUSS: Montana Savings and Loan League. We asked that the amendment be put on. Our concern was those companies that fail to give notice.

REPRESENTATIVE KITSELMAN: I support the things mentioned before.

WARD A. SHANAHAN: Our office represents Farmers Insurance Group, and I am registered as a lobbyist for them during the session. Our office is Gough, Shanahan, Johnson and Waterman, Attorneys. The company is interested in the passage of this bill, but has a problem with an amendment which was made in the House. The amendment is on line 21, which requires that notice of renewal premium must be given 30 days before it is due. Farmers has its computer notice

BUSINESS AND INDUSTRY

March 17, 1981

Page 5

mechanism set up on the basis of 25 days and is interested in knowing if the bill can be amended on line 21 to replace the number 30 with the number 25? Copy of letter is attached, EXHIBIT "B".

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR REGAN: Let's assume that you get your notice and you do pay it and on the due date you will receive a notice that you must pay within 10 days-----10 days of what. Is it when it is mailed or when is it.

MR. McGLENN: The normal procedure is 30 days notice, and then a 15 day warning. The 10 days notice is sometimes sent out by registered mail, from the company point of view. From the agent point of view it is not by registered mail.

SENATOR LEE asked about the new language in the bill.

CHAIRMAN HAZELBAKER explained line 16.

MR. KITSELMAN commented that we have two kinds of notice, before and after.

SENATOR REGAN: How long after the due date are you required to carry them. You are proposing to cut the grace period from 30 days to 10 days.

MR. KITSELMAN: This is from notice date. This was to take care of the people who were defrauding on insurance, some of these things depend on policy.

After some general discussion the hearing closed on House Bill 706.

HOUSE BILL NO. 720: Representative John Harp, District #19 read through the bill. It allows a property or casualty insurance agent to collect a fee for appraisal, risk management, loss prevention, or similar services. The bill provides a fine of up to \$1500 for a person who acts as an insurance consultant without having been licensed as such. No risk management plan is final, it is constantly changing as the clients business changes. A risk manager will help a client do business and reduce the risk.

BUSINESS AND INDUSTRY

March 17, 1981

Page 6

PROPOSERS:

ROGER McGLENN representing the Independent Insurance Agents Association of Montana, spoke in support of the bill. There is a definite need for an outside, unbiased opinion for insurance contracts. There is a difference between an insurance consultant and an insurance risk manager.

An insurance consultant looks at a clients entire insurance package or plan and advises his client as to his needs. For example, he may advise the client that he needs additional kinds, or amounts of insurance. The consultant cannot then sell that client the additional insurance and receive a commission on the sale. Montana law provides that the only fee an insurance consultant can charge for consulting services is a fee negotiated in advance and put into a written contract. A consultant can be licensed as both an agent and as a consultant. However, he can charge only one fee with respect to a single client. That is, he can either do the consulting for free and collect a commission on the sale of the insurance or he can charge a consulting fee and no commission.

The risk manager is different. Rather than looking at the insurance needs of the clients as a consultant does, the risk manager looks at how a client operates his business and advises the client on how the client can reduce or eliminate the risk in his business. For example, the risk manager may advise the client how to incorporate safety features in his business or how to provide training for employees to reduce the possibilities of accidents and injuries. The idea is to eliminate the risk and thus reduce the cost of insurance.

A fundamental objective of risk management, which includes loss prevention techniques, is the preservation of assets and earning power from loss. The risk manager is particularly concerned with the prevention and control of loss, he evaluates the financial capacity of the company to assume risk, and he is selecting the most advantageous procedures for dealing with the risk. Under Montana law, an insurance agent is prohibited from providing these services and recovering their expenses and the value of their time, and also sell the insurance. This bill will provide more service to the insurance client, and the client will be protected because the agent and client agree in writing what services will be performed and what the fee will be for those services. The insurance commissioner can easily regulate and the penalty has also been increased. I would like to assure the committee there will not be a stampede of people wanting to become risk managers. Copies of support testimony were passed to the committee. EXHIBIT "C".

