CHATTER NU. 345

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. Second reading, pass con-February 2, 1979 sideration. 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. March 9, 1979 March 9, 1979 Committee recommend bill be concurred in. Report adopted. March 13, 1979 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.

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hat BILL NO. 93 Keletal Hager 1 z INTRODUCED BY

BY REQUEST OF THE CONNISSIONER OF INSURANCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 5 LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS, 6 AND CONSULTANTS: AMENDING SECTIONS 33-17-204, 33-17-211, 7 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231, . 33-17-401, 33-17-404, 38-17-1101, 33-17-1103, 33-17-1111, 9 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: Section 1. Section 33-17-204, MCA, is amended to read: 13 14 organizations --- requisites. (1) A firm partnership or 15 corporation shall may be licensed only as an insurance 16 agent. If-a--firmy--coch--general--partner--and--coch--other 17 18 individual---to--act-for-the-fire-under-the-ficense-andy-if-a corporationy-each-individual--to--act--for--the--corporation 19 **Z**0 under--the--license--shall--be--named-in-the Each member and 21 employee of a partnership and each officers directors stockholder, or emloyee of a corporation, personally 22 **Z**3 engaged in this state in soliciting or negotiating insurance 24 nolicies, shall be registered with the commissioner in conjunction with the partnership or corporation license and **25**

shall qualify therefor as though an individual licenses. The 1 commissioner-shall-charge-and-the-licensee-shall-per-e--full 2 а. An additional license fee as--to shall be haid for each respective individual so-neged-in-such-license-in-excess--of ٩, two registered in conjunction with the partnership or 6 corporation license.

7 12}--A-nonresident-of-Montene-shell--not--be--nomed--in such--- fictinat--- and--- shall-not-have-the-right-to-exercise-the Hicense-neversy •

10 (3)(2) A license shall not be issued to a firm 11 partnership or corporation unlass organized-under-the-lows 12 of---this--state--and--waintaining---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 firms partnership agreement or the corporations 16 articles of incorporation.

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

22 Section 2. Section 33-17-211, NCA, 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

-2-

INTRODUCED BILL 5393

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

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.

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

-3-

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

(6) If the applicant for an agent license is an
agents^a association pursuant to 33-17-205, the application
shall show the names and residence addresses of the
association^as officers and trustees.

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

LC 0388/01

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

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

(2) If the applicant is a firm or corporation, the
examination shall be so taken by each individual who is to
be named in the license as having authority to act for the
applicant in its insurance transactions under the license.
(3) Examination of an applicant for an agent*s license
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;

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(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;

6 (d) casualty insurance;

9 (e) vehicle insurance;

10 (f) surety insurancew;

11 (a) 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;

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

- 58 93

1 thereof refused by the commissioner; 2 (c) any applicant for license as nonresident agent, 3 subject to reciprocal agrangements as provided for in this code: 4 5 (d) all apolicants for license as agent for an insurer that confines its business in this state substantially to 6 7 the insuring of the property, interests, and risks of farmers, if exempted from examination by the commissioner, 8 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 <u>the license</u> 22 applied for to <u>persons the person</u> qualified therefor in 23 accordance with this chapter. <u>There is a license for life</u> 24 <u>or disability insurance and a separate license for kinds of</u> 25 insurance other than life or disability.

-7-

1 (2) The license shall state the name and address of the licensee, date of issue, general conditions relative to 2 expiration or termination, kind or-kinds of insurance з covered, and the-other-conditions-of-the-license such other information as the commissioner considers proper-5 +3+--if--the--ticense--ts--agent--for--tife--and/or 6 disebility-insurance-onlyy-the-license-shall-state-the--name 7 of--the--insurer--to-be-so-representedy-if-the-license-is-sa 8 agent-for-any-other-kind-or-kinds-of-insurancey-it-shall-not 9 state-the-name-of-any-insurer-to-be-so-representedu 10 (4)(3) If-the-licensee-agent-is-a-firm-or-corporationy 11 the The license of a partnership or corporation shall also 12 state the name of each individual authorized thereunder to 13 14 exercise the license powers. 15 +5+(4) if-the-licensee-is-e-soficitory-the The license of a solicitor shall state the name and address of the agent 16 to be represented." 17 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 with respect to an individual qualified therefor only as to **Z**1 age, residence, and trustworthiness and without requiring 22 such individual to take an examination, in the following 23 24 cases: (a) to the surviving spouse or next of kin or to the 25

-8-

administrator or executor. or the employee of such
 administrator or executor. of a licensed agent becoming
 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;

(d) to the designee of a licensed agent entering upon
 active service in the armed forces of the United States of
 Americata

14 tel--upon--request--of-the-insurery-to-on-applicant-for 15 ticense-as-a-life-insurance-agenty-pending-the-taking-of-any examination-required-of-the-applicant--by--the--commissioner 16 17 under-33-17-212v-if-the-applicant-is-duly-enrolled-in-end-is 18 sctively--pursuing--sn--adequate--course--of-instructiony-ss 19 provided-by-or-through-the-insurery-in-preparation-for--such 20 exeminations--Such-license-shall-be-for-s-period-of-not-over 98--days--or--until--the--applicant--has--had---a--reasonable 21 22 opportunity--to-take-such-exemination-and-be-informed-by-the 23 commissioner-as-to-the-results--thereofy--whichever--is--the 24 shorter-periody-but-subject-to-extension-by-the-commissioner 25 es-provided-in-subsection-f3t-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.

