

SENATE BILL NO. 93

INTRODUCED BY LOWE, MEHRENS, KOLSTAD, HAGER

BY REQUEST OF THE COMMISSIONER OF INSURANCE

IN THE SENATE

January 12, 1979	Introduced and referred to Committee on Business and Industry.
January 30, 1979	Committee recommend bill do pass. Report adopted.
January 31, 1979	Printed and placed on members' desks.
February 1, 1979	Second reading, pass consideration.
February 2, 1979	Second reading, pass consideration.
February 3, 1979	On motion, taken from second reading and rereferred to Committee on Business and Industry.
February 8, 1979	Committee recommend bill do pass. Report adopted.
February 9, 1979	Printed and placed on members' desks.
February 10, 1979	Second reading, do pass.
February 12, 1979	Considered correctly engrossed.
February 13, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 14, 1979	Introduced and referred to Committee on Business and Industry.
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March 9, 1979

Committee recommend bill  
be concurred in. Report  
adopted.

March 13, 1979

Second reading, concurred in.

March 15, 1979

Third reading, concurred in.

IN THE SENATE

March 16, 1979

Returned from second house.  
Concurred in. Sent to  
enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 93  
 2 INTRODUCED BY Lou Nicholas Robert Hager  
 3 BY REQUEST OF THE COMMISSIONER OF INSURANCE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 6 LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS,  
 7 AND CONSULTANTS; AMENDING SECTIONS 33-17-204, 33-17-211,  
 8 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231,  
 9 33-17-401, 33-17-404, 33-17-1101, 33-17-1103, 33-17-1111,  
 10 AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-17-204, MCA, is amended to read:  
 14 "33-17-204. Licensing of firms and corporations  
 15 organizations -- requisites. (1) A firm partnership or  
 16 corporation shall may be licensed only as an insurance  
 17 agent. ~~if a firm, each general partner and each other~~  
 18 ~~individual to act for the firm under the license and, if a~~  
 19 ~~corporation, each individual to act for the corporation~~  
 20 ~~under the license shall be named in the~~ Each member and  
 21 ~~employee of a partnership and each officer, director,~~  
 22 ~~stockholder, or employee of a corporation, personally~~  
 23 ~~engaged in this state in soliciting or negotiating insurance~~  
 24 ~~policies, shall be registered with the commissioner in~~  
 25 ~~conjunction with the partnership or corporation license and~~

1 shall qualify therefor as though an individual licensee. The  
 2 commissioner shall charge and the licensee shall pay a full  
 3 An additional license fee as to shall be paid for each  
 4 respective individual so named in such license in excess of  
 5 two registered in conjunction with the partnership or  
 6 corporation license.

7 ~~(2) A nonresident of Montana shall not be named in~~  
 8 ~~such license and shall not have the right to exercise the~~  
 9 ~~license powers.~~

10 ~~(3)(2) A license shall not be issued to a firm~~  
 11 ~~partnership or corporation unless organized under the laws~~  
 12 ~~of this state and maintaining its principal place of~~  
 13 ~~business in this state and unless the transaction of~~  
 14 ~~business under the license is within the purposes stated in~~  
 15 ~~the firm's partnership agreement or the corporation's~~  
 16 ~~articles of incorporation.~~

17 ~~(4)(3) The partnership or corporate licensee shall~~  
 18 ~~promptly notify the commissioner of all changes among its~~  
 19 ~~members, directors, and officers and of any other individual~~  
 20 ~~each change relative to the individuals designated in the~~  
 21 ~~license."~~

22 Section 2. Section 33-17-211, MCA, is amended to read:  
 23 "33-17-211. Application for license. (1) Application  
 24 for an agent or solicitor license shall be made to the  
 25 commissioner by the applicant and be signed and sworn to by

1 the applicant before a notary public or other person  
2 authorized by law to take acknowledgments of deeds.

3 (2) The commissioner shall designate and prepare forms  
4 for application for license which shall require full answers  
5 to such questions as may reasonably be necessary to  
6 determine the applicant's identity, residence, personal  
7 history, business record, experience and training in  
8 insurance, purpose for which the license is to be used, and  
9 other facts as required by the commissioner to determine  
10 whether the applicant meets the applicable qualifications  
11 for the license applied for.

12 (3) If for an agent's license, the application shall  
13 state the kinds of insurance proposed to be transacted and  
14 be accompanied by written appointment of the applicant as  
15 agent by an authorized insurer, subject to issuance of the  
16 license.

17 (4) If for a solicitor's license, the application  
18 shall be accompanied by written appointment of applicant as  
19 solicitor by a licensed agent, subject to issuance of the  
20 license.

21 (5) If the applicant for an agent license is a firm or  
22 corporation, the application shall show, in addition, the  
23 names of all members, officers, and directors and shall  
24 designate each individual who is to exercise the powers to  
25 be conferred by the license upon the firm or corporation.

1 Each such individual so designated shall furnish information  
2 as to himself, as part of the application, as though for an  
3 individual license.

4 (6) If the applicant for an agent license is an  
5 agents' association pursuant to 33-17-205, the application  
6 shall show the names and residence addresses of the  
7 association's officers and trustees.

8 (7) If for license as either agent or solicitor, the  
9 application shall also show whether applicant was ever  
10 previously licensed to transact any kind of insurance in  
11 this state or elsewhere; whether any such license was ever  
12 refused, suspended, or revoked; whether any insurer, general  
13 agent, or agent, in the case of a solicitor application,  
14 claims applicant to be indebted to it and, if so, the  
15 details thereof and the defenses, if any, of the applicant  
16 thereto; and whether applicant ever had an agency contract  
17 canceled and the facts thereof; ~~and if applicant is married,~~  
18 ~~like information with respect to the applicant's spouse.~~

19 (8) The commissioner shall require as part of the  
20 application for license the certificate of an officer or  
21 representative of the insurer proposed to be represented, in  
22 the case of applicants for license as agent, or of the  
23 proposed employing agent, in the case of applicants for  
24 license as solicitor, as to whether the applicant is known  
25 to such officer or representative, whether the insurer or

1 agent has investigated the character and business record of  
 2 the applicant and the uses to be made of the license, if  
 3 granted, and his opinion, based on such investigation, as to  
 4 applicant's trustworthiness and competence and whether the  
 5 applicant will use the license principally for the purpose  
 6 of insuring the applicant's own risks or interests and those  
 7 of the applicant's relatives or employer.

8 (9) All such applications shall be accompanied by the  
 9 applicable license fee, appointment of agent fee where  
 10 applicable, examination fee where required under 33-17-212,  
 11 all in the respective amounts stated in 33-2-708."

12 Section 3. Section 33-17-212, MCA, is amended to read:

13 "33-17-212. Examination required. (1) After completion  
 14 and filing of the application for license as required under  
 15 33-17-211, the commissioner shall subject each applicant for  
 16 license as agent or solicitor, unless exempted therefrom  
 17 under subsection (5) below, to a personal written  
 18 examination as to his competence to act as such agent or  
 19 solicitor.

20 (2) If the applicant is a firm or corporation, the  
 21 examination shall be so taken by each individual who is to  
 22 be named in the license as having authority to act for the  
 23 applicant in its insurance transactions under the license.

24 (3) Examination of an applicant for an agent's license  
 25 shall cover all of the kinds of insurance for which the

1 applicant has applied to be licensed, as constituted by any  
 2 one or more of the following classifications:

3 (a) life insurance;

4 (b) disability insurance;

5 (c) property insurance; for the purposes of this  
 6 provision, "marine" insurance shall be deemed to be included  
 7 in "property" insurance;

8 (d) casualty insurance;

9 (e) vehicle insurance;

10 (f) surety insurance;

11 (g) credit life and disability insurance.

12 (4) Examination of an applicant for a solicitor's  
 13 license shall cover all the kinds of insurance, other than  
 14 life, as to which the appointing agent is licensed.

15 (5) This section shall not apply to, and no such  
 16 examination shall be required of:

17 (a) any individual lawfully licensed as an agent or  
 18 solicitor as to the kind or kinds of insurance to be  
 19 transacted as of or immediately prior to January 1, 1961,  
 20 and thereafter continuing to be so licensed;

21 (b) any applicant for license covering the same kind  
 22 or kinds of insurance as to which the applicant was licensed  
 23 in this state, other than under a temporary license, within  
 24 the 12 months next preceding date of application unless such  
 25 previous license was suspended, revoked, or continuation

1 thereof refused by the commissioner;

2 (c) any applicant for license as nonresident agent,  
3 subject to reciprocal arrangements as provided for in this  
4 code;

5 (d) all applicants for license as agent for an insurer  
6 that confines its business in this state substantially to  
7 the insuring of the property, interests, and risks of  
8 farmers, if exempted from examination by the commissioner,  
9 in his discretion, upon written request of the insurer;

10 (e) transportation ticket agents or common carriers  
11 applying for license to solicit and sell only:

12 (i) accident insurance ticket policies; or

13 (ii) insurance of personal effects while being carried  
14 as baggage on such common carrier, as incidental to their  
15 duties as such transportation ticket agents;

16 (f) agents' associations applying for license under  
17 33-17-205;

18 (g) title insurance agents."

19 Section 4. Section 33-17-214, MCA, is amended to read:

20 "33-17-214. Issuance of license -- contents. (1) The  
21 commissioner shall promptly issue ~~licenses~~ the license  
22 applied for to persons ~~the person~~ qualified therefor in  
23 accordance with this chapter. There is a license for life  
24 or disability insurance and a separate license for kinds of  
25 insurance other than life or disability.

1 (2) The license shall state the name and address of  
2 the licensee, date of issue, general conditions relative to  
3 expiration or termination, kind or ~~kinds~~ of insurance  
4 covered, and ~~the other conditions of the license~~ such other  
5 information as the commissioner considers proper.

6 ~~(3) If the license is as agent for life and/or~~  
7 ~~disability insurance only, the license shall state the name~~  
8 ~~of the insurer to be so represented. If the license is as~~  
9 ~~agent for any other kind or kinds of insurance, it shall not~~  
10 ~~state the name of any insurer to be so represented.~~

11 ~~(4) (3) If the licensee agent is a firm or corporation,~~  
12 ~~the~~ the license of a partnership or corporation shall also  
13 state the name of each individual authorized thereunder to  
14 exercise the license powers.

15 ~~(5) (4) If the licensee is a solicitor, the~~ the license  
16 of a solicitor shall state the name and address of the agent  
17 to be represented."

18 Section 5. Section 33-17-216, MCA, is amended to read:

19 "33-17-216. Temporary agent licenses -- fee. (1) The  
20 commissioner may issue a temporary license as agent to or  
21 with respect to an individual qualified therefor only as to  
22 age, residence, and trustworthiness and without requiring  
23 such individual to take an examination, in the following  
24 cases:

25 (a) to the surviving spouse or next of kin or to the

1 administrator or executor, or the employee of such  
2 administrator or executor, of a licensed agent becoming  
3 deceased;

4 (b) to the spouse, next of kin, employee, or legal  
5 guardian of a licensed agent disabled by sickness, injury,  
6 or insanity;

7 (c) to an employee of a firm, or officer or employee  
8 of a corporation, licensed as agent, upon the death or  
9 disability of an individual designated in the license to  
10 exercise the powers thereof;

11 (d) to the designee of a licensed agent entering upon  
12 active service in the armed forces of the United States of  
13 America;

14 ~~(e) upon request of the insurer, to an applicant for~~  
15 ~~license as a life insurance agent, pending the taking of any~~  
16 ~~examination required of the applicant by the commissioner~~  
17 ~~under 33-17-212, if the applicant is duly enrolled in and is~~  
18 ~~actively pursuing an adequate course of instruction, as~~  
19 ~~provided by or through the insurer, in preparation for such~~  
20 ~~examination. Such license shall be for a period of not over~~  
21 ~~90 days or until the applicant has had a reasonable~~  
22 ~~opportunity to take such examination and be informed by the~~  
23 ~~commissioner as to the results thereof, whichever is the~~  
24 ~~shorter period, but subject to extension by the commissioner~~  
25 ~~as provided in subsection (3) below~~

1 (2) The temporary license shall be issued upon  
2 application filed with the commissioner in such form and  
3 containing such information as the commissioner may  
4 reasonably require and upon payment of the applicable fee as  
5 stated in 33-2-708.