BUSINESS AND INDUSTRY

March 17, 1981

Page 7

REPRESENTATIVE KITSELMAN: I am a licensed insurance agent and I support this bill. He explained his work with a portfolio and gave examples of types of insurance. He discussed self-insurance and risk from the agents point of view, and from the insured point of view. I endorse the concept of risk management as it is very consumer oriented. In the implementation you must consider three factors, cost, availability and thoroughness. This bill would provide a needed service for people in Montana, that cannot hire a full-time staff person to perform risk management for their operation. I urge a do pass recommendation on this bill.

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

CHAIRMAN HAZELBAKER: Do the life insurance people have this same type of thing.

MR. KITSELMAN: I can go in as a consultant and split the commission with another agent.

SENATOR REGAN: It's against the law to split commissions.

MR. KITSELMAN: This is done now. You might get your hand slapped. It is a clear violation of the law. He discussed the premium tax to clarify.

SENATOR DOVER: Does the premium tax pay for the service that you give these people.

MR. KITSELMAN explained how this works. A reputable agent would provide the service and not charge a fee.

There was general discussion about the needs of people in the way of insurance.

MR. MCGLENN: I would like to make it clear that we are talking about property and casualty and not life. He discussed how long it would take to complete. He explained long-term losses by giving an example of a farmer with down equipment. He also gave examples of over-insuring people, and commented that all we want to do is to remove the risk.

SENATOR GOODOVER: Is it true that on casualty, some pay to 25%.

MR. KITSELMAN: It depends on the company and the type of product. In New York it is 55% of the contract but it does vary elsewhere.

BUSINESS AND INDUSTRY

March 17, 1981

Page 8

SENATOR LEE: Did someone from the insurance industry testify on the bill.

REPRESENTATIVE HARP: Yes, but they do not take a position. She was neutral.

In closing, we are talking about risk managers and not consultants. A consultant looks at a clients entire insurance plan and advises him as to his insurance needs. The risk manager looks at how a client operates his business and advises the client on how he can best reduce or eliminate the risk in his business.

There would be no surprises. There are people that want these services and we should provide them for them.

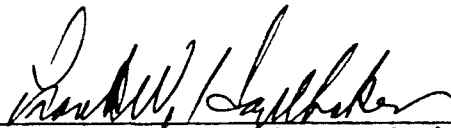
SENATOR GOODOVER: Can a consultant also be a risk manager.

MR. HARP: Yes.

SENATOR REGAN: I am making a request that we have people here from the insurance department. Following this statement there was general discussion.

The hearing closed on House Bill No. 720.

The meeting adjourned at 12:05.



Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date 3/17/81

| NAME | PRESENT | ABSENT | EXCUSED |
|-------------------------------|---------|--------|---------|
| Goodover, Pat - Vice Chairman | ✓ | | |
| Hazelbaker, Frank - Chairman | ✓ | | |
| Blaylock, Chet | | | ✓ |
| Boylan, Paul | ✓ | | |
| Dover, Harold | ✓ | | |
| Kolstad, Allen | | | ✓ |
| Lee, Gary | ✓ | | |
| Regan, Pat | ✓ | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

DATE

March 17, 1981

COMMITTEE ON

HOUSE BILL NO. 574

Representative Kitselman

VISITOR'S REGISTER

| NAME | REPRESENTING | Check One | |
|--------------|-------------------------------|-----------|--------|
| | | Support | Oppose |
| Roger Acklen | LIAM | X | |
| Pat Melby | Alliance of American Insurers | X | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

(Please leave prepared statement with Secretary)

NAME: ROGER McBLEIN DATE: 3-17-81

ADDRESS: PO BOX 4848 HELENA MONTANA 59604

PHONE: 442-9555

REPRESENTING WHOM? INDEPENDENT INS. AGENTS ASSOC. OF MT.

APPEARING ON WHICH PROPOSAL: HB 574 & HB 710

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE March 17, 1981

COMMITTEE ON _____ HOUSE BILL NO. 706

Representative Andrea

VISITOR'S REGISTER

| NAME | REPRESENTING | Check One | |
|----------------------|----------------|-------------------------------------|--------------------------|
| | | Support | Oppose |
| <i>ROGER McGLENN</i> | <i>I I A M</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

(Please leave prepared statement with Secretary)

NAME: Roger McGLENN DATE: 3-17-81

ADDRESS: PO Box 4848 Helena, MT, 59604

PHONE: 442-9555

REPRESENTING WHOM? INDEPENDENT AND AGENTS ASSOC. OF MT.

