

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB21-063 be amended as follows:

1 Amend printed bill, page 2, line 3, strike everything after "introductory"
2 and substitute "portion; and **add** (7)(d) as follows:".

3 Page 2, strike lines 6 through 11 and substitute "~~which~~ THAT complies
4 with EITHER the following requirements OR SUBSECTION (7)(d) OF THIS
5 SECTION:

6 (d) (I) A MULTIPLE EMPLOYER WELFARE ARRANGEMENT THAT
7 MEETS THE REQUIREMENTS SPECIFIED IN SUBSECTION (7)(c) OF THIS
8 SECTION OTHER THAN SUBSECTION (7)(c)(I) OF THIS SECTION MAY FILE AN
9 APPLICATION FOR A WAIVER WITH THE COMMISSIONER. THE APPLICATION
10 MUST INCLUDE:

11 (A) A COPY OF THE MULTIPLE EMPLOYER WELFARE
12 ARRANGEMENT'S ARTICLES OF INCORPORATION, CONSTITUTION, TRUST
13 AGREEMENT, BYLAWS, AND ANALOGOUS ORGANIC DOCUMENTS THAT
14 GOVERN THE OPERATION OF THE ARRANGEMENT;

15 (B) A COPY OF MEMBERSHIP CRITERIA, A STATEMENT OF
16 OWNERSHIP OF THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT'S
17 MEMBERS, AND A SUMMARY OF THE ACTIVITIES AND BENEFITS, OTHER
18 THAN HEALTH PLAN COVERAGE, PROVIDED TO MEMBERS;

19 (C) A LIST OF NAMES, ADDRESSES, AND OFFICIAL CAPACITIES WITH
20 THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT OF THE INDIVIDUALS
21 WHO WILL BE RESPONSIBLE FOR THE MANAGEMENT AND CONDUCT OF THE
22 AFFAIRS OF THE ARRANGEMENT, INCLUDING ALL TRUSTEES, OFFICERS, AND
23 DIRECTORS, ALONG WITH A FULL DISCLOSURE OF THE EXTENT AND NATURE
24 OF ANY CONTRACTS BETWEEN THE INDIVIDUALS AND THE ARRANGEMENT,
25 INCLUDING POSSIBLE CONFLICTS OF INTEREST;

26 (D) CRIMINAL BACKGROUND RECORDS. EACH INDIVIDUAL
27 SPECIFIED IN SUBSECTION (7)(d)(I)(C) OF THIS SECTION SHALL SUBMIT A
28 SET OF FINGERPRINTS TO THE COMMISSIONER. THE COMMISSIONER SHALL
29 FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF
30 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL
31 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
32 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
33 FEDERAL BUREAU OF INVESTIGATION. THE MULTIPLE EMPLOYER WELFARE
34 ARRANGEMENT SHALL BEAR ONLY THE ACTUAL COSTS OF THE RECORD
35 CHECK. WHEN THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY
36 RECORD CHECK OF AN INDIVIDUAL PERFORMED PURSUANT TO THIS
37 SUBSECTION (7)(d)(I)(D) REVEAL A RECORD OF ARREST WITHOUT A
38 DISPOSITION, THE COMMISSIONER SHALL REQUIRE THAT INDIVIDUAL TO
39 SUBMIT TO A NAME-BASED CRIMINAL HISTORY RECORD CHECK, AS DEFINED
40 IN SECTION 22-2-119.3 (6)(d).

1 (E) A COPY OF THE POLICY, CONTRACT, CERTIFICATE, SUMMARY
2 PLAN DESCRIPTION, OR OTHER EVIDENCE OF THE BENEFITS AND
3 COVERAGES PROVIDED TO COVERED EMPLOYEES, INCLUDING FOR EACH
4 FORM OF EVIDENCE A TABLE OF THE RATES CHARGED OR PROPOSED TO BE
5 CHARGED;

6 (F) A COPY OF THE MULTIPLE EMPLOYER WELFARE
7 ARRANGEMENT'S STOP-LOSS OR EXCESS INSURANCE AGREEMENT, IF ANY;

8 (G) A COPY OF AUDITED FINANCIAL STATEMENTS OF THE MULTIPLE
9 EMPLOYER WELFARE ARRANGEMENT FOR THE PREVIOUS FIVE YEARS THAT
10 WERE PREPARED BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT,
11 INCLUDING AN ACTUARIAL OPINION; AND

12 (H) A COPY OF EVERY CONTRACT BETWEEN THE MULTIPLE
13 EMPLOYER WELFARE ARRANGEMENT AND ITS ADMINISTRATOR OR SERVICE
14 COMPANY, INCLUDING, IF APPLICABLE, A COPY OF THE FIDELITY BOND
15 SPECIFIED IN SUBSECTION (7)(d)(II)(C) OF THIS SECTION.

