HOUSE BILL NO. 513

INTRODUCED BY DOWELL, LYNCH, BIANCHI, QUILICI, PAVLOVICH, MENAHAN, TVEIT, HARDING, BROOKE, MCCLERNAN, FORRESTER, KLAMPE BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

FEBRUARY 6, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

- FEBRUARY 12, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 13, 1993 PRINTING REPORT.

SECOND READING, DO PASS.

- FEBRUARY 15, 1993 ENGROSSING REPORT.
- FEBRUARY 16, 1993 THIRD READING, PASSED. AYES, 87; NOES, 12.
- FEBRUARY 17, 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, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 13, 1993 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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LC 1218/01

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INTRODUCED BY MONDAW THE REQUEST OF THE territ A BILL FOR AN ACT ENTITLED: "AN ACT CREATING WITHIN THE 5 INSURANCE DEPARTMENT A CONSUMER PROTECTION DIVISION TO BE б ADMINISTERED BY THE STATE AUDITOR AS INSURANCE COMMISSIONER: 7 8 AND AMENDING SECTIONS 2-15-1902, 33-1-202, 33-1-303, AND ٩ 33-1-311, MCA."

10

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

Section 1. Section 2-15-1902, MCA, is amended to read: 12

*2-15-1902. Insurance department. (1) There is an 13 insurance department of this state which-shall that must be 14 located in or convenient to the office occupied by the state 15 16 auditor.

(2) There is a consumer protection division within the 17 insurance department. 18

(3) The insurance department shall--be is under the 19 control and supervision of the commissioner. 20

 $t \rightarrow t$ (4) Funds adequate for the maintenance and operation 21 22 of the insurance department shall must be expressly appropriated by the legislature and shall must be used 23 solely for the purposes for which they are so appropriated." 24 Section 2. Section 33-1-202, MCA, is amended to read: 25

*33-1-202. Definitions -- entities. For the purposes of 1 2 this code, the following definitions apply unless the context requires otherwise:

(1) "Commissioner" means the commissioner of insurance Δ 5 of the state of Montana.

(2) "Department" means the department of insurance of 6 7 the state of Montana.

8 (3) "Division" means the department's consumer 9 protection division established in 2-15-1902.

(4) "Person" includes an individual, insurer, company, 10 11 association, organization, Lloyd's, society, reciprocal or 12 interinsurance exchange, partnership, syndicate, business 13 trust, corporation, or any other legal entity.

14 (4)(5) "Resident of this state" means a person who has 15 maintained a principal residence within the state of Montana for a period of not less than 2 consecutive years." 16

Section 3. Section 33-1-303, MCA, is amended to read: 17

18 "33-1-303. Deputies and assistants -employment, 19 compensation, and termination. (1) The commissioner shall 20 appoint a chief deputy insurance commissioner who shall--be 21 is in charge of the insurance department under the direction 22 and control of the commissioner.

23 (2) The commissioner may appoint additional deputy 24 insurance commissioners for the purposes that he the 25 commissioner designates.

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1 (3) The commissioner may employ a competent insurance 2 actuary to perform actuarial duties, if any, of the 3 department, to take charge of or assist in the examination 4 of insurers, and to perform other duties assigned to him the 5 commissioner.

6 (4) The commissioner may appoint or employ examiners to 7 conduct or assist in examinations of insurers and others 8 provided for under the code. Examiners must be competent, 9 because of experience or special education or training, to 10 fulfill the responsibilities of an insurance examiner.

11 (5) <u>The commissioner may appoint or employ insurance</u> 12 <u>protection analysts for the purpose of ensuring that</u> 13 <u>insurers and their representatives comply with market</u> 14 regulations provided by <u>law.</u>

15 (6) The commissioner may appoint and employ a field 16 investigator whose primary duty it is, as directed by the 17 commissioner, to make investigations in this state of 18 violations or claimed violations of this code.

19 <u>t67(7)</u> The commissioner may appoint a chief clerk for
 20 the insurance department and employ such other assistants
 21 and clerks as may be necessary to assist him <u>the</u>
 22 <u>commissioner</u> properly to discharge the duties imposed upon
 23 him under this code.

24 (7)(8) The commissioner may at any time terminate the
 25 appointment, designation, or employment of any such deputy,

1 actuary, chief clerk, or other employee.

2 (0)(9) The commissioner may from time to time contract 3 for and procure, on a fee or part-time basis, or both, such 4 actuarial, technical, or other professional services as he 5 <u>the commissioner</u> may require for the discharge of his 6 duties.

