

CHAPTER 257

INSURANCE

HOUSE BILL 93-1270

BY REPRESENTATIVES Kreutz, Dyer, R. Hernandez, Owen, and Tanner;
also SENATORS Bishop and Norton.

AN ACT

CONCERNING THE LICENSING OF PERSONS IN THE INSURANCE BUSINESS, AND, IN CONNECTION THEREWITH, ENACTING THE "COLORADO SINGLE INSURANCE PRODUCER LICENSING ACT".

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

SECTION 1. Article 2 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 2
Licenses

PART 1
GENERAL PROVISIONS

10-2-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO SINGLE INSURANCE PRODUCER LICENSING ACT".

10-2-102. Scope. THIS ARTICLE GOVERNS THE QUALIFICATIONS AND PROCEDURES FOR LICENSING INSURANCE PRODUCERS. THIS ARTICLE APPLIES TO ANY AND ALL LINES OF INSURANCE AND TYPES OF INSURERS, INCLUDING BUT NOT LIMITED TO LIFE, SICKNESS AND ACCIDENT, PROPERTY, CASUALTY, CREDIT, OR TITLE OPERATING ON A STOCK, RECIPROCAL, FRATERNAL PLAN, MUTUAL, OR OTHER LEGAL ORGANIZATIONAL STRUCTURE.

10-2-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE.

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

(2) "HEALTH COVERAGE" MEANS ACCIDENT AND HEALTH OR SICKNESS AND ACCIDENT POLICIES OR CONTRACTS INCLUDING OTHER HEALTH COVERAGES PROVIDED BY INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, OR NONPROFIT HOSPITAL AND SURGICAL PLANS.

(3) "INDIVIDUAL" MEANS ANY PRIVATE OR NATURAL PERSON AS DISTINGUISHED FROM A PARTNERSHIP, CORPORATION, OR ASSOCIATION.

(4) "INSURANCE" MEANS ANY OF THE LINES OF INSURANCE SET FORTH IN SECTION 10-2-407 (1).

(5) "INSURANCE AGENCY" MEANS A CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY WHICH TRANSACTS THE BUSINESS OF INSURANCE.

(6) "INSURANCE PRODUCER" OR "PRODUCER", EXCEPT AS OTHERWISE PROVIDED IN SECTION 10-2-105, MEANS A PERSON WHO SOLICITS, NEGOTIATES, EFFECTS, PROCURES, DELIVERS, RENEWS, CONTINUES, OR BINDS:

(a) POLICIES OF INSURANCE FOR RISKS RESIDING, LOCATED, OR TO BE PERFORMED IN THIS STATE;

(b) MEMBERSHIP IN A PREPAYMENT PLAN AS DEFINED IN PARTS 2 AND 3 OF ARTICLE 16 OF THIS TITLE; OR

(c) MEMBERSHIP ENROLLMENT IN A HEALTH CARE PLAN AS DEFINED IN PART 4 OF ARTICLE 16 OF THIS TITLE.

(7) "LICENSE" MEANS A DOCUMENT ISSUED BY THE COMMISSIONER WHICH AUTHORIZES A PERSON TO ACT AS AN INSURANCE PRODUCER FOR THE LINES OF INSURANCE SPECIFIED IN SUCH DOCUMENT. THE LICENSE ITSELF DOES NOT CREATE ANY AUTHORITY, ACTUAL, APPARENT, OR INHERENT, IN THE HOLDER TO REPRESENT OR COMMIT AN INSURANCE CARRIER TO A BINDING AGREEMENT.

(8) "PERSON" INCLUDES ANY NATURAL PERSON, CORPORATION, ASSOCIATION, PARTNERSHIP, OR OTHER LEGAL ENTITY.

(9) "STATE" MEANS ANY STATE, DISTRICT, TERRITORY, OR PROVINCE OF THE UNITED STATES OR CANADA.

10-2-104. Authority of commissioner - rules. PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., THE COMMISSIONER MAY ADOPT REASONABLE RULES FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE PROVISIONS OF THIS ARTICLE. THE COMMISSIONER MAY CONTRACT WITH ANY PARTY FOR THE PURPOSE OF PERFORMING ANY MINISTERIAL DUTY REQUIRED OF THE COMMISSIONER UNDER THIS ARTICLE. ALL REASONABLE CHARGES AND EXPENSES OF SUCH CONTRACTORS SHALL BE PAID DIRECTLY TO THE CONTRACTORS BY LICENSEES.

