A BILL FOR AN ACT

CONCERNING THE CONVERSION OF PINNACOL ASSURANCE FROM A
POLITICAL SUBDIVISION OF THE STATE INTO A STOCK
INSURANCE COMPANY OWNED BY A MUTUAL INSURANCE
HOLDING COMPANY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Section 2 of the bill:
• Sets forth a process and deadlines for and requires the conversion of Pinnacol Assurance from a political...
subdivision of the state to a stock insurance company owned by a mutual insurance holding company, the initial members of which are the policyholders of Pinnacol Assurance immediately prior to the conversion, and also sets forth a process and deadlines for the disaffiliation of Pinnacol Assurance from the public employees' retirement association (PERA), with details as to how the disaffiliation is to be accomplished;

- Requires the transfer of a specified amount from Pinnacol Assurance to the state within 5 days of the effective date of the conversion and requires the money transferred to be allocated in equal shares to the controlled maintenance trust fund and to the just transition trust fund; and

- Requires the commissioner of insurance to contract with an insurance company as the carrier of last resort for employers seeking workers' compensation insurance and for the successor stock insurance company to serve in that capacity for a transitional period.

Section 3 repeals the existing statutes concerning Pinnacol Assurance in its current form as a political subdivision of the state.

Sections 4 to 35 make conforming amendments necessitated by the conversion of Pinnacol Assurance from a political subdivision of the state to a stock insurance company owned by a mutual insurance holding company and the disaffiliation of Pinnacol Assurance from PERA.

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Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration - intent. (1) The general assembly hereby finds and declares:

(a) That, after considering fairness for all such people, policyholders, and employees, it is in the best interests of and fair and equitable to the people of the state of Colorado, the policyholders of Pinnacol Assurance, and the employees covered by the policies issued by Pinnacol Assurance that Pinnacol Assurance convert into a stock insurance company owned by a mutual insurance holding company, which is in turn owned by the policyholders of Pinnacol Assurance; and

(b) The general assembly approves and directs that Pinnacol
Assurance be converted in accordance with this act.

(2) It is the intent of the general assembly that Pinnacol Assurance, the successor stock insurance company, and the mutual insurance holding company be instrumentalities of this state until the disaffiliation of the successor stock insurance company from the Public Employees' Retirement Association. The successor stock insurance company is subject to the premium tax described in section 10-3-209, Colorado Revised Statutes.

SECTION 2. In Colorado Revised Statutes, add parts 2 and 3 to article 45 of title 8 as follows:

PART 2

CONVERSION OF PINNACOL ASSURANCE TO STOCK INSURANCE COMPANY

8-45-201. Conversion of Pinnacol Assurance - just transition trust fund - creation - definitions. (1) AS USED IN THIS PART 2 AND PART 3 OF THIS ARTICLE 45, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONVERSION" MEANS A CHANGE IN THE LEGAL STATUS OF PINNACOL ASSURANCE FROM A POLITICAL SUBDIVISION THAT OPERATES PURSUANT TO THE LAWS OF THE STATE AS A MUTUAL INSURANCE COMPANY INTO A STOCK INSURANCE COMPANY OWNED BY A MUTUAL INSURANCE HOLDING COMPANY IN WHICH THE POLICYHOLDERS OF THE SUCCESSOR STOCK INSURANCE COMPANY ARE MEMBERS AS LONG AS THEY REMAIN POLICYHOLDERS OF THE SUCCESSOR STOCK INSURANCE COMPANY.

(b) "CONVERSION DATE" MEANS THE DATE ON WHICH CONVERSION OCCURS, WHICH IS THE EFFECTIVE DATE OF THE ARTICLES OF INCORPORATION OF BOTH THE SUCCESSOR STOCK INSURANCE COMPANY AND THE MUTUAL INSURANCE HOLDING COMPANY.
(c) "Mutual insurance holding company" means an entity formed for the purpose of converting Pinnacol Assurance from a political subdivision that operates pursuant to the laws of the state as a domestic mutual insurance company into the successor stock insurance company owned by the mutual insurance holding company in which the policyholders of the successor stock insurance company are members for as long as they remain policyholders of the successor stock insurance company.

(2) (a) No later than one hundred twenty days after the effective date of this subsection (2), the Pinnacol Assurance board shall simultaneously file with the commissioner of insurance articles of incorporation to establish a domestic mutual insurance holding company and file with the commissioner of insurance articles of incorporation for Pinnacol Assurance to be and become a stock insurance company. The mutual insurance holding company must operate in accordance with this part 2.

(b) The successor stock insurance company incorporated as required by subsection (3) of this section shall be an entity authorized to operate as an insurer licensed to write insurance in this state and shall have all of the powers and be subject to all the laws, rules, and requirements of a stock insurance company organized under the laws of the state. The successor stock insurance company and the mutual insurance holding company shall each be subject to the requirements of Article 3 of Title 10.
(3) The Pinnacol Assurance Board shall perform all necessary acts to file articles of incorporation of the successor stock insurance company and of the mutual insurance holding company, including the adoption by the Pinnacol Assurance Board of a resolution that the transactions contemplated by this Part 2 are fair and equitable to the policyholders of Pinnacol Assurance. The board must file the articles of incorporation for both the successor stock insurance company and the mutual insurance holding company with the same effective date.

(4) Pinnacol Assurance shall transfer three hundred five million dollars to the State of Colorado within five business days of the conversion date. The money transferred must be allocated as follows:

(a) Fifty percent to the controlled maintenance trust fund created in section 24-75-302.5; and

(b) (I) Fifty percent to the just transition trust fund, referred to in this section as the "trust fund", which is hereby created in the state treasury. The trust fund is administered by the just transition office created in section 8-83-503 and referred to in this section as the "office". The general assembly is encouraged to prioritize the appropriation or transfer of money to the trust fund in future fiscal years.

(II) The trust fund consists of money transferred to the trust fund pursuant to subsection (4)(b)(I) of this section, any other money that the general assembly may appropriate or transfer to the trust fund, and all interest and income earned
ON THE PRINCIPAL OF THE TRUST FUND.

(III) Money transferred to the trust fund pursuant to subsection (4)(b)(I) of this section and any money appropriated to the trust fund by the general assembly constitute the principal of the trust fund. The principal of the trust fund remains in the trust fund and shall not be appropriated, transferred, or expended from the trust fund.

(IV) The state treasurer is authorized and directed to manage the trust fund through prudent investments as authorized by section 24-36-113 and shall credit all interest and income derived from the deposit and investment of money in the trust fund to the trust fund.

(V) Trust fund interest and income is continuously appropriated to the office for just transition trust fund grants to be awarded by the office in accordance with the recommendations contained in the final just transition plan submitted, with the approval of the executive directors of the department of labor and employment and the division of local affairs, by the office to the governor, and the general assembly as required by section 8-83-503 (4). Interest and income not expended during the fiscal year in which it is accrued for high-cost special education trust fund grants may be expended in subsequent fiscal years for that purpose.

(5) On the conversion date, all of the following shall occur:

(a) Pinnacol Assurance shall become the successor stock insurance company and, except as otherwise provided in this
SUBSECTION (5), THE SUCCESSOR STOCK INSURANCE COMPANY SHALL BE THE SUCCESSOR IN INTEREST TO ALL ASSETS AND LIABILITIES OF PINNACOL ASSURANCE, WITHOUT ANY CONVEYANCE OR TRANSFER AND WITHOUT ANY FURTHER ACT OR DEED AND SHALL BE VESTED BY OPERATION OF LAW WITH TITLE TO ALL PROPERTY OF PINNACOL ASSURANCE, INCLUDING THE SURPLUS OF PINNACOL ASSURANCE, THUS EXTINGUISHING ALL RIGHTS OF ANY PERSON OTHER THAN THE SUCCESSOR STOCK INSURANCE COMPANY IN THE SURPLUS OF PINNACOL ASSURANCE.

(b) The policyholders of PinnaCol AssurancE shall become members of the mutual insurance holding company in accordance with and subject to this part 2 and the articles of incorporation and bylaws of the mutual insurance holding company.

(c) The mutual insurance holding company shall become the owner of the successor stock insurance company.

(d) The commissioner of insurance shall issue a certificate of authority to the successor stock insurance company.

(e) The stock in any subsidiary corporation of Pinnacol AssurancE shall become owned directly by the mutual insurance holding company.

(f) The state shall relinquish and transfer to the successor stock insurance company and the mutual insurance holding company all right, title, and interest in and to the names "Pinnacol" and "Pinnacol Assurance".

(g) Unless otherwise provided in the articles of incorporation or bylaws of the successor stock insurance company or the articles of incorporation or bylaws of the
MUTUAL INSURANCE HOLDING COMPANY, THE DIRECTORS AND OFFICERS
OF PINNACOL ASSURANCE SHALL BECOME DIRECTORS AND OFFICERS OF
THE MUTUAL INSURANCE HOLDING COMPANY AND THE SUCCESSOR STOCK
INSURANCE COMPANY AND SHALL CONTINUE TO SERVE IN THEIR
RESPECTIVE ROLES UNTIL THEIR SUCCESSORS ARE ELECTED AND
QUALIFIED. BEFORE THE DISSOLUTION DATE, AS DEFINED IN SECTION
8-45-203 (1)(a), THE GOVERNOR HAS THE SOLE POWER TO APPOINT AND
REMOVE BOARD MEMBERS OF THE MUTUAL INSURANCE HOLDING
COMPANY AND THE SUCCESSOR STOCK INSURANCE COMPANY.

(h) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (5) OR
SUBSECTION (6) OF THIS SECTION:

(I) THE SUCCESSOR STOCK INSURANCE COMPANY SHALL FOR ALL
PURPOSES OF THE LAWS OF THE STATE BE DEEMED TO BE THE SUCCESSOR
IN INTEREST TO AND THE SAME ENTITY AS PINNACOL ASSURANCE. THE
CONVERSION OF PINNACOL ASSURANCE INTO THE SUCCESSOR STOCK
INSURANCE COMPANY DOES NOT REQUIRE THE SUBMISSION OF A PETITION
AND PLAN OF CONVERSION PURSUANT TO SECTION 10-12-411 OR ANY
FURTHER ACT, DETERMINATION, OR APPROVAL OF ANY AGENCY OR
AUTHORITY OF THIS STATE.

