

HOUSE BILL NO. 806

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR

IN THE HOUSE

FEBRUARY 17, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
FEBRUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 20, 1987	PRINTING REPORT.
FEBRUARY 21, 1987	SECOND READING, DO PASS.
FEBRUARY 23, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 11, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 14, 1987	ON MOTION, CONSIDERATION PASSED UNTIL THE 59TH LEGISLATIVE DAY.
MARCH 17, 1987	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1987	SECOND READING, CONCURRED IN.

MARCH 30, 1987

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. *806*
 2 INTRODUCED BY *Porter*
 3 BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO THE MONTANA LIFE AND HEALTH INSURANCE
 7 GUARANTY ASSOCIATION ACT; AMENDING SECTIONS 33-10-202,
 8 33-10-204, 33-10-219, 33-10-220, 33-10-224, 33-10-227, AND
 9 33-10-230, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN
 10 IMMEDIATE EFFECTIVE DATE."
 11

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

13 Section 1. Section 33-10-202, MCA, is amended to read:
 14 "33-10-202. Definitions. As used in this part, the
 15 following definitions apply:

- 16 (1) "Account" means either any of the three accounts
 17 created under 33-10-203.
- 18 (2) "Association" means the Montana life and health
 19 insurance guaranty association created under 33-10-203.
- 20 (3) "Contractual obligation" means any obligation
 21 under covered policies.
- 22 (4) "Covered policy" means any policy or contract held
 23 by a resident of this state within the scope of this part
 24 under subsections (4) and (5) of 33-10-201.
- 25 (5) "Impaired insurer" means:

1 (a) an insurer which after July 1, 1974, becomes
 2 insolvent and is placed under a final order of liquidation,
 3 rehabilitation, or supervision by a court of competent
 4 jurisdiction; or

5 (b) an insurer deemed by the commissioner after July
 6 1, 1974, to be unable or potentially unable to fulfill its
 7 contractual obligations.

8 (6) "Member insurer" means any person authorized to
 9 transact in this state any kind of insurance to which this
 10 part applies under subsections (4) and (5) of 33-10-201.

11 (7) "Person" means any individual, corporation,
 12 partnership, association, or voluntary organization.

13 (8) "Premiums" means direct gross insurance premiums
 14 and annuity considerations written on covered policies, less
 15 return premiums and considerations thereon and dividends
 16 paid or credited to policyholders on such direct business.
 17 "Premiums" do not include premiums and considerations on
 18 contracts between insurers and reinsurers. As used in
 19 33-10-227, "premiums" are those for the calendar year
 20 preceding the determination of impairment.

21 (9) "Resident" means any person who resides in this
 22 state at the time the impairment is determined and to whom
 23 contractual obligations are owed."

24 Section 2. Section 33-10-204, MCA, is amended to read:
 25 "33-10-204. Board of directors -- commissioner



1 approval -- compensation. (1) The board of directors of the
 2 association shall consist of five members serving terms as
 3 established in the plan of operation. The members of the
 4 board shall be selected by member insurers subject to the
 5 approval of the commissioner. Vacancies on the board shall
 6 be filled for the remaining period of the term in the manner
 7 described in the plan of operation. In approving selections
 8 or in appointing members to the board, the commissioner
 9 shall consider, among other things, whether all member
 10 insurers are fairly represented.

11 (2) Members of the board may be reimbursed from the
 12 assets of the association for expenses incurred by them as
 13 members of the board of directors, but and such members of
 14 the board ~~shall not otherwise be compensated by the~~
 15 ~~association for their services~~ who are not full-time
 16 employees of an insurer may receive reasonable compensation
 17 for their services as board members upon annual approval by
 18 the membership."

19 Section 3. Section 33-10-219, MCA, is amended to read:

20 "33-10-219. Impaired insurer -- association's powers
 21 prior to liquidation. ~~{t}~~ If ~~a-domestic~~ an insurer is an
 22 impaired insurer, the association may, prior to an order of
 23 liquidation or rehabilitation and subject to any conditions
 24 imposed by the association other than those which impair the
 25 contractual obligations of the impaired insurer and approved

1 by the impaired insurer and the commissioner:

2 ~~{a}~~(1) guarantee or reinsure or cause to be
 3 guaranteed, assumed, or reinsured all the covered policies
 4 of the impaired insurer;

5 ~~{b}~~(2) provide such moneys, pledges, notes,
 6 guarantees, or other means as are proper to effectuate
 7 ~~subsection--{a}~~ this section and assure payment of the
 8 contractual obligations of the impaired insurer pending
 9 action under subsection ~~{a}~~ (1); and

10 ~~{c}~~(3) loan money to the impaired insurer.

11 ~~{2}--If--a--foreign--or--alien--insurer--is--an--impaired~~
 12 ~~insurer,--the--association--may,--prior--to--an--order--of~~
 13 ~~liquidation,--rehabilitation,--or--supervision,--with--respect--to~~
 14 ~~the--covered--policies--of--residents--and--subject--to--any~~
 15 ~~conditions--imposed--by--the--association--other--than--those--which~~
 16 ~~impair--the--contractual--obligations--of--the--impaired--insurer~~
 17 ~~and--approved--by--the--impaired--insurer--and--the--commissioner;~~

18 ~~{a}--guarantee--or--reinsure--or--cause--to--be--guaranteed,~~
 19 ~~assumed,--or--reinsured--the--impaired--insurer's--covered~~
 20 ~~policies--of--residents;~~

21 ~~{b}--provide--such--moneys,--pledges,--notes,--guarantees,~~
 22 ~~or--other--means--as--are--proper--to--effectuate--subsection--{a}~~
 23 ~~and--assure--payment--of--the--impaired--insurer's--contractual~~
 24 ~~obligations--to--residents--pending--action--under--subsection~~
 25 ~~{a};~~

~~(c) loan money to the impaired insurer."~~

Section 4. Section 33-10-220, MCA, is amended to read:

"33-10-220. Impaired insurer -- association's powers during liquidation. (1) If a ~~domestic~~ an insurer is an impaired insurer under an order of liquidation or rehabilitation, the association shall, subject to the approval of the commissioner:

(a) guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of the impaired insurer;

(b) assure payment of the contractual obligations of the impaired insurer; and

(c) provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

~~(2) If a foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or supervision, the association shall, subject to the approval of the commissioner:~~

~~(a) guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;~~

~~(b) assure payment of the contractual obligations of the impaired insurer to residents; and~~

~~(c) provide such moneys, pledges, notes, guarantees,~~

~~or other means as are reasonably necessary to discharge such duties:~~

~~(3)~~ (2) If the association fails to act within a reasonable period of time, the commissioner shall have the powers and duties of the association under this part with respect to such domestic, foreign, or alien impaired insurer.

~~(4)~~ (3) In carrying out its duties under subsections subsection (1) ~~and (2)~~, the association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means; and such liens, moratoriums, or similar means may be imposed if the commissioner:

(a) finds that the amounts which can be assessed under this part are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest; and

(b) approves the specific policy liens, contract liens, moratoriums, or similar means to be used.

~~(5)~~ (4) Before being obligated under subsections subsection (1) ~~and (2)~~, the association may request that

1 there be imposed temporary moratoriums or liens on payments
2 of cash values and policy loans, and such temporary
3 moratoriums and liens may be imposed if they are approved by
4 the commissioner.

5 ~~(6)~~(5) The association shall have no liability under
6 33-10-219 or this section for any covered policy of a
7 foreign or alien insurer whose domiciliary jurisdiction or
8 state of entry provides by statute or regulation for
9 residents of this state protection substantially similar to
10 that provided by this part for residents of other states.

11 (6) The association, subject to the approval of the
12 commissioner, may provide substitute coverage on an
13 individual basis to insureds or may offer to reissue the
14 terminated coverage or issue an alternative policy.
15 Alternative or reissued policies must be offered without
16 requiring evidence of insurability and may not provide for
17 any waiting period or exclusion that would not have applied
18 under the terminated policy."

19 Section 5. Section 33-10-224, MCA, is amended to read:
20 "33-10-224. Extent of liability. The contractual
21 obligations of the impaired insurer for which the
22 association becomes or may become liable shall be as great
23 as but no greater than the contractual obligations of the
24 impaired insurer would have been in the absence of an
25 impairment unless such obligations are reduced as permitted

1 by 33-10-220~~(4)~~(3), but the association shall have no
2 liability with respect to any portion of a covered policy to
3 the extent that the death benefit coverage on any one life
4 exceeds an aggregate of \$300,000."

5 Section 6. Section 33-10-227, MCA, is amended to read:
6 "33-10-227. Assessments -- abatement -- basis for
7 ratesetting. (1) For the purpose of providing the funds
8 necessary to carry out the powers and duties of the
9 association, the board of directors shall assess the member
10 insurers, separately for each account, at such times and for
11 such amounts as the board finds necessary. The board shall
12 collect the assessments after 30 days' written notice to the
13 member insurers before payment is due.

14 (2) There shall be ~~three~~ two classes of assessments,
15 as follows:

16 (a) Class A assessments shall be made for the purpose
17 of meeting administrative costs and other general expenses
18 not related to a particular impaired insurer.

19 (b) Class B assessments shall be made to the extent
20 necessary to carry out the powers and duties of the
21 association under 33-10-219~~(1)~~ and 33-10-220(1) with regard
22 to an impaired domestic insurer.