(3) The temporary license shall be for a period of not 6 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 gualification of such an administrator or executor. 16

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, HCA, is amended to read: 22 #33-17-218. Continuance and expiration of licenses. Z3 (1) All solicitor and adjuster licenses issued--under--this 24 chaptery---all---agent--licenses--as-to-life-and/or-disability insurance-onlyv-and-all--nonresident--noent--licenses shall 25

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continue in force until expired, suspended, revoked, or 1 terminated but subject to payment to the commissioner 2 3 annually on or before May 1 of the applicable continuation renewal fee as stated in 33-2-708, accompanied by written 4 request for such continuation reneval. Such-request-for 5 continuetion-as-to-eacht-licenses-for-life-insurance-endror 6 7 dissbility--insurance--only--shall-be-made-by-the-insurer-in A the-form-of-un-alphabeticsl-list-in-duplicate-of--the--names 9 and--addresses--of--its--agents--whose--itcenses--are--to-be 10 continued-in-this--statey--accompanied--by--payment--af--the 11 sanuel-continuation-fee-therefor-as-provided-in-33-2-788+-At 12 the----sone---time---the---insurer---shall---olso--file--with--the 13 commissioner-en-alphabetical-list-in-duplicate-of-the--names 14 ond-addresses-of-all-its-agents-whose-licenses-in-this-state 15 are--not--to--remain--in---effects-Section-33-t7-E3t(5)-shail 16 apply-as-to-any-licenses-so-terminated-by-the-insurer-As-to 17 a-soficitor*s-ficensey-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 t2;--Any--Hicense--referred--to-in-subsection-(1)-03-to **Z1** which-such-fee-and-request-for-continuation-are-not-received by-the-compissionor-as-required-in-such-subsection-(1)-shall 22 23 be-deemed-to-heve-expired-as-of--midnight--on--May--31--next

24 followings--Request--for--continuation--of--ony-such-license
25 and/or-suggent-of-the-continuation--fee--therefor--which--is

received--by--the-comissioner-ofter-such-May-1-and-prior-to 1 the-next-following-dune-15-may-be-accepted--and--effectuated 2 by-the-commissionery-in-his-discretiony-if-accompanied-by-an 3 ennuel--continuation--fee--in--twice--the--amount--otherwise 5 requirede (3)(2) The license of an agent es-to--propertyv 6 cosualty---or--surety--insurance shall continue in force 7 subject to the provisions of 33-17-731 and, unless suspended 8 or revoked, as long as there is in effect as to such agent. 9 as shown by the commissioner's records, an appointment or 10 appointmentsy as agent of an authorized insurers insurer, 11 covering collectively all of the kinds of insurance included 12 in the agent's license. Upon termination of all of such-an 13 the agent's agency appointments es-to for a particular kind 14 of insurance and failure to secure and file with the 15 16 commissioner a new appointment es--to for such kind of 17 insurance within 90 days thereafter, the agent's license 18 shall automatically thereupon-expire--and terminate as to such kind of insurance and--the--ticensee-shalt-promptly 19 20 deliver-his-license--to--the--counissioner--for--reissuancey without--fee-or-chargey-as-to-the-kinds-of-insurance-coverad 21 by-the-agent*s-remaining-appointments. 22 (4)(3) This section shall not apply to temporary 23 licenses issued under 33-17-216.* 24

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

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#33-17-231. Appointment of agents -- continuation and 1 termination. (1) Each insurer appointing an agent in this z state es--to--propertyy-casualtyy-or-surety-insurance shall 3 file with the commissioner the appointment, specifying the 4 kinds of insurance to be transacted by the agent for the 5 insurer, and pay the fee therefor as stated in 33-2-708. If 6 the-mppointment-includes-cosualty-insurancey-the----7 be--appointed--by--the--seme--insurer--also-as-to-disability 8 insurance-without-requiring-on-additional-appointment-or 9 10 appointment-fees

11 (2) Subject to annual continuation by the insurer not 12 later than Nay 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.

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

LC 0388/01

1 to remain in effect.

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

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

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

-14- 5B93

-13-

covering subjects of insurance located or to be performed in
 Nontana. These Except as provided in 33-17-1111. these
 policies must be countersigned by a licensed resident
 agent."

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

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

17 {2} The ficenses <u>license</u> of the ficensee and the 18 ficenses <u>license</u> of soficitors <u>mach solicitor</u> 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:

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

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

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

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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 <u>(a)</u> 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 z 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 respect to any risk not already bound by the agent or other 5 person having clear authority from the insurer so to bind. 6 7 The agent shall be responsible for all of the acts of such 8 employee within the scope of the authority so delegated. The Q, 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;

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

24 (e) insurance of wet marine and transportation risks;25 (f) countersignature to policies issued through agents

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compensated only by salary or issued by insurers not using 1 agents in the general solicitation of business; Z (g) bid bonds, as required under Title 18, chapter 1, 3 part 2. 4 5 (4) Violation of this section shall not invalidate any contract otherwise valid as between the insurer and the 6 insured." 7 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 be offered throughout Montana to all persons 65 and older 12 13 and their spouses, and the coverage of any person insured under such a form of policy shall not be cancelable except 14 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-33-17-215y-ony A 18 person licensed to transact disability insurance as an 19 insurance agent may transact extended health insurance and **Z**0 may be paid a commission thereon." Section 14. Repealer. Section 33-17-215. HCA. is 21

22 repealed.

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Approved by Committee on Business and Industry

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BY REQUEST OF THE COMMISSIONER OF INSURANCE

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, 33-17-1107, 33-17-1103, 33-17-1111, 10 AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA."

12 BE IT ENACTED Y 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 firss---and--corporations 15 organizations -- requisites. (1) A firm partnership or 16 corporation shall may be licensed only as an insurance 17 agent. If-a--firmy--cach--general--partner--and--cach--other individual--to--act-for-the-firm-under-the-license-andv-if-a 16 19 corporationy-each-individual--to--act--for--the--corporation 20 under--the--license--shall--be--nemed-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 licenses. The commissioner-shall-charge-and-the-licensee-shall-pay-e---full 2 3 An additional license fee es--to shall be naid for each ٠ respective individual so-nomed-in-such-license-in-excess--of two registered in conjunction with the partnership or 5 6 corporation license. 7 t2}--A-nonresident-of-Montene-shell--not--be--nomed--in 8 such--license--and--shall-not-have-the-right-to-exercise-the • license-powerse 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 firm's partnership agreement or the corporation's the 16 articles of incorporation-17 (4)(3) The partnership or corporate licensee shall 18 promptly notify the commissioner of all-chonges-among-its 19 membersy-directorsy-and-officers-and-of-any-other-individual 20 each change relative to the individuals designated in the Z1 license." 22 Section Z. Section 33-17-211, MCA, is amended to read:

"33-17-211. Application for license. (1) Application

-2- SB73 SECOND READING

for an agent or solicitor license shall be made to the

commissioner by the applicant and be signed and sworn to by

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

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

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

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

19 (8) The commissioner shall require as part of the 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

-3-

LC 0388/01

-4-

agent has investigated the character and business record of the applicant and the uses to be made of the license, if granted, and his opinion, based on such investigation, as to applicant's trustworthiness and competence and whether the applicant will use the license principally for the purpose of insuring the applicant's own risks or interests and those 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 and filing of the application for license as required under 14 15 33-17-211, the commissioner shall subject each applicant for license as agent or solicitor, unless exempted therefrom 16 17 under subsection (5) belows to a personal written 18 examination as to his competence to act as such agent or 19 solicitor.

