

HOUSE BILL NO. 448

INTRODUCED BY NORDTVEDT, VINCENT, WALLIN

IN THE HOUSE

January 23, 1981	Introduced and referred to Committee on Business and Industry.
February 13, 1981	Committee recommend bill do pass as amended. Report adopted.
February 14, 1981	Bill printed and placed on members' desks.
February 17, 1981	Second reading, do pass.
February 18, 1981	Correctly engrossed.
February 19, 1981	Third reading, passed. Ayes, 94; Noes, 5. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Business and Industry.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	Third reading, concurred in as amended. Ayes, 42; Noes, 8.  On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.

IN THE HOUSE

April 1, 1981	Returned from Senate with amendments.
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April 8, 1981

Second reading, amendments  
concurrent in.

April 9, 1981

Third reading, amendments  
concurrent in. Ayes, 85; Noes,  
12. Sent to enrolling.

Reported correctly enrolled.

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INTRODUCED BY HOUSE BILL NO. 448  
Walter Vincent

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE ASSET, LIABILITY, RESERVE, INTEREST, DEPOSIT, AND INVESTMENT REQUIREMENTS RELATING TO INSURANCE COMPANIES; AMENDING SECTIONS 33-2-501, 33-2-502, 33-2-523, 33-2-531, 33-2-532, 33-2-611, 33-2-821, 33-2-822, 33-2-830, 33-2-832, 33-3-431, AND 33-20-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 33-2-501, MCA, is amended to read:

"33-2-501. Assets allowed. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) cash in the possession of the insurer or in transit under its control and including the true balance of any deposit in a solvent bank or trust company;

(2) investments, securities, properties, and loans acquired or held in accordance with this code and in connection therewith the following items:

(a) interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued

on a basis including accrued interest;  
(b) declared and unpaid dividends on stock and shares unless such amount has otherwise been allowed as an asset;  
(c) interest due or accrued upon a collateral loan in an amount not to exceed 1 year's interest thereon;  
(d) interest due or accrued on deposits in solvent banks and trust companies and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectable asset;  
(e) interest due or accrued on a mortgage loan in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal. In no event shall interest accrued for a period in excess of 18 months be allowed as an asset.  
(f) rent due or accrued on real property if such rent is not in arrears for more than 3 months and rent more than 3 months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral;  
(g) the unaccrued portion of taxes paid prior to the due date on real property;  
(3) premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest

1 thereon, in an amount not exceeding the legal reserve and  
2 other policy liabilities carried on each individual policy;

3 (4) the net amount of uncollected and deferred  
4 premiums and annuity considerations in the case of a life  
5 insurer;

6 (5) premiums in the course of collection, other than  
7 for life insurance, not more than 3 months past due, less  
8 commissions payable thereon. The foregoing limitation shall  
9 not apply to premiums payable directly or indirectly by the  
10 United States government or by any of its instrumentalities.

11 (6) installment premiums other than life insurance  
12 premiums to the extent of the unearned premium reserve  
13 carried on the policy to which premiums apply;

14 (7) notes and like written obligations not past due,  
15 taken for premiums other than life insurance premiums, on  
16 policies permitted to be issued on such basis, to the extent  
17 of the unearned premium reserves carried thereon;

18 (8) the full amount of reinsurance recoverable by a  
19 ceding insurer from a solvent reinsurer and which  
20 reinsurance is authorized under 33-2-1205;

21 (9) amounts receivable by an assuming insurer  
22 representing funds withheld by a solvent ceding insurer  
23 under a reinsurance treaty;

24 (10) deposits or equities recoverable from underwriting  
25 associations, syndicates, and reinsurance funds or from any

1 suspended banking institution, to the extent deemed by the  
2 commissioner available for the payment of losses and claims  
3 and at values to be determined by him;

4 (11) ~~electronic data-processing equipment if the cost~~  
5 ~~of such equipment is at least \$100,000, which cost shall be~~  
6 ~~amortized in full over a period of not to exceed 10 calendar~~  
7 ~~years. However, with regard to life insurers, such equipment~~  
8 ~~shall be allowed as an asset if the cost of such equipment~~  
9 ~~is at least \$25,000, which cost shall be amortized in full~~  
10 ~~over a period of not to exceed 5 calendar years, and the~~  
11 ~~amount of such asset allowed may not exceed 1% of the total~~  
12 ~~of the other allowable assets of the insurer. machines~~  
13 ~~constituting a data processing system or systems, office~~  
14 ~~equipment, furniture, and motor vehicles, together with such~~  
15 ~~other property, machines, and equipment as may be approved~~  
16 ~~by the commissioner, purchased before or after [the~~  
17 ~~effective date of this act] for use in connection with the~~  
18 ~~transaction of the business of an insurance company, to the~~  
19 ~~extent that the value of all such property, depreciated over~~  
20 ~~its useful life not exceeding 10 years in accordance with~~  
21 ~~standard accounting procedures, constitutes not more than 1%~~  
22 ~~of its admitted assets;~~

23 (12) all assets, whether or not consistent with the  
24 provisions of this section, as may be allowed pursuant to  
25 the annual statement form approved by the commissioner for

1 the kinds of insurance to be reported upon therein;

2 (13) other assets, not inconsistent with the provisions  
3 of this section, deemed by the commissioner to be available  
4 for the payment of losses and claims, at values to be  
5 determined by him."

6 Section 2. Section 33-2-502, MCA, is amended to read:

7 "33-2-502. Assets expressly not allowed. In addition  
8 to assets impliedly excluded by the provisions of 33-2-501,  
9 the following expressly shall not be allowed as assets in  
10 any determination of the financial condition of an insurer:

11 (1) goodwill, trade names, and other like intangible  
12 assets of such insurer;

13 (2) advances to officers (other than policy loans),  
14 whether secured or not, and advances to employees, agents,  
15 and other persons on personal security only;

16 (3) stock of such insurer, owned by it, or any equity  
17 therein or loans secured thereby or any proportionate  
18 interest in such stock acquired or held through the  
19 ownership by such insurer of an interest in another firm,  
20 corporation, or business unit;

21 (4) furniture, fixtures (other than electronic data  
22 processing machines authorized under 33-2-501(11)),  
23 furnishings, safes, vehicles, libraries, stationery,  
24 literature, and supplies (other than as authorized under  
25 33-2-501(11)), except:

1 (a) in the case of title insurers, such materials and  
2 plants as the insurer is expressly authorized to invest in  
3 under 33-2-851; and

4 (b) in the case of any insurer, such personal property  
5 as the insurer is permitted to hold pursuant to part 8 of  
6 this chapter or which is acquired through foreclosure of  
7 chattel mortgages acquired pursuant to 33-2-831 or which is  
8 reasonably necessary for the maintenance and operation of  
9 real estate lawfully acquired and held by the insurer other  
10 than real estate used by it for home office, branch office,  
11 and similar purposes;

12 (5) the amount, if any, by which the aggregate book  
13 value of investments as carried in the ledger assets of the  
14 insurer exceeds the aggregate value thereof as determined  
15 under this code."

16 Section 3. Section 33-2-523, MCA, is amended to read:

17 "33-2-523. Contracts on or after the operative date of  
18 33-20-213 -- valuation. (1) This section shall apply to only  
19 those policies and contracts issued on or after the  
20 operative date of 33-20-213, except as otherwise provided in  
21 33-2-524 for group annuity and pure endowment contracts  
22 issued prior to that date.

23 (2) Except as otherwise provided in 33-2-524, the  
24 minimum standard for the valuation of all such policies and  
25 contracts shall be the commissioner's reserve valuation

1 methods defined in 33-2-525 and 32-2-526(3), 5% interest for  
 2 group annuity and pure endowment contracts and 2 1/2%  
 3 interest for all other such policies and contracts or in the  
 4 case of policies and contracts, other than annuity and pure  
 5 endowment contracts, issued on or after March 17, 1973, 4%  
 6 interest for such policies issued prior to July 1, 1979, and  
 7 4 1/2% interest for such policies issued on or after July 1,  
 8 1979, and 5 1/2% interest for single premium life insurance  
 9 policies issued on or after July 1, 1981, and the following  
 10 tables:

11 (a) for all ordinary policies of life insurance issued  
 12 on the standard basis, excluding any disability and  
 13 accidental death benefits in such policies, the  
 14 commissioner's 1941 standard ordinary mortality table for  
 15 such policies issued prior to the operative date of  
 16 33-20-206, as amended, and the commissioner's 1958 standard  
 17 ordinary mortality table for such policies issued on or  
 18 after that operative date, except that for any category of  
 19 such policies issued on female risks, modified net premiums  
 20 and present values, referred to in 33-2-525 and 33-2-526,  
 21 may be calculated, at the option of the insurer with the  
 22 approval of the commissioner, according to an age younger  
 23 than the actual age of the insured;

24 (b) for all industrial life insurance policies issued  
 25 on the standard basis, excluding any disability and

1 accidental death benefits in such policies, the 1941  
 2 standard industrial mortality table for such policies issued  
 3 prior to the operative date of 33-20-207, as amended, and  
 4 the commissioner's 1961 standard industrial mortality table  
 5 for such policies issued on or after that operative date;

6 (c) for individual annuity and pure endowment  
 7 contracts, excluding any disability and accidental death  
 8 benefits in such policies, the 1937 standard annuity  
 9 mortality table or, at the option of the insurer, the  
 10 annuity mortality table for 1949, ultimate, or any  
 11 modification of either of these tables approved by the  
 12 commissioner;

13 (d) for group annuity and pure endowment contracts,  
 14 excluding any disability and accidental death benefits in  
 15 such policies, the group annuity mortality table for 1951,  
 16 any modification of such table approved by the commissioner,  
 17 or, at the option of the insurer, any of the tables or  
 18 modifications of tables specified for individual annuity and  
 19 pure endowment contracts;

20 (e) (i) for total and permanent disability benefits in  
 21 or supplementary to ordinary policies or contracts:

22 (A) for policies or contracts issued on or after  
 23 January 1, 1966, the tables of period 2 disablement rates  
 24 and the 1930 to 1950 termination rates of the 1952  
 25 disability study of the society of actuaries, with due

1 regard to the type of benefit;

2 (B) for policies or contracts issued on or after  
3 January 1, 1961, and prior to January 1, 1966, either such  
4 tables or, at the option of the insurer, the class 3  
5 disability table (1926); and

6 (C) for policies issued prior to January 1, 1961, the  
7 class 3 disability table (1926);

8 (ii) any such table shall, for active lives, be  
9 combined with a mortality table permitted for calculating  
10 the reserves for life insurance policies;

11 (f) (i) for accidental death benefits in or  
12 supplementary to policies:

13 (A) for policies issued on or after January 1, 1966,  
14 the 1959 accidental death benefits table;

15 (B) for policies issued on or after January 1, 1961,  
16 and prior to January 1, 1966, either such table or, at the  
17 option of the insurer, the intercompany double indemnity  
18 mortality table; and

19 (C) for policies issued prior to January 1, 1961, the  
20 intercompany double indemnity mortality table;

21 (ii) either table shall be combined with a mortality  
22 table permitted for calculating the reserves for life  
23 insurance policies;

24 (g) for group life insurance, life insurance issued on  
25 the substandard basis and other special benefits, such

1 tables as may be approved by the commissioner."

2 Section 4. Section 33-2-531, MCA, is amended to read:

3 \*33-2-531. Deposit of reserves -- domestic life  
4 insurers. (1) Domestic life insurers shall deposit and  
5 maintain on deposit, in securities and assets, with  
6 depositories and subject to conditions as provided for in  
7 part 6 of this chapter, an amount not less than the reserves  
8 on its outstanding life insurance policies and annuity  
9 contracts, as valued under 33-2-521 through 33-2-526.

10 (2) Annually on or before April 1, the insurer shall  
11 so deposit any additional such securities required under  
12 subsection (1) and related to the increase of such reserves  
13 during the calendar year next preceding, as determined from  
14 the insurer's annual statement as at December 31 of such  
15 preceding year.

16 (3) A domestic stock life insurer may credit toward  
17 such deposit the amount of any other deposit of the insurer  
18 held under part 6 of this chapter for the protection of its  
19 policyholders or of its policyholders and creditors.

20 (4) Deposits of the reserves of a domestic life  
21 insurer under this section shall consist of securities and  
22 assets acquired and valued in accordance with part parts 5  
23 and 8 of this chapter, ~~except that securities acquired under~~  
24 ~~33-2-629 are not eligible for deposit.~~

25 (5) Real estate mortgage loans, chattel mortgage

1 loans, and policy loans may be made a part of the deposit by  
 2 filing a verified statement of the loans with the  
 3 commissioner, which statement shall be subject to audit at  
 4 all times by the commissioner. Nonnegotiable securities  
 5 where deposited with the commissioner shall be accompanied  
 6 by transfer powers in due form. If the insurer uses real  
 7 estate acquired under 33-2-832 as a deposit, then a deed of  
 8 trust, mortgage, or other instrument sufficient to convey a  
 9 security interest in such real estate, in a form acceptable  
 10 to the commissioner, shall be completed in due form and  
 11 recorded prior to being deposited with the commissioner.

12 (6) If default occurs in the payment of interest or  
 13 principal of any deposited security and such default  
 14 continues for a period of 120 days, the commissioner may  
 15 declare such security no longer eligible for deposit under  
 16 this section."

17 Section 5. Section 33-2-532, MCA, is amended to read:

18 "33-2-532. Valuation of bonds ~~debt securities~~. (1) (a)  
 19 All bonds or other evidences of debt having a fixed term and  
 20 rate of interest held by an insurer may, if amply secured ~~to~~  
 21 ~~the extent required by this code~~ and not in default as to  
 22 ~~the payment of principal or interest~~, be valued as follows:  
 23 (i) if purchased at par ~~or at an amount equal to the~~  
 24 ~~remaining unpaid principal balance~~, at the par value ~~or the~~  
 25 ~~remaining unpaid principal balance, together with accrued~~

1 interest;

2 (ii) if purchased above or below par, on the basis of  
 3 the purchase price adjusted so as to bring the value to par  
 4 at maturity and so as to yield in the meantime the effective  
 5 rate of interest at which the purchase was made, or in lieu  
 6 of such method, according to such accepted method of  
 7 valuation as is approved by the commissioner.

8 (b) ~~Purchase~~ ~~if purchased, the purchase~~ price shall in  
 9 no case be taken at a higher figure than the actual market  
 10 value at the time of purchase, plus actual brokerage,  
 11 transfer, postage, or express charges paid in the  
 12 acquisition of such securities.

13 (c) Unless otherwise provided by valuation established  
 14 or approved by the commissioner, no such security shall be  
 15 carried at above the call price for the entire issue during  
 16 any period within which the security may be so called.

17 ~~(d) No provision of this subsection prohibits an~~  
 18 ~~insurer from valuing bonds or other evidences of debt~~  
 19 ~~acquired in a bona fide exchange or pursuant to the~~  
 20 ~~provisions of 33-2-803(3) at the values established by the~~  
 21 ~~terms of the transaction. Assets acquired in any 1 year by~~  
 22 ~~exchange and valued in accordance with the provisions of~~  
 23 ~~this subsection (1)(d) may not exceed 2% of the insurer's~~  
 24 ~~total admitted assets at the end of such year, except with~~  
 25 ~~the consent of the commissioner. Any value so established~~



1 for any such debt security being acquired by the insurer may  
 2 not exceed the greater of the market value, call price, par  
 3 value, or remaining unpaid principal balance, together with  
 4 accrued interest. In addition, the value of the asset or  
 5 assets being acquired by the insurer in an exchange  
 6 agreement may not exceed the cost of the asset or assets  
 7 given by the insurer in the exchange, adjusted appropriately  
 8 for accrual of discount or amortization of premiums in  
 9 excess of par regarding bonds and for payments received in  
 10 reduction of principal regarding mortgage loans or similar  
 11 installment obligations.

12 (2) The commissioner shall have full discretion in  
 13 determining the method of calculating values according to  
 14 the rules set forth in this section."

