HOUSE BILL NO. 72

INTRODUCED BY KITSELMAN

IN THE HOUSE

| January 7, 1985 | Introduced and referred to Committee on Business and Labor. |
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| January 19, 1985 | Committee recommend bill do pass as amended. Report adopted. |
| | Bill printed and placed on members' desks. |
| January 22, 1985 | Second reading, do pass. |
| | Considered correctly engrossed. |
| January 23, 1985 | Third reading, passed. |
| | Transmitted to Senate. |
| IN THE | SENATE |
| January 24, 1985 | Introduced and referred to Committee on Business and Industry. |
| March 5, 1985 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 6, 1985 | On motion, taken from second reading and placed on second reading on the 50th Legislative Day. Motion adopted. |
| March 8, 1985 | Second reading, concurred in. |
| March 11, 1985 | Third reading, concurred in. Ayes, 37; Noes, 12. |
| | Returned to House with amendments. |

IN THE HOUSE

March 12, 1985

Received from Senate.

March 15, 1985

Second reading, amendments

concurred in.

March 18, 1985

Third reading, amendments

concurred in.

Sent to enrolling.

Reported correctly enrolled.

| 1 | HOUSE BILL NO. /2 |
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| 2 | INTRODUCED BY KITSELMAN |
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| 4 | A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE |
| 5 | REGULATION OF INTEREST RATES ON LIFE INSURANCE POLICY LOANS; |
| 6 | AMENDING SECTION 33-20-112, MCA." |
| 7 | |
| 8 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: |
| 9 | NEW SECTION. Section 1. Purpose. The purpose of |
| 10 | [sections 1 through 5] is to permit and set guidelines for |
| 11 | life insurers to include in life insurance policies issued |
| 12 | after October 1, 1985, a provision for periodic adjustment |
| 13 | of policy loan interest rates. |
| 14 | NEW SECTION. Section 2. Exclusions from application. |
| 15 | The provisions of [sections 1 through 5] do not apply to: |
| 16 | (1) term policies; |
| 17 | (2) term insurance benefits provided by rider or |
| 18 | supplemental policy provisions; or |
| 19 | (3) industrial life insurance policies except as |
| 20 | provided in 33-20-112. |
| 21 | NEW SECTION. Section 3. Published monthly average |
| 22 | defined. For purposes of {sections 1 through 5}, the |
| 23 | "published monthly average" means: |
| 24 | (1) Moody's corporate bond yield averagemonthly |
| 25 | average corporates, as published by Moody's investors |

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service, incorporated; or 2) in the event that Moody's corporate bond yield e--monthly average corporates is no longer published, tantially similar average, established by rule of the sioner. IEW SECTION. Section 4. Interest rates life ince policy loans. (1) Life insurance policies issued after October 1, 1985, may have a provision permitting loan interest rates as follows: a) a maximum interest rate of not more than 8% a b) an adjustable maximum interest rate established time to time by the life insurer as permitted by ons 1 through 5]. 2) The rate of interest charged on a policy loan made subsection (1)(b) may not exceed the greater of: a) the published monthly average for the calendar ending 2 months before the date on which the rate is ined; or b) the rate used to compute the cash surrender values the policy during the applicable period plus 1% a 3) If the maximum rate of interest is determined pursuant to subsection (1)(b), the policy must contain a provision setting forth the frequency at which the rate is

- 1 to be determined for that policy.
- 2 (4) The maximum rate for each policy must be
 3 determined at regular intervals that must occur at least
 4 once every 12 months, but may not occur more frequently than
 5 once in any 3-month period. At the intervals specified in
 6 the policy, the rate being charged:
- 7 (a) may be increased whenever an increase as 8 determined under subsection (2) would increase the rate by 9 0.5% or more a year;
- 10 (b) must be reduced whenever a reduction as determined
 11 under subsection (2) would decrease the rate by 0.5% or more
 12 a year.
 - (5) The life insurer shall:

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- 14 (a) notify the policyholder of the initial rate of 15 interest on the loan at the time a cash loan is made;
 - (b) notify the policyholder, with respect to premium loans, of the initial rate of interest on the loan as soon as practical after making the initial loan. Notice does not have to be given to the policyholder when a further premium loan is added, except as provided in subsection (5)(c).
- 21 (c) send reasonable advance notice of any increase in 22 the rate to policyholders with loans; and
- 23 (d) include in the notices required by this subsection 24 (5) the substance of subsection (1) and the frequency of
- 25 rate determinations as provided in subsection (3).

