

CHAPTER NO. 193.

SENATE BILL NO. 101

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 15, 1979	Introduced and referred to Committee on Business and Industry.
January 30, 1979	Committee recommend bill do pass as amended. Report adopted.
February 1, 1979	Printed and placed on members' desks.
February 2, 1979	Second reading, do pass.
February 3, 1979	Considered correctly engrossed.
February 5, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Business and Industry.
March 5, 1979	Committee recommend bill be concurred in and be placed on Consent Calendar. Report adopted.
March 7, 1979	Third reading Consent Calendar concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 Sen. Bill No. 101
2 INTRODUCED BY Sen. Bill No. 101
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE
7 COMPANIES; AND REPEALING SECTION 40-1723, R.M.C. 1947."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 33-1-201, MCA, is amended to read:
11 "33-1-201. Definitions -- insurance in general. For
12 the purposes of this code, the following definitions apply
13 unless the context requires otherwise:
14 (1) An "alien insurer" is one formed under the laws of
15 any country other than the United States of America, its
16 states, districts, territories, and commonwealths.
17 (2) An "authorized insurer" is one duly authorized by
18 subsisting certificate of authority issued by the
19 commissioner to transact insurance in this state.
20 (3) A "domestic insurer" is one formed under the laws
21 of this state.
22 (4) A "foreign insurer" is one formed under the laws
23 of any jurisdiction other than this state. Except where
24 distinguished by context, foreign insurer includes also an
25 alien insurer.

1 (5) "Insurance" is a contract whereby one undertakes
2 to indemnify another or pay or provide a specified or
3 determinable amount or benefit upon determinable
4 contingencies.
5 (6) "Insurer" includes every person engaged as
6 indemnitor, surety, or contractor in the business of
7 entering into contracts of insurance.
8 (7) "State", when used as to jurisdiction, means a
9 state, the District of Columbia, or a territory,
10 commonwealth, or possession of the United States of America.
11 (8) "Transact", with respect to insurance, includes
12 any of the following:
13 (a) solicitation and inducement;
14 (b) preliminary negotiations;
15 (c) effectuation of a contract of insurance;
16 (d) transaction of matters subsequent to effectuation
17 of the contract of insurance and arising out of it.
18 (9) An "unauthorized insurer" is one not authorized by
19 subsisting certificate of authority issued by the
20 commissioner to transact insurance in this state."
21 Section 2. Section 33-1-202, MCA, is amended to read:
22 "33-1-202. Definitions -- entities. For the purposes
23 of this code, the following definitions apply unless the
24 context requires otherwise:
25 (1) "Commissioner" means the commissioner of insurance

1 of the state of Montana ~~unless--the--context--requires~~
2 otherwise.

3 (2) "Department" means the department of insurance of
4 the state of Montana ~~unless-the-context-requires--otherwise.~~

5 (3) "Person" includes an individual, insurer, company,
6 association, organization, Lloyd's, society, reciprocal or
7 interinsurance exchange, partnership, syndicate, business
8 trust, corporation, ~~and~~ or any other legal entity."

9 Section 3. Section 33-1-211, MCA, is amended to read:

10 "33-1-211. Surety insurance. Surety insurance
11 includes:

12 (1) fidelity insurance which is insurance guaranteeing
13 the fidelity of persons holding positions of public or
14 private trust;

15 (2) insurance guaranteeing the performance of
16 contracts, other than insurance policies, and guaranteeing
17 and executing bonds, undertakings, and contracts of
18 suretyship;

19 (3) insurance indemnifying banks, bankers, brokers, ~~or~~
20 financial or moneyed corporations or associations;

21 ~~(a)~~ against check forgery or alteration or against
22 loss resulting from any cause of bills of exchange, notes,
23 bonds, securities, evidences of debt, deeds, mortgages,
24 warehouse receipts, or other valuable papers, documents,
25 money, precious metals and articles made therefrom, jewelry,

1 watches, necklaces, bracelets, gems, or precious and
2 semiprecious stones, including any loss while ~~the--same--are~~
3 being transported in armored motor vehicles, by mail, or by
4 messenger but not including any other risks of
5 transportation or navigation; ~~also--insurance~~

6 ~~(b)~~ against loss or damage to ~~such-on the~~ insured's
7 premises or to his furnishings, fixtures, equipment, safes,
8 and vaults therein caused by burglary, robbery, theft,
9 ~~vandalism~~ or criminal mischief or any attempt thereof."

10 Section 4. Section 33-1-303, MCA, is amended to read:

11 "33-1-303. Deputies and assistants -- employment,
12 compensation, and termination. (1) The commissioner shall
13 appoint a chief deputy insurance commissioner who shall be
14 in charge of the insurance department under the direction
15 and control of the commissioner.

16 (2) The commissioner may appoint additional deputy
17 insurance commissioners for ~~such the~~ purposes ~~as that~~ he may
18 designate designates.

19 (3) The commissioner may employ a competent insurance
20 actuary to perform actuarial duties, if any, of the
21 department, to take charge of or assist in the examination
22 of insurers, and to perform other duties assigned to him.

23 (4) The commissioner may appoint or employ ~~such~~
24 examiners to conduct or assist in examinations of insurers
25 and others provided for under the code, ~~as--may~~ examiners

1 ~~must~~ be competent, because of experience or special
2 education or training, to fulfill the responsibilities of an
3 insurance examiner.

4 (5) The commissioner shall appoint and employ a field
5 investigator whose primary duty it ~~shall be~~ is, as directed
6 by the commissioner, to make investigations in this state of
7 violations or claimed violations of this code.

8 (6) The commissioner may appoint a chief clerk for the
9 insurance department and employ such other assistants and
10 clerks as may be necessary to assist him properly to
11 discharge the duties imposed upon him under this code.

12 (7) The commissioner may at any time terminate the
13 appointment, designation, or employment of any such deputy,
14 actuary, chief clerk, or other employee.

15 (8) The commissioner may from time to time contract
16 for and procure, on a fee or part-time basis, or both, such
17 actuarial, technical, or other professional services as he
18 may require for the discharge of his duties.

19 (9) The compensation of ~~all such personnel so~~
20 ~~appointed, employed, or contracted for by him~~ the
21 commissioner's personal staff, as defined in Title 4,
22 chapter 18, part 1, shall be as fixed by the commissioner
23 but in the aggregate shall ~~may~~ not exceed current funds
24 appropriated by the legislature to the insurance department
25 or otherwise currently available for the purpose."

1 Section 5. Section 33-1-315, MCA, is amended to read:
2 "33-1-315. Witnesses -- production of records --
3 subpoena -- failure to respond -- perjury. (1) With respect
4 to the subject of any examination, investigation, or hearing
5 being conducted by him, the commissioner or his examiner, if
6 general written authority therefor has been given the
7 examiner by the commissioner, may subpoena witnesses and
8 administer oaths or affirmations and examine any individual
9 under oath and may require and compel the production of
10 records, books, papers, contracts, and other documents by
11 attachments, if necessary. If in connection with any
12 examination of an insurer the commissioner desires to
13 examine any officer, director, or manager thereof who is
14 then outside this state, the commissioner ~~is authorized to~~
15 may conduct and enforce by all appropriate and available
16 means any such examination under oath in any other state or
17 territory of the United States in which such officer,
18 director, or manager may then presently be, to the full
19 extent permitted by the laws of such other state or
20 territory, this special authorization considered.

21 (2) Witness fees and mileage, if claimed, shall be
22 allowed the same as for testimony in a district court.
23 Witness fees, mileage, and the actual expenses necessarily
24 incurred in securing attendance of witnesses and their
25 testimony shall be itemized and shall be paid by the person

being examined if such person is found to have been in violation of the law as to the matter with respect to which such witness was subpoenaed or by the person, if other than the commissioner, at whose request the hearing is held.

(3) Subpoenas of witnesses shall be served in the same manner as if issued from a district court. If any individual fails to obey a subpoena lawfully served, the commissioner shall forthwith report such disobedience, together with a copy of the subpoena and proof of service thereof, to the district court for the county in which the individual was required to appear. Such court shall forthwith cause such individual to be produced and shall impose penalties as though he had disobeyed a subpoena issued out of such court.

(4) Any person ~~willfully~~ knowingly failing to attend, answer, or produce records, documents, or other evidence requested by the commissioner or who ~~willfully~~ knowingly fails to give the commissioner full and truthful information and answer in writing to any material written inquiry of the commissioner, relative to the subject of any such examination, investigation, or hearing, or ~~willfully~~ knowingly fails to appear and testify under oath before the commissioner ~~shall upon conviction thereof, in addition to or in lieu of any other penalty or penalties applicable, be deemed~~ is guilty of a misdemeanor and, in addition to or in lieu of any other penalty, upon conviction, shall be fined

not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(5) Any person ~~willfully~~ knowingly testifying falsely under oath as to any matter material to any such examination, investigation, or hearing ~~shall be guilty of perjury, and upon conviction thereof shall be guilty of perjury and punished accordingly according to 94-7-202.~~

Section 6. Section 33-1-411, MCA, is amended to read:

"33-1-411. Destruction of records -- hindrance of examination -- penalty. Any director, officer, agent, or employee of any company who destroys any books, records, or documents required to be kept by law for the purpose of hindering any examination in violation of the requirements of this section ~~33-1-412~~ shall be punished by a fine of not more than \$1,000 ~~and after~~ After a hearing thereon for that purpose, the commissioner may revoke the certificate of authority of such company."

Section 7. Section 33-1-704, MCA, is amended to read:

"33-1-704. Hearing procedure. (1) Hearings ~~may be closed to the public at the commissioner's discretion, except that a hearing held with respect to a filing made under chapter 16 prior to the effective date of such filing shall be closed to the public unless otherwise requested by the party that made such filing, in all other cases, a hearing shall be open to the public if so requested in~~

1 ~~writing by any party to the hearing. All hearings shall be~~
 2 ~~open to the public unless closed pursuant to the provisions~~
 3 ~~of 2-3-203.~~

4 (2) The commissioner shall allow any party to the
 5 hearing to appear in person and by counsel, to be present
 6 during the giving of all evidence, to have a reasonable
 7 opportunity to inspect all documentary evidence and to
 8 examine witnesses, to present evidence in support of his
 9 interest, and to have subpoenas issued by the commissioner
 10 to compel attendance of witnesses and production of evidence
 11 in his behalf.

12 (3) The commissioner shall permit to become a party to
 13 the hearing by intervention, if timely, any person who was
 14 not an original party thereto and whose pecuniary interests
 15 ~~are to~~ will be directly and immediately affected by the
 16 commissioner's order made upon the hearing.

17 (4) Formal rules of pleading or evidence need not be
 18 observed at any hearing.

19 (5) Upon written request seasonably made by a party to
 20 the hearing and at ~~such~~ ~~that~~ person's expense, the
 21 commissioner shall cause a full stenographic record of the
 22 proceedings to be made by a competent reporter. If
 23 transcribed, a copy of such stenographic record shall be
 24 furnished to the commissioner without cost to the
 25 commissioner or the state and shall be a part of the

1 commissioner's record of the hearing. If so transcribed, a
 2 copy of such stenographic record shall be furnished to any
 3 other party to such hearing at the request and expense of
 4 such other party. If no stenographic record is made or
 5 transcribed, the commissioner shall prepare an adequate
 6 record of the evidence and of the proceedings."

7 Section 8. Section 33-2-105, MCA, is amended to read:

8 "33-2-105. Suits by unauthorized insurers prohibited.
 9 ~~As Except as~~ to transactions ~~not~~ permitted under 33-2-102,
 10 no unauthorized insurer shall institute or file or cause to
 11 be instituted or filed any suit, action, or proceeding in
 12 this state to enforce any right, claim, or demand arising
 13 out of any insurance transaction in this state until such
 14 insurer has obtained a certificate of authority to transact
 15 such insurance in this state."

16 Section 9. Section 33-2-524, MCA, is amended to read:

17 "33-2-524. Individual and group annuity and pure
 18 endowment contracts — valuation. (1) The minimum standard
 19 for the valuation of all individual annuity and pure
 20 endowment contracts issued on [the operative date of this
 21 section], as defined herein, and for all annuities and pure
 22 endowments purchased on or after that operative date, under
 23 group annuity and pure endowment contracts ~~shall be~~ ~~is~~ the
 24 commissioner's reserve valuation method defined in 33-2-525
 25 and the following tables and interest rates:

1 (a) for individual annuity and pure endowment
2 contracts issued prior to January 1, 1986, excluding any
3 disability and accidental death benefits in such contracts,
4 the 1971 individual annuity mortality table or any
5 modification of this table approved by the commissioner and
6 6% interest for single premium immediate annuity contracts
7 and 4% interest for all other individual annuity and pure
8 endowment contracts;

9 (b) for individual annuity and pure endowment
10 contracts issued on or after January 1, 1986, excluding any
11 disability and accidental death benefits in such contracts,
12 the 1971 individual annuity mortality table or any
13 modification of the table approved by the commissioner and
14 3 1/2% interest;

15 (c) for all annuities and pure endowments purchased
16 prior to January 1, 1986, under group annuity and pure
17 endowment contracts, excluding any disability and accidental
18 death benefits purchased under such contracts, the 1971
19 group annuity mortality table or any modification of the
20 table approved by the commissioner and 6% interest;

21 (d) for all annuities and pure endowments purchased on
22 or after January 1, 1986, under group annuity and pure
23 endowment contracts, excluding any disability and accidental
24 death benefits purchased under such contracts, the 1971
25 group annuity mortality table or any modification of this

1 table approved by the commissioner and 3 1/2% interest.

2 (2) After March 17, 1973, any insurer may file with
3 the commissioner a written notice of its election to comply
4 with the provisions of subsection (1) after a specified date
5 before January 1, 1979, which shall be the operative date of
6 subsection (1) for such insurer. An insurer may elect a
7 different operative date for individual annuity and pure
8 endowment contracts from that elected for group annuity and
9 pure endowment contracts. If an insurer makes no such
10 election, the operative date of this section for such
11 insurer shall be January 1, 1979."

12 Section 10. Section 33-2-708, MCA, is amended to read:
13 "33-2-708. Fees and licenses. (1) The commissioner
14 shall collect in advance and the persons so served shall so
15 pay to the commissioner the following fees and licenses:

16 (a) certificates of authority:

17 (i) for filing applications for original ~~certificates~~
18 ~~certificates~~ of authority, articles of incorporation (except
19 ~~original articles of incorporation of domestic insurers~~ as
20 provided in subsection (b) below) and other charter
21 documents, bylaws, financial statement, examination report,
22 power of attorney to the commissioner, and all other
23 documents and filings required in connection with such
24 application and for issuance of an original certificate of
25 authority, if issued:

1 (A) domestic insurers.....\$ 30.00
 2 (B) foreign insurers.....300.00
 3 (ii) annual continuation of certificate of authority...
 4300.00
 5 (iii) reinstatement of certificate of authority.. 25.00
 6 (b) articles of incorporation:
 7 (i) filing original articles of incorporation of
 8 domestic insurer, exclusive of fees required to be paid by
 9 the corporation to the secretary of state..... 20.00
 10 (ii) filing amendment of articles of incorporation,
 11 domestic and foreign insurers, exclusive of fees required to
 12 be paid to the secretary of state by a domestic corporation
 13 10.00
 14 (c) filing bylaws or amendment thereto where required
 15 5.00
 16 (d) filing annual statement of insurer, other than as
 17 part of application for original certificate of authority...
 18 25.00
 19 (e) agent's license for property, casualty, surety,
 20 and title insurance agents, including disability insurance
 21 without additional license or fee when written by property,
 22 casualty, or surety insurer otherwise represented by the
 23 agent:
 24 (i) application for original license, including
 25 issuance of license, if issued..... 10.00

1 (ii) appointment of agent, each insurer..... 5.00
 2 (iii) annual renewal or appointment of agent, each
 3 insurer..... 5.00
 4 (iv) temporary license..... 10.00
 5 (f) nonresident agent's license for property,
 6 casualty, and title insurance agents, and including
 7 disability insurance without additional license or fee when
 8 written by property, casualty, or surety insurer otherwise
 9 represented by the agent:
 10 (i) application for original license, including
 11 issuance of license, if issued.....100.00
 12 (ii) appointment of agent, each insurer..... 5.00
 13 (iii) annual renewal or appointment of agent, each
 14 insurer.....100.00
 15 (g) solicitor's license:
 16 (i) application for original license, including
 17 issuance of license, if issued..... 5.00
 18 (ii) annual continuation of license..... 5.00
 19 (h) agent's license, life, disability insurance:
 20 (i) application for original license, each insurer....
 21 5.00
 22 (ii) annual continuation or renewal of license, each
 23 insurer..... 5.00
 24 (iii) temporary license, each insurer..... 5.00
 25 (i) nonresident agent's license, life, disability

1 insurance:

2 (i) application for original license, including

3 issuance of license, if issued, each insurer.....100.00

4 (ii) annual continuation or renewal of license, each

5 insurer.....100.00

6 (j) examination for license as agent or solicitor,

7 each examination 10.00

8 (k) surplus line agent's license:

9 (i) application for original license and for issuance

10 of license, if issued..... 25.00

11 (ii) annual renewal or continuation of license... 25.00

12 (l) adjuster's license:

13 (i) application for original license and for issuance

14 of license, if issued..... 10.00

15 (ii) annual continuation or renewal of license... 10.00

16 (m) insurance vending machine license, each machine,

17 each year 10.00

18 (n) commissioner's certificate under seal (except when

19 on certificates of authority or licenses)..... 3.00

20 (o) copies of documents on file in the commissioner's

21 office, per page..... .50

22 (p) policy forms:

23 (i) filing each policy form..... 25.00

24 (ii) filing each application, rider, endorsement,

25 amendment, insert page, schedule or of rates, and

1 clarification of risks..... 10.00

2 (iii) maximum charge if policy and all forms submitted

3 at one time or resubmitted for approval within 180 days.....

4 50.00

5 (2) The commissioner shall promptly deposit with the

6 state treasurer to the credit of the general fund of this

7 state all fees and licenses received by him under this

8 section."

9 Section 11. Section 33-2-833, MCA, is amended to read:

10 "33-2-833. Obligations of home-owners'-loan

11 corporation, federal housing administratory and national

12 mortgage associations. Notwithstanding other provisions of

13 the law, it shall be lawful for any insurance company

14 operating under the laws of this state to invest the funds

15 or moneys in their its custody or possession, eligible for

16 investment, in bonds of the home-owners'-loan corporation

17 in debentures issued by the federal housing administratory

18 and in obligations of national mortgage associations."

