

CHAPTER 312

INSURANCE

HOUSE BILL 24-1108

BY REPRESENTATIVE(S) McCluskie and Amabile, Bird, Brown, Clifford, Duran, Lieder, Lukens, Ricks, Rutinel, Snyder, Story, Woodrow;
also SENATOR(S) Roberts, Bridges, Buckner, Cutter, Exum, Fields, Michaelson Jenet, Priola, Winter F.

AN ACT

CONCERNING A STUDY OF THE MARKET FOR PROPERTY AND CASUALTY INSURANCE POLICIES ISSUED TO CERTAIN ENTITIES IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

10-4-122. Market study - property and casualty insurance - associations of common interest communities and lodging facilities owners - definitions - report - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADMITTED INSURANCE" MEANS ANY PROPERTY AND CASUALTY INSURANCE WRITTEN BY AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY TO CONDUCT THE BUSINESS OF INSURANCE IN COLORADO.

(b) "ASSOCIATION" MEANS A UNIT OWNERS' ASSOCIATION OF A COMMON INTEREST COMMUNITY, AS DEFINED IN SECTION 38-33.3-103 (3).

(c) "CAPTIVE INSURANCE COMPANY" HAS THE MEANING SET FORTH IN SECTION 10-6-103 (2).

(d) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (8).

(e) "CONDOMINIUM UNIT" HAS THE MEANING SET FORTH IN SECTION 38-33-103 (1).

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(f) "NONADMITTED INSURANCE" HAS THE MEANING SET FORTH IN SECTION 10-5-101.2 (10).

(g) "OWNER OF LODGING FACILITIES" OR "OWNER" MEANS A PERSON THAT POSSESSES AN OWNERSHIP INTEREST IN:

(I) A HOTEL, AS DEFINED IN SECTION 44-3-103 (21); OR

(II) A LODGING FACILITY.

(2) THE COMMISSIONER SHALL CONDUCT A STUDY OF THE MARKET FOR ADMITTED INSURANCE POLICIES ISSUED BY INSURERS TO ASSOCIATIONS AND TO OWNERS OF LODGING FACILITIES. TO THE EXTENT PRACTICABLE, THE STUDY MUST INCLUDE CONSIDERATION OF:

(a) CURRENT MARKET CONDITIONS, INCLUDING:

(I) THE AVAILABILITY OF COVERAGE, AS DIFFERENTIATED BY COUNTY OR ZIP CODE, IN THE MARKETS FOR ADMITTED INSURANCE AND NONADMITTED INSURANCE AND THROUGH SELF-INSURED MECHANISMS, INCLUDING CAPTIVE INSURANCE COMPANIES;

(II) THE AFFORDABILITY OF COVERAGE, AS DIFFERENTIATED BY PROPERTY VALUE AND BY COUNTY OR ZIP CODE; AND

(III) IDENTIFICATION OF AREAS OF COLORADO WITH PARTICULAR AVAILABILITY CONCERNS;

(b) RECOMMENDATIONS REGARDING POTENTIAL MEASURES AND PROGRAMS TO ENSURE THE LONG-TERM SUSTAINABILITY AND AVAILABILITY OF PROPERTY AND CASUALTY INSURANCE POLICIES ISSUED TO ASSOCIATIONS AND OWNERS;

(c) WHETHER ANY CAPTIVE INSURANCE COMPANIES HAVE BEEN FORMED BY AN ASSOCIATION OR AN OWNER; AND

(d) WHETHER THE FORMATION OF A CAPTIVE INSURANCE COMPANY BY AN ASSOCIATION OR AN OWNER COULD IMPACT CURRENT MARKET CONDITIONS.

(3) (a) THE COMMISSIONER MAY CONTRACT WITH A THIRD PARTY TO CONDUCT THE STUDY REQUIRED IN SUBSECTION (2) OF THIS SECTION. THE COMMISSIONER IS NOT REQUIRED TO COMPLY WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, FOR PURPOSES OF THIS SUBSECTION (3); EXCEPT THAT THE COMMISSIONER SHALL USE A COMPETITIVE PROCESS PURSUANT TO THE "PROCUREMENT CODE" TO SELECT A THIRD PARTY TO CONDUCT THE STUDY.

(b) THE COMMISSIONER AND ANY THIRD PARTY CONDUCTING THE STUDY SHALL ENGAGE WITH AND SEEK INPUT FROM INSURERS, CONSUMER GROUPS, AND OTHER INTERESTED PARTIES.

(4) AS PART OF THE STUDY, THE COMMISSIONER MAY COLLECT DATA FROM EACH

INSURER IN THE MARKETS FOR ADMITTED INSURANCE AND NONADMITTED INSURANCE, INCLUDING:

(a) THE NUMBER AND LOCATION OF EACH ASSOCIATION AND OWNER IN COLORADO FOR WHICH THE INSURER PROVIDES COVERAGE THROUGH A PROPERTY AND CASUALTY INSURANCE POLICY;

(b) THE CRITERIA USED BY THE INSURER TO UNDERWRITE PROPERTY AND CASUALTY INSURANCE POLICIES ISSUED TO ASSOCIATIONS AND OWNERS;

(c) COMBINED LOSS AND EXPENSE RATIOS INCURRED BY THE INSURER FROM ISSUING PROPERTY AND CASUALTY INSURANCE POLICIES TO ASSOCIATIONS AND OWNERS; AND

(d) ANY OTHER DATA THE COMMISSIONER IDENTIFIES AS RELEVANT TO EVALUATING CURRENT MARKET CONDITIONS AND DEVELOPING PROPOSED AVAILABILITY AND AFFORDABILITY SOLUTIONS.

(5) INFORMATION SUBMITTED BY AN INSURER PURSUANT TO SUBSECTION (4) OF THIS SECTION IS SUBJECT TO PUBLIC INSPECTION ONLY TO THE EXTENT ALLOWED UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24. THE DIVISION AND ANY THIRD-PARTY CONTRACTOR SHALL NOT DISCLOSE TRADE SECRETS OR CONFIDENTIAL OR PROPRIETARY INFORMATION TO ANY PERSON THAT IS NOT AUTHORIZED TO ACCESS THE INFORMATION.

(6) THE COMMISSIONER SHALL PREPARE A REPORT SUMMARIZING THE RESULTS OF THE STUDY REQUIRED BY THIS SECTION. ON OR BEFORE JANUARY 1, 2026, THE COMMISSIONER SHALL SUBMIT THE REPORT TO THE JOINT BUDGET COMMITTEE, TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND TO THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. TO THE EXTENT FEASIBLE, THE COMMISSIONER MAY COLLECT DATA CONCERNING SELF-INSURED MECHANISMS, INCLUDING CAPTIVE INSURANCE COMPANIES, AND INCLUDE SUCH INFORMATION IN THE REPORT.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 2. Appropriation. For the 2024-25 state fiscal year, \$329,863 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3)(a)(I), C.R.S., and is based on an assumption that the division will require an additional 0.3 FTE. To implement this act, the division may use this appropriation for personal services. Of the amount appropriated in this section, any amount up to \$300,000 not expended prior to July 1, 2025, is further appropriated to the division for the 2025-26 state fiscal year for the same purpose.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 31, 2024