

COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

ADVISORY MEMORANDUM

To: All Property and Casualty Insurers Licensed in Montana
Employing Agency Book Transfer Programs

From: MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

Date: September 24, 2012



NOTICE REQUIREMENTS WHEN EMPLOYING AN AGENCY BOOK TRANSFER PROGRAM

This memo revises a May 2, 2011 memo and is intended to clarify that the advisory memorandum specifically applies to agencies and agents utilizing book transfers.

Certain agencies are considering employing an agency book transfer program wherein insureds are offered an opportunity to transfer their business as part of a mass (book) transfer that will result in multiple transfers of business from one insurer to another, with a transition period of approximately three to four years. The transition period would allow the insurer to adjust premiums to initially match the insured's current rate for the product transferred, but ultimately the premium for the new insurer will differ, either increasing or decreasing over the transition period based on the new insurer's rating plan. In an effort to clarify the office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), position with regard to these transfers, agencies are reminded of their responsibility to continue to comply with all provisions of the Montana Insurance Code, Mont. Code Ann. §§ 33-1-101, *et seq.*

The CSI requires these transfers to be treated as new business. To protect consumers, including providing enough information to the individual consumer to ensure an informed choice is made, the CSI interprets Mont. Code Ann. §§ 33-18-102, 33-18-202, 203 and 204, to mean agents engaging in this practice must request the new insurer to include in the notice a statement indicating the true dollar amount the consumer's premium would be if it were not for the transition period. This dollar amount must appear in the notice in a bolded font size of 14 points or larger. The notice must also contain an accurate description of how the consumer's premium may be impacted during the three to four year transition period, including a description of how rates are determined. Further, the CSI construes Mont. Code Ann. §§ 33-18-102, 33-18-202, 203 and 204, to mean agencies engaging in this practice must request the insurer to develop a notice form that contains statements regarding the use of credit information that conforms with the requirements of the Montana Use of Credit Information in Personal Insurance Act found at Mont. Code Ann. § 33-18-601 through 612.

Additionally, because these transfers are treated as new business, the notice should also clearly indicate consumers will be subject to the provisions of Mont. Code Ann. § 33-15-1103(3), and could potentially result in cancellation within the first 60 days of issuance of the new policy. The statement regarding this potential cancellation must also be in a bolded font of 14 points or larger.

The notice forms must be filed with and approved by the CSI pursuant to the provisions of Mont. Code Ann. § 33-1-501.

If you have questions about filing forms, please contact Rosann Grandy, Forms Bureau Chief at (406) 444-2040 or at rgrandy@mt.gov. If you have any questions concerning rates/premium, please contact Mari Kindberg, Rates Bureau Chief at (406) 444-2040 or at mkindberg@mt.gov.