23 ~~(c) Class C assessments shall be made to the extent~~
24 ~~necessary to carry out the powers and duties of the~~
25 ~~association under 33-10-219(2) and 33-10-220(2) with regard~~

1 ~~to an impaired foreign or alien insurer.~~

2 (3) (a) The amount of any Class A assessment for each
3 account shall be determined by the board. The amount of any
4 Class B ~~or E~~ assessment shall be divided among the accounts
5 in the proportion that the premiums received by the impaired
6 insurer on the policies covered by each account bear to the
7 premiums received by such insurer on all covered policies.

8 (b) ~~Class A and Class E~~ Class B assessments against
9 member insurers for each account shall be in the proportion
10 that the premiums received on business in this state by each
11 assessed member insurer on policies covered by each account
12 bear to such premiums received on business in this state by
13 all assessed member insurers.

14 ~~(c) Class B assessments for each account shall be made~~
15 ~~separately for each state in which the impaired domestic~~
16 ~~insurer was authorized to transact insurance at any time in~~
17 ~~the proportion that the premiums received on business in~~
18 ~~such state by the impaired insurer on policies covered by~~
19 ~~such account bear to such premiums received in all such~~
20 ~~states by the impaired insurer. The assessments against~~
21 ~~member insurers shall be in the proportion that the premiums~~
22 ~~received on business in each such state by each assessed~~
23 ~~member insurer on policies covered by each account bear to~~
24 ~~such premiums received on business in each state by all~~
25 ~~assessed member insurers.~~

1 ~~(d)~~ (c) Assessments for funds to meet the requirements
2 of the association with respect to an impaired insurer shall
3 not be made until necessary to implement the purposes of
4 this part. Classification of assessments under subsection
5 (2) and computation of assessments under this subsection
6 shall be made with a reasonable degree of accuracy,
7 recognizing that exact determinations may not always be
8 possible.

9 (4) The association may abate or defer, in whole or in
10 part, the assessment of a member insurer if, in the opinion
11 of the board, payment of the assessment would endanger the
12 ability of the member insurer to fulfill its contractual
13 obligations. The total of all assessments upon a member
14 insurer for each account shall not in any one calendar year
15 exceed 2% of such insurer's premiums in this state on the
16 policies covered by the account.

17 (5) In the event an assessment against a member
18 insurer is abated or deferred, in whole or in part, because
19 of the limitations set forth in subsection (4), the amount
20 by which such assessment is abated or deferred shall be
21 assessed against the other member insurers in a manner
22 consistent with the basis for assessments set forth in this
23 section. If the maximum assessment, together with the other
24 assets of the association in either account, does not
25 provide in any one year in either account an amount

1 sufficient to carry out the responsibilities of the
2 association, the necessary additional funds shall be
3 assessed as soon thereafter as permitted by this part.

4 (6) The board may, by an equitable method as
5 established in the plan of operation, refund to member
6 insurers, in proportion to the contribution of each insurer
7 to that account, the amount by which the assets of the
8 account exceed the amount the board finds is necessary to
9 carry out during the coming year the obligations of the
10 association with regard to that amount, including assets
11 accruing from net realized gains and income from
12 investments. A reasonable amount may be retained in any
13 account to provide funds for the continuing expenses of the
14 association and for future losses if refunds are
15 impractical.

16 (7) It shall be proper for any member insurer, in
17 determining its premium rates and policyowner dividends as
18 to any kind of insurance within the scope of this part, to
19 consider the amount reasonably necessary to meet its
20 assessment obligations under this part.

21 (8) The association shall issue to each insurer paying
22 an assessment under this part a certificate of contribution,
23 in a form prescribed by the commissioner, for the amount so
24 paid. All outstanding certificates shall be of equal dignity
25 and priority without reference to amounts or dates of issue.

1 A certificate of contribution may be shown by the insurer in
2 its financial statement as an asset in such form and for
3 such amount, if any, and period of time as the commissioner
4 may approve."

5 Section 7. Section 33-10-230, MCA, is amended to read:
6 "33-10-230. Tax -- writeoffs of certificates of
7 contribution. (1) Unless a longer period has been allowed by
8 the commissioner, a member insurer shall at its option have
9 the right to show a certificate of contribution for a Class
10 B assessment only as an asset in the form approved by the
11 commissioner pursuant to 33-10-227(8), at percentages of the
12 original face amount approved by the commissioner, for
13 calendar years as follows:

- 14 (a) 100% for calendar year of issuance;
15 (b) 80% for the first calendar year after year of
16 issuance;
17 (c) 60% for second calendar year after year of
18 issuance;
19 (d) 40% for third calendar year after year of
20 issuance;
21 (e) 20% for fourth calendar year after year of
22 issuance.

23 (2) The insurer may offset the amount written off by
24 it in the calendar year under subsection (1) above against
25 its premium tax liability to this state accrued with respect

1 to business transacted in such year.

2 (3) Any sums acquired by refund, pursuant to
3 33-10-227(6), from the association which have therefore been
4 written off by contributing insurers and offset against
5 premium taxes as provided in subsection (2) above and are
6 not then needed for purposes for this part shall be paid by
7 the association to the commissioner and by him deposited
8 with the state treasurer for credit to the general fund of
9 this state."

10 NEW SECTION. Section 8. Extension of authority. Any
11 existing authority of the commissioner of insurance to make
12 rules on the subject of the provisions of this act is
13 extended to the provisions of this act.

14 NEW SECTION. Section 9. Applicability. Sections 1
15 through 7 apply to all occurrences that result from legal
16 actions instituted after the effective date of this act.

17 NEW SECTION. Section 10. Effective date. This act is
18 effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS AND LABOR

1 INTRODUCTION BY House BILL NO. 806
2 Carlin
3 BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE MONTANA LIFE AND HEALTH INSURANCE
7 GUARANTY ASSOCIATION ACT; AMENDING SECTIONS 33-10-202,
8 33-10-204, 33-10-219, 33-10-220, 33-10-224, 33-10-227, AND
9 33-10-230, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN
10 IMMEDIATE EFFECTIVE DATE."
11

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

13 Section 1. Section 33-10-202, MCA, is amended to read:
14 "33-10-202. Definitions. As used in this part, the
15 following definitions apply:

- 16 (1) "Account" means either any of the three accounts
17 created under 33-10-203.
- 18 (2) "Association" means the Montana life and health
19 insurance guaranty association created under 33-10-203.
- 20 (3) "Contractual obligation" means any obligation
21 under covered policies.
- 22 (4) "Covered policy" means any policy or contract held
23 by a resident of this state within the scope of this part
24 under subsections (4) and (5) of 33-10-201.
- 25 (5) "Impaired insurer" means:

1 (a) an insurer which after July 1, 1974, becomes
2 insolvent and is placed under a final order of liquidation,
3 rehabilitation, or supervision by a court of competent
4 jurisdiction; or

5 (b) an insurer deemed by the commissioner after July
6 1, 1974, to be unable or potentially unable to fulfill its
7 contractual obligations.

8 (6) "Member insurer" means any person authorized to
9 transact in this state any kind of insurance to which this
10 part applies under subsections (4) and (5) of 33-10-201.

11 (7) "Person" means any individual, corporation,
12 partnership, association, or voluntary organization.

13 (8) "Premiums" means direct gross insurance premiums
14 and annuity considerations written on covered policies, less
15 return premiums and considerations thereon and dividends
16 paid or credited to policyholders on such direct business.
17 "Premiums" do not include premiums and considerations on
18 contracts between insurers and reinsurers. As used in
19 33-10-227, "premiums" are those for the calendar year
20 preceding the determination of impairment.

21 (9) "Resident" means any person who resides in this
22 state at the time the impairment is determined and to whom
23 contractual obligations are owed."

24 Section 2. Section 33-10-204, MCA, is amended to read:
25 "33-10-204. Board of directors -- commissioner



1 approval -- compensation. (1) The board of directors of the
 2 association shall consist of five members serving terms as
 3 established in the plan of operation. The members of the
 4 board shall be selected by member insurers subject to the
 5 approval of the commissioner. Vacancies on the board shall
 6 be filled for the remaining period of the term in the manner
 7 described in the plan of operation. In approving selections
 8 or in appointing members to the board, the commissioner
 9 shall consider, among other things, whether all member
 10 insurers are fairly represented.

11 (2) Members of the board may be reimbursed from the
 12 assets of the association for expenses incurred by them as
 13 members of the board of directors, but and such members of
 14 the board ~~shall not otherwise be compensated by the~~
 15 ~~association for their services who are not full-time~~
 16 ~~employees of an insurer may receive reasonable compensation~~
 17 ~~for their services as board members upon annual approval by~~
 18 ~~the membership."~~

19 Section 3. Section 33-10-219, MCA, is amended to read:
 20 "33-10-219. Impaired insurer -- association's powers
 21 prior to liquidation. ~~{}~~ If a domestic an insurer is an
 22 impaired insurer, the association may, prior to an order of
 23 liquidation or rehabilitation and subject to any conditions
 24 imposed by the association other than those which impair the
 25 contractual obligations of the impaired insurer and approved

1 by the impaired insurer and the commissioner:

2 ~~{a}(1)~~ guarantee or reinsure or cause to be
 3 guaranteed, assumed, or reinsured all the covered policies
 4 of the impaired insurer;

5 ~~{b}(2)~~ provide such moneys, pledges, notes,
 6 guarantees, or other means as are proper to effectuate
 7 ~~subsection--(a) this section~~ and assure payment of the
 8 contractual obligations of the impaired insurer pending
 9 action under subsection ~~{a} (1); and~~

10 ~~{c}(3)~~ loan money to the impaired insurer.