19 Section 12. Section 33-2-1103, MCA, is amended to

20 read:

21 "33-2-1103. Additional investment authority --

22 exemption from other investment restrictions --

23 determination of qualification -- divestiture. (1) In

24 addition to investments in common stock, preferred stock,

25 debt obligations, and other securities permitted under all

1 other sections of parts 10 and 11 of this chapter, a
2 domestic insurer may also:

3 (a) invest, in common stock, preferred stock, debt
4 obligations, and other securities of one or more
5 subsidiaries, amounts which do not exceed the lesser of 5%
6 of such insurer's assets or 50% of such insurer's surplus as
7 regards policyholders, provided that after such investments
8 the insurer's surplus as regards policyholders will be
9 reasonable in relation to the insurer's outstanding
10 liabilities and adequate to its financial needs. In
11 calculating the amount of such investments, there shall be
12 included total net moneys or other consideration expended
13 and obligations assumed in the acquisition or formation of a
14 subsidiary, including all organizational expenses and
15 contributions to capital and surplus of such subsidiary
16 whether or not represented by the purchase of capital stock
17 or issuance of other securities, and all amounts expended in
18 acquiring additional common stock, preferred stock, debt
19 obligations, and other securities and all contributions to
20 the capital or surplus of a subsidiary subsequent to its
21 acquisition or formation.

22 (b) if the insurer's total liabilities, as calculated
23 for national association of insurance commissioners annual
24 statement purposes, are less than 10% of assets, invest any
25 amount in common stock, preferred stock, debt obligations,

1 and other securities of one or more subsidiaries, provided
2 that, after such investment, the insurer's surplus as
3 regards policyholders, considering such investment as if it
4 were a disallowed asset, will be reasonable in relation to
5 the insurer's outstanding liabilities and adequate to its
6 financial needs;

7 (c) invest any amount in common stock, preferred
8 stock, debt obligations, and other securities of one or more
9 subsidiaries, provided that each such subsidiary agrees to
10 limit its investments in any asset so that such investments
11 will not cause the amount of the total investment of the
12 insurer to exceed any of the investment limitations
13 specified in this [section]. The total investment of the
14 insurer shall include:

15 (i) any direct investment by the insurer in an asset;
16 (ii) the insurer's proportionate share of any
17 investment in an asset by any subsidiary of the insurer,
18 which shall be calculated by multiplying the amount of the
19 subsidiary's investment by the percentage of the insurer's
20 ownership of such subsidiary.

21 (d) with the approval of the commissioner, invest any
22 amount in common stock, preferred stock, debt obligations,
23 or other securities of one or more subsidiaries, provided
24 that after such investment, the insurer's surplus as regards
25 policyholders will be reasonable in relation to the

1 insurer's outstanding liabilities and adequate to its
2 financial needs;

3 (e) invest any amount in the common stock, preferred
4 stock, debt obligations, or other securities of any
5 subsidiary exclusively engaged in holding title to or
6 holding title to and managing or developing real or personal
7 property if, after considering as a disallowed asset so much
8 of the investment as is represented by subsidiary assets
9 which if held directly by the insurer would be considered as
10 a disallowed asset, the insurer's surplus as regards
11 policyholders will be reasonable in relation to the
12 insurer's outstanding liabilities and adequate to its
13 financial needs and if following such investment all voting
14 securities of such subsidiary would be owned by the insurer.

15 (2) Investments in common stock, preferred stock, debt
16 obligations, or other securities of subsidiaries made
17 pursuant to subsection (1) hereof ~~shall~~ are not be subject
18 to any of the otherwise applicable restrictions or
19 prohibitions contained in parts 10 and 11 of this chapter
20 applicable to such investments of insurers.

21 (3) Whether any investment pursuant to subsection (1)
22 meets the applicable requirements thereof is to be
23 determined immediately after such investment is made, taking
24 into account the then outstanding principal balance on all
25 previous investments in debt obligations and the value of

1 all previous investments in equity securities as of the date
2 they were made.

3 (4) If an insurer ceases to control a subsidiary, it
4 shall dispose of any investment therein made pursuant to
5 this section within 3 years from the time of the cessation
6 of control or within such further time as the commissioner
7 may prescribe, unless at any time after such investment
8 shall have been made, such investment shall have met the
9 requirements for investment under any other section of parts
10 10 and 11 of this chapter and the insurer has notified the
11 commissioner thereof."

12 Section 13. Section 33-3-215, MCA, is amended to read:

13 "33-3-215. Mutualization of stock insurer. (1) A stock
14 insurer other than a title insurer may become a mutual
15 insurer under such a plan and procedure ~~as may be~~ approved
16 by the commissioner after a hearing thereon.

17 (2) The commissioner shall not approve any such plan,
18 procedure, or mutualization unless:

19 (a) it is equitable to stockholders and policyholders;

20 (b) it is subject to approval by the holders of not
21 less than three-fourths of the insurer's outstanding capital
22 stock having voting rights and by not less than two-thirds
23 of the insurer's policyholders who vote on such plan in
24 person, by proxy, or by mail pursuant to such notice and
25 procedure as may be approved by the commissioner;

1 (c) if a life insurer, the right to vote thereon is
2 limited to holders of policies other than term or group
3 policies and whose policies have been in force for more than
4 1 year;

5 (d) mutualization will result in retirement of shares
6 of the insurer's capital stock at a price not in excess of
7 the fair market value thereof as determined by competent
8 disinterested appraisers;

9 (e) the plan provides for the purchase of the shares
10 of any nonconsenting stockholder in the same manner and
11 subject to the same applicable conditions as provided by
12 ~~{15-1985, R6M-1947}~~ Title 35, chapter 1, part A, as to
13 rights of nonconsenting stockholders, with respect to
14 consolidation or merger of private corporations;

15 (f) the plan provides for definite conditions to be
16 fulfilled by a designated early date upon which such
17 mutualization will be deemed effective; and

18 (g) the mutualization leaves the insurer with surplus
19 funds reasonably adequate for the security of its
20 policyholders and to enable it to continue successfully in
21 business in the states in which it is then authorized to
22 transact insurance and for the kinds of insurance included
23 in its certificates of authority in such states.

24 (3) This section shall not apply to mutualization
25 under order of court pursuant to rehabilitation or

1 reorganization of an insurer under chapter 2, part 9."

2 Section 14. Section 33-3-217, MCA, is amended to read:

3 "33-3-217. Mergers and consolidations of stock
4 insurers. (1) A domestic stock insurer may merge or
5 consolidate with one or more domestic or foreign stock
6 corporations authorized to transact business in this state
7 and by complying with the applicable provisions of the
8 statutes of this state governing the merger or consolidation
9 of stock corporations formed for profit but subject to
10 subsections (2) and (3) below.

11 (2) No such merger or consolidation ~~shall~~ may be
12 effectuated unless in advance thereof the plan and agreement
13 therefor have been filed with the commissioner and approved
14 in writing by him after a hearing thereon. The commissioner
15 shall give such approval within a reasonable time after such
16 filing unless he finds such plan or agreement:

17 (a) is contrary to law;

18 (b) inequitable to the stockholders of any domestic
19 insurer involved; or

20 (c) would substantially reduce the security of and
21 service to be rendered to policyholders of the domestic
22 insurer in this state or elsewhere.

23 (3) No director, officer, agent, or employee of any
24 insurer party to such merger or consolidation ~~shall~~ may
25 receive any fee, commission, compensation, or other valuable

1 consideration whatsoever for in any manner aiding,
2 promoting, or assisting therein except as set forth in such
3 plan or agreement.

4 (4) If the commissioner does not approve any such plan
5 or agreement he shall so notify the insurer in writing
6 specifying his reasons therefor.

7 (5) If any domestic insurer involved in the proposed
8 merger or consolidation is authorized to transact insurance
9 also in other states, the commissioner may request the
10 insurance commissioner, director of insurance,
11 superintendent of insurance, or other similar public
12 insurance supervisory official of the two other such states
13 in which such insurer has in force the larger amounts of
14 insurance to participate in the hearing provided for under
15 subsection (2) above, with full right to examine all
16 witnesses and evidence and to offer to the commissioner such
17 pertinent information and suggestions as they may deem
18 proper.

19 (6) Any plan or proposal through which a stock insurer
20 proposes to acquire a controlling stock interest in another
21 stock insurer through an exchange of stock of the first
22 insurer, issued by the insurer for the purpose, for such
23 controlling stock of the second insurer is deemed to be a
24 plan or proposal of merger of the second insurer into the
25 first insurer for the purposes of this section and is

1 subject to the applicable provisions hereof.

2 (7) Upon merger or consolidation of a domestic insurer
3 with another insurer under this chapter, the corporate
4 charter of such merged or consolidated domestic insurer
5 shall ~~therby~~ ~~thereby~~ automatically be extinguished and
6 nullified."

7 Section 15. Section 33-5-201, MCA, is amended to read:

8 "33-5-201. Organization of reciprocal insurer. (1)
9 Twenty-five or more persons domiciled in this state may
10 organize a domestic reciprocal insurer and make application
11 to the commissioner for a certificate of authority to
12 transact insurance.

13 (2) The proposed attorney shall fulfill the
14 requirements of and shall execute and file with the
15 commissioner when applying for a certificate of authority a
16 declaration setting forth:

17 (a) the name of the insurer;

18 (b) the location of the insurer's principal office,
19 which shall be the same as that of the attorney and shall be
20 maintained within this state;

21 (c) the kinds of insurance proposed to be transacted;

22 (d) the names and addresses of the original
23 subscribers;

24 (e) the designation and appointment of the proposed
25 attorney and a copy of the power of attorney;

1 (f) the names and addresses of the officers and
2 directors of the attorney, if a corporation, or its members,
3 if a firm;

4 (g) the powers of the subscribers' advisory committee
5 and the names and terms of office of the members thereof;

6 (h) that all moneys paid to the reciprocal {insurer}
7 shall, after deducting therefrom any sum payable to the
8 attorney, be held in the name of the insurer and for the
9 purposes specified in the subscribers' agreement;

10 (i) a copy of the subscribers' agreement;

11 (j) a statement that each of the original subscribers
12 has in good faith applied for insurance of a kind proposed
13 to be transacted and that the insurer has received from each
14 such subscriber the full premium or premium deposit required
15 for the policy applied for, for a term of not less than 6
16 months at an adequate rate theretofore filed with and
17 approved by the commissioner;

18 (k) a statement of the financial condition of the
19 insurer, a schedule of its assets, and a statement that the
20 surplus as required by 33-5-401 is on hand; and

21 (l) a copy of each policy, endorsement, and
22 application form it then proposes to issue or use.

23 (3) Such the declaration shall be acknowledged by the
24 attorney in the manner required for the acknowledgment of
25 deeds."

1 Section 16. Section 33-7-514, MCA, is amended to read:

2 "33-7-514. Standard provisions. (1) After January 1,
3 1962, no life benefit certificate ~~shall~~ may be delivered or
4 issued for delivery in this state unless a copy of the form
5 has been filed with the commissioner.

6 (2) The certificate ~~shall~~ must contain in substance
7 the following standard provisions or, in lieu thereof,
8 provisions which are more favorable to the member:

9 (a) title on the face and filing page of the
10 certificate clearly and correctly describing its form;

11 (b) a provision stating the amount of rates, premiums,
12 or other required contributions, by whatever name known,
13 which are payable by the insured under the certificate;

14 (c) a provision that the member is entitled to a grace
15 period of not less than a full month (or 30 days at the
16 option of the society) in which the payment of any premium
17 after the first may be made. During such grace period the
18 certificate ~~shall~~ must continue in full force, but in case
19 the certificate becomes a claim during the grace period
20 before the overdue payment is made, the amount of such
21 overdue payment or payments may be deducted in any
22 settlement under the certificate.

23 (d) a provision that the member ~~shall-be~~ is entitled
24 to have the certificate reinstated at any time within 3
25 years from the due date of the premium in default, unless

1 the certificate has been completely terminated through the
 2 application of a nonforfeiture benefit, cash surrender
 3 value, or certificate loan, upon the production of evidence
 4 of insurability satisfactory to the society and the payment
 5 of all overdue premiums and any other indebtedness to the
 6 society upon the certificate, together with interest on such
 7 premiums and such indebtedness, if any, at a rate not
 8 exceeding 6% per annum compounded annually;

9 (e) except in the case of pure endowment, annuity or
 10 reversionary annuity contracts, reducing term insurance
 11 contracts, or contracts of term insurance of uniform amount
 12 of 15 years or less expiring before age 66, a provision
 13 that, in the event of default in payment of any premium
 14 after 3 full years' premiums have been paid or after
 15 premiums for a lesser period have been paid if the contract
 16 so provides, the society will grant, upon proper request not
 17 later than 60 days after the due date of the premium in
 18 default, a paid-up nonforfeiture benefit on the plan
 19 stipulated in the certificate, effective as of such due
 20 date, of such value as specified in this chapter. The
 21 certificate may provide, if the society's laws so specify or
 22 if the member ~~shall~~ so elect ~~elects~~ prior to the expiration
 23 of the grace period of any overdue premium, that default
 24 ~~shall~~ may not occur so long as premiums can be paid under
 25 the provisions of an arrangement for automatic premium loan

1 as may be set forth in the certificate.

2 (f) a provision that one paid-up nonforfeiture benefit
 3 as specified in the certificate ~~shall~~ must become effective
 4 automatically unless the member elects another available
 5 paid-up nonforfeiture benefit, not later than 60 days after
 6 the due date of the premium in default;

7 (g) a statement of the mortality table and rate of
 8 interest used in determining all paid-up nonforfeiture
 9 benefits and cash surrender options available under the
 10 certificate and a brief general statement of the method used
 11 in calculating such benefits;

12 (h) a table showing in figures the value of every
 13 paid-up nonforfeiture benefit and cash surrender option
 14 available under the certificate for each certificate
 15 anniversary either during the first 20 certificate years or
 16 during the term of the certificate, whichever is shorter;

17 (i) a provision that the certificate ~~shall~~--be is
 18 incontestable after it has been in force during the lifetime
 19 of the member for a period of 2 years from its date of issue
 20 except for nonpayment of premiums, violation of the
 21 provisions of the certificate relating to military,
 22 aviation, or naval service, and violation of the provisions
 23 relating to suspension or expulsion as substantially set
 24 forth in the certificate. At the option of the society,
 25 supplemental provisions relating to benefits in the event of

1 temporary or permanent disability or hospitalization and
 2 provisions which grant additional insurance specifically
 3 against death by accident or accidental means may also be
 4 excepted. The certificate ~~shall be~~ is incontestable on the
 5 grounds of suicide after it has been in force during the
 6 lifetime of the member for a period of 2 years from date of
 7 issue. The certificate may provide, as to statements made to
 8 procure reinstatement, that the society ~~shall have~~ has the
 9 right to contest a reinstated certificate within a period of
 10 2 years from date of reinstatement with the same exceptions
 11 as herein provided.

12 (j) a provision that in case the age of the member or
 13 of any other person is considered in determining the premium
 14 and it is found at any time before final settlement under
 15 the certificate that the age has been misstated, and the
 16 discrepancy and premium involved have not been adjusted, the
 17 amount payable shall be such as the premium would have
 18 purchased at the correct age; but if the correct age was not
 19 an insurable age under the society's charter or laws, only
 20 the premiums paid to the society, less any payments
 21 previously made to the member, shall be returned or, at the
 22 option of the society, the amount payable under the
 23 certificate shall be such as the premium would have
 24 purchased at the correct age according to the society's
 25 promulgated rates and any extension thereof based on

1 actuarial principles;

2 (k) a provision or provisions which recite fully or
 3 which set forth the substance of all sections of the
 4 charter, constitution, laws, or rules of the society in
 5 force at the time of issuance of the certificate, the
 6 violation of which will result in the termination of or in
 7 the reduction of the benefit or benefits payable under the
 8 certificate; and

9 (l) if the constitution or laws of the society provide
 10 for expulsion or suspension of a member, a provision that
 11 any member so expelled or suspended, except for nonpayment
 12 of a premium or within the contestable period for material
 13 misrepresentations in such member's application for
 14 membership, shall have the privilege of maintaining his
 15 insurance in force by continuing payment of the required
 16 premium.

17 (3) Any of the foregoing provisions or portions
 18 thereof not applicable by reason of the plan of insurance or
 19 because the certificate is an annuity certificate may, to
 20 the extent inapplicable, be omitted from the certificate."

21 Section 17. Section 33-10-217, MCA, is amended to
 22 read:

23 "33-10-217. Prevention of impairments. To aid in the
 24 detection and prevention of insurer impairments the board of
 25 directors is given the following powers and duties:

(1) The board of ~~directors~~ shall, upon majority vote, notify the commissioner of any information indicating any member insurer may be unable or potentially unable to fulfill its contractual obligations.

(2) The board of ~~directors~~ may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations.

(3) The board of ~~directors~~ may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

(4) The board of ~~directors~~ may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer impairments.

(5) The board of ~~directors~~ shall, at the conclusion of any insurer impairment in which the association carried out its duties under this part or exercised any of its powers under this part, prepare a report on the history and causes of such impairment, based on the information available to the association, and submit such report to the commissioner."

Section 18. Section 33-10-229, MCA, is amended to read:

"33-10-229. Recovery of dividends. (1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order ~~shall have~~ has a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation subject to the limitations of subsections (2) through (4).

(2) No such dividend ~~shall be~~ is recoverable if the insurer shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who ~~as was~~ was an affiliate that controlled the insurer at the time the distributions were paid ~~shall be~~ is liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared ~~shall be~~ is liable up to the amount of distributions he would have received if they had been paid immediately. If two persons

1 are liable with respect to the same distributions, they
2 ~~shall be~~ are jointly and severally liable.

3 (4) The maximum amount recoverable under this section
4 ~~shall be~~ is the amount needed in excess of all other
5 available assets of the impaired insurer to pay the
6 contractual obligations of the impaired insurer.

7 (5) If any person liable under subsection (3) is
8 insolvent, all its affiliates that controlled it at the time
9 the dividend was paid ~~shall be~~ are jointly and severally
10 liable for any resulting deficiency in the amount recovered
11 from the insolvent affiliate."

