

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 18-0769.01 Christy Chase x2008

HOUSE BILL 18-1392

HOUSE SPONSORSHIP

Kennedy and Rankin, Hamner, Esgar, Ginal, Lontine, McLachlan, Michaelson Jenet, Roberts, Valdez

SENATE SPONSORSHIP

Coram and Donovan, Aguilar

House Committees

Health, Insurance, & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO REINSURANCE**
102 **PROGRAM TO PROVIDE REINSURANCE PAYMENTS TO HEALTH**
103 **INSURERS TO AID IN PAYING HIGH-COST INSURANCE CLAIMS,**
104 **AND, IN CONNECTION THEREWITH, AUTHORIZING THE**
105 **COMMISSIONER OF INSURANCE TO SEEK APPROVAL FROM THE**
106 **FEDERAL GOVERNMENT TO WAIVE APPLICABLE FEDERAL**
107 **REQUIREMENTS, PROVIDE FEDERAL FUNDS, OR BOTH TO ENABLE**
108 **THE STATE TO IMPLEMENT THE REINSURANCE PROGRAM**
109 **MAKING THE PROGRAM CONTINGENT UPON WAIVER OR FUNDING**
110 **APPROVAL, AND MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 30, 2018

HOUSE
Amended 2nd Reading
April 27, 2018

1 (3) "COINSURANCE RATE" MEANS THE RATE SET BY THE
2 COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) AT WHICH THE
3 REINSURANCE PROGRAM WILL REIMBURSE AN ELIGIBLE CARRIER FOR
4 CLAIMS INCURRED FOR A COVERED PERSON'S COVERED BENEFITS IN A
5 BENEFIT YEAR, WHICH CLAIMS EXCEED THE ATTACHMENT POINT BUT ARE
6 BELOW THE REINSURANCE CAP.

7 (4) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE,
8 THE COMMISSIONER'S DEPUTIES, OR THE DIVISION OF INSURANCE, AS
9 APPROPRIATE.

10 (5) "ELIGIBLE CARRIER" MEANS A CARRIER THAT:

11 (a) OFFERS INDIVIDUAL HEALTH BENEFIT PLANS THAT ARE
12 COMPLIANT WITH THE FEDERAL ACT; AND

13 (b) INCURS CLAIMS COSTS FOR A COVERED PERSON'S COVERED
14 BENEFITS IN THE APPLICABLE BENEFIT YEAR.

15 (6) "PAYMENT PARAMETERS" MEANS THE ATTACHMENT POINT,
16 REINSURANCE CAP, AND COINSURANCE RATE FOR THE REINSURANCE
17 PROGRAM.

18 (7) "REINSURANCE CAP" MEANS THE AMOUNT SET BY THE
19 COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) FOR CLAIMS COSTS
20 INCURRED BY AN ELIGIBLE CARRIER FOR A COVERED PERSON'S COVERED
21 BENEFITS, ABOVE WHICH THE CLAIMS COSTS FOR BENEFITS ARE NO LONGER
22 ELIGIBLE FOR REINSURANCE PAYMENTS.

23 (8) "REINSURANCE PAYMENT" MEANS AN AMOUNT PAID TO AN
24 ELIGIBLE CARRIER UNDER THE REINSURANCE PROGRAM.

25 (9) "REINSURANCE PROGRAM" OR "PROGRAM" MEANS THE
26 COLORADO REINSURANCE PROGRAM ESTABLISHED UNDER SECTION
27 10-16-1104.

1 (10) "STATE INNOVATION WAIVER" MEANS A WAIVER OF ONE OR
2 MORE REQUIREMENTS OF THE FEDERAL ACT AUTHORIZED BY SECTION 1332
3 OF THE FEDERAL ACT, CODIFIED IN 42 U.S.C. SEC. 18052, AND APPLICABLE
4 FEDERAL REGULATIONS.