6 (3) The temporary license shall be for a period of not  
7 over 90 days, subject to extension by the commissioner in  
8 his discretion for an additional period of not more than 90  
9 days, except that such a license issued pursuant to  
10 subsection (1)(a) above may be continued without payment of  
11 additional fee until the executor or administrator disposes  
12 of the insurance business but not to exceed a period of 15  
13 months. Temporary license issued to the next of kin under  
14 such subsection (1)(a) shall not be extended for an  
15 additional term or terms after appointment and qualification  
16 of such an administrator or executor.

17 (4) The fee paid for the temporary license may be  
18 applied upon the fee required for any permanent license  
19 issued to the licensee upon or prior to expiration of the  
20 temporary license and covering the same kinds of insurance."

21 Section 6. Section 33-17-218, MCA, is amended to read:

22 "33-17-218. Continuance and expiration of licenses.

23 (1) All solicitor and adjuster licenses issued under this  
24 chapter, all agent licenses as to life and/or disability  
25 insurance only, and all nonresident agent licenses shall

1 continue in force until expired, suspended, revoked, or  
 2 terminated but subject to payment to the commissioner  
 3 annually on or before May 1 of the applicable continuation  
 4 ~~renewal~~ fee as stated in 33-2-708, accompanied by written  
 5 request for such continuation ~~renewal~~. Such request for  
 6 continuation as to agent licenses for life insurance and/or  
 7 disability insurance only shall be made by the insurer in  
 8 the form of an alphabetical list in duplicate of the names  
 9 and addresses of its agents whose licenses are to be  
 10 continued in this state, accompanied by payment of the  
 11 annual continuation fee therefor as provided in 33-2-708. At  
 12 the same time the insurer shall also file with the  
 13 commissioner an alphabetical list in duplicate of the names  
 14 and addresses of all its agents whose licenses in this state  
 15 are not to remain in effect. Section 33-17-231(5) shall  
 16 apply as to any licenses so terminated by the insurer. As to  
 17 a solicitor's license, such request A request for renewal of  
 18 a solicitor's license shall be signed by the agent by whom  
 19 the licensee is employed.

20 ~~(2) Any license referred to in subsection (1) as to~~  
 21 ~~which such fee and request for continuation are not received~~  
 22 ~~by the commissioner as required in such subsection (1) shall~~  
 23 ~~be deemed to have expired as of midnight on May 31 next~~  
 24 ~~following. Request for continuation of any such license~~  
 25 ~~and/or payment of the continuation fee therefor which is~~

1 ~~received by the commissioner after such May 1 and prior to~~  
 2 ~~the next following June 15 may be accepted and effectuated~~  
 3 ~~by the commissioner in his discretion if accompanied by an~~  
 4 ~~annual continuation fee in twice the amount otherwise~~  
 5 ~~required.~~

6 ~~(3)(2)~~ The license of an agent as to property  
 7 casualty or surety insurance shall continue in force  
 8 subject to the provisions of 33-17-231 and, unless suspended  
 9 or revoked, as long as there is in effect as to such agent,  
 10 as shown by the commissioner's records, an appointment or  
 11 appointments as agent of an authorized insurers INSURER,  
 12 covering collectively all of the kinds of insurance included  
 13 in the agent's license. Upon termination of all of such an  
 14 the agent's agency appointments as to for a particular kind  
 15 of insurance and failure to secure and file with the  
 16 commissioner a new appointment as to for such kind of  
 17 insurance within 90 days thereafter, the agent's license  
 18 shall automatically thereupon expire and terminate as to  
 19 such kind of insurance ~~and the licensee shall promptly~~  
 20 ~~deliver his license to the commissioner for reissuance~~  
 21 ~~without fee or charge as to the kinds of insurance covered~~  
 22 ~~by the agent's remaining appointments.~~

23 ~~(4)(3)~~ This section shall not apply to temporary  
 24 licenses issued under 33-17-216."

25 Section 7. Section 33-17-231, MCA, is amended to read:



1 "33-17-231. Appointment of agents — continuation and  
 2 termination. (1) Each insurer appointing an agent in this  
 3 state ~~as to property, casualty or surety insurance~~ shall  
 4 file with the commissioner the appointment, specifying the  
 5 kinds of insurance to be transacted by the agent for the  
 6 insurer, and pay the fee therefor as stated in 33-2-708. ~~If~~  
 7 ~~the appointment includes casualty insurance, the agent may~~  
 8 ~~be appointed by the same insurer also as to disability~~  
 9 ~~insurance without requiring an additional appointment or~~  
 10 ~~appointment fee.~~

11 (2) Subject to annual continuation by the insurer not  
 12 later than May 31, each such appointment shall remain in  
 13 effect until the agent's license is revoked or otherwise  
 14 terminated unless written notice of earlier termination of  
 15 the appointment is filed with the commissioner by the  
 16 insurer or agent.

17 (3) Annually, prior to May 1, each insurer shall file  
 18 with the commissioner an alphabetical list in duplicate of  
 19 the names and addresses of all its agents whose appointments  
 20 in this state are to remain in effect, accompanied by  
 21 payment of the annual ~~continuation of appointment~~ renewal  
 22 fee as provided in 33-2-708. At the same time the insurer  
 23 shall also file with the commissioner ~~an alphabetical list~~  
 24 ~~in duplicate of the names and addresses~~ a termination report  
 25 of all its agents whose appointments in this state are not

1 to remain in effect.

2 (4) Subject to the agent's contract rights, an insurer  
 3 may terminate an agency appointment at any time. The insurer  
 4 shall promptly give written notice of such termination to  
 5 the commissioner and to the agent where reasonably possible.  
 6 The commissioner may require of the insurer reasonable proof  
 7 that the insurer has given such notice to the agent.

8 (5) As part of the notice of termination given the  
 9 commissioner, the insurer shall file with the commissioner a  
 10 statement of the facts relative to the termination and the  
 11 cause thereof. Any information or statement contained in the  
 12 notice of termination shall be privileged and shall not be  
 13 admissible as evidence in any action or proceeding against  
 14 the insurer or any representative thereof by or in behalf of  
 15 any person affected by such termination."

16 Section 8. Section 33-17-401, MCA, is amended to read:

17 "33-17-401. Nonresident agent — reciprocity. The  
 18 commissioner may license as an agent a person ~~who is a~~  
 19 partnership, or corporation otherwise qualified under this  
 20 code but ~~who is~~ not a resident of this state if pursuant to  
 21 the laws of the state of his residence a similar privilege  
 22 is extended to persons resident in Montana."

23 Section 9. Section 33-17-404, MCA, is amended to read:

24 "33-17-404. Countersigning coverage of residents. A  
 25 nonresident agent shall not sign or countersign policies

1 covering subjects of insurance located or to be performed in  
2 Montana. ~~These Except as provided in 33-17-1111, these~~  
3 policies must be countersigned by a licensed resident  
4 agent."

5 Section 10. Section 33-17-1101, MCA, is amended to  
6 read:

7 "33-17-1101. Place of business -- display of license  
8 -- records. (1) Every agent shall have and maintain ~~in this~~  
9 state a place of business accessible to the public. Such  
10 place of business shall be that wherein the licensee  
11 principally conducts transactions under his license. The  
12 address of such place shall appear upon the license, and the  
13 licensee shall promptly notify the commissioner of any  
14 change thereof. Nothing in this section ~~shall be deemed to~~  
15 ~~prohibit~~ prohibits maintenance of such place of business in  
16 the licensee's place of residence ~~in this state.~~

17 (2) The ~~licenses~~ license of the licensee and the  
18 ~~licenses~~ license of solicitors ~~each solicitor~~ appointed by  
19 and representing the licensee shall be conspicuously  
20 displayed in such place of business in a part thereof  
21 customarily open to the public.

22 (3) The agent shall keep at his place of business  
23 complete records pertaining to transactions under his  
24 license and the licenses of his solicitors, for a period of  
25 at least 3 years after completion of the respective

1 transactions.

2 ~~(4) This section shall not apply as to life and~~  
3 ~~disability insurances."~~

4 Section 11. Section 33-17-1103, MCA, is amended to  
5 read:

6 "33-17-1103. Exchange of business -- sharing  
7 commissions. (1) An agent may, occasionally only, place an  
8 insurance coverage with an insurer as to which he is not  
9 then licensed or appointed as an agent, and the insurer  
10 shall accept such business, only when placed through a  
11 ~~licensed an agent, resident in this state of licensed under~~  
12 ~~this chapter and appointed by~~ the insurer. Both agents  
13 involved in such an exchange of business must be licensed as  
14 to all of the kinds of insurance represented by the coverage  
15 so placed.

16 (2) The agents involved in a lawful exchange of  
17 business under subsection (1) above may divide between them  
18 the commission or compensation payable on account of such  
19 coverage.

20 (3) No agent or solicitor shall directly or indirectly  
21 share his commissions or other compensation received or to  
22 be received by him on account of a transaction under his  
23 license with any person not also licensed under this chapter  
24 as to the same kind or kinds of insurance involved in such  
25 transactions, except as provided in 33-17-1113. This

1 provision shall not affect payment of the regular salaries  
 2 due employees of the licensee or the distribution in regular  
 3 course of business of compensation and profits among members  
 4 or stockholders if the licensee is a firm or corporation or  
 5 use of funds for family or personal purposes.

6 (4) This section does not apply as to those  
 7 transactions with surplus lines agents which are lawful  
 8 under 33-2-306 or as to life or disability insurance placed  
 9 as provided in 33-17-1104."

10 Section 12. Section 33-17-1111, MCA, is amended to  
 11 read:

12 "33-17-1111. Resident agent required --  
 13 countersignature -- records -- exceptions. (1) No authorized  
 14 insurer shall issue a policy covering a subject of insurance  
 15 resident, located, or to be performed in Montana unless:

16 (a) the policy is written through a licensed agent,  
 17 resident in Montana, of the insurer; or unless

18 ~~(b) the policy is written through a nonresident agent~~  
 19 and the policy or countersignature endorsement attached  
 20 thereto is countersigned by such a resident licensed agent.

21 (2) No such countersignature shall be made in blank.  
 22 The agent may by express written authorization given in  
 23 advance delegate to his salaried clerical employee the power  
 24 to so countersign in the name of the agent such contracts or  
 25 classes of contracts as are designated in such authorization

1 so long as the initials of such employee are written below  
 2 the agent's name on such countersignature, but the agent  
 3 shall not thereby delegate or have power to delegate to any  
 4 other person the power or authority to bind an insurer with  
 5 respect to any risk not already bound by the agent or other  
 6 person having clear authority from the insurer so to bind.  
 7 The agent shall be responsible for all of the acts of such  
 8 employee within the scope of the authority so delegated. The  
 9 agent shall keep a record of each and all coverages  
 10 countersigned by him or by his authority.

11 (3) This section shall not apply to:

12 (a) reinsurance;

13 (b) life insurance, disability insurance, or annuity  
 14 contracts;

15 (c) insurance of the rolling stock, vessels, or  
 16 aircraft of any common carrier in interstate or foreign  
 17 commerce or of any vehicle principally garaged and used in  
 18 another state or covering any liability or other risks  
 19 incident to the ownership, maintenance, or operation  
 20 thereof;

21 (d) insurance of property in course of transportation  
 22 interstate or in foreign trade or any liability or risk  
 23 incident thereto;

24 (e) insurance of wet marine and transportation risks;

25 (f) countersignature to policies issued through agents

1 compensated only by salary or issued by insurers not using  
2 agents in the general solicitation of business;

3 (g) bid bonds, as required under Title 18, chapter 1,  
4 part 2.

5 (4) Violation of this section shall not invalidate any  
6 contract otherwise valid as between the insurer and the  
7 insured."

8 Section 13. Section 33-22-813, MCA, is amended to  
9 read:

10 "33-22-813. Sale area -- agents. (1) Any form of  
11 policy approved by the commissioner for an association shall  
12 be offered throughout Montana to all persons 65 and older  
13 and their spouses, and the coverage of any person insured  
14 under such a form of policy shall not be cancelable except  
15 for nonpayment of premiums unless the coverage of all  
16 persons insured under such form of policy is also canceled.

17 ~~(2) Notwithstanding the provisions of 33-17-215, any A~~  
18 person licensed to transact disability insurance as an  
19 insurance agent may transact extended health insurance and  
20 may be paid a commission thereon."