(II) THE ASSUMPTION OF ALL TANGIBLE AND INTANGIBLE
PROPERTY AND ASSETS OF PINNACOL ASSURANCE BY THE SUCCESSOR
STOCK INSURANCE COMPANY AND THE MUTUAL INSURANCE HOLDING
COMPANY SHALL BE FREE AND CLEAR OF ANY TAXES, LIENS, CLAIMS,
RIGHTS, OR INTERESTS OF THE STATE, ANY POLITICAL SUBDIVISION OF THE
STATE, OR ANY PERSON CLAIMING BY, OR ON BEHALF OF, THROUGH, OR
UNDER THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE. THE
PROPERTY AND ASSETS ASSUMED BY THE SUCCESSOR STOCK INSURANCE
COMPANY AND THE MUTUAL INSURANCE HOLDING COMPANY PURSUANT TO
THIS PART 2 SHALL NOT BE SUBJECT TO USE TAX UNDER THE LAWS OF THE
STATE OR ANY POLITICAL SUBDIVISION OR SPECIAL DISTRICT OF THE STATE.

(III) ALL OF THE RIGHTS, PRIVILEGES, INCLUDING SPECIFICALLY
THE ATTORNEY-CLIENT PRIVILEGE, AND POWERS OF PINNACOL
ASSURANCE; ALL REAL, PERSONAL, AND MIXED PROPERTY; AND ALL
OBLIGATIONS DUE TO PINNACOL ASSURANCE; AS WELL AS ALL OTHER
THINGS AND CAUSES OF ACTION OF PINNACOL ASSURANCE, VEST AS A
MATTER OF LAW IN THE SUCCESSOR STOCK INSURANCE COMPANY AND ARE
THEREAFTER THE RIGHTS, PRIVILEGES, POWERS, AND PROPERTY OF, AND
OBLIGATIONS DUE TO, THE SUCCESSOR STOCK INSURANCE COMPANY.

(IV) THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR
OTHERWISE IN PINNACOL ASSURANCE SHALL NOT REVERT OR BE IN ANY
WAY IMPAIRED, BUT ALL RIGHTS OF CREDITORS AND ALL LIENS UPON ANY
PROPERTY OF PINNACOL ASSURANCE SHALL BE PRESERVED UNIMPAIRED,
AND ALL DEBTS, LIABILITIES, AND DUTIES OF PINNACOL ASSURANCE SHALL
REMAIN ATTACHED TO THE SUCCESSOR STOCK INSURANCE COMPANY AND
MAY BE ENFORCED AGAINST THE SUCCESSOR STOCK INSURANCE COMPANY
TO THE SAME EXTENT AS IF SAID DEBTS, LIABILITIES, AND DUTIES HAD
ORIGINALLY BEEN INCURRED OR CONTRACTED BY THE SUCCESSOR STOCK
INSURANCE COMPANY IN ITS CAPACITY AS AN INSURANCE COMPANY
OPERATING UNDER THE LAWS OF THE STATE.

(V) THE CONVERSION DOES NOT OTHERWISE ANNUL, MODIFY, OR
CHANGE ANY EXISTING LICENSE OR OTHER AUTHORITY VESTED IN
PINNACOL ASSURANCE, AND WITHOUT FURTHER ACTION ALL SUCH
LICENSES AND AUTHORITY SHALL VEST IN THE SUCCESSOR STOCK
INSURANCE COMPANY. THE SUCCESSOR STOCK INSURANCE COMPANY MAY
EXERCISE ALL RIGHTS AND POWERS CONFERRED AND SHALL PERFORM ALL
DUTIES IMPOSED BY LAW ON INSURERS WRITING THE CLASSES OF
INSURANCE WRITTEN BY THE SUCCESSOR STOCK INSURANCE COMPANY
AND SHALL RETAIN ALL RIGHTS AND SHALL BE SUBJECT TO ALL
OBLIGATIONS OF PINNACOL ASSURANCE UNDER INSURANCE CONTRACTS
EXISTING IMMEDIATELY BEFORE THE CONVERSION.

(VI) THE CONVERSION OF PINNACOL ASSURANCE INTO THE
SUCCESSOR STOCK INSURANCE COMPANY SHALL NOT BE DEEMED TO
AFFECT ANY OBLIGATIONS OR LIABILITIES OF PINNACOL ASSURANCE
INCURRED PRIOR TO THE CONVERSION OR THE PERSONAL LIABILITY OF ANY
PERSON INCURRED BEFORE THE CONVERSION AND SHALL CONSTITUTE A
CONTINUATION OF THE EXISTENCE OF PINNACOL ASSURANCE IN THE FORM
OF A STOCK INSURANCE COMPANY OPERATING UNDER THE LAWS OF THE
STATE.

(VII) NO OFFICER, DIRECTOR, OR EMPLOYEE OF PINNACOL
ASSURANCE AS IT EXISTED BEFORE ITS CONVERSION INTO THE SUCCESSOR
STOCK INSURANCE COMPANY, OF THE SUCCESSOR STOCK INSURANCE
COMPANY, OF THE MUTUAL INSURANCE HOLDING COMPANY, OR OF ANY
ENTITY OR PARTY WITH WHOM THE SUCCESSOR STOCK INSURANCE
COMPANY OR THE MUTUAL INSURANCE HOLDING COMPANY CONTRACTS
FOR SERVICES SHALL BE PERSONALLY LIABLE IN A PRIVATE CAPACITY FOR
OR ON ACCOUNT OF ANY ACT DONE OR OMITTED OR CONTRACT OR OTHER
OBLIGATION ENTERED INTO OR UNDERTAKEN IN AN OFFICIAL CAPACITY IN
GOOD FAITH AND WITHOUT INTENT TO DEFRAUD IN CONNECTION WITH THE
ADMINISTRATION, MANAGEMENT, OR CONDUCT OF PINNACOL ASSURANCE
OR WITH ANY OTHER AFFAIRS RELATED TO PINNACOL ASSURANCE AS IT
EXISTED BEFORE ITS CONVERSION INTO THE SUCCESSOR STOCK INSURANCE
(6) Except for generally applicable taxes and as provided in subsection (4) of this section, the state shall have no claim to nor any interest in the revenue, money, or assets of the successor stock insurance company or the mutual insurance holding company and shall not borrow, appropriate, or direct payments from such revenue, money, and assets for any purpose.

(7) The state shall not be liable for the expenses, liabilities, or debts of the successor stock insurance company or the mutual insurance holding company. The successor stock insurance company and the mutual insurance holding company shall assume, indemnify, and hold the state harmless from and against all existing insurance liabilities of Pinnacol Assurance arising under all policies of workers' compensation insurance issued by Pinnacol Assurance that are outstanding on the conversion date.

(8) Except as provided in subsection (9) of this section, no suit, action, claim, or other judicial or administrative proceeding lawfully commenced before the conversion date, or which could have been commenced before that date, by or against Pinnacol Assurance shall abate by reason of the conversion of Pinnacol Assurance into the successor stock insurance company or the creation of the mutual insurance holding company.

(9) No cause of action arising solely out of or relating to the conversion of Pinnacol Assurance into the stock insurance company or the formation of the mutual insurance holding company.
COMPANY OR THE OTHER TRANSACTIONS PERMITTED OR REQUIRED TO
OCCUR PURSUANT TO THIS SECTION SHALL BE BROUGHT BY OR ON BEHALF
OF ANY HOLDER OF A POLICY OF INSURANCE ISSUED BY PINNACOL
ASSURANCE AGAINST THE SUCCESSOR STOCK INSURANCE COMPANY, THE
MUTUAL INSURANCE HOLDING COMPANY, PINNACOL ASSURANCE, OR THE
BOARD OF DIRECTORS OR OFFICERS OR ANY EMPLOYEE OR AGENT OF ANY
OF THEM; EXCEPT THAT THIS SUBSECTION (9) SHALL NOT LIMIT THE RIGHTS
OR REMEDIES OF THE HOLDER UNDER A POLICY OF INSURANCE ISSUED BY
PINNACOL ASSURANCE AND ASSUMED BY THE SUCCESSOR STOCK
INSURANCE COMPANY TO CONTEST THE INSURANCE COVERAGE ARISING
UNDER A POLICY OF INSURANCE ISSUED BY PINNACOL ASSURANCE. NO
CAUSE OF ACTION ON BEHALF OF ANY HOLDER OF A POLICY OF INSURANCE
ISSUED BY PINNACOL ASSURANCE SHALL LIE AGAINST THE STATE OR ANY
POLITICAL SUBDIVISION OF THE STATE ARISING OUT OF OR RELATING TO
THE CONVERSION OF PINNACOL ASSURANCE INTO THE SUCCESSOR STOCK
INSURANCE COMPANY OR THE FORMATION OF THE MUTUAL INSURANCE
HOLDING COMPANY OR THE OTHER TRANSACTIONS PERMITTED OR
REQUIRED TO OCCUR PURSUANT TO THIS SECTION, OR ARISING UNDER
POLICIES OF INSURANCE ISSUED BY PINNACOL ASSURANCE.

(10) EXCEPT AS PERMITTED BY A MAJORITY VOTE OF THE MEMBERS
OF THE MUTUAL INSURANCE HOLDING COMPANY WHO ARE POLICYHOLDERS
OF A STOCK INSURANCE COMPANY THAT IS A SUBSIDIARY OF THE MUTUAL
INSURANCE HOLDING COMPANY, A MAJORITY OF THE VOTING STOCK OF
THE SUCCESSOR STOCK INSURANCE COMPANY MUST AT ALL TIMES BE
OWNED UNENCUMBERED DIRECTLY OR INDIRECTLY BY THE MUTUAL
INSURANCE HOLDING COMPANY. ANY CONVEYANCE, TRANSFER,
ASSIGNMENT, PLEDGE, SECURITY INTEREST, LIEN, PLACEMENT IN A VOTING
TRUST, ENCUMBRANCE, OR HYPOTHECATION OR ALIENATION OF, IN, OR ON
A MAJORITY OF THE VOTING SHARES OF THE STOCK INSURANCE COMPANY
IN VIOLATION OF THIS SUBSECTION (10) IS VOID IN INVERSE
CHRONOLOGICAL ORDER AS TO THE SHARES NECESSARY TO ENSURE THAT
THE REQUIREMENTS OF THIS SUBSECTION (10) ARE MET.

