# SENATE BILL 453

## Introduced by Gage

2/16	Introduced		
2/16	Referred to Business & Industry		
3/03	Hearing		
3/08	Adverse Committee Report Adopted		
3/09	Reconsidered Previous Action		
3/09	Rereferred to Business & Industry		
3/16	Hearing		
	Died in Committee		

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Sante BILL NO. 453 1 INTRODUCED BY 2 3 BY REQUEST OF THE STATE AUDITOR 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 6 LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB 7 SERVICE COMPANIES; AMENDING SECTIONS 33-1-501, 33-1-711, 8 33-2-104, 33-2-115, 33-2-705, 33-2-707 THROUGH 33-2-709, 9 33-2-1362, 33-4-314, 33-4-504, 33-7-406, 33-15-1102.

33-15-1103, 33-15-1106, 33-17-231, 33-17-406, 33-17-603, 10 11 33-17-1001, 33-18-210, 33-18-401, 33-20-101, 33-20-103, 33-20-121, 33-20-131, 33-20-1201, 33-20-1202, 33-22-225, 12 13 33-22-226, 33-22-301, 33-22-502, 33-22-504, 33-22-508, 14 33-22-601, 33-22-921, 33-22-923, 33-22-924, 33-22-1501, 15 33-22-1503, 33-22-1504, 33-22-1513, 33-22-1521, 33-23-212, 16 33-23-302, 33-23-401, 33-30-108, AND 61-12-303 THROUGH 17 61-12-305, MCA; AND REPEALING SECTIONS 33-3-604 AND 18 33-18-305, MCA."

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

21 <u>NEW SECTION.</u> Section 1. Prohibited relations with 22 long-term care facility. An agent that owns, manages, 23 supervises, operates, maintains, or works in a long-term 24 care facility as defined in 37-9-101 may not solicit, 25 negotiate, or effectuate a life or disability policy or

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2 facility. NEW SECTION. Section 2. Conformity with 3 state statutes. There must be a provision as follows: 4 5 "Conformity with State Statutes: A provision of this policy that on its effective date conflicts with the 6 statutes of the state in which the insured resides on that 7 date is hereby amended to conform to the minimum 8 requirements of those statutes." 9 NEW SECTION. Section 3. Conformity state with 10 11 statutes. There must be a provision as follows: "Conformity with State Statutes: A provision of this 12 policy that on its effective date conflicts with the 13 statutes of the state in which the insured resides on that 14 date is hereby amended to conform to the minimum 15 requirements of those statutes." 16 NEW SECTION. Section 4. Premium increase restriction. 17

certificate of insurance for a resident of a long-term care

18 An insurer may not increase a premium in an individual or 19 group disability insurance policy more frequently than once 20 during a 12-month period unless failure to increase the 21 premium more frequently than once during a 12-month period 22 would:

(1) place the insurer in violation of this code; or
(2) lead to the financial impairment of the insurer.
NEW SECTION. Section 5. Conformity with state

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statutes. A casualty insurance policy relative to a risk
 resident, located, or to be performed in this state must
 contain a provision as follows:

4 "Conformity with State Statutes: A provision of this 5 policy that on its effective date conflicts with the 6 statutes of the state in which the insured resides on that 7 date is hereby amended to conform to the minimum 8 requirements of those statutes."

9 <u>NEW SECTION.</u> Section 6. Conformity with state
10 statutes. A property insurance policy relative to a risk
11 resident, located, or to be performed in this state must
12 contain a provision as follows:

13 "Conformity with State Statutes: A provision of this 14 policy that on its effective date conflicts with the 15 statutes of the state in which the insured resides on that 16 date is hereby amended to conform to the minimum 17 requirements of those statutes."

18 Section 7. Section 33-1-501, MCA, is amended to read: 19 "33-1-501. Filing and approval of forms. (1) No An 20 insurance policy or annuity contract form, application form, 21 printed rider or endorsement form, or form of renewal 22 certificate shall may not be delivered or issued for 23 delivery in this state unless the form has been filed with 24 and approved, prior to use or coverage, by the commissioner 25 of this state and the state of domicile of the insurer.

where if so required. This provision shall does not apply to 1 surety bonds or policies, riders, endorsements, or forms of 2 unique character designed for and used with relation to 2 Δ insurance upon a particular subject or which that relate to the manner of distribution of benefits or to the reservation S of rights and benefits under life or disability insurance 6 policies and are used at the request of the individual 7 policyholder, contract holder, or certificate holder. As to 8 9 forms for use in property, marine (other than ocean marine 10 and foreign trade coverages), casualty, and surety insurance coverages, the filing required by this subsection may be 11 made by a rating organization on behalf of its members and 12 subscribers, but this provision shall may not be deemed 13 14 considered to prohibit any such member or subscriber from 15 filing any such forms on its own behalf.

(2) Every such filing shall must be made not less than 16 60 days in advance of any such delivery. Approval of any 17 18 such form by the commissioner shall-constitute constitutes a waiver of any unexpired portion of such the waiting period. 19 20 The commissioner may extend by not more than an additional 21 60 days the period within which he may so affirmatively approve or disapprove any such form by giving notice of such 22 extension before expiration of the initial 60-day period. 23 The commissioner may at any time, after notice and for cause 24 25 shown, withdraw any such approval.

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(3) Any order of the commissioner disapproving any
 such form or withdrawing a previous approval shall must
 state the grounds therefor and the particulars thereof in
 such details as reasonably to inform the insurer thereof.

5 (4) The commissioner may by order exempt from the 6 requirements of this section for so long as he deems 7 <u>considers</u> proper any insurance document or form or type 8 thereof as specified in such order to which, in his opinion, 9 this section may not practicably be applied or the filing 10 and approval of which are, in his opinion, not desirable or 11 necessary for the protection of the public.

12 (5) This section shall-apply also applies to any such 13 form used by domestic insurers for delivery in a 14 jurisdiction outside this state if the insurance supervisory 15 official of such jurisdiction informs the commissioner that such form is not subject to approval or disapproval by such 16 official and upon the commissioner's order requiring the 17 18 form to be submitted to him for the purpose. The applicable same standards shall apply to such forms as apply to forms 19 20 for domestic use.

21 (6) This section and 33-1-502 shall do not apply as 22 to:

23 (a) reinsurance;

(b) policies or contracts not issued for delivery inthis state or delivered in this state, except as provided in

subsection (5);

(c) ocean marine and foreign trade insurances.
(7) As to group insurance policies effectuated and
delivered outside this state but covering persons resident
in this state, group certificates which that are delivered
or issued for delivery in this state shall must be filed
with the commissioner upon-his-request."

8 Section 8. Section 33-1-711, MCA, is amended to read: "33-1-711. Appeals from the commissioner. (1) An 9 10 appeal from the commissioner shall may be taken only from an 11 order on hearing or with respect to a matter as to which the commissioner has refused a hearing. Any person who was a 12 13 party to such hearing or whose pecuniary interests are 14 directly and immediately affected by any such order or refusal and who is aggrieved thereby may, within 30 days 15 16 after the order has been mailed or delivered to the persons entitled to receive the same, the commissioner's order 17 18 denying rehearing or reargument has been so mailed or 19 delivered, or the commissioner's refusal to grant a hearing, appeal from such order on hearing or such refusal of a 20 hearing. Any request for a stay of the commissioner's order 21 22 must be made within 60 days to run concurrently with the 30 days for appeal. The appeal shall be taken to the district 23 court of Lewis and Clark County by filing written notice of 24 25 appeal in such court and by filing a copy of such notice

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1 with the commissioner, except that in appeals from the suspension or revocation of the certificate of authority of 2 a domestic insurer or of the license of an agent, solicitor. 3 4 or surplus lines agent, the person taking the appeal may at 5 his option, in lieu of the district court of Lewis and Clark 6 County, take the appeal to the district court of the county 7 of Montana in which the insurer has its principal place of 8 business or the licensee resides.

9 (2) Upon filing of the notice of appeal therein, the 10 court shall have full jurisdiction and shall determine 11 whether such filing shall operate as a stay of the order or 12 action appealed from.

(3) Within 20 days after filing of the copy of the 13 14 notice of appeal in his office, the commissioner shall make and return to the court in which the appeal is pending a 15 16 copy of his order appealed from and a full and complete 17 transcript, duly certified by the commissioner, of his 18 record of the hearing upon which the order was issued, together with all exhibits and documentary evidence 19 20 introduced thereat. If the appeal is from an action of the 21 commissioner with respect to which a hearing was refused, 22 the commissioner shall within such 20-day period make and 23 return to the court a full and complete transcript, duly 24 certified by him, of all documents on file in his office 25 directly relating to the matter as to which such appeal is

1 taken.

2 (4) Upon receipt of such transcripts and evidence, the 3 court shall hear the matter **de-novo** as soon as reasonably 4 possible thereafter. Upon the hearing of the appeal, the 5 court shall consider the evidence contained in the 6 transcript, exhibits, and documents therein filed by the 7 commissioner, together with such additional proper evidence 8 as may be offered by any party to the appeal.

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9 (5) After hearing the appeal, the court may affirm, 10 modify, or reverse the order or action of the commissioner 11 in whole or in part or remand the action to the commissioner 12 for further proceedings in accordance with the court's 13 direction.

14 (6) Costs shall be awarded as in civil actions.

15 (7) Appeal may be taken to the supreme court from the 16 judgment of the district court as in other civil cases to 17 which the state is a party. A stay of the effectiveness of 18 any such judgment may be made only by order of the supreme 19 court upon the giving of such security as that court deems 20 proper.

(8) This section shall does not apply to appeals as to
 matters covered by chapter 16."

23 Section 9. Section 33-2-104, MCA, is amended to read:
24 "33-2-104. Representing or aiding unauthorized insurer
25 prohibited. (1) No A person shall may not in this state

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directly or indirectly act as agent for, or otherwise 1 2 represent or aid on behalf of another, any an insurer not 3 then authorized to transact insurance in this state in the solicitation, negotiation, or effectuation of insurance or 4 5 of annuity contracts, inspection of risks, fixing of rates, 6 investigation or adjustment of losses, collection of premiums, or in any other manner in the transaction of 7 insurance with respect to subjects of insurance resident, 8 9 located, or to be performed in this state.

