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INSURANCE GUARANTY FUNDS

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This *issue brief* provides an overview of state laws related to insurance guaranty funds. Insurance guaranty funds are designed to avoid excessive delays in payment and financial losses to insurance claimants or policyholders because of the insolvency of an insurer.

Common Provisions

Guaranty funds are managed by an association that consists of all licensed insurers in the state. Colorado has two guaranty fund associations — one for life and health insurance and one for property and casualty insurance. These associations are under the oversight of the Commissioner of Insurance. The associations and the commissioner are also responsible for assisting in the detection and prevention of insurer insolvencies.

In the event that an insurer becomes insolvent and is unable to pay its policyholders' claims, the commissioner may petition the Denver County District Court for an order directing the commissioner to liquidate the insurer. Once an insurer is found to be insolvent, the association is responsible for paying its policyholders' claims through its guaranty fund. Money to pay the claims from the guaranty fund comes from remaining assets of the insolvent insurance company, statutory deposits already held by the Commissioner of Insurance, and assessments charged on all licensed insurers in the state.

Insurance companies are prohibited from advertising the existence of insurance guaranty associations for the purpose of sales, solicitation, or inducement to purchase any form of covered insurance.¹

Life and Health Insurance Protection Association Act

In 1991, the Colorado General Assembly enacted the Life and Health Insurance Protection Association Act covering life and health insurance policies and annuity contracts.² The act created the Colorado Life and Health Insurance Protection Association (CLHIPA) and requires all licensed life and health insurance companies and annuity contract sellers in Colorado to be members of the CLHIPA. For purposes of administration and assessment, the CLHIPA is divided into three separate accounts: the life insurance account; the health insurance account; and the annuity account.

The CLHIPA is managed by a board of directors selected by member insurers and subject to the approval of the commissioner. The board is required to submit a financial report and a report of the board's activities to the commissioner each year.

¹Section 10-4-520, C.R.S., and Section 10-20-119, C.R.S.

²Section 10-20-101, *et seq.*, C.R.S.

Under the law, the CLHIPA may be liable for providing coverage for an individual policyholder up to the limits shown in Table 1.

Table 1. CLHIPA Coverage Limits

| Health Insurance Policies | |
|--|-----------|
| Disability insurance | \$300,000 |
| Long-term care insurance | \$300,000 |
| Basic hospital, medical and surgical, or major medical insurance | \$500,000 |
| Other health insurance benefits not covered by one of the above categories | \$100,000 |

| Life Insurance Policies | |
|---|-----------|
| Death benefits | \$300,000 |
| Net cash surrender and net cash withdrawal values | \$100,000 |

| Annuity Contracts | |
|--|-----------|
| Present value of annuity benefits, including net cash surrender and net cash withdrawal values | \$250,000 |

Source: Section 10-20-104 (3), C.R.S.

The maximum amount of coverage for an individual that the CLHIPA may be liable for, regardless of the number of policies or contracts, is \$300,000, with the exception of policies related to hospital, medical and surgical, or major medical insurance.

The law allows the CLHIPA to assess two types of fees on its member companies:

- Class A assessments are designed to cover administrative and legal costs; and
- Class B assessments are designed to cover the costs associated with covering insurance claims related to an impaired or insolvent insurer. Class B assessments must be proportional to the member insurers' premiums received.

According to a CLHIPA representative, the CLHIPA guaranty fund has paid out approximately \$166 million in claims and expenses on 50 insolvencies since the CLHIPA's inception in 1991.

Colorado Insurance Guaranty Association Act

The Colorado Insurance Guaranty Association Act, pertaining to property and casualty insurers, established the Colorado Insurance Guaranty Association (CIGA) and requires all licensed insurance companies that provide property and/or casualty insurance policies in Colorado to be members of the CIGA.³ For purposes of administration and assessment, the CIGA is divided into three separate accounts: the workers' compensation insurance account; the automobile insurance account; and the account for all other property and casualty insurance.

The CIGA is managed by a board of directors selected by member insurers and subject to the approval of the commissioner. The board is required to submit a financial report to the commissioner each year.

Under the law, the CIGA may be liable for covered claims up to \$300,000 if an insurance company has been declared insolvent. However, the CIGA must pay the full amount of any covered workers' compensation claims.

Member insurers are assessed a fee in order to pay covered claims related to an insurer's insolvency and to cover other expenses related to the association and board's operations. Member insurers may not be assessed more than 2 percent of the company's net direct premiums for the previous year.

According to the CIGA, since 2005, a total of 31 insurer insolvencies have resulted in more than \$31.6 million in payments from the CIGA. Since the CIGA's inception in the 1970s, there have been a total of 103 insurer insolvencies resulting in almost \$124 million being paid out from the CIGA.

³Section 10-4-501, et seq., C.R.S.