11 ~~{2}--If--a--foreign--or--alien--insurer--is--an--impaired~~
 12 ~~insurer;--the--association--may;--prior--to--an--order--of~~
 13 ~~liquidation;--rehabilitation;--or--supervision;--with--respect--to~~
 14 ~~the--covered--policies--of--residents--and--subject--to--any~~
 15 ~~conditions--imposed--by--the--association--other--than--those--which~~
 16 ~~impair--the--contractual--obligations--of--the--impaired--insurer~~
 17 ~~and--approved--by--the--impaired--insurer--and--the--commissioner;~~

18 ~~{a}--guarantee--or--reinsure--or--cause--to--be--guaranteed;~~
 19 ~~assumed;--or--reinsured--the--impaired--insurer's--covered~~
 20 ~~policies--of--residents;~~

21 ~~{b}--provide--such--moneys;--pledges;--notes;--guarantees;~~
 22 ~~or--other--means--as--are--proper--to--effectuate--subsection--(a)~~
 23 ~~and--assure--payment--of--the--impaired--insurer's--contractual~~
 24 ~~obligations--to--residents--pending--action--under--subsection~~
 25 ~~{a};~~

1 ~~{c}~~--loan-money-to-the-impaired-insurer--"

2 Section 4. Section 33-10-220, MCA, is amended to read:

3 "33-10-220. Impaired insurer -- association's powers

4 during liquidation. (1) If ~~a~~--domestic an insurer is an

5 impaired insurer under an order of liquidation or

6 rehabilitation, the association shall, subject to the

7 approval of the commissioner:

8 (a) guarantee, assume, or reinsure or cause to be

9 guaranteed, assumed, or reinsured the covered policies of

10 the impaired insurer;

11 (b) assure payment of the contractual obligations of

12 the impaired insurer; and

13 (c) provide such moneys, pledges, notes, guarantees,

14 or other means as are reasonably necessary to discharge such

15 duties.

16 ~~{2}~~--if-a-foreign-or--alien--insurer--is--an--impaired

17 insurer--under--an--order-of-liquidation,-rehabilitation,-or

18 supervision,-the-association-shall,-subject-to-the--approval

19 of-the-commissioner-;

20 ~~{a}~~--guarantee,-assume,-or--reinsure--or--cause-to-be

21 guaranteed,-assumed,-or-reinsured-the--covered--policies--of

22 residents-;

23 ~~{b}~~--assure--payment--of-the-contractual-obligations-of

24 the-impaired-insurer-to-residents-;and

25 ~~{c}~~--provide-such-moneys,-pledges,-notes,-guarantees-;

1 or-other-means-as-are-reasonably-necessary-to-discharge-such

2 duties-;

3 ~~{3}~~{2} If the association fails to act within a

4 reasonable period of time, the commissioner shall have the

5 powers and duties of the association under this part with

6 respect to such domestic, foreign, or alien impaired

7 insurer.

8 ~~{4}~~{3} In carrying out its duties under subsections

9 subsection (1) ~~and-{2}~~, the association may request that

10 there be imposed policy liens, contract liens, moratoriums

11 on payments, or other similar means; and such liens,

12 moratoriums, or similar means may be imposed if the

13 commissioner:

14 (a) finds that the amounts which can be assessed under

15 this part are less than the amounts needed to assure full

16 and prompt performance of the impaired insurer's contractual

17 obligations or that the economic or financial conditions as

18 they affect member insurers are sufficiently adverse to

19 render the imposition of policy or contract liens,

20 moratoriums, or similar means to be in the public interest;

21 and

22 (b) approves the specific policy liens, contract

23 liens, moratoriums, or similar means to be used.

24 ~~{5}~~{4} Before being obligated under subsections

25 subsection (1) ~~and--{2}~~, the association may request that

1 there be imposed temporary moratoriums or liens on payments
2 of cash values and policy loans, and such temporary
3 moratoriums and liens may be imposed if they are approved by
4 the commissioner.

5 ~~{6}~~(5) The association shall have no liability under
6 33-10-219 or this section for any covered policy of a
7 foreign or alien insurer whose domiciliary jurisdiction or
8 state of entry provides by statute or regulation for
9 residents of this state protection substantially similar to
10 that provided by this part for residents of other states.

11 (6) The association, subject to the approval of the
12 commissioner, may provide substitute coverage on an
13 individual basis to insureds or may offer to reissue the
14 terminated coverage or issue an alternative policy.
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16 requiring evidence of insurability and may not provide for
17 any waiting period or exclusion that would not have applied
18 under the terminated policy."

19 Section 5. Section 33-10-224, MCA, is amended to read:

20 "33-10-224. Extent of liability. The contractual
21 obligations of the impaired insurer for which the
22 association becomes or may become liable shall be as great
23 as but no greater than the contractual obligations of the
24 impaired insurer would have been in the absence of an
25 impairment unless such obligations are reduced as permitted

1 by 33-10-220~~(4)~~(3), but the association shall have no
2 liability with respect to any portion of a covered policy to
3 the extent that the death benefit coverage on any one life
4 exceeds an aggregate of \$300,000."

5 Section 6. Section 33-10-227, MCA, is amended to read:

6 "33-10-227. Assessments -- abatement -- basis for
7 ratesetting. (1) For the purpose of providing the funds
8 necessary to carry out the powers and duties of the
9 association, the board of directors shall assess the member
10 insurers, separately for each account, at such times and for
11 such amounts as the board finds necessary. The board shall
12 collect the assessments after 30 days' written notice to the
13 member insurers before payment is due.

14 (2) There shall be ~~three~~ two classes of assessments,
15 as follows:

16 (a) Class A assessments shall be made for the purpose
17 of meeting administrative costs and other general expenses
18 not related to a particular impaired insurer.

19 (b) Class B assessments shall be made to the extent
20 necessary to carry out the powers and duties of the
21 association under 33-10-219~~(1)~~ and 33-10-220(1) with regard
22 to an impaired domestic insurer.

23 ~~{c}--Class--E--assessments--shall--be--made--to--the--extent~~
24 ~~necessary--to--carry--out--the--powers--and--duties--of--the~~
25 ~~association--under--33-10-219(2)--and--33-10-220(2)--with--regard~~

1 ~~to an impaired foreign or alien insurer:~~

2 (3) (a) The amount of any Class A assessment for each
3 account shall be determined by the board. The amount of any
4 Class B ~~or C~~ assessment shall be divided among the accounts
5 in the proportion that the premiums received by the impaired
6 insurer on the policies covered by each account bear to the
7 premiums received by such insurer on all covered policies.

8 (b) ~~Class A and Class C~~ Class B assessments against
9 member insurers for each account shall be in the proportion
10 that the premiums received on business in this state by each
11 assessed member insurer on policies covered by each account
12 bear to such premiums received on business in this state by
13 all assessed member insurers.

14 ~~(c) Class B assessments for each account shall be made~~
15 ~~separately for each state in which the impaired domestic~~
16 ~~insurer was authorized to transact insurance at any time in~~
17 ~~the proportion that the premiums received on business in~~
18 ~~such state by the impaired insurer on policies covered by~~
19 ~~such account bear to such premiums received in all such~~
20 ~~states by the impaired insurer. The assessments against~~
21 ~~member insurers shall be in the proportion that the premiums~~
22 ~~received on business in each such state by each assessed~~
23 ~~member insurer on policies covered by each account bear to~~
24 ~~such premiums received on business in each state by all~~
25 ~~assessed member insurers:~~

1 ~~(d)~~ (c) Assessments for funds to meet the requirements
2 of the association with respect to an impaired insurer shall
3 not be made until necessary to implement the purposes of
4 this part. Classification of assessments under subsection
5 (2) and computation of assessments under this subsection
6 shall be made with a reasonable degree of accuracy,
7 recognizing that exact determinations may not always be
8 possible.

9 (4) The association may abate or defer, in whole or in
10 part, the assessment of a member insurer if, in the opinion
11 of the board, payment of the assessment would endanger the
12 ability of the member insurer to fulfill its contractual
13 obligations. The total of all assessments upon a member
14 insurer for each account shall not in any one calendar year
15 exceed 2% of such insurer's premiums in this state on the
16 policies covered by the account.

17 (5) In the event an assessment against a member
18 insurer is abated or deferred, in whole or in part, because
19 of the limitations set forth in subsection (4), the amount
20 by which such assessment is abated or deferred shall be
21 assessed against the other member insurers in a manner
22 consistent with the basis for assessments set forth in this
23 section. If the maximum assessment, together with the other
24 assets of the association in either account, does not
25 provide in any one year in either account an amount

1 sufficient to carry out the responsibilities of the
2 association, the necessary additional funds shall be
3 assessed as soon thereafter as permitted by this part.

4 (6) The board may, by an equitable method as
5 established in the plan of operation, refund to member
6 insurers, in proportion to the contribution of each insurer
7 to that account, the amount by which the assets of the
8 account exceed the amount the board finds is necessary to
9 carry out during the coming year the obligations of the
10 association with regard to that amount, including assets
11 accruing from net realized gains and income from
12 investments. A reasonable amount may be retained in any
13 account to provide funds for the continuing expenses of the
14 association and for future losses if refunds are
15 impractical.