- 1 (6) The policy may provide that if interest on any 2 indebtedness is not paid when due, the interest will be 3 added to the existing indebtedness and will bear interest at 4 the same rate as the indebtedness.
- 5 (7) The loan value of the policy must be determined in accordance with the provisions of 33-20-109, but no policy 7 may be terminated in a policy year solely as a result of a 8 change in the interest rate during that policy year. The 9 life insurer shall maintain coverage during that policy year 10 until the time at which the policy would otherwise have 11 terminated if there had been no interest rate change during 12 that policy year.
- 13 (8) For purposes of this section, the following
 14. definitions apply:

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- (a) "Policy loan" includes any premium loan made under a policy used to pay one or more premiums that were not paid to the life insurer as they became due. The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after the lapse of a policy.
- 21 (b) "Policyholder" includes the owner of the policy or 22 the person designated to pay premiums as shown on the 23 records of the life insurer.
- 24 (c) "Policy" includes certificates issued by a 25 fraternal benefit society and annuity contracts that provide

1 for policy loans.

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2 (9) No other provision of law applies to policy loan 3 interest rates unless it is made specifically applicable to 4 such rates.

NEW SECTION. Section 5. Applicability to policies issued before October 1985. The provisions of [sections 1 through 4] do not apply to any insurance contract issued before October 1, 1985, unless the policyholder agrees in writing to the applicability of such provisions.

Section 6. Section 33-20-112, MCA, is amended to read:

"33-20-112. Reinstatement. There shall be a provision that the policy will be reinstated at any time within 3 years, or 2 years in the case of industrial life insurance policies, from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest on all premiums in arrears at a rate not exceeding 6% per annum compounded annually and with interest on any indebtedness at a rate as provided in [sections 1 through 5], unless:

- 23 (1) the policy has been surrendered for its cash 24 surrender value;
- 25 (2) its cash surrender value has been exhausted; or

1 (3) the paid-up term insurance, if any, has expired."

NEW SECTION. Section 7. Codification instruction.

3 Sections 1 through 5 are intended to be codified as an

4 integral part of Title 33, chapter 20.

APPROVED BY COMM. ON BUSINESS AND LABOR

| 1 | HOUSE BILL NO. 72 |
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| 2 | INTRODUCED BY KITSELMAN |
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| 4 | A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE |
| 5 | REGULATION OF INTEREST RATES ON LIFE INSURANCE POLICY LOANS; |
| 6 | AMENDING SECTIONS 33-20-109 AND 33-20-112, MCA." |
| 7 | |
| 8 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: |
| 9 | NEW SECTION. Section 1. Purpose. The purpose of |
| 10 | [sections 1 through 5] is to permit and set guidelines for |
| 11 | life insurers to include in life insurance policies issued |
| 12 | after October 1, 1985, a provision for periodic adjustment |
| 13 | of policy loan interest rates. |
| 14 | NEW SECTION. Section 2. Exclusions from application. |
| 15 | The provisions of [sections 1 through 5] do not apply to: |
| 16 | (1) term policies; |
| 17 | (2) term insurance benefits provided by rider or |
| 18 | supplemental policy provisions; or |
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| 20 | provided in 33-20-112. |
| 21 | NEW SECTION. Section 3. Published monthly average |
| 22 | defined. For purposes of [sections 1 through 5], the |
| 23 | "published monthly average" means: |
| 24 | (1) Moody's corporate bond yield averagemonthly |
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| 1 | service, | incorporated; | ΟI |
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- 2 (2) in the event that Moody's corporate bond yield 3 average-monthly average corporates is no longer published, 4 a substantially similar average, established by rule of the 5 commissioner.
- 6 NEW SECTION. Section 4. Interest rates on life 7 insurance policy loans. (1) Life insurance policies issued 8 on or after October 1, 1985, may have a provision permitting 9 policy loan interest rates as follows:
- 10 (a) a maximum interest rate of not more than 8% a
 11 year; or
- 12 (b) an adjustable maximum interest rate established 13 from time to time by the life insurer as permitted by 14 [sections 1 through 5].
- 15 (2) The rate of interest charged on a policy loan made 16 under subsection (1)(b) may not exceed the greater of:
- 17 (a) the published monthly average for the calendar
 18 month ending 2 months before the date on which the rate is
 19 determined; or
- 20 (b) the rate used to compute the cash surrender values
 21 under the policy during the applicable period plus 1% a
 22 year.
- 23 (3) If the maximum rate of interest is determined 24 pursuant to subsection (1)(b), the policy must contain a 25 provision setting forth the frequency at which the rate is

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1 to be determined for that policy.