10-2-105. Insurance producer - exemption from definition.

(1) NOTWITHSTANDING SECTION 10-2-103 (6), "INSURANCE PRODUCER" DOES NOT INCLUDE THE FOLLOWING:

(a) ANY PERSON WHO IS A REGULARLY SALARIED OFFICER OR EMPLOYEE OF AN INSURANCE COMPANY AND WHO IS ENGAGED IN THE PERFORMANCE OF USUAL OR CUSTOMARY EXECUTIVE, ADMINISTRATIVE, OR CLERICAL DUTIES WHICH DO NOT INCLUDE THE NEGOTIATION OR SOLICITATION OF INSURANCE;

(b) ANY PERSON WHO IS A SALARIED EMPLOYEE IN THE OFFICE OF AN INSURANCE PRODUCER AND WHO DEVOTES FULL TIME TO CLERICAL AND ADMINISTRATIVE SERVICES, INCLUDING THE INCIDENTAL TAKING OF INSURANCE APPLICATIONS AND RECEIPT OF PREMIUMS IN THE OFFICE OF SUCH PERSON'S EMPLOYER, SO LONG AS THE PERSON DOES NOT RECEIVE ANY COMMISSION ON SUCH APPLICATIONS AND THE PERSON'S COMPENSATION IS NOT VARIED BY THE VOLUME OF APPLICATIONS OR PREMIUMS TAKEN OR RECEIVED;

(c) ANY PERSON WHO, WITHOUT EARNING A COMMISSION FOR SUCH SERVICES, SECURES AND FURNISHES INFORMATION FOR THE PURPOSE OF:

(I) GROUP LIFE INSURANCE, ANNUITIES, OR GROUP OR BLANKET HEALTH COVERAGE, OR FOR THE PURPOSE OF ENROLLING INDIVIDUALS UNDER SUCH PLANS; OR

(II) ISSUING CERTIFICATES UNDER GROUP LIFE INSURANCE, ANNUITIES, OR GROUP OR BLANKET HEALTH COVERAGE, OR OTHERWISE ASSISTING IN ADMINISTERING SUCH PLANS;

(d) EMPLOYERS OR THEIR OFFICERS OR EMPLOYEES, OR THE TRUSTEES OF ANY EMPLOYEE TRUST PLAN, TO THE EXTENT THAT SUCH EMPLOYERS, OFFICERS, EMPLOYEES, OR TRUSTEES ARE ENGAGED IN THE ADMINISTRATION OR OPERATION OF ANY PROGRAM OF EMPLOYEE BENEFITS FOR THEIR OWN EMPLOYEES OR THE EMPLOYEES OF THEIR SUBSIDIARIES OR AFFILIATES, WHICH PROGRAM INVOLVES THE USE OF INSURANCE ISSUED BY AN INSURANCE COMPANY; EXCEPT THAT SUCH EMPLOYERS, OFFICERS, EMPLOYEES, OR TRUSTEES SHALL NOT IN ANY MANNER BE COMPENSATED, DIRECTLY OR INDIRECTLY, BY THE COMPANY ISSUING THE CONTRACTS;

(e) EMPLOYEES OF INSURANCE COMPANIES OR ORGANIZATIONS EMPLOYED BY INSURANCE COMPANIES WHO ARE ENGAGING IN THE INSPECTION, RATING, OR CLASSIFICATION OF RISKS OR IN THE SUPERVISION OF THE TRAINING OF INSURANCE PRODUCERS AND WHO ARE NOT INDIVIDUALLY ENGAGED IN THE SOLICITATION OR NEGOTIATION OF POLICIES OR CONTRACTS FOR INSURANCE; OR

(f) MANAGEMENT ASSOCIATIONS, PARTNERSHIPS, OR CORPORATIONS WHOSE OPERATIONS DO NOT ENTAIL SOLICITATION OF INSURANCE FROM THE PUBLIC.

