

HOUSE BILL NO. 622  
INTRODUCED BY BRANDEWIE  
BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

FEBRUARY 5, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & LABOR.

FEBRUARY 12, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 13, 1987                   PRINTING REPORT.

FEBRUARY 14, 1987                   SECOND READING, DO PASS.

FEBRUARY 16, 1987                   ENGROSSING REPORT.

THIRD READING, PASSED.  
AYES, 88; NOES, 3.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 17, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

MARCH 26, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 30, 1987                   SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED AND BILL  
PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 622  
 2 INTRODUCED BY [Signature]  
 3 BY REQUEST OF THE STATE AUDITOR

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 6 LAWS RELATING TO THE FINANCIAL REGULATION OF INSURANCE  
 7 COMPANIES; AND AMENDING SECTIONS 33-2-121, 33-2-534,  
 8 33-2-701, 33-2-806, AND 33-2-1114, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

12 "33-2-121. Duration of suspension -- insurer's  
 13 obligations -- reinstatement. (1) Suspension of an insurer's  
 14 certificate of authority shall be for such period as is  
 15 fixed by the commissioner in the order of suspension but not  
 16 to ~~exceed~~ one year and shall continue until rescinded or  
 17 otherwise removed by the commissioner. During the suspension  
 18 the commissioner may shorten the period thereof by his  
 19 further order.

20 (2) During the period of the suspension the insurer  
 21 shall file its annual statement and pay fees, licenses, and  
 22 taxes as required under this code as if the certificate had  
 23 continued in full force.

24 (3) ~~Upon expiration of the suspension period,~~ if if  
 25 within such period of suspension the certificate of

1 authority has not been terminated, the insurer's certificate  
 2 of authority ~~shall automatically~~ reinstated unless may be  
 3 reinstated if the commissioner finds that the causes of the  
 4 suspension have not been removed or that the insurer is  
 5 otherwise not in compliance with the requirements of this  
 6 code, ~~and of which the commissioner shall give the insurer~~  
 7 ~~notice not less than 30 days in advance of the expiration of~~  
 8 ~~such period, if not so automatically reinstated,~~ the  
 9 certificate of authority shall be deemed to have expired as  
 10 at the end of the suspension period or upon failure of the  
 11 insurer to continue the certificate during the suspension  
 12 period, whichever event shall first occur.

13 (4) Upon reinstatement of the insurer's certificate of  
 14 authority, the authority of its agents in this state to  
 15 represent the insurer shall likewise reinstate.

16 (5) The commissioner shall forthwith notify both the  
 17 insurer and its agents in this state, as shown by his  
 18 records, of such reinstatement."

19 Section 2. Section 33-2-534, MCA, is amended to read:

20 "33-2-534. Valuation of property. (1) Real property  
 21 acquired pursuant to a mortgage loan or contract for sale,  
 22 ~~in the absence of a recent appraisal deemed by the~~  
 23 ~~commissioner to be reliable,~~ shall not be valued at an  
 24 amount greater than the unpaid principal of the defaulted  
 25 loan or contract at the date of such acquisition, together



1 with any taxes and expenses paid or incurred in connection  
 2 with such acquisition, the cost of improvements thereafter  
 3 made by the insurer, and any amounts thereafter paid by the  
 4 insurer on assessments levied for improvements in connection  
 5 with the property. After the initial valuation as set forth  
 6 herein, any land shall be valued at its acquisition cost and  
 7 any improvements thereon shall be valued at depreciated  
 8 acquisition cost.

9 (2) Other real property held by an insurer shall not  
 10 be valued at an amount in excess of ~~fair-value-as-determined~~  
 11 ~~by-recent-appraisal--if-valuation-is-based-on--an--appraisal~~  
 12 ~~more---than--3--years--old,--the--commissioner--may--at--his~~  
 13 ~~discretion-call-for-and-require-a-new-appraisal-in-order--to~~  
 14 ~~determine---fair---value~~ acquisition cost if land and  
 15 depreciated acquisition cost if an improvement to land.

16 (3) Personal property acquired pursuant to chattel  
 17 mortgages made in accordance with 33-2-831 shall not be  
 18 valued at an amount greater than the unpaid balance of  
 19 principal on the defaulted loan at the date of acquisition,  
 20 together with taxes and expenses incurred in connection with  
 21 such acquisition, or the fair value of such property,  
 22 whichever amount is the lesser."

