

HOUSE BILL NO. 283

INTRODUCED BY L. BANGERTER, O'HARA, WARBURTON, FLYNN, VANCE, WITTICH, C. SMITH,
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ARTHUN, MILBURN, SONJU, VINCENT, J. PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ~~GENDER SEX~~ TO BE CONSIDERED WHEN ISSUING
OR PROVIDING CERTAIN INSURANCE COVERAGE; DECLARING USE OF ACTUARIAL TABLES TO BE A
NONDISCRIMINATORY APPROACH TO SETTING PREMIUMS; ~~IMPOSING A FEE FOR REVIEW OF~~
~~INDUSTRY-APPROVED ACTUARIAL STANDARDS BASED ON SEX~~; PROVIDING AN EXCEPTION FOR
PREMIUM RATES ASSOCIATED WITH DISABILITY INSURANCE; AMENDING ~~SECTIONS 33-16-103 AND~~
~~SECTION SECTIONS 33-2-708, 33-16-203, AND SECTION~~ 49-2-309, MCA; AND PROVIDING AN
APPLICABILITY DATE."

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

~~Section 1. Section 33-16-103, MCA, is amended to read:~~

~~"33-16-103. Application. (1) This Subject to subsection (2), this chapter applies to all insurers and all
kinds of insurance;~~

~~(2) except that nothing contained in Except as provided in [section 3], this chapter applies does not apply
to:~~

~~(1)(a) life insurance;~~

~~(2)(b) disability insurance, except medicare supplement insurance subject to the provisions of chapter
22, part 9;~~

~~(3)(c) reinsurance, except joint reinsurance as provided in 33-16-307;~~

~~(4)(d) insurance against loss of or damage to aircraft, their hulls, accessories, and equipment, or against
liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or
use of aircraft;~~

~~(5)(e) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity,
or other risks commonly insured under marine, insurance policies as distinguished from inland marine, insurance
policies; or~~

1 ~~—— (G)(f) surplus lines insurance as defined in 33-2-301."~~

2

3 ~~—— **SECTION 1. SECTION 33-2-708, MCA, IS AMENDED TO READ:**~~

4 ~~—— **"33-2-708. (Temporary) Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the~~
 5 ~~commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of~~
 6 ~~authority to conduct the business of insurance in Montana.~~