21 Section 14. Repealer. Section 33-17-215, MCA, is  
22 repealed.

-End-

Approved by Committee  
on Business and Industry

Senate BILL NO. 93  
Lore Mahana Kalatal Hager

INTRODUCED BY  
BY REQUEST OF THE COMMISSIONER OF INSURANCE

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shall qualify therefor as though an individual licensee. ~~The commissioner shall charge and the licensee shall pay a full~~  
~~An additional license fee as to shall be paid for each~~  
~~respective individual so named in such license in excess of~~  
~~two~~ registered in conjunction with the partnership or corporation license.

~~(2) A nonresident of Montana shall not be named in such license and shall not have the right to exercise the license powers~~

~~(3)~~(2) A license shall not be issued to a firm partnership or corporation unless organized under the laws of this state and maintaining its principal place of business in this state and unless the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles of incorporation.

~~(4)~~(3) The partnership or corporate licensee shall promptly notify the commissioner of ~~all changes among its members, directors, and officers and of any other individual~~ each change relative to the individuals designated in the license."

Section 2. Section 33-17-211, MCA, is amended to read:

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6 determine the applicant's identity, residence, personal  
7 history, business record, experience and training in  
8 insurance, purpose for which the license is to be used, and  
9 other facts as required by the commissioner to determine  
10 whether the applicant meets the applicable qualifications  
11 for the license applied for.

12 (3) If for an agent's license, the application shall  
13 state the kinds of insurance proposed to be transacted and  
14 be accompanied by written appointment of the applicant as  
15 agent by an authorized insurer, subject to issuance of the  
16 license.

17 (4) If for a solicitor's license, the application  
18 shall be accompanied by written appointment of applicant as  
19 solicitor by a licensed agent, subject to issuance of the  
20 license.

21 (5) If the applicant for an agent license is a firm or  
22 corporation, the application shall show, in addition, the  
23 names of all members, officers, and directors and shall  
24 designate each individual who is to exercise the powers to  
25 be conferred by the license upon the firm or corporation.

1 Each such individual so designated shall furnish information  
2 as to himself, as part of the application, as though for an  
3 individual license.

4 (6) If the applicant for an agent license is an  
5 agents' association pursuant to 33-17-205, the application  
6 shall show the names and residence addresses of the  
7 association's officers and trustees.

8 (7) If for license as either agent or solicitor, the  
9 application shall also show whether applicant was ever  
10 previously licensed to transact any kind of insurance in  
11 this state or elsewhere; whether any such license was ever  
12 refused, suspended, or revoked; whether any insurer, general  
13 agent, or agent, in the case of a solicitor application,  
14 claims applicant to be indebted to it and, if so, the  
15 details thereof and the defenses, if any, of the applicant  
16 thereto; and whether applicant ever had an agency contract  
17 canceled and the facts thereof; ~~and if applicant is married,~~  
18 ~~like information with respect to the applicant's spouse.~~

19 (8) The commissioner shall require as part of the  
20 application for license the certificate of an officer or  
21 representative of the insurer proposed to be represented, in  
22 the case of applicants for license as agent, or of the  
23 proposed employing agent, in the case of applicants for  
24 license as solicitor, as to whether the applicant is known  
25 to such officer or representative, whether the insurer or

1 agent has investigated the character and business record of  
 2 the applicant and the uses to be made of the license, if  
 3 granted, and his opinion, based on such investigation, as to  
 4 applicant's trustworthiness and competence and whether the  
 5 applicant will use the license principally for the purpose  
 6 of insuring the applicant's own risks or interests and those  
 7 of the applicant's relatives or employer.

8 (9) All such applications shall be accompanied by the  
 9 applicable license fee, appointment of agent fee where  
 10 applicable, examination fee where required under 33-17-212,  
 11 all in the respective amounts stated in 33-2-708."

12 Section 3. Section 33-17-212, MCA, is amended to read:

13 "33-17-212. Examination required. (1) After completion  
 14 and filing of the application for license as required under  
 15 33-17-211, the commissioner shall subject each applicant for  
 16 license as agent or solicitor, unless exempted therefrom  
 17 under subsection (5) below, to a personal written  
 18 examination as to his competence to act as such agent or  
 19 solicitor.

20 (2) If the applicant is a firm or corporation, the  
 21 examination shall be so taken by each individual who is to  
 22 be named in the license as having authority to act for the  
 23 applicant in its insurance transactions under the license.

24 (3) Examination of an applicant for an agent's license  
 25 shall cover all of the kinds of insurance for which the

1 applicant has applied to be licensed, as constituted by any  
 2 one or more of the following classifications:

- 3 (a) life insurance;
- 4 (b) disability insurance;
- 5 (c) property insurance; for the purposes of this
- 6 provision, "marine" insurance shall be deemed to be included
- 7 in "property" insurance;
- 8 (d) casualty insurance;
- 9 (e) vehicle insurance;
- 10 (f) surety insurance;
- 11 ~~(g) credit life and disability insurance.~~

12 (4) Examination of an applicant for a solicitor's  
 13 license shall cover all the kinds of insurance, other than  
 14 life, as to which the appointing agent is licensed.

15 (5) This section shall not apply to, and no such  
 16 examination shall be required of:

17 (a) any individual lawfully licensed as an agent or  
 18 solicitor as to the kind or kinds of insurance to be  
 19 transacted as of or immediately prior to January 1, 1961,  
 20 and thereafter continuing to be so licensed;

21 (b) any applicant for license covering the same kind  
 22 or kinds of insurance as to which the applicant was licensed  
 23 in this state, other than under a temporary license, within  
 24 the 12 months next preceding date of application unless such  
 25 previous license was suspended, revoked, or continuation

1 thereof refused by the commissioner;

2 (c) any applicant for license as nonresident agent,  
3 subject to reciprocal arrangements as provided for in this  
4 code;

5 (d) all applicants for license as agent for an insurer  
6 that confines its business in this state substantially to  
7 the insuring of the property, interests, and risks of  
8 farmers, if exempted from examination by the commissioner,  
9 in his discretion, upon written request of the insurer;

10 (e) transportation ticket agents of common carriers  
11 applying for license to solicit and sell only:

12 (i) accident insurance ticket policies; or

13 (ii) insurance of personal effects while being carried  
14 as baggage on such common carrier, as incidental to their  
15 duties as such transportation ticket agents;

16 (f) agents' associations applying for license under  
17 33-17-205;

18 (g) title insurance agents."

19 Section 4. Section 33-17-214, MCA, is amended to read:

20 "33-17-214. Issuance of license -- contents. (1) The  
21 commissioner shall promptly issue licenses the license  
22 applied for to persons the person qualified therefor in  
23 accordance with this chapter. There is a license for life  
24 or disability insurance and a separate license for kinds of  
25 insurance other than life or disability.

1 (2) The license shall state the name and address of  
2 the licensee, date of issue, general conditions relative to  
3 expiration or termination, kind or--kinds of insurance  
4 covered, and ~~the other conditions of the license~~ such other  
5 information as the commissioner considers proper.

6 ~~(3) If the license is as agent for life and/or~~  
7 ~~disability insurance only, the license shall state the name~~  
8 ~~of the insurer to be so represented. If the license is as~~  
9 ~~agent for any other kind or kinds of insurance, it shall not~~  
10 ~~state the name of any insurer to be so represented.~~

11 ~~(4) (3) If the licensee agent is a firm or corporation,~~  
12 ~~the license of a partnership or corporation shall also~~  
13 ~~state the name of each individual authorized thereunder to~~  
14 ~~exercise the license powers.~~

15 ~~(5) (4) If the licensee is a solicitor, the license~~  
16 ~~of a solicitor shall state the name and address of the agent~~  
17 ~~to be represented."~~

18 Section 5. Section 33-17-216, MCA, is amended to read:

19 "33-17-216. Temporary agent licenses -- fee. (1) The  
20 commissioner may issue a temporary license as agent to or  
21 with respect to an individual qualified therefor only as to  
22 age, residence, and trustworthiness and without requiring  
23 such individual to take an examination, in the following  
24 cases:

25 (a) to the surviving spouse or next of kin or to the



1 administrator or executor, or the employee of such  
2 administrator or executor, of a licensed agent becoming  
3 deceased;

4 (b) to the spouse, next of kin, employee, or legal  
5 guardian of a licensed agent disabled by sickness, injury,  
6 or insanity;

7 (c) to an employee of a firm, or officer or employee  
8 of a corporation, licensed as agent, upon the death or  
9 disability of an individual designated in the license to  
10 exercise the powers thereof;

11 (d) to the designee of a licensed agent entering upon  
12 active service in the armed forces of the United States of  
13 America;

14 ~~(e) upon request of the insurer to an applicant for~~  
15 ~~license as a life insurance agent, pending the taking of any~~  
16 ~~examination required of the applicant by the commissioner~~  
17 ~~under 33-17-212, if the applicant is duly enrolled in and is~~  
18 ~~actively pursuing an adequate course of instruction as~~  
19 ~~provided by or through the insurer in preparation for such~~  
20 ~~examination. Such license shall be for a period of not over~~  
21 ~~90 days or until the applicant has had a reasonable~~  
22 ~~opportunity to take such examination and be informed by the~~  
23 ~~commissioner as to the results thereof, whichever is the~~  
24 ~~shorter period, but subject to extension by the commissioner~~  
25 ~~as provided in subsection (3) below~~

1 (2) The temporary license shall be issued upon  
2 application filed with the commissioner in such form and  
3 containing such information as the commissioner may  
4 reasonably require and upon payment of the applicable fee as  
5 stated in 33-2-708.

6 (3) The temporary license shall be for a period of not  
7 over 90 days, subject to extension by the commissioner in  
8 his discretion for an additional period of not more than 90  
9 days, except that such a license issued pursuant to  
10 subsection (1)(a) above may be continued without payment of  
11 additional fee until the executor or administrator disposes  
12 of the insurance business but not to exceed a period of 15  
13 months. Temporary license issued to the next of kin under  
14 such subsection (1)(a) shall not be extended for an  
15 additional term or terms after appointment and qualification  
16 of such an administrator or executor.

17 (4) The fee paid for the temporary license may be  
18 applied upon the fee required for any permanent license  
19 issued to the licensee upon or prior to expiration of the  
20 temporary license and covering the same kinds of insurance."

21 Section 6. Section 33-17-218, MCA, is amended to read:  
22 "33-17-218. Continuance and expiration of licenses.  
23 (1) All solicitor and adjuster licenses issued under this  
24 chapter, all agent licenses as to life and/or disability  
25 insurance only, and all nonresident agent licenses shall

1 continue in force until expired, suspended, revoked, or  
 2 terminated but subject to payment to the commissioner  
 3 annually on or before May 1 of the applicable continuation  
 4 renewal fee as stated in 33-2-708, accompanied by written  
 5 request for such continuation renewal. Such request for  
 6 ~~continuation as to agent licenses for life insurance and/or~~  
 7 ~~disability insurance only shall be made by the insurer in~~  
 8 ~~the form of an alphabetical list in duplicate of the names~~  
 9 ~~and addresses of its agents whose licenses are to be~~  
 10 ~~continued in this state, accompanied by payment of the~~  
 11 ~~annual continuation fee therefor as provided in 33-2-708. At~~  
 12 ~~the same time the insurer shall also file with the~~  
 13 ~~commissioner an alphabetical list in duplicate of the names~~  
 14 ~~and addresses of all its agents whose licenses in this state~~  
 15 ~~are not to remain in effect. Section 33-17-231(5) shall~~  
 16 ~~apply as to any licenses so terminated by the insurer. As to~~  
 17 ~~a solicitor's license, such request A request for renewal of~~  
 18 ~~a solicitor's license shall be signed by the agent by whom~~  
 19 ~~the licensee is employed.~~

20 ~~(2) Any license referred to in subsection (1) as to~~  
 21 ~~which such fee and request for continuation are not received~~  
 22 ~~by the commissioner as required in such subsection (1) shall~~  
 23 ~~be deemed to have expired as of midnight on May 31 next~~  
 24 ~~following. Request for continuation of any such license~~  
 25 ~~and/or payment of the continuation fee therefor which is~~