12 Section 19. Section 33-17-203, MCA, is amended to
13 read:

14 "33-17-203. General qualification for license as life
15 or disability insurance agent. For the protection of the
16 people of this state the commissioner ~~shall~~ may not issue,
17 continue, or permit to exist any agent license as to life or
18 disability insurance except in compliance with this chapter,
19 ~~or as to any in addition, the individual not--qualified~~
20 ~~therefor~~ must qualify as follows:

21 (1) must be 18 years of age or more;

22 (2) must be a resident in and of this state or of
23 another state if by reciprocal arrangements made by the
24 commissioner with such other state similar privileges
25 therein are granted to residents of this state;

1 (3) must have been appointed as such an agent by an
2 authorized insurer, subject to issuance of the license;

3 (4) must be competent, trustworthy, and of good
4 reputation;

5 (5) must have had experience or training or be
6 otherwise adequately qualified in the kind or kinds of
7 insurance as to which he is to be licensed, and be
8 reasonably familiar with the provisions of this code
9 governing his operations as such an agent and with the
10 provisions of the policies and contracts he proposes to
11 offer under the license;

12 (6) must pass any written examination for the license
13 required under this chapter;

14 (7) must not use or intend to use the license
15 principally for the writing of insurance on the lives or
16 interests of himself or his relatives to the second degree;

17 (8) must not be a funeral director, undertaker, or
18 mortician or an officer, employee, or representative
19 thereof."

20 Section 20. Section 33-17-211, MCA, is amended to
21 read:

22 "33-17-211. Application for license. (1) Application
23 for an agent or solicitor license ~~shall~~ must be made to the
24 commissioner by the applicant and be signed and sworn to by
25 the applicant before a notary public or other person

1 authorized by law to take acknowledgments of deeds.

2 (2) The commissioner shall designate and prepare forms
3 for application for license which shall ~~shall~~ **must** require full
4 answers to such questions as may reasonably be necessary to
5 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 (3) If for an agent's license, the application shall
12 ~~must~~ **must** state the kinds of insurance proposed to be transacted
13 and be accompanied by written appointment of the applicant
14 as agent by an authorized insurer, subject to issuance of
15 the license.

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

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

1 as to himself, as part of the application, as though for an
2 individual license.

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

7 (7) If for license as either agent or solicitor, the
8 application shall ~~must~~ **must** 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; whether applicant ever had an agency contract
16 canceled and the facts thereof; and if applicant is married,
17 like information with respect to the applicant's spouse.

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

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

Section 21. Section 33-17-213, MCA, is amended to read:

"33-17-213. Conduct of examinations. (1) The commissioner shall make any examination required under 33-17-212 available to applicants with reasonable frequency and at a place in this state reasonably accessible to such ~~the~~ applicants. The commissioner shall make any such examination available at his offices at Helena, Montana, at times within his discretion but at least once a month.

(2) All the kinds of insurance or ~~class~~ classes thereof, as referred to in 33-17-212(3), which the applicant proposes to transact under the license applied for shall be included in the same examination.

(3) The commissioner shall give, conduct, and grade

all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(4) The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same kind or kinds of insurance."

Section 22. Section 33-17-1004, MCA, is amended to read:

"33-17-1004. Acting as insurance agent, solicitor, or adjuster without license -- penalty. Any person, firm, association, or corporation who or which, in this state, acts as an insurance agent, solicitor, or adjuster without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this chapter ~~shall~~ upon--conviction--be is guilty of a misdemeanor and upon conviction, shall be fined \$500 or imprisoned in the county jail for 90 days or both ~~such fine and imprisonment.~~"

Section 23. Section 33-18-301, MCA, is amended to read:

"33-18-301. Prohibited relations with mortuaries. (1) No life insurer ~~shall~~ may own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking establishment or permit its officers, employees, or representatives to own, operate, maintain, or be employed in any such business.

(2) No life insurer ~~shall~~ ~~may~~ contract or agree with any funeral director, mortuary, or undertaker to the effect that such funeral director, undertaker, or mortuary shall conduct the funeral of any person insured by such insurer.

(3) Each violation of this section ~~shall--constitute~~ ~~constitutes~~ a misdemeanor punishable by a fine of not more than \$1,000 or by imprisonment ~~at hard labor~~ for not more than 6 months or ~~by~~ both such fine and imprisonment ~~in the discretion of the court.~~

Section 24. Section 33-20-213, MCA, is amended to read:

"33-20-213. Operative date. After July 1, 1945, any insurer could have filed with the state auditor a written notice of its election to comply with the provisions of this ~~parts except 33-20-206 and 33-20-207,~~ after a specified date before January 1, 1948, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer with respect to such policies), this ~~parts except 33-20-206 and 33-20-207,~~ shall have become operative with respect to the policies specified in such notice thereafter issued by such insurer. As to all of its policies and contracts with respect to which an insurer makes no such election, the operative date of this ~~part,~~ ~~except 33-20-206 and 33-20-207,~~ with respect to such

policies and contracts for such insurer is January 1, 1948."

Section 25. Section 33-20-1111, MCA, is amended to read:

"33-20-1111. Dependents of employee and labor union groups -- coverage. Any group life policy issued under 33-20-1101, 33-20-1102, or 33-20-1103, may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

(1) The premium for the insurance shall be paid by the policyholder, either from the employer's or union's funds or funds contributed by the employer or union or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least 75% of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

(2) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer, or union.

(3) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse ~~shall be~~ is entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance, without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, subject to the requirements of subsections (1), (2), and (3) of ~~[33-20-1208]~~ 33-20-1209. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under 33-20-1210, the spouse ~~shall~~ is also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above. If the spouse dies within the period during which he would have been entitled to have an individual policy issued in accordance with this provision, the amount of life insurance which he

would have been entitled to have issued under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(4) Notwithstanding 33-20-1208, only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate."

Section 26. Section 33-22-202, MCA, is amended to read:

"33-22-202. Required provisions -- captions -- omissions -- substitutions -- order. (1) Except as provided in subsection (2) below, each such policy delivered or issued for delivery to any person in this state ~~shall~~ must contain the provisions specified in 33-22-204 through 33-22-215, in the words in which the same appear, except that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision ~~shall~~ must be preceded individually by the applicable caption shown or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may

1 approve.

2 (2) If any such provision is in whole or in part
3 inapplicable to or inconsistent with the coverage provided
4 by a particular form of policy, the insurer, with the
5 approval of the commissioner, shall omit from such policy
6 any inapplicable provision or part of a provision and shall
7 modify any inconsistent provision or part of a provision in
8 such manner as to make the provision as contained in the
9 policy consistent with the coverage provided by the policy.

10 (3) The provisions which are the subject of ~~[40-4007~~
11 ~~to-40-4030]~~ 33-22-204 through 33-22-232 or any corresponding
12 provisions which are used in lieu thereof in accordance with
13 such sections shall be printed in the consecutive order of
14 the provisions in such sections or, at the option of the
15 insurer, any such provision may appear as a unit in any part
16 of the policy with other provisions to which it may be
17 logically related, provided that the resulting policy shall
18 not be in whole or in part unintelligible, uncertain,
19 ambiguous, abstruse, or likely to mislead a person to whom
20 the policy is offered, delivered, or issued."

21 Section 27. Section 33-17-216, MCA, is amended to
22 read:

23 "33-17-216. Temporary agent licenses -- fee. (1) The
24 commissioner may issue a temporary license as agent to or
25 with respect to an individual qualified therefor only as to

1 age, residence, and trustworthiness and without requiring
2 such individual to take an examination, in the following
3 cases:

4 (a) to the surviving spouse or next of kin or to the
5 administrator or executor, or the employee of such
6 administrator or executor, of a licensed agent ~~becoming~~
7 deceased upon such agent's death;

8 (b) to the spouse, next of kin, employee, or legal
9 guardian of a licensed agent disabled by sickness, injury,
10 or ~~insanity~~ physical or mental illness;

11 (c) to an employee of a firm, or officer or employee
12 of a corporation, licensed as agent, upon the death or
13 disability of an individual designated in the license to
14 exercise the powers thereof;

15 (d) to the designee of a licensed agent entering upon
16 active service in the armed forces of the United States of
17 America;

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

1 a reasonable opportunity to take such examination and be
2 informed by the commissioner as to the results thereof,
3 whichever is the shorter period, but subject to extension by
4 the commissioner as provided in subsection (3) below.

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

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

22 (4) The fee paid for the temporary license may be
23 applied upon the fee required for ~~any~~ a permanent license
24 issued to the licensee upon or prior to expiration of the
25 temporary license and covering the same kinds of insurance."

1 Section 28. Section 33-20-121, MCA, is amended to
2 read:

3 "33-20-121. Prohibited provisions -- limitations on
4 liability. (1) No policy of life insurance ~~shall~~ may be
5 delivered or issued for delivery in this state if it
6 contains any of the following provisions:

7 (a) a provision for a period shorter than that
8 provided by statute within which an action at law or in
9 equity may be commenced on ~~such~~ the policy;

10 (b) a provision which excludes or restricts liability
11 for death caused in a certain specified manner or occurring
12 while the insured has a specified status, except that a
13 policy may contain provisions excluding or restricting
14 coverage as specified therein in the event of death under
15 any one or more of the following circumstances:

16 (i) death as a result, directly or indirectly, of war,
17 declared or undeclared, or of action by military forces or
18 of any act or hazard of such war or action or of service in
19 the military, naval, or air forces or in civilian forces
20 auxiliary thereto or from any cause while a member of such
21 military, naval, or air forces of any country at war,
22 declared or undeclared, or of any country engaged in such
23 military action;

24 (ii) death as a result of aviation or any air travel or
25 flight;

(iii) death as a result of a specified hazardous occupation or occupations;

(iv) death while the insured is a resident outside the continental United States and Canada; or

(v) death within 2 years from the date of issue of the policy as a result of suicide, while ~~some--or--insane~~ seriously mentally ill or otherwise.

(2) A policy which contains any exclusion or restriction pursuant to subsection (1) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioner's reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(3) This section ~~shall~~ does not apply to industrial life insurance, group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(4) Nothing contained in this section ~~shall--prohibit~~ prohibits any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section."

Section 29. Repealer. Section 40-1723, R.C.M. 1947, is repealed.

-End-

Legislature

SB 0101/02

Approved by Committee
on Business and Industry

SENATE BILL NO. 101

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE
COMPANIES; AND REPEALING SECTION 40-1723, R.C.M. 1947."

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

Section 1. Section 33-1-201, MCA, is amended to read:

"33-1-201. Definitions -- Insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States of America, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one formed under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

Please retain this copy. Bill will not
be run in it's entirety, on third reading.

! unless necessary

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) "State", when used as to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States of America.

(8) "Transact", with respect to insurance, includes any of the following:

(a) solicitation and inducement;

(b) preliminary negotiations;

(c) effectuation of a contract of insurance;

(d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(9) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

Section 2. Section 33-1-202, MCA, is amended to read:

"33-1-202. Definitions -- entities. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) "Commissioner" means the commissioner of insurance

1 of the state of Montana ~~unless--the--context---requires~~
2 otherwise.

3 (2) "Department" means the department of insurance of
4 the state of Montana ~~unless--the--context--requires--otherwise.~~

5 (3) "Person" includes an individual, insurer, company,
6 association, organization, Lloyd's, society, reciprocal or
7 interinsurance exchange, partnership, syndicate, business
8 trust, corporation, and ~~or~~ any other legal entity."

9 Section 3. Section 33-1-211, MCA, is amended to read:

10 "33-1-211. Surety insurance. Surety insurance
11 includes:

12 (1) fidelity insurance which is insurance guaranteeing
13 the fidelity of persons holding positions of public or
14 private trust;

15 (2) insurance guaranteeing the performance of
16 contracts, other than insurance policies, and guaranteeing
17 and executing bonds, undertakings, and contracts of
18 suretyship;

19 (3) insurance indemnifying banks, bankers, brokers, ~~or~~
20 financial or moneyed corporations or associations;

21 (a) against check forgery or alteration or against
22 loss resulting from any cause of bills of exchange, notes,
23 bonds, securities, evidences of debt, deeds, mortgages,
24 warehouse receipts, or other valuable papers, documents,
25 money, precious metals and articles made therefrom, jewelry,

1 watches, necklaces, bracelets, gems, or precious and
2 semiprecious stones, including any loss while ~~the--same--are~~
3 being transported in armored motor vehicles, by mail, or by
4 messenger but not including any other risks of
5 transportation or navigation; ~~also--insurance~~

6 (b) against loss or damage to ~~such--an~~ the insured's
7 premises or to his furnishings, fixtures, equipment, safes,
8 and vaults therein caused by burglary, robbery, theft,
9 ~~vandalism~~, or criminal mischief or any attempt thereof."

10 Section 4. Section 33-1-303, MCA, is amended to read:

11 "33-1-303. Deputies and assistants -- employment,
12 compensation, and termination. (1) The commissioner shall
13 appoint a chief deputy insurance commissioner who shall be
14 in charge of the insurance department under the direction
15 and control of the commissioner.

16 (2) The commissioner may appoint additional deputy
17 insurance commissioners for ~~such~~ the purposes as ~~that~~ he may
18 designate ~~designates~~.

19 (3) The commissioner may employ a competent insurance
20 actuary to perform actuarial duties, if any, of the
21 department, to take charge of or assist in the examination
22 of insurers, and to perform other duties assigned to him.

23 (4) The commissioner may appoint or employ such
24 examiners to conduct or assist in examinations of insurers
25 and others provided for under the code, ~~as may~~ Examiners

1 ~~must~~ be competent, because of experience or special
2 education or training, to fulfill the responsibilities of an
3 insurance examiner.

4 (5) The commissioner shall appoint and employ a field
5 investigator whose primary duty it ~~shall be~~ is, as directed
6 by the commissioner, to make investigations in this state of
7 violations or claimed violations of this code.

8 (6) The commissioner may appoint a chief clerk for the
9 insurance department and employ such other assistants and
10 clerks as may be necessary to assist him properly to
11 discharge the duties imposed upon him under this code.

12 (7) The commissioner may at any time terminate the
13 appointment, designation, or employment of any such deputy,
14 actuary, chief clerk, or other employee.

15 (8) The commissioner may from time to time contract
16 for and procure, on a fee or part-time basis, or both, such
17 actuarial, technical, or other professional services as he
18 may require for the discharge of his duties.

19 (9) The compensation of ~~all such personnel so~~
20 ~~appointed, employed, or contracted for by him~~ the
21 commissioner's personal staff, as defined in Title 2,
22 chapter 18, part 1 shall be as fixed by the commissioner
23 but in the aggregate ~~shall~~ may not exceed current funds
24 appropriated by the legislature to the insurance department
25 or otherwise currently available for the purpose."

1 Section 5. Section 33-1-315, MCA, is amended to read:
2 "33-1-315. Witnesses -- production of records --
3 subpoena -- failure to respond -- perjury. (1) With respect
4 to the subject of any examination, investigation, or hearing
5 being conducted by him, the commissioner or his examiner, if
6 general written authority therefor has been given the
7 examiner by the commissioner, may subpoena witnesses and
8 administer oaths or affirmations and examine any individual
9 under oath and may require and compel the production of
10 records, books, papers, contracts, and other documents by
11 attachments, if necessary. If in connection with any
12 examination of an insurer the commissioner desires to
13 examine any officer, director, or manager thereof who is
14 then outside this state, the commissioner ~~is authorized to~~
15 may conduct and enforce by all appropriate and available
16 means any such examination under oath in any other state or
17 territory of the United States in which such officer,
18 director, or manager may then presently be, to the full
19 extent permitted by the laws of such other state or
20 territory, this special authorization considered.

21 (2) Witness fees and mileage, if claimed, shall be
22 allowed the same as for testimony in a district court.
23 Witness fees, mileage, and the actual expenses necessarily
24 incurred in securing attendance of witnesses and their
25 testimony shall be itemized and shall be paid by the person

1 being examined if such person is found to have been in
2 violation of the law as to the matter with respect to which
3 such witness was subpoenaed or by the person, if other than
4 the commissioner, at whose request the hearing is held.

5 (3) Subpoenas of witnesses shall be served in the same
6 manner as if issued from a district court. If any individual
7 fails to obey a subpoena lawfully served, the commissioner
8 shall forthwith report such disobedience, together with a
9 copy of the subpoena and proof of service thereof, to the
10 district court for the county in which the individual was
11 required to appear. Such court shall forthwith cause such
12 individual to be produced and shall impose penalties as
13 though he had disobeyed a subpoena issued out of such court.

14 (4) Any person ~~willfully~~ knowingly failing to attend,
15 answer, or produce records, documents, or other evidence
16 requested by the commissioner or who ~~willfully~~ knowingly
17 fails to give the commissioner full and truthful information
18 and answer in writing to any material written inquiry of the
19 commissioner, relative to the subject of any such
20 examination, investigation, or hearing, or ~~willfully~~
21 knowingly fails to appear and testify under oath before the
22 commissioner ~~shall--upon-conviction-thereof--in-addition-to~~
23 ~~or-in-lieu-of-any-other-penalty-or-penalties-applicable--be~~
24 ~~'deemed is guilty of a misdemeanor and, in addition to or in~~
25 ~~lieu of any other penalty upon conviction, shall be fined~~

1 ~~not-to-exceed-\$500-or-be-imprisoned-in-the-county-jail-for-a~~
2 ~~term-not-to-exceed-6-months-or-both.~~

3 (5) Any person ~~willfully~~ knowingly testifying falsely
4 under oath as to any matter material to any such
5 examination, investigation, or hearing ~~shall be guilty of~~
6 ~~perjury, and upon conviction thereof shall be guilty of~~
7 ~~perjury--and punished accordingly according to 94-7-202~~
8 ~~45-7-201."~~

9 Section 6. Section 33-1-411, MCA, is amended to read:
10 "33-1-411. Destruction of records -- hindrance of
11 examination -- penalty. Any director, officer, agent, or
12 employee of any company who FOR THE PURPOSE OF HINDERING ANY
13 EXAMINATION CONDUCTED PURSUANT TO THIS PART destroys any
14 books, records, or documents required to be kept by law for
15 ~~the purpose of hindering any examination in violation of the~~
16 ~~requirements of this section 33-1-412~~ shall be punished by a
17 fine of not more than \$1,000, ~~and after~~ After a NOTICE AND
18 hearing thereon for that purpose IN ACCORDANCE WITH TITLE
19 33, CHAPTER 1, PART 7, the commissioner may revoke the
20 certificate of authority of such company."

21 Section 7. Section 33-1-704, MCA, is amended to read:
22 "33-1-704. Hearing procedure. (1) Hearings ~~may be~~
23 ~~closed to the public at the commissioner's discretion~~
24 ~~except that a hearing held with respect to a filing made~~
25 ~~under chapter 16 prior to the effective date of such filing~~

~~shall be closed to the public unless otherwise requested by the party that made such filings in all other cases, a hearing shall be open to the public if so requested in writing by any party to the hearing. All hearings shall be open to the public unless closed pursuant to the provisions of 2-3-203.~~

(2) The commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf.