5 **10-16-1103. Commissioner powers and duties - rules.** (1) THE
6 COMMISSIONER HAS ALL POWERS NECESSARY TO IMPLEMENT THIS PART 11
7 AND IS SPECIFICALLY AUTHORIZED TO:

8 (a) ENTER INTO CONTRACTS AS NECESSARY OR PROPER TO CARRY
9 OUT THE PROVISIONS AND PURPOSES OF THIS PART 11, INCLUDING
10 CONTRACTS FOR THE ADMINISTRATION OF THE REINSURANCE PROGRAM
11 AND WITH APPROPRIATE ADMINISTRATIVE STAFF, CONSULTANTS, AND
12 LEGAL COUNSEL;

13 (b) TAKE LEGAL ACTION AS NECESSARY TO AVOID THE PAYMENT
14 OF IMPROPER CLAIMS UNDER THE REINSURANCE PROGRAM;

15 (c) ESTABLISH ADMINISTRATIVE AND ACCOUNTING PROCEDURES
16 FOR THE OPERATION OF THE REINSURANCE PROGRAM;

17 (d) ESTABLISH PROCEDURES AND STANDARDS FOR CARRIERS TO
18 SUBMIT CLAIMS UNDER THE REINSURANCE PROGRAM;

19 (e) ESTABLISH OR ADJUST THE PAYMENT PARAMETERS IN
20 ACCORDANCE WITH SECTION 10-16-1104 (2) FOR EACH BENEFIT YEAR;

21 (f) ASSESS SPECIAL FEES AGAINST INSURERS FOR THE CONTINUOUS
22 OPERATION OF THE REINSURANCE PROGRAM, AS PROVIDED IN SECTION
23 10-16-1107;

24 (g) APPLY FOR A STATE INNOVATION WAIVER, FEDERAL FUNDS, OR
25 BOTH, IN ACCORDANCE WITH SECTION 10-16-1108, FOR THE
26 IMPLEMENTATION AND OPERATION OF THE REINSURANCE PROGRAM;

27 (h) APPLY FOR, ACCEPT, ADMINISTER, AND EXPEND GIFTS, GRANTS,

1 AND DONATIONS AND ANY FEDERAL FUNDS THAT MAY BECOME AVAILABLE
2 FOR THE OPERATION OF THE REINSURANCE PROGRAM; AND

3 (i) ADOPT RULES AS NECESSARY TO IMPLEMENT, ADMINISTER, AND
4 ENFORCE THIS PART 11, INCLUDING RULES NECESSARY TO ALIGN STATE
5 LAW WITH ANY FEDERAL PROGRAM.

6 **10-16-1104. Reinsurance program - creation - enterprise**
7 **status - subject to waiver or funding approval - operation - payment**
8 **parameters - calculation of reinsurance payments - eligible carrier**

9 **requests - definition.** (1) (a) THERE IS HEREBY CREATED IN THE DIVISION
10 THE COLORADO REINSURANCE PROGRAM TO PROVIDE REINSURANCE
11 PAYMENTS TO ELIGIBLE CARRIERS. IMPLEMENTATION AND OPERATION OF
12 THE REINSURANCE PROGRAM IS CONTINGENT UPON APPROVAL OF THE
13 STATE INNOVATION WAIVER OR FEDERAL FUNDING REQUEST SUBMITTED
14 BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-16-1108.

15 (b) (I) THE REINSURANCE PROGRAM CONSTITUTES AN ENTERPRISE
16 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
17 AS LONG AS THE COMMISSIONER, ON BEHALF OF THE PROGRAM, RETAINS
18 AUTHORITY TO ISSUE REVENUE BONDS AND THE PROGRAM RECEIVES LESS
19 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS DEFINED IN
20 SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL
21 GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE
22 PURSUANT TO THIS SECTION, THE PROGRAM IS NOT A DISTRICT FOR
23 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

24 (II) SUBJECT TO APPROVAL BY THE GENERAL ASSEMBLY, EITHER
25 BY BILL OR JOINT RESOLUTION, AND AFTER APPROVAL BY THE GOVERNOR
26 PURSUANT TO SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION, THE
27 COMMISSIONER, ON BEHALF OF THE REINSURANCE PROGRAM, IS HEREBY

1 AUTHORIZED TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE
2 PROGRAM, SECURED BY REVENUES OF THE PROGRAM.

3 (c) IF THE STATE INNOVATION WAIVER OR FEDERAL FUNDING
4 REQUEST SUBMITTED BY THE COMMISSIONER PURSUANT TO SECTION
5 10-16-1108 IS APPROVED, THE COMMISSIONER SHALL IMPLEMENT AND
6 OPERATE THE REINSURANCE PROGRAM IN ACCORDANCE WITH THIS
7 SECTION.