(2) If the applicant is a firm or corporation, the
examination shall be so taken by each individual who is to
be named in the license as having authority to act for the
applicant in its insurance transactions under the license.
(3) Examination of an applicant for an agent's license
shall cover all of the kinds of insurance for which the

LC 0388/01

- 1 applicant has applied to be licensed, as constituted by any
- 2 one or more of the following classifications:
- 3 (a) life insurance;
- (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 insurances;
- 11 <u>(a) credit life and disability insurance.</u>

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;

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

-- 5393

thereof refused by the commissioner;
 (c) any applicant for license as nonresident agent.
 subject to reciprocal arrangements as provided for in this
 code;
 (d) all applicants for license as agent for an insurer
 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;

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

12 (i) accident insurance ticket policies; or

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

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

18 (q) 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.

-7-

(2) The license shall state the name and address of 1 the licensee, date of issue, general conditions relative to Z expiration or termination, kind or--kinds of insurance 3 covered, and the other-conditions of the license such other 4 5 information as the commissioner considers proper-6 +3}--If--the--license--is--agent--for--life--and/or 7 disebility-insurance-onlyy-the-license-shall-state-the-mame of--the--insurar--to-be-so-representedu-If-the-license-is-as я agent-for-any-other-kind-or-kinds-of-insurancey-it-shall-not 9 10 state-the-nome-of-any-insurar-to-be-so-represented. 11 +++(3) If-the-licenses-sgent-is-e-firm-or-corporationy 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. 45)(4) If-the-licensee-is-a-solicitory-the The license 15 16 of a solicitor shall state the name and address of the agent to be represented." 17 Section 5. Section 33-17-216, MCA, is amended to reach 18 19 "33-17-Z16. Temporary agent licenses -- fee. (1) The commissioner may issue a temporary license as agent to or 20 with respect to an individual qualified therefor only as to **Z**1 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

-8-

administrator or executor, or the employee of such
 administrator or executor, of a licensed agent becoming
 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;

(d) to the designee of a licensed agent entering upon
 active service in the armed forces of the United States of
 Americata

te)--upon--request--of-the-insurery-to-an-applicant-for 14 ticense-es-a-life-insurance-agenty-pending-the-teking-of-ony 15 examination-required-of-the-applicant--by--tha--commissioner 16 under-33-17-212--if-the-applicant-is-duly-enrolled-in-and-is 17 actively--pursuing--an--adequate--course--of-instructiony-as 18 19 provided-by-or-through-the-insurery-in-preparation-for-such **Z**0 90--days--ar--until--the--applicant--has--had--a--reasonable 21 22 opportunity--to-take-such-examination-and-be-informed-by-the 23 commissioner-as-to-the-results--thereofy--whichever--is--the Z4 shorter-periody-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.

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

(4) The fee paid for the temporary license may be 17 18 applied upon the fee required for any permanent license issued to the licensee upon or prior to expiration of the 19 temporary license and covering the same kinds of insurance." 20 Section 6. Section 33-17-218. HCA, is amended to read: 21 #33-17-218. Continuance and expiration of licenses. **Z**2 23 (1) All solicitor and adjuster licenses issued--under--this cheptery--all--agent--licenses--as-to-life-and/or-disability 24 insurance-onlyv-ond-all--nonresident--ogent--licenses shall 25

-10 5373

-9-

continue in force until expired, suspended, revoked, or 1 2 terminated but subject to payment to the commissioner 3 annually on or before May 1 of the applicable continuation renewal fee as stated in 33-2-708, accompanied by written 4 5 request for such continuation raneval. Such-request-for continuation-as-to-agent-licenses-for-life-insurance-condror 6 7 disability--insurance--only--shall-be-mode-by-the-insurer-in R the-form-of-en-elphobetical-list-in-duplicate-of--the--nemes 9 und--addresses--of--its--acents--whose--iicenses--are--to-be 10 continued-in-this--states--eccomponied--by--payment--of--the 11 shnwa7-continuetion-fee-therefor-as-provided-in-33-2-706v-At the---sous--time--the--insurer--shall--elso--file--with--the 12 13 commissioner-on-alphabetical-list-in-duplicate-of-the--names 14 and-addresses-of-all-its-agents-whose-licenses-in-this-state 15 ore--not--to--remain--in--effecte-Section-33-17-231(5)-shall 16 apply-as-to-ony-licanzes-so-termineted-by-the-insurer-As-to 17 e-solicitors-licensey-such-request A request for reneval 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)-ss-to

 21
 which-such-fee-and-request-for-continuation-are-not-received

 22
 by-the-commissioner-as-required-in-such-subsection-(1)-shall

 23
 bo-deemed-to-have-expired-as-of--midnight--on--Hay--31--next

 24
 followingw-Request--for--continuation-of--any-such-license

 25
 end/or-psyment-of-the-continuation--fee--therefor--which--is

LC 0388/01

1 received--by--the-commissioner-after-such-May-1-and-prior-to
2 the-next-following-dune-15-may-be-accepted--and--effectuated
3 by-the-commissionery-in-his-discretiony-if-accompanied-by-an
4 annual--continuation-fee--in--twice--the--amount--otherwise
5 requiredy

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

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

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

-11-

-12-

#33-17-231. Appointment of agents -- continuation and 1 termination. (1) Each insurer appointing an agent in this 2 state as----propertyy-casualtyy-or-surety-insurance shall 3 file with the commissioner the appointment, specifying the 4 kinds of insurance to be transacted by the agent for the 5 insurer, and pay the fee therefor as stated in 33-2-708. #f 6 the-monointment-includes-cosumity-insurancey-the--may 7 be--apopinted--by--the--sest--insurer--eliso-es-to-disebility 8 insurance-without-requiring--an--additional--appointment--or 9 10 appointment-feew

11 (2) Subject to annual continuation by the insurer not 12 later than Nay 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.