16 (7) It shall be proper for any member insurer, in
17 determining its premium rates and policyowner dividends as
18 to any kind of insurance within the scope of this part, to
19 consider the amount reasonably necessary to meet its
20 assessment obligations under this part.

21 (8) The association shall issue to each insurer paying
22 an assessment under this part a certificate of contribution,
23 in a form prescribed by the commissioner, for the amount so
24 paid. All outstanding certificates shall be of equal dignity
25 and priority without reference to amounts or dates of issue.

1 A certificate of contribution may be shown by the insurer in
2 its financial statement as an asset in such form and for
3 such amount, if any, and period of time as the commissioner
4 may approve."

5 Section 7. Section 33-10-230, MCA, is amended to read:
6 "33-10-230. Tax -- writeoffs of certificates of
7 contribution. (1) Unless a longer period has been allowed by
8 the commissioner, a member insurer shall at its option have
9 the right to show a certificate of contribution for a Class
10 B assessment only as an asset in the form approved by the
11 commissioner pursuant to 33-10-227(8), at percentages of the
12 original face amount approved by the commissioner, for
13 calendar years as follows:

- 14 (a) 100% for calendar year of issuance;
15 (b) 80% for the first calendar year after year of
16 issuance;
17 (c) 60% for second calendar year after year of
18 issuance;
19 (d) 40% for third calendar year after year of
20 issuance;
21 (e) 20% for fourth calendar year after year of
22 issuance.

23 (2) The insurer may offset the amount written off by
24 it in the calendar year under subsection (1) above against
25 its premium tax liability to this state accrued with respect

1 to business transacted in such year.

2 (3) Any sums acquired by refund, pursuant to
3 33-10-227(6), from the association which have therefore been
4 written off by contributing insurers and offset against
5 premium taxes as provided in subsection (2) above and are
6 not then needed for purposes for this part shall be paid by
7 the association to the commissioner and by him deposited
8 with the state treasurer for credit to the general fund of
9 this state."

10 NEW SECTION. Section 8. Extension of authority. Any
11 existing authority of the commissioner of insurance to make
12 rules on the subject of the provisions of this act is
13 extended to the provisions of this act.

14 NEW SECTION. Section 9. Applicability. Sections 1
15 through 7 apply to all occurrences that result from legal
16 actions instituted after the effective date of this act.

17 NEW SECTION. Section 10. Effective date. This act is
18 effective on passage and approval.

-End-

1 *House* BILL NO. *806*
 2 INTRODUCED BY *Carroll*
 3 BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO THE MONTANA LIFE AND HEALTH INSURANCE
 7 GUARANTY ASSOCIATION ACT; AMENDING SECTIONS 33-10-202,
 8 33-10-204, 33-10-219, 33-10-220, 33-10-224, 33-10-227, AND
 9 33-10-230, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN
 10 IMMEDIATE EFFECTIVE DATE."
 11

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

13 Section 1. Section 33-10-202, MCA, is amended to read:
 14 "33-10-202. Definitions. As used in this part, the
 15 following definitions apply:

16 (1) "Account" means either any of the three accounts
 17 created under 33-10-203.

18 (2) "Association" means the Montana life and health
 19 insurance guaranty association created under 33-10-203.

20 (3) "Contractual obligation" means any obligation
 21 under covered policies.

22 (4) "Covered policy" means any policy or contract held
 23 by a resident of this state within the scope of this part
 24 under subsections (4) and (5) of 33-10-201.

25 (5) "Impaired insurer" means:

1 (a) an insurer which after July 1, 1974, becomes
 2 insolvent and is placed under a final order of liquidation,
 3 rehabilitation, or supervision by a court of competent
 4 jurisdiction; or

5 (b) an insurer deemed by the commissioner after July
 6 1, 1974, to be unable or potentially unable to fulfill its
 7 contractual obligations.

8 (6) "Member insurer" means any person authorized to
 9 transact in this state any kind of insurance to which this
 10 part applies under subsections (4) and (5) of 33-10-201.

11 (7) "Person" means any individual, corporation,
 12 partnership, association, or voluntary organization.

13 (8) "Premiums" means direct gross insurance premiums
 14 and annuity considerations written on covered policies, less
 15 return premiums and considerations thereon and dividends
 16 paid or credited to policyholders on such direct business.
 17 "Premiums" do not include premiums and considerations on
 18 contracts between insurers and reinsurers. As used in
 19 33-10-227, "premiums" are those for the calendar year
 20 preceding the determination of impairment.

21 (9) "Resident" means any person who resides in this
 22 state at the time the impairment is determined and to whom
 23 contractual obligations are owed."

24 Section 2. Section 33-10-204, MCA, is amended to read:
 25 "33-10-204. Board of directors -- commissioner

1 approval -- compensation. (1) The board of directors of the
 2 association shall consist of five members serving terms as
 3 established in the plan of operation. The members of the
 4 board shall be selected by member insurers subject to the
 5 approval of the commissioner. Vacancies on the board shall
 6 be filled for the remaining period of the term in the manner
 7 described in the plan of operation. In approving selections
 8 or in appointing members to the board, the commissioner
 9 shall consider, among other things, whether all member
 10 insurers are fairly represented.

11 (2) Members of the board may be reimbursed from the
 12 assets of the association for expenses incurred by them as
 13 members of the board of directors, but and such members of
 14 the board shall ~~not otherwise be compensated by the~~
 15 ~~association for their services who are not full-time~~
 16 employees of an insurer may receive reasonable compensation
 17 for their services as board members upon annual approval by
 18 the membership."

19 Section 3. Section 33-10-219, MCA, is amended to read:

20 "33-10-219. Impaired insurer -- association's powers
 21 prior to liquidation. (1) If a domestic an insurer is an
 22 impaired insurer, the association may, prior to an order of
 23 liquidation or rehabilitation and subject to any conditions
 24 imposed by the association other than those which impair the
 25 contractual obligations of the impaired insurer and approved

1 by the impaired insurer and the commissioner:

2 (a)(1) guarantee or reinsure or cause to be
 3 guaranteed, assumed, or reinsured all the covered policies
 4 of the impaired insurer;

5 (b)(2) provide such moneys, pledges, notes,
 6 guarantees, or other means as are proper to effectuate
 7 ~~subsection (a) this section~~ and assure payment of the
 8 contractual obligations of the impaired insurer pending
 9 action under subsection (a) (1); and

10 (c)(3) loan money to the impaired insurer.

11 (2) ~~if a foreign or alien insurer is an impaired~~
 12 ~~insurer, the association may, prior to an order of~~
 13 ~~liquidation, rehabilitation, or supervision, with respect to~~
 14 ~~the covered policies of residents and subject to any~~
 15 ~~conditions imposed by the association other than those which~~
 16 ~~impair the contractual obligations of the impaired insurer~~
 17 ~~and approved by the impaired insurer and the commissioner;~~

18 (a) ~~guarantee or reinsure or cause to be guaranteed,~~
 19 ~~assumed, or reinsured the impaired insurer's covered~~
 20 ~~policies of residents;~~

21 (b) ~~provide such moneys, pledges, notes, guarantees,~~
 22 ~~or other means as are proper to effectuate subsection (a)~~
 23 ~~and assure payment of the impaired insurer's contractual~~
 24 ~~obligations to residents pending action under subsection~~
 25 (a);

~~{c}--loan-money-to-the-impaired-insurer--~~"

Section 4. Section 33-10-220, MCA, is amended to read:

"33-10-220. Impaired insurer -- association's powers during liquidation. (1) If a--domestic an insurer is an impaired insurer under an order of liquidation or rehabilitation, the association shall, subject to the approval of the commissioner:

(a) guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of the impaired insurer;

(b) assure payment of the contractual obligations of the impaired insurer; and

(c) provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

~~{2}--if-a-foreign--or--alien--insurer--is--an--impaired insurer--under--an--order-of-liquidation, rehabilitation, or supervision, the association shall, subject to the approval of the commissioner:~~

~~{a}--guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;~~

~~{b}--assure--payment--of-the-contractual-obligations-of the-impaired-insurer-to-residents; and~~

~~{c}--provide-such-moneys, pledges, notes, guarantees,~~

~~or-other-means-as-are-reasonably-necessary-to-discharge-such duties;~~

~~{3}{2}~~ If the association fails to act within a reasonable period of time, the commissioner shall have the powers and duties of the association under this part with respect to such domestic, foreign, or alien impaired insurer.

~~{4}{3}~~ In carrying out its duties under subsections subsection (1) and {2}, the association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means; and such liens, moratoriums, or similar means may be imposed if the commissioner:

(a) finds that the amounts which can be assessed under this part are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest; and

(b) approves the specific policy liens, contract liens, moratoriums, or similar means to be used.

~~{5}{4}~~ Before being obligated under subsections subsection (1) and--{2}, the association may request that

1 there be imposed temporary moratoriums or liens on payments
2 of cash values and policy loans, and such temporary
3 moratoriums and liens may be imposed if they are approved by
4 the commissioner.

5 ~~(6)~~(5) The association shall have no liability under
6 33-10-219 or this section for any covered policy of a
7 foreign or alien insurer whose domiciliary jurisdiction or
8 state of entry provides by statute or regulation for
9 residents of this state protection substantially similar to
10 that provided by this part for residents of other states.

11 (6) The association, subject to the approval of the
12 commissioner, may provide substitute coverage on an
13 individual basis to insureds or may offer to reissue the
14 terminated coverage or issue an alternative policy.
15 Alternative or reissued policies must be offered without
16 requiring evidence of insurability and may not provide for
17 any waiting period or exclusion that would not have applied
18 under the terminated policy."