(11) THE SUCCESSOR STOCK INSURANCE COMPANY SHALL BE
SUBJECT TO THE PREMIUM TAX DESCRIBED IN SECTION 10-3-209.

8-45-202. Status of mutual insurance holding company as
corporation - status of insurer - rights and obligations of members -
voting - articles of incorporation. (1) THE MUTUAL INSURANCE
HOLDING COMPANY IS NOT AN INSURER FOR THE PURPOSES OF THIS TITLE
8; EXCEPT THAT SECTIONS 10-12-405, 10-12-407, 10-12-408, 10-12-409,
10-12-410, AND 10-12-411 APPLY TO THE MUTUAL INSURANCE HOLDING
COMPANY AS IF THE MUTUAL INSURANCE HOLDING COMPANY WERE A
DOMESTIC MUTUAL INSURER.

(2) THE MUTUAL INSURANCE HOLDING COMPANY SHALL NOT
DISSOLVE OR LIQUIDATE WITHOUT APPROVAL BY THE COMMISSIONER OF
INSURANCE OR UNLESS REQUIRED BY JUDICIAL ORDER. THE COMMISSIONER
OF INSURANCE RETAINS JURISDICTION OVER THE MUTUAL INSURANCE
HOLDING COMPANY AND ANY SUBSIDIARY OF THE MUTUAL INSURANCE
HOLDING COMPANY AS PROVIDED IN THIS PART 2 AND SECTION 10-3-806.

(3) THE MEMBERS OF THE MUTUAL INSURANCE HOLDING COMPANY
HAVE THE RIGHTS AND OBLIGATIONS SET FORTH IN THIS PART 2 AND IN THE
ARTICLES OF INCORPORATION AND BYLAWS OF THE MUTUAL INSURANCE
HOLDING COMPANY. A MEMBER OF THE MUTUAL INSURANCE HOLDING
COMPANY SHALL NOT TRANSFER ITS MEMBERSHIP IN THE MUTUAL
INSURANCE HOLDING COMPANY OR ANY RIGHT ARISING FROM SUCH
MEMBERSHIP. THE LIMITATION ON THE TRANSFER OF MEMBERSHIP OR RIGHTS ARISING FROM MEMBERSHIP DOES NOT RESTRICT ANY OTHERWISE PERMISSIBLE ASSIGNMENT OF A POLICY. A MEMBER OF THE MUTUAL INSURANCE HOLDING COMPANY IS NOT PERSONALLY LIABLE FOR THE ACTS, DEBTS, LIABILITIES, OR OBLIGATIONS OF THE MUTUAL INSURANCE HOLDING COMPANY MERELY BY REASON OF BEING A MEMBER. NO ASSESSMENT OF ANY KIND SHALL BE IMPOSED ON A MEMBER OF THE MUTUAL INSURANCE HOLDING COMPANY. A PREMIUM OR POLICY FEE DUE UNDER AN INSURANCE POLICY OR CONTRACT ISSUED TO A MEMBER OF THE MUTUAL INSURANCE HOLDING COMPANY IS NOT AN ASSESSMENT.

(4) A MEMBERSHIP INTEREST IN THE MUTUAL INSURANCE HOLDING COMPANY IS NOT A SECURITY, AS DEFINED IN SECTION 11-51-201 (17).

(5) THE BYLAWS SHALL PROVIDE THAT EACH POLICYHOLDER OF AN INSURANCE COMPANY OWNED BY THE MUTUAL INSURANCE HOLDING COMPANY SHALL BE A MEMBER OF THE MUTUAL INSURANCE HOLDING COMPANY AND SHALL BE ENTITLED TO ONE OR MORE VOTES BASED UPON THE AMOUNT OF INSURANCE IN FORCE, THE NUMBER OF POLICIES HELD, OR THE AMOUNT OF PREMIUM PAID, AS STATED IN SUCH BYLAWS. THE BYLAWS MAY PERMIT VOTING BY PROXY.


(7) THE ARTICLES OF INCORPORATION OF THE MUTUAL INSURANCE HOLDING COMPANY SHALL CONTAIN ALL THE FOLLOWING PROVISIONS:
(a) The name of the mutual insurance holding company shall include the words "mutual holding company" or "mutual insurance holding company" or other words connoting the mutual character of the mutual insurance holding company that are approved by the insurance commissioner.

(b) A provision specifying that the mutual insurance holding company is not authorized to issue capital stock, whether voting or nonvoting; and

(c) A provision setting forth any rights of the members of the mutual insurance holding company on dissolution or liquidation.

8 The mutual insurance holding company must automatically be a party to any rehabilitation or liquidation proceeding involving a subsidiary stock insurance company that is a direct or indirect subsidiary of the mutual insurance holding company. In such a proceeding, the assets of the mutual insurance holding company shall be counted as assets of the estate of the subsidiary stock insurance company for the purpose of satisfying the claims of the policyholders of the subsidiary stock insurance company.

8-45-203. Disaffiliation of Pinnacol Assurance from the public employees' retirement association - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Disaffiliation date" means the date of termination of Pinnacol Assurance’s affiliation with the public employees' retirement association as specified in a disaffiliation election.

(b) "Disaffiliation election" means an election made by
PINNACOL ASSURANCE as described in subsections (2) and (3) of this section.

(c) "Disaffiliation payment" means the payment that is required to be made by PINNACOL ASSURANCE to the Public Employees' Retirement Association pursuant to this section and the amount of which is determined under subsection (6)(f) of this section.

(d) "PINNACOL ASSURANCE" means PINNACOL ASSURANCE and its successors, including the successor stock insurance company.

(e) "RBA" means the Public Employees' Retirement Association's Replacement Benefit Arrangement.

(2) Notwithstanding any other provision of law to the contrary, PINNACOL ASSURANCE may make a disaffiliation election to terminate its affiliation with the Public Employees' Retirement Association effective as of the first day of any month prior to January 1, 2023, and shall make a disaffiliation election to terminate its affiliation with the Public Employees' Retirement Association effective as of January 1, 2023, if no disaffiliation election has been made for a prior disaffiliation date.

(3) A disaffiliation election shall be made by written notice to the board of the Public Employees' Retirement Association specifying a disaffiliation date, which disaffiliation date must not be less than ninety days nor more than one hundred fifty days after the date of mailing of the notice to the board of the Public Employees' Retirement Association. A
DISAFFILIATION ELECTION, OTHER THAN A DISAFFILIATION ELECTION SPECIFYING A DISAFFILIATION DATE OF JANUARY 1, 2023, MAY BE REVOKED BY PINNACOL ASSURANCE AT ANY TIME BEFORE THE DISAFFILIATION DATE SPECIFIED IN THE DISAFFILIATION ELECTION. SUBJECT TO ALL OTHER REQUIREMENTS FOR A DISAFFILIATION ELECTION, REVOCATION OF A DISAFFILIATION ELECTION DOES NOT PREVENT PINNACOL ASSURANCE FROM MAKING ANOTHER DISAFFILIATION ELECTION FOR THE SAME OR ANOTHER DISAFFILIATION DATE. NEITHER A DISAFFILIATION ELECTION NOR A REVOCATION OF A DISAFFILIATION ELECTION IS SUBJECT TO THE APPROVAL OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.


(5) WITHIN ONE HUNDRED EIGHTY DAYS FOLLOWING THE DISAFFILIATION DATE, THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION SHALL DETERMINE THE AMOUNT OF THE DISAFFILIATION PAYMENT PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(6) THE AMOUNT OF THE DISAFFILIATION PAYMENT SHALL BE
DETERMINED USING THE FOLLOWING METHODOLOGY:

(a) FIRST, AN ADJUSTED MARKET VALUE OF ASSETS EQUAL TO THE
FAIR MARKET VALUE AS OF THE DISAffILIATION DATE OF THE ASSETS THAT
ARE HELD IN THE STATE DIVISION OF THE PUBLIC EMPLOYEES' RETIREMENT
ASSOCIATION TO COVER EMPLOYER-FINANCED ACCRUED LIABILITIES LESS
THE ANNUAL INCREASE RESERVE SHALL BE DETERMINED. THE ADJUSTED
MARKET VALUE OF ASSETS SHALL THEN BE ALLOCATED, IN EACH CASE FOR
THE ENTIRE STATE DIVISION OF THE PUBLIC EMPLOYEES' RETIREMENT
ASSOCIATION, TO THE FOLLOWING CATEGORIES IN THE FOLLOWING ORDER:

(I) INACTIVE MEMBER CONTRIBUTION ACCOUNT BALANCES;

(II) ACTIVE MEMBER CONTRIBUTION ACCOUNT BALANCES;

(III) RETIREE AND SURVIVOR LIABILITIES;

(IV) EMPLOYER-FINANCED INACTIVE MEMBER LIABILITIES; AND

(V) EMPLOYER-FINANCED ACTIVE MEMBER LIABILITIES.

(b) SECOND, THE ADJUSTED MARKET VALUE OF ASSETS CREDITED
TO PINNACOL ASSURANCE SHALL BE DETERMINED AS FOLLOWS:

(I) IF THE ASSETS ARE FIRST DEPLETED IN THE CATEGORY
DESCRIBED IN SUBSECTION (6)(a)(I) OF THIS SECTION, THE ADJUSTED
MARKET VALUE OF ASSETS CREDITED TO PINNACOL ASSURANCE IS EQUAL
TO THE ADJUSTED MARKET VALUE OF ASSETS MULTIPLIED BY A FRACTION
THAT IS THE RATIO OF PINNACOL ASSURANCE'S INACTIVE MEMBER
ACCOUNT BALANCES TO THE ENTIRE STATE DIVISION OF THE PUBLIC
EMPLOYEES' RETIREMENT ASSOCIATION INACTIVE MEMBER ACCOUNT
BALANCES.