(3) Annually, prior to May 1, each insurer shall file 17 with the commissioner an alphabetical list in duplicate of 18 the names and addresses of all its agents whose appointments 19 in this state are to remain in effect, accompanied by 20 21 payment of the annual continuation-of-appointment renewal fee as provided in 33-2-708. At the same time the insurer 22 23 shall also file with the commissioner an-alphabetical-list in-duplicate-of-the-names-end-addresses a termination_report 24 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 may terminate an agency appointment at any time. The insurer shall promptly give written notice of such termination to the commissioner and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent.

(5) As part of the notice of termination given the 8 commissioner, the insurer shall file with the commissioner a 9 statement of the facts relative to the termination and the 10 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 the insurer or any representative thereof by or in behalf of 14 any person affected by such termination." 15

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."

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

-13-

- SB93

covering subjects of insurance located or to be performed in
 Nontana. These Except as provided in 33-17-1111. these
 policies must be countersigned by a licensed resident
 agent."

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

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

17 (2) The licenses <u>license</u> of the licensee and the 18 licenses <u>license</u> of solicitors <u>each solicitor</u> 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 commissions. (1) An agent may, occasionally only, place an 7 А 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 ficensed an agent, resident-in-this-statev-of licensed under 11 12 this chapter and appointed by the insurer. Both agents involved in such an exchange of business must be licensed as 13 to all of the kinds of insurance represented by the coverage 14 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

-15-

-16-

provision shall not affect payment of the regular salaries
 due employees of the licensee or the distribution in regular
 course of business of compensation and profits among members
 or stockholders if the licensee is a firm or corporation or
 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

advance delegate to his salaried clerical employee the power
 to so countersign in the name of the agent such contracts or
 classes of contracts as are designated in such authorization

so long as the initials of such employee are written below 1 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 respect to any risk not already bound by the agent or other 5 6 person having clear authority from the insurer so to bind-7 The agent shall be responsible for all of the acts of such employee within the scope of the authority so delegated. The 8 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;

(e) insurance of wet marine and transportation risks;
(f) countersignature to policies issued through agents

-18- 5373

-17-

compensated only by salary or issued by insurers not using 1 Z agents in the general solicitation of business; 3 (g) bid bonds, as required under Title 18, chapter 1, part 2. 4 (4) Violation of this section shall not invalidate any 5 contract otherwise valid as between the insurer and the 6 insured." 7 Section 13. Section 33-22-813, NCA, is amended to 8 read: 9 10 *33-22-813. Sale area -- agents. (1) Any form of policy approved by the commissioner for an association shall 11 be offered throughout Montana to all persons 65 and older 12 13 and their spouses, and the coverage of any person insured under such a form of policy shall not be cancelable except 14 for nonpayment of premiums unless the coverage of all 15 persons insured under such form of policy is also canceled. 16 17 (2) Notwithstanding-the-provisions-of-33-17-215y-any A 18 person licensed to transact disability insurance as an 19 insurance agent way transact extended health insurance and may be paid a commission thereon." 20 **Z1** Section 14. Repeater. Section 33-17-215, MCA, is repealed. 22

-End-

-19-

46th Legislature

LC 0388/01

Approved by Committee on Business and Industry

	Senate BILL NO. 9.7
1	
2	INTRODUCED BY For maken Halter Hagen
3	BY REQUEST OF THE CONMISSIONER 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, NCA.*
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 firmsandcorporations
15	organizations requisites. (1) A firm partnership or
16	corporation shall may be licensed only as an insurance
17	agent. If-afirmeachgeneralpertnerandeachother
18	individualtoact-for-the-firm-under-the-license-andy-if-a
19	corporationy-each-individualtoactforthecorporation
20	under-the-license-shall-be-named-in-the Each member and
	employee of a partnership and each officers directors
21	
22	stockholders or employee of a corporations personally
23	engaged in this state in soliciting or negotiating insurance
24	policies, shall be registered with the commissioner in
Z5	conjunction with the partnership or corporation license and
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There are no changes in <u>JAG9</u>. Please refer to yeldow copy for complete text.

shall qualify therefor as though an individual licenses. The 1 commissioner-shall-chorae-and-the-licensee-shall-bay-o--full 2 3 An additional license fee as--to shall be paid for each 4 respective individual so-named-in-such-license-in-excess--of two registered in conjunction with the partnership or 5 corporation license. ٨ 7 R Heense powers. 9 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 business---in---this---state---unless the transaction of 13 business under the license is within the purposes stated in 14 firm's partnership agreement or the corporation's 15 the 16 articles of incorporation-17 (4)(3) The partnership or corporate licensee shall 18 promptly notify the commissioner of ell-changes-among-its 19 membersv-directorsv-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, NCA, is amended to read: *33-17-211. Application for license. (1) Application 23 for an agent or solicitor license shall be made to the 24 25 commissioner by the applicant and be signed and sworn to by

-2- SECOND PRINTING SEVER SECOND READING

the applicant before a notary public or other person 1 . z authorized by law to take acknowledgments of deeds. (2) The commissioner shall designate and prepare forms 3 for application for license which shall require full answers 4 such questions as may reasonably be necessary to 5 to determine the applicant's identity, residence, personal 6 history, business record, experience and training in 7 insurance, purpose for which the license is to be used, and 8 other facts as required by the commissioner to determine 9 whether the applicant meets the applicable qualifications 10 for the license applied for-11

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

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

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

-4-

-3-

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LC 0388/01

frate BILL NO. 93 Kolstel Hager 1 INTRODUCED BY 2 BY REQUEST OF THE COMMISSIONER OF INSURANCE 3

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 5 LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS, 6 AND CONSULTANTS; AMENDING SECTIONS 33-17-204. 33-17-211. 7 33-17-212. 33-17-214. 33-17-216. 33-17-218. 33-17-231. я 33-17-401, 33-17-404, 33-17-1101, 33-17-1103, 33-17-1111, 9 AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA." 10 11

