

HOUSE BILL NO. 493

INTRODUCED BY DOWELL  
BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 13, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 15, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 16, 1993	ENGROSSING REPORT.
FEBRUARY 17, 1993	THIRD READING, PASSED. AYES, 84; NOES, 12.
FEBRUARY 18, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 10, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1993	SECOND READING, CONCURRED IN.
MARCH 12, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 3.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 13, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 493  
 2 INTRODUCED BY Danell  
 3 BY REQUEST OF THE STATE AUDITOR  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE  
 6 PENALTIES FOR VIOLATION OF OR NONCOMPLIANCE WITH LAWS  
 7 GOVERNING INSURANCE LICENSEES; AND AMENDING SECTIONS  
 8 33-1-317 AND 33-17-1001, MCA."  
 9

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

11 **Section 1.** Section 33-1-317, MCA, is amended to read:

12 "33-1-317. Penalty imposed by commissioner. The  
 13 commissioner may, after having conducted a hearing pursuant  
 14 to 33-1-701, impose a fine not to exceed the sum of \$25,000  
 15 upon a person found to have violated any a provision of this  
 16 code or regulation duly promulgated by the commissioner,  
 17 except that the fine imposed upon insurance producers or  
 18 adjusters ~~shall~~ may not exceed ~~\$500~~ \$5,000 per violation.  
 19 ~~Said The fine shall-be is~~ in addition to all other penalties  
 20 imposed by the laws of this state and ~~shall~~ must be  
 21 collected by the commissioner in the name of the state of  
 22 Montana. Imposition of any a fine hereunder-~~shall--be~~ under  
 23 this section is an order from which an appeal may be taken,  
 24 pursuant to the provisions of 33-1-711."  
 25

**Section 2.** Section 33-17-1001, MCA, is amended to read:

1 "33-17-1001. Suspension, revocation, or refusal of  
 2 license. (1) Except as provided in 33-17-411, after a  
 3 hearing, which must be held no less than 10 days after  
 4 advance notice by certified mail, on charges given under  
 5 33-1-314(3), the commissioner may suspend for not more--than  
 6 12--months up to 5 years, may revoke or, refuse to continue,  
 7 or may deny an-application-for a license issued under this  
 8 chapter or-any-surplus-lines-insurance-producer-license if,  
 9 after-hearing-held-on-not-less-than-10-days--advance--notice  
 10 by--certified-mail-of-the-hearing-and-of-the-charges-against  
 11 the--licensee--given-as--provided--in--33-1-314(3)--to--the  
 12 licensee--he the commissioner finds that the licensee or  
 13 applicant has:

14 (a) engaged or is about to engage in an act or practice  
 15 for which issuance of the license could have been refused  
 16 ~~had-it-then-existed-and-been-known-to-the-commissioner;~~

17 (b) obtained or attempted to obtain a license through  
 18 misrepresentation or fraud;

19 (c) violated or failed to comply with a provision of  
 20 this code or has violated a rule, subpoena, or order of the  
 21 commissioner or of the commissioner of any other state;

22 (d) improperly withheld, misappropriated, or converted  
 23 to his the licensee's own use money or property belonging to  
 24 policyholders, insurers, beneficiaries, or others and  
 25 received in conduct of business under the license;

1 (e) been convicted of a felony;

2 (f) in the conduct of his the licensee's affairs under

3 the license, used fraudulent, coercive, or dishonest

4 practices or ~~has--shown--himself--to--be~~ is incompetent,

5 untrustworthy, financially irresponsible, or a source of

6 injury and loss to the public;

7 (g) made a materially untrue statement in the license

8 application;

9 (h) misrepresented the terms of an actual or proposed

10 insurance contract;

11 (i) been found guilty of an unfair trade practice or

12 fraud prohibited by Title 33, chapter 18;

13 (j) had his a similar license suspended or revoked in

14 any other state;

15 (k) forged another's name to an application for

16 insurance;

17 (l) cheated on an examination for a license; or

18 (m) knowingly accepted insurance business from a person

19 who is not licensed.

20 (2) The license of a partnership or corporation may be

21 suspended, revoked, refused, or denied if a reason listed in

22 subsection (1) applies to an individual designated in the

23 license to exercise its powers.