APPEARING ON WHICH PROPOSAL: HB-720

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

COUNTERSIGNATURE AND COMMISSION LAWS AFFECTING
HANDLING OF INSURANCE BY NON-RESIDENTS

Plus Surplus Line Laws

Sooner or later, most producers have occasion to handle insurance of clients attaching in other states. For some, this constitutes a material part of their business. For others, the premium itself may not be significant, but an important client is involved. To accomodate these clients, producers, in the capacity of non-resident agents or brokers, as well as the insurance company personnel with whom they must work in these transactions, must be familiar with the qualifications and procedures of other states; and these vary considerably. The tabulation comprising the General Csa- pages is intended to assist those confronted with the laws of other states dealing with non-resident licensing and countersigning requirements.

Another situation involving service to clients is the problem of procuring insurance which is not available through-admitted insurers. These pages also again include general information on the surplus or excess line laws of the various states.

The first tabulation of these requirements was compiled jointly in 1941. Since then changes have been recorded in THE FIRE, CASUALTY AND SURETY BULLETINS, and questions have from time to time been added or rephrased to present the information desired more precisely, including a major change in format and expansion of the material in 1978. Suggestions for further changes and additional topics in future editions will be welcomed.

The Csa- pages have been compiled with the cooperation of the insurance departments of the various states and territories. They are brought up to date by survey of all the insurance departments annually after the close of the various state legislative sessions, with changes occurring between times included as they are discovered. *In cases of ambiguity or apparent contradiction, the departmental interpretation is shown.* The compilers are grateful to the insurance departments for their cooperation.

Points Discussed

★ Following a uniform arrangement, these major topics concerning non-resident and surplus line laws — some with subdivisions — are discussed for the 50 states, District of Columbia, Puerto Rico and the Virgin Islands.

- I. Non-Resident Laws: 1. Applicability (to other than Life insurance) as to types of insurer and types of insurance; 2. License required of non-resident; 3. Countersignature requirements; 4. Premiums and commissions; 5. Other restrictions; 6. Retaliatory or reciprocal provisions; 7. Statutory references; and

(Continued on next page.)

- II. Surplus Line Laws: 1. Resident licensing; 2. Non-resident licensing; 3. Certificates of non-availability; 4. Taxes and fees; and 5. Statutory references.

The information is in uniform sequence. Absence of reference to a particular item means that it is not applicable in that state. None of the statements on these pages is intended to apply to Life insurance. *Fire, Automobile, Inland Marine* and *Casualty* insurance and *Suretyship* are the principal subjects considered. (Most states exempt Bid bonds in connection with public or private work, insurance on the rolling stocks of railroads or other public carriers, interstate Ocean Marine and Reinsurance from these laws. Exemptions are treated under topic I-1.)

Reciprocal and Retaliatory Laws

Many, but not all, of the state laws dealing with handling of insurance by non-residents have provisions which are reciprocal or retaliatory. These terms are not always clearly understood and are sometimes confused or incorrectly regarded as interchangeable.

Strictly speaking, a *reciprocal* law is an arrangement for mutual convenience. State A eliminates or reduces a requirement for residents of State B *insofar as* State B extends like privileges to residents of State A. A *retaliatory* law might be thought of as a device for *getting even*. State A imposes or increases requirements on residents of State B usually to the equivalent of the requirements which State B imposes on residents of State A. For example, waiving an examination requirement for residents of a state which similarly waives an examination requirement is a *reciprocal provision*; while increasing the license fee to the greater fee required by an applicant's home state is *retaliatory*.

Two of the more common questions stemming from the repeal of countersignature requirements are: (1) May countersignature requirements still be invoked on licensees of states which do not reciprocate? (2) To what extent are retaliatory provisions affected in a state that has repealed its requirements? Answers to these questions — as provided for us by the insurance departments — may be found under Section I, items 3, 4 and 6.