7 (9)(10) The compensation of the commissioner's personal 8 staff, as defined in Title 2, chapter 18, part 1, shall be 9 as fixed by the commissioner but in the aggregate may not 10 exceed current funds appropriated by the legislature to the 11 insurance department or otherwise currently available for 12 the purpose."

13 Section 4. Section 33-1-311, MCA, is amended to read: 14 "33-1-311. General powers and duties. (1) The 15 commissioner shall enforce the provisions of this code and 16 shall execute the duties imposed upon-him by this code.

17 (2) The commissioner shall have the powers and
18 authority expressly conferred upon him the commissioner by
19 or reasonably implied from the provisions of this code.

20 (3) <u>The commissioner shall administer the division to</u>
21 <u>ensure that the interests of insurance consumers are</u>
22 <u>protected.</u>

23 (4) The commissioner may conduct such examinations and
 24 investigations of insurance matters, in addition to
 25 examinations and investigations expressly authorized, as he

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1 may-deem the commissioner considers proper to determine 2 whether any person has violated any provision of this code 3 or to secure information useful in the lawful administration 4 of any such provision. The cost of such additional 5 examinations and investigations shall must be borne by the 6 state.

7 (4)(5) The commissioner shall-have-such has additional
8 powers and duties as may-be provided by other laws of this
9 state.

10 (5)(6) The department is a criminal justice agency as
11 defined in 44-5-103."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0513, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating within the insurance department in the State Auditor's Office a consumer protection division to be administered by the state auditor as insurance commissioner.

ASSUMPTIONS:

1. Duties outlined in the proposed legislation are currently being done within existing budget levels in the State Auditor's Office.

FISCAL IMPACT:

None.

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

TIM DOWELL, PRIMARY SPONSOR **ÓATE**

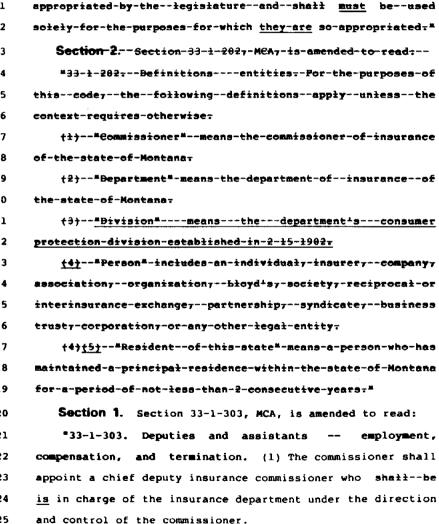
Fiscal Note for <u>HB0513</u>, as introduced $H\beta 5^{-13}$

53rd Legislature

HB 0513/02

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

1	HOUSE BILL NO. 513	1
2	INTRODUCED BY DOWELL, LYNCH, BIANCHI, QUILICI,	2
3	PAVLOVICE, MENAHAN, TVEIT, HARDING, BROOKE,	3
4	MCCLERNAN, FORRESTER, KLAMPE	4
5	BY REQUEST OF THE STATE AUDITOR	5
6		6
7	A BILL FOR AN ACT ENTITLED: "AN ACT CRBATINGWITHINTHB	7
8	insurancedepartmentaconsumer-protection-division-to-be	8
9	ADMINISTERED-BY REQUIRING THE STATE AUDITOR, AS INSURANCE	9
10	COMMISSIONER, TO ENSURE THAT THE INTERESTS OF INSURANCE	10
11	CONSUMERS ARE PROTECTED; AND AMENDING SECTIONS 2-15-19027	11
12	33-1-2027 33-1-3037 AND 33-1-311, MCA."	12
13		13
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	14
15	Section-1Section-2-15-19027-NCA7-is-amended-to-read:	15
16	#2-15-1902Insurancedepartment(1)Phereisan	16
17	insurance-department-of-this-state-which-shall that-must be	17
18	located-in-or-convenient-to-the-office-occupied-by-the-state	18
19	auditor.	19
20	{2}Thereis-a-consumer-protection-division-within-the	20
21	insurance_department.	21
22	<u>t3)</u> The-insurance-departmentshallbe <u>is</u> underthe	22
23	control-and-supervision-of-the-commissioner;	23
24	(3) <u>(4)</u> Punds-adequate-for-the-maintenance-and-operation	24
25	oftheinsurancedepartmentshall <u>must</u> beexpressly	25



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HB 513 SECOND READING



1 (2) The commissioner may appoint additional deputy 2 insurance commissioners for the purposes that he <u>the</u> 3 <u>commissioner</u> designates.