(3) The commissioner shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party thereto and whose pecuniary interests ~~are to~~ will be directly and immediately affected by the commissioner's order made upon the hearing.

(4) Formal rules of pleading or evidence need not be observed at any hearing.

(5) Upon written request seasonably made by a party to the hearing and at ~~such~~ ~~that~~ person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If

transcribed, a copy of such stenographic record shall be furnished to the commissioner without cost to the commissioner or the state and shall be a part of the commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings."

Section 8. Section 33-2-105, MCA, is amended to read:

"33-2-105. Suits by unauthorized insurers prohibited. ~~As Except as~~ to transactions not permitted under 33-2-102, no unauthorized insurer shall institute or file or cause to be instituted or filed any suit, action, or proceeding in this state to enforce any right, claim, or demand arising out of any insurance transaction in this state until such insurer has obtained a certificate of authority to transact such insurance in this state."

Section 9. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts -- valuation. (1) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on [the operative date of this section], as defined herein, and for all annuities and pure endowments purchased on or after that operative date, under

1 group annuity and pure endowment contracts ~~shall be~~ is the
2 commissioner's reserve valuation method defined in 33-2-525
3 and the following tables and interest rates:

4 (a) for individual annuity and pure endowment
5 contracts issued prior to January 1, 1986, excluding any
6 disability and accidental death benefits in such contracts,
7 the 1971 individual annuity mortality table or any
8 modification of this table approved by the commissioner and
9 6% interest for single premium immediate annuity contracts
10 and 4% interest for all other individual annuity and pure
11 endowment contracts;

12 (b) for individual annuity and pure endowment
13 contracts issued on or after January 1, 1986, excluding any
14 disability and accidental death benefits in such contracts,
15 the 1971 individual annuity mortality table or any
16 modification of the table approved by the commissioner and
17 3 1/2% interest;

18 (c) for all annuities and pure endowments purchased
19 prior to January 1, 1986, under group annuity and pure
20 endowment contracts, excluding any disability and accidental
21 death benefits purchased under such contracts, the 1971
22 group annuity mortality table or any modification of the
23 table approved by the commissioner and 6% interest;

24 (d) for all annuities and pure endowments purchased on
25 or after January 1, 1986, under group annuity and pure

1 endowment contracts, excluding any disability and accidental
2 death benefits purchased under such contracts, the 1971
3 group annuity mortality table or any modification of this
4 table approved by the commissioner and 3 1/2% interest.

5 (2) After March 17, 1973, any insurer may file with
6 the commissioner a written notice of its election to comply
7 with the provisions of subsection (1) after a specified date
8 before January 1, 1979, which shall be the operative date of
9 subsection (1) for such insurer. An insurer may elect a
10 different operative date for individual annuity and pure
11 endowment contracts from that elected for group annuity and
12 pure endowment contracts. If an insurer makes no such
13 election, the operative date of this section for such
14 insurer shall be January 1, 1979."

15 Section 10. Section 33-2-708, MCA, is amended to read:

16 "33-2-708. Fees and licenses. (1) The commissioner
17 shall collect in advance and the persons so served shall so
18 pay to the commissioner the following fees and licenses:

19 (a) certificates of authority:

20 (i) for filing applications for original certificate
21 ~~certificates~~ of authority, articles of incorporation (except
22 ~~original articles of incorporation of domestic insurers~~ as
23 provided in subsection (b), below) and other charter
24 documents, bylaws, financial statement, examination report,
25 power of attorney to the commissioner, and all other

1 documents and filings required in connection with such
 2 application and for issuance of an original certificate of
 3 authority, if issued:

4 (A) domestic insurers.....\$ 30.00
 5 (B) foreign insurers.....300.00
 6 (ii) annual continuation of certificate of authority...
 7300.00
 8 (iii) reinstatement of certificate of authority.. 25.00
 9 (b) articles of incorporation:

10 (i) filing original articles of incorporation of
 11 domestic insurer, exclusive of fees required to be paid by
 12 the corporation to the secretary of state..... 20.00
 13 (ii) filing amendment of articles of incorporation,
 14 domestic and foreign insurers, exclusive of fees required to
 15 be paid to the secretary of state by a domestic corporation
 16 10.00
 17 (c) filing bylaws or amendment thereto where required
 18 5.00
 19 (d) filing annual statement of insurer, other than as
 20 part of application for original certificate of authority...
 21 25.00
 22 (e) agent's license for property, casualty, surety,
 23 and title insurance agents, including disability insurance
 24 without additional license or fee when written by property,
 25 casualty, or surety insurer otherwise represented by the

1 agent:

2 (i) application for original license, including
 3 issuance of license, if issued..... 10.00
 4 (ii) appointment of agent, each insurer..... 5.00
 5 (iii) annual renewal or appointment of agent, each
 6 insurer..... 5.00
 7 (iv) temporary license..... 10.00
 8 (f) nonresident agent's license for property,
 9 casualty, and title insurance agents, and including
 10 disability insurance without additional license or fee when
 11 written by property, casualty, or surety insurer otherwise
 12 represented by the agent:

13 (i) application for original license, including
 14 issuance of license, if issued.....100.00
 15 (ii) appointment of agent, each insurer..... 5.00
 16 (iii) annual renewal or appointment of agent, each
 17 insurer.....100.00
 18 (g) solicitor's license:

19 (i) application for original license, including
 20 issuance of license, if issued..... 5.00
 21 (ii) annual continuation of license..... 5.00
 22 (n) agent's license, life, disability insurance:

23 (i) application for original license, each insurer....
 24 5.00
 25 (ii) annual continuation or renewal of license, each

1 insurer..... 5.00
 2 (iii) temporary license, each insurer..... 5.00
 3 (i) nonresident agent's license, life, disability
 4 insurance:
 5 (i) application for original license, including
 6 issuance of license, if issued, each insurer.....100.00
 7 (ii) annual continuation or renewal of license, each
 8 insurer.....100.00
 9 (j) examination for license as agent or solicitor,
 10 each examination 10.00
 11 (k) surplus line agent's license:
 12 (i) application for original license and for issuance
 13 of license, if issued..... 25.00
 14 (ii) annual renewal or continuation of license... 25.00
 15 (l) adjuster's license:
 16 (i) application for original license and for issuance
 17 of license, if issued..... 10.00
 18 (ii) annual continuation or renewal of license... 10.00
 19 (m) insurance vending machine license, each machine,
 20 each year 10.00
 21 (n) commissioner's certificate under seal (except when
 22 on certificates of authority or licenses)..... 3.00
 23 (o) copies of documents on file in the commissioner's
 24 offices, per page..... .50
 25 (p) policy forms:

1 (i) filing each policy form..... 25.00
 2 (ii) filing each application, rider, endorsement,
 3 amendment, insert page, schedule or of rates, and
 4 clarification of risks..... 10.00
 5 (iii) maximum charge if policy and all forms submitted
 6 at one time or resubmitted for approval within 180 days.....
 7 50.00
 8 (2) The commissioner shall promptly deposit with the
 9 state treasurer to the credit of the general fund of this
 10 state all fees and licenses received by him under this
 11 section."
 12 Section 11. Section 33-2-833, MCA, is amended to read:
 13 "33-2-833. Obligations of ~~home---owners~~---toen
 14 ~~corporation~~ federal housing administratory and national
 15 mortgage associations. Notwithstanding other provisions of
 16 the law, it ~~shall~~---be is lawful for any insurance company
 17 operating under the laws of this state to invest the funds
 18 ~~or---moneys~~ in their ~~its~~ custody or possession, eligible for
 19 investment, ~~in bonds of the home-owners~~---toen---corporation
 20 in debentures issued by the federal housing administratory
 21 and in obligations of national mortgage associations."
 22 Section 12. Section 33-2-1103, MCA, is amended to
 23 read:
 24 "33-2-1103. Additional investment authority --
 25 exemption from other investment restrictions --

1 determination of qualification -- divestiture. (1) In
2 addition to investments in common stock, preferred stock,
3 debt obligations, and other securities permitted under all
4 other sections of parts 10 and 11 of this chapter, a
5 domestic insurer may also:

6 (a) invest, in common stock, preferred stock, debt
7 obligations, and other securities of one or more
8 subsidiaries, amounts which do not exceed the lesser of 5%
9 of such insurer's assets or 50% of such insurer's surplus as
10 regards policyholders, provided that after such investments
11 the insurer's surplus as regards policyholders will be
12 reasonable in relation to the insurer's outstanding
13 liabilities and adequate to its financial needs. In
14 calculating the amount of such investments, there shall be
15 included total net moneys or other consideration expended
16 and obligations assumed in the acquisition or formation of a
17 subsidiary, including all organizational expenses and
18 contributions to capital and surplus of such subsidiary
19 whether or not represented by the purchase of capital stock
20 or issuance of other securities, and all amounts expended in
21 acquiring additional common stock, preferred stock, debt
22 obligations, and other securities and all contributions to
23 the capital or surplus of a subsidiary subsequent to its
24 acquisition or formation.

25 (b) if the insurer's total liabilities, as calculated

1 for national association of insurance commissioners annual
2 statement purposes, are less than 10% of assets, invest any
3 amount in common stock, preferred stock, debt obligations,
4 and other securities of one or more subsidiaries, provided
5 that, after such investment, the insurer's surplus as
6 regards policyholders, considering such investment as if it
7 were a disallowed asset, will be reasonable in relation to
8 the insurer's outstanding liabilities and adequate to its
9 financial needs;

10 (c) invest any amount in common stock, preferred
11 stock, debt obligations, and other securities of one or more
12 subsidiaries, provided that each such subsidiary agrees to
13 limit its investments in any asset so that such investments
14 will not cause the amount of the total investment of the
15 insurer to exceed any of the investment limitations
16 specified in this [section]. The total investment of the
17 insurer shall include:

18 (i) any direct investment by the insurer in an asset;
19 (ii) the insurer's proportionate share of any
20 investment in an asset by any subsidiary of the insurer,
21 which shall be calculated by multiplying the amount of the
22 subsidiary's investment by the percentage of the insurer's
23 ownership of such subsidiary.

24 (d) with the approval of the commissioner, invest any
25 amount in common stock, preferred stock, debt obligations,

1 or other securities of one or more subsidiaries, provided
 2 that after such investment, the insurer's surplus as regards
 3 policyholders will be reasonable in relation to the
 4 insurer's outstanding liabilities and adequate to its
 5 financial needs;

6 (e) invest any amount in the common stock, preferred
 7 stock, debt obligations, or other securities of any
 8 subsidiary exclusively engaged in holding title to or
 9 holding title to and managing or developing real or personal
 10 property if, after considering as a disallowed asset so much
 11 of the investment as is represented by subsidiary assets
 12 which if held directly by the insurer would be considered as
 13 a disallowed asset, the insurer's surplus as regards
 14 policyholders will be reasonable in relation to the
 15 insurer's outstanding liabilities and adequate to its
 16 financial needs and if following such investment all voting
 17 securities of such subsidiary would be owned by the insurer.

18 (2) Investments in common stock, preferred stock, debt
 19 obligations, or other securities of subsidiaries made
 20 pursuant to subsection (1) hereof ~~shall~~ are not be subject
 21 to any of the otherwise applicable restrictions or
 22 prohibitions contained in parts 10 and 11 of this chapter
 23 applicable to such investments of insurers.

24 (3) Whether any investment pursuant to subsection (1)
 25 meets the applicable requirements thereof is to be

1 determined immediately after such investment is made, taking
 2 into account the then outstanding principal balance on all
 3 previous investments in debt obligations and the value of
 4 all previous investments in equity securities as of the date
 5 they were made.

6 (4) If an insurer ceases to control a subsidiary, it
 7 shall dispose of any investment therein made pursuant to
 8 this section within 3 years from the time of the cessation
 9 of control or within such further time as the commissioner
 10 may prescribe, unless at any time after such investment
 11 shall have been made, such investment shall have met the
 12 requirements for investment under any other section of parts
 13 10 and 11 of this chapter and the insurer has notified the
 14 commissioner thereof."

15 Section 13. Section 33-3-215, MCA, is amended to read:

16 "33-3-215. Mutualization of stock insurer. (1) A stock
 17 insurer other than a title insurer may become a mutual
 18 insurer under such a plan and procedure ~~as may be~~ approved
 19 by the commissioner after a hearing thereon.

20 (2) The commissioner shall not approve any such plan,
 21 procedure, or mutualization unless:

22 (a) it is equitable to stockholders and policyholders;
 23 (b) it is subject to approval by the holders of not
 24 less than three-fourths of the insurer's outstanding capital
 25 stock having voting rights and by not less than two-thirds

1 of the insurer's policyholders who vote on such plan in
 2 person, by proxy, or by mail pursuant to such notice and
 3 procedure as may be approved by the commissioner;

4 (c) if a life insurer, the right to vote thereon is
 5 limited to holders of policies other than term or group
 6 policies and whose policies have been in force for more than
 7 1 year;

8 (d) mutualization will result in retirement of shares
 9 of the insurer's capital stock at a price not in excess of
 10 the fair market value thereof as determined by competent
 11 disinterested appraisers;

12 (e) the plan provides for the purchase of the shares
 13 of any nonconsenting stockholder in the same manner and
 14 subject to the same applicable conditions as provided by
 15 ~~[19-1965,--R&E-M--1947]~~ Title 35, chapter 1, part 8, as to
 16 rights of nonconsenting stockholders, with respect to
 17 consolidation or merger of private corporations;

18 (f) the plan provides for definite conditions to be
 19 fulfilled by a designated early date upon which such
 20 mutualization will be deemed effective; and

21 (g) the mutualization leaves the insurer with surplus
 22 funds reasonably adequate for the security of its
 23 policyholders and to enable it to continue successfully in
 24 business in the states in which it is then authorized to
 25 transact insurance and for the kinds of insurance included

1 in its certificates of authority in such states.

2 (3) This section shall not apply to mutualization
 3 under order of court pursuant to rehabilitation or
 4 reorganization of an insurer under chapter 2, part 9."

5 Section 14. Section 33-3-217, MCA, is amended to read:

6 "33-3-217. Mergers and consolidations of stock
 7 insurers. (1) A domestic stock insurer may merge or
 8 consolidate with one or more domestic or foreign stock
 9 corporations authorized to transact business in this state
 10 and by complying with the applicable provisions of the
 11 statutes of this state governing the merger or consolidation
 12 of stock corporations formed for profit but subject to
 13 subsections (2) and (3) below.

14 (2) No such merger or consolidation shall ~~may~~ be
 15 effectuated unless in advance thereof the plan and agreement
 16 therefor have been filed with the commissioner and approved
 17 in writing by him after a hearing thereon. The commissioner
 18 shall give such approval within a reasonable time after such
 19 filing unless he finds such plan or agreement:

20 (a) is contrary to law;

21 (b) inequitable to the stockholders of any domestic
 22 insurer involved; or

23 (c) would substantially reduce the security of and
 24 service to be rendered to policyholders of the domestic
 25 insurer in this state or elsewhere.

(3) No director, officer, agent, or employee of any insurer party to such merger or consolidation shall ~~may~~ receive any fee, commission, compensation, or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in such plan or agreement.

(4) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance, or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such

controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

(7) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall ~~thereby~~ ~~thereby~~ automatically be extinguished and nullified."

Section 15. Section 33-5-201, MCA, is amended to read:

"33-5-201. Organization of reciprocal insurer. (1) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority a declaration setting forth:

(a) the name of the insurer;

(b) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(c) the kinds of insurance proposed to be transacted;

(d) the names and addresses of the original

1 subscribers;

2 (e) the designation and appointment of the proposed
3 attorney and a copy of the power of attorney;

4 (f) the names and addresses of the officers and
5 directors of the attorney, if a corporation, or its members,
6 if a firm;

7 (g) the powers of the subscribers' advisory committee
8 and the names and terms of office of the members thereof;

9 (h) that all moneys paid to the reciprocal [insurer]
10 shall, after deducting therefrom any sum payable to the
11 attorney, be held in the name of the insurer and for the
12 purposes specified in the subscribers' agreement;

13 (i) a copy of the subscribers' agreement;

14 (j) a statement that each of the original subscribers
15 has in good faith applied for insurance of a kind proposed
16 to be transacted and that the insurer has received from each
17 such subscriber the full premium or premium deposit required
18 for the policy applied for, for a term of not less than 6
19 months at an adequate rate theretofore filed with and
20 approved by the commissioner;

21 (k) a statement of the financial condition of the
22 insurer, a schedule of its assets, and a statement that the
23 surplus as required by 33-5-401 is on hand; and

24 (l) a copy of each policy, endorsement, and
25 application form it then proposes to issue or use.

1 (3) Such ~~the~~ declaration shall be acknowledged by the
2 attorney in the manner required for the acknowledgment of
3 deeds."

4 Section 16. Section 33-7-514, MCA, is amended to read:

5 "33-7-514. Standard provisions. (1) After January 1,
6 1962, no life benefit certificate ~~shall~~ ~~may~~ be delivered or
7 issued for delivery in this state unless a copy of the form
8 has been filed with the commissioner.

9 (2) The certificate ~~shall~~ ~~must~~ contain in substance
10 the following standard provisions or, in lieu thereof,
11 provisions which are more favorable to the member:

12 (a) title on the face and filing page of the
13 certificate clearly and correctly describing its form;

14 (b) a provision stating the amount of rates, premiums,
15 or other required contributions, by whatever name known,
16 which are payable by the insured under the certificate;

17 (c) a provision that the member is entitled to a grace
18 period of not less than a full month (or 30 days at the
19 option of the society) in which the payment of any premium
20 after the first may be made. During such grace period the
21 certificate ~~shall~~ ~~must~~ continue in full force, but in case
22 the certificate becomes a claim during the grace period
23 before the overdue payment is made, the amount of such
24 overdue payment or payments may be deducted in any
25 settlement under the certificate.