15 Section 6. Section 33-2-611, MCA, is amended to read:

16 "33-2-611. Deficiency of deposit -- revocation of  
 17 certificate. ~~if for any reason Except as to the deposit of~~  
 18 ~~reserves of domestic life insurers pursuant to 33-2-531, if~~  
 19 the market value of assets and securities of an insurer held  
 20 on deposit in this state or in another state under custodial  
 21 arrangements authorized by 33-2-604(3) falls below the  
 22 amount required under this code to be so held, the insurer  
 23 shall promptly deposit other or additional assets or  
 24 securities eligible for deposit under this part and in  
 25 amount sufficient to cure such deficiency. If the insurer

1 has failed to cure the deficiency within 20 30 days after  
 2 receipt of notice thereof by registered or certified mail  
 3 from the commissioner, the commissioner ~~shall~~ may, in his  
 4 discretion, forthwith revoke ~~suspend~~ the insurer's  
 5 certificate of authority until the deficiency is cured, and  
 6 may revoke the certificate of authority, after a hearing  
 7 thereon pursuant to 33-2-119(1), if the deficiency is not  
 8 cured within 1 year."

9 Section 7. Section 33-2-821, MCA, is amended to read:

10 "33-2-821. Insurance stocks. (1) An insurer may invest  
 11 in the stocks of other solvent insurers formed under the  
 12 laws of this or another state, which stocks meet the  
 13 applicable requirements of 33-2-819 and 33-2-820.

14 (2) With the commissioner's consent, an insurer may  
 15 acquire and hold the controlling interest in the outstanding  
 16 voting stock of another stock insurer formed under the laws  
 17 of this or another state. ~~All stocks under this subsection~~  
 18 ~~shall be subject to the limitation as to amount as provided~~  
 19 ~~in 33-2-822."~~

20 Section 8. Section 33-2-822, MCA, is amended to read:

21 "33-2-822. Stocks of subsidiaries. With the  
 22 commissioner's consent, an insurer may invest ~~in the stock~~  
 23 ~~of its subsidiary insurance corporation or~~ in the stock of  
 24 one or more of its subsidiary business corporation formed  
 25 under the laws of this state and corporations necessary and

1 ~~or~~ incidental to the convenient operation of the insurer's  
 2 insurance business or to the administration of any of its  
 3 investments. All of the insurer's investments under this  
 4 section shall not at any time exceed 10% of the investing  
 5 insurer's assets. For the purposes of this section, a  
 6 "subsidiary" is a corporation of which the insurer owns a  
 7 majority of the outstanding shares of all voting stock."

8 Section 9. Section 33-2-830, MCA, is amended to read:

9 "33-2-830. Real estate mortgages. (1) An insurer may  
 10 invest any of its funds in bonds, notes, or other evidences  
 11 of indebtedness which are secured by first mortgages or  
 12 deeds of trust upon improved real property located in the  
 13 United States or Canada or which are secured by first  
 14 mortgages or deeds of trust upon leasehold estates having an  
 15 unexpired term of not less than 21 years, inclusive of the  
 16 term or terms which may be provided by enforceable options  
 17 of renewal, in improved real property located in the United  
 18 States or Canada. In all cases the security for the loan  
 19 must be a first lien upon such real property, and there must  
 20 not be any condition or right of reentry or forfeiture not  
 21 insured against, under which, in the case of real property  
 22 other than leaseholds, such lien can be cut off or  
 23 subordinated or otherwise disturbed or under which, in the  
 24 case of leaseholds, the insurer is unable to continue the  
 25 lease in force for the duration of the loan. Nothing herein

1 shall prohibit any investment by reason of the existence of  
 2 any prior lien for ground rents, taxes, assessments, or  
 3 other similar charges not yet delinquent. This section shall  
 4 not be deemed to prohibit investment in mortgages or similar  
 5 obligations when made under 33-2-828.

6 (2) "Improved real estate" means all farm lands used  
 7 for tillage, crop, pasture, or timberlands and all real  
 8 estate on which permanent improvements suitable for  
 9 residential, institutional, commercial, or industrial use  
 10 are situated.

11 (3) (a) No such mortgage loan or loans made or  
 12 acquired by an insurer on any one property shall, at the  
 13 time of investment by the insurer, exceed the larger of the  
 14 following amounts as applicable:

15 (i) 80% of the value of the real property or leasehold  
 16 securing the same, provided, however, if said real property  
 17 or leasehold consists of one- or two-family residential  
 18 property, 90% of said value;

19 (ii) the amount of any insurance or guaranty of such  
 20 loan by the United States of America or by any agency or  
 21 instrumentality thereof; or

22 (iii) the amounts provided in subsection (i) herein,  
 23 plus the amount by which the excess of such loan over such  
 24 amount is insured or guaranteed by the United States of  
 25 America or by any agency or instrumentality thereof.

1 (b) In the case of a purchase money mortgage given to  
2 secure the purchase price of real estate sold by the  
3 insurer, the amount so loaned or invested shall not exceed  
4 the unpaid portion of the purchase price.

5 (4) No such mortgage loan or loans shall be made or  
6 acquired by an insurer except after an appraisal made by a  
7 qualified appraiser for the purpose of such investment.

8 ~~(5) No such mortgage loan made or acquired by an~~  
9 ~~insurer which is a participation or a part of a series or~~  
10 ~~issue secured by the same mortgage or deed of trust shall be~~  
11 ~~a lawful investment under this section unless the entire~~  
12 ~~series or issue which is secured by the same mortgage or~~  
13 ~~deed of trust is held by such insurer or unless the insurer~~  
14 ~~holds a senior participation in such mortgage or deed of~~  
15 ~~trust giving it substantially the rights of a first~~  
16 ~~mortgagee~~

17 ~~(6)(5)~~ No mortgage loan upon a leasehold shall be made  
18 or acquired pursuant to this section unless the terms  
19 thereof shall provide for amortization payments to be made  
20 by the borrower on the principal thereof at least once in  
21 each year in amounts sufficient completely to amortize the  
22 loan within a period of four-fifths of the term of the  
23 leasehold, inclusive of the term which may be provided by an  
24 enforceable option of renewal, which is unexpired at the  
25 time the loan is made, but in no event exceeding 35 years.

1 ~~(6) An insurer may invest in a note secured by a new~~  
2 ~~first mortgage, deed of trust, or trust indenture upon~~  
3 ~~improved real property when the real property secures an~~  
4 ~~existing first mortgage, deed of trust, or trust indenture~~  
5 ~~on which the remaining principal balance due and owing is~~  
6 ~~less than 40% of the current appraised value. The regular~~  
7 ~~periodic payment on the new note shall be in a frequency and~~  
8 ~~of a sufficient amount that will, upon payment of each~~  
9 ~~installment, pay the original obligation pursuant to its~~  
10 ~~terms and amortize the new note with its terms."~~

11 Section 10. Section 33-2-832, MCA, is amended to read:  
12 \*33-2-832. Real estate. An insurer may invest in real  
13 estate only if used for the purposes or acquired in the  
14 manners and within the limits as follows:

15 (1) the land and the buildings thereon in which it has  
16 its principal office and such other real estate as shall be  
17 requisite for its convenient accommodation in the  
18 transaction of its business. Except with the consent of the  
19 commissioner, all such investments shall not aggregate more  
20 than 5% of the insurer's assets.

21 (2) real estate acquired in satisfaction of loans,  
22 mortgages, liens, judgments, decrees, or debts previously  
23 owing to the insurer in the course of its business;

24 (3) real estate acquired in part payment of the  
25 consideration on the sale of other real estate owned by it

1 if such transaction does not increase the insurer's  
2 investment in real estate;

3 (4) real estate acquired by gift or devise or through  
4 merger, consolidation, or bulk reinsurance of another  
5 insurer under this code;

6 (5) the seller's interest in real property subject to  
7 an agreement of purchase or sale. The sum invested in any  
8 such parcel of real estate shall not exceed 90% of the  
9 market value of such parcel provided the same consists of  
10 one- or two-family residential property and 80% of the  
11 market value of all other such parcels of real estate.

12 (6) real estate or any interest therein acquired or  
13 held by purchase, lease, or otherwise, other than real  
14 estate to be used primarily for agricultural, ranch, ~~mining~~  
15 ~~development--of--oil--or--mineral--resources~~ recreational,  
16 amusement, or club purposes, acquired as an investment for  
17 the production of income or acquired to be improved or  
18 developed for such investment purposes pursuant to an  
19 existing program therefor. The insurer may hold, improve,  
20 develop, maintain, manage, lease, sell, and convey real  
21 estate acquired by it under this provision. An insurer  
22 shall not, except with the commissioner's consent, have at  
23 any one time invested in real estate under this subsection  
24 an amount exceeding 5% ~~15%~~ of its assets.

25 (7) additional real estate and equipment incident to

1 real estate if necessary or convenient for the purpose of  
2 enhancing the sale or other value of real estate previously  
3 acquired or held by the insurer under subsections (2), (3),  
4 (4), or (6) of this section. Such real estate and equipment  
5 shall be included, together with the real estate for the  
6 enhancement of which it was acquired, for the purpose of  
7 applicable investment limits and shall be subject to  
8 disposal at the same time and under the same conditions as  
9 applying to such enhanced real estate under 33-2-841.

10 (8) except with the commissioner's consent, all real  
11 estate owned by the insurer under this section, ~~except for~~  
12 ~~real estate acquired according to subsection (2) and~~ except  
13 as to seller's interest specified in subsection (5), shall  
14 not at any one time exceed ~~10%~~ ~~25%~~ of the insurer's assets."

15 Section 11. Section 33-3-431, MCA, is amended to read:

16 "33-3-431. Borrowed surplus. (1) A domestic stock or  
17 mutual insurer may borrow money to defray the expenses of  
18 its organization, provide it with surplus funds, or for any  
19 purpose of its business, upon a written agreement that such  
20 money is required to be repaid only out of the insurer's  
21 surplus in excess of that stipulated in such agreement. The  
22 agreement may provide for interest not exceeding 6% ~~per~~  
23 ~~annum~~ ~~the amount provided in 31-1-107~~, which interest shall  
24 or shall not constitute a liability of the insurer as to its  
25 funds other than such excess of surplus, as stipulated in

1 the agreement. No commission or promotion expense shall be  
2 paid in connection with any such loan.

3 (2) Money so borrowed, together with the interest  
4 thereon if so stipulated in the agreement, shall not form a  
5 part of the insurer's legal liabilities except as to its  
6 surplus in excess of the amount thereof stipulated in the  
7 agreement or be the basis of any setoff; but until repaid,  
8 financial statements filed or published by the insurer shall  
9 show as a footnote thereto the amount thereof then unpaid  
10 together with any interest thereon accrued but unpaid.

11 (3) Any such loan to a mutual insurer shall be subject  
12 to the commissioner's approval. The insurer shall, in  
13 advance of the loan, file with the commissioner a statement  
14 of the purpose of the loan and a copy of the proposed loan  
15 agreement. The loan and agreement shall be deemed approved  
16 unless within 15 days after date of such filing the insurer  
17 is notified of the commissioner's disapproval and the  
18 reasons therefor. The commissioner shall disapprove any  
19 proposed loan or agreement if he finds the loan is  
20 unnecessary or excessive for the purpose intended or that  
21 the terms of the loan agreement are not fair and equitable  
22 to the parties, and to other similar lenders, if any, to the  
23 insurer, or that the information so filed by the insurer is  
24 inadequate.

25 (4) Any such loan to a mutual insurer or substantial

1 portion thereof shall be repaid by the insurer when no  
2 longer reasonably necessary for the purpose originally  
3 intended. No repayment of such loan shall be made by a  
4 mutual insurer unless in advance approved by the  
5 commissioner.

6 (5) This section shall not apply to loans obtained by  
7 the insurer in ordinary course of business from banks and  
8 other financial institutions or to loans secured by pledge  
9 or mortgage of assets."

10 Section 12. Section 33-20-206, MCA, is amended to  
11 read:

12 "33-20-206. Mortality tables -- policies issued after  
13 operative date. (1) In the case of ordinary policies issued  
14 on or after the operative date of this section as defined  
15 herein, all adjusted premiums and present values referred to  
16 in this part shall be calculated on the basis of the  
17 commissioner's 1958 standard ordinary mortality table and  
18 the rate of interest specified in the policy for calculating  
19 cash surrender values and paid-up nonforfeiture benefits,  
20 provided that:

21 (a) such rate of interest shall not exceed 3 1/2% per  
22 annum, except that a rate of interest not exceeding 4% per  
23 annum may be used for policies issued on or after March 17,  
24 1973, and prior to July 1, 1979, and a rate of interest not  
25 exceeding 5 1/2% a year may be used for policies issued on

1 or after July 1, 1979, and a rate of interest not exceeding  
 2 6 1/2% a year may be used for single premium life insurance  
 3 policies issued on or after July 1, 1981;

4 (b) for any category of ordinary insurance issued on  
 5 female risks, adjusted premiums and present values may be  
 6 calculated according to an age not more than 6 years younger  
 7 than the actual age of the insured;

8 (c) in calculating the present value of any paid-up  
 9 term insurance with accompanying pure endowment, if any,  
 10 offered as a nonforfeiture benefit, the rates of mortality  
 11 assumed may be not more than those shown in the  
 12 commissioner's 1958 extended term insurance table;

13 (d) for insurance issued on a substandard basis, the  
 14 calculation of any such adjusted premiums and present values  
 15 may be based on such other table of mortality as may be  
 16 specified by the company and approved by the commissioner.

17 (2) After July 1, 1961, any insurer may file with the  
 18 commissioner a written notice of its election to comply with  
 19 the provisions of this section after a specified date before  
 20 January 1, 1966. After the filing of such notice, then upon  
 21 such specified date (which shall be the operative date of  
 22 this section for such insurer), this section shall become  
 23 operative with respect to the ordinary policies thereafter  
 24 issued by such insurer. If an insurer makes no such  
 25 election, the operative date of this section for such

1 insurer shall be January 1, 1966."

2 Section 13. Effective date. This act is effective on  
 3 passage and approval.

-End-

Approved by Committee  
on Business and Industry

HOUSE BILL NO. 448

INTRODUCED BY NORDTVEOT, VINCENT, WALLIN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE ASSET, LIABILITY, RESERVE, INTEREST, DEPOSIT, AND INVESTMENT REQUIREMENTS RELATING TO INSURANCE COMPANIES; AMENDING SECTIONS ~~33-2-501~~, 33-2-502, 33-2-523, 33-2-531, 33-2-532, 33-2-611, 33-2-821, 33-2-822, 33-2-830, 33-2-832, 33-3-201, 33-3-431, AND 33-20-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~Section 14--Section 33-2-501, MCA, is amended to read:~~

~~"33-2-501--Assets allowed--in--any--determination--of the--financial--condition--of--an--insurer,--there--shall--be allowed--as--assets--only--such--assets--as--are--owned--by--the insurer--and--which--consist--of:~~

~~(1)--cash--in--the--possession--of--the--insurer--or--in transit--under--its--control--and--including--the--true--balance--of any--deposit--in--a--solvent--bank--or--trust--company;~~

~~(2)--investments,--securities,--properties,--and--loans acquired--or--held--in--accordance--with--this--code--and--in connection--therewith--the--following--items:~~

~~(a)--interest--due--or--accrued--on--any--bond--or--evidence--of indebtedness--which--is--not--in--default--and--which--is--not--valued~~

~~on--a--basis--including--accrued--interest;~~

~~(b)--declared--and--unpaid--dividends--on--stock--and--shares unless--such--amount--has--otherwise--been--allowed--as--an--asset;~~

~~(c)--interest--due--or--accrued--upon--a--collateral--loan--in an--amount--not--to--exceed--1--year's--interest--thereon;~~

~~(d)--interest--due--or--accrued--on--deposits--in--solvent banks--and--trust--companies--and--interest--due--or--accrued--on other--assets,--if--such--interest--is--in--the--judgment--of--the commissioner--a--collectable--asset;~~

~~(e)--interest--due--or--accrued--on--a--mortgage--loan--in--an amount--not--exceeding--in--any--event--the--amount,--if--any,--of--the excess--of--the--value--of--the--property--less--delinquent--taxes thereon--over--the--unpaid--principal,--in--no--event--shall interest--accrued--for--a--period--in--excess--of--18--months--be allowed--as--an--asset;~~

~~(f)--rent--due--or--accrued--on--real--property--if--such--rent is--not--in--arrears--for--more--than--3--months--and--rent--more--than 3--months--in--arrears--if--the--payment--of--such--rent--be adequately--secured--by--property--held--in--the--name--of--the tenant--and--conveyed--to--the--insurer--as--collateral;~~

~~(g)--the--unaccrued--portion--of--taxes--paid--prior--to--the due--date--on--real--property;~~