19 Section 5. Section 33-10-224, MCA, is amended to read:

20 "33-10-224. Extent of liability. The contractual
21 obligations of the impaired insurer for which the
22 association becomes or may become liable shall be as great
23 as but no greater than the contractual obligations of the
24 impaired insurer would have been in the absence of an
25 impairment unless such obligations are reduced as permitted

1 by 33-10-220~~(4)~~(3), but the association shall have no
2 liability with respect to any portion of a covered policy to
3 the extent that the death benefit coverage on any one life
4 exceeds an aggregate of \$300,000."

5 Section 6. Section 33-10-227, MCA, is amended to read:

6 "33-10-227. Assessments -- abatement -- basis for
7 ratesetting. (1) For the purpose of providing the funds
8 necessary to carry out the powers and duties of the
9 association, the board of directors shall assess the member
10 insurers, separately for each account, at such times and for
11 such amounts as the board finds necessary. The board shall
12 collect the assessments after 30 days' written notice to the
13 member insurers before payment is due.

14 (2) There shall be three two classes of assessments,
15 as follows:

16 (a) Class A assessments shall be made for the purpose
17 of meeting administrative costs and other general expenses
18 not related to a particular impaired insurer.

19 (b) Class B assessments shall be made to the extent
20 necessary to carry out the powers and duties of the
21 association under 33-10-219~~(1)~~ and 33-10-220(1) with regard
22 to an impaired domestic insurer.

23 ~~(c) --Class --E--assessments--shall--be--made--to--the--extent~~
24 ~~necessary--to--carry--out--the--powers--and--duties--of--the~~
25 ~~association--under--33--10--219(2)--and--33--10--220(2)--with--regard~~

1 ~~to an impaired foreign or alien insurer.~~

2 (3) (a) The amount of any Class A assessment for each
3 account shall be determined by the board. The amount of any
4 Class B ~~or E~~ assessment shall be divided among the accounts
5 in the proportion that the premiums received by the impaired
6 insurer on the policies covered by each account bear to the
7 premiums received by such insurer on all covered policies.

8 (b) ~~Class A and Class E~~ Class B assessments against
9 member insurers for each account shall be in the proportion
10 that the premiums received on business in this state by each
11 assessed member insurer on policies covered by each account
12 bear to such premiums received on business in this state by
13 all assessed member insurers.

14 ~~(c) Class B assessments for each account shall be made~~
15 ~~separately for each state in which the impaired domestic~~
16 ~~insurer was authorized to transact insurance at any time in~~
17 ~~the proportion that the premiums received on business in~~
18 ~~such state by the impaired insurer on policies covered by~~
19 ~~such account bear to such premiums received in all such~~
20 ~~states by the impaired insurer. The assessments against~~
21 ~~member insurers shall be in the proportion that the premiums~~
22 ~~received on business in each such state by each assessed~~
23 ~~member insurer on policies covered by each account bear to~~
24 ~~such premiums received on business in each state by all~~
25 ~~assessed member insurers.~~

1 ~~(d)~~(c) Assessments for funds to meet the requirements
2 of the association with respect to an impaired insurer shall
3 not be made until necessary to implement the purposes of
4 this part. Classification of assessments under subsection
5 (2) and computation of assessments under this subsection
6 shall be made with a reasonable degree of accuracy,
7 recognizing that exact determinations may not always be
8 possible.

9 (4) The association may abate or defer, in whole or in
10 part, the assessment of a member insurer if, in the opinion
11 of the board, payment of the assessment would endanger the
12 ability of the member insurer to fulfill its contractual
13 obligations. The total of all assessments upon a member
14 insurer for each account shall not in any one calendar year
15 exceed 2% of such insurer's premiums in this state on the
16 policies covered by the account.

17 (5) In the event an assessment against a member
18 insurer is abated or deferred, in whole or in part, because
19 of the limitations set forth in subsection (4), the amount
20 by which such assessment is abated or deferred shall be
21 assessed against the other member insurers in a manner
22 consistent with the basis for assessments set forth in this
23 section. If the maximum assessment, together with the other
24 assets of the association in either account, does not
25 provide in any one year in either account an amount

1 sufficient to carry out the responsibilities of the
2 association, the necessary additional funds shall be
3 assessed as soon thereafter as permitted by this part.

4 (6) The board may, by an equitable method as
5 established in the plan of operation, refund to member
6 insurers, in proportion to the contribution of each insurer
7 to that account, the amount by which the assets of the
8 account exceed the amount the board finds is necessary to
9 carry out during the coming year the obligations of the
10 association with regard to that amount, including assets
11 accruing from net realized gains and income from
12 investments. A reasonable amount may be retained in any
13 account to provide funds for the continuing expenses of the
14 association and for future losses if refunds are
15 impractical.

16 (7) It shall be proper for any member insurer, in
17 determining its premium rates and policyowner dividends as
18 to any kind of insurance within the scope of this part, to
19 consider the amount reasonably necessary to meet its
20 assessment obligations under this part.

21 (8) The association shall issue to each insurer paying
22 an assessment under this part a certificate of contribution,
23 in a form prescribed by the commissioner, for the amount so
24 paid. All outstanding certificates shall be of equal dignity
25 and priority without reference to amounts or dates of issue.

1 A certificate of contribution may be shown by the insurer in
2 its financial statement as an asset in such form and for
3 such amount, if any, and period of time as the commissioner
4 may approve."

5 Section 7. Section 33-10-230, MCA, is amended to read:
6 "33-10-230. Tax -- writeoffs of certificates of
7 contribution. (1) Unless a longer period has been allowed by
8 the commissioner, a member insurer shall at its option have
9 the right to show a certificate of contribution for a Class
10 B assessment only as an asset in the form approved by the
11 commissioner pursuant to 33-10-227(8), at percentages of the
12 original face amount approved by the commissioner, for
13 calendar years as follows:

- 14 (a) 100% for calendar year of issuance;
15 (b) 80% for the first calendar year after year of
16 issuance;
17 (c) 60% for second calendar year after year of
18 issuance;
19 (d) 40% for third calendar year after year of
20 issuance;
21 (e) 20% for fourth calendar year after year of
22 issuance.

23 (2) The insurer may offset the amount written off by
24 it in the calendar year under subsection (1) above against
25 its premium tax liability to this state accrued with respect

1 to business transacted in such year.

2 (3) Any sums acquired by refund, pursuant to
3 33-10-227(6), from the association which have therefore been
4 written off by contributing insurers and offset against
5 premium taxes as provided in subsection (2) above and are
6 not then needed for purposes for this part shall be paid by
7 the association to the commissioner and by him deposited
8 with the state treasurer for credit to the general fund of
9 this state."

10 NEW SECTION. Section 8. Extension of authority. Any
11 existing authority of the commissioner of insurance to make
12 rules on the subject of the provisions of this act is
13 extended to the provisions of this act.

14 NEW SECTION. Section 9. Applicability. Sections 1
15 through 7 apply to all occurrences that result from legal
16 actions instituted after the effective date of this act.

17 NEW SECTION. Section 10. Effective date. This act is
18 effective on passage and approval.

-End-

1 HOUSE BILL NO. 806
 2 INTRODUCED BY PAVLOVICH
 3 BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO THE MONTANA LIFE AND HEALTH INSURANCE
 7 GUARANTY ASSOCIATION ACT; AMENDING SECTIONS 33-10-201,
 8 33-10-202, 33-10-204, 33-10-219, 33-10-220, 33-10-224,
 9 33-10-227, AND 33-10-230, MCA; AND PROVIDING AN
 10 APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 SECTION 1. SECTION 33-10-201, MCA, IS AMENDED TO READ:

14 "33-10-201. Short title, purpose, scope, and
 15 construction. (1) This part shall be known and may be cited
 16 as the "Montana Life and Health Insurance Guaranty
 17 Association Act".

18 (2) The purpose of this part is to protect
 19 policyowners, insureds, beneficiaries, annuitants, payees,
 20 and assignees of life insurance policies, health insurance
 21 policies, annuity contracts, and supplemental contracts,
 22 subject to certain limitations, against failure in the
 23 performance of contractual obligations due to the impairment
 24 of the insurer issuing such policies or contracts.

25 (3) To provide this protection:

1 (a) an association of insurers is created to enable
 2 the guaranty of payment of benefits and of continuation of
 3 coverages;

4 (b) members of the association are subject to
 5 assessment to provide funds to carry out the purpose of this
 6 part; and

7 (c) the association is authorized to assist the
 8 commissioner, in the prescribed manner, in the detection and
 9 prevention of insurer impairments.

10 (4) This part shall apply to direct life insurance
 11 policies, health insurance policies, annuity contracts, and
 12 contracts supplemental to life and health insurance policies
 13 and annuity contracts issued by persons authorized to
 14 transact insurance in this state at any time.