(2) This section shall does not apply to: 10

(a) acceptance of service of process 11 by the 12 commissioner under 33-1-613:

13 (b) surplus lines insurance and other transactions as 14 to which certificate of authority is not required of an insurer as stated in 33-2-102. 15

(3) Any A person violating this section shall upon 16 conviction thereof be guilty of a felony." 17

Section 10. Section 33-2-115, MCA, is amended to read: 18 19 \*33-2-115. Application for certificate of authority. 20 To apply for an original certificate of authority, an insurer shall file with the commissioner its application 21 therefor accompanied by the applicable fees as specified in 22 23 33-2-708, showing its name, location of its home office or 24 principal office in the United States, if an alien insurer, 25 kinds of insurance to be transacted, date of organization or

incorporation, form of organization, state or country of 1 domicile, and such additional information as the 2 commissioner may reasonably require, together with the 3 following documents, as applicable:

(1) if a foreign insurer, a copy of its corporate 5 charter or articles of incorporation, with all amendments 6 thereto, certified by the public officer with whom the 7 originals are on file in the state or country of domicile; 8 (2) if a mutual insurer, a copy of its bylaws as 9 amended, certified by its secretary or other officer having 10 11 custody thereof;

(3) if a reciprocal insurer, copies of the power of 12 attorney of its attorney-in-fact and of its subscribers' 13 agreement, if any, certified by its attorney-in-fact; 14

(4) a copy of its financial statement as of December 15 31 next preceding, sworn to by at least two executive 16 officers of the insurer or certified by the public insurance 17 supervisory official of the insurer's state of domicile or 18

of entry into the United States; 19

(5) a copy of report of last examination, if any, made 20 of the insurer, certified by the insurance supervisory 21 official of its state of domicile or of entry into the 22 23 United States;

(6) appointment of the commissioner pursuant to 24 33-1-601, as its attorney to receive service of legal 25

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1 process;

2 (7) if a foreign or alien insurer, a certificate of 3 the public official having supervision of insurance in its 4 state or country of domicile or state of entry into the 5 United States, showing that it is authorized to transact the 6 kinds of insurance proposed to be transacted in this state;

7 (8) if an alien insurer, a copy of the appointment and
8 authority of its United States manager, certified by its
9 officer having custody of its records;

10 (9) if a foreign insurer, certificate as to deposit if 11 to be tendered pursuant to 33-2-111;

12 (10)-specimen-copies-of-policies-proposed-to-be-offered 13 in-this-state<sub>7</sub>--together--with--premiums--or--premium--rates 14 applicable<sub>7</sub>--or--a-declaration-that-such-rates-as-applicable 15 will-be-those-promulgated-by-designated-rating-organizations 16 authorized-to-file-such-rates-in-this-state-on-behalf-of-the 17 insurer."

Section 11. Section 33-2-705, MCA, is amended to read: 18 19 "33-2-705. Report on premiums and other consideration 20 -- tax. (1) Each authorized insurer and each formerly authorized insurer with respect to premiums so received 21 while an authorized insurer in this state shall file with 22 23 the commissioner, on or before March 1 each year, a report in form as prescribed by the commissioner showing total 24 direct premium income, including policy, membership, and 25

1 other fees, premiums paid by application of dividends, 2 refunds, savings, savings coupons, and similar returns or 3 credits to payment of premiums for new or additional or 4 extended or renewed insurance, charges for payment of 5 premium in installments, and all other consideration for 6 insurance from all kinds and classes of insurance, whether 7 designated as a premium or otherwise, received by it (if a 8 life insurer) or written by it (if other than a life 9 insurer) during the preceding calendar year on account of 10 policies covering property, subjects, or risks located, 11 resident, or to be performed in Montana, with proper 12 proportionate allocation of premium as to such property, 13 subjects, or risks in Montana insured under policies or 14 contracts covering property, subjects, or risks located or 15 resident in more than one state, after deducting from such 16 total direct premium income applicable cancellations, 17 returned premiums, the unabsorbed portion of any deposit 18 premium, the amount of reduction in or refund of premiums 19 allowed to industrial life policyholders for payment of 20 premiums direct to an office of the insurer, all policy 21 dividends, refunds, savings, savings coupons, and other 22 similar returns paid or credited to policyholders with 23 respect to such policies. As to title insurance, "premium" 24 includes the total charge for such insurance. No A deduction 25 shall may not be made of the cash surrender values of

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policies. Considerations received on annuity contracts shall
 may not be included in total direct premium income and shall
 is not be subject to tax.

4 (2) Coincident with the filing of the tax report 5 referred to in subsection (1) above, each such insurer shall 6 pay to the commissioner a tax upon such net premiums 7 computed at the rate of 2 3/4%.

(3) That portion of the tax paid hereunder by an 8 9 insurer on account of premiums received for fire insurance 10 shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. 11 Where insurance against fire is included with insurance of 12 13 property against other perils at an undivided premium, the 14 insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall 15 be stated in such report and as may be approved or accepted 16 17 by the commissioner.

(4) With respect to authorized insurers the premium 18 tax provided by this section shall be payment in full and in 19 lieu of all other demands for any and all state, county, 20 city, district, municipal, and school taxes, licenses, fees, 21 22 and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible 23 24 personal property located in this state, and taxes payable under 50-3-109. 25

(5) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

4 (6) In addition to the penalty provided for in 5 subsection (5), the commissioner may impose upon an insurer 6 who fails to pay the tax required under this section a fine 7 of \$100-a-day-for-each-day-the-tax-remains-unpaid--past--the 8 due--date--or--1%--of \$50 plus 12% per annum interest on the 9 delinquent amount owed-in-tax-whichever-is-greater.

10 (7) The commissioner may by rule provide a quarterly 11 schedule for payment of portions of the premium tax under 12 this section during the year in which such tax liability is 13 accrued."

Section 12. Section 33-2+707, MCA, is amended to read: 14 15 "33-2-707. Preemption of taxing. The state of Montana 16 hereby preempts the field of imposing excise, privilege, 17 franchise, income, license, and similar taxes, licenses, and 18 fees upon insurers and their general agents and agents as 19 such and on the intangible property of insurers or such 20 agents. No A county, city, municipality, self-governing 21 local government, district, school district, or other 22 political subdivision or agency in Montana shall may not levy upon insurers, or upon their general agents and agents 23 as such, any such tax, license, or fee additional to such as 24 25 are levied by the legislature of Montana in this code."

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l	Section 13. Section 33-2-708, MCA, is amended to read:
2	"33-2-708. Fees and licenses. (1) The commissioner
3	shall collect in advance and the persons so served shall so
4	pay to the commissioner the following fees and licenses:

(a) certificates of authority:

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6 (i) for filing applications for original certificates 7 of authority, articles of incorporation (except original 8 articles of incorporation of domestic insurers as provided 9 in subsection (b) below) and other charter documents, 10 bylaws, financial statement, examination report, power of 11 attorney to the commissioner, and all other documents and 12 filings required in connection with such application and for 13 issuance of an original certificate of authority, if issued: 14 (A) domestic insurers ..... \$ 300.00 15 (B) foreign insurers ...... 300.00 16 (ii) annual continuation of certificate of authority ... 17 18 (iii) reinstatement of certificate of authority ...... 19 25.00 20 (iv) amendment of certificate of authority .... 50.00 21 (b) articles of incorporation: 22 (i) filing original articles of incorporation of 23 domestic insurer, exclusive of fees required to be paid by 24 25 (ii) filing amendment of articles of incorporation,

1	domestic and foreign insurers, exclusive of fees required to
2	be paid to the secretary of state by a domestic corporation
3	
4	(c) filing bylaws or amendment thereto where required
5	
6	(d) filing annual statement of insurer, other than as
7	part of application for original certificate of authority
8	
9	(e) resident agent's license:
10	(i) application for original license, including
11	issuance of license, if issued (life and/or disability)
12	
13	(ii) application for original license, including
14	issuance of license, if issued (other than life and/or
15	disability) 15.00
16	(iii) appointment of agent, each insurer 10.00
17	(iv) annual renewal, each insurer 10.00
18	(v) temporary license 10.00
19	(vi) amendment of license (excluding additions thereto)
20	or reissuance of master license
21	(f) nonresident agent's license:
22	(i) application for original license, including
23	issuance of license, if issued (life and/or disability)
24	100.00
25	(ii) application for original license, including

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1	issuance of license, if issued (other than life and/or
2	disability) 100.00
3	(iii) appointment of agent, each insurer 10.00
4	(iv) annual renewal, each insurer 10.00
5	<ul><li>(v) amendment of license (excluding additions thereto)</li></ul>
6	or reissuance of master license 10.00
7	(g) solicitor's license:
8	(i) application for original license, including
9	issuance of license, if issued 15.00
10	(ii) annual renewal of license 15.00
11	(iii) appointment of solicitor 10.00
12	(h) examination, if administered by the commissioner,
13	for license as agent or solicitor, each examination 15.00
14	(i) surplus lines agent license:
15	(i) application for original license and for issuance
16	of license, if issued 50.00
17	(ii) annual renewal of license
18	(j) adjuster's license:
19	(i) application for original license and for issuance
20	of license, if issued 15.00
21	(ii) annual renewal of license
2 <b>2</b>	(k) insurance vending machine license, each machine,
23	each year 10.00
24	(1) commissioner's certificate under seal (except when
25	on certificates of authority or licenses) 10.00

1	(m) copies of documents on file in the commissioner's
2	office, per page
3	(n) policy forms:
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4	(i) filing each policy form 25.00
5	(ii) filing each application, rider, endorsement,
6	amendment, insert page, schedule of rates, and clarification
7	of risks 10.00
8	(iii) maximum charge if policy and all forms submitted
9	at one time or resubmitted for approval within 180 days
10	
11	(2) The commissioner shall promptly deposit with the
12	state treasurer to the credit of the general fund of this
13	state all fines and penalties, those amounts received
14	pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees
15	and examination and miscellaneous charges received pursuant
16	to Title 33, chapter 11, part 1, that are collected by him
17	pursuant to Title 33 and the rules adopted thereunder.
18	(3) All fees are considered fully earned when
19	received. In the event of overpayment, only those amounts in
20	excess of \$10 will be refunded.
21	(4) All fees and examination and miscellaneous

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22	charges, except fines or penalties or those amounts received
23	pursuant to 33-2-311, 33-2-705, or 33-2-706, collected by
24	the commissioner pursuant to Title 33 and the rules adopted
25	thereunder must be deposited in the insurance regulatory

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1 trust account pursuant to 17-2-121 through 17-2-123."