23 Section 3. Section 33-2-701, MCA, is amended to read:  
 24 "33-2-701. Annual statement -- revocation or fine for  
 25 failure to file -- penalty for perjury. (1) Each authorized

1 insurer shall annually on or before March 1 file with the  
 2 commissioner a full and true statement of its financial  
 3 condition, transactions, and affairs as of the December 31  
 4 preceding. The statement shall be in such general form and  
 5 context as is required or not disapproved by the  
 6 commissioner, as is in current use for similar reports to  
 7 states in general with respect to the type of insurer and  
 8 kinds of insurance to be reported upon, and as supplemented  
 9 for additional information required by the commissioner. The  
 10 statement shall be verified by the oath of the insurer's  
 11 president or vice-president and secretary or, if a  
 12 reciprocal insurer, by the oath of the attorney-in-fact or  
 13 its like officers if a corporation. The commissioner may, in  
 14 his discretion, waive any such verification under oath.

15 (2) The statement of an alien insurer shall relate  
 16 only to its transactions and affairs in the United States  
 17 unless the commissioner requires otherwise. If the  
 18 commissioner requires a statement as to an alien insurer's  
 19 affairs throughout the world, the insurer shall file such  
 20 statement with the commissioner as soon as reasonably  
 21 possible. The statement shall be verified by the insurer's  
 22 United States manager or other officer duly authorized.

23 (3) The commissioner may refuse to accept the fee for  
 24 continuance of the insurer's certificate of authority, as  
 25 provided in 33-2-117, or may in his discretion suspend or

1 revoke the certificate of authority of any insurer failing  
2 to file its annual statement when due.

3 (4) Any director, officer or agent, or employee of any  
4 company who subscribes to, makes, or concurs in making or  
5 publishing any annual statement or any other statement  
6 required by law knowing the same to contain any material  
7 statement which is false shall be punished by a fine of not  
8 more than \$1,000.

9 (5) At time of filing, the insurer shall pay to the  
10 commissioner the fee for filing its statement as prescribed  
11 in 33-2-708.

12 (6) The commissioner may impose a fine not to exceed  
13 \$100 a day for each day after March 1 that an insurer fails  
14 to file the annual statement referred to in subsection (1)."

15 Section 4. Section 33-2-806, MCA, is amended to read:

16 "33-2-806. Diversification of investments. An insurer  
17 shall invest in or hold as admitted assets categories of  
18 investments only within applicable limits as follows:

19 (1) An insurer shall not, except with the consent of  
20 the commissioner, have at any one time any combination of  
21 investments in or loans upon the security of the  
22 obligations, property, or securities of any one person or  
23 insurer aggregating an amount exceeding 5% of the insurer's  
24 assets. This restriction shall not apply as to general  
25 obligations of the United States of America or of any state

1 or include policy loans made under 33-2-825.

2 (2) An insurer shall not invest in or hold at any one  
3 time more than 10% of the outstanding voting stock of any  
4 corporation, except with the consent of the commissioner  
5 given with respect to voting rights of preference stock  
6 during default of dividends. This provision does not apply  
7 as to stock of a wholly-owned subsidiary of the insurer or  
8 to controlling stock of an insurer acquired under 33-2-821.

9 (3) An insurer, other than title insurer, shall invest  
10 and maintain invested funds not less in amount than the  
11 minimum paid-in capital stock required under this code of a  
12 domestic stock insurer transacting like kinds of insurance,  
13 only in cash and the securities provided for under the  
14 following sections: 33-2-811(1), 33-2-812, and 33-2-830.

15 (4) A life insurer shall also invest and keep invested  
16 its funds in amount not less than the reserves under its  
17 life insurance policies and annuity contracts, other than  
18 variable annuities, in force in cash and/or the securities  
19 or investments provided for under 33-2-531.

20 (5) Except with the commissioner's consent, an insurer  
21 shall not have invested at any one time more than 20% of its  
22 assets in the class of securities described in 33-2-818,  
23 exclusive of obligations of public utilities.

24 (6) An insurer may invest and have invested at any one  
25 time in aggregate amount not more than 10% of its assets in

1 all stocks under 33-2-820, and 33-2-821, ~~and~~ 33-2-824.  
 2 Determination of the amount which an insurer has invested in  
 3 common stocks for the purposes of this provision shall be  
 4 based on the cost of such stocks to the insurer. This  
 5 provision shall not apply as to stock of a controlled or  
 6 subsidiary insurance corporation or other corporations under  
 7 33-2-821 and 33-2-822.

8 (7) Except with the commissioner's consent, an insurer  
 9 may not have invested at any one time more than 5% of its  
 10 assets in securities allowed under 33-2-824.