8 (d) THE COMMISSIONER SHALL COLLECT OR ACCESS DATA FROM AN
9 ELIGIBLE CARRIER AS NECESSARY TO DETERMINE REINSURANCE
10 PAYMENTS, ACCORDING TO THE DATA REQUIREMENTS UNDER SUBSECTION
11 (3)(c) OF THIS SECTION.

12 (e) (I) ON A QUARTERLY BASIS DURING THE APPLICABLE BENEFIT
13 YEAR:

14 (A) EACH ELIGIBLE CARRIER SHALL REPORT TO THE COMMISSIONER
15 ITS CLAIMS COSTS THAT EXCEED THE ATTACHMENT POINT FOR THAT
16 BENEFIT YEAR; AND

17 (B) EACH INSURER THAT IS SUBJECT TO THE SPECIAL FEES
18 ASSESSED UNDER SECTION 10-16-1107 SHALL REPORT TO THE
19 COMMISSIONER ON ITS COLLECTED ASSESSMENTS IN THAT BENEFIT YEAR.

20 (II) FOR EACH APPLICABLE BENEFIT YEAR, THE COMMISSIONER
21 SHALL NOTIFY ELIGIBLE CARRIERS OF REINSURANCE PAYMENTS TO BE
22 MADE FOR THE APPLICABLE BENEFIT YEAR NO LATER THAN JUNE 30 OF THE
23 YEAR FOLLOWING THE APPLICABLE BENEFIT YEAR. BY AUGUST 15 OF THE
24 YEAR FOLLOWING THE APPLICABLE BENEFIT YEAR, THE COMMISSIONER
25 SHALL DISBURSE ALL APPLICABLE REINSURANCE PAYMENTS TO AN
26 ELIGIBLE CARRIER.

27 (2) (a) FOR PURPOSES OF DETERMINING ELIGIBILITY FOR AND

1 CALCULATING REINSURANCE PAYMENTS UNDER THE REINSURANCE
2 PROGRAM FOR THE 2019 BENEFIT YEAR, THE COMMISSIONER SHALL SET
3 THE ATTACHMENT POINT, COINSURANCE RATE, AND REINSURANCE CAP AT
4 AMOUNTS TO ACHIEVE:

5 (I) A REDUCTION IN CLAIMS COSTS OF BETWEEN THIRTY AND
6 THIRTY-FIVE PERCENT IN GEOGRAPHIC RATING REGION NUMBERS FIVE
7 AND NINE;

8 (II) A REDUCTION IN CLAIMS COSTS OF BETWEEN TWENTY AND
9 TWENTY-FIVE PERCENT IN GEOGRAPHIC RATING REGION NUMBERS FOUR,
10 SIX, SEVEN, AND EIGHT; AND

11 (III) A REDUCTION IN CLAIMS COSTS OF BETWEEN FIFTEEN AND
12 TWENTY PERCENT IN GEOGRAPHIC RATING REGION NUMBERS ONE, TWO,
13 AND THREE.

14 (b) FOR THE 2020 BENEFIT YEAR AND EACH BENEFIT YEAR
15 THEREAFTER, THE COMMISSIONER SHALL ESTABLISH, AFTER A
16 STAKEHOLDER PROCESS, AND PUBLISH THE PAYMENT PARAMETERS FOR
17 THE APPLICABLE BENEFIT YEAR BY MARCH 15 OF THE YEAR IMMEDIATELY
18 PRECEDING THE APPLICABLE BENEFIT YEAR. IN SETTING THE PAYMENT
19 PARAMETERS UNDER THIS SUBSECTION (2)(b), THE COMMISSIONER SHALL
20 CONSIDER THE FOLLOWING FACTORS AS THEY APPLY IN EACH GEOGRAPHIC
21 RATING REGION IN THE STATE:

22 (I) PARTICIPATION AND COMPETITION BY CARRIERS IN THE
23 INDIVIDUAL MARKET;

24 (II) ENROLLMENT AND MORBIDITY IN THE INDIVIDUAL MARKET;

25 (III) PARTICIPATION AND COMPETITION BY PROVIDERS; AND

26 (IV) RATES IN THE INDIVIDUAL MARKET.

