

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 23-1303

BY REPRESENTATIVE(S) Brown and McCluskie, Amabile, Bacon, Boesenecker, deGruy Kennedy, Duran, English, Froelich, Hamrick, Jodeh, Joseph, Kipp, Lindsay, Lindstedt, Lukens, McCormick, Parenti, Ricks, Sharbini, Soper, Titone, Velasco, Willford, Young;
also SENATOR(S) Hansen and Roberts.

CONCERNING PROTECTIONS IN THE EVENT OF AN INSURANCE COMPANY
FAILURE.

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

SECTION 1. In Colorado Revised Statutes, 10-3-541, **amend** (1)(a), (1)(c), and (3); and **add** (2.5) and (4) as follows:

10-3-541. Priority of distribution - definitions - repeal. (1) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full, or adequate funds shall be retained for such payment, before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

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.

(a) **Class 1.** (I) The costs and expenses of administration during rehabilitation and liquidation, including but not limited to the following:

~~(I)~~ (A) The actual and necessary costs of preserving or recovering the assets of the insurer;

~~(II)~~ (B) Compensation for all authorized services rendered in the rehabilitation and liquidation;

~~(III)~~ (C) Any necessary filing fees;

~~(IV)~~ (D) The fees and mileage payable to witnesses;

~~(V)~~ (E) Authorized reasonable attorney fees and fees for other professional services rendered in the rehabilitation and liquidation; and

~~(VI)~~ (F) The administrative expenses of guaranty associations; AND

(II) CLAIMS BY MEMBER INSURERS FOR THEIR PRO RATA SHARE OF THE RISK ADJUSTMENT PROGRAM PAYABLE BY AN IMPAIRED INSURER OR INSOLVENT INSURER IF THE COMMISSIONER DETERMINES THAT THE FAILURE OF THE IMPAIRED INSURER OR INSOLVENT INSURER TO PAY SUCH RISK ADJUSTMENT PROGRAM PAYMENTS WOULD RESULT IN THE IMPAIRMENT OR INSOLVENCY OF THE CLAIMANT MEMBER INSURER AND THAT SUCH IMPAIRMENT OR INSOLVENCY WOULD BE AVOIDED BY PAYMENT OF THE CLAIM. THE AMOUNT OF THE PAYMENT OF THE CLAIM MUST NOT EXCEED THE LESSER OF:

(A) THE PRO RATA AMOUNT THE CLAIMANT MEMBER INSURER WOULD BE ENTITLED TO FROM THE RISK ADJUSTMENT PROGRAM BUT DID NOT RECEIVE BECAUSE THE ESTATE OF THE IMPAIRED OR INSOLVENT INSURER HAS NOT MADE THE FULL PAYMENT; OR

(B) THE AMOUNT NEEDED TO AVOID THE CLAIMANT MEMBER INSURER'S IMPAIRMENT OR INSOLVENCY.

(c) (I) **Class 3.** Claims of the federal government, except those described in ~~paragraph (b) of this subsection~~ (1) SUBSECTION (1)(b) OF THIS SECTION.

(II) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(c)(II) THROUGH JUNE 30, 2026, CLASS 3 CLAIMS INCLUDE ALL CLAIMS OWED FOR THE RISK ADJUSTMENT PROGRAM.

(2.5) THE COMMISSIONER SHALL ORDER A MEMBER INSURER THAT RECEIVED PAYMENTS PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION TO REFUND TO THE ESTATE OF AN IMPAIRED INSURER OR INSOLVENT INSURER ANY AMOUNTS RECEIVED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION THAT DUPLICATE PAYMENTS THE MEMBER INSURER RECEIVED FROM THE RISK ADJUSTMENT PROGRAM.

(3) As used in this section:

(a) "IMPAIRED INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-20-103 (6.7).

(b) "INSOLVENT INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-20-103 (7).

(a) (c) "Insurer's estate" OR "ESTATE" means the general assets of such insurer less any assets held in separate accounts that, pursuant to section 10-7-402, are not chargeable with liabilities arising out of any other business of the insurer. To the extent, if any, assets maintained in the separate account are in excess of the amounts needed to satisfy claims under the separate account contracts, the excess shall be treated as part of the insurer's estate.

(d) "MEMBER INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-20-103 (8).

(e) "RISK ADJUSTMENT PROGRAM" MEANS THE PROGRAM ESTABLISHED PURSUANT TO SECTION 1343 OF THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", PUB.L. 111-148, AS AMENDED BY THE FEDERAL "HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE FURTHER AMENDED, 42 U.S.C. SEC. 18063, TO PROVIDE PAYMENTS TO HEALTH INSURANCE CARRIERS THAT COVER HIGH-RISK POPULATIONS AND TO MORE EVENLY DISTRIBUTE THE FINANCIAL RISK BORNE BY CARRIERS.

(b) (f) "Separate account contract" means any life policy or contract,

annuity contract, funding agreement, or guaranteed investment contract providing for the allocation of amounts received in connection with such policy, contract, or agreement to a separate account authorized by section 10-7-402.

(4) SUBSECTIONS (1)(a)(II), (1)(c)(II), (2.5), (3)(a), (3)(b), (3)(d), AND (3)(e) OF THIS SECTION AND THIS SUBSECTION (4) ARE REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 2. In Colorado Revised Statutes, **amend** 10-20-101 as follows:

10-20-101. Short title. ~~This article shall be known and may be cited as~~ THE SHORT TITLE OF THIS ARTICLE 20 IS the "Life and Health Insurance Protection Association Act".

SECTION 3. In Colorado Revised Statutes, **amend** 10-20-102 as follows:

10-20-102. Legislative declaration. (1) The general assembly finds and declares that the purpose of this ~~article~~ ARTICLE 20 is to protect, subject to certain limitations, the persons specified in section 10-20-104 (1) against failure by member insurers in the performance of their contractual obligations under life ~~and~~ INSURANCE POLICIES, health insurance policies, HEALTH BENEFIT PLANS, and annuity POLICIES, PLANS, OR contracts specified in section 10-20-104 (2) because of the insolvency of the member insurer that issued the policies, PLANS, or contracts.

(2) To provide the protection specified in subsection (1) of this section, an association of MEMBER insurers shall be created and shall exist to pay benefits and to continue coverages as limited pursuant to this ~~article~~. ~~Members~~ ARTICLE 20. MEMBER INSURERS of the association are subject to assessment to provide funds to carry out the purpose of this ~~article~~ ARTICLE 20.

SECTION 4. In Colorado Revised Statutes, 10-20-103, **amend** the introductory portion, (6), (8) introductory portion, (8)(i.5), (8)(j), (10.5), (12), (12.7), and (13); **repeal** (8)(b); and **add** (6.6) as follows:

10-20-103. Definitions. As used in this ~~article~~ ARTICLE 20, unless

the context otherwise requires:

(6) "Covered policy", "COVERED CONTRACT", OR "COVERED POLICY OR CONTRACT" means a policy or contract, or a portion of a policy or contract, for which coverage is provided under section 10-20-104.