1 ~~received by the commissioner after such May 1 and prior to~~  
 2 ~~the next following June 15 may be accepted and effectuated~~  
 3 ~~by the commissioner in his discretion if accompanied by an~~  
 4 ~~annual continuation fee in twice the amount otherwise~~  
 5 ~~required.~~

6 ~~(3)(2) The license of an agent as to property~~  
 7 ~~casualty or surety insurance shall continue in force~~  
 8 ~~subject to the provisions of 33-17-231 and, unless suspended~~  
 9 ~~or revoked, as long as there is in effect as to such agent,~~  
 10 ~~as shown by the commissioner's records, an appointment or~~  
 11 ~~appointments, as agent of an authorized insurers insurer,~~  
 12 ~~covering collectively all of the kinds of insurance included~~  
 13 ~~in the agent's license. Upon termination of all of such an~~  
 14 ~~the agent's agency appointments as to for a particular kind~~  
 15 ~~of insurance and failure to secure and file with the~~  
 16 ~~commissioner a new appointment as to for such kind of~~  
 17 ~~insurance within 90 days thereafter, the agent's license~~  
 18 ~~shall automatically thereupon expire and terminate as to~~  
 19 ~~such kind of insurance and the licensee shall promptly~~  
 20 ~~deliver his license to the commissioner for reissuance,~~  
 21 ~~without fee or charge, as to the kinds of insurance covered~~  
 22 ~~by the agent's remaining appointments.~~

23 ~~(4)(3) This section shall not apply to temporary~~  
 24 ~~licenses issued under 33-17-216."~~

25 Section 7. Section 33-17-231, MCA, is amended to read:

1       "33-17-231. Appointment of agents -- continuation and  
 2 termination. (1) Each insurer appointing an agent in this  
 3 state ~~as to property, casualty, or surety insurance~~ shall  
 4 file with the commissioner the appointment, specifying the  
 5 kinds of insurance to be transacted by the agent for the  
 6 insurer, and pay the fee therefor as stated in 33-2-708. ~~If~~  
 7 ~~the appointment includes casualty insurance, the agent may~~  
 8 ~~be appointed by the same insurer also as to disability~~  
 9 ~~insurance without requiring an additional appointment or~~  
 10 ~~appointment fee.~~

11       (2) Subject to annual continuation by the insurer not  
 12 later than May 31, each such appointment shall remain in  
 13 effect until the agent's license is revoked or otherwise  
 14 terminated unless written notice of earlier termination of  
 15 the appointment is filed with the commissioner by the  
 16 insurer or agent.

17       (3) Annually, prior to May 1, each insurer shall file  
 18 with the commissioner an alphabetical list in duplicate of  
 19 the names and addresses of all its agents whose appointments  
 20 in this state are to remain in effect, accompanied by  
 21 payment of the annual continuation-of-appointment ~~renewal~~  
 22 fee as provided in 33-2-708. At the same time the insurer  
 23 shall also file with the commissioner ~~an alphabetical list~~  
 24 ~~in duplicate of the names and addresses~~ a termination report  
 25 of all its agents whose appointments in this state are not

1 to remain in effect.

2       (4) Subject to the agent's contract rights, an insurer  
 3 may terminate an agency appointment at any time. The insurer  
 4 shall promptly give written notice of such termination to  
 5 the commissioner and to the agent where reasonably possible.  
 6 The commissioner may require of the insurer reasonable proof  
 7 that the insurer has given such notice to the agent.

8       (5) As part of the notice of termination given the  
 9 commissioner, the insurer shall file with the commissioner a  
 10 statement of the facts relative to the termination and the  
 11 cause thereof. Any information or statement contained in the  
 12 notice of termination shall be privileged and shall not be  
 13 admissible as evidence in any action or proceeding against  
 14 the insurer or any representative thereof by or in behalf of  
 15 any person affected by such termination."

16       Section 8. Section 33-17-401, MCA, is amended to read:  
 17       "33-17-401. Nonresident agent -- reciprocity. The  
 18 commissioner may license as an agent a person ~~who is~~  
 19 partnership, or corporation otherwise qualified under this  
 20 code but ~~who is~~ not a resident of this state if pursuant to  
 21 the laws of the state of his residence a similar privilege  
 22 is extended to persons resident in Montana."

23       Section 9. Section 33-17-404, MCA, is amended to read:  
 24       "33-17-404. Countersigning coverage of residents. A  
 25 nonresident agent shall not sign or countersign policies

1 covering subjects of insurance located or to be performed in  
2 Montana. ~~These Except as provided in 33-17-1111, these~~  
3 policies must be countersigned by a licensed resident  
4 agent."

5 Section 10. Section 33-17-1101, MCA, is amended to  
6 read:

7 "33-17-1101. Place of business -- display of license  
8 -- records. (1) Every agent shall have and maintain ~~in this~~  
9 ~~state~~ a place of business accessible to the public. Such  
10 place of business shall be that wherein the licensee  
11 principally conducts transactions under his license. The  
12 address of such place shall appear upon the license, and the  
13 licensee shall promptly notify the commissioner of any  
14 change thereof. Nothing in this section ~~shall be deemed to~~  
15 ~~prohibit~~ ~~prohibits~~ maintenance of such place of business in  
16 the licensee's place of residence ~~in this state~~.

17 (2) The ~~licenses~~ ~~license~~ of the licensee and the  
18 ~~licenses~~ ~~license~~ of ~~solicitors~~ ~~each solicitor~~ appointed by  
19 and representing the licensee shall be conspicuously  
20 displayed in such place of business in a part thereof  
21 customarily open to the public.

22 (3) The agent shall keep at his place of business  
23 complete records pertaining to transactions under his  
24 license and the licenses of his solicitors, for a period of  
25 at least 3 years after completion of the respective

1 transactions.

2 ~~(4) This section shall not apply as to life and~~  
3 ~~disability insurance."~~

4 Section 11. Section 33-17-1103, MCA, is amended to  
5 read:

6 "33-17-1103. Exchange of business -- sharing  
7 commissions. (1) An agent may, occasionally only, place an  
8 insurance coverage with an insurer as to which he is not  
9 then licensed or appointed as an agent, and the insurer  
10 shall accept such business, only when placed through a  
11 ~~licensed an agent, resident in this state, of licensed under~~  
12 ~~this chapter and appointed by~~ the insurer. Both agents  
13 involved in such an exchange of business must be licensed as  
14 to all of the kinds of insurance represented by the coverage  
15 so placed.

16 (2) The agents involved in a lawful exchange of  
17 business under subsection (1) above may divide between them  
18 the commission or compensation payable on account of such  
19 coverage.

20 (3) No agent or solicitor shall directly or indirectly  
21 share his commissions or other compensation received or to  
22 be received by him on account of a transaction under his  
23 license with any person not also licensed under this chapter  
24 as to the same kind or kinds of insurance involved in such  
25 transactions, except as provided in 33-17-1113. This

1 provision shall not affect payment of the regular salaries  
 2 due employees of the licensee or the distribution in regular  
 3 course of business of compensation and profits among members  
 4 or stockholders if the licensee is a firm or corporation or  
 5 use of funds for family or personal purposes.

6 (4) This section does not apply as to those  
 7 transactions with surplus lines agents which are lawful  
 8 under 33-2-306 or as to life or disability insurance placed  
 9 as provided in 33-17-1104."

10 Section 12. Section 33-17-1111, MCA, is amended to  
 11 read:

12 "33-17-1111. Resident agent required --  
 13 countersignature -- records -- exceptions. (1) No authorized  
 14 insurer shall issue a policy covering a subject of insurance  
 15 resident, located, or to be performed in Montana unless:

16 (a) the policy is written through a licensed agent,  
 17 resident in Montana, of the insurer; or unless

18 (b) the policy is written through a nonresident agent  
 19 and the policy or countersignature endorsement attached  
 20 thereto is countersigned by such a resident licensed agent.

21 (2) No such countersignature shall be made in blank.  
 22 The agent may by express written authorization given in  
 23 advance delegate to his salaried clerical employee the power  
 24 to so countersign in the name of the agent such contracts or  
 25 classes of contracts as are designated in such authorization

1 so long as the initials of such employee are written below  
 2 the agent's name on such countersignature, but the agent  
 3 shall not thereby delegate or have power to delegate to any  
 4 other person the power or authority to bind an insurer with  
 5 respect to any risk not already bound by the agent or other  
 6 person having clear authority from the insurer so to bind.  
 7 The agent shall be responsible for all of the acts of such  
 8 employee within the scope of the authority so delegated. The  
 9 agent shall keep a record of each and all coverages  
 10 countersigned by him or by his authority.

11 (3) This section shall not apply to:

12 (a) reinsurance;

13 (b) life insurance, disability insurance, or annuity  
 14 contracts;

15 (c) insurance of the rolling stock, vessels, or  
 16 aircraft of any common carrier in interstate or foreign  
 17 commerce or of any vehicle principally garaged and used in  
 18 another state or covering any liability or other risks  
 19 incident to the ownership, maintenance, or operation  
 20 thereof;

21 (d) insurance of property in course of transportation  
 22 interstate or in foreign trade or any liability or risk  
 23 incident thereto;

24 (e) insurance of wet marine and transportation risks;

25 (f) countersignature to policies issued through agents

1 compensated only by salary or issued by insurers not using  
2 agents in the general solicitation of business;

3 (g) bid bonds, as required under Title 18, chapter 1,  
4 part 2.

5 (4) Violation of this section shall not invalidate any  
6 contract otherwise valid as between the insurer and the  
7 insured."

8 Section 13. Section 33-22-813, MCA, is amended to  
9 read:

10 "33-22-813. Sale area -- agents. (1) Any form of  
11 policy approved by the commissioner for an association shall  
12 be offered throughout Montana to all persons 65 and older  
13 and their spouses, and the coverage of any person insured  
14 under such a form of policy shall not be cancelable except  
15 for nonpayment of premiums unless the coverage of all  
16 persons insured under such form of policy is also canceled.

17 (2) ~~Notwithstanding the provisions of 33-17-215, any A~~  
18 person licensed to transact disability insurance as an  
19 insurance agent may transact extended health insurance and  
20 may be paid a commission thereon."

21 Section 14. Repealer. Section 33-17-215, MCA, is  
22 repealed.

-End-

Approved by Committee  
on Business and Industry

1 Senate BILL NO. 99  
2 INTRODUCED BY Love Mahem Khaled Hager  
3 BY REQUEST OF THE COMMISSIONER OF INSURANCE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
6 LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS,  
7 AND CONSULTANTS; AMENDING SECTIONS 33-17-204, 33-17-211,  
8 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231,  
9 33-17-401, 33-17-404, 33-17-1101, 33-17-1103, 33-17-1111,  
10 AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-17-204, MCA, is amended to read:  
14 "33-17-204. Licensing of firms---and---corporations  
15 organizations -- requisites. (1) A firm partnership or  
16 corporation shall may be licensed only as an insurance  
17 agent. ~~if a firm each general partner and each other~~  
18 ~~individual to act for the firm under the license and, if a~~  
19 ~~corporation, each individual to act for the corporation~~  
20 ~~under the license shall be named in the~~ Each member and  
21 employee of a partnership and each officer, director,  
22 stockholder, or employee of a corporation, personally  
23 engaged in this state in soliciting or negotiating insurance  
24 policies, shall be registered with the commissioner in  
25 conjunction with the partnership or corporation license and

1 shall qualify therefor as though an individual licensee. The  
2 commissioner shall charge and the licensee shall pay a full  
3 An additional license fee ~~as to~~ shall be paid for each  
4 respective individual ~~so named in such license in excess of~~  
5 two registered in conjunction with the partnership or  
6 corporation license.

7 ~~(2) A nonresident of Montana shall not be named in~~  
8 ~~such license and shall not have the right to exercise the~~  
9 ~~license powers.~~

10 ~~(3)(2) A license shall not be issued to a firm~~  
11 ~~partnership or corporation unless organized under the laws~~  
12 ~~of this state and maintaining its principal place of~~  
13 ~~business in this state and unless the transaction of~~  
14 ~~business under the license is within the purposes stated in~~  
15 ~~the firm's partnership agreement or the corporation's~~  
16 ~~articles of incorporation.~~

17 ~~(4)(3) The partnership or corporate licensee shall~~  
18 ~~promptly notify the commissioner of all changes among its~~  
19 ~~members, directors, and officers and of any other individual~~  
20 ~~each change relative to the individuals designated in the~~  
21 ~~license."~~

22 Section 2. Section 33-17-211, MCA, is amended to read:  
23 "33-17-211. Application for license. (1) Application  
24 for an agent or solicitor license shall be made to the  
25 commissioner by the applicant and be signed and sworn to by

There are no changes in SB99.  
Please refer to yellow copy for complete text.

