

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0192.01 Josh Schultz x5486

HOUSE BILL 24-1083

HOUSE SPONSORSHIP

Willford and Brown,

SENATE SPONSORSHIP

Cutter,

House Committees

Business Affairs & Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INSURANCE COVERAGE FOR CONSTRUCTION**
102 **PROFESSIONALS.**

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>.)

The bill requires the division of insurance (division) to conduct or cause to be conducted a study of construction liability insurance for construction professionals in Colorado. The study must identify the following:

- All insurers offering construction liability policies in Colorado (policies);

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

- The rates charged by insurers for policies and the basis for the rates, including data for the past 5 years, if available;
- Risk factors, classifications, and coverage descriptions insurers use to set policy rates;
- A comparison of the policy rates insurers charge with rates charged by other states in the region to cover similar residential projects;
- Policy coverage terms; and
- Common limitations or exclusions from policy coverage.

The bill requires that, at least 14 days prior to closing the sale of a new residence, the seller of the residence provide the purchaser and the county clerk and recorder's office for the county where the new residence is located with information regarding the insurance coverage for the property subject to the sale, including:

- Identification of each policy and the coverage provider that may provide coverage for a construction professional's work on the residence;
- The amount of the policy limits for each policy identified;
- The policy period for each policy identified, including whether the policy provides coverage on a claims-made basis or occurrence basis; and
- Identification of relevant exclusions from coverage.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-4-122 as
 3 follows:

4 **10-4-122. Residential construction liability insurance study -**
 5 **report - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE
 6 CONTEXT OTHERWISE REQUIRES:

7 ■
 8 (a) "RATES" MEANS THE AMOUNT AN INSURER CHARGES FOR AN
 9 INSURANCE POLICY, INCLUDING PREMIUMS OR OTHER AMOUNTS CHARGED
 10 FOR COVERAGE.

11 (b) "RESIDENTIAL CONSTRUCTION LIABILITY POLICY" MEANS AN
 12 INSURANCE POLICY, INCLUDING A COMMERCIAL GENERAL LIABILITY
 13 POLICY, AN ERRORS AND OMISSIONS POLICY, A DIRECTORS AND OFFICERS

1 POLICY, A CONTRACTOR-CONTROLLED INSURANCE PROGRAM, AN
2 OWNER-CONTROLLED INSURANCE PROGRAM, OR ANY OTHER INSURANCE
3 POLICY, WHETHER UNDERLYING, EXCESS, OR UMBRELLA, THAT MAY COVER
4 OCCURRENCES OF DAMAGE OR INJURY DURING THE POLICY PERIOD AND
5 THAT MAY INSURE A CONSTRUCTION PROFESSIONAL FOR LIABILITY ARISING
6 FROM RESIDENTIAL CONSTRUCTION-RELATED WORK, INCLUDING:

7 (I) WHEN A CONSTRUCTION PROFESSIONAL MAY BE ENTITLED TO
8 A DEFENSE OR INDEMNITY AS AN ADDITIONAL INSURED UNDER ANOTHER
9 CONSTRUCTION PROFESSIONAL'S LIABILITY INSURANCE POLICY; OR

10 (II) WHEN A CONSTRUCTION PROFESSIONAL MAY BE ENTITLED TO
11 A DEFENSE OR INDEMNITY AS AN ENROLLED CONSTRUCTION PROFESSIONAL
12 UNDER AN OWNER-CONTROLLED INSURANCE PROGRAM OR A
13 CONTRACTOR-CONTROLLED INSURANCE PROGRAM.

14 (c) "RESIDENTIAL PROJECT" MEANS A MULTIFAMILY RESIDENTIAL
15 PROJECT, INCLUDING PROJECTS WITH MORE THAN TWO ADJOINED UNITS
16 OFFERED FOR INDIVIDUAL SALE.