11 ~~(7)~~(8) Except with the commissioner's consent, an  
 12 insurer shall not have invested at any one time more than  
 13 10% of its assets in the class of securities described in  
 14 any one of the following sections: 33-2-814, 33-2-819, and  
 15 33-2-823.

16 ~~(8)~~(9) Limits as to investments in the category of  
 17 real estate shall be as provided in 33-2-832. Other specific  
 18 limits shall apply as stated in the sections dealing with  
 19 other respective kinds of investments."

20 Section 5. Section 33-2-1114, MCA, is amended to read:

21 "33-2-1114. Dividends and other distributions --  
 22 commissioner approval. (1) No An insurer subject to  
 23 registration under 33-2-1111 and 33-2-1112 ~~shall~~ may not pay  
 24 any extraordinary dividend or make any other extraordinary  
 25 distribution to its shareholders until 30 days after the

1 commissioner has received notice of the declaration thereof  
 2 and has not within such period disapproved such payment or  
 3 the commissioner shall have approved such payment within  
 4 such 30-day period.

5 (2) For purposes of this section, an extraordinary  
 6 dividend or distribution includes any dividend or  
 7 distribution of cash or other property whose fair market  
 8 value together with that of other dividends or distributions  
 9 made within the preceding 12 months exceeds ~~the greater of~~  
 10 10% of such insurer's surplus as regards policyholders as of  
 11 December 31 next preceding ~~or the net gain from operations~~  
 12 ~~of such insurer, if such insurer is a life insurer, or the~~  
 13 ~~net investment income, if such insurer is not a life~~  
 14 ~~insurer, for the 12-month period ending December 31 next~~  
 15 ~~preceding~~, but shall not include pro rata distributions of  
 16 any class of the insurer's own securities.

17 (3) Notwithstanding any other provision of law, an  
 18 insurer may declare an extraordinary dividend or  
 19 distribution which is conditional upon the commissioner's  
 20 approval thereof, and such a declaration shall confer no  
 21 rights upon shareholders until the commissioner has approved  
 22 the payment of such dividend or distribution or the  
 23 commissioner has not disapproved such payment within the  
 24 30-day period referred to above."

25 NEW SECTION. Section 6. Extension of authority. Any

LC 1097/01

1 existing authority of the commissioner of insurance to make  
2 rules on the subject of the provisions of this act is  
3 extended to the provisions of this act.

-End-

APPROVED BY COMM. ON BUSINESS AND LABOR

1 House BILL NO. 622  
2 INTRODUCED BY \_\_\_\_\_  
3 BY REQUEST OF THE STATE AUDITOR  
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17 otherwise removed by the commissioner. During the suspension  
18 the commissioner may shorten the period thereof by his  
19 further order.

20 (2) During the period of the suspension the insurer  
21 shall file its annual statement and pay fees, licenses, and  
22 taxes as required under this code as if the certificate had  
23 continued in full force.

24 (3) ~~Upon expiration of the suspension period, if~~ If  
25 within such period of suspension the certificate of

1 authority has not been terminated, the insurer's certificate  
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4 suspension have ~~not~~ been removed or that the insurer is  
5 otherwise ~~not~~ in compliance with the requirements of this  
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11 ~~insurer to continue the certificate during the suspension~~  
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13 (4) Upon reinstatement of the insurer's certificate of  
14 authority, the authority of its agents in this state to  
15 represent the insurer shall likewise reinstate.

16 (5) The commissioner shall forthwith notify both the  
17 insurer and its agents in this state, as shown by his  
18 records, of such reinstatement."

19 Section 2. Section 33-2-534, MCA, is amended to read:

20 "33-2-534. Valuation of property. (1) Real property  
21 acquired pursuant to a mortgage loan or contract for sale,  
22 ~~in the absence of a recent appraisal deemed by the~~  
23 ~~commissioner to be reliable,~~ shall not be valued at an  
24 amount greater than the unpaid principal of the defaulted  
25 loan or contract at the date of such acquisition, together





1 with any taxes and expenses paid or incurred in connection  
 2 with such acquisition, the cost of improvements thereafter  
 3 made by the insurer, and any amounts thereafter paid by the  
 4 insurer on assessments levied for improvements in connection  
 5 with the property. After the initial valuation as set forth  
 6 herein, any land shall be valued at its acquisition cost and  
 7 any improvements thereon shall be valued at depreciated  
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9 (2) Other real property held by an insurer shall not  
 10 be valued at an amount in excess of ~~fair-value-as-determined~~  
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 15 depreciated acquisition cost if an improvement to land.