1 the applicant before a notary public or other person  
2 authorized by law to take acknowledgments of deeds.

3 (2) The commissioner shall designate and prepare forms  
4 for application for license which shall require full answers  
5 to such questions as may reasonably be necessary to  
6 determine the applicant's identity, residence, personal  
7 history, business record, experience and training in  
8 insurance, purpose for which the license is to be used, and  
9 other facts as required by the commissioner to determine  
10 whether the applicant meets the applicable qualifications  
11 for the license applied for.

12 (3) If for an agent's license, the application shall  
13 state the kinds of insurance proposed to be transacted and  
14 be accompanied by written appointment of the applicant as  
15 agent by an authorized insurer, subject to issuance of the  
16 license.

17 (4) If for a solicitor's license, the application  
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19 solicitor by a licensed agent, subject to issuance of the  
20 license.

21 (5) If the applicant for an agent license is a firm or  
22 corporation, the application shall show, in addition, the  
23 names of all members, officers, and directors and shall  
24 designate each individual who is to exercise the powers to  
25 be conferred by the license upon the firm or corporation.

1 Each such individual so designated shall furnish information  
2 as to himself, as part of the application, as though for an  
3 individual license.

4 (6) If the applicant for an agent license is an  
5 agents' association pursuant to 33-17-205, the application  
6 shall show the names and residence addresses of the  
7 association's officers and trustees.

8 (7) If for license as either agent or solicitor, the  
9 application shall also show whether applicant was ever  
10 previously licensed to transact any kind of insurance in  
11 this state or elsewhere; whether any such license was ever  
12 refused, suspended, or revoked; whether any insurer, general  
13 agent, or agent, in the case of a solicitor application,  
14 claims applicant to be indebted to it and, if so, the  
15 details thereof and the defenses, if any, of the applicant  
16 thereto; and whether applicant ever had an agency contract  
17 canceled and the facts thereof; ~~and if applicant is married,~~  
18 ~~like information with respect to the applicant's spouse.~~

19 (8) The commissioner shall require as part of the  
20 application for license the certificate of an officer or  
21 representative of the insurer proposed to be represented, in  
22 the case of applicants for license as agent, or of the  
23 proposed employing agent, in the case of applicants for  
24 license as solicitor, as to whether the applicant is known  
25 to such officer or representative, whether the insurer or



1 *Senate* BILL NO. *93*  
 2 INTRODUCED BY *For Mehern Khatil Hager*  
 3 BY REQUEST OF THE COMMISSIONER OF INSURANCE  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 6 LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS,  
 7 AND CONSULTANTS; AMENDING SECTIONS 33-17-204, 33-17-211,  
 8 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231,  
 9 33-17-401, 33-17-404, 33-17-1101, 33-17-1103, 33-17-1111,  
 10 AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-17-204, MCA, is amended to read:

14 "33-17-204. Licensing of ~~firms and corporations~~  
 15 organizations -- requisites. (1) A firm partnership or  
 16 corporation ~~shall~~ may be licensed only as an insurance  
 17 agent. ~~if a firm, each general partner and each other~~  
 18 ~~individual to act for the firm under the license and, if a~~  
 19 ~~corporation, each individual to act for the corporation~~  
 20 ~~under the license shall be named in the~~ Each member and  
 21 employee of a partnership and each officer, director,  
 22 stockholder, or employee of a corporation, personally  
 23 engaged in this state in soliciting or negotiating insurance  
 24 policies, shall be registered with the commissioner in  
 25 conjunction with the partnership or corporation license and

1 shall qualify therefor as though an individual licensee. The  
 2 ~~commissioner shall charge and the licensee shall pay a full~~  
 3 ~~An additional license fee as to~~ shall be paid for each  
 4 ~~respective individual so named in such license in excess of~~  
 5 ~~two registered in conjunction with the partnership or~~  
 6 ~~corporation license.~~

7 ~~(2) A nonresident of Montana shall not be named in~~  
 8 ~~such license and shall not have the right to exercise the~~  
 9 ~~license powers~~

10 ~~(3) (2)~~ A license shall not be issued to a firm  
 11 ~~partnership~~ or corporation unless organized under the laws  
 12 ~~of this state and maintaining its principal place of~~  
 13 ~~business in this state and unless~~ the transaction of  
 14 business under the license is within the purposes stated in  
 15 the firm's partnership agreement or the corporation's  
 16 articles of incorporation.

17 ~~(4) (3)~~ The partnership or corporate licensee shall  
 18 promptly notify the commissioner of ~~all~~ changes among its  
 19 ~~members, directors, and officers and of any other individual~~  
 20 each change relative to the individuals designated in the  
 21 license."

22 Section 2. Section 33-17-211, MCA, is amended to read:

23 "33-17-211. Application for license. (1) Application  
 24 for an agent or solicitor license shall be made to the  
 25 commissioner by the applicant and be signed and sworn to by

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 THIRD READING

1 the applicant before a notary public or other person  
2 authorized by law to take acknowledgments of deeds.

3 (2) The commissioner shall designate and prepare forms  
4 for application for license which shall require full answers  
5 to such questions as may reasonably be necessary to  
6 determine the applicant's identity, residence, personal  
7 history, business record, experience and training in  
8 insurance, purpose for which the license is to be used, and  
9 other facts as required by the commissioner to determine  
10 whether the applicant meets the applicable qualifications  
11 for the license applied for.

12 (3) If for an agent's license, the application shall  
13 state the kinds of insurance proposed to be transacted and  
14 be accompanied by written appointment of the applicant as  
15 agent by an authorized insurer, subject to issuance of the  
16 license.

17 (4) If for a solicitor's license, the application  
18 shall be accompanied by written appointment of applicant as  
19 solicitor by a licensed agent, subject to issuance of the  
20 license.

21 (5) If the applicant for an agent license is a firm or  
22 corporation, the application shall show, in addition, the  
23 names of all members, officers, and directors and shall  
24 designate each individual who is to exercise the powers to  
25 be conferred by the license upon the firm or corporation.

1 Each such individual so designated shall furnish information  
2 as to himself, as part of the application, as though for an  
3 individual license.

4 (6) If the applicant for an agent license is an  
5 agents' association pursuant to 33-17-205, the application  
6 shall show the names and residence addresses of the  
7 association's officers and trustees.

8 (7) If for license as either agent or solicitor, the  
9 application shall also show whether applicant was ever  
10 previously licensed to transact any kind of insurance in  
11 this state or elsewhere; whether any such license was ever  
12 refused, suspended, or revoked; whether any insurer, general  
13 agent, or agent, in the case of a solicitor application,  
14 claims applicant to be indebted to it and, if so, the  
15 details thereof and the defenses, if any, of the applicant  
16 thereto; and whether applicant ever had an agency contract  
17 canceled and the facts thereof; ~~and if applicant is married,~~  
18 ~~like information with respect to the applicant's spouse.~~

19 (8) The commissioner shall require as part of the  
20 application for license the certificate of an officer or  
21 representative of the insurer proposed to be represented, in  
22 the case of applicants for license as agent, or of the  
23 proposed employing agent, in the case of applicants for  
24 license as solicitor, as to whether the applicant is known  
25 to such officer or representative, whether the insurer or

1 agent has investigated the character and business record of  
 2 the applicant and the uses to be made of the license, if  
 3 granted, and his opinion, based on such investigation, as to  
 4 applicant's trustworthiness and competence and whether the  
 5 applicant will use the license principally for the purpose  
 6 of insuring the applicant's own risks or interests and those  
 7 of the applicant's relatives or employer.

8 (9) All such applications shall be accompanied by the  
 9 applicable license fee, appointment of agent fee where  
 10 applicable, examination fee where required under 33-17-212,  
 11 all in the respective amounts stated in 33-2-708."

12 Section 3. Section 33-17-212, MCA, is amended to read:  
 13 "33-17-212. Examination required. (1) After completion  
 14 and filing of the application for license as required under  
 15 33-17-211, the commissioner shall subject each applicant for  
 16 license as agent or solicitor, unless exempted therefrom  
 17 under subsection (5) below, to a personal written  
 18 examination as to his competence to act as such agent or  
 19 solicitor.

20 (2) If the applicant is a firm or corporation, the  
 21 examination shall be so taken by each individual who is to  
 22 be named in the license as having authority to act for the  
 23 applicant in its insurance transactions under the license.

24 (3) Examination of an applicant for an agent's license  
 25 shall cover all of the kinds of insurance for which the

1 applicant has applied to be licensed, as constituted by any  
 2 one or more of the following classifications:

- 3 (a) life insurance;
- 4 (b) disability insurance;
- 5 (c) property insurance; for the purposes of this
- 6 provision, "marine" insurance shall be deemed to be included
- 7 in "property" insurance;
- 8 (d) casualty insurance;
- 9 (e) vehicle insurance;
- 10 (f) surety insurance;
- 11 (g) credit life and disability insurance.

12 (4) Examination of an applicant for a solicitor's  
 13 license shall cover all the kinds of insurance, other than  
 14 life, as to which the appointing agent is licensed.

15 (5) This section shall not apply to, and no such  
 16 examination shall be required of:

17 (a) any individual lawfully licensed as an agent or  
 18 solicitor as to the kind or kinds of insurance to be  
 19 transacted as of or immediately prior to January 1, 1961,  
 20 and thereafter continuing to be so licensed;

21 (b) any applicant for license covering the same kind  
 22 or kinds of insurance as to which the applicant was licensed  
 23 in this state, other than under a temporary license, within  
 24 the 12 months next preceding date of application unless such  
 25 previous license was suspended, revoked, or continuation

1 thereof refused by the commissioner;

2 (c) any applicant for license as nonresident agent,  
3 subject to reciprocal arrangements as provided for in this  
4 code;

5 (d) all applicants for license as agent for an insurer  
6 that confines its business in this state substantially to  
7 the insuring of the property, interests, and risks of  
8 farmers, if exempted from examination by the commissioner,  
9 in his discretion, upon written request of the insurer;

10 (e) transportation ticket agents of common carriers  
11 applying for license to solicit and sell only:

12 (i) accident insurance ticket policies; or

13 (ii) insurance of personal effects while being carried  
14 as baggage on such common carrier, as incidental to their  
15 duties as such transportation ticket agents;

16 (f) agents' associations applying for license under  
17 33-17-205;

18 (g) title insurance agents.\*

19 Section 4. Section 33-17-214, MCA, is amended to read:

20 "33-17-214. Issuance of license -- contents. (1) The  
21 commissioner shall promptly issue ~~licenses~~ the license  
22 applied for to persons ~~the person~~ qualified therefor in  
23 accordance with this chapter. There is a license for life  
24 or disability insurance and a separate license for kinds of  
25 insurance other than life or disability.

1 (2) The license shall state the name and address of  
2 the licensee, date of issue, general conditions relative to  
3 expiration or termination, kind or ~~kinds~~ of insurance  
4 covered, and ~~the other conditions of the license~~ such other  
5 information as the commissioner considers proper.