PART 2 PRELICENSURE EDUCATION

10-2-201. Prelicensure education - when required. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 10-2-202, IN ADDITION TO OTHER REQUIREMENTS FOR LICENSURE AS SPECIFIED UNDER THIS ARTICLE AND AS A CONDITION OF INITIAL LICENSURE, AN INDIVIDUAL APPLICANT FOR QUALIFICATION IN LIFE, SICKNESS AND ACCIDENT, OR PROPERTY AND CASUALTY LINES SHALL BE REQUIRED TO PROVIDE EVIDENCE TO THE COMMISSIONER THAT THE INDIVIDUAL APPLICANT HAS

SATISFACTORILY COMPLETED AN APPROVED PRELICENSURE EDUCATION OR TRAINING COURSE OR PROGRAM AS FOLLOWS:

(I) AN INDIVIDUAL SEEKING INSURANCE PRODUCER LICENSURE AUTHORITY FOR LIFE INSURANCE SHALL COMPLETE AT LEAST FIFTY HOURS OF AN APPROVED COURSE OR PROGRAM FOR CERTIFICATION IN LIFE INSURANCE; AND, OF THE SAID FIFTY HOURS, AT LEAST THREE HOURS SHALL PERTAIN SPECIFICALLY TO INSURANCE INDUSTRY ETHICS.

(II) AN INDIVIDUAL SEEKING INSURANCE PRODUCER LICENSURE AUTHORITY FOR HEALTH COVERAGE SHALL COMPLETE AT LEAST FIFTY HOURS OF AN APPROVED COURSE OR PROGRAM FOR CERTIFICATION IN SICKNESS AND ACCIDENT INSURANCE; AND, OF THE SAID FIFTY HOURS, AT LEAST THREE HOURS SHALL PERTAIN SPECIFICALLY TO INSURANCE INDUSTRY ETHICS.

(III) AN INDIVIDUAL SEEKING INSURANCE PRODUCER LICENSURE AUTHORITY FOR PROPERTY OR CASUALTY INSURANCE OR BOTH SHALL COMPLETE AT LEAST FIFTY HOURS OF AN APPROVED COURSE OR PROGRAM FOR CERTIFICATION IN PROPERTY OR CASUALTY INSURANCE OR BOTH; AND, OF THE SAID FIFTY HOURS, AT LEAST THREE HOURS SHALL PERTAIN SPECIFICALLY TO INSURANCE INDUSTRY ETHICS.

(b) AN INDIVIDUAL SEEKING AN INSURANCE PRODUCER LICENSE TO INCLUDE LIFE, SICKNESS AND ACCIDENT, PROPERTY, OR CASUALTY LINES OR ANY COMBINATION THEREOF SHALL NOT BE ELIGIBLE TO TAKE THE WRITTEN EXAMINATION PROVIDED FOR IN SECTION 10-2-402 UNTIL THE PRELICENSURE EDUCATION REQUIREMENTS SPECIFIED IN THIS SUBSECTION (1) PERTAINING TO THE LINE OR LINES OF INSURANCE APPLIED FOR HAVE BEEN SATISFIED.

(2) THE COMMISSIONER SHALL ADOPT ALL RULES NECESSARY TO CARRY OUT THE PRELICENSING EDUCATION PROVISIONS OF THIS SECTION. SUCH RULES SHALL SET FORTH STANDARDS FOR COURSES AND PROGRAMS TO QUALIFY FOR APPROVAL BY THE COMMISSIONER AND SHALL ALSO PRESCRIBE A SYSTEM OF CONTROL AND REPORTING.

(3) AN INDIVIDUAL SEEKING AN INSURANCE PRODUCER LICENSE SHALL PAY TO THE COMMISSIONER, IN ADDITION TO ANY OTHER APPLICABLE FEES OR CHARGES, A FEE ESTABLISHED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413 FOR OPERATION OF THE PRELICENSING EDUCATION PROGRAM.

10-2-202. Exemption from prelicensure education requirements.