(II) IF THE ASSETS ARE FIRST DEPLETED IN THE CATEGORY
DESCRIBED IN SUBSECTION (6)(a)(II) OF THIS SECTION, THE ADJUSTED
MARKET VALUE OF ASSETS CREDITED TO PINNACOL ASSURANCE IS EQUAL
TO THE SUM OF:

(A) THE MEMBER ACCOUNT BALANCES OF THE INACTIVE MEMBERS

OF PINNACOL ASSURANCE; AND

(B) THE REMAINING ADJUSTED MARKET VALUE OF ASSETS

MULTIPLIED BY A FRACTION THAT IS THE RATIO OF PINNACOL

ASSURANCE’S ACTIVE MEMBER ACCOUNT BALANCES TO THE ENTIRE STATE

DIVISION OF THE PUBLIC EMPLOYEES’ RETIREMENT ASSOCIATION ACTIVE

MEMBER ACCOUNT BALANCES.

(III) IF THE ASSETS ARE FIRST DEPLETED IN THE CATEGORY

DESCRIBED IN SUBSECTION (6)(a)(III) OF THIS SECTION, THE ADJUSTED

MARKET VALUE OF ASSETS CREDITED TO PINNACOL ASSURANCE IS EQUAL

to the sum of:

(A) THE MEMBER ACCOUNT BALANCES OF THE INACTIVE MEMBERS

OF PINNACOL ASSURANCE;

(B) THE MEMBER ACCOUNT BALANCES OF THE ACTIVE MEMBERS

OF PINNACOL ASSURANCE; AND

(C) THE REMAINING ADJUSTED MARKET VALUE OF ASSETS

MULTIPLIED BY A FRACTION THAT IS THE RATIO OF PINNACOL

ASSURANCE’S RETIREE AND SURVIVOR ACCRUED LIABILITY TO THE ENTIRE

STATE DIVISION OF THE PUBLIC EMPLOYEES’ RETIREMENT ASSOCIATION

RETIREE AND SURVIVOR ACCRUED LIABILITY. IN EACH CASE, RETIREE AND

SURVIVOR ACCRUED LIABILITY MUST BE EQUAL TO THE RETIREE AND

SURVIVOR ACCRUED LIABILITY DETERMINED USING THE CURRENT

ACTUARIAL VALUATION ASSUMPTIONS AND METHODS OF THE PUBLIC

EMPLOYEES’ RETIREMENT ASSOCIATION.

(IV) IF THE ASSETS ARE FIRST DEPLETED IN THE CATEGORY

DESCRIBED IN SUBSECTION (6)(a)(IV) OF THIS SECTION, THE ADJUSTED
MARKET VALUE OF ASSETS CREDITED TO Pinnacol Assurance shall be
equal to the sum of:

(A) The member account balances of the inactive members
of Pinnacol Assurance;

(B) The member account balances of the active members
of Pinnacol Assurance;

(C) Pinnacol Assurance's retiree and survivor accrued
liability; and

(D) The remaining adjusted market value of assets
multiplied by a fraction that is the ratio of Pinnacol
Assurance's employer-financed inactive accrued liability to the
entire state division of the public employees' retirement
association employer-financed inactive accrued liability. In
each case, the employer-financed inactive accrued liability must
be equal to the inactive accrued liability determined using
current actuarial valuation assumptions and methods of the
public employees' retirement association less the inactive
member contribution account balances.

(V) If there are assets remaining after the application of
subsection (6)(b)(IV) of this section, the adjusted market value
of assets credited to Pinnacol Assurance shall be equal to the
sum of:

(A) The member account balances of the inactive members
of Pinnacol Assurance;

(B) The member account balances of the active members
of Pinnacol Assurance;

(C) Pinnacol Assurance's retiree and survivor accrued
(D) Pinnacol Assurance's employer-financed inactive accrued liability; and

(E) The remaining adjusted market value of assets multiplied by a fraction that is the ratio of Pinnacol Assurance's employer-financed active accrued liability to the entire state division of the Public Employees' Retirement Association employer-financed active accrued liability. In each case, the employer-financed active accrued liability must be equal to the active accrued liability determined using current actuarial valuation assumptions and methods of the Public Employees' Retirement Association less the active member contribution account balances.

(c) Third, the pension reserves required to fund the accrued benefits of Pinnacol Assurance members equal to the sum of Pinnacol Assurance's liabilities for the categories described in subsections (6)(a)(I) through (6)(a)(IV) of this section plus the vested portion of the category described in subsection (6)(a)(V) of this section shall be determined. With respect to subsection (6)(a)(V) of this section, such vested accrued liability shall be determined assuming that all active members of Pinnacol Assurance terminate on the disaffiliation date.

(d) Fourth, a pension disaffiliation amount equal to the amount of required pension reserves determined pursuant to subsection (6)(c) of this section less the adjusted market value of assets credited to Pinnacol Assurance pursuant to subsection (6)(b) of this section shall be determined.
(e) Fifth, a health care trust fund disaffiliation amount equal to the present value of the future health care trust fund benefits for all active and inactive Pinnacol Assurance members of the public employees' retirement association less the market value of assets of the health care trust fund allocated to all active and inactive Pinnacol Assurance members of the public employees' retirement association, in each case as of the disaffiliation date and only for vested members of the public employees' retirement association assuming that all active members of the public employees' retirement association terminate on the disaffiliation date, shall be determined. The health care trust fund disaffiliation amount shall be determined using the actuarial assumptions set by the board of the public employees' retirement association for purposes of the annual funding actuarial valuations for the health care trust fund that are in effect as of the disaffiliation date; except that the discount rate described in subsection (7) of this section shall be used. An individual shall be treated as an active or inactive member of the public employees' retirement association only if the last public employees' retirement association employer of such individual was Pinnacol Assurance. For purposes of this subsection (6)(e), Pinnacol Assurance includes the Colorado compensation insurance authority. The market value of assets of the health care trust fund allocated to active and inactive Pinnacol Assurance members of the public employees' retirement association must be determined by multiplying the market value of assets of the health care trust fund by a fraction, the
NUMERATOR OF WHICH IS THE PRESENT VALUE OF FUTURE HEALTH CARE
TRUST FUND BENEFITS FOR ACTIVE AND INACTIVE PINNACOL ASSURANCE
MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION AND THE
DENOMINATOR OF WHICH IS THE PRESENT VALUE OF FUTURE HEALTH CARE
TRUST FUND BENEFITS FOR ALL ACTIVE AND INACTIVE MEMBERS OF THE
PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.

(f) SIXTH, THE DISAFFILIATION PAYMENT AMOUNT EQUAL TO THE
SUM OF THE PENSION DISAFFILIATION AMOUNT DETERMINED PURSUANT TO
SUBSECTION (6)(d) OF THIS SECTION AND THE HEALTH CARE TRUST FUND
DISAFFILIATION AMOUNT DETERMINED PURSUANT TO SUBSECTION (6)(e)
OF THIS SECTION SHALL BE DETERMINED.

(7) THE DISCOUNT RATE USED FOR DETERMINING THE AMOUNT OF
THE DISAFFILIATION PAYMENT PURSUANT TO SUBSECTION (6) OF THIS
SECTION IS THE ACTUARIAL INVESTMENT ASSUMPTION RATE AS SET BY THE
BOARD OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION PURSUANT
TO SECTIONS 24-51-101 (2) AND 24-51-204 (5), FOR THE STATE DIVISION
OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION AS OF THE
DISAFFILIATION DATE.

(8) THE REASONABLE EXPENSES INCURRED BY THE PUBLIC
EMPLOYEES' RETIREMENT ASSOCIATION IN DETERMINING THE ESTIMATED
AMOUNT DESCRIBED IN SUBSECTION (4) OF THIS SECTION AND THE
AMOUNT OF THE DISAFFILIATION PAYMENT PURSUANT TO SUBSECTION (6)
OF THIS SECTION SHALL BE PAID BY PINNACOL ASSURANCE TO THE PUBLIC
EMPLOYEES' RETIREMENT ASSOCIATION; EXCEPT THAT PINNACOL
ASSURANCE'S LIABILITY FOR SUCH EXPENSES SHALL NOT EXCEED TWENTY
THOUSAND DOLLARS IF THE DISAFFILIATION DATE SPECIFIED IN THE
DISAFFILIATION ELECTION IS JANUARY 1 OF ANY YEAR.
(9) The determination of the amount of the disaffiliation payment pursuant to subsection (6) of this section shall be mailed to Pinnacol Assurance by the public employees' retirement association no later than one hundred eighty-one days after the disaffiliation date.

(10) The public employees' retirement association shall promptly provide to Pinnacol Assurance, or at Pinnacol Assurance's request to Pinnacol Assurance's attorneys or actuaries, any information reasonably requested by Pinnacol Assurance that the public employees' retirement association has used or relied on or can reasonably be expected to use or rely on in determining the estimated amounts described in subsection (4) of this section and the amount of the disaffiliation payment pursuant to subsection (6) of this section. The public employees' retirement association may require that a recipient of such information execute an agreement containing only such terms as are reasonably required to protect the confidentiality of such information.

(11) Pinnacol Assurance may appeal the determination of the disaffiliation payment pursuant to subsection (6) of this section within thirty days after the mailing of the determination required by subsection (9) of this section by filing with the clerk of the Denver district court a copy of the determination received by Pinnacol Assurance with a written notice stating that Pinnacol Assurance appeals to the district court and alleging the pertinent facts upon which the appeal is grounded. Jurisdiction and venue to hear and determine an
appeal is in the Denver district court. The Denver district court shall try the case de novo, reviewing all questions of law and fact. Pinnacol Assurance shall not be required to post any bond with respect to an appeal under this subsection (11). Upon filing of the written notice described in the first sentence of this subsection (11), the public employees' retirement association and its executive director become parties to the appeal, and the clerk of the Denver district court shall docket the case as a civil action. Pinnacol Assurance shall cause summons to be issued and cause the same to be served upon such parties in accordance with the manner provided by law in civil cases. Any decision of the district court is reviewable by the supreme court or the court of appeals as is otherwise provided by law; except that C.R.C.P. 62(d) and C.R.C.P. 121 1-1 to 1-23 shall not apply.