6 ~~(3) If the license is as agent for life and/or~~  
7 ~~disability insurance only, the license shall state the name~~  
8 ~~of the insurer to be so represented. If the license is as~~  
9 ~~agent for any other kind or kinds of insurance, it shall not~~  
10 ~~state the name of any insurer to be so represented.~~

11 ~~(4) If the licensee agent is a firm or corporation,~~  
12 ~~the license of a partnership or corporation shall also~~  
13 ~~state the name of each individual authorized thereunder to~~  
14 ~~exercise the license powers.~~

15 ~~(5) If the licensee is a solicitor, the license~~  
16 ~~of a solicitor shall state the name and address of the agent~~  
17 ~~to be represented."~~

18 Section 5. Section 33-17-216, MCA, is amended to read

19 "33-17-216. Temporary agent licenses -- fee. (1) The  
20 commissioner may issue a temporary license as agent to or  
21 with respect to an individual qualified therefor only as to  
22 age, residence, and trustworthiness and without requiring  
23 such individual to take an examination, in the following  
24 cases:

25 (a) to the surviving spouse or next of kin or to the

1 administrator or executor, or the employee of such  
2 administrator or executor, of a licensed agent becoming  
3 deceased;

4 (b) to the spouse, next of kin, employee, or legal  
5 guardian of a licensed agent disabled by sickness, injury,  
6 or insanity;

7 (c) to an employee of a firm, or officer or employee  
8 of a corporation, licensed as agent, upon the death or  
9 disability of an individual designated in the license to  
10 exercise the powers thereof;

11 (d) to the designee of a licensed agent entering upon  
12 active service in the armed forces of the United States of  
13 America;

14 ~~(e) upon request of the insurer to an applicant for~~  
15 ~~license as a life insurance agent, pending the taking of any~~  
16 ~~examination required of the applicant by the commissioner~~  
17 ~~under 33-17-212, if the applicant is duly enrolled in and is~~  
18 ~~actively pursuing an adequate course of instruction as~~  
19 ~~provided by or through the insurer in preparation for such~~  
20 ~~examination. Such license shall be for a period of not over~~  
21 ~~90 days or until the applicant has had a reasonable~~  
22 ~~opportunity to take such examination and be informed by the~~  
23 ~~commissioner as to the results thereof, whichever is the~~  
24 ~~shorter period, but subject to extension by the commissioner~~  
25 ~~as provided in subsection (3) below.~~

1 (2) The temporary license shall be issued upon  
2 application filed with the commissioner in such form and  
3 containing such information as the commissioner may  
4 reasonably require and upon payment of the applicable fee as  
5 stated in 33-2-708.

6 (3) The temporary license shall be for a period of not  
7 over 90 days, subject to extension by the commissioner in  
8 his discretion for an additional period of not more than 90  
9 days, except that such a license issued pursuant to  
10 subsection (1)(a) above may be continued without payment of  
11 additional fee until the executor or administrator disposes  
12 of the insurance business but not to exceed a period of 15  
13 months. Temporary license issued to the next of kin under  
14 such subsection (1)(a) shall not be extended for an  
15 additional term or terms after appointment and qualification  
16 of such an administrator or executor.

17 (4) The fee paid for the temporary license may be  
18 applied upon the fee required for any permanent license  
19 issued to the licensee upon or prior to expiration of the  
20 temporary license and covering the same kinds of insurance."

21 Section 6. Section 33-17-218, MCA, is amended to read:  
22 "33-17-218. Continuance and expiration of licenses.  
23 (1) All solicitor and adjuster licenses issued under this  
24 chapter, all agent licenses as to life and/or disability  
25 insurance only, and all nonresident agent licenses shall

1 continue in force until expired, suspended, revoked, or  
 2 terminated but subject to payment to the commissioner  
 3 annually on or before May 1 of the applicable continuation  
 4 renewal fee as stated in 33-2-708, accompanied by written  
 5 request for such continuation renewal. Such request for  
 6 continuation as to agent licenses for life insurance and/or  
 7 disability insurance only shall be made by the insurer in  
 8 the form of an alphabetical list in duplicate of the names  
 9 and addresses of its agents whose licenses are to be  
 10 continued in this state, accompanied by payment of the  
 11 annual continuation fee therefor as provided in 33-2-708. At  
 12 the same time the insurer shall also file with the  
 13 commissioner an alphabetical list in duplicate of the names  
 14 and addresses of all its agents whose licenses in this state  
 15 are not to remain in effect. Section 33-17-231(5) shall  
 16 apply as to any licenses so terminated by the insurer. As to  
 17 a solicitor's license such request A request for renewal of  
 18 a solicitor's license shall be signed by the agent by whom  
 19 the licensee is employed.

20 ~~(2) Any license referred to in subsection (1) as to~~  
 21 ~~which such fee and request for continuation are not received~~  
 22 ~~by the commissioner as required in such subsection (1) shall~~  
 23 ~~be deemed to have expired as of midnight on May 31 next~~  
 24 ~~following. Request for continuation of any such license~~  
 25 ~~and/or payment of the continuation fee therefor which is~~

1 ~~received by the commissioner after such May 1 and prior to~~  
 2 ~~the next following June 15 may be accepted and effectuated~~  
 3 ~~by the commissioner in his discretion if accompanied by an~~  
 4 ~~annual continuation fee in twice the amount otherwise~~  
 5 ~~required.~~

6 ~~(3)(2)~~ The license of an agent as to property  
 7 casualty or surety insurance shall continue in force  
 8 subject to the provisions of 33-17-231 and, unless suspended  
 9 or revoked, as long as there is in effect as to such agent  
 10 as shown by the commissioner's records, an appointment or  
 11 appointments as agent of an authorized insurers insurer,  
 12 covering collectively all of the kinds of insurance included  
 13 in the agent's license. Upon termination of all of such an  
 14 ~~the~~ agent's agency appointments as to for a particular kind  
 15 of insurance and failure to secure and file with the  
 16 commissioner a new appointment as to for such kind of  
 17 insurance within 90 days thereafter, the agent's license  
 18 shall automatically thereupon expire and terminate as to  
 19 such kind of insurance and the licensee shall promptly  
 20 deliver his license to the commissioner for reissuance  
 21 without fee or charge, as to the kinds of insurance covered  
 22 by the agent's remaining appointments.

23 ~~(4)(3)~~ This section shall not apply to temporary  
 24 licenses issued under 33-17-216."

25 Section 7. Section 33-17-231, MCA, is amended to read:

1       "33-17-231. Appointment of agents -- continuation and  
 2 termination. (1) Each insurer appointing an agent in this  
 3 state ~~as to property-casualty-or-surety-insurance~~ shall  
 4 file with the commissioner the appointment, specifying the  
 5 kinds of insurance to be transacted by the agent for the  
 6 insurer, and pay the fee therefor as stated in 33-2-708. ~~If~~  
 7 ~~the-appointment-includes-casualty-insurance-the-agent-may~~  
 8 ~~be-appointed-by-the-same-insurer-also-as-to-disability~~  
 9 ~~insurance-without-requiring-an-additional-appointment-or~~  
 10 ~~appointment-fee~~

11       (2) Subject to annual continuation by the insurer not  
 12 later than May 31, each such appointment shall remain in  
 13 effect until the agent's license is revoked or otherwise  
 14 terminated unless written notice of earlier termination of  
 15 the appointment is filed with the commissioner by the  
 16 insurer or agent.

17       (3) Annually, prior to May 1, each insurer shall file  
 18 with the commissioner an alphabetical list in duplicate of  
 19 the names and addresses of all its agents whose appointments  
 20 in this state are to remain in effect, accompanied by  
 21 payment of the annual ~~continuation-of-appointment renewal~~  
 22 fee as provided in 33-2-708. At the same time the insurer  
 23 shall also file with the commissioner ~~an alphabetical list~~  
 24 ~~in duplicate of the names and addresses a termination report~~  
 25 of all its agents whose appointments in this state are not

1 to remain in effect.

2       (4) Subject to the agent's contract rights, an insurer  
 3 may terminate an agency appointment at any time. The insurer  
 4 shall promptly give written notice of such termination to  
 5 the commissioner and to the agent where reasonably possible.  
 6 The commissioner may require of the insurer reasonable proof  
 7 that the insurer has given such notice to the agent.

8       (5) As part of the notice of termination given the  
 9 commissioner, the insurer shall file with the commissioner a  
 10 statement of the facts relative to the termination and the  
 11 cause thereof. Any information or statement contained in the  
 12 notice of termination shall be privileged and shall not be  
 13 admissible as evidence in any action or proceeding against  
 14 the insurer or any representative thereof by or in behalf of  
 15 any person affected by such termination."

16       Section 8. Section 33-17-401, MCA, is amended to read:

17       "33-17-401. Nonresident agent -- reciprocity. The  
 18 commissioner may license as an agent a person ~~who is a~~  
 19 ~~partnership or corporation~~ otherwise qualified under this  
 20 code but ~~who is~~ not a resident of this state if pursuant to  
 21 the laws of the state of his residence a similar privilege  
 22 is extended to persons resident in Montana."

23       Section 9. Section 33-17-404, MCA, is amended to read:

24       "33-17-404. Countersigning coverage of residents. A  
 25 nonresident agent shall not sign or countersign policies

1 covering subjects of insurance located or to be performed in  
 2 Montana. ~~These Except as provided in 33-17-1111, these~~  
 3 policies must be countersigned by a licensed resident  
 4 agent."

5 Section 10. Section 33-17-1101, MCA, is amended to  
 6 read:

7 "33-17-1101. Place of business -- display of license  
 8 -- records. (1) Every agent shall have and maintain ~~in this~~  
 9 ~~state~~ a place of business accessible to the public. Such  
 10 place of business shall be that wherein the licensee  
 11 principally conducts transactions under his license. The  
 12 address of such place shall appear upon the license, and the  
 13 licensee shall promptly notify the commissioner of any  
 14 change thereof. Nothing in this section ~~shall be deemed to~~  
 15 ~~prohibit~~ prohibits maintenance of such place of business in  
 16 the licensee's place of residence ~~in this state~~.

17 (2) The ~~licenses license~~ of the licensee and the  
 18 ~~licenses license~~ of ~~solicitors each solicitor~~ appointed by  
 19 and representing the licensee shall be conspicuously  
 20 displayed in such place of business in a part thereof  
 21 customarily open to the public.

22 (3) The agent shall keep at his place of business  
 23 complete records pertaining to transactions under his  
 24 license and the licenses of his solicitors, for a period of  
 25 at least 3 years after completion of the respective

1 transactions.

2 ~~(4) This section shall not apply as to life and~~  
 3 ~~disability insurances."~~

4 Section 11. Section 33-17-1103, MCA, is amended to  
 5 read:

6 "33-17-1103. Exchange of business -- sharing  
 7 commissions. (1) An agent may, occasionally only, place an  
 8 insurance coverage with an insurer as to which he is not  
 9 then licensed or appointed as an agent, and the insurer  
 10 shall accept such business, only when placed through a  
 11 ~~licensed an agent, resident in this state~~ of licensed under  
 12 this chapter and appointed by the insurer. Both agents  
 13 involved in such an exchange of business must be licensed as  
 14 to all of the kinds of insurance represented by the coverage  
 15 so placed.

16 (2) The agents involved in a lawful exchange of  
 17 business under subsection (1) above may divide between them  
 18 the commission or compensation payable on account of su.  
 19 coverage.

20 (3) No agent or solicitor shall directly or indirectly  
 21 share his commissions or other compensation received or to  
 22 be received by him on account of a transaction under his  
 23 license with any person not also licensed under this chapter  
 24 as to the same kind or kinds of insurance involved in such  
 25 transactions, except as provided in 33-17-1113. This



1 provision shall not affect payment of the regular salaries  
2 due employees of the licensee or the distribution in regular  
3 course of business of compensation and profits among members  
4 or stockholders if the licensee is a firm or corporation or  
5 use of funds for family or personal purposes.

6 (4) This section does not apply as to those  
7 transactions with surplus lines agents which are lawful  
8 under 33-2-306 or as to life or disability insurance placed  
9 as provided in 33-17-1104."

10 Section 12. Section 33-17-1111, MCA, is amended to  
11 read:

12 "33-17-1111. Resident agent required —  
13 countersignature — records — exceptions. (1) No authorized  
14 insurer shall issue a policy covering a subject of insurance  
15 resident, located, or to be performed in Montana unless:

16 (a) the policy is written through a licensed agent,  
17 resident in Montana, of the insurer; or unless

18 (b) the policy is written through a nonresident agent  
19 and the policy or countersignature endorsement attached  
20 thereto is countersigned by such a resident licensed agent.

21 (2) No such countersignature shall be made in blank.  
22 The agent may by express written authorization given in  
23 advance delegate to his salaried clerical employee the power  
24 to so countersign in the name of the agent such contracts or  
25 classes of contracts as are designated in such authorization

1 so long as the initials of such employee are written below  
2 the agent's name on such countersignature, but the agent  
3 shall not thereby delegate or have power to delegate to any  
4 other person the power or authority to bind an insurer with  
5 respect to any risk not already bound by the agent or other  
6 person having clear authority from the insurer so to bind.  
7 The agent shall be responsible for all of the acts of such  
8 employee within the scope of the authority so delegated. The  
9 agent shall keep a record of each and all coverages  
10 countersigned by him or by his authority.

