

HOUSE BILL NO. 254

INTRODUCED BY THOMAS, B. BROWN

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE  
ON LIABILITY ISSUES

IN THE HOUSE

JANUARY 16, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & LABOR.

JANUARY 27, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 28, 1987                   PRINTING REPORT.

JANUARY 29, 1987                   SECOND READING, DO PASS AS AMENDED.

JANUARY 30, 1987                   ENGROSSING REPORT.

JANUARY 31, 1987                   THIRD READING, PASSED.  
TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

FEBRUARY 18, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 2, 1987                      SECOND READING, CONCURRED IN.

MARCH 4, 1987                      THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.  
RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 7, 1987                      RECEIVED FROM SENATE.  
SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 9, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 254  
 2 INTRODUCED BY Thomas Bob Brown  
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE  
 4 ON LIABILITY ISSUES

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE GROUNDS  
 7 ON WHICH PROPERTY OR CASUALTY INSURANCE MAY BE CANCELED OR  
 8 NOT RENEWED; AND REQUIRING NOTICE OF CANCELLATION OR  
 9 NONRENEWAL OF A PROPERTY OR CASUALTY POLICY."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Purpose -- applicability. (1) The purpose  
 13 of [sections 1 through 9] is to protect the public with  
 14 regard to insurance transactions that involve cancellation,  
 15 renewal, nonrenewal, or premium increases on contracts of  
 16 property or casualty insurance by:

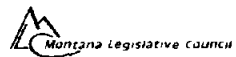
- 17 (a) regulating the grounds for midterm cancellation of
- 18 an insurance policy;
- 19 (b) prohibiting midterm increases in premiums;
- 20 (c) increasing the opportunity for insureds to shop
- 21 for replacement or substitute insurance;
- 22 (d) reducing the opportunity for breach of contract,
- 23 misrepresentation by omission or untimely disclosure, and
- 24 unfair discrimination among insureds; and
- 25 (e) increasing the opportunity for agents to compete

1 freely.  
 2 (2) [Sections 1 through 9] apply to those forms of  
 3 insurance defined in 33-1-206 and 33-1-210, except to the  
 4 extent they conflict with 33-23-211 through 33-23-214,  
 5 33-23-301, 33-23-302, and 33-23-401.

6 (3) [Sections 1 through 9] do not limit the activities  
 7 that may constitute undefined unfair trade practices  
 8 prohibited by 33-18-1003. The commissioner may apply other  
 9 provisions of this code to insurance transactions involving  
 10 cancellation, renewal, nonrenewal, or premium increases on  
 11 contracts of property or casualty insurance. Policies may  
 12 provide terms more favorable to insureds than are required  
 13 by [sections 1 through 9]. The rights provided by [sections  
 14 1 through 9] are in addition to and do not prejudice any  
 15 other rights that the insured may have under common law,  
 16 statutes, or rules.

17 Section 2. Definitions. As used in [sections 1 through  
 18 9], the following definitions apply unless the context  
 19 requires otherwise:

- 20 (1) "Anniversary date" means the month and day that
- 21 rates, rating plans, and rating systems are initially
- 22 applied to a policy in effect. The term includes each annual
- 23 anniversary thereafter unless the insurer establishes a
- 24 different date by a filing with the commissioner.
- 25 (2) "Cancellation" means the decision by the insurer



1 to terminate an insurance policy prior to the expiration of  
2 its term.

3 (3) "Classification" means an arrangement of insurance  
4 risks into an underwriting or rating group according to a  
5 classification system used by an insurer as a basis for  
6 tabulating statistical experience and determining premium  
7 rates.

8 (4) "Classification system" means a schedule of  
9 classifications and a rule used by an insurer for  
10 determining the classifications applicable to an insured.

11 (5) "Insurer" means an insurer authorized to transact  
12 property or casualty insurance in this state.

13 (6) "Premium" means the contractual consideration  
14 charged to an insured for insurance for a specified period  
15 of time, regardless of the timing of actual charges.

16 (7) "Rate" means a monetary amount applied to the  
17 units of exposure assigned to a classification and used by  
18 an insurer to determine the premium for an insured.