(1) PRELICENSURE EDUCATION AS SET FORTH IN SECTION 10-2-201 SHALL NOT BE REQUIRED OF AN INDIVIDUAL WHO IS:

(a) APPLYING TO REINSTATE A CANCELLED OR EXPIRED RESIDENT INSURANCE PRODUCER LICENSE IN THIS STATE WHEN SUCH LICENSE HAS BEEN INACTIVE FOR ONE YEAR OR LESS;

(b) APPLYING FOR TEMPORARY LICENSE AUTHORITY UNDER SECTION 10-2-410;

(c) APPLYING FOR A RESIDENT INSURANCE PRODUCER LICENSE IN THIS STATE, WAS PREVIOUSLY LICENSED IN HIS OR HER FORMER RESIDENT STATE, AND HAS COMPLETED OR SATISFIED PRELICENSURE EDUCATION AS REQUIRED BY THAT STATE PERTINENT TO

THE LINE OR LINES OF INSURANCE APPLIED FOR IN COLORADO;

(d) APPLYING FOR A NONRESIDENT LICENSE IN THIS STATE AND HAS BEEN LICENSED IN HIS OR HER RESIDENT STATE FOR AT LEAST ONE YEAR OR HAS COMPLETED OR SATISFIED PRELICENSURE EDUCATION REQUIREMENTS IN HIS OR HER HOME STATE PERTINENT TO THE LINE OR LINES OF INSURANCE APPLIED FOR IN THIS STATE.

10-2-203. Course certification, registration, and review by commissioner.

(1) PRELICENSURE EDUCATION COURSES OR PROGRAMS THAT WILL BE PROVIDED AND OFFERED TO PERSONS APPLYING FOR LIFE, SICKNESS AND ACCIDENT, PROPERTY, OR CASUALTY LICENSING ARE SUBJECT TO REVIEW AND CERTIFICATION BY THE COMMISSIONER, EXCEPT THAT:

(a) ANY FULL-TIME PROGRAM OF PRELICENSURE EDUCATION OPERATED BY A QUALIFIED DOMESTIC COMPANY OR A COMPANY WITH A QUALIFIED HOME OFFICE LOCATED IN COLORADO SHALL NOT BE SUBJECT TO REVIEW AND CERTIFICATION BY THE COMMISSIONER; AND

(b) ANY APPLICANT OR LICENSEE WHO HAS ATTENDED SUCH A COURSE OR PROGRAM SHALL BE DEEMED IN COMPLIANCE WITH THE PROVISIONS OF SECTION 10-2-201 UPON CERTIFICATION BY THE APPLICANT THAT HE OR SHE HAS COMPLETED ALL REQUIRED HOURS OF INSTRUCTION THROUGH SUCH A COURSE OR PROGRAM.

(2) COURSE INSTRUCTION, CONTENT, OUTLINE, AND COURSE INSTRUCTORS ARE SUBJECT TO INITIAL APPROVAL BY THE COMMISSIONER AND, AT THE DISCRETION OF THE COMMISSIONER, ARE ALSO SUBJECT TO PERIODIC REVIEW FOR CONTINUATION. THE COURSE PROVIDER SHALL REMIT THE FEE AS PRESCRIBED IN ACCORDANCE WITH SECTION 10-2-413 TO CONTINUE OR RENEW SUCH APPROVED COURSE OR PROGRAM.

(3) IF, UPON REVIEW, THE COMMISSIONER FINDS THAT A PRELICENSURE EDUCATION COURSE OR PROGRAM IS NOT IN COMPLIANCE WITH ALL APPLICABLE STANDARDS, AS SET FORTH BY RULE, THE COMMISSIONER MAY ORDER THE COURSE OR PROGRAM TO BE DISCONTINUED OR REVOKE THE APPROVAL OF THE COURSE PROVIDER OR BOTH.

**PART 3
CONTINUING EDUCATION**

10-2-301. Continuing education requirement - advisory committee.

(1) PRODUCERS NOT EXEMPT FROM THE REQUIREMENTS OF THIS SECTION SHALL SATISFACTORILY COMPLETE UP TO TWENTY-FOUR HOURS OF INSTRUCTION BY ATTENDING SUCH COURSES OR PROGRAMS OF INSTRUCTION AS MAY BE APPROVED BY THE COMMISSIONER. THE INSURANCE COMMISSIONER MAY ADOPT RULES AND REGULATIONS CONCERNING TESTING REQUIREMENTS AS A PART OF THE CERTIFIED CONTINUING EDUCATION COURSEWORK. THE REQUIRED HOURS OF INSTRUCTION SHALL BE COMPLETED WITHIN TWENTY-FOUR MONTHS AFTER THE DATE THE PRODUCER'S LICENSE IS REQUIRED TO BE RENEWED, BEGINNING WITH RENEWAL DATES ON OR AFTER JANUARY 1, 1993, BUT APPLYING TO ALL SUBSEQUENT YEARS. IF A PRODUCER HAS MORE THAN ONE LICENSE TO SELL INSURANCE IN THIS STATE, THE REQUIRED HOURS OF INSTRUCTION SHALL BE COMPLETED WITHIN TWENTY-FOUR MONTHS AFTER THE DATE THE FIRST SUCH LICENSE IS REQUIRED TO BE RENEWED. FOR GOOD CAUSE SHOWN, THE COMMISSIONER MAY GRANT AN EXTENSION OF TIME WITHIN