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- (4) The maximum rate for each policy must be determined at regular intervals that must occur at least once every 12 months, but may not occur more frequently than once in any 3-month period. At the intervals specified in the policy, the rate being charged:
- 7 (a) may be increased whenever an increase as 8 determined under subsection (2) would increase the rate by 9 0.5% or more a year;
- 10 (b) must be reduced whenever a reduction as determined
 11 under subsection (2) would decrease the rate by 0.5% or more
 12 a year.
 - (5) The life insurer shall:
- 14 (a) notify the policyholder of the initial rate of 15 interest on the loan at the time a cash loan is made;
 - (b) notify the policyholder, with respect to premium loans, of the initial rate of interest on the loan as soon as practical after making the initial loan. Notice does not have to be given to the policyholder when a further premium loan is added, except as provided in subsection (5)(c).
- 21 (c) send reasonable advance notice of any increase in 22 the rate to policyholders with loans: and
- 23 (d) include in the notices required by this subsection 24 (5) the substance of subsection (1) and the frequency of 25 rate determinations as provided in subsection (3).

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- 1 (6) The policy may provide that if interest on any 2 indebtedness is not paid when due, the interest will be 3 added to the existing indebtedness and will bear interest at 4 the same rate as the indebtedness.
- 5 (7) The loan value of the policy must be determined in accordance with the provisions of 33-20-109, but no policy 7 may be terminated in a policy year solely as a result of a 8 change in the interest rate during that policy year. The 9 life insurer shall maintain coverage during that policy year until the time at which the policy would otherwise have terminated if there had been no interest rate change during that policy year.
- 13 (8) THE SUBSTANCE OF THE PERTINENT PROVISIONS OF

 14 SUBSECTIONS (1) AND (3) MUST BE SET FORTH IN THE POLICIES TO

 15 WHICH THEY APPLY.
- 16 (8)(9) For purposes of this section, the following
 17 definitions apply:
 - (a) "Policy loan" includes any premium loan made under a policy used to pay one or more premiums that were not paid to the life insurer as they became due. The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after the lapse of a policy.
- 24 (b) "Policyholder" includes the owner of the policy or
 25 the person designated to pay premiums as shown on the

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1 records of the life insurer.

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2 (c) "Policy" includes certificates issued by a 3 fraternal benefit society and annuity contracts that provide 4 for policy loans.

(9)(10) No other provision of law applies to policy
loan interest rates unless it is made specifically
applicable to such rates.

NEW SECTION. Section 5. Applicability to policies issued before October 1985. The provisions of [sections 1 through 4] do not apply to any insurance contract issued before October 1, 1985, unless the policyholder agrees in writing to the applicability of such provisions.

"33-20-109. Policy loan. (1) There Except as provided in [sections 1 through 5], there shall be a provision that after 3 full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding 6% a year, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The commissioner may authorize a rate of interest in excess of 6%, but not in excess of 8% a year (or 7.4% if payable annually in advance), for policies

issued on or after January 1, 1980, if the insurer provides 1 adequate written certification that the holders of such 2 policies will benefit fully from the increased earnings of 3 the insurer resulting from the use of an interest rate in excess of the 6% per annum, such as from higher interest income to the company on policy loans, higher investment yield resulting from a reduction in policy loans because of 7 the higher policy loan interest rate, and any additional 8 income to the company resulting from the use of such higher 9 interest rate in any manner whatsoever. These benefits to 10 the policyholder shall be reflected through higher dividends 11 or lower premiums, or both. The loan value of the policy 12 shall be at least equal to the cash surrender value at the 13 end of the then current policy year, provided that the 14 insurer may deduct, either from such loan value or from the 15 proceeds of the loan, any existing indebtedness not already 16 deducted in determining such cash surrender value including 17 any interest then accrued but not due, any unpaid balance of 18 the premium for the current policy year, and interest on the 19 loan to the end of the current policy year unless the 20 policyowner by written notice to the insurer elects to defer 21 payment of interest until it has accrued. The policy may 22 also provide that if interest on any indebtedness is not 23 paid when due it shall then be added to the existing 24 indebtedness and shall bear interest at the same rate, and 25

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- that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for 6 months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.
 - (2) This section shall not apply to term policies or to term insurance benefits provided by rider or supplemental policy provisions or to industrial life insurance policies."

