

HOUSE BILL NO. 545

INTRODUCED BY TUSS, LYNCH, DEBRUYCKER,  
COCCHIARELLA, KENNEDY, T. NELSON, GAGE, MESAROS  
BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

FEBRUARY 10, 1993                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & ECONOMIC DEVELOPMENT.  
  
FIRST READING.  
  
FEBRUARY 16, 1993                   COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.  
  
POSTED ON CONSENT CALENDAR.  
  
FEBRUARY 17, 1993                   CONSENT CALENDAR, QUESTIONS AND ANSWERS.  
  
ENGROSSING REPORT.  
  
FEBRUARY 18, 1993                   THIRD READING, PASSED.  
AYES, 92; NOES, 6.  
  
FEBRUARY 19, 1993                   TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.  
  
FIRST READING.  
  
MARCH 18, 1993                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.  
  
MARCH 19, 1993                   SECOND READING, CONCURRED IN.  
  
MARCH 20, 1993                   THIRD READING, CONCURRED IN.  
AYES, 42; NOES, 0.  
  
RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993                   SECOND READING, AMENDMENTS  
CONCURRED IN.  
  
APRIL 2, 1993                   THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 545

INTRODUCED BY Juan Siquero

BY REQUEST OF THE STATE AUDITOR  
Delroy Speicherella Kennedy  
Tom Nelson Bob Marion

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB SERVICE COMPANIES; REVISING THE EFFECTIVE DATE PROVISION FOR HAIL INSURANCE; AMENDING SECTIONS 33-1-316, 33-1-501, 33-2-302, 33-2-305, 33-2-307, 33-2-312, 33-2-313, 33-2-705, 33-2-708, 33-2-1113, 33-3-305, 33-4-101, 33-4-203, 33-11-104, 33-11-108, 33-14-201, 33-14-305, 33-15-303, 33-16-106, 33-17-231, 33-17-237, 33-20-101, 33-20-121, 33-20-127, 33-20-603, 33-22-101, 33-22-130, 33-22-131, 33-22-132, 33-22-201, 33-22-202, 33-22-1703, AND 80-2-203, MCA; REPEALING SECTIONS 33-17-206 AND 33-22-216, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 33-1-316, MCA, is amended to read:

"33-1-316. Testimony compelled -- immunity from prosecution. A person may not be excused from attending and testifying or producing any evidence upon any examination, investigation, or hearing conducted by or under authority of the commissioner on the ground that his the person's testimony or the evidence required of--him may tend to

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BE REPRINTED.



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incriminate him or subject him the person to a penalty or forfeiture. However, compelled testimony or evidence compelled following a claim of privilege against self-incrimination or any information directly or indirectly derived from compelled testimony or evidence may not be used against the person in a criminal prosecution. The commissioner may grant immunity from prosecution for or on account of any act, occurrence, transaction, matter, or other thing concerning which a person is--compelled--to testify testifies if the commissioner determines that the ends of justice would be served by granting the additional immunity. Immunity does not extend to prosecution or punishment for false statements by the person that are contained in the-compelled testimony or evidence given under this part."

Section 2. Section 33-1-501, MCA, is amended to read:

"33-1-501. Filing and approval of forms. (1) No An insurance policy or annuity contract form, certificate, enrollment form, application form, printed rider or endorsement form, or form of renewal certificate may not be delivered or issued for delivery in Montana unless the form has been filed with and approved by the commissioner and the regulatory official of the state of domicile of the insurer, if required. This provision does not apply to surety bonds or policies, riders, endorsements, or forms of unique

-2- HB 545 INTRODUCED BILL

1 character designed for and used with relation to insurance  
 2 upon a particular subject or that relate to the manner of  
 3 distribution of benefits or to the reservation of rights and  
 4 benefits under life or disability insurance policies and are  
 5 used at the request of the individual policyholder, contract  
 6 holder, or certificate holder. ~~As-to-forms~~ Forms for use in  
 7 property, marine (other than ocean marine and foreign trade  
 8 coverages), casualty, and surety insurance coverages, ~~the~~  
 9 ~~filing-required-by-this-subsection~~ may be made filed by a  
 10 rating organization on behalf of its members and  
 11 subscribers, ~~but-this-provision-does-not-prohibit~~ or by a  
 12 member or subscriber ~~from-filing-a-form~~ on its own behalf.

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

22 (3) An order of the commissioner disapproving a form or  
 23 withdrawing a previous approval must state the grounds for  
 24 disapproval or withdrawal in sufficient detail to inform the  
 25 insurer.

1 (4) The commissioner may by--order exempt from the  
 2 requirements of this section, for so long as he the  
 3 commissioner considers proper, an insurance document, form,  
 4 or type of document or form specified ~~in-the-order~~ to which,  
 5 in his the commissioner's opinion, this section may not  
 6 practicably be applied or the filing and approval of which  
 7 are, in his the commissioner's opinion, not desirable or  
 8 necessary for the protection of the public.

9 (5) This section applies to a form used by a domestic  
 10 insurer for delivery in a jurisdiction outside Montana if  
 11 the insurance supervisory official of the jurisdiction  
 12 informs the commissioner that the form is not subject to  
 13 approval or disapproval by the official and upon the  
 14 commissioner's order requiring the form to be submitted to  
 15 him the commissioner for the purpose. The same standards  
 16 apply to these forms as apply to forms for domestic use.

17 (6) This section and 33-1-502 do not apply to:

18 (a) reinsurance;

19 (b) policies or contracts not issued for delivery in  
 20 Montana or delivered in Montana, except as provided in  
 21 subsection (5);

22 (c) ocean marine and foreign trade insurances.

23 (7) Except as provided in chapter 21, group  
 24 certificates that are delivered or issued for delivery in  
 25 Montana for group insurance policies effectuated and

1 delivered outside Montana but covering persons resident in  
2 Montana must be filed with the commissioner upon his  
3 request."

4 **Section 3.** Section 33-2-302, MCA, is amended to read:

5 "33-2-302. Conditions precedent to sale of surplus  
6 lines insurance. Insurance may be procured through a  
7 licensed surplus lines insurance producer from an  
8 unauthorized insurer if:

9 (1) the insurer is an eligible surplus lines insurer;

10 (2) ~~the full amount or kind of insurance cannot be~~  
11 ~~obtained from authorized insurers. The full amount or kind~~  
12 ~~of insurance may be procured from an eligible surplus lines~~  
13 ~~insurer if the insurance producer makes a diligent search~~  
14 ~~among the insurers who are authorized to transact and are~~  
15 ~~actually transacting the particular kind and class of~~  
16 ~~insurance in this state and cannot obtain the full amount or~~  
17 ~~kind of insurance from an authorized insurer; the line of~~  
18 insurance or the full amount of the line of insurance cannot  
19 be obtained from authorized insurers;

20 (3) the producing insurance producer makes a diligent  
21 effort to place the business with a minimum of three  
22 insurers authorized and actually transacting that line of  
23 business in this state. If fewer than three insurers are  
24 authorized and actually transacting the line of business in  
25 this state, diligent effort must be met by searching this

1 lesser market.

2 ~~(3)(4)~~ the insurance is not so procured for the purpose  
3 of securing advantages either as to:

4 (a) a lower premium rate than would be accepted by an  
5 authorized insurer; or

6 (b) an advantage in terms of the insurance contract;  
7 and

8 ~~(4)(5)~~ all other requirements of this part are met."

9 **Section 4.** Section 33-2-305, MCA, is amended to read:

10 "33-2-305. Licensing of surplus lines insurance  
11 producer -- fee and bond. (1) A person may not procure a  
12 contract of surplus lines insurance with an unauthorized  
13 insurer unless he the person is licensed as a property, and  
14 casualty, and surety insurance producer and possesses a  
15 current surplus lines insurance license issued by the  
16 commissioner.

17 (2) The commissioner shall issue a surplus lines  
18 insurance license to any qualified holder of a current  
19 property, and casualty, and surety insurance producer  
20 license only if the insurance producer has:

21 (a) remitted to the commissioner the annual fee  
22 prescribed by 33-2-708;

23 (b) submitted to the commissioner a completed license  
24 application on a form supplied by the commissioner;

25 (c) been licensed as a property, and casualty, and

1 surety insurance producer continuously for 5 years or more;  
2 and

3 (d) filed with the commissioner and thereafter for as  
4 long as the license remains in effect kept in force a bond  
5 in favor of the state of Montana in the amount of \$10,000,  
6 with authorized corporate sureties approved by the  
7 commissioner. The bond must be conditioned that the  
8 insurance producer will conduct business under the license  
9 in accordance with the provisions of The Surplus Lines  
10 Insurance Law and that he the insurance producer will  
11 promptly remit the taxes provided in 33-2-311. The bond may  
12 not be terminated unless the surety gives the surplus lines  
13 insurance producer, the producing insurance producer, and  
14 the commissioner at least 30 days' prior written notice  
15 thereof of termination.

16 (3) The license expires on April 1 after its date of  
17 issue. A surplus lines insurance producer shall renew the  
18 license on or before March 1 of each year upon payment of  
19 the annual renewal fee prescribed in 33-2-708. A surplus  
20 lines insurance producer who fails to apply for a renewal of  
21 the license on or before March 1 shall pay a fine of \$100  
22 before the commissioner renews the license.

23 (4) A corporation is eligible to be licensed as a  
24 surplus lines insurance producer if:

25 (a) the corporate license lists the individuals within

1 the corporation who have satisfied the requirements of this  
2 part to become surplus lines insurance producers; and

3 (b) only those individuals listed on the corporate  
4 license transact surplus lines insurance."

5 **Section 5.** Section 33-2-307, MCA, is amended to read:

6 "33-2-307. Requirements for eligible surplus lines  
7 insurers. (1) A surplus lines insurance producer may not  
8 place insurance with an unauthorized insurer unless, at the  
9 time of placement, the unauthorized insurer:

10 (a) has established satisfactory evidence of good  
11 reputation and financial integrity; and

12 (b) is qualified under one of the following  
13 subsections:

14 (i) the insurer maintains capital and surplus or its  
15 equivalent under the laws of its state of domicile, which  
16 equals the greater of:

17 (A) the minimum capital and surplus requirements of  
18 33-2-109 and 33-2-110; or

19 (B) ~~\$2.5 million on April 17, 1987, and \$3.5 million on~~  
20 ~~April 17, 1990.~~ After April 17, 1990, an \$3 million. An  
21 insurer possessing less than \$4 million ~~subcepted~~ capital  
22 and surplus may satisfy the requirements of this subsection  
23 upon an affirmative finding of acceptability by the  
24 commissioner. The commissioner's finding must be based upon  
25 such factors as quality of management, capital, and surplus

1 of a parent company; company underwriting profit and  
 2 investment income trends; and company record and reputation  
 3 within the industry. The commissioner may not make an  
 4 affirmative finding of acceptability when the surplus lines  
 5 insurer's capital and surplus is less than \$3 million.

6 (ii) in the case of Lloyd's or another similar  
 7 unincorporated group of alien individual insurers, the  
 8 insurer maintains a trust fund of not less than \$50 million  
 9 as security to the full amount thereof of capital and  
 10 surplus for all policyholders and creditors in the United  
 11 States of each member of the group. The trust must comply  
 12 with the terms and conditions established in subsection  
 13 (1)(b)(iv) for alien insurers.

14 (iii) in the case of an insurance exchange created by  
 15 the laws of individual states, the insurer maintains capital  
 16 and surplus, or their substantial equivalent, of not less  
 17 than \$15 million in the aggregate. For an insurance exchange  
 18 that maintains funds for the protection of each insurance  
 19 exchange policyholder, each individual syndicate shall  
 20 maintain minimum capital and surplus, or their substantial  
 21 equivalent, of not less than \$1.5 million. If the insurance  
 22 exchange does not maintain funds for the protection of each  
 23 insurance exchange policyholder, each individual syndicate  
 24 shall meet the minimum capital and surplus requirements of  
 25 subsection (1)(b)(i).

1 (iv) in the case of an alien insurer, the insurer  
 2 maintains in the United States an irrevocable trust fund in  
 3 either a national bank or a member of the federal reserve  
 4 system, in an amount not less than \$1.5 million, for the  
 5 protection of all its policyholders in the United States and  
 6 such the trust fund consists of cash, securities, or letters  
 7 of credit or of investments of substantially the same  
 8 character and quality as those which are eligible  
 9 investments for the capital and statutory reserves of  
 10 insurers authorized to write like kinds of insurance in this  
 11 state. Such The trust fund, which must be included in any  
 12 calculation of capital and surplus or its equivalent, must  
 13 have an expiration date which-at-no-time that may not at any  
 14 time be less than 5 years. In addition, the alien insurer  
 15 must appear on the national association of insurance  
 16 commissioners' Non-Admitted Insurers Quarterly Listing.

17 (c) has provided the commissioner a copy of its current  
 18 annual statement, certified by the insurer no more than 6  
 19 months after the close of the period reported upon (or  
 20 quarterly if considered necessary by the commissioner), and  
 21 which is either:

22 (i) filed with and approved by the regulatory authority  
 23 in the state of domicile of the unauthorized insurer; or

24 (ii) certified by an accounting or auditing firm  
 25 licensed in the jurisdiction of the insurer's state of

1 domicile.

2 (2) In the case of an insurance exchange, the statement  
3 required by subsection (1)(c) may be an aggregate combined  
4 statement of all underwriting syndicates operating during  
5 the period reported.

6 (3) In addition to meeting the requirements in  
7 subsection (1), an insurer is an eligible surplus lines  
8 insurer only if it appears on the most recent list of  
9 eligible surplus lines insurers published at least  
10 semiannually by the commissioner. This subsection does not  
11 require the commissioner to place or maintain the name of  
12 any unauthorized insurer on the list of eligible surplus  
13 lines insurers. No An action may not lie against the  
14 commissioner or an employee of the commissioner for anything  
15 said in issuing the list of eligible surplus lines insurers  
16 referred to in this subsection.

17 (4) (a) The commissioner may declare an eligible  
18 surplus lines insurer ineligible if at any time the  
19 commissioner has reason to believe that it:

20 (i) is in unsound financial condition;

21 (ii) is no longer eligible under subsections (1) through  
22 (3);

23 (iii) has willfully violated the laws of this state; or

24 (iv) does not make reasonably prompt payment of just  
25 losses and claims in this state or elsewhere.

1 (b) The commissioner shall promptly mail notice of all  
2 such declarations to each surplus lines insurance producer.

3 (5) As used in this section, the following definitions  
4 apply:

5 (a) "Capital", as used in the financial requirements of  
6 this section, means funds invested in for stocks or other  
7 evidences of ownership.

8 (b) "Surplus", as used in the financial requirements of  
9 this section, means funds over and above liabilities and  
10 capital of the insurer for the protection of policyholders."

11 **Section 6.** Section 33-2-312, MCA, is amended to read:

12 "33-2-312. **Penalty for failure to file statement, pay**  
13 **tax, or pay stamping fee.** (1) A surplus lines insurance  
14 producer who fails to ~~make~~ and file the annual statement as  
15 required under 33-2-310 or to pay the taxes as required  
16 under 33-2-311 is liable to a penalty of \$25 for each day of  
17 delinquency, commencing with April 1. The tax and penalty  
18 may be recovered in an action instituted by the commissioner  
19 in the name of the state in any court of competent  
20 jurisdiction, the attorney general representing ~~him~~ the  
21 commissioner. The penalty when collected, unless collected  
22 by a justice's court, ~~shall~~ must be paid to the state  
23 treasurer and placed to the credit of the general fund. The  
24 surplus lines insurance producer license is also subject to  
25 revocation as provided in 33-2-313.



1 (2) If a surplus lines insurance producer does not pay  
 2 the stamping fee provided for in 33-2-321 ~~before-it-is--due,~~  
 3 the commissioner or the surplus lines advisory organization  
 4 formed pursuant to 33-2-321 may impose a penalty of 25% of  
 5 the stamping fee due plus 1.5% a month from the time of  
 6 delinquency until the stamping fee is paid."

7 **Section 7.** Section 33-2-313, MCA, is amended to read:

8 "33-2-313. Revocation or suspension of producer  
 9 license. (1) The commissioner shall revoke or suspend any  
 10 surplus lines insurance producer license, together with his  
 11 any license as an insurance producer:

12 (a) if the insurance producer fails to file his an  
 13 annual statement or to remit the tax as required by law;

14 (b) if the insurance producer fails to keep the records  
 15 or to allow the commissioner to examine his the records, as  
 16 required by law;

17 (c) if the insurance producer falsifies the affidavit  
 18 required by 33-2-310(3);

19 ~~{d}--if--the--insurance--producer--removes--the--resident~~  
 20 ~~surplus-lines-insurance-producer-office-from-this-state;~~

21 ~~{e}--if--the--insurance--producer--removes--the--resident~~  
 22 ~~surplus-lines-insurance-producer-office-accounts-and-records~~  
 23 ~~from--this-state-during-the-period-during-which-the-accounts~~  
 24 ~~and-records-are-required-to-be-maintained-under-33-2-310{1};~~

25 ~~{f}{d}~~ if the insurance producer closes the resident

1 surplus lines insurance producer office for a period of more  
 2 than 30 business days, unless the commissioner grants  
 3 permission otherwise;

4 ~~{g}{e}~~ if the insurance producer violates any provision  
 5 of this part; or

6 ~~{h}{f}~~ for any of the causes for which an insurance  
 7 producer's license may be revoked.

8 (2) The procedures provided by 33-17-1001 for the  
 9 suspension or revocation of insurance producer licenses  
 10 apply to suspension or revocation of a surplus lines  
 11 insurance producer license.

12 (3) An insurance producer whose license has been so  
 13 revoked or suspended may not again be ~~so~~ licensed within 1  
 14 year thereafter after revocation or suspension or until he  
 15 the insurance producer pays all penalties and delinquent  
 16 taxes that he owes are owed."

17 **Section 8.** Section 33-2-705, MCA, is amended to read:

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

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

1 total direct premium income and shall are not be subject to  
 2 tax.

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

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

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

1 (5) The commissioner may suspend or revoke the  
2 certificate of authority of any insurer which fails to pay  
3 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--10--of--the--amount-owed-in-tax, whichever is  
9 greater plus interest on the delinquent amount at the  
10 interest rate established in 31-1-107.