~~(3)--premium--notes,--policy--loans,--and--other--policy assets--and--liens--on--policies--and--certificates--of--life insurance--and--annuity--contracts--and--accrued--interest~~

1 thereon in an amount not exceeding the legal reserve and  
 2 other policy liabilities carried on each individual policy  
 3 (4) the net amount of uncollected and deferred  
 4 premiums and annuity considerations in the case of a life  
 5 insurer  
 6 (5) premiums in the course of collection, other than  
 7 for life insurance, not more than 3 months past due, less  
 8 commissions payable thereon. The foregoing limitation shall  
 9 not apply to premiums payable directly or indirectly by the  
 10 United States government or by any of its instrumentalities  
 11 (6) installment premiums other than life insurance  
 12 premiums to the extent of the unearned premium reserve  
 13 carried on the policy to which premiums apply  
 14 (7) notes and like written obligations not past due  
 15 taken for premiums other than life insurance premiums on  
 16 policies permitted to be issued on such basis to the extent  
 17 of the unearned premium reserves carried thereon  
 18 (8) the full amount of reinsurance recoverable by a  
 19 ceding insurer from a solvent reinsurer and which  
 20 reinsurance is authorized under 33-2-1205  
 21 (9) amounts receivable by an assuming insurer  
 22 representing funds withheld by a solvent ceding insurer  
 23 under a reinsurance treaty  
 24 (10) deposits or equities recoverable from underwriting  
 25 associations, syndicates, and reinsurance funds or from any

1 suspended banking institution to the extent deemed by the  
 2 commissioner available for the payment of losses and claims  
 3 and at values to be determined by him  
 4 (ii) electronic data processing equipment if the cost  
 5 of such equipment is at least \$100,000, which cost shall be  
 6 amortized in full over a period of not to exceed 10 calendar  
 7 years. However, with regard to life insurers, such equipment  
 8 shall be allowed as an asset if the cost of such equipment  
 9 is at least \$25,000, which cost shall be amortized in full  
 10 over a period of not to exceed 5 calendar years, and the  
 11 amount of such asset allowed may not exceed 1% of the total  
 12 of the other allowable assets of the insurer machines  
 13 constituting a data processing system or systems, office  
 14 equipment, furniture, and motor vehicles, together with such  
 15 other property, machines, and equipment as may be approved  
 16 by the commissioner, purchased before or after the  
 17 effective date of this act, for use in connection with the  
 18 transaction of the business of an insurance company to the  
 19 extent that the value of all such property depreciated over  
 20 its useful life not exceeding 10 years in accordance with  
 21 standard accounting procedures, constitutes not more than 1%  
 22 of its admitted assets  
 23 (ii) all assets, whether or not consistent with the  
 24 provisions of this section, as may be allowed pursuant to  
 25 the annual statement form approved by the commissioner for



1 ~~the kinds of insurance to be reported upon therein;~~  
 2 ~~(13) other assets, not inconsistent with the provisions~~  
 3 ~~of this section, deemed by the commissioner to be available~~  
 4 ~~for the payment of losses and claims, at values to be~~  
 5 ~~determined by him."~~

6 Section 1. Section 33-2-502, MCA, is amended to read:  
 7 "33-2-502. Assets expressly not allowed. In addition  
 8 to assets impliedly excluded by the provisions of 33-2-501,  
 9 the following expressly shall not be allowed as assets in  
 10 any determination of the financial condition of an insurer:

11 (1) goodwill, trade names, and other like intangible  
 12 assets of such insurer;

13 (2) advances to officers (other than policy loans),  
 14 whether secured or not, and advances to employees, agents,  
 15 and other persons on personal security only;

16 (3) stock of such insurer, owned by it, or any equity  
 17 therein or loans secured thereby or any proportionate  
 18 interest in such stock acquired or held through the  
 19 ownership by such insurer of an interest in another firm,  
 20 corporation, or business unit;

21 (4) furniture, fixtures (other than electronic data  
 22 processing machines authorized under 33-2-501(11)),  
 23 furnishings, safes, vehicles, libraries, stationery,  
 24 literature, and supplies ~~(other than as authorized under~~  
 25 ~~33-2-501(11))~~, except:

1 (a) in the case of title insurers, such materials and  
 2 plants as the insurer is expressly authorized to invest in  
 3 under 33-2-851; and

4 (b) in the case of any insurer, such personal property  
 5 as the insurer is permitted to hold pursuant to part 8 of  
 6 this chapter or which is acquired through foreclosure of  
 7 chattel mortgages acquired pursuant to 33-2-831 or which is  
 8 reasonably necessary for the maintenance and operation of  
 9 real estate lawfully acquired and held by the insurer other  
 10 than real estate used by it for home office, branch office,  
 11 and similar purposes;

12 (5) the amount, if any, by which the aggregate book  
 13 value of investments as carried in the ledger assets of the  
 14 insurer exceeds the aggregate value thereof as determined  
 15 under this code."

16 Section 2. Section 33-2-523, MCA, is amended to read:  
 17 "33-2-523. Contracts on or after the operative date of  
 18 33-20-213 -- valuation. (1) This section shall apply to only  
 19 those policies and contracts issued on or after the  
 20 operative date of 33-20-213, except as otherwise provided in  
 21 33-2-524 for group annuity and pure endowment contracts  
 22 issued prior to that date.

23 (2) Except as otherwise provided in 33-2-524, the  
 24 minimum standard for the valuation of all such policies and  
 25 contracts shall be the commissioner's reserve valuation

1 methods defined in 33-2-525 and 32-2-526(3), 5% interest for  
 2 group annuity and pure endowment contracts and 3 1/2%  
 3 interest for all other such policies and contracts or in the  
 4 case of policies and contracts, other than annuity and pure  
 5 endowment contracts, issued on or after March 17, 1973, 4%  
 6 interest for such policies issued prior to July 1, 1979, and  
 7 4 1/2% interest for such policies issued on or after July 1,  
 8 1979, and 5 1/2% interest for single premium life insurance  
 9 policies issued on or after July 1, 1981, and the following  
 10 tables:

11 (a) for all ordinary policies of life insurance issued  
 12 on the standard basis, excluding any disability and  
 13 accidental death benefits in such policies, the  
 14 commissioner's 1941 standard ordinary mortality table for  
 15 such policies issued prior to the operative date of  
 16 33-20-206, as amended, and the commissioner's 1958 standard  
 17 ordinary mortality table for such policies issued on or  
 18 after that operative date, except that for any category of  
 19 such policies issued on female risks, modified net premiums  
 20 and present values, referred to in 33-2-525 and 33-2-526,  
 21 may be calculated, at the option of the insurer with the  
 22 approval of the commissioner, according to an age younger  
 23 than the actual age of the insured;

24 (b) for all industrial life insurance policies issued  
 25 on the standard basis, excluding any disability and

1 accidental death benefits in such policies, the 1941  
 2 standard industrial mortality table for such policies issued  
 3 prior to the operative date of 33-20-207, as amended, and  
 4 the commissioner's 1961 standard industrial mortality table  
 5 for such policies issued on or after that operative date;

6 (c) for individual annuity and pure endowment  
 7 contracts, excluding any disability and accidental death  
 8 benefits in such policies, the 1937 standard annuity  
 9 mortality table or, at the option of the insurer, the  
 10 annuity mortality table for 1949, ultimate, or any  
 11 modification of either of these tables approved by the  
 12 commissioner;

13 (d) for group annuity and pure endowment contracts,  
 14 excluding any disability and accidental death benefits in  
 15 such policies, the group annuity mortality table for 1951,  
 16 any modification of such table approved by the commissioner,  
 17 or, at the option of the insurer, any of the tables or  
 18 modifications of tables specified for individual annuity and  
 19 pure endowment contracts;

20 (e) (i) for total and permanent disability benefits in  
 21 or supplementary to ordinary policies or contracts:

22 (A) for policies or contracts issued on or after  
 23 January 1, 1966, the tables of period 2 disablement rates  
 24 and the 1930 to 1950 termination rates of the 1952  
 25 disability study of the society of actuaries, with due

1 regard to the type of benefit;

2 (B) for policies or contracts issued on or after  
3 January 1, 1961, and prior to January 1, 1966, either such  
4 tables or, at the option of the insurer, the class 3  
5 disability table (1926); and

6 (C) for policies issued prior to January 1, 1961, the  
7 class 3 disability table (1926);

8 (ii) any such table shall, for active lives, be  
9 combined with a mortality table permitted for calculating  
10 the reserves for life insurance policies;

11 (F) (i) for accidental death benefits in or  
12 supplementary to policies:

13 (A) for policies issued on or after January 1, 1966,  
14 the 1959 accidental death benefits table;

15 (B) for policies issued on or after January 1, 1961,  
16 and prior to January 1, 1966, either such table or, at the  
17 option of the insurer, the intercompany double indemnity  
18 mortality table; and

19 (C) for policies issued prior to January 1, 1961, the  
20 intercompany double indemnity mortality table;

21 (ii) either table shall be combined with a mortality  
22 table permitted for calculating the reserves for life  
23 insurance policies;

24 (g) for group life insurance, life insurance issued on  
25 the substandard basis and other special benefits, such

1 tables as may be approved by the commissioner."

2 Section 3. Section 33-2-531, MCA, is amended to read:

3 "33-2-531. Deposit of reserves -- domestic life  
4 insurers. (1) Domestic life insurers shall deposit and  
5 maintain on deposit, in securities and assets, with  
6 depositories and subject to conditions as provided for in  
7 part 6 of this chapter, an amount not less than the reserves  
8 on its outstanding life insurance policies and annuity  
9 contracts, as valued under 33-2-521 through 33-2-526.

10 (2) Annually on or before April 1, the insurer shall  
11 so deposit any additional such securities required under  
12 subsection (1) and related to the increase of such reserves  
13 during the calendar year next preceding, as determined from  
14 the insurer's annual statement as at December 31 of such  
15 preceding year.

16 (3) A domestic stock life insurer may credit toward  
17 such deposit the amount of any other deposit of the insurer  
18 held under part 6 of this chapter for the protection of its  
19 policyholders or of its policyholders and creditors.

20 (4) Deposits of the reserves of a domestic life  
21 insurer under this section shall consist of securities and  
22 assets acquired and valued in accordance with part parts 5  
23 and 8 of this chapter, ~~except that securities acquired under~~  
24 ~~33-2-829 are not eligible for deposit.~~

25 (5) Real estate mortgage loans, chattel mortgage

1 loans, and policy loans may be made a part of the deposit by  
 2 filing a verified statement of the loans with the  
 3 commissioner, which statement shall be subject to audit at  
 4 all times by the commissioner. Nonnegotiable securities  
 5 where deposited with the commissioner shall be accompanied  
 6 by transfer powers in due form. If the insurer uses real  
 7 estate acquired under 33-2-832 as a deposit, then a deed of  
 8 trust, mortgage, or other instrument sufficient to convey a  
 9 security interest in such real estate, in a form acceptable  
 10 to the commissioner, shall be completed in due form and  
 11 recorded prior to being deposited with the commissioner.

12 (6) If default occurs in the payment of interest or  
 13 principal of any deposited security and such default  
 14 continues for a period of 120 days, the commissioner may  
 15 declare such security no longer eligible for deposit under  
 16 this section."

17 Section 4. Section 33-2-532, MCA, is amended to read:

18 "33-2-532. Valuation of bonds debt securities. (1) (a)  
 19 All bonds or other evidences of debt having a fixed term and  
 20 rate of interest held by an insurer may, if amply secured to  
 21 the extent required by this code and not in default as to  
 22 the payment of principal or interest, be valued as follows:

23 (i) if purchased at par or at an amount equal to the  
 24 remaining unpaid principal balance, at the par value or the  
 25 remaining unpaid principal balance, together with accrued

1 interest;

2 (ii) if purchased above or below par, on the basis of  
 3 the purchase price adjusted so as to bring the value to par  
 4 at maturity and so as to yield in the meantime the effective  
 5 rate of interest at which the purchase was made, or in lieu  
 6 of such method, according to such accepted method of  
 7 valuation as is approved by the commissioner.

8 (b) Purchase ~~if purchased~~, the purchase price shall in  
 9 no case be taken at a higher figure than the actual market  
 10 value at the time of purchase, plus actual brokerage,  
 11 transfer, postage, or express charges paid in the  
 12 acquisition of such securities.

13 (c) Unless otherwise provided by valuation established  
 14 or approved by the commissioner, no such security shall be  
 15 carried at above the call price for the entire issue during  
 16 any period within which the security may be so called.

17 ~~(d) No provision of this subsection prohibits an~~  
 18 ~~insurer from valuing bonds or other evidences of debt~~  
 19 ~~acquired in a bona fide exchange or pursuant to the~~  
 20 ~~provisions of 33-2-803(3) at the values established by the~~  
 21 ~~terms of the transaction. Assets acquired in any 1-year-by~~  
 22 ~~exchange and valued in accordance with the provisions of~~  
 23 ~~this subsection (i)(d) may not exceed 2% of the insurer's~~  
 24 ~~total admitted assets at the end of such year, except with~~  
 25 ~~the consent of the commissioner. Any value so established~~

1 ~~for any such debt security being acquired by the insurer may~~  
 2 ~~not exceed the greater of the market value, call price, par~~  
 3 ~~value, or remaining unpaid principal balance, together with~~  
 4 ~~accrued interest, in addition, the value of the asset or~~  
 5 ~~assets being acquired by the insurer in an exchange~~  
 6 ~~agreement may not exceed the cost of the asset or assets~~  
 7 ~~given by the insurer in the exchange, adjusted appropriately~~  
 8 ~~for accrual of discount or amortization of premiums in~~  
 9 ~~excess of par regarding bonds and for payments received in~~  
 10 ~~reduction of principal regarding mortgage loans or similar~~  
 11 ~~installment obligations.~~

12 (2) The commissioner shall have full discretion in  
 13 determining the method of calculating values according to  
 14 the rules set forth in this section."

15 Section 5. Section 33-2-611, MCA, is amended to read:

16 "33-2-611. Deficiency of deposit -- revocation of  
 17 certificate. ~~if for any reason~~ Except as to the deposit of  
 18 reserves of domestic life insurers pursuant to 33-2-531, if  
 19 the market value of assets and securities of an insurer held  
 20 on deposit in this state or in another state under custodial  
 21 arrangements authorized by 33-2-604(3) falls below the  
 22 amount required under this code to be so held, the insurer  
 23 shall promptly deposit other or additional assets or  
 24 securities eligible for deposit under this part and in  
 25 amount sufficient to cure such deficiency. If the insurer

1 has failed to cure the deficiency within 20 30 days after  
 2 receipt of notice thereof by registered or certified mail  
 3 from the commissioner, the commissioner shall ~~may~~ in his  
 4 discretion, forthwith ~~revoke~~ suspend the insurer's  
 5 certificate of authority until the deficiency is cured, and  
 6 may revoke the certificate of authority, after a hearing  
 7 thereon pursuant to 33-2-119(1), if the deficiency is not  
 8 cured within 1 year."

9 Section 6. Section 33-2-821, MCA, is amended to read:

10 "33-2-821. Insurance stocks. (1) An insurer may invest  
 11 in the stocks of other solvent insurers formed under the  
 12 laws of this or another state, which stocks meet the  
 13 applicable requirements of 33-2-819 and 33-2-820.

14 (2) With the commissioner's consent, an insurer may  
 15 acquire and hold the controlling interest in the outstanding  
 16 voting stock of another stock insurer formed under the laws  
 17 of this or another state. ~~All stocks under this subsection~~  
 18 ~~shall be subject to the limitation as to amount as provided~~  
 19 ~~in 33-2-822."~~

20 Section 7. Section 33-2-822, MCA, is amended to read:

21 "33-2-822. Stocks of subsidiaries. With the  
 22 commissioner's consent, an insurer may invest ~~in the stock~~  
 23 ~~of its subsidiary insurance corporation or~~ in the stock of  
 24 one or more of its subsidiary business corporation formed  
 25 under the laws of this state and corporations necessary and

1 or incidental to the convenient operation of the insurer's  
 2 insurance business or to the administration of any of its  
 3 investments. All of the insurer's investments under this  
 4 section shall not at any time exceed 10% of the investing  
 5 insurer's assets. For the purposes of this section, a  
 6 "subsidiary" is a corporation of which the insurer owns a  
 7 majority of the outstanding shares of all voting stock."

