

1 H BILL NO. 171  
2 INTRODUCED BY Porter Keay 877 Lane Kenny  
3 Lydia Vining Bennett Collier  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
5 40-3340, 40-3346, AND 40-3519, R.C.M. 1947, TO ALLOW  
6 INSURANCE AGENTS, LIFE INSURANCE AGENTS, OR SOLICITORS  
7 LICENSED AS INSURANCE CONSULTANTS A FEE FOR CONSULTATION  
8 SERVICES AND TO CLARIFY THE PROHIBITION OF UNLICENSED  
9 CONSULTATION."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA,

12 Section 1. Section 40-3340, R.C.M. 1947, is amended to  
13 read as follows:

14       "40-3340. Prohibition. (1) Any person not licensed as  
15       an insurance consultant in this state who identifies or  
16       holds himself out to be an insurance consultant without  
17       having been licensed as an insurance consultant under this  
18       act† or any person who uses any other designation or title  
19       which is likely to mislead the public and holds himself out  
20       in any manner as having particular insurance qualifications  
21       other than those for which he may be otherwise licensed or  
22       otherwise qualified, is guilty of a misdemeanor and upon  
23       conviction shall be fined one-thousand-five-hundred--dollars  
24       f\$1,500†.

(2) Any person not licensed as an insurance consultant

1 with respect to the relevant kinds of insurance who receives  
2 any fee for examining, appraising, reviewing, or evaluating  
3 any insurance policy, annuity, or pension contract, plan or  
4 program or who shall for a fee make recommendations or give  
5 advice with regard to any of the above without first having  
6 been licensed by the commissioner as an insurance consultant  
7 is guilty of a misdemeanor and upon conviction shall be  
8 fined one-thousand-five-hundred-dollars-(\$1,500)."

9           Section 2. Section 40-3346, R.C.M. 1947, is amended to  
10 read as follows:

11       \*40-3346. Limitation on type of consideration. 111 No  
12      person licensed as an insurance consultant may receive any  
13      compensation, direct or indirect, as a result--~~for~~ of the  
14      sale of insurance or annuities to, or ~~for~~ the use of  
15      securities or trusts in connection with pensions for, any  
16      person to for whom any the licensee has performed any  
17      related consulting service for which he has received a fee  
18      or contracted to receive a fee within the preceding twelve  
19      twelve months~~s~~ unless the person is also licensed in this  
20      state to sell the insurance or annuity for which the  
21      consulting fee was received."

22 Section 3a. Section 40-3519, R.C.M. 1947, is amended to  
23 read as follows:

24        #40-3519. Illegal dealing in premiums -- improper  
25        charges for insurance. (1) No person shall wilfully may

1 knowingly collect any sum as premium or charge for  
 2 insurance, which insurance is not then provided or is not in  
 3 due course to be provided, ~~subject to acceptance of the~~  
 4 risk by the insurer, by an insurance policy issued by an  
 5 insurer as authorized by this code.

6 (2) No person ~~shall-willfully~~ may knowingly collect as  
 7 premium or charge for insurance any sum in excess of or less  
 8 than the premium or charge applicable to ~~such the~~ insurance  
 9 and as specified in the policy, in accordance with the  
 10 applicable classifications and rates as filed with and  
 11 approved by the ~~commissioner~~, or in cases where  
 12 classifications, premiums, or rates are not required by this  
 13 code to be so filed and approved, such premiums and charges  
 14 ~~shall~~ may not be in excess of or less than those specified  
 15 in the policy and as fixed by the insurer.

16 ~~(3)~~ This provision Subsection (2) does shall not be  
 17 deemed--to prohibit the charging and collection, by surplus  
 18 line agents licensed under chapter 34 of this title, of the  
 19 amount of applicable state and federal taxes in addition to  
 20 the premium required by the insurer. Nor ~~shall~~ does it be  
 21 deemed--to prohibit the charging and collection, by a life  
 22 insurer, of amounts actually to be expended for medical  
 23 examination of an applicant for life insurance or for  
 24 reinstatement of a life insurance policy.