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

15 **Section 9.** Section 33-2-708, MCA, is amended to read:

16 "33-2-708. Fees and licenses. (1) Except as provided in  
17 33-17-212(2), the commissioner shall collect in advance and  
18 the persons served shall pay to the commissioner the  
19 following fees:

20 (a) certificates of authority:

21 (i) for filing applications for original certificates  
22 of authority, articles of incorporation (except original  
23 articles of incorporation of domestic insurers as provided  
24 in subsection (1)(b)) and other charter documents, bylaws,  
25 financial statement, examination report, power of attorney

1 to the commissioner, and all other documents and filings  
2 required in connection with the application and for issuance  
3 of an original certificate of authority, if issued:

- 4 (A) domestic insurers ..... \$ 600.00
- 5 (B) foreign insurers ..... 600.00
- 6 (ii) annual continuation of certificate of authority  
7 ..... 600.00
- 8 (iii) reinstatement of certificate of authority  
9 ..... 25.00
- 10 (iv) amendment of certificate of authority ..... 50.00
- 11 (b) articles of incorporation:
- 12 (i) filing original articles of incorporation of a  
13 domestic insurer, exclusive of fees required to be paid by  
14 the corporation to the secretary of state ..... 20.00
- 15 (ii) filing amendment of articles of incorporation,  
16 domestic and foreign insurers, exclusive of fees required to  
17 be paid to the secretary of state by a domestic corporation  
18 ..... 25.00
- 19 (c) filing bylaws or amendment to bylaws where  
20 required ..... 10.00
- 21 (d) filing annual statement of insurer, other than as  
22 part of application for original certificate of authority  
23 ..... 25.00
- 24 (e) insurance producer's license:
- 25 (i) application for original license, including

1	issuance of license, if issued .....	15.00
2	(ii) appointment of insurance producer, each insurer	
3	.....	10.00
4	(iii) temporary license .....	15.00
5	(iv) amendment of license (excluding additions to	
6	license) or reissuance of master license .....	15.00
7	(f) nonresident insurance producer's license:	
8	(i) application for original license, including	
9	issuance of license, if issued .....	100.00
10	(ii) appointment of insurance producer, each insurer	
11	.....	10.00
12	(iii) annual renewal of license .....	10.00
13	(iv) amendment of license (excluding additions to	
14	license) or reissuance of master license .....	15.00
15	(g) examination, if administered by the commissioner,	
16	for license as insurance producer, each examination	
17	.....	15.00
18	(h) surplus lines insurance producer license:	
19	(i) application for original license and for issuance	
20	of license, if issued .....	50.00
21	(ii) annual renewal of license .....	50.00
22	(i) adjuster's license:	
23	(i) application for original license and for issuance	
24	of license, if issued .....	15.00
25	(ii) annual renewal of license .....	15.00

1	(j) insurance vending machine license, each machine,	
2	each year .....	10.00
3	(k) commissioner's certificate under seal (except when	
4	on certificates of authority or licenses) .....	10.00
5	(l) copies of documents on file in the commissioner's	
6	office, per page .....	.50
7	(m) policy forms:	
8	(i) filing each policy form .....	25.00
9	(ii) filing each application, <u>certificate, enrollment</u>	
10	<u>form</u> , rider, endorsement, amendment, insert page, schedule	
11	of rates, and clarification of risks .....	10.00
12	(iii) maximum charge if policy and all forms submitted	
13	at one time or resubmitted for approval within 180 days	
14	.....	100.00
15	(n) applications for approval of prelicensing education	
16	courses:	
17	(i) reviewing initial application .....	150.00
18	(ii) periodic review .....	50.00
19	(2) The commissioner shall promptly deposit with the	
20	state treasurer to the credit of the general fund of this	
21	state all fines and penalties, those amounts received	
22	pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees	
23	and examination and miscellaneous charges that are collected	
24	by--him pursuant to Title 33 and the rules adopted under	
25	Title 33.	

1 (3) All fees are considered fully earned when received.  
 2 In the event of overpayment, only those amounts in excess of  
 3 \$10 will be refunded."

4 **Section 10.** Section 33-2-1113, MCA, is amended to read:

5 "33-2-1113. Transactions with affiliates -- standards.

6 (1) Material transactions by registered insurers with their  
 7 affiliates are subject to the following standards:

8 (a) The terms must be fair and reasonable.

9 (b) Charges or fees for services performed must be  
 10 reasonable.

11 (c) Expenses incurred and payments received must be  
 12 allocated to the insurer in conformity with customary  
 13 insurance accounting practices consistently applied.

14 (d) The books, accounts, and records of each party must  
 15 be-so-maintained-as-to clearly and accurately disclose the  
 16 precise nature and details of the transactions, including  
 17 such any accounting information as-is necessary to support  
 18 the reasonableness of the charges or fees to the respective  
 19 parties.

20 (e) The insurer's surplus as regards policyholders  
 21 following any dividends or distributions to shareholder  
 22 affiliates must be reasonable in relation to the insurer's  
 23 outstanding liabilities and adequate to its financial needs.

24 (2) (a) The following transactions involving a domestic  
 25 insurer and a person in its holding company system may not

1 be entered into unless the insurer has notified the  
 2 commissioner in writing of its intention to enter into a  
 3 transaction and the commissioner has not disapproved it  
 4 within at least 30 days prior to the transaction, or a  
 5 shorter period as the commissioner may permit:

6 (i) sales, purchases, exchanges, loans or extensions of  
 7 credit, guaranties, or investments if, as of the prior  
 8 December 31, the transactions are equal to or exceed:

9 (A) with respect to insurers other than life insurers,  
 10 the lesser of 3% of the insurer's admitted assets or 25% of  
 11 its surplus as regards policyholders; and

12 (B) with respect to life insurers, 3% of the insurer's  
 13 admitted assets;

14 (ii) loans or extensions of credit to a person who is  
 15 not an affiliate if the insurer makes the loans or  
 16 extensions of credit with the agreement or understanding  
 17 that the proceeds of the transactions, in whole or in  
 18 substantial part, are to be used to make loans or extensions  
 19 of credit to, to purchase assets of, or to make investments  
 20 in an affiliate of the insurer making the loans or  
 21 extensions of credit if such the transactions, as of the  
 22 prior December 31, are equal to or exceed:

23 (A) with respect to insurers other than life insurers,  
 24 the lesser of 3% of the insurer's admitted assets or 25% of  
 25 its surplus as regards policyholders;

1 (B) with respect to life insurers, 3% of the insurer's  
2 admitted assets;

3 ~~(C)~~(iii) reinsurance agreements or modifications to  
4 reinsurance agreements in which the reinsurance premium or a  
5 change in the insurer's liabilities equals or exceeds 5% of  
6 the insurer's surplus as regards policyholders, as of the  
7 prior December 31, including those agreements that may  
8 require as consideration the transfer of assets from an  
9 insurer to a nonaffiliate, if an agreement or understanding  
10 exists between the insurer and nonaffiliate that a portion  
11 of the assets will be transferred to one or more affiliates  
12 of the insurer;

13 ~~(B)~~(iv) all management agreements, service contracts,  
14 and cost-sharing arrangements; and

15 ~~(B)~~(v) any material transactions, specified by rule,  
16 that the commissioner determines may adversely affect the  
17 interests of the insurer's policyholders.

18 (b) Nothing in this subsection (2) is considered to  
19 authorize or permit a transaction that, in the case of an  
20 insurer that is not a member of the same holding company  
21 system, would otherwise be contrary to law.

22 (3) A domestic insurer may not enter into a transaction  
23 that is part of a plan or series of like transactions with a  
24 person within the holding company system if the purpose of  
25 those separate transactions is to avoid the statutory

1 threshold amount review. If the commissioner determines that  
2 the separate transactions were entered into over a 12-month  
3 period for the purpose of evading review, he the  
4 commissioner may exercise his authority under 33-2-1120.

5 (4) The commissioner, in reviewing a transaction  
6 pursuant to subsection (2), shall consider whether the  
7 transaction complies with the standards set forth in  
8 subsection (1) and whether it may adversely affect the  
9 interests of a policyholder.

10 (5) The commissioner must be notified within 30 days of  
11 an investment by a domestic insurer in a corporation if the  
12 total investment in the corporation by the insurance holding  
13 company system exceeds 10% of the corporation's voting  
14 securities.

15 (6) For purposes of this section, in determining  
16 whether an insurer's surplus as regards policyholders is  
17 reasonable in relation to the insurer's outstanding  
18 liabilities and adequate to its financial needs, the  
19 following factors, among others, must be considered:

20 (a) the size of the insurer as measured by its assets,  
21 capital and surplus, reserves, premium writings, insurance  
22 in force, and other appropriate criteria;

23 (b) the extent to which the insurer's business is  
24 diversified among the several lines of insurance;

25 (c) the number and size of risks insured in each line

1 of business;

2 (d) the extent of the geographical dispersion of the  
3 insurer's insured risks;

4 (e) the nature and extent of the insurer's reinsurance  
5 program;

6 (f) the quality, diversification, and liquidity of the  
7 insurer's investment portfolio;

8 (g) the recent past and projected future trend in the  
9 size of the insurer's surplus as regards policyholders;

10 (h) the surplus as regards policyholders maintained by  
11 other comparable insurers;

12 (i) the adequacy of the insurer's reserves;

13 (j) the quality and liquidity of investments in  
14 subsidiaries made pursuant to 33-2-1104 through 33-2-1106.  
15 The commissioner may treat any such investment as a  
16 disallowed asset for purposes of determining the adequacy of  
17 surplus as regards policyholders whenever in his the  
18 commissioner's judgment the investment so warrants."

19 **Section 11.** Section 33-3-305, MCA, is amended to read:

20 "33-3-305. Directors -- number and election. (1) The  
21 affairs of every domestic insurer shall must be managed by  
22 the number of directors fixed in the insurer's bylaws, which  
23 shall may not be less than 5 or more than 21 directors.

24 (2) Directors must be elected from ~~and~~ by the members  
25 or stockholders of a domestic insurer, except as provided in

1 33-3-306, at such the time and place and for such the terms,  
2 not exceeding 3 years, as may be provided in the insurer's  
3 bylaws. A majority of directors must be elected from the  
4 members or stockholders of the domestic insurer.

5 (3) The term of a director shall extend until his a  
6 successor has been elected and has qualified."

7 **Section 12.** Section 33-4-101, MCA, is amended to read:

8 "33-4-101. Scope of chapter -- provisions applicable.

9 (1) The chapter applies to:

10 (a) all domestic mutual hail, fire, and other casualty  
11 insurers of farm property and stock and rural buildings  
12 heretofore formed and immediately prior to January 1, 1961,  
13 lawfully transacting insurance under sections 40-1501  
14 through 40-1517, ~~and all amendments thereto~~, of the Revised  
15 Codes of Montana, 1947;

16 (b) all domestic mutual rural insurers heretofore  
17 formed and immediately prior to January 1, 1961, lawfully  
18 transacting insurance under sections 40-1601 through  
19 40-1625, ~~and all amendments thereto~~, of the Revised Codes of  
20 Montana, 1947;

21 (c) all insurers hereafter formed under this chapter.

22 (2) All such insurers qualifying under subsection (1)  
23 may be referred to as "farm mutual insurers".

24 (3) ~~Nothing--in--the~~ The insurance laws of this state  
25 shall ~~be deemed--to~~ do not apply to or govern, either

1 directly or indirectly, domestic farm mutual insurers except  
2 as contained or referred to in this chapter.

3 (4) The following chapters and sections of this title  
4 ~~also shall~~ apply to farm mutual insurers to the extent so  
5 applicable and not inconsistent with the express provisions  
6 of this chapter and the reasonable implications of such the  
7 express provisions: parts 1, 2, 3, 4, and 7 of chapter 1;  
8 33-2-112; 33-2-501; 33-2-502; 33-2-532 through 33-2-535;  
9 33-2-708; chapter 2, part 13; 33-2-1212; 33-3-218; 33-3-308;  
10 33-3-401; 33-3-402; 33-3-431; 33-3-436; and chapter 18."

11 **Section 13.** Section 33-4-203, MCA, is amended to read:

12 "33-4-203. Approval of articles -- commencement of  
13 corporate existence. (1) Upon receipt ~~thereof~~ of proposed  
14 articles of incorporation, the commissioner shall forward  
15 the proposed articles of incorporation to the attorney  
16 general for examination. If the attorney general finds the  
17 articles to be in accordance with the provisions of this  
18 chapter and not in conflict with the constitution and laws  
19 of the United States of America or of this state, he the  
20 attorney general shall make a certificate of the facts and  
21 return it with the proposed articles to the commissioner.

22 (2) If the commissioner ~~deems~~ considers the name of the  
23 proposed corporation to be so similar to one already  
24 appropriated by another company or corporation as to be  
25 likely to mislead the public, he the commissioner shall

1 reject the name applied for and shall notify the  
2 incorporators thereof of the rejection.

3 (3) When the proposed articles of incorporation have  
4 been approved by the attorney general, the commissioner  
5 shall likewise endorse his the commissioner's approval upon  
6 each set of the articles, ~~file one set in his office,~~ and  
7 forward ~~the--other--three~~ four sets of articles to the  
8 incorporators. The incorporators shall file one of such the  
9 sets of articles with the secretary of state, one set with  
10 the commissioner bearing the certification of the secretary  
11 of state, and one set with the county clerk of the county  
12 ~~wherein--is--located~~ in which the principal place of business  
13 of the corporation is located and shall pay to the secretary  
14 of state and the county clerk the customary filing fees. The  
15 remaining set of articles ~~shall~~ must be made a part of the  
16 corporation's records.

17 (4) The corporation ~~shall have~~ has legal existence as  
18 such upon the approval of the articles by the attorney  
19 general and the commissioner and completion of the filings  
20 referred to in subsection (3) above, but it ~~shall~~ may not  
21 transact business as an insurer until it has fulfilled the  
22 requirements for and has obtained a certificate of authority  
23 as provided in 33-4-505."

24 **Section 14.** Section 33-11-104, MCA, is amended to read:

25 "33-11-104. Risk retention groups not chartered in this



1 state. A risk retention group chartered in a state other  
2 than this state and seeking to do business as a risk  
3 retention group in this state must observe and abide by the  
4 laws of this state as follows:

5 (1) Before offering insurance in this state, a risk  
6 retention group shall submit to the commissioner:

7 (a) a statement identifying the state or states where  
8 the risk retention group is chartered and authorized as a  
9 casualty insurer, date of chartering, its principal place of  
10 business, and such other information, including information  
11 on its membership, as the commissioner requires to verify  
12 that the risk retention group is qualified under  
13 33-11-102(7);

14 (b) a copy of its plan of operation or a feasibility  
15 study and revisions of such the plan or study submitted to  
16 its state of domicile. However, this provision relating to  
17 the submission of a plan of operation or a feasibility study  
18 does not apply with respect to any line or classification of  
19 liability insurance that was defined in the federal Product  
20 Liability Risk Retention Act of 1981 (15 U.S.C. 3901 through  
21 3904) before it was amended by P.L. 99-563, approved on  
22 October 27, 1986, and that was offered before that date by a  
23 risk retention group that had been chartered and operated  
24 for not less than 3 years before that date; and

25 (c) a statement of registration that designates the

1 commissioner as its agent for the purpose of receiving  
2 service of legal documents or process.

3 (2) A risk retention group doing business in this state  
4 shall submit to the commissioner:

5 (a) a copy of the group's financial statement submitted  
6 to its state of domicile, which must be certified by an  
7 independent public accountant and contain a statement of  
8 opinion on loss and loss adjustment expense reserves made by  
9 a member of the American academy of actuaries or by a  
10 qualified loss reserve specialist under criteria established  
11 by the national association of insurance commissioners;

12 (b) a copy of each examination of the risk retention  
13 group as certified by the insurance regulatory official of  
14 the state in which the examination was conducted or public  
15 official conducting the examination;

16 (c) upon request by the commissioner, a copy of any  
17 audit performed with respect to the risk retention group;  
18 and

19 (d) such any information as may be required to verify  
20 the group's continuing qualification as a risk retention  
21 group under 33-11-102(7).

22 (3) (a) All premiums paid for coverage within this  
23 state to risk retention groups are subject to taxation at  
24 the same rate and to the same interest, fines, and penalties  
25 for nonpayment that apply to foreign admitted insurers.

1 (b) To the extent that an insurance producer is used,  
 2 he the insurance producer shall report and pay the taxes for  
 3 the premiums for risks that ~~he has~~ are placed with or on  
 4 behalf of a risk retention group not chartered in this  
 5 state.

6 (c) To the extent that an insurance producer is not  
 7 used or fails to pay the tax, each risk retention group  
 8 shall pay the tax for risks insured within the state.  
 9 Further, each risk retention group shall report all premiums  
 10 paid to it for risks insured within the state.

11 (4) Each risk retention group, its insurance producers,  
 12 and its representatives shall comply with Title 33, chapter  
 13 18, part 2.

14 (5) Each risk retention group shall comply with the  
 15 provisions of Title 33, chapter 18, part 2, regarding  
 16 deceptive, false, or fraudulent acts or practices. However,  
 17 if the commissioner seeks an injunction regarding such the  
 18 conduct, the injunction must be obtained from a court of  
 19 competent jurisdiction.

20 (6) Each risk retention group shall submit to an  
 21 examination by the commissioner to determine its financial  
 22 condition if the insurance regulatory official of the  
 23 jurisdiction where the group is chartered has not initiated  
 24 an examination or does not initiate an examination within 60  
 25 days after a request by the commissioner. The examination

1 must be coordinated to avoid unjustified repetition and be  
 2 conducted in an expeditious manner in accordance with the  
 3 national association of insurance commissioners examiners  
 4 handbook.

5 (7) Each policy issued by a risk retention group must  
 6 contain, in 10-point type on the front page and the  
 7 declaration page, the following notice:

8 "NOTICE

9 This policy is issued by your risk retention group. Your  
 10 risk retention group may not be subject to all of the  
 11 insurance laws and regulations of your state. State  
 12 insurance insolvency guaranty funds are not available for  
 13 your risk retention group."

14 (8) The following acts by a risk retention group are  
 15 prohibited:

16 (a) the solicitation or sale of insurance by a risk  
 17 retention group to any person who is not eligible for  
 18 membership in the group; and

19 (b) the solicitation or sale of insurance by or  
 20 operation of a risk retention group that is in a hazardous  
 21 financial condition or is financially impaired.

22 (9) A risk retention group is not allowed to do  
 23 business in this state if an insurer is directly or  
 24 indirectly a member or owner of the risk retention group,  
 25 other than in the case of a risk retention group all of

1 whose members are insurers.

2 (10) A risk retention group may not offer insurance  
3 policy coverage declared unlawful by the Montana supreme  
4 court.

5 (11) A risk retention group not chartered in this state  
6 and doing business in this state ~~must~~ shall comply with a  
7 lawful order issued in a voluntary dissolution proceeding or  
8 in a delinquency proceeding commenced by the insurance  
9 regulatory official of any state if there has been a finding  
10 of financial impairment after an examination under  
11 subsection (6).

12 (12) Upon completion of registration requirements, the  
13 commissioner shall issue to the risk retention group a  
14 proper certificate of registration."

15 **Section 15.** Section 33-11-108, MCA, is amended to read:

16 "33-11-108. Notice and registration requirements of  
17 purchasing groups. (1) A purchasing group that intends to do  
18 business in this state shall furnish notice to the  
19 commissioner that:

20 (a) identifies the state where the group is domiciled;

21 (b) specifies the lines and classifications of  
22 liability insurance that the purchasing group intends to  
23 purchase;

24 (c) identifies the insurer from which the purchasing  
25 group intends to purchase its insurance and the domicile of

1 the insurer;

2 (d) identifies the Montana-licensed insurance producer  
3 or Montana-licensed surplus insurance lines insurance  
4 producer through which the purchasing group intends to place  
5 its business;

6 (e) identifies the principal place of business of the  
7 purchasing group; and

8 (f) provides information required by the commissioner  
9 to verify that the purchasing group is qualified under  
10 33-11-102(6).

11 (2) The purchasing group shall register with and  
12 designate the commissioner as its agent solely for the  
13 purpose of receiving service of legal documents or process.  
14 However, such the requirements do not apply in the case of a  
15 purchasing group:

16 (a) (i) that was domiciled before April 2, 1986, in any  
17 state of the United States; and

18 (ii) that was domiciled on and after October 27, 1986,  
19 in any state of the United States;

20 (b) (i) that, before October 27, 1986, purchased  
21 insurance from an insurer licensed in any state; and

22 (ii) that, since October 27, 1986, purchased its  
23 insurance from an insurer licensed in any state;

24 (c) that was a purchasing group under the requirements  
25 of the federal Product Liability Risk Retention Act of 1981

1 (15 U.S.C. 3901 through 3904) before it was amended by P.L.  
2 99-563, approved on October 27, 1986; and

3 (d) that does not purchase insurance that was not  
4 authorized for purposes of an exemption under the federal  
5 Product Liability Risk Retention Act of 1981, as in effect  
6 before October 27, 1986.

7 (3) Upon completion of registration requirements, the  
8 commissioner shall issue a proper certificate of  
9 registration to the purchasing group."