8 Section 8. Section 33-2-830, MCA, is amended to read:

9 "33-2-830. Real estate mortgages. (1) An insurer may  
 10 invest any of its funds in bonds, notes, or other evidences  
 11 of indebtedness which are secured by first mortgages or  
 12 deeds of trust upon improved real property located in the  
 13 United States or Canada or which are secured by first  
 14 mortgages or deeds of trust upon leasehold estates having an  
 15 unexpired term of not less than 21 years, inclusive of the  
 16 term or terms which may be provided by enforceable options  
 17 of renewal, in improved real property located in the United  
 18 States or Canada. In all cases the security for the loan  
 19 must be a first lien upon such real property, and there must  
 20 not be any condition or right of reentry or forfeiture not  
 21 insured against, under which, in the case of real property  
 22 other than leaseholds, such lien can be cut off or  
 23 subordinated or otherwise disturbed or under which, in the  
 24 case of leaseholds, the insurer is unable to continue the  
 25 lease in force for the duration of the loan. Nothing herein

1 shall prohibit any investment by reason of the existence of  
 2 any prior lien for ground rents, taxes, assessments, or  
 3 other similar charges not yet delinquent. This section shall  
 4 not be deemed to prohibit investment in mortgages or similar  
 5 obligations when made under 33-2-828.

6 (2) "Improved real estate" means all farm lands used  
 7 for tillage, crop, pasture, or timberlands and all real  
 8 estate on which permanent improvements suitable for  
 9 residential, institutional, commercial, or industrial use  
 10 are situated.

11 (3) (a) No such mortgage loan or loans made or  
 12 acquired by an insurer on any one property shall, at the  
 13 time of investment by the insurer, exceed the larger of the  
 14 following amounts as applicable:

15 (i) 80% of the value of the real property or leasehold  
 16 securing the same, provided, however, if said real property  
 17 or leasehold consists of one- or two-family residential  
 18 property, 90% of said value;

19 (ii) the amount of any insurance or guaranty of such  
 20 loan by the United States of America or by any agency or  
 21 instrumentality thereof; or

22 (iii) the amounts provided in subsection (i) herein,  
 23 plus the amount by which the excess of such loan over such  
 24 amount is insured or guaranteed by the United States of  
 25 America or by any agency or instrumentality thereof.

1 (b) In the case of a purchase money mortgage given to  
 2 secure the purchase price of real estate sold by the  
 3 insurer, the amount so loaned or invested shall not exceed  
 4 the unpaid portion of the purchase price.

5 (4) No such mortgage loan or loans shall be made or  
 6 acquired by an insurer except after an appraisal made by a  
 7 qualified appraiser for the purpose of such investment.

8 ~~(5) No such mortgage loan made or acquired by an~~  
 9 ~~insurer which is a participation or a part of a series or~~  
 10 ~~issue secured by the same mortgage or deed of trust shall be~~  
 11 ~~a lawful investment under this section unless the entire~~  
 12 ~~series or issue which is secured by the same mortgage or~~  
 13 ~~deed of trust is held by such insurer or unless the insurer~~  
 14 ~~holds a senior participation in such mortgage or deed of~~  
 15 ~~trust giving it substantially the rights of a first~~  
 16 ~~mortgagee.~~

17 (6)(5) No mortgage loan upon a leasehold shall be made  
 18 or acquired pursuant to this section unless the terms  
 19 thereof shall provide for amortization payments to be made  
 20 by the borrower on the principal thereof at least once in  
 21 each year in amounts sufficient completely to amortize the  
 22 loan within a period of four-fifths of the term of the  
 23 leasehold, inclusive of the term which may be provided by an  
 24 enforceable option of renewal, which is unexpired at the  
 25 time the loan is made, but in no event exceeding 35 years.

1 (6) An insurer may invest in a note secured by a new  
 2 first mortgage, deed of trust, or trust indenture upon  
 3 improved real property when the real property secures an  
 4 existing first mortgage, deed of trust, or trust indenture  
 5 on which the remaining principal balance due and owing is  
 6 less than 40% of the current appraised value. The regular  
 7 periodic payment on the new note shall be in a frequency and  
 8 of a sufficient amount that will, upon payment of each  
 9 installment, pay the original obligation pursuant to its  
 10 terms and amortize the new note with its terms."

11 Section 9. Section 33-2-832, MCA, is amended to read:  
 12 "33-2-832. Real estate. An insurer may invest in real  
 13 estate only if used for the purposes or acquired in the  
 14 manners and within the limits as follows:

15 (1) the land and the buildings thereon in which it has  
 16 its principal office and such other real estate as shall be  
 17 requisite for its convenient accommodation in the  
 18 transaction of its business. Except with the consent of the  
 19 commissioner, all such investments shall not aggregate more  
 20 than 5% of the insurer's assets.

21 (2) real estate acquired in satisfaction of loans,  
 22 mortgages, liens, judgments, decrees, or debts previously  
 23 owing to the insurer in the course of its business;

24 (3) real estate acquired in part payment of the  
 25 consideration on the sale of other real estate owned by it

1 if such transaction does not increase the insurer's  
2 investment in real estate;

3 (4) real estate acquired by gift or devise or through  
4 merger, consolidation, or bulk reinsurance of another  
5 insurer under this code;

6 (5) the seller's interest in real property subject to  
7 an agreement of purchase or sale. The sum invested in any  
8 such parcel of real estate shall not exceed 90% of the  
9 market value of such parcel provided the same consists of  
10 one- or two-family residential property and 80% of the  
11 market value of all other such parcels of real estate.

12 (6) real estate or any interest therein acquired or  
13 held by purchase, lease, or otherwise, other than real  
14 estate to be used primarily for agricultural, ranch, ~~mining,~~  
15 ~~development--of--oil--or--mineral--resources,~~ recreational,  
16 amusement, or club purposes, acquired as an investment for  
17 the production of income or acquired to be improved or  
18 developed for such investment purposes pursuant to an  
19 existing program therefor. The insurer may hold, improve,  
20 develop, maintain, manage, lease, sell, and convey real  
21 estate acquired by it under this provision. An insurer  
22 shall not, except with the commissioner's consent, have at  
23 any one time invested in real estate under this subsection  
24 an amount exceeding 5% ~~15%~~ 10% of its assets.

25 (7) additional real estate and equipment incident to

1 real estate if necessary or convenient for the purpose of  
2 enhancing the sale or other value of real estate previously  
3 acquired or held by the insurer under subsections (2), (3),  
4 (4), or (6) of this section. Such real estate and equipment  
5 shall be included, together with the real estate for the  
6 enhancement of which it was acquired, for the purpose of  
7 applicable investment limits and shall be subject to  
8 disposal at the same time and under the same conditions as  
9 applying to such enhanced real estate under 33-2-841.

10 (8) except with the commissioner's consent, all real  
11 estate owned by the insurer under this section, except for  
12 real estate acquired according to subsection (2) and except  
13 as to seller's interest specified in subsection (5), shall  
14 not at any one time exceed 10% ~~25%~~ 15% of the insurer's  
15 assets."

16 SECTION 10. SECTION 33-3-201, MCA, IS AMENDED TO READ:

17 "33-3-201. Incorporation. (1) This section applies to  
18 stock and mutual insurers hereafter incorporated in this  
19 state.

20 (2) Five or more individuals, none of whom are less  
21 than 18 years of age, may incorporate a stock insurer. Ten  
22 or more of such individuals may incorporate a mutual  
23 insurer. At least a majority of the incorporators shall be  
24 citizens of the United States. At least a majority of the  
25 incorporators shall be residents of this state.



1 (3) The incorporators shall execute articles of  
2 incorporation in quadruplicate and acknowledge their  
3 execution thereof in the same manner as provided by law for  
4 the acknowledgment of deeds. The articles of incorporation  
5 shall state the purpose for which the corporation is formed  
6 and shall show:

7 (a) the name of the corporation. If a mutual, the word  
8 "mutual" must be a part of the name. An alternative name or  
9 names may be specified for use in jurisdictions wherein  
10 conflict of name with that of another insurer or  
11 organization might otherwise prevent the corporation from  
12 being authorized to transact insurance therein.

13 (b) the duration of its existence, which may be  
14 perpetual;

15 (c) the kinds of insurance, as defined in this code,  
16 which the corporation is formed to transact;

17 (d) if a stock corporation, its authorized capital  
18 stock, and the number of shares of common stock into which  
19 divided. These shares shall be issued as provided in  
20 35-1-601, except that the par value of any class shall not  
21 be less than \$1; the par value of each such share, which par  
22 value shall be at least \$1; Shares without par value or  
23 other than one class of voting common stock shall not be  
24 authorized. The articles of incorporation may limit or deny  
25 present or future stockholders preemptive or preferential

1 ~~rights to acquire additional issues of the stock, or bonds,~~  
2 ~~debentures, or other obligations convertible into stock, of~~  
3 ~~the corporation, subject to the laws of Montana, fixing the~~  
4 ~~required representation and proportion of outstanding~~  
5 ~~capital stock required to be represented and voted for~~  
6 ~~specified action, at any and all corporate meetings,~~  
7 ~~elections, votes, or consent proceedings.~~

8 (e) if a stock corporation, the extent, if any, to  
9 which shares of its stock are subject to assessment;

10 (f) if a stock corporation, the number of shares  
11 subscribed, if any, by each incorporator;

12 (g) if a mutual corporation, the maximum contingent  
13 liability of its members, other than as to nonassessable  
14 policies, for payment of losses and expenses incurred. Such  
15 liability shall be stated in the articles of incorporation  
16 but shall not be less than one or more than six times the  
17 premium for the member's policy at the annual premium rate  
18 for a term of 1 year.

19 (h) the minimum, not less than 5, and the maximum, not  
20 more than 21, number of directors who shall constitute the  
21 board of directors and conduct the affairs of the  
22 corporation; also, the names, addresses, and terms of the  
23 members of the initial board of directors. The term of  
24 office of initial directors shall be for not more than 1  
25 year after the date of incorporation.

1 (i) the name of the county, and the city, town, or  
 2 place within the county, in which its principal office or  
 3 principal place of business is to be located in this state;

4 (j) such other provisions, not inconsistent with law,  
 5 deemed appropriate by the incorporators;

6 (k) the name and residence address of each  
 7 incorporator and the citizenship of each incorporator who is  
 8 not a citizen of the United States."

9 Section 11. Section 33-3-431, MCA, is amended to read:

10 "33-3-431. Borrowed surplus. (1) A domestic stock or  
 11 mutual insurer may borrow money to defray the expenses of  
 12 its organization, provide it with surplus funds, or for any  
 13 purpose of its business, upon a written agreement that such  
 14 money is required to be repaid only out of the insurer's  
 15 surplus in excess of that stipulated in such agreement. The  
 16 agreement may provide for interest not exceeding 6%--per  
 17 annum the amount provided in 31-1-107, which interest shall  
 18 or shall not constitute a liability of the insurer as to its  
 19 funds other than such excess of surplus, as stipulated in  
 20 the agreement. No commission or promotion expense shall be  
 21 paid in connection with any such loan.

22 (2) Money so borrowed, together with the interest  
 23 thereon if so stipulated in the agreement, shall not form a  
 24 part of the insurer's legal liabilities except as to its  
 25 surplus in excess of the amount thereof stipulated in the

1 agreement or be the basis of any setoff; but until repaid,  
 2 financial statements filed or published by the insurer shall  
 3 show as a footnote thereto the amount thereof then unpaid  
 4 together with any interest thereon accrued but unpaid.

5 (3) Any such loan to a mutual insurer shall be subject  
 6 to the commissioner's approval. The insurer shall, in  
 7 advance of the loan, file with the commissioner a statement  
 8 of the purpose of the loan and a copy of the proposed loan  
 9 agreement. The loan and agreement shall be deemed approved  
 10 unless within 15 days after date of such filing the insurer  
 11 is notified of the commissioner's disapproval and the  
 12 reasons therefor. The commissioner shall disapprove any  
 13 proposed loan or agreement if he finds the loan is  
 14 unnecessary or excessive for the purpose intended or that  
 15 the terms of the loan agreement are not fair and equitable  
 16 to the parties, and to other similar lenders, if any, to the  
 17 insurer, or that the information so filed by the insurer is  
 18 inadequate.

19 (4) Any such loan to a mutual insurer or substantial  
 20 portion thereof shall be repaid by the insurer when no  
 21 longer reasonably necessary for the purpose originally  
 22 intended. No repayment of such loan shall be made by a  
 23 mutual insurer unless in advance approved by the  
 24 commissioner.

25 (5) This section shall not apply to loans obtained by

1 the insurer in ordinary course of business from banks and  
 2 other financial institutions or to loans secured by pledge  
 3 or mortgage of assets."

4 Section 12. Section 33-20-206, MCA, is amended to  
 5 read:

6 "33-20-206. Mortality tables -- policies issued after  
 7 operative date. (1) In the case of ordinary policies issued  
 8 on or after the operative date of this section as defined  
 9 herein, all adjusted premiums and present values referred to  
 10 in this part shall be calculated on the basis of the  
 11 commissioner's 1958 standard ordinary mortality table and  
 12 the rate of interest specified in the policy for calculating  
 13 cash surrender values and paid-up nonforfeiture benefits,  
 14 provided that:

15 (a) such rate of interest shall not exceed 3 1/2% per  
 16 annum, except that a rate of interest not exceeding 4% per  
 17 annum may be used for policies issued on or after March 17,  
 18 1973, and prior to July 1, 1979, and a rate of interest not  
 19 exceeding 5 1/2% a year may be used for policies issued on  
 20 or after July 1, 1979, and a rate of interest not exceeding  
 21 6 1/2% a year may be used for single premium life insurance  
 22 policies issued on or after July 1, 1981;

23 (b) for any category of ordinary insurance issued on  
 24 female risks, adjusted premiums and present values may be  
 25 calculated according to an age not more than 6 years younger

1 than the actual age of the insured;

2 (c) in calculating the present value of any paid-up  
 3 term insurance with accompanying pure endowment, if any,  
 4 offered as a nonforfeiture benefit, the rates of mortality  
 5 assumed may be not more than those shown in the  
 6 commissioner's 1958 extended term insurance table;

7 (d) for insurance issued on a substandard basis, the  
 8 calculation of any such adjusted premiums and present values  
 9 may be based on such other table of mortality as may be  
 10 specified by the company and approved by the commissioner.

11 (2) After July 1, 1961, any insurer may file with the  
 12 commissioner a written notice of its election to comply with  
 13 the provisions of this section after a specified date before  
 14 January 1, 1966. After the filing of such notice, then upon  
 15 such specified date (which shall be the operative date of  
 16 this section for such insurer), this section shall become  
 17 operative with respect to the ordinary policies thereafter  
 18 issued by such insurer. If an insurer makes no such  
 19 election, the operative date of this section for such  
 20 insurer shall be January 1, 1966."