7 ~~—— (b) The commissioner shall collect certain additional fees as follows:~~

8 ~~—— (i) nonresident insurance producer's license:~~

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

10 ~~—— (B) biennial renewal of license, \$50;~~

11 ~~—— (C) lapsed license reinstatement fee, \$100;~~

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

13 ~~—— (iii) surplus lines insurance producer's license:~~

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

15 ~~—— (B) biennial renewal of license, \$100;~~

16 ~~—— (C) lapsed license reinstatement fee, \$200;~~

17 ~~—— (iv) insurance adjuster's license:~~

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

19 ~~—— (B) biennial renewal of license, \$100;~~

20 ~~—— (C) lapsed license reinstatement fee, \$200;~~

21 ~~—— (v) insurance consultant's license:~~

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

23 ~~—— (B) biennial renewal of license, \$100;~~

24 ~~—— (C) lapsed license reinstatement fee, \$200;~~

25 ~~—— (vi) viatical settlement broker's license:~~

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

27 ~~—— (B) biennial renewal of license, \$100;~~

28 ~~—— (C) lapsed license reinstatement fee, \$200;~~

29 ~~—— (vii) resident and nonresident rental car entity producer's license:~~

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

- 1 ~~——— (B) quarterly filing fee, \$25;~~
- 2 ~~——— (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in~~
3 ~~accordance with 33-20-1303(2)(b), \$50;~~
- 4 ~~——— (ix) 50 cents for each page for copies of documents on file in the commissioner's office.;~~
- 5 ~~——— (x) review of industry-approved actuarial standards based on sex as provided in 33-16-203 and~~
6 ~~49-2-309, \$2,360.~~
- 7 ~~——— (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer,~~
8 ~~a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee~~
9 ~~for the biennial renewal of a license.~~
- 10 ~~——— (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as~~
11 ~~required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization~~
12 ~~submitting courses or programs for review in any biennium.~~
- 13 ~~——— (b) Insurers and associations composed of members of the insurance industry are exempt from the~~
14 ~~charge in subsection (2)(a).~~
- 15 ~~——— (3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state~~
16 ~~treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to~~
17 ~~33-2-311, 33-2-705, 33-28-201, and 50-3-109.~~
- 18 ~~——— (b) The commissioner shall deposit 16.67% of the money collected under 33-2-705 in the special~~
19 ~~revenue account provided for in 53-4-1115.~~
- 20 ~~——— (c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title~~
21 ~~33 must be deposited in the state special revenue fund to the credit of the state auditor's office.~~
- 22 ~~——— (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts~~
23 ~~in excess of \$10 will be refunded. (Terminates June 30, 2013--sec. 35(2), Ch. 486, L. 2009.)~~
- 24 ~~——— **33-2-708. (Effective July 1, 2013) Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the~~
25 ~~commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of~~
26 ~~authority to conduct the business of insurance in Montana.~~
- 27 ~~——— (b) The commissioner shall collect certain additional fees as follows:~~
- 28 ~~——— (i) nonresident insurance producer's license:~~
- 29 ~~——— (A) application for original license, including issuance of license, if issued, \$100;~~
- 30 ~~——— (B) biennial renewal of license, \$50;~~

- 1 ~~—— (C) lapsed license reinstatement fee, \$100;~~
- 2 ~~—— (ii) resident insurance producer's license lapsed license reinstatement fee, \$100;~~
- 3 ~~—— (iii) surplus lines insurance producer's license:~~
- 4 ~~—— (A) application for original license and for issuance of license, if issued, \$50;~~
- 5 ~~—— (B) biennial renewal of license, \$100;~~
- 6 ~~—— (C) lapsed license reinstatement fee, \$200;~~
- 7 ~~—— (iv) insurance adjuster's license:~~
- 8 ~~—— (A) application for original license, including issuance of license, if issued, \$50;~~
- 9 ~~—— (B) biennial renewal of license, \$100;~~
- 10 ~~—— (C) lapsed license reinstatement fee, \$200;~~
- 11 ~~—— (v) insurance consultant's license:~~
- 12 ~~—— (A) application for original license, including issuance of license, if issued, \$50;~~
- 13 ~~—— (B) biennial renewal of license, \$100;~~
- 14 ~~—— (C) lapsed license reinstatement fee, \$200;~~
- 15 ~~—— (vi) viatical settlement broker's license:~~
- 16 ~~—— (A) application for original license, including issuance of license, if issued, \$50;~~
- 17 ~~—— (B) biennial renewal of license, \$100;~~
- 18 ~~—— (C) lapsed license reinstatement fee, \$200;~~
- 19 ~~—— (vii) resident and nonresident rental car entity producer's license:~~
- 20 ~~—— (A) application for original license, including issuance of license, if issued, \$100;~~
- 21 ~~—— (B) quarterly filing fee, \$25;~~
- 22 ~~—— (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in~~
- 23 ~~accordance with 33-20-1303(2)(b), \$50;~~
- 24 ~~—— (ix) 50 cents for each page for copies of documents on file in the commissioner's office.~~
- 25 ~~—— (x) review of industry approved actuarial standards based on sex as provided in 33-16-203 and~~
- 26 ~~49-2-309, \$2,360.~~
- 27 ~~—— (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer,~~
- 28 ~~a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee~~
- 29 ~~for the biennial renewal of a license.~~
- 30 ~~—— (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as~~

1 required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization
 2 submitting courses or programs for review in any biennium.