25 ~~(3)~~--Each violation of this section shall be punishable

1 ~~under-section-40-2617-(general-penalty)-~~  
 2 ~~(4) A fee for consultation received by a person~~  
 3 ~~licensed as an insurance consultant in this state is not a~~  
 4 ~~charge for insurance within the meaning of this section."~~

-End-

Approved by Committee  
on Business and Industry

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13 Section 1. Section 40-3340, R.C.M. 1947, is amended to  
14 read as follows:

15        "40-3340. Prohibition. (1) Any person not licensed as  
16        an insurance consultant in this state who identifies or  
17        holds himself out to be an insurance consultant without  
18        having been licensed as an insurance consultant under this  
19        act<sup>t</sup> or any person who uses any other designation or title  
20        which is likely to mislead the public and holds himself out  
21        in any manner as having particular insurance qualifications  
22        other than those for which he may be otherwise licensed or  
23        otherwise qualified is guilty of a misdemeanor and upon  
24        conviction shall be fined one-thousand-five-hundred--dollars  
25        +\$1,500+.

10 Section 2. Section 40-3346, R.C.M. 1947, is amended to  
11 read as follows:

40-3346. Limitation on type of consideration. (1) No person licensed as an insurance consultant may receive any compensation, direct or indirect, as a result--for of the sale of insurance or annuities to, or for the use of securities or trusts in connection with pensions for, any person to for whom any the licensee has performed any related consulting service for which he has received a fee or contracted to receive a fee within the preceding twelve months unless the person is also licensed in this state to sell the insurance or annuity for which the consulting fee was received.

23 121. A PERSON LICENSED AS BOTH AN INSURANCE CONSULTANT  
24 AND AN INSURANCE AGENT MAY RECEIVE COMPENSATION FOR HIS  
25 CONSULTING SERVICES ONLY UNDER THE CONDITIONS SET FORTH IN

1 40-3345a"

2 Section 3. Section 40-3519, R.C.M. 1947, is amended to  
3 read as follows:

4 "40-3519. Illegal dealing in premiums -- improper  
5 charges for insurance. (1) No person shall--willfully may  
6 knowingly collect any sum as premium or charge for  
7 insurance, which insurance is not then provided or is not in  
8 due course to be provided, (subject to acceptance of the  
9 risk by the insurer,) by an insurance policy issued by an  
10 insurer as authorized by this code.

11 (2) No person shall--willfully may knowingly collect as  
12 premium or charge for insurance any sum in excess of or less  
13 than the premium or charge applicable to such the insurance,  
14 and as specified in the policy, in accordance with the  
15 applicable classifications and rates as filed with and  
16 approved by the commission, or, in cases where  
17 classifications, premiums, or rates are not required by this  
18 code to be so filed and approved, such premiums and charges  
19 shall not be in excess of or less than those specified  
20 in the policy and as fixed by the insurer.

21 (3) This provision Subsection (2) does shall not be  
22 deemed-to prohibit the charging and collection, by surplus  
23 line agents licensed under chapter 34 of this title, of the  
24 amount of applicable state and federal taxes in addition to  
25 the premium required by the insurer. Nor shall does it be

1 deemed-to prohibit the charging and collection, by a life  
2 insurer, of amounts actually to be expended for medical  
3 examination of an applicant for life insurance or for  
4 reinstatement of a life insurance policy.

5 ~~(3) Each violation of this section shall be punishable  
6 under section 40-2617 (general penalty).~~

7 ~~(4) A fee for consultation received by a person  
8 licensed as an insurance consultant in this state is not a  
9 charge for insurance within the meaning of this section."~~

-End-

HOUSE BILL NO. 171  
INTRODUCED BY PORTER, O'KEEFE, JENSEN, FEDA,  
MCLANE, KENNY, VINGER, BURNETT, COLBURN, KESSLER

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
5 40-3340, 40-3346, AND 40-3519, R.C.M. 1947, TO ALLOW  
7 INSURANCE AGENTS, LIFE INSURANCE AGENTS, OR SOLICITORS  
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9 SERVICES AND TO CLARIFY THE PROHIBITION OF UNLICENSED  
10 CONSULTATION."