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5], unless:

section 7. Section 33-20-112, MCA, is amended to read:

"33-20-112. Reinstatement. There shall be a provision that the policy will be reinstated at any time within 3 years, or 2 years in the case of industrial life insurance policies, from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest on all premiums in arrears at a rate not exceeding 6% per annum compounded annually and with interest on any indebtedness at a rate as provided in [sections 1 through

- 1 (1) the policy has been surrendered for its cash 2 surrender value;
- 3 (2) its cash surrender value has been exhausted; or
- 4 (3) the paid-up term insurance, if any, has expired."
- 5 NEW SECTION. Section 8. Codification instruction.
- $\,\,$ 6 Sections 1 through 5 are intended to be codified as an
- 7 integral part of Title 33, chapter 20.

| 1 | HOOSE BILL NO. 12 |
|----|--|
| 2 | INTRODUCED BY KITSELMAN |
| 3 | |
| 4 | A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE |
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| 13 | of policy loan interest rates. |
| 14 | NEW SECTION. Section 2. Exclusions from application. |
| 15 | The provisions of [sections 1 through 5] do not apply to: |
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| 19 | (3) industrial life insurance policies except as |
| 20 | provided in 33-20-112. |
| 21 | NEW SECTION. Section 3. Published monthly average |
| 22 | defined. For purposes of [sections 1 through 5], the |
| 23 | "published monthly average" means: |
| 24 | (1) Moody's corporate bond yield averagemonthly |
| 25 | average corporates, as published by Moody's investors |

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| service, incorporated; or |
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| (2) in the event that Moody's corporate bond yield |
| averagemonthly average corporates is no longer published, |
| a substantially similar average, established by rule of the |
| commissioner. |
| NEW SECTION. Section 4. Interest rates on life |
| insurance policy loans. (1) Life insurance policies issued |
| on or after October 1, 1985, may have a provision permitting |
| policy loan interest rates as follows: |
| (a) a maximum interest rate of not more than 8% a |
| year; or |
| (b) an adjustable maximum interest rate established |
| from time to time by the life insurer as permitted by |
| [sections 1 through 5]. |
| (2) The rate of interest charged on a policy loan made |
| under subsection (1)(b) may not exceed the greater of: |
| (a) the published monthly average for the calendar |
| month ending 2 months before the date on which the rate is |
| determined; or |
| (b) the rate used to compute the cash surrender values |
| under the policy during the applicable period plus 1% a |
| year. |
| (3) If the maximum rate of interest is determined |
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- (4) The maximum rate for each policy must be determined at regular intervals that must occur at least once every 12 months, but may not occur more frequently than once in any 3-month period. At the intervals specified in the policy, the rate being charged:
- (a) may be increased whenever an increase as determined under subsection (2) would increase the rate by
 0.5% or more a year;
- 10 (b) must be reduced whenever a reduction as determined 11 under subsection (2) would decrease the rate by 0.5% or more 12 a year.
- 13 (5) The life insurer shall:
 - (a) notify the policyholder of the initial rate of interest on the loan at the time a cash loan is made;
 - (b) notify the policyholder, with respect to premium loans, of the initial rate of interest on the loan as soon as practical after making the initial loan. Notice does not have to be given to the policyholder when a further premium loan is added, except as provided in subsection (5)(c).
- 21 (c) send reasonable advance notice of any increase in 22 the rate to policyholders with loans; and
- 23 (d) include in the notices required by this subsection 24 (5) the substance of subsection (1) and the frequency of 25 rate determinations as provided in subsection (3).