3 ~~———— (b) Insurers and associations composed of members of the insurance industry are exempt from the
 4 charge in subsection (2)(a).~~

5 ~~———— (3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state
 6 treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to
 7 33-2-311, 33-2-705, 33-28-201, and 50-3-109.~~

8 ~~———— (b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue
 9 account provided for in 53-4-1115.~~

10 ~~———— (c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title
 11 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.~~

12 ~~———— (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts
 13 in excess of \$10 will be refunded."~~

14

15 ~~———— **SECTION 2. SECTION 33-16-203, MCA, IS AMENDED TO READ:**~~

16 ~~———— **"33-16-203. Rates filed.** (1) Every insurer, rating organization, or advisory organization shall file with
 17 the commissioner all rates intended for use within this state, together with supporting data sufficient to
 18 substantiate the filing. The filing required by this subsection may be made by rating organizations on behalf of
 19 their members and subscribers. However, this provision does not prohibit a member or subscriber from filing rates
 20 on its own behalf. Any deviations from a rating organization's rates by a member or subscriber must be filed with
 21 the commissioner and must be accompanied by supporting data.~~

22 ~~———— (2) Rates filed must provide for a premium reduction to:~~

23 ~~———— (a) qualified insured operators 55 years of age or older in accordance with 33-16-222; or~~

24 ~~———— (b) qualified members of the Montana national guard in accordance with 33-16-230.~~

25 ~~———— (3) An insurer, rating organization, or advisory organization that files rates with the commissioner in order
 26 to use industry-approved actuarial standards based on sex in establishing insurance premium rates as provided
 27 in 49-2-309 shall submit a fee of \$2,360 with the filing."~~

28

29 **Section 1.** Section 49-2-309, MCA, is amended to read:

30 **"49-2-309. Discrimination in insurance and retirement plans.** (1) ~~It is an unlawful discriminatory~~

1 ~~practice for a~~ A financial institution or person to may not discriminate solely on the basis of ~~sex or~~ SEX OR marital
 2 status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or
 3 retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or
 4 benefits.

5 (2) This section does not apply to any insurance policy, plan, or coverage or to any pension or retirement
 6 plan, program, or coverage in effect prior to October 1, 1985.

7 (3) It is not a violation of the prohibition against marital status discrimination in this section for an
 8 employer to provide greater or additional contributions to a bona fide group insurance plan for employees with
 9 dependents than to those employees without dependents or with fewer dependents.

10 (4) EXCEPT AS PROVIDED IN SUBSECTION (5), IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST SEX
 11 DISCRIMINATION IN THIS SECTION FOR A PERSON TO USE INDUSTRY-APPROVED ACTUARIAL STANDARDS BASED ON SEX IN
 12 ESTABLISHING INSURANCE PREMIUM RATES.

13 (5) AN INSURER OR A HEALTH SERVICE CORPORATION THAT ISSUES OR RENEWS A POLICY, CERTIFICATE, OR
 14 MEMBERSHIP CONTRACT OF HEALTH INSURANCE COVERAGE AS DEFINED IN 33-22-140 TO A RESIDENT OF THIS STATE MAY
 15 NOT USE INDUSTRY-APPROVED ACTUARIAL STANDARDS BASED ON SEX TO ESTABLISH HEALTH PLAN PREMIUM RATES."

16
 17 ~~NEW SECTION. Section 3. Actuarial tables in setting rates -- exceptions.~~ (1) A person who uses
 18 industry-approved actuarial standards in establishing insurance premium rates is not discriminating on the basis
 19 of gender.

20 ~~(2) A person may not use industry-approved actuarial standards to establish disability insurance premium~~
 21 ~~rates for persons on the basis of gender.~~

22 ~~(3) This section applies to life insurance and disability insurance.~~

23
 24 ~~NEW SECTION. Section 4. Codification instruction.~~ [Section 3] is intended to be codified as an
 25 integral part of Title 33, chapter 16, part 2, and the provisions of Title 33, chapter 16, part 2, apply to [section 3].

26
 27 NEW SECTION. Section 2. Applicability. [This act] applies to insurance contracts entered into or
 28 renewed on or after [the effective date of this act].

29 - END -