27 (c) IF THE AMOUNT OF MONEY FROM FUNDING SOURCES SPECIFIED

1 IN SECTION 10-16-1106 IS ANTICIPATED TO BE INADEQUATE TO FULLY
2 FUND THE APPROVED PAYMENT PARAMETERS, THE COMMISSIONER SHALL
3 ESTABLISH NEW PAYMENT PARAMETERS WITHIN THE AVAILABLE FUNDS.
4 THE COMMISSIONER SHALL ALLOW AN ELIGIBLE CARRIER TO REVISE AN
5 APPLICABLE RATE FILING FOR THE NEXT BENEFIT YEAR BASED ON THE
6 FINAL PAYMENT PARAMETERS ESTABLISHED PURSUANT TO THIS
7 SUBSECTION (2)(c) AND ON ACTUAL REINSURANCE PAYMENTS RECEIVED
8 BY THE ELIGIBLE CARRIER.

9 (3) (a) A CARRIER THAT MEETS THE REQUIREMENTS OF THIS
10 SUBSECTION (3) AND SUBSECTION (4) OF THIS SECTION IS ELIGIBLE TO
11 REQUEST REINSURANCE PAYMENTS FROM THE REINSURANCE PROGRAM.

12 (b) AN ELIGIBLE CARRIER MUST MAKE REQUESTS FOR
13 REINSURANCE PAYMENTS IN ACCORDANCE WITH THE REQUIREMENTS
14 ESTABLISHED BY THE COMMISSIONER.

15 (c) BY APRIL 30 OF THE YEAR FOLLOWING THE BENEFIT YEAR FOR
16 WHICH REINSURANCE PAYMENTS ARE REQUESTED, AN ELIGIBLE CARRIER
17 MUST PROVIDE THE COMMISSIONER WITH ACCESS TO THE DATA WITHIN THE
18 DEDICATED DATA ENVIRONMENT ESTABLISHED BY THE ELIGIBLE CARRIER
19 UNDER THE FEDERAL RISK ADJUSTMENT PROGRAM UNDER 42 U.S.C. SEC.
20 18063. ELIGIBLE CARRIERS MUST SUBMIT AN ATTESTATION TO THE
21 COMMISSIONER ASSERTING COMPLIANCE WITH THE DEDICATED DATA
22 ENVIRONMENTS, DATA REQUIREMENTS, ESTABLISHMENT AND USAGE OF
23 MASKED ENROLLEE IDENTIFICATION NUMBERS, AND DATA SUBMISSION
24 DEADLINES.

25 (d) AN ELIGIBLE CARRIER SHALL MAINTAIN DOCUMENTS AND
26 RECORDS SUFFICIENT TO SUBSTANTIATE THE REQUESTS FOR REINSURANCE
27 PAYMENTS MADE PURSUANT TO THIS SECTION FOR AT LEAST SIX YEARS.

1 AN ELIGIBLE CARRIER SHALL ALSO MAKE THOSE DOCUMENTS AND
2 RECORDS AVAILABLE UPON REQUEST FROM THE COMMISSIONER FOR
3 PURPOSES OF VERIFICATION, INVESTIGATION, AUDIT, OR OTHER REVIEW OF
4 REINSURANCE PAYMENT REQUESTS.

5 (e) THE COMMISSIONER MAY HAVE AN ELIGIBLE CARRIER AUDITED
6 TO ASSESS THE CARRIER'S COMPLIANCE WITH THIS SECTION. THE ELIGIBLE
7 CARRIER SHALL ENSURE THAT ITS CONTRACTORS, SUBCONTRACTORS, AND
8 AGENTS COOPERATE WITH ANY AUDIT UNDER THIS SECTION.

