

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN STEVE BENEDICT, on April 6, 1993, at 10:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (R)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 354 and SB 430
Executive Action: SB 373 and SB 430, SB 354

HEARING ON SB 354

Opening Statement by Sponsor:

SEN. B.F. CHRIS CHRISTIAENS, Senate District 18, Great Falls,
said SB 354 is a continuing education bill for the insurers

program; providing that the program be administered by the commissioner of insurance; and granting rulemaking authority to conduct the program. He said that consumer confidence in the insurance industry is based on a number of things: 1) demonstrated knowledge; 2) experience; and 3) professionalism of the agent which a customer chooses to do business with. The aim of this bill is to assure that the agents acquire and retain the knowledge and skills necessary to properly advise and serve insurance buyers. SB 354 will require continuing education for insurance agents and consultants in the state of Montana. The current requirements for agents are: 1) they must be 18 years of age; and 2) pass a 40-hour pre-licensed education course and a state licensing exam. He said beginning in 1994, the agents will have to complete a minimum of 10 hours of continuing education each year, and insurance agents who want to sell all types of insurance will be required to have 15 hours of continued education. SB 354 will provide a provision allowing an agent to carry forward one year's worth of credit and correspondence courses, so an agent that is located in another area away from the testing site will not have to spend the money nor take the time to travel to take the class. The commissioner has the ability to grant an extension up to one year when an agent is unable to meet the requirements for health reasons. He said the agents will annually file a renewal to complete their continuing education credits with the commissioner effective January 1, 1995. SB 354 will create an advisory council to be made up of industry representatives and public members. The council will review the courses and advise the commissioner of the ability of the continuing education provider. The course content of the review program will be reviewed periodically for continued approval. The fees for the program will be set by rule at a level determined by the cost of the program. He said the annual fee on the fiscal note is estimated to be \$25, and the course provider will pay \$150 initially with a \$50 biannual renewal. He was informed there would be other amendments to SB 354.

EXHIBIT 1**Proponents' Testimony:**

Mark O'Keefe, State Auditor, Commissioner of Insurance, said SB 354 is a cleanup bill. He said members of the insurance industry debated how they would like the continuing education to be for their agents throughout the state. The industry worked throughout the state to develop a program for the agents. The auditor's office had a difference of opinion for continuing education, but worked with the industry and now have SB 354. He said there are 36 states that have continuing education programs for insurance professionals. He said the courses for Montana are not as strict as some of the states, and more strict than other states. He said the consumers in Montana will know when they buy insurance from an agent, they will be buying from someone who has a good product. He said SB 354 will protect the consumers from fly-by-night operators who come into the state to prey on the people, then disappear. The auditor's office works as a

regulator to keep track of the agents who sell insurance in Montana. He offered amendments which were agreed on between the industry and the auditor's office. One of the amendments will set the fee to be charged for the program. They do not want a slush fund to accumulate, and this will make the fees commensurate with the cost of operating the program. He said the auditor's office will resist the other amendment (as the insurance regulators and requestor of the bill) which will exempt credit life agents across the state. He researched into the exemption with the other states and could not find any state which exempts credit life agents if they are examined and tested before they are licensed. He said 50% of the abuse in insurance is with credit life and credit health insurance. There has been very little regulation in the past with credit insurance, and the issue across the nation in 1993 is for regulation on credit life insurance. He urged the committee to reject the amendment to be introduced by John Cadby of the Montana Bankers' Association.

Larry Akey, Montana Association of Life Underwriters, said SB 354 originated in 1987. He said at that time, there was a lot of discontent among the agents and the community on how to approach the whole area of licensing and continuing education. He said SB 354 is a six-year culmination effort that includes the single licensing bill and a pre-licensing education bill from the 1989 session, and now the continuing education bill in the 1993 session. He said the agents will not support a statute that will place additional burdens on them because: 1) SB 354 is a consumer protection measure; and 2) insurance has become increasingly complex in today's market place, i.e., life insurance used as a financial instrument, health insurance, and property and casualty, etc. **Mr. Akey** said if there aren't any producers, the frontline people who are offering this product to the consumer will have to be on top of the changes that are going on in the market place and in the state and federal regulations. He asked the committee to give SB 354 a be concurred in recommendation.

Roger McGlenn, Executive Director of the Independent Insurance Agents Association of Montana, said they are in support of SB 354 for the reasons given above. He said they appreciated the opportunity to work with other producers in the field and the insurance department this past year to introduce SB 354 which is before the committee. He said they support the amendments presented by **Commissioner Mark O'Keefe**, to make sure the fees are commensurate with the cost of regulating continuing education. He said 32 cents of every dollar that is paid from the fees are diverted into the general fund. He said Montana is one of the poorest funded states in regard to regulation, and one of the least funded. He urged the committee to support the adequate and necessary funding to continuing education.

Debbie Berney, Professional Insurance Agents of Montana, said most of the professional agents in Montana are meeting or exceeding the requirements of SB 354. It will further enhance

professionalism in the industry, and urged the committee to support SB 354.

Bill Olson, State Legislative Committee of American Association of Retired Persons, said the statement of intent in SB 354 states their feelings toward SB 354. It is designed to protect the insurance buying public in Montana by providing continuing education for insurance providers. He asked for the committee's concurrence on SB 354.

Ed Caplis, Western Organizer for the Montana Senior Citizens Association, said the Montana senior citizens support SB 354. They believe that continuing education is needed, and the requirement for insurance professionals is another safeguard to protect seniors from unprofessional producers.

Opponents' Testimony:

John Cadby, Montana Bankers' Association, said they are not really opponents to SB 354, but would like to amend the bill to exclude bank loan officers, credit union loan officers, savings and loans officers, and car salesmen from the continuing education requirement for the sale of credit life insurance only. He said to be exempt, this amendment will require a person to sell credit life as an incident to that person's main livelihood of either selling cars or making loans. These people are not insurance salesmen haggling over the price, nor reap the benefits on commissions, because the price is set by the state commissioner of insurance. He said there is so little underwriting of credit life because claim losses are severe, and the reason for the high cost compared to term life insurance. Because of the losses that have been incurred, there is only one underwriting question on the form, i.e., if a person has diabetes or cancer. He said why treat these loan officers and car salesmen any different than the people that sell by mail. None of the credit union loan officers are licensed as insurance agents in Montana, but most bank loan officers are licensed as full-fledged insurance agents. He said Bob Pyfer will probably explain the reason for the discrepancy between the credit loan officers and the bank loan officers. Under the law it states "an insurance producer is a person who solicits". He said there isn't a clear cut definition if the clerks in the banks should be licensed insurance agents.