15 (5) This part shall provide coverage for covered
 16 policies:

17 (a) to persons who are owners of or certificate
 18 holders under such covered policies, and who:

19 (i) are residents; or
 20 (ii) are not residents, but only under all of the
 21 following conditions:

22 (A) the insurers that issued the policies are
 23 domiciled in this state;

24 (B) the insurers have not held a license or
 25 certificate of authority in the state in which the persons

1 reside;
 2 (C) the states have associations similar to the
 3 association created under this part; and
 4 (D) the persons are not eligible for coverage by those
 5 associations; and
 6 (b) to persons who, regardless of where they reside,
 7 except for nonresident certificate holders under group
 8 policies or contracts, are the beneficiaries, assignees, or
 9 payees of the persons covered under subsection (5)(a).
 10 {5}{6} This part shall not apply to:
 11 (a) any such policies or contracts or any part of such
 12 policies or contracts under which the risk is borne by the
 13 policyholder;
 14 (b) any such policy or contract or part thereof
 15 assumed by the impaired insurer under a contract of
 16 reinsurance, other than reinsurance for which assumption
 17 certificates have been issued.
 18 {6}{7} This part shall be liberally construed to
 19 effect the purpose under subsections (2) and (3) which shall
 20 constitute an aid and guide to interpretation.
 21 {7}{8} Nothing in this part shall be construed to
 22 reduce the liability for unpaid assessments of the insureds
 23 of an impaired insurer operating under a plan with
 24 assessment liability."
 25 Section 2. Section 33-10-202, MCA, is amended to read:

1 "33-10-202. Definitions. As used in this part, the
 2 following definitions apply:
 3 (1) "Account" means either any of the three accounts
 4 created under 33-10-203.
 5 (2) "Association" means the Montana life and health
 6 insurance guaranty association created under 33-10-203.
 7 (3) "Contractual obligation" means any obligation
 8 under covered policies.
 9 (4) "Covered policy" means any policy or contract held
 10 by--a--resident--of--this--state within the scope of this part
 11 under subsections (4) and--{5} THROUGH (6) of 33-10-201.
 12 (5) "Impaired insurer" means:
 13 (a) an insurer which after July 1, 1974, becomes
 14 insolvent and is placed under a final order of liquidation,
 15 rehabilitation, or supervision by a court of competent
 16 jurisdiction; or
 17 (b) an insurer deemed by the commissioner after July
 18 1, 1974, to be unable or potentially unable to fulfill its
 19 contractual obligations.
 20 (6) "Member insurer" means any person authorized to
 21 transact in this state any kind of insurance to which this
 22 part applies under subsections (4) and {5} (6) of 33-10-201.
 23 (7) "Person" means any individual, corporation,
 24 partnership, association, or voluntary organization.
 25 (8) "Premiums" means direct gross insurance premiums

1 and annuity considerations written on covered policies, less
 2 return premiums and considerations thereon and dividends
 3 paid or credited to policyholders on such direct business.
 4 "Premiums" do not include premiums and considerations on
 5 contracts between insurers and reinsurers. As used in
 6 33-10-227, "premiums" are those for the calendar year
 7 preceding the determination of impairment.

8 (9) "Resident" means any person who resides in this
 9 state at the time the impairment is determined and to whom
 10 contractual obligations are owed."

11 Section 3. Section 33-10-204, MCA, is amended to read:

12 "33-10-204. Board of directors -- commissioner
 13 approval -- compensation. (1) The board of directors of the
 14 association shall consist of five members serving terms as
 15 established in the plan of operation. The members of the
 16 board shall be selected by member insurers subject to the
 17 approval of the commissioner. Vacancies on the board shall
 18 be filled for the remaining period of the term in the manner
 19 described in the plan of operation. In approving selections
 20 or in appointing members to the board, the commissioner
 21 shall consider, among other things, whether all member
 22 insurers are fairly represented.

23 (2) Members of the board may be reimbursed from the
 24 assets of the association for expenses incurred by them as
 25 members of the board of directors, but ~~and such~~ BUT members

1 of the board ~~shall not otherwise be compensated by the~~
 2 ~~association for their services~~ MAY NOT OTHERWISE BE
 3 COMPENSATED BY THE ASSOCIATION FOR THEIR SERVICES. HOWEVER,
 4 ANY DESIGNATED REPRESENTATIVES OF MEMBERS OF THE BOARD who
 5 are not full-time employees of an insurer THE MEMBER
 6 INSURERS THAT DESIGNATED THEM may receive reasonable
 7 compensation for their services as board members ON THE
 8 BOARD OF DIRECTORS upon annual approval by the membership
 9 MEMBERS OF THE ASSOCIATION."

10 Section 4. Section 33-10-219, MCA, is amended to read:

11 "33-10-219. Impaired insurer -- association's powers
 12 prior to liquidation. (1) If ~~a~~ a-domestic an insurer is an
 13 impaired insurer, the association may, prior to an order of
 14 liquidation or rehabilitation and subject to any conditions
 15 imposed by the association other than those which impair the
 16 contractual obligations of the impaired insurer and approved
 17 by the impaired insurer and the commissioner:

18 (a)(1) guarantee or reinsure or cause to be
 19 guaranteed, assumed, or reinsured all the covered policies
 20 of the impaired insurer;

21 (b)(2) provide such moneys, pledges, notes,
 22 guarantees, or other means as are proper to effectuate
 23 ~~subsection (a)~~ this section and assure payment of the
 24 contractual obligations of the impaired insurer pending
 25 action under subsection (a) (1); and

1 (c)(3) loan money to the impaired insurer.
2 (2) If a foreign or alien insurer is an impaired
3 insurer, the association may, prior to an order of
4 liquidation, rehabilitation, or supervision with respect to
5 the covered policies of residents and subject to any
6 conditions imposed by the association other than those which
7 impair the contractual obligations of the impaired insurer
8 and approved by the impaired insurer and the commissioner:
9 (a) guarantee or reinsure or cause to be guaranteed,
10 assumed, or reinsured the impaired insurer's covered
11 policies of residents;
12 (b) provide such moneys, pledges, notes, guarantees,
13 or other means as are proper to effectuate subsection (a)
14 and assure payment of the impaired insurer's contractual
15 obligations to residents pending action under subsection
16 (a);
17 (c) loan money to the impaired insurer."
18 Section 5. Section 33-10-220, MCA, is amended to read:
19 "33-10-220. Impaired insurer -- association's powers
20 during liquidation. (1) If a domestic an insurer is an
21 impaired insurer under an order of liquidation or
22 rehabilitation, the association shall, subject to the
23 approval of the commissioner:
24 (a) guarantee, assume, or reinsure or cause to be
25 guaranteed, assumed, or reinsured the covered policies of

1 the impaired insurer;
2 (b) assure payment of the contractual obligations of
3 the impaired insurer; and
4 (c) provide such moneys, pledges, notes, guarantees,
5 or other means as are reasonably necessary to discharge such
6 duties.
7 (2) If a foreign or alien insurer is an impaired
8 insurer under an order of liquidation, rehabilitation, or
9 supervision, the association shall, subject to the approval
10 of the commissioner:
11 (a) guarantee, assume, or reinsure or cause to be
12 guaranteed, assumed, or reinsured the covered policies of
13 residents;
14 (b) assure payment of the contractual obligations of
15 the impaired insurer to residents, and
16 (c) provide such moneys, pledges, notes, guarantees,
17 or other means as are reasonably necessary to discharge such
18 duties.
19 (3) If the association fails to act within a
20 reasonable period of time, the commissioner shall have the
21 powers and duties of the association under this part with
22 respect to such domestic, foreign, or alien impaired
23 insurer.
24 (4)(3) In carrying out its duties under subsections
25 subsection (1) and (2), the association may request that

1 there be imposed policy liens, contract liens, moratoriums
 2 on payments, or other similar means; and such liens,
 3 moratoriums, or similar means may be imposed if the
 4 commissioner:

5 (a) finds that the amounts which can be assessed under
 6 this part are less than the amounts needed to assure full
 7 and prompt performance of the impaired insurer's contractual
 8 obligations or that the economic or financial conditions as
 9 they affect member insurers are sufficiently adverse to
 10 render the imposition of policy or contract liens,
 11 moratoriums, or similar means to be in the public interest;
 12 and

13 (b) approves the specific policy liens, contract
 14 liens, moratoriums, or similar means to be used.

15 ~~{5}{4}~~ Before being obligated under subsections
 16 subsection (1) and ~~{2}~~, the association may request that
 17 there be imposed temporary moratoriums or liens on payments
 18 of cash values and policy loans, and such temporary
 19 moratoriums and liens may be imposed if they are approved by
 20 the commissioner.

21 ~~{6}{5}~~ The association shall have no liability under
 22 33-10-219 or this section for any covered policy of a
 23 foreign or alien insurer whose domiciliary jurisdiction or
 24 state of entry provides by statute or regulation for
 25 residents of this state protection substantially similar to

1 that provided by this part for residents of other states.