- (6) The policy may provide that if interest on any indebtedness is not paid when due, the interest will be added to the existing indebtedness and will bear interest at the same rate as the indebtedness.
- (7) The loan value of the policy must be determined in accordance with the provisions of 33-20-109, but no policy may be terminated in a policy year solely as a result of a change in the interest rate during that policy year. The life insurer shall maintain coverage during that policy year until the time at which the policy would otherwise have terminated if there had been no interest rate change during that policy year.
- (8) THE SUBSTANCE OF THE PERTINENT PROVISIONS OF SUBSECTIONS (1) AND (3) MUST BE SET FORTH IN THE POLICIES TO WHICH THEY APPLY.
- (8)(9) For purposes of this section, the following
 definitions apply:
- (a) "Policy loan" includes any premium loan made under a policy used to pay one or more premiums that were not paid to the life insurer as they became due. The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after the lapse of a policy.
- (b) "Policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the

l records of the life insurer.

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- 2 (c) "Policy" includes certificates issued by a 3 fraternal benefit society and annuity contracts that provide 4 for policy loans.
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 applicable to such rates.
 - NEW SECTION. Section 5. Applicability to policies issued before October 1985. The provisions of [sections 1 through 4] do not apply to any insurance contract issued before October 1, 1985, unless the policyholder agrees in writing to the applicability of such provisions.

SECTION 6. SECTION 33-20-109, MCA, IS AMENDED TO READ: "33-20-109. Policy loan. (1) There Except as provided in [sections 1 through 5], there shall be a provision that after 3 full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding 6% a year, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The commissioner may authorize a rate of interest in excess of 6%, but not in excess of 8% a year (or 7.4% if payable annually in advance), for policies

issued on or after January 1, 1980, if the insurer provides 1 adequate written certification that the holders of such policies will benefit fully from the increased earnings of the insurer resulting from the use of an interest rate in excess of the 6% per annum, such as from higher interest income to the company on policy loans, higher investment yield resulting from a reduction in policy loans because of the higher policy loan interest rate, and any additional income to the company resulting from the use of such higher interest rate in any manner whatsoever. These benefits to 10 the policyholder shall be reflected through higher dividends 11 or lower premiums, or both. The loan value of the policy 12 shall be at least equal to the cash surrender value at the 13 end of the then current policy year, provided that the 14 insurer may deduct, either from such loan value or from the 15 proceeds of the loan, any existing indebtedness not already 16 deducted in determining such cash surrender value including 17 any interest then accrued but not due, any unpaid balance of 18 the premium for the current policy year, and interest on the 19 loan to the end of the current policy year unless the 20 policyowner by written notice to the insurer elects to defer 21 payment of interest until it has accrued. The policy may 22 also provide that if interest on any indebtedness is not 23 paid when due it shall then be added to the existing 24 indebtedness and shall bear interest at the same rate, and 25

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that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for 6 months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

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(2) This section shall not apply to term policies or to term insurance benefits provided by rider or supplemental policy provisions or to industrial life insurance policies."

Section 7. Section 33-20-112, MCA, is amended to read:

"33-20-112. Reinstatement. There shall be a provision that the policy will be reinstated at any time within 3 years, or 2 years in the case of industrial life insurance policies, from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest on all premiums in arrears at a rate not exceeding 6% per annum compounded annually and with interest on any indebtedness at a rate as provided in [sections 1 through

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- 1 (1) the policy has been surrendered for its cash 2 surrender value:
- 3 (2) its cash surrender value has been exhausted; or
- 4 (3) the paid-up term insurance, if any, has expired."
- 5 NEW SECTION. Section 8. Codification instruction.
- 6 Sections 1 through 5 are intended to be codified as an
- 7 integral part of Title 33, chapter 20.

STANDING COMMITTEE REPORT

| SENATE | MARCH 5 | , 85 | HOUSE BILL 72 BUSINESS & INDUSTRY Page 2 of 2 | MARCH 5 |
|--|--|-------------|--|-------------------------------|
| MR. PRESIDENT We, your committee on | HOUSE BILL | | 5. Page 2, line 16. Following: "(1)" Strike: "(b)" Insert: "(a) (ii)" 6. Page 2, line 24. Following: "(1)" Strike: "(b)" Insert: "(a) (ii)" | |
| Respectfully report as follows: That | HOUSE BILL | 72 No. | | |
| be amended as follows: | | | | $\mathbf{J}_{\mathbf{f}_{+}}$ |
| <pre>l. Page 2, line 7. Following: "(1)" Insert: "(a)"</pre> | | | | |
| <pre>2. Page 2, line 10. Following: line 9 Strike: "(a)" Insert: "(i)"</pre> | | • | 0 | |
| <pre>3. Page 2, line 12. Following: line 11 Strike: "(b)" Insert: "(ii)"</pre> | | | | |
| 4. Page 2. Following: line 14 Insert: "(b) A life insurer is not permoderation of the containing variable rates of interest on subsection (1)(a)(ii) unless the insurer policies, which may or may not be on the with fixed rates of interest on policy in the containing of the containin | policy loans under also makes availab same plan of insur | le ance, | AND AS AMENDED BE CONCURRED IN | |
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(continued on page 2) M

Chairman.

