

CHAPTER 177

**LABOR AND INDUSTRY**

**HOUSE BILL 97-1180**

BY REPRESENTATIVES May, Dean, Entz, Schwarz, and Young;  
also SENATOR Coffman.

**AN ACT**

CONCERNING THE COLORADO COMPENSATION INSURANCE AUTHORITY.

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

**SECTION 1.** 8-45-101 (5) (e) and (11), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 8-45-101 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**8-45-101. Colorado compensation insurance authority - creation - powers and duties.** (5) The board shall:

(e) Promulgate rules that establish the basis by which employer premiums payable to the Colorado compensation insurance authority fund are determined. THE BOARD MAY ESTABLISH DIFFERENT RATES FOR EMPLOYERS WHO MEET THE REQUIREMENTS ESTABLISHED BY THE BOARD FOR ANY CLASSIFICATION AFTER COMPLYING WITH THE REQUIREMENTS OF PART 4 OF ARTICLE 4 OF TITLE 10, C.R.S., SO LONG AS THOSE RATES ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(e.5) OFFER TO PROVIDE WORKERS' COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE COVERING ANY LIABILITY OF COLORADO EMPLOYERS ON ACCOUNT OF PERSONAL INJURIES SUSTAINED BY, OR THE DEATH OF, ANY EMPLOYEE. THE BOARD SHALL NOT REFUSE TO INSURE ANY COLORADO EMPLOYER OR CANCEL ANY INSURANCE POLICY DUE TO THE RISK OF LOSS, EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE.

(11) Notwithstanding any provision of law to the contrary, the claim files of injured employees, ~~and~~ THE policy files of employers, AND ALL BUSINESS RECORDS RELATING TO THE DETERMINATION OF RATES THAT ARE NOT REQUIRED TO BE DISCLOSED BY ANY OTHER INSURANCE COMPANY, shall not be subject to the

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

provisions of part 2 of article 72 of title 24, C.R.S.

**SECTION 2.** 8-45-106, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-45-106. Insurance at cost - board may impose surcharges.** (1) It is the duty of the board, in the exercise of the powers and discretion conferred upon it by articles 40 to 47 of this title, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the maintenance of a solvent Colorado compensation insurance authority fund, and the creation and maintenance of a reasonable surplus after the payment of legitimate claims for injury and death, that may be authorized to be paid from the Colorado compensation insurance authority fund for the benefit of injured and dependents of killed employees.

(2) THE BOARD MAY IMPOSE A PREMIUM SURCHARGE, NOT TO EXCEED AN ADDITIONAL FIFTY PERCENT, 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 BOARD, IN IMPOSING A PREMIUM SURCHARGE, HAS ENGAGED IN ANY CONDUCT IN VIOLATION OF PART 11 OF ARTICLE 3 OF TITLE 10, C.R.S., THE COMMISSIONER MAY TAKE ANY ACTION THE COMMISSIONER DEEMS APPROPRIATE AND AUTHORIZED BY LAW.

**SECTION 3.** 8-45-111, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-45-111. Portions of premiums paid carried to surplus.** The board shall set aside such proportion as it may deem necessary of the earned premiums paid into the Colorado compensation insurance authority fund, as a contribution to the surplus of the fund. NO LATER THAN JANUARY 1, 2001, THE BOARD SHALL SUBMIT A PLAN FOR APPROVAL BY THE COMMISSIONER OF INSURANCE FOR THE ATTAINMENT OF A REASONABLE SURPLUS AS DETERMINED IN ACCORDANCE WITH SECTION 10-3-201, C.R.S., OR, SUCH SURPLUS AS APPROVED BY THE COMMISSIONER OF INSURANCE.

**SECTION 4.** 8-45-113 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**8-45-113. Policy canceled, when.** (1) (c) THE COLORADO COMPENSATION INSURANCE AUTHORITY SHALL NOT BE REQUIRED TO ISSUE A NEW POLICY OF INSURANCE TO AN EMPLOYER UNTIL ALL MONEYS DUE THE COLORADO COMPENSATION INSURANCE AUTHORITY HAVE BEEN PAID, ALL PREMIUMS HAVE BEEN PAID ON ALL CANCELED POLICIES, AND THE EMPLOYER HAS COMPLIED WITH ALL PROVISIONS OF THE CANCELED POLICY.