EXHIBIT 4

Bob Pyfer, Montana Credit Unions League, said he is also a nonponent. He explained how credit unions operate in the credit life field. He said they do not have a problem with the bill nor the amendment offered by John Cadby. Most of the credit unions do not have a licensed agent on staff. The credit unions worked with the department of insurance recently to explain that credit union employees are basically forwarding enrollment information on to Credit Union National Association (CUNA) Mutual Insurance Company under a group policy which is already established. The

credit unions receive no commissions per se. Any detailed questions a credit member may have are forwarded to a licensed representative of which there are only two in the state.

John Anderson, Montana League of Savings Institutions, said the league supports the amendments offered by the Montana Bankers' Association by John Cadby.

Joe Bauer, Vice President of First Bank Helena, said he is also a certified financial planner. He supports John Cadby's amendment to exclude credit group life insurance agents from continuing education. From his perspective, SB 354 will increase the cost and there will be a decline in the number of days a life insurance agent can be away from the office, which would be no more than two days a year. He has six agents in his bank which would require twelve days per year out of a staff of 29 people. The cost and training will be passed on to the consumer in the long run. Credit group life and disability is not a major component of a financial services employees' job duties in comparison to the ten hours required by credit life vs. the fifteen hours for a real estate agent.

Steve Turkiewicz, Executive Vice President of Big Sky Life, said Big Sky Life sells only credit life in Montana. He said most of the credit life sales are made by individuals possessing a license which is limited to the selling of credit life and disability. The policy is offered in conjunction with the sale of a car or truck. In his research and the people he works with, he could only find three states which require continuing education, and seventeen states which require examinations for selling credit life insurance. Of the three states that require credit life, only Delaware required limited license of credit life sales to people who have continued education.

LeRoy Tanner, Tanner and Associates Insurance, Great Falls, said the primary part of his business is the production of credit life insurance. He said credit life is a simple product, and they support John Cadby's amendment.

Questions From Committee Members and Responses:

REP. STELLA JEAN HANSEN asked Frank Cote about the comment from the last opponent who said there were only three states which required continuing education for credit life, and in his testimony said there wasn't any. **Mr. Cote** said Washington, Idaho, Wyoming, Oregon, California and Nevada do not exempt credit life. **REP. HANSEN** asked if this was for licensure or continuing education? **Mr. Cote** said it is for continuing education. **REP. HANSEN** asked if the amendments were not attached to this bill, would the credit life people have to be licensed, or is there a course that would apply only to that issue, so they would not have to take the continuing education course? **Mr. Cote** said the program consists of a committee made up of five members who review all of the courses. The courses are submitted by

bankers, S & L officers, insurance companies, etc. He said anyone can submit a course for approval by the five member committee.

REP. DOWELL asked **Mark O'Keefe** what abuse is taking place with credit life insurance? **Mr. O'Keefe** said most of the cases are on-going investigations at this time and he had to remain vague, but said there are a number of problems going on nationally and throughout Montana. He said some credit life companies are paying out less than 20% of what they take in, 40% is more of the standard, and a 60% return is about average for the national rules and regulations. Another type of abuse is people are forced to either purchase credit life or they will not receive a loan. He said another abuse is the money taken by the agent from the consumer is not finding its way back to the company, so the consumer is not protected even though they have paid the premium.

REP. KNOX asked **Mark O'Keefe** about the fees and license on page 8, new section 6, and how do the fees compare with the existing fee schedules? **Mr. O'Keefe** said the fees set are existing law.

REP. PAVLOVICH asked **Mark O'Keefe** about insurance which is sold through the mail from out-of-state, i.e., AARP and Hartford Life, does the continuing education affect them? **Mr. O'Keefe** asked **Mark Nelson** if he would reply regarding the licensing for the out-of-state insurance sales? **Mr. Nelson** said companies like AARP and Hartford Life who sell directly from the company do not need licensing agents. He said companies like J.C. Penney have agents that do the solicitation either by phone or mail and have to meet the requirements of Montana by purchasing a license through the auditor's office.

REP. BRANDEWIE asked **Mark O'Keefe** about the comments he made about on-going investigations with abuse of credit life by banks, and wanted specifics of bankers operating in an dishonest fashion by denying the consumer a loan because they would not sign for credit life? **Mr. O'Keefe** said that was not the comment he made, and if he did, that is not what he meant to say. He said there have been instances where loans have not been made because credit life was not provided, but he did not blame it on banks specifically, because there are other people who also sell credit life. **REP. BRANDEWIE** asked **Mark O'Keefe** if the agents did not know how to sell the insurance properly or is the insurance used as leverage in a loan situation? **Mr. O'Keefe** said they do not know why, and that is the reason for the investigations.

Closing by Sponsor:

SEN. CHRISTIAENS said the insurance industry is probably the most misunderstood industry in the country today. He said life insurance is required when a person has a Small Business Association loan (SBA). He said the people that deal with mail-order out-of-state insurance must comply with their state laws and requirements. Credit life commissions are part of the

benefits that a car dealership really depends on. He felt if this bill isn't taken care of in this legislative session, the credit unions, bankers, car dealers, and the insurance commissioner will need to meet to decide if this is insurance, and whether or not it is being sold. He said upon passage of SB 354, there will be 12,000 agents and consultants that will come under the coverage of this bill. The number of hours for continuing education are 10 hours for life and health, 10 hours for property and casualty surety or title insurance, and 15 hours maximum for multi-line licenses. The fees will be paid by the producers and course providers. He said insurance is confusing for the public and SB 354 is for consumer protection.

HEARING ON SB 430

Opening Statement by Sponsor:

SEN. B.F. CHRIS CHRISTIAENS, Senate District 18, Great Falls, said SB 430 is an accreditation bill for the Montana Insurance Department for proof of insurance. He said in order for Montana to receive accreditation, the department must meet certain minimum standards and regulations. By doing this Montana will have the increased ability to prevent insolvencies of insurance companies. Liquidation of insurers can be costly to the state, thus the reason for this prevention measure before it begins. **SEN. CHRISTIAENS** gave an example how the accreditation works. In 1987, a life insurance company in Bozeman was found to be insolvent, and was approximately \$30 million in the red. About \$20 million of this cost will be borne by the general fund of the state of Montana. He said having an insurance department that is properly equipped to regulate the industry has a real dollar consequence for the state of Montana. The nationwide accreditation program currently has 19 states accredited. Thirty-one states have scheduled for accreditation review for 1993, and Montana will be one of the last few states reviewed this year assuming passage of SB 430. He listed the states that are accredited at this time; North Dakota, Utah, Colorado and Alaska. He said the program is non-structured so not just the rich states can achieve accreditation. It does require a commitment from each state in three areas: 1) the passage of a minimum set of laws providing for proper regulation of the insurance industry; 2) the establishment by the insurance department of sound examination procedures and sufficient financial analysis of domestic companies; and 3) adequate resources within the insurance department to enable them to carry out their statutory responsibilities. When SB 430 was heard in the Senate, it was supported by the entire insurance industry who want the insurance accreditation and are willing to pay the fee to bring Montana up to national standards.