17 (d) "STUDY" MEANS THE RESIDENTIAL CONSTRUCTION LIABILITY
18 POLICIES STUDY DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

19 (2) THE COMMISSIONER SHALL CONDUCT OR CAUSE TO BE
20 CONDUCTED A STUDY OF RESIDENTIAL PROPERTY DEVELOPERS'
21 CONSTRUCTION LIABILITY POLICIES IN COLORADO.

22 (3) THE STUDY MUST IDENTIFY, TO THE EXTENT POSSIBLE:

23 (a) ALL INSURERS OFFERING RESIDENTIAL CONSTRUCTION
24 LIABILITY POLICIES IN THE STATE, INCLUDING TO RESIDENTIAL PROPERTY
25 DEVELOPERS;

26 (b) THE RATES CHARGED BY INSURERS, AND THE BASIS FOR THE
27 RATES, FOR RESIDENTIAL CONSTRUCTION LIABILITY POLICIES IN THE

1 STATE, INCLUDING DATA FOR THE PAST THREE YEARS, IF AVAILABLE;

2 (c) RISK CLASSIFICATIONS, LOSS COST MULTIPLIERS, AND

3 COVERAGE DESCRIPTIONS THAT INSURERS USE TO SET RATES FOR

4 RESIDENTIAL CONSTRUCTION LIABILITY POLICIES IN THE STATE;

5 (d) A COMPARISON OF THE RATES DESCRIBED IN SUBSECTION (3)(b)

6 OF THIS SECTION WITH THE RATES CHARGED BY OTHER STATES IN THE

7 REGION FOR SIMILAR RESIDENTIAL PROJECTS; AND

8 [REDACTED]

9 (e) LIMITATIONS OR EXCLUSIONS FROM COVERAGE IN EACH

10 INSURER'S RESIDENTIAL CONSTRUCTION LIABILITY POLICIES IN THE STATE,

11 INCLUDING:

12 (I) MULTIFAMILY PROJECTS;

13 (II) PROJECTS DESCRIBED IN THE "COLORADO COMMON INTEREST

14 OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38; AND

15 (III) PROJECTS COVERED UNDER AN OWNER-CONTROLLED

16 INSURANCE PROGRAM.

17 [REDACTED]

18 (4) THE COMMISSIONER MAY CONTRACT WITH A THIRD PARTY TO

19 CONDUCT PART OR ALL OF THE STUDY.

20 (5) THE COMMISSIONER SHALL:

21 (a) WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS

22 SECTION, SUBMIT A REPORT SUMMARIZING THE STUDY [REDACTED] TO THE

23 HOUSE OF REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE; THE

24 HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL

25 GOVERNMENT COMMITTEE; THE SENATE BUSINESS, LABOR, AND

26 TECHNOLOGY COMMITTEE; AND THE SENATE LOCAL GOVERNMENT AND

27 HOUSING COMMITTEE; OR THEIR SUCCESSOR COMMITTEES; AND

1 (b) POST THE REPORT, WHICH MUST BE MADE AVAILABLE AS A
2 PUBLIC RECORD ON A PUBLIC-FACING PORTION OF THE DIVISION'S WEBSITE.

3 (6) THE COMMISSIONER MAY USE THE INFORMATION GATHERING
4 AUTHORITY GRANTED TO THE COMMISSIONER IN SECTION 10-1-108 IN
5 FURTHERANCE OF THE STUDY.

6 (7) THE COMMISSIONER IS NOT REQUIRED TO COMPLY WITH THE
7 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, FOR THE
8 PURPOSES OF THIS SECTION.

9 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027.

10 [REDACTED]

11 **SECTION 2. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly; except that, if a referendum petition is filed pursuant
15 to section 1 (3) of article V of the state constitution against this act or an
16 item, section, or part of this act within such period, then the act, item,
17 section, or part will not take effect unless approved by the people at the
18 general election to be held in November 2024 and, in such case, will take
19 effect on the date of the official declaration of the vote thereon by the
20 governor.

21 (2) This act applies to sales of new residences occurring on or
22 after the applicable effective date of this act.