(6.6) (a) "HEALTH BENEFIT PLAN" MEANS ANY HOSPITAL OR MEDICAL EXPENSE POLICY OR CERTIFICATE, HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER CONTRACT, OR OTHER SIMILAR HEALTH CONTRACT THAT IS SUBJECT TO THE JURISDICTION OF THE COMMISSIONER AND AVAILABLE FOR USE, OFFERED, OR SOLD IN COLORADO.

(b) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

(I) AN ACCIDENT ONLY PLAN;

(II) CREDIT INSURANCE;

(III) DENTAL INSURANCE;

(IV) VISION INSURANCE;

(V) A MEDICARE SUPPLEMENT PLAN;

(VI) BENEFITS FOR LONG-TERM CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION OF SUCH BENEFITS;

(VII) DISABILITY INCOME INSURANCE;

(VIII) LIABILITY INSURANCE INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

(IX) COVERAGE FOR ON-SITE MEDICAL CLINICS;

(X) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE, WORKERS' COMPENSATION, OR SIMILAR INSURANCE;

(XI) AUTOMOBILE MEDICAL PAYMENT INSURANCE; OR

(XII) SPECIFIED DISEASE, HOSPITAL CONFINEMENT INDEMNITY, OR

LIMITED BENEFIT HEALTH INSURANCE IF THE TYPE OF COVERAGE DOES NOT PROVIDE COORDINATION OF BENEFITS AND IS PROVIDED UNDER A SEPARATE POLICY OR CERTIFICATE.

(8) "Member insurer" means any insurer OR HEALTH MAINTENANCE ORGANIZATION THAT IS licensed or ~~who~~ holds a certificate of authority in this state to write any kind of insurance OR HEALTH MAINTENANCE ORGANIZATION BUSINESS for which coverage is provided pursuant to section 10-20-104 and includes any insurer OR HEALTH MAINTENANCE ORGANIZATION whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn. ~~but~~ "Member insurer" does not include:

(b) ~~A health maintenance organization;~~

(i.5) A health-care coverage cooperative ~~and~~ WITH A CERTIFICATE OF AUTHORITY ISSUED AND OPERATING UNDER PART 10 OF ARTICLE 16 OF THIS TITLE 10; OR

(j) Any entity similar to those specified in ~~this subsection~~ (8) SUBSECTIONS (8)(a) TO (8)(i.5) OF THIS SECTION.

(10.5) "Owner" of a policy or contract, ~~for insurance, or~~ "policy owner", "POLICYHOLDER", "CONTRACT HOLDER", or "contract owner" means the person who is identified as the legal owner under the terms of the policy or contract ~~for insurance~~ or who is otherwise vested with legal title to the policy or contract ~~for insurance~~ through a valid assignment completed in accordance with the terms of the policy or contract ~~for insurance~~ and properly recorded as the owner on the books of the MEMBER insurer. The terms "owner", "contract owner", "POLICYHOLDER", "CONTRACT HOLDER" and "policy owner" do not include persons with a MERE beneficial interest in a policy or contract.

(12)(a) "Premiums" means ~~amounts~~ THE AMOUNT of money or other consideration, however designated, received on covered policies or contracts less returned premiums, returned consideration, and returned deposits, and less dividends and experience credits. ~~thereon.~~

(b) "Premiums" does not include:

(I) Any ~~amounts~~ AMOUNT of money or other consideration received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under section 10-20-104 (2); except that assessable premiums shall not be reduced on account of section 10-20-104 (2)(b)(III) relating to interest limitations and section 10-20-104 (3)(b) relating to limitations with respect to any one life; ~~"Premiums" does not include:~~

~~(a)~~ (II) Premiums on an unallocated annuity contract; or

~~(b)~~ (III) Premiums in excess of five million dollars with respect to multiple nongroup policies of life insurance owned by one owner, regardless of:

~~(H)~~ (A) Whether the policy owner is an individual, firm, corporation, or other person;

~~(H)~~ (B) Whether the persons insured are officers, managers, employees, or other persons; or

~~(H)~~ (C) The number of policies or contracts held by the owner.

(12.7) "Receivership court" means the court in an impaired or insolvent insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the MEMBER insurer.

(13) "Resident" means any person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer. A person ~~may~~ MUST be a resident of only one state, which in the case of a person other than a natural person ~~shall~~ MUST be its principal place of business. Citizens of the United States who are residents of a foreign country, United States possession, United States territory, or United States protectorate, which country, possession, territory, or protectorate does not have an association similar to the association created by this ~~article, shall be~~ ARTICLE 20, ARE deemed residents of the state of domicile of the MEMBER insurer that issued the policies or contracts.

SECTION 5. In Colorado Revised Statutes, 10-20-104, **amend** (1)

introductory portion, (1)(a) introductory portion, (1)(a)(II)(A), (1)(a)(II)(B), (1)(b), (1.5), (1.7), (2)(a), (2)(b) introductory portion, (2)(b)(XII), (2)(b)(XVI), (2)(b)(XVIII) introductory portion, (2)(b)(XVIII)(B), (2)(b)(XVIII)(C), (3) introductory portion, (3)(a), (3)(b)(I) introductory portion, (3)(b)(I)(B), (3)(b)(II)(A), and (4); and **add** (2)(b)(XX), (2)(c), and (3.5) as follows:

10-20-104. Coverage and limitations - coordination of benefits.

(1) This ~~article shall provide~~ ARTICLE 20 PROVIDES coverage for the policies and contracts specified in subsection (2) of this section and to persons:

(a) Who are owners of, ~~or~~ certificate holders under, OR ENROLLEES IN such policies or contracts, other than structured settlement annuities, and who:

(II) Are not residents, but only under all of the following conditions:

(A) The MEMBER insurer ~~which~~ THAT issued ~~such~~ THE policies or contracts is domiciled in this state;

(B) ~~Such~~ THE MEMBER insurer never held a license or certificate of authority in the states in which such persons reside;

(b) Regardless of where they reside, except for nonresident certificate holders under group policies or contracts, who are the beneficiaries, assignees, or payees, INCLUDING HEALTH-CARE PROVIDERS RENDERING SERVICES UNDER A HEALTH INSURANCE OR HEALTH MAINTENANCE ORGANIZATION POLICY, CONTRACT, OR CERTIFICATE, of the persons covered under ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION.

(1.5) This ~~article shall~~ ARTICLE 20 DOES not provide coverage to a person ~~who~~ THAT:

(a) Is a payee or beneficiary of ~~a contract~~ AN owner OR ENROLLEE who is a resident of this state if the payee or beneficiary is afforded any coverage by the association of another state; OR

(b) ACQUIRES RIGHTS TO RECEIVE PAYMENTS THROUGH A

STRUCTURED SETTLEMENT FACTORING TRANSACTION, AS DEFINED IN 26 U.S.C. SEC. 5891 (c)(3)(A), REGARDLESS OF WHETHER THE TRANSACTION OCCURRED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF 26 U.S.C. SEC. 5891 (c)(3)(A).