4 (3) The commissioner may employ a competent insurance 5 actuary to perform actuarial duties, if any, of the 6 department, to take charge of or assist in the examination 7 of insurers, and to perform other duties assigned to him the 8 commissioner.

9 (4) The commissioner may appoint or employ examiners to 10 conduct or assist in examinations of insurers and others 11 provided for under the code. Examiners must be competent, 12 because of experience or special education or training, to 13 fulfill the responsibilities of an insurance examiner.

14 (5) <u>The commissioner may SHALL appoint or employ</u>
 <u>insurance protection analysts for the purpose of ensuring</u>
 <u>that insurers and their representatives comply with market</u>
 regulations provided by law.

18 (6) The commissioner may appoint and employ a field 19 investigator whose primary duty it is, as directed by the 20 commissioner, to make investigations in this state of 21 violations or claimed violations of this code.

22 (6)(7) The commissioner may appoint a chief clerk for 23 the insurance department and employ such other assistants 24 and clerks as may be necessary to assist him the 25 commissioner properly to discharge the duties imposed upon

-3-

1 him under this code.

2 (7)(8) The commissioner may at any time terminate the
3 appointment, designation, or employment of any such deputy,
4 actuary, chief clerk, or other employee.

5 (0)(9) The commissioner may from time to time contract 6 for and procure, on a fee or part-time basis, or both, such 7 actuarial, technical, or other professional services as he 8 <u>the commissioner</u> may require for the discharge of his 9 duties.

10 (9)(10) The compensation of the commissioner's personal 11 staff, as defined in Title 2, chapter 18, part 1, shall be 12 as fixed by the commissioner but in the aggregate may not 13 exceed current funds appropriated by the legislature to the 14 insurance department or otherwise currently available for 15 the purpose."

16 Section 2. Section 33-1-311, MCA, is amended to read:

17 "33-1-311. General powers and duties. (1) The
18 commissioner shall enforce the provisions of this code and
19 shall execute the duties imposed upon-him by this code.

(2) The commissioner shall have the powers and
 authority expressly conferred upon him the commissioner by
 or reasonably implied from the provisions of this code.

23 (3) The commissioner shall administer the division
 24 <u>DEPARTMENT</u> to ensure that the interests of insurance
 25 consumers are protected.

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1 (4) The commissioner may conduct such examinations and investigations of insurance matters, in addition to 2 examinations and investigations expressly authorized, as he 3 4 may--deem the commissioner considers proper to determine 5 whether any person has violated any provision of this code or to secure information useful in the lawful administration 6 of any such provision. The cost of such additional 7 8 examinations and investigations shall must be borne by the 9 state.

10 (4)(5) The commissioner shall-have-such has additional
11 powers and duties as may-be provided by other laws of this
12 state.

13 (5)(6) The department is a criminal justice agency as
 14 defined in 44-5-103."

-End-

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1	HOUSE BILL NO. 513	1	appropriated-by-thelegislatureandshall <u>must</u> beused
2	INTRODUCED BY DOWELL, LYNCH, BIANCHI, QUILICI,	2	solely-for-the-purposes-for-which they-are so-appropriated.*
3	PAVLOVICH, MENAHAN, TVEIT, HARDING, BROOKE,	3	Section-2Section-33-1-2027-MCA7-is-amended-to-read:
4 1	MCCLERNAN, FORRESTER, KLAMPE	4	#33-1-2021BefinitionsentitiesPor-the-purposes-of
5	BY REQUEST OF THE STATE AUDITOR	5	thiscode;thefollowingdefinitionsapplyunlessthe
6		6	context-requires-otherwise;
7	A BILL FOR AN ACT ENTITLED: "AN ACT CREATINGWITHINTHE	7	(1)Commissionermeans-the-commissioner-of-insurance
8	insurancedepartmentaconsumer-protection-division-to-be	8	of-the-state-of-Montana.
9	ADMINISTERED-BY REQUIRING THE STATE AUDITOR, AS INSURANCE	9	<pre>{2}*Department*-means-the-department-ofinsuranceof</pre>
10	COMMISSIONER, TO ENSURE THAT THE INTERESTS OF INSURANCE	10	the-state-of-Montana-
11	CONSUMERS ARE PROTECTED; AND AMENDING SECTIONS 2-15-19027	11	f3)"Division"meansthedepartment*sconsumer
12	33-1-2027 33-1-3037 AND 33-1-311, MCA."	12	protection-division-established-in-2-15-1902;
13		13	<u>t4)</u> *Person=-includes-an-individualy-insurerycompanyy
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	14	associationyorganizationybloydisy-societyy-reciprocal-or
15	Section-1Bection-2-15-19827-MCA7-is-amended-to-read+	15	interinsurance-exchange;partnership;syndicate;business
16	#2-15-1902+Insurancedepartment(1)Thereisan	16	trust;-corporation;-or-any-other-legal-entity-
17	insurance-department-of-this-state-which-shall that-must be	17	t4) <u>t5)</u> "Residentof-this-state"-means-a-person-who-has
18	located-in-or-convenient-to-the-office-occupied-by-the-state	18	maintained-a-principal-residence-within-the-state-of-Montana
19	auditor	19	for-a-period-of-not-less-than-2-consecutive-years."
20	{2}-~Thereis-e-consumer-protection-division-within-the	20	Section 1. Section 33-1-303, MCA, is amended to read:
21	insurance-department:	21	"33-1-303. Deputies and assistants employment,
22	<u> 13)</u> The-insurance-departmentshallbe <u>is</u> underthe	22	compensation, and termination. (1) The commissioner shall
23	control-and-supervision-of-the-commissioner.	23	appoint a chief deputy insurance commissioner who shallbe
24	f3; <u>f4;</u> Punds-adequate-for-the-maintenance-and-operation	24	is in charge of the insurance department under the direction
25	oftheinsurancedepartmentshall must beexpressly	25	and control of the commissioner.



