

HOUSE BILL NO. 136

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INSURANCE LAWS TO ALLOW INSURERS TO PROVIDE A BENEFIT OR PREMIUM REDUCTION TO A POLICYHOLDER FOR MEASURES TAKEN TO REDUCE THE RISK OF DAMAGE TO PROPERTY FROM FIRE, WIND, AND HAIL; PROVIDING THAT A BENEFIT OR PREMIUM REDUCTION DOES NOT CONSTITUTE A MIDTERM PREMIUM INCREASE; REQUIRING AN INSURER TO DISCLOSE THE BENEFIT OR PREMIUM REDUCTION; AND AMENDING SECTIONS 33-15-1108, 33-16-203, AND 33-18-210, MCA."

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

**NEW SECTION. Section 1. Risk preventative measures for homeowners -- premium reduction - fire, wind, and hail.** (1) An insurer may provide a benefit or a premium reduction to a homeowner's insurance policyholder for preventative measures taken by the policyholder. Preventative measures include but are not limited to actions that reduce the risk of damage to property from fire, wind, or hail.

(a) Fire preventative measures include but are not limited to any of the following:

(i) using fire-resistive or noncombustible building materials in construction, including noncombustible roofing or coating;

(ii) maintaining an adequate outside water source;

(iii) providing annual confirmation, if requested by the insurer, that the insured has employed defensible space landscaping around the insured's structures;

(iv) keeping a border of at least 5 feet of nonflammable landscaping around the insured property;

and

(v) complying with any local, state, or federal fire prevention or community preparedness programs.

(b) Wind and hail preventative measures include but are not limited to the following:

(i) using an industry-approved resistant roof shingle;

- 1 (ii) anchoring outdoor furniture;
- 2 (iii) pruning tree branches or otherwise providing landscaping that reduces potential damage to the
- 3 insured property; and
- 4 (iv) installing protective coverings to avoid additional damage to the insured property.

5 (2) An insurer who provides a benefit or premium reduction as provided in this section must  
 6 include the benefit or premium reduction in writing to the policyholder. A benefit or premium reduction provided  
 7 by an insurer under this section does not constitute an illegal rebate under 33-18-210.

8 (3) For the purposes of this section, the following definitions apply:

9 (a) "Benefit" means a rebate, discount, abatement, credit, reduction of premium, or other  
 10 advantage to the policyholder provided under the terms of a preventative measures agreement.

11 (b) "Policyholder" means a person who is the named insured in a homeowner's insurance policy.

12

13 **Section 2.** Section 33-15-1108, MCA, is amended to read:

14 **"33-15-1108. Limitation on midterm premium increases.** (1) In any case involving property or  
 15 casualty insurance that is subject to this part, the insurer may not unilaterally increase the rate charged or  
 16 decrease the coverage provided for the contract period unless:

17 (a) there is a change in risk during that period because of the addition or removal of persons or  
 18 property that was included in the rate at last renewal;

19 (b) the risk was misrepresented by the insured; or

20 (c) the insured requests a policy change that increases the rate because of that specific request.

21 (2) This section does not prohibit the cancellation of a policy for any other reason permitted by the  
 22 policy or by law during an initial policy period not to exceed 60 days.

23 (3) This section does not prohibit an insurer from providing a benefit or premium reduction relating  
 24 to preventative measures taken by a policyholder under [section 1]."

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26 **Section 3.** Section 33-16-203, MCA, is amended to read:

27 **"33-16-203. Rates filed.** (1) Every insurer, rating organization, or advisory organization shall file with  
 28 the commissioner all rates intended for use within this state, together with supporting data sufficient to

1 substantiate the filing. The filing required by this subsection may be made by rating organizations on behalf of  
 2 their members and subscribers. However, this provision does not prohibit a member or subscriber from filing  
 3 rates on its own behalf. Any deviations from a rating organization's rates by a member or subscriber must be  
 4 filed with the commissioner and must be accompanied by supporting data.

5 (2) Rates filed must provide for a premium reduction to:

6 (a) qualified insured operators who are 55 years of age or older in accordance with 33-16-222; or

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

8 (3) Rates filed may provide a benefit or premium reduction for preventative measures taken by the  
 9 insured for homeowner's insurance under [section 1]."

10

11 **Section 4.** Section 33-18-210, MCA, is amended to read:

12 **"33-18-210. Unfair discrimination and rebates prohibited for title, property, casualty, or surety**

13 **insurance -- exceptions -- limitations.** (1) Except as provided in subsections (3), (4), and (11)(a), a title,

14 property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may

15 not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to

16 pay, allow, or give, directly or indirectly, a:

17 (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

18 (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

19 (c) valuable consideration or inducement not specified in the policy, except to the extent provided

20 for in an applicable filing with the commissioner as provided by law.

