EXHIBIT 4
DATE 2·16·05
HB HB 631

INFORMATION IN REGARD TO HB-631

What is Surplus Lines Insurance

The surplus lines insurance market is the segment of the insurance industry where the more difficult or unusual risks are written. Because surplus lines insureds tend to be more unusual or higher risk, much of the surplus lines market is characterized by a high degree of specialization. Insurers participating in this market have specialized expertise and experience in underwriting and rating insurance for a wide range of risks. Only licensed surplus lines producers can place insurance with surplus lines insurers (unauthorized insurer) for Montana insureds. A producer must meet legal requirements to place a surplus lines policy with as surplus lines company. A surplus lines producer can be either a resident or nonresident.

The surplus lines insurance market focuses on two types of products: unusual or difficult insurance and higher risk accounts. An example of an unusual or difficult product is professional liability, and an example of a higher risk account would be a manufacturer of explosives. The professional liability line is included in the specialty lines market because the underwriting, rating and claims functions require a high degree of expertise and experience. The explosives manufacturer would be included because of the unique products liability exposures presented.

Surplus Lines Insurance because of its specialty nature is not required to file its rates and forms to allow it to develop coverage and rates for each unique and special risk. Surplus Lines Insurers are not licensed to do business in Montana, they are approved by the Insurance Department to conduct business in Montana. One of the reasons they are not licensed to do business in Montana is because they do not participate in the Property and Casualty Insurance Guarantee Association. Because consumers do not have the protection of this Guarantee Association if the Surplus Lines Company becomes insolvent, access is restricted through regulation in the insurance codes. Surplus lines insurance is regulated specifically in Montana Title 33, Chapter 2, Part 3.

Why House Bill 631

The restrictions in Montana Insurance Code are very well intended to protect Montana insurance consumers from the risk of an insolvent surplus lines insurer. However, these strict restrictions have prevented access to very financially stable markets, sometimes even more stable than those authorized insurers. Under surplus lines law access to the largest insurer in the world, Lloyd 's of London, which writes large amounts of surplus lines business, has often been denied.

Over the years some consumers have been very frustrated by being denied access to the surplus lines market. While shopping for insurance coverage some consumers have received quotes from surplus lines companies and authorized or admitted companies. When insurance producers realize that it is available in the authorized market the consumer must be told that Montana law prohibits writing the insurance coverage in the surplus lines market when the coverage is available in the authorized (standard) market.

Complaints are received by insurance producers and the Department of Insurance from consumers with the coverage often equal to or better in the surplus lines market and sometimes, significantly less expensive. We have seen quotes on large accounts that have been for equal or better coverage in financially sound markets for as much as six figures less than quoted in the authorized market. To this point the consumers have been denied access at all to the surplus lines market because of 33-2-302. We have had consumers tell us that they may go out of business if forced to accept a very high quote from an admitted carrier. Producers and the Insurance Department regularly receive these calls and occasionally from a very angry consumer.

This bill is loosely drafted from Colorado language that allows consumers with additional information to make the choice on whether to purchase coverage through the surplus lines market. Producers have worked with the Montana Insurance Department to draft this bill to allow a consumer that receives a quote in a financially "A" rated or better company and upon receiving additional information about the lack of protection in the guarantee fund. This would allow the consumer to make the decision from a basis of knowledge. Only policies of significant premium can qualify with the minimum of at least 10% and $1,500 savings for the consumer's access option. This will insure that the surplus lines laws will not be taken advantage of for small policies.

Again, this language has been carefully negotiated with the Montana Insurance Department and the additional information to be provided to consumers will be drafted and approved by the Insurance Commissioner. This bill has been requested by consumers and producers for a long time and the Insurance Department has encouraged drafting language for their review. (This encouragement has resulted in this bill.)

This bill provides protection and choice to Montana insurance consumers. We appreciate your consideration and support for this legislation.

Respectfully submitted by:
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