Section 14. Section 33-2-709, MCA, is amended to read: 2 "33-2-709. Retaliatory fees, taxes, and 3 other 4 obligations. (1) When by or pursuant to the laws of any 5 other state or foreign country any taxes, licenses, and 6 other fees, in the aggregate, and any fines, penalties, 7 deposit requirements, or other material obligations, 8 prohibitions, or restrictions are or would be imposed upon 9 Montana insurers or upon the agents or representatives of 10 such insurers which are in excess of such taxes, licenses, 11 and other fees, in the aggregate, or which are in excess of 12 the fines, penalties, deposit requirements, or other 13 obligations, prohibitions, or restrictions directly imposed 14 upon similar insurers or upon the agents or representatives 15 of such insurers of such other state or country under the 16 statutes of this state, so long as such laws of such other 17 state or country continue in force or are so applied, the 18 same taxes, licenses, and other fees, in the aggregate, or 19 fines, penalties, or deposit requirements or other material 20 obligations, prohibitions, or restrictions of whatever kind 21 shall be imposed by the commissioner upon the insurers or 22 upon the agents or representatives of such insurers of such 23 other state or country doing business or seeking to do 24 business in Montana. Any tax, license, or other fee or other 25 obligation imposed by any city, county, or other political subdivision or agency of such other state or country on
 Montana insurers or their agents or representatives shall-be
 deemed is considered to be imposed by such state or country
 within the meaning of this section.

(2) This section shall does not apply as to any fees 5 in conjunction with the licensing of insurance agents, 6 7 personal income taxes, ad valorem taxes on real or personal property, or special purpose obligations or assessments 8 imposed by another state or by an agency of this state other 9 than the department in connection with particular kinds of 10 insurance other than property insurance, except that 11 deductions from premium taxes or other taxes otherwise 12 13 payable allowed on account of real estate or personal property taxes paid shall be taken into consideration by the 14 commissioner in determining the propriety and extent of 15 retaliatory action under this section. 16

17 (3) (a) For the purposes of this section the domicile 18 of an alien insurer, other than insurers formed under the 19 laws of Canada, shall be that state designated by the 20 insurer in writing filed with the commissioner at time of 21 admission to this state or within 6 months after January 1, 22 1961, whichever date is the later, and may be any one of the 23 following states:

24 (i) that in which the insurer was first authorized to25 transact insurance;

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1 (ii) that in which is located the insurer's principal 2 place of business in the United States; 3 (iii) that in which is held the larger deposit of 4 trusteed assets of the insurer for the protection of its 5 policyholders and creditors in the United States. 6 (b) If the insurer makes no such designation, its 7 domicile shall--be-deemed is considered to be that state in 8 which is located its principal place of business in the United States." 9 Section 15. Section 33-2-1362, MCA, is amended to 10 11 read: 12 \*33-2-1362. Recovery of premiums owed. (1) (a) An 13 agent or any other person responsible for the payment of a 14 premium;-other-than-the-insured;-shall-be is obligated to pay any the earned unpaid premium for-the-full-policy-term 15 16 due the insurer at the time of the declaration of insolvency7--whether--earned--or--uncarned7 as shown on the 17 records of the insurer. The liquidator may recover from such 18 19 the agent or person any part of an unearned premium that 20 represents commission of such the agent or person. Credits 21 or setoffs or both may not be allowed to an agent for any 22 amounts advanced to the insurer by the agent on behalf of 23 but in the absence of a payment by the insured. 24 (b) An insured shall pay any unpaid earned premium due

1 shown on the records of the insurer.

2 (2) Upon satisfactory evidence of a violation of this
3 section, the commissioner may pursue either one or both of
4 the following courses of action:

5 (a) suspend or revoke or refuse to renew the licenses
6 of any offending party;

7 (b) impose a penalty of not more than \$1,000 for each8 act in violation of this section by such party.

9 (3) Before the commissioner may take any action as set 10 forth in subsection (2), he shall give written notice to the 11 person, company, association, or exchange accused of 12 violating the law, stating specifically the nature of the 13 alleged violation and fixing a time and place, at least 10 14 days thereafter, when a hearing on the matter shall be held. 15 After such hearing or upon failure of the accused to appear 16 at such hearing, the commissioner, if he finds a violation, 17 shall impose such penalties under subsection (2) as he 18 considers advisable.

19 (4) When the commissioner takes action in any of the 20 ways set out in subsection (2), the party aggrieved may 21 appeal from the action to the district court."

Section 16. Section 33-4-314, MCA, is amended to read:
"33-4-314. Annual statement -- exclusive report -penalty for failure to file. (1) No If reasonably necessary,
the commissioner may obtain from a farm mutual insurer a

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the insurer at the time of the declaration of insolvency, as

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report, statement, or return of any nature shall-be-required
 of-any-farm-mutual-insurer other than those required by
 33-4-313.

4 (2) The commissioner may suspend or revoke the
5 certificate of authority of any insurer failing to file its
6 the annual statement as required in 33-4-313."

Section 17. Section 33-4-504, MCA, is amended to read:
 "33-4-504. Cash premium or assessment plans. (1) An
 Except as provided in subsection (5), a farm mutual insurer
 may transact business either on the cash premium plan
 altogether or on the assessment plan altogether, whichever
 plan is provided for in its articles of incorporation or
 bylaws.

14 (2) If transacting business on the cash premium plan, 15 the insurer shall collect from each member before or at the 16 time of effectuation of the member's insurance the premium 17 in cash in such amount as the insurer deems determines will 18 be adequate to cover losses and expenses incurred during the 19 term of such insurance.

(3) If transacting business on the assessment plan,
the insurer will depend for the payment of losses and
expenses principally upon assessments from time to time
levied upon members either before or after such losses or
expenses have been incurred. This provision shall may not be
construed, however, as preventing any such insurer from

collecting from each member such initial amount as it may
 deem consider proper prior to or at the time of the
 effectuation of the member's insurance; nor shall may it be
 deemed considered to prohibit the acquisition, accumulation,
 and maintenance of surplus or unallocated funds.

6 (4) An insurer transacting business on the cash 7 premium plan may nevertheless provide in its bylaws and policies for special assessment of its members in event the 8 9 cash premium charged is found by it to be inadequate to pay 10 in full losses and expenses currently incurred. The bylaws shall provide a specific limitation as to the amount which 11 12 can be so assessed in any one policy year, such amount to be 13 not less than one or more than six times the premium charged on each member's policy at the annual rate for a term of 1 14 15 year.

16 (5) A farm mutual insurer authorized to transact 17 casualty insurance pursuant to 33-4-501(2) may transact its 18 casualty insurance business only on a cash premium plan." Section 18. Section 33-7-406, MCA, is amended to read: 19 20 "33-7-406. Annual statement -- penalty for failure to 21 file or-to-comply. A-society-neglecting-to-file--the--annual 22 statement--in--the-form-and-within-the-time-provided-in-this part-shall--forfeit The commissioner may impose upon a 23 24 society a fine not to exceed \$100 for each day during-which such-neglect-continues;-and;-upon-notice-by-the-commissioner 25

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(5) "Insurer" means an insurer authorized to transact to-that-effecty-its-authority-to-do-business-in--this--state 1 1 shall--cease-while-such-default-continues after March 1 that 2 2 3 a society fails to file the annual statement required by 3 33-7-404. The fine may not exceed \$1,000." 4 4 5 Section 19. Section 33-15-1102, MCA, is amended to 5 6 6 read: 7 "33-15-1102. Definitions. As used in this part, the 7 8 following definitions apply unless the context requires 8 9 9 otherwise: 10 (1) "Anniversary date" means the month and day that 10 11 rates, rating plans, and rating systems are initially 11 12 12 applied to a policy in effect. The term includes each annual 13 13 anniversary thereafter unless the insurer establishes a 14 14 different date by a filing with the commissioner. 15 (2) "Cancellation" means the decision by the insurer 15 16 to terminate an insurance policy prior to the expiration of 16 17 17 its term. 18 (3) "Classification" means an arrangement of insurance 18 19 19 risks into an underwriting or rating group according to a 20 classification system used by an insurer as a basis for 20 tabulating statistical experience and determining premium 21 read: 21 22 22 rates. 23 (4) "Classification system" means a 23 schedule of 24 classifications and a rule used by an insurer for 24 25 determining the classifications applicable to an insured. 25

property or casualty insurance in this state or an unauthorized insurer transacting surplus lines insurance in this state. (6) "Premium" means the contractual consideration charged to an insured for insurance for a specified period of time, regardless of the timing of actual charges. (7) "Rate" means a monetary amount applied to the

units of exposure assigned to a classification and used by an insurer to determine the premium for an insured.

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

(a) the premium for an insured; and

(b) the parameter values used in such calculation after application of classification premium rates to units of exposure.

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

Section 20. Section 33-15-1103, MCA, is amended to

\*33-15-1103. Midterm cancellation. (1) An insurer may not cancel an insurance policy before either the expiration of the agreed term or 1 year from the effective date of the policy or renewal date, whichever is less, except:

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2 (b) for failure to pay a premium when due; or 3 (c) on grounds stated in the policy which pertain to 4 the following: 5 (i) material misrepresentation; 6 (ii) substantial change in the risk assumed, except to 7 the extent that the insurer should reasonably have foreseen 8 the change or contemplated the risk when the contract was 9 written; 10 (iii) substantial breaches of contractual duties, conditions, or warranties: 11 12 (iv) determination by the commissioner that 13 continuation of the policy would place the insurer in 14 violation of this code; 15 (v) financial impairment of the insurer; or

(a) for reasons specifically allowed by statute:

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16 (vi) any other reason approved by the commissioner.

17 (2) Cancellation under subsection (1) is not effective
18 until 10 days after a notice of cancellation is either
19 delivered or mailed to the insured and the loss payee.

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

1 (4) If a policy has been issued for a term longer than 2 1 year and if either the premium is prepaid or an agreed 3 term is guaranteed for additional premium consideration, the 4 insurer may not cancel the policy except:

(a) for reasons specifically allowed by statute;

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

7 (c) on grounds stated in the policy which pertain to8 those grounds listed in subsection (1)(c)."

9 Section 21. Section 33-15-1106, MCA, is amended to 10 read:

"33-15-1106. Renewal with altered terms. (1) If an 11 insurer offers or purports to renew a policy but on less 12 favorable terms, at a higher rate, or at a higher rating 13 plan, the new terms, rate, or rating plan take effect on the 14 policy renewal date only if the insurer has mailed or 15 delivered notice of the new terms, rate, or rating plan to 16 17 the insured at least 30 days before the expiration date. If the insured has not been so notified, he may cancel the 18 renewal policy within 30 days after receiving the notice. 19 The insurer shall continue coverage for a period of not less 20 21 than 30 days after mailing or delivery of the notice. If the 22 insured terminates the policy within the 30-day period, the insurer shall calculate earned premium pro rata based upon 23 the prior policy's rate. The new rate is effective only 24 25 after the required 30-day notification period has been met.