21 (2) Except as provided in subsections (3), (4), and (11)(a), an insured named in a policy or an

22 employee of the insured may not knowingly receive or accept, directly or indirectly, a:

23 (a) a rebate, discount, abatement, credit, or reduction of premium;

24 (b) a special favor or advantage; or

25 (c) a valuable consideration or inducement.

26 (3) The prohibitions in subsections (1) and (2) do not apply to a benefit provided for by a telematics

27 agreement as provided in 33-23-221 through 33-23-226 or a benefit or premium reduction for preventative

28 measures taken by the insured for homeowner's insurance under [section 1].

1           (4)     The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably  
2 separated member of the United States armed forces as described in 33-18-217(1)(a) or to a spouse, surviving  
3 spouse, dependent, or heir of a United States armed forces member as provided in 33-18-217.

4           (5)     An insurer may not make or permit unfair discrimination in the premium or rates charged for  
5 insurance, in the dividends or other benefits payable on insurance, or in any other ~~of the~~ terms and conditions  
6 of the insurance either between insureds or property having like insuring or risk characteristics or between  
7 insureds because of race, color, creed, religion, or national origin.

8           (6)     This section may not be construed as prohibiting the payment of commissions or other  
9 compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful  
10 dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

11          (7)     An insurer may not make or permit unfair discrimination between individuals or risks of the  
12 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting  
13 the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk,  
14 unless:

15          (a)     the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
16 unfair discrimination; or

17          (b)     the refusal, cancellation, or limitation is required by law or regulatory mandate.

18          (8)     An insurer may not make or permit unfair discrimination between individuals or risks of the  
19 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting  
20 the amount of insurance coverage on a residential property risk or on the personal property contained in the  
21 residential property, because of the age of the residential property, unless:

22          (a)     the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
23 unfair discrimination; or

24          (b)     the refusal, cancellation, or limitation is required by law or regulatory mandate.

25          (9)     An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of  
26 coverage available to an individual because of the sex or marital status of the individual. However, an insurer  
27 may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

28          (10)    An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a

1 property or casualty policy or contract of insurance solely because the applicant or insured or any employee of  
2 either is mentally or physically impaired. However, this subsection does not apply to accident and health  
3 insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision  
4 of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

5 (11) (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or  
6 limit the amount of coverage available to an individual under a private passenger automobile policy based  
7 solely on adverse information contained in an individual's claims history and driving record that is 3 years old or  
8 older. An insurer may provide discounts to an insured under a private passenger automobile policy based on  
9 favorable aspects of an insured's claims history.

10 (b) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
11 the amount of coverage available under a commercial automobile policy based solely on adverse information  
12 contained in the loss experience or an insured's driving records that is 5 years old or older. An insurer may  
13 provide discounts to an insured under a commercial automobile policy based on favorable aspects of an  
14 insured's claims history.

15 (c) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
16 the amount of coverage available under a personal homeowner policy based solely on adverse information  
17 contained in the loss experience that is 7 years old or older. An insurer may provide discounts to an insured  
18 under a personal homeowner policy based on favorable aspects of an insured's claims history.

19 (d) As used in subsection (11)(a), "private passenger automobile policy" means an automobile  
20 insurance policy issued to individuals or families but does not include policies known as commercial automobile  
21 policies.

22 (e) As used in subsection (11)(c), "personal homeowner policy" means property insurance under  
23 33-1-210 that is sold by an insurer for personal, family, or household purposes.

24 (12) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
25 because of a claim submitted under the insured's policy if the insured was not at fault.

26 (13) (a) An insurer that provides personal lines insurance for an insured may not consider the  
27 insured's inquiries or claims made to any insurer that did not result in a payment by any insurer in considering  
28 an application for, renewal of, or change in an insurance policy as defined in 33-15-102.

1           (b)     This subsection (13) does not apply to an insurer's consideration of a claim that was the basis  
2 for a criminal or civil insurance fraud action by a state or regulatory enforcement entity.

3           (c)     (i) For the purposes of this subsection (13), the term "personal lines insurance" means vehicle  
4 insurance under 33-1-206(1)(a) and property insurance under 33-1-210 that is sold by an insurer for personal,  
5 family, or household purposes.

6           (ii)    The term does not include disability insurance or insurance for commercial, business, or  
7 professional services, products, or activities."

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9           NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an  
10 integral part of Title 33, chapter 24, and the provisions of Title 33, chapter 24, apply to [section 1].

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