(1.7) This ~~article~~ ARTICLE 20 is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this ~~article~~ ARTICLE 20 is provided coverage under the laws of any other state, the person shall not be provided coverage under this ~~article~~ ARTICLE 20. In determining the application of the provisions of this subsection (1.7) in situations where a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, ENROLLEE, or assignee, this ~~article~~ ARTICLE 20 shall be construed in conjunction with other state laws to result in coverage by only one association.

(2) (a) This ~~article~~ ARTICLE 20 provides coverage to the persons specified in subsections (1) and (1.3) of this section for direct, nongroup life INSURANCE, health INSURANCE, HEALTH MAINTENANCE ORGANIZATION, annuity, and supplemental policies or contracts and for certificates under direct group life INSURANCE, health INSURANCE, HEALTH MAINTENANCE ORGANIZATION, OR annuity policies or contracts, and FOR supplemental contracts to any of these, issued by member insurers pursuant to ~~articles 7 and 8~~ ARTICLE 7 and parts 1, ~~and 2~~ 2, AND 4 of article 16 of this ~~title~~ TITLE 10, except as limited by this ~~article~~ ARTICLE 20. Annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities, and any immediate or deferred annuity contracts.

(b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(c) OF THIS SECTION, this ~~article~~ ARTICLE 20 does not provide coverage for:

(XII) Any MEMBER insurer ~~which~~ THAT was insolvent or unable to fulfill its contractual obligations as of July 1, 1991; except that an annuity contract issued or assumed by such ~~an~~ A MEMBER insurer shall be covered under this ~~article~~ ARTICLE 20 if ~~such~~ THE MEMBER insurer was ordered into liquidation between July 1, 1991, and August 31, 1991;

(XVI) Any policy or contract providing hospital, medical,

prescription drug, or other health-care benefits under:

(A) Part C or part D of subchapter XVIII, chapter 7 of title 42, United States Code, or any regulation issued under ~~these~~ THOSE parts C OR D; OR

(B) SUBCHAPTER XIX, CHAPTER 7 OF TITLE 42, UNITED STATES CODE, OR ANY REGULATION ISSUED UNDER TITLE XIX;

(XVIII) Any obligation that does not arise under the expressed written terms of the policy or contract issued by the MEMBER insurer to the ~~contract owner, or to the policy owner~~, CERTIFICATE HOLDER, OR ENROLLEE, including: ~~and without limitation:~~

(B) Claims based on side letters, riders, or other documents that were issued by the MEMBER insurer without meeting applicable policy OR CONTRACT form filing or approval requirements;

(C) Misrepresentations of, or regarding, policy OR CONTRACT benefits;

(XX) STRUCTURED SETTLEMENT ANNUITY BENEFITS TO WHICH A PAYEE OR BENEFICIARY HAS TRANSFERRED THE PAYEE'S OR BENEFICIARY'S RIGHTS IN A STRUCTURED SETTLEMENT FACTORING TRANSACTION, AS DEFINED IN 26 U.S.C. SEC. 5891 (c)(3)(A), REGARDLESS OF WHETHER THE TRANSACTION OCCURRED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF 26 U.S.C. SEC. 5891 (c)(3)(A).

(c) THE EXCLUSIONS FROM COVERAGE SPECIFIED IN SUBSECTION (2)(b)(III) OF THIS SECTION DO NOT APPLY TO ANY PORTION OF A POLICY OR CONTRACT, INCLUDING A RIDER, THAT PROVIDES LONG-TERM CARE OR ANY OTHER HEALTH INSURANCE BENEFITS.

(3) The benefits for which the association may become liable ~~shall~~ MUST not exceed the lesser of:

(a) The contractual obligations for which the MEMBER insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b) (I) With respect to any one life, regardless of the number of policies or contracts with that MEMBER insurer:

(B) For health insurance benefits OR COVERAGE RECEIVED UNDER HEALTH MAINTENANCE ORGANIZATION CONTRACTS: One hundred thousand dollars for coverages not defined as disability, ~~basic hospital, medical and surgical, or major medical insurance~~ COVERAGE OR SERVICES UNDER HEALTH BENEFIT PLANS, or long-term care insurance, including any net cash surrender and net cash withdrawal values; three hundred thousand dollars for disability insurance; three hundred thousand dollars for long-term care insurance; or five hundred thousand dollars for ~~basic hospital, medical and surgical, or major medical insurance~~ COVERAGE OR SERVICES UNDER HEALTH BENEFIT PLANS;

(II) The association is not obligated to cover:

(A) More than three hundred thousand dollars in benefits, in the aggregate, with respect to any one life under ~~sub-subparagraphs (A) to (D) of subparagraph (I) of this paragraph (b)~~ SUBSECTION (3)(b)(I) OF THIS SECTION; except that, with respect to benefits for ~~basic hospital, medical and surgical, and major medical insurance~~ COVERAGE OR SERVICES UNDER HEALTH BENEFIT PLANS under ~~sub-subparagraph (B) of subparagraph (I) of this paragraph (b)~~ SUBSECTION (3)(b)(I)(B) OF THIS SECTION, the aggregate liability of the association ~~shall~~ MUST not exceed five hundred thousand dollars with respect to any one ~~individual~~ LIFE; or

(3.5) FOR PURPOSES OF THIS ARTICLE 20, BENEFITS PROVIDED BY A LONG-TERM CARE RIDER TO A LIFE INSURANCE POLICY OR ANNUITY ARE CONSIDERED THE SAME TYPE OF BENEFITS AS THE BENEFITS PROVIDED BY THE UNDERLYING LIFE INSURANCE POLICY OR ANNUITY CONTRACT TO WHICH THE RIDER RELATES.

(4) In performing its obligations to provide coverage under section 10-20-108, the association is not required to guarantee, assume, reinsure, REISSUE, or perform, or cause to be guaranteed, assumed, reinsured, REISSUED, or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

SECTION 6. In Colorado Revised Statutes, 10-20-106, **amend** (1) introductory portion as follows:

10-20-106. Creation of the association. (1) There is hereby created a private nonprofit legal entity to be known as the life and health insurance protection association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance OR HEALTH MAINTENANCE ORGANIZATION BUSINESS in this state. The association shall perform its functions pursuant to the plan of operation specified in section 10-20-110 and shall exercise its powers through the board of directors provided in section 10-20-107. For purposes of administration and assessment, the association shall maintain three accounts:

SECTION 7. In Colorado Revised Statutes, 10-20-107, **amend** (1) and (2) as follows:

10-20-107. Board of directors. (1) The board of directors of the association ~~shall consist of not less~~ CONSISTS OF NO FEWER than ~~five~~ SEVEN nor more than ~~nine~~ ELEVEN member insurers serving terms as established in the plan of operation. ~~The members of the board~~ MEMBER INSURERS shall ~~be selected by member insurers~~ SELECT MEMBERS OF THE BOARD, subject to the approval of the commissioner. ~~Vacancies on the board shall be filled~~ IF A VACANCY OCCURS, THE REMAINING BOARD MEMBERS SHALL FILL THE VACANCY for the remaining period of the term by a majority vote, ~~of the remaining board members~~, subject to the approval of the commissioner. To select the first board and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. At the organizational meeting, each member insurer ~~shall be~~ IS entitled to one vote in person or by proxy. If the board is not selected within sixty days after notice of the organizational meeting, the commissioner may appoint the initial members.