9 (4) (a) (I) THE COMMISSIONER SHALL CALCULATE EACH
10 REINSURANCE PAYMENT BASED ON AN ELIGIBLE CARRIER'S INCURRED
11 CLAIMS COSTS FOR A COVERED PERSON'S COVERED BENEFITS IN THE
12 APPLICABLE BENEFIT YEAR. IF THE CLAIMS COSTS DO NOT EXCEED THE
13 ATTACHMENT POINT FOR THE APPLICABLE BENEFIT YEAR, THE CARRIER IS
14 NOT ELIGIBLE FOR A REINSURANCE PAYMENT.

15 (II) IF THE CLAIMS COSTS EXCEED THE ATTACHMENT POINT FOR
16 THE APPLICABLE BENEFIT YEAR, THE COMMISSIONER SHALL CALCULATE
17 THE REINSURANCE PAYMENT AS THE PRODUCT OF THE COINSURANCE RATE
18 AND THE ELIGIBLE CARRIER'S CLAIMS COSTS UP TO THE REINSURANCE CAP.

19 (b) A CARRIER IS INELIGIBLE FOR REINSURANCE PAYMENTS FOR
20 CLAIMS COSTS FOR A COVERED PERSON'S COVERED BENEFITS IN THE
21 APPLICABLE BENEFIT YEAR THAT EXCEED THE REINSURANCE CAP.

22 (c) THE COMMISSIONER SHALL ENSURE THAT REINSURANCE
23 PAYMENTS MADE TO ELIGIBLE CARRIERS DO NOT EXCEED THE TOTAL
24 AMOUNT PAID BY THE ELIGIBLE CARRIER FOR ANY ELIGIBLE CLAIM.
25 "TOTAL AMOUNT PAID BY THE ELIGIBLE CARRIER FOR ANY ELIGIBLE
26 CLAIM" MEANS THE AMOUNT PAID BY THE ELIGIBLE CARRIER BASED ON
27 THE ALLOWED AMOUNT LESS ANY DEDUCTIBLE, COINSURANCE, OR

1 COPAYMENT, AS OF THE TIME THE DATA ARE SUBMITTED OR MADE
2 ACCESSIBLE UNDER SUBSECTION (3)(c) OF THIS SECTION.

3 (d) AN ELIGIBLE CARRIER MAY REQUEST THAT THE COMMISSIONER
4 RECONSIDER A DECISION ON THE CARRIER'S REQUEST FOR REINSURANCE
5 PAYMENTS WITHIN THIRTY DAYS AFTER NOTICE OF THE COMMISSIONER'S
6 DECISION. A FINAL ACTION OR ORDER OF THE COMMISSIONER UNDER THIS
7 SUBSECTION (4)(d) IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH
8 SECTION 24-4-106.

9 **10-16-1105. Accounting - reports - audits.** (1) THE
10 COMMISSIONER SHALL MAINTAIN AN ACCOUNTING FOR EACH BENEFIT
11 YEAR OF ALL:

12 (a) MONEY APPROPRIATED FOR REINSURANCE PAYMENTS AND
13 ADMINISTRATIVE AND OPERATIONAL EXPENSES;

14 (b) REQUESTS FOR REINSURANCE PAYMENTS RECEIVED FROM
15 ELIGIBLE CARRIERS;

16 (c) REINSURANCE PAYMENTS MADE TO ELIGIBLE CARRIERS; AND

17 (d) ADMINISTRATIVE AND OPERATIONAL EXPENSES INCURRED FOR
18 THE REINSURANCE PROGRAM.

19 (2) BY NOVEMBER 1 OF THE YEAR FOLLOWING THE APPLICABLE
20 BENEFIT YEAR OR SIXTY CALENDAR DAYS AFTER THE FINAL DISBURSEMENT
21 OF REINSURANCE PAYMENTS FOR THE APPLICABLE BENEFIT YEAR,
22 WHICHEVER IS LATER, THE COMMISSIONER SHALL MAKE AVAILABLE TO
23 THE PUBLIC A REPORT SUMMARIZING THE REINSURANCE PROGRAM'S
24 OPERATIONS FOR EACH BENEFIT YEAR. THE COMMISSIONER SHALL POST
25 THE REPORT ON THE DIVISION'S WEBSITE.