19 (8) "Rating plan" means a rule used by an insurer to  
20 calculate:

21 (a) the premium for an insured; and  
22 (b) the parameter values used in such calculation  
23 after application of classification premium rates to units  
24 of exposure.

25 (9) "Renewal" means an agreement between an insurer

1 and an insured to extend or continue an existing insurance  
2 policy for 90 days or more.

3 Section 3. Midterm cancellation. (1) An insurer may  
4 not cancel an insurance policy before either the expiration  
5 of the agreed term or 1 year from the effective date of the  
6 policy or renewal date, whichever is less, except:

7 (a) for reasons specifically allowed by statute;  
8 (b) for failure to pay a premium when due; or  
9 (c) on grounds stated in the policy which pertain to  
10 the following:

11 (i) material misrepresentation;  
12 (ii) substantial change in the risk assumed, except to  
13 the extent that the insurer should reasonably have foreseen  
14 the change or contemplated the risk when the contract was  
15 written;

16 (iii) substantial breaches of contractual duties,  
17 conditions, or warranties;

18 (iv) determination by the commissioner that  
19 continuation of the policy would place the insurer in  
20 violation of this code;

21 (v) financial impairment of the insurer; or  
22 (vi) any other reason approved by the commissioner.

23 (2) Cancellation under subsection (1) is not effective  
24 until 10 days after a notice of cancellation is either  
25 delivered or mailed to the insured.

1 (3) Subsections (1) and (2) do not apply to a newly  
 2 issued insurance policy if the policy has been in effect  
 3 less than 60 days at the time the notice of cancellation is  
 4 mailed or delivered. No cancellation under this subsection  
 5 is effective until 10 days after the date of delivery or  
 6 mailing.

7 (4) If a policy has been issued for a term longer than  
 8 1 year and if either the premium is prepaid or an agreed  
 9 term is guaranteed for additional premium consideration, the  
 10 insurer may not cancel the policy except:

11 (a) for reasons specifically allowed by statute;

12 (b) for failure to pay a premium when due; or

13 (c) on grounds stated in the policy which pertain to  
 14 those grounds listed in subsection (1)(c).

15 Section 4. Anniversary cancellation -- anniversary  
 16 rate increases. (1) An insurer may issue a policy for a  
 17 term longer than 1 year or for an indefinite term if the  
 18 policy contains a clause that allows cancellation by the  
 19 insurer if the insurer gives notice 30 days prior to an  
 20 anniversary date.

21 (2) If a policy has been issued for a term longer than  
 22 1 year and for additional premium consideration an annual  
 23 premium has been guaranteed, the insurer may not increase  
 24 the annual premium for the term of that policy.

25 Section 5. Nonrenewal -- renewal premium. (1) An

1 insured has a right to reasonable notice of nonrenewal.  
 2 Unless otherwise provided by statute or unless a longer term  
 3 is provided in the policy, at least 30 days prior to the  
 4 expiration date provided in the policy, an insurer who does  
 5 not intend to renew a policy beyond the agreed expiration  
 6 date shall mail or deliver to the insured a notice of such  
 7 intention. The insurer shall also mail or deliver a copy to  
 8 the insured's agent.

9 (2) An insurer shall give notice of premium due not  
 10 more than 60 days or less than 10 days before the due date  
 11 of a renewal premium. The notice must clearly state the  
 12 effect of nonpayment of the premium on or before the due  
 13 date.

14 (3) Subsections (1) and (2) do not apply if:

15 (a) the insured has obtained insurance elsewhere, has  
 16 accepted replacement coverage, or has requested or agreed to  
 17 nonrenewal; or

18 (b) the policy is expressly designated as  
 19 nonrenewable.