2 ~~{6}--The-association, subject to the approval of the~~
 3 ~~commissioner, may provide substitute coverage on an~~
 4 ~~individual basis to insureds or may offer to reissue the~~
 5 ~~terminated coverage or issue an alternative policy.~~
 6 ~~Alternative or reissued policies must be offered without~~
 7 ~~requiring evidence of insurability and may not provide for~~
 8 ~~any waiting period or exclusion that would not have applied~~
 9 ~~under the terminated policy.~~

10 (6) (A) IF PROCEEDING UNDER 33-10-220, THE ASSOCIATION
 11 MAY, WITH RESPECT TO LIFE AND HEALTH INSURANCE POLICIES:

12 (I) ASSURE PAYMENT OF BENEFITS FOR PREMIUMS IDENTICAL
 13 TO THE PREMIUMS AND BENEFITS, EXCEPT FOR TERMS OF CONVERSION
 14 AND RENEWABILITY, THAT WOULD HAVE BEEN PAYABLE UNDER THE
 15 POLICIES OF THE INSOLVENT INSURER FOR CLAIMS INCURRED:

16 (A) WITH RESPECT TO GROUP POLICIES, NOT LATER THAN THE
 17 EARLIER OF THE NEXT RENEWAL DATE UNDER THE POLICY OR
 18 CONTRACT OR 45 DAYS, BUT IN NO EVENT LESS THAN 30 DAYS,
 19 AFTER THE DATE ON WHICH THE ASSOCIATION BECOMES OBLIGATED
 20 WITH RESPECT TO THE POLICIES;

21 (B) WITH RESPECT TO INDIVIDUAL POLICIES, NOT LATER
 22 THAN THE EARLIER OF THE NEXT RENEWAL DATE, IF ANY, UNDER THE
 23 POLICIES OR 1 YEAR, BUT IN NO EVENT LESS THAN 30 DAYS, FROM
 24 THE DATE ON WHICH THE ASSOCIATION BECOMES OBLIGATED WITH
 25 RESPECT TO THE POLICIES;

1 (II) MAKE DILIGENT EFFORTS TO PROVIDE ALL KNOWN
 2 INSUREDS, OR GROUP POLICYHOLDERS WITH RESPECT TO GROUP
 3 POLICIES, 30 DAYS NOTICE OF THE TERMINATION OF THE BENEFITS
 4 PROVIDED; AND

5 (III) MAKE AVAILABLE SUBSTITUTE COVERAGE ON AN
 6 INDIVIDUAL BASIS IN ACCORDANCE WITH SUBSECTION (6)(B) TO
 7 EACH KNOWN INSURED, OR OWNER IF OTHER THAN THE INSURED, OF
 8 AN INDIVIDUAL POLICY AND TO ANY INDIVIDUAL FORMERLY INSURED
 9 UNDER A GROUP POLICY WHO IS NOT ELIGIBLE FOR REPLACEMENT
 10 GROUP COVERAGE, IF THE INSURED HAD A RIGHT UNDER LAW OR THE
 11 TERMINATED POLICY TO CONVERT COVERAGE TO INDIVIDUAL COVERAGE
 12 OR TO CONTINUE AN INDIVIDUAL POLICY IN FORCE UNTIL A
 13 SPECIFIED AGE OR FOR A SPECIFIED TIME DURING WHICH THE
 14 INSURER HAD NO RIGHT UNILATERALLY TO MAKE CHANGES IN ANY
 15 PROVISION OF THE POLICY OR HAD A RIGHT ONLY TO MAKE CHANGES
 16 IN PREMIUM BY CLASS.

17 (B) (I) IN PROVIDING THE SUBSTITUTE COVERAGE REQUIRED
 18 UNDER SUBSECTION (6)(A)(III), THE ASSOCIATION MAY OFFER TO
 19 REISSUE THE TERMINATED COVERAGE OR ISSUE AN ALTERNATIVE
 20 POLICY.

21 (II) REISSUED OR ALTERNATIVE POLICIES MUST BE OFFERED
 22 WITHOUT REQUIRING EVIDENCE OF INSURABILITY AND MAY NOT
 23 PROVIDE FOR ANY WAITING PERIOD OR EXCLUSION THAT WOULD NOT
 24 HAVE APPLIED UNDER THE TERMINATED POLICY.

25 (III) THE ASSOCIATION MAY REINSURE ANY REISSUED OR

1 ALTERNATIVE POLICY.

2 (C) (I) ALTERNATIVE POLICIES ADOPTED BY THE
 3 ASSOCIATION ARE SUBJECT TO THE APPROVAL OF THE COMMISSIONER.
 4 THE ASSOCIATION MAY ADOPT POLICIES OF VARIOUS TYPES FOR
 5 FUTURE REISSUANCE WITHOUT REGARD TO ANY PARTICULAR
 6 IMPAIRMENT OR INSOLVENCY.

7 (II) ALTERNATIVE POLICIES MUST CONTAIN AT LEAST THE
 8 MINIMUM STATUTORY PROVISIONS REQUIRED IN THIS STATE AND
 9 PROVIDE BENEFITS THAT ARE NOT UNREASONABLE IN RELATION TO
 10 THE PREMIUM CHARGED. THE ASSOCIATION SHALL SET THE PREMIUM
 11 IN ACCORDANCE WITH A TABLE OF RATES THAT IT SHALL ADOPT. THE
 12 PREMIUM MUST REFLECT THE AMOUNT OF INSURANCE TO BE PROVIDED
 13 AND THE AGE AND CLASS OF RISK OF EACH INSURED, BUT MAY NOT
 14 REFLECT ANY CHANGES IN THE HEALTH OF THE INSURED AFTER THE
 15 ORIGINAL POLICY WAS LAST UNDERWRITTEN.

16 (III) ALTERNATIVE POLICIES ISSUED BY THE ASSOCIATION
 17 SHALL PROVIDE COVERAGE OF A TYPE SIMILAR TO THAT OF THE
 18 POLICY ISSUED BY THE IMPAIRED OR INSOLVENT INSURER, AS
 19 DETERMINED BY THE ASSOCIATION.

20 (D) IF THE ASSOCIATION ELECTS TO REISSUE TERMINATED
 21 COVERAGE AT A PREMIUM DIFFERENT FROM THAT CHARGED UNDER THE
 22 TERMINATED POLICY, THE PREMIUM MUST BE SET BY:

23 (I) THE ASSOCIATION IN ACCORDANCE WITH THE AMOUNT OF
 24 INSURANCE PROVIDED AND THE AGE AND CLASS OF RISK, SUBJECT TO
 25 APPROVAL OF THE COMMISSIONER; OR

1 (II) A COURT OF COMPETENT JURISDICTION.

2 (E) THE ASSOCIATION'S OBLIGATION WITH RESPECT TO
 3 COVERAGE UNDER ANY POLICY OF THE IMPAIRED OR INSOLVENT
 4 INSURER OR UNDER ANY REISSUED OR ALTERNATIVE POLICY CEASES
 5 ON THE DATE THE COVERAGE OR POLICY IS REPLACED BY ANOTHER
 6 SIMILAR POLICY BY THE POLICYHOLDER, INSURED, OR
 7 ASSOCIATION."

8 Section 6. Section 33-10-224, MCA, is amended to read:
 9 "33-10-224. Extent of liability. The contractual
 10 obligations of the impaired insurer for which the
 11 association becomes or may become liable shall be as great
 12 as but no greater than the contractual obligations of the
 13 impaired insurer would have been in the absence of an
 14 impairment unless such obligations are reduced as permitted
 15 by 33-10-220(4)(3), but the association shall have no
 16 liability with respect to any portion of a covered policy to
 17 the extent that the death benefit coverage on any one life
 18 exceeds an aggregate of \$300,000."

19 Section 7. Section 33-10-227, MCA, is amended to read:
 20 "33-10-227. Assessments -- abatement -- basis for
 21 ratesetting. (1) For the purpose of providing the funds
 22 necessary to carry out the powers and duties of the
 23 association, the board of directors shall assess the member
 24 insurers, separately for each account, at such times and for
 25 such amounts as the board finds necessary. The board shall

1 collect the assessments after 30 days' written notice to the
 2 member insurers before payment is due.

3 (2) There shall be ~~three~~ two classes of assessments,
 4 as follows:

5 (a) Class A assessments shall be made for the purpose
 6 of meeting administrative costs and other general expenses
 7 not related to a particular impaired insurer.

8 (b) Class B assessments shall be made to the extent
 9 necessary to carry out the powers and duties of the
 10 association under 33-10-219(1) and 33-10-220(1) with regard
 11 to an impaired domestic insurer.

12 ~~(c) Class E assessments shall be made to the extent~~
 13 ~~necessary to carry out the powers and duties of the~~
 14 ~~association under 33-10-219(2) and 33-10-220(2) with regard~~
 15 ~~to an impaired foreign or alien insurer.~~

16 (3) (a) The amount of any Class A assessment for each
 17 account shall be determined by the board. The amount of any
 18 Class B ~~or E~~ assessment shall be divided among the accounts
 19 in the proportion that the premiums received by the impaired
 20 insurer on the policies covered by each account bear to the
 21 premiums received by such insurer on all covered policies.

22 (b) ~~Class A and Class E~~ Class B assessments against
 23 member insurers for each account shall be in the proportion
 24 that the premiums received on business in this state by each
 25 assessed member insurer on policies covered by each account

1 bear to such premiums received on business in this state by
2 all assessed member insurers.

3 ~~{c}--Class-B-assessments-for-each-account-shall-be-made
4 separately--for--each--state--in-which-the-impaired-domestic
5 insurer-was-authorized-to-transact-insurance-at-any-time--in
6 the--proportion--that--the--premiums-received-on-business-in
7 such-state-by-the-impaired-insurer-on--policies--covered--by
8 such--account--bear--to--such--premiums-received-in-all-such
9 states-by-the--impaired--insurer--The--assessments--against
10 member-insurers-shall-be-in-the-proportion-that-the-premiums
11 received--on--business--in--each-such-state-by-each-assessed
12 member-insurer-on-policies-covered-by-each-account--bear--to
13 such--premiums--received--on--business--in--each-state-by-all
14 assessed-member-insurers.~~

15 {d}{c} Assessments for funds to meet the requirements
16 of the association with respect to an impaired insurer shall
17 not be made until necessary to implement the purposes of
18 this part. Classification of assessments under subsection
19 (2) and computation of assessments under this subsection
20 shall be made with a reasonable degree of accuracy,
21 recognizing that exact determinations may not always be
22 possible.