26 (3) THE REINSURANCE PROGRAM IS SUBJECT TO AUDIT BY THE
27 STATE AUDITOR. THE COMMISSIONER SHALL ENSURE THAT ITS

1 CONTRACTORS, SUBCONTRACTORS, AND AGENTS COOPERATE WITH THE
2 AUDIT.

3 (4) ON OR BEFORE NOVEMBER 1, 2019, AND ON OR BEFORE
4 NOVEMBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL INCLUDE AN
5 UPDATE REGARDING THE PROGRAM IN ITS REPORT TO THE MEMBERS OF THE
6 APPLICABLE COMMITTEES OF REFERENCE IN THE SENATE AND HOUSE OF
7 REPRESENTATIVES AS REQUIRED BY THE "STATE MEASUREMENT FOR
8 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
9 GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

10 **10-16-1106. Funding for reinsurance program - sources -**
11 **permitted uses - reinsurance program cash fund - calculation of total**
12 **funding for program. (1) (a) THERE IS HEREBY CREATED IN THE STATE**

13 TREASURY THE REINSURANCE PROGRAM CASH FUND, WHICH CONSISTS OF:

14 (I) FEDERAL PASS-THROUGH FUNDING GRANTED PURSUANT TO 42
15 U.S.C. SEC. 18052 (a)(3) OR ANY OTHER FEDERAL FUNDS THAT ARE MADE
16 AVAILABLE FOR THE REINSURANCE PROGRAM;

17 (II) SPECIAL FEES ASSESSED AGAINST INSURERS AS PROVIDED IN
18 SECTION 10-16-1107; AND

19 (III) ANY MONEY ACCEPTED THROUGH GIFTS, GRANTS, OR
20 DONATIONS FOR OPERATION, RESERVES, AND SUSTAINABILITY OF THE
21 REINSURANCE PROGRAM.

22 (b) ALL MONEY DEPOSITED OR PAID INTO THE REINSURANCE
23 PROGRAM CASH FUND, INCLUDING INTEREST OR INCOME EARNED ON THE
24 INVESTMENT OF MONEY IN THE FUND, IS CONTINUOUSLY AVAILABLE AND
25 APPROPRIATED TO THE DIVISION TO BE EXPENDED IN ACCORDANCE WITH
26 THIS PART 11. ANY INTEREST OR INCOME EARNED ON THE INVESTMENT OF
27 MONEY IN THE FUND SHALL BE CREDITED TO THE FUND.

1 (c) THE REINSURANCE PROGRAM CASH FUND IS PART OF THE
2 REINSURANCE PROGRAM ENTERPRISE ESTABLISHED PURSUANT TO SECTION
3 10-16-1104 (1)(b).

4 (2) THE COMMISSIONER MAY EXPEND MONEY RECEIVED FROM THE
5 SOURCES SPECIFIED IN SUBSECTION (1) OF THIS SECTION FOR:

6 (a) REINSURANCE PAYMENTS UNDER THE REINSURANCE PROGRAM;
7 AND

8 (b) ADMINISTRATIVE AND OPERATING EXPENSES OF THE
9 REINSURANCE PROGRAM, THE COMMISSIONER, AND THE DIVISION UNDER
10 THIS PART 11.

11 **10-16-1107. Special assessments against insurers - rules -**

12 **definition.** (1) (a) (I) FOR THE 2019 BENEFIT YEAR, THE COMMISSIONER
13 SHALL ASSESS SPECIAL FEES AGAINST INSURERS TO PROVIDE FUNDING FOR
14 THE REINSURANCE PROGRAM. THE COMMISSIONER SHALL CALCULATE THE
15 FEES BASED ON THE AMOUNT NECESSARY TO REDUCE CARRIERS' CLAIMS
16 COSTS BY THE AMOUNTS SPECIFIED IN SECTION 10-16-1104 (2), BUT THE
17 COMMISSIONER SHALL SET THE FEES AT AN AMOUNT THAT DOES NOT
18 EXCEED TWO PERCENT OF PREMIUMS COLLECTED BY INSURERS. ■