10 **Section 16.** Section 33-14-201, MCA, is amended to read:

11 \*33-14-201. License required -- fee -- renewal of  
12 license. (1) Except as provided in subsection (4), no a  
13 person may not engage in the business of financing insurance  
14 premiums without first having obtained a license as a  
15 premium finance company from the commissioner. Any person  
16 who engages in the business of financing insurance premiums  
17 in the state without obtaining a license as provided under  
18 this chapter is, upon conviction, guilty of a misdemeanor.

19 (2) The annual license fee is \$100. A license may be  
20 renewed as of January 1 each year, upon payment of the fee  
21 of \$100. The license fee shall must be paid to the  
22 commissioner.

23 (3) The person to whom the license or the renewal  
24 thereof of the license is issued shall file sworn answers,  
25 subject to the penalties of perjury, to such any

1 interrogatories as the commissioner may require. The  
2 commissioner may, at any time, require the applicant fully  
3 to disclose the identity of all stockholders, partners,  
4 officers, and employees, and he the commissioner may, in his  
5 the commissioner's discretion, refuse to issue or renew a  
6 license in the name of any firm, partnership, or corporation  
7 if he---is not satisfied that any officer, employee,  
8 stockholder, or partner thereof who may materially influence  
9 the applicant's conduct meets the standards of this chapter.

10 (4) ~~No--person--other---than---a---savings---and---loan~~  
11 ~~association,--bank,--trust--company,--or--licensed--finance~~  
12 ~~company,--credit-union,--or--resident--insurance--producer--who,~~  
13 ~~within--15--days--after--entering--into--an--insurance--premium~~  
14 ~~finance--agreement,--transfers--the--agreement--to--a--licensee--or~~  
15 ~~to--any--of--the--organizations--exempt--under--this--subsection--may~~  
16 ~~engage--in--the--business--of--entering--into,--acquiring,--or~~  
17 ~~holding--insurance--premium--finance--agreements--unless--licensed~~  
18 ~~to--do--so--by--the--commissioner. This section does not apply to~~  
19 ~~and a license is not required of:~~

20 (a) savings and loan associations, banks, trust  
21 companies, licensed finance companies, credit unions, and  
22 resident insurance producers; or

23 (b) a person who, within 15 days after entering into an  
24 insurance premium finance agreement, transfers the agreement  
25 to a licensee or to any of the organizations exempt under

1 this subsection (4)."

2 **Section 17.** Section 33-14-305, MCA, is amended to read:

3 "33-14-305. Return of unearned premiums. (1) Whenever a  
4 financed insurance contract is canceled by a person other  
5 than the insured, the insurer shall process cancellation of  
6 the financed insurance policy on a pro rata basis. The  
7 insurer shall return whatever gross unearned premiums are  
8 due under the insurance contract to the premium finance  
9 company for the account of the insured or insureds.

10 (2) If the crediting of the return premiums to the  
11 account of the insured results in a surplus over the amount  
12 due from the insured, the premium finance company shall  
13 refund the excess to the insured, except that no a refund is  
14 not required if such the excess amounts to less than \$1."

15 **Section 18.** Section 33-15-303, MCA, is amended to read:

16 "33-15-303. Contents of policies in general --  
17 identification. (1) Every policy shall specify:

- 18 (a) the names of the parties to the contract;  
19 (b) the subject of the insurance;  
20 (c) the risks insured against;  
21 (d) the time when the insurance thereunder under the  
22 policy takes effect and the period during which the  
23 insurance is to continue;  
24 (e) the premium;  
25 (f) the conditions pertaining to the insurance.

1 (2) If under the policy the exact amount of premium is  
2 determinable only at stated intervals or termination of the  
3 contract, a statement of the basis and rates upon which the  
4 premium is to be determined and paid shall must be included.

5 ~~(3) Subsections--(1)--and--(2)--of--this--section--shall--not~~  
6 ~~apply--as--to--surety--contracts--or--to--group--insurance--policies--~~

7 ~~(4)~~ All policies and annuity contracts issued by  
8 insurers and the forms thereof of policies and annuity  
9 contracts filed with the commissioner shall must have  
10 printed thereon on the policy or annuity contract an  
11 appropriate designating letter or figure, or combination of  
12 letters or figures, or terms identifying the respective  
13 forms of policies or contracts, together with the year of  
14 adoption of such the form. Whenever any change is made in  
15 any such form, the designating letters, figures, or terms  
16 and year of adoption thereon--shall on the form must be  
17 correspondingly changed."

18 **Section 19.** Section 33-16-106, MCA, is amended to read:

19 "33-16-106. Examination by commissioner of rating  
20 organizations, admitted insurers, officers, managers,  
21 insurance producers, and employees -- expense. (1) (a) The  
22 commissioner shall, ~~at least once every 5 years,~~ and may, as  
23 often as may be reasonable and necessary, make or cause to  
24 be made an examination of each licensed rating organization.  
25 He The commissioner may, as often as may be reasonable and

1 necessary, make or cause to be made an examination of any  
2 advisory organization or group, association, or other  
3 organization of insurers which that engages in joint  
4 underwriting or joint reinsurance.

5 (b) In lieu of ~~any---such~~ an examination, the  
6 commissioner may accept the report of an examination made by  
7 the insurance supervisory official of another state or by  
8 the national association of insurance commissioners.

9 (c) In examining any organization, group, or  
10 association pursuant to this section, the commissioner shall  
11 ascertain whether such an organization, group, or  
12 association and, in the case of a rating organization, any  
13 rate or rating system made or used by it, complies with the  
14 requirements and standards of this chapter applicable to it.

15 (2) The commissioner may, at any reasonable time, make  
16 or cause to be made an examination of every admitted insurer  
17 transacting any class of insurance to which the provisions  
18 of this chapter are applicable to ascertain whether such the  
19 insurer and every rate and rating system used by it for  
20 every class of insurance complies with the requirements and  
21 standards of this chapter applicable thereto to it. Such The  
22 examination shall may not be a part of a periodic general  
23 examination participated in by representatives of more than  
24 one state.

25 (3) The officers, managers, insurance producers, and

1 employees of any such organization, group, association, or  
2 insurer may be examined at any time under oath and shall  
3 exhibit all books, records, accounts, documents, or  
4 agreements governing its method of operation, together with  
5 all data, statistics, and information of every kind and  
6 character collected or considered by such an organization,  
7 group, association, or insurer in the conduct of the  
8 operations to which such the examination relates.

9 (4) The reasonable cost of any examination authorized  
10 by this article ~~shall~~ must be paid by the organization,  
11 group, association, or insurer to be examined."

12 **Section 20.** Section 33-17-231, MCA, is amended to read:

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

21 (2) ~~Subject-to-annual-renewal-by-the-insurer,-each-such~~  
22 Each appointment shall-remain remains in effect until the  
23 insurance producer's license is revoked or otherwise  
24 terminated unless written notice of earlier termination of  
25 the appointment is filed with the commissioner by the

1 insurer or the insurance producer. Termination of the  
 2 insurer's authority in Montana also terminates the  
 3 appointment.

4 (3) ~~Annually, prior to May 1, each insurer shall file~~  
 5 ~~with the commissioner an alphabetical list in duplicate of~~  
 6 ~~the names and addresses of all its insurance producers whose~~  
 7 ~~appointments in this state are to remain in effect,~~  
 8 ~~accompanied by payment of the annual renewal fee as provided~~  
 9 ~~in 33-2-788. At the same time the insurer shall also file~~  
 10 ~~with the commissioner a termination report of all insurance~~  
 11 ~~producers whose appointments in this state are not to remain~~  
 12 ~~in effect.~~

13 (4) Subject to the insurance producer's contract  
 14 rights, an insurer may terminate an insurance producer's  
 15 appointment at any time. The insurer shall promptly give  
 16 written notice of such the termination to the commissioner  
 17 and to the insurance producer. The commissioner may require  
 18 ~~of the insurer~~ reasonable proof that the insurer has given  
 19 such notice to the insurance producer.

20 (5)(4) As part of the notice of termination given the  
 21 commissioner, the insurer shall file with the commissioner a  
 22 statement of the facts relative to the termination and the  
 23 cause thereof of termination. Any information or statement  
 24 contained in the notice of termination shall is not be  
 25 admissible as evidence in any action or proceeding against

1 the insurer or any representative thereof of the insurer by  
 2 or in on behalf of any person affected by such the  
 3 termination."

4 **Section 21.** Section 33-17-237, MCA, is amended to read:

5 "33-17-237. Notification of violation or appointment  
 6 termination. (1) Upon the termination of an appointed  
 7 insurance producer by an insurer, the insurer shall notify  
 8 the insurance department within 30 days in the manner  
 9 prescribed by the insurance department. ~~if the reason of the~~  
 10 ~~termination is for any of the causes listed in 33-17-1001 or~~  
 11 ~~33-25-301, the insurer shall notify the insurance department~~  
 12 ~~of the reason and the insurer shall, upon request of the~~  
 13 ~~insurance department, provide information, documents,~~  
 14 ~~records, or other data pertaining to the termination that~~  
 15 ~~may be used by the insurance department in any action taken~~  
 16 ~~pursuant to Title 33, chapter 17, part 7.~~

17 (2) If the reason for the termination is any of the  
 18 causes listed in 33-17-1001 or 33-25-301, the insurer shall  
 19 immediately notify the insurance department of the reason.

20 (3) Whenever an insurance company or an employee or  
 21 representative of the company has reasonable cause to  
 22 believe that a person has violated 33-17-1001 or 33-25-301,  
 23 it is the duty of that entity, upon acquiring the knowledge,  
 24 to notify the insurance department and provide the insurance  
 25 department with a complete statement of all relevant facts

1 and circumstances.

2 (4) The insurer, employee, or representative shall,  
3 upon request of the insurance department, provide  
4 information, documents and records, or other data pertaining  
5 to the alleged violation or termination that may be used by  
6 the insurance department in any action taken pursuant to  
7 Title 33, chapter 17, part 10.

8 ~~(2)~~(5) Any information, documents, records, or other  
9 data provided pursuant to this section is privileged and  
10 there is no liability on the part of nor may a cause of  
11 action of any nature arise against the insurance department,  
12 the insurance company, or an authorized representative of  
13 either so long as the privileged information is furnished in  
14 good faith."

15 **Section 22.** Section 33-20-101, MCA, is amended to read:

16 "33-20-101. Scope. (1) Except as provided in subsection  
17 (2), parts 1 through 5 of this chapter apply only to  
18 contracts of life insurance and annuities, other than  
19 reinsurance, group life insurance, and group annuities.

20 (2) Section Sections 33-20-114 and 33-20-131 applies  
21 apply to group life insurance and group annuities."

22 **Section 23.** Section 33-20-121, MCA, is amended to read:

23 "33-20-121. Prohibited provisions — limitations on  
24 liability. (1) A policy of life insurance may not be  
25 delivered or issued for delivery in this state if it

1 contains a provision:

2 (a) for a period shorter than that provided by statute  
3 within which an action at law or in equity may be commenced  
4 on the policy; or

5 (b) that excludes or restricts liability for death  
6 caused in a certain specified manner or occurring while the  
7 insured has a specified status, except that a policy may  
8 contain provisions excluding or restricting coverage as  
9 specified in the policy in the event of death:

10 (i) as a result, directly or indirectly, of war,  
11 declared or undeclared, or of action by military forces or  
12 of any act or hazard of war or action or of service in the  
13 military, naval, or air forces or in civilian forces  
14 auxiliary thereto or from any cause while a member of  
15 military, naval, or air forces of any country at war,  
16 declared or undeclared, or of any country engaged in  
17 military action;

18 (ii) as a result of aviation or any air travel or  
19 flight;

20 (iii) as a result of a specified hazardous occupation or  
21 occupations;

22 (iv) while the insured is a resident outside the  
23 continental United States and Canada; or

24 (v) within 2 years from the date of issue of the policy  
25 as a result of suicide, while seriously mentally ill or



1 otherwise. If a life insurance policy contains a dependent  
2 rider, the dependent coverage may be continued upon payment  
3 of the premium for the dependent rider.

4 (2) A policy that contains an exclusion or restriction  
5 pursuant to subsection (1) must also provide that in the  
6 event of death under the circumstances to which the  
7 exclusion or restriction is applicable, the insurer will pay  
8 an amount not less than a reserve determined according to  
9 the commissioner's reserve valuation method on the basis of  
10 the mortality table and interest rate specified in the  
11 policy for the calculation of nonforfeiture benefits (or if  
12 the policy provides does not provide for ~~no~~ such  
13 nonforfeiture benefits, computed according to a mortality  
14 table and interest rate determined by the insurer and  
15 specified in the policy) with or by any other method more  
16 favorable to the policyholder, with adjustment for  
17 indebtedness or dividend credit.

18 (3) This section does not apply to industrial life  
19 insurance, group life insurance, disability insurance,  
20 reinsurance, or annuities or to a provision in a life  
21 insurance policy relating to disability benefits or to  
22 additional benefits in the event of death by accident or  
23 accidental means.

24 (4) This section does not prohibit a provision that in  
25 the opinion of the commissioner is more favorable to the

1 policyholder than a provision permitted by this section."

2 **Section 24.** Section 33-20-127, MCA, is amended to read:

3 "33-20-127. Life insurance policy with long-term care  
4 provision or accelerated benefits provision -- ~~policy~~  
5 summary required. At the time of policy delivery, a ~~policy~~  
6 summary must be delivered to the insured for an individual  
7 life insurance policy that provides long-term care benefits  
8 or accelerated benefits within the policy or by rider. In  
9 the case of direct response solicitations, the insurer shall  
10 deliver the policy summary upon the applicant's request but  
11 no later than the time of policy delivery. In addition to  
12 complying with all applicable requirements, the summary must  
13 also include:

14 (1) an explanation of how the long-term care benefits  
15 or accelerated benefits interact with other components of  
16 the policy, including deductions from death benefits;

17 (2) an illustration of the amount of benefits, the  
18 length of benefits, and the guaranteed lifetime benefits, if  
19 any, for each covered person;

20 (3) any exclusions, reductions, and limitations on  
21 benefits of long-term care benefits and accelerated  
22 benefits; and

23 (4) if applicable to the policy type:

24 (a) a disclosure of the effects of exercising other  
25 rights under the policy;

1 (b) a disclosure of guaranties related to long-term  
2 care costs of insurance charges; and

3 (c) current and projected maximum lifetime benefits."

4 **Section 25.** Section 33-20-603, MCA, is amended to read:

5 "33-20-603. Separate accounts for life insurance or  
6 annuities. (1) Subject to the provisions of subsection (2),  
7 a domestic life insurer may establish one or more separate  
8 accounts and may allocate to such those accounts the amounts  
9 necessary to provide for life insurance or annuities and  
10 benefits incidental thereto to the life insurance or  
11 annuities, payable in fixed or variable amounts, or both.  
12 The amounts allocated to such the accounts may include  
13 without limitation proceeds applied under optional modes of  
14 settlement or under dividend options.

15 (2) Separate accounts for life insurance or annuities  
16 established under the provisions of subsection (1) are  
17 subject to the following:

18 (a) The income, gains, and losses, realized or  
19 unrealized, from assets allocated to a separate account must  
20 be credited to or charged against the account, without  
21 regard to other income, gains, or losses of the insurer.

22 (b) Except as provided for reserves for guaranteed  
23 benefits and funds in subsection (c):

24 (i) amounts allocated to a separate account and  
25 accumulations thereon on the separate account may be

1 invested and reinvested in any class of investment  
2 authorized under Title 33, chapter 2, part 8, if limitations  
3 under 33-2-806 on investments in stocks are not applicable;

4 (ii) the investments in the separate account or accounts  
5 may not be considered in applying the investment limitations  
6 otherwise applicable to the investments of the insurer.

7 (c) Except with the approval of the commissioner and  
8 under conditions relating to investments and other  
9 prescribed matters as--he--prescribes that recognize the  
10 guaranteed nature of the benefits provided, reserves for  
11 benefits guaranteed as to amount and duration and for funds  
12 guaranteed as to principal amount or stated rate of interest  
13 may not be maintained in a separate account.

14 (d) Unless otherwise approved by the commissioner,  
15 assets allocated to a separate account must be valued at  
16 their market value on the date of valuation or, if there is  
17 no readily available market, as provided under the terms of  
18 the contract or the rules or other written agreement  
19 applicable to that separate account; however, unless  
20 otherwise approved by the commissioner, the portion, if any,  
21 of the assets of that separate account equal to the  
22 insurer's reserve liability with regard to the guaranteed  
23 benefits and funds referred to in subsection (c) must be  
24 valued in accordance with the laws and rules otherwise  
25 applicable to the insurer's assets.

1 (e) Amounts allocated to a separate account in the  
 2 exercise of the power granted by this part must be owned by  
 3 the insurer, and the insurer may not be or hold itself out  
 4 to be a trustee with respect to those amounts. If and to the  
 5 extent provided under applicable contracts, that portion of  
 6 the assets of a separate account equal to the reserves and  
 7 other contract liabilities with respect to the account are  
 8 not chargeable with liabilities arising out of any other  
 9 business the insurer may conduct.

10 (f) (i) No A sale, exchange, or other transfer of  
 11 assets may not be made by an insurer between any of its  
 12 separate accounts or between any other investment account  
 13 and one or more of its separate accounts unless:

14 (A) in case of a transfer into a separate account, the  
 15 transfer is made solely to establish the account or to  
 16 support the operation of the contracts with respect to the  
 17 separate account to which the transfer is made; or

18 (B) the transfer, whether into or from a separate  
 19 account, is made by a transfer of cash or by a transfer of  
 20 securities having a readily determinable market value and  
 21 the transfer of securities is approved by the commissioner.

22 (ii) The commissioner may approve other transfers among  
 23 these accounts if, in his the commissioner's opinion,  
 24 transfers would not be inequitable.

25 (g) To the extent an insurer considers it necessary to

1 comply with any applicable federal or state laws, the  
 2 insurer, with respect to any separate account, including  
 3 without limitation any separate account that is a management  
 4 investment company or a unit investment trust account, may  
 5 provide, for persons having an interest therein in the  
 6 account, appropriate voting and other rights and special  
 7 procedures for the conduct of the business of that account,  
 8 including without limitation special rights and procedures  
 9 relating to investment policy, investment advisory services,  
 10 selection of independent public accountants, and selection  
 11 of a committee, the members of which need not be otherwise  
 12 affiliated with the insurer, to manage the business of that  
 13 account."

14 **Section 26.** Section 33-22-101, MCA, is amended to read:

15 "33-22-101. Exceptions to scope. Nothing-in-parts Parts  
 16 1 through 4 of this chapter, except 33-22-107, 33-22-111,  
 17 33-22-114, 33-22-125, 33-22-130, 33-22-131, 33-22-132,  
 18 [section 34], and 33-22-304, shall do not apply to or  
 19 affect:

20 (1) any policy of liability or workers' compensation  
 21 insurance with or without supplementary expense coverage  
 22 therein;

23 (2) any group or blanket policy;

24 (3) life insurance, endowment, or annuity contracts or  
 25 contracts supplemental contracts that thereto-which contain

1 only such those provisions relating to disability insurance  
2 as:

3 (a) provide additional benefits in case of death or  
4 dismemberment or loss of sight by accident or accidental  
5 means; or

6 (b) operate to safeguard such contracts against lapse  
7 or to give a special surrender value or special benefit or  
8 an annuity in the event that the insured or annuitant  
9 becomes totally and permanently disabled, as defined by the  
10 contract or supplemental contract;

11 (4) reinsurance."

12 **Section 27.** Section 33-22-130, MCA, is amended to read:

13 "33-22-130. Coverage for adopted children from time of  
14 placement -- preexisting conditions. (1) Each group and  
15 individual disability policy, certificate of insurance, or  
16 membership contract that is delivered, issued for delivery,  
17 renewed, extended, or modified in this state ~~and--that~~  
18 ~~provides--coverage--for--a--family--member--of--the--insured--or~~  
19 ~~subscriber~~ must provide coverage for an adopted child of the  
20 insured or subscriber to the same extent as for natural  
21 children of the insured or subscriber.