1 (d) a provision that the member ~~shall be~~ is entitled
 2 to have the certificate reinstated at any time within 3
 3 years from the due date of the premium in default, unless
 4 the certificate has been completely terminated through the
 5 application of a nonforfeiture benefit, cash surrender
 6 value, or certificate loan, upon the production of evidence
 7 of insurability satisfactory to the society and the payment
 8 of all overdue premiums and any other indebtedness to the
 9 society upon the certificate, together with interest on such
 10 premiums and such indebtedness, if any, at a rate not
 11 exceeding 6% per annum compounded annually;

12 (e) except in the case of pure endowment, annuity or
 13 reversionary annuity contracts, reducing term insurance
 14 contracts, or contracts of term insurance of uniform amount
 15 of 15 years or less expiring before age 66, a provision
 16 that, in the event of default in payment of any premium
 17 after 3 full years' premiums have been paid or after
 18 premiums for a lesser period have been paid if the contract
 19 so provides, the society will grant, upon proper request not
 20 later than 60 days after the due date of the premium in
 21 default, a paid-up nonforfeiture benefit on the plan
 22 stipulated in the certificate, effective as of such due
 23 date, of such value as specified in this chapter. The
 24 certificate may provide, if the society's laws so specify or
 25 if the member ~~shall~~ so elect ~~elects~~ prior to the expiration

1 of the grace period of any overdue premium, that default
 2 ~~shall~~ may not occur so long as premiums can be paid under
 3 the provisions of an arrangement for automatic premium loan
 4 as may be set forth in the certificate.

5 (f) a provision that one paid-up nonforfeiture benefit
 6 as specified in the certificate ~~shall~~ must become effective
 7 automatically unless the member elects another available
 8 paid-up nonforfeiture benefit, not later than 60 days after
 9 the due date of the premium in default;

10 (g) a statement of the mortality table and rate of
 11 interest used in determining all paid-up nonforfeiture
 12 benefits and cash surrender options available under the
 13 certificate and a brief general statement of the method used
 14 in calculating such benefits;

15 (h) a table showing in figures the value of every
 16 paid-up nonforfeiture benefit and cash surrender option
 17 available under the certificate for each certificate
 18 anniversary either during the first 20 certificate years or
 19 during the term of the certificate, whichever is shorter;

20 (i) a provision that the certificate ~~shall~~ be ~~is~~
 21 incontestable after it has been in force during the lifetime
 22 of the member for a period of 2 years from its date of issue
 23 except for nonpayment of premiums, violation of the
 24 provisions of the certificate relating to military,
 25 aviation, or naval service, and violation of the provisions

1 relating to suspension or expulsion as substantially set
 2 forth in the certificate. At the option of the society,
 3 supplemental provisions relating to benefits in the event of
 4 temporary or permanent disability or hospitalization and
 5 provisions which grant additional insurance specifically
 6 against death by accident or accidental means may also be
 7 excepted. The certificate ~~shall be~~ is incontestable on the
 8 grounds of suicide after it has been in force during the
 9 lifetime of the member for a period of 2 years from date of
 10 issue. The certificate may provide, as to statements made to
 11 procure reinstatement, that the society ~~shall have~~ has the
 12 right to contest a reinstated certificate within a period of
 13 2 years from date of reinstatement with the same exceptions
 14 as herein provided.

15 (j) a provision that in case the age of the member or
 16 of any other person is considered in determining the premium
 17 and it is found at any time before final settlement under
 18 the certificate that the age has been misstated, and the
 19 discrepancy and premium involved have not been adjusted, the
 20 amount payable shall be such as the premium would have
 21 purchased at the correct age; but if the correct age was not
 22 an insurable age under the society's charter or laws, only
 23 the premiums paid to the society, less any payments
 24 previously made to the member, shall be returned or, at the
 25 option of the society, the amount payable under the

1 certificate shall be such as the premium would have
 2 purchased at the correct age according to the society's
 3 promulgated rates and any extension thereof based on
 4 actuarial principles;

5 (k) a provision or provisions which recite fully or
 6 which set forth the substance of all sections of the
 7 charter, constitution, laws, or rules of the society in
 8 force at the time of issuance of the certificate, the
 9 violation of which will result in the termination of or in
 10 the reduction of the benefit or benefits payable under the
 11 certificate; and

12 (l) if the constitution or laws of the society provide
 13 for expulsion or suspension of a member, a provision that
 14 any member so expelled or suspended, except for nonpayment
 15 of a premium or within the contestable period for material
 16 misrepresentations in such member's application for
 17 membership, shall have the privilege of maintaining his
 18 insurance in force by continuing payment of the required
 19 premium.

20 (3) Any of the foregoing provisions or portions
 21 thereof not applicable by reason of the plan of insurance or
 22 because the certificate is an annuity certificate may, to
 23 the extent inapplicable, be omitted from the certificate."

24 Section 17. Section 33-10-217, MCA, is amended to
 25 read:

1 "33-10-217. Prevention of impairments. To aid in the
2 detection and prevention of insurer impairments the board of
3 directors is given the following powers and duties:

4 (1) The board of ~~directors~~ shall, upon majority vote,
5 notify the commissioner of any information indicating any
6 member insurer may be unable or potentially unable to
7 fulfill its contractual obligations.

8 (2) The board of ~~directors~~ may, upon majority vote,
9 request that the commissioner order an examination of any
10 member insurer which the board in good faith believes may be
11 unable or potentially unable to fulfill its contractual
12 obligations.

13 (3) The board of ~~directors~~ may, upon majority vote,
14 make reports and recommendations to the commissioner upon
15 any matter germane to the solvency, liquidation,
16 rehabilitation, or conservation of any member insurer. Such
17 reports and recommendations shall not be considered public
18 documents.

19 (4) The board of ~~directors~~ may, upon majority vote,
20 make recommendations to the commissioner for the detection
21 and prevention of insurer impairments.

22 (5) The board of ~~directors~~ shall, at the conclusion of
23 any insurer impairment in which the association carried out
24 its duties under this part or exercised any of its powers
25 under this part, prepare a report on the history and causes

1 of such impairment, based on the information available to
2 the association, and submit such report to the
3 commissioner."

4 Section 18. Section 33-10-229, MCA, is amended to
5 read:

6 "33-10-229. Recovery of dividends. (1) If an order for
7 liquidation or rehabilitation of an insurer domiciled in
8 this state has been entered, the receiver appointed under
9 such order ~~shall~~ have ~~has~~ a right to recover on behalf of
10 the insurer, from any affiliate that controlled it, the
11 amount of distributions, other than stock dividends paid by
12 the insurer on its capital stock, made at any time during
13 the 5 years preceding the petition for liquidation or
14 rehabilitation subject to the limitations of subsections (2)
15 through (4).

16 (2) No such dividend ~~shall be~~ is recoverable if the
17 insurer shows that when paid the distribution was lawful and
18 reasonable and that the insurer did not know and could not
19 reasonably have known that the distribution might adversely
20 affect the ability of the insurer to fulfill its contractual
21 obligations.

22 (3) Any person who ~~as was~~ is an affiliate that controlled
23 the insurer at the time the distributions were paid ~~shall be~~
24 is liable up to the amount of distributions he received.
25 Any person who was an affiliate that controlled the insurer

1 at the time the distributions were declared ~~shall be~~ is
 2 liable up to the amount of distributions he would have
 3 received if they had been paid immediately. If two persons
 4 are liable with respect to the same distributions, they
 5 ~~shall be~~ are jointly and severally liable.

6 (4) The maximum amount recoverable under this section
 7 ~~shall be~~ is the amount needed in excess of all other
 8 available assets of the impaired insurer to pay the
 9 contractual obligations of the impaired insurer.

10 (5) If any person liable under subsection (3) is
 11 insolvent, all its affiliates that controlled it at the time
 12 the dividend was paid ~~shall be~~ are jointly and severally
 13 liable for any resulting deficiency in the amount recovered
 14 from the insolvent affiliate."

15 Section 19. Section 33-17-203, MCA, is amended to
 16 read:

17 "33-17-203. General qualification for license as life
 18 or disability insurance agent. For the protection of the
 19 people of this state the commissioner ~~shall~~ may not issue,
 20 continue, or permit to exist any agent license as to life or
 21 disability insurance except in compliance with this chapter,
 22 ~~or--as--to--any In addition, the~~ individual not-qualified
 23 therefor must qualify as follows:

24 (1) must be 18 years of age or more;

25 (2) must be a resident in and of this state or of

1 another state if by reciprocal arrangements made by the
 2 commissioner with such other state similar privileges
 3 therein are granted to residents of this state;

4 (3) must have been appointed as such an agent by an
 5 authorized insurer, subject to issuance of the license;

6 (4) must be competent, trustworthy, and of good
 7 reputation;

8 (5) must have had experience or training or be
 9 otherwise adequately qualified in the kind or kinds of
 10 insurance as to which he is to be licensed, and be
 11 reasonably familiar with the provisions of this code
 12 governing his operations as such an agent and with the
 13 provisions of the policies and contracts he proposes to
 14 offer under the license;

15 (6) must pass any written examination for the license
 16 required under this chapter;

17 (7) must not use or intend to use the license
 18 principally for the writing of insurance on the lives or
 19 interests of himself or his relatives to the second degree;

20 (8) must not be a funeral director, undertaker, or
 21 mortician or an officer, employee, or representative
 22 thereof."

23 Section 20. Section 33-17-211, MCA, is amended to
 24 read:

25 "33-17-211. Application for license. (1) Application

1 for an agent or solicitor license shall ~~must~~ be made to the
 2 commissioner by the applicant and be signed and sworn to by
 3 the applicant before a notary public or other person
 4 authorized by law to take acknowledgments of deeds.

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

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

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

23 (5) If the applicant for an agent license is a firm or
 24 corporation, the application shall show, in addition, the
 25 names of all members, officers, and directors and shall

1 designate each individual who is to exercise the powers to
 2 be conferred by the license upon the firm or corporation.
 3 Each such individual so designated shall furnish information
 4 as to himself, as part of the application, as though for an
 5 individual license.

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

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

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

license as solicitor, as to whether the applicant is known to such officer or representative, whether the insurer or 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.

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

Section 21. Section 33-17-213, MCA, is amended to read:

"33-17-213. Conduct of examinations. (1) The commissioner shall make any examination required under 33-17-212 available to applicants with reasonable frequency and at a place in this state reasonably accessible to such applicants. The commissioner shall make any such examination available at his offices at Helena, Montana, at times within his discretion but at least once a month.

(2) All the kinds of insurance or ~~class~~ classes thereof, as referred to in 33-17-212(3), which the applicant

proposes to transact under the license applied for shall be included in the same examination.

(3) The commissioner shall give, conduct, and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(4) The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same kind or kinds of insurance."

Section 22. Section 33-17-1004, MCA, is amended to read:

"33-17-1004. Acting as insurance agent, solicitor, or adjuster without license -- penalty. Any person, firm, association, or corporation who or which, in this state, acts as an insurance agent, solicitor, or adjuster without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this chapter ~~shall~~ upon conviction be is guilty of a misdemeanor and upon conviction shall be fined \$500 or imprisoned in the county jail for 90 days or both ~~such fine and imprisonment.~~

Section 23. Section 33-18-301, MCA, is amended to read:

"33-18-301. Prohibited relations with mortuaries. (1) No life insurer ~~shall~~ may own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking

1 establishment or permit its officers, employees, or
2 representatives to own, operate, maintain, or be employed in
3 any such business.

4 (2) No life insurer shall ~~may~~ contract or agree with
5 any funeral director, mortuary, or undertaker to the effect
6 that such funeral director, undertaker, or mortuary shall
7 conduct the funeral of any person insured by such insurer.

8 (3) Each violation of this section shall ~~constitute~~
9 ~~constitutes~~ a misdemeanor punishable by a fine of not more
10 than \$1,000 or by imprisonment ~~at hard labor~~ for not more
11 than 6 months or ~~by~~ both such fine and imprisonment ~~in the~~
12 ~~discretion of the court.~~"

13 Section 24. Section 33-20-213, MCA, is amended to
14 read:

15 "33-20-213. Operative date. After July 1, 1945, any
16 insurer could have filed with the state auditor a written
17 notice of its election to comply with the provisions of this
18 part, ~~except 33-20-206 and 33-20-207~~, after a specified date
19 before January 1, 1948, with respect to the policies
20 specified in the notice. After the filing of such notice,
21 then upon such specified date (which shall be the operative
22 date for such insurer with respect to such policies), this
23 part, ~~except 33-20-206 and 33-20-207~~, shall have become
24 operative with respect to the policies specified in such
25 notice thereafter issued by such insurer. As to all of its

1 policies and contracts with respect to which an insurer
2 makes no such election, the operative date of this part,
3 ~~except 33-20-206 and 33-20-207~~, with respect to such
4 policies and contracts for such insurer is January 1, 1948."

5 Section 25. Section 33-20-1111, MCA, is amended to
6 read:

7 "33-20-1111. Dependents of employee and labor union
8 groups -- coverage. Any group life policy issued under
9 33-20-1101, 33-20-1102, or 33-20-1103, may be extended to
10 insure the employees or members against loss due to the
11 death of their spouses and minor children, or any class or
12 classes thereof, subject to the following requirements:

13 (1) The premium for the insurance shall be paid by the
14 policyholder, either from the employer's or union's funds or
15 funds contributed by the employer or union or from funds
16 contributed by the insured employees or members, or from
17 both. If any part of the premium is to be derived from funds
18 contributed by the insured employees or members, the
19 insurance with respect to spouses and children may be placed
20 in force only if at least 75% of the then eligible employees
21 or members, excluding any as to whose family members
22 evidence of insurability is not satisfactory to the insurer,
23 elect to make the required contribution. If no part of the
24 premium is to be derived from funds contributed by the
25 employees or members, all eligible employees or members,

1 excluding any to whose family members evidence of
2 insurability is not satisfactory to the insurer, must be
3 insured with respect to their spouses and children.

4 (2) The amounts of insurance must be based upon some
5 plan precluding individual selection either by the employees
6 or members or by the policyholder, employer, or union.

7 (3) Upon termination of the insurance with respect to
8 the members of the family of any employee or member by
9 reason of the employee's or member's termination of
10 employment, termination of membership in the class or
11 classes eligible for coverage under the policy, or death,
12 the spouse ~~shall~~ is entitled to have issued by the
13 insurer, without evidence of insurability, an individual
14 policy of life insurance, without disability or other
15 supplementary benefits, providing application for the
16 individual policy shall be made, and the first premium paid
17 to the insurer, within 31 days after such termination,
18 subject to the requirements of subsections (1), (2), and (3)
19 of ~~[33-20-1200]~~ 33-20-1202. If the group policy terminates
20 or is amended so as to terminate the insurance of any class
21 of employees or members and the employee or member is
22 entitled to have issued an individual policy under
23 33-20-1210, the spouse ~~shall~~ is also be entitled to have
24 issued by the insurer an individual policy, subject to the
25 conditions and limitations provided above. If the spouse

1 dies within the period during which he would have been
2 entitled to have an individual policy issued in accordance
3 with this provision, the amount of life insurance which he
4 would have been entitled to have issued under such
5 individual policy shall be payable as a claim under the
6 group policy, whether or not application for the individual
7 policy or the payment of the first premium therefor has been
8 made.

9 (4) Notwithstanding 33-20-1208, only one certificate
10 need be issued for delivery to an insured person if a
11 statement concerning any dependent's coverage is included in
12 such certificate."

13 Section 26. Section 33-22-202, MCA, is amended to
14 read:

15 "33-22-202. Required provisions -- captions --
16 omissions -- substitutions -- order. (1) Except as provided
17 in subsection (2) below, each such policy delivered or
18 issued for delivery to any person in this state ~~shall~~ must
19 contain the provisions specified in 33-22-204 through
20 33-22-215, in the words in which the same appear, except
21 that the insurer may, at its option, substitute for one or
22 more of such provisions corresponding provisions of
23 different wording approved by the commissioner which are in
24 each instance not less favorable in any respect to the
25 insured or the beneficiary. Each such provision ~~shall~~ must

1 be preceded individually by the applicable caption shown or,
2 at the option of the insurer, by such appropriate individual
3 or group captions or subcaptions as the commissioner may
4 approve.

5 (2) If any such provision is in whole or in part
6 inapplicable to or inconsistent with the coverage provided
7 by a particular form of policy, the insurer, with the
8 approval of the commissioner, shall omit from such policy
9 any inapplicable provision or part of a provision and shall
10 modify any inconsistent provision or part of a provision in
11 such manner as to make the provision as contained in the
12 policy consistent with the coverage provided by the policy.

13 (3) The provisions which are the subject of ~~[40-4007~~
14 ~~to-40-4030]~~ 33-22-204 through 33-22-232 or any corresponding
15 provisions which are used in lieu thereof in accordance with
16 such sections shall be printed in the consecutive order of
17 the provisions in such sections or, at the option of the
18 insurer, any such provision may appear as a unit in any part
19 of the policy with other provisions to which it may be
20 logically related, provided that the resulting policy shall
21 not be in whole or in part unintelligible, uncertain,
22 ambiguous, abstruse, or likely to mislead a person to whom
23 the policy is offered, delivered, or issued."

24 Section 27. Section 33-17-216, MCA, is amended to
25 read:

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

7 (a) to the surviving spouse or next of kin or to the
8 administrator or executor, or the employee of such
9 administrator or executor, of a licensed agent becoming
10 deceased upon such agent's death;

11 (b) to the spouse, next of kin, employee, or legal
12 guardian of a licensed agent disabled by ~~sickness~~ injury,
13 or ~~insanity~~ physical or mental illness;

14 (c) to an employee of a firm, or officer or employee
15 of a corporation, licensed as agent, upon the death or
16 disability of an individual designated in the license to
17 exercise the powers thereof;

18 (d) to the designee of a licensed agent entering upon
19 active service in the armed forces of the United States of
20 America;

21 (e) upon ~~the~~ request of the insurer, to an applicant
22 for a license as a life insurance agent, pending the taking
23 of any examination required of the applicant by the
24 commissioner under 33-17-212, if the applicant is duly
25 enrolled in and is actively pursuing an adequate course of

1 instruction, as provided by or through the insurer, in
 2 preparation for such examination. Such license shall be for
 3 a period of not over 90 days or until the applicant has had
 4 a reasonable opportunity to take such examination and be
 5 informed by the commissioner as to the results thereof,
 6 whichever is the shorter period, but subject to extension by
 7 the commissioner as provided in subsection (3) below.

8 (2) The temporary license shall be issued upon
 9 application filed with the commissioner in such form and
 10 containing such information as the commissioner may
 11 reasonably require and upon payment of the applicable fee as
 12 stated in 33-2-708.

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

25 (4) The fee paid for the temporary license may be

1 applied upon the fee required for any a permanent license
 2 issued to the licensee upon or prior to expiration of the
 3 temporary license and covering the same kinds of insurance."