(2) In approving selections or in appointing members to the board, the commissioner shall ~~consider, among other things, whether~~ ENSURE THAT all member insurers are fairly represented BETWEEN MEMBER INSURERS THAT WRITE PRIMARILY LIFE INSURANCE OR ANNUITY CONTRACTS AND MEMBER INSURERS THAT WRITE PRIMARILY HEALTH BENEFIT PLANS. THE COMMISSIONER SHALL ALSO CONSIDER WHETHER MEMBER INSURERS WITH EXPERIENCE IN PROVIDING LARGE GROUP HEALTH BENEFIT PLANS TO

EMPLOYERS WHOSE EMPLOYEES ARE SUBJECT TO A COLLECTIVE BARGAINING AGREEMENT ARE REPRESENTED ON THE BOARD.

SECTION 8. In Colorado Revised Statutes, 10-20-108, **amend** (1)(a), (2)(a), (2)(c), (5), (6), (11), (12), (13)(c), (13)(f), (19), (22) introductory portion, and (24) introductory portion; and **add** (13)(i) as follows:

10-20-108. Powers and duties of the association. (1) If a member insurer is an impaired insurer, the association may, in its discretion and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner:

(a) Guarantee, assume, REISSUE, or reinsure or cause to be guaranteed, assumed, REISSUED, or reinsured any or all of the policies or contracts of the impaired insurer; or

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a) Guarantee, assume, REISSUE, or reinsure or cause to be guaranteed, assumed, REISSUED, or reinsured the covered policies OR CONTRACTS of the insolvent insurer and provide such ~~moneys~~ MONEY, pledges, notes, guarantees, or other means as are reasonably necessary to discharge those duties; or

(c) Provide benefits and coverages in accordance with the following provisions:

(I) With respect only to life ~~and~~ INSURANCE, health insurance, ~~policies~~ HEALTH BENEFIT PLANS, and annuities, assure payment of benefits ~~for premiums identical to the premiums and benefits, except for terms of conversion and renewability,~~ that would have been payable under the policies OR CONTRACTS of the insolvent insurer for claims incurred:

(A) With respect to group policies and contracts, not later than the earlier of the next renewal date under ~~such~~ THE policies or contracts or forty-five days, but in no event less than thirty days, after the date on which the association becomes obligated with respect to ~~such~~ THE policies or

contracts;

(B) With respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date, if any, under ~~such~~ THE policies or contracts or one year, but in no event less than thirty days, after the date on which the association becomes obligated with respect to ~~such~~ THE policies or contracts.

(II) Make diligent efforts to provide to all known insureds, ENROLLEES, or annuitants for nongroup policies and contracts, or to group policy OR CONTRACT owners with respect to group policies and contracts, thirty days' notice of the termination under ~~subparagraph (I) of this paragraph (c)~~ SUBSECTION (2)(c)(I) OF THIS SECTION of the benefits provided.

(III) With respect to nongroup life ~~and~~ INSURANCE, health insurance, ~~policies~~ HEALTH BENEFIT PLANS, and annuities covered by the association, make available to each known insured, ENROLLEE, or annuitant, or TO THE owner if other than the insured, ENROLLEE, or annuitant, and with respect to an individual formerly insured OR ENROLLED or formerly an annuitant under a group policy OR CONTRACT who is not eligible for replacement group coverage, substitute coverage on an individual basis in accordance with ~~the provisions of subparagraph (IV) of this paragraph (c)~~ SUBSECTION (2)(c)(IV) OF THIS SECTION, if the insureds, ENROLLEES, or annuitants had a right under law or the terminated policy, CONTRACT, or annuity to convert coverage to individual coverage or to continue an individual policy, CONTRACT, or annuity in force until a specified age or for a specified time, during which the insurer OR HEALTH MAINTENANCE ORGANIZATION had no right to unilaterally make changes in any provisions of the policy, CONTRACT, or annuity or had a right only to make changes in premium by class.

(IV) (A) In providing the substitute coverage required under ~~subparagraph (III) of this paragraph (c)~~ SUBSECTION (2)(c)(III) OF THIS SECTION, the association may offer either to reissue the terminated coverage or to issue an alternative policy OR CONTRACT AT ACTUARIALLY JUSTIFIED RATES APPROVED BY THE COMMISSIONER.

(B) The association shall offer alternative or reissued policies OR CONTRACTS without requiring evidence of insurability, and the policies OR

CONTRACTS must not provide for any waiting period or exclusion that would not have applied under the terminated policy OR CONTRACT.

(C) The association may reinsure any alternative or reissued policy OR CONTRACT.

(V) (A) Alternative policies OR CONTRACTS adopted by the association are subject to the approval of the ~~domiciliary~~ commissioner. ~~and the receivership court.~~ The association may adopt alternative policies OR CONTRACTS of various types for future issuance without regard to any particular impairment or insolvency.

(B) Alternative policies OR CONTRACTS must contain at least the minimum statutory provisions required in this state and provide benefits reasonably related to the premium charged. The association shall set the premium in accordance with a table of rates ~~which it shall adopt~~ THAT THE ASSOCIATION ADOPTS. The premium must reflect the amount of insurance OR COVERAGE to be provided and the age and class of risk of each insured but ~~shall~~ MUST not reflect any changes in the health of the insured after the original policy OR CONTRACT was last underwritten.

(C) Any alternative policy OR CONTRACT issued by the association must provide coverage of a type similar to that of the policy OR CONTRACT issued by the impaired or insolvent insurer, as determined by the association.

(VI) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy OR CONTRACT, the association shall set ~~the~~ AN ACTUARIALLY JUSTIFIED premium in accordance with the amount of insurance OR COVERAGE provided and the age and class of risk, subject to approval by the commissioner. ~~or by a court of competent jurisdiction.~~

(VII) The obligations of the association, with respect to coverage under any policy OR CONTRACT of the impaired or insolvent insurer or under any reissued or alternative policy OR CONTRACT, cease on the date ~~such~~ THE coverage, ~~or~~ policy, OR CONTRACT is replaced by another similar policy OR CONTRACT by the policy owner, ~~the~~ insured, ENROLLEE, or ~~the~~ association.

(VIII) When proceeding under this ~~paragraph (c)~~ SUBSECTION (2)(c),

with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 10-20-104 (2)(b)(III).