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If the insured does not terminate the policy, the premium
 increase and other changes are effective the day following
 the prior policy's expiration or anniversary date.

4 (2) This section does not apply if:

5 (a)--the-change-is-a-rate-or-rating-plan-filed-with-the 6 commissioner-and-applicable-to-the-entire-classification--or 7 classification-system-to-which-the-policy-belongs;-or

8 (b) the increase in the rate or the rating plan, or
9 both, results from a classification change based on the
10 altered nature or extent of the risk insured against."

11 Section 22. Section 33-17-231, MCA, is amended to 12 read:

"33-17-231. Appointment of agents -- continuation and 13 termination. (1) Each insurer appointing an agent in this 14 state shall file with the commissioner the appointment, 15 specifying the kinds of insurance to be transacted by the 16 agent for the insurer, and pay the fee therefor as stated in 17 33-2-708. The term of the appointment is for 1 year and 18 runs from June 1 of each year through May 31 of the 19 succeeding year. 20

(2) Subject to annual renewal by the insurer, each
such appointment shall remain in effect until the agent's
license is revoked or otherwise terminated unless written
notice of earlier termination of the appointment is filed
with the commissioner by the insurer.

(3) Annually, prior to May 1, each insurer shall file 1 2 with the commissioner an alphabetical list in duplicate of the names and addresses of all its agents whose appointments 3 4 in this state are to remain in effect, accompanied by payment of the annual renewal fee as provided in 33-2-708. 5 At the same time the insurer shall also file with the 6 commissioner a termination report of all agents whose 7 appointments in this state are not to remain in effect. 8

9 (4) Subject to the agent's contract rights, an insurer 10 may terminate an agent's appointment at any time. The 11 insurer shall promptly give written notice of such 12 termination to the commissioner and to the agent. The 13 commissioner may require of the insurer reasonable proof 14 that the insurer has given such notice to the agent.

15 (5) As part of the notice of termination given the 16 commissioner, the insurer shall file with the commissioner a statement of the facts relative to the termination and the 17 cause thereof. Any information or statement contained in the 18 19 notice of termination shall may not be admissible as 20 evidence in any action or proceeding against the insurer or any representative thereof by or in behalf of any person 21 22 affected by such termination.

23 (6) Each insurer transacting insurance in this state
24 shall notify the commissioner when it determines that an
25 agent has violated a provision of this code."

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Section 23. Section 33-17-406, MCA, is amended to
 read:

3 "33-17-406. Nonresident agent subject to insurance
4 code. All <u>A</u> nonresident licensees-shall-be person is subject
5 to the provisions of the Montana Insurance Code as though a
6 resident of this state unless otherwise provided."

7 Section 24. Section 33-17-603, MCA, is amended to 8 read:

"33-17-603. Certificate of registration. (1) Except as
provided in 33-17-604, no <u>a</u> person may <u>not</u> act as or hold
himself out to be an administrator in this state unless he
holds a certificate of registration as an administrator.

13 (2) An application for a certificate of registration 14 must be accompanied by a fee of \$100. The commissioner of 15 insurance shall issue the certificate unless he finds that 16 the applicant is not competent, trustworthy, financially 17 responsible, or of good personal and business reputation or 18 that the applicant has had a previous application for an 19 insurance license denied for cause within 5 years.

20 (3) The certificate of registration is renewable
21 annually on the-date-of-issue July 1. A request for renewal
22 must be accompanied by a renewal fee of \$100.

(4) The certificate of registration may be suspended
or revoked if, after notice and hearing, the commissioner
finds that the administrator has violated any of the

requirements of this part or that the administrator is not
 competent, trustworthy, financially responsible, or of good
 personal and business reputation.

4 (5) Unless the certification requirement is waived, 5 any administrator who acts as such without the certificate 6 of registration is subject to a fine of not less than \$500 7 or more than \$1,500."

8 Section 25. Section 33-17-1001, MCA, is amended to 9 read:

"33-17-1001. Suspension, revocation, or refusal of 10 license. (1) Except as provided in 33-17-411, the 11 commissioner may suspend for not more than 12 months or may 12 revoke or refuse to continue any license issued under this 13 14 chapter or any surplus lines agent license if, after hearing 15 held on not less than 10 days' advance notice by certified 16 mail of such hearing and of the charges against the licensee 17 given as provided in 33-1-314(3) to the licensee and to the insurers represented, as to an agent, or to the appointing 18 19 agent, as to a solicitor, he finds that as to the licensee 20 any one or more of the following causes exist:

(a) for any cause for which issuance of the license
could have been refused had it then existed and been known
to the commissioner;

(b) for obtaining or attempting to obtain any suchlicense through misrepresentation or fraud;

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(c) for violation of or noncompliance with any
 applicable provision of this code or for willful violation
 of any lawful rule or order of the commissioner;

4 (d) for misappropriation or conversion to his own use
5 or illegal withholding of moneys or property belonging to
6 policyholders, insurers, beneficiaries, or others and
7 received in conduct of business under the license;

8 (e) conviction, by final judgment, of a felony
9 involving moral turpitude;

(f) if in the conduct of his affairs under the license
the licensee has used fraudulent or dishonest practices or
has shown himself to be incompetent, untrustworthy, or a
source of injury and loss to the public;

(g) for acceptance of insurance business from a person
 not licensed to act as or hold himself out to be an agent
 pursuant to 33-17-201.

17 (2) The license of a partnership or corporation may be
18 suspended, revoked, or refused also for any of such causes
19 as relate to any individual designated in the license to
20 exercise its powers.

21 (3) The commissioner may suspend, revoke, or refuse to 22 continue a license under subsection (1)(e) without 23 conducting an investigation pursuant to 37-1-203 or making a 24 written finding pursuant to 37-1-204."

25 Section 26. Section 33-18-210, MCA, is amended to

1 read:

2 **"33-18-210.** Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances. (1) 3 4 A title, property, casualty, or surety insurer or any No employee, representative, agent, or solicitor thereof may 5 6 not, as an inducement to purchase insurance or after 7 insurance has been effected, pay, allow, or give or offer to 8 pay, allow, or give, directly or indirectly, any rebate, 9 discount, abatement, credit, or reduction of the premium named in the insurance policy; any special favor or 10 11 advantage in the dividends or other benefits to accrue 12 thereon; or any valuable consideration or inducement not specified in the policy, except to the extent provided for 13 in an applicable filing with the commissioner as provided by 14 15 law.

16 (2) No An insured named in a policy or any employee of
17 the insured may not knowingly receive or accept, directly or
18 indirectly, any such rebate, discount, abatement, credit, or
19 reduction of premium; special favor or advantage; or
20 valuable consideration or inducement.

21 (3) No--such An insurer may not make or permit any 22 unfair discrimination in the premium or rates charged for 23 insurance, in the dividends or other benefits payable 24 thereon, or in any other of the terms and conditions of the 25 insurance either between insureds or property having like

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insuring or risk characteristics or between insureds because
 of race, color, creed, religion, or national origin.

3 (4) Nothing in this section may be construed as 4 prohibiting the payment of commissions or other compensation 5 to duly licensed agents or solicitors or as prohibiting an 6 insurer from allowing or returning lawful dividends, 7 savings, or unabsorbed premium deposits to its participating 8 policyholders, members, or subscribers.

9 (5) No--such <u>An</u> insurer may <u>not</u> make or permit any 10 unfair discrimination between individuals or risks of the 11 same class and of essentially the same hazards by refusing 12 to issue, refusing to renew, canceling, or limiting the 13 amount of insurance coverage on a property or casualty risk 14 because of the geographic location of the risk, unless:

15 (a) the refusal, cancellation, or limitation is for a
16 business purpose which is not a mere pretext for unfair
17 discrimination; or

18 (b) the refusal, cancellation, or limitation is19 required by law or regulatory mandate.

(6) No--such An insurer may not make or permit any
unfair discrimination between individuals or risks of the
same class and of essentially the same hazards by refusing
to issue, refusing to renew, canceling, or limiting the
amount of insurance coverage on a residential property risk,
or the personal property contained therein, because of the

1 age of the residential property, unless:

2 (a) the refusal, cancellation, or limitation is for a
3 business purpose which is not a mere pretext for unfair
4 discrimination; or

5 (b) the refusal, cancellation, or limitation is6 required by law or regulatory mandate.

7 (7) No--such <u>An</u> insurer may <u>not</u> refuse to insure, 8 refuse to continue to insure, or limit the amount of 9 coverage available to an individual because of the sex or 10 marital status of the individual, but an insurer may take 11 marital status into account for the purpose of defining 12 persons eligible for dependents' benefits.

(8) No-such An insurer may not terminate or modify 13 14 coverage or refuse to issue or refuse to renew any property or casualty policy or contract of insurance solely because 15 the applicant or insured or any employee of either is 16 mentally or physically impaired; however, this subsection 17 does not apply to accident and health insurance sold by a 18 19 casualty insurer, and this subsection is not to be interpreted to modify any other provision of law relating to 20 the termination, modification, issuance, or renewal of any 21 insurance policy or contract. 22

23 (9) An insurer may not refuse to insure, refuse to 24 continue to insure, or limit the amount of coverage 25 available to an individual based on adverse information

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1 contained in a driving record that is 3 years old or older. 2 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim 3 submitted under the insured's policy if the insured was not 4 at fault." 5 Section 27. Section 33-18-401, MCA, is amended to 6 7 read: "33-18-401. False applications, claims, and proofs of 8 9 loss -- penalty. (1) Any A solicitor, agent, examining 10 physician, applicant, or other person who may not knowingly 11 or willfully makes-any make a false or fraudulent statement 12 or representation in or with reference to any an application 13 for insurance or, for the purpose of obtaining any money or benefit, knowingly or willfully presents present or causes 14 15 cause to be presented a false or fraudulent claim or any proof in support of such a claim for the payment of the loss 16 17 upon a contract of insurance or prepares, --makes, --or subscribes prepare, make, or subscribe a false or fraudulent 18 19 account, certificate, affidavit or proof of loss, or other 20 document or writing, with intent that the same may be presented or used in support of such a claim7-shall-be. 21 22 (2) A solicitor, agent, examining physician,

23 applicant, or other person who violates subsection (1) is
24 guilty of a misdemeanor felony and shall upon conviction
25 shall be punished-by-a-fine fined of not less-than-\$250-or

1 more than \$17000 S5,000 or by -- imprisonment -- in -- the -- county jail imprisoned for not less-than-3-months-or more than 6 2 months 10 years, or both such-fine-and-imprisonment--at--the 3 discretion-of-the-court." 4 Section 28. Section 33-20-101, MCA, is amended to 5 6 read: 7 "33-20-101. Scope, Parts (1) Except as provided in subsection (2), parts 1 through 5 of this chapter apply only 8 9 to contracts of life insurance and annuities, other than reinsurance, group life insurance, and group annuities. 10 (2) Section 33-20-131 applies to group life insurance 11 and group annuities." 12 Section 29. Section 33-20-103, MCA, is amended to 13 14 read: 15 \*33-20-103. Standard provisions required exceptions. (1) No A policy of life insurance other than 16 group and pure endowments with or without return of premiums 17 18 or of premiums and interest shall may not be delivered or issued for delivery in this state unless it contains in 19 substance all of the applicable provisions as required by 20 21 33-20-104 through 33-20-108, 33-20-110 through 33-20-116, 22 and 33-20-131, and [section 2]. 23 (2) This Except as provided in 33-20-101, this section shall does not apply to annuity contracts or to any a 24

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provision of a life insurance policy, or contract

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1 supplemental thereto, relating to disability benefits or to additional benefits in the event of death by accident or 2 accidental means. 3

(3) Any-of-such-provisions A provision or portions 4 thereof portion of a provision listed in subsection (1) not 5 6 applicable to a single premium or term policies--shall--to 7 that--extent policy need not be incorporated therein in the 8 single premium or term policy to the extent not applicable 9 to such policy."