(12) The disaffiliation payment is payable by Pinnacol Assurance to the public employees' retirement association on the date that is thirty days after Pinnacol Assurance receives the notice of the public employees' retirement association's determination of the amount of the disaffiliation payment as provided in subsection (5) of this section, unless Pinnacol Assurance appeals the determination pursuant to subsection (11) of this section. If Pinnacol Assurance appeals the determination, it shall pay to the public employees' retirement association the undisputed portion of the amount of the disaffiliation payment within thirty days after Pinnacol Assurance receives the notice of the public employees' retirement association's determination of the amount of the
DISAFFILIATION PAYMENT AS PROVIDED IN SUBSECTION (5) OF THIS
SECTION AND SHALL PAY THE BALANCE, IF ANY, WITHIN THIRTY DAYS
AFTER THE DATE OF A FINAL DETERMINATION PURSUANT TO SUBSECTION
(11) OF THIS SECTION OR AS OTHERWISE PROVIDED IN THE FINAL
dETERMINATION. PAYMENTS UNDER THIS SECTION DO NOT BEAR ANY
INTEREST.

(13) (a) The rights of benefit recipients and the vested
rights of inactive members of the public employees' retirement
association who were employees of the successor stock
insurance company, Pinnacol Assurance, or the predecessors of
Pinnacol Assurance shall not be impaired or reduced in any
manner as a result of Pinnacol Assurance's disaffiliation with
the public employees' retirement association pursuant to this
section.

(b) On or after the disaffiliation date, any employee of
Pinnacol Assurance who is a member of the public employees'
retirement association and who has attained the age and service
credit requirements to retire with a retirement benefit without
reduction may elect to retire and commence receipt of the
monthly service retirement benefit from the public employees'
retirement association. Such a member may continue employment
with, or be reemployed by, Pinnacol Assurance without being
subject to the employment after retirement provisions of part
11 of article 51 of title 24.

(14) (a) As long as there remain any Pinnacol Assurance
benefit recipients, including any Pinnacol Assurance benefit
recipients who retire after the disaffiliation date, or their
BENEFICIARIES WHO ARE ELIGIBLE TO RECEIVE A BENEFIT UNDER THE RBA, THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION SHALL PROVIDE INFORMATION TO PINNACOL ASSURANCE REGARDING THE MONTHLY EXCESS BENEFIT AMOUNTS PAYABLE TO SUCH RECIPIENTS UNDER THE RBA.

(b) ON AND AFTER THE DISAFFILIATION DATE, PINNACOL ASSURANCE SHALL PROVIDE MONTHLY TO THE STATE OF COLORADO THE AMOUNTS THAT ARE PAYABLE PURSUANT TO SUBSECTION (14)(a) OF THIS SECTION. THE STATE SHALL PAY THOSE AMOUNTS TO THE BENEFIT RECIPIENTS DESCRIBED IN SAID SUBSECTION (14)(a) WHEN THE PAYMENTS ARE REQUIRED TO BE MADE UNDER THE RBA.

(c) THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION SHALL PROVIDE, UPON REQUEST BY PINNACOL ASSURANCE BUT NO MORE FREQUENTLY THAN ANNUALLY, THE PROJECTED RBA PAYMENTS TO EACH OF THE RECIPIENTS DESCRIBED IN SUBSECTION (14)(a) OF THIS SECTION.

(15) PRIOR TO THE DISAFFILIATION DATE, PINNACOL ASSURANCE SHALL BE AFFILIATED WITH THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION. NEITHER PINNACOL ASSURANCE NOR THE EMPLOYEES OF PINNACOL ASSURANCE WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION SHALL BE REQUIRED TO MAKE ANY CONTRIBUTIONS OR OTHER PAYMENTS, TO THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION ON OR AFTER THE DISAFFILIATION DATE, OTHER THAN THE DISAFFILIATION PAYMENT AND CONTRIBUTIONS WITH RESPECT TO SALARY EARNED BY AN EMPLOYEE OF PINNACOL ASSURANCE BEFORE THE DISAFFILIATION DATE THAT IS PAYABLE TO THE EMPLOYEE FOR THE LAST PAY PERIOD ENDING ON OR BEFORE THE DISAFFILIATION DATE OR THE PAY PERIOD INCLUDING THE DISAFFILIATION DATE.
(16) Any notice required under this section, other than a notice required under subsection (11) of this section, must be mailed by registered United States mail to the business address of the receiving party addressed to the general counsel of such party, and the mailing date of such notice shall be the postmark date, and contemporaneously with such mailed notice, notice shall also be provided by electronic mail to the general counsel of the receiving party.

8-45-204. Rules. The commissioner of insurance may promulgate rules as necessary for the implementation of sections 8-45-201 and 8-45-202.

8-45-205. Conversion date - notice to revisor of statutes. As soon as feasible after the conversion date, the chief executive officer of the successor stock insurance company shall notify the revisor of statutes in writing of the conversion date by e-mailing the notice to revisorofstatutes.ga@state.co.us.

PART 3

INSURING THE RESIDUAL MARKET - CARRIER OF LAST RESORT

8-45-301. Obligation to write workers' compensation insurance. (1) The insurance commissioner shall enter into a contract with the successor stock insurance company created in section 8-45-201, which shall be obligated to write all workers' compensation insurance for which application is made to the workers' compensation insurance carrier, except as provided in this section. The contract shall be effective from the conversion date through December 31, 2024. During that
PERIOD, THE SUCCESSOR STOCK INSURANCE COMPANY SHALL BE REFERRED TO IN THIS SECTION AS THE RESIDUAL MARKET CARRIER.

(2) (a) THE COMMISSIONER OF INSURANCE SHALL ENTER INTO A CONTRACT EFFECTIVE JANUARY 1, 2025, WITH A WORKERS' COMPENSATION INSURANCE CARRIER, WHICH SHALL BE OBLIGATED TO WRITE ALL WORKERS' COMPENSATION INSURANCE FOR WHICH APPLICATION IS MADE TO THE WORKERS' COMPENSATION INSURANCE CARRIER, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION. DURING THE PERIOD OF THE CONTRACT, THE CARRIER SELECTED PURSUANT TO THIS SUBSECTION (2)(a) SHALL BE REFERRED TO AS THE RESIDUAL MARKET CARRIER.

(b) THE COMMISSIONER OF INSURANCE SHALL COMPLY WITH THE PROCUREMENT CODE, ARTICLES 101 TO 112 OF TITLE 24, IN SELECTING THE WORKERS' COMPENSATION INSURANCE CARRIER DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION. CRITERIA THAT THE COMMISSIONER OF INSURANCE MAY CONSIDER WHEN SELECTING THE CARRIER INCLUDE:

(I) A MINIMUM RATING FOR THE WORKERS' COMPENSATION INSURANCE CARRIER OF EXCELLENT BY A NATIONALLY RECOGNIZED STATISTICAL RATINGS ORGANIZATION;

(II) THE FINANCIAL SIZE CATEGORY OF THE WORKERS' COMPENSATION INSURANCE CARRIER AS DETERMINED BY A NATIONALLY RECOGNIZED STATISTICAL RATINGS ORGANIZATION;

(III) THE LENGTH OF TIME THAT THE WORKERS' COMPENSATION INSURANCE CARRIER HAS HELD A CERTIFICATE OF AUTHORITY OR HAS BEEN ACTIVE IN THE COLORADO WORKERS' COMPENSATION INSURANCE MARKET, WITH THE SUCCESSOR STOCK INSURANCE COMPANY CREATED PURSUANT TO SECTION 8-45-201 BEING CREDITED WITH THE LENGTH OF TIME THAT PINNACOL ASSURANCE HAS BEEN ACTIVE IN THE COLORADO...
WORKERS' COMPENSATION INSURANCE MARKET; AND

   (IV) THE WORKERS' COMPENSATION INSURANCE CARRIER'S
   DEMONSTRATION OF INTENT TO PROVIDE STATEWIDE:

   (A) SAFETY CONSULTATION, EMPLOYER TRAINING ABILITY, AND
   ACCIDENT PREVENTION EXPERTISE;

   (B) CLAIMS HANDLING, MEDICAL CASE MANAGEMENT,
   REHABILITATION, COST CONTAINMENT, AND EMPLOYEE RETURN TO WORK
   CAPABILITIES; AND

   (C) A PHYSICAL OFFICE IN THE STATE AND ELECTRONIC ACCESS
   FOR THE CONVENIENCE OF COLORADO EMPLOYERS AND EMPLOYEES.

(3) A CONTRACT ENTERED PURSUANT TO SUBSECTION (2)(a) OF
   THIS SECTION SHALL:

   (a) NOTWITHSTANDING ANY STATUTORY PROVISION TO THE
   CONTRARY, BE FOR A TERM OF AT LEAST TEN YEARS;

   (b) INCLUDE AN OPTION TO RENEW THE CONTRACT;

   (c) REQUIRE THE WORKERS' COMPENSATION INSURANCE CARRIER
   WITH WHOM THE COMMISSIONER OF INSURANCE CONTRACTS TO PROVIDE
   ANY NOTICE THAT THE WORKERS' COMPENSATION CARRIER SHALL NOT
   SEEK TO RENEW THE CONTRACT AT LEAST THREE YEARS BEFORE THE END
   OF THE CONTRACT; AND

   (d) CONTAIN SUCH OTHER TERMS AS ARE NECESSARY TO ENSURE
   THAT THE WORKERS' COMPENSATION INSURANCE CARRIER WITH WHOM
   THE COMMISSIONER OF INSURANCE CONTRACTS SHALL PROVIDE WORKERS'
   COMPENSATION INSURANCE TO THE RESIDUAL MARKET. FOR PURPOSES OF
   THIS PART 3, THE RESIDUAL MARKET INCLUDES ALL APPLICANTS WHO
   WOULD OTHERWISE BE REJECTED FOR WORKERS' COMPENSATION UNDER
   THE RESIDUAL MARKET CARRIER'S UNDERWRITING STANDARDS.
(4) (a) The residual market carrier shall develop statistical and other information as necessary to allow the residual market carrier to distinguish between the residual market carrier's:

(I) writings in the non-residual market; and

(II) writings in the residual market.

(b) On request, the residual market carrier shall report statistical or other information developed under subsection (4)(a) of this section to the Commissioner of Insurance.

(5) (a) If an applicant would normally be rejected for workers' compensation under the residual market carrier's underwriting standards, the residual market carrier may not reject the risk, but shall instead insure the risk at a higher premium as provided by the residual market carrier's requirements. The residual market carrier may require the risk to meet other conditions considered necessary to protect the residual market carrier's interest.