Proponents' Testimony:

Mark O'Keefe, State Auditors Office, Insurance Commissioner, said SB 430 will bring Montana up to minimum standards on how to deal with insurance companies and regulate them in the state. This bill is a pro-Montana bill, pro-business bill, and a pro-consumer bill. The National Accreditation Program as set by the commissioners across the nation was done for the regulation of insurance which is a state's rights issue, an issue where individual states and provinces across the country regulate how insurance works in each state. He said REP. DINGLE of Michigan does not want the states to have any authority, so Congress is looking at national regulation to take over the regulation of insurance from the states. He quoted a Representative in Congress who said, "If you loved what they did with the savings and loan industry, you'll love what they want to do with insurance". He said the state needs to maintain control of the industry by: 1) regulation; 2) how they operate; and 3) why they operate. As a pro-business bill, there are small businesses in Montana that are called "boutique insurance companies". He gave an example of an insurance company in Missoula called AALs of Missoula which has a payroll of \$½ million to \$¾ million, and operates out of the Florence Hotel, and sells insurance in 14 to 19 states. They are a clean renewable industry, and important to the community. If this bill is not enacted into law, this company will be forced to leave Montana. When Vermont passed its accreditation, 22 companies moved into the state to open insurance companies. As a consumer bill, Montana is 47th in total funding in insurance regulations nationwide. This bill will bring Montana's standards up to 43rd in the nation for funding in the insurance department. He said the Advisory Council on Intergovernmental Relations which is an independent bipartisan commission which represents federal, state and local government, has endorsed state accreditation and concluded that any moves to impose any federal regulations are premature. He said the auditor's office took this model legislation from New Hampshire and re-wrote the laws to fit Montana. He distributed a Financial Regulation Standards and Accreditation Program by the National Association of Insurance Commissioner (NAIC). He said the bill is actually three parts: 1) for statutory authority; 2) as insurance commissioner, he needs the rules to be adopted to say, how, where, and why, to meet the bill's standards; and 3) the accreditation commissioners from the other states will come to Montana to see if the state is good enough to meet minimum accreditation standards. He said 19 states have been accredited at this time, and 2 states have lost their accreditation this past year because they did not enforce the regulations passed by the commissioners. He said this is an ongoing process that will be with Montana for a long time to be able to reach and meet the accreditation standards. If this bill does not pass, in the beginning of 1994 the companies that are domiciled in Montana will have to jump through hoops in order to be accredited, because they will be forced to meet the regulations in every state. He said if SB 430 is passed, the agents will only have to

meet the standards required in Montana. The other states that are accredited will write to Montana to let them know what they have to do for insurance regulation, it is not done by the federal government. He said 48 states are scheduled for the accreditation review, and Montana is 1 of 2 states which hasn't adopted the accreditation program. **EXHIBIT 3**

Frank Cote, Deputy Commissioner, State Auditors Office, distributed amendments prepared by the auditor's office. He said they are consensus amendments between the commissioner and the insurance industry. **EXHIBIT 5**

Debbie Berney, Professional Insurance Agents of Montana, said this bill is necessary to assure quality regulation in Montana and strongly urged the committee's support for SB 430.

Jackie Lenmark, American Insurance Association (AIA), said the AIA supports the passage of SB 430. It will make a big difference in bringing insurance companies into Montana. **Ms. Lenmark** distributed written testimony and a set of amendments. **EXHIBIT 6 & 7**

Kendra Galguchi, National Association of Independent Insurers (NAII), said they support the passage of SB 430 and the amendments by **Jacqueline Lenmark.** She urged the committee to include in the bill from **Ms. Lenmark's** amendment the language to include dividends and distribution.

Roger McGlenn, Executive Director, Independent Insurance Association of Montana, said for the previous reasons heard, they feel SB 430 is beneficial and necessary for the consumers and the industry.

Larry Akey, Montana Association of Life Underwriters, stated his support for SB 430.

Tom Hopgood, Health Insurance Association of America, said they support SB 430. He distributed information on NAIC. **EXHIBIT 8**

Patrick Driscoll, representing the American Council of Life Insurance, said he commends the insurance commissioner and his staff for the dedication and time they put into this effort. He said they support the amendment proposed by **Ms. Lenmark** if it didn't have any effect on the accreditation.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. COCCHIARELLA asked **Jacqueline Lenmark** if her amendments were proposed in the Senate hearing? **Ms. Lenmark** said by an agreement with the auditor's office they were not. She discussed the

amendments with the auditor's office and it was agreed by a consensus to wait until the hearing in the House. The exact statement and amendments were put into the record in the Senate.

REP. COCCHIARELLA asked Frank Cote what his position is on the #3 amendment from Ms. Lenmark? Mr. Cote said there were eight model regulations that the NAIC offered for extraordinary dividends. He said it is the auditor's opinion there are some that are very strict, and some are a weaker form of regulation. Mr. Cote said Montana's model is based on the New Hampshire model because the auditor's office felt it is in the middle of the eight models they examined. They felt if Ms. Lenmark's amendment was accepted the accreditation would drop from the 4 or 5 level to the 1 or 2 level which is on the weaker side.

Closing by Sponsor:

SEN. CHRISTIAENS said SB 430 is necessary to keep the federal government out the insurance regulation in Montana. The amendments are the accomplishment of the commissioner's office and the insurance industry. He said passage of this bill will attract additional companies to Montana. He urged SB 430 be concurred in.

EXECUTIVE ACTION ON SB 430

Motion: REP. STELLA JEAN HANSEN MOVED SB 430 BE CONCURRED IN.

Discussion: None

Motion/Vote: REP. STELLA JEAN HANSEN made the motion to adopt the state auditor's amendments. REP. BACHINI called the question. Voice vote was taken. Motion carried unanimously.
EXHIBIT 5

Motion/Vote: REP. SONNY HANSON made the motion to adopt Jacqueline Lenmark's amendment #3. REP. BACHINI called the question. Roll call vote was taken. Motion failed 9 - 9.
EXHIBIT 9

Motion/Vote: REP. SIMON made the motion to adopt an amendment on page 76, line 12, following "regulatory duties", insert "required to meet the minimum financial regulatory standards established by the National Association of Insurance Commissioners". EXHIBIT 2

Discussion: REP. BACHINI asked Mark O'Keefe for his views on the amendment by REP. SIMON? Mr. O'Keefe said they were going in the right direction, but would like for the language to say "the duties required to meet the provisions of this act, in that the NAIC accreditation standards are revolving", so if someone later authorizes money to be spent they hadn't thought of until later on.

REP. BRANDEWIE called the question. Voice vote was taken. Motion carried 16 - 2 with REPS. LARSON and COCCHIARELLA voting no.