10 Section 30. Section 33-20-121, MCA, is amended to read: 11

12 \*33-20-121. Prohibited provisions -- limitations on 13 liability. (1) No A policy of life insurance may not be delivered or issued for delivery in this state if it 14 contains any of the following provisions: 15

16 (a) a provision for a period shorter than that provided by statute within which an action at law or in 17 18 equity may be commenced on the policy;

19 (b) a provision which excludes or restricts liability 20 for death caused in a certain specified manner or occurring while the insured has a specified status, except that a 21 policy may contain provisions excluding or restricting 22 23 coverage as specified therein in the event of death under 24 any one or more of the following circumstances:

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1 declared or undeclared, or of action by military forces or of any act or hazard of such war or action or of service in 2 the military, naval, or air forces or in civilian forces 3 auxiliary thereto or from any cause while a member of such 4 military, naval, or air forces of any country at war, 5 6 declared or undeclared, or of any country engaged in such military action; 7 (ii) death as a result of aviation or any air travel or 8 flight; 9 10 (iii) death as a result of a specified hazardous 11 occupation or occupations; (iv) death while the insured is a resident outside the 12 13 continental United States and Canada; or 14 (v) death within 2 years from the date of issue of the policy as a result of suicide, while seriously mentally ill 15 or otherwise. If the life insurance policy contains a 16 17 dependent rider, however, the dependent coverage may be continued upon payment of the premium. 18 (2) A policy which contains any exclusion or 19 20 restriction pursuant to subsection (1) of this section shall 21 also provide that in the event of death under the

circumstances to which any such exclusion or restriction is 23 applicable, the insurer will pay an amount not less than a 24 reserve determined according to the commissioner's reserve 25 valuation method upon the basis of the mortality table and

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(i) death as a result, directly or indirectly, of war,

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1 interest rate specified in the policy for the calculation of 2 nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and 3 interest rate determined by the insurer and specified in the 4 5 policy) with adjustment for indebtedness or dividend credit. 6 (3) This section does not apply to industrial life 7 insurance, group life insurance, disability insurance, 8 reinsurance, or annuities or to any provision in a life 9 insurance policy relating to disability benefits or to 10 additional benefits in the event of death by accident or 11 accidental means.

12 (4) Nothing contained in this section prohibits any 13 provision which in the opinion of the commissioner is more 14 favorable to the policyholder than a provision permitted by 15 this section."

16 Section 31. Section 33-20-131, MCA, is amended to 17 read:

18 "33-20-131. Policy or certificate loan. (1) Except as provided in 33-20-132 through 33-20-136, there shall must be 19 20 a provision that after 3 full years' premiums have been paid 21 and after the policy or certificate has a cash surrender 22 value and while no a premium is not in default beyond the 23 grace period for payment, the insurer will advance, on proper assignment or pledge of the policy or certificate and 24 25 on the sole security thereof, at a specified rate of LC 0869/01

interest not exceeding 6% a year, an amount equal to or, at 1 the option of the party entitled thereto, less than the loan 2 value of the policy or certificate. The commissioner may 3 authorize a rate of interest in excess of 6%, but not in 4 5 excess of 8% a year (or 7.4% if payable annually in 6 advance), for policies or certificates issued on or after January 1, 1980, if the insurer provides adequate written 7 certification that the holders of such policies or 8 certificates will benefit fully from the increased earnings 9 of the insurer resulting from the use of an interest rate in 10 excess of the 6% per annum, such as from higher interest 11 income to the company on policy or certificate loans, higher 12 investment yield resulting from a reduction in policy or 13 certificate loans because of the higher policy or 14 certificate loan interest rate, and any additional income to 15 16 the company resulting from the use of such higher interest rate in any manner whatsoever. These benefits to the 17 policyholder shall must be reflected through 18 higher dividends or lower premiums, or both. The loan value of the 19 policy shall must be at least equal to the cash surrender 20 21 value at the end of the then current policy or certificate year, provided that the insurer may deduct, either from such 22 loan value or from the proceeds of the loan, any existing 23 indebtedness not already deducted in determining such cash 24 25 surrender value including any interest then accrued but not

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due, any unpaid balance of the premium for the current 1 2 policy or certificate year, and interest on the loan to the end of the current policy or certificate year unless the 3 policyowner by written notice to the insurer elects to defer 4 payment of interest until it has accrued. The policy or 5 6 certificate may also provide that if interest on any 7 indebtedness is not paid when due it shall must then be 8 added to the existing indebtedness and shall must bear 9 interest at the same rate, and that if and when the total 10 indebtedness on the policy or certificate, including interest due or accrued, equals or exceeds the amount of the 11 12 loan value thereof, then the policy shall-terminate or 13 certificate terminates and become becomes void. The policy shall or certificate must reserve to the insurer the right 14 to defer the granting of a loan, other than for the payment 15 16 of any premium to the insurer, for 6 months after application therefor. The policy or certificate, at the 17 18 insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect. 19

20 (2) This section shall <u>does</u> not apply to term policies 21 or to term insurance benefits provided by rider or 22 supplemental policy provisions or to industrial life 23 insurance policies."

24 Section 32. Section 33-20-1201, MCA, is amended to 25 read:

"33-20-1201. Provisions required in group contracts. 1 No A policy of group life insurance shall may not be 2 delivered or issued for delivery in this state unless it 3 contains in substance the provisions set forth in 33-20-1202 4 through 33-20-1211 and [section 3] or provisions which that 5 in the opinion of the commissioner are more favorable to the 6 persons insured or at least as favorable to the persons 7 insured and more favorable to the policyholder; except, 8 however, that: 9

10 (1) sections 33-20-1207 through 33-20-1211 shall do
11 not apply to policies issued to a creditor to insure debtors
12 such the of creditor;

13 (2) the standard provisions required for individual
14 life insurance policies shall do not apply to group life
15 insurance policies; and

(3) if the group life insurance policy is on a plan of 16 insurance other than the term plan, it shall must contain a 17 nonforfeiture provision or provisions which that in the 18 opinion of the commissioner is or are equitable to the 19 insured persons and to the policyholder, but nothing herein 20 shall in this section may be construed to require that group 21 life insurance policies contain the same nonforfeiture 22 provisions as are required for individual life insurance 23 policies." 24

25 Section 33. Section 33-20-1202, MCA, is amended to

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l read:

"33-20-1202. Grace period. The A group life insurance 2 3 policy shall must contain a provision that the policyholder 4 is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period 5 the death benefit coverage shall--continue continues in 6 7 force, unless the policyholder shall--have has given the insurer written notice of discontinuance in advance of the 8 date of discontinuance and in accordance with the terms of 9 10 the policy. The policy may provide that the policyholder shall-be is liable to the insurer for the payment of a pro 11 rata premium for the time the policy was in force during 12 such the grace period." 13

14 Section 34. Section 33-22-225, MCA, is amended to 15 read:

16 "33-22-225. Insurance with other insurers -- provision
17 of service or expense incurred basis. (1) There may be a
18 provision as follows:

19 "Insurance with Other Insurers: If there be other valid 20 coverage, not with this insurer, providing benefits for the 21 same loss on a provision of service basis or on an expense 22 incurred basis and of which this insurer has not been given 23 written notice prior to the occurrence or commencement of 24 loss, the only liability under any expense incurred coverage 25 of this policy shall be for such proportion of the loss as

1 the amount which would otherwise have been payable hereunder 2 plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had 3 notice bears to the total like amounts under all valid 4 5 coverages for such loss and for the return of such portion 6 of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying 7 this provision when other coverage is on a provision of 8 9 service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered 10 would have cost in the absence of such coverage." 11

12 (2) If the foregoing policy provision is included in a 13 policy which also contains the policy provision set out in 14 33-22-226, there shall be added to the caption of the foregoing provision the phrase "--Expense Incurred 15 16 Benefits". The insurer may, at its option, include in this 17 provision a definition of "other valid coverage", approved as to form by the commissioner, which definition shall be 18 limited in subject matter to coverage provided by 19 20 organizations subject to regulation by insurance law or by 21 insurance authorities of this or any other state of the United States or any province of Canada and by hospital or 22 medical service organizations and to any other coverage the 23 inclusion of which may be approved by the commissioner. In 24 25 the-absence-of-such-definition-such-term-shall Other valid

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1 coverage may not include group insurance, automobile medical 2 payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or 3 employer or employee benefit organizations. For the purpose 4 5 of applying the foregoing policy provision with respect to 6 any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any 7 8 workers' compensation or employer's liability statute, 9 whether provided by a governmental agency or otherwise shall 10 is in all cases be--deemed considered to be "other valid 11 coverage" of which the insurer has had notice. In applying 12 the foregoing policy provision, no third-party liability 13 coverage shall be included as "other valid coverage"."

14 Section 35. Section 33-22-226, MCA, is amended to 15 read:

16 "33-22-226. Insurance with other insurers -- other
17 benefits. (1) There may be a provision as follows:

18 "Insurance with Other Insurers: If there be other valid 19 coverage, not with this insurer, providing benefits for the 20 same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior 21 22 to the occurrence or commencement of loss, the only 23 liability for such benefits under this policy shall be for 24 such proportion of the indemnities otherwise provided 25 hereunder for such loss as the like indemnities of which the

1 insurer had notice (including the indemnities under this 2 policy) bear to the total amount of all like indemnities for 3 such loss and for the return of such portion of the premium 4 paid as shall exceed the pro rata portion for the 5 indemnities thus determined."