11 (3) This section shall not apply to:

12 (a) reinsurance;

13 (b) life insurance, disability insurance, or annuity  
14 contracts;

15 (c) insurance of the rolling stock, vessels, or  
16 aircraft of any common carrier in interstate or foreign  
17 commerce or of any vehicle principally garaged and used in  
18 another state or covering any liability or other risks  
19 incident to the ownership, maintenance, or operation  
20 thereof;

21 (d) insurance of property in course of transportation  
22 interstate or in foreign trade or any liability or risk  
23 incident thereto;

24 (e) insurance of wet marine and transportation risks;

25 (f) countersignature to policies issued through agents

1 compensated only by salary or issued by insurers not using  
2 agents in the general solicitation of business;

3 (g) bid bonds, as required under Title 18, chapter 1,  
4 part 2.

5 (4) Violation of this section shall not invalidate any  
6 contract otherwise valid as between the insurer and the  
7 insured."

8 Section 13. Section 33-22-813, MCA, is amended to  
9 read:

10 "33-22-813. Sale area -- agents. (1) Any form of  
11 policy approved by the commissioner for an association shall  
12 be offered throughout Montana to all persons 65 and older  
13 and their spouses, and the coverage of any person insured  
14 under such a form of policy shall not be cancelable except  
15 for nonpayment of premiums unless the coverage of all  
16 persons insured under such form of policy is also canceled.

17 ~~(2) Notwithstanding the provisions of 33-17-215, any A~~  
18 person licensed to transact disability insurance as an  
19 insurance agent may transact extended health insurance and  
20 may be paid a commission thereon."

21 Section 14. Repealer. Section 33-17-215, MCA, is  
22 repealed.

-End-

SENATE BILL NO. 93

INTRODUCED BY LOWE, MEHRENS, KOLSTAD, HAGER

BY REQUEST OF THE COMMISSIONER OF INSURANCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS, AND CONSULTANTS; AMENDING SECTIONS 33-17-204, 33-17-211, 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231, 33-17-401, 33-17-404, 33-17-1101, 33-17-1103, 33-17-1111, AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA."

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

Section 1. Section 33-17-204, MCA, is amended to read:

"33-17-204. Licensing of firms--and--corporations organizations -- requisites. (1) A firm partnership or corporation shall may be licensed only as an insurance agent. If a firm, each general partner and each other individual to act for the firm under the license and if a corporation, each individual to act for the corporation under the license shall be named in the Each member and employee of a partnership and each officers, directors, stockholder, or employee of a corporation, personally engaged in this state in soliciting or negotiating insurance policies, shall be registered with the commissioner in conjunction with the partnership or corporation license and

shall qualify therefor as though an individual licensee. The commissioner shall charge and the licensee shall pay a full An additional license fee as to shall be paid for each respective individual so named in such license in excess of two registered in conjunction with the partnership or corporation license.

(2) A nonresident of Montana shall not be named in such license and shall not have the right to exercise the license powers

(3) A license shall not be issued to a firm partnership or corporation unless organized under the laws of this state and maintaining its principal place of business in this state and unless the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles of incorporation.

(4) The partnership or corporate licensee shall promptly notify the commissioner of all changes among its members, directors, and officers and of any other individual each change relative to the individuals designated in the license."

Section 2. Section 33-17-211, MCA, is amended to read:

"33-17-211. Application for license. (1) Application for an agent or solicitor license shall be made to the commissioner by the applicant and be signed and sworn to by

1 the applicant before a notary public or other person  
2 authorized by law to take acknowledgments of deeds.

3 (2) The commissioner shall designate and prepare forms  
4 for application for license which shall require full answers  
5 to such questions as may reasonably be necessary to  
6 determine the applicant's identity, residence, personal  
7 history, business record, experience and training in  
8 insurance, purpose for which the license is to be used, and  
9 other facts as required by the commissioner to determine  
10 whether the applicant meets the applicable qualifications  
11 for the license applied for.

12 (3) If for an agent's license, the application shall  
13 state the kinds of insurance proposed to be transacted and  
14 be accompanied by written appointment of the applicant as  
15 agent by an authorized insurer, subject to issuance of the  
16 license.

17 (4) If for a solicitor's license, the application  
18 shall be accompanied by written appointment of applicant as  
19 solicitor by a licensed agent, subject to issuance of the  
20 license.

21 (5) If the applicant for an agent license is a firm or  
22 corporation, the application shall show, in addition, the  
23 names of all members, officers, and directors and shall  
24 designate each individual who is to exercise the powers to  
25 be conferred by the license upon the firm or corporation.

1 Each such individual so designated shall furnish information  
2 as to himself, as part of the application, as though for an  
3 individual license.

4 (6) If the applicant for an agent license is an  
5 agents' association pursuant to 33-17-205, the application  
6 shall show the names and residence addresses of the  
7 association's officers and trustees.

8 (7) If for license as either agent or solicitor, the  
9 application shall also show whether applicant was ever  
10 previously licensed to transact any kind of insurance in  
11 this state or elsewhere; whether any such license was ever  
12 refused, suspended, or revoked; whether any insurer, general  
13 agent, or agent, in the case of a solicitor application,  
14 claims applicant to be indebted to it and, if so, the  
15 details thereof and the defenses, if any, of the applicant  
16 thereto; ~~and whether applicant ever had an agency contract~~  
17 ~~canceled and the facts thereof; and if applicant is married,~~  
18 ~~like information with respect to the applicant's spouse.~~

19 (8) The commissioner shall require as part of the  
20 application for license the certificate of an officer or  
21 representative of the insurer proposed to be represented, in  
22 the case of applicants for license as agent, or of the  
23 proposed employing agent, in the case of applicants for  
24 license as solicitor, as to whether the applicant is known  
25 to such officer or representative, whether the insurer or

1 agent has investigated the character and business record of  
 2 the applicant and the uses to be made of the license, if  
 3 granted, and his opinion, based on such investigation, as to  
 4 applicant's trustworthiness and competence and whether the  
 5 applicant will use the license principally for the purpose  
 6 of insuring the applicant's own risks or interests and those  
 7 of the applicant's relatives or employer.

8 (9) All such applications shall be accompanied by the  
 9 applicable license fee, appointment of agent fee where  
 10 applicable, examination fee where required under 33-17-212,  
 11 all in the respective amounts stated in 33-2-708."

12 Section 3. Section 33-17-212, MCA, is amended to read:

13 "33-17-212. Examination required. (1) After completion  
 14 and filing of the application for license as required under  
 15 33-17-211, the commissioner shall subject each applicant for  
 16 license as agent or solicitor, unless exempted therefrom  
 17 under subsection (5) below, to a personal written  
 18 examination as to his competence to act as such agent or  
 19 solicitor.

20 (2) If the applicant is a firm or corporation, the  
 21 examination shall be so taken by each individual who is to  
 22 be named in the license as having authority to act for the  
 23 applicant in its insurance transactions under the license.

24 (3) Examination of an applicant for an agent's license  
 25 shall cover all of the kinds of insurance for which the

1 applicant has applied to be licensed, as constituted by any  
 2 one or more of the following classifications:

3 (a) life insurance;  
 4 (b) disability insurance;  
 5 (c) property insurance; for the purposes of this  
 6 provision, "marine" insurance shall be deemed to be included  
 7 in "property" insurance;

8 (d) casualty insurance;

9 (e) vehicle insurance;

10 (f) surety insurance;

11 ~~(g) credit life and disability insurance.~~

12 (4) Examination of an applicant for a solicitor's  
 13 license shall cover all the kinds of insurance, other than  
 14 life, as to which the appointing agent is licensed.

15 (5) This section shall not apply to, and no such  
 16 examination shall be required of:

17 (a) any individual lawfully licensed as an agent or  
 18 solicitor as to the kind or kinds of insurance to be  
 19 transacted as of or immediately prior to January 1, 1961,  
 20 and thereafter continuing to be so licensed;

21 (b) any applicant for license covering the same kind  
 22 or kinds of insurance as to which the applicant was licensed  
 23 in this state, other than under a temporary license, within  
 24 the 12 months next preceding date of application unless such  
 25 previous license was suspended, revoked, or continuation

1 thereof refused by the commissioner;

2 (c) any applicant for license as nonresident agent,  
3 subject to reciprocal arrangements as provided for in this  
4 code;

5 (d) all applicants for license as agent for an insurer  
6 that confines its business in this state substantially to  
7 the insuring of the property, interests, and risks of  
8 farmers, if exempted from examination by the commissioner,  
9 in his discretion, upon written request of the insurer;

10 (e) transportation ticket agents of common carriers  
11 applying for license to solicit and sell only:

12 (i) accident insurance ticket policies; or

13 (ii) insurance of personal effects while being carried  
14 as baggage on such common carriers, as incidental to their  
15 duties as such transportation ticket agents;

16 (f) agents' associations applying for license under  
17 33-17-205;

18 (g) title insurance agents."

19 Section 4. Section 33-17-214, MCA, is amended to read:  
20 "33-17-214. Issuance of license -- contents. (1) The  
21 commissioner shall promptly issue ~~licenses~~ the license  
22 applied for to persons ~~the person~~ qualified therefor in  
23 accordance with this chapter. There is a license for life  
24 or disability insurance and a separate license for kinds of  
25 insurance other than life or disability.

1 (2) The license shall state the name and address of  
2 the licensee, date of issue, general conditions relative to  
3 expiration or termination, kind ~~or kinds~~ of insurance  
4 covered, and ~~the other conditions of the license such as~~  
5 information as the commissioner considers proper.  
6 ~~(3) If the license is as agent for life and/or~~  
7 ~~disability insurance only, the license shall state the name~~  
8 ~~of the insurer to be so represented, if the license is as~~  
9 ~~agent for any other kind or kinds of insurance, it shall not~~  
10 ~~state the name of any insurer to be so represented.~~  
11 ~~(4) If the licensee agent is a firm or corporation,~~  
12 ~~the license of a partnership or corporation shall also~~  
13 ~~state the name of each individual authorized thereunder to~~  
14 ~~exercise the license powers.~~  
15 ~~(5) If the licensee is a solicitor, the license~~  
16 ~~of a solicitor shall state the name and address of the agent~~  
17 ~~to be represented."~~  
18 Section 5. Section 33-17-216, MCA, is amended to read:  
19 "33-17-216. Temporary agent licenses -- fee. (1) The  
20 commissioner may issue a temporary license as agent to or  
21 with respect to an individual qualified therefor only as to  
22 age, residence, and trustworthiness and without requiring  
23 such individual to take an examination, in the following  
24 cases:  
25 (a) to the surviving spouse or next of kin or to the

1 administrator or executor, or the employee of such  
2 administrator or executor, of a licensed agent becoming  
3 deceased;

4 (b) to the spouse, next of kin, employee, or legal  
5 guardian of a licensed agent disabled by sickness, injury,  
6 or insanity;

7 (c) to an employee of a firm, or officer or employee  
8 of a corporation, licensed as agent, upon the death or  
9 disability of an individual designated in the license to  
10 exercise the powers thereof;

11 (d) to the designee of a licensed agent entering upon  
12 active service in the armed forces of the United States of  
13 America;

14 ~~(e) upon request of the insurer to an applicant for~~  
15 ~~license as a life insurance agent pending the taking of any~~  
16 ~~examination required of the applicant by the commissioner~~  
17 ~~under 33-17-212, if the applicant is duly enrolled in and is~~  
18 ~~actively pursuing an adequate course of instruction as~~  
19 ~~provided by or through the insurer in preparation for such~~  
20 ~~examination. Such license shall be for a period of not over~~  
21 ~~90 days or until the applicant has had a reasonable~~  
22 ~~opportunity to take such examination and be informed by the~~  
23 ~~commissioner as to the results thereof, whichever is the~~  
24 ~~shorter period, but subject to extension by the commissioner~~  
25 ~~as provided in subsection (3) below.~~

1 (2) The temporary license shall be issued upon  
2 application filed with the commissioner in such form and  
3 containing such information as the commissioner may  
4 reasonably require and upon payment of the applicable fee as  
5 stated in 33-2-708.