Reprints Available

In response to the requests of many, this compilation is being made available as a separate booklet. Prices are: Single copy, \$5; five copies, \$4.75 each; 10 copies, \$4.50 each; 25 copies, \$4.25 each; 50 copies, \$4 each; 100 copies, \$3.75 each; 500 copies or more, \$3.50 each.

MONTANA

Insurance Commissioner, State Auditor's Office, Helena 59601

I. Non-Resident Laws

1. **Applicability (to other than Life insurance):** Laws apply to all types of insurers except companies soliciting insurance through salaried representatives not receiving commission, and rural mutual companies, and all types of insurance except Bid bonds, Transportation, Reinsurance, insurance involving vehicles principally garaged and operated outside Montana, and Wet Marine.
- ★ 2. **License required of non-resident:** Non-resident Agent's License applies until terminated, but company appointments expire May 31 annually. Original license fee is \$100; renewal of license, \$5 each insurer. No bond is required. Application forms 1001 and 1014 are obtained from the Insurance Commissioner, other needed forms from the insurer. Appointment by company, certification from home state insurance department and appointment of Montana Commissioner for service of suit are necessary.
- ★ 3. **Countersignature:** (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be signed by a licensed resident agent or agent's authorized clerical employee. Salaried company employees may not countersign except in emergencies where no resident agent is available, with subsequent signature of resident agent.
 - B. Countersignature endorsement is permitted, but not in blank.
 - C. Countersigning agent must keep a record of all policies countersigned.
4. **Premiums and commissions:** Countersigning agent need not collect the premium but must be paid a minimum of 5% of premium, not exceeding 50% of the commission, retaliatory with non-resident's home state. If countersigning agent performs additional services, additional compensation may be negotiated with non-resident agent. Unlicensed non-resident may not receive commission under any circumstances.
5. **Other restrictions:** Unlicensed non-resident may not enter state to solicit, inspect or service.
6. **Retaliatory or reciprocal provisions:** Retaliatory as to taxes, fees, commissions and licensing.
- ★ 7. **Statutory references:** Title 33. Montana Code Annotated.

II. Surplus Line Laws

1. **Resident licensing:** Residents may be licensed to place insurance with non-admitted insurers. Surplus Lines Agent's License expires annually April 1. Annual fee is \$25. Applicant must file \$2,000 bond. Montana licensed agents may place business through a licensed surplus lines agent and receive commission.
2. **Non-resident licensing:** Non-residents may not be licensed as surplus lines agents but, if licensed in Montana for general lines, may place business through a licensed surplus lines agent and receive commission.
3. **Certificates of non-availability:** Affidavit of non-availability through admitted insurers must be filed with the Commissioner at the time the insurance is procured. Use of non-admitted insurers to secure better rates or policy terms is prohibited.
4. **Tax:** 2¾% of net premiums plus 2¼% of fire premiums.
- ★ 5. **Statutory references:** Title 33. Montana Code Annotated.

IDAHO

Department of Insurance, 700 W. State Street, Boise 83720

I. Non-Resident Laws

1. **Applicability** (to other than Life insurance): Laws apply to all types of insurers and to all types of insurance except Bid bonds, Ocean Marine, Property in transit by common carrier, Reinsurance and Title insurance.
2. **License required of non-resident**: Agent or Broker's Qualification License, expiring annually last day of September, October or November for agent, March for broker. Fee is same as non-resident's home state. Application obtained from Department of Insurance. Certification from home state department, fingerprints and photograph, and — broker only — \$10,000 bond (retaliatory with home state) are required. Examination is reciprocal with home state.
3. **Countersignature**: (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be countersigned by a licensed resident agent of the insured or by a full time employe of the agent, over age 21 and granted agent's power of attorney. Salaried company employes may not countersign.
 - B. Countersignature endorsement permitted. Power of attorney and facsimile signature permitted only within agent's office.
 - C. Countersigning agent must keep a record of all policies countersigned. Companies are required to file periodic affidavit of compliance with countersigning laws.
4. **Premiums and commissions**: Countersigning agent need not collect the premium, but must receive the least of 5% of premium, $\frac{1}{3}$ of commission or \$250. Countersigning fees less than \$5 may be waived. Non-resident must hold Idaho license to receive commission.
5. **Other restrictions**: Licensed non-resident may enter state to solicit, inspect or service, subject to retaliatory provisions with home state. Unlicensed non-resident may not enter state for any insurance purpose. Companies may not accept Idaho business from unlicensed non-residents.
6. **Retaliatory or reciprocal provisions**: Reciprocal as to license and examination, retaliatory as to fees, bond requirements, commissions and solicitation.
7. **Statutory references**: Idaho Code Secs. 41-337/8, 41-340, 41-401, 41-1040, 41-1058 through 1068.

