BUSINESS & LAB
EXHIBIT NO. 3
DATE 1/14/09
BILL NO. SB127

Amendments to Senate Bill No. 127
1st Reading Copy

Requested by Senator Jim Keane

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
January 13, 2009 (4:19pm)

1. Title, page 1, lines 6 through 7.
**Strike:** "DEFINING" on line 6 through "PURPOSES" on line 7
**Insert:** "PROVIDING DEFINITIONS"
**Following:** "33-2-306," on line 7
**Insert:** "33-17-102,"

2. Title, page 1, line 8.
**Following:** "DATE"
**Insert:** "AND AN APPLICABILITY DATE"

3. Page 3.
**Following:** line 17
**Insert: "Section 4.** Section 33-17-102, MCA, is amended to read:
**"33-17-102. Definitions.** As used in this title, the following definitions apply:
(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.
(b) The term does not include a:
(i) licensed attorney who is qualified to practice law in this state;
(ii) salaried employee of an insurer or of a managing general agent;
(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer;
(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or
(v) claims examiner as defined in 39-71-116.
(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.
(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.
(b) The term does not include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by the insurer in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from the company's credit card holders who have authorized the company to do so, if the company does not adjust or settle claims;

(xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or

(xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.

(4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.

(5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(b) The term does not include an individual.

(6) "Consultant" means an individual who for a fee examines, appraises, reviews, evaluates, makes recommendations, or gives advice regarding an insurance policy, annuity, or pension contract, plan, or program.

(7) "Consultant license" means a document issued by the commissioner that authorizes an individual to act as an insurance consultant.

(8) "Home state" means the District of Columbia or any state or territory of the United States in which the insurance producer:

(a) maintains a principal place of residence or a principal place of business; and

(b) is licensed as an insurance producer.

~~(8)~~(9) "Individual" means a natural person.

~~(9)~~(10) "Insurance producer", except as provided in 33-17-103, means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

~~(10)~~(11) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(11)~~(12) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(12)~~(13) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(13)~~(14) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(14)~~(15) "Limited lines insurance" means those lines of insurance that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(15)~~(16) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(16)~~(17) "Lines of authority" means any kind of insurance as defined in Title 33.

~~(17)~~(18) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(18)~~(19) "Person" means an individual or a business entity.

~~(19)~~(20) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

~~(20)~~(21) "Sell" means to exchange a contract of insurance by

any means, for money or the equivalent, on behalf of an insurance company.

~~(21)~~(22) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

~~(22)~~(23) "Suspend" means to bar the use of a person's license for a period of time.

~~(23)~~(24) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

~~(24)~~(25) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

{*Internal References to 33-17-102:*

| | | | |
|---|---|---|---|
| *33-1-1202 x* | *33-1-1202 x* | *33-18-213 x* | *33-19-104x* |
| *33-20-804 x* | *33-22-125 x* | *33-38-102 x* | *39-71-116x* }" |

**Renumber:** subsequent sections

4. Page 4, line 22.
**Following:** ";"
**Insert:** "or"

5. Page 4, line 23 through line 26.
**Strike:** "; or" on line 23 through "licensure" on line 26

6. Page 7, line 29.
**Following:** "credits"
**Insert:** "and at least 1 credit hour on changes in Montana insurance statutes and administrative rules"

7. Page 8, line 1.
**Following:** "education"
**Insert:** ", including at least 1 credit hour on changes in Montana insurance statutes and administrative rules and the remaining credit hours"

8. Page 8, line 2 through line 5.
**Strike:** ";" on line 2 through "rules" on line 5

9. Page 8.
**Following:** line 12
**Insert:** "NEW SECTION. **Section 10. Applicability.** [Section 8] applies after December 31, 2009, to all individual reports on continuing education required under 33-17-1205(1) and rules implementing 33-17-1205(1)."

- END -