Montana State Legislature

Exhibit Number: 7

The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.

Montana Historical Society Archives, 225 N. Roberts, Helena, MT 59620-1201; phone (406) 444-4774. For minutes in paper format, please contact the Montana State Law Library, Justice Building, 215 N. Sanders, Helena, MT 59620; (406) 444-3660. Tapes and exhibits are also available at the Historical Society (tapes are retained for five years). Scanning done by: Susie Hamilton

MONTANA STATE AUDITOR

JOHN MORRISON
STATE AUDITOR

COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

BUSINESS & LABOR
EXHIBIT NO. 7
DATE 3/11/05
BILL NO. HB 537

Memorandum of Support for HB 537

To: Members of the Senate Business, Labor and Economic Affairs Committee
From: Montana State Auditor John Morrison
Date: March 11, 2005
Re: Support of HB 537 – Prohibit adverse use of inquiries regarding insurance coverage

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The Montana State Auditor's Office supports HB 537, carried by Representative Dave Wanzenried.

Imagine calling your insurance carrier to inquire about whether your homeowner's insurance policy provided coverage for a certain event only to find out that inquiry was considered as if an actual loss had been incurred. Further, consider if you were involved in an accident, and since the loss was less than your deductible, you do not file a claim for a loss: you simply report the accident as required by the policy, but the incident is still counted as a loss. These "claims" or "losses" may be considered when a carrier reviews the policy at renewal time. Insurers generally consider the number of "claims" or "losses" reported in a period of time to determine whether the risk is acceptable.

Insurance companies report "claims" or "losses" to consumer reporting agencies, which enter this data into a database known as CLUE (Comprehensive Loss Underwriting Exchange). The database, developed by ChoicePoint, is used to create claim/loss history reports on individuals and properties. These reports provide insurers access to prior claim/loss information for use in the underwriting and rating process. CLUE reports contain up to five years of personal property claim/loss information. The problem is that insurers report to CLUE, not only claims as they are finalized, but also customer service calls to the insurer.

This insurance practice has led to widespread problems for Montanans. Many consumers have higher insurance premiums and more restrictive underwriting policies. Four insurers responded to our survey on homeowner's insurance non-renewals. These responses indicate an estimated 117 policies were non-renewed due to claim number or frequency. Further some consumers have been unable to close on real estate transactions due to the prior owners CLUE report. Finally, many Montanans have found their CLUE reports to have inaccurate information, and have encountered many difficulties trying to correct the errors.

Phone: 1-800-332-6148 / (406) 444-2040 / Fax: (406) 444-3497
840 Helena Avenue Helena, MT 59601 Website: www.discoveringmontana.com/sao E-Mail: stateauditor@state.mt.us

Many states have realized the adverse affects the current practice has on its insurance consumers. To date Arizona, Arkansas, California, and North Carolina have enacted legislation similar to HB 537. Several other states currently have legislation pending on this issue.

HB 537, which covers property and casualty insurance, would prohibit insurers from counting inquiries and service calls to the insurer as a "claim" or "loss" and reporting them to the CLUE database. Further these inquiries cannot be used against the insured for nonrenewal or premium rate increases. HB 537 was amended in the House Business and Labor Committee with cooperation between our office and the insurance industry. HB 537 passed the House unanimously 100-0.

Montana policyholders should receive the service they deserve without having to face being penalized for merely inquiring into their insurance coverage or requesting information.

We urge your support for HB 537.

Hermanson, Gene

From: Geraldine Milner [skjr1965@yahoo.com]
Sent: Friday, February 04, 2005 1:52 PM
To: Hermanson, Gene
Subject: Re: Insurance bills

House Business & Labor Committee:

Re: cancelation of homeowners insurance

To Whom It May Concern:

The following is an account of what has happened to us in regards to loss of homeowner's insurance:

Initially, in the first part of 2003, our bathroom sink overflowed and spilled out into the bathroom and carpeted hallway. We were able to clean it up with a wet-vac and fans. We realized that there was no extensive damage and that we had sufficiently cleaned up the mess; however, in reviewing our insurance policy, it stated that we should notify them of ANY occurrance. So we simply called them to let them know what happened. Then they sent an adjustor out to inspect the area. Please note that we did not ask for an adjustor to come out, the insurance company just sent one. He discovered that there was no damage. Then he charged the insurance company $500.00 for his services. The insurance company then considered this a claim. Several months later, a pipe to the water softener burst, flooding our entire basement. We had "Buffalo Restoration", an outside clean-up company, come in and clean up & repair the damage. All together, the damage came to $6462.70. The insurance company paid the bill and then notified us that our policy was being canceled. We had no idea they would or even could cancel us because of prior claim history. The first claim shouldn't have even been a claim in the first place. We were trying to take all the right steps according to our insurance policy.

Now, we are without homeowner's insurance and cannot get any for 3 years, if then. No one should have to live in fear of damage to your home with no insurance. Thank you for your consideration in this very important matter.

Sincerely,

Wesley L. Milner

"Hermanson, Gene" <GHermanson@mt.gov> wrote:

> Wesley, i have attached information on both bills (the CLUE bill, and the FAIR plan bill). Your story fits with both bills, so you might speak about each in your letter. If you need any other information, let me know. Thanks for your help on this.
>
> <<Fairplanfactsheet_.doc>> <<cluefactsheet.doc>>
> Gene Hermanson
> Montana State Auditor's Office
> 406-444-5789

To: House Business and Labor Committee
From: Burke D. Allen Jr., Helena, Mt.
Re: HB 537

I am writing this memo in support of House Bill 537.