(b) The residual market carrier may impose a premium surcharge, not to exceed an additional fifty percent and for up to twelve continuous months, as a condition precedent to insure or reinsure an employer whose policy was canceled or terminated by any insurer for reasons of fraud or intentional misrepresentation of a material fact; except that, if an employer disputes the imposition of such surcharge, the employer may make a complaint to the Commissioner of Insurance. If the Commissioner of Insurance determines that the residual market carrier, in imposing a premium surcharge, has engaged in any
CONDUCT IN VIOLATION OF PART 11 OF ARTICLE 3 OF TITLE 10, THE
COMMISSIONER MAY TAKE ANY ACTION THAT THE COMMISSIONER DEEMS
APPROPRIATE AND AUTHORIZED BY LAW.

(6) AN EMPLOYER IS NOT ELIGIBLE FOR RESIDUAL MARKET
COVERAGE IF ANY OF THE FOLLOWING CIRCUMSTANCES EXIST AT THE TIME
OF APPLICATION OR THEREAFTER:

(a) A SELF-INSURED EMPLOYER KNOWS AND IS AWARE OF PENDING
BANKRUPTCY PROCEEDINGS, INSOLVENCY, CESSATION OF OPERATIONS, OR
CONDITIONS THAT WILL PROBABLY RESULT IN OCCUPATIONAL DISEASE OR
CUMULATIVE INJURY CLAIMS FROM EXPOSURES INCURRED WHILE THE
EMPLOYER WAS SELF-INSURED;

(b) THE EMPLOYER KNOWINGLY REFUSES TO MEET REASONABLE
HEALTH, SAFETY, OR LOSS CONTROL REQUIREMENTS;

(c) THE EMPLOYER HAS AN OUTSTANDING WORKERS' COMPENSATION INSURANCE PREMIUM OBLIGATION OR OTHER MONETARY
POLICY OBLIGATION, INCLUDING BUT NOT LIMITED TO AN OBLIGATION
UNDER A DEDUCTIBLE PROGRAM, ON PREVIOUS WORKERS' COMPENSATION
INSURANCE THAT IS NOT SUBJECT TO A BONA FIDE DISPUTE;

(d) THE EMPLOYER DOES NOT COMPLY WITH ANY OTHER
OBLIGATION OF THE POLICY OR OF OTHER CANCELED POLICIES FROM THE
RESIDUAL MARKET CARRIER OR PREVIOUS WORKERS' COMPENSATION
INSURER;

(e) THE EMPLOYER OR A REPRESENTATIVE OF THE EMPLOYER
KNOWINGLY FAILS TO PROVIDE INFORMATION REQUESTED FOR OR MAKES
A MATERIAL MISREPRESENTATION ON THE APPLICATION BY EXPRESS
STATEMENT, OMISSION, OR OTHERWISE REGARDING INFORMATION
RELATED TO AN APPLICATION INCLUDING BUT NOT LIMITED TO:
(I) ESTIMATED PAYROLL;
(II) NATURE OF BUSINESS;
(III) NAME OF BUSINESS;
(IV) MANAGEMENT OR OWNERSHIP OF BUSINESS;
(V) PREVIOUS INSURANCE HISTORY;
(VI) AVOIDANCE OF AN EXPERIENCE RATING MODIFICATION;
(VII) AN OUTSTANDING WORKERS' COMPENSATION INSURANCE PREMIUM OBLIGATION OR OTHER MONETARY POLICY OBLIGATION OF THE EMPLOYER;
(VIII) NONCOMPLIANCE WITH ANY APPLICABLE STATE LICENSING OR REGISTRATION REQUIREMENT; OR
(IX) OTHER EVIDENCE EXISTS THAT SHOWS THE EMPLOYER IS NOT ENTITLED TO INSURANCE.

8-45-302. Rules. The commissioner of insurance may promulgate rules as necessary for the implementation of this part 3.

SECTION 3. In Colorado Revised Statutes, add 8-45-126 as follows:

8-45-126. Repeal of part. This part 1 is repealed, effective January 1, 2023.

SECTION 4. In Colorado Revised Statutes, 8-14.5-104, amend (1) and (3) as follows:

8-14.5-104. Creation of board. (1) There is hereby created in the division the workers' compensation cost containment board, to be composed of seven members: The commissioner of insurance, the chief executive officer of Pinnacol Assurance, and five members appointed by the governor and confirmed by the senate. Appointed members of the
board shall be chosen among the following: Employers or their
designated representatives engaged in businesses having workers' compensation insurance rates in the upper five percent of the rate schedule, actuaries or executives with risk management experience in the insurance industry, or employers who have demonstrated good risk management experience with respect to their workers' compensation insurance.

(3) The appointed members of the board shall serve for terms of three years and may be reappointed; except that, of the members first appointed, two shall serve for terms of three years; two shall serve for terms of two years, and one shall serve for a term of one year. The chief executive officer of Pinnacol Assurance and the commissioner of insurance shall serve continuously.

SECTION 5. In Colorado Revised Statutes, 8-14.5-107.5, amend (1) introductory portion, (1)(a), (1)(b), and (2)(b) as follows:

8-14.5-107.5. Workplace safety programs - study by commissioner. (1) The commissioner shall undertake a full study of current workplace safety, risk management, and cost containment programs offered by insurers including Pinnacol Assurance, AND a review and analysis of the various incentives used by insurers to obtain policyholder participation, including any premium adjustment programs in use, and shall evaluate other possible programs and incentives that could be used by insurers to expand workplace safety programs and reward policyholder participation. The commissioner shall consult with the Colorado department of labor and employment in conducting the study. Such study, review and analysis, and evaluation shall include but not be limited to the following:
(a) Whether or not by a date certain, all insurers including Pinnacol Assurance issuing workers' compensation insurance policies in this state shall offer all insureds in the ten most populous counties a managed care plan featuring a designated medical provider;

(b) Whether or not by a date certain, if it is in the best interest of employers and employees, all insurers including Pinnacol Assurance issuing workers' compensation insurance policies in this state shall offer to all or some selected classes of insureds some type of basic workplace safety program;

(2) (b) Insurers shall make all necessary information and records pertaining to workplace safety programs of such insurers available to the commissioner in carrying out the study required by subsection (1) of this section. The reasonable costs of such study shall be borne by insurers including Pinnacol Assurance, as determined by the commissioner based on the total cost of such study.

SECTION 6. In Colorado Revised Statutes, 8-40-201, repeal (3) and (3.4) as follows:

8-40-201. Definitions. As used in articles 40 to 47 of this title, unless the context otherwise requires:

(3) "Board" means the board of directors of Pinnacol Assurance.

(3.4) "Chief executive officer" means the chief executive officer of Pinnacol Assurance.

SECTION 7. In Colorado Revised Statutes, 8-40-301, amend (6) as follows:

8-40-301. Scope of term "employee" - definition. (6) Any person working as a driver with a common carrier or contract carrier as described in this section shall be eligible for and shall be offered workers'
compensation insurance coverage by Pinnacol Assurance or similar coverage consistent with the requirements set forth in section 40-11.5-102 (5), C.R.S.

SECTION 8. In Colorado Revised Statutes, 8-41-203, amend (1)(b) and (2) as follows:

8-41-203. Negligence of stranger - remedies - subrogation - actions - compromise. (1) (b) The payment of compensation pursuant to articles 40 to 47 of this title shall operate as and be an assignment of the cause of action against such the other person to Pinnacol Assurance, the medical disaster insurance fund, the major medical insurance fund, or the subsequent injury fund, if compensation is payable from said those funds, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation. Said the insurance carrier shall not be entitled to recover any sum in excess of the amount of compensation for which said the carrier is liable under said articles ARTICLES 40 TO 47 to the injured employee, but to that extent said the carrier shall be subrogated to the rights of the injured employee against said the third party causing the injury. If the injured employee proceeds against such the other person, then Pinnacol Assurance, the medical disaster insurance fund, the major medical insurance fund, the subsequent injury fund, or such the other person, association, corporation, or insurance carrier, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such the other person actually collected and the compensation provided by said articles ARTICLES 40 TO 47 in such the case.

(2) Such A cause of action assigned to Pinnacol Assurance PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION may be prosecuted or
compromised by it THE ASSIGNEE. A compromise of any such cause of action by the employee or, if the employee is deceased, the employee's dependents at an amount less than the compensation provided for by articles 40 to 47 of this title TITLE 8 shall be made only with the written approval of the chief executive officer of Pinnacol Assurance ASSIGNEE, if the deficiency of compensation would be payable from the Pinnacol Assurance fund, and otherwise with the written approval of the person, association, corporation, or insurance carrier liable to pay the same BY THE ASSIGNEE. Such written approval shall not be unreasonably withheld. Failure to obtain such written approval shall entitle the party responsible for paying workers' compensation benefits to be reimbursed for all benefits paid from, and offset any future liability under articles 40 to 47 of this title TITLE 8 against, the entire proceeds recovered without any credit for reasonable attorney fees and costs as provided in paragraph (e) of subsection (1) SUBSECTION (1)(e) of this section. If such approval is not obtained, the employee or, if the employee is deceased, the employee's dependents shall not be liable for any plaintiff's attorney fees for the third-party recovery on that portion of any recovery equal to the assigned and subrogated interest and are not subject to any action for refusal to pay such plaintiff's attorney fees resulting from the third-party case.

SECTION 9. In Colorado Revised Statutes, 8-43-304, amend (2) as follows:

8-43-304. Violations - penalty - offset for benefits obtained through fraud - rules. (2) An insurer or self-insured employer may take a credit or offset of previously paid workers' compensation benefits or payments against any further workers' compensation benefits or payments
due a worker when the worker admits to having obtained the previously
paid benefits or payments through fraud, or a civil judgment or criminal
conviction is entered against the worker for having obtained the
previously paid benefits through fraud. Benefits or payments obtained
through fraud by a worker shall not be included in any data used for
rate-making or individual employer rating or dividend calculations by any
insurer. or by Pinnacol Assurance.

SECTION 10. In Colorado Revised Statutes, 8-43-307, amend
(1) as follows:

8-43-307. Appeals to court of appeals. (1) The final order of the
director or the panel shall constitute the final order of the division. Any
person in interest including Pinnacol Assurance, being THAT IS
dissatisfied with any final order of the division, may commence an action
in the court of appeals against the industrial claim appeals office as
defendant to modify or vacate any such order on the grounds set forth in
section 8-43-308.