REP. BACHINI MOVED SB 430 BE CONCURRED IN AS AMENDED. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried 15 - 3 with REPS. BARNETT, WAGNER AND ELLIS voting no.

Vote: SB 430 BE CONCURRED IN AS AMENDED. Motion carried 15 - 3. EXHIBIT 11

EXECUTIVE ACTION ON SB 373

Motion: REP. BRANDEWIE MOVED TO RECONSIDER ACTION ON SB 373 AND TAKE FROM THE TABLE.

Discussion: SEN. BECK said SB 373 is a cleanup bill for the Department of Justice. He said in the last session, the legislature allowed for the titling of snowmachines. SB 373 will coincide with that bill from last session to allow the banks to process the liens in the proper order, and raise the fees from \$4 to \$5.

Peter Funk, Assistant Attorney General, distributed a fact sheet prepared by the Department of Justice which shows the elimination of inconsistencies in the motor vehicle code involving the processing of liens and titles and the department's regulatory functions over motor vehicle dealers and mobile home dealers.

EXHIBIT 10

Motion/Vote: REP. BRANDEWIE MOVED SB 373 BE CONCURRED IN. Voice vote was taken. Motion carried unanimously.

Vote: SB 373 BE CONCURRED IN. Motion carried 18 - 0.

EXECUTIVE ACTION ON SB 354

Motion: REP. BACHINI MOVED SB 354 BE CONCURRED IN.

Discussion: REP. BRANDEWIE moved to adopt an amendment. Voice vote was taken. Motion carried 15 - 3 with REPS. DOWELL, TUSS AND STELLA JEAN HANSEN voting no. John Cadby's amendment. EXHIBIT 1

REP. SIMON moved to adopt an amendment on page 11, line 14, and page 14, line 18. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

REP. BRANDEWIE moved to adopt an amendment to insert an coordinating clause. Susan Fox, Legislative Counsel, said the

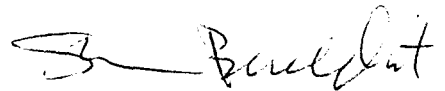
coordinating clause will not fit in the bill. Voice vote was taken. Motion failed 15 - 3 with REPS. SIMON, BRANDEWIE AND CHAIRMAN BENEDICT voting aye.

Motion/Vote: REP. COCCHIARELLA MOVED SB 354 BE CONCURRED IN AS AMENDED. The question was called. Voice vote was taken. Motion carried 16 - 2 with REPS. LARSON AND BARNETT voting no.

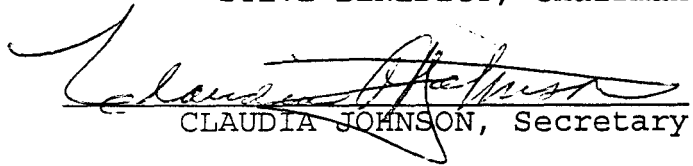
Vote: SB 354 BE CONCURRED IN AS AMENDED. Motion carried 16 - 2.

ADJOURNMENT

Adjournment: 11:45 A.M.



STEVE BENEDICT, Chairman



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

4-6-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

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HOUSE STANDING COMMITTEE REPORT

April 6, 1993

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Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 373 (third reading copy - blue) be concurred in .

Signed: _____

Steve Benedict, Chair

Carried by: Rep. Mills

Committee Vote:
Yes , No .

771243SC.Hss

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 354 (third reading copy - blue) be concurred in as amended.

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

Carried by: Rep. Simon

1. Page 4, line 23.

Strike: "or"

2. Page 4, line 25.

Following: "commissioner"

Insert: "; or

(f) a person selling only credit life and disability insurance incidental to other noninsurance activities"

3. Page 11, line 14.

Following: "fees"

Insert: "commensurate with costs"

4. Page 14, line 18.

Strike: "law"

Insert: "[sections 1 through 6]"

-END-

Committee Vote:

Yes 14, No 5.

781422SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 4

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 430 (third reading copy - blue) be concurred in as amended .

Signed: 
Steve Benedict, Chair

And, that such amendments read:

Carried by: ~~Rep. Tom Nelson~~



1. Title, line 20.

Following: "33-10-224,"

Insert: "33-10-227, 33-10-230,"

2. Page 5, line 8.

Following: "all"

Insert: "or part of"

3. Page 5, line 10.

Following: "based"

Insert: "solely"

4. Page 71, line 6.

Following: "commissioner."

Insert: "The statement must be completed in accordance with the annual statement instructions and the accounting practices and procedures manual of the national association of insurance commissioners. The statement must be accompanied by an actuarial opinion attesting to the adequacy of the insurer's reserves."

5. Page 76, lines 11 and 12.

Strike: "its" on line 11

Insert: "the"

Following: "duties" on line 12

Insert: "that are required to meet the minimum financial regulatory standards established by the national association of insurance commissioners"

Committee Vote:

Yes 15, No 3.

781427SC.Hpf

6. Page 103, line 6.

Strike: "may"

Insert: "does"

7. Page 127, line 20.

Following: line 19

Insert: "Section 69. Section 33-10-227, MCA, is amended to read:

"33-10-227. Assessments -- abatement -- basis for ratesetting. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at ~~such~~ the times and for ~~such~~ the amounts as the board finds necessary. The board shall collect the assessments after 30 days' written notice to the member insurers before payment is due.

(2) There ~~shall be~~ are two classes of assessments, as follows:

(a) Class A assessments ~~shall~~ must be made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer.

(b) Class B assessments ~~shall~~ must be made to the extent necessary to carry out the powers and duties of the association under 33-10-219 and 33-10-220(1) with regard to an impaired insurer.

(3) (a) The amount of any Class A assessment for each account ~~shall~~ must be determined by the board. The amount of any Class B assessment ~~shall~~ must be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bear to the premiums received by ~~such~~ the insurer on all covered policies.

(b) Class B assessments against member insurers for each account ~~shall~~ must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account bear to ~~such~~ the premiums received on business in this state by all assessed member insurers.

(c) Assessments for funds to meet the requirements of the association with respect to an impaired insurer ~~shall~~ may not be made until necessary to implement the purposes of this part. Classification of assessments under subsection (2) and computation of assessments under this subsection ~~shall~~ must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account ~~shall~~ may not in any one calendar year exceed 2% of ~~such~~ the

insurer's premiums in this state on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which ~~such~~ the assessment is abated or deferred ~~shall~~ must be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds ~~shall~~ must be assessed as soon thereafter as permitted by this part.

(6) If a 1% assessment for any subaccount of the life insurance account and the annuity account in any 1 year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subsection (3)(b), the board shall assess all subaccounts of the life insurance account and the annuity account for the necessary additional amount, subject to the maximum assessment stated in subsection (4).