4 Section 28. Section 33-20-121, MCA, is amended to
 5 read:

6 "33-20-121. Prohibited provisions -- limitations on
 7 liability. (1) No policy of life insurance shall ~~may~~ be
 8 delivered or issued for delivery in this state if it
 9 contains any of the following provisions:

10 (a) a provision for a period shorter than that
 11 provided by statute within which an action at law or in
 12 equity may be commenced on such-a ~~the~~ policy;

13 (b) a provision which excludes or restricts liability
 14 for death caused in a certain specified manner or occurring
 15 while the insured has a specified status, except that a
 16 policy may contain provisions excluding or restricting
 17 coverage as specified therein in the event of death under
 18 any one or more of the following circumstances:

19 (i) death as a result, directly or indirectly, of war,
 20 declared or undeclared, or of action by military forces or
 21 of any act or hazard of such war or action or of service in
 22 the military, naval, or air forces or in civilian forces
 23 auxiliary thereto or from any cause while a member of such
 24 military, naval, or air forces of any country at war,
 25 declared or undeclared, or of any country engaged in such

1 military action;
 2 (ii) death as a result of aviation or any air travel or
 3 flight;
 4 (iii) death as a result of a specified hazardous
 5 occupation or occupations;
 6 (iv) death while the insured is a resident outside ~~the~~
 7 continental United States and Canada; or
 8 (v) death within 2 years from the date of issue of the
 9 policy as a result of suicide, while sane--or--insane
 10 seriously mentally ill or otherwise.

11 (2) A policy which contains any exclusion or
 12 restriction pursuant to subsection (1) of this section shall
 13 also provide that in the event of death under the
 14 circumstances to which any such exclusion or restriction is
 15 applicable, the insurer will pay an amount not less than a
 16 reserve determined according to the commissioner's reserve
 17 valuation method upon the basis of the mortality table and
 18 interest rate specified in the policy for the calculation of
 19 nonforfeiture benefits (or if the policy provides for no
 20 such benefits, computed according to a mortality table and
 21 interest rate determined by the insurer and specified in the
 22 policy) with adjustment for indebtedness or dividend credit.

23 (3) This section ~~shall~~ does not apply to industrial
 24 life insurance, group life insurance, disability insurance,
 25 reinsurance, or annuities, or to any provision in a life

1 insurance policy relating to disability benefits or to
 2 additional benefits in the event of death by accident or
 3 accidental means.

4 (4) Nothing contained in this section ~~shall~~ prohibit
 5 ~~prohibits~~ any provision which in the opinion of the
 6 commissioner is more favorable to the policyholder than a
 7 provision permitted by this section."

8 Section 29. Repealer. Section 40-1723, R.C.M. 1947, is
 9 repealed.

-End-

SENATE BILL NO. 101

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE COMPANIES; AND REPEALING SECTION 40-1723, R.C.M. 1947."

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

Section 1. Section 33-1-201, MCA, is amended to read:

"33-1-201. Definitions -- insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States of America, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one formed under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

There are no changes in 611.21 and due to length will not be recun. Please refer to yellow copy for complete text.

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) "State", when used as to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States of America.

(8) "Transact", with respect to insurance, includes any of the following:

(a) solicitation and inducement;

(b) preliminary negotiations;

(c) effectuation of a contract of insurance;

(d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(9) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

Section 2. Section 33-1-202, MCA, is amended to read:

"33-1-202. Definitions -- entities. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) "Commissioner" means the commissioner of insurance

1 of the state of Montana unless--the--context---requires
2 otherwise.

3 (2) "Department" means the department of insurance of
4 the state of Montana unless--the--context--requires--otherwise.

5 (3) "Person" includes an individual, insurer, company,
6 association, organization, Lloyd's, society, reciprocal or
7 interinsurance exchange, partnership, syndicate, business
8 trust, corporation, and ~~or~~ any other legal entity."

9 Section 3. Section 33-1-211, MCA, is amended to read:

10 "33-1-211. Surety insurance. Surety insurance
11 includes:

12 (1) fidelity insurance which is insurance guaranteeing
13 the fidelity of persons holding positions of public or
14 private trust;

15 (2) insurance guaranteeing the performance of
16 contracts, other than insurance policies, and guaranteeing
17 and executing bonds, undertakings, and contracts of
18 suretyship;

19 (3) insurance indemnifying banks, bankers, brokers, ~~or~~
20 financial or moneyed corporations or associations;

21 (4) against check forgery or alteration or against
22 loss resulting from any cause of bills of exchange, notes,
23 bonds, securities, evidences of debt, deeds, mortgages,
24 warehouse receipts, or other valuable papers, documents,
25 money, precious metals and articles made therefrom, jewelry,

1 watches, necklaces, bracelets, gems, or precious and
2 semiprecious stones, including any loss while the--same--are
3 being transported in armored motor vehicles, by mail, or by
4 messenger but not including any other risks of
5 transportation or navigation; ~~also insurance~~

6 (b) against loss or damage to such-on the insured's
7 premises or to his furnishings, fixtures, equipment, safes,
8 and vaults therein caused by burglary, robbery, theft,
9 vandalism, or criminal mischief or any attempt thereof."

10 Section 4. Section 33-1-303, MCA, is amended to read:

11 "33-1-303. Deputies and assistants -- employment,
12 compensation, and termination. (1) The commissioner shall
13 appoint a chief deputy insurance commissioner who shall be
14 in charge of the insurance department under the direction
15 and control of the commissioner.

16 (2) The commissioner may appoint additional deputy
17 insurance commissioners for such the purposes as that he may
18 designate designates.

19 (3) The commissioner may employ a competent insurance
20 actuary to perform actuarial duties, if any, of the
21 department, to take charge of or assist in the examination
22 of insurers, and to perform other duties assigned to him.

23 (4) The commissioner may appoint or employ such
24 examiners to conduct or assist in examinations of insurers
25 and others provided for under the code, as may ~~Examiners~~

SENATE BILL NO. 101

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE COMPANIES; AND REPEALING SECTION 40-1723, R.C.M. 1947."

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

Section 1. Section 33-1-201, MCA, is amended to read:

"33-1-201. Definitions -- insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States of America, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one formed under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) "State", when used as to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States of America.

(8) "Transact", with respect to insurance, includes any of the following:

(a) solicitation and inducement;

(b) preliminary negotiations;

(c) effectuation of a contract of insurance;

(d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(9) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

Section 2. Section 33-1-202, MCA, is amended to read:

"33-1-202. Definitions -- entities. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) "Commissioner" means the commissioner of insurance

1 of the state of Montana ~~unless--the--context---requires~~
2 otherwise.

3 (2) "Department" means the department of insurance of
4 the state of Montana ~~unless-the-context-requires--otherwise.~~

5 (3) "Person" includes an individual, insurer, company,
6 association, organization, Lloyd's, society, reciprocal or
7 interinsurance exchange, partnership, syndicate, business
8 trust, corporation, and ~~or~~ any other legal entity."

9 Section 3. Section 33-1-211, MCA, is amended to read:

10 "33-1-211. Surety insurance. Surety insurance
11 includes:

12 (1) fidelity insurance which is insurance guaranteeing
13 the fidelity of persons holding positions of public or
14 private trust;

15 (2) insurance guaranteeing the performance of
16 contracts, other than insurance policies, and guaranteeing
17 and executing bonds, undertakings, and contracts of
18 suretyship;

19 (3) insurance indemnifying banks, bankers, brokers, ~~or~~
20 financial or moneyed corporations or associations;

21 (a) against check forgery or alteration or against
22 loss resulting from any cause of bills of exchange, notes,
23 bonds, securities, evidences of debt, deeds, mortgages,
24 warehouse receipts, or other valuable papers, documents,
25 money, precious metals and articles made therefrom, jewelry,

1 watches, necklaces, bracelets, gems, or precious and
2 semiprecious stones, including any loss while the--some--are
3 being transported in armored motor vehicles, by mail, or by
4 messenger but not including any other risks of
5 transportation or navigation; ~~also--insurance~~

6 (b) against loss or damage to such-on the insured's
7 premises or to his furnishings, fixtures, equipment, safes,
8 and vaults therein caused by burglary, robbery, theft,
9 vandalism, or criminal mischief or any attempt thereof."

10 Section 4. Section 33-1-303, MCA, is amended to read:

11 "33-1-303. Deputies and assistants -- employment,
12 compensation, and termination. (1) The commissioner shall
13 appoint a chief deputy insurance commissioner who shall be
14 in charge of the insurance department under the direction
15 and control of the commissioner.

16 (2) The commissioner may appoint additional deputy
17 insurance commissioners for such the purposes as that he may
18 designate designates.

19 (3) The commissioner may employ a competent insurance
20 actuary to perform actuarial duties, if any, of the
21 department, to take charge of or assist in the examination
22 of insurers, and to perform other duties assigned to him.

23 (4) The commissioner may appoint or employ such
24 examiners to conduct or assist in examinations of insurers
25 and others provided for under the code, as may Examiners

1 ~~must~~ be competent, because of experience or special
2 education or training, to fulfill the responsibilities of an
3 insurance examiner.

4 (5) The commissioner shall appoint and employ a field
5 investigator whose primary duty it ~~shall be~~ is, as directed
6 by the commissioner, to make investigations in this state of
7 violations or claimed violations of this code.

8 (6) The commissioner may appoint a chief clerk for the
9 insurance department and employ such other assistants and
10 clerks as may be necessary to assist him properly to
11 discharge the duties imposed upon him under this code.

12 (7) The commissioner may at any time terminate the
13 appointment, designation, or employment of any such deputy,
14 actuary, chief clerk, or other employee.

15 (8) The commissioner may from time to time contract
16 for and procure, on a fee or part-time basis, or both, such
17 actuarial, technical, or other professional services as he
18 may require for the discharge of his duties.

19 (9) The compensation of ~~all such personnel so~~
20 ~~appointed, employed, or contracted for by him the~~
21 commissioner's personal staff, as defined in Title 2,
22 chapter 18, part 1, shall be as fixed by the commissioner
23 out in the aggregate ~~shall~~ may not exceed current funds
24 appropriated by the legislature to the insurance department
25 or otherwise currently available for the purpose."

1 Section 5. Section 33-1-315, MCA, is amended to read:
2 "33-1-315. Witnesses -- production of records --
3 subpoena -- failure to respond -- perjury. (1) With respect
4 to the subject of any examination, investigation, or hearing
5 being conducted by him, the commissioner or his examiner, if
6 general written authority therefor has been given the
7 examiner by the commissioner, may subpoena witnesses and
8 administer oaths or affirmations and examine any individual
9 under oath and may require and compel the production of
10 records, books, papers, contracts, and other documents by
11 attachments, if necessary. If in connection with any
12 examination of an insurer the commissioner desires to
13 examine any officer, director, or manager thereof who is
14 then outside this state, the commissioner ~~is authorized to~~
15 may conduct and enforce by all appropriate and available
16 means any such examination under oath in any other state or
17 territory of the United States in which such officer,
18 director, or manager may then presently be, to the full
19 extent permitted by the laws of such other state or
20 territory, this special authorization considered.

21 (2) Witness fees and mileage, if claimed, shall be
22 allowed the same as for testimony in a district court.
23 Witness fees, mileage, and the actual expenses necessarily
24 incurred in securing attendance of witnesses and their
25 testimony shall be itemized and shall be paid by the person

1 being examined if such person is found to have been in
2 violation of the law as to the matter with respect to which
3 such witness was subpoenaed or by the person, if other than
4 the commissioner, at whose request the hearing is held.

5 (3) Subpoenas of witnesses shall be served in the same
6 manner as if issued from a district court. If any individual
7 fails to obey a subpoena lawfully served, the commissioner
8 shall forthwith report such disobedience, together with a
9 copy of the subpoena and proof of service thereof, to the
10 district court for the county in which the individual was
11 required to appear. Such court shall forthwith cause such
12 individual to be produced and shall impose penalties as
13 though he had disobeyed a subpoena issued out of such court.

14 (4) Any person willfully knowingly failing to attend,
15 answer, or produce records, documents, or other evidence
16 requested by the commissioner or who willfully knowingly
17 fails to give the commissioner full and truthful information
18 and answer in writing to any material written inquiry of the
19 commissioner, relative to the subject of any such
20 examination, investigation, or hearing, or willfully
21 knowingly fails to appear and testify under oath before the
22 commissioner shall--upon-conviction-thereof--in-addition-to
23 or-in-lieu-of-any-other-penalty-or-penalties-applicable--be
24 deemed is guilty of a misdemeanor and-in-addition-to-or-in
25 lieu-of-any-other-penalty--upon-conviction--shall-be-fined

1 ~~not-to-exceed-\$500-or-be-imprisoned-in-the-county-jail-for-a~~
2 ~~term-not-to-exceed-6-months-or-both.~~

3 (5) Any person willfully knowingly testifying falsely
4 under oath as to any matter material to any such
5 examination, investigation, or hearing shall is guilty of
6 perjury, and upon conviction thereof shall be guilty--of
7 perjury--and punished accordingly according to 24-7-202
8 45-7-201."

9 Section 6. Section 33-1-411, MCA, is amended to read:

10 "33-1-411. Destruction of records -- hindrance of
11 examination -- penalty. Any director, officer, agent, or
12 employee of any company who FOR THE PURPOSE OF HINDERING ANY
13 EXAMINATION CONDUCTED PURSUANT TO THIS PART destroys any
14 books, records, or documents required to be kept by law for
15 the-purpose-of-hindering-any-examination-in-violation-of-the
16 requirements-of this-section 33-1-412 shall be punished by a
17 fine of not more than \$1,000, and after a NOTICE AND
18 hearing thereon-for-that-purpose IN ACCORDANCE WITH TITLE
19 33, CHAPTER 1, PART 1, the commissioner may revoke the
20 certificate of authority of such company."

21 Section 7. Section 33-1-704, MCA, is amended to read:

22 "33-1-704. Hearing procedure. (1) Hearings--may--be
23 closed-to--the--public--at--the--commissioner's--discretion
24 except--that--a--hearing--held-with-respect-to-a-filing-made
25 under chapter 16 prior to the effective date of such filing

1 ~~shall be closed to the public unless otherwise requested by~~
 2 ~~the party that made such filings in all other cases; a~~
 3 ~~hearing shall be open to the public if so requested in~~
 4 ~~writing by any party to the hearing. All hearings shall be~~
 5 ~~open to the public unless closed pursuant to the provisions~~
 6 ~~of 2-3-203.~~

7 (2) The commissioner shall allow any party to the
 8 hearing to appear in person and by counsel; to be present
 9 during the giving of all evidence, to have a reasonable
 10 opportunity to inspect all documentary evidence and to
 11 examine witnesses, to present evidence in support of his
 12 interest, and to have subpoenas issued by the commissioner
 13 to compel attendance of witnesses and production of evidence
 14 in his behalf.

15 (3) The commissioner shall permit to become a party to
 16 the hearing by intervention, if timely, any person who was
 17 not an original party thereto and whose pecuniary interests
 18 ~~are to~~ will be directly and immediately affected by the
 19 commissioner's order made upon the hearing.

20 (4) Formal rules of pleading or evidence need not be
 21 observed at any hearing.

22 (5) Upon written request seasonably made by a party to
 23 the hearing and at such ~~that~~ person's expense, the
 24 commissioner shall cause a full stenographic record of the
 25 proceedings to be made by a competent reporter. If

1 transcribed, a copy of such stenographic record shall be
 2 furnished to the commissioner without cost to the
 3 commissioner or the state and shall be a part of the
 4 commissioner's record of the hearing. If so transcribed, a
 5 copy of such stenographic record shall be furnished to any
 6 other party to such hearing at the request and expense of
 7 such other party. If no stenographic record is made or
 8 transcribed, the commissioner shall prepare an adequate
 9 record of the evidence and of the proceedings."

10 Section 8. Section 33-2-105, MCA, is amended to read:

11 "33-2-105. Suits by unauthorized insurers prohibited.
 12 ~~As Except as~~ to transactions ~~not~~ permitted under 33-2-102,
 13 no unauthorized insurer shall institute or file or cause to
 14 be instituted or filed any suit, action, or proceeding in
 15 this state to enforce any right, claim, or demand arising
 16 out of any insurance transaction in this state until such
 17 insurer has obtained a certificate of authority to transact
 18 such insurance in this state."

19 Section 9. Section 33-2-524, MCA, is amended to read:

20 "33-2-524. Individual and group annuity and pure
 21 endowment contracts -- valuation. (1) The minimum standard
 22 for the valuation of all individual annuity and pure
 23 endowment contracts issued on [the operative date of this
 24 section], as defined herein, and for all annuities and pure
 25 endowments purchased on or after that operative date, under

1 group annuity and pure endowment contracts ~~shall be~~ is the
 2 commissioner's reserve valuation method defined in 33-2-525
 3 and the following tables and interest rates:

4 (a) for individual annuity and pure endowment
 5 contracts issued prior to January 1, 1986, excluding any
 6 disability and accidental death benefits in such contracts,
 7 the 1971 individual annuity mortality table or any
 8 modification of this table approved by the commissioner and
 9 6% interest for single premium immediate annuity contracts
 10 and 4% interest for all other individual annuity and pure
 11 endowment contracts;

12 (b) for individual annuity and pure endowment
 13 contracts issued on or after January 1, 1986, excluding any
 14 disability and accidental death benefits in such contracts,
 15 the 1971 individual annuity mortality table or any
 16 modification of the table approved by the commissioner and
 17 3 1/2% interest;

18 (c) for all annuities and pure endowments purchased
 19 prior to January 1, 1986, under group annuity and pure
 20 endowment contracts, excluding any disability and accidental
 21 death benefits purchased under such contracts, the 1971
 22 group annuity mortality table or any modification of the
 23 table approved by the commissioner and 6% interest;

24 (d) for all annuities and pure endowments purchased on
 25 or after January 1, 1986, under group annuity and pure

1 endowment contracts, excluding any disability and accidental
 2 death benefits purchased under such contracts, the 1971
 3 group annuity mortality table or any modification of this
 4 table approved by the commissioner and 3 1/2% interest.

5 (2) After March 17, 1973, any insurer may file with
 6 the commissioner a written notice of its election to comply
 7 with the provisions of subsection (1) after a specified date
 8 before January 1, 1979, which shall be the operative date of
 9 subsection (1) for such insurer. An insurer may elect a
 10 different operative date for individual annuity and pure
 11 endowment contracts from that elected for group annuity and
 12 pure endowment contracts. If an insurer makes no such
 13 election, the operative date of this section for such
 14 insurer shall be January 1, 1979."