6 (2) If the foregoing policy provision is included in a 7 policy which also contains the policy provision set out in 8 33-22-225, there shall be added to the caption of the foregoing provision the phrase "--Other Benefits". The 9 10 insurer may, at its option, include in this provision a definition of "other valid coverage", approved as to form by 11 the commissioner, which definition shall be limited in 12 13 subject matter to coverage provided by organizations subject 14 to regulation by insurance law or by insurance authorities 15 of this or any other state of the United States or any 16 province of Canada and to any other coverage the inclusion 17 of which may be approved by the commissioner. In-the-absence 18 of--such-definition-such Other valid coverage may term-shall 19 not include group insurance or benefits provided by union welfare plans or by employer or employee benefit 20 organizations. For the purpose of applying the foregoing 21 22 policy provision with respect to any insured, any amount of 23 benefit provided for such insured pursuant to any compulsory 24 benefit statute, including any workers' compensation or employer's liability statute, whether provided by a 25

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1 governmental agency or otherwise shall is in all cases be deemed considered to be "other valid coverage" of which the 2 insurer has had notice. In applying the foregoing policy 3 provision, no third-party liability coverage shall be 4 included as "other valid coverage"." 5

Section 36. Section 33-22-301, MCA, is amended to 6 7 read:

"33-22-301. Coverage of newborn under disability 8 policy. (1) Each Except as provided in subsection (5), each 9 policy of disability insurance or certificate issued 10 thereunder shall must contain a provision granting immediate 11 accident and sickness coverage, from and after the moment of 12 birth, to each newborn infant of any insured. 13

14 (2) The coverage for newborn infants must be the same 15 as provided by the policy for the other covered persons; provided, however, that for newborn infants there shall be 16 no waiting or elimination periods. A deductible or reduction 17 in benefits applicable to the coverage for newborn infants 18 19 is not permissible unless it conforms and is consistent with the deductible or reduction in benefits applicable to all 20 other covered persons. 21

22 (3) No A policy or certificate of insurance may not be 23 issued or amended in this state if it contains any a disclaimer, waiver, or other limitation of coverage relative 24 to the accident and sickness coverage or insurability of 25

newborn infants of an insured from and after the moment of 2 birth.

3 (4) If payment of a specific premium or subscription 4 fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a 5 newly born child and payment of the required premium or fees б 7 must be furnished to the insurer or nonprofit service or 8 indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day 9 10 period.

#### 11 (5) This section does not apply to a policy under which there would be not benefit to a newborn infant." 12

13 Section 37. Section 33-22-502. MCA, is amended to 14 read:

"33-22-502. Required provisions of group policies. 15 16 Each--such A group disability insurance policy shall 17 delivered or issued for delivery in this state must contain in substance the following provisions: 18

(1) a provision that, in the absence of fraud, all 19 statements made by applicants or the policyholder or by an 20 21 insured person shall---be----deemed are considered 22 representations and not warranties and that no statement made for the purpose of effecting insurance shall-avoid-such 23 24 avoids the insurance or reduce reduces benefits unless 25 contained in a written instrument signed by the policyholder

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or the insured person, a copy of which has been furnished to
 such policyholder or to such person or his beneficiary;

3 (2) a provision that the insurer will furnish to the 4 policyholder for delivery to each employee or member of the 5 insured group a statement in summary form of the essential 6 features of the insurance coverage of such the employee or 7 member and to whom benefits thereunder are payable. If 8 dependents are included in the coverage, only one 9 certificate need be issued for each family unit.

10 (3) a provision that to the group originally insured 11 may be added from time to time eligible new employees or 12 members or dependents, as the case may be, in accordance 13 with the terms of the policy;

(4) a provision as follows:

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15 "Conformity with State Statutes: A provision of this 16 policy that on its effective date conflicts with the 17 statutes of the state in which the insured resides on that 18 date is hereby amended to conform to the minimum 19 requirements of those statutes.""

20 Section 38. Section 33-22-504, MCA, is amended to 21 read:

\*33-22-504. Newborn infant coverage. (1) No Except as
 provided in subsection (4), a group disability policy or
 certificate of insurance which;--in--addition-to-covering
 persons-in-the-insured-group;-also-covers-members--of--such

person's--family may not be issued or amended in this state if it contains any disclaimer, waiver, or other limitation of coverage relative to the accident and sickness coverage or insurability of newborn infants of persons covered under the policy from and after the moment of birth.

(2) If the policy or certificate issued thereunder, in 6 addition to covering persons in the insured group, also 7 covers members of such person's family, it shall contain an 8 additional provision granting immediate accident and 9 sickness coverage, from and after the moment of birth, to 10 each newborn infant of any person covered under the policy. 11 (3) The coverage for newborn infants shall be the same 12 as provided by the policy for other covered persons; 13 provided, however, that for newborn infants there shall be 14 no waiting or elimination periods. A deductible or reduction 15 in benefits applicable to the coverage for newborn infants 16 is not permissible unless it conforms and is consistent with 17 the deductible or reduction in benefits applicable to all 18 19 other covered persons.

20 (4) This section does not apply to a group disability

21 policy or certificate of insurance under which there would

22 be no benefit to a newborn infant."

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23 Section 39. Section 33-22-508, MCA, is amended to 24 read:

"33-22-508. Conversion on termination of eligibility.

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(1) A group disability insurance policy issued or renewed 1 2 after October 1, 1981, shall must contain a provision that if the insurance or any portion of it on a person, his 3 dependents, or family members covered under the policy 4 ceases because of termination of his employment or of his 5 membership in the class or classes eligible for coverage 6 under the policy or as a result of his employer 7 discontinuing his business or as a result of his employer 8 9 discontinuing the group disability insurance policy and not 10 providing for any other group disability insurance or plan. 11 such person shall, provided he had been insured for a period of 3 months, be entitled to have issued to him by the 12 13 insurer, without evidence of insurability, an a group or 14 individual policy of hospital or medical service insurance 15 on himself, his dependents, or family members, provided 16 application for the individual policy shall be made and the 17 first premium tendered to the insurer within 31 days after 18 the termination of group coverage.

19 (2) The individual policy, at the option of the 20 insured, shall be on any of the forms then customarily 21 issued by the insurer to individual policyholders with the 22 exception of those policies whose eligibility is determined 23 by affiliation other than by employment with a common 24 entity.

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(3) The premium on the individual policy shall be at

the insurer's then customary rate applicable to the coverage of the individual policy."

3 Section 40. Section 33-22-601, MCA, is amended to 4 read:

33-22-601. Blanket disability insurance defined.
Blanket disability insurance is hereby-declared-to--be that
form of disability insurance covering groups of persons as
enumerated in one of the following subsections:

9 (1) under a policy or contract issued to any common 10 carrier or to any operator, owner, or lessee of a means of 11 transportation, who or which shall-be-deemed is considered 12 to be the policyholder, covering a group defined as all 13 persons or all persons of a class who may become passengers 14 on such common carrier or such means of transportation;

15 (2) under a policy or contract issued to an employer, 16 who shall-be-deemed is considered to be the policyholder, 17 covering all employees, dependents, or guests, defined by 18 reference to specified hazards incident to the activities or 19 operations of the employer or any class of employees, 20 dependents, or guests similarly defined;

(3) under a policy or contract issued to a school or other institution of learning (other than a college or <u>university</u>), camp or sponsor thereof; or to the head or principal thereof, who or which shall--be---deemed is considered to be the policyholder, covering students or

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1 campers. Supervisors and employees may be included.

2 (4) under a policy or contract issued in the name of
3 any religious, charitable, recreational, educational, or
4 civic organization, which shall-be-deemed is considered to
5 <u>be</u> the policyholder, covering participants in activities
6 sponsored by the organization;

7 (5) under a policy or contract issued to a sports team
8 or sponsors thereof, which shall-be-deemed are considered to
9 be the policyholder, covering members, officials, and
10 supervisors;

(6) under a policy or contract issued in the name of any volunteer fire department, first aid, or other such volunteer group, or agency having jurisdiction thereof, which shall-be-deemed is considered to be the policyholder, covering all of the members of such fire department or group;

17 (7) under a policy or contract issued to cover any 18 other risk or class of risks which in the discretion of the 19 commissioner may be properly eligible for blanket disability 20 insurance. The discretion of the commissioner may be 21 exercised on an individual risk basis or class of risks, or 22 both."

23 Section 41. Section 33-22-921, MCA, is amended to 24 read:

25 "33-22-921. Discontinuance or nonrenewal -- alternate

insurer discontinues or does not renew a medicare supplement 2 policy product and offers an alternate medicare supplement 3 policy or certificate to its insureds within this state, it 4 may not deny benefits under the replacing policy or 5 certificate to an insured who receives treatment for a 6 condition that was a covered expense under the replaced 7 policy or certificate and is a covered expense under the 8 replacing policy or certificate if the insured enrolls in 9 and pays the premium for the replacing policy within 31 days 10 after the termination of the replaced policy or certificate. 11 (2) A disability insurer who discontinues or does not 12 renew a medicare supplement policy product and offers an 13 alternate medicare supplement policy shall base its premium 14 for the alternate policy on the rates currently in place for 15

policy or certificate -- same insurer. (1) If a disability

17 (3) If the insured has not satisfied the preexisting 18 condition limitation under the replaced medicare supplement 19 policy, any period of time that was covered by that policy 20 <u>or certificate</u> must be credited toward the preexisting 21 condition limitation period of the replacing policy <u>or</u> 22 certificate."

23 Section 42. Section 33-22-923, MCA, is amended to 24 read:

25 "33-22-923. Replacement policy or certificate --

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different insurer. (1) If a disability insurer replaces a 1 medicare supplement policy or certificate, it may not deny 2 benefits under the replacing policy or certificate to an 3 insured who receives treatment for a condition that was a 4 covered expense under the replaced policy or certificate and 5 is a covered expense under the replacing policy or 6 certificate if the insured pays the premium for the 7 replacing policy or certificate when due or within 31 days 8 9 after the termination of the replaced policy or certificate. 10 (2) An insurer who replaces a medicare supplement policy or certificate shall base its premium for the 11 replacement policy or certificate on the rates currently in 12 place for that policy or certificate. 13

14 (3) If the insured has not satisfied the preexisting condition limitation under the replaced medicare supplement 15 policy or certificate, any period of time that was covered 16 17 by that policy or certificate must be credited toward the 18 preexisting condition limitation period of the replacing 19 policy or certificate.