21 Section 13. Effective date. This act is effective on  
 22 passage and approval.

-End-

## HOUSE BILL NO. 448

INTRODUCED BY NOROTVEDT, VINCENT, WALLIN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE ASSET, LIABILITY, RESERVE, INTEREST, DEPOSIT, AND INVESTMENT REQUIREMENTS RELATING TO INSURANCE COMPANIES; AMENDING SECTIONS 33-2-501, 33-2-502, 33-2-523, 33-2-531, 33-2-532, 33-2-611, 33-2-821, 33-2-822, 33-2-830, 33-2-832, 33-3-201, 33-3-431, AND 33-20-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 33-2-501 MCA is amended to read:

33-2-501. Assets allowed in any determination of the financial condition of an insurer there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) cash in the possession of the insurer or in transit under its control and including the true balance of any deposit in a solvent bank or trust company;

(2) investments, securities, properties, and loans acquired or held in accordance with this code and in connection therewith the following items:

(a) interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued

on a basis including accrued interest;

(b) declared and unpaid dividends on stock and shares unless such amount has otherwise been allowed as an asset;

(c) interest due or accrued upon a collateral loan in an amount not to exceed 1 year's interest thereon;

(d) interest due or accrued on deposits in solvent banks and trust companies and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectable asset;

(e) interest due or accrued on a mortgage loan in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal, in no event shall interest accrued for a period in excess of 18 months be allowed as an asset;

(f) rent due or accrued on real property if such rent is not in arrears for more than 3 months and rent more than 3 months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral;

(g) the unaccrued portion of taxes paid prior to the due date on real property;

(3) premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest

1 thereon--in--an--amount--not--exceeding--the--legal--reserve--and  
 2 other--policy--liabilities--carried--on--each--individual--policy;  
 3 (4)--the--net--amount--of--uncollected--and--deferred  
 4 premiums--and--annuity--considerations--in--the--case--of--a--life  
 5 insurer;  
 6 (5)--premiums--in--the--course--of--collection,--other--than  
 7 for--life--insurance,--not--more--than--3--months--past--due,--less  
 8 commissions--payable--thereon;--The--foregoing--limitation--shall  
 9 not--apply--to--premiums--payable--directly--or--indirectly--by--the  
 10 United--States--government--or--by--any--of--its--instrumentalities;  
 11 (6)--installment--premiums--other--than--life--insurance  
 12 premiums--to--the--extent--of--the--unearned--premium--reserve  
 13 carried--on--the--policy--to--which--premiums--apply;  
 14 (7)--notes--and--like--written--obligations--not--past--due,  
 15 taken--for--premiums--other--than--life--insurance--premiums,--on  
 16 policies--permitted--to--be--issued--on--such--basis,--to--the--extent  
 17 of--the--unearned--premium--reserves--carried--thereon;  
 18 (8)--the--full--amount--of--reinsurance--recoverable--by--a  
 19 ceding--insurer--from--a--solvent--reinsurer--and--which  
 20 reinsurance--is--authorized--under--33-2-1205;  
 21 (9)--amounts--receivable--by--an--assuming--insurer  
 22 representing--funds--withheld--by--a--solvent--ceding--insurer  
 23 under--a--reinsurance--treaty;  
 24 (10)--deposits--or--equities--recoverable--from--underwriting  
 25 associations,--syndicates,--and--reinsurance--funds--or--from--any

1 suspended--banking--institution,--to--the--extent--deemed--by--the  
 2 commissioner--available--for--the--payment--of--losses--and--claims  
 3 and--at--values--to--be--determined--by--him;  
 4 (11)--electronic--data--processing--equipment--if--the--cost  
 5 of--such--equipment--is--at--least--\$100,000,--which--cost--shall--be  
 6 amortized--in--full--over--a--period--of--not--to--exceed--10--calendar  
 7 years;--However,--with--regard--to--life--insurers,--such--equipment  
 8 shall--be--allowed--as--an--asset--if--the--cost--of--such--equipment  
 9 is--at--least--\$25,000,--which--cost--shall--be--amortized--in--full  
 10 over--a--period--of--not--to--exceed--5--calendar--years,--and--the  
 11 amount--of--such--asset--allowed--may--not--exceed--1%--of--the--total  
 12 of--the--other--allowable--assets--of--the--insurer, machines  
 13 constituting--a--data--processing--system--or--systems,--office  
 14 equipment,--furniture,--and--motor--vehicles,--together--with--such  
 15 other--property,--machines,--and--equipment--as--may--be--approved  
 16 by--the--commissioner,--purchased--before--or--after--[the  
 17 effective--date--of--this--act],--for--use--in--connection--with--the  
 18 transaction--of--the--business--of--an--insurance--company,--to--the  
 19 extent--that--the--value--of--all--such--property--depreciated--over  
 20 its--useful--life--not--exceeding--10--years--in--accordance--with  
 21 standard--accounting--procedures,--constitutes--not--more--than--1%  
 22 of--its--admitted--assets;  
 23 (12)--all--assets,--whether--or--not--consistent--with--the  
 24 provisions--of--this--section,--as--may--be--allowed--pursuant--to  
 25 the--annual--statement--form--approved--by--the--commissioner--for

1 ~~the kinds of insurance to be reported upon therein~~  
 2 ~~(13) other assets, not inconsistent with the provisions~~  
 3 ~~of this section, deemed by the commissioner to be available~~  
 4 ~~for the payment of losses and claims, at values to be~~  
 5 ~~determined by him."~~

6 Section 1. Section 33-2-502, MCA, is amended to read:  
 7 "33-2-502. Assets expressly not allowed. In addition  
 8 to assets impliedly excluded by the provisions of 33-2-501,  
 9 the following expressly shall not be allowed as assets in  
 10 any determination of the financial condition of an insurer:

11 (1) goodwill, trade names, and other like intangible  
 12 assets of such insurer;

13 (2) advances to officers (other than policy loans),  
 14 whether secured or not, and advances to employees, agents,  
 15 and other persons on personal security only;

16 (3) stock of such insurer, owned by it, or any equity  
 17 therein or loans secured thereby or any proportionate  
 18 interest in such stock acquired or held through the  
 19 ownership by such insurer of an interest in another firm,  
 20 corporation, or business unit;

21 (4) furniture, fixtures (other than electronic data  
 22 processing machines authorized under 33-2-501(11)),  
 23 furnishings, safes, vehicles, libraries, stationery,  
 24 literature, and supplies ~~other than as authorized under~~  
 25 ~~33-2-501(11))~~, except:

1 (a) in the case of title insurers, such materials and  
 2 plants as the insurer is expressly authorized to invest in  
 3 under 33-2-851; and

4 (b) in the case of any insurer, such personal property  
 5 as the insurer is permitted to hold pursuant to part 8 of  
 6 this chapter or which is acquired through foreclosure of  
 7 chattel mortgages acquired pursuant to 33-2-831 or which is  
 8 reasonably necessary for the maintenance and operation of  
 9 real estate lawfully acquired and held by the insurer other  
 10 than real estate used by it for home office, branch office,  
 11 and similar purposes;

12 (5) the amount, if any, by which the aggregate book  
 13 value of investments as carried in the ledger assets of the  
 14 insurer exceeds the aggregate value thereof as determined  
 15 under this code."

16 Section 2. Section 33-2-523, MCA, is amended to read:

17 "33-2-523. Contracts on or after the operative date of  
 18 33-20-213 -- valuation. (1) This section shall apply to only  
 19 those policies and contracts issued on or after the  
 20 operative date of 33-20-213, except as otherwise provided in  
 21 33-2-524 for group annuity and pure endowment contracts  
 22 issued prior to that date.

23 (2) Except as otherwise provided in 33-2-524, the  
 24 minimum standard for the valuation of all such policies and  
 25 contracts shall be the commissioner's reserve valuation

1 methods defined in 33-2-525 and 32-2-526(3), 5% interest for  
 2 group annuity and pure endowment contracts and 3 1/2%  
 3 interest for all other such policies and contracts or in the  
 4 case of policies and contracts, other than annuity and pure  
 5 endowment contracts, issued on or after March 17, 1973, 4%  
 6 interest for such policies issued prior to July 1, 1979, and  
 7 4 1/2% interest for such policies issued on or after July 1,  
 8 1979, and 5 1/2% interest for single premium life insurance  
 9 policies issued on or after July 1, 1981, and the following  
 10 tables:

11 (a) for all ordinary policies of life insurance issued  
 12 on the standard basis, excluding any disability and  
 13 accidental death benefits in such policies, the  
 14 commissioner's 1941 standard ordinary mortality table for  
 15 such policies issued prior to the operative date of  
 16 33-20-206, as amended, and the commissioner's 1958 standard  
 17 ordinary mortality table for such policies issued on or  
 18 after that operative date, except that for any category of  
 19 such policies issued on female risks, modified net premiums  
 20 and present values, referred to in 33-2-525 and 33-2-526,  
 21 may be calculated, at the option of the insurer with the  
 22 approval of the commissioner, according to an age younger  
 23 than the actual age of the insured;

24 (b) for all industrial life insurance policies issued  
 25 on the standard basis, excluding any disability and

1 accidental death benefits in such policies, the 1941  
 2 standard industrial mortality table for such policies issued  
 3 prior to the operative date of 33-20-207, as amended, and  
 4 the commissioner's 1961 standard industrial mortality table  
 5 for such policies issued on or after that operative date;

6 (c) for individual annuity and pure endowment  
 7 contracts, excluding any disability and accidental death  
 8 benefits in such policies, the 1937 standard annuity  
 9 mortality table or, at the option of the insurer, the  
 10 annuity mortality table for 1949, ultimate, or any  
 11 modification of either of these tables approved by the  
 12 commissioner;

13 (d) for group annuity and pure endowment contracts,  
 14 excluding any disability and accidental death benefits in  
 15 such policies, the group annuity mortality table for 1951,  
 16 any modification of such table approved by the commissioner,  
 17 or, at the option of the insurer, any of the tables or  
 18 modifications of tables specified for individual annuity and  
 19 pure endowment contracts;

20 (e) (i) for total and permanent disability benefits in  
 21 or supplementary to ordinary policies or contracts;

22 (A) for policies or contracts issued on or after  
 23 January 1, 1966, the tables of period 2 disablement rates  
 24 and the 1930 to 1950 termination rates of the 1952  
 25 disability study of the society of actuaries, with due

1 regard to the type of benefit;

2 (B) for policies or contracts issued on or after  
3 January 1, 1961, and prior to January 1, 1966, either such  
4 tables or, at the option of the insurer, the class 3  
5 disability table (1926); and

6 (C) for policies issued prior to January 1, 1961, the  
7 class 3 disability table (1926);

8 (ii) any such table shall, for active lives, be  
9 combined with a mortality table permitted for calculating  
10 the reserves for life insurance policies;

11 (f) (i) for accidental death benefits in or  
12 supplementary to policies:

13 (A) for policies issued on or after January 1, 1966,  
14 the 1959 accidental death benefits table;

15 (B) for policies issued on or after January 1, 1961,  
16 and prior to January 1, 1966, either such table or, at the  
17 option of the insurer, the intercompany double indemnity  
18 mortality table; and

19 (C) for policies issued prior to January 1, 1961, the  
20 intercompany double indemnity mortality table;

21 (ii) either table shall be combined with a mortality  
22 table permitted for calculating the reserves for life  
23 insurance policies;

24 (g) for group life insurance, life insurance issued on  
25 the substandard basis and other special benefits, such

1 tables as may be approved by the commissioner."

2 Section 3. Section 33-2-531, MCA, is amended to read:

3 "33-2-531. Deposit of reserves -- domestic life  
4 insurers. (1) Domestic life insurers shall deposit and  
5 maintain on deposit, in securities and assets, with  
6 depositories and subject to conditions as provided for in  
7 part 6 of this chapter, an amount not less than the reserves  
8 on its outstanding life insurance policies and annuity  
9 contracts, as valued under 33-2-521 through 33-2-526.

10 (2) Annually on or before April 1, the insurer shall  
11 so deposit any additional such securities required under  
12 subsection (1) and related to the increase of such reserves  
13 during the calendar year next preceding, as determined from  
14 the insurer's annual statement as at December 31 of such  
15 preceding year.

16 (3) A domestic stock life insurer may credit toward  
17 such deposit the amount of any other deposit of the insurer  
18 held under part 6 of this chapter for the protection of its  
19 policyholders or of its policyholders and creditors.

20 (4) Deposits of the reserves of a domestic life  
21 insurer under this section shall consist of securities and  
22 assets acquired and valued in accordance with part parts 5  
23 and 8 of this chapter, ~~except that securities acquired under~~  
24 ~~33-2-829 are not eligible for deposit.~~

25 (5) Real estate mortgage loans, chattel mortgage



1 loans, and policy loans may be made a part of the deposit by  
 2 filing a verified statement of the loans with the  
 3 commissioner, which statement shall be subject to audit at  
 4 all times by the commissioner. Nonnegotiable securities  
 5 where deposited with the commissioner shall be accompanied  
 6 by transfer powers in due form. If the insurer uses real  
 7 estate acquired under 33-2-832 as a deposit, then a deed of  
 8 trust, mortgage, or other instrument sufficient to convey a  
 9 security interest in such real estate, in a form acceptable  
 10 to the commissioner, shall be completed in due form and  
 11 recorded prior to being deposited with the commissioner.

12 (6) If default occurs in the payment of interest or  
 13 principal of any deposited security and such default  
 14 continues for a period of 120 days, the commissioner may  
 15 declare such security no longer eligible for deposit under  
 16 this section."

17 Section 4. Section 33-2-532, MCA, is amended to read:

18 "33-2-532. Valuation of bonds debt securities. (1) (a)  
 19 All bonds or other evidences of debt having a fixed term and  
 20 rate of interest held by an insurer may, if amply secured to  
 21 the extent required by this code and not in default as to  
 22 the payment of principal or interest, be valued as follows:

23 (i) if purchased at par or at an amount equal to the  
 24 remaining unpaid principal balance, at the par value or the  
 25 remaining unpaid principal balance, together with accrued

1 interest;

2 (ii) if purchased above or below par, on the basis of  
 3 the purchase price adjusted so as to bring the value to par  
 4 at maturity and so as to yield in the meantime the effective  
 5 rate of interest at which the purchase was made, or in lieu  
 6 of such method, according to such accepted method of  
 7 valuation as is approved by the commissioner.

8 (b) Purchase if purchased, the purchase price shall in  
 9 no case be taken at a higher figure than the actual market  
 10 value at the time of purchase, plus actual brokerage,  
 11 transfer, postage, or express charges paid in the  
 12 acquisition of such securities.

13 (c) Unless otherwise provided by valuation established  
 14 or approved by the commissioner, no such security shall be  
 15 carried at above the call price for the entire issue during  
 16 any period within which the security may be so called.

17 ~~(d) No provision of this subsection prohibits an~~  
 18 ~~insurer from valuing bonds or other evidences of debt~~  
 19 ~~acquired in a bona fide exchange or pursuant to the~~  
 20 ~~provisions of 33-2-803(3) at the values established by the~~  
 21 ~~terms of the transaction. Assets acquired in any 1-year by~~  
 22 ~~exchange and valued in accordance with the provisions of~~  
 23 ~~this subsection (i)(d) may not exceed 2% of the insurer's~~  
 24 ~~total admitted assets at the end of such year, except with~~  
 25 ~~the consent of the commissioner. Any value so established~~

1 ~~for any such debt security being acquired by the insurer may~~  
 2 ~~not exceed the greater of the market value, call price, par~~  
 3 ~~value, or remaining unpaid principal balance, together with~~  
 4 ~~accrued interest, in addition, the value of the asset or~~  
 5 ~~assets being acquired by the insurer in an exchange~~  
 6 ~~agreement may not exceed the cost of the asset or assets~~  
 7 ~~given by the insurer in the exchange, adjusted appropriately~~  
 8 ~~for accrual of discount or amortization of premiums in~~  
 9 ~~excess of par regarding bonds and for payments received in~~  
 10 ~~reduction of principal regarding mortgage loans or similar~~  
 11 ~~installment obligations.~~

12 (2) The commissioner shall have full discretion in  
 13 determining the method of calculating values according to  
 14 the rules set forth in this section."

15 Section 5. Section 33-2-611, MCA, is amended to read:

16 "33-2-611. Deficiency of deposit -- revocation of  
 17 certificate. ~~if for any reason Except as to the deposit of~~  
 18 ~~reserves of domestic life insurers pursuant to 33-2-531, if~~  
 19 the market value of assets and securities of an insurer held  
 20 on deposit in this state or in another state under custodial  
 21 arrangements authorized by 33-2-604(3) falls below the  
 22 amount required under this code to be so held, the insurer  
 23 shall promptly deposit other or additional assets or  
 24 securities eligible for deposit under this part and in  
 25 amount sufficient to cure such deficiency. If the insurer

1 has failed to cure the deficiency within ~~20~~ 30 days after  
 2 receipt of notice thereof by registered or certified mail  
 3 from the commissioner, the commissioner ~~shall~~ may, in his  
 4 discretion, forthwith ~~revoke~~ suspend the insurer's  
 5 certificate of authority until the deficiency is cured, and  
 6 may revoke the certificate of authority, after a hearing  
 7 thereon pursuant to 33-2-119(1), if the deficiency is not  
 8 cured within 1 year."

9 Section 6. Section 33-2-821, MCA, is amended to read:

10 "33-2-821. Insurance stocks. (1) An insurer may invest  
 11 in the stocks of other solvent insurers formed under the  
 12 laws of this or another state, which stocks meet the  
 13 applicable requirements of 33-2-819 and 33-2-820.

