

HOUSE BILL NO. 95

INTRODUCED BY K. MCCARTHY

BY REQUEST OF THE STATE AUDITOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC ADJUSTER LAWS;
6 CLARIFYING THAT LICENSURE LAWS APPLY TO PUBLIC ADJUSTERS; OUTLINING CONTRACT
7 REQUIREMENTS FOR PUBLIC ADJUSTERS; CREATING STANDARDS OF CONDUCT FOR PUBLIC
8 ADJUSTERS; APPLYING CONTINUING EDUCATION REQUIREMENTS TO PUBLIC ADJUSTERS;
9 PROVIDING PENALTIES; AMENDING SECTIONS 33-1-402, 33-2-708, 33-17-102, 33-17-301, 33-17-1001,
10 33-17-1002, 33-17-1003, 33-17-1004, 33-17-1202, 33-17-1203, AND 33-17-1205, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE."

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

14
15 **Section 1.** Section 33-1-402, MCA, is amended to read:
16 **"33-1-402. Examination of insurance producers, managers, and promoters.** For the purpose of
17 ascertaining compliance with this code, the commissioner may, as often as the commissioner considers
18 advisable, examine the accounts, records, documents, and transactions pertaining to or affecting its insurance
19 affairs or proposed insurance affairs of:
20 (1) an insurance producer, surplus lines insurance producer, general insurance producer, ~~or~~ adjuster,
21 or public adjuster;
22 (2) a person having a contract under which the person enjoys in fact the exclusive or dominant right to
23 manage or control an insurer;
24 (3) a person holding the shares of voting stock or policyholder proxies of a domestic insurer, for the
25 purpose of controlling the management of the domestic insurer, as voting trustee or otherwise;
26 (4) a person engaged in or proposing to be engaged in or assisting in the promotion or formation of a
27 domestic insurer or insurance holding corporation or corporation to finance a domestic insurer or the production
28 of its business."

29
30 **Section 2.** Section 33-2-708, MCA, is amended to read:



1 **"33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall
2 collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct
3 the business of insurance in Montana.

4 (b) The commissioner shall collect certain additional fees as follows:

5 (i) nonresident insurance producer's license:

6 (A) application for original license, including issuance of license, if issued, \$100;

7 (B) biennial renewal of license, \$50;

8 (C) lapsed license reinstatement fee, \$100;

9 (ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

10 (iii) surplus lines insurance producer's license:

11 (A) application for original license and for issuance of license, if issued, \$50;

12 (B) biennial renewal of license, \$100;

13 (C) lapsed license reinstatement fee, \$200;

14 (iv) insurance adjuster's license:

15 (A) application for original license, including issuance of license, if issued, \$50;

16 (B) biennial renewal of license, \$100;

17 (C) lapsed license reinstatement fee, \$200;

18 (v) insurance consultant's license:

19 (A) application for original license, including issuance of license, if issued, \$50;

20 (B) biennial renewal of license, \$100;

21 (C) lapsed license reinstatement fee, \$200;

22 (vi) viatical settlement broker's license:

23 (A) application for original license, including issuance of license, if issued, \$50;

24 (B) biennial renewal of license, \$100;

25 (C) lapsed license reinstatement fee, \$200;

26 (vii) resident and nonresident rental car entity producer's license:

27 (A) application for original license, including issuance of license, if issued, \$100;

28 (B) quarterly filing fee, \$25;

29 (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in
30 accordance with 33-20-1303(2)(b), \$50;

- 1 (ix) navigator certification:
- 2 (A) application for original certification, including issuance of certificate if issued, \$100;
- 3 (B) biennial renewal of certification, \$50;
- 4 (C) lapsed certification reinstatement fee, \$100;
- 5 (x) 50 cents for each page for copies of documents on file in the commissioner's office.
- 6 (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer,
- 7 a surplus lines insurance producer, an insurance adjuster, an insurance public adjuster, or an insurance
- 8 consultant is required to pay the fee for the biennial renewal of a license.
- 9 (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as
- 10 required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization
- 11 submitting courses or programs for review in any biennium.
- 12 (b) Insurers and associations composed of members of the insurance industry are exempt from the
- 13 charge in subsection (2)(a).
- 14 (3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state
- 15 treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to
- 16 33-2-311, 33-2-705, 33-28-201, and 50-3-109.
- 17 (b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue
- 18 account provided for in 53-4-1115.
- 19 (c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title
- 20 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.
- 21 (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts
- 22 in excess of \$10 will be refunded."

23

24 **Section 3.** Section 33-17-102, MCA, is amended to read:

25 **"33-17-102. Definitions.** As used in this chapter, the following definitions apply:

- 26 (1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent
- 27 contractor or as the employee of an independent contractor or for a fee or commission investigates and
- 28 negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.
- 29 (b) The term does not include a:
- 30 (i) licensed attorney who is qualified to practice law in this state;

- 1 (ii) salaried employee of an insurer or of a managing general agent;
- 2 (iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies
3 issued by the insurer;
- 4 (iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies
5 issued by the insurer; or
- 6 (v) claims examiner as defined in 39-71-116.
- 7 (2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act
8 as an adjuster or a public adjuster.
- 9 (3) (a) "Administrator" means a person who collects charges or premiums from residents of this state
10 in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on
11 these coverages.
- 12 (b) The term does not include:
- 13 (i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of
14 affiliated corporations of the employer;
- 15 (ii) a union on behalf of its members;
- 16 (iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy
17 lawfully issued and delivered by the insurer in and pursuant to the laws of a state in which the insurer is
18 authorized to transact insurance; or
- 19 (B) a health service corporation as defined in 33-30-101;
- 20 (iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose
21 activities are limited exclusively to the sale of insurance;
- 22 (v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and
23 its debtors;
- 24 (vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the
25 trust;
- 26 (vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and
27 employees of the trust;
- 28 (viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f)
29 of the Internal Revenue Code or the agents and employees of the custodian;
- 30 (ix) a bank, credit union, or other financial institution that is subject to supervision or examination by

1 federal or state banking authorities;

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

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

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

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

12 (b) The term does not include an individual.

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

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

17 (7) "Exchange" means a health benefit exchange established by the state of Montana or an exchange
18 established by the United States department of health and human services in accordance with 42 U.S.C. 18031.

19 (8) "Home state" means the District of Columbia or any state or territory of the United States in which
20 a person licensed under this chapter maintains a principal place of residence or a principal place of business.

21 (9) "Individual" means a natural person.

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

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

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

28 (13) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property
29 insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance,
30 mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance

1 offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit
2 obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

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

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

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

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

11 (18) "Navigator" means a person certified by the commissioner under 33-17-241 and selected to perform
12 the activities and duties identified in 42 U.S.C. 18031, et seq.

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

17 (20) "Person" means an individual or a business entity.

18 (21) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

19 (22) "Sell" means to exchange a contract of insurance by any means, for money or the equivalent, on
20 behalf of an insurance company.

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

23 (24) "Suspend" means to bar the use of a person's license for a period of time."
24

25 **Section 4.** Section 33-17-301, MCA, is amended to read:

26 **"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- ~~public adjuster~~ --**
27 **education and examination exemption.** (1) An individual may not act as or purport to be an adjuster in this state
28 unless licensed as an adjuster under this chapter the individual holds an adjuster license. An individual shall apply
29 to the commissioner for an adjuster license in a form approved by the commissioner. The commissioner shall
30 issue the ~~adjuster~~ license to individuals qualified to be licensed as an adjuster under this section.

- 1 (2) To be licensed as an adjuster, the applicant:
- 2 (a) must be an individual 18 years of age or older;
- 3 (b) (i) must be a resident of Montana or a resident of another state that permits residents of Montana
- 4 regularly to act as adjusters in the other state; or
- 5 (ii) if not a resident of this state, shall designate a home state in which the adjuster does not maintain a
- 6 place of business or residence if:
- 7 (A) the adjuster's principal state of business or residence does not offer adjuster licensure; and
- 8 (B) the adjuster qualifies for the license as if the adjuster were a resident of the designated home state;
- 9 (c) except as provided in subsection (4), shall pass an adjuster licensing examination as prescribed by
- 10 the commissioner and pay the fee pursuant to 33-2-708;
- 11 (d) must be trustworthy and of good character and reputation;
- 12 (e) shall submit to a licensing background examination that meets the requirements provided in
- 13 33-17-220; and
- 14 (f) shall maintain in this state an office accessible to the public and shall keep in the office for not less
- 15 than 5 years the usual and customary records pertaining to transactions under the license. This provision does
- 16 not prohibit maintenance of the office in the home of the licensee.
- 17 (3) A business entity, whether or not organized under the laws of this state, may be licensed ~~as an~~
- 18 ~~adjuster under this section~~ if each individual who is to exercise the ~~adjuster~~ license powers is separately licensed
- 19 or is named in the business entity ~~adjuster~~ license and is qualified for an individual ~~adjuster~~ license under this
- 20 section.
- 21 (4) (a) Subject to the provisions of subsection (4)(b), an individual who applies for a nonresident ~~adjuster~~
- 22 license under this section in this state and who was previously licensed in another state may not be required to
- 23 complete any prelicensing education or examination requirements.
- 24 (b) The exemption in subsection (4)(a) is available only if the individual is currently licensed in the other
- 25 state or the individual's application is received within 90 days of the cancellation of the individual's previous
- 26 license and the other state issues a certification or the state's database records indicate that, at the time of the
- 27 cancellation, the individual was in good standing in that state.
- 28 (5) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and
- 29 on behalf of an insurer or adjusting business entity for the purpose of investigating or making adjustments of a
- 30 particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe

1 common to all losses.

2 (6) ~~An adjuster~~ A license issued under this section continues in force until lapsed, suspended, revoked,
3 or terminated. The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or
4 the license will lapse. The biennial fee is established pursuant to 33-2-708.

5 (7) ~~The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation~~
6 ~~of public adjusters~~ For purposes of this section, "adjuster" includes adjusters and public adjusters as defined in
7 33-17-102.

8

9 NEW SECTION. Section 5. Public adjuster contracts -- financial disclosure. (1) A person licensed
10 as a public adjuster may not act as a public adjuster unless the person has a written contract with the insured.
11 Written contracts must be filed and approved by the commissioner and must contain all of the following:

12 (a) legible full name of the adjuster signing the contract as specified in records held by the commissioner;

13 (b) business address and telephone number of the public adjuster;

14 (c) license number of the public adjuster;

15 (d) title specifying "public adjuster contract";

16 (e) insured's full name, street address, insurer name, and policy number, if known or upon notification;

17 (f) description of the loss and its location, if applicable;

18 (g) description of services to be provided to the insured;

19 (h) signatures of the public adjuster and the insured;

20 (i) date the contract was signed by the public adjuster and the date the contract was signed by the
21 insured;

22 (j) attestation language stating that the public adjuster is fully bonded pursuant to state law; and

23 (k) full salary, fee, commission, compensation, or other consideration the public adjuster is to receive
24 for services.

25 (2) A public adjuster contract may not contain any contract term that:

26 (a) allows the public adjuster's percentage fee to be collected when money is due from an insurer but
27 not paid or that allows a public adjuster to collect the entire fee from the first payment issued by the insurer rather
28 than as a percentage of each payment issued by an insurer;

29 (b) requires the insured to authorize an insurer to issue payment only in the name of the public adjuster;

30 (c) imposes collection costs or late fees; or

1 (d) precludes an insured from pursuing civil remedies.

2 (3) If the insurer either pays or commits in writing to pay the insured policy limits of the insurance policy
3 within 72 hours after the date the loss is reported, the public adjuster may not:

4 (a) receive a commission consisting of a percentage of the total amount paid by an insurer to resolve
5 a claim; or

6 (b) inform the insured that loss recovery amount will likely not be increased by the insurer.

7 (4) A public adjuster shall provide the insured with a written disclosure document concerning any direct
8 or indirect financial interest that the public adjuster has with any other party involved in any aspect of the claim
9 or services rendered by the public adjuster. The document must include a disclosure of any ownership interest
10 in an entity that performs work in conjunction with the claim on which the public adjuster is engaged, including
11 but not limited to any:

12 (a) construction firm;

13 (b) salvage firm;

14 (c) building appraisal firm;

15 (d) motor vehicle repair shop; or

16 (e) other entity that provides estimates for work or that performs any work.

17

18 **NEW SECTION. Section 6. Public adjuster standards of conduct.** A public adjuster:

19 (1) is obligated to serve with objectivity and loyalty to the interest of the insured alone;

20 (2) may not solicit or attempt to solicit an insured during the progress of a loss-producing occurrence,
21 as defined in the insured's insurance contract;

22 (3) may not permit an unlicensed employee or representative of the public adjuster to conduct business
23 for which a license is required;

24 (4) may not acquire any interest in the salvage of property subject to the contract with the insured without
25 written permission from the insured;

26 (5) shall abstain from referring or directing the insured to any person with whom the public adjuster has
27 a financial interest unless disclosed to the insured pursuant to subsection (4).

28

29 **Section 7.** Section 33-17-1001, MCA, is amended to read:

30 **"33-17-1001. Suspension, revocation, or refusal of license.** (1) The commissioner may suspend,

1 revoke, refuse to renew, or refuse to issue ~~an insurance producer's license, adjuster license, or consultant~~
2 ~~license~~, a license under this chapter, may levy a civil penalty in accordance with 33-1-317, or may choose any
3 combination of actions when ~~an insurance producer, adjuster, consultant,~~ a licensee or applicant for ~~those~~
4 ~~licenses~~ licensure has:

5 (a) engaged or is about to engage in an act or practice for which issuance of the license could have been
6 refused;

7 (b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited
8 to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the
9 continuing education affidavit;

10 (c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order
11 of the commissioner or of the commissioner of any other state;

12 (d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money
13 or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business
14 under the license;

15 (e) been convicted of a felony;

16 (f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the
17 licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the
18 public;

19 (g) misrepresented the terms of an actual or proposed insurance contract or application for insurance;

20 (h) been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

21 (i) had a similar license denied, suspended, or revoked in any other state;

22 (j) forged another's name to an application for insurance or to any document related to an insurance
23 transaction;

24 (k) cheated on an examination for a license;

25 (l) knowingly accepted insurance business from a person who is not licensed;

26 (m) failed to comply with a final administrative or court order imposing a child support obligation; or

27 (n) failed to pay state income tax determined to be delinquent or to comply with any final administrative
28 or court order directing payment of state income tax.

29 (2) The license of a business entity may be suspended, revoked, refused, or denied if a reason listed
30 in subsection (1) applies to an individual designated in the license to exercise its powers.

1 (3) The commissioner retains the authority to enforce the provisions of and impose any penalty or
2 remedy authorized by the insurance code against any person who is under investigation for or charged with a
3 violation of the insurance code even if the person's license or registration has been surrendered, suspended,
4 revoked, refused, or denied or has lapsed."

5

6 **Section 8.** Section 33-17-1002, MCA, is amended to read:

7 **"33-17-1002. Procedure following suspension or revocation.** (1) Upon suspension, revocation, or
8 refusal of a license, the commissioner shall notify the licensee or applicant by mail addressed to the licensee or
9 applicant at the last-known address contained in the records of the commissioner. Notice is effectuated when
10 mailed.

11 (2) The commissioner may reissue a license that has lapsed if the ~~insurance producer~~ licensee has paid
12 the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing
13 education requirements for the preceding biennium within 1 year of the lapse occurring.

14 (3) The commissioner may not again issue a license under this code to a person whose license has been
15 revoked until after expiration of 1 year and until the person again qualifies for a license in accordance with this
16 code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the
17 person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible
18 for any license under this code.

19 (4) If the license of a business entity is suspended or revoked, a member, officer, or director of the
20 business entity may not be licensed or be designated in a license to exercise the business entity's powers during
21 the period of the suspension or revocation unless the commissioner determines upon substantial evidence that
22 the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of
23 which the license was suspended or revoked."

24

25 **Section 9.** Section 33-17-1003, MCA, is amended to read:

26 **"33-17-1003. Return of license.** (1) All licenses issued under this chapter, although issued and
27 delivered to the licensee, ~~insurance producer or adjuster~~ are at all times the property of the state of Montana.
28 Upon any expiration, termination, suspension, or revocation of the license, the licensee or other person having
29 possession or custody of the license shall immediately deliver it to the commissioner either by personal delivery
30 or by mail.

1 (2) As to any license lost, stolen, or destroyed while in the possession of a licensee or person, the
 2 commissioner may accept in lieu of return of the license ~~the~~ an affidavit of the licensee or person responsible for
 3 or involved in the safekeeping of the license; concerning the facts of the loss, theft, or destruction."
 4

5 **Section 10.** Section 33-17-1004, MCA, is amended to read:

6 "**33-17-1004. Acting as insurance producer or adjuster without license -- penalty.** (1) In addition
 7 to the requirements and penalties described in 33-17-201 and 33-17-411, a person who, in this state, acts ~~as an~~
 8 ~~insurance producer or adjuster~~ without having authority to do so by virtue of a license issued and in force
 9 pursuant to this chapter is subject to the provisions of 33-1-317 and 33-1-318 and may be subject to conviction
 10 of a crime.

11 (2) A person convicted under this section shall, for a first conviction, be fined \$500 or imprisoned in the
 12 county jail for 90 days, or both. For a second conviction, the person shall be fined an amount not to exceed
 13 \$1,000 or incarcerated for a term not to exceed 1 year, or both. For a third or subsequent conviction, the person
 14 shall be fined an amount not to exceed \$5,000 or incarcerated for a term not to exceed 2 years, or both."
 15

16 **Section 11.** Section 33-17-1202, MCA, is amended to read:

17 "**33-17-1202. Purpose.** The purposes of this part are to:

18 (1) protect insurance consumers and dedicated insurance producers, adjusters, public adjusters, and
 19 consultants by requiring continuing education for insurance producers, adjusters, public adjusters, and
 20 consultants;

21 (2) better educate insurance producers, adjusters, public adjusters, and consultants about changes in
 22 insurance law, products, ethical conduct as an insurance producer, adjuster, or consultant, marketing, and
 23 management; and

24 (3) provide standards for the qualification of instructors, courses, and materials."
 25

26 **Section 12.** Section 33-17-1203, MCA, is amended to read:

27 "**33-17-1203. Continuing education -- basic requirements -- exceptions.** (1) Unless exempt under
 28 subsection (3):

29 (a) an individual licensed to act as an insurance producer, adjuster, public adjuster, or consultant other
 30 than an individual licensed only for surety bail bonds or for limited lines credit insurance shall, during each

1 24-month period, complete at least 24 credit hours of approved continuing education, including at least 3 hours
2 of ethics credits and at least 1 credit hour on changes in Montana insurance statutes and administrative rules;

3 (b) an individual licensed to act as an insurance producer only for surety bail bonds, prepaid legal
4 insurance, or limited lines credit insurance shall, during each biennium, complete 5 credit hours of approved
5 continuing education, including at least 1 credit hour on changes in Montana insurance statutes and
6 administrative rules and the remaining credit hours in the areas of insurance law, ethics, or topics specific to
7 surety bail bonds, prepaid legal insurance, or limited lines credit insurance.

8 (2) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during
9 which the requirements imposed by subsection (1) may be completed.

10 (3) The minimum continuing education requirements do not apply to:

11 (a) an individual holding a temporary license issued under 33-17-216; or

12 (b) an insurance producer, adjuster, public adjuster, or consultant otherwise exempted by the
13 commissioner."

14

15 **Section 13.** Section 33-17-1205, MCA, is amended to read:

16 **"33-17-1205. Compliance -- failure to comply -- rulemaking authority.** (1) Each individual subject to
17 the requirements of 33-17-1203 shall file biennially in a format supplied by the commissioner certification as to
18 the approved courses, lectures, seminars, and instructional programs successfully completed by that individual
19 during the preceding biennium.

20 (2) If an individual fails to comply with this section, the individual's license lapses. An individual with a
21 lapsed license may not conduct insurance business under another person's license, including a business entity
22 license affiliation.

23 (3) In the continuing education affidavit, an insurance producer, ~~or adjuster,~~ or public adjuster shall report
24 to the commissioner the final disposition of any administrative action or the final disposition of any criminal action
25 taken against the insurance producer, ~~or adjuster,~~ or public adjuster in another jurisdiction or by another
26 governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a
27 plea agreement or sentence and judgment.

28 (4) Each person providing approved courses, lectures, seminars, and instructional programs, including
29 insurance company education programs, shall file annually with the commissioner an alphabetical list of the
30 names and addresses of all individuals who have successfully completed an approved continuing education

1 activity during the preceding calendar year.

2 (5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all
3 courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection (4).

4 The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that
5 has failed to comply with subsection (4). The fine may not exceed the penalty permitted by 33-1-317.

6 (6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of
7 continuing education credits."

8

9 NEW SECTION. **Section 14. Codification instruction.** [Sections 5 and 6] are intended to be codified
10 as an integral part of Title 33, chapter 17, part 3, and the provisions of Title 33, chapter 17, part 3, apply to
11 [sections 5 and 6].

12

13 NEW SECTION. **Section 15. Saving clause.** [This act] does not affect rights and duties that matured,
14 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

15

16 NEW SECTION. **Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
18 the part remains in effect in all valid applications that are severable from the invalid applications.

19

20 NEW SECTION. **Section 17. Effective date.** [This act] is effective on passage and approval.

21

- END -