WHICH TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, SUCH EXTENSION NOT TO EXCEED AN ADDITIONAL ONE YEAR. AN INSTRUCTOR OF AN APPROVED COURSE OF INSTRUCTION SHALL QUALIFY FOR THE SAME NUMBER OF HOURS OF CONTINUING EDUCATION AS A PERSON ATTENDING AND SUCCESSFULLY COMPLETING THE COURSE OR PROGRAM, BUT NO INSTRUCTOR SHALL RECEIVE CREDIT MORE THAN ONCE FOR A COURSE OR PROGRAM GIVEN MORE THAN ONCE DURING THE TWENTY-FOUR-MONTH PERIOD DESCRIBED IN THIS SUBSECTION (1).

(2) ANY PRODUCER WHO IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION SHALL FURNISH IN A FORM SATISFACTORY TO THE COMMISSIONER WRITTEN PROOF OF COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE REQUIREMENTS OF THIS SECTION ARE MANDATORY FOR ANY PERSON SPECIFIED IN SUBSECTION (3) (A) OF THIS SECTION, AND IF ANY SUCH PERSON HOLDS MORE THAN ONE LICENSE WHICH IS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, SUCH PERSON SHALL BE REQUIRED TO COMPLETE THE HOURS OF INSTRUCTION REQUIRED UNDER THIS SECTION ONLY ONCE. FOR PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL INCLUDE ANY HOLDER OF A LICENSE TO SELL INSURANCE UNDER THE LAWS OF THIS STATE.

(3) (a) THE REQUIREMENTS OF THIS SECTION SHALL APPLY TO ANY RESIDENT OR NONRESIDENT PERSON LICENSED TO SOLICIT AND SELL THE FOLLOWING TYPES OF INSURANCE IN THIS STATE: LIFE INSURANCE AND ANNUITY CONTRACTS, INCLUDING VARIABLE LIFE AND ANNUITY CONTRACTS; SICKNESS, ACCIDENT AND HEALTH INSURANCE; PROPERTY AND CASUALTY INSURANCE; AND ANY OTHER TYPE OF INSURANCE FOR WHICH THE STATE REQUIRES AN EXAMINATION FOR LICENSURE.

(b) THIS SECTION SHALL NOT APPLY TO ANY PERSON HOLDING A LIMITED OR RESTRICTED LICENSE WHICH THE COMMISSIONER DETERMINES TO BE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION, NOR SHALL IT APPLY TO A NONRESIDENT WHO COMPLIES WITH THE CONTINUING EDUCATION REQUIREMENTS OF HIS OR HER STATE OF RESIDENCE, IF THE INSURANCE COMMISSION OF SUCH STATE AND THE INSURANCE COMMISSION OF THIS STATE HAVE IN EFFECT A RECIPROCITY AGREEMENT CONCERNING CONTINUING EDUCATION REQUIREMENTS.

(4) WRITTEN CERTIFICATION OF ANY COURSE OF INSTRUCTION COMPLETED SHALL BE EXECUTED BY OR ON BEHALF OF THE SPONSORING ORGANIZATION, IN A FORM SATISFACTORY TO THE COMMISSIONER.

(5) ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, OR IS FOUND AFTER A HEARING BEFORE THE COMMISSION TO HAVE SUBMITTED A FALSE OR FRAUDULENT CERTIFICATE OF COMPLIANCE TO THE COMMISSIONER, SHALL HAVE HIS OR HER LICENSE SUSPENDED UNTIL SUCH PERSON SATISFACTORILY DEMONSTRATES TO THE COMMISSIONER THAT ALL OF THE REQUIREMENTS OF THIS SECTION, AND ANY OTHER APPLICABLE LICENSING REQUIREMENT OR OTHER STATUTE, HAS BEEN MET.