~~(6)(7)~~ (7) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

~~(7)(8)~~ (8) ~~It shall be~~ is proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

~~(8)(9)~~ (9) The association shall issue to each insurer paying an assessment under this part a certificate of contribution, in a form prescribed by the commissioner, for the amount ~~so~~ paid. All outstanding certificates ~~shall~~ must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in ~~such~~ that form and for ~~such~~ the amount, if any, and period of time ~~as~~ that the commissioner may approve."

Section 70. Section 33-10-230, MCA, is amended to read:

"33-10-230. Tax -- writeoffs of certificates of contribution. (1) Unless a longer period has been allowed by the commissioner, a member insurer shall at its option have the right

to show a certificate of contribution for a Class B assessment only as an asset in the form approved by the commissioner pursuant to 33-10-227~~(8)~~(9), at percentages of the original face amount approved by the commissioner, for calendar years as follows:

- (a) 100% for calendar year of issuance;
- (b) 80% for the first calendar year after year of issuance;
- (c) 60% for second calendar year after year of issuance;
- (d) 40% for third calendar year after year of issuance;
- (e) 20% for fourth calendar year after year of issuance.

(2) The insurer may offset the amount written off by it in the calendar year under subsection (1) above against its premium tax liability to this state accrued with respect to business transacted in ~~such~~ the calendar year.

(3) Any sums acquired by refund, pursuant to 33-10-227~~(6)~~(7), from the association which have therefore been written off by contributing insurers and offset against premium taxes as provided in subsection (2) above and are not then needed for purposes of this part ~~shall~~ must be paid by the association to the commissioner and ~~by him~~ deposited by the commissioner with the state treasurer for credit to the general fund of this state.""

Renumber: subsequent sections.

-END-

EXHIBIT

1

DATE

4-6-93

SB

354

AMENDMENTS TO SB 354

Amend, Introduced Bill, page 4, at the end of line 23, strike "or" in subsection (4), of Section 3, and by adding a new subparagraph:

- (e) a person selling only credit life and disability insurance and incident to other noninsurance activities; or

And by renumbering subparagraph "(e) " as "(d)" in sequence.

EXHIBIT 2
DATE 4-6-93
SB 354

Amend SB354, Yellow Copy

1. Page 11, line 14.
Following: "fees"
Insert: "commensurate with costs"
2. Page 14, line 18.
Strike: "law,"
Insert: "[sections 1 through 9],"

Amend SB430, Introduced Copy

1. Page 76, line 12.
Following: "duties"
Insert: "required to meet the minimum financial regulatory standards established by the national association of insurance commissioners"

C. Miller

EXHIBIT 3
DATE 4-6-93
SB 354

FINANCIAL REGULATION
STANDARDS AND ACCREDITATION
PROGRAM
of the
NATIONAL ASSOCIATION
OF
INSURANCE COMMISSIONERS

December 15, 1992

This document is stored at the Historical Society at 225 North
Roberts Street, Helena, MT 59620-1201. The phone number is
444-2694.

Amendments to Senate Bill No. 354
Third Reading Copy

For the Committee on Business and Economic Development

Prepared by Susan B. Fox
April 7, 1993

1. Page 4, line 23.

Strike: "or"

2. Page 4, line 25.

Following: "commissioner"

Insert: "; or

(f) a person selling only credit life and disability
insurance incidental to other noninsurance activities"

3. Page 11, line 14.

Following: "fees"

Insert: "commensurate with costs"

4. Page 14, line 18.

Strike: "law"

Insert: "[sections 1 through 6]"

Amendments to Senate Bill No. 430
Prepared by the State Auditor's Office
April 5, 1993

1. Page 5, line 8
Following: "all"
Insert: "or part of"
2. Page 5, line 10
Following: "based"
Insert: "solely"
3. Page 71, line 6
Following: "...commissioner."
Insert: "The statement must be completed in accordance with the annual statement instructions and the accounting practices and procedures manual of the national association of insurance commissioners. The statement must be accompanied by an actuarial opinion attesting to the adequacy of the insurer's reserves."
4. Page 103, line 6
Following: "~~shall~~"
Replace: "may" with "does"
5. Section 33-10-227, MCA, is amended to read:

"33-10-227. Assessments--abatment--basis for ratesetting.

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors ~~shall~~ must assess the member insurers, separately for each account, at such times and for ~~such~~ the amounts as the board finds necessary. The board ~~shall~~ must collect the assessments after 30 days' written notice to the member insurers before payment is due.

(2) There ~~shall~~ must be two classes of assessments, as follows:

(a) Class A assessments ~~shall~~ must be made for the purpose of meeting administrative costs and other general expenses not related to particular impaired insurer.

(b) Class B assessments ~~shall~~ must be made to the extent necessary to carry out the powers and duties of the association under 33-10-219 and 33-10-220(1) with regard to an impaired insurer.

(3) (a) The amount of any Class A assessment for each account ~~shall~~ must be determined by the board. The amount of any Class B assessment ~~shall~~ must be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bear to the premiums received by ~~such~~ the insurer on all covered policies.

(b) Class B assessments against member insurers for each account ~~shall~~ must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account bear to ~~such~~ the premiums received on business in this state by all assessed member insurers.

(c) Assessments for funds to meet the requirements of the association with respect to an impaired insurer ~~shall~~ must not be made until necessary to implement the purposes of this part. Classification of assessments under subsection (2) and computation of assessments under this subsection ~~shall~~ must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account ~~shall~~ must not in any one calendar year exceed 2% of ~~such~~ the insurer's premiums in this state on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which ~~such~~ the assessment is abated or deferred ~~shall~~ must be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in either account, does not provide in any year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds ~~shall~~ must be assessed as soon thereafter as permitted by this part.

(6) If a one percent assessment for any subaccount of the life and annuity account in any one year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subsection (3)(b), the board must access all subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in subsection (4) above.

~~(6)~~ (7) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

~~(7)~~ (8) It ~~shall be~~ is proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

~~(8)~~ (9) The association ~~shall~~ must issue to each insurer paying an assessment under this part a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates ~~shall be~~ are of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in ~~such~~ the form and for ~~such~~ the amount, if any, and period of time as the commissioner may approve.

EXHIBIT 5
DATE 4-6-93
SS 430

STATEMENT OF
AMERICAN INSURANCE ASSOCIATION
BY
JACQUELINE TERRELL LENMARK
RE SB 430 NAIC Accreditation Package

Mr. Chairman and members of the committee:

My name is Jacqueline Lenmark. I am a lawyer from Helena and a lobbyist for the American Insurance Association. The American Insurance Association is a national trade association that promotes the economic, legislative, and public standing of its some 250-member property-casualty insurance companies. The Association represents its participating companies before federal and state legislatures on matters of industry concern.

