



AN ACT RESTORING RESCISSION OF INSURANCE CONTRACTS IN THE EVENT OF FRAUD, MATERIAL MISREPRESENTATION, AND OTHER CIRCUMSTANCES; PROVIDING THAT RESCISSION MAY BE DETERMINED UNDER THE UNIFORM DECLARATORY JUDGMENTS ACT; AMENDING SECTION 33-15-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the National Association of Insurance Commissioners estimates that insurance fraud costs over a hundred billion dollars per year and is financially damaging to not only insurance companies, but also to insurance consumers; and

WHEREAS, this act restores the right of rescission of insurance contracts in the event of fraud, material misrepresentation, and other circumstances, to combat the detrimental effect insurance fraud has on the economy and society as a whole.

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

**Section 1.** Section 33-15-403, MCA, is amended to read:

**"33-15-403. Representations in applications -- ~~recovery benefit precluded and rescission allowed~~ if fraudulent or material.** (1) All statements and descriptions in any application for an insurance policy or annuity contract or in negotiations for an insurance policy or annuity contract by or on behalf of the insured or annuitant are considered representations and not warranties.

(2) Misrepresentations, omissions, concealment of facts, and incorrect statements ~~do not prevent a recovery~~ preclude a benefit and allow rescission under the policy or contract ~~unless~~ if:

(a) the representations are fraudulent;

(b) the representations are material either to the acceptance of the risk or to the hazard assumed by the insurer; or

(c) the insurer in good faith would either not have issued the policy or contract or would not have issued a policy or contract in as large an amount or at the same premium or rate or would not have provided coverage

with respect to the hazard resulting in the loss if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise; and

(d) the questions in the application are sufficiently specific that a reasonable person would understand the requirement to provide the particular facts and that the applicant's response was material to the insurer's decision to provide coverage or to determine the premium or rate to be charged for the coverage.

~~(3)~~(3) Subsection (2)(c) does not apply to nonrenewal or discontinuation of group health insurance offered in connection with a group health plan in the small group market or large group market, as those terms are defined in 33-22-140.

(4) If the parties to an insurance policy disagree regarding the propriety of rescission of a policy or a contract under this section, the district courts of this state have jurisdiction to determine the relative rights of the parties under the Uniform Declaratory Judgments Act in Title 27, chapter 8.

(5) This section may not be construed to limit or impair the powers and authority of the commissioner under this title."

**Section 2. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
SB 0240, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

SENATE BILL NO. 240

INTRODUCED BY J. ELLSWORTH

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