15 Section 10. Section 33-2-708, MCA, is amended to read:
 16 "33-2-708. Fees and licenses. (1) The commissioner
 17 shall collect in advance and the persons so served shall so
 18 pay to the commissioner the following fees and licenses:

19 (a) certificates of authority:

20 (i) for filing applications for original ~~certificates~~
 21 certificates of authority, articles of incorporation (except
 22 original articles of incorporation of domestic insurers as
 23 provided in subsection (b) below) and other charter
 24 documents, bylaws, financial statement, examination report,
 25 power of attorney to the commissioner, and all other

1 documents and filings required in connection with such
 2 application and for issuance of an original certificate of
 3 authority, if issued:

4 (A) domestic insurers.....\$ 30.00
 5 (B) foreign insurers.....300.00
 6 (ii) annual continuation of certificate of authority...
 7300.00
 8 (iii) reinstatement of certificate of authority.. 25.00
 9 (b) articles of incorporation:

10 (i) filing original articles of incorporation of
 11 domestic insurer, exclusive of fees required to be paid by
 12 the corporation to the secretary of state..... 20.00
 13 (ii) filing amendment of articles of incorporation,
 14 domestic and foreign insurers, exclusive of fees required to
 15 be paid to the secretary of state by a domestic corporation
 16 10.00
 17 (c) filing bylaws or amendment thereto where required
 18 5.00
 19 (d) filing annual statement of insurer, other than as
 20 part of application for original certificate of authority...
 21 25.00
 22 (e) agent's license, ~~for~~ property, casualty, surety,
 23 ~~and~~ title insurance agents, including disability insurance
 24 without additional license or fee when written by property,
 25 casualty, or surety insurer otherwise represented by the

1 agent:

2 (i) application for original license, including
 3 issuance of license, if issued..... 10.00
 4 (ii) appointment of agent, each insurer..... 5.00
 5 (iii) annual renewal or appointment of agent, each
 6 insurer..... 5.00
 7 (iv) temporary license..... 10.00
 8 (f) nonresident agent's license, ~~for~~ property,
 9 casualty, ~~and~~ title insurance agents, ~~and~~ including
 10 disability insurance without additional license or fee when
 11 written by property, casualty, or surety insurer otherwise
 12 represented by the agent:

13 (i) application for original license, including
 14 issuance of license, if issued.....100.00
 15 (ii) appointment of agent, each insurer..... 5.00
 16 (iii) annual renewal or appointment of agent, each
 17 insurer.....100.00
 18 (g) solicitor's license:

19 (i) application for original license, including
 20 issuance of license, if issued..... 5.00
 21 (ii) annual continuation of license..... 5.00
 22 (h) agent's license, life, disability insurance:

23 (i) application for original license, each insurer....
 24 5.00
 25 (ii) annual continuation or renewal of license, each

1 insurer..... 5.00
 2 (iii) temporary license, each insurer..... 5.00
 3 (i) nonresident agent's license, life, disability
 4 insurance:
 5 (i) application for original license, including
 6 issuance of license, if issued, each insurer.....100.00
 7 (ii) annual continuation or renewal of license, each
 8 insurer.....100.00
 9 (j) examination for license as agent or solicitor,
 10 each examination 10.00
 11 (k) surplus line agent's license:
 12 (i) application for original license and for issuance
 13 of license, if issued..... 25.00
 14 (ii) annual renewal or continuation of license... 25.00
 15 (l) adjuster's license:
 16 (i) application for original license and for issuance
 17 of license, if issued..... 10.00
 18 (ii) annual continuation or renewal of license... 10.00
 19 (m) insurance vending machine license, each machine,
 20 each year 10.00
 21 (n) commissioner's certificate under seal (except when
 22 on certificates of authority or licenses)..... 3.00
 23 (o) copies of documents on file in the commissioner's
 24 office, per page..... .50
 25 (p) policy forms:

1 (i) filing each policy form..... 25.00
 2 (ii) filing each application, rider, endorsement,
 3 amendment, insert page, schedule or of rates, and
 4 clarification of risks..... 10.00
 5 (iii) maximum charge if policy and all forms submitted
 6 at one time or resubmitted for approval within 180 days.....
 7 50.00
 8 (2) The commissioner shall promptly deposit with the
 9 state treasurer to the credit of the general fund of this
 10 state all fees and licenses received by him under this
 11 section."
 12 Section 11. Section 33-2-833, MCA, is amended to read:
 13 "33-2-833. Obligations of home----owners+----to+n
 14 corporation, federal housing administrator, and national
 15 mortgage associations. Notwithstanding other provisions of
 16 the law, it shall be lawful for any insurance company
 17 operating under the laws of this state to invest the funds
 18 or moneys in their its custody or possession, eligible for
 19 investment, in--bonds-of-the-home-owners+--to+n-corporation,
 20 in debentures issued by the federal housing administrator
 21 and in obligations of national mortgage associations."
 22 Section 12. Section 33-2-1103, MCA, is amended to
 23 read:
 24 "33-2-1103. Additional investment authority --
 25 exemption from other investment restrictions --

1 determination of qualification -- divestiture. (1) In
2 addition to investments in common stock, preferred stock,
3 debt obligations, and other securities permitted under all
4 other sections of parts 10 and 11 of this chapter, a
5 domestic insurer may also:

6 (a) invest, in common stock, preferred stock, debt
7 obligations, and other securities of one or more
8 subsidiaries, amounts which do not exceed the lesser of 5%
9 of such insurer's assets or 50% of such insurer's surplus as
10 regards policyholders, provided that after such investments
11 the insurer's surplus as regards policyholders will be
12 reasonable in relation to the insurer's outstanding
13 liabilities and adequate to its financial needs. In
14 calculating the amount of such investments, there shall be
15 included total net moneys or other consideration expended
16 and obligations assumed in the acquisition or formation of a
17 subsidiary, including all organizational expenses and
18 contributions to capital and surplus of such subsidiary
19 whether or not represented by the purchase of capital stock
20 or issuance of other securities, and all amounts expended in
21 acquiring additional common stock, preferred stock, debt
22 obligations, and other securities and all contributions to
23 the capital or surplus of a subsidiary subsequent to its
24 acquisition or formation.

25 (b) if the insurer's total liabilities, as calculated

1 for national association of insurance commissioners annual
2 statement purposes, are less than 10% of assets, invest any
3 amount in common stock, preferred stock, debt obligations,
4 and other securities of one or more subsidiaries, provided
5 that, after such investment, the insurer's surplus as
6 regards policyholders, considering such investment as if it
7 were a disallowed asset, will be reasonable in relation to
8 the insurer's outstanding liabilities and adequate to its
9 financial needs;

10 (c) invest any amount in common stock, preferred
11 stock, debt obligations, and other securities of one or more
12 subsidiaries, provided that each such subsidiary agrees to
13 limit its investments in any asset so that such investments
14 will not cause the amount of the total investment of the
15 insurer to exceed any of the investment limitations
16 specified in this [section]. The total investment of the
17 insurer shall include:

18 (i) any direct investment by the insurer in an asset;
19 (ii) the insurer's proportionate share of any
20 investment in an asset by any subsidiary of the insurer,
21 which shall be calculated by multiplying the amount of the
22 subsidiary's investment by the percentage of the insurer's
23 ownership of such subsidiary.

24 (d) with the approval of the commissioner, invest any
25 amount in common stock, preferred stock, debt obligations,

1 or other securities of one or more subsidiaries, provided
 2 that after such investment, the insurer's surplus as regards
 3 policyholders will be reasonable in relation to the
 4 insurer's outstanding liabilities and adequate to its
 5 financial needs;

6 (e) invest any amount in the common stock, preferred
 7 stock, debt obligations, or other securities of any
 8 subsidiary exclusively engaged in holding title to or
 9 holding title to and managing or developing real or personal
 10 property if, after considering as a disallowed asset so much
 11 of the investment as is represented by subsidiary assets
 12 which if held directly by the insurer would be considered as
 13 a disallowed asset, the insurer's surplus as regards
 14 policyholders will be reasonable in relation to the
 15 insurer's outstanding liabilities and adequate to its
 16 financial needs and if following such investment all voting
 17 securities of such subsidiary would be owned by the insurer.

18 (2) Investments in common stock, preferred stock, debt
 19 obligations, or other securities of subsidiaries made
 20 pursuant to subsection (1) hereof shall ~~are~~ not be subject
 21 to any of the otherwise applicable restrictions or
 22 prohibitions contained in parts 10 and 11 of this chapter
 23 applicable to such investments of insurers.

24 (3) Whether any investment pursuant to subsection (1)
 25 meets the applicable requirements thereof is to be

1 determined immediately after such investment is made, taking
 2 into account the then outstanding principal balance on all
 3 previous investments in debt obligations and the value of
 4 all previous investments in equity securities as of the date
 5 they were made.

6 (4) If an insurer ceases to control a subsidiary, it
 7 shall dispose of any investment therein made pursuant to
 8 this section within 3 years from the time of the cessation
 9 of control or within such further time as the commissioner
 10 may prescribe, unless at any time after such investment
 11 shall have been made, such investment shall have met the
 12 requirements for investment under any other section of parts
 13 10 and 11 of this chapter and the insurer has notified the
 14 commissioner thereof."

15 Section 13. Section 33-3-215, MCA, is amended to read:
 16 "33-3-215. Mutualization of stock insurer. (1) A stock
 17 insurer other than a title insurer may become a mutual
 18 insurer under such a plan and procedure as may be approved
 19 by the commissioner after a hearing thereon.

20 (2) The commissioner shall not approve any such plan,
 21 procedure, or mutualization unless:

22 (a) it is equitable to stockholders and policyholders;
 23 (b) it is subject to approval by the holders of not
 24 less than three-fourths of the insurer's outstanding capital
 25 stock having voting rights and by not less than two-thirds

1 of the insurer's policyholders who vote on such plan in
 2 person, by proxy, or by mail pursuant to such notice and
 3 procedure as may be approved by the commissioner;

4 (c) if a life insurer, the right to vote thereon is
 5 limited to holders of policies other than term or group
 6 policies and whose policies have been in force for more than
 7 1 year;

8 (d) mutualization will result in retirement of shares
 9 of the insurer's capital stock at a price not in excess of
 10 the fair market value thereof as determined by competent
 11 disinterested appraisers;

12 (e) the plan provides for the purchase of the shares
 13 of any nonconsenting stockholder in the same manner and
 14 subject to the same applicable conditions as provided by
 15 ~~[15-1965]-R&M-1947~~ Title 35, Chapter 1, Part 8, as to
 16 rights of nonconsenting stockholders, with respect to
 17 consolidation or merger of private corporations;

18 (f) the plan provides for definite conditions to be
 19 fulfilled by a designated early date upon which such
 20 mutualization will be deemed effective; and

21 (g) the mutualization leaves the insurer with surplus
 22 funds reasonably adequate for the security of its
 23 policyholders and to enable it to continue successfully in
 24 business in the states in which it is then authorized to
 25 transact insurance and for the kinds of insurance included

1 in its certificates of authority in such states.

2 (3) This section shall not apply to mutualization
 3 under order of court pursuant to rehabilitation or
 4 reorganization of an insurer under chapter 2, part 9."

5 Section 14. Section 33-3-217, MCA, is amended to read:

6 "33-3-217. Mergers and consolidations of stock
 7 insurers. (1) A domestic stock insurer may merge or
 8 consolidate with one or more domestic or foreign stock
 9 corporations authorized to transact business in this state
 10 and by complying with the applicable provisions of the
 11 statutes of this state governing the merger or consolidation
 12 of stock corporations formed for profit but subject to
 13 subsections (2) and (3) below.

14 (2) No such merger or consolidation shall ~~may~~ be
 15 effectuated unless in advance thereof the plan and agreement
 16 therefor have been filed with the commissioner and approved
 17 in writing by him after a hearing thereon. The commissioner
 18 shall give such approval within a reasonable time after such
 19 filing unless he finds such plan or agreement:

20 (a) is contrary to law;

21 (b) inequitable to the stockholders of any domestic
 22 insurer involved; or

23 (c) would substantially reduce the security of and
 24 service to be rendered to policyholders of the domestic
 25 insurer in this state or elsewhere.

(3) No director, officer, agent, or employee of any insurer party to such merger or consolidation shall may receive any fee, commission, compensation, or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in such plan or agreement.

(4) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance, or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such

controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

(7) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall thereby ~~thereby~~ automatically be extinguished and nullified."

Section 15. Section 33-5-201, MCA, is amended to read:

"33-5-201. Organization of reciprocal insurer. (1) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority a declaration setting forth:

(a) the name of the insurer;

(b) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(c) the kinds of insurance proposed to be transacted;

(d) the names and addresses of the origi-

1 subscribers;

2 (e) the designation and appointment of the proposed

3 attorney and a copy of the power of attorney;

4 (f) the names and addresses of the officers and

5 directors of the attorney, if a corporation, or its members,

6 if a firm;

7 (g) the powers of the subscribers' advisory committee

8 and the names and terms of office of the members thereof;

9 (h) that all moneys paid to the reciprocal [insurer]

10 shall, after deducting therefrom any sum payable to the

11 attorney, be held in the name of the insurer and for the

12 purposes specified in the subscribers' agreement;

13 (i) a copy of the subscribers' agreement;

14 (j) a statement that each of the original subscribers

15 has in good faith applied for insurance of a kind proposed

16 to be transacted and that the insurer has received from each

17 such subscriber the full premium or premium deposit required

18 for the policy applied for, for a term of not less than 6

19 months at an adequate rate theretofore filed with and

20 approved by the commissioner;

21 (k) a statement of the financial condition of the

22 insurer, a schedule of its assets, and a statement that the

23 surplus as required by 33-5-401 is on hand; and

24 (l) a copy of each policy, endorsement, and

25 application form it then proposes to issue or use.

1 (3) Such ~~the~~ declaration shall be acknowledged by the

2 attorney in the manner required for the acknowledgment of

3 deeds."

4 Section 16. Section 33-7-514, MCA, is amended to read:

5 "33-7-514. Standard provisions. (1) After January 1,

6 1962, no life benefit certificate shall ~~may~~ be delivered or

7 issued for delivery in this state unless a copy of the form

8 has been filed with the commissioner.

9 (2) The certificate shall ~~must~~ contain in substance

10 the following standard provisions or, in lieu thereof,

11 provisions which are more favorable to the member:

12 (a) title on the face and filing page of the

13 certificate clearly and correctly describing its form;

14 (b) a provision stating the amount of rates, premiums,

15 or other required contributions, by whatever name known,

16 which are payable by the insured under the certificate;

17 (c) a provision that the member is entitled to a grace

18 period of not less than a full month (or 30 days at the

19 option of the society) in which the payment of any premium

20 after the first may be made. During such grace period the

21 certificate shall ~~must~~ continue in full force, but in case

22 the certificate becomes a claim during the grace period

23 before the overdue payment is made, the amount of such

24 overdue payment or payments may be deducted in any

25 settlement under the certificate.

1 (d) a provision that the member ~~shall be~~ is entitled
 2 to have the certificate reinstated at any time within 3
 3 years from the due date of the premium in default, unless
 4 the certificate has been completely terminated through the
 5 application of a nonforfeiture benefit, cash surrender
 6 value, or certificate loan, upon the production of evidence
 7 of insurability satisfactory to the society and the payment
 8 of all overdue premiums and any other indebtedness to the
 9 society upon the certificate, together with interest on such
 10 premiums and such indebtedness, if any, at a rate not
 11 exceeding 6% per annum compounded annually;

12 (e) except in the case of pure endowment, annuity or
 13 reversionary annuity contracts, reducing term insurance
 14 contracts, or contracts of term insurance of uniform amount
 15 of 15 years or less expiring before age 66, a provision
 16 that, in the event of default in payment of any premium
 17 after 3 full years' premiums have been paid or after
 18 premiums for a lesser period have been paid if the contract
 19 so provides, the society will grant, upon proper request not
 20 later than 60 days after the due date of the premium in
 21 default, a paid-up nonforfeiture benefit on the plan
 22 stipulated in the certificate, effective as of such due
 23 date, of such value as specified in this chapter. The
 24 certificate may provide, if the society's laws so specify or
 25 if the member ~~shall~~ elects prior to the expiration

1 of the grace period of any overdue premium, that default
 2 ~~shall~~ may not occur so long as premiums can be paid under
 3 the provisions of an arrangement for automatic premium loan
 4 as may be set forth in the certificate.

5 (f) a provision that one paid-up nonforfeiture benefit
 6 as specified in the certificate ~~shall~~ must become effective
 7 automatically unless the member elects another available
 8 paid-up nonforfeiture benefit, not later than 60 days after
 9 the due date of the premium in default;

10 (g) a statement of the mortality table and rate of
 11 interest used in determining all paid-up nonforfeiture
 12 benefits and cash surrender options available under the
 13 certificate and a brief general statement of the method used
 14 in calculating such benefits;

15 (h) a table showing in figures the value of every
 16 paid-up nonforfeiture benefit and cash surrender option
 17 available under the certificate for each certificate
 18 anniversary either during the first 20 certificate years or
 19 during the term of the certificate, whichever is shorter;

20 (i) a provision that the certificate ~~shall be~~ is
 21 incontestable after it has been in force during the lifetime
 22 of the member for a period of 2 years from its date of issue
 23 except for nonpayment of premiums, violation of the
 24 provisions of the certificate relating to military,
 25 aviation, or naval service, and violation of the provisions

1 relating to suspension or expulsion as substantially set
 2 forth in the certificate. At the option of the society,
 3 supplemental provisions relating to benefits in the event of
 4 temporary or permanent disability or hospitalization and
 5 provisions which grant additional insurance specifically
 6 against death by accident or accidental means may also be
 7 excepted. The certificate ~~shall be~~ is incontestable on the
 8 grounds of suicide after it has been in force during the
 9 lifetime of the member for a period of 2 years from date of
 10 issue. The certificate may provide, as to statements made to
 11 procure reinstatement, that the society ~~shall have~~ has the
 12 right to contest a reinstated certificate within a period of
 13 2 years from date of reinstatement with the same exceptions
 14 as herein provided.