As many dealing with insurance topics are well aware, the National Association of Insurance Commissioners (NAIC) has established an accreditation program for state insurance departments. The program contains numerous and detailed elements that continue to be revised, refined, and adjusted. The American Insurance Association (AIA) has been strongly supportive of stronger state solvency regulation and with very few and, usually, minor exceptions, has supported the NAIC accreditation package. For that reason, AIA strongly supports the passage of Senate Bill 430.

AIA, however, does note that there are two areas in which it would request amendment of Senate Bill 430 as an improvement of the NAIC model or a more appropriate selection of NAIC model options.

First, the NAIC's definition and treatment of "extraordinary dividends" is one area in which differences between the NAIC, AIA, NAII, and other insurance concerns exist. AIA would request amendment of Senate Bill 430 as shown in amendment No. 3 of the amendments attached as a part of this statement.

Further, with respect to sections relating to managing general agents, AIA would request amendment as shown in amendments Nos. 1 and 2 of the requested amendments attached.

1. The definition of "extraordinary dividends."

Under the NAIC model, "extraordinary dividends" require prior approval of the Commissioner of Insurance before they may be paid. The problem with prior approval of dividends is most acute for companies which are stockholder-owned liked many of those that belong to the AIA.

Companies seeking to attract capital in the stock markets must be capable of paying dividends to stockholders. To the extent that insurers are precluded from doing so, they become a much less attractive investment alternative than stocks of companies such as General Motors, AT&T, or other entities that provide a predictable stream of income through dividends as well as an opportunity for appreciation in stock value. Investors often look to a stock's dividend history before making the all-important investment decision. While insurers have been subject to some dividend payment restrictions in the past, the definition of "extraordinary dividends" contained in Senate Bill 430 poses a threat of interruption to steady and predictable dividend payments by major insurers and a real risk that capital will only be attracted by insurer stocks in the marketplace at higher costs.

The amendments in Senate Bill 430 to present Montana law propose to limit dividends to 10% of surplus of the preceding calendar year and requires 30 days prior notice. AIA prefers language adopted in Washington which is NAIC approved that provides for limiting dividends to the greater of 10% of a company surplus or net gain from operations of the company (for life insurance companies) or net income for companies (for property and casualty companies) for the preceding year, maintaining the 30-day notice. The practical effect of the language is that stock insurance companies can operate in the same competitive position as virtually every other business enterprise in America. If limitations are to be applied to dividend payments, and those limitations related to solvency, any limitation should be applied only to a company that the Insurance Commissioner determines to be in a hazardous financial condition. The Washington language proposed, in the opinion of the AIA, will meet the statement of intent in Senate Bill 430. While AIA recognizes that Montana has no domestic insurers, there is interest in this by AIA member companies as part of an overall national strategy. The amendments proposed are not a major departure from current language, and will encourage the domestication of insurers in Montana.

2. Managing General Agents:

Many insurance companies rely on managing general agents (MGAs) for production and underwriting expertise in the management of all or a part of their business. The suspected culpability of a few MGAs in the demise of several insurance companies in the 1980s convinced many regulators that improved oversight of MGA activities was necessary to assure the safety of their operations. Consequently, the National Association of Insurance Commissioners (NAIC) adopted a revised Managing General Agent Model Act in October, 1989.

Again, the AIA generally supports the NAIC Model Act, incorporated as part of Senate Bill 430, and worked closely with regulators during its evolution. The wording of many of the provisions are very particular in their import. Notable in their importance to AIA members are the precise definitions of "MGA" and the exceptions to the definition. AIA supports these definitions and would oppose any effort to change them in any detrimental way.

It is in these sections, however, in which AIA would advocate one particular improvement. The AIA supports any amendment to the exclusion from the definition of "MGA" of MGA-like entities that operate within a holding company system, as requested in the amendments Nos. 1 and 2 attached. The amendment would eliminate the requirement that an MGA manage all of the operations of an insurer under common management and control.

There are instances of MGA-like entities which meet the NAIC definition of "MGA" but are actually operating divisions of regulated insurers or their holding companies. Such divisions are open to the scrutiny of regulators under the holding company act and cannot commit the abuses that led the regulators to adopt the NAIC Model Act. These MGAs typically control all the operations of an insurer or certain combinations of critical functions that have been delegated to them, and for which the insurer's own management remains accountable.

Additionally, some MGA-like entities within large insurer groups manage some insurance operations within a holding system but not others managed by the insurer itself. In such instances the insurer gives the "MGA" broad authority in certain activities but retains the actual management of certain lines of business or control of other critical functions. Again, such "MGAs" as well as the other insurer-controlled entities within the holding company system are subject to regulation under the existing state insurance holding company act.

Both kinds of MGA-like entities are typically specialized operations that focus on particular products (e.g. Medical Malpractice, Directors and Officers Liability, Excess and Umbrella Coverages). They are established as separate subsidiaries in order to create a separate identity and expertise within the subsidiary to handle specialized business. Requiring the MGA-like entity within the system to manage all the operations of an insurer, including those operated by the insurer itself, in order to exempt itself from the MGA statutory requirements is counterproductive and serves no regulator purpose. If such a subsidiary is required to manage all of a large insurer's business, then the company management must decide to:

(a) write more specialized business through the subsidiary even though market conditions and underwriting profitability would not otherwise suggest a more aggressive stance; or

(b) transfer authority for managing other kinds of insurance to the specialized subsidiary even though the personnel have not been trained and lack the expertise in other areas such as commercial general liability or commercial automobile insurance.

In either event, the requirement would encourage management decisions that might be different if decisions were made solely on the basis of underwriting and management judgment. The requirement that all of the operations be managed by the subsidiary, therefore, is inconsistent with the purpose of the MGA Model Act to control and properly monitor the operations of MGAs and similar entities. Clearly, an "MGA"-like entity should not lose its exemptions just because it manages less rather than more of its affiliates' operations. For these reasons, AIA advocates adoption of amendments Nos. 1 and 2 attached. See also white paper attached.

Submitted to House Business and Economic Development Committee on Senate Bill 430, Tuesday, April 6, 1993, 9:00 o'clock a.m.

Jacqueline Terrell Lenmark

Amendments to Senate Bill No. 430
Third Reading Copy
(NAIC Accreditation)

Prepared by Jacqueline Lenmark
American Insurance Association
April 5, 1993

1. Page 5, line 8
Following: "all"
Insert: "or part of"
2. Page 5, line 10
Following: "based"
Insert: "solely"
3. Page 81
Following: line 6
Strike: subsections (2) and (3) in their entirety
Insert: "(2) For purposes of this section, an

extraordinary dividend or distribution is a dividend or distribution of cash or other property whose fair market value, together with that of other dividends or distributions made within the period of 12 consecutive months ending on the date on which the proposed dividend is scheduled for payment or distribution, exceeds the greater of:

(a) 10% of the company's surplus as regards policyholders as of the 31st day of the previous December; or

(b) the net gain from operations of the company if the company is a life insurance company, or the net income if the company is not a life insurance company, for the 12 month period ending the 31st day of the previous December, but does not include pro rata distributions of any class of the company's own securities.