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

13 Section 1. Section 33-17-204, MCA, is amended to read: *33-17-204. Licensing of firms---and--corporations 14 organizations -- requisites. (1) A firm partnership or 15 corporation shall may be licensed only as an insurance 16 17 agent. If-o--firmy--coch--generol--partner--and--coch--other 18 individual--to--act-for-the-firm-under-the-license-andv-if-e 19 corporationv-each-individual--to--act--for--the--corporation 20 under--the--license--shall--be--nemed-in-the Each member and 21 employee of a partnership and each officer. director. stockholders or exployee of a corporations personally 22 23 engaged in this state in soliciting or negotiating insurance **Z4** policies, shall be registered with the commissioner in **Z**5 conjunction with the partnership or corporation license and

2 commissioner-shall-charge-and-the-licenses-shall-nev-s--full 3 An additional license fee es--to shall be paid for each respective individual so-nemed-in-such-license-in-excess--of 5 two registered in conjunction with the partnership or 6 corporation license. 7 t21--A-nonresident-of-Montene-shell--not--be--noned--in A . license-powerse 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--ond---unless the transaction of 14 business under the license is within the purposes stated in 15 the firms partnership agreement or the corporations 16 articles of incorporation.

shall qualify therefor as though an individual licenses. The

17 (4)(3) The partnership or corporate licensee shall 18 promptly notify the commissioner of all-changes-among-its 19 wembersv-directorsy-ond-officers-ond-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 for an agent or solicitor license shall be made to the 24 25 commissioner by the applicant and be signed and sworn to by

SB93

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

(2) The commissioner shall designate and prepare forms 3 for application for license which shall require full answers 4 such questions as may reasonably be necessary to 5 to determine the applicant's identity, residence, personal ٨ history, business record, experience and training in 7 insurance, purpose for which the license is to be used, and 8 other facts as required by the commissioner to determine 9 whether the applicant meets the applicable qualifications 10 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.

(5) If the applicant for an agent license is a firm or corporation, the application shall show, in addition, the names of all members, officers, and directors and shall designate each individual who is to exercise the powers to be conferred by the license upon the firm or corporation. Each such individual so designated shall furnish information
 as to himself, as part of the application, as though for an
 individual license.

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

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

19 (8) The commissioner shall require as part of the 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

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

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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."

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

(2) If the applicant is a firm or corporation, the
examination shall be so taken by each individual who is to
be named in the license as having authority to act for the
applicant in its insurance transactions under the license.
(3) Examination of an applicant for an agent*s license
shall cover all of the kinds of insurance for which the

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 insurancewi

11 (g) credit life and disability insurance.

(4) Examination of an applicant for a solicitor's 12 license shall cover all the kinds of insurance. other than 13 14 life, as to which the appointing agent is licensed. 15 (5) This section shall not apply to, and no such examination shall be required of: 16 (a) any individual lawfully licensed as an agent or 17 solicitor as to the kind or kinds of insurance to be 18 19 transacted as of or immediately prior to January 1, 1961,

20 and thereafter continuing to be so licensed;

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

- SB93

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1 thereof refused by the commissioner; 1 (2) The license shall state the name and address of (c) any applicant for license as nonresident agent, 2 the licensee, date of issue, general conditions relative to 2 3 subject to reciprocal arrangements as provided for in this expiration or termination, kind or--kinds of insurance 3 4 code: covered, and the-other-conditions-of-the-license such_pther 4 5 (d) all applicants for license as agent for an insurer information as the commissioner considers proper-5 that confines its business in this state substantially to +31--If--the--license--is--agent--for--life--and/or 6 6 7 the insuring of the property, interests, and risks of disability-insurance-onlys-the-license-shall-state-the--name 7 farmers, if exempted from examination by the commissioner, a of--the--insurer--to-be-so-representeds-If-the-license-is-as A 9 in his discretion, upon written request of the insurer; egent-for-eny-other-kind-or-kinds-of-insurancey-it-shell-not 9 10 (e) transportation ticket agents of common carriers 10 state-the-neme-of-any-insurer-to-be-so-represented. applying for license to solicit and sell only: 11 (4)(3) If-the-licensee-agent-is-a-firm-or-corporationv 11 12 (i) accident insurance ticket policies; or the The license of a partnership or corporation shall also 12 (ii) insurance of personal effects while being carried 13 state the name of each individual authorized thereunder to 13 14 as baggage on such common carrier, as incidental to their 14 exercise the license powers. 15 duties as such transportation ticket agents; (5)(4) If-the-licensee-is-s-solicitory-the The license 15 of a solicitor shall state the name and address of the agent (f) agents* associations applying for license under 16 16 33-17-205: 17 17 to be represented." 18 (q) title insurance agents.* 18 Section 5. Section 33-17-216. MCA, is amended to read Section 4. Section 33-17-214, MCA, is amended to read: 19 *33-17-216. Temporary agent licenses -- fee. (1) The 19 20 #33-17-214. Issuance of license -- contents. (1) The commissioner may issue a temporary license as agent to or 20 21 commissioner shall promptly issue ticenses the license with respect to an individual qualified therefor only as to 21 22 applied for to persons the person qualified therefor in age, residence, and trustworthiness and without requiring 22 23 accordance with this chapter. There is a license for life such individual to take an examination, in the following **Z**3 24 or disability insurance and a separate license for kinds of 24 cases: 25 insurance other than life or disability. (a) to the surviving spouse or next of kin or to the 25

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

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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;

(d) to the designee of a licensed agent entering upon
 active service in the armed forces of the United States of
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tel--upon--request--of-the-insurery-to-on-applicant-for 14 license-as-a-life-insurance-agenty-pending-the-taking-of-any 15 16 exemination-required-of-the-applicant--by--the--commissioner under-33-17-212y-if-the-applicant-is-duly-anrolled-in-and-is 17 18 actively-pursuing-an-adequate--course--of-instructiony-as 19 provided-by-or-through-the-insurery-in-properstion-for--such 20 examination--Such-license-shall-be-for-a-period-of-not-over 90--devs--or--until--the--applicant--hos--had--a--reasonable 21 opportunity--to-take-such-examination-and-be-informed-by-the 22 23 commissioner-as-to-the-results--thereofy--whichever--is--the Z4 shorter-periody-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-