14 (2) With the commissioner's consent, an insurer may  
 15 acquire and hold the controlling interest in the outstanding  
 16 voting stock of another stock insurer formed under the laws  
 17 of this or another state. ~~All stocks under this subsection~~  
 18 ~~shall be subject to the limitation as to amount as provided~~  
 19 ~~in 33-2-822."~~

20 Section 7. Section 33-2-822, MCA, is amended to read:

21 "33-2-822. Stocks of subsidiaries. With the  
 22 commissioner's consent, an insurer may invest ~~in the stock~~  
 23 ~~of its subsidiary insurance corporation or~~ in the stock of  
 24 one or more of its subsidiary business corporation ~~formed~~  
 25 ~~under the laws of this state and corporations necessary and~~

1 or incidental to the convenient operation of the insurer's  
 2 insurance business or to the administration of any of its  
 3 investments. All of the insurer's investments under this  
 4 section shall not at any time exceed 10% of the investing  
 5 insurer's assets. For the purposes of this section, a  
 6 "subsidiary" is a corporation of which the insurer owns a  
 7 majority of the outstanding shares of all voting stock."

8 Section 8. Section 33-2-830, MCA, is amended to read:  
 9 "33-2-830. Real estate mortgages. (1) An insurer may  
 10 invest any of its funds in bonds, notes, or other evidences  
 11 of indebtedness which are secured by first mortgages or  
 12 deeds of trust upon improved real property located in the  
 13 United States or Canada or which are secured by first  
 14 mortgages or deeds of trust upon leasehold estates having an  
 15 unexpired term of not less than 21 years, inclusive of the  
 16 term or terms which may be provided by enforceable options  
 17 of renewal, in improved real property located in the United  
 18 States or Canada. In all cases the security for the loan  
 19 must be a first lien upon such real property, and there must  
 20 not be any condition or right of reentry or forfeiture not  
 21 insured against, under which, in the case of real property  
 22 other than leaseholds, such lien can be cut off or  
 23 subordinated or otherwise disturbed or under which, in the  
 24 case of leaseholds, the insurer is unable to continue the  
 25 lease in force for the duration of the loan. Nothing herein

1 shall prohibit any investment by reason of the existence of  
 2 any prior lien for ground rents, taxes, assessments, or  
 3 other similar charges not yet delinquent. This section shall  
 4 not be deemed to prohibit investment in mortgages or similar  
 5 obligations when made under 33-2-828.

6 (2) "Improved real estate" means all farm lands used  
 7 for tillage, crop, pasture, or timberlands and all real  
 8 estate on which permanent improvements suitable for  
 9 residential, institutional, commercial, or industrial use  
 10 are situated.

11 (3) (a) No such mortgage loan or loans made or  
 12 acquired by an insurer on any one property shall, at the  
 13 time of investment by the insurer, exceed the larger of the  
 14 following amounts as applicable:

15 (i) 80% of the value of the real property or leasehold  
 16 securing the same, provided, however, if said real property  
 17 or leasehold consists of one- or two-family residential  
 18 property, 90% of said value;

19 (ii) the amount of any insurance or guaranty of such  
 20 loan by the United States of America or by any agency or  
 21 instrumentality thereof; or

22 (iii) the amounts provided in subsection (i) herein,  
 23 plus the amount by which the excess of such loan over such  
 24 amount is insured or guaranteed by the United States of  
 25 America or by any agency or instrumentality thereof.

1 (b) In the case of a purchase money mortgage given to  
2 secure the purchase price of real estate sold by the  
3 insurer, the amount so loaned or invested shall not exceed  
4 the unpaid portion of the purchase price.

5 (4) No such mortgage loan or loans shall be made or  
6 acquired by an insurer except after an appraisal made by a  
7 qualified appraiser for the purpose of such investment.

8 ~~(5) No such mortgage loan made or acquired by an~~  
9 ~~insurer which is a participation or a part of a series or~~  
10 ~~issue secured by the same mortgage or deed of trust shall be~~  
11 ~~a lawful investment under this section unless the entire~~  
12 ~~series or issue which is secured by the same mortgage or~~  
13 ~~deed of trust is held by such insurer or unless the insurer~~  
14 ~~holds a senior participation in such mortgage or deed of~~  
15 ~~trust giving it substantially the rights of a first~~  
16 ~~mortgagee.~~

17 (5) No mortgage loan upon a leasehold shall be made  
18 or acquired pursuant to this section unless the terms  
19 thereof shall provide for amortization payments to be made  
20 by the borrower on the principal thereof at least once in  
21 each year in amounts sufficient completely to amortize the  
22 loan within a period of four-fifths of the term of the  
23 leasehold, inclusive of the term which may be provided by an  
24 enforceable option of renewal, which is unexpired at the  
25 time the loan is made, but in no event exceeding 35 years.

1 (6) An insurer may invest in a note secured by a new  
2 first mortgage, deed of trust, or trust indenture upon  
3 improved real property when the real property secures an  
4 existing first mortgage, deed of trust, or trust indenture  
5 on which the remaining principal balance due and owing is  
6 less than 40% of the current appraised value. The regular  
7 periodic payment on the new note shall be in a frequency and  
8 of a sufficient amount that will, upon payment of each  
9 installment, pay the original obligation pursuant to its  
10 terms and amortize the new note with its terms."

11 Section 9. Section 33-2-832, MCA, is amended to read:  
12 \*33-2-832. Real estate. An insurer may invest in real  
13 estate only if used for the purposes or acquired in the  
14 manners and within the limits as follows:

15 (1) the land and the buildings thereon in which it has  
16 its principal office and such other real estate as shall be  
17 requisite for its convenient accommodation in the  
18 transaction of its business. Except with the consent of the  
19 commissioner, all such investments shall not aggregate more  
20 than 5% of the insurer's assets.

21 (2) real estate acquired in satisfaction of loans,  
22 mortgages, liens, judgments, decrees, or debts previously  
23 owing to the insurer in the course of its business;

24 (3) real estate acquired in part payment of the  
25 consideration on the sale of other real estate owned by it

1 if such transaction does not increase the insurer's  
2 investment in real estate;

3 (4) real estate acquired by gift or devise or through  
4 merger, consolidation, or bulk reinsurance of another  
5 insurer under this code;

6 (5) the seller's interest in real property subject to  
7 an agreement of purchase or sale. The sum invested in any  
8 such parcel of real estate shall not exceed 90% of the  
9 market value of such parcel provided the same consists of  
10 one- or two-family residential property and 80% of the  
11 market value of all other such parcels of real estate.

12 (6) real estate or any interest therein acquired or  
13 held by purchase, lease, or otherwise, other than real  
14 estate to be used primarily for agricultural, ranch, ~~mining,~~  
15 ~~development--of--oil--or--mineral--resources,~~ recreational,  
16 amusement, or club purposes, acquired as an investment for  
17 the production of income or acquired to be improved or  
18 developed for such investment purposes pursuant to an  
19 existing program therefor. The insurer may hold, improve,  
20 develop, maintain, manage, lease, sell, and convey real  
21 estate acquired by it under this provision. An insurer  
22 shall not, except with the commissioner's consent, have at  
23 any one time invested in real estate under this subsection  
24 an amount exceeding 5% ~~±5%~~ 10% of its assets.

25 (7) additional real estate and equipment incident to

1 real estate if necessary or convenient for the purpose of  
2 enhancing the sale or other value of real estate previously  
3 acquired or held by the insurer under subsections (2), (3),  
4 (4), or (6) of this section. Such real estate and equipment  
5 shall be included, together with the real estate for the  
6 enhancement of which it was acquired, for the purpose of  
7 applicable investment limits and shall be subject to  
8 disposal at the same time and under the same conditions as  
9 applying to such enhanced real estate under 33-2-841.

10 (8) except with the commissioner's consent, all real  
11 estate owned by the insurer under this section, except for  
12 real estate acquired according to subsection (2) and except  
13 as to seller's interest specified in subsection (5), shall  
14 not at any one time exceed ~~10%~~ 25% 15% of the insurer's  
15 assets."

16 SECTION 10. SECTION 33-3-201, MCA, IS AMENDED TO READ:

17 "33-3-201. Incorporation. (1) This section applies to  
18 stock and mutual insurers hereafter incorporated in this  
19 state.

20 (2) Five or more individuals, none of whom are less  
21 than 18 years of age, may incorporate a stock insurer. Ten  
22 or more of such individuals may incorporate a mutual  
23 insurer. At least a majority of the incorporators shall be  
24 citizens of the United States. At least a majority of the  
25 incorporators shall be residents of this state.

1 (3) The incorporators shall execute articles of  
 2 incorporation in quadruplicate and acknowledge their  
 3 execution thereof in the same manner as provided by law for  
 4 the acknowledgment of deeds. The articles of incorporation  
 5 shall state the purpose for which the corporation is formed  
 6 and shall show:

7 (a) the name of the corporation. If a mutual, the word  
 8 "mutual" must be a part of the name. An alternative name or  
 9 names may be specified for use in jurisdictions wherein  
 10 conflict of name with that of another insurer or  
 11 organization might otherwise prevent the corporation from  
 12 being authorized to transact insurance therein.

13 (b) the duration of its existence, which may be  
 14 perpetual;

15 (c) the kinds of insurance, as defined in this code,  
 16 which the corporation is formed to transact;

17 (d) if a stock corporation, its authorized capital  
 18 stock, and the number of shares of common stock into which  
 19 divided. These shares shall be issued as provided in  
 20 35-1-601, except that the par value of any class shall not  
 21 be less than \$1; the par value of each such share which par  
 22 value shall be at least \$1; shares without par value or  
 23 other than one class of voting common stock shall not be  
 24 authorized. The articles of incorporation may limit or deny  
 25 present or future stockholders preemptive or preferential

1 ~~rights to acquire additional issues of the stock or bonds,~~  
 2 ~~debentures, or other obligations convertible into stock of~~  
 3 ~~the corporation, subject to the laws of Montana, fixing the~~  
 4 ~~required representation and proportion of outstanding~~  
 5 ~~capital stock required to be represented and voted for~~  
 6 ~~specified action, at any and all corporate meetings,~~  
 7 ~~elections, votes, or consent proceedings.~~

8 (e) if a stock corporation, the extent, if any, to  
 9 which shares of its stock are subject to assessment;

10 (f) if a stock corporation, the number of shares  
 11 subscribed, if any, by each incorporator;

12 (g) if a mutual corporation, the maximum contingent  
 13 liability of its members, other than as to nonassessable  
 14 policies, for payment of losses and expenses incurred. Such  
 15 liability shall be stated in the articles of incorporation  
 16 but shall not be less than one or more than six times the  
 17 premium for the member's policy at the annual premium rate  
 18 for a term of 1 year.

19 (h) the minimum, not less than 5, and the maximum, not  
 20 more than 21, number of directors who shall constitute the  
 21 board of directors and conduct the affairs of the  
 22 corporation; also, the names, addresses, and terms of the  
 23 members of the initial board of directors. The term of  
 24 office of initial directors shall be for not more than 1  
 25 year after the date of incorporation.

1 (i) the name of the county, and the city, town, or  
 2 place within the county, in which its principal office or  
 3 principal place of business is to be located in this state;

4 (j) such other provisions, not inconsistent with law,  
 5 deemed appropriate by the incorporators;

6 (k) the name and residence address of each  
 7 incorporator and the citizenship of each incorporator who is  
 8 not a citizen of the United States."

9 Section 11. Section 33-3-431, MCA, is amended to read:

10 "33-3-431. Borrowed surplus. (1) A domestic stock or  
 11 mutual insurer may borrow money to defray the expenses of  
 12 its organization, provide it with surplus funds, or for any  
 13 purpose of its business, upon a written agreement that such  
 14 money is required to be repaid only out of the insurer's  
 15 surplus in excess of that stipulated in such agreement. The  
 16 agreement may provide for interest not exceeding ~~6%~~  
 17 ~~annum~~ the amount provided in 31-1-107, which interest shall  
 18 or shall not constitute a liability of the insurer as to its  
 19 funds other than such excess of surplus, as stipulated in  
 20 the agreement. No commission or promotion expense shall be  
 21 paid in connection with any such loan.

22 (2) Money so borrowed, together with the interest  
 23 thereon if so stipulated in the agreement, shall not form a  
 24 part of the insurer's legal liabilities except as to its  
 25 surplus in excess of the amount thereof stipulated in the

1 agreement or be the basis of any setoff; but until repaid,  
 2 financial statements filed or published by the insurer shall  
 3 show as a footnote thereto the amount thereof then unpaid  
 4 together with any interest thereon accrued but unpaid.

5 (3) Any such loan to a mutual insurer shall be subject  
 6 to the commissioner's approval. The insurer shall, in  
 7 advance of the loan, file with the commissioner a statement  
 8 of the purpose of the loan and a copy of the proposed loan  
 9 agreement. The loan and agreement shall be deemed approved  
 10 unless within 15 days after date of such filing the insurer  
 11 is notified of the commissioner's disapproval and the  
 12 reasons therefor. The commissioner shall disapprove any  
 13 proposed loan or agreement if he finds the loan is  
 14 unnecessary or excessive for the purpose intended or that  
 15 the terms of the loan agreement are not fair and equitable  
 16 to the parties, and to other similar lenders, if any, to the  
 17 insurer, or that the information so filed by the insurer is  
 18 inadequate.

19 (4) Any such loan to a mutual insurer or substantial  
 20 portion thereof shall be repaid by the insurer when no  
 21 longer reasonably necessary for the purpose originally  
 22 intended. No repayment of such loan shall be made by a  
 23 mutual insurer unless in advance approved by the  
 24 commissioner.

25 (5) This section shall not apply to loans obtained by

1 the insurer in ordinary course of business from banks and  
 2 other financial institutions or to loans secured by pledge  
 3 or mortgage of assets."

4 Section 12. Section 33-20-206, MCA, is amended to  
 5 read:

6 "33-20-206. Mortality tables -- policies issued after  
 7 operative date. (1) In the case of ordinary policies issued  
 8 on or after the operative date of this section as defined  
 9 herein, all adjusted premiums and present values referred to  
 10 in this part shall be calculated on the basis of the  
 11 commissioner's 1958 standard ordinary mortality table and  
 12 the rate of interest specified in the policy for calculating  
 13 cash surrender values and paid-up nonforfeiture benefits,  
 14 provided that:

15 (a) such rate of interest shall not exceed 3 1/2% per  
 16 annum, except that a rate of interest not exceeding 4% per  
 17 annum may be used for policies issued on or after March 17,  
 18 1973, and prior to July 1, 1979, and a rate of interest not  
 19 exceeding 5 1/2% a year may be used for policies issued on  
 20 or after July 1, 1979, and a rate of interest not exceeding  
 21 6 1/2% a year may be used for single premium life insurance  
 22 policies issued on or after July 1, 1981;

23 (b) for any category of ordinary insurance issued on  
 24 female risks, adjusted premiums and present values may be  
 25 calculated according to an age not more than 6 years younger

1 than the actual age of the insured;

2 (c) in calculating the present value of any paid-up  
 3 term insurance with accompanying pure endowment, if any,  
 4 offered as a nonforfeiture benefit, the rates of mortality  
 5 assumed may be not more than those shown in the  
 6 commissioner's 1958 extended term insurance table;

7 (d) for insurance issued on a substandard basis, the  
 8 calculation of any such adjusted premiums and present values  
 9 may be based on such other table of mortality as may be  
 10 specified by the company and approved by the commissioner.

11 (2) After July 1, 1961, any insurer may file with the  
 12 commissioner a written notice of its election to comply with  
 13 the provisions of this section after a specified date before  
 14 January 1, 1966. After the filing of such notice, then upon  
 15 such specified date (which shall be the operative date of  
 16 this section for such insurer), this section shall become  
 17 operative with respect to the ordinary policies thereafter  
 18 issued by such insurer. If an insurer makes no such  
 19 election, the operative date of this section for such  
 20 insurer shall be January 1, 1966."