(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is

conditional upon the commissioner's approval. The declaration confers no rights upon shareholders until:

(a) the commissioner has approved the payment of the dividend or distribution; or

(b) the commissioner has not disapproved the payment within the 30-day period referred to in (1) of this subsection."

Life insurance in force in our country now exceeds the staggering amount of 10 trillion dollars — ample evidence that the American people have a strong belief in providing financial security for themselves and their families. This vast amount of life insurance also shows an implicit faith in the long-term financial ability of the nation's life insurance companies to pay life insurance dollars when they are critically needed — to make good on their contractual promises.



That's why safeguards are necessary to assure the financial stability of life insurance companies through good times and bad.

State insurance regulators have the responsibility for overseeing the solvency of insurance companies. Their tools for doing this are the laws and regulations that give them the power to license only those companies that are sound and, on a continuing basis, to look into the management and financial affairs of insurance companies to make sure that they are always able to pay the benefits promised in their policies.

But in the decade of the 1980's, some life insurance companies, like other business enterprises, were attracted to the high interest rates promised by investments that were more speculative than usual, including risky commercial real estate investments, and the purchase of bonds that were below investment grade quality. The result was that a number of insurance companies suffered financial impairment and some had to be taken over by state regulators.



As this occurred, the National Association of Insurance Commissioners — the central advisory body made up of all state insurance regulators — was the first to identify the problem that current state insurance laws and regulatory practices, although adequate for the past, are simply not sophisticated enough to anticipate — much less prevent — the insurance company solvency problems that can be caused by the kind of undesirable risk-taking that occurred in the past decade. The NAIC concluded that it isn't just insurance companies that need examining, but that the states themselves needed a solvency regulation checkup to bring their regulatory machinery up to par.



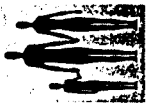
The NAIC made insurance company solvency its number one agenda item and created a process designed to insure that every state has the necessary insurance laws, regulations, budget, and personnel that will be essential to the proper supervision of insurance company solvency as we approach the next century. The process is called the "NAIC Financial Regulation Standards and Accreditation Program" and here's how it works:



Each state insurance department is reviewed by an independent review team of the NAIC to assess that department's compliance with the NAIC's Financial Regulation Standards. These standards require each state to have in place certain statutes and regulations, and require the state insurance department to be adequately staffed and funded to enable it to rigorously examine the financial stability of insurance companies. States that meet these rigid standards are then "accredited" by the NAIC and are publicly acknowledged as having done so. And that's not the end of the process. Each state, once accredited, is subject to a yearly review. A full examination is required every five years to assure that each accredited state keeps current in complying with the NAIC's exacting and comprehensive standards.



Many states have already been accredited by the NAIC and many more have most of the necessary elements of accreditation already in place. What else is needed to earn accreditation is determined for each state through the NAIC accreditation review or auditing process.



You can help get your own state accredited and thereby make life insurance an even safer buy than it already is.

It's worth your effort. Households across the country now have an average of well over \$100,000 of life insurance in force. Prestigious independent firms that analyze businesses for their financial strength say that, second only to obligations of the U.S. Government, the safest place for your money is life insurance. We need to make sure that this will always be so.

The very best way to do this is through the NAIC's State Accreditation process. Help get your state accredited by contacting your state insurance department and your state legislators, urging them to take immediate action to adopt the NAIC funding and regulatory requirements that will make your life insurance even more secure than it is now.

EXHIBIT 9
DATE 4-6-93
SB 430

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
ROLL CALL VOTE

DATE 4-6-93 BILL NO. SB 430 NUMBER _____

MOTION: Rep. Sonny Hanson Moved to
adopt Jacqueline Senneker's Amendment.
Exhibit 7 Motion Failed 9-9

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT	✓	
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON		✓
REP. TIM DOWELL		✓
REP. CARLEY TUSS		✓
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH		✓
REP. VICKI COCCHIARELLA		✓
REP. FRITZ DAILY		✓
REP. BOB BACHINI		✓
REP. DON LARSON		✓
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT, CHAIRMAN	✓	
	9	9

EXHIBIT 10
DATE 4-6-93
SB 373

FACT SHEET
Senate Bill 373
Prepared by the Department of Justice
April 2, 1993

Purpose: SB 373 is designed to eliminate inconsistencies in the motor vehicle code involving the processing of liens and titles and the Department's regulatory functions over motor vehicle dealers and mobile home dealers.

Lien Filings

Problems: The Department of Justice issues titles (certificates of ownership) and files liens on all motor vehicles, boats, snowmobiles and off-highway vehicles. Current law requires the Department to note all liens on the face of the title document. Language added by the 1991 Legislature concerning the filing of collateral liens does not require submission of the title by the lienholder with notice of the collateral lien. This statutory omission causes substantial delays in the filing of collateral liens as the Department must request submission of the title to comply with the notice requirement.

In addition, existing law requires the Department to note voluntary and involuntary liens on title documents. This is often impossible as the person obtaining an involuntary lien has no access to the title document.

Solution: Sections 1, 2, 3 and 7 of SB 373 amend the lien filing statutes concerning boats, snowmobiles, off-highway vehicles and motor vehicles respectively. The proposed amendments require submission of the title with any collateral lien and distinguish between voluntary and involuntary liens, with the latter category being filed but not noted on the face of the title document.

Title Transfer Fees

Problem: Current law (61-3-203) specifies that the fee for any transfer of title is \$5. Unfortunately, separate title transfer fee statutes also exist for boats, snowmobiles and off-highway vehicles. Title transfer fees for boats and snowmobiles are set at \$5. However, the title transfer fee for off-highway vehicles is still set at \$4. This statutory difference exists despite HB 712, which was passed by the 1989 Legislature to make uniform all title transfer fees.

Solution: Section 4 of SB 373 makes uniform all title transfer fees by raising the title transfer fee for off-highway vehicles from \$4 to \$5. All title transfer fees are deposited in the general fund.

Dealer Regulation

Problems: The current legal definition of a motor vehicle "dealer" includes within its meaning the term "broker." The definition of "broker", however, provides that it is someone "other than a dealer."

In addition, existing law requires the Department to regulate and license commercial sellers of "mobile homes." There is no existing definition of the term "mobile home" in the motor vehicle code.

Finally, under existing law, all commercial mobile home sellers must be licensed by the Department. Real estate brokers and agents commonly sell mobile homes and yet these individuals are already licensed by the Department of Commerce.

Solutions: Section 5 of SB 373 changes the definition of a "broker" to be consistent with the existing definition of a motor vehicle "dealer."