19 (II) FOR THE 2020 BENEFIT YEAR AND EACH BENEFIT YEAR
20 THEREAFTER, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF THE
21 SPECIAL FEES ASSESSED AGAINST INSURERS, WHICH SPECIAL FEES MUST
22 NOT EXCEED THE AMOUNTS SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS
23 SECTION, BASED ON THE CLAIMS SUBMITTED UNDER THE REINSURANCE
24 PROGRAM AND ADMINISTRATIVE AND OPERATING EXPENSES OF THE
25 PROGRAM IN THE IMMEDIATELY PRECEDING BENEFIT YEAR, THE EXPECTED
26 ANNUAL GROWTH IN THE PROGRAM, THE PAYMENT PARAMETERS SET BY
27 THE COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) FOR THE

1 APPLICABLE BENEFIT YEAR, AND OTHER ACTUARIAL CONSIDERATIONS.

2 (b) THE COMMISSIONER SHALL USE THE SPECIAL FEES ASSESSED
3 PURSUANT TO THIS SECTION TO PAY THE ADMINISTRATIVE AND OPERATING
4 EXPENSES OF THE REINSURANCE PROGRAM, INCLUDING REINSURANCE
5 PAYMENTS AND EXPENSES OF THE PROGRAM, THE COMMISSIONER, AND THE
6 DIVISION.

7 (c) THE COMMISSIONER SHALL TRANSMIT SPECIAL FEES COLLECTED
8 PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE
9 REINSURANCE PROGRAM CASH FUND CREATED IN SECTION 10-16-1106.

10 (2) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT
11 THIS SECTION, INCLUDING:

12 (a) THE REASONABLE TIME PERIODS FOR THE BILLING AND
13 COLLECTION OF THE SPECIAL FEES;

14 (b) ANY PROCEDURES FOR THE APPROVAL OF DEFERRAL OR
15 ABATEMENT OF SPECIAL FEES, IN WHOLE OR IN PART; AND

16 (c) DETERMINING THE ASSESSMENT AMOUNT IN ACCORDANCE
17 WITH SUBSECTION (1)(a) OF THIS SECTION.

18 (3) AMOUNTS ASSESSED AGAINST INSURERS TO BE PAID TO THE
19 COMMISSIONER PURSUANT TO THIS SECTION ARE NOT CONSIDERED
20 PREMIUMS FOR ANY PURPOSE, INCLUDING THE COMPUTATION OF GROSS
21 PREMIUM TAX OR AGENTS' COMMISSIONS.

22 (4) IF AN INSURER FAILS TO PAY A SPECIAL FEE TO THE
23 COMMISSIONER IN ACCORDANCE WITH THE TIME PERIODS ESTABLISHED BY
24 RULE, THE COMMISSIONER MAY USE ALL POWERS CONFERRED BY THE
25 INSURANCE LAWS OF THIS STATE TO ENFORCE PAYMENT OF THE SPECIAL
26 FEES.

27 (5) AS USED IN THIS SECTION, "INSURER" MEANS AN ENTITY THAT

1 PROVIDES GROUP OR INDIVIDUAL HEALTH BENEFIT PLANS SUBJECT TO
2 STATE INSURANCE REGULATION IN THIS STATE, EXCLUDING PLANS OR
3 BENEFITS PROVIDED UNDER THE MEDICAL ASSISTANCE PROGRAM
4 ESTABLISHED UNDER ARTICLES 4, 5, AND 6 OF TITLE 25.5 OR THE
5 CHILDREN'S BASIC HEALTH PLAN ESTABLISHED UNDER ARTICLE 8 OF TITLE
6 25.5.

7 **10-16-1108. State innovation waiver - federal funding -**
8 **Colorado reinsurance program.** (1) (a) FOR PURPOSES OF
9 IMPLEMENTING AND OPERATING THE COLORADO REINSURANCE PROGRAM
10 AS SET FORTH IN THIS PART 11 FOR PLAN YEARS STARTING ON OR AFTER
11 JANUARY 1, 2019, THE COMMISSIONER MAY APPLY TO THE SECRETARY OF
12 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR:

13 (I) A FIVE-YEAR STATE INNOVATION WAIVER IN ACCORDANCE
14 WITH SECTION 1332 OF THE FEDERAL ACT, CODIFIED AT 42 U.S.C. SEC.
15 18052, AND 45 CFR 155;

16 (II) FEDERAL FUNDS FOR THE COLORADO REINSURANCE PROGRAM;
17 OR

18 (III) A STATE INNOVATION WAIVER AND FEDERAL FUNDS.