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

(4) The fee paid for the temporary license may be 17 18 applied upon the fee required for any permanent license 19 issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance." 20 Section 6. Section 33-17-218. MCA. is amended to read: 21 22 *33-17-218. Continuance and expiration of licenses. 23 chaptery--all--ogent--licenses--as-to-life-and/or-disability 24

25 insurance-onlyw-and-all--nonresident--agent--licanses shall

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SB 93

continue in force until expired, suspended, revoked, or 1 Z terminated but subject to payment to the commissioner annually on or before May 1 of the applicable continuction 3 4 renewal fee as stated in 33-2-708, accompanied by written 5 request for such continuation renewal. Such-request-for continuation-as-to-agent-licenses-for-life-insurance--and/or 6 7 disability--insurance--only--shall-be-made-by-the-insurer-in the-form-of-on-otphabetical-tist-in-duplicate-of--the--names 8 9 and---addresses--of--its--adents--whose---licenses--are--to-be 10 cuntinued-in-this--states--accorpanied--by--payment--of--the n ennial-continuetion-fee-therefor-as-provided-in-33-2-708+-At 12 the----sawe--time---the---insurer--sholl---sloo--file--with--the 13 commissioner-an-alphabetical-list-in-duplicate-of-the--names 14 ond-addresses-of-oll-its-agants-whose-licanses-in-this-state 15 ere-mot--remain--in--effecty-Section-33-17-231153-shall 16 appiy-as-to-any-licenses-so-terminated-by-the-insurer-As-to a-solicitor*s-licensev~such-request A request for renewal of 17 a solicitor's license shall be signed by the agent by whom 18 19 the licensee is employed. 20 ttj--Any--ficense--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 doemed 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

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1 received--by- the-commissioner-after-such-Nay-1-and-prior-to
2 the-next-following-June-15-may-be-accepted--and--effectuated
3 by-the-commissionery-in-his-discretiony-if-accompanied-by-an
4 ennual--continuation-fee--in-twice--the--amount--otherwise
5 requiredy

+3+(2) The license of an agent as-to--property. 6 cosualtyv-or-surety-insurance shall continue in force 7 subject to the provisions of 33-17-231 and unless suspended A. or revoked, as long as there is in effect as to such agents 9 as shown by the commissioner's records an appointment or 10 oppointments, as agent of an authorized insurers insurer, 11 covering collectively all of the kinds of insurance included 12 in the agent's license. Upon termination of all of such-an 13 the agent's agency appointments as to for a particular kind 14 of insurance and failure to secure and file with the 15 commissioner a new appointment es--to for such kind of 16 insurance within 90 days thereafter, the agent's license 17 18 shall automatically thereupon-expire-and terminate as t such kind of insurance and-the--licensee-shall-promptly 19 deliver-his-license--to--the--commissioner--for--reissuancey 20 without--fee-or-chargey-as-to-the-kinds-of-insurance-covered 21 22 by-the-scent-s-remaining-appointments. (4)(3) This section shall not apply to temporary 23 24 licenses issued under 33-17-216.**

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

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

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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.

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

-13-

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.

(5) As part of the notice of termination given the A commissioner, the insurer shall file with the commissioner a Q statement of the facts relative to the termination and the 10 cause thereof. Any information or statement contained in the 11 notice of termination shall be privileged and shall not be 17 admissible as evidence in any action or proceeding against 13 the insurer or any representative thereof by or in behalf of 14 any person affected by such termination.* 15

Section 8. Section 33-17-401, MCA, is amended to read: "33-17-401. Nonresident agent -- reciprocity. The commissioner may license as an agent a person who-is. partnerships_or_corporation otherwise qualified under this code but who-is not a resident of this state if pursuant to the laws of the state of his residence a similar privilege 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

-14-

LC 0388/01

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

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

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

17 (2) The ficenses <u>license</u> of the ficensee and the 18 ficenses <u>license</u> of soficitors <u>sach</u> <u>solicitor</u> appointed by 19 and representing the ficensee 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

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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:

#33-17-1103. Exchange of business sharing ٨ commissions. (1) An agent may, occasionally only, place an 7 insurance coverage with an insurer as to which he is not then licensed or appointed as an agent, and the insurer 9 shall accept such business, only when placed through e 10 Hicensed an agent, resident-in-this-statev-of licensed_under 11 this chapter and appointed by the insurer. Both agents 12 involved in such an exchange of business must be licensed as 13 to all of the kinds of insurance represented by the coverage 14 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

-15-

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

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

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

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

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

(b) the policy is written through a nonresident agent 18 and the policy or countersignature endorsement attached 19 thereto is countersigned by such a resident licensed agent. 20 (2) No such countersignature shall be made in blank. 21 The agent may by express written authorization given in 22 23 advance delegate to his salaried clerical employee the power to so countersign in the name of the agent such contracts or 24 classes of contracts as are designated in such authorization 25

so long as the initials of such employee are written below 1 the agent's name on such countersignature, but the agent Z shall not thereby delegate or have power to delegate to any 3 other person the power or authority to bind an insurer with 4 respect to any risk not already bound by the agent or other 5 person having clear authority from the insurer so to bind. * The agent shall be responsible for all of the acts of such 7 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;

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

(d) insurance of property in course of transportation 21 22 interstate or in foreign trade or any liability or risk **Z**3 incident thereto:

24 (e) insurance of wet marine and transportation risks: Z5

(f) countersignature to policies issued through agents

-18-

SB 93

-17-

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

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

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 policy approved by the commissioner for an association shall be offered throughout Hontana to all persons 65 and older and their spouses, and the coverage of any person insured under such a form of policy shall not be cancelable except for nonpayment of premiums unless the coverage of all persons insured under such form of policy is also canceled.

17 [2] Notwithstanding-the-provisions-of-33-17-215v-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. Repeater. Section 33-17-215. HCA, is 22 repeated.