23 (4) The association may abate or defer, in whole or in
24 part, the assessment of a member insurer if, in the opinion
25 of the board, payment of the assessment would endanger the

1 ability of the member insurer to fulfill its contractual
2 obligations. The total of all assessments upon a member
3 insurer for each account shall not in any one calendar year
4 exceed 2% of such insurer's premiums in this state on the
5 policies covered by the account.

6 (5) In the event an assessment against a member
7 insurer is abated or deferred, in whole or in part, because
8 of the limitations set forth in subsection (4), the amount
9 by which such assessment is abated or deferred shall be
10 assessed against the other member insurers in a manner
11 consistent with the basis for assessments set forth in this
12 section. If the maximum assessment, together with the other
13 assets of the association in either account, does not
14 provide in any one year in either account an amount
15 sufficient to carry out the responsibilities of the
16 association, the necessary additional funds shall be
17 assessed as soon thereafter as permitted by this part.

18 (6) The board may, by an equitable method as
19 established in the plan of operation, refund to member
20 insurers, in proportion to the contribution of each insurer
21 to that account, the amount by which the assets of the
22 account exceed the amount the board finds is necessary to
23 carry out during the coming year the obligations of the
24 association with regard to that amount, including assets
25 accruing from net realized gains and income from

1 investments. A reasonable amount may be retained in any
2 account to provide funds for the continuing expenses of the
3 association and for future losses if refunds are
4 impractical.

5 (7) It shall be proper for any member insurer, in
6 determining its premium rates and policyowner dividends as
7 to any kind of insurance within the scope of this part, to
8 consider the amount reasonably necessary to meet its
9 assessment obligations under this part.

10 (8) The association shall issue to each insurer paying
11 an assessment under this part a certificate of contribution,
12 in a form prescribed by the commissioner, for the amount so
13 paid. All outstanding certificates shall be of equal dignity
14 and priority without reference to amounts or dates of issue.
15 A certificate of contribution may be shown by the insurer in
16 its financial statement as an asset in such form and for
17 such amount, if any, and period of time as the commissioner
18 may approve."

19 Section 8. Section 33-10-230, MCA, is amended to read:

20 "33-10-230. Tax -- writeoffs of certificates of
21 contribution. (1) Unless a longer period has been allowed by
22 the commissioner, a member insurer shall at its option have
23 the right to show a certificate of contribution for a Class
24 B assessment only as an asset in the form approved by the
25 commissioner pursuant to 33-10-227(8), at percentages of the

1 original face amount approved by the commissioner, for
2 calendar years as follows:

- 3 (a) 100% for calendar year of issuance;
4 (b) 80% for the first calendar year after year of
5 issuance;
6 (c) 60% for second calendar year after year of
7 issuance;
8 (d) 40% for third calendar year after year of
9 issuance;
10 (e) 20% for fourth calendar year after year of
11 issuance.

12 (2) The insurer may offset the amount written off by
13 it in the calendar year under subsection (1) above against
14 its premium tax liability to this state accrued with respect
15 to business transacted in such year.

16 (3) Any sums acquired by refund, pursuant to
17 33-10-227(6), from the association which have therefore been
18 written off by contributing insurers and offset against
19 premium taxes as provided in subsection (2) above and are
20 not then needed for purposes for this part shall be paid by
21 the association to the commissioner and by him deposited
22 with the state treasurer for credit to the general fund of
23 this state."

24 NEW SECTION. Section 9. Extension of authority. Any
25 existing authority of the commissioner of insurance to make

1 rules on the subject of the provisions of this act is
2 extended to the provisions of this act.

3 NEW SECTION. Section 10. Applicability. Sections 1
4 through ~~7~~ 8 apply to all occurrences that result from legal
5 actions instituted after the effective date of this act.

6 NEW SECTION. Section 11. Effective date. This act is
7 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SENATE

March 10 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 806

Third reading copy (blue color)

REVISING MONTANA LIFE AND HEALTH GUARANTY ACT

PAVLOVICH (Meyer)

Respectfully report as follows: That HOUSE BILL No. 806

be amended as follows:

- 1. Page 8, line 22.
Strike: "domestic"

45

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

ALLEN C. KOLSTAD,

Chairman.

3-10-87
3-5-15
24

STANDING COMMITTEE REPORT

SENATE

BUSINESS & INDUSTRY
HB 806
Page 2 of 5

MARCH 26, 1987

MARCH 26, 1987

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 806

THIRD reading copy (BLUE color)

PAVLOVICH (MEYER)

REVISING MONTANA LIFE AND HEALTH GUARANTY ACT

HOUSE BILL 806

Respectfully report as follows: That be amended as follows:

- 1. Title, line 7. Following: "SECTIONS" Insert: "33-10-201,"
2. Page 1, following line 12. Insert: Section 1. Section 33-10-201, MCA, is amended to read:
"33-10-201. Short title, purpose, scope, and construction. (1) This part shall be known and may be cited as the "Montana Life and Health Insurance Guaranty Association Act".
(2) The purpose of this part is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts.
(3) To provide this protection:
(a) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

- (b) members of the association are subject to assessment to provide funds to carry out the purpose of this part; and
(c) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.
(4) This part shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.
(5) This part shall provide coverage for covered policies:
(a) to persons who are owners of or certificate holders under such covered policies, and who:
(i) are residents, or
(ii) are not residents, but only under all of the following conditions:
(A) the insurers that issued the policies are domiciled in this state;
(B) the insurers have not held a license or certificate of authority in the state in which the persons reside;
(C) the states have associations similar to the association created under this part; and
(D) the persons are not eligible for coverage by those associations; and
(b) to persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees of the persons covered under subsection (5) (a).
(6) This part shall not apply to:
(a) any such policies or contracts or any part of such policies or contracts under which the risk is borne by the policyholder;
(b) any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.
(7) This part shall be liberally construed to effect the purpose under subsections (2) and (3) which shall constitute an aid and guide to interpretation.
(8) Nothing in this part shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with

XXXXXX
XXXXXXXXXX

(CONTINUED)

Acn
SENATOR ALLEN C. KOLSTAD, Chairman

(CONTINUED)

Acn
SENATOR ALLEN C. KOLSTAD, CHAIRMAN

MARCH 26, 1987

MARCH 26, 1987

assessment liability."
Renumber: subsequent sections

3. Page 1, lines 22 and 23.
Strike: "held by a resident of this state"
4. Page 1, line 24.
Following: "(4)"
Strike: "and"
Insert: ", "
Following: "(5)"
Insert: ", and (6)"
5. Page 2, line 10.
Strike: "(5)"
Insert: "(6)"
6. Page 3, line 13.
Strike: "and such"
Insert: "but"
7. Page 3, line 15.
Following: "services"
Insert: "may not otherwise be compensated by the association for their services. However, any designated representatives of members of the board"
8. Page 3, line 16.
Strike: "an insurer"
Insert: "the member insurers that designated them"
9. Page 3, line 17.
Strike: "as board members"
Insert: "on the board of directors"
10. Page 3, line 18.
Strike: "membership"
Insert: "members of the association"
11. Page 7, lines 11 through 18.
Strike: subsection (6) in its entirety
Insert: "(6) (a) If proceeding under 33-10-220, the association may, with respect to life and health insurance policies:

(CONTINUED)

ACK

SENATOR ALLEN C. KOLSTAD, CHAIRMAN

(i) assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the insolvent insurer, for claims incurred:

(A) with respect to group policies, not later than the earlier of the next renewal date under the policy or contract or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies;

(B) with respect to individual policies, not later than the earlier of the next renewal date, if any, under the policies or 1 year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies;

(ii) make diligent efforts to provide all known insureds, or group policyholders with respect to group policies, 30 days notice of the termination of the benefits provided; and

(iii) make available substitute coverage on an individual basis in accordance with subsection (6)(b) to each known insured, or owner if other than the insured, of an individual policy, and to any individual formerly insured under a group policy who is not eligible for replacement group coverage, if the insured had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(b)(i) In providing the substitute coverage required under subsection (6)(a)(iii), the association may offer to reissue the terminated coverage or issue an alternative policy.

(ii) Reissued or alternative policies must be offered without requiring evidence of insurability and may not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(iii) The association may reinsure any reissued or alternative policy.

(c)(i) Alternative policies adopted by the association are subject to the approval of the commissioner. The association may adopt policies of various types for future reissuance without regard to any particular impairment or insolvency.

(CONTINUED)

ACK

SENATOR ALLEN C. KOLSTAD, CHAIRMAN

MARCH 26, 1987

(ii) Alternative policies must contain at least the minimum statutory provisions required in this state and provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but may not reflect any changes in the health of the insured after the original policy was last underwritten.

(iii) Alternative policies issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(d) If the association elects to reissue terminated coverage at a premium different from that charged under the terminated policy, the premium must be set by:

(i) the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner; or

(ii) a court of competent jurisdiction.

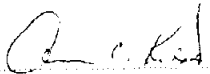
(e) The association's obligation with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy ceases on the date the coverage or policy is replaced by another similar policy by the policyholder, insured, or association."

12. Page 13, line 15.
Strike: "7"
Insert: "8"

Amendments, HB 806
7085e/C:JEANNE\WP:jj

AND AS AMENDED,

BE CONCURRED IN


SENATOR ALLEN C. KOLSTAC, CHAIRMAN