16 (3) Personal property acquired pursuant to chattel  
 17 mortgages made in accordance with 33-2-831 shall not be  
 18 valued at an amount greater than the unpaid balance of  
 19 principal on the defaulted loan at the date of acquisition,  
 20 together with taxes and expenses incurred in connection with  
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23 Section 3. Section 33-2-701, MCA, is amended to read:  
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 25 failure to file -- penalty for perjury. (1) Each authorized

1 insurer shall annually on or before March 1 file with the  
 2 commissioner a full and true statement of its financial  
 3 condition, transactions, and affairs as of the December 31  
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 7 states in general with respect to the type of insurer and  
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 11 president or vice-president and secretary or, if a  
 12 reciprocal insurer, by the oath of the attorney-in-fact or  
 13 its like officers if a corporation. The commissioner may, in  
 14 his discretion, waive any such verification under oath.

15 (2) The statement of an alien insurer shall relate  
 16 only to its transactions and affairs in the United States  
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 19 affairs throughout the world, the insurer shall file such  
 20 statement with the commissioner as soon as reasonably  
 21 possible. The statement shall be verified by the insurer's  
 22 United States manager or other officer duly authorized.

23 (3) The commissioner may refuse to accept the fee for  
 24 continuance of the insurer's certificate of authority, as  
 25 provided in 33-2-117, or may in his discretion suspend or

1 revoke the certificate of authority of any insurer failing  
2 to file its annual statement when due.

3 (4) Any director, officer or agent, or employee of any  
4 company who subscribes to, makes, or concurs in making or  
5 publishing any annual statement or any other statement  
6 required by law knowing the same to contain any material  
7 statement which is false shall be punished by a fine of not  
8 more than \$1,000.

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10 commissioner the fee for filing its statement as prescribed  
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15 Section 4. Section 33-2-806, MCA, is amended to read:

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24 assets. This restriction shall not apply as to general  
25 obligations of the United States of America or of any state

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2 (2) An insurer shall not invest in or hold at any one  
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4 corporation, except with the consent of the commissioner  
5 given with respect to voting rights of preference stock  
6 during default of dividends. This provision does not apply  
7 as to stock of a wholly-owned subsidiary of the insurer or  
8 to controlling stock of an insurer acquired under 33-2-821.

9 (3) An insurer, other than title insurer, shall invest  
10 and maintain invested funds not less in amount than the  
11 minimum paid-in capital stock required under this code of a  
12 domestic stock insurer transacting like kinds of insurance,  
13 only in cash and the securities provided for under the  
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15 (4) A life insurer shall also invest and keep invested  
16 its funds in amount not less than the reserves under its  
17 life insurance policies and annuity contracts, other than  
18 variable annuities, in force in cash and/or the securities  
19 or investments provided for under 33-2-531.

20 (5) Except with the commissioner's consent, an insurer  
21 shall not have invested at any one time more than 20% of its  
22 assets in the class of securities described in 33-2-818,  
23 exclusive of obligations of public utilities.

24 (6) An insurer may invest and have invested at any one  
25 time in aggregate amount not more than 10% of its assets in

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1 commissioner has received notice of the declaration thereof  
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5 (2) For purposes of this section, an extraordinary  
 6 dividend or distribution includes any dividend or  
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 8 value together with that of other dividends or distributions  
 9 made within the preceding 12 months exceeds ~~the-greater-of~~  
 10 10% of such insurer's surplus as regards policyholders as of  
 11 December 31 next preceding ~~or-the-net-gain--from--operations~~  
 12 ~~of--such--insurer,--if--such--insurer--is--a--life--insurer,--or--the~~  
 13 ~~net--investment--income,--if--such--insurer--is--not--a--life~~  
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 18 insurer may declare an extraordinary dividend or  
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 11 ~~by recent appraisal. If valuation is based on an appraisal~~  
 12 ~~more than 3 years old, the commissioner may at his~~  
 13 ~~discretion call for and require a new appraisal in order to~~  
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 7 states in general with respect to the type of insurer and  
 8 kinds of insurance to be reported upon, and as supplemented  
 9 for additional information required by the commissioner. The  
 10 statement shall be verified by the oath of the insurer's  
 11 president or vice-president and secretary or, if a  
 12 reciprocal insurer, by the oath of the attorney-in-fact or  
 13 its like officers if a corporation. The commissioner may, in  
 14 his discretion, waive any such verification under oath.

15 (2) The statement of an alien insurer shall relate  
 16 only to its transactions and affairs in the United States  
 17 unless the commissioner requires otherwise. If the  
 18 commissioner requires a statement as to an alien insurer's  
 19 affairs throughout the world, the insurer shall file such  
 20 statement with the commissioner as soon as reasonably  
 21 possible. The statement shall be verified by the insurer's  
 22 United States manager or other officer duly authorized.