6 (3) The temporary license shall be for a period of not  
7 over 90 days, subject to extension by the commissioner in  
8 his discretion for an additional period of not more than 90  
9 days, except that such a license issued pursuant to  
10 subsection (1)(a) above may be continued without payment of  
11 additional fee until the executor or administrator disposes  
12 of the insurance business but not to exceed a period of 15  
13 months. Temporary license issued to the next of kin under  
14 such subsection (1)(a) shall not be extended for an  
15 additional term or terms after appointment and qualification  
16 of such an administrator or executor.

17 (4) The fee paid for the temporary license may be  
18 applied upon the fee required for any permanent license  
19 issued to the licensee upon or prior to expiration of the  
20 temporary license and covering the same kinds of insurance."

21 Section 6. Section 33-17-218, MCA, is amended to read:  
22 "33-17-218. Continuance and expiration of licenses.  
23 (1) All solicitor and adjuster licenses issued under this  
24 chapter, all agent licenses as to life and/or disability  
25 insurance only, and all nonresident agent licenses shall

1 continue in force until expired, suspended, revoked, or  
 2 terminated but subject to payment to the commissioner  
 3 annually on or before May 1 of the applicable continuation  
 4 ~~RENEWAL~~ fee as stated in 33-2-706, accompanied by written  
 5 request for such continuation ~~RENEWAL~~. Such request for  
 6 continuation as to agent licenses for life insurance and/or  
 7 disability insurance only shall be made by the insurer in  
 8 the form of an alphabetical list in duplicate of the names  
 9 and addresses of its agents whose licenses are to be  
 10 continued in this state, accompanied by payment of the  
 11 annual continuation fee therefor as provided in 33-2-706. At  
 12 the same time the insurer shall also file with the  
 13 commissioner an alphabetical list in duplicate of the names  
 14 and addresses of all its agents whose licenses in this state  
 15 are not to remain in effect. Section 33-17-231(5) shall  
 16 apply as to any licenses so terminated by the insurer. As to  
 17 a solicitor's license such request A request for renewal of  
 18 a solicitor's license shall be signed by the agent by whom  
 19 the licensee is employed.

20 (2) Any license referred to in subsection (1) as to  
 21 which such fee and request for continuation are not received  
 22 by the commissioner as required in such subsection (1) shall  
 23 be deemed to have expired as of midnight on May 31 next  
 24 following. Request for continuation of any such license  
 25 and/or payment of the continuation fee therefor which is

1 received by the commissioner after such May 1 and prior to  
 2 the next following June 15 may be accepted and effectuated  
 3 by the commissioner in his discretion if accompanied by an  
 4 annual continuation fee in twice the amount otherwise  
 5 required.

6 (3)(2) The license of an agent as to property  
 7 casualty or surety insurance shall continue in force  
 8 subject to the provisions of 33-17-231 and, unless suspended  
 9 or revoked, as long as there is in effect as to such agent  
 10 as shown by the commissioner's records, an appointment or  
 11 appointments as agent of an authorized insurers insurer,  
 12 covering collectively all of the kinds of insurance included  
 13 in the agent's license. Upon termination of all of such an  
 14 the agent's agency appointments as to for a particular kind  
 15 of insurance and failure to secure and file with the  
 16 commissioner a new appointment as to for such kind of  
 17 insurance within 90 days thereafter, the agent's license  
 18 shall automatically thereupon expire and terminate as to  
 19 such kind of insurance and the licensee shall promptly  
 20 deliver his license to the commissioner for reissuance  
 21 without fee or charge as to the kinds of insurance covered  
 22 by the agent's remaining appointments.

23 (4)(3) This section shall not apply to temporary  
 24 licenses issued under 33-17-216."

25 Section 7. Section 33-17-231, MCA, is amended to read:



1 "33-17-231. Appointment of agents -- continuation and  
 2 termination. (1) Each insurer appointing an agent in this  
 3 state ~~as to property-casualty-or-surety-insurance~~ shall  
 4 file with the commissioner the appointment, specifying the  
 5 kinds of insurance to be transacted by the agent for the  
 6 insurer, and pay the fee therefor as stated in 33-2-708. ~~If~~  
 7 ~~the-appointment-includes-casualty-insurance-the-agent-may~~  
 8 ~~be-appointed-by-the-same-insurer-also-as-to-disability~~  
 9 ~~insurance-without-requiring-an-additional-appointment-or~~  
 10 ~~appointment-fee~~

11 (2) Subject to annual continuation by the insurer not  
 12 later than May 31, each such appointment shall remain in  
 13 effect until the agent's license is revoked or otherwise  
 14 terminated unless written notice of earlier termination of  
 15 the appointment is filed with the commissioner by the  
 16 insurer or agent.

17 (3) Annually, prior to May 1, each insurer shall file  
 18 with the commissioner an alphabetical list in duplicate of  
 19 the names and addresses of all its agents whose appointments  
 20 in this state are to remain in effect, accompanied by  
 21 payment of the annual ~~continuation-of-appointment~~ renewal  
 22 fee as provided in 33-2-708. At the same time the insurer  
 23 shall also file with the commissioner ~~an alphabetical list~~  
 24 ~~in duplicate of the names and addresses~~ a termination report  
 25 of all its agents whose appointments in this state are not

1 to remain in effect.

2 (4) Subject to the agent's contract rights, an insurer  
 3 may terminate an agency appointment at any time. The insurer  
 4 shall promptly give written notice of such termination to  
 5 the commissioner and to the agent where reasonably possible.  
 6 The commissioner may require of the insurer reasonable proof  
 7 that the insurer has given such notice to the agent.

8 (5) As part of the notice of termination given the  
 9 commissioner, the insurer shall file with the commissioner a  
 10 statement of the facts relative to the termination and the  
 11 cause thereof. Any information or statement contained in the  
 12 notice of termination shall be privileged and shall not be  
 13 admissible as evidence in any action or proceeding against  
 14 the insurer or any representative thereof by or in behalf of  
 15 any person affected by such termination."

16 Section 8. Section 33-17-401, MCA, is amended to read:  
 17 "33-17-401. Nonresident agent -- reciprocity. The  
 18 commissioner may license as an agent a person who ~~is a~~  
 19 partnership or corporation otherwise qualified under this  
 20 code but who ~~is~~ not a resident of this state if pursuant to  
 21 the laws of the state of his residence a similar privilege  
 22 is extended to persons resident in Montana."

23 Section 9. Section 33-17-404, MCA, is amended to read:  
 24 "33-17-404. Countersigning coverage of residents. A  
 25 nonresident agent shall not sign or countersign policies

1 covering subjects of insurance located or to be performed in  
2 Montana. ~~These Except as provided in 33-17-1111, these~~  
3 policies must be countersigned by a licensed resident  
4 agent."

5 Section 10. Section 33-17-1101, MCA, is amended to  
6 read:

7 "33-17-1101. Place of business -- display of license  
8 -- records. (1) Every agent shall have and maintain ~~in this~~  
9 ~~state~~ a place of business accessible to the public. Such  
10 place of business shall be that wherein the licensee  
11 principally conducts transactions under his license. The  
12 address of such place shall appear upon the license, and the  
13 licensee shall promptly notify the commissioner of any  
14 change thereof. Nothing in this section ~~shall be deemed to~~  
15 ~~prohibit~~ prohibits maintenance of such place of business in  
16 the licensee's place of residence ~~in this state~~.

17 (2) The ~~licensee~~ license of the licensee and the  
18 ~~licensee~~ license of ~~each~~ each solicitor appointed by  
19 and representing the licensee shall be conspicuously  
20 displayed in such place of business in a part thereof  
21 customarily open to the public.

22 (3) The agent shall keep at his place of business  
23 complete records pertaining to transactions under his  
24 license and the licenses of his solicitors, for a period of  
25 at least 3 years after completion of the respective

1 transactions.

2 ~~(4) This section shall not apply as to life and~~  
3 ~~disability insurances."~~

4 Section 11. Section 33-17-1103, MCA, is amended to  
5 read:

6 "33-17-1103. Exchange of business -- sharing  
7 commissions. (1) An agent may, occasionally only, place an  
8 insurance coverage with an insurer as to which he is not  
9 then licensed or appointed as an agent, and the insurer  
10 shall accept such business, only when placed through a  
11 ~~licensed~~ an agent, resident in this state or licensed under  
12 this chapter and appointed by the insurer. Both agents  
13 involved in such an exchange of business must be licensed as  
14 to all of the kinds of insurance represented by the coverage  
15 so placed.

16 (2) The agents involved in a lawful exchange of  
17 business under subsection (1) above may divide between them  
18 the commission or compensation payable on account of such  
19 coverage.

20 (3) No agent or solicitor shall directly or indirectly  
21 share his commissions or other compensation received or to  
22 be received by him on account of a transaction under his  
23 license with any person not also licensed under this chapter  
24 as to the same kind or kinds of insurance involved in such  
25 transactions, except as provided in 33-17-1113. This

1 provision shall not affect payment of the regular salaries  
 2 due employees of the licensee or the distribution in regular  
 3 course of business of compensation and profits among members  
 4 or stockholders if the licensee is a firm or corporation or  
 5 use of funds for family or personal purposes.

6 (4) This section does not apply as to those  
 7 transactions with surplus lines agents which are lawful  
 8 under 33-2-306 or as to life or disability insurance placed  
 9 as provided in 33-17-1104."

10 Section 12. Section 33-17-1111, MCA, is amended to  
 11 read:

12 "33-17-1111. Resident agent required --  
 13 countersignature -- records -- exceptions. (1) No authorized  
 14 insurer shall issue a policy covering a subject of insurance  
 15 resident, located, or to be performed in Montana unless:

16 (a) the policy is written through a licensed agent,  
 17 resident in Montana, of the insurer; or unless

18 (b) ~~the policy is written through a nonresident agent~~  
 19 and the policy or countersignature endorsement attached  
 20 thereto is countersigned by such a resident licensed agent.

21 (2) No such countersignature shall be made in blank.  
 22 The agent may by express written authorization given in  
 23 advance delegate to his salaried clerical employee the power  
 24 to so countersign in the name of the agent such contracts or  
 25 classes of contracts as are designated in such authorization

1 so long as the initials of such employee are written below  
 2 the agent's name on such countersignature, but the agent  
 3 shall not thereby delegate or have power to delegate to any  
 4 other person the power or authority to bind an insurer with  
 5 respect to any risk not already bound by the agent or other  
 6 person having clear authority from the insurer so to bind.  
 7 The agent shall be responsible for all of the acts of such  
 8 employee within the scope of the authority so delegated. The  
 9 agent shall keep a record of each and all coverages  
 10 countersigned by him or by his authority.

11 (3) This section shall not apply to:

12 (a) reinsurance;

13 (b) life insurance, disability insurance, or annuity  
 14 contracts;

15 (c) insurance of the rolling stock, vessels, or  
 16 aircraft of any common carrier in interstate or foreign  
 17 commerce or of any vehicle principally garaged and used in  
 18 another state or covering any liability or other risks  
 19 incident to the ownership, maintenance, or operation  
 20 thereof;

21 (d) insurance of property in course of transportation  
 22 interstate or in foreign trade or any liability or risk  
 23 incident thereto;

24 (e) insurance of wet marine and transportation risks;

25 (f) countersignature to policies issued through agents

1 compensated only by salary or issued by insurers not using  
2 agents in the general solicitation of business;

3 (g) bid bonds, as required under Title 18, chapter 1,  
4 part 2.

5 (4) Violation of this section shall not invalidate any  
6 contract otherwise valid as between the insurer and the  
7 insured."

8 Section 13. Section 33-22-813, MCA, is amended to  
9 read:

10 "33-22-813. Sale area -- agents. (1) Any form of  
11 policy approved by the commissioner for an association shall  
12 be offered throughout Montana to all persons 65 and older  
13 and their spouses, and the coverage of any person insured  
14 under such a form of policy shall not be cancelable except  
15 for nonpayment of premiums unless the coverage of all  
16 persons insured under such form of policy is also canceled.

17 (2) ~~Notwithstanding the provisions of 33-17-215, any~~ A  
18 person licensed to transact disability insurance as an  
19 insurance agent may transact extended health insurance and  
20 may be paid a commission thereon."

21 Section 14. Repealer. Section 33-17-215, MCA, is  
22 repealed.

-End-