Last year we were denied coverage by our homeowners insurance group due to excess claims being filed over a 5-year period. Because of this coverage denial we were placed in a high-risk category when trying to attain coverage. Our homeowners insurance bill has gone from about $500.00 per year to over $1500.00 per year for a policy that actually covers very little with a $1000.00 deductible. Also, because of the insurance companies action, should we decide to sell our home any potential buyer would find it very hard to find reasonable coverage for the home, as required by law.

The excess claims that were filed included the following:

1) An inquiry as to whether the nail polish spill in our daughters bedroom would be covered by our insurance. We paid for the damage repair out of our own pocket and did not file a claim.

2) A hail damage claim, which was paid upon.

3) Another inquiry into policy coverage because of a possible theft from a vehicle in the driveway. No further action was taken.

4) The most recent incident involved coming home from a vacation and finding that the ice maker line to our refrigerator had sprung a leak and considerable damage had been done to the kitchen. We filed a claim with Allied. Two days later we returned to find that the damaged had continued due to inadequate temporary repair to the line. We called the insurance company and told them that there was further damage. They treated the second call as a second claim and charged us another deductible even though in all actuality the damage was a continuation of the first claim.

It is highly unfair that we be placed in a high-risk category simply because we made inquires as to coverage and did not file claims nor did the insurance company incur any payouts. It is also unfair that the last incident was treated as two claims when it was all one big mess. This will cost our family thousands of dollars over the next 5 years in increased premiums. Additionally if we file any more claims in those 5 years we risk being denied coverage even by the high risk company. Without homeowners coverage we are in violation of our mortgage agreement and risk losing our home.

Insurance companies are out of control and need to be accountable for their practices. The long term effect and harm done to families such as ours affects all Montanans. Please pass this bill.

Hermanson, Gene

From: Burke D. Allen [bdallen_1@msn.com]
Sent: Thursday, February 17, 2005 9:01 AM
To: Hermanson, Gene
Subject: HB 537 support letter

Find attached a support letter for HB 537. Good Luck!

Hermanson, Gene

From: [redacted]
Sent: Wednesday, March 09, 2005 8:37 AM
To: Hermanson, Gene
Subject: House Bill 537-

Dear Gene: My only request from you is to not publish my email address. The letter below I hope will be helpful to othere Montanans and I hope the
State legislature will pass House Bill 537. Karlene Khor

Dear Senate Business and Labor Committee Members:

My names is Karlene Khor and I live in Kalispell, Flathead County, Montana.

I experienced over a six month period a most devastating and costly situation with my home owners insurance prompted by an inaccurate Clue Report.

I required the assistance of the State Auditor's Office in order to attempt to have accuracy reflected on my Clue Report. They spent hours of
my time and theirs in attempts to rectify items on my clue report made by
my home owners insurance company. The hours moved into weeks and finally
after more than six months worth of their efforts some kind of resolution.

An accurate Clue Report should be as important to all of us as our national credit reports. There is a process to request corrections and file disputes and limit unnecessary information and inaccurate information
on our national credit reports which I as a citizen can follow to resolve
a problem. Certainly, if our state had legislation in place, which it does
not, I could have done the same with my Clue Report.

If our state had legislation, in place, like House Bill 537, the State Auditor's Office could have been more responsive and move more quickly to
solve my clue report problems for me.

Correct information and availability of information to the citizens of Montana is always important. Please consider how important accurate information is to all of us in our lives. This was a lengthy and unnecessarily costly experience for me and I hope no other citizen will have to be placed in similar position.

Thank you,

Karlene Khor

Exert from:

Rubner, Justin. "Not the first time for ChoicePoint: Company has faced at least 11 lawsuits." *Atlanta Business Chronicle.* 27 Feb 2005. <http://msnbc.msn.com/id/7044301>.

Your insurance info for sale

The insurance industry is, by far, ChoicePoint's biggest customer.

In 2003, the U.S. District Court in Louisville, Ky., ordered ChoicePoint to pay single mom Mary L. Boris $447,000 after the company allegedly sold false information about her to insurance carriers. According to the lawsuit, information in ChoicePoint's Comprehensive Loss Underwriting Exchange -- or CLUE -- report said she made four fire claims and an extended loss claim over a short period of time, when in fact she didn't. The resulting error, according to the plaintiff, caused home insurers not to cover her.

Possibly the more egregious claims, however, are that ChoicePoint failed to fix the error following her frustrated pleas and that the company blamed all the defective data on the insurance companies.

In the ruling, the court slammed ChoicePoint.

"ChoicePoint's witnesses made particularly negative impressions upon the jury," Judge John Heyburn II wrote. "They repeatedly denied making any mistakes and instead seemed to blame all defective data on others. Furthermore, ChoicePoint employees appeared slow to recognize problems even once they were put on notice and disclaimed all responsibility ... Most notable, they seemed annoyed at even having to appear at trial."

The judge went on: "ChoicePoint never really explained the computer glitches which apparently caused this problem. To this day, the court is still unclear what procedures, if any, ChoicePoint uses to (e)nsure the accuracy of its mass-circulated reports."

In another Kentucky insurance case, Robert and Barbara Burkhead sued ChoicePoint in April 2004, claiming the company has sold auto insurers false information about them. According to the suit, the Burkheads were plagued with high insurance premiums based on the CLUE report. The problem was that CLUE put another person's identity into the report -- someone who was involved with a number of accidents -- according to the suit. The plaintiff says the matter, which came to light in 1998, still had not been cleared by 2004, despite numerous requests to ChoicePoint. The case still is pending.