SECTION 11. In Colorado Revised Statutes, 8-43-401, amend
(1) as follows:

8-43-401. District attorney or attorney of division to act for
director or office - penalties for failure of insurer to pay benefits.
(1) Upon the request of the director or the industrial claim appeals office,
the district attorney of any district or any attorney-at-law employed by the
division shall institute and prosecute the necessary actions or proceedings
for the enforcement of any of the provisions of articles 40 to 47 of this
title, or any award or order of the director, an administrative law judge,
or the industrial claim appeals office, or for the recovery of any money
due to Pinnacol Assurance; or any penalty provided in said articles.
ARTICLES 40 TO 47, and shall defend in like manner all suits, actions, or
proceedings brought against the director, an administrative law judge, or
the industrial claim appeals office.

SECTION 12. In Colorado Revised Statutes, 8-44-101, amend
(1) introductory portion; and repeal (1)(a) as follows:

8-44-101. Insurance requirements. (1) Any employer subject
to the provisions of articles 40 to 47 of this title TITLE 8 shall secure
compensation for all employees in one or more of the following ways,
which shall be deemed to be compliance with the insurance requirements
of said THOSE articles:

(a) By insuring and keeping insured the payment of such
compensation in the Pinnacol Assurance fund;

SECTION 13. In Colorado Revised Statutes, 8-44-102, amend
(1) as follows:

8-44-102. Contract for insurance subject to workers'
compensation act. (1) Every contract for the insurance of compensation
and benefits as provided in articles 40 to 47 of this title TITLE 8 or against
liability therefor is subject to articles 40 to 47 of this title TITLE 8, and all
provisions in the contract for insurance inconsistent with those articles are
void. Any contract of insurance issued under articles 40 to 47 of this title
TITLE 8 by any insurance carrier, including stock and mutual corporations,
and Pinnacol Assurance; may include and cover any liability of the
employer on account of personal injuries sustained by or death resulting
therefrom to any employee.

(1) as follows:

8-44-108. Repayments for misclassifications. (1) Every
insurance carrier authorized to transact business in this state including Pinnacol Assurance, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this Title 8, is authorized to charge and collect any amount of money that should have been included in premiums paid by an insured but were not included in such THE premiums as a result of job misclassification. Upon written request by the employer, the issue of whether a job misclassification occurred shall be determined in writing by the insurance company. The employer's request shall be made within thirty working days after the anniversary date of the policy or the date of receipt by the employer of notice of a change in job classification. The insurance company's determination shall MUST be made within thirty days after receipt of the employer's written request. An employer may appeal any determination of an insurance company made pursuant to this subsection (1) to the workers' compensation classification appeals board, pursuant to section 8-55-102. If it is determined that a job misclassification occurred and that such THE misclassification was caused by the failure of the insured to provide accurate or complete data in order to determine the proper classification as requested by the insurance carrier, the repayment may be collected during the term of the contract for such THE insurance plus an additional reasonable time not to exceed twelve months.

SECTION 15. In Colorado Revised Statutes, amend 8-44-109 as follows:

8-44-109. Notice - change in rate by classification - policyholder's right to appeal classifications - availability of medical case management services. (1) Any insurance carrier authorized to transact business in this state including Pinnacol Assurance, which
insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall supply information regarding a change in the rate by classification to any insured employer, if such employer has requested that such information be supplied. Such information shall be supplied within thirty days following release of such information to such insurer by the authorized rating organization and following approval of such rate change by the division of insurance. As soon as reasonably possible after the division of insurance's approval of a change in rate by classification, the authorized rating organization shall disseminate notice of such approval and change in rate.

(2) Every insurance carrier authorized to transact business in Colorado including Pinnacol Assurance, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall clearly and conspicuously inform policyholders of their rights to appeal employee classification designations, the procedures to be used for such an appeal, and the types of medical case management that the carrier has available to employees to promote medical cost containment.

SECTION 16. In Colorado Revised Statutes, amend 8-44-110 as follows:

8-44-110. Notice of cancellation. Every insurance carrier authorized to transact business in this state including Pinnacol Assurance, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, shall notify any employer insured by the carrier, or Pinnacol Assurance, and any agent or representative of such employer, if applicable, by certified mail of any cancellation of such employer's insurance coverage. Such
notice shall be sent at least thirty days prior to BEFORE the effective date of the cancellation of the insurance. However, if the cancellation is based on one or more of the following reasons, then such THE notice may be sent less than thirty days prior to BEFORE the effective date of the cancellation of the insurance: Fraud, material misrepresentation, nonpayment of premium, or any other reason approved by the commissioner of insurance.

SECTION 17. In Colorado Revised Statutes, 8-44-111, amend (1.5), (3), and (4) as follows:

8-44-111. Workers' compensation insurance - deductibles - definition. (1.5) Whenever any insurer including Pinnacol Assurance created in section 8-45-101, issues a workers' compensation policy in this state, and annually thereafter, the insurer must issue a policy including the deductible provision if requested by the insured employer; except that the commissioner shall promulgate rules establishing criteria to allow the insurer to deny a deductible policy to an employer based on financial inability to reimburse the insurer for the deductible plan selected.

(3) The deductible amounts paid by any employer under the provisions of this section shall be excluded from consideration by ANY insurance carriers CARRIER authorized to transact business in Colorado including Pinnacol Assurance, which THAT insures employers against liability for compensation under the provisions of articles 40 to 47 of this title TITLE 8, in establishing the modification factors based upon experience used by such insurance carriers THE CARRIER to determine premiums. For purposes of experience modifications, medical only claims shall MUST be calculated in the same manner as claims with indemnity payments.
(4) Every insurance carrier authorized to transact business in Colorado including Pinnacol Assurance, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title, TITLE 8, shall clearly and conspicuously inform policyholders of the availability of the deductible option specified in subsection (1) of this section.

SECTION 18. In Colorado Revised Statutes, 8-44-112, amend (1)(a) and (3) as follows:

8-44-112. Surcharge on workers' compensation insurance premiums - workers' compensation cash fund. (1) (a) Notwithstanding the provisions of sections 10-3-209 (1)(c) and 10-6-128 (3), C.R.S., for the purpose of offsetting the direct and indirect costs of the administration of the workers' compensation system, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier including Pinnacol Assurance, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of the "Workers' Compensation Act of Colorado" shall, as provided in this section, pay a surcharge upon the premiums received, whether in cash or not, in this state, or on account of business done in this state, for such insurance in this state, at a rate established by the director by rule, which surcharge shall be reviewed and adjusted annually based upon appropriations made for the direct and indirect costs of the administration of the workers' compensation system, as provided in subsection (7) of this section. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded.
during the year of such insurance.

(3) Every employer acting as a self-insurer under the provisions of the "Workers' Compensation Act of Colorado" shall, under oath, report to the division of workers' compensation the business payroll in such form as may be prescribed by the director and at the times in this section provided for premium reports by insurance companies in subsection (2) of this section. The division shall assess against such payroll a surcharge for the purposes of this section ascertained as provided in subsection (2) of this section on the basic premiums chargeable against the same or most similar industry or business taken from the manual insurance rates, including any discount or experience modification allowed, chargeable by the Pinnacol Assurance fund; and, upon receipt of notice from the division of workers' compensation of the surcharge so assessed, every such self-insurer shall, within thirty days after the receipt of such notice, pay to the division of workers' compensation the surcharge so assessed.

SECTION 19. In Colorado Revised Statutes, 8-44-115, amend (3) as follows:

8-44-115. Calculation of premium - motor vehicle accidents.

(3) This section applies to all insurers including Pinnacol Assurance created in section 8-45-101, offering workers' compensation insurance under articles 40 to 47 of this title. The provisions of this section shall be disclosed to all policyholders annually.

SECTION 20. In Colorado Revised Statutes, 8-46-102, amend (2)(a)(I) and (2)(c) as follows:

8-46-102. Funding for subsequent injury fund and major medical insurance fund. (2) (a) (I) Notwithstanding sections 10-3-209
(1)(c) and 10-6-128 (3), C.R.S.; for the purpose of funding the financial liabilities of the subsequent injury fund pursuant to this section and of the major medical insurance fund pursuant to section 8-46-202, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier including Pinnacol Assurance, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of articles 40 to 47 of this title TITLE 8 shall, as provided in this subsection (2), be levied a tax upon the premiums received in this state, whether or not in cash, or on account of business done in this state for such insurance in this state at a rate determined by the director to generate sufficient revenue for claim payments and direct and indirect costs of administration that are anticipated to be submitted in the following state fiscal year for which such funds are liable. In determining the rate, the director shall, in addition to revenue for claim payments and direct and indirect costs of administration that are anticipated to be due in the following state fiscal year, maintain a cash balance in both the major medical insurance fund and the subsequent injury fund of an amount of otherwise unrestricted revenues equal to approximately one year's worth of claim payments and direct and indirect administrative costs. Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(c) Every employer acting as a self-insurer under the provisions of articles 40 to 47 of this title TITLE 8 shall, under oath, report to the division the employer's payroll in such form as may be prescribed by the
director and at the times specified for premium reports by insurance
companies in paragraph (b) of this subsection (2) \textit{SUBSECTION (2)(b) OF
THIS SECTION}. The division shall assess against such THE payroll a tax for
the purposes of paragraph (b) of this subsection (2) \textit{SUBSECTION (2)(b) OF
THIS SECTION} on the basic premiums chargeable against the same or most
similar industry or business taken from the manual insurance rates,
including any discount or experience modification allowed, chargeable by
Pinnacol Assurance; and, upon receipt of notice from the division of the
tax so assessed, every such self-insurer shall, within thirty days after the
receipt of such notice, pay to the division the tax so assessed.