-End-

-19-

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1 z INTRODUCED BY LOWE, MEHRENS, KOLSTAD, HAGER BY REQUEST OF THE COMMISSIONER OF INSURANCE 3 4 A BTIL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 5 LAWS RELATING TO INSURANCE AGENTS, SOLICITORS, ADJUSTERS, 6 AND CONSULTANTS: AMENDING SECTIONS 33-17-204, 33-17-211+ 7 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231, A 33-17-401. 33-17-404. 33-17-1101. 33-17-1103. 33-17-1111. 9 AND 33-22-813, MCA; AND REPEALING SECTION 33-17-215, MCA." 10 11 BE TT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 13 Section 1. Section 33-17-204, NCA, is amended to read: *33-17-204. Licensing of firms---and--corporations 14 15 organizations -- requisites. (1) A firm partnership or corporation shall may be licensed only as an insurance 16 17 agent. If-o--firmy--each--general--partner--and--each--other individual--to--act-for-the-firm-under-the-license-andy-if-a 18 corporationy-each-individual--to--act--for--the--corporation 19 20 under--the--license--shall--be--named-in-the Each_member_and employee of a partnership and each officers directors 21 22 stockholder, or employee of a corporation, personally 23 <u>engaged in this state in soliciting or negotiating insurance</u> 24 policies, shall be registered with the commissioner in 25 conjunction with the partnership or corporation license and

SENATE BILL NO. 93

1 shall qualify therefor as though an individual licensee. The commissioner-shall-charge-and-the-licensee-shall-pay-a--full 2 ٦ An additional license fee es--to shall be paid for each respective individual so-named-in-such-license-in-excess--of 5 two registered in Conjunction with the partnership or 6 corporation_license. 7 t21--A-nonresident-of-Montana-shall--not--be--nomed--in 8 such--ficense--and--shaff-not-have-the-right-to-exercise-the ۵ ++cense-powers# 10 +3+121 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--end--unless the transaction of business under the license is within the purposes stated in 14 15 the firman partnership agreement or the corporationan 16 articles of incorporation. 17 (4)(3) The partnership or corporate licensee shall 18 promptly notify the commissioner of all-changes-emong-its 19 membersy-directorsy-ond-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

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for an agent or solicitor license shall be made to the

commissioner by the applicant and be signed and sworn to by

REFERENCE BILL

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

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

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

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Each such individual so designated shall furnish information
 as to himselfe as part of the applicatione as though for an
 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-

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

19 (8) The commissioner shall require as part of the 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

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SB 0093/02

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

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

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

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1 applicant has applied to be licensed. as constituted by any

- 2 one or more of the following classifications:
- 3 (a) life insurance;
- (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 insurancewi
- 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 solicensed;

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

SB 93

-6-

SB 0093/02

1	thereof refused by the commissioner:	1	(2) The license shall state the name and address of
2	<pre>{c} any applicant for license as nonresident agent;</pre>	Ž	the licensee, date of issue, general conditions relative to
3	subject to reciprocal arrangements as provided for in this	3	expiration or terminations kind erkinds of insurance
4	cöde;	4	covered; and the-other-tonditions-of-the- if conse <u>Luch</u>_<u>uther</u>
5	(d) all applicants for license as agent for an insurer	5	<u>idføtmation_as_tbé_commissionér_considers_proper</u> .
6	that confines its business in this state substantially to	6	t3}1fthe-~}+ttensetsas-+agentfortteand/ot
1	the insuring of the property, interests, and risks of	7	disabiiity-insuranca-oniy-th6-iidanse-shāii-state-thcname
8	farmers, if exempted from examination by the commissioner,	8	6fthetasurerto- b u-so-representede-tf-the-t+tunst-+s-as
9	in his discretion, upon written request of the insurer;	9	ogent-for-entr-kind-pr-kinds-of-insurancer-it-skali-kot
10	(a) transportation ticket agents of common carriers	10	state-the-name-of-any-insurer-to-be-se-represented:
11	applying for license to solicit and sell only:	11	t4 <u>;[3]</u>
12	(i) accident insurance ticket policies; or	12	the <u>The</u> license <u>of a partnership or corporation</u> shall also
13	(ii) insurance of personal effects while being carried	13	state the name of each individual authorized thereander to
14	as baggage on such common carriers as incidental to their	14	exercise the license powers.
15	duties as such transportation ticket agents;	15	(51<u>[4]</u> - if-the-iitensee-ie-soiiteiter+-the <u>The</u> license
16	(f) agents' associations applying for license under	16	of a solicitor shall state the name and address of the agent
17	33-17-205;	17	to be represented."
18	[g] title insurance agents."	18	Section 5. Section 33-17-216. HCA. is amended to read:
19	Section 4. Section 33-17-214, MCA, is amended to read:	19	#33+17-216. Témporary agent ficenses fee. (1) The
20	#33-17-214. Issuance of license +- contents. (1) The	20	commissioner may issue à temporary license as agent to or
21	commissioner shall promptly issue licenses <u>the license</u>	21	with respect to an individual qualified therefor only as to
2Ż	applied for to persons the person qualified therefor in	22	age, residence, and trustworthiness and without requiring
23	accordance with this chapter. <u>There is a license for life</u>	23	such individual to take an examination, in the following
24	or disability insurance and a separate license for kinds of	24	cases:
25	iosyrance_other_than_life_or_disability.	25	(a) to the surviving spouse or next of kin or to the
	-7		•
	-7- 58 93		-8- SB 93

4

58 0093/02

SB 93

administrator or executor, or the employee of such
 administrator or executor, of a licensed agent becoming
 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;

(d) to the designee of a licensed agent entering upon
 active service in the armed forces of the United States of
 Americata

fe}--upon--request--of-the-insurer+-to-sn-applicant-for 14 ++cense-os-o-++Fe-+nsurance-agenty-pending-the-taking-of-any 15 examination-required-of-the-applicant--by--the--commissioner 16 17 under-33-17-212y-if-the-applicant-is-duly-enrolled-in-and-is 18 actively--pursuing--an--adeguate--course--of-instructiony-as 19 provided-by-or-through-the-insurery-in-preparation-for--such 20 examination--Such-license-shall-be-for-a-period-of-not-over 98--days--or--until--the--applicant--has--had--o--reasonable 21 opportunity--to-take-such-examination-and-be-informed-by-the 22 commissioner-es-to-the-results--thereofy--whichever--is--the 23 shorter-periody-but-subject-to-extension-by-the-commissioner 24

25 as-provided-in-subsection-f3t-belows

-9-

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.