THIRD READING

-2-

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1 (4) The commissioner may conduct such examinations and 2 investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he 3 may--deem the commissioner considers proper to determine 4 5 whether any person has violated any provision of this code 6 or to secure information useful in the lawful administration of any such provision. The cost of such additional 7 8 examinations and investigations shall must be borne by the 9 state.

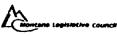
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-End-

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HOUSE BILL NO. 513 1 2 solely-for-the-purposes-for-which they-are so-appropriated." INTRODUCED BY DOWELL, LYNCE, BIANCHI, QUILICI, 2 PAVLOVICE, MENAHAN, TVEIT, HARDING, BROOKE, 3 Section-2.--Bection-33-1-2027-MCA7-is-amended-to-read:--2 MCCLERNAN, FORRESTER, KLAMPE =33-1-202---Befinitions----entities--Por-the-purposes-of BY REQUEST OF THE STATE AUDITOR 5 this--code---the--following--definitions--apply--unless--the 5 context-requires-otherwise: 6 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING--WITHIN--THE (1)--"Commissioner"--means-the-commissioner-of-insurance 7 7 8 INSURANCE--DEPARTMENT-A--CONSUMER-PROTECTION-DIVISION-TO-BE 8 of-the-state-of-Montana-ADMINISTERED-BY REQUIRING THE STATE AUDITOR, AS INSURANCE 9 9 f2}---Bepartment=-means-the-department-of--insurance--of COMMISSIONER, TO ENSURE THAT THE INTERESTS OF INSURANCE 10 the-state-of-Montana-10 CONSUMERS ARE PROTECTED; AND AMENDING SECTIONS 2-15-19027 11 (3)--*Bivision*----means---the---department*s---consumer 11 33-1-2027 33-1-3037 AND 33-1-311, MCA." 12 12 protection-division-established-in-2-15-1902-13 t4)--=Person=-includes-an-individualy-insurery--companyy 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 association7--organization7--bloyd*s7-society7-reciprocal-or 14 15 interingurance-exchangey--partnershipy--syndicatey--business 15 Section-1 -- Section-2-15-1982;-NEA;-is-amended-to-read:--=2-15-1982---Insurance---department---{1}--There--is--an 16 trusty-corporationy-or-any-other-legal-entity-16 17 t4)t5)--#Resident--of-this-state#-means-a-person-who-has insurance-department-of-this-state-which-shall that-must be 17 maintained-a-principal-residence-within-the-state-of-Montana 18 located-in-or-convenient-to-the-office-occupied-by-the-state 18 19 for-a-period-of-not-less-than-2-consecutive-years." 19 auditorr t2)--There--is-a-consumer-protection-division-within-the Section 1. Section 33-1-303, MCA, is amended to read: 20 20 21 insurance-department: 21 "33-1-303. Deputies and assistants -- employment, (3)--The-insurance-department--shall--be is under--the 22 22 compensation, and termination. (1) The commissioner shall control-and-supervision-of-the-commissioner. 23 appoint a chief deputy insurance commissioner who shall--be 23 (3)(4)--Punds-adequate-for-the-maintenance-and-operation is in charge of the insurance department under the direction 24 24 of---the---insurance--department--shall must be--expressly 25 25 and control of the commissioner.



REFERENCE BILL

-2-

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-End-

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