22 (2) The coverage required by this section must be  
23 effective from the date of placement for the purpose of  
24 adoption and must continue unless the placement is disrupted  
25 prior to legal adoption and the child is removed from

1 placement. Coverage at the time of placement must include  
2 the necessary care and treatment of medical conditions  
3 existing prior to the date of placement.

4 (3) As used in this section, "placement" means  
5 placement for adoption as defined in 40-8-103."

6 **Section 28.** Section 33-22-131, MCA, is amended to read:

7 "33-22-131. Coverage for phenylketonuria treatment. (1)  
8 Each group or individual disability policy, certificate of  
9 insurance, and membership contract that is delivered, issued  
10 for delivery, renewed, extended, or modified in this state  
11 ~~and--that--provides--coverage--for--a--family--member--of--the~~  
12 ~~insured--or--subscriber~~ must provide coverage for the  
13 treatment of phenylketonuria.

14 (2) For the ~~purpose~~ purposes of this section,  
15 "treatment" means licensed professional medical services  
16 under the supervision of a physician and a dietary formula  
17 product to achieve and maintain normalized blood levels of  
18 phenylalanine and adequate nutritional status.

19 (3) These services are subject to the terms of the  
20 applicable group or individual disability policy,  
21 certificate, or membership contract that establishes  
22 durational limits, dollar limits, deductibles, and copayment  
23 provisions as long as the terms are not less favorable than  
24 for physical illness generally."

25 **Section 29.** Section 33-22-132, MCA, is amended to read:

1       \*33-22-132. Coverage for mammography examinations. (1)

2 Each group or individual disability policy, certificate of  
3 insurance, and membership contract that is delivered, issued  
4 for delivery, renewed, extended, or modified in this state  
5 ~~and that provides coverage for a family member of the~~  
6 ~~insured or subscriber~~ must provide minimum mammography  
7 examination coverage.

8       (2) For the purpose of this section, "minimum  
9 mammography examination" means:

10       (a) one baseline mammogram for a woman who is 35 years  
11 of age or older and under 40 years of age;

12       (b) a mammogram every 2 years for any woman who is 40  
13 years of age or older and under 50 years of age or more  
14 frequently if recommended by the woman's physician; and

15       (c) a mammogram each year for a woman who is 50 years  
16 of age or older.

17       ~~These services are subject to~~ A minimum \$70 payment  
18 or the actual charge if the charge is less than \$70 must be  
19 made for each mammography examination performed before the  
20 application of the terms of the applicable group or  
21 individual disability policy, certificate of insurance, or  
22 membership contract that establish durational limits,  
23 deductibles, and copayment provisions as long as the terms  
24 are not less favorable than for physical illness generally.  
25 ~~A minimum \$70 payment must be made for each mammography~~

1 ~~examination performed."~~

2       **Section 30.** Section 33-22-201, MCA, is amended to read:

3       \*33-22-201. Format and content. No A policy of  
4 disability insurance ~~shall~~ may not be delivered or issued  
5 for delivery to any person in this state unless it otherwise  
6 complies with this code and complies with the following:

7       (1) The entire money and other considerations therefor  
8 ~~for the policy shall~~ must be expressed therein in the  
9 policy.

10       (2) The time when the insurance takes effect and  
11 terminates ~~shall~~ must be expressed therein in the policy.

12       ~~It shall purport to~~ The policy may insure only one  
13 person, except that a policy may insure, originally or by  
14 subsequent amendment, upon the application of an adult  
15 member of a family who ~~shall be deemed~~ is the policyholder,  
16 any two or more eligible members of that family, including  
17 husband, wife, dependent children or any children under a  
18 specified age which ~~shall~~ that may not exceed 19 years, and  
19 any other person dependent upon the policyholder.

20       (4) The style, arrangement, and overall appearance of  
21 the policy ~~shall~~ may not give no undue prominence to any  
22 portion of the text, and every printed portion of the text  
23 of the policy and of any endorsements or attached papers  
24 ~~shall~~ must be plainly printed in lightfaced type of a style  
25 in general use, the size of which ~~shall~~ must be uniform and

1 not less than 10 point with a lowercase, unspaced alphabet  
2 length not less than 120 point.

3 (5) The "text" shall must include all printed matter  
4 except the name and address of the insurer, name or title of  
5 the policy, the brief description, if any, and captions and  
6 subcaptions.

7 (6) The exceptions and reductions of indemnity shall  
8 must be set forth in the policy and, other than those  
9 contained in 33-22-204 through 33-22-215 and 33-22-217  
10 through 33-22-231, shall must be printed, at the insurer's  
11 option, either included with the benefit provision to which  
12 they apply or under an appropriate caption such as  
13 "Exceptions" or "Exceptions and Reductions", except that if  
14 an exception or reduction specifically applies only to a  
15 particular benefit of the policy, a statement of such the  
16 exception or reduction shall must be included with the  
17 benefit provision to which it applies.

18 (7) Each such form, including riders and endorsements,  
19 shall must be identified by a form number in the lower  
20 left-hand corner of the first page thereof of the form.

21 (8) The policy shall may not contain no a provision  
22 purporting to make any portion of the charter, rules,  
23 constitution, or bylaws of the insurer a part of the policy  
24 unless such the portion is set forth in full in the policy,  
25 except in the case of the incorporation of or reference to a

1 statement of rates or classification of risks or short-rate  
2 table filed with the commissioner.

3 (9) Each individual disability policy, except for a  
4 single-premium nonrenewable policy, issued for delivery in  
5 this state on or after January 1, 1980, shall must contain a  
6 notice stating in substance that if the person to whom the  
7 policy is issued is not satisfied for any reason, he the  
8 person is permitted to return the policy within 10 days of  
9 its delivery, or such a longer period as the policy may  
10 provide, and to have refunded the amount of the premium  
11 paid. A policy returned pursuant to this subsection is void  
12 from the beginning."

13 **Section 31.** Section 33-22-202, MCA, is amended to read:

14 "33-22-202. Required provisions -- captions --  
15 omissions -- substitutions -- order. (1) Except as provided  
16 in subsection (2) below, each such policy delivered or  
17 issued for delivery to any person in this state must contain  
18 the provisions specified in 33-22-204 through 33-22-215, in  
19 the words in which the same provisions appear, except that  
20 the insurer may, at its option, substitute for one or more  
21 of such the provisions corresponding provisions of different  
22 wording approved by the commissioner which are in each  
23 instance not less favorable in any respect to the insured or  
24 the beneficiary. Each such provision must be preceded  
25 individually by the applicable caption shown or, at the

1 option of the insurer, by such the appropriate individual or  
2 group captions or subcaptions as the commissioner may  
3 approve.

4 (2) If any such provision is in whole or in part  
5 inapplicable to or inconsistent with the coverage provided  
6 by a particular form of policy, the insurer, with the  
7 approval of the commissioner, shall omit from such the  
8 policy any inapplicable provision or part of a provision and  
9 shall modify any inconsistent provision or part of a  
10 provision in such a manner as to make the provision as  
11 contained in the policy consistent with the coverage  
12 provided by the policy.

13 (3) The provisions which that are the subject of  
14 33-22-204 through 33-22-215 and 33-22-217 through 33-22-232  
15 or any corresponding provisions which are used in lieu  
16 thereof in accordance with such the cited sections shall  
17 must be printed in the consecutive order of the provisions  
18 in such the sections or, at the option of the insurer, any  
19 such provision may appear as a unit in any part of the  
20 policy with other provisions to which it may be logically  
21 related, provided that the resulting policy shall is not be  
22 in whole or in part unintelligible, uncertain, ambiguous,  
23 abstruse, or likely to mislead a person to whom the policy  
24 is offered, delivered, or issued."

25 **Section 32.** Section 33-22-1703, MCA, is amended to

1 read:

2 "33-22-1703. Definitions. As used in this part, the  
3 following definitions apply:

4 (1) "Emergency services" means services provided after  
5 suffering an accidental bodily injury or the sudden onset of  
6 a medical condition manifesting itself by acute symptoms of  
7 sufficient severity (including severe pain) that without  
8 immediate medical attention the subscriber or insured could  
9 reasonably expect that:

10 (a) his the subscriber's or insured's health would be  
11 in serious jeopardy;

12 (b) his the subscriber's or insured's bodily functions  
13 would be seriously impaired; or

14 (c) a bodily organ or part would be seriously damaged.

15 (2) "Health benefit plan" means the health insurance  
16 policy or subscriber arrangement between the insured or  
17 subscriber and the health care insurer that defines the  
18 covered services and benefit levels available.

19 (3) "Health care insurer" means:

20 (a) an insurer that provides disability insurance as  
21 defined in 33-1-207;

22 (b) a health service corporation as defined in  
23 33-30-101;

24 (c) a health maintenance organization as defined in  
25 33-31-102;

1 (d) a fraternal benefit society as described in  
2 33-7-105; or

3 (e) ~~an administrator as defined in 33-17-1027~~ or  
4 ~~ff~~ any other entity regulated by the commissioner that  
5 provides health coverage.

6 (4) "Health care services" means health care services  
7 or products rendered or sold by a provider within the scope  
8 of the provider's license or legal authorization or services  
9 provided under Title 33, chapter 22, part 7.

10 (5) "Insured" means an individual entitled to  
11 reimbursement for expenses of health care services under a  
12 policy or subscriber contract issued or administered by an  
13 insurer.

14 (6) "Preferred provider" means a provider or group of  
15 providers who have contracted to provide specified health  
16 care services.

17 (7) "Preferred provider agreement" means a contract  
18 between or on behalf of a health care insurer and a  
19 preferred provider.

20 (8) "Provider" means an individual or entity licensed  
21 or legally authorized to provide health care services or  
22 services covered within Title 33, chapter 22, part 7.

23 (9) "Subscriber" means a certificate holder or other  
24 person on whose behalf the health care insurer is providing  
25 or paying for health care coverage."

1 **Section 33.** Section 80-2-203, MCA, is amended to read:

2 "80-2-203. Participation in program -- tax. (1) Any  
3 taxpayers A taxpayer or associations an association of  
4 taxpayers engaged in the growing of crops other than  
5 specified herein in this part or other agricultural or  
6 horticultural products subject to injury or destruction by  
7 hail may, by their individual or joint election filed with  
8 and approved by the board of hail insurance, accept the  
9 provisions of this part and elect to become subject thereto  
10 to this party. ~~and--in--such--event--such~~ The risks may be  
11 classified by the board and suitable levies may be imposed  
12 as ~~may-be~~ agreed upon by the board and such the taxpayers.  
13 ~~whereupon--such~~ The taxpayers shall ~~be~~ are entitled to the  
14 benefits and protection afforded by the insurance provisions  
15 of this part.

16 (2) Every farmer taxpayer who signifies his a desire to  
17 become subject to the provisions of this part shall file in  
18 the office of the county assessor the properly filled out  
19 form not later than August 15 and shall ~~be~~ is chargeable  
20 with the tax hereinafter provided for on lands growing crops  
21 subject to injury or destruction by hail and shall share in  
22 the protection and benefits under the hail insurance  
23 provisions of this part. ~~Such~~ The application for hail  
24 insurance shall ~~be~~ is in full force and effect at noon 12:01  
25 a.m. the day immediately following the acceptance of the



1 same application by the county assessor.

2 (3) This part shall may not be so construed as to  
3 empower anyone except the actual owner of the land to make  
4 such the land subject to the hail tax provided in this  
5 part."

6 NEW SECTION. Section 34. Preexisting conditions. (1) A  
7 policy or certificate of disability insurance may not  
8 exclude coverage for a condition for which medical advice or  
9 treatment was recommended by or received from a provider of  
10 health care services unless the condition occurred within 5  
11 years preceding the effective date of coverage of an insured  
12 person. The condition may only be excluded for a maximum of  
13 12 months.

14 (2) An insurer may use an application form designed to  
15 elicit the complete health history of an applicant and, on  
16 the basis of the answers on that application, perform  
17 underwriting in accordance with the insurer's established  
18 underwriting standards.

19 NEW SECTION. Section 35. Repealer. Sections 33-17-206  
20 and 33-22-216, MCA, are repealed.

21 NEW SECTION. Section 36. Codification instruction.  
22 [Section 34] is intended to be codified as an integral part  
23 of Title 33, chapter 22, part 1, and the provisions of Title  
24 33, chapter 22, part 1, apply to [section 34].

25 NEW SECTION. Section 37. Effective date. [Section 33

1 and this section] are effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

1

House BILL NO. 545

2

INTRODUCED BY Joe Spert

3

BY REQUEST OF THE STATE AUDITOR  
Delroy Speckie Komady  
Tom Nelson Bob Man

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; REVISING THE EFFECTIVE DATE PROVISION FOR

8

HAIL INSURANCE; AMENDING SECTIONS 33-1-316, 33-1-501,

9

33-2-302, 33-2-305, 33-2-307, 33-2-312, 33-2-313, 33-2-705,

10

33-2-708, 33-2-1113, 33-3-305, 33-4-101, 33-4-203,

11

33-11-104, 33-11-108, 33-14-201, 33-14-305, 33-15-303,

12

33-16-106, 33-17-231, 33-17-237, 33-20-101, 33-20-121,

13

33-20-127, 33-20-603, 33-22-101, 33-22-130, 33-22-131,

14

33-22-132, 33-22-201, 33-22-202, 33-22-1703, AND 80-2-203,

15

MCA; REPEALING SECTIONS 33-17-206 AND 33-22-216, MCA; AND

16

PROVIDING EFFECTIVE DATES."

17

18

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

19

Section 1. Section 33-1-316, MCA, is amended to read:

20

"33-1-316. Testimony compelled -- immunity from

21

prosecution. A person may not be excused from attending and

22

testifying or producing any evidence upon any examination,

23

investigation, or hearing conducted by or under authority of

24

the commissioner on the ground that his the person's

25

testimony or the evidence required of--him may tend to

THERE ARE NO CHANGES ON THIS BILL AND WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED (WHITE) BILL FOR COMPLETE TEXT.

PLEASE RETAIN THIS COPY OF THE BILL. IF IT IS NOT AMENDED, IT WILL NOT BE REPRINTED.



-2- HB 545 THIRD READING CONSENT CALENDAR

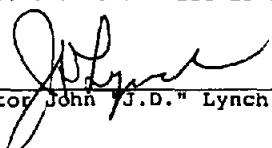
SENATE STANDING COMMITTEE REPORT

Page 1 of 3  
March 17, 1993

Page 2 of 3  
March 17, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 545 (first reading copy -- blue), respectfully report that House Bill No. 545 be amended as follows and as so amended be concurred in.

Signed:   
Senator John J.D. Lynch, Chair

That such amendments read:

1. Title, line 8.  
Following: "SECTIONS"  
Insert: "15-16-601,"
2. Title, line 15.  
Following: "SECTIONS"  
Insert: "15-1-505,"  
Following: "33-17-206"  
Insert: ",,"
3. Page 61, following line 18.  
Insert: "Section 35. Section 15-16-601, MCA, is amended to read:  
"15-16-601. Taxes or penalties illegally collected or duplicate taxes to be refunded. (1) (a) A taxpayer is entitled to a refund on:  
(i) taxes, interest, penalties, or costs paid more than once or erroneously or illegally collected if an appeal pursuant to 15-1-402 was not available;  
(ii) the taxes paid for which a refund is allowed under 15-16-612 or 15-16-613; or  
(iii) the portion of taxes paid that were mistakenly computed on government bonus or subsidy received by the taxpayer.  
(b) Subject to the provisions in subsections (4) and (5), the county treasurer may, by order of the board of county commissioners, pay the refund to the taxpayer.  
(2) (a) The refund applies to any payment that has been made to the state treasurer as provided in 15-1-504 if the board of county commissioners determines that a portion of the money paid should be refunded as provided in this section.  
(b) The board of county commissioners may order the county treasurer to refund to the taxpayer the portion of the taxes, interest, penalties, and costs paid to the state treasurer.  
(c) ~~The county clerk and recorder shall, at the time for filing the report required by 15-1-505, certify to the state auditor, in the form as the state auditor may prescribe, the amounts refunded. In the next settlement of the county treasurer~~

~~with the state, the state auditor shall give the county treasurer credit for the state's portion of the amounts refunded.~~

(3) When a part of the taxes, interest, penalties, or costs referred to in this section were levied in behalf of a school district or municipal or other public corporation and collected by the county treasurer, the taxes must be refunded upon the order of the board of county commissioners.

(4) (a) An order for the refund of any taxes, interest, penalties, or costs under this section may not be made except upon a claim filed by the taxpayer who has paid the taxes, interest, penalties, or costs or his guardian or, in case of his death, by his executor or administrator.

(b) A taxpayer may file a claim for taxes, interest, penalties, or costs paid during the immediately preceding 10 years after the date when the second half of the taxes would have become delinquent if the taxes had not been paid.

(c) Except as provided in subsections (6) and (7), if a refund pursuant to subsection (1) is ordered, the board of county commissioners shall order a refund for taxes illegally collected or for any duplicate taxes paid during the immediately preceding 10 years regardless of when the taxes were first illegally collected or when the duplicate taxes were first paid.

(5) (a) In the order to refund taxes as provided in subsection (4)(c), the board of county commissioners shall determine the method of repayment. The board may:

(i) refund the entire amount due the taxpayer within 60 days after the date of the order; or

(ii) refund the amount due the taxpayer in annual installments, for a period not to exceed 10 years.

(b) If the refund is made in annual installments as provided in subsection (5)(a)(ii), the taxpayer is entitled to interest on the unpaid balance at the greatest interest rate in effect on October 1 of each year of the installment period received on public money invested by the county as provided in Title 7, chapter 6, part 2; Title 7, chapter 6, part 27; or 17-6-204.

(c) In satisfying the requirements of subsection (5)(a)(ii), the first annual installment must be paid within 60 days after the date of the order by the board of county commissioners. Subsequent annual installments must be paid on the first business day following October 1 of the year the installment is due.

(d) The treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the annual installment of the taxpayer refund and costs for which the taxing jurisdiction is proratably responsible.

(6) The board of county commissioners shall refund any tax, penalty, or interest collected as a result of an error in the

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Senator Carrying Bill

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HB 545  
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description or location of real property or improvements or for any duplicate taxes paid as determined by the department of revenue. The refund is subject to the provisions of subsections (4) and (5).

(7) The board of county commissioners shall refund any net or gross proceeds tax, penalty, or interest when the department of revenue notifies the board that an overpayment occurred. The department shall determine the amount of overpayment. The refund is subject to the provisions of subsections (4) and (5), but no refund may be granted for any taxes paid more than 5 years prior to the date the claim was received.

(8) All refunds ordered to be paid by the board of county commissioners must be paid by the county treasurer out of the general fund of the county, and the county treasurer shall then make transfers from other county funds and from state, school district, and other public corporation funds in his possession as may be necessary to reimburse the county general fund for payments made from the fund.