Mike Halligan Chairman

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| 1 | HOUSE BILL NO. 72 | | | | |
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| 2 | INTRODUCED BY KITSELMAN | | | | |
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| 11 | life insurers to include in life insurance policies issued | | | | |
| 12 | after October 1, 1985, a provision for periodic adjustment | | | | |
| 13 | of policy loan interest rates. | | | | |
| 14 | NEW SECTION. Section 2. Exclusions from application. | | | | |
| 15 | The provisions of [sections 1 through 5] do not apply to: | | | | |
| 16 | (1) term policies; | | | | |
| 17 | (2) term insurance benefits provided by rider or | | | | |
| 18 | supplemental policy provisions; or | | | | |
| 19 | (3) industrial life insurance policies except as | | | | |
| 20 | provided in 33-20-112. | | | | |
| 21 | NEW SECTION. Section 3. Published monthly average | | | | |
| 22 | defined. For purposes of [sections 1 through 5], the | | | | |
| 23 | "published monthly average" means: | | | | |
| 24 | (1) Moody's corporate bond yield averagemonthly | | | | |

average corporates, as published by Moody's investors

service, incorporated; or 2 (2) in the event that Moody's corporate bond yield average--monthly average corporates is no longer published, a substantially similar average, established by rule of the commissioner. 6 NEW SECTION. Section 4. Interest rates on life insurance policy loans. (1) (A) Life insurance policies issued on or after October 1, 1985, may have a provision permitting policy loan interest rates as follows: 10 tat(I) a maximum interest rate of not more than 8% a 11 year; or 12 tbf(II) an adjustable maximum interest rate established from time to time by the life insurer as permitted by 13 14 [sections 1 through 5]. (B) A LIFE INSURER IS NOT PERMITTED TO ISSUE POLICIES 15 16 CONTAINING VARIABLE RATES OF INTEREST ON POLICY LOANS UNDER 17 SUBSECTION (1)(A)(II) UNLESS THE INSURER ALSO MAKES 18 AVAILABLE POLICIES, WHICH MAY OR MAY NOT BE ON THE SAME PLAN 19 OF INSURANCE, WITH FIXED RATES OF INTEREST ON POLICY LOANS 20 UNDER SUBSECTION (1)(A)(I). (2) The rate of interest charged on a policy loan made 21 22 under subsection (1) (b) (A) (II) may not exceed the greater 23 of: 24 (a) the published monthly average for the calendar month ending 2 months before the date on which the rate is ${\sf REFERENCE\ BILL}$

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- 2 (b) the rate used to compute the cash surrender values
 3 under the policy during the applicable period plus 1% a
 4 year.
 - (3) If the maximum rate of interest is determined pursuant to subsection (1)+b+(A)(II), the policy must contain a provision setting forth the frequency at which the rate is to be determined for that policy.
 - (4) The maximum rate for each policy must be determined at regular intervals that must occur at least once every 12 months, but may not occur more frequently than once in any 3-month period. At the intervals specified in the policy, the rate being charged:
 - (a) may be increased whenever an increase as determined under subsection (2) would increase the rate by 0.5% or more a year;
- 17 (b) must be reduced whenever a reduction as determined 18 under subsection (2) would decrease the rate by 0.5% or more 19 a year.
 - (5) The life insurer shall:
- 21 (a) notify the policyholder of the initial rate of 22 interest on the loan at the time a cash loan is made;
- 23 (b) notify the policyholder, with respect to premium
 24 loans, of the initial rate of interest on the loan as soon
 25 as practical after making the initial loan. Notice does not