16 (II) TO QUALIFY FOR A WAIVER, A MULTIPLE EMPLOYER WELFARE
17 ARRANGEMENT MUST:

18 (A) MAINTAIN UNALLOCATED RESERVES OF NOT LESS THAN TWO
19 MILLION DOLLARS OF MINIMUM SURPLUS PLUS THREE TIMES THE MULTIPLE
20 EMPLOYER WELFARE ARRANGEMENT'S AUTHORIZED CONTROL LEVEL OF
21 RISK-BASED CAPITAL;

22 (B) BE MANAGED BY AND PROVIDE BENEFITS THROUGH AN
23 ADMINISTRATOR OR SERVICE COMPANY THAT IS IN GOOD STANDING IN ALL
24 OTHER STATES IN WHICH THE ADMINISTRATOR OR SERVICE COMPANY
25 OPERATES, AND IF THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT
26 PROVIDES COVERAGE THROUGH ONE OR MORE BROKERS, THE BROKERS
27 MUST BE LICENSED AS PRODUCERS PURSUANT TO ARTICLE 2 OF THIS TITLE
28 10:

29 (C) BE MANAGED BY AN ADMINISTRATOR OR SERVICE COMPANY
30 THAT IS A LICENSED THIRD-PARTY ADMINISTRATOR OR IS COVERED BY A
31 FIDELITY BOND IN THE AMOUNT OF TWO HUNDRED THOUSAND DOLLARS;

32 (D) MAINTAIN A COMPLAINT SYSTEM THAT COMPLIES WITH
33 SECTION 10-3-1104 (1)(i) AND MAKE THE SYSTEM AVAILABLE TO THE
34 DIVISION UPON REQUEST;

35 (E) FILE THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT'S
36 PLAN MARKETING MATERIALS WITH THE DIVISION;

37 (F) PROVIDE TO THE COMMISSIONER QUARTERLY FINANCIAL
38 STATEMENTS TO DEMONSTRATE THAT THE RESERVES REQUIRED PURSUANT
39 TO SUBSECTION (7)(d)(II)(A) OF THIS SECTION ARE BEING MAINTAINED
40 ALONG WITH ANNUAL AUDITED FINANCIAL REPORTS; AND

41 (G) PROVIDE NONDISCRIMINATORY PLAN COVERAGE TO ITS
42 MEMBERS THAT IS APPLIED EVENLY AND EQUITABLY TO ALL EMPLOYEES
43 OF THE MEMBERS AND THAT MATCHES WHAT IS OTHERWISE REQUIRED OF

1 HEALTH BENEFIT PLANS, INCLUDING ELEMENTS COVERAGE OF ESSENTIAL
2 HEALTH BENEFITS AND COMPLIANCE WITH THE FEDERAL "PATIENT
3 PROTECTION AND AFFORDABLE CARE ACT", AS AMENDED, PUB.L.
4 111-148; NETWORK PROVIDER REQUIREMENTS AND COMPLIANCE WITH
5 NETWORK ADEQUACY STANDARDS; GUARANTEE ISSUE; AND ANNUAL RATE
6 AND FORM FILINGS WITH THE DIVISION.

7 (III) THE COMMISSIONER SHALL CONSIDER GRANTING A WAIVER TO
8 A MULTIPLE EMPLOYER WELFARE ARRANGEMENT THAT HAS SUBMITTED A
9 COMPLETE APPLICATION PURSUANT TO SUBSECTION (7)(d)(I) OF THIS
10 SECTION AND THAT IS IN COMPLIANCE WITH SUBSECTION (7)(d)(II) OF THIS
11 SECTION IN ACCORDANCE WITH THE FOLLOWING FACTORS:

12 (A) WHETHER THE ESTABLISHMENT OF A MULTIPLE EMPLOYER
13 WELFARE ARRANGEMENT HAS THE POTENTIAL TO LOWER INSURANCE
14 COSTS FOR ITS MEMBERS OR PROVIDE ADDITIONAL INSURANCE OPTIONS IN
15 A REGION OR REGIONS OF THE STATE WHERE THERE MAY NOT BE
16 SUFFICIENT COMPETITION;

17 (B) POTENTIAL IMPACT ON THE FULLY INSURED MARKET;

18 (C) CONSUMER EXPERIENCE WITH ACCESSING COVERAGE AND THE
19 POTENTIAL FOR CONSUMER HARM;

20 (D) WHETHER THE ADMINISTRATOR OF THE MULTIPLE EMPLOYER
21 WELFARE ARRANGEMENT HAS DEMONSTRATED FINANCIAL SOUNDNESS SO
22 AS TO NOT JEOPARDIZE THE VIABILITY OF THE ARRANGEMENT OR HARM ITS
23 MEMBERS; AND

24 (E) OTHER FACTORS THAT DEMONSTRATE THE NEED FOR
25 ADDITIONAL INSURANCE OPTIONS TO INCREASE COMPETITION OR LOWER
26 HEALTH-CARE COSTS FOR CONSUMERS.

27 (IV) A WAIVER GRANTED PURSUANT TO THIS SUBSECTION (7)(d)
28 SUBJECTS THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT TO THE
29 DIVISION'S FULL ENFORCEMENT AUTHORITY AVAILABLE PURSUANT TO THIS
30 TITLE 10 AND ALLOWS THE ARRANGEMENT TO OPERATE PURSUANT TO THIS
31 SUBSECTION (7) FOR TWO YEARS. TO CONTINUE TO OPERATE PURSUANT TO
32 THIS SUBSECTION (7), AN ARRANGEMENT MUST REAPPLY FOR A WAIVER;
33 EXCEPT THAT, IF THE COMMISSIONER GRANTS FIVE CONSECUTIVE WAIVERS
34 PURSUANT TO THIS SUBSECTION (7)(d), AN ARRANGEMENT MAY CONTINUE
35 TO OPERATE PURSUANT TO THIS SUBSECTION (7) WITHOUT AGAIN
36 APPLYING FOR A WAIVER.".

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