23 (3) The commissioner may refuse to accept the fee for  
 24 continuance of the insurer's certificate of authority, as  
 25 provided in 33-2-117, or may in his discretion suspend or

1 revoke the certificate of authority of any insurer failing  
2 to file its annual statement when due.

3 (4) Any director, officer or agent, or employee of any  
4 company who subscribes to, makes, or concurs in making or  
5 publishing any annual statement or any other statement  
6 required by law knowing the same to contain any material  
7 statement which is false shall be punished by a fine of not  
8 more than \$1,000.

9 (5) At time of filing, the insurer shall pay to the  
10 commissioner the fee for filing its statement as prescribed  
11 in 33-2-708.

12 (6) The commissioner may impose a fine not to exceed  
13 \$100 a day for each day after March 1 that an insurer fails  
14 to file the annual statement referred to in subsection (1)."

15 Section 4. Section 33-2-806, MCA, is amended to read:  
16 "33-2-806. Diversification of investments. An insurer  
17 shall invest in or hold as admitted assets categories of  
18 investments only within applicable limits as follows:

19 (1) An insurer shall not, except with the consent of  
20 the commissioner, have at any one time any combination of  
21 investments in or loans upon the security of the  
22 obligations, property, or securities of any one person or  
23 insurer aggregating an amount exceeding 5% of the insurer's  
24 assets. This restriction shall not apply as to general  
25 obligations of the United States of America or of any state

1 or include policy loans made under 33-2-825.

2 (2) An insurer shall not invest in or hold at any one  
3 time more than 10% of the outstanding voting stock of any  
4 corporation, except with the consent of the commissioner  
5 given with respect to voting rights of preference stock  
6 during default of dividends. This provision does not apply  
7 as to stock of a wholly-owned subsidiary of the insurer or  
8 to controlling stock of an insurer acquired under 33-2-821.

9 (3) An insurer, other than title insurer, shall invest  
10 and maintain invested funds not less in amount than the  
11 minimum paid-in capital stock required under this code of a  
12 domestic stock insurer transacting like kinds of insurance,  
13 only in cash and the securities provided for under the  
14 following sections: 33-2-811(1), 33-2-812, and 33-2-830.

15 (4) A life insurer shall also invest and keep invested  
16 its funds in amount not less than the reserves under its  
17 life insurance policies and annuity contracts, other than  
18 variable annuities, in force in cash and/or the securities  
19 or investments provided for under 33-2-531.

20 (5) Except with the commissioner's consent, an insurer  
21 shall not have invested at any one time more than 20% of its  
22 assets in the class of securities described in 33-2-818,  
23 exclusive of obligations of public utilities.

24 (6) An insurer may invest and have invested at any one  
25 time in aggregate amount not more than 10% of its assets in

1 all stocks under 33-2-820, and 33-2-821, ~~and 33-2-824.~~  
 2 Determination of the amount which an insurer has invested in  
 3 common stocks for the purposes of this provision shall be  
 4 based on the cost of such stocks to the insurer. This  
 5 provision shall not apply as to stock of a controlled or  
 6 subsidiary insurance corporation or other corporations under  
 7 33-2-821 and 33-2-822.

8 (7) Except with the commissioner's consent, an insurer  
 9 may not have invested at any one time more than 5% of its  
 10 assets in securities allowed under 33-2-824.

11 ~~(7)~~(8) Except with the commissioner's consent, an  
 12 insurer shall not have invested at any one time more than  
 13 10% of its assets in the class of securities described in  
 14 any one of the following sections: 33-2-814, 33-2-819, and  
 15 33-2-823.

16 ~~(8)~~(9) Limits as to investments in the category of  
 17 real estate shall be as provided in 33-2-832. Other specific  
 18 limits shall apply as stated in the sections dealing with  
 19 other respective kinds of investments."

20 Section 5. Section 33-2-1114, MCA, is amended to read:

21 "33-2-1114. Dividends and other distributions --  
 22 commissioner approval. (1) ~~No~~ An insurer subject to  
 23 registration under 33-2-1111 and 33-2-1112 ~~shall~~ may not pay  
 24 any extraordinary dividend or make any other extraordinary  
 25 distribution to its shareholders until 30 days after the

1 commissioner has received notice of the declaration thereof  
 2 and has not within such period disapproved such payment or  
 3 the commissioner shall have approved such payment within  
 4 such 30-day period.