Section 6 of SB 373 adds a definition of a "mobile home" to the motor vehicle code.

Section 9 of SB 373 excludes licensed real estate brokers and agents from the Department of Justice's commercial mobile home dealer licensing requirements.

Bonded Titles

Problem: Under existing law, a person who has no title for a motor vehicle must obtain a "bonded title." Current language does not require that the issuer of the bond be a surety company licensed to do business in Montana.

Solution: Section 8 of SB 373 inserts language requiring that a surety providing a bond for a motor vehicle title be authorized to do business in Montana.

Amendments to Senate Bill No. 430
Third Reading Copy

For the Committee on Business and Economic Development

Prepared by Susan B. Fox
April 7, 1993

1. Title, line 20.
Following: "33-10-224,"
Insert: "33-10-227, 33-10-230,"
2. Page 5, line 8.
Following: "all"
Insert: "or part of"
3. Page 5, line 10.
Following: "based"
Insert: "solely"
4. Page 71, line 6.
Following: "commissioner."
Insert: "The statement must be completed in accordance with the annual statement instructions and the accounting practices and procedures manual of the national association of insurance commissioners. The statement must be accompanied by an actuarial opinion attesting to the adequacy of the insurer's reserves."
5. Page 76, lines 11 and 12.
Strike: "its" on line 11
Insert: "the"
Following: "duties" on line 12
Insert: "that are required to meet the minimum financial regulatory standards established by the national association of insurance commissioners"
6. Page 103, line 6.
Strike: "may"
Insert: "does"
7. Page 127, line 20.
Following: line 19
Insert: "Section 69. Section 33-10-227, MCA, is amended to read:
"33-10-227. Assessments -- abatement -- basis for ratesetting. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at ~~such~~ the times and for ~~such~~ the amounts as the board finds necessary. The board shall collect the assessments after 30 days' written notice to the member insurers before payment is due.
(2) There ~~shall be~~ are two classes of assessments, as follows:
(a) Class A assessments ~~shall~~ must be made for the purpose

of meeting administrative costs and other general expenses not related to a particular impaired insurer.

(b) Class B assessments ~~shall~~ must be made to the extent necessary to carry out the powers and duties of the association under 33-10-219 and 33-10-220(1) with regard to an impaired insurer.

(3) (a) The amount of any Class A assessment for each account ~~shall~~ must be determined by the board. The amount of any Class B assessment ~~shall~~ must be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bear to the premiums received by ~~such~~ the insurer on all covered policies.

(b) Class B assessments against member insurers for each account ~~shall~~ must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account bear to ~~such~~ the premiums received on business in this state by all assessed member insurers.

(c) Assessments for funds to meet the requirements of the association with respect to an impaired insurer ~~shall~~ may not be made until necessary to implement the purposes of this part. Classification of assessments under subsection (2) and computation of assessments under this subsection ~~shall~~ must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account ~~shall~~ may not in any one calendar year exceed 2% of ~~such~~ the insurer's premiums in this state on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which ~~such~~ the assessment is abated or deferred ~~shall~~ must be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds ~~shall~~ must be assessed as soon thereafter as permitted by this part.

(6) If a 1% assessment for any subaccount of the life insurance account and the annuity account in any 1 year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subsection (3)(b), the board shall assess all subaccounts of the life insurance account and the annuity account for the necessary additional amount, subject to the maximum assessment stated in subsection (4).

~~(6)(7)~~ (7) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount

the board finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

~~(7)~~(8) It ~~shall be~~ is proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

~~(8)~~(9) The association shall issue to each insurer paying an assessment under this part a certificate of contribution, in a form prescribed by the commissioner, for the amount ~~so~~ paid. All outstanding certificates ~~shall~~ must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in ~~such~~ that form and for ~~such~~ the amount, if any, and period of time as that the commissioner may approve."

Section 70. Section 33-10-230, MCA, is amended to read:

"33-10-230. Tax -- writeoffs of certificates of contribution. (1) Unless a longer period has been allowed by the commissioner, a member insurer shall at its option have the right to show a certificate of contribution for a Class B assessment only as an asset in the form approved by the commissioner pursuant to 33-10-227~~(8)~~(9), at percentages of the original face amount approved by the commissioner, for calendar years as follows:

- (a) 100% for calendar year of issuance;
- (b) 80% for the first calendar year after year of issuance;
- (c) 60% for second calendar year after year of issuance;
- (d) 40% for third calendar year after year of issuance;
- (e) 20% for fourth calendar year after year of issuance.

(2) The insurer may offset the amount written off by it in the calendar year under subsection (1) above against its premium tax liability to this state accrued with respect to business transacted in ~~such~~ the calendar year.

(3) Any sums acquired by refund, pursuant to 33-10-227~~(6)~~(7), from the association which have therefore been written off by contributing insurers and offset against premium taxes as provided in subsection (2) above and are not then needed for purposes of this part ~~shall~~ must be paid by the association to the commissioner and ~~by him~~ deposited by the commissioner with the state treasurer for credit to the general fund of this state.""

Renumber: subsequent sections.

EXHIBIT 10
4-6-93
SB 373

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. SB 430
DATE April 6, 1993 SPONSOR(S) C. Christensen
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Frank Cote	SAD	✓	
DEBBIE BERNEY	PROF. INS. AGTS. OF MT	✓	
Bill Olson	AARP	✓	
LARRY ALEY	MT ASSOC. OF LIFE UNDERWRITERS	✓	
Darlyn Nichols	SE TREAS MT ASSN OF LU		
Roger McGlen	IIAM	✓	
MARK E. NELSON	St. Auditor	✓	
Patrick M. Driscoll	AMERICAN COUNCIL OF LIFE INSURANCE	✓	
E. Caplis	MSCIA	✓	
Jaqueline Denmark	Am. Ins. Assoc.	✓ w/ amdt	
Tom Hopgood	Hill Ins. America	✓	
Steve Brown	Blue Cross-Blue Shield	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. SB 354
DATE April 6, 1993 SPONSOR(S) C. Christiaens
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
FRANK Cote	SAO	✓	
DEBBIE BERNEY	Prof. Ins. Agts. of MT	✓	
Bill Olson	AARP	✓	
LARRY AKEI	MT ASSOC OF LIFE UNDERWRITERS	✓	
Ken Hassler	Helena Assn Life Underwriters	✓	
LeRoy TANNER	TANNER + Assoc		✓
Darlyn Nichols	Sec TREAS Mont Assn LU	✓	
Roger McGLENN	IIAM	✓	
MARK E NELSON	St Auditor	✓	
E Caplitz	MSCA	✓	
Steve Turkiewicz	Big Sky Lg	✓ Witness	
Bob Pyfer	MT Credit Unions League	Information purposes	

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