(9) Upon the entering of judgment under 15-2-306, the county commissioners of the affected county shall order a refund of the portion of the taxes that the state tax appeal board has judged should be refunded."  
Renumber: subsequent sections

4. Page 61, line 19.  
Following: "Sections"  
Insert: "15-1-505,"  
Following: "33-17-206"  
Insert: ",,"

-END-

## 1 HOUSE BILL NO. 545

2 INTRODUCED BY TUSS, LYNCH, DEBRUYCKER,

3 COCCHIARELLA, KENNEDY, T. NELSON, GAGE, MESAROS

4 BY REQUEST OF THE STATE AUDITOR

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
7 LAWS RELATING TO THE REGULATION OF INSURERS AND MOTOR CLUB  
8 SERVICE COMPANIES; REVISING THE EFFECTIVE DATE PROVISION FOR  
9 HAIL INSURANCE; AMENDING SECTIONS 15-16-601, 33-1-316,  
10 33-1-501, 33-2-302, 33-2-305, 33-2-307, 33-2-312, 33-2-313,  
11 33-2-705, 33-2-708, 33-2-1113, 33-3-305, 33-4-101, 33-4-203,  
12 33-11-104, 33-11-108, 33-14-201, 33-14-305, 33-15-303,  
13 33-16-106, 33-17-231, 33-17-237, 33-20-101, 33-20-121,  
14 33-20-127, 33-20-603, 33-22-101, 33-22-130, 33-22-131,  
15 33-22-132, 33-22-201, 33-22-202, 33-22-1703, AND 80-2-203,  
16 MCA; REPEALING SECTIONS 15-1-505, 33-17-206, AND 33-22-216,  
17 MCA; AND PROVIDING EFFECTIVE DATES."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20 **Section 1.** Section 33-1-316, MCA, is amended to read:

21 "33-1-316. Testimony compelled -- immunity from  
22 prosecution. A person may not be excused from attending and  
23 testifying or producing any evidence upon any examination,  
24 investigation, or hearing conducted by or under authority of  
25 the commissioner on the ground that ~~his~~ the person's

1 testimony or the evidence required ~~of--him~~ may tend to  
2 incriminate ~~him~~ or subject ~~him~~ the person to a penalty or  
3 forfeiture. However, ~~compelled~~ testimony or evidence  
4 compelled following a claim of privilege against  
5 self-incrimination or any information directly or indirectly  
6 derived from compelled testimony or evidence may not be used  
7 against the person in a criminal prosecution. The  
8 commissioner may grant immunity from prosecution for or on  
9 account of any act, occurrence, transaction, matter, or  
10 other thing concerning which a person ~~is--compelled-to~~  
11 testify testifies if the commissioner determines that the  
12 ends of justice would be served by granting the additional  
13 immunity. Immunity does not extend to prosecution or  
14 punishment for false statements by the person that are  
15 contained in ~~the-compelled~~ testimony or evidence given under  
16 this part."

17 **Section 2.** Section 33-1-501, MCA, is amended to read:

18 "33-1-501. Filing and approval of forms. (1) ~~No~~ An  
19 insurance policy or annuity contract form, certificate,  
20 enrollment form, application form, printed rider or  
21 endorsement form, or form of renewal certificate may not be  
22 delivered or issued for delivery in Montana unless the form  
23 has been filed with and approved by the commissioner and the  
24 regulatory official of the state of domicile of the insurer,  
25 if required. This provision does not apply to surety bonds

1 or policies, riders, endorsements, or forms of unique  
 2 character designed for and used with relation to insurance  
 3 upon a particular subject or that relate to the manner of  
 4 distribution of benefits or to the reservation of rights and  
 5 benefits under life or disability insurance policies and are  
 6 used at the request of the individual policyholder, contract  
 7 holder, or certificate holder. ~~As-to-forms~~ Forms for use in  
 8 property, marine (other than ocean marine and foreign trade  
 9 coverages), casualty, and surety insurance coverages, ~~the~~  
 10 ~~filing--required--by--this-subsection~~ may be made filed by a  
 11 rating organization on behalf of its members and  
 12 subscribers, ~~but--this--provision--does--not--prohibit~~ or by a  
 13 member or subscriber ~~from-filing-a-form~~ on its own behalf.

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

23 (3) An order of the commissioner disapproving a form or  
 24 withdrawing a previous approval must state the grounds for  
 25 disapproval or withdrawal in sufficient detail to inform the

1 insurer.

2 (4) The commissioner may ~~by--order~~ exempt from the  
 3 requirements of this section, for so long as he the  
 4 commissioner considers proper, an insurance document, form,  
 5 or type of document or form specified ~~in-the-order~~ to which,  
 6 in ~~his~~ the commissioner's opinion, this section may not  
 7 practicably be applied or the filing and approval of which  
 8 are, in ~~his~~ the commissioner's opinion, not desirable or  
 9 necessary for the protection of the public.

10 (5) This section applies to a form used by a domestic  
 11 insurer for delivery in a jurisdiction outside Montana if  
 12 the insurance supervisory official of the jurisdiction  
 13 informs the commissioner that the form is not subject to  
 14 approval or disapproval by the official and upon the  
 15 commissioner's order requiring the form to be submitted to  
 16 ~~him~~ the commissioner for the purpose. The same standards  
 17 apply to these forms as apply to forms for domestic use.

18 (6) This section and 33-1-502 do not apply to:

- 19 (a) reinsurance;
- 20 (b) policies or contracts not issued for delivery in  
 21 Montana or delivered in Montana, except as provided in  
 22 subsection (5);
- 23 (c) ocean marine and foreign trade insurances.

24 (7) Except as provided in chapter 21, group  
 25 certificates that are delivered or issued for delivery in

1 Montana for group insurance policies effectuated and  
 2 delivered outside Montana but covering persons resident in  
 3 Montana must be filed with the commissioner upon his  
 4 request."

5 **Section 3.** Section 33-2-302, MCA, is amended to read:

6 "33-2-302. Conditions precedent to sale of surplus  
 7 lines insurance. Insurance may be procured through a  
 8 licensed surplus lines insurance producer from an  
 9 unauthorized insurer if:

- 10 (1) the insurer is an eligible surplus lines insurer;
- 11 (2) ~~the full amount or kind of insurance cannot be~~  
 12 ~~obtained from authorized insurers. The full amount or kind~~  
 13 ~~of insurance may be procured from an eligible surplus lines~~  
 14 ~~insurer if the insurance producer makes a diligent search~~  
 15 ~~among the insurers who are authorized to transact and are~~  
 16 ~~actually transacting the particular kind and class of~~  
 17 ~~insurance in this state and cannot obtain the full amount or~~  
 18 ~~kind of insurance from an authorized insurer; the line of~~  
 19 insurance or the full amount of the line of insurance cannot  
 20 be obtained from authorized insurers;
- 21 (3) the producing insurance producer makes a diligent  
 22 effort to place the business with a minimum of three  
 23 insurers authorized and actually transacting that line of  
 24 business in this state. If fewer than three insurers are  
 25 authorized and actually transacting the line of business in

1 this state, diligent effort must be met by searching this  
 2 lesser market.

3 (3)(4) the insurance is not so procured for the purpose  
 4 of securing advantages either as to:

- 5 (a) a lower premium rate than would be accepted by an  
 6 authorized insurer; or
- 7 (b) an advantage in terms of the insurance contract;  
 8 and
- 9 (4)(5) all other requirements of this part are met."

10 **Section 4.** Section 33-2-305, MCA, is amended to read:

11 "33-2-305. Licensing of surplus lines insurance  
 12 producer -- fee and bond. (1) A person may not procure a  
 13 contract of surplus lines insurance with an unauthorized  
 14 insurer unless he the person is licensed as a property, and  
 15 casualty, and surety insurance producer and possesses a  
 16 current surplus lines insurance license issued by the  
 17 commissioner.

18 (2) The commissioner shall issue a surplus lines  
 19 insurance license to any qualified holder of a current  
 20 property, and casualty, and surety insurance producer  
 21 license only if the insurance producer has:

- 22 (a) remitted to the commissioner the annual fee  
 23 prescribed by 33-2-708;
- 24 (b) submitted to the commissioner a completed license  
 25 application on a form supplied by the commissioner;

1 (c) been licensed as a property and casualty,--and  
 2 surety insurance producer continuously for 5 years or more;  
 3 and

4 (d) filed with the commissioner and thereafter for as  
 5 long as the license remains in effect kept in force a bond  
 6 in favor of the state of Montana in the amount of \$10,000,  
 7 with authorized corporate sureties approved by the  
 8 commissioner. The bond must be conditioned that the  
 9 insurance producer will conduct business under the license  
 10 in accordance with the provisions of The Surplus Lines  
 11 Insurance Law and that ~~he~~ the insurance producer will  
 12 promptly remit the taxes provided in 33-2-311. The bond may  
 13 not be terminated unless the surety gives the surplus lines  
 14 insurance producer, the producing insurance producer, and  
 15 the commissioner at least 30 days' prior written notice  
 16 thereof of termination.

17 (3) The license expires on April 1 after its date of  
 18 issue. A surplus lines insurance producer shall renew the  
 19 license on or before March 1 of each year upon payment of  
 20 the annual renewal fee prescribed in 33-2-708. A surplus  
 21 lines insurance producer who fails to apply for a renewal of  
 22 the license on or before March 1 shall pay a fine of \$100  
 23 before the commissioner renews the license.

24 (4) A corporation is eligible to be licensed as a  
 25 surplus lines insurance producer if:

1 (a) the corporate license lists the individuals within  
 2 the corporation who have satisfied the requirements of this  
 3 part to become surplus lines insurance producers; and

4 (b) only those individuals listed on the corporate  
 5 license transact surplus lines insurance."

6 **Section 5.** Section 33-2-307, MCA, is amended to read:

7 **"33-2-307. Requirements for eligible surplus lines**  
 8 **insurers.** (1) A surplus lines insurance producer may not  
 9 place insurance with an unauthorized insurer unless, at the  
 10 time of placement, the unauthorized insurer:

11 (a) has established satisfactory evidence of good  
 12 reputation and financial integrity; and

13 (b) is qualified under one of the following  
 14 subsections:

15 (i) the insurer maintains capital and surplus or its  
 16 equivalent under the laws of its state of domicile, which  
 17 equals the greater of:

18 (A) the minimum capital and surplus requirements of  
 19 33-2-109 and 33-2-110; or

20 (B) ~~\$2.5 million on April 17, 1988, and \$3.5 million on~~  
 21 ~~April 17, 1990. After April 17, 1990, an~~ \$3 million. An  
 22 insurer possessing less than \$4 million ~~subcapital~~ capital  
 23 and surplus may satisfy the requirements of this subsection  
 24 upon an affirmative finding of acceptability by the  
 25 commissioner. The commissioner's finding must be based upon



1 such factors as quality of management, capital, and surplus  
 2 of a parent company; company underwriting profit and  
 3 investment income trends; and company record and reputation  
 4 within the industry. The commissioner may not make an  
 5 affirmative finding of acceptability when the surplus lines  
 6 insurer's capital and surplus is less than \$3 million.

7 (ii) in the case of Lloyd's or another similar  
 8 unincorporated group of alien individual insurers, the  
 9 insurer maintains a trust fund of not less than \$50 million  
 10 as security to the full amount thereof of capital and  
 11 surplus for all policyholders and creditors in the United  
 12 States of each member of the group. The trust must comply  
 13 with the terms and conditions established in subsection  
 14 (1)(b)(iv) for alien insurers.

15 (iii) in the case of an insurance exchange created by  
 16 the laws of individual states, the insurer maintains capital  
 17 and surplus, or their substantial equivalent, of not less  
 18 than \$15 million in the aggregate. For an insurance exchange  
 19 that maintains funds for the protection of each insurance  
 20 exchange policyholder, each individual syndicate shall  
 21 maintain minimum capital and surplus, or their substantial  
 22 equivalent, of not less than \$1.5 million. If the insurance  
 23 exchange does not maintain funds for the protection of each  
 24 insurance exchange policyholder, each individual syndicate  
 25 shall meet the minimum capital and surplus requirements of

1 subsection (1)(b)(i).

2 (iv) in the case of an alien insurer, the insurer  
 3 maintains in the United States an irrevocable trust fund in  
 4 either a national bank or a member of the federal reserve  
 5 system, in an amount not less than \$1.5 million, for the  
 6 protection of all its policyholders in the United States and  
 7 such the trust fund consists of cash, securities, or letters  
 8 of credit or of investments of substantially the same  
 9 character and quality as those which are eligible  
 10 investments for the capital and statutory reserves of  
 11 insurers authorized to write like kinds of insurance in this  
 12 state. Such The trust fund, which must be included in any  
 13 calculation of capital and surplus or its equivalent, must  
 14 have an expiration date which-at-no-time that may not at any  
 15 time be less than 5 years. In addition, the alien insurer  
 16 must appear on the national association of insurance  
 17 commissioners' Non-Admitted Insurers Quarterly Listing.

18 (c) has provided the commissioner a copy of its current  
 19 annual statement, certified by the insurer no more than 6  
 20 months after the close of the period reported upon (or  
 21 quarterly if considered necessary by the commissioner), and  
 22 which is either:

23 (i) filed with and approved by the regulatory authority  
 24 in the state of domicile of the unauthorized insurer; or

25 (ii) certified by an accounting or auditing firm

1 licensed in the jurisdiction of the insurer's state of  
2 domicile.

3 (2) In the case of an insurance exchange, the statement  
4 required by subsection (1)(c) may be an aggregate combined  
5 statement of all underwriting syndicates operating during  
6 the period reported.

7 (3) In addition to meeting the requirements in  
8 subsection (1), an insurer is an eligible surplus lines  
9 insurer only if it appears on the most recent list of  
10 eligible surplus lines insurers published at least  
11 semiannually by the commissioner. This subsection does not  
12 require the commissioner to place or maintain the name of  
13 any unauthorized insurer on the list of eligible surplus  
14 lines insurers. No An action may not lie against the  
15 commissioner or an employee of the commissioner for anything  
16 said in issuing the list of eligible surplus lines insurers  
17 referred to in this subsection.

18 (4) (a) The commissioner may declare an eligible  
19 surplus lines insurer ineligible if at any time the  
20 commissioner has reason to believe that it:

- 21 (i) is in unsound financial condition;
- 22 (ii) is no longer eligible under subsections (1) through
- 23 (3);
- 24 (iii) has willfully violated the laws of this state; or
- 25 (iv) does not make reasonably prompt payment of just

1 losses and claims in this state or elsewhere.

2 (b) The commissioner shall promptly mail notice of all  
3 such declarations to each surplus lines insurance producer.

4 (5) As used in this section, the following definitions  
5 apply:

6 (a) "Capital", as used in the financial requirements of  
7 this section, means funds invested in for stocks or other  
8 evidences of ownership.

9 (b) "Surplus", as used in the financial requirements of  
10 this section, means funds over and above liabilities and  
11 capital of the insurer for the protection of policyholders."

12 **Section 6.** Section 33-2-312, MCA, is amended to read:

13 **\*33-2-312. Penalty for failure to file statement, pay**  
14 **tax, or pay stamping fee.** (1) A surplus lines insurance  
15 producer who fails to make and file the annual statement as  
16 required under 33-2-310 or to pay the taxes as required  
17 under 33-2-311 is liable to a penalty of \$25 for each day of  
18 delinquency, commencing with April 1. The tax and penalty  
19 may be recovered in an action instituted by the commissioner  
20 in the name of the state in any court of competent  
21 jurisdiction, the attorney general representing him the  
22 commissioner. The penalty when collected, unless collected  
23 by a justice's court, shall must be paid to the state  
24 treasurer and placed to the credit of the general fund. The  
25 surplus lines insurance producer license is also subject to

1 revocation as provided in 33-2-313.

2 (2) If a surplus lines insurance producer does not pay  
3 the stamping fee provided for in 33-2-321 ~~before-it-is-due,~~  
4 the commissioner or the surplus lines advisory organization  
5 formed pursuant to 33-2-321 may impose a penalty of 25% of  
6 the stamping fee due plus 1.5% a month from the time of  
7 delinquency until the stamping fee is paid."

8 **Section 7.** Section 33-2-313, MCA, is amended to read:

9 "33-2-313. Revocation or suspension of producer  
10 license. (1) The commissioner shall revoke or suspend any  
11 surplus lines insurance producer license, together with his  
12 any license as an insurance producer:

13 (a) if the insurance producer fails to file his an  
14 annual statement or to remit the tax as required by law;

15 (b) if the insurance producer fails to keep the records  
16 or to allow the commissioner to examine his the records, as  
17 required by law;

18 (c) if the insurance producer falsifies the affidavit  
19 required by 33-2-310(3);

20 ~~{d}--if-the--insurance--producer--removes--the--resident~~  
21 ~~surplus-lines-insurance-producer-office-from-this-state;~~

22 ~~{e}--if--the--insurance--producer--removes--the--resident~~  
23 ~~surplus-lines-insurance-producer-office-accounts-and-records~~  
24 ~~from-this-state-during-the-period-during-which-the--accounts~~  
25 ~~and-records-are-required-to-be-maintained-under-33-2-310{1};~~

1 ~~{f}{d}~~ if the insurance producer closes the resident  
2 surplus lines insurance producer office for a period of more  
3 than 30 business days, unless the commissioner grants  
4 permission otherwise;

5 ~~{g}{e}~~ if the insurance producer violates any provision  
6 of this part; or

7 ~~{h}{f}~~ for any of the causes for which an insurance  
8 producer's license may be revoked.

9 (2) The procedures provided by 33-17-1001 for the  
10 suspension or revocation of insurance producer licenses  
11 apply to suspension or revocation of a surplus lines  
12 insurance producer license.

13 (3) An insurance producer whose license has been ~~so~~  
14 revoked or suspended may not again be ~~so~~ licensed within 1  
15 year ~~thereafter~~ after revocation or suspension or until he  
16 the insurance producer pays all penalties and delinquent  
17 taxes that ~~he-owes~~ are owed."

18 **Section 8.** Section 33-2-705, MCA, is amended to read:

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

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 a life  
 8 insurer or written by an insurer other than a life insurer  
 9 during the preceding calendar year on account of policies  
 10 covering property, subjects, or risks located, resident, or  
 11 to be performed in Montana, with proper proportionate  
 12 allocation of premium as to such property, subjects, or  
 13 risks in Montana insured under policies or contracts  
 14 covering property, subjects, or risks located or resident in  
 15 more than one state, after deducting from such the total  
 16 direct premium income applicable cancellations, returned  
 17 premiums, the unabsorbed portion of any deposit premium, the  
 18 amount of reduction in or refund of premiums allowed to  
 19 industrial life policyholders for payment of premiums direct  
 20 to an office of the insurer, all policy dividends, refunds,  
 21 savings, savings coupons, and other similar returns paid or  
 22 credited to policyholders with respect to such the policies.  
 23 As to title insurance, "premium" includes the total charge  
 24 for such the insurance. No A deduction ~~shall~~ may not be made  
 25 of the cash surrender values of policies. Considerations

1 received on annuity contracts ~~shall~~ may not be included in  
 2 total direct premium income and ~~shall~~ are not be subject to  
 3 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 the net premiums  
 7 computed at the rate of 2 3/4%.

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

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

1 taxes payable under 50-3-109.

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

5 (6) In addition to the penalty provided for in  
6 subsection (5), the commissioner may impose upon an insurer  
7 who fails to pay the tax required under this section a fine  
8 of \$100 ~~a-day-for-each-day-the-tax-remains-unpaid-past-the~~  
9 ~~due-date-or-1%-of-the-amount-owed-in-tax,--whichever--is~~  
10 ~~greater~~ plus interest on the delinquent amount at the  
11 interest rate established in 31-1-107.