\textbf{SECTION 21.} In Colorado Revised Statutes, 8-47-111, \textit{amend
(2) as follows:

\textbf{8-47-111. Division efforts to ensure employer compliance with
workers' compensation coverage requirements - legislative
declaration.} (2) In order to implement the declaration in subsection (1)
of this section, the division shall develop a procedure for verifying
whether or not all employers doing business in the state of Colorado
comply with the requirements of article 44 of this \textit{TITLE 8}. This
procedure must include cross-referencing employer records of the
division of unemployment insurance and the division of workers'
compensation. Upon identifying employers that are not in compliance
with article 44 of this \textit{TITLE 8}, the division, with the assistance and
cooporation of the attorney general, shall use all available means under
articles 40 to 47 of this \textit{TITLE 8} to ensure compliance. Every
insurance carrier authorized to transact business in this state \textit{including
Pinnacol Assurance, which THAT} insures employers against liability for
compensation under the provisions of articles 40 to 47 of this \textit{TITLE
8, shall furnish the division, upon request, all information required by it to accomplish the purposes of this section.

SECTION 22. In Colorado Revised Statutes, 8-55-101, amend (1) introductory portion, (1)(a), (1)(c), (2), and (3)(b) as follows:

8-55-101. Workers' compensation classification appeals board - creation. (1) There is hereby created, in the division of insurance in the department of regulatory agencies, the workers' compensation classification appeals board. The board shall hear grievances brought by employers against insurers and Pinnacol Assurance concerning the calculation of experience modification factors and classification assignment decisions. The board shall consist of five voting members, each of whom shall be knowledgeable about workers' compensation classification and experience modification factors, and one nonvoting member, as follows:

(a) Two members MUST be either salaried employees of an insurance company that issues workers' compensation insurance policies in this state or representatives of Pinnacol Assurance. Such two members shall not both represent Pinnacol Assurance or the same insurance company. In addition, one person shall be selected to serve as an alternate member to represent the interests of the insurance industry. The alternate shall represent such interests in the event the primary member recuses himself or herself.

(c) Three members shall represent private employers. Each private employer member MUST be knowledgeable with respect to workers' compensation insurance, rules, and classifications, and MUST be familiar with the business environment and community in this state. No private employer member shall be an employee of an insurance company,
insurance broker, insurance agent, law firm, actuary, Pinnacol Assurance,
or any association of such entities or persons. All private employer board
memberships shall MUST be held in the name of an individual. At least
one private employer member shall MUST represent the construction
industry.

(2) The private employer members and the members representing
insurers and Pinnacol Assurance shall be appointed by the commissioner
of insurance. The workers’ compensation rating organization
representative shall be appointed by the chief executive officer of such
organization or by another officer designated to make such THE
appointment. The commissioner may solicit a list of nominees from any
interested party before making such appointments. The commissioner
shall immediately notify the workers' compensation rating organization
concerning the identity of any appointees.

(3) Each member shall serve one three-year term, and, in addition:

(b) A private employer member or member representing the
insurance industry or Pinnacol Assurance may serve a second consecutive
three-year term; and

SECTION 23. In Colorado Revised Statutes, amend 8-55-102 as
follows:

employer may appeal to the workers' compensation classification appeals
board any issue concerning the calculation of experience modification
factors and classification assignment decisions under the workers'
compensation laws of this state by filing written notice with said board
within thirty days after the employer has exhausted all appeal review
procedures provided by the insurance company. Every insurance carrier
authorized to transact business in this state including Pinnacol Assurance,
shall provide employers with a written copy or summary of their appeal
procedures, together with a written notice of the availability of an appeal
under this article ARTICLE 55, at the beginning of each policy year and
when notice is provided to the employer of a change in experience
modification factors or job classification.

SECTION 24. In Colorado Revised Statutes, 8-55-104, amend
(1) introductory portion, (2), and (3) as follows:

8-55-104. Review of board decisions. (1) A decision of the
board shall be final and not subject to appeal unless the employer OR
insurance company or Pinnacol Assurance provides written notice to the
office of the commissioner of insurance, who shall determine whether a
job misclassification occurred, as required pursuant to section 8-44-108.
An employer may hold disputed premium amounts in abeyance from the
date an appeal is filed pursuant to section 8-55-102 until the later of:

(2) Each employer OR insurance company, or Pinnacol Assurance,
as the case may be, shall be advised of the right to appeal to the office of
the commissioner of insurance.

(3) An employer OR insurance company or Pinnacol Assurance
shall provide written notice of an appeal to the commissioner of insurance
within thirty days after the date of the board's decision. The commissioner
shall review any decision of the board properly appealed pursuant to this
section and shall provide a written decision within thirty days after the
request for such review.

SECTION 25. In Colorado Revised Statutes, 10-3-1502, amend
(2) as follows:

10-3-1502. Definitions. As used in this part 15, unless the context
otherwise requires:

(2) "Insurer" has the same meaning as set forth in section 10-3-801 (6), and includes any political subdivision of the state created pursuant to article 45 of title 8, C.R.S.

SECTION 26. In Colorado Revised Statutes, 10-4-1002, amend (2) as follows:

10-4-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(2) "Insurer" means any insurer and any person licensed or regulated under this title and Pinnacol Assurance.

SECTION 27. In Colorado Revised Statutes, 10-4-1303, amend (1) as follows:

10-4-1303. Temporary joint underwriting association. (1) A nonprofit temporary joint underwriting association is hereby created, consisting of all insurance carriers authorized to transact business in this state, including Pinnacol Assurance, that insures employers against liability for compensation under the provisions of articles 40 to 47 of title 8, C.R.S., who shall constitute the members thereof. Every such insurer shall participate in the association as a condition of its authority to continue to make contracts of such kind of insurance in this state.

SECTION 28. In Colorado Revised Statutes, 10-4-1304, amend (1) as follows:

10-4-1304. Board of directors - authority. (1) The association shall be governed by a board of six directors, to be appointed by the commissioner. Such directors shall be individuals employed full-time in the business of writing workers' compensation insurance in Colorado, at least one shall be employed by Pinnacol Assurance; at least
one shall MUST be actively engaged in operations in a small underground mine, and at least one shall MUST be actively engaged in operations in a large underground mine. The board shall elect a chairperson from among its members.

SECTION 29. In Colorado Revised Statutes, 14-14-102, amend (4.3) as follows:

14-14-102. Definitions. As used in this article 14, unless the context otherwise requires:

(4.3) "Employer", for purposes of income withholding pursuant to section 14-5-501, includes any person, company, or corporation, Pinnacol Assurance, or other insurance carrier paying any type of workers' compensation benefits pursuant to articles 40 to 47 of title 8, C.R.S.

SECTION 30. In Colorado Revised Statutes, 24-30-1510, repeal (5) as follows:

24-30-1510. Risk management fund - creation - authorized and unauthorized payments. (5) As of July 1, 2000, Pinnacol Assurance created pursuant to section 8-45-101, C.R.S., is no longer included within, or part of, the risk management fund created pursuant to this section and the department of personnel assumes no responsibility and bears no financial obligation for the defense of, or liability for, any claims or lawsuits asserted against Pinnacol Assurance.

SECTION 31. In Colorado Revised Statutes, 24-30-1510.7, amend (5)(a)(I) and (5)(b) as follows:

24-30-1510.7. Workers' compensation for state employees. (5) (a) (I) Notwithstanding section 8-44-105, C.R.S., if the state elects to self-insure workers' compensation claims as authorized in this section or
to insure for such claims through an entity other than THE SUCCESSOR STOCK INSURANCE COMPANY TO Pinnacol Assurance created in section 8-45-101, C.R.S., INCORPORATED PURSUANT TO SECTION 8-45-201, on and after the effective date of such election, the state shall be directly and primarily liable for all liabilities due on all workers' compensation claims after such election that arise on and after the beginning date of the initial policy period in the annually renewable memorandum of agreement containing a premium payment plan in effect between the state and Pinnacol Assurance THE SUCCESSOR STOCK INSURANCE COMPANY.

(b) (I) Funding of the liability obligations assumed by the state from THE SUCCESSOR STOCK INSURANCE COMPANY TO Pinnacol Assurance pursuant to paragraph (a) of this subsection (5) SUBSECTION (5)(a) OF THIS SECTION beyond a current fiscal year is contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

(II) Nothing in this paragraph (b) shall be construed to relieve SUBSECTION (5)(b) RELIEVES the state of any liability obligation if the state elects to self-insure or insure through an entity other than THE SUCCESSOR STOCK INSURANCE COMPANY TO Pinnacol Assurance pursuant to paragraph (a) of this subsection (5) SUBSECTION (5)(a) OF THIS SECTION.

SECTION 32. In Colorado Revised Statutes, amend 24-75-205 as follows:

24-75-205. Insurance and retirement reserves. The insurance and retirement reserves of this state shall comprise the Pinnacol Assurance fund, the unemployment compensation fund on deposit with the treasurer of the United States, the unemployment compensation fund clearing account, the funds of the public employees' retirement
association, and such other funds of the same or similar character as may
be created after April 9, 1941; and all moneys expended for any purpose
by said FROM THOSE funds shall be expended in accordance with the
provisions of the respective laws creating said funds and relating thereto
AND RELATING TO THE FUNDS. Nothing in this part 2 shall be construed to
repeal, alter, or impair REPEALS, ALTERS, OR IMPAIRS the method of
administering said THE funds as provided by law.

SECTION 33. In Colorado Revised Statutes, 24-75-903, amend
(2) as follows:

24-75-903. Definitions. As used in this part 9, unless the context
otherwise requires:

(2) "Fund" means any fund or group of accounts to which state
moneys are credited, including, but not limited to: The general fund, the
highway users tax fund, the Pinnacol Assurance fund, the Colorado water
conservation board construction fund, the department of personnel
revolving fund, the correctional industries account, the capital
construction fund, the severance tax trust fund, and the higher education
fund.

SECTION 34. In Colorado Revised Statutes, 24-77-102, repeal
(15)(b)(IV) as follows:

24-77-102. Definitions. As used in this article, unless the context
otherwise requires:

(15) (b) "Special purpose authority" includes, but is not limited to:
(IV) Pinnacol Assurance created pursuant to section 8-45-101,
C.R.S.;

SECTION 35. In Colorado Revised Statutes, 26-13-122, repeal
(5) as follows:
26-13-122. Administrative lien and attachment. (5) For purposes of this section, "insurance company" includes Pinnacol Assurance:

SECTION 36. Effective date. This act takes effect upon passage; except that sections 4 through 35 of this act take effect on the conversion date, as defined in section 8-45-201 (1)(b), enacted by section 2 of this act, and as reported to the revisor of statutes in a written notice as required by section 8-45-205, enacted by section 2 of this act.

SECTION 37. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.