21 Section 13. Effective date. This act is effective on  
 22 passage and approval.

-End-



## HOUSE BILL NO. 448

INTRODUCED BY NORDTVEDT, VINCENT, WALLIN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE ASSET-LIABILITY-RESERVE-INTEREST, DEPOSIT, AND INVESTMENT REQUIREMENTS RELATING TO INSURANCE COMPANIES; AMENDING SECTIONS 33-2-501, 33-2-502, 33-2-523, SECTION 33-2-531, 33-2-532, 33-2-611, 33-2-821, 33-2-822, 33-2-830, 33-2-832, 33-3-201, 33-3-431, AND 33-20-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1, Section 33-2-501, MCA, is amended to read:

"33-2-501. Assets allowed. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) cash in the possession of the insurer or in transit under its control and including the true balance of any deposit in a solvent bank or trust company;

(2) investments, securities, properties, and loans acquired or held in accordance with this code and in connection therewith the following items:

(a) interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued

on a basis including accrued interest;

(b) declared and unpaid dividends on stock and shares unless such amount has otherwise been allowed as an asset;

(c) interest due or accrued upon a collateral loan in an amount not to exceed 1 year's interest thereon;

(d) interest due or accrued on deposits in solvent banks and trust companies and interest due or accrued on other assets if such interest is in the judgment of the commissioner a collectable asset;

(e) interest due or accrued on a mortgage loan in an amount not exceeding in any event the amount, if any, of the excess of the value of the property, less delinquent taxes thereon over the unpaid principal, in no event shall interest accrued for a period in excess of 18 months be allowed as an asset;

(f) rent due or accrued on real property if such rent is not in arrears for more than 3 months and rent more than 3 months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral;

(g) the unaccrued portion of taxes paid prior to the due date on real property;

(3) premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest

1 thereon in an amount not exceeding the legal reserve and  
 2 other policy liabilities carried on each individual policy;  
 3 (4) the net amount of uncollected and deferred  
 4 premiums and annuity considerations in the case of a life  
 5 insurer;  
 6 (5) premiums in the course of collection, other than  
 7 for life insurance, not more than 3 months past due, less  
 8 commissions payable thereon. The foregoing limitation shall  
 9 not apply to premiums payable directly or indirectly by the  
 10 United States government or by any of its instrumentalities;  
 11 (6) installment premiums other than life insurance  
 12 premiums to the extent of the unearned premium reserve  
 13 carried on the policy to which premiums apply;  
 14 (7) notes and like written obligations not past due,  
 15 taken for premiums other than life insurance premiums, on  
 16 policies permitted to be issued on such basis, to the extent  
 17 of the unearned premium reserves carried thereon;  
 18 (8) the full amount of reinsurance recoverable by a  
 19 ceding insurer from a solvent reinsurer and which  
 20 reinsurance is authorized under 33-2-1205;  
 21 (9) amounts receivable by an assuming insurer  
 22 representing funds withheld by a solvent ceding insurer  
 23 under a reinsurance treaty;  
 24 (10) deposits or equities recoverable from underwriting  
 25 associations, syndicates, and reinsurance funds or from any

1 suspended banking institution, to the extent deemed by the  
 2 commissioner available for the payment of losses and claims  
 3 and at values to be determined by him;  
 4 (11) electronic data processing equipment if the cost  
 5 of such equipment is at least \$100,000, which cost shall be  
 6 amortized in full over a period of not to exceed 10 calendar  
 7 years. However, with regard to life insurers, such equipment  
 8 shall be allowed as an asset if the cost of such equipment  
 9 is at least \$25,000, which cost shall be amortized in full  
 10 over a period of not to exceed 5 calendar years, and the  
 11 amount of such asset allowed may not exceed 1% of the total  
 12 of the other allowable assets of the insurer, machines  
 13 constituting a data processing system or systems, office  
 14 equipment, furniture, and motor vehicles, together with such  
 15 other property, machines, and equipment as may be approved  
 16 by the commissioner, purchased before or after [the  
 17 effective date of this act], for use in connection with the  
 18 transaction of the business of an insurance company, to the  
 19 extent that the value of all such property, depreciated over  
 20 its useful life not exceeding 10 years, in accordance with  
 21 standard accounting procedures, constitutes not more than 1%  
 22 of its admitted assets;  
 23 (12) all assets, whether or not consistent with the  
 24 provisions of this section, as may be allowed pursuant to  
 25 the annual statement form approved by the commissioner for

1 the kinds of insurance to be reported upon therein;  
 2 (13) other assets, not inconsistent with the provisions  
 3 of this section, deemed by the commissioner to be available  
 4 for the payment of losses and claims, at values to be  
 5 determined by him;"

6 Section 1. Section 33-2-502, MCA, is amended to read  
 7 "33-2-502. Assets expressly not allowed. In addition  
 8 to assets impliedly excluded by the provisions of 33-2-501,  
 9 the following expressly shall not be allowed as assets in  
 10 any determination of the financial condition of an insurer:  
 11 (1) goodwill, trade names, and other like intangible  
 12 assets of such insurer;  
 13 (2) advances to officers (other than policy loans),  
 14 whether secured or not, and advances to employees, agents,  
 15 and other persons on personal security only;  
 16 (3) stock of such insurer, owned by it, or any equity  
 17 therein, or loans secured thereby, or any proportionate  
 18 interest in such stock, acquired or held through the  
 19 ownership by such insurer of an interest in another firm,  
 20 corporation, or business unit;  
 21 (4) furniture, fixtures (other than electronic data  
 22 processing machines authorized under 33-2-501(1)),  
 23 furnishings, safes, vehicles, libraries, stationery,  
 24 literature, and supplies (other than as authorized under  
 25 33-2-501(1)), except:

1 (a) in the case of title insurers, such materials and  
 2 plants as the insurer is expressly authorized to invest in  
 3 under 33-2-851; and  
 4 (b) in the case of any insurer, such personal property  
 5 as the insurer is permitted to hold pursuant to part 8 of  
 6 this chapter or which is acquired through foreclosure of  
 7 chattel mortgages acquired pursuant to 33-2-831 or which is  
 8 reasonably necessary for the maintenance and operation of  
 9 real estate lawfully acquired and held by the insurer, other  
 10 than real estate used by it for home office, branch office,  
 11 and similar purposes;

12 (5) the amount, if any, by which the aggregate book  
 13 value of investments as carried in the ledger assets of the  
 14 insurer exceeds the aggregate value thereof as determined  
 15 under this code."

16 Section 2. Section 33-2-523, MCA, is amended to read  
 17 "33-2-523. Contracts on or after the operative date of  
 18 33-20-213. Valuations. (1) This section shall apply to  
 19 only those policies and contracts issued on or after the  
 20 operative date of 33-20-213, except as otherwise provided in  
 21 33-2-524 for group annuity and pure endowment contracts  
 22 issued prior to that date.  
 23 (2) Except as otherwise provided in 33-2-524, the  
 24 minimum standard for the valuation of all such policies and  
 25 contracts shall be the commissioner's reserve valuation

1 methods defined in 33-2-525 and 32-2-526(3) v 5% interest for  
 2 group annuity and pure endowment contracts and 3 1/2%  
 3 interest for all other such policies and contracts or in the  
 4 case of policies and contracts other than annuity and pure  
 5 endowment contracts issued on or after March 17, 1973 v 4%  
 6 interest for such policies issued prior to July 1, 1979 and  
 7 4 1/2% interest for such policies issued on or after July 1,  
 8 1979 and 5 1/2% interest for single premium life insurance  
 9 policies issued on or after July 1, 1981 and the following  
 10 tables:

11 (a) for all ordinary policies of life insurance issued  
 12 on the standard basis excluding any disability and  
 13 accidental death benefits in such policies the  
 14 commissioner's 1941 standard ordinary mortality table for  
 15 such policies issued prior to the operative date of  
 16 33-20-206, as amended, and the commissioner's 1958 standard  
 17 ordinary mortality table for such policies issued on or  
 18 after that operative date except that for any category of  
 19 such policies issued on female risks modified net premiums  
 20 and present values referred to in 33-2-525 and 33-2-526  
 21 may be calculated at the option of the insurer with the  
 22 approval of the commissioner according to an age younger  
 23 than the actual age of the insured;

24 (b) for all industrial life insurance policies issued  
 25 on the standard basis excluding any disability and

1 accidental death benefits in such policies the 1941  
 2 standard industrial mortality table for such policies issued  
 3 prior to the operative date of 33-20-207, as amended, and  
 4 the commissioner's 1961 standard industrial mortality table  
 5 for such policies issued on or after that operative date;

6 (c) for individual annuity and pure endowment  
 7 contracts excluding any disability and accidental death  
 8 benefits in such policies the 1937 standard annuity  
 9 mortality table or at the option of the insurer the  
 10 annuity mortality table for 1949, ultimate or any  
 11 modification of either of these tables approved by the  
 12 commissioner;

13 (d) for group annuity and pure endowment contracts  
 14 excluding any disability and accidental death benefits in  
 15 such policies the group annuity mortality table for 1951  
 16 any modification of such table approved by the commissioner  
 17 or at the option of the insurer any of the tables or  
 18 modifications of tables specified for individual annuity and  
 19 pure endowment contracts;

20 (e) (i) for total and permanent disability benefits in  
 21 or supplementary to ordinary policies or contracts;

22 (f) for policies or contracts issued on or after  
 23 January 1, 1966 the tables of period 2 disablement rates  
 24 and the 1930 to 1950 termination rates of the 1952  
 25 disability study of the society of actuaries with due

1 regard to the type of benefit†  
 2 (B) for policies or contracts issued on or after  
 3 January 1, 1961, and prior to January 1, 1966, either such  
 4 tables or, at the option of the insurer, the class 3  
 5 disability table (1926)† and  
 6 (E) for policies issued prior to January 1, 1961, the  
 7 class 3 disability table (1926)†  
 8 (i) any such table shall, for active lives, be  
 9 combined with a mortality table permitted for calculating  
 10 the reserves for life insurance policies†  
 11 (f) (i) for accidental death benefits in or  
 12 supplementary to policies†  
 13 (A) for policies issued on or after January 1, 1966  
 14 the 1959 accidental death benefits table†  
 15 (B) for policies issued on or after January 1, 1961,  
 16 and prior to January 1, 1966, either such table or, at the  
 17 option of the insurer, the intercompany double indemnity  
 18 mortality table† and  
 19 (E) for policies issued prior to January 1, 1961, the  
 20 intercompany double indemnity mortality table†  
 21 (i) either table shall be combined with a mortality  
 22 table permitted for calculating the reserves for life  
 23 insurance policies†  
 24 (g) for group life insurance, life insurance issued on  
 25 the substandard basis and other special benefits, such

1 tables as may be approved by the commissioner.†  
 2 Section 1. Section 33-2-531, MCA, is amended to read:  
 3 "33-2-531. Deposit of reserves -- domestic life  
 4 insurers. (1) Domestic life insurers shall deposit and  
 5 maintain on deposit, in securities and assets, with  
 6 depositories and subject to conditions as provided for in  
 7 part 6 of this chapter, an amount not less than the reserves  
 8 on its outstanding life insurance policies and annuity  
 9 contracts, as valued under 33-2-521 through 33-2-526.  
 10 (2) Annually on or before April 1, the insurer shall  
 11 so deposit any additional such securities required under  
 12 subsection (1) and related to the increase of such reserves  
 13 during the calendar year next preceding, as determined from  
 14 the insurer's annual statement as at December 31 of such  
 15 preceding year.  
 16 (3) A domestic stock life insurer may credit toward  
 17 such deposit the amount of any other deposit of the insurer  
 18 held under part 6 of this chapter for the protection of its  
 19 policyholders or of its policyholders and creditors.  
 20 (4) Deposits of the reserves of a domestic life  
 21 insurer under this section shall consist of securities and  
 22 assets acquired and valued in accordance with part parts 5  
 23 and 8 of this chapter, ~~except that securities acquired under~~  
 24 ~~33-2-829 are not eligible for deposit.~~  
 25 (5) Real estate mortgage loans, chattel mortgage

1 loans, and policy loans may be made a part of the deposit by  
 2 filing a verified statement of the loans with the  
 3 commissioner, which statement shall be subject to audit at  
 4 all times by the commissioner. Nonnegotiable securities  
 5 where deposited with the commissioner shall be accompanied  
 6 by transfer powers in due form. If the insurer uses real  
 7 estate acquired under 33-2-832 as a deposit, then a deed of  
 8 trust, mortgage, or other instrument sufficient to convey a  
 9 security interest in such real estate, in a form acceptable  
 10 to the commissioner, shall be completed in due form and  
 11 recorded prior to being deposited with the commissioner.

12 (6) If default occurs in the payment of interest or  
 13 principal of any deposited security and such default  
 14 continues for a period of 120 days, the commissioner may  
 15 declare such security no longer eligible for deposit under  
 16 this section."

17 Section 4, Section 33-2-532, MEA, is amended to read:  
 18 "33-2-532. Valuation of bonds, debt securities,  
 19 (i)-(a) All bonds or other evidences of debt having a fixed  
 20 term and rate of interest held by an insurer may, if empty  
 21 secured to the extent required by this code and not in  
 22 default as to the payment of principal or interest, be  
 23 valued as follows:

24 (i) if purchased at par or at an amount equal to the  
 25 remaining unpaid principal balance, at the par value or the

1 ~~remaining unpaid principal balance together with accrued~~  
 2 ~~interest~~

3 ~~(ii) if purchased above or below par on the basis of~~  
 4 ~~the purchase price adjusted so as to bring the value to par~~  
 5 ~~at maturity and so as to yield in the meantime the effective~~  
 6 ~~rate of interest at which the purchase was made or in lieu~~  
 7 ~~of such method, according to such accepted method of~~  
 8 ~~valuation as is approved by the commissioner.~~

9 ~~(b) Purchase if purchased, the purchase price shall in~~  
 10 ~~no case be taken at a higher figure than the actual market~~  
 11 ~~value at the time of purchase, plus actual brokerage,~~  
 12 ~~transfer, postage or express charges paid in the~~  
 13 ~~acquisition of such securities.~~

14 ~~(c) Unless otherwise provided by valuation established~~  
 15 ~~or approved by the commissioner, no such security shall be~~  
 16 ~~carried at above the call price for the entire issue during~~  
 17 ~~any period within which the security may be so called.~~

18 ~~(d) No provision of this subsection prohibits an~~  
 19 ~~insurer from valuing bonds or other evidences of debt~~  
 20 ~~acquired in a bona fide exchange or pursuant to the~~  
 21 ~~provisions of 33-2-803(3) at the values established by the~~  
 22 ~~terms of the transaction. Assets acquired in any 1 year by~~  
 23 ~~exchange and valued in accordance with the provisions of~~  
 24 ~~this subsection (i)(d) may not exceed 2% of the insurer's~~  
 25 ~~total admitted assets at the end of such year, except with~~

1 ~~the consent of the commissioner. Any value so established~~  
 2 ~~for any such debt security being acquired by the insurer may~~  
 3 ~~not exceed the greater of the market value, call price, par~~  
 4 ~~value, or remaining unpaid principal balance, together with~~  
 5 ~~accrued interest, in addition, the value of the asset or~~  
 6 ~~assets being acquired by the insurer in an exchange~~  
 7 ~~agreement may not exceed the cost of the asset or assets~~  
 8 ~~given by the insurer in the exchange, adjusted appropriately~~  
 9 ~~for accrual of discount or amortization of premiums in~~  
 10 ~~excess of par regarding bonds and for payments received in~~  
 11 ~~reduction of principal regarding mortgage loans or similar~~  
 12 ~~installment obligations.~~

13 (2) ~~The commissioner shall have full discretion in~~  
 14 ~~determining the method of calculating values according to~~  
 15 ~~the rules set forth in this section.~~

16 Section 5, Section 33-2-611, MGA, is amended to read:

17 "33-2-611. Deficiency of deposit. -- Revocation of  
 18 certificate. -- If for any reason Except as to the deposit of  
 19 reserves of domestic life insurers pursuant to 33-2-531, if  
 20 the market value of assets and securities of an insurer held  
 21 on deposit in this state or in another state under custodial  
 22 arrangements authorized by 33-2-604(3) falls below the  
 23 amount required under this code to be so held, the insurer  
 24 shall promptly deposit other or additional assets or  
 25 securities eligible for deposit under this part and in

1 amount sufficient to cure such deficiency, if the insurer  
 2 has failed to cure the deficiency within 20 ~~30~~ days after  
 3 receipt of notice thereof by registered or certified mail  
 4 from the commissioner, the commissioner shall may in his  
 5 discretion, forthwith, revoke suspend the insurer's  
 6 certificate of authority until the deficiency is cured, and  
 7 may revoke the certificate of authority after a hearing  
 8 thereon pursuant to 33-2-119(1), if the deficiency is not  
 9 cured within 1 year."

10 Section 6, Section 33-2-821, MGA, is amended to read:

11 "33-2-821. Insurance -- stocks. -- (1) An insurer may  
 12 invest in the stocks of other solvent insurers formed under  
 13 the laws of this or another state, which stocks meet the  
 14 applicable requirements of 33-2-819 and 33-2-820.

