

HOUSE BILL NO. 502

INTRODUCED BY R. BRODEHL

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO FARM MUTUAL INSURANCE; PROVIDING A MANAGING GENERAL AGENT WAIVER TO CERTAIN PERSONS HANDLING RISK FOR FARM MUTUAL INSURERS; ALLOWING FARM MUTUAL INSURERS TO RETAIN A PORTION OF THEIR LIABILITY LIMIT ON RISKS; AND AMENDING SECTIONS 33-2-1501 AND 33-4-502, MCA."

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

NEW SECTION. **Section 1. Managing general agent waiver -- exceptions.** (1) The commissioner may waive the requirements for a managing general agent under Title 33, chapter 2, part 16, for a person managing the property and liability business of a resident domestic farm mutual insurer.

(2) The commissioner may revoke the waiver if the commissioner determines through examination that licensure of the person as a managing general agent is necessary.

(3) A person serving as a managing general agent for crop hail insurance may not receive a waiver under this section.

Section 2. Section 33-2-1501, MCA, is amended to read:

"33-2-1501. Definitions. As used in parts 15 through 17 of this chapter, the following definitions apply:

(1) "Accredited state" means a state in which the department of insurance or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the national association of insurance commissioners.

(2) "Actuary" means a person who is a member in good standing of the American academy of actuaries.

(3) "Captive insurer" means:

(a) an insurer that is owned by another entity and whose exclusive purpose is to insure risks of the parent entity and its affiliates; or

(b) in the case of a group or association, an insurer that is owned by the member insureds and whose exclusive purpose is to insure risks to member insureds and their affiliates.

(4) "Control" or "controlled" has the meaning defined in 33-2-1101.



1 (5) "Controlled insurer" means an authorized insurer that is controlled, directly or indirectly, by a
2 producer.

3 (6) "Controlling person" means a person, firm, association, or corporation that has the power to direct
4 or cause to be directed the management, control, or activities of a reinsurance intermediary.

5 (7) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

6 (8) (a) "Insurer" means any person, firm, association, or corporation authorized, under Title 33, chapter
7 2, part 1, to transact insurance business in this state.

8 (b) With regard to part 15 only, the following are not insurers:

9 (i) risk retention groups as defined in:

10 (A) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613
11 (1986);

12 (B) the Liability Risk Retention Act of 1986, 15 U.S.C. 3901, et seq.; or

13 (C) Title 33, chapter 11, part 1;

14 (ii) residual market pools and joint underwriting authorities or associations; or

15 (iii) captive insurers.

16 (c) With regard to parts 16 and 17, captive insurers are not insurers but captive risk retention groups are
17 insurers.

18 (9) "Licensed producer" means a producer or reinsurance intermediary licensed pursuant to this title.

19 (10) (a) "Managing general agent" means a person who:

20 (i) manages all or part of the insurance business of an insurer and acts as an agent for the insurer;

21 (ii) either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount
22 of gross written premiums equal to or more than 5% of the policyholder surplus in any quarter or year; and

23 (iii) engages in one or more of the following activities on the business produced:

24 (A) adjustment or payment of claims in excess of an amount determined by the commissioner; or

25 (B) negotiation of reinsurance on behalf of the insurer.

26 (b) Notwithstanding the provisions of subsection (10)(a), the following persons are not considered
27 managing general agents:

28 (i) an employee of the insurer;

29 (ii) a manager of the United States branch of an alien insurer;

30 (iii) an underwriting manager who, pursuant to contract, manages all or part of the insurance operations

1 of the insurer, is under common control with the insurer, is subject to Title 33, chapter 2, part 11, and whose
2 compensation is not based solely on the value of premiums written; or

3 (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or an
4 interinsurance exchange under powers of attorney;

5 (v) a person managing the property and liability business of a resident domestic farm mutual insurer who
6 has been granted a managing general agent waiver under [section 1]; or

7 (vi) a director of a resident domestic farm mutual insurer who adjusts claims and participates in the
8 underwriting process.

9 (11) "NAIC" means the national association of insurance commissioners.

10 (12) "Producer" means an insurance producer or reinsurance intermediary authorized or licensed
11 pursuant to this title.

12 (13) (a) "Qualified United States financial institution" means a financial institution that:

13 (i) is organized or licensed under the laws of the United States or any state;

14 (ii) is regulated, supervised, and examined by federal or state authorities having regulatory authority over
15 banks and trust companies and that either:

16 (A) is determined by the commissioner to meet the standards of financial condition and standing
17 considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit are
18 acceptable to the commissioner; or

19 (B) is eligible to act as a fiduciary of a trust or has been granted authority to operate with fiduciary
20 powers.

21 (b) For purposes of this definition, the commissioner may by rule adopt standards of financial condition
22 and standing that may be developed from time to time by the securities valuation office of the NAIC.

23 (14) "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance
24 intermediary-manager.

25 (15) "Reinsurance intermediary-broker" means a person, other than an officer or employee of the ceding
26 insurer, who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer
27 without the authority or power to bind reinsurance on behalf of the insurer.

28 (16) (a) "Reinsurance intermediary-manager" means a person who:

29 (i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer,
30 including the management of a separate division, department, or underwriting office; and

1 (ii) acts as an agent for the reinsurer, whether known as a reinsurance intermediary-manager, manager,
2 or other similar term.

3 (b) The following persons are not considered reinsurance intermediary-managers with respect to the
4 reinsurer:

5 (i) an employee of the reinsurer;

6 (ii) a manager of the United States branch of an alien reinsurer;

7 (iii) an underwriting manager who, pursuant to contract, manages all of the reinsurance operations of the
8 reinsurer, is under common control with the reinsurer, is subject to Title 33, chapter 2, part 11, and whose
9 compensation is not based on the volume of premiums written; or

10 (iv) a person who manages groups, associations, pools, or organizations of insurers that engage in joint
11 underwriting or joint reinsurance and that are subject to examination by the insurance commissioner of the state
12 in which the manager's principal business office is located.

13 (17) "Reinsurer" means a person, firm, association, or corporation licensed in this state under this title
14 as an insurer with authority to assume reinsurance.

15 (18) "Underwrite" means the authority to accept or reject risk on behalf of the insurer."
16

17 **Section 3.** Section 33-4-502, MCA, is amended to read:

18 **"33-4-502. Limit of risk -- retention of liability.** (1) Except as provided in subsection (3), the maximum
19 amount of insurance that an insurer may retain on a single risk, after deduction of applicable reinsurance, may
20 not exceed the greater of 10% of the admitted assets of the insurer or \$50,000.

21 (2) For the purposes of this section, a "single risk" as to insurance against fire and hazards other than
22 windstorm, earthquake, or other catastrophic perils includes all properties insured by the same insurer that are
23 reasonably susceptible to loss or damage from the same fire or the same occurrence of another hazard insured
24 against.

25 (3) A farm mutual insurer:

26 (a) that insures any portion of a liability risk shall maintain a surplus of at least \$50,000;

27 (b) that retains any portion of a liability risk shall obtain reinsurance on that liability insurance with an
28 insurer that meets the criteria established in 33-4-503, ~~and the~~ A farm mutual insurer's maximum aggregate
29 ~~liability for incurred losses on liability coverage retained for any calendar year or contract year may not exceed~~
30 ~~the smaller of \$200,000 or 20% of the farm mutual insurer's surplus as of December 31 of the preceding year~~

1 ~~retention on a single liability risk may not exceed the greater of 3% of admitted assets or \$50,000., and~~

2 (c) may not retain liability risk or risk resulting from insuring growing crops against loss or damage from
3 hail or other hazards greater than the proportional share of each limit of liability in the following schedule:

4 Surplus as of the	Proportional Share of Each
5 Preceding December 31:	Limit of Liability Retained:
6 \$1,000,000 or greater	15%
7 \$800,000 to \$999,999	12%
8 \$600,000 to \$799,999	9%
9 \$400,000 to \$599,999	6%
10 \$200,000 to \$399,999	3%
11 Under \$200,000	0%"

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13 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
14 integral part of Title 33, chapter 4, part 3, and the provisions of Title 33, chapter 4, part 3, apply to [section 1].

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