20 Section 6. Renewal with altered terms. (1) If an  
 21 insurer offers or purports to renew a policy but on less  
 22 favorable terms, at a higher rate, or at a higher rating  
 23 plan, the new terms, rates, or rating plan take effect on  
 24 the policy renewal date only if the insurer has mailed or  
 25 delivered notice of the new terms, rates, or rating plan to

1 the insured at least 30 days before the expiration date. If  
 2 the insured has not been so notified, he may cancel the  
 3 renewal policy within 30 days after receiving it. The  
 4 insured shall continue or terminate coverage not less than  
 5 30 days after mailing or delivery of the notice. If the  
 6 insured terminates the policy within the 30-day period, the  
 7 insurer shall calculate earned premium pro rata based upon  
 8 the prior policy's rate. The new rate is effective only  
 9 after the required 30-day notification period has been met.  
 10 If the insured does not terminate the policy, the premium  
 11 increase and other changes are effective the day following  
 12 the prior policy's expiration or anniversary date.

13 (2) This section does not apply if:

14 (a) the change is a rate or rating plan filed with the  
 15 commissioner and applicable to the entire classification or  
 16 classification system to which the policy belongs; or

17 (b) the increase in the rate or the rating plan, or  
 18 both, results from a classification change based on the  
 19 altered nature or extent of the risk insured against.

20 Section 7. Information about grounds of nonrenewal.

21 (1) If an insured questions the facts upon which an  
 22 insurer's decision to cancel or not renew is based, the  
 23 insurer shall mail or deliver such information within 15  
 24 working days of receiving a written request from the  
 25 insured. A notice is not effective unless it contains

1 adequate information about the insured's right to make the  
 2 request.

3 (2) This section does not apply if the grounds for  
 4 cancellation or nonrenewal is nonpayment of the premium and  
 5 the notice so states.

6 Section 8. Homeowners insurance not affected by  
 7 day-care operations. (1) No insurer writing homeowners  
 8 insurance in this state may deny an applicant homeowners  
 9 insurance or cancel or refuse to renew a homeowners  
 10 insurance policy covering a dwelling located in this state  
 11 for the principal reason that an insured under the policy  
 12 operates at the insured location a day-care facility, as  
 13 defined in 53-4-501, that satisfies the requirements of  
 14 53-4-508 or 53-4-509.

15 (2) This section does not prevent an insurer from  
 16 excluding or limiting coverage with respect to liability or  
 17 property losses arising out of an insured's business  
 18 pursuits, including those related to the operation of a  
 19 day-care facility.

20 Section 9. Unfair trade practices. (1) The failure of  
 21 an insurer to comply with [sections 3 through 8] constitutes  
 22 an unfair trade practice under 33-18-1003.

23 (2) Midterm premium increases and policy coverage  
 24 reductions not in compliance with [sections 1 through 8]  
 25 that are attempted or executed constitute unfair trade

1 practices under 33-18-1003.

2 Section 10. Extension of authority. Any existing  
3 authority of the commissioner of insurance to make rules on  
4 the subject of the provisions of this act is extended to the  
5 provisions of this act.

6 Section 11. Codification instruction. Sections 1  
7 through 9 are intended to be codified as an integral part of  
8 Title 33, and the provisions of Title 33 apply to sections 1  
9 through 9.

10 Section 12. Severability. If a part of this act is  
11 invalid, all valid parts that are severable from the invalid  
12 part remain in effect. If a part of this act is invalid in  
13 one or more of its applications, the part remains in effect  
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15 invalid applications.

-End-

APPROVED BY COMM. ON  
BUSINESS AND LABOR

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- (a) regulating the grounds for midterm cancellation of  
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(2) [Sections 1 through 9] apply to those forms of  
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extent they conflict with 33-23-211 through 33-23-214,  
33-23-301, 33-23-302, and 33-23-401.

(3) [Sections 1 through 9] do not limit the activities  
that may constitute undefined unfair trade practices  
prohibited by 33-18-1003. The commissioner may apply other  
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- 17 conditions, or warranties;
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- 19 continuation of the policy would place the insurer in
- 20 violation of this code;

21 (v) financial impairment of the insurer; or

22 (VI) LOSS BY THE INSURER OF ITS REINSURANCE CONTRACT;

23 OR

24 ~~(vi)~~ (VII) any other reason approved by the  
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16 (2) This section does not apply if:

17 (a) the change is a rate or rating plan filed with the  
 18 commissioner and applicable to the entire classification or  
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12 term is guaranteed for additional premium consideration, the  
13 insurer may not cancel the policy except:

14 (a) for reasons specifically allowed by statute;

15 (b) for failure to pay a premium when due; or

16 (c) on grounds stated in the policy which pertain to  
17 those grounds listed in subsection (1)(c).

18 Section 4. Anniversary cancellation -- anniversary  
19 rate increases. (1) An insurer may issue a policy for a  
20 term longer than 1 year or for an indefinite term if the  
21 policy contains a clause that allows cancellation by the  
22 insurer if the insurer gives notice 30 days prior to an  
23 anniversary date.

24 (2) If a policy has been issued for a term longer than  
25 1 year and for additional premium consideration an annual

1 premium has been guaranteed, the insurer may not increase  
2 the annual premium for the term of that policy.

3 Section 5. Nonrenewal -- renewal premium. (1) An  
4 insured has a right to reasonable notice of nonrenewal.  
5 Unless otherwise provided by statute or unless a longer term  
6 is provided in the policy, at least 30 days prior to the  
7 expiration date provided in the policy, an insurer who does  
8 not intend to renew a policy beyond the agreed expiration  
9 date shall mail or deliver to the insured a notice of such  
10 intention. The insurer shall also mail or deliver a copy to  
11 the insured's agent.

12 (2) An insurer shall give notice of premium due not  
13 more than 60 days or less than 10 days before the due date  
14 of a renewal premium. The notice must clearly state the  
15 effect of nonpayment of the premium on or before the due  
16 date.

17 (3) Subsections (1) and (2) do not apply if:

18 (a) the insured has obtained insurance elsewhere, has  
19 accepted replacement coverage, or has requested or agreed to  
20 nonrenewal; or

21 (b) the policy is expressly designated as  
22 nonrenewable.

23 Section 6. Renewal with altered terms. (1) If an  
24 insurer offers or purports to renew a policy but on less  
25 favorable terms, at a higher rate, or at a higher rating

1 plan, the new terms, rates, or rating plan take effect on  
 2 the policy renewal date only if the insurer has mailed or  
 3 delivered notice of the new terms, rates, or rating plan to  
 4 the insured at least 30 days before the expiration date. If  
 5 the insured has not been so notified, he may cancel the  
 6 renewal policy within 30 days after receiving it. The  
 7 insured shall continue or terminate coverage not less than  
 8 30 days after mailing or delivery of the notice. If the  
 9 insured terminates the policy within the 30-day period, the  
 10 insurer shall calculate earned premium pro rata based upon  
 11 the prior policy's rate. The new rate is effective only  
 12 after the required 30-day notification period has been met.  
 13 If the insured does not terminate the policy, the premium  
 14 increase and other changes are effective the day following  
 15 the prior policy's expiration or anniversary date.

16 (2) This section does not apply if:

- 17 (a) the change is a rate or rating plan filed with the  
 18 commissioner and applicable to the entire classification or  
 19 classification system to which the policy belongs; or  
 20 (b) the increase in the rate or the rating plan, or  
 21 both, results from a classification change based on the  
 22 altered nature or extent of the risk insured against.

23 Section 7. Information about grounds of nonrenewal.

24 (1) If an insured questions the facts upon which an  
 25 insurer's decision to cancel or not renew is based, the

1 insurer shall mail or deliver such information within 15  
 2 working days of receiving a written request from the  
 3 insured. A notice is not effective unless it contains  
 4 adequate information about the insured's right to make the  
 5 request.

6 (2) This section does not apply if the grounds for  
 7 cancellation or nonrenewal is nonpayment of the premium and  
 8 the notice so states.

9 Section 8. Homeowners insurance not affected by  
 10 day-care operations. (1) No insurer writing homeowners  
 11 insurance in this state may deny an applicant homeowners  
 12 insurance or cancel or refuse to renew a homeowners  
 13 insurance policy covering a dwelling located in this state  
 14 for the principal reason that an insured under the policy  
 15 operates at the insured location a day-care facility, as  
 16 defined in 53-4-501, that satisfies the requirements of  
 17 53-4-508 or 53-4-509.

18 (2) This section does not prevent an insurer from  
 19 excluding or limiting coverage with respect to liability or  
 20 property losses arising out of an insured's business  
 21 pursuits, including those related to the operation of a  
 22 day-care facility.

23 Section 9. Unfair trade practices. (1) The failure of  
 24 an insurer to comply with [sections 3 through 8] constitutes  
 25 an unfair trade practice under 33-18-1003.



1           (2) Midterm premium increases and policy coverage  
2 reductions not in compliance with [sections 1 through 8]  
3 that are attempted or executed constitute unfair trade  
4 practices under 33-18-1003.

5           Section 10. Extension of authority. Any existing  
6 authority of the commissioner of insurance to make rules on  
7 the subject of the provisions of this act is extended to the  
8 provisions of this act.

9           Section 11. Codification instruction. Sections 1  
10 through 9 are intended to be codified as an integral part of  
11 Title 33, and the provisions of Title 33 apply to sections 1  
12 through 9.

13           Section 12. Severability. If a part of this act is  
14 invalid, all valid parts that are severable from the invalid  
15 part remain in effect. If a part of this act is invalid in  
16 one or more of its applications, the part remains in effect  
17 in all valid applications that are severable from the  
18 invalid applications.

-End-

## 1 HOUSE BILL NO. 254

2 INTRODUCED BY THOMAS, B. BROWN

3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

4 ON LIABILITY ISSUES

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE GROUNDS  
7 ON WHICH PROPERTY OR CASUALTY INSURANCE MAY BE CANCELED OR  
8 NOT RENEWED; AND REQUIRING NOTICE OF CANCELLATION OR  
9 NONRENEWAL OF A PROPERTY OR CASUALTY POLICY."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Purpose -- applicability. (1) The purpose  
13 of [sections 1 through 9] is to protect the public with  
14 regard to insurance transactions that involve cancellation,  
15 renewal, nonrenewal, or premium increases on contracts of  
16 property or casualty insurance by:

- 17 (a) regulating the grounds for midterm cancellation of  
18 an insurance policy;  
19 (b) prohibiting midterm increases in premiums;  
20 (c) increasing the opportunity for insureds to shop  
21 for replacement or substitute insurance;  
22 (d) reducing the opportunity for breach of contract,  
23 misrepresentation by omission or untimely disclosure, and  
24 unfair discrimination among insureds; and  
25 (e) increasing the opportunity for agents to compete

1 freely.

2 (2) [Sections 1 through 9] apply to those forms of  
3 insurance defined in 33-1-206 and 33-1-210, except to the  
4 extent they conflict with ~~33-23-211 through 33-23-214,~~  
5 ~~33-23-301, 33-23-302, and 33-23-401~~ CHAPTER 23 OF THIS  
6 TITLE.

7 (3) [Sections 1 through 9] do not limit the activities  
8 that may constitute undefined unfair trade practices  
9 prohibited by 33-18-1003. The commissioner may apply other  
10 provisions of this code to insurance transactions involving  
11 cancellation, renewal, nonrenewal, or premium increases on  
12 contracts of property or casualty insurance. Policies may  
13 provide terms more favorable to insureds than are required  
14 by [sections 1 through 9]. The rights provided by [sections  
15 1 through 9] are in addition to and do not prejudice any  
16 other rights that the insured may have under common law,  
17 statutes, or rules.

18 Section 2. Definitions. As used in [sections 1 through  
19 9], the following definitions apply unless the context  
20 requires otherwise:

21 (1) "Anniversary date" means the month and day that  
22 rates, rating plans, and rating systems are initially  
23 applied to a policy in effect. The term includes each annual  
24 anniversary thereafter unless the insurer establishes a  
25 different date by a filing with the commissioner.

1 (2) "Cancellation" means the decision by the insurer  
2 to terminate an insurance policy prior to the expiration of  
3 its term.

4 (3) "Classification" means an arrangement of insurance  
5 risks into an underwriting or rating group according to a  
6 classification system used by an insurer as a basis for  
7 tabulating statistical experience and determining premium  
8 rates.

9 (4) "Classification system" means a schedule of  
10 classifications and a rule used by an insurer for  
11 determining the classifications applicable to an insured.

12 (5) "Insurer" means an insurer authorized to transact  
13 property or casualty insurance in this state.

14 (6) "Premium" means the contractual consideration  
15 charged to an insured for insurance for a specified period  
16 of time, regardless of the timing of actual charges.

17 (7) "Rate" means a monetary amount applied to the  
18 units of exposure assigned to a classification and used by  
19 an insurer to determine the premium for an insured.

20 (8) "Rating plan" means a rule used by an insurer to  
21 calculate:

- 22 (a) the premium for an insured; and
- 23 (b) the parameter values used in such calculation
- 24 after application of classification premium rates to units
- 25 of exposure.

1 (9) "Renewal" means an agreement between an insurer  
2 and an insured to extend or continue an existing insurance  
3 policy for 90 days or more.

4 Section 3. Midterm cancellation. (1) An insurer may  
5 not cancel an insurance policy before either the expiration  
6 of the agreed term or 1 year from the effective date of the  
7 policy or renewal date, whichever is less, except:

- 8 (a) for reasons specifically allowed by statute;
- 9 (b) for failure to pay a premium when due; or
- 10 (c) on grounds stated in the policy which pertain to
- 11 the following:

- 12 (i) material misrepresentation;
- 13 (ii) substantial change in the risk assumed, except to
- 14 the extent that the insurer should reasonably have foreseen
- 15 the change or contemplated the risk when the contract was
- 16 written;

17 (iii) substantial breaches of contractual duties,  
18 conditions, or warranties;

19 (iv) determination by the commissioner that  
20 continuation of the policy would place the insurer in  
21 violation of this code;

22 (v) financial impairment of the insurer; or OR  
23 ~~(vi) loss by the insurer of its reinsurance contract;~~

24 OR  
25 ~~(vi)~~ (vi) any other reason approved by the

1 commissioner.

2 (2) Cancellation under subsection (1) is not effective  
3 until 10 days after a notice of cancellation is either  
4 delivered or mailed to the insured.

5 (3) Subsections (1) and (2) do not apply to a newly  
6 issued insurance policy if the policy has been in effect  
7 less than 60 days at the time the notice of cancellation is  
8 mailed or delivered. No cancellation under this subsection  
9 is effective until 10 days after the ~~date--of--delivery--or~~  
10 ~~mailing~~ NOTICE IS DELIVERED OR MAILED TO THE INSURED.

11 (4) If a policy has been issued for a term longer than  
12 1 year and if either the premium is prepaid or an agreed  
13 term is guaranteed for additional premium consideration, the  
14 insurer may not cancel the policy except:

- 15 (a) for reasons specifically allowed by statute;
- 16 (b) for failure to pay a premium when due; or
- 17 (c) on grounds stated in the policy which pertain to  
18 those grounds listed in subsection (1)(c).

19 Section 4. Anniversary cancellation -- anniversary  
20 rate increases. (1) An insurer may issue a policy for a  
21 term longer than 1 year or for an indefinite term if the  
22 policy contains a clause that allows cancellation by the  
23 insurer if the insurer gives notice 30 days prior to an  
24 anniversary date.

25 (2) If a policy has been issued for a term longer than

1 1 year and for additional premium consideration an annual  
2 premium has been guaranteed, the insurer may not increase  
3 the annual premium for the term of that policy.

4 Section 5. Nonrenewal -- renewal premium. (1) An  
5 insured has a right to reasonable notice of nonrenewal.  
6 Unless otherwise provided by statute or unless a longer term  
7 is provided in the policy, at least 30 days prior to the  
8 expiration date provided in the policy, an insurer who does  
9 not intend to renew a policy beyond the agreed expiration  
10 date shall mail or deliver to the insured a notice of such  
11 intention. The insurer shall also mail or deliver a copy to  
12 the insured's agent.