II. Surplus Line Laws

1. **Resident licensing**: Residents may be licensed to place insurance with non-admitted insurers. The Surplus Lines Broker's License expires March 31 annually. Annual fee is \$25. Applicant must file \$1,000 bond. Any general lines agent or broker licensed in Idaho may place business through licensed surplus line brokers and receive commission.
2. **Non-resident licensing**: Non-residents may not be licensed as surplus line brokers but, if licensed for general lines in Idaho, may place business through licensed resident surplus lines brokers and receive commission.
3. **Certificates of non-availability**: Affidavit of non-availability, also showing that placement was not for better rate or terms, must be filed with the Surplus Lines Association of Idaho within 30 days after procurement for each line.
4. **Tax**: 3% of gross premiums less returns, plus 1% stamping fee to Surplus Lines Association of Idaho. Annual tax statement due March 1; taxes due April 1.
5. **Statutory references**: Idaho Code Secs. 41-1215 through 1230.

NORTH DAKOTA

Insurance Department, Capitol Bldg., Bismarck 58505

I. Non-Resident Laws

1. **Applicability** (to other than Life insurance): Laws apply to all types of insurers and to all types of insurance except Bid bonds, insurance on property in transit in possession of common carriers and insurance written or carried by the State of North Dakota.
- ★ 2. **License required of non-resident**: Non-Resident Agent or Broker's License expires annually April 30. Fee is \$10 for agent for each company represented, \$15 for broker, both retaliatory with non-resident's home state. License application obtained from Insurance Department. Certification of resident license from home state insurance department and, for brokers, a \$2,000 (minimum) bond are required. Bond is retaliatory with home state for either agent or broker.
3. **Countersignature**: (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be countersigned by a licensed resident agent of the insurer. A salaried company employe may sign *only* if a licensed resident agent.
 - B. Countersignature endorsement permitted, but not in blank. Countersigning agent may use facsimile signature, but may not delegate its use to others nor grant power of attorney to others for countersignature.
 - C. Countersigning agent must keep a record of all policies countersigned.
4. **Premiums and commissions**: Countersigning agent need not collect premium. There is no restriction on distribution of commission between countersigning agent and licensed non-resident, or *unlicensed* non-resident if *no* solicitation, inspection or service is offered in North Dakota.
5. **Other restrictions**: Unlicensed non-resident may not enter North Dakota for any insurance purpose.
6. **Retaliatory or reciprocal provisions**: Retaliatory as to licenses, license fees and bonds.
7. **Statutory references**: North Dakota Century Code Secs. 26-01-04/05, 26-17.1-01 through 53 and Dept. interpretation

II. Surplus Line Laws

- ★ 1. **Resident licensing**: Residents may be licensed to place insurance with non-admitted insurers. The Surplus Line Broker's License expires annually April 30. Annual fee is \$10. Applicant must file a bond for not less than the premium tax paid on the previous year's business (minimum \$500, maximum \$20,000, new brokers at Commissioner's discretion). Licensed North Dakota agents may place business through licensed surplus line brokers and receive commission.
- ★ 2. **Non-resident licensing**: Non-residents may not be licensed for this purpose, but North Dakota licensed *non-resident agents* may place business through licensed resident surplus line brokers and receive commission.
3. **Certificates of non-availability**: Affidavit of non-availability through admitted insurers must be filed with and approved by the Insurance Commissioner for each line prior to procurement.
4. **Tax**: 2½% of gross premiums.
5. **Statutory references**: North Dakota Century Code Secs. 26-09B-01 through 13, 26-17.1-17.

