

HOUSE BILL NO. 519
INTRODUCED BY G. GOLIE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN INSURER TO PAY THE ONGOING COMMISSIONS TO AN INDEPENDENT INSURANCE PRODUCER THAT PLACED THE POLICY ON BEHALF OF THE INSURER OR HAS BEEN APPOINTED AGENT OF RECORD BY THE POLICYOWNER; REQUIRING THE INSURER TO ALLOW THE INDEPENDENT INSURANCE PRODUCER TO CONTINUE TO PROVIDE SERVICE TO THE POLICYOWNER; PROVIDING CIVIL REMEDIES FOR AN INDEPENDENT INSURANCE PRODUCER THAT CAN DEMONSTRATE THAT AN INSURER HAS NOT PAID THE ONGOING COMMISSIONS OR ALLOWED THE INDEPENDENT INSURANCE PRODUCER TO CONTINUE PROVIDING SERVICES TO THE POLICYHOLDER; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Purpose -- definition. (1) [Sections 1 through 4] are intended to establish guidelines pertaining to the relationship of insurers and independent insurance producers with respect to commissions and the rights of independent insurance producers to provide continuing service to policyowners.

(2) [Sections 1 through 4] apply to individual and group policies of life insurance, life annuity insurance, and disability insurance, including major medical disability insurance, long-term care insurance, and medicare supplement policies.

(3) For the purposes of [sections 1 through 4], "independent insurance producer" means an insurance producer for whom the insurer is not required to provide workers' compensation or unemployment insurance coverage.

NEW SECTION. Section 2. Continuation of commission payments. (1) With respect to insurance coverages listed in [section 1(2)], the insurer shall continue to pay commissions to the independent insurance producer that placed the policy or has been appointed agent of record by the policyowner as long as the independent insurance producer is a resident of Montana and licensed as an insurance producer in Montana.

(2) (a) The amount of the ongoing commissions provided for in subsection (1) must be in the amount specified in the agreement that existed between the insurer and the independent insurance producer at the time the policy was purchased by the policyowner unless subsequently changed by agreement of the insurer and the

independent insurance producer.

(b) An insurer may unilaterally change the commission amount on an existing policy to the benefit of the independent insurance producer but not to the independent insurance producer's detriment.

(3) An insurance producer is entitled to receive the ongoing commissions provided for in this section as long as the policyowner maintains the policy and the policyowner does not terminate the policyholder's relationship with the independent insurance producer and as long as the independent insurance producer is a resident of Montana and continues to be licensed as an insurance producer in this state.

NEW SECTION. Section 3. Right to provide service to policyholder. (1) An insurer may not deny the independent insurance producer that initially placed the policy on behalf of the insurer or has been appointed the agent of record by the policyowner the right to continue to provide service on the policy to the policyowner.

(2) The service that the insurance provider may provide to the policyholder includes but is not limited to obtaining information as to coverage, changes in coverage, and changes in beneficiaries directly from the insurer on behalf of the policyholder. The insurer may not deny an independent insurance producer access to this information.

(3) An insurance producer is entitled to provide the ongoing service called for in this section as long as the policyowner maintains the policy and does not indicate a desire to terminate the policyholder's relationship with the insurance producer and as long as the independent insurance producer continues to be a resident of Montana and continues to be licensed as an insurance producer in this state.

NEW SECTION. Section 4. Civil remedies. (1) An independent insurance producer who suffers loss or harm as a result of a violation by an insurer of a provision of [section 2 or 3] is entitled to actual damages or \$1,000, whichever is greater, plus attorney fees, court costs, and any other remedies provided by law.

(2) An independent insurance producer is entitled to the remedies provided in subsection (1) for each policy for which the independent insurance producer is able to demonstrate a violation of [section 2 or 3] by the insurer.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 through 4].

NEW SECTION. **Section 6. Applicability.** [This act] applies to all policies issued or renewed on or after October 1, 2003.

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