- have to be given to the policyholder when a further premium
 loan is added, except as provided in subsection (5)(c).
- 3 (c) send reasonable advance notice of any increase in 4 the rate to policyholders with loans; and
 - (d) include in the notices required by this subsection
 (5) the substance of subsection (1) and the frequency of rate determinations as provided in subsection (3).
 - (6) The policy may provide that if interest on any indebtedness is not paid when due, the interest will be added to the existing indebtedness and will bear interest at the same rate as the indebtedness.
 - (7) The loan value of the policy must be determined in accordance with the provisions of 33-20-109, but no policy may be terminated in a policy year solely as a result of a change in the interest rate during that policy year. The life insurer shall maintain coverage during that policy year until the time at which the policy would otherwise have terminated if there had been no interest rate change during that policy year.
- (8) THE SUBSTANCE OF THE PERTINENT PROVISIONS OF SUBSECTIONS (1) AND (3) MUST BE SET FORTH IN THE POLICIES TO WHICH THEY APPLY.
- 23 (0)(9) For purposes of this section, the following
 24 definitions apply:
 - (a) "Policy loan" includes any premium loan made under

- a policy used to pay one or more premiums that were not paid to the life insurer as they became due. The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after the lapse of a policy.
 - (b) "Policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

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- 9 (c) "Policy" includes certificates issued by a 10 fraternal benefit society and annuity contracts that provide 11 for policy loans.
 - f9f(10) No other provision of law applies to policy
 loan interest rates unless it is made specifically
 applicable to such rates.
 - NEW SECTION. Section 5. Applicability to policies issued before October 1985. The provisions of [sections 1 through 4] do not apply to any insurance contract issued before October 1, 1985, unless the policyholder agrees in writing to the applicability of such provisions.
- 20 SECTION 6. SECTION 33-20-109, MCA, IS AMENDED TO READ:
 21 "33-20-109. Policy loan. (1) There Except as provided
 22 in [sections 1 through 5], there shall be a provision that
 23 after 3 full years' premiums have been paid and after the
 24 policy has a cash surrender value and while no premium is in
 25 default beyond the grace period for payment, the insurer
- will advance, on proper assignment or pledge of the policy 1 and on the sole security thereof, at a specified rate of interest not exceeding 6% a year, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The commissioner may authorize a rate of interest in excess of 6%, but not in excess of 8% a year (or 7.4% if payable annually in advance), for policies issued on or after January 1, 1980, if the insurer provides adequate written certification that the holders of such 9 policies will benefit fully from the increased earnings of 10 the insurer resulting from the use of an interest rate in 11 excess of the 6% per annum, such as from higher interest 12 income to the company on policy loans, higher investment 13 yield resulting from a reduction in policy loans because of 14 the higher policy loan interest rate, and any additional 15 income to the company resulting from the use of such higher 16 17 interest rate in any manner whatsoever. These benefits to the policyholder shall be reflected through higher dividends 18 or lower premiums, or both. The loan value of the policy 19 shall be at least equal to the cash surrender value at the 20 end of the then current policy year, provided that the 21 22 insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already 23 deducted in determining such cash surrender value including 24 any interest then accrued but not due, any unpaid balance of 25

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the premium for the current policy year, and interest on the 1 loan to the end of the current policy year unless the 2 3 policyowner by written notice to the insurer elects to defer payment of interest until it has accrued. The policy may 4 5 also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing 6 7 indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy. 8 including interest due or accrued, equals or exceeds the 9 10 amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the 11 insurer the right to defer the granting of a loan, other 12 13 than for the payment of any premium to the insurer, for 6 months after application therefor. The policy, at the 14 insurer's option, may provide for automatic premium loan, 15 subject to an election of the party entitled to elect. 16

(2) This section shall not apply to term policies or to term insurance benefits provided by rider or supplemental policy provisions or to industrial life insurance policies."

Section 7. Section 33-20-112, MCA, is amended to read:

"33-20-112. Reinstatement. There shall be a provision that the policy will be reinstated at any time within 3 years, or 2 years in the case of industrial life insurance policies, from the date of premium default upon written application therefor, the production of evidence of

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insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest on all premiums in arrears at a rate not exceeding 6% per annum compounded annually and with interest on any indebtedness at a rate as provided in [sections 1 through 5], unless:

- (1) the policy has been surrendered for its cash surrender value;
- 10 (2) its cash surrender value has been exhausted; or
- 11 (3) the paid-up term insurance, if any, has expired."
- NEW SECTION. Section 8. Codification instruction.

 Sections 1 through 5 are intended to be codified as an integral part of Title 33, chapter 20.