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

16 **Section 9.** Section 33-2-708, MCA, is amended to read:

17 "33-2-708. Fees and licenses. (1) Except as provided in  
18 33-17-212(2), the commissioner shall collect in advance and  
19 the persons served shall pay to the commissioner the  
20 following fees:

21 (a) certificates of authority:

22 (i) for filing applications for original certificates  
23 of authority, articles of incorporation (except original  
24 articles of incorporation of domestic insurers as provided  
25 in subsection (1)(b)) and other charter documents, bylaws,

1 financial statement, examination report, power of attorney  
2 to the commissioner, and all other documents and filings  
3 required in connection with the application and for issuance  
4 of an original certificate of authority, if issued:

- 5 (A) domestic insurers ..... \$ 600.00
- 6 (B) foreign insurers ..... 600.00
- 7 (ii) annual continuation of certificate of authority
- 8 ..... 600.00
- 9 (iii) reinstatement of certificate of authority
- 10 ..... 25.00
- 11 (iv) amendment of certificate of authority ..... 50.00
- 12 (b) articles of incorporation:
- 13 (i) filing original articles of incorporation of a
- 14 domestic insurer, exclusive of fees required to be paid by
- 15 the corporation to the secretary of state ..... 20.00
- 16 (ii) filing amendment of articles of incorporation,
- 17 domestic and foreign insurers, exclusive of fees required to
- 18 be paid to the secretary of state by a domestic corporation
- 19 ..... 25.00
- 20 (c) filing bylaws or amendment to bylaws where
- 21 required ..... 10.00
- 22 (d) filing annual statement of insurer, other than as
- 23 part of application for original certificate of authority
- 24 ..... 25.00
- 25 (e) insurance producer's license:

1 (i) application for original license, including  
2 issuance of license, if issued ..... 15.00  
3 (ii) appointment of insurance producer, each insurer  
4 ..... 10.00  
5 (iii) temporary license ..... 15.00  
6 (iv) amendment of license (excluding additions to  
7 license) or reissuance of master license ..... 15.00  
8 (f) nonresident insurance producer's license:  
9 (i) application for original license, including  
10 issuance of license, if issued ..... 100.00  
11 (ii) appointment of insurance producer, each insurer  
12 ..... 10.00  
13 (iii) annual renewal of license ..... 10.00  
14 (iv) amendment of license (excluding additions to  
15 license) or reissuance of master license ..... 15.00  
16 (g) examination, if administered by the commissioner,  
17 for license as insurance producer, each examination  
18 ..... 15.00  
19 (h) surplus lines insurance producer license:  
20 (i) application for original license and for issuance  
21 of license, if issued ..... 50.00  
22 (ii) annual renewal of license ..... 50.00  
23 (i) adjuster's license:  
24 (i) application for original license and for issuance  
25 of license, if issued ..... 15.00

1 (ii) annual renewal of license ..... 15.00  
2 (j) insurance vending machine license, each machine,  
3 each year ..... 10.00  
4 (k) commissioner's certificate under seal (except when  
5 on certificates of authority or licenses) ..... 10.00  
6 (l) copies of documents on file in the commissioner's  
7 office, per page ..... .50  
8 (m) policy forms:  
9 (i) filing each policy form ..... 25.00  
10 (ii) filing each application, certificate, enrollment  
11 form, rider, endorsement, amendment, insert page, schedule  
12 of rates, and clarification of risks ..... 10.00  
13 (iii) maximum charge if policy and all forms submitted  
14 at one time or resubmitted for approval within 180 days  
15 ..... 100.00  
16 (n) applications for approval of preclicensing education  
17 courses:  
18 (i) reviewing initial application ..... 150.00  
19 (ii) periodic review ..... 50.00  
20 (2) The commissioner shall promptly deposit with the  
21 state treasurer to the credit of the general fund of this  
22 state all fines and penalties, those amounts received  
23 pursuant to 33-2-311, 33-2-705, and 33-2-706, and any fees  
24 and examination and miscellaneous charges that are collected  
25 by-him pursuant to Title 33 and the rules adopted under

1 Title 33.

2 (3) All fees are considered fully earned when received.  
3 In the event of overpayment, only those amounts in excess of  
4 \$10 will be refunded."

5 **Section 10.** Section 33-2-1113, MCA, is amended to read:

6 "33-2-1113. Transactions with affiliates -- standards.

7 (1) Material transactions by registered insurers with their  
8 affiliates are subject to the following standards:

9 (a) The terms must be fair and reasonable.

10 (b) Charges or fees for services performed must be  
11 reasonable.

12 (c) Expenses incurred and payments received must be  
13 allocated to the insurer in conformity with customary  
14 insurance accounting practices consistently applied.

15 (d) The books, accounts, and records of each party must  
16 ~~be--so--maintained-as-to~~ clearly and accurately disclose the  
17 precise nature and details of the transactions, including  
18 such any accounting information ~~as-is~~ necessary to support  
19 the reasonableness of the charges or fees to the respective  
20 parties.

21 (e) The insurer's surplus as regards policyholders  
22 following any dividends or distributions to shareholder  
23 affiliates must be reasonable in relation to the insurer's  
24 outstanding liabilities and adequate to its financial needs.

25 (2) (a) The following transactions involving a domestic

1 insurer and a person in its holding company system may not  
2 be entered into unless the insurer has notified the  
3 commissioner in writing of its intention to enter into a  
4 transaction and the commissioner has not disapproved it  
5 within at least 30 days prior to the transaction, or a  
6 shorter period as the commissioner may permit:

7 (i) sales, purchases, exchanges, loans or extensions of  
8 credit, guaranties, or investments if, as of the prior  
9 December 31, the transactions are equal to or exceed:

10 (A) with respect to insurers other than life insurers,  
11 the lesser of 3% of the insurer's admitted assets or 25% of  
12 its surplus as regards policyholders; and

13 (B) with respect to life insurers, 3% of the insurer's  
14 admitted assets;

15 (ii) loans or extensions of credit to a person who is  
16 not an affiliate if the insurer makes the loans or  
17 extensions of credit with the agreement or understanding  
18 that the proceeds of the transactions, in whole or in  
19 substantial part, are to be used to make loans or extensions  
20 of credit to, to purchase assets of, or to make investments  
21 in an affiliate of the insurer making the loans or  
22 extensions of credit if such the transactions, as of the  
23 prior December 31, are equal to or exceed:

24 (A) with respect to insurers other than life insurers,  
25 the lesser of 3% of the insurer's admitted assets or 25% of

1 its surplus as regards policyholders;

2 (B) with respect to life insurers, 3% of the insurer's  
3 admitted assets;

4 ~~(E)~~(iii) reinsurance agreements or modifications to  
5 reinsurance agreements in which the reinsurance premium or a  
6 change in the insurer's liabilities equals or exceeds 5% of  
7 the insurer's surplus as regards policyholders, as of the  
8 prior December 31, including those agreements that may  
9 require as consideration the transfer of assets from an  
10 insurer to a nonaffiliate, if an agreement or understanding  
11 exists between the insurer and nonaffiliate that a portion  
12 of the assets will be transferred to one or more affiliates  
13 of the insurer;

14 ~~(B)~~(iv) all management agreements, service contracts,  
15 and cost-sharing arrangements; and

16 ~~(B)~~(v) any material transactions, specified by rule,  
17 that the commissioner determines may adversely affect the  
18 interests of the insurer's policyholders.

19 (b) Nothing in this subsection (2) is considered to  
20 authorize or permit a transaction that, in the case of an  
21 insurer that is not a member of the same holding company  
22 system, would otherwise be contrary to law.

23 (3) A domestic insurer may not enter into a transaction  
24 that is part of a plan or series of like transactions with a  
25 person within the holding company system if the purpose of

1 those separate transactions is to avoid the statutory  
2 threshold amount review. If the commissioner determines that  
3 the separate transactions were entered into over a 12-month  
4 period for the purpose of evading review, he the  
5 commissioner may exercise ~~his~~ authority under 33-2-1120.

6 (4) The commissioner, in reviewing a transaction  
7 pursuant to subsection (2), shall consider whether the  
8 transaction complies with the standards set forth in  
9 subsection (1) and whether it may adversely affect the  
10 interests of a policyholder.

11 (5) The commissioner must be notified within 30 days of  
12 an investment by a domestic insurer in a corporation if the  
13 total investment in the corporation by the insurance holding  
14 company system exceeds 10% of the corporation's voting  
15 securities.

16 (6) For purposes of this section, in determining  
17 whether an insurer's surplus as regards policyholders is  
18 reasonable in relation to the insurer's outstanding  
19 liabilities and adequate to its financial needs, the  
20 following factors, among others, must be considered:

21 (a) the size of the insurer as measured by its assets,  
22 capital and surplus, reserves, premium writings, insurance  
23 in force, and other appropriate criteria;

24 (b) the extent to which the insurer's business is  
25 diversified among the several lines of insurance;



1 (c) the number and size of risks insured in each line  
2 of business;

3 (d) the extent of the geographical dispersion of the  
4 insurer's insured risks;

5 (e) the nature and extent of the insurer's reinsurance  
6 program;

7 (f) the quality, diversification, and liquidity of the  
8 insurer's investment portfolio;

9 (g) the recent past and projected future trend in the  
10 size of the insurer's surplus as regards policyholders;

11 (h) the surplus as regards policyholders maintained by  
12 other comparable insurers;

13 (i) the adequacy of the insurer's reserves;

14 (j) the quality and liquidity of investments in  
15 subsidiaries made pursuant to 33-2-1104 through 33-2-1106.  
16 The commissioner may treat any such investment as a  
17 disallowed asset for purposes of determining the adequacy of  
18 surplus as regards policyholders whenever in his the  
19 commissioner's judgment the investment so warrants."

20 **Section 11.** Section 33-3-305, MCA, is amended to read:

21 "33-3-305. Directors -- number and election. (1) The  
22 affairs of every domestic insurer shall must be managed by  
23 the number of directors fixed in the insurer's bylaws, which  
24 shall may not be less than 5 or more than 21 directors.

25 (2) Directors must be elected from ~~and~~ by the members

1 or stockholders of a domestic insurer, except as provided in  
2 33-3-306, at such the time and place and for such the terms,  
3 not exceeding 3 years, as may be provided in the insurer's  
4 bylaws. A majority of directors must be elected from the  
5 members or stockholders of the domestic insurer.

6 (3) The term of a director shall extend until his a  
7 successor has been elected and has qualified."

8 **Section 12.** Section 33-4-101, MCA, is amended to read:

9 "33-4-101. Scope of chapter -- provisions applicable.

10 (1) The chapter applies to:

11 (a) all domestic mutual hail, fire, and other casualty  
12 insurers of farm property and stock and rural buildings  
13 heretofore formed and immediately prior to January 1, 1961,  
14 lawfully transacting insurance under sections 40-1501  
15 through 40-1517, ~~and all amendments thereto,~~ of the Revised  
16 Codes of Montana, 1947;

17 (b) all domestic mutual rural insurers heretofore  
18 formed and immediately prior to January 1, 1961, lawfully  
19 transacting insurance under sections 40-1601 through  
20 40-1625, ~~and all amendments thereto,~~ of the Revised Codes of  
21 Montana, 1947;

22 (c) all insurers hereafter formed under this chapter.

23 (2) All such insurers qualifying under subsection (1)  
24 may be referred to as "farm mutual insurers".

25 (3) ~~Nothing in the~~ The insurance laws of this state

1 ~~shall--be--deemed--to~~ do not apply to or govern, either  
 2 directly or indirectly, domestic farm mutual insurers except  
 3 as contained or referred to in this chapter.

4 (4) The following chapters and sections of this title  
 5 ~~also--shall~~ apply to farm mutual insurers to the extent so  
 6 applicable and not inconsistent with the express provisions  
 7 of this chapter and the reasonable implications of such the  
 8 express provisions: parts 1, 2, 3, 4, and 7 of chapter 1;  
 9 33-2-112; 33-2-501; 33-2-502; 33-2-532 through 33-2-535;  
 10 33-2-708; chapter 2, part 13; 33-2-1212; 33-3-218; 33-3-308;  
 11 33-3-401; 33-3-402; 33-3-431; 33-3-436; and chapter 18."

12 **Section 13.** Section 33-4-203, MCA, is amended to read:

13 "33-4-203. **Approval of articles -- commencement of**  
 14 **corporate existence.** (1) Upon receipt thereof of proposed  
 15 articles of incorporation, the commissioner shall forward  
 16 the proposed articles of incorporation to the attorney  
 17 general for examination. If the attorney general finds the  
 18 articles to be in accordance with the provisions of this  
 19 chapter and not in conflict with the constitution and laws  
 20 of the United States of America or of this state, he the  
 21 attorney general shall make a certificate of the facts and  
 22 return it with the proposed articles to the commissioner.

23 (2) If the commissioner ~~deems~~ considers the name of the  
 24 proposed corporation to be so similar to one already  
 25 appropriated by another company or corporation as to be

1 likely to mislead the public, he the commissioner shall  
 2 reject the name applied for and shall notify the  
 3 incorporators ~~thereof~~ of the rejection.

4 (3) When the proposed articles of incorporation have  
 5 been approved by the attorney general, the commissioner  
 6 shall likewise endorse ~~his~~ the commissioner's approval upon  
 7 each set of the articles, ~~file one set in his office,~~ and  
 8 forward ~~the--other--three~~ four sets of articles to the  
 9 incorporators. The incorporators shall file one of such the  
 10 sets of articles with the secretary of state, one set with  
 11 the commissioner bearing the certification of the secretary  
 12 of state, and one set with the county clerk of the county  
 13 ~~wherein-is-located~~ in which the principal place of business  
 14 of the corporation is located and shall pay to the secretary  
 15 of state and the county clerk the customary filing fees. The  
 16 remaining set of articles ~~shall~~ must be made a part of the  
 17 corporation's records.

18 (4) The corporation ~~shall-have~~ has legal existence as  
 19 such upon the approval of the articles by the attorney  
 20 general and the commissioner and completion of the filings  
 21 referred to in subsection (3) above, but it ~~shall~~ may not  
 22 transact business as an insurer until it has fulfilled the  
 23 requirements for and has obtained a certificate of authority  
 24 as provided in 33-4-505."

25 **Section 14.** Section 33-11-104, MCA, is amended to read:

1       \*33-11-104. Risk retention groups not chartered in this  
 2 state. A risk retention group chartered in a state other  
 3 than this state and seeking to do business as a risk  
 4 retention group in this state must observe and abide by the  
 5 laws of this state as follows:

6       (1) Before offering insurance in this state, a risk  
 7 retention group shall submit to the commissioner:

8       (a) a statement identifying the state or states where  
 9 the risk retention group is chartered and authorized as a  
 10 casualty insurer, date of chartering, its principal place of  
 11 business, and such other information, including information  
 12 on its membership, as the commissioner requires to verify  
 13 that the risk retention group is qualified under  
 14 33-11-102(7);

15       (b) a copy of its plan of operation or a feasibility  
 16 study and revisions of such the plan or study submitted to  
 17 its state of domicile. However, this provision relating to  
 18 the submission of a plan of operation or a feasibility study  
 19 does not apply with respect to any line or classification of  
 20 liability insurance that was defined in the federal Product  
 21 Liability Risk Retention Act of 1981 (15 U.S.C. 3901 through  
 22 3904) before it was amended by P.L. 99-563, approved on  
 23 October 27, 1986, and that was offered before that date by a  
 24 risk retention group that had been chartered and operated  
 25 for not less than 3 years before that date; and

1       (c) a statement of registration that designates the  
 2 commissioner as its agent for the purpose of receiving  
 3 service of legal documents or process.

4       (2) A risk retention group doing business in this state  
 5 shall submit to the commissioner:

6       (a) a copy of the group's financial statement submitted  
 7 to its state of domicile, which must be certified by an  
 8 independent public accountant and contain a statement of  
 9 opinion on loss and loss adjustment expense reserves made by  
 10 a member of the American academy of actuaries or by a  
 11 qualified loss reserve specialist under criteria established  
 12 by the national association of insurance commissioners;

13       (b) a copy of each examination of the risk retention  
 14 group as certified by the insurance regulatory official of  
 15 the state in which the examination was conducted or public  
 16 official conducting the examination;

17       (c) upon request by the commissioner, a copy of any  
 18 audit performed with respect to the risk retention group;  
 19 and

20       (d) such any information as may be required to verify  
 21 the group's continuing qualification as a risk retention  
 22 group under 33-11-102(7).

23       (3) (a) All premiums paid for coverage within this  
 24 state to risk retention groups are subject to taxation at  
 25 the same rate and to the same interest, fines, and penalties

1 for nonpayment that apply to foreign admitted insurers.

2 (b) To the extent that an insurance producer is used,  
 3 he the insurance producer shall report and pay the taxes for  
 4 the premiums for risks that he has are placed with or on  
 5 behalf of a risk retention group not chartered in this  
 6 state.

7 (c) To the extent that an insurance producer is not  
 8 used or fails to pay the tax, each risk retention group  
 9 shall pay the tax for risks insured within the state.  
 10 Further, each risk retention group shall report all premiums  
 11 paid to it for risks insured within the state.

12 (4) Each risk retention group, its insurance producers,  
 13 and its representatives shall comply with Title 33, chapter  
 14 18, part 2.

15 (5) Each risk retention group shall comply with the  
 16 provisions of Title 33, chapter 18, part 2, regarding  
 17 deceptive, false, or fraudulent acts or practices. However,  
 18 if the commissioner seeks an injunction regarding such the  
 19 conduct, the injunction must be obtained from a court of  
 20 competent jurisdiction.

21 (6) Each risk retention group shall submit to an  
 22 examination by the commissioner to determine its financial  
 23 condition if the insurance regulatory official of the  
 24 jurisdiction where the group is chartered has not initiated  
 25 an examination or does not initiate an examination within 60

1 days after a request by the commissioner. The examination  
 2 must be coordinated to avoid unjustified repetition and be  
 3 conducted in an expeditious manner in accordance with the  
 4 national association of insurance commissioners examiners  
 5 handbook.

6 (7) Each policy issued by a risk retention group must  
 7 contain, in 10-point type on the front page and the  
 8 declaration page, the following notice:

9 "NOTICE

10 This policy is issued by your risk retention group. Your  
 11 risk retention group may not be subject to all of the  
 12 insurance laws and regulations of your state. State  
 13 insurance insolvency guaranty funds are not available for  
 14 your risk retention group."

15 (8) The following acts by a risk retention group are  
 16 prohibited:

17 (a) the solicitation or sale of insurance by a risk  
 18 retention group to any person who is not eligible for  
 19 membership in the group; and

20 (b) the solicitation or sale of insurance by or  
 21 operation of a risk retention group that is in a hazardous  
 22 financial condition or is financially impaired.

23 (9) A risk retention group is not allowed to do  
 24 business in this state if an insurer is directly or  
 25 indirectly a member or owner of the risk retention group,

1 other than in the case of a risk retention group all of  
2 whose members are insurers.

3 (10) A risk retention group may not offer insurance  
4 policy coverage declared unlawful by the Montana supreme  
5 court.

6 (11) A risk retention group not chartered in this state  
7 and doing business in this state ~~must~~ shall comply with a  
8 lawful order issued in a voluntary dissolution proceeding or  
9 in a delinquency proceeding commenced by the insurance  
10 regulatory official of any state if there has been a finding  
11 of financial impairment after an examination under  
12 subsection (6).

13 (12) Upon completion of registration requirements, the  
14 commissioner shall issue to the risk retention group a  
15 proper certificate of registration."

16 **Section 15.** Section 33-11-108, MCA, is amended to read:

17 "33-11-108. Notice and registration requirements of  
18 purchasing groups. (1) A purchasing group that intends to do  
19 business in this state shall furnish notice to the  
20 commissioner that:

- 21 (a) identifies the state where the group is domiciled;
- 22 (b) specifies the lines and classifications of
- 23 liability insurance that the purchasing group intends to
- 24 purchase;
- 25 (c) identifies the insurer from which the purchasing

1 group intends to purchase its insurance and the domicile of  
2 the insurer;

3 (d) identifies the Montana-licensed insurance producer  
4 or Montana-licensed surplus insurance lines insurance  
5 producer through which the purchasing group intends to place  
6 its business;

7 (e) identifies the principal place of business of the  
8 purchasing group; and

9 (f) provides information required by the commissioner  
10 to verify that the purchasing group is qualified under  
11 33-11-102(6).