20 (4) To receive the benefits of subsections (1) through 21 (3), a person shall submit to the replacing insurer proof of 22 prior coverage, evidence of benefits provided under the 23 previous policy or certificate, and the effective date and 24 the date of termination of coverage under the previous 25 policy or certificate."

1 Section 43. Section 33-22-924, MCA, is amended to read:

3 \*33-22-924. Renewal requirement. (1) If a person pays 4 a renewal premium on the date it is due or within 31 days 5 after it is due, an insurer may not refuse to renew a 6 medicare supplement policy unless the insurer:

7 (a) refuses to renew all policies in this state that 8 are of the same form and issued to persons of the same 9 class: and

(b) offers a replacement policy at actuarially 10 11 justified rates.

(2) If an insurer refuses to renew all policies in 12 this state that are of the same form and issued to persons 13 of the same class, the policies will remain in force during 14 the grace period stated in the replaced policy. An insurer's 15 16 refusal to renew a policy may not affect a claim that arose 17 under the replaced discontinued policy during the period in which an insured was confined without interruption to a 18 medical care facility for treatment." 19

Section 44. Section 33-22-1501, MCA, is amended to 20 21 read:

"33-22-1501. Definitions. As used in this part, the 22 23 following definitions apply:

(1) "Association" means the comprehensive health 24 25 association created by 33-22-1503.

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(2) "Association plan" means a policy of insurance
 coverage offered by the association through the lead
 carrier.

4 (3) "Association plan premium" means the charge 5 determined pursuant to 33-22-1512 for membership in the 6 association plan based on the benefits provided in 7 33-22-1521.

8 (4) "Eligible person" means an individual who:

9 (a) is a resident of this state and applies for10 coverage under the association plan; and

11 (b) unless waived by the association, within 6 months 12 prior to the date of application, has been rejected for 13 disability insurance or health service benefits by at least 14 two insurers, societies, or health service corporations, or 15 has had a restrictive rider or preexisting conditions 16 limitation, which limitation is required by at least two 17 insurers, societies, or health service corporations, which 18 has the effect of substantially reducing coverage from that 19 received by a person considered a standard risk.

(5) "Health service corporation" means a corporation
operating pursuant to Title 33, chapter 30, and offering or
selling contracts of disability insurance.

23 (6) "Insurance arrangement" means any plan, program,
24 contract, or other arrangement to the extent not exempt from
25 inclusion by virtue of the provisions of the federal

Employee Retirement Income Security Act of 1974 under which
 one or more employers, unions, or other organizations
 provide to their employees or members, either directly or
 indirectly through a trust of a third-party administrator,
 health care services or benefits other than through an
 insurer.

7 (7) "Insurer" means a company operating pursuant to
8 Title 33, chapter 2 or 3, and offering or selling policies
9 or contracts of disability insurance, as provided in Title
10 33, chapter 22.

(8) "Lead carrier" means the licensed administrator or
 insurer selected by the association to administer the
 association plan.

(9) "Preexisting condition" means any condition for
which an applicant for coverage under the association plan
has received medical attention during the 5 years
immediately preceding the filing of an application.

18 (10) "Qualified plan" means those health benefit plans 19 certified by the commissioner as providing the minimum 20 benefits required by 33-22-1521 or the actuarial equivalent 21 of those benefits.

(11) "Society" means a fraternal benefit society
operating pursuant to Title 33, chapter 7, and offering or
selling certificates of disability insurance."

25 Section 45. Section 33-22-1503, MCA, is amended to

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l read:

2 "33-22-1503. Comprehensive health association -mandatory membership. (1) There is established a nonprofit 3 legal entity, to be known as the Montana comprehensive 4 5 health association, with participating membership consisting 6 of all insurers, insurance arrangements, societies, and 7 health service corporations licensed or authorized to do 8 business transact insurance in this state. The association 9 is exempt from taxation under the laws of this state, and all property owned by the association is exempt from 10 taxation. 11

(2) All participating members shall maintain their
membership in the association as a condition for writing
health care benefits policies or contracts in this state.
The association shall submit its articles, bylaws, and
operating rules to the commissioner for approval.

17 (3) The association may:

18 (a) exercise the powers granted to insurers under the19 laws of this state;

20 (b) sue or be sued;

21 (c) enter into contracts with insurers,
22 administrators, similar associations in other states, or
23 other persons for the performance of administrative
24 functions;

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1 for the operation of the association: 2 (e) provide for the reinsuring of risks incurred as a 3 result of issuing the coverages required by members of the association: and 4 5 (f) provide for the administration by the association 6 of policies that are reinsured pursuant to subsection 7 (3)(e)." 8 Section 46. Section 33-22-1504, MCA, is amended to 9 read: 10 "33-22-1504, Association board of directors organization. (1) There is a board of directors of the 11 12 association, consisting of eight individuals: 13 (a) one from each of the seven participating members 14 of the association with the highest annual premium volume of 15 disability insurance contracts or health service corporation 16 contracts, derived from or on behalf of residents in the 17 previous calendar year, as determined by the commissioner; 18 and 19 (b) a member at large, appointed by the commissioner to represent the public interest, who shall serve in an 20 advisory capacity only. 21 22 (2) Each of the seven board members representing the 23 association members is entitled to a weighted average vote, in person or by proxy, based on the association member's 24 annual Montana premium volume. A board member may not, 25

(d) establish administrative and accounting procedures

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#### 1 however, have more than 50% of the vote.

(3) Members of the board may be reimbursed from the
money of the association for expenses incurred by them due
to their service as board members but may not otherwise be
compensated by the association for their services. The costs
of conducting the meetings of the association and its board
of directors must be borne by participating members of the
association in accordance with 33-22-1513."

9 Section 47. Section 33-22-1513, MCA, is amended to 10 read:

11 "33-22-1513. Operation of association plan. (1) Upon 12 acceptance by the lead carrier under 33-22-1516, an eligible 13 person may enroll in the association plan by payment of the 14 association plan premium to the lead carrier.

(2) Not less than 88% of the association plan premiums
paid to the lead carrier may be used to pay claims and not
more than 12% may be used for payment of the lead carrier's
direct and indirect expenses as specified in 33-22-1514.

19 (3) Any income in excess of the costs incurred by the 20 association in providing reinsurance or administrative 21 services must be held at interest and used by the 22 association to offset past and future losses due to claims 23 expenses of the association plan or be allocated to reduce 24 association plan premiums.

(4) Each Except as provided in subsection (7), each

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1 participating member of the association shall share the losses due to claims expenses of the association plan for 2 plans issued or approved for issuance by the association and 3 4 shall share in the operating and administrative expenses incurred or estimated to be incurred by the association 5 incident to the conduct of its affairs. Claims expenses of 6 7 the association plan that exceed the premium payments allocated to the payment of benefits are the liability of 8 9 the association members. Association members shall share in 10 the claims expenses of the association plan and operating 11 and administrative expenses of the association in an amount 12 equal to the ratio of:

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13 (a) the association member's total disability 14 insurance premium received from or on behalf of Montana 15 residents divided by;

16 (b) the total disability premium received by all
17 association members from or on behalf of Montana residents,
18 as determined by the commissioner.

19 (5) The association shall make an annual determination 20 of each association member's liability, if any, and may make 21 an annual fiscal yearend assessment if necessary. The 22 association may also, subject to the approval of the 23 commissioner, provide for interim assessments against the 24 association members as may be necessary to assure the 25 financial capability of the association in meeting the

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1 incurred or estimated claims expenses of the association 2 plan and operating and administrative expenses of the 3 association until the association's next annual fiscal 4 yearend assessment. Payment of an assessment is due within 5 30 days of receipt by an association member of a written 6 notice of a fiscal yearend or interim assessment. Failure 7 by a contributing member to tender to the association the 8 assessment within 30 days is grounds for termination of 9 membership. An association member that ceases to do 10 disability insurance business within the state remains 11 liable for assessments through the calendar year during 12 which disability insurance business ceased. The association 13 may decline to levy an assessment against an association 14 member if the assessment, as determined pursuant to this 15 section, would not exceed \$10.

16 (6) Any annual fiscal yearend or interim assessment 17 levied against an association member may be offset, in an 18 amount equal to the assessment paid to the association. 19 against the premium tax payable by that association member 20 pursuant to 33-2-705 for the year in which the annual fiscal 21 yearend or interim assessment is levied. The insurance 22 commissioner shall, each year the legislature meets in 23 regular session, on or before January 15, report to the 24 legislature the total amount of premium tax offset claimed 25 by association members during the preceding biennium.

1 (7) For purposes of subsection (4), "total disability 2 insurance premium" does not include premiums received from 3 disability income insurance, credit disability insurance, 4 disability waiver insurance, or life insurance." 5 Section 48. Section 33-22-1521, MCA, is amended to 6 read: 7 "33-22-1521. Qualified plan -- minimum benefits. A 8 plan of health coverage must be certified as a gualified 9 plan if it otherwise meets the requirements of Title 33, 10 chapters 15, 22 (excepting part 7), and 30, and other laws 11 of this state, whether or not the policy is issued in this 12 state, and meets or exceeds the following minimum standards. 13 unless it is a qualified plan that meets the minimum 14 standards in part 9 of this chapter: 15 (1) The minimum benefits for an insured must, subject 16 to the other provisions of this section, be equal to at 17 least 80% of the covered expenses required by this section in excess of an annual deductible that does not exceed 18 \$1,000 per person. The coverage must include a limitation of 19 20 \$5,000 per person on the total annual out-of-pocket expenses 21 for services covered under this section. Coverage must be subject to a maximum lifetime benefit, but such maximums may 22 23 not be less than \$100,000.