19 (b) AN APPLICATION FOR A STATE INNOVATION WAIVER OR FOR
20 FEDERAL FUNDS MUST CLEARLY STATE THAT OPERATION OF THE
21 COLORADO REINSURANCE PROGRAM IS CONTINGENT ON APPROVAL OF THE
22 WAIVER OR FUNDING REQUEST.

23 (c) THE COMMISSIONER SHALL ENSURE THAT A WAIVER
24 APPLICATION SUBMITTED PURSUANT TO THIS SECTION COMPLIES WITH THE
25 REQUIREMENTS SPECIFIED IN SECTION 1332 OF THE FEDERAL ACT,
26 CODIFIED AT 42 U.S.C. SEC. 18052, AND 45 CFR 155.1308.

27 (d) THE COMMISSIONER SHALL INCLUDE IN A WAIVER APPLICATION

1 A REQUEST FOR A PASS-THROUGH OF FEDERAL FUNDING IN ACCORDANCE
2 WITH SECTION 1332 (a)(3) OF THE FEDERAL ACT, 42 U.S.C. SEC. 18052
3 (a)(3), TO ALLOW THE STATE TO OBTAIN AND USE, FOR PURPOSES OF
4 HELPING FINANCE THE COLORADO REINSURANCE PROGRAM, ANY FEDERAL
5 FUNDS THAT WOULD, ABSENT THE WAIVER, BE USED TO PAY ADVANCE
6 PAYMENT TAX CREDITS AND COST-SHARING REDUCTIONS AUTHORIZED
7 UNDER THE FEDERAL ACT.

8 (2) THE COMMISSIONER SHALL NOTIFY THE FOLLOWING IN WRITING
9 OF ANY FEDERAL ACTIONS REGARDING THE WAIVER OR FUNDING REQUEST:

10 (a) THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY;

11 (b) THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES OR
12 ANY SUCCESSOR COMMITTEE; AND

13 (c) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH,
14 INSURANCE, AND ENVIRONMENT AND PUBLIC HEALTH CARE AND HUMAN
15 SERVICES OR ANY SUCCESSOR COMMITTEES.

16 **10-16-1109. Repeal of part - notice to revisor of statutes.**

17 (1) THIS PART 11 WILL BE REPEALED IF THE SECRETARY OF THE UNITED
18 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES DENIES THE
19 WAIVER OR FUNDING REQUESTED UNDER SECTION 10-16-1108. THE
20 COMMISSIONER OF INSURANCE SHALL NOTIFY THE REVISOR OF STATUTES
21 IN WRITING IF THE CONDITION SPECIFIED IN THIS SECTION OCCURS BY
22 E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS
23 PART 11 IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE
24 NOTICE THAT THE WAIVER OR FUNDING WAS DENIED OR, IF THE NOTICE
25 DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE
26 REVISOR OF STATUTES.

27 (2) THIS PART 11 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2023.

1 BEFORE ITS REPEAL, THIS PART 11 IS SCHEDULED FOR REVIEW IN
2 ACCORDANCE WITH SECTION 24-34-104.

3 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, add
4 (24)(a)(V) as follows:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for repeal, continuation, or reestablishment - legislative**
7 **declaration - repeal.** (24) (a) The following agencies, functions, or both,
8 are scheduled for repeal on September 1, 2023:

9 (V) THE REINSURANCE PROGRAM AUTHORIZED UNDER PART 11 OF
10 ARTICLE 16 OF TITLE 10.

11 **SECTION 3. Appropriation.** (1) For the 2018-19 state fiscal
12 year, \$15,000 is appropriated to the department of regulatory agencies for
13 use by the division of insurance. This appropriation is from the division
14 of insurance cash fund created in section 10-1-103 (3), C.R.S. To
15 implement this act, the division may use this appropriation for personal
16 services.

17 **SECTION 4. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.