WYOMING

Insurance Commissioner, 2424 Pioneer, 1 Pioneer Center, Cheyenne 82202

I. Non-Resident Laws

1. Applicability (to other than Life insurance): Laws apply to all types of insurers and to all types of insurance and bonds, except Bid bonds, insurance on property in transit, and Reinsurance.
- ★ 2. License required of non-resident: Non-Resident Broker's License expires annually March 31. Annual fee: \$25, retaliatory with non-resident's home state. License application obtained from Insurance Department. Certification of resident license by home state insurance department required. New certification required with 1980 renewal. No bond or examination is required. Licenses may be issued only to non-residents 1) in states with reciprocal agreements and 2) not affiliated with a firm where Wyoming commission is shared with the firm. Certification by broker that Wyoming commissions will not be shared must accompany application.
3. Countersignature: (Rules apply to all property or exposures within the state, regardless of residence of insured or place where contract is made.)
 - A. Policy must be countersigned by licensed resident agent. Salaried company employe may countersign *only* if licensed as agent.
 - B. Countersignature endorsement is permitted, but not signature in blank. Agent's power-of-attorney to others or use of facsimile signature is prohibited.
 - C. Countersigning agent must receive a copy of the policy or its equivalent and keep a record of all policies countersigned.
4. Premiums and commissions: Countersigning agent need not collect the premium, but must receive as countersigning commission the lesser of 5% of premium or 25% of commission. *Unlicensed* non-resident may not receive commission under any circumstance.
5. Other restrictions: Non-resident *may not* solicit in Wyoming, even if licensed, but *licensed* non-resident *may* inspect or service in state.
- ★ 6. Retaliatory or reciprocal provisions: Retaliatory as to fees.
7. Statutory references: Wyoming Statutes Republ. 12-77 Secs. 26-3-130 through 26-9-141.

II. Surplus Line Laws

1. Resident licensing: Licensed general lines agents or brokers may be licensed to place insurance with non-admitted insurers. The Surplus Lines Broker's License expires annually March 31. Annual fee: \$10. Applicant must file \$1,000 bond. Any licensed general lines agent may place business with a surplus lines broker and receive commission.
2. Non-resident licensing: Non-residents may not be licensed as surplus lines brokers but, if licensed in Wyoming, may place business with licensed resident surplus lines brokers and receive commission.
3. Certificates of non-availability: Affidavit of non-availability with admitted insurers must be filed with the Commissioner for each line within 30 days after procurement. Use to obtain better rate or terms is prohibited.
- ★ 4. Tax: 3% of gross premiums, less the amount of return premium on cancelled policies, including sums collected to cover federal and state taxes on surplus line insurance subject to tax transacted by the unauthorized insurer, payable annually by March 1.
5. Statutory references: Wyoming Statutes Republ. 12-77 Secs. 26-4-101 and 26-11-101 through 122.

EXHIBIT "B"

GOUGH, SHANAHAN, JOHNSON & WATERMAN
ATTORNEYS AT LAW

301 FIRST NATIONAL BANK BUILDING
P. O. BOX 1686
HELENA, MONTANA 59624
(406) 442-8560

TAYLOR B. WEIR (1883-1962)
EDWIN S. BOOTH (1907-1976)

NEWELL GOUGH, JR.
WARD A. SHANAHAN
CORDELL JOHNSON
RONALD F. WATERMAN
JOSEPH P. MAZUREK
DANIEL C. MURPHY
VIRGINIA A. KNIGHT
JOCK O. ANDERSON
K. PAUL STAHL

March 10, 1981

Re: House Bill 706 - Insurance

Senator Frank Hazelbaker
Chairman
Senate Business & Industry Committee
Room 404, State Capitol Building
Helena MT 59620

Dear Senator Hazelbaker:

Our office represents Farmers Insurance Group, and I am registered as a lobbyist for them during the 1981 Session. The Company is interested in the passage of House Bill 706, but has a problem with an amendment which was made to the bill in the House.