15 (j) a provision that in case the age of the member or
 16 of any other person is considered in determining the premium
 17 and it is found at any time before final settlement under
 18 the certificate that the age has been misstated, and the
 19 discrepancy and premium involved have not been adjusted, the
 20 amount payable shall be such as the premium would have
 21 purchased at the correct age; but if the correct age was not
 22 an insurable age under the society's charter or laws, only
 23 the premiums paid to the society, less any payments
 24 previously made to the member, shall be returned or, at the
 25 option of the society, the amount payable under the

1 certificate shall be such as the premium would have
 2 purchased at the correct age according to the society's
 3 promulgated rates and any extension thereof based on
 4 actuarial principles;

5 (k) a provision or provisions which recite fully or
 6 which set forth the substance of all sections of the
 7 charter, constitution, laws, or rules of the society in
 8 force at the time of issuance of the certificate, the
 9 violation of which will result in the termination of or in
 10 the reduction of the benefit or benefits payable under the
 11 certificate; and

12 (l) if the constitution or laws of the society provide
 13 for expulsion or suspension of a member, a provision that
 14 any member so expelled or suspended, except for nonpayment
 15 of a premium or within the contestable period for material
 16 misrepresentations in such member's application for
 17 membership, shall have the privilege of maintaining his
 18 insurance in force by continuing payment of the required
 19 premium.

20 (3) Any of the foregoing provisions or portions
 21 thereof not applicable by reason of the plan of insurance or
 22 because the certificate is an annuity certificate may, to
 23 the extent inapplicable, be omitted from the certificate."

24 Section 17. Section 33-10-217, MCA, is amended to
 25 read:

1 "33-10-217. Prevention of impairments. To aid in the
2 detection and prevention of insurer impairments the board of
3 directors is given the following powers and duties:

4 (1) The board of ~~directors~~ shall, upon majority vote,
5 notify the commissioner of any information indicating any
6 member insurer may be unable or potentially unable to
7 fulfill its contractual obligations.

8 (2) The board of ~~directors~~ may, upon majority vote,
9 request that the commissioner order an examination of any
10 member insurer which the board in good faith believes may be
11 unable or potentially unable to fulfill its contractual
12 obligations.

13 (3) The board of ~~directors~~ may, upon majority vote,
14 make reports and recommendations to the commissioner upon
15 any matter germane to the solvency, liquidation,
16 rehabilitation, or conservation of any member insurer. Such
17 reports and recommendations shall not be considered public
18 documents.

19 (4) The board of ~~directors~~ may, upon majority vote,
20 make recommendations to the commissioner for the detection
21 and prevention of insurer impairments.

22 (5) The board of ~~directors~~ shall, at the conclusion of
23 any insurer impairment in which the association carried out
24 its duties under this part or exercised any of its powers
25 under this part, prepare a report on the history and causes

1 of such impairment, based on the information available to
2 the association, and submit such report to the
3 commissioner."

4 Section 18. Section 33-10-229, MCA, is amended to
5 read:

6 "33-10-229. Recovery of dividends. (1) If an order for
7 liquidation or rehabilitation of an insurer domiciled in
8 this state has been entered, the receiver appointed under
9 such order ~~shall have~~ has a right to recover on behalf of
10 the insurer, from any affiliate that controlled it, the
11 amount of distributions, other than stock dividends paid by
12 the insurer on its capital stock, made at any time during
13 the 5 years preceding the petition for liquidation or
14 rehabilitation subject to the limitations of subsections (2)
15 through (4).

16 (2) No such dividend ~~shall be~~ is recoverable if the
17 insurer shows that when paid the distribution was lawful and
18 reasonable and that the insurer did not know and could not
19 reasonably have known that the distribution might adversely
20 affect the ability of the insurer to fulfill its contractual
21 obligations.

22 (3) Any person who ~~as was~~ was an affiliate that controlled
23 the insurer at the time the distributions were paid ~~shall be~~
24 is liable up to the amount of distributions he received.
25 Any person who was an affiliate that controlled the insurer

1 at the time the distributions were declared ~~shall--be~~ is
 2 liable up to the amount of distributions he would have
 3 received if they had been paid immediately. If two persons
 4 are liable with respect to the same distributions, they
 5 ~~shall-be~~ are jointly and severally liable.

6 (4) The maximum amount recoverable under this section
 7 ~~shall--be~~ is the amount needed in excess of all other
 8 available assets of the impaired insurer to pay the
 9 contractual obligations of the impaired insurer.

10 (5) If any person liable under subsection (3) is
 11 insolvent, all its affiliates that controlled it at the time
 12 the dividend was paid ~~shall-be~~ are jointly and severally
 13 liable for any resulting deficiency in the amount recovered
 14 from the insolvent affiliate."

15 Section 19. Section 33-17-203, MCA, is amended to
 16 read:

17 "33-17-203. General qualification for license as life
 18 or disability insurance agent. For the protection of the
 19 people of this state the commissioner ~~shall~~ may not issue,
 20 continue, or permit to exist any agent license as to life or
 21 disability insurance except in compliance with this chapter,
 22 ~~or-as-to-any~~ In addition, the individual ~~not--qualified~~
 23 ~~therefor~~ must qualify as follows:

24 (1) must be 18 years of age or more;

25 (2) must be a resident in and of this state or of

1 another state if by reciprocal arrangements made by the
 2 commissioner with such other state similar privileges
 3 therein are granted to residents of this state;

4 (3) must have been appointed as such an agent by an
 5 authorized insurer, subject to issuance of the license;

6 (4) must be competent, trustworthy, and of good
 7 reputation;

8 (5) must have had experience or training or be
 9 otherwise adequately qualified in the kind or kinds of
 10 insurance as to which he is to be licensed, and be
 11 reasonably familiar with the provisions of this code
 12 governing his operations as such an agent and with the
 13 provisions of the policies and contracts he proposes to
 14 offer under the license;

15 (6) must pass any written examination for the license
 16 required under this chapter;

17 (7) must not use or intend to use the license
 18 principally for the writing of insurance on the lives or
 19 interests of himself or his relatives to the second degree;

20 (8) must not be a funeral director, undertaker, or
 21 mortician or an officer, employee, or representative
 22 thereof."

23 Section 20. Section 33-17-211, MCA, is amended to
 24 read:

25 "33-17-211. Application for license. (1) Application

1 for an agent or solicitor license shall ~~must~~ be made to the
2 commissioner by the applicant and be signed and sworn to by
3 the applicant before a notary public or other person
4 authorized by law to take acknowledgments of deeds.

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

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

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

23 (5) If the applicant for an agent license is a firm or
24 corporation, the application shall show, in addition, the
25 names of all members, officers, and directors and shall

1 designate each individual who is to exercise the powers to
2 be conferred by the license upon the firm or corporation.
3 Each such individual so designated shall furnish information
4 as to himself, as part of the application, as though for an
5 individual license.

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

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

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

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

10 (9) All such applications ~~shall~~ **must** be accompanied by
 11 the applicable license fee, appointment of agent fee where
 12 applicable, ~~and~~ examination fee where required under
 13 33-17-212, all in the respective amounts stated in
 14 33-2-708."

15 Section 21. Section 33-17-213, MCA, is amended to
 16 read:

17 "33-17-213. Conduct of examinations. (1) The
 18 commissioner shall make any examination required under
 19 33-17-212 available to applicants with reasonable frequency
 20 and at a place in this state reasonably accessible to such
 21 ~~the~~ applicants. The commissioner shall make any such
 22 examination available at his offices at Helena, Montana, at
 23 times within his discretion but at least once a month.

24 (2) All the kinds of insurance or ~~class~~ classes
 25 thereof, as referred to in 33-17-212(3), which the applicant

1 proposes to transact under the license applied for shall be
 2 included in the same examination.

3 (3) The commissioner shall give, conduct, and grade
 4 all examinations in a fair and impartial manner and without
 5 unfair discrimination as between individuals examined.

6 (4) The commissioner ~~may~~ require a reasonable waiting
 7 period before reexamination of an applicant who has failed
 8 to pass a previous examination covering the same kind or
 9 kinds of insurance."

10 Section 22. Section 33-17-1004, MCA, is amended to
 11 read:

12 "33-17-1004. Acting as insurance agent, solicitor, or
 13 adjuster without license -- penalty. Any person, firm,
 14 association, or corporation who or which, in this state,
 15 acts as an insurance agent, solicitor, or adjuster without
 16 having authority to do so by virtue of a license issued and
 17 in force pursuant to the provisions of this chapter ~~shall~~
 18 ~~upon--conviction--be~~ **is** guilty of a misdemeanor and, ~~upon~~
 19 ~~conviction, shall be~~ fined \$500 or imprisoned in the county
 20 jail for 90 days or both ~~such fine and imprisonment.~~

21 Section 23. Section 33-18-301, MCA, is amended to
 22 read:

23 "33-18-301. Prohibited relations with mortuaries. (1)
 24 No life insurer ~~shall~~ **may** own, manage, supervise, operate,
 25 or maintain any mortuary, funeral, or undertaking

1 establishment or permit its officers, employees, or
2 representatives to own, operate, maintain, or be employed in
3 any such business.

4 (2) No life insurer ~~shall~~ ~~may~~ contract or agree with
5 any funeral director, mortuary, or undertaker to the effect
6 that such funeral director, undertaker, or mortuary shall
7 conduct the funeral of any person insured by such insurer.

8 (3) Each violation of this section ~~shall--constitute~~
9 ~~constitutes~~ a misdemeanor punishable by a fine of not more
10 than \$1,000 or by imprisonment ~~at hard labor~~ for not more
11 than 6 months or ~~by~~ both such fine and imprisonment ~~in the~~
12 ~~discretion of the court."~~

13 Section 24. Section 33-20-213, MCA, is amended to
14 read:

15 "33-20-213. Operative date. After July 1, 1945, any
16 insurer could have filed with the state auditor a written
17 notice of its election to comply with the provisions of this
18 ~~part, except 33-20-206 and 33-20-207,~~ after a specified date
19 before January 1, 1948, with respect to the policies
20 specified in the notice. After the filing of such notice,
21 then upon such specified date (which shall be the operative
22 date for such insurer with respect to such policies), this
23 ~~part, except 33-20-206 and 33-20-207,~~ shall have become
24 operative with respect to the policies specified in such
25 notice thereafter issued by such insurer. As to all of its

1 policies and contracts with respect to which an insurer
2 makes no such election, the operative date of this part,
3 ~~except 33-20-206 and 33-20-207,~~ with respect to such
4 policies and contracts for such insurer is January 1, 1948."

5 Section 25. Section 33-20-1111, MCA, is amended to
6 read:

7 "33-20-1111. Dependents of employee and labor union
8 groups -- coverage. Any group life policy issued under
9 33-20-1101, 33-20-1102, or 33-20-1103, may be extended to
10 insure the employees or members against loss due to the
11 death of their spouses and minor children, or any class or
12 classes thereof, subject to the following requirements:

13 (1) The premium for the insurance shall be paid by the
14 policyholder, either from the employer's or union's funds or
15 funds contributed by the employer or union or from funds
16 contributed by the insured employees or members, or from
17 both. If any part of the premium is to be derived from funds
18 contributed by the insured employees or members, the
19 insurance with respect to spouses and children may be placed
20 in force only if at least 75% of the then eligible employees
21 or members, excluding any as to whose family members
22 evidence of insurability is not satisfactory to the insurer,
23 elect to make the required contribution. If no part of the
24 premium is to be derived from funds contributed by the
25 employees or members, all eligible employees or members,

1 excluding any as to whose family members evidence of
2 insurability is not satisfactory to the insurer, must be
3 insured with respect to their spouses and children.

4 (2) The amounts of insurance must be based upon some
5 plan precluding individual selection either by the employees
6 or members or by the policyholder, employer, or union.

7 (3) Upon termination of the insurance with respect to
8 the members of the family of any employee or member by
9 reason of the employee's or member's termination of
10 employment, termination of membership in the class or
11 classes eligible for coverage under the policy, or death,
12 the spouse ~~shall be~~ is entitled to have issued by the
13 insurer, without evidence of insurability, an individual
14 policy of life insurance, without disability or other
15 supplementary benefits, providing application for the
16 individual policy shall be made, and the first premium paid
17 to the insurer, within 31 days after such termination,
18 subject to the requirements of subsections (1), (2), and (3)
19 of ~~[33-20-1208]~~ 33-20-1209. If the group policy terminates
20 or is amended so as to terminate the insurance of any class
21 of employees or members and the employee or member is
22 entitled to have issued an individual policy under
23 33-20-1210, the spouse ~~shall~~ is also be entitled to have
24 issued by the insurer an individual policy, subject to the
25 conditions and limitations provided above. If the spouse

1 dies within the period during which he would have been
2 entitled to have an individual policy issued in accordance
3 with this provision, the amount of life insurance which he
4 would have been entitled to have issued under such
5 individual policy shall be payable as a claim under the
6 group policy, whether or not application for the individual
7 policy or the payment of the first premium therefor has been
8 made.

9 (4) Notwithstanding 33-20-1208, only one certificate
10 need be issued for delivery to an insured person if a
11 statement concerning any dependent's coverage is included in
12 such certificate."

13 Section 26. Section 33-22-202, MCA, is amended to
14 read:

15 "33-22-202. Required provisions -- captions --
16 omissions -- substitutions -- order. (1) Except as provided
17 in subsection (2) below, each such policy delivered or
18 issued for delivery to any person in this state ~~shall~~ must
19 contain the provisions specified in 33-22-204 through
20 33-22-215, in the words in which the same appear, except
21 that the insurer may, at its option, substitute for one or
22 more of such provisions corresponding provisions of
23 different wording approved by the commissioner which are in
24 each instance not less favorable in any respect to the
25 insured or the beneficiary. Each such provision ~~shall~~ must

1 be preceded individually by the applicable caption shown or,
2 at the option of the insurer, by such appropriate individual
3 or group captions or subcaptions as the commissioner may
4 approve.

5 (2) If any such provision is in whole or in part
6 inapplicable to or inconsistent with the coverage provided
7 by a particular form of policy, the insurer, with the
8 approval of the commissioner, shall omit from such policy
9 any inapplicable provision or part of a provision and shall
10 modify any inconsistent provision or part of a provision in
11 such manner as to make the provision as contained in the
12 policy consistent with the coverage provided by the policy.

13 (3) The provisions which are the subject of ~~[40-4007~~
14 ~~to-40-4030]~~ 33-22-204 through 33-22-232 or any corresponding
15 provisions which are used in lieu thereof in accordance with
16 such sections shall be printed in the consecutive order of
17 the provisions in such sections or, at the option of the
18 insurer, any such provision may appear as a unit in any part
19 of the policy with other provisions to which it may be
20 logically related, provided that the resulting policy shall
21 not be in whole or in part unintelligible, uncertain,
22 ambiguous, abstruse, or likely to mislead a person to whom
23 the policy is offered, delivered, or issued."

24 Section 27. Section 33-17-216, MCA, is amended to
25 read:

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

7 (a) to the surviving spouse or next of kin or to the
8 administrator or executor, or the employee of such
9 administrator or executor, of a licensed agent becoming
10 deceased upon such agent's death;

11 (b) to the spouse, next of kin, employee, or legal
12 guardian of a licensed agent disabled by sickness, injury,
13 or insanity physical or mental illness;

14 (c) to an employee of a firm, or officer or employee
15 of a corporation, licensed as agent, upon the death or
16 disability of an individual designated in the license to
17 exercise the powers thereof;

18 (d) to the designee of a licensed agent entering upon
19 active service in the armed forces of the United States of
20 America;

21 (e) upon the request of the insurer, to an applicant
22 for a license as a life insurance agent, pending the taking
23 of any examination required of the applicant by the
24 commissioner under 33-17-212, if the applicant is duly
25 enrolled in and is actively pursuing an adequate course of

instruction, as provided by or through the insurer, in preparation for such examination. Such license shall be for a period of not over 90 days or until the applicant has had a reasonable opportunity to take such examination and be informed by the commissioner as to the results thereof, whichever is the shorter period, but subject to extension by the commissioner as provided in subsection (3) below.

(2) The temporary license shall be issued upon application filed with the commissioner in such form and containing such information as the commissioner may reasonably require and upon payment of the applicable fee as 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 his discretion for an additional period of not more than 90 days, except that such a license issued pursuant to subsection (1)(a) above may be continued without payment of an additional fee until the executor or administrator disposes of the insurance business but not to exceed a period of 15 months. Temporary ~~A temporary~~ license issued to the next of kin under such subsection (1)(a) ~~shall~~ ~~may~~ not be extended for an additional term or ~~terms~~ after the appointment and qualification of such an administrator or executor.

(4) The fee paid for the temporary license may be

applied upon the fee required for any a permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance." #

Section 28. Section 33-20-121, MCA, is amended to read:

"33-20-121. Prohibited provisions -- limitations on liability. (1) No policy of life insurance ~~shall~~ ~~may~~ be delivered or issued for delivery in this state if it contains any of the following provisions:

(a) a provision for a period shorter than that provided by statute within which an action at law or in equity may be commenced on such-a ~~the~~ policy;

(b) a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(i) death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces or of any act or hazard of such war or action or of service in the military, naval, or air forces or in civilian forces auxiliary thereto or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such

1 military action;
 2 (ii) death as a result of aviation or any air travel or
 3 flight;
 4 (iii) death as a result of a specified hazardous
 5 occupation or occupations;
 6 (iv) death while the insured is a resident outside the
 7 continental United States and Canada; or
 8 (v) death within 2 years from the date of issue of the
 9 policy as a result of suicide, while sane--or--insane
 10 ~~seriously mentally ill or otherwise.~~
 11 (2) A policy which contains any exclusion or
 12 restriction pursuant to subsection (1) of this section shall
 13 also provide that in the event of death under the
 14 circumstances to which any such exclusion or restriction is
 15 applicable, the insurer will pay an amount not less than a
 16 reserve determined according to the commissioner's reserve
 17 valuation method upon the basis of the mortality table and
 18 interest rate specified in the policy for the calculation of
 19 nonforfeiture benefits (or if the policy provides for no
 20 such benefits, computed according to a mortality table and
 21 interest rate determined by the insurer and specified in the
 22 policy) with adjustment for indebtedness or dividend credit.
 23 (3) This section ~~shall~~ ~~does~~ not apply to industrial
 24 life insurance, group life insurance, disability insurance,
 25 reinsurance, or annuities or to any provision in a life

1 insurance policy relating to disability benefits or to
 2 additional benefits in the event of death by accident or
 3 accidental means.
 4 (4) Nothing contained in this section ~~shall--prohibit~~
 5 ~~prohibits~~ any provision which in the opinion of the
 6 commissioner is more favorable to the policyholder than a
 7 provision permitted by this section."
 8 Section 29. Repealer. Section 40-1723, R.C.M. 1947, is
 9 repealed.

-End-