٨ (3) The temporary license shall be for a period of not 7 over 90 days, subject to extension by the commissioner in his discretion for an additional period of not more than 90 8 ۰ days, except that such a license issued pursuant to subsection (1)(a) above way be continued without payment of 10 11 additional fee until the executor or administrator disposes 12 of the insurance business but not to exceed a period of 15 months. Temporary license issued to the next of kin under 13 such subsection (1)(a) shall not be extended for an 14 additional term or terms after appointment and qualification 15 of such an administrator or executor. 16

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 temporary license and covering the same kinds of insurance." 20 Section 6. Section 33-17-218. MCA. is amended to read: 21 #33-17-218. Continuance and expiration of licenses. 22 23 (1) All solicitor and adjuster licenses issued--under--this chaptery--all--agent--licenses--as-to-life-and/or-disability 24 insurance-onlyv-and-all--nonresident--agent--licenses shall 25

SB 0093/02

-10-

1 continue in force until expired, suspended, revoked, or terminated but subject to payment to the commissioner 2 3 annually on or before May 1 of the applicable continention 4 renewal fee as stated in 33-2-708, accompanied by written 5 request for such continuation reneval. Such-request-for continuation-as-to-agent-licenses-for-life-insurance--and/or 6 7 dissbility--insurance--only--shall-be-ada-by-the-insurar-in 8 the-form-of-an-alphabetical-list-in-deplicate-of--the--names • and--addresses--of--its--agents--whose--iicenses--are--to-be 10 continued-in-this--statey--accomponied--by--payment--of--the 11 annuat-continuation-fee-therefor-al-provided-in-33-2-798--At 12 13 commissioner-en-alphabetical-list-in-duplicate-of-the--nemes 14 and-addresses-of-all-its-agents-whose-licenses-in-this-state are--not--to--remain--in--effectu-Section-33-t7-23t(5)-shall 15 16 apply-as-to-any-licenses-so-terminated-by-the-insurery-As-to 17 s-soficitor4s-licenser-such-request <u>A_request_for_reneval_of</u> 18 a solicitor's license shall be signed by the agent by whom 19 the licensee is employed. 20 t2}--Any--license--referred--to-in-subsection-tij-as-to 21 which-such-fee-and-request-for-continuation-are-not-received 22 by-the-commissioner-as-required-in-such-subsection-flj-shail 23 be-deemed-to-have-expired-as-of--midnight--on--May--3t--next 24 followingv--Request--for--continuation--of--anv-such-license 25 andfor-payment-of-the-continuetion--fee--therefor--which--is received--by--the-commissioner-after-such-May-i-and-prior-to
 the-naxt-following-dune-i5-may-bo-accepted--and--effectuated
 by-the-commissionery-in-his-discretiony-if-accompanied-by-an
 annual--continuation--fee--in--twice--the--amount--atherwise
 requiredy

6 titl21 The license of an agent sp--to---property. 7 casualtyy--or--surety--insurance shall continue in force . subject to the provisions of 33-17-231 and unless suspended 9 or revokeds as long as there is in effect as to such agents 10 as shown by the commissioner's records, an appointment or 11 epperature as agent of an authorized tasurers insurer, 12 covering collectively all of the kinds of insurance included 13 in the agent's license. Upon termination of all of such-on the agent's agency appointments es-to for a particular kind 14 15 of insurance and failure to secure and file with the 16 commissioner a new appointment es--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--compissioner--for--reisspancev 21 without-fee-or-chargey-as-to-the-kinds-af-insurance-covered 22 by-the-agent's-remaining-appointments. 23 f4f(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:

-12-

SE 93

-11-

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S8 93

\$8 0093/02

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

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.

(3) Annually, prior to May 1, each insurer shall file 17 with the commissioner an alphabetical list in duplicate of 18 the names and addresses of all its agents whose appointments 19 20 in this state are to remain in effect, accompanied by payment of the annual continuation-of-oppointment renewal 21 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 of all its agents whose appointments in this state are not 25

SB 0093/02

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 statement of the facts relative to the termination and the 10 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."

Section 8. Section 33-17-401, MCA, is amended to read: 16 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 code but who-is not a resident of this state if pursuant to 20 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

-14-

-13-

SB 93

covering subjects of insurance located or to be performed in
 Montana. These Except_as_provided_in_33-17-1111e_these
 policies must be countersigned by a licensed resident
 agent.*

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

#33-17-1101. Place of business -- display of license 7 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 principally conducts transactions 'under his license. The 11 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 Heenses license of the licensee and the 18 Heenses license of setHeiters 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

-15-

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SB 93

1 transactions.

2 t4t--This-section--shatt--not--appty-as--ta--tife--and 3 disabitity-insurances."

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

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

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

-16-

SB 93

SB 0093/02

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provision shall not affect payment of the regular salaries
 due employees of the licensee or the distribution in regular
 course of business of compensation and profits among members
 or stockholders if the licensee is a firm or corporation or
 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 and the policy or countersignature endorsement attached thereto is countersigned by such a resident licensed agent. (2) No such countersignature shall be made in blank. The agent may by express written authorization given in advance delegate to his salaried clerical employee the power to so countersign in the name of the agent such contracts or

25 classes of contracts as are designated in such authorization

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 agent shall keep a record of each and all coverages 9 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 contracts: 14 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

so long as the initials of such employee are written below

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;

(e) insurance of wet marine and transportation risks;(f) countersignature to policies issued through agents

-17-

SB 93

-18-

SB 93

SB 0093/02

1 compensated only by salary or issued by insurers not using agents in the general solicitation of business; 2 3 (g) bid bonds, as required under Title 18, chapter 1, 4 part 2. 5 (4) Violation of this section shall not invalidate any contract otherwise valid as between the insurer and the 6 insured." 7 8 Section 13. Section 33-22-813, MCA, is amended to read: 9 10 #33-22-813. Sale area -- agents. (1) Any form of policy approved by the commissioner for an association shall 11 be offered throughout Montana to all persons 65 and older 12 13 and their spouses, and the coverage of any person insured under such a form of policy shall not be cancelable except 14 15 for nonpayment of premiums unless the coverage of all persons insured under such form of policy is also canceled. 16 (2) Notwithstanding-the-provisions-of-33-17-215--any & 17 18 person licensed to transact disability insurance as an 19 insurance agent may transact extended health insurance and 20 way be paid a commission thereon." 21 Section 14. Repeater. Section 33-17-215. MCA. is

22 repealed.

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-19-

S& 93