(6) (a) THE COMMISSIONER SHALL BE RESPONSIBLE FOR ADMINISTERING THE CONTINUING INSURANCE EDUCATION REQUIREMENTS AND APPROVING COURSES OF INSTRUCTION WHICH QUALIFY FOR SUCH PURPOSES. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS IT DEEMS NECESSARY TO ADMINISTER THE CONTINUING INSURANCE EDUCATION REQUIREMENTS, INCLUDING THE PROVISIONS AND REQUIREMENTS OF THIS SECTION. THE COMMISSIONER SHALL ALSO

PROMULGATE REGULATIONS REQUIRING THAT PRODUCERS BE REQUIRED TO PROVIDE TO A CONTINUING EDUCATION ADMINISTRATOR PROOF OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS AS A CONDITION OF LICENSE RENEWAL. FOR PERSONS LICENSED PURSUANT TO SECTION 10-11-116 (1) (C), C.R.S., COMPLIANCE WITH THE CONTINUING LEGAL EDUCATION CREDITS REQUIREMENTS OF THE COLORADO SUPREME COURT SHALL BE DEEMED TO MEET THE REQUIREMENTS OF THIS SECTION.

(b) THE POSITION OF CONTINUING EDUCATION ADMINISTRATOR SHALL BE ESTABLISHED BY THE COMMISSIONER EITHER WITHIN THE DEPARTMENT OF INSURANCE OR THROUGH A CONTRACTUAL ARRANGEMENT WITH AN OUTSIDE SERVICE PROVIDER. ALL COSTS OF SUCH ADMINISTRATOR SHALL BE PAID FROM CONTINUING INSURANCE EDUCATION FEES PAID BY PRODUCERS IN THE MANNER PROVIDED BY THIS SECTION. IN NO EVENT MAY THE COMMISSIONER DELEGATE COURSE APPROVAL RESPONSIBILITIES TO THE CONTINUING EDUCATION ADMINISTRATOR.

(c) EACH PRODUCER SHALL BE RESPONSIBLE FOR PAYING TO THE CONTINUING EDUCATION ADMINISTRATOR A REASONABLE BIENNIAL FEE FOR THE OPERATION OF THE CONTINUING INSURANCE EDUCATION PROGRAM, WHICH FEE SHALL BE USED TO ADMINISTER THE PROVISIONS OF THIS SECTION.

(7) (a) THERE IS HEREBY ESTABLISHED AN ADVISORY COMMITTEE TO THE COMMISSIONER FOR THE PURPOSE OF MAKING RECOMMENDATIONS TO THE COMMISSIONER CONCERNING THE BASIC REQUIREMENTS FOR CONTINUING EDUCATION AND THE STANDARDS FOR QUALIFYING COURSES AND PROGRAMS FOR CERTIFICATION IN THE AREAS OF PROPERTY AND CASUALTY, LIFE, AND ACCIDENT AND HEALTH INSURANCE AS REQUIRED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE ADVISORY COMMITTEE SHALL CONSIST OF NOT LESS THAN SEVEN MEMBERS TO BE APPOINTED BY THE COMMISSIONER. THREE MEMBERS SHALL BE REPRESENTATIVES FROM THE PROPERTY AND CASUALTY INSURANCE INDUSTRY. TWO MEMBERS SHALL BE REPRESENTATIVES FROM THE LIFE AND ACCIDENT AND HEALTH INSURANCE INDUSTRY. TWO MEMBERS SHALL BE CONSUMERS. MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE ON A VOLUNTARY BASIS AND SHALL SERVE WITHOUT COMPENSATION.

(b) (I) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 1999.

(II) PRIOR TO SUCH REPEAL, THE ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

PART 4 LICENSING AND APPOINTMENT OF INSURANCE PRODUCERS

10-2-401. License required. (1) NO PERSON SHALL ACT AS OR HOLD ONESELF OUT TO BE AN INSURANCE PRODUCER UNLESS DULY LICENSED AS AN INSURANCE PRODUCER IN ACCORDANCE WITH THIS ARTICLE. EVERY INSURANCE PRODUCER WHO SOLICITS OR NEGOTIATES AN APPLICATION FOR INSURANCE OF ANY KIND ON BEHALF OF AN INSURER SHALL BE REGARDED AS REPRESENTING THE INSURER AND NOT THE INSURED OR ANY BENEFICIARY OF THE INSURED IN ANY CONTROVERSY BETWEEN THE INSURER AND SUCH INSURED OR BENEFICIARY.