5 (2) For purposes of this section, an extraordinary  
 6 dividend or distribution includes any dividend or  
 7 distribution of cash or other property whose fair market  
 8 value together with that of other dividends or distributions  
 9 made within the preceding 12 months exceeds ~~the greater of~~  
 10 10% of such insurer's surplus as regards policyholders as of  
 11 December 31 next preceding ~~or the net gain from operations~~  
 12 ~~of such insurer, if such insurer is a life insurer, or the~~  
 13 ~~net investment income, if such insurer is not a life~~  
 14 ~~insurer, for the 12-month period ending December 31 next~~  
 15 ~~preceding~~, but shall not include pro rata distributions of  
 16 any class of the insurer's own securities.

17 (3) Notwithstanding any other provision of law, an  
 18 insurer may declare an extraordinary dividend or  
 19 distribution which is conditional upon the commissioner's  
 20 approval thereof, and such a declaration shall confer no  
 21 rights upon shareholders until the commissioner has approved  
 22 the payment of such dividend or distribution or the  
 23 commissioner has not disapproved such payment within the  
 24 30-day period referred to above."

25 NEW SECTION. Section 6. Extension of authority. Any



LC 1097/01

1 existing authority of the commissioner of insurance to make  
2 rules on the subject of the provisions of this act is  
3 extended to the provisions of this act.

-End-

HOUSE BILL NO. 622  
 INTRODUCED BY BRANDEWIE  
 BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE FINANCIAL REGULATION OF INSURANCE COMPANIES; AND AMENDING SECTIONS 33-2-121, 33-2-534, 33-2-701, 33-2-806, AND 33-2-1114, MCA."

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

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

"33-2-121. Duration of suspension -- insurer's obligations -- reinstatement. (1) Suspension of an insurer's certificate of authority shall be for such period as is fixed by the commissioner in the order of suspension but not to exceed 1 year and shall continue until rescinded or otherwise removed by the commissioner. During the suspension the commissioner may shorten the period thereof by his further order.

(2) During the period of the suspension the insurer shall file its annual statement and pay fees, licenses, and taxes as required under this code as if the certificate had continued in full force.

(3) ~~Upon expiration of the suspension period,~~ if if within such period of suspension the certificate of

authority has not been terminated, the insurer's certificate of authority ~~shall automatically reinstate unless~~ may be reinstated if the commissioner finds that the causes of the suspension have not been removed or that the insurer is otherwise not in compliance with the requirements of this code, ~~and of which the commissioner shall give the insurer notice not less than 30 days in advance of the expiration of such period, if not so automatically reinstated, the certificate of authority shall be deemed to have expired as at the end of the suspension period or upon failure of the insurer to continue the certificate during the suspension period, whichever event shall first occur.~~

(4) Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this state to represent the insurer shall likewise reinstate.

(5) The commissioner shall forthwith notify both the insurer and its agents in this state, as shown by his records, of such reinstatement."

Section 2. Section 33-2-534, MCA, is amended to read:

"33-2-534. Valuation of property. (1) Real property acquired pursuant to a mortgage loan or contract for sale, ~~in the absence of a recent appraisal deemed by the commissioner to be reliable,~~ shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together

1 with any taxes and expenses paid or incurred in connection  
 2 with such acquisition, the cost of improvements thereafter  
 3 made by the insurer, and any amounts thereafter paid by the  
 4 insurer on assessments levied for improvements in connection  
 5 with the property. After the initial valuation as set forth  
 6 herein, any land shall be valued at its acquisition cost and  
 7 any improvements thereon shall be valued at depreciated  
 8 acquisition cost.

9 (2) Other real property held by an insurer shall not  
 10 be valued at an amount in excess of ~~fair value as determined~~  
 11 ~~by recent appraisal. If valuation is based on an appraisal~~  
 12 ~~more than 3 years old, the commissioner may at his~~  
 13 ~~discretion call for and require a new appraisal in order to~~  
 14 ~~determine fair value~~ acquisition cost if land and  
 15 depreciated acquisition cost if an improvement to land.

16 (3) Personal property acquired pursuant to chattel  
 17 mortgages made in accordance with 33-2-831 shall not be  
 18 valued at an amount greater than the unpaid balance of  
 19 principal on the defaulted loan at the date of acquisition,  
 20 together with taxes and expenses incurred in connection with  
 21 such acquisition, or the fair value of such property,  
 22 whichever amount is the lesser."

23 Section 3. Section 33-2-701, MCA, is amended to read:  
 24 "33-2-701. Annual statement -- revocation or fine for  
 25 failure to file -- penalty for perjury. (1) Each authorized

1 insurer shall annually on or before March 1 file with the  
 2 commissioner a full and true statement of its financial  
 3 condition, transactions, and affairs as of the December 31  
 4 preceding. The statement shall be in such general form and  
 5 context as is required or not disapproved by the  
 6 commissioner, as is in current use for similar reports to  
 7 states in general with respect to the type of insurer and  
 8 kinds of insurance to be reported upon, and as supplemented  
 9 for additional information required by the commissioner. The  
 10 statement shall be verified by the oath of the insurer's  
 11 president or vice-president and secretary or, if a  
 12 reciprocal insurer, by the oath of the attorney-in-fact or  
 13 its like officers if a corporation. The commissioner may, in  
 14 his discretion, waive any such verification under oath.

15 (2) The statement of an alien insurer shall relate  
 16 only to its transactions and affairs in the United States  
 17 unless the commissioner requires otherwise. If the  
 18 commissioner requires a statement as to an alien insurer's  
 19 affairs throughout the world, the insurer shall file such  
 20 statement with the commissioner as soon as reasonably  
 21 possible. The statement shall be verified by the insurer's  
 22 United States manager or other officer duly authorized.

23 (3) The commissioner may refuse to accept the fee for  
 24 continuance of the insurer's certificate of authority, as  
 25 provided in 33-2-117, or may in his discretion suspend or

1 revoke the certificate of authority of any insurer failing  
2 to file its annual statement when due.

3 (4) Any director, officer or agent, or employee of any  
4 company who subscribes to, makes, or concurs in making or  
5 publishing any annual statement or any other statement  
6 required by law knowing the same to contain any material  
7 statement which is false shall be punished by a fine of not  
8 more than \$1,000.

9 (5) At time of filing, the insurer shall pay to the  
10 commissioner the fee for filing its statement as prescribed  
11 in 33-2-708.

12 (6) The commissioner may impose a fine not to exceed  
13 \$100 a day for each day after March 1 that an insurer fails  
14 to file the annual statement referred to in subsection (1).  
15 SUCH FINE MAY NOT EXCEED A MAXIMUM OF \$1,000."

16 Section 4. Section 33-2-806, MCA, is amended to read:  
17 "33-2-806. Diversification of investments. An insurer  
18 shall invest in or hold as admitted assets categories of  
19 investments only within applicable limits as follows:

20 (1) An insurer shall not, except with the consent of  
21 the commissioner, have at any one time any combination of  
22 investments in or loans upon the security of the  
23 obligations, property, or securities of any one person or  
24 insurer aggregating an amount exceeding 5% of the insurer's  
25 assets. This restriction shall not apply as to general

1 obligations of the United States of America or of any state  
2 or include policy loans made under 33-2-825.

3 (2) An insurer shall not invest in or hold at any one  
4 time more than 10% of the outstanding voting stock of any  
5 corporation, except with the consent of the commissioner  
6 given with respect to voting rights of preference stock  
7 during default of dividends. This provision does not apply  
8 as to stock of a wholly-owned subsidiary of the insurer or  
9 to controlling stock of an insurer acquired under 33-2-821.

10 (3) An insurer, other than title insurer, shall invest  
11 and maintain invested funds not less in amount than the  
12 minimum paid-in capital stock required under this code of a  
13 domestic stock insurer transacting like kinds of insurance,  
14 only in cash and the securities provided for under the  
15 following sections: 33-2-811(1), 33-2-812, and 33-2-830.

16 (4) A life insurer shall also invest and keep invested  
17 its funds in amount not less than the reserves under its  
18 life insurance policies and annuity contracts, other than  
19 variable annuities, in force in cash and/or the securities  
20 or investments provided for under 33-2-531.

21 (5) Except with the commissioner's consent, an insurer  
22 shall not have invested at any one time more than 20% of its  
23 assets in the class of securities described in 33-2-818,  
24 exclusive of obligations of public utilities.

25 (6) An insurer may invest and have invested at any one

1 time in aggregate amount not more than 10% of its assets in  
 2 all stocks under 33-2-820, and 33-2-821~~and 33-2-824~~.  
 3 Determination of the amount which an insurer has invested in  
 4 common stocks for the purposes of this provision shall be  
 5 based on the cost of such stocks to the insurer. This  
 6 provision shall not apply as to stock of a controlled or  
 7 subsidiary insurance corporation or other corporations under  
 8 33-2-821 and 33-2-822.

9 (7) Except with the commissioner's consent, an insurer  
 10 may not have invested at any one time more than 5% of its  
 11 assets in securities allowed under 33-2-824.

12 ~~(7)(B)~~ Except with the commissioner's consent, an  
 13 insurer shall not have invested at any one time more than  
 14 10% of its assets in the class of securities described in  
 15 any one of the following sections: 33-2-814, 33-2-819, and  
 16 33-2-823.

17 ~~(8)(9)~~ Limits as to investments in the category of  
 18 real estate shall be as provided in 33-2-832. Other specific  
 19 limits shall apply as stated in the sections dealing with  
 20 other respective kinds of investments."

21 Section 5. Section 33-2-1114, MCA, is amended to read:

22 "33-2-1114. Dividends and other distributions --  
 23 commissioner approval. (1) ~~No~~ An insurer subject to  
 24 registration under 33-2-1111 and 33-2-1112 ~~shall~~ may not pay  
 25 any extraordinary dividend or make any other extraordinary

1 distribution to its shareholders until 30 days after the  
 2 commissioner has received notice of the declaration thereof  
 3 and has not within such period disapproved such payment or  
 4 the commissioner shall have approved such payment within  
 5 such 30-day period.

6 (2) For purposes of this section, an extraordinary  
 7 dividend or distribution includes any dividend or  
 8 distribution of cash or other property whose fair market  
 9 value together with that of other dividends or distributions  
 10 made within the preceding 12 months exceeds ~~the~~ greater ~~of~~  
 11 10% of such insurer's surplus as regards policyholders as of  
 12 December 31 next preceding ~~or the net gain from operations~~  
 13 ~~of such insurer, if such insurer is a life insurer, or the~~  
 14 ~~net investment income, if such insurer is not a life~~  
 15 ~~insurer, for the 12-month period ending December 31 next~~  
 16 ~~preceding~~, but shall not include pro rata distributions of  
 17 any class of the insurer's own securities.

18 (3) Notwithstanding any other provision of law, an  
 19 insurer may declare an extraordinary dividend or  
 20 distribution which is conditional upon the commissioner's  
 21 approval thereof, and such a declaration shall confer no  
 22 rights upon shareholders until the commissioner has approved  
 23 the payment of such dividend or distribution or the  
 24 commissioner has not disapproved such payment within the  
 25 30-day period referred to above."

1        NEW SECTION. Section 6. Extension of authority. Any  
2 existing authority of the commissioner of insurance to make  
3 rules on the subject of the provisions of this act is  
4 extended to the provisions of this act.

-End-

# STANDING COMMITTEE REPORT

## SENATE

MARCH 26, 1987

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 622

THIRD reading copy ( BLUE )  
color

BRANDEWIE ( WEEDING )

GENERALLY REVISE FINANCIAL REGULATION OF INSURANCE COMPANIES

Respectfully report as follows: That HOUSE BILL No. 622

be amended as follows:

1. Page 5, line 14.  
Following: "subsection (1)."  
Insert: "Such fine may not exceed a maximum of \$1,000."

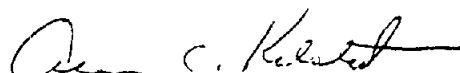
AND AS AMENDED,

BE CONCURRED IN

AB

~~XXXXXX~~

~~XXXXXXXXXX~~

  
SENATOR ALLEN C. KOLSTAD, Chairman.

3-26-87  
5:

# STANDING COMMITTEE REPORT

## SENATE

.....April 2, 1987..... 19.....

MR. PRESIDENT

We, your committee on.....FINANCE AND CLAIMS.....

having had under consideration.....House Bill..... No. 621.....

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color

ALLOCATE FEDERAL OIL OVERCHARGE MONEY

QUILICI (Walker)

Respectfully report as follows: That.....House Bill..... No. 621,.....

be amended as follows:

1. Page 3, line 14.  
Strike: "\$1,550,000"  
Insert: "\$1,650,000"

2. Page 3, line 17.  
Strike: "\$950,000"  
Insert: "\$850,000"

3. Page 7, line 25.  
Strike: "\$1,900,000"  
Insert: "\$1,985,000"

4. Page 9, Following line 12.  
Insert: "New Section. Section 10. There is appropriated from the stripper well payment, contained in the federal special revenue fund to the department of commerce, \$65,000 for repair of the roof at West Yellowstone airport. The department of commerce is directed to take the steps necessary to transfer ownership of the West Yellowstone airport to the city of West Yellowstone or another local public authority willing to own and operate the airport. If no public entity is willing to take over the airport, the department shall present a plan to the 51st legislature to close the airport."

Renumber: subsequent sections

AND AS AMENDED  
BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

4-2-87

JAR

.....  
Senator Regan

Chairman. 12:40