15 (2) With the commissioner's consent, an insurer may  
 16 acquire and hold the controlling interest in the outstanding  
 17 voting stock of another stock insurer formed under the laws  
 18 of this or another state. All stocks under this subsection  
 19 shall be subject to the limitation as to amount as provided  
 20 in 33-2-822."

21 Section 7, Section 33-2-822, MGA, is amended to read:

22 "33-2-822. Stocks -- of -- subsidiaries. -- With the  
 23 commissioner's consent, an insurer may invest in the stock  
 24 of its subsidiary insurance corporation or in the stock of  
 25 one or more of its subsidiary business corporation formed

1 under the laws of this state and ~~corporations~~ necessary and  
 2 or incidental to the convenient operation of the insurers  
 3 insurance business or to the administration of any of its  
 4 investments. All of the insurers' investments under this  
 5 section shall not at any time exceed 10% of the investing  
 6 insurer's assets. For the purposes of this section, a  
 7 "subsidiary" is a corporation of which the insurer owns a  
 8 majority of the outstanding shares of all voting stock."

9 Section 8. Section 33-2-830, MEA, is amended to read  
 10 "33-2-830. Real estate mortgages. (1) An insurer may  
 11 invest any of its funds in bonds, notes, or other evidences  
 12 of indebtedness which are secured by first mortgages or  
 13 deeds of trust upon improved real property located in the  
 14 United States or Canada or which are secured by first  
 15 mortgages or deeds of trust upon leasehold estates having an  
 16 unexpired term of not less than 21 years, inclusive of the  
 17 term or terms which may be provided by enforceable options  
 18 of renewal in improved real property located in the United  
 19 States or Canada. In all cases the security for the loan  
 20 must be a first lien upon such real property, and there must  
 21 not be any condition or right of reentry or forfeiture not  
 22 insured against, under which, in the case of real property  
 23 other than leaseholds, such lien can be cut off or  
 24 subordinated or otherwise disturbed or under which, in the  
 25 case of leaseholds, the insurer is unable to continue the

1 lease in force for the duration of the loans. Nothing herein  
 2 shall prohibit any investment by reason of the existence of  
 3 any prior lien for ground rents, taxes, assessments, or  
 4 other similar charges not yet delinquent. This section shall  
 5 not be deemed to prohibit investment in mortgages or similar  
 6 obligations when made under 33-2-828.

7 (2) "Improved real estate" means all farm lands used  
 8 for tillage, crop, pasture, or timberlands and all real  
 9 estate on which permanent improvements suitable for  
 10 residential, institutional, commercial, or industrial use  
 11 are situated.

12 (3) (a) No such mortgage loan or loans made or  
 13 acquired by an insurer on any one property shall at the  
 14 time of investment by the insurer exceed the larger of the  
 15 following amounts as applicable:

16 (i) 80% of the value of the real property or leasehold  
 17 securing the same, provided, however, if said real property  
 18 or leasehold consists of one or two family residential  
 19 property, 90% of said value;

20 (ii) the amount of any insurance or guaranty of such  
 21 loan by the United States of America or by any agency or  
 22 instrumentality thereof;

23 (iii) the amounts provided in subsection (i) herein  
 24 plus the amount by which the excess of such loan over such  
 25 amount is insured or guaranteed by the United States of



1 America or by any agency or instrumentality thereof.

2 (b) In the case of a purchase money mortgage given to

3 secure the purchase price of real estate sold by the

4 insurer, the amount so loaned or invested shall not exceed

5 the unpaid portion of the purchase price.

6 (4) No such mortgage loan or loans shall be made or

7 acquired by an insurer except after an appraisal made by a

8 qualified appraiser for the purpose of such investment.

9 (5) No such mortgage loan made or acquired by an

10 insurer which is a participation or a part of a series or

11 issue secured by the same mortgage or deed of trust shall be

12 a lawful investment under this section unless the entire

13 series or issue which is secured by the same mortgage or

14 deed of trust is held by such insurer or unless the insurer

15 holds a senior participation in such mortgage or deed of

16 trust giving it substantially the rights of a first

17 mortgagee.

18 (6) (5) No mortgage loan upon a leasehold shall be made

19 or acquired pursuant to this section unless the terms

20 thereof shall provide for amortization payments to be made

21 by the borrower on the principal thereof at least once in

22 each year in amounts sufficient completely to amortize the

23 loan within a period of four-fifths of the term of the

24 leasehold, inclusive of the term which may be provided by an

25 enforceable option of renewal, which is unexpired at the

1 time the loan is made, but in no event exceeding 35 years.

2 (6) An insurer may invest in a note secured by a new

3 first mortgage deed of trust or trust indenture upon

4 improved real property when the real property secures an

5 existing first mortgage deed of trust or trust indenture

6 on which the remaining principal balance due and owing is

7 less than 40% of the current appraised value. The regular

8 periodic payment on the new note shall be in a frequency and

9 of a sufficient amount that with upon payment of each

10 installment pay the original obligation pursuant to its

11 terms and amortize the new note with its terms.

12 Section 9, Section 33-2-832, MCA, is amended to read:

13 "33-2-832. Real estate. An insurer may invest in real

14 estate only if used for the purposes or acquired in the

15 manners and within the limits as follows:

16 (1) the land and the buildings thereon in which it has

17 its principal office and such other real estate as shall be

18 requisite for its convenient accommodation in the

19 transaction of its business. Except with the consent of the

20 commissioner, all such investments shall not aggregate more

21 than 5% of the insurer's assets.

22 (2) real estate acquired in satisfaction of loans,

23 mortgages, liens, judgments, decrees, or debts previously

24 owing to the insurer in the course of its business;

25 (3) real estate acquired in part payment of the

1 consideration on the sale of other real estate owned by it  
 2 if such transaction does not increase the insurer's  
 3 investment in real estate;  
 4 (4) real estate acquired by gift or devise or through  
 5 merger, consolidation, or bulk reinsurance of another  
 6 insurer under this code;  
 7 (5) the seller's interest in real property subject to  
 8 an agreement of purchase or sale. The sum invested in any  
 9 such parcel of real estate shall not exceed 90% of the  
 10 market value of such parcel provided the same consists of  
 11 one or two family residential property and 80% of the  
 12 market value of all other such parcels of real estate;  
 13 (6) real estate or any interest therein acquired or  
 14 held by purchase, lease, or otherwise, other than real  
 15 estate to be used primarily for agricultural, ranch, mining,  
 16 development of oil or mineral resources, recreational,  
 17 amusement, or club purposes, acquired as an investment for  
 18 the production of income or acquired to be improved or  
 19 developed for such investment purposes pursuant to an  
 20 existing program; therefore, the insurer may hold, improve,  
 21 develop, maintain, manage, lease, sell, and convey real  
 22 estate acquired by it under this provision. An insurer  
 23 shall not, except with the commissioner's consent, have at  
 24 any one time invested in real estate under this subsection  
 25 an amount exceeding 5% ~~15% 10%~~ of its assets;

1 (7) additional real estate and equipment incident to  
 2 real estate if necessary or convenient for the purpose of  
 3 enhancing the sale or other value of real estate previously  
 4 acquired or held by the insurer under subsections (2), (3),  
 5 (4), or (6) of this section. Such real estate and equipment  
 6 shall be included, together with the real estate for the  
 7 enhancement of which it was acquired, for the purpose of  
 8 applicable investment limits and shall be subject to  
 9 disposal at the same time and under the same conditions as  
 10 applying to such enhanced real estate under 33-2-84;  
 11 (8) except with the commissioner's consent, all real  
 12 estate owned by the insurer under this section, except for  
 13 real estate acquired according to subsection (2) and except  
 14 as to seller's interest specified in subsection (5), shall  
 15 not at any one time exceed 10% ~~25% 15%~~ of the insurer's  
 16 assets;"

17 SECTION 10 - SECTION 33-3-201, MEA, IS AMENDED TO READ:  
 18 "33-3-201. Incorporation. (1) This section applies to  
 19 stock and mutual insurers hereafter incorporated in this  
 20 state.  
 21 (2) Five or more individuals, none of whom are less  
 22 than 18 years of age, may incorporate a stock insurer, ten  
 23 or more of such individuals may incorporate a mutual  
 24 insurer. At least a majority of the incorporators shall be  
 25 citizens of the United States. At least a majority of the

1 incorporators shall be residents of this state.

2 (3) The incorporators shall execute articles of

3 incorporation in quadruplicate and acknowledge their

4 execution thereof in the same manner as provided by law for

5 the acknowledgment of deeds. The articles of incorporation

6 shall state the purpose for which the corporation is formed

7 and shall show:

8 (a) the name of the corporation. If a mutual, the word

9 "mutual" must be a part of the name. An alternative name or

10 names may be specified for use in jurisdictions wherein

11 conflict of name with that of another insurer or

12 organization might otherwise prevent the corporation from

13 being authorized to transact insurance therein.

14 (b) the duration of its existence, which may be

15 perpetual;

16 (c) the kinds of insurance as defined in this code

17 which the corporation is formed to transact;

18 (d) if a stock corporation, its authorized capital

19 stock and the number of shares of common stock into which

20 divided. These shares shall be issued as provided in

21 35-1-601, except that the par value of any class shall not

22 be less than \$1; the par value of each such share, which par

23 value shall be at least \$1, shares without par value or

24 other than one class of voting common stock shall not be

25 authorized. The articles of incorporation may limit or deny

1 present or future stockholders, preemptive or preferential

2 rights to acquire additional issues of the stock or bonds,

3 debentures or other obligations convertible into stock, of

4 the corporation, subject to the laws of Montana fixing the

5 required representation and proportion of outstanding

6 capital stock required to be represented and voted, for

7 specified actions, at any and all corporate meetings,

8 elections, votes or consent proceedings.

9 (e) if a stock corporation, the extent, if any, to

10 which shares of its stock are subject to assessment;

11 (f) if a stock corporation, the number of shares

12 subscribed, if any, by each incorporator;

13 (g) if a mutual corporation, the maximum contingent

14 liability of its members, other than as to nonassessable

15 policies, for payment of losses and expenses incurred, such

16 liability shall be stated in the articles of incorporation

17 but shall not be less than one or more than six times the

18 premium for the member's policy at the annual premium rate

19 for a term of 1 year;

20 (h) the minimum, not less than 5, and the maximum, not

21 more than 21, number of directors who shall constitute the

22 board of directors and conduct the affairs of the

23 corporation; also, the names, addresses and terms of the

24 members of the initial board of directors. The term of

25 office of initial directors shall be for not more than 1

1 year after the date of incorporation.

2 (i) the name of the county and the city, town, or  
3 place within the county in which its principal office or  
4 principal place of business is to be located in this state;

5 (j) such other provisions not inconsistent with laws  
6 deemed appropriate by the incorporators;

7 (k) the name and residence address of each  
8 incorporator and the citizenship of each incorporator who is  
9 not a citizen of the United States.

10 Section 11, Section 33-3-431, MCA, is amended to read:

11 "33-3-431. Borrowed surplus. (i) A domestic stock or  
12 mutual insurer may borrow money to defray the expenses of  
13 its organization, provide it with surplus funds, or for any  
14 purpose of its business, upon a written agreement that such  
15 money is required to be repaid only out of the insurer's  
16 surplus in excess of that stipulated in such agreement. The  
17 agreement may provide for interest not exceeding 6% per  
18 annum the amount provided in 31-1-107 which interest shall  
19 or shall not constitute a liability of the insurer as to its  
20 funds other than such excess of surplus as stipulated in  
21 the agreement. No commission or promotion expense shall be  
22 paid in connection with any such loan.

23 (2) Money so borrowed, together with the interest  
24 thereon if so stipulated in the agreement, shall not form a  
25 part of the insurer's legal liabilities except as to its

1 surplus in excess of the amount thereof stipulated in the  
2 agreement or be the basis of any setoff but until repaid,  
3 financial statements filed or published by the insurer shall  
4 show as a footnote thereto the amount thereof then unpaid  
5 together with any interest thereon accrued but unpaid.

6 (3) Any such loan to a mutual insurer shall be subject  
7 to the commissioner's approval. The insurer shall, in  
8 advance of the loan, file with the commissioner a statement  
9 of the purpose of the loan and a copy of the proposed loan  
10 agreement. The loan and agreement shall be deemed approved  
11 unless within 15 days after date of such filing the insurer  
12 is notified of the commissioner's disapproval and the  
13 reasons therefor. The commissioner shall disapprove any  
14 proposed loan or agreement if he finds the loan is  
15 unnecessary or excessive for the purpose intended or that  
16 the terms of the loan agreement are not fair and equitable  
17 to the parties and to other similar lenders, if any, to the  
18 insurer, or that the information so filed by the insurer is  
19 inadequate.

20 (4) Any such loan to a mutual insurer or substantial  
21 portion thereof shall be repaid by the insurer when no  
22 longer reasonably necessary for the purpose originally  
23 intended. No repayment of such loan shall be made by a  
24 mutual insurer unless in advance approved by the  
25 commissioner.

1 (f) This section shall not apply to loans obtained by  
 2 the insurer in ordinary course of business from banks and  
 3 other financial institutions or to loans secured by pledge  
 4 or mortgage of assets."

5 Section 12, Section 33-20-206, MCA, is amended to  
 6 read:

7 "33-20-206. Mortality tables. Policies issued after  
 8 operative date. (1) In the case of ordinary policies issued  
 9 on or after the operative date of this section as defined  
 10 herein, all adjusted premiums and present values referred to  
 11 in this part shall be calculated on the basis of the  
 12 commissioner's 1958 standard ordinary mortality table and  
 13 the rate of interest specified in the policy for calculating  
 14 cash surrender values and paid-up nonforfeiture benefits,  
 15 provided that:

16 (a) such rate of interest shall not exceed 3 1/2% per  
 17 annum, except that a rate of interest not exceeding 4% per  
 18 annum may be used for policies issued on or after March 17,  
 19 1973, and prior to July 1, 1979, and a rate of interest not  
 20 exceeding 5 1/2% a year may be used for policies issued on  
 21 or after July 1, 1979, and a rate of interest not exceeding  
 22 6 1/2% a year may be used for single premium life insurance  
 23 policies issued on or after July 1, 1981;

24 (b) for any category of ordinary insurance issued on  
 25 female risks, adjusted premiums and present values may be

1 calculated according to an age not more than 6 years younger  
 2 than the actual age of the insured;

3 (c) in calculating the present value of any paid-up  
 4 term insurance with accompanying pure endowment, if any  
 5 offered as a nonforfeiture benefit, the rates of mortality  
 6 assumed may be not more than those shown in the  
 7 commissioner's 1958 extended term insurance table;

8 (d) for insurance issued on a substandard basis, the  
 9 calculation of any such adjusted premiums and present values  
 10 may be based on such other table of mortality as may be  
 11 specified by the company and approved by the commissioner;

12 (2) After July 1, 1961, any insurer may file with the  
 13 commissioner a written notice of its election to comply with  
 14 the provisions of this section after a specified date before  
 15 January 1, 1966. After the filing of such notice, then upon  
 16 such specified date (which shall be the operative date of  
 17 this section for such insurer), this section shall become  
 18 operative with respect to the ordinary policies thereafter  
 19 issued by such insurer. If an insurer makes no such  
 20 election, the operative date of this section for such  
 21 insurer shall be January 1, 1966."

22 Section 2. Effective date. This act is effective on  
 23 passage and approval.

-End-

March 26, 1981

SENATE STANDING COMMITTEE REPORT  
(Business and Industry)

That House Bill No. 448 be amended as follows:

1. Title, line 5.

Following: line 4

Strike: "ASSET, LIABILITY, RESERVE, INTEREST,"

Following: "DEPOSIT"

Strike: ", AND INVESTMENT"

2. Title, line 7.

Following: line 6

Strike: "SECTIONS 33-2-501, 33-2-502, 33-2-523,"

Insert: "SECTION"

Following: "33-2-531,"

Strike: "33-2-532,"

3. Title, lines 8 and 9.

Following: line 7

Strike: all of line 8 through "33-20-206, " on line 9

4. Page 5, line 6 through line 1 on page 10.

Strike: Sections 1 and 2 in their entirety.

Re-number: subsequent sections

5. Page 11, line 17 through line 20 on page 26.

Strike: sections 4 through 12 in their entirety.

Re-number: subsequent sections