12 (2) The purchasing group shall register with and  
13 designate the commissioner as its agent solely for the  
14 purpose of receiving service of legal documents or process.  
15 However, such the requirements do not apply in the case of a  
16 purchasing group:

17 (a) (i) that was domiciled before April 2, 1986, in any  
18 state of the United States; and

19 (ii) that was domiciled on and after October 27, 1986,  
20 in any state of the United States;

21 (b) (i) that, before October 27, 1986, purchased  
22 insurance from an insurer licensed in any state; and

23 (ii) that, since October 27, 1986, purchased its  
24 insurance from an insurer licensed in any state;

25 (c) that was a purchasing group under the requirements

1 of the federal Product Liability Risk Retention Act of 1981  
 2 (15 U.S.C. 3901 through 3904) before it was amended by P.L.  
 3 99-563, approved on October 27, 1986; and

4 (d) that does not purchase insurance that was not  
 5 authorized for purposes of an exemption under the federal  
 6 Product Liability Risk Retention Act of 1981, as in effect  
 7 before October 27, 1986.

8 (3) Upon completion of registration requirements, the  
 9 commissioner shall issue a proper certificate of  
 10 registration to the purchasing group."

11 **Section 16.** Section 33-14-201, MCA, is amended to read:

12 "33-14-201. License required -- fee -- renewal of  
 13 license. (1) Except as provided in subsection (4), no a  
 14 person may not engage in the business of financing insurance  
 15 premiums without first having obtained a license as a  
 16 premium finance company from the commissioner. Any person  
 17 who engages in the business of financing insurance premiums  
 18 in the state without obtaining a license as provided under  
 19 this chapter is, upon conviction, guilty of a misdemeanor.

20 (2) The annual license fee is \$100. A license may be  
 21 renewed as of January 1 each year, upon payment of the fee  
 22 of \$100. The license fee ~~shall~~ must be paid to the  
 23 commissioner.

24 (3) The person to whom the license or the renewal  
 25 thereof of the license is issued shall file sworn answers,

1 subject to the penalties of perjury, to such any  
 2 interrogatories as the commissioner may require. The  
 3 commissioner may, at any time, require the applicant fully  
 4 to disclose the identity of all stockholders, partners,  
 5 officers, and employees, and he the commissioner may, in his  
 6 the commissioner's discretion, refuse to issue or renew a  
 7 license in the name of any firm, partnership, or corporation  
 8 if he--is not satisfied that any officer, employee,  
 9 stockholder, or partner thereof who may materially influence  
 10 the applicant's conduct meets the standards of this chapter.

11 (4) ~~No---person---other---than---a---savings--and--loan~~  
 12 ~~association,--bank,--trust--company,--or--licensed---finance~~  
 13 ~~company,--credit--union,--or--resident--insurance--producer--who,~~  
 14 ~~within--15--days--after--entering--into--an--insurance--premium~~  
 15 ~~finance--agreement,--transfers--the--agreement--to--a--licensee--or~~  
 16 ~~to--any--of--the--organizations--exempt--under--this--subsection--may~~  
 17 ~~engage--in--the--business--of--entering--into,--acquiring,--or~~  
 18 ~~holding--insurance--premium--finance--agreements--unless--licensed~~  
 19 ~~to--do--so--by--the--commissioner. This section does not apply to~~  
 20 ~~and a license is not required of:~~

21 (a) savings and loan associations, banks, trust  
 22 companies, licensed finance companies, credit unions, and  
 23 resident insurance producers; or

24 (b) a person who, within 15 days after entering into an  
 25 insurance premium finance agreement, transfers the agreement

1 to a licensee or to any of the organizations exempt under  
 2 this subsection (4)."

3 **Section 17.** Section 33-14-305, MCA, is amended to read:

4 "33-14-305. Return of unearned premiums. (1) Whenever a  
 5 financed insurance contract is canceled by a person other  
 6 than the insured, the insurer shall process cancellation of  
 7 the financed insurance policy on a pro rata basis. The  
 8 insurer shall return whatever gross unearned premiums are  
 9 due under the insurance contract to the premium finance  
 10 company for the account of the insured or insureds.

11 (2) If the crediting of the return premiums to the  
 12 account of the insured results in a surplus over the amount  
 13 due from the insured, the premium finance company shall  
 14 refund the excess to the insured, except that no a refund is  
 15 not required if such the excess amounts to less than \$1."

16 **Section 18.** Section 33-15-303, MCA, is amended to read:

17 "33-15-303. Contents of policies in general --  
 18 identification. (1) Every policy shall specify:

- 19 (a) the names of the parties to the contract;
- 20 (b) the subject of the insurance;
- 21 (c) the risks insured against;
- 22 (d) the time when the insurance thereunder under the  
 23 policy takes effect and the period during which the  
 24 insurance is to continue;
- 25 (e) the premium;

1 (f) the conditions pertaining to the insurance.

2 (2) If under the policy the exact amount of premium is  
 3 determinable only at stated intervals or termination of the  
 4 contract, a statement of the basis and rates upon which the  
 5 premium is to be determined and paid ~~shall~~ must be included.

6 ~~(3) Subsections (1) and (2) of this section shall not~~  
 7 ~~apply as to surety contracts or to group insurance policies.~~

8 (4) All policies and annuity contracts issued by  
 9 insurers and the forms thereof of policies and annuity  
 10 contracts filed with the commissioner ~~shall~~ must have  
 11 printed thereon on the policy or annuity contract an  
 12 appropriate designating letter or figure, or combination of  
 13 letters or figures, or terms identifying the respective  
 14 forms of policies or contracts, together with the year of  
 15 adoption of such the form. Whenever any change is made in  
 16 any such form, the designating letters, figures, or terms  
 17 and year of adoption ~~thereon shall~~ on the form must be  
 18 correspondingly changed."

19 **Section 19.** Section 33-16-106, MCA, is amended to read:

20 "33-16-106. Examination by commissioner of rating  
 21 organizations, admitted insurers, officers, managers,  
 22 insurance producers, and employees -- expense. (1) (a) The  
 23 commissioner ~~shall, at least once every 5 years, and may,~~ as  
 24 often as may be reasonable and necessary, make or cause to  
 25 be made an examination of each licensed rating organization.

1 He The commissioner may, as often as may be reasonable and  
 2 necessary, make or cause to be made an examination of any  
 3 advisory organization or group, association, or other  
 4 organization of insurers which that engages in joint  
 5 underwriting or joint reinsurance.

6 (b) In lieu of ~~any~~ such an examination, the  
 7 commissioner may accept the report of an examination made by  
 8 the insurance supervisory official of another state or by  
 9 the national association of insurance commissioners.

10 (c) In examining any organization, group, or  
 11 association pursuant to this section, the commissioner shall  
 12 ascertain whether such an organization, group, or  
 13 association and, in the case of a rating organization, any  
 14 rate or rating system made or used by it, complies with the  
 15 requirements and standards of this chapter applicable to it.

16 (2) The commissioner may, at any reasonable time, make  
 17 or cause to be made an examination of every admitted insurer  
 18 transacting any class of insurance to which the provisions  
 19 of this chapter are applicable to ascertain whether such the  
 20 insurer and every rate and rating system used by it for  
 21 every class of insurance complies with the requirements and  
 22 standards of this chapter applicable thereto to it. Such The  
 23 examination ~~shall~~ may not be a part of a periodic general  
 24 examination participated in by representatives of more than  
 25 one state.

1 (3) The officers, managers, insurance producers, and  
 2 employees of any such organization, group, association, or  
 3 insurer may be examined at any time under oath and shall  
 4 exhibit all books, records, accounts, documents, or  
 5 agreements governing its method of operation, together with  
 6 all data, statistics, and information of every kind and  
 7 character collected or considered by such an organization,  
 8 group, association, or insurer in the conduct of the  
 9 operations to which such the examination relates.

10 (4) The reasonable cost of any examination authorized  
 11 by this article ~~shall~~ must be paid by the organization,  
 12 group, association, or insurer to be examined."

13 **Section 20.** Section 33-17-231, MCA, is amended to read:

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

22 (2) ~~Subject-to-annual-renewal-by-the-insurer,~~ each-such  
 23 Each appointment ~~shall--remain~~ remains in effect until the  
 24 insurance producer's license is revoked or otherwise  
 25 terminated unless written notice of earlier termination of



1 the appointment is filed with the commissioner by the  
 2 insurer or the insurance producer. Termination of the  
 3 insurer's authority in Montana also terminates the  
 4 appointment.

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

14 (4) Subject to the insurance producer's contract  
 15 rights, an insurer may terminate an insurance producer's  
 16 appointment at any time. The insurer shall promptly give  
 17 written notice of such the termination to the commissioner  
 18 and to the insurance producer. The commissioner may require  
 19 ~~of the insurer~~ reasonable proof that the insurer has given  
 20 such notice to the insurance producer.

21 (5)(4) As part of the notice of termination given the  
 22 commissioner, the insurer shall file with the commissioner a  
 23 statement of the facts relative to the termination and the  
 24 cause thereof of termination. Any information or statement  
 25 contained in the notice of termination ~~shall~~ is not be

1 admissible as evidence in any action or proceeding against  
 2 the insurer or any representative thereof of the insurer by  
 3 or in on behalf of any person affected by such the  
 4 termination."

5 **Section 21.** Section 33-17-237, MCA, is amended to read:

6 \*33-17-237. Notification of violation or appointment  
 7 termination. (1) Upon the termination of an appointed  
 8 insurance producer by an insurer, the insurer shall notify  
 9 the insurance department within 30 days in the manner  
 10 prescribed by the insurance department. ~~If the reason of the~~  
 11 ~~termination is for any of the causes listed in 33-17-1001 or~~  
 12 ~~33-25-301, the insurer shall notify the insurance department~~  
 13 ~~of the reason and the insurer shall, upon request of the~~  
 14 ~~insurance department, provide information, documents,~~  
 15 ~~records, or other data pertaining to the termination that~~  
 16 ~~may be used by the insurance department in any action taken~~  
 17 ~~pursuant to Title 33, chapter 17, part 7.~~

18 (2) If the reason for the termination is any of the  
 19 causes listed in 33-17-1001 or 33-25-301, the insurer shall  
 20 immediately notify the insurance department of the reason.

21 (3) Whenever an insurance company or an employee or  
 22 representative of the company has reasonable cause to  
 23 believe that a person has violated 33-17-1001 or 33-25-301,  
 24 it is the duty of that entity, upon acquiring the knowledge,  
 25 to notify the insurance department and provide the insurance

1 department with a complete statement of all relevant facts  
2 and circumstances.

3 (4) The insurer, employee, or representative shall,  
4 upon request of the insurance department, provide  
5 information, documents and records, or other data pertaining  
6 to the alleged violation or termination that may be used by  
7 the insurance department in any action taken pursuant to  
8 Title 33, chapter 17, part 10.

9 ~~(2)~~(5) Any information, documents, records, or other  
10 data provided pursuant to this section is privileged and  
11 there is no liability on the part of nor may a cause of  
12 action of any nature arise against the insurance department,  
13 the insurance company, or an authorized representative of  
14 either so long as the privileged information is furnished in  
15 good faith."

16 **Section 22.** Section 33-20-101, MCA, is amended to read:

17 "33-20-101. **Scope.** (1) Except as provided in subsection  
18 (2), parts 1 through 5 of this chapter apply only to  
19 contracts of life insurance and annuities, other than  
20 reinsurance, group life insurance, and group annuities.

21 (2) Section Sections 33-20-114 and 33-20-131 applies  
22 apply to group life insurance and group annuities."

23 **Section 23.** Section 33-20-121, MCA, is amended to read:

24 "33-20-121. **Prohibited provisions -- limitations on**  
25 **liability.** (1) A policy of life insurance may not be

1 delivered or issued for delivery in this state if it  
2 contains a provision:

3 (a) for a period shorter than that provided by statute  
4 within which an action at law or in equity may be commenced  
5 on the policy; or

6 (b) that excludes or restricts liability for death  
7 caused in a certain specified manner or occurring while the  
8 insured has a specified status, except that a policy may  
9 contain provisions excluding or restricting coverage as  
10 specified in the policy in the event of death:

11 (i) as a result, directly or indirectly, of war,  
12 declared or undeclared, or of action by military forces or  
13 of any act or hazard of war or action or of service in the  
14 military, naval, or air forces or in civilian forces  
15 auxiliary thereto or from any cause while a member of  
16 military, naval, or air forces of any country at war,  
17 declared or undeclared, or of any country engaged in  
18 military action;

19 (ii) as a result of aviation or any air travel or  
20 flight;

21 (iii) as a result of a specified hazardous occupation or  
22 occupations;

23 (iv) while the insured is a resident outside the  
24 continental United States and Canada; or

25 (v) within 2 years from the date of issue of the policy

1 as a result of suicide, while seriously mentally ill or  
 2 otherwise. If a life insurance policy contains a dependent  
 3 rider, the dependent coverage may be continued upon payment  
 4 of the premium for the dependent rider.

5 (2) A policy that contains an exclusion or restriction  
 6 pursuant to subsection (1) must also provide that in the  
 7 event of death under the circumstances to which the  
 8 exclusion or restriction is applicable, the insurer will pay  
 9 an amount not less than a reserve determined according to  
 10 the commissioner's reserve valuation method on the basis of  
 11 the mortality table and interest rate specified in the  
 12 policy for the calculation of nonforfeiture benefits (or if  
 13 the policy provides does not provide for ~~no--such~~  
 14 nonforfeiture benefits, computed according to a mortality  
 15 table and interest rate determined by the insurer and  
 16 specified in the policy) ~~with or by any other method more~~  
 17 favorable to the policyholder, with adjustment for  
 18 indebtedness or dividend credit.

19 (3) This section does not apply to industrial life  
 20 insurance, group life insurance, disability insurance,  
 21 reinsurance, or annuities or to a provision in a life  
 22 insurance policy relating to disability benefits or to  
 23 additional benefits in the event of death by accident or  
 24 accidental means.

25 (4) This section does not prohibit a provision that in

1 the opinion of the commissioner is more favorable to the  
 2 policyholder than a provision permitted by this section."

3 **Section 24.** Section 33-20-127, MCA, is amended to read:

4 "**33-20-127.** Life insurance policy with long-term care  
 5 provision or accelerated benefits provision -- policy  
 6 summary required. At the time of policy delivery, a policy  
 7 summary must be delivered to the insured for an individual  
 8 life insurance policy that provides long-term care benefits  
 9 or accelerated benefits within the policy or by rider. In  
 10 the case of direct response solicitations, the insurer shall  
 11 deliver the policy summary upon the applicant's request but  
 12 no later than the time of policy delivery. In addition to  
 13 complying with all applicable requirements, the summary must  
 14 also include:

15 (1) an explanation of how the long-term care benefits  
 16 or accelerated benefits interact with other components of  
 17 the policy, including deductions from death benefits;

18 (2) an illustration of the amount of benefits, the  
 19 length of benefits, and the guaranteed lifetime benefits, if  
 20 any, for each covered person;

21 (3) any exclusions, reductions, and limitations on  
 22 benefits of long-term care benefits and accelerated  
 23 benefits; and

24 (4) if applicable to the policy type:

25 (a) a disclosure of the effects of exercising other

1 rights under the policy;

2 (b) a disclosure of guaranties related to long-term  
3 care costs of insurance charges; and

4 (c) current and projected maximum lifetime benefits."

5 **Section 25.** Section 33-20-603, MCA, is amended to read:

6 "33-20-603. Separate accounts for life insurance or  
7 annuities. (1) Subject to the provisions of subsection (2),  
8 a domestic life insurer may establish one or more separate  
9 accounts and may allocate to such those accounts the amounts  
10 necessary to provide for life insurance or annuities and  
11 benefits incidental thereto to the life insurance or  
12 annuities, payable in fixed or variable amounts, or both.  
13 The amounts allocated to such the accounts may include  
14 without limitation proceeds applied under optional modes of  
15 settlement or under dividend options.

16 (2) Separate accounts for life insurance or annuities  
17 established under the provisions of subsection (1) are  
18 subject to the following:

19 (a) The income, gains, and losses, realized or  
20 unrealized, from assets allocated to a separate account must  
21 be credited to or charged against the account, without  
22 regard to other income, gains, or losses of the insurer.

23 (b) Except as provided for reserves for guaranteed  
24 benefits and funds in subsection (c):

25 (i) amounts allocated to a separate account and

1 accumulations thereon on the separate account may be  
2 invested and reinvested in any class of investment  
3 authorized under Title 33, chapter 2, part 8, if limitations  
4 under 33-2-806 on investments in stocks are not applicable;

5 (ii) the investments in the separate account or accounts  
6 may not be considered in applying the investment limitations  
7 otherwise applicable to the investments of the insurer.

8 (c) Except with the approval of the commissioner and  
9 under conditions relating to investments and other  
10 prescribed matters ~~as--he--prescribes~~ that recognize the  
11 guaranteed nature of the benefits provided, reserves for  
12 benefits guaranteed as to amount and duration and for funds  
13 guaranteed as to principal amount or stated rate of interest  
14 may not be maintained in a separate account.

15 (d) Unless otherwise approved by the commissioner,  
16 assets allocated to a separate account must be valued at  
17 their market value on the date of valuation or, if there is  
18 no readily available market, as provided under the terms of  
19 the contract or the rules or other written agreement  
20 applicable to that separate account; however, unless  
21 otherwise approved by the commissioner, the portion, if any,  
22 of the assets of that separate account equal to the  
23 insurer's reserve liability with regard to the guaranteed  
24 benefits and funds referred to in subsection (c) must be  
25 valued in accordance with the laws and rules otherwise

1 applicable to the insurer's assets.

2 (e) Amounts allocated to a separate account in the  
 3 exercise of the power granted by this part must be owned by  
 4 the insurer, and the insurer may not be or hold itself out  
 5 to be a trustee with respect to those amounts. If and to the  
 6 extent provided under applicable contracts, that portion of  
 7 the assets of a separate account equal to the reserves and  
 8 other contract liabilities with respect to the account are  
 9 not chargeable with liabilities arising out of any other  
 10 business the insurer may conduct.

11 (f) (i) No A sale, exchange, or other transfer of  
 12 assets may not be made by an insurer between any of its  
 13 separate accounts or between any other investment account  
 14 and one or more of its separate accounts unless:

15 (A) in case of a transfer into a separate account, the  
 16 transfer is made solely to establish the account or to  
 17 support the operation of the contracts with respect to the  
 18 separate account to which the transfer is made; or

19 (B) the transfer, whether into or from a separate  
 20 account, is made by a transfer of cash or by a transfer of  
 21 securities having a readily determinable market value and  
 22 the transfer of securities is approved by the commissioner.

23 (ii) The commissioner may approve other transfers among  
 24 these accounts if, in his the commissioner's opinion,  
 25 transfers would not be inequitable.

1 (g) To the extent an insurer considers it necessary to  
 2 comply with any applicable federal or state laws, the  
 3 insurer, with respect to any separate account, including  
 4 without limitation any separate account that is a management  
 5 investment company or a unit investment trust account, may  
 6 provide, for persons having an interest therein in the  
 7 account, appropriate voting and other rights and special  
 8 procedures for the conduct of the business of that account,  
 9 including without limitation special rights and procedures  
 10 relating to investment policy, investment advisory services,  
 11 selection of independent public accountants, and selection  
 12 of a committee, the members of which need not be otherwise  
 13 affiliated with the insurer, to manage the business of that  
 14 account."