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

13 Section 1. Section 40-3340, R.C.M. 1947, is amended to  
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15       \*40-3340. Prohibition. (1) Any person not licensed as  
16       an insurance consultant in this state who identifies or  
17       holds himself out to be an insurance consultant without  
18       having been licensed as an insurance consultant under this  
19       act# or any person who uses any other designation or title  
20       which is likely to mislead the public and holds himself out  
21       in any manner as having particular insurance qualifications  
22       other than those for which he may be otherwise licensed or  
23       otherwise qualified is guilty of a misdemeanor and upon  
24       conviction shall be fined one-thousand-five-hundred--dollars  
25       \$1,500#.

10 Section 2.1 Section 40-3346, R.C.M. 1947, is amended to  
11 read as follows:

12        #40-3346. Limitation on type of consideration. III No  
13        person licensed as an insurance consultant may receive any  
14        compensation, direct or indirect, as a result--~~of~~ of the  
15        sale of insurance or annuities to, or ~~for~~ the use of  
16        securities or trusts in connection with pensions for, any  
17        person to ~~for~~ whom any ~~the~~ licensee has performed any  
18        related consulting service for which he has received a fee  
19        or contracted to receive a fee within the preceding twelve  
20        ~~12~~ months\* unless the person is also licensed in this  
21        state to sell the insurance or annuity for which the  
22        consulting fee was received.

23 121. A PERSON LICENSED AS BOTH AN INSURANCE CONSULTANT  
24 AND AN INSURANCE AGENT MAY RECEIVE COMPENSATION FOR HIS  
25 CONSULTING SERVICES ONLY UNDER THE CONDITIONS SET FORTH IN

THIRD READING

1       40-3345a"

2       Section 3. Section 40-3519, R.C.M. 1947, is amended to  
3       read as follows:

4       "40-3519. Illegal dealing in premiums -- improper  
5       charges for insurance. (1) No person ~~shall--willfully~~ ~~may~~  
6       knowingly collect any sum as premium or charge for  
7       insurance, which insurance is not then provided or is not in  
8       due course to be provided, ~~subject to acceptance of the~~  
9       risk by the insurer~~s~~ by an insurance policy issued by an  
10      insurer as authorized by this code.

11      (2) No person ~~shall--willfully~~ ~~may~~ knowingly collect as  
12      premium or charge for insurance any sum in excess of or less  
13      than the premium or charge applicable to such ~~the~~ insurance  
14      and as specified in the policy~~s~~ in accordance with the  
15      applicable classifications and rates as filed with and  
16      approved by the commission~~er~~ or~~s~~ in cases where  
17      classifications, premiums, or rates are not required by this  
18      code to be so filed and approved, such premiums and charges  
19      ~~shall~~ ~~may~~ not be in excess of or less than those specified  
20      in the policy and as fixed by the insurer.

21      (3) This provision Subsection (2) does ~~shall~~ not be  
22      deemed-to prohibit the charging and collection, by surplus  
23      line agents licensed under chapter 34 of this title, of the  
24      amount of applicable state and federal taxes in addition to  
25      the premium required by the insurer. Nor ~~shall~~ does it be

1       deemed-to prohibit the charging and collection, by a life  
2       insurer, of amounts actually to be expended for medical  
3       examination of an applicant for life insurance or for  
4       reinstatement of a life insurance policy.

5       ~~(3) --Each violation of this section shall be punishable  
6       under section 40-2647 (general penalty).~~

7       ~~(4) A fee for consultation received by a person  
8       licensed as an insurance consultant in this state is not a  
9       charge for insurance within the meaning of this section.~~

-End-