(5) Nonpayment of premiums within thirty-one days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage ~~shall terminate~~ TERMINATES the obligations of the association under ~~such~~ THE policy, CONTRACT, or coverage under this ~~article~~ ARTICLE 20 with respect to ~~such~~ THE policy, CONTRACT, or coverage, except with respect to any claims incurred or any net cash surrender value ~~which~~ THAT may be due in accordance with ~~the provisions of this article~~ ARTICLE 20.

(6) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer ~~shall~~ belong to and ~~be~~ ARE payable at the direction of the association, and the association ~~shall be~~ IS liable for unearned premiums due to policy OR contract owners arising after the entry of ~~such~~ THE order.

(11) The association ~~shall have~~ HAS standing to appear or intervene before any court or agency in this state ~~which~~ THAT has jurisdiction over a member insurer for which the association is or may become obligated under this ~~article~~ ARTICLE 20, or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. ~~Such~~ THE ASSOCIATION'S standing ~~shall extend~~ EXTENDS to all matters germane to the powers and duties of the association, including ~~but not limited to~~ proposals for reinsuring, REISSUING, modifying, or guaranteeing the policies or contracts of the member insurer and the determination of the policies or contracts and contractual obligations. The association ~~shall also have~~ HAS the right to appear or intervene before a court or agency in another state with jurisdiction over a member insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(12) (a) Any person receiving benefits under this ~~article~~ ~~shall be~~ ARTICLE 20 IS deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this ~~article~~ ARTICLE 20, whether

the benefits are payments of or on account of contractual obligations, continuation of coverage, or the provision of substitute or alternative POLICIES, CONTRACTS, OR coverage. The association may require an assignment to it of such rights and causes of action by any payee, policy, or contract owner, beneficiary, insured, ENROLLEE, or annuitant TO ASSIGN THE PERSON'S RIGHTS UNDER, AND CAUSES OF ACTION AGAINST ANY PERSON FOR LOSSES ARISING UNDER, RESULTING FROM, OR OTHERWISE RELATING TO, THE COVERED POLICY OR CONTRACT TO THE ASSOCIATION as a condition precedent to the receipt of any right or benefits conferred by this ~~article~~ ARTICLE 20 upon ~~such~~ THE person.

(b) The subrogation rights of the association under this subsection (12) ~~shall~~ have the same priority against the assets of the impaired or insolvent insurer as ~~that~~ THE RIGHTS possessed by the person entitled to receive benefits under this ~~article~~ ARTICLE 20.

(c) In addition to ~~paragraphs (a) and (b) of this subsection (12)~~ SUBSECTIONS (12)(a) AND (12)(b) OF THIS SECTION, the association ~~shall~~ ~~have~~ HAS all common-law rights of subrogation and any other equitable or legal remedy ~~which~~ THAT would have been available to the impaired or insolvent insurer, owner, beneficiary, ENROLLEE, or payee of a policy or contract.

(d) If any provision of ~~paragraph (a), (b), or (c) of this subsection (12)~~ SUBSECTION (12)(a), (12)(b), OR (12)(c) OF THIS SECTION is invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations is reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies OR CONTRACTS or portions of the policies OR CONTRACTS covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in ~~paragraphs (a) to (d) of this subsection (12)~~ SUBSECTIONS (12)(a) TO (12)(d) OF THIS SECTION, the person shall pay to the association the portion of the recovery attributable to the policies OR CONTRACTS, or portions of policies OR CONTRACTS, covered by the association.

(13) The association may:

(c) Borrow money to effect the purposes of this ~~article~~ ARTICLE 20, and any notes or other evidence of indebtedness of the association not in default ~~shall be~~ ARE legal investments for domestic MEMBER insurers and may be carried as admitted assets;

(f) Exercise, for the purposes of this ~~article~~ ARTICLE 20 and to the extent approved by the commissioner, the powers of a domestic life ~~or~~ INSURER, health insurer, OR HEALTH MAINTENANCE ORGANIZATION, but the association shall not issue ~~insurance~~ policies or ~~annuity~~ contracts other than those issued to perform its obligations under this ~~article~~ ARTICLE 20;

(i) FILE FOR AN ACTUARIALLY JUSTIFIED RATE OR PREMIUM INCREASE FOR ANY POLICY OR CONTRACT THAT IT GUARANTEES, ASSUMES, REINSURES, REISSUES, OR OTHERWISE PROVIDES COVERAGE UNDER THIS SECTION IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE POLICY OR CONTRACT AND IN ACCORDANCE WITH OTHER APPLICABLE PROVISIONS OF STATE LAW.

(19) A person who has a claim against ~~an~~ A MEMBER insurer pursuant to a provision of ~~an insurance~~ A policy OR CONTRACT, other than a policy OR CONTRACT of an impaired or insolvent insurer, that also is a contractual obligation under this ~~article~~ ARTICLE 20, must first exhaust ~~his or her~~ THE PERSON'S right under that policy OR CONTRACT. The amount of an approved claim under this ~~article shall~~ ARTICLE 20 MUST be reduced by the policy OR CONTRACT limits of, or amount paid under, that ~~insurance~~ policy OR CONTRACT, whichever amount is greater. If a claimant exhausts all rights under a policy OR CONTRACT, other than a policy OR CONTRACT of an impaired or insolvent insurer, the MEMBER insurer issuing that policy OR CONTRACT is not entitled to sue or continue a suit against the insured of the impaired or insolvent insurer to recover an amount paid to the claimant under the policy OR CONTRACT; except that a person having a contractual obligation, as defined by this ~~article~~ ARTICLE 20, under a life insurance policy or an annuity contract issued by an impaired or insolvent insurer is not required to exhaust other coverage for that claim, and the amount of an approved claim under a life insurance policy or annuity contract issued by an impaired or insolvent insurer may not be reduced because of that duplicate coverage.

(22) In carrying out its duties in connection with guaranteeing, assuming, REISSUING, or reinsuring policies or contracts under this section,

the association may issue substitute coverage AT ACTUARIALLY JUSTIFIED RATES for a policy or contract that provides for the calculation of returns or changes in value OR BENEFITS by the use of an interest rate, crediting rate, or similar factor determined by use of an index or other external reference, by issuing an alternative policy or contract in accordance with the following provisions:

(24) In carrying out its duties in connection with guaranteeing, assuming, REISSUING, or reinsuring policies or contracts under subsection (1) or (2) of this section, the association may ~~subject to approval by the receivership court,~~ issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor, determined by use of an index or other external reference stated in the policy or contract, employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

SECTION 9. In Colorado Revised Statutes, 10-20-109, **amend** (2) introductory portion, (2)(a), (3)(b), (5)(a), (5)(b), (6), (7), (8) introductory portion, and (9) as follows:

10-20-109. Assessments. (2) ~~There~~ THE BOARD shall ~~be~~ IMPOSE two assessments, as follows:

(a) Class A assessments must be authorized and called for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of ~~section 10-20-112 (5)~~ SECTION 10-20-115; EXCEPT THAT THE BOARD SHALL NOT IMPOSE A CLASS A ASSESSMENT AGAINST A MEMBER INSURER THAT HAS NOT RECEIVED PREMIUMS FOR A COVERED POLICY IN THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ASSESSMENT IS IMPOSED. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer.