24 (3) The commissioner may suspend, revoke, or refuse to

25 continue a license under subsection (1)(e) without

1 conducting an investigation pursuant to 37-1-203 or making a

2 written finding pursuant to 37-1-204."

-End-

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

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3 BY REQUEST OF THE STATE AUDITOR  
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16 code or regulation duly promulgated by the commissioner,  
17 except that the fine imposed upon insurance producers or  
18 adjusters shall may not exceed ~~\$500~~ \$5,000 per violation.  
19 ~~Said The~~ fine shall be is in addition to all other penalties  
20 imposed by the laws of this state and shall must be  
21 collected by the commissioner in the name of the state of  
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3 hearing, which must be held no less than 10 days after  
4 advance notice by certified mail, on charges given under  
5 33-1-314(3), the commissioner may suspend for not more than  
6 12 months up to 5 years, may revoke or, refuse to continue,  
7 or may deny an application for a license issued under this  
8 chapter or any surplus lines insurance producer license if,  
9 after hearing held on not less than 10 days advance notice  
10 by certified mail of the hearing and of the charges against  
11 the licensee given as provided in 33-1-314(3) to the  
12 licensee, he the commissioner finds that the licensee or  
13 applicant has:

14 (a) engaged or is about to engage in an act or practice  
15 for which issuance of the license could have been refused  
16 had it then existed and been known to the commissioner;

17 (b) obtained or attempted to obtain a license through  
18 misrepresentation or fraud;

19 (c) violated or failed to comply with a provision of  
20 this code or has violated a rule, subpoena, or order of the  
21 commissioner or of the commissioner of any other state;

22 (d) improperly withheld, misappropriated, or converted  
23 to his the licensee's own use money or property belonging to  
24 policyholders, insurers, beneficiaries, or others and  
25 received in conduct of business under the license;

1 (e) been convicted of a felony;  
2 (f) in the conduct of his the licensee's affairs under  
3 the license, used fraudulent, coercive, or dishonest  
4 practices or ~~has--shown--himself--to--be~~ is incompetent,  
5 untrustworthy, financially irresponsible, or a source of  
6 injury and loss to the public;  
7 (g) made a materially untrue statement in the license  
8 application;  
9 (h) misrepresented the terms of an actual or proposed  
10 insurance contract;  
11 (i) been found guilty of an unfair trade practice or  
12 fraud prohibited by Title 33, chapter 18;  
13 (j) had his a similar license suspended or revoked in  
14 any other state;  
15 (k) forged another's name to an application for  
16 insurance;  
17 (l) cheated on an examination for a license; or  
18 (m) knowingly accepted insurance business from a person  
19 who is not licensed.  
20 (2) The license of a partnership or corporation may be  
21 suspended, revoked, refused, or denied if a reason listed in  
22 subsection (1) applies to an individual designated in the  
23 license to exercise its powers.  
24 (3) The commissioner may suspend, revoke, or refuse to  
25 continue a license under subsection (1)(e) without

1 conducting an investigation pursuant to 37-1-203 or making a  
2 written finding pursuant to 37-1-204."

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 20 this code or has violated a rule, subpoena, or order of the  
 21 commissioner or of the commissioner of any other state;

22 (d) improperly withheld, misappropriated, or converted  
 23 to his the licensee's own use money or property belonging to  
 24 policyholders, insurers, beneficiaries, or others and  
 25 received in conduct of business under the license;

- 1 (e) been convicted of a felony;
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- 3 the license, used fraudulent, coercive, or dishonest
- 4 practices or ~~has--shown--himself--to--be~~ is incompetent,
- 5 untrustworthy, financially irresponsible, or a source of
- 6 injury and loss to the public;
- 7 (g) made a materially untrue statement in the license
- 8 application;
- 9 (h) misrepresented the terms of an actual or proposed
- 10 insurance contract;
- 11 (i) been found guilty of an unfair trade practice or
- 12 fraud prohibited by Title 33, chapter 18;
- 13 (j) had his a similar license suspended or revoked in
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- 20 (2) The license of a partnership or corporation may be
- 21 suspended, revoked, refused, or denied if a reason listed in
- 22 subsection (1) applies to an individual designated in the
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- 25 continue a license under subsection (1)(e) without

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