24 (2) Covered expenses must be the usual and customary25 charges for the following services and articles when

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1	prescribed by a physician or other licensed health care	1	specified in this section do not include:
2	professional provided for in 33-22-111:	2	<ul><li>drugs requiring a physician's prescription;</li></ul>
3	(a) hospital services;	3	(ii) services of a nursing home;
4	(b) professional services for the diagnosis or	4	(iii) home and office calls, except as specifically
5	treatment of injuries, illness, or conditions, other than	`5	provided in subsection (2);
6	dental;	6	(iv) rental or purchase of durable medical equipment,
7	(C) use of radium or other radioactive materials;	7	except as specifically provided in subsection (2);
8	(d) oxygen;	8	(v) the first \$20 of diagnostic x-ray and laboratory
9	(e) anesthetics;	9	charges in each 14-day period;
10	(f) diagnostic x-rays and laboratory tests, except as	10	(vi) oral surgery, except as specifically provided in
11	specifically provided in subsection (3);	11	subsection (2);
12	(g) services of a physical therapist;	12	(vii) that part of a charge for services or articles
13	(h) transportation provided by licensed ambulance	13	which exceeds the prevailing charge in the locality where
14	service to the nearest facility qualified to treat the	14	the service is provided; or
15	condition;	15	(viii) care that is primarily for custodial or
16	(i) oral surgery for the gums and tissues of the mouth	16	domiciliary purposes which would not qualify as eligible
17	when not performed in connection with the extraction or	17	services under medicare.
18	repair of teeth or in connection with TMJ;	18	(b) Covered expenses for the services or articles
19	(j) rental or purchase of medical equipment, which	19	specified in this section do not include charges for:
20	shall be reimbursed after the deductible has been met at the	20	(i) care or for any injury or disease either arising
21	rate of 50%, up to a maximum of \$1,000;	21	out of an injury in the course of employment and subject to
22	(k) prosthetics, other than dental; and	22	a workers' compensation or similar law, for which benefits
23	(1) services of a licensed home health agency, up to a	23	are payable under another policy of disability insurance or
24	maximum of 180 visits per year.	24	medicare;
25	(3) (a) Covered expenses for the services or articles	25	(ii) treatment for cosmetic purposes other than surgery

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for the repair or treatment of an injury or congenital 1 2 bodily defect to restore normal bodily functions; 3 (iii) travel other than transportation provided by a 4 licensed ambulance service to the nearest facility qualified 5 to treat the condition: 6 (iv) confinement in a private room to the extent it is 7 in excess of the institution's charge for its most common semiprivate room, unless the private room is prescribed as 8 medically necessary by a physician; 9 (v) services or articles the provision of which is not 10 within the scope of authorized practice of the institution 11 or individual rendering the services or articles; 12 (vi) organ transplants, including 13 bone marrow 14 transplants; (vii) room and board for a nonemergency admission on 15 16 Friday or Saturday; (viii) pregnancy, except complications of pregnancy; 17 (ix) routine well baby care; 18 (x) complications to a newborn, unless no other source 19 20 of coverage is available; 21 (xi) sterilization or reversal of sterilization; 22 (xii) abortion, unless the life of the mother would be 23 endangered if the fetus were carried to term; 24 (xiii) weight modification or modification of the body 25 to improve the mental or emotional well-being of an insured;

(xiv) artificial insemination or treatment for infertility; or (xv) breast augmentation or reduction."

4 Section 49. Section 33-23-212, MCA, is amended to 5 read:

б "33-23-212. Notice required for cancellation statement that insurer will specify reason upon request ---7 exception -- penalty. (1) Notwithstanding any other 8 provision of this code, no a cancellation by an insurer of a 9 motor vehicle liability insurance policy may not be 10 11 effective prior to the mailing or delivery to the named insured at the address shown in the policy and to the loss 12 payee of a written notice of the cancellation stating when, 13 not less than 30 days after the date of such mailing or 14 delivery, the date the cancellation shall become effective. 15 (2) No A notice of cancellation of a policy to which 16 17 33-23-211 applies may not be effective unless mailed or delivered by the insurer to the named insured and to the 18 loss payee at least 30 days prior to the effective date of 19 20 cancellation; provided, however, that where cancellation is 21 for nonpayment of premium, at least 10 days' notice of cancellation accompanied by the reason therefor must be 22 given. Unless the reason accompanies or is included in the 23 notice of cancellation, the notice of cancellation must 24 state or be accompanied by a statement that upon written 25

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request of the named insured or the loss payee, mailed or
 delivered to the insurer not less than 15 days prior to the
 effective date of cancellation, the insurer will specify the
 reason for such cancellation.

(3) Subsection (2) does not apply to nonrenewal.

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6 (4) Any insurer willfully violating any provisions of
7 subsection (2) of this section is guilty of a misdemeanor
8 and is punishable by a fine of not exceeding \$500 for each
9 violation thereof."

10 Section 50. Section 33-23-302, MCA, is amended to 11 read:

12 "33-23-302. Cancellation or increase of premium rates 13 -- sixty days' written notice required. Any insurer who 14 insures a physician and surgeon, dentist, registered nurse, 15 nursing home administrator, registered physical therapist, 16 podiatrist, licensed psychologist, osteopath, chiropractor, 17 pharmacist, optometrist, or veterinarian, duty licensed as such under the laws of this state, or a licensed hospital or 18 19 long-term care facility as the employer of any such person 20 against liability for error, omission, professional 21 negligence, or performance of services without consent shall 22 may not cancel or alter the policy so insuring such person 23 or increase the premium rates thereon without first 24 providing the insured 60 days' written notice of the 25 insurer's intention to cancel the policy or increase the l premium rates."

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2 Section 51. Section 33-23-401, MCA, is amended to 3 read:

"33-23-401. Written notice required for cancellation 4 or nonrenewal of insurance policies on homes -- penalty. (1) 5 No An insurer shall may not cancel or refuse to renew any 6 7 policy insuring private residences including but not limited 8 to fire, homeowner, theft, or liability insurance on any 9 home occupied by the insured as a domicile without first 10 giving to the insured and the loss payee 30 days' notice in writing, including in the notice a statement of the specific 11 12 reason or reasons for canceling or not renewing the policy. 13 (2) Violation of this section is punishable under 14 33-1-104."

15 Section 52. Section 33-30-108, MCA, is amended to 16 read:

17 "33-30-108. License required. (1) No A person may not
18 act as a health service corporation and no a health service
19 corporation may not conduct-business transact insurance in
20 this state except as authorized by a license issued by the
21 commissioner.

(2) Such license may be issued by the commissioner
only after the person has complied with the applicable
provisions of this title.

(3) A health service corporation is entitled to a

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continuation of its license upon payment of the annual
 continuation fee specified in 33-30-204(1)(i) and upon
 continued compliance with the provisions of this title.

4 (4) A license issued or continued under this section
5 may be revoked or suspended by the commissioner for
6 violation of this title."

7 Section 53. Section 61-12-303, MCA, is amended to 8 read:

9 "61-12-303. Requirements for license. (1) No--license
10 shall--be--issued--by--the <u>The</u> commissioner <u>may not issue a</u>
11 <u>license to a company</u> until the company has filed with him
12 the following:

13 (a) a formal application in such form and detail as
14 the commissioner may require, executed under oath by its
15 president or other principal officer;

16 (b) a copy of the form of its contract;

17 (c) a certified copy of its charter or articles of 18 incorporation and its bylaws, if any;

(d) a financial statement in such form and detail as
the commissioner may require, executed on oath by its
president or other principal officer;

(e) a certificate from the state----treasurer
 <u>commissioner</u> that it has complied with 61-12-304 in all
 cases where a deposit of cash or a bond is required by this
 part;

1 (f) a certificate from the corporation commissioner of 2 the state of Montana, in the event it be a corporation, that 3 it has complied with the corporation laws of said state. (2) No-license-shall-be-issued-by-the The commissioner 4 5 may not issue a license to a company until the company has paid to the commissioner \$100 as an annual license fee, or 6 the pro rata portion thereof necessary to be paid to the end 7 8 of the current calendar year from the date of the 9 application for such the license. 10 (3) No-license-shall-be-issued-by-the The commissioner 11 may not issue a license to a company until the company has 12 satisfied him by such examination as he may make and such 13 evidence as he may require, in his discretion, that such the 14 company has complied with the laws of the state of Montana and that its management is trustworthy and competent." 15 Section 54. Section 61-12-304, MCA, is amended to 16 read: 17 "61-12-304. Deposits required. No--license--shall--be 18 19 granted The commissioner may not grant a license to a company as herein defined except as hereinafter stated until 20 21 it has deposited with the state-treasurer commissioner the

23 prescribed by the commissioner payable to the state of

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24 Montana in the sum of \$25,000, with surety approved by the

25 commissioner, conditioned upon the faithful performance of

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sum of \$25,000 in cash or in lieu thereof a bond in a form

its service contracts and payment of any fines or penalties 1 2 levied against it for failure to comply with this part: 3 provided, however, that when any a company, as herein 4 defined, shall-prove proves to the commissioner that it has 5 been in continuous, active operation in the state for a period of more than 5 years immediately last past and has a 6 7 paid membership of more than 5,000 members within the state 8 or that there are more than 5,000 holders of its service 9 contracts within the state and that it is being properly managed, is rendering to its members the services promised 10 to them, and is financially responsible, no--such the 11 12 commissioner may not require the cash deposit or bond shall be---required while such the company remains in such 13 14 condition. The foregoing cash deposit or bond is not 15 required in any instance as a penalty, but for the 16 protection of the public only."

17 Section 55. Section 61-12-305, MCA, is amended to 18 read:

19 "61-12-305. Expiration of license. Every Each license
20 issued hereunder shall-expire-annually-on continues in force
21 as long as the insurer is entitled to the license under this
22 part and until suspended or revoked or otherwise terminated,
23 subject to continuance of the license by the company by
24 payment, prior to January 1 of each year, unless-sooner
25 revoked-or-suspended-as-hereinafter-provided of the annual

1 license fee provided in 61-12-303."

<u>NEW SECTION.</u> Section 56. Repealer. Sections 33-3-604
and 33-18-305, MCA, are repealed.

4 <u>NEW SECTION.</u> Section 57. Extension of authority. Any 5 existing authority to make rules on the subject of the 6 provisions of [this act] is extended to the provisions of 7 [this act].

8 <u>NEW SECTION.</u> Section 58. Codification instruction. 9 (1) [Section 1] is intended to be codified as an integral 10 part of Title 33, chapter 17, part 11, and the provisions of 11 Title 33, chapter 17, part 11, apply to [section 1].

(2) (Section 2) is intended to be codified as an
integral part of Title 33, chapter 20, part 1, and the
provisions of Title 33, chapter 20, part 1, apply to
[section 2].

16 (3) [Section 3] is intended to be codified as an 17 integral part of Title 33, chapter 20, part 12, and the 18 provisions of Title 33, chapter 20, part 12, apply to 19 [section 3].

20 (4) [Section 4] is intended to be codified as an
21 integral part of Title 33, chapter 22, part 1, and the
22 provisions of Title 33, chapter 22, part 1, apply to
23 [section 4].

(5) [Section 5] is intended to be codified as anintegral part of Title 33, chapter 23, part 1, and the

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1 provisions of Title 33, chapter 23, part 1, apply to
2 [section 5].
3 (6) [Section 6] is intended to be codified as an
4 integral part of Title 33, chapter 24, part 1, and the
5 provisions of Title 33, chapter 24, part 1, apply to
6 [section 6].

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