15 **Section 26.** Section 33-22-101, MCA, is amended to read:

16 "33-22-101. **Exceptions to scope. Nothing-in-parts** Parts  
 17 1 through 4 of this chapter, except 33-22-107, 33-22-111,  
 18 33-22-114, 33-22-125, 33-22-130, 33-22-131, 33-22-132,  
 19 [section 34], and 33-22-304, shall do not apply to or  
 20 affect:

21 (1) any policy of liability or workers' compensation  
 22 insurance with or without supplementary expense coverage  
 23 therein;

24 (2) any group or blanket policy;

25 (3) life insurance, endowment, or annuity contracts or

1 ~~contracts~~ supplemental contracts that thereto-which contain  
 2 only such those provisions relating to disability insurance  
 3 as:

4 (a) provide additional benefits in case of death or  
 5 dismemberment or loss of sight by accident or accidental  
 6 means; or

7 (b) operate to safeguard such contracts against lapse  
 8 or to give a special surrender value or special benefit or  
 9 an annuity in the event that the insured or annuitant  
 10 becomes totally and permanently disabled, as defined by the  
 11 contract or supplemental contract;

12 (4) reinsurance."

13 **Section 27.** Section 33-22-130, MCA, is amended to read:

14 "33-22-130. Coverage for adopted children from time of  
 15 placement -- preexisting conditions. (1) Each group and  
 16 individual disability policy, certificate of insurance, or  
 17 membership contract that is delivered, issued for delivery,  
 18 renewed, extended, or modified in this state ~~and that~~  
 19 ~~provides coverage for a family member of the insured or~~  
 20 ~~subscriber~~ must provide coverage for an adopted child of the  
 21 insured or subscriber to the same extent as for natural  
 22 children of the insured or subscriber.

23 (2) The coverage required by this section must be  
 24 effective from the date of placement for the purpose of  
 25 adoption and must continue unless the placement is disrupted

1 prior to legal adoption and the child is removed from  
 2 placement. Coverage at the time of placement must include  
 3 the necessary care and treatment of medical conditions  
 4 existing prior to the date of placement.

5 (3) As used in this section, "placement" means  
 6 placement for adoption as defined in 40-8-103."

7 **Section 28.** Section 33-22-131, MCA, is amended to read:

8 "33-22-131. Coverage for phenylketonuria treatment. (1)  
 9 Each group or individual disability policy, certificate of  
 10 insurance, and membership contract that is delivered, issued  
 11 for delivery, renewed, extended, or modified in this state  
 12 ~~and that provides coverage for a family member of the~~  
 13 ~~insured or subscriber~~ must provide coverage for the  
 14 treatment of phenylketonuria.

15 (2) For the ~~purpose~~ purposes of this section,  
 16 "treatment" means licensed professional medical services  
 17 under the supervision of a physician and a dietary formula  
 18 product to achieve and maintain normalized blood levels of  
 19 phenylalanine and adequate nutritional status.

20 (3) These services are subject to the terms of the  
 21 applicable group or individual disability policy,  
 22 certificate, or membership contract that establishes  
 23 durational limits, dollar limits, deductibles, and copayment  
 24 provisions as long as the terms are not less favorable than  
 25 for physical illness generally."

1       **Section 29.** Section 33-22-132, MCA, is amended to read:  
 2       "33-22-132. Coverage for mammography examinations. (1)  
 3 Each group or individual disability policy, certificate of  
 4 insurance, and membership contract that is delivered, issued  
 5 for delivery, renewed, extended, or modified in this state  
 6 ~~and that provides coverage for a family member of the~~  
 7 ~~insured or subscriber~~ must provide minimum mammography  
 8 examination coverage.  
 9       (2) For the purpose of this section, "minimum  
 10 mammography examination" means:  
 11       (a) one baseline mammogram for a woman who is 35 years  
 12 of age or older and under 40 years of age;  
 13       (b) a mammogram every 2 years for any woman who is 40  
 14 years of age or older and under 50 years of age or more  
 15 frequently if recommended by the woman's physician; and  
 16       (c) a mammogram each year for a woman who is 50 years  
 17 of age or older.  
 18       (3) ~~These services are subject to~~ A minimum \$70 payment  
 19 or the actual charge if the charge is less than \$70 must be  
 20 made for each mammography examination performed before the  
 21 application of the terms of the applicable group or  
 22 individual disability policy, certificate of insurance, or  
 23 membership contract that establish durational limits,  
 24 deductibles, and copayment provisions as long as the terms  
 25 are not less favorable than for physical illness generally.

1       ~~A minimum \$70 payment must be made for each mammography~~  
 2 ~~examination performed."~~  
 3       **Section 30.** Section 33-22-201, MCA, is amended to read:  
 4       "33-22-201. Format and content. No A policy of  
 5 disability insurance ~~shall~~ may not be delivered or issued  
 6 for delivery to any person in this state unless it otherwise  
 7 complies with this code and complies with the following:  
 8       (1) The entire money and other considerations ~~therefor~~  
 9 for the policy shall must be expressed therein in the  
 10 policy.  
 11       (2) The time when the insurance takes effect and  
 12 terminates ~~shall~~ must be expressed therein in the policy.  
 13       (3) ~~It shall purport to~~ The policy may insure only one  
 14 person, except that a policy may insure, originally or by  
 15 subsequent amendment, upon the application of an adult  
 16 member of a family who ~~shall be deemed is~~ the policyholder,  
 17 any two or more eligible members of that family, including  
 18 husband, wife, dependent children or any children under a  
 19 specified age ~~which shall that may~~ not exceed 19 years, and  
 20 any other person dependent upon the policyholder.  
 21       (4) The style, arrangement, and overall appearance of  
 22 the policy ~~shall~~ may not give no undue prominence to any  
 23 portion of the text, and every printed portion of the text  
 24 of the policy and of any endorsements or attached papers  
 25 ~~shall~~ must be plainly printed in lightfaced type of a style

1 in general use, the size of which ~~shall~~ must be uniform and  
 2 not less than 10 point with a lowercase, unspaced alphabet  
 3 length not less than 120 point.

4 (5) The "text" ~~shall~~ must include all printed matter  
 5 except the name and address of the insurer, name or title of  
 6 the policy, the brief description, if any, and captions and  
 7 subcaptions.

8 (6) The exceptions and reductions of indemnity ~~shall~~  
 9 must be set forth in the policy and, other than those  
 10 contained in 33-22-204 through 33-22-215 and 33-22-217  
 11 through 33-22-231, ~~shall~~ must be printed, at the insurer's  
 12 option, either included with the benefit provision to which  
 13 they apply or under an appropriate caption such as  
 14 "Exceptions" or "Exceptions and Reductions", except that if  
 15 an exception or reduction specifically applies only to a  
 16 particular benefit of the policy, a statement of ~~such~~ the  
 17 exception or reduction ~~shall~~ must be included with the  
 18 benefit provision to which it applies.

19 (7) Each ~~such~~ form, including riders and endorsements,  
 20 ~~shall~~ must be identified by a form number in the lower  
 21 left-hand corner of the first page thereof of the form.

22 (8) The policy ~~shall~~ may not contain ~~no~~ a provision  
 23 purporting to make any portion of the charter, rules,  
 24 constitution, or bylaws of the insurer a part of the policy  
 25 unless ~~such~~ the portion is set forth in full in the policy,

1 except in the case of the incorporation of or reference to a  
 2 statement of rates or classification of risks or short-rate  
 3 table filed with the commissioner.

4 (9) Each individual disability policy, except for a  
 5 single-premium nonrenewable policy, issued for delivery in  
 6 this state on or after January 1, 1980, ~~shall~~ must contain a  
 7 notice stating in substance that if the person to whom the  
 8 policy is issued is not satisfied for any reason, ~~he~~ the  
 9 person is permitted to return the policy within 10 days of  
 10 its delivery, or ~~such~~ a longer period as the policy may  
 11 provide, and to have refunded the amount of the premium  
 12 paid. A policy returned pursuant to this subsection is void  
 13 from the beginning."

14 **Section 31.** Section 33-22-202, MCA, is amended to read:

15 "33-22-202. Required provisions -- captions --  
 16 omissions -- substitutions -- order. (1) Except as provided  
 17 in subsection (2) below, each ~~such~~ policy delivered or  
 18 issued for delivery to any person in this state must contain  
 19 the provisions specified in 33-22-204 through 33-22-215, in  
 20 the words in which the ~~same~~ provisions appear, except that  
 21 the insurer may, at its option, substitute for one or more  
 22 of ~~such~~ the provisions corresponding provisions of different  
 23 wording approved by the commissioner which are in each  
 24 instance not less favorable in any respect to the insured or  
 25 the beneficiary. Each ~~such~~ provision must be preceded



1 individually by the applicable caption shown or, at the  
 2 option of the insurer, by such the appropriate individual or  
 3 group captions or subcaptions as the commissioner may  
 4 approve.

5 (2) If any such provision is in whole or in part  
 6 inapplicable to or inconsistent with the coverage provided  
 7 by a particular form of policy, the insurer, with the  
 8 approval of the commissioner, shall omit from such the  
 9 policy any inapplicable provision or part of a provision and  
 10 shall modify any inconsistent provision or part of a  
 11 provision in such a manner as to make the provision as  
 12 contained in the policy consistent with the coverage  
 13 provided by the policy.

14 (3) The provisions which that are the subject of  
 15 33-22-204 through 33-22-215 and 33-22-217 through 33-22-232  
 16 or any corresponding provisions which are used ~~in--it~~  
 17 thereof in accordance with such the cited sections ~~shall~~  
 18 must be printed in the consecutive order of the provisions  
 19 in such the sections or, at the option of the insurer, any  
 20 such provision may appear as a unit in any part of the  
 21 policy with other provisions to which it may be logically  
 22 related, provided that the resulting policy ~~shall~~ is not be  
 23 in whole or in part unintelligible, uncertain, ambiguous,  
 24 abstruse, or likely to mislead a person to whom the policy  
 25 is offered, delivered, or issued."

1 **Section 32.** Section 33-22-1703, MCA, is amended to  
 2 read:

3 "33-22-1703. Definitions. As used in this part, the  
 4 following definitions apply:

5 (1) "Emergency services" means services provided after  
 6 suffering an accidental bodily injury or the sudden onset of  
 7 a medical condition manifesting itself by acute symptoms of  
 8 sufficient severity (including severe pain) that without  
 9 immediate medical attention the subscriber or insured could  
 10 reasonably expect that:

11 (a) his the subscriber's or insured's health would be  
 12 in serious jeopardy;

13 (b) his the subscriber's or insured's bodily functions  
 14 would be seriously impaired; or

15 (c) a bodily organ or part would be seriously damaged.

16 (2) "Health benefit plan" means the health insurance  
 17 policy or subscriber arrangement between the insured or  
 18 subscriber and the health care insurer that defines the  
 19 covered services and benefit levels available.

20 (3) "Health care insurer" means:

21 (a) an insurer that provides disability insurance as  
 22 defined in 33-1-207;

23 (b) a health service corporation as defined in  
 24 33-30-101;

25 (c) a health maintenance organization as defined in

1 33-31-102;

2 (d) a fraternal benefit society as described in  
3 33-7-105; or

4 (e) ~~an administrator as defined in 33-17-1027 or~~  
5 ~~{f}~~ any other entity regulated by the commissioner that  
6 provides health coverage.

7 (4) "Health care services" means health care services  
8 or products rendered or sold by a provider within the scope  
9 of the provider's license or legal authorization or services  
10 provided under Title 33, chapter 22, part 7.

11 (5) "Insured" means an individual entitled to  
12 reimbursement for expenses of health care services under a  
13 policy or subscriber contract issued or administered by an  
14 insurer.

15 (6) "Preferred provider" means a provider or group of  
16 providers who have contracted to provide specified health  
17 care services.

18 (7) "Preferred provider agreement" means a contract  
19 between or on behalf of a health care insurer and a  
20 preferred provider.

21 (8) "Provider" means an individual or entity licensed  
22 or legally authorized to provide health care services or  
23 services covered within Title 33, chapter 22, part 7.

24 (9) "Subscriber" means a certificate holder or other  
25 person on whose behalf the health care insurer is providing

1 or paying for health care coverage."

2 **Section 33.** Section 80-2-203, MCA, is amended to read:

3 **"80-2-203. Participation in program -- tax.** (1) **Any**  
4 **taxpayers** A taxpayer or associations an association of  
5 taxpayers engaged in the growing of crops other than  
6 specified herein in this part or other agricultural or  
7 horticultural products subject to injury or destruction by  
8 hail may, by ~~their~~ individual or joint election filed with  
9 and approved by the board of hail insurance, accept the  
10 provisions of this part and elect to become subject ~~thereto~~  
11 to this part, ~~and in such event such~~ The risks may be  
12 classified by the board and suitable levies may be imposed  
13 as ~~may be~~ agreed upon by the board and ~~such the~~ taxpayers,  
14 ~~whereupon such~~ The taxpayers ~~shall be~~ are entitled to the  
15 benefits and protection afforded by the insurance provisions  
16 of this part.

17 (2) Every farmer taxpayer who signifies his a desire to  
18 become subject to the provisions of this part shall file in  
19 the office of the county assessor the properly filled out  
20 form not later than August 15 and ~~shall be~~ is chargeable  
21 with the tax ~~hereinafter~~ provided for on lands growing crops  
22 subject to injury or destruction by hail and shall share in  
23 the protection and benefits under the hail insurance  
24 provisions of this part. ~~Such~~ The application for hail  
25 insurance ~~shall be~~ is in full force and effect at noon 12:01

1 a.m. the day immediately following the acceptance of the  
 2 same application by the county assessor.

3 (3) This part ~~shall~~ may not be so construed as to  
 4 empower anyone except the actual owner of the land to make  
 5 such the land subject to the hail tax provided in this  
 6 part."

7 NEW SECTION. Section 34. Preexisting conditions. (1) A  
 8 policy or certificate of disability insurance may not  
 9 exclude coverage for a condition for which medical advice or  
 10 treatment was recommended by or received from a provider of  
 11 health care services unless the condition occurred within 5  
 12 years preceding the effective date of coverage of an insured  
 13 person. The condition may only be excluded for a maximum of  
 14 12 months.

15 (2) An insurer may use an application form designed to  
 16 elicit the complete health history of an applicant and, on  
 17 the basis of the answers on that application, perform  
 18 underwriting in accordance with the insurer's established  
 19 underwriting standards.

20 SECTION 35. SECTION 15-16-601, MCA, IS AMENDED TO READ:

21 "15-16-601. Taxes or penalties illegally collected or  
 22 duplicate taxes to be refunded. (1) (a) A taxpayer is  
 23 entitled to a refund on:

24 (i) taxes, interest, penalties, or costs paid more than  
 25 once or erroneously or illegally collected if an appeal

1 pursuant to 15-1-402 was not available;

2 (ii) the taxes paid for which a refund is allowed under  
 3 15-16-612 or 15-16-613; or

4 (iii) the portion of taxes paid that were mistakenly  
 5 computed on government bonus or subsidy received by the  
 6 taxpayer.

7 (b) Subject to the provisions in subsections (4) and  
 8 (5), the county treasurer may, by order of the board of  
 9 county commissioners, pay the refund to the taxpayer.

10 (2) (a) The refund applies to any payment that has been  
 11 made to the state treasurer as provided in 15-1-504 if the  
 12 board of county commissioners determines that a portion of  
 13 the money paid should be refunded as provided in this  
 14 section.

15 (b) The board of county commissioners may order the  
 16 county treasurer to refund to the taxpayer the portion of  
 17 the taxes, interest, penalties, and costs paid to the state  
 18 treasurer.

19 ~~(c) The county clerk and recorder shall, at the time~~  
 20 ~~for filing the report required by 15-1-505, certify to the~~  
 21 ~~state auditor, in the form as the state auditor may~~  
 22 ~~prescribe, the amounts refunded, in the next settlement of~~  
 23 ~~the county treasurer with the state, the state auditor shall~~  
 24 ~~give the county treasurer credit for the state's portion of~~  
 25 ~~the amounts refunded.~~

1 (3) When a part of the taxes, interest, penalties, or  
 2 costs referred to in this section were levied in behalf of a  
 3 school district or municipal or other public corporation and  
 4 collected by the county treasurer, the taxes must be  
 5 refunded upon the order of the board of county  
 6 commissioners.

7 (4) (a) An order for the refund of any taxes, interest,  
 8 penalties, or costs under this section may not be made  
 9 except upon a claim filed by the taxpayer who has paid the  
 10 taxes, interest, penalties, or costs or his guardian or, in  
 11 case of his death, by his executor or administrator.

12 (b) A taxpayer may file a claim for taxes, interest,  
 13 penalties, or costs paid during the immediately preceding 10  
 14 years after the date when the second half of the taxes would  
 15 have become delinquent if the taxes had not been paid.

16 (c) Except as provided in subsections (6) and (7), if a  
 17 refund pursuant to subsection (1) is ordered, the board of  
 18 county commissioners shall order a refund for taxes  
 19 illegally collected or for any duplicate taxes paid during  
 20 the immediately preceding 10 years regardless of when the  
 21 taxes were first illegally collected or when the duplicate  
 22 taxes were first paid.

23 (5) (a) In the order to refund taxes as provided in  
 24 subsection (4)(c), the board of county commissioners shall  
 25 determine the method of repayment. The board may:

1 (i) refund the entire amount due the taxpayer within 60  
 2 days after the date of the order; or

3 (ii) refund the amount due the taxpayer in annual  
 4 installments, for a period not to exceed 10 years.

5 (b) If the refund is made in annual installments as  
 6 provided in subsection (5)(a)(ii), the taxpayer is entitled  
 7 to interest on the unpaid balance at the greatest interest  
 8 rate in effect on October 1 of each year of the installment  
 9 period received on public money invested by the county as  
 10 provided in Title 7, chapter 6, part 2; Title 7, chapter 6,  
 11 part 27; or 17-6-204.

12 (c) In satisfying the requirements of subsection  
 13 (5)(a)(ii), the first annual installment must be paid within  
 14 60 days after the date of the order by the board of county  
 15 commissioners. Subsequent annual installments must be paid  
 16 on the first business day following October 1 of the year  
 17 the installment is due.

18 (d) The treasurer shall bill and the taxing  
 19 jurisdiction shall refund to the treasurer that portion of  
 20 the annual installment of the taxpayer refund and costs for  
 21 which the taxing jurisdiction is proratably responsible.

22 (6) The board of county commissioners shall refund any  
 23 tax, penalty, or interest collected as a result of an error  
 24 in the description or location of real property or  
 25 improvements or for any duplicate taxes paid as determined

1 by the department of revenue. The refund is subject to the  
2 provisions of subsections (4) and (5).

3 (7) The board of county commissioners shall refund any  
4 net or gross proceeds tax, penalty, or interest when the  
5 department of revenue notifies the board that an overpayment  
6 occurred. The department shall determine the amount of  
7 overpayment. The refund is subject to the provisions of  
8 subsections (4) and (5), but no refund may be granted for  
9 any taxes paid more than 5 years prior to the date the claim  
10 was received.

11 (8) All refunds ordered to be paid by the board of  
12 county commissioners must be paid by the county treasurer  
13 out of the general fund of the county, and the county  
14 treasurer shall then make transfers from other county funds  
15 and from state, school district, and other public  
16 corporation funds in his possession as may be necessary to  
17 reimburse the county general fund for payments made from the  
18 fund.

19 (9) Upon the entering of judgment under 15-2-306, the  
20 county commissioners of the affected county shall order a  
21 refund of the portion of the taxes that the state tax appeal  
22 board has judged should be refunded."

23 NEW SECTION. Section 36. Repealer. Sections 15-1-505,  
24 33-17-206, and 33-22-216, MCA, are repealed.

25 NEW SECTION. Section 37. Codification instruction.

1 [Section 34] is intended to be codified as an integral part  
2 of Title 33, chapter 22, part 1, and the provisions of Title  
3 33, chapter 22, part 1, apply to [section 34].

4 NEW SECTION. Section 38. Effective date. [Section 33  
5 and this section] are effective on passage and approval.

-End-