13 (2) An insurer shall give notice of premium due not  
14 more than 60 days or less than 10 days before the due date  
15 of a renewal premium. The notice must clearly state the  
16 effect of nonpayment of the premium on or before the due  
17 date.

18 (3) Subsections (1) and (2) do not apply if:

19 (a) the insured has obtained insurance elsewhere, has  
20 accepted replacement coverage, or has requested or agreed to  
21 nonrenewal; or

22 (b) the policy is expressly designated as  
23 nonrenewable.

24 Section 6. Renewal with altered terms. (1) If an  
25 insurer offers or purports to renew a policy but on less

1 favorable terms, at a higher rate, or at a higher rating  
 2 plan, the new terms, rates, or rating plan take effect on  
 3 the policy renewal date only if the insurer has mailed or  
 4 delivered notice of the new terms, rates, or rating plan to  
 5 the insured at least 30 days before the expiration date. If  
 6 the insured has not been so notified, he may cancel the  
 7 renewal policy within 30 days after receiving it THE NOTICE.  
 8 The insured INSURER shall continue or-terminate coverage FOR  
 9 A PERIOD OF not less than 30 days after mailing or delivery  
 10 of the notice. If the insured terminates the policy within  
 11 the 30-day period, the insurer shall calculate earned  
 12 premium pro rata based upon the prior policy's rate. The new  
 13 rate is effective only after the required 30-day  
 14 notification period has been met. If the insured does not  
 15 terminate the policy, the premium increase and other changes  
 16 are effective the day following the prior policy's  
 17 expiration or anniversary date.

18 (2) This section does not apply if:

19 (a) the change is a rate or rating plan filed with the  
 20 commissioner and applicable to the entire classification or  
 21 classification system to which the policy belongs; or

22 (b) the increase in the rate or the rating plan, or  
 23 both, results from a classification change based on the  
 24 altered nature or extent of the risk insured against.

25 Section 7. Information about grounds of nonrenewal.

1 (1) If an insured questions the facts upon which an  
 2 insurer's decision to cancel or not renew is based, the  
 3 insurer shall mail or deliver such information TO THE  
 4 INSURED within 15 working days of receiving a written  
 5 request from the insured. A notice is not effective unless  
 6 it contains adequate information about the insured's right  
 7 to make the request.

8 (2) This section does not apply if the grounds for  
 9 cancellation or nonrenewal is nonpayment of the premium and  
 10 the notice so states.

11 Section 8. Homeowners insurance not affected by  
 12 day-care operations. (1) No insurer writing homeowners  
 13 insurance in this state may deny an applicant homeowners  
 14 insurance or cancel or refuse to renew a homeowners  
 15 insurance policy covering a dwelling located in this state  
 16 for the principal reason that an insured under the policy  
 17 operates at the insured location a day-care facility, as  
 18 defined in 53-4-501, that satisfies the requirements of  
 19 53-4-508 or 53-4-509.

20 (2) This section does not prevent an insurer from  
 21 excluding or limiting coverage with respect to liability or  
 22 property losses arising out of an insured's business  
 23 pursuits, including those related to the operation of a  
 24 day-care facility.

25 Section 9. Unfair trade practices. (1) The failure of

1 an insurer to comply with [sections 3 through 8] constitutes  
2 an unfair trade practice under 33-18-1003.

3 (2) Midterm premium increases and policy coverage  
4 reductions not in compliance with [sections 1 through 8]  
5 that are attempted or executed constitute unfair trade  
6 practices under 33-18-1003.

7 Section 10. Extension of authority. Any existing  
8 authority of the commissioner of insurance to make rules on  
9 the subject of the provisions of this act is extended to the  
10 provisions of this act.

11 Section 11. Codification instruction. Sections 1  
12 through 9 are intended to be codified as an integral part of  
13 Title 33, and the provisions of Title 33 apply to sections 1  
14 through 9.

15 Section 12. Severability. If a part of this act is  
16 invalid, all valid parts that are severable from the invalid  
17 part remain in effect. If a part of this act is invalid in  
18 one or more of its applications, the part remains in effect  
19 in all valid applications that are severable from the  
20 invalid applications.

-End-