

## 1 HOUSE BILL NO. 507

2 INTRODUCED BY M. REINHART

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE COMMISSIONER OF INSURANCE TO PERFORM  
5 OR HAVE PERFORMED EXAMINATIONS OF THE AFFAIRS, TRANSACTIONS, ACCOUNTS, AND ASSETS  
6 OF THE STATE FUND AND TO CONDUCT OR HAVE CONDUCTED IN-DEPTH FINANCIAL EXAMINATIONS  
7 OF THE STATE FUND EVERY 5 YEARS; ESTABLISHING GUIDELINES FOR CONDUCTING THE IN-DEPTH  
8 FINANCIAL EXAMINATIONS; ELIMINATING THE REQUIREMENT THAT THE LEGISLATIVE AUDITOR  
9 ANNUALLY CONDUCT A FINANCIAL AND COMPLIANCE AUDIT OF THE STATE FUND; AMENDING  
10 SECTION 33-1-401, MCA; REPEALING SECTION 39-71-2361, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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14 NEW SECTION. **Section 1. Examination of state fund.** (1) (a) The commissioner shall examine the  
15 affairs, transactions, accounts, records, and assets of the plan No. 3 insurer under Title 39, chapter 71, part 23,  
16 also referred to as the state fund, as often as the commissioner considers advisable. The commissioner shall  
17 examine the state fund not less frequently than every 5 years. The examination must include but is not limited  
18 to a review of the state fund's action with regard to sales, advertising, rates, surplus, and handling of claims.

19 (b) For the purposes of completing an examination of the state fund under this subsection (1), the  
20 commissioner may examine or investigate any person or the business of any person, insofar as the examination  
21 or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the state  
22 fund.

23 (c) The examination must be conducted as provided in 33-1-408, 33-1-410, and 33-1-413.

24 (d) The commissioner shall report the findings of any examination under this subsection (1) to the  
25 governor, the legislature, and the board of directors of the state fund.

26 (2) (a) The state fund shall maintain a complete record of all complaints it receives from the date of its  
27 last examination pursuant to subsection (1). The record must include the total number of complaints, the nature  
28 of each complaint, the disposition of each complaint, and the time expended in processing each complaint.

29 (b) For the purposes of this subsection (2), "complaint" means any written communication primarily  
30 expressing a grievance.

1 (3) (a) In addition to any examination conducted pursuant to subsection (1), the commissioner shall  
2 conduct or have conducted an in-depth financial examination of the state fund every 5 years beginning July 1,  
3 2009.

4 (b) In conducting the financial examination, the examiner shall observe the guidelines and procedures  
5 set forth in the examiners handbook adopted by the national association of insurance commissioners and any  
6 other guidelines or procedures that the commissioner considers appropriate.

7 (c) The goals of the financial examination must include but are not limited to:

8 (i) identifying whether the state fund is experiencing current or may experience future financial problems;

9 (ii) defining and evaluating areas of performance that are negatively affecting results or may negatively  
10 affect results;

11 (iii) verifying the accuracy of reported economic data; and

12 (iv) protecting the interests of employers insured by the state fund, employees of employers insured by  
13 the state fund, members of the public, and the state of Montana.

14 (d) The commissioner shall report the findings of any financial examination under this subsection (3) to  
15 the governor, the legislature, and the board of directors of the state fund.

16 (4) Examination costs are an expense of and must be paid by the state fund and must be allocated  
17 between those claims for injuries resulting from accidents that occurred before July 1, 1990, and those claims  
18 for injuries resulting from accidents that occur on or after that date.

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20 **Section 2.** Section 33-1-401, MCA, is amended to read:

21 **"33-1-401. Examination of insurers.** (1) (a) The commissioner shall examine the affairs, transactions,  
22 accounts, records, and assets of each authorized insurer as often as the commissioner considers advisable. The  
23 commissioner shall examine each authorized insurer not less frequently than every 5 years.

24 (b) The commissioner shall examine the affairs, transactions, accounts, and assets of the plan No. 3  
25 insurer under Title 39, chapter 71, part 23, as provided in [section 1].

26 (2) The commissioner shall in like manner examine each insurer applying for an initial certificate of  
27 authority to do business in this state.

28 (3) In lieu of making an examination under this part of any foreign or alien insurer licensed in this state,  
29 the commissioner may accept an examination report on the company prepared by the insurance department for  
30 the company's state of domicile or port-of-entry state until January 1, 1994. After January 1, 1994, the reports

1 may only be accepted if:

2 (a) the insurance department was at the time of the examination accredited under the national  
3 association of insurance commissioners' financial regulation standards and accreditation program; or

4 (b) the examination is performed under the supervision of an accredited state insurance department or  
5 with the participation of one or more examiners who are employed by such an accredited state insurance  
6 department and who, after a review of the examination workpapers and report, state under oath that the  
7 examination was performed in a manner consistent with the standards and procedures required by their insurance  
8 department.

9 (4) For purposes of completing an examination of any company under this part, the commissioner may  
10 examine or investigate any person or the business of any person, ~~in so far~~ insofar as the examination or  
11 investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the  
12 company."

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14 NEW SECTION. Section 3. Repealer. Section 39-71-2361, MCA, is repealed.

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16 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an  
17 integral part of Title 33, chapter 1, part 4, and the provisions of Title 33, chapter 1, part 4, apply to [section 1].

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19 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2009.

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