**SECTION 5.** 8-45-117 (1), (2), and (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 8-45-117 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**8-45-117. Regulation by commissioner of insurance.** (1) The Colorado compensation insurance authority shall be subject to regulation by the commissioner of insurance as provided in:

(a) Part 11 of article 3 of title 10, C.R.S., pertaining to unfair competition and deceptive practices;

(b) ~~Beginning January 1, 1990,~~ Part 4 of article 4 of title 10, C.R.S., pertaining to rate regulation; however, if the rates used by the Colorado compensation insurance authority are the national council on compensation insurance rates previously approved by the commissioner of insurance, the Colorado compensation insurance authority may deviate from said approved rates without the approval of the commissioner of insurance if the deviation results in a lower rate to eligible insureds. USE DIFFERENT RATES FOR EMPLOYERS WHO MEET THE REQUIREMENTS ESTABLISHED BY THE BOARD OF DIRECTORS AFTER COMPLYING WITH THE REQUIREMENTS OF PART 4 OF ARTICLE 4 OF TITLE 10, C.R.S., CONCERNING TYPE II INSURERS.

(c) SECTIONS 10-1-108 (8), 10-1-109, AND 10-1-102, C.R.S., EXCEPT (2) AND (4); 10-1-205, C.R.S., (1) THROUGH (6) AND (8); 10-3-109, C.R.S., EXCEPT FOR THE PUBLICATION REQUIREMENTS; 10-3-118, C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.; 10-3-207, C.R.S.; 10-3-208, C.R.S. (1) AND (2); 10-3-231, C.R.S.; 10-3-239, C.R.S.; 10-3-241, C.R.S.; 10-3-701, C.R.S.; AND PART 8 OF ARTICLE 3 OF TITLE 10, C.R.S., EXCEPT AS THESE SECTIONS ARE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

(2) ~~For purposes of this section, the Colorado compensation insurance authority shall be deemed to be a company within the meaning of section 10-1-102 (4), C.R.S.~~

(4) ~~The costs of regulation by the commissioner~~ THE COST OF EXAMINATIONS PERFORMED IN ACCORDANCE WITH SECTION 8-45-121 (4), shall be billed by the commissioner to the authority ~~on a quarterly basis~~ at prevailing hourly rates based upon time records kept by the commissioner. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

(5) AT SUCH TIME AS A REASONABLE SURPLUS OF THE COLORADO COMPENSATION INSURANCE AUTHORITY FUND IS REACHED PURSUANT TO SECTION 8-45-111 OR WHEN THE COLORADO COMPENSATION INSURANCE AUTHORITY FAILS TO COMPLY WITH THE PLAN TO ATTAIN A REASONABLE SURPLUS AS SET FORTH IN SECTION 8-45-111, THE COLORADO COMPENSATION INSURANCE AUTHORITY SHALL BE SUBJECT TO REGULATION BY THE COMMISSIONER OF INSURANCE AS PROVIDED IN SECTION 10-1-205 (7) AND PART 4 OF ARTICLE 3 OF TITLE 10, C.R.S., TO THE EXTENT CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

**SECTION 6.** 8-45-120 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-45-120. State treasurer to invest funds.** (1) Except as provided in subsection (2) of this section, the state treasurer, AFTER CONSULTING WITH THE BOARD OF DIRECTORS OR THE BOARD'S DESIGNATED COMMITTEE AS TO THE OVERALL DIRECTION OF THE PORTFOLIO, shall invest any portion of the Colorado compensation insurance

authority fund, including its surplus or reserves, which is not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. SUCH MONEYS MAY ALSO BE INVESTED IN COMMON AND PREFERRED STOCK IN THE SAME MANNER AS A DOMESTIC INSURANCE COMPANY PURSUANT TO 10-3-226, C.R.S. THE STATE TREASURER SHALL DETERMINE THE APPROPRIATE PERCENTAGE OF THE FUND, NOT TO EXCEED ONE HUNDRED PERCENT OF THE SURPLUS, TO BE INVESTED IN COMMON AND PREFERRED STOCK AND THE APPROPRIATE LEVEL OF RISK FOR SUCH INVESTMENTS. THE STATE TREASURER MAY MAKE SUCH INVESTMENTS IN THE FORM OF MUTUAL FUNDS, AND MAY CONTRACT WITH PRIVATE PROFESSIONAL FUND MANAGERS AND EMPLOY PORTFOLIO MANAGERS.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 1997