(2) NO INSURANCE PRODUCER SHALL MAKE APPLICATION FOR, PROCURE, NEGOTIATE FOR, OR PLACE FOR OTHERS ANY POLICIES FOR ANY LINE OR LINES OF INSURANCE FOR WHICH HE OR SHE IS NOT THEN QUALIFIED AND LICENSED.

(3) ANY REPRESENTATIVE OF A FRATERNAL BENEFIT SOCIETY WHO SOLICITS AND NEGOTIATES INSURANCE CONTRACTS IS AN INSURANCE PRODUCER AND IS SUBJECT TO THE SAME LICENSING REQUIREMENTS AS THOSE FOR AN INSURANCE PRODUCER; EXCEPT THAT A LICENSE IS NOT REQUIRED OF ANY OFFICER, EMPLOYEE, OR SECRETARY OF A FRATERNAL BENEFIT SOCIETY OR OF A SUBORDINATE LODGE OR BRANCH THEREOF WHO DEVOTES SUBSTANTIALLY ALL OF HIS OR HER TIME TO ACTIVITIES OTHER THAN THE SOLICITATION OR NEGOTIATION OF INSURANCE CONTRACTS AND WHO RECEIVES NO COMMISSION OR OTHER COMPENSATION DIRECTLY DEPENDENT UPON THE NUMBER OR AMOUNT OF INSURANCE CONTRACTS SOLICITED OR NEGOTIATED.

(4) NO INSURANCE PRODUCER LICENSE SHALL BE GRANTED OR EXTENDED TO ANY PERSON IF THE LICENSE IS BEING OR WILL BE USED FOR THE PURPOSE OF WRITING CONTROLLED BUSINESS. AS USED IN THIS SECTION, "CONTROLLED BUSINESS" MEANS INSURANCE PROCURED OR TO BE PROCURED BY OR THROUGH SUCH PERSON UPON:

(a) THE PERSON'S OWN LIFE, PERSON, PROPERTY, OR RISKS, OR THOSE OF HIS OR HER SPOUSE; OR

(b) THE LIFE, PERSON, PROPERTY, OR RISKS OF THE PERSON'S EMPLOYER OR THE PERSON'S OWN BUSINESS.

(5) SUCH A LICENSE SHALL BE DEEMED TO HAVE BEEN, OR INTENDED TO BE, USED FOR THE PURPOSE OF WRITING CONTROLLED BUSINESS, IF DURING ANY TWELVE-MONTH PERIOD THE AGGREGATE AMOUNT OF PREMIUMS ON CONTROLLED BUSINESS WOULD EXCEED THE AGGREGATE AMOUNT OF PREMIUMS ON ALL OTHER INSURANCE BUSINESS OF THE APPLICANT OR LICENSEE.

10-2-402. License examination requirement. (1) UNLESS EXEMPT PURSUANT TO SECTION 10-2-403, AN INDIVIDUAL APPLYING FOR AN INSURANCE PRODUCER LICENSE SHALL PASS A WRITTEN EXAMINATION. THE EXAMINATION SHALL REASONABLY TEST THE INDIVIDUAL APPLICANT'S MINIMUM ACCEPTABLE LEVEL OF COMPETENCE AS TO THE PARTICULAR LINE OR LINES OF INSURANCE FOR WHICH THE INDIVIDUAL APPLICANT SEEKS QUALIFICATION; EXCEPT THAT AN INDIVIDUAL APPLICANT WHO HAS BEEN LICENSED AS AN INSURANCE PRODUCER FOR THE SAME LINE OR LINES OF INSURANCE IN ANOTHER STATE WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE DATE OF RECEIPT OF APPLICATION AND WHO FILES WITH THE COMMISSIONER A LETTER OF CLEARANCE, ISSUED BY THE PUBLIC OFFICIAL HAVING SUPERVISION OF INSURANCE IN THE APPLICANT'S FORMER STATE OF RESIDENCE, STATING THE INDIVIDUAL HELD A LICENSE FