

## 1 HOUSE BILL NO. 138

2 INTRODUCED BY D. FERN

3 BY REQUEST OF THE STATE AUDITOR

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INSURANCE LAWS PERTAINING TO INSURER  
6 PRODUCER APPOINTMENTS; ALLOWING APPOINTMENT BY AFFILIATION; ALLOWING APPOINTMENT  
7 THROUGH BUSINESS ENTITY AFFILIATION; REVISING APPOINTMENT NOTICE REQUIREMENTS;  
8 AMENDING SECTIONS 33-17-231 AND 33-17-236, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
9 DATE."

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

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13 NEW SECTION. **Section 1. Appointment by affiliation.** (1) Unless prohibited by the insurer, an  
14 individual insurance producer or business entity insurance producer may satisfy the appointment requirements  
15 of 33-17-236(1) by affiliating with a business entity insurance producer that has been appointed directly by the  
16 insurer.

17 (2) A business entity insurance producer obtaining an appointment by affiliation under subsection (1)  
18 shall file with the commissioner a copy of the written affiliation agreement no later than 15 days following its  
19 execution.

20 (3) A business entity insurance producer directly appointed by an insurer shall notify the insurer in writing  
21 within 15 days of executing a written affiliation agreement with another business entity insurance producer.

22 (4) If an insurance producer is appointed by affiliation under subsection (1), the insurer is not required  
23 to file a separate notice of appointment for that insurance producer under 33-17-231(1) and 33-17-236.

24 (5) An appointment by affiliation under subsection (1) is effective on the date the insurance producer  
25 enters into an affiliation agreement.

26 (6) An insurance producer appointed by affiliation under this section is authorized to transact the kinds  
27 of insurance for which the business entity insurance producer directly appointed by the insurer is also authorized,  
28 except:

29 (a) an insurance producer appointed by affiliation may not transact kinds of insurance for which the  
30 insurance producer is not otherwise authorized; and

1 (b) the insurer may specify in writing those kinds of insurance the insurance producer may transact under  
2 the appointment.

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4 **Section 2.** Section 33-17-231, MCA, is amended to read:

5 **"33-17-231. Appointment of insurance producers -- continuation and termination.** (1) Each Except  
6 as provided in [section 1], each insurer appointing an insurance producer in this state shall file with the  
7 commissioner the appointment, specifying the kinds of insurance to be transacted by the insurance producer for  
8 the insurer. The appointment may be electronically filed. The commissioner may adopt rules to implement  
9 electronic filing.

10 (2) Each Except as provided in [section 1], each appointment remains in effect until the insurance  
11 producer's license is revoked or otherwise terminated unless written notice of earlier termination of the  
12 appointment is filed with the commissioner by the insurer or the insurance producer. The written notice may be  
13 electronically filed. The commissioner may adopt rules to implement electronic filing. Termination of the insurer's  
14 authority in Montana also terminates the appointment.

15 (3) Subject to the insurance producer's contract rights, an insurer may terminate an insurance producer's  
16 appointment at any time. The insurer shall promptly give written notice of the termination to the commissioner and  
17 to the insurance producer, except that the insurer is not required to notify the commissioner of termination of an  
18 appointment by affiliation. The commissioner may require reasonable proof that the insurer has given notice to  
19 the insurance producer.

20 (4) As part of the notice of termination given the commissioner, the insurer shall file with the  
21 commissioner a statement of the facts relative to the termination and the cause of termination. Any information  
22 or statement contained in the notice of termination is not admissible as evidence in any action or proceeding  
23 against the insurer or any representative of the insurer by or on behalf of any person affected by the termination.

24 (5) (a) An insurer that sells a qualified health plan in an exchange operating in this state shall appoint  
25 any producer who is certified by the commissioner pursuant to 33-17-243 and follows the appointment application  
26 process required by that insurer.

27 (b) To maintain the appointment, the producer shall maintain the producer's certification and license in  
28 good standing.

29 (6) An appointment by affiliation terminates automatically on termination of the affiliation."

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1           **Section 3.** Section 33-17-236, MCA, is amended to read:

2           "**33-17-236. Appointments of insurance producers by insurers.** (1) An insurance producer may not  
3 claim to be a representative of or an authorized or appointed insurance producer of or use another term implying  
4 a contractual relationship with a particular insurer unless the insurance producer is an appointed insurance  
5 producer of that insurer pursuant to this section. This does not prevent an insurance producer from obtaining and  
6 presenting a quotation from an insurer with whom the producer is not appointed. If the insurer consents, the  
7 insurer may bind coverage on a risk in accordance with 33-15-411 prior to the execution of an agency contract  
8 and policy issuance.

9           (2) ~~The~~ Except as provided in [section 1], the insurer shall, not later than 15 days from the date on which  
10 the agency contract is executed with ~~a licensed~~ an insurance producer, file with the insurance department a  
11 written notice of appointment on a form prescribed by the insurance department. The notice may be electronically  
12 filed pursuant to rules adopted by the commissioner.

13           (3) Upon receipt of the notice of appointment, the insurance department shall verify that the ~~licensed~~  
14 insurance producer is eligible for appointment. If the ~~licensed~~ insurance producer is determined to be ineligible  
15 for appointment, the insurance department shall notify the insurer of the determination.

16           (4) (a) ~~An~~ Except as provided in [section 1], an appointment is effective on the earlier of the date of the  
17 executed agency contract or the date on which the insurer files the notice of appointment with the insurance  
18 department, unless the appointment is disapproved by the insurance department.

19           **(b)** A disapproved appointment is void on the date the department provides notification to the insurer.

20           **(c)** An appointment of which notice is not filed within 15 days of execution of the agency contract is not  
21 effective until the date that the insurer files the notice of appointment with the insurance department.

22           (5) ~~The~~ Except as provided in 33-17-231, the appointment is perpetual until canceled by the insurer."  
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24           NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
25 integral part of Title 33, chapter 17, part 2, and the provisions of Title 33, chapter 17, part 2, apply to [section 1].

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27           NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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