

## 1 SENATE BILL NO. 74

2 INTRODUCED BY SHEA

3 BY REQUEST OF THE STATE AUDITOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING AN INSURER FROM REQUIRING ITS CUSTOMER  
6 TO OWN OR PURCHASE INSURANCE PRODUCTS OFFERED BY THE INSURER IN ORDER TO PURCHASE  
7 ANY OTHER INSURANCE PRODUCT OFFERED BY THAT INSURER; AND AMENDING SECTION 33-18-210,  
8 MCA."

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

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12 Section 1. Section 33-18-210, MCA, is amended to read:

13 "33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety  
14 insurances. (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance  
15 producer of an insurer may not, as an inducement to purchase insurance or after insurance has been  
16 effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

17 (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

18 (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

19 (c) valuable consideration or inducement not specified in the policy, except to the extent provided

20 for in an applicable filing with the commissioner as provided by law.

21 (2) An insured named in a policy or an employee of the insured may not knowingly receive or  
22 accept, directly or indirectly, a:

23 (a) rebate, discount, abatement, credit, or reduction of premium;

24 (b) special favor or advantage; or

25 (c) valuable consideration or inducement.

26 (3) An insurer may not make or permit unfair discrimination in the premium or rates charged for  
27 insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and  
28 conditions of the insurance either between insureds or property having like insuring or risk characteristics  
29 or between insureds because of race, color, creed, religion, or national origin.

30 (4) This section may not be construed as prohibiting the payment of commissions or other

1 compensation to duly licensed insurance producers or as prohibiting an insurer from allowing or returning  
2 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or  
3 subscribers.

4 (5) An insurer may not make or permit unfair discrimination between individuals or risks of the  
5 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
6 limiting the amount of insurance coverage on a property or casualty risk because of the geographic location  
7 of the risk, unless:

8 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
9 unfair discrimination; or

10 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

11 (6) An insurer may not make or permit unfair discrimination between individuals or risks of the  
12 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
13 limiting the amount of insurance coverage on a residential property risk or on the personal property  
14 contained in the residential property, because of the age of the residential property, unless:

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

17 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

18 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of  
19 coverage available to an individual because of the sex or marital status of the individual. However, an  
20 insurer may take marital status into account for the purpose of defining persons eligible for dependents'  
21 benefits.

22 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a  
23 property or casualty policy or contract of insurance solely because the applicant or insured or any employee  
24 of either is mentally or physically impaired. However, this subsection does not apply to accident and health  
25 insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other  
26 provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or  
27 contract.

28 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
29 the amount of coverage available to an individual based solely on adverse information contained in a driving  
30 record that is 3 years old or older. However, an insurer may provide discounts to an insured based on

1 favorable aspects of an insured's claims history that is 3 years old or older.

2 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
3 because of a claim submitted under the insured's policy if the insured was not at fault.

4 (11) (a) For the purposes of this subsection (11), "credit history" means that portion of a credit  
5 report or background report that addresses the applicant's or insured's debt payment history or lack of  
6 history but does not include public information including convictions, lawsuits, bankruptcies, or similar  
7 public information.

8 (b) An insurer writing automobile or homeowner insurance may not refuse to insure, refuse to  
9 continue to insure, charge higher rates, or limit the scope or amount of coverage or benefits available to  
10 an individual based solely on the insurer's knowledge of the individual's credit history unless:

11 (i) the insurer possesses substantial documentation that the credit history is significantly correlated  
12 with the types of risks insured or to be insured;

13 (ii) the insurer sends written communication to the individual disclosing that the insurance coverage  
14 was declined, not renewed, or limited in scope or amount of coverage or benefits because of credit  
15 information relating to the applicant or the insured; and

16 (iii) upon subsequent request of the individual, mailed within 10 days of receipt of the denial,  
17 nonrenewal, or limitation, the insurer provides the individual within 10 days of receipt of the request with  
18 a copy of the credit report at issue or the name and address of a third party from whom the individual may  
19 obtain a copy of the credit report, ~~within 10 days of receipt of the request.~~

20 (c) The provisions of this subsection (11) are not intended to conflict with any disclosure provisions  
21 of state law or the federal Truth in Lending Act applicable to lending institutions, credit bureaus, or other  
22 credit service organizations that maintain or distribute credit histories on insurance applicants or  
23 policyholders.

24 (12) An insurer may not make or permit unfair discrimination between risks of the same class and  
25 of essentially the same hazards by refusing to issue, refusing to renew, or cancelling a contract of insurance  
26 or by limiting the amount of coverage in a contract of insurance because the insured cancels, does not  
27 renew, or refuses to purchase another contract of insurance from that insurer."

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