The amendment is on Line 21 of the bill which requires that notice of renewal premium must be given thirty days before it is due. The Company has its computer notice mechanism set up on the basis of 25 days and is interested in knowing if the bill can be amended on Line 21 to replace No. 30 with the number 25? We would also appreciate notice of the hearing of the bill so that a representative of the Company can appear at the hearing and explain the problem in connection with the requested amendment.

A copy of this letter is being sent to the sponsor for his information.

442-8560

Respectfully,

GOUGH, SHANAHAN, JOHNSON & WATERMAN

Ward A. Shanahan

WAS:lb
cc: Rep. Aaron W. Andreason

Independent Insurance Agents of Montana

INCORPORATED



EXHIBIT

"C"

REGARDING HOUSE BILL NO. 720

To: The Senate Business and Industry Committee
From: The Independent Insurance Agents' Association of Montana
Date: March 17, 1981
Re: Support for House Bill No. 720

The process of risk management is very complex in today's insurance industry. Many Agents are providing some of the risk management techniques to service their clients today. However, to provide the complete risk management and loss prevention process for the insurance consumers is not cost efficient for our Montana agents. The amount of time to provide a comprehensive study of a client's needs and to work with that client to implement the findings of this study can run from days to weeks.

THE STEPS IN RISK MANAGEMENT:

(1) IDENTIFICATION:

A risk survey, not an insurance survey, is used to identify the potential for any loss. A complete study of the client's operation is required in this step.

(2) MEASUREMENT:

A complete idea of what the losses identified in step one could mean to the client. Frequency and severity of these losses and what they would do to the client's operation.

(3) CONTROL:

Here you determine what risks shall be handled by insurance or other means. Four basic means of control are;

(A) Avoid or eliminate the loss; in the case of an auto risk, sell the car and walk or ride the bus.

(B) Retention of the risk; including self-insurance.

(C) Loss prevention and reduction; again with a car the driver could take a defensive driving course as a means of loss prevention, and in order to reduce the financial risk of the loss of the car, buy an older car.

(D) Transfer the risk; in the case of our car, contract with some one to drive us around in their car, or buy insurance.

(4) IMPLEMENTATION

Three factors must be considered, cost, availability, and thoroughness:

(A) Cost- You want the most protection for the lowest cost, cost also involves considering alternate uses for the money saved.

(B) Availability- Some tools of the risk manager like non-deductible collision, or flood insurance in some cases, are not available because of cost or other reasons.

(C) Thoroughness- If the risk management program is complete and unitized, it reduces insurance costs and also reduces chance of mistake by the client.

No risk management plan is final, it must be constantly modified and improved as the client's business changes. However, after the initial risk management and loss prevention process has been completed, there will be no need for further charges for review and update, as the commissions from any insurance

the agent writes for the client would deserve this service.

TWO QUICK EXAMPLES:

An agent writes; "We were approached by a city in Montana to perform a risk management study on self-insurance for worker's compensation. The cost of doing this proposal is \$1,500.00. In order to do a risk management study of this nature, it is necessary for us to hire computer time to do the actuarial work. We then could provide the city with the necessary information to decide whether it would be more feasible from a cost standpoint to self-insure or purchase normal insurance. A risk management study would indicate that if a proper safety program were initiated, it would be possible, and save a great deal of insurance dollars for them to be self-insured. The problem is that once I did the study, I was prohibited from then implementing the program through the excess market which is required when there is self-insurance. I also, under Montana law, could not sell them the required excess insurance even on a bid basis and then, in turn, charge for the safety services that are required to implement the program. As you can see, this is entirely contrary to the needs of the client."

ONE LAST EXAMPLE:

"We currently have a client who would like us to do a risk management study. We currently write insurance for this client. According to current Montana Law, I cannot perform the services of risk management for this client because we are currently writing insurance for him. This forces our client to go to an

out-of-state broker to obtain these services. I think this is unfair to a Montana insurance consumer and agent."

Many large companies in this country have risk managers on staff. Very few have this service on staff in Montana. We feel that this is a very important service to clients that can not hire a full time staff person to perform risk management for operation.

The association urges that the House Business and Industry Committee to give a do-pass recommendation to House Bill 720.