(3)(b)(I) THE BOARD SHALL DETERMINE class B assessments against member insurers for each account ~~shall be in~~ BASED ON the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the MEMBER insurer became impaired or insolvent, bear to ~~such~~ THE premiums received on business in this state for ~~such~~ THOSE calendar

years by all assessed member insurers.

(II) OF THE AMOUNT OF CLASS B ASSESSMENTS FOR LONG-TERM CARE INSURANCE WRITTEN BY THE IMPAIRED OR INSOLVENT INSURER, THE BOARD SHALL ALLOCATE:

(A) FIFTY PERCENT TO THE HEALTH INSURANCE ACCOUNT; EXCEPT THAT, A MEMBER INSURER THAT IS A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS IT EMPLOYS OR THROUGH A SINGLE CONTRACTED MEDICAL GROUP SHALL BE ASSESSED AS IF THE BOARD ALLOCATED ONLY TWENTY-FIVE PERCENT TO THE HEALTH INSURANCE ACCOUNT; AND

(B) FIFTY PERCENT, ON A PRO RATA BASIS, TO THE LIFE INSURANCE ACCOUNT AND THE ANNUITY ACCOUNT; EXCEPT THAT, ON A PRO RATA BASIS, THE LIFE INSURANCE ACCOUNT AND THE ANNUITY ACCOUNT SHALL COVER THE SHORTFALL FROM THE HEALTH INSURANCE ACCOUNT THAT RESULTS FROM THE LOWER ASSESSMENT RATE DESCRIBED IN SUBSECTION (3)(b)(II)(A) OF THIS SECTION ON A MEMBER INSURER THAT IS A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS IT EMPLOYS OR THROUGH A SINGLE CONTRACTED MEDICAL GROUP.

(5) (a) Subject to ~~paragraph (b) of this subsection (5)~~ SUBSECTION (5)(b) OF THIS SECTION, the total of all assessments authorized by the association with respect to a member insurer for each account must not exceed, in any one calendar year, two percent of the average premiums received by the MEMBER insurer in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which the MEMBER insurer became impaired or insolvent.

(b) If two or more assessments are authorized in one calendar year with respect to MEMBER insurers ~~who~~ THAT become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in ~~paragraph (a) of this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION is equal and limited to the highest of the three-year average annual premiums for the applicable account as calculated under this section.

(6) The board shall, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each MEMBER insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out, during the coming year, the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. THE BOARD SHALL RETAIN a reasonable amount ~~shall be retained~~ in each account to provide funds for the continuing expenses of the association and for future losses.

(7) (a) ~~It shall be proper for any~~ A member insurer, in determining its premium rates and policyholder dividends ~~as to~~ FOR any kind of insurance OR HEALTH MAINTENANCE ORGANIZATION BUSINESS within the scope of this ~~article, to~~ ARTICLE 20, MAY consider the amount reasonably necessary to meet its assessment obligations under this ~~article~~ ARTICLE 20.

(b) A MEMBER INSURER SUBJECT TO ASSESSMENTS PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL NOT CUT EMPLOYMENT, REDUCE EMPLOYEE PAY OR HOURS, OR REDUCE EMPLOYMENT BENEFITS AS A RESULT OF THE ASSESSMENTS LEVIED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(8) The association shall issue to each MEMBER insurer paying an assessment for the life and annuity accounts under this ~~article~~ ARTICLE 20, other than a class A assessment, a certificate of contribution from the association, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. ~~Such~~ THE MEMBER INSURER MAY SHOW THE certificate of contribution ~~may be shown by the insurer~~ in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve; but the MEMBER insurer, ~~shall,~~ at its option, ~~have~~ HAS the right in any event to show ~~such~~ THE certificate of contribution as an admitted asset at percentages of the original face amount of the assessment for calendar years as follows:

(9) Any member insurer whose certificate of authority OR LICENSE has been terminated for any reason whatsoever ~~shall be~~ IS liable for any assessment based on insolvencies arising prior to ~~such~~ termination OF A

MEMBER INSURER'S CERTIFICATE OF AUTHORITY OR LICENSE.

SECTION 10. In Colorado Revised Statutes, 10-20-110, **amend** (1)(b) and (4) as follows:

10-20-110. Plan of operation - rules. (1) (b) If the association fails to submit a suitable plan of operation or suitable amendments to the plan by ~~January 1, 1992~~ WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(b), AS AMENDED, the commissioner shall, after notice and hearing, adopt and promulgate ~~such~~ reasonable rules as ~~are~~ necessary or advisable to effectuate ~~the provisions of this article.~~ ~~Such~~ ARTICLE 20. THE rules ~~shall~~ continue in ~~force~~ EFFECT until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(4) The plan of operation may provide that any or all powers and duties of the association, except those established pursuant to sections ~~10-20-108 (12)(c)~~ 10-20-108 (13)(c) and 10-20-109, are delegated to a corporation, association, or other organization ~~which~~ THAT performs, or will perform, functions similar to those of the association established pursuant to this ~~article,~~ ARTICLE 20 or its equivalent in two or more states. ~~Such~~ THE ASSOCIATION SHALL REIMBURSE a corporation, association, or organization ~~shall be reimbursed~~ TO WHICH THE ASSOCIATION HAS DELEGATED ITS POWERS AND DUTIES for any payments made on behalf of the association and shall ~~be paid~~ PAY THE CORPORATION, ASSOCIATION, OR ORGANIZATION for its performance of any ASSOCIATION function. ~~of the association.~~ A delegation pursuant to this subsection (4) ~~shall take~~ TAKES effect only with the approval of both the board and the commissioner, and THE ASSOCIATION may ~~be made~~ DELEGATE ITS POWERS AND DUTIES only to a corporation, association, or organization ~~which~~ THAT extends protection not substantially less favorable and effective than ~~that~~ THE PROTECTION provided by this ~~article~~ ARTICLE 20.

SECTION 11. In Colorado Revised Statutes, 10-20-111, **amend** (1) introductory portion, (1)(c), and (2) as follows:

10-20-111. Powers and duties of the commissioner. (1) In addition to any other powers and duties specified in this ~~article~~ ARTICLE 20, the commissioner shall:

(c) In any liquidation proceeding involving a domestic MEMBER insurer, be appointed as the liquidator.

(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority OR LICENSE to transact insurance OR THE BUSINESS OF A HEALTH MAINTENANCE ORGANIZATION in this state of any member insurer ~~which~~ THAT fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer ~~which~~ THAT fails to pay an assessment when due. ~~Such~~ THE forfeiture ~~shall~~ MUST not exceed five percent of the unpaid assessment per month, but ~~no~~ A forfeiture ~~shall~~ MUST NOT be less than one hundred dollars per month.

SECTION 12. In Colorado Revised Statutes, 10-20-112, **amend** (1) introductory portion, (1)(a)(III), (1)(c), (2), (3), and (6) as follows:

10-20-112. Prevention of insolvencies. (1) To aid in the detection and prevention of MEMBER insurer insolvencies, it ~~shall be~~ IS the duty of the commissioner:

(a) To notify the commissioners of all the other states, territories of the United States, and the District of Columbia when action is taken in any of the following matters against a member insurer:

(III) Issuance of a formal order that ~~such~~ THE member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of ~~policyholders~~ OWNERS, CERTIFICATE HOLDERS, ENROLLEES, or creditors. ~~Such~~ THE COMMISSIONER SHALL MAIL THE notice ~~shall be mailed~~ to all commissioners within thirty days following the action taken or the date on which ~~such~~ THE action occurs.

(c) To report to the board when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of a member ~~company~~ INSURER that ~~such~~ THE member ~~company~~ INSURER may be an impaired or insolvent insurer;

(2) The commissioner may seek the advice and recommendations of the board concerning any matter affecting ~~said~~ THE commissioner's duties

and responsibilities regarding the financial condition of member insurers and companies seeking admission to transact insurance OR HEALTH MAINTENANCE ORGANIZATION business in this state.

(3) UPON THE COMMISSIONER'S REQUEST, the board shall ~~upon request of the commissioner,~~ report and make recommendations to the commissioner upon any matter germane to the solvency or liquidation of any member insurer or germane to the solvency of any company seeking to do ~~an~~ insurance OR HEALTH MAINTENANCE ORGANIZATION business in this state. ~~Such~~ THE reports and recommendations ~~shall~~ ARE not ~~be considered~~ public documents.

(6) The board may make recommendations to the commissioner for the detection and prevention of MEMBER insurer insolvencies.

SECTION 13. In Colorado Revised Statutes, 10-20-113, **amend** (1)(d) as follows:

10-20-113. Credits for assessments paid - tax offsets.

(1) (d) (I) Each member insurer writing health insurance ~~is required to~~ OR HEALTH MAINTENANCE ORGANIZATION POLICIES OR CONTRACTS MAY recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this ~~article~~ ARTICLE 20 by ~~way of~~ IMPOSING a surcharge on premiums charged for health insurance OR HEALTH MAINTENANCE ORGANIZATION policies OR CONTRACTS to which this ~~article~~ ARTICLE 20 applies. Amounts recouped ~~shall~~ ARE not ~~be considered~~ premiums for any other purpose, including the computation of gross premium tax or AN agent's commission.

(II) A MEMBER INSURER THAT IMPOSES A SURCHARGE UNDER SUBSECTION (1)(d)(I) OF THIS SECTION SHALL INCLUDE the amount of the surcharge ~~shall be filed~~ as part of ~~an~~ THE MEMBER insurer's rate filing pursuant to section 10-16-107 (1). ~~Such~~ THE MEMBER INSURER MUST SHOW THE surcharge ~~must be shown~~ in the rate filing as a separate component of the rate and shall include supporting documentation.

(III) ~~Such member insurers who collect~~ A MEMBER INSURER THAT COLLECTS surcharges in excess of assessments paid pursuant to this ~~article~~ ARTICLE 20 for an insolvent insurer shall remit the excess to the association as an additional assessment within one hundred twenty days after the end

of the collection period as determined by the association. The ASSOCIATION SHALL APPLY THE excess ~~shall be applied~~ AMOUNT to reduce future assessments for that MEMBER insurer in the appropriate category.

~~(IV) Any such member insurer may omit the collection of the surcharge in any year from its insureds when the expense of collecting the surcharge in any such year would exceed the amount of the surcharge. However, nothing in this paragraph (d) shall relieve the member insurer of its ultimate obligation to recoup the amount of the surcharge otherwise collectible from any such previous year.~~

SECTION 14. In Colorado Revised Statutes, **amend** 10-20-114 as follows:

10-20-114. Miscellaneous provisions - definition. (1) Nothing in this ~~article~~ ARTICLE 20 reduces the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) The association must keep records of all meetings of the board ~~of directors~~ to discuss the activities of the association in carrying out its powers and duties pursuant to section 10-20-108. Records of ~~such~~ THE meetings may be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the MEMBER insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection (2) limits the duty of the association to render a report of its activities under section 10-20-115.

(3) For the purpose of carrying out its obligations under this ~~article~~ ARTICLE 20, the association is deemed a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies AND COVERED CONTRACTS, reduced by any amounts to which the association is entitled as assignee or subrogee pursuant to section 10-20-108 (12). Assets of the impaired or insolvent insurer attributable to covered policies AND COVERED CONTRACTS shall be used to continue all covered policies AND COVERED CONTRACTS and pay all contractual obligations of the impaired or insolvent insurer as required by this ~~article~~ ARTICLE 20. "Assets OF THE IMPAIRED OR INSOLVENT INSURER attributable to covered policies AND COVERED CONTRACTS", as used in this subsection (3), **are** MEANS that

proportion of the assets ~~which~~ THAT the reserves that should have been established for ~~such~~ THE policies OR CONTRACTS bear to the reserves that should have been established for all policies ~~of insurance~~ OR CONTRACTS written by the impaired or insolvent insurer.

(3.5) As a creditor of an impaired or insolvent insurer as established in this section and consistent with section 10-3-533, the association and other similar associations are entitled to receive a disbursement of assets out of the marshaled assets from time to time as the assets become available to reimburse the association, as a credit against contractual obligations under this ~~article~~ ARTICLE 20. If the liquidator has not made an application to the receivership court for approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency within one hundred twenty days after a final determination of insolvency of ~~an~~ A MEMBER insurer by the receivership court, the association may apply to the receivership court for approval of its own proposal to disburse these assets.

(4) (a) Prior to the termination of any rehabilitation, conservation, or liquidation proceeding, the court may take into consideration the contributions of the respective parties, including the association, shareholders, ~~and policyholders~~ OWNERS, CERTIFICATE HOLDERS, OR ENROLLEES of the impaired or insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. In ~~such~~ MAKING a determination ~~consideration~~ UNDER THIS SUBSECTION (4)(a), THE COURT shall ~~be given to~~ CONSIDER the welfare of the ~~policyholders~~ OWNERS, CERTIFICATE HOLDERS, OR ENROLLEES of the continuing or successor MEMBER insurer.

(b) ~~No~~ A distribution SHALL NOT BE MADE to stockholders, if any, of an impaired or insolvent insurer ~~shall be made~~ until ~~and unless~~ the total amount of valid claims of the association ~~with~~ FOR REIMBURSEMENT, INCLUDING interest, ~~thereon for~~ OF funds expended in carrying out its powers and duties pursuant to section 10-20-108 with respect to the IMPAIRED OR INSOLVENT insurer, have been fully recovered by the association.

(5) (a) If an order for rehabilitation or liquidation of ~~an~~ A MEMBER insurer domiciled in this state has been entered, the receiver appointed under ~~such~~ THE order ~~shall have~~ HAS a right to recover on behalf of the

MEMBER insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the MEMBER insurer on its capital stock, made at any time during the five years preceding the petition for liquidation, subject to the limitations of ~~paragraphs (b) to (d) of this subsection (5)~~ SUBSECTIONS (5)(b) TO (5)(d) OF THIS SECTION.

(b) ~~No such~~ A distribution ~~shall be~~ DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION IS NOT recoverable if the MEMBER insurer shows that ~~when paid~~ the distribution, WHEN IT WAS PAID, was lawful and reasonable and that the MEMBER insurer did not know, and could not reasonably have known, that the distribution might adversely affect the ability of the MEMBER insurer to fulfill its contractual obligations.

(c) Any person who was an affiliate ~~which~~ THAT controlled the MEMBER insurer at the time the distributions were paid ~~shall be~~ IS liable up to the amount of distributions ~~such~~ THE person received. Any person who was an affiliate ~~which~~ THAT controlled the MEMBER insurer at the time the distributions were declared ~~shall be~~ IS liable up to the amount of the distributions ~~such~~ THE person would have received if ~~said~~ THE distributions had been paid immediately. If two or more persons are liable with respect to the same distributions, they ~~shall be~~ ARE jointly and severally liable.

(d) The maximum amount recoverable under this subsection (5) is the amount needed, in excess of all other available assets of the impaired or insolvent insurer, to pay the contractual obligations of the impaired or insolvent insurer.

(e) If any person liable pursuant to ~~paragraph (c) of this subsection (5)~~ SUBSECTION (5)(c) OF THIS SECTION is insolvent, all of its affiliates ~~which~~ THAT controlled it at the time the distribution was paid ~~shall be~~ ARE jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

(6) Nothing in this ~~article shall be construed to make~~ ARTICLE 20 IMPOSES ANY LIABILITY OR RESPONSIBILITY ON the state of Colorado ~~in any way liable~~ for the obligations of the life and health insurance protection association or the unpaid claims of impaired or insolvent ~~life and health insurance companies~~ INSURERS.

SECTION 15. In Colorado Revised Statutes, **amend** 10-20-119 as

follows:

10-20-119. Prohibited advertisement of association article in insurance sales - notice to owners, certificate holders, and enrollees.

(1) ~~No~~ A person, including ~~an~~ A MEMBER insurer AND ANY agent or affiliate of ~~an~~ A MEMBER insurer, shall NOT make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, ~~which~~ THAT uses the existence of the life and health insurance protection association for the purpose of sales, solicitation, or inducement to purchase any form of insurance OR OTHER COVERAGE covered by the "Life and Health Insurance Protection Association Act" THIS ARTICLE 20. However, this section ~~shall~~ DOES not apply to the association or any other entity ~~which~~ THAT does not sell or solicit insurance OR COVERAGE BY A HEALTH MAINTENANCE ORGANIZATION.

(2) ~~By December 1, 1991,~~ The association shall prepare a summary document, IN COMPLIANCE WITH SUBSECTION (3) OF THIS SECTION, describing the general purposes and current limitations of this ~~article,~~ and such summary document shall be in compliance with subsection (3) of this section. ~~Such~~ ARTICLE 20. THE ASSOCIATION SHALL SUBMIT THE summary document ~~shall be submitted~~ to the commissioner for approval. Sixty days after receiving ~~such~~ approval FROM THE COMMISSIONER, each member ~~shall~~ INSURER, when delivering a policy or contract as described in section 10-20-104 (2)(a) to a ~~policyholder or contract holder~~ AN OWNER, A CERTIFICATE HOLDER, OR AN ENROLLEE, SHALL deliver ~~such~~ THE summary document concurrently WITH or ~~prior to the delivery of such~~ BEFORE DELIVERING THE policy or contract ~~except when~~ UNLESS subsection (4) of this section applies. The MEMBER INSURER SHALL ALSO MAKE THE summary document ~~shall also be~~ available upon request by a ~~policyholder~~ AN OWNER, A CERTIFICATE HOLDER, OR AN ENROLLEE. The distribution, delivery, or contents or interpretation of the summary document ~~shall~~ DOES not mean that either the policy or the contract or the ~~holder thereof~~ OWNER, CERTIFICATE HOLDER, OR ENROLLEE will be covered in the event of impairment or insolvency of a member insurer. The ASSOCIATION SHALL REVISE THE summary document ~~shall be revised by the association pursuant to~~ AS NECESSARY BASED ON amendments to this ~~article~~ ARTICLE 20 or as

other circumstances may require. Failure to receive this summary document does not give a ~~policyholder, a contract holder, or~~ AN OWNER, A CERTIFICATE HOLDER, an insured, OR AN ENROLLEE any rights other than those stated in this ~~article~~ ARTICLE 20.

(3) The summary document prepared pursuant to subsection (2) of this section ~~shall~~ MUST contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer ~~shall~~ MUST:

(a) State the name and address of the association and the division of insurance;

(b) Prominently warn the ~~policyholder or contract holder~~ OWNER, CERTIFICATE HOLDER, OR ENROLLEE that the association may not cover the policy OR CONTRACT or, if coverage is available, ~~such~~ THE policy OR CONTRACT may be subject to substantial limitations and exclusions and ~~shall~~ ~~be~~ IS conditioned on the continued residence in the state by the ~~policyholder or contract holder~~ OWNER, INSURED, CERTIFICATE HOLDER, OR ENROLLEE;

(c) State that the MEMBER insurer and its agents are prohibited by law from using the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance OR HEALTH MAINTENANCE ORGANIZATION COVERAGE;

(d) Emphasize that the ~~policyholder or contract holder~~ OWNER, CERTIFICATE HOLDER, OR ENROLLEE should not rely on coverage by the association when selecting ~~an~~ A MEMBER insurer; AND

(e) Provide other information as directed by the commissioner.

(4) ~~No~~ A MEMBER insurer or agent ~~may~~ OF A MEMBER INSURER SHALL NOT deliver a policy or contract THAT IS described in section 10-20-104 (2)(a) but excluded under section 10-20-104 (2)(b)(I) from coverage under this ~~article~~ ARTICLE 20, unless the MEMBER insurer or agent, ~~prior to~~ BEFORE or at the time of delivery, gives the ~~policyholder or contract holder~~ OWNER, CERTIFICATE HOLDER, OR ENROLLEE a separate written notice ~~which~~ THAT clearly and conspicuously discloses that the policy or contract is not covered by the association. The commissioner shall specify the form and content of the notice.

SECTION 16. In Colorado Revised Statutes, **amend** 10-20-120 as follows:

10-20-120. Prospective application. This ~~article shall~~ ARTICLE 20, AS AMENDED, DOES not apply to any MEMBER insurer ~~which~~ THAT is declared insolvent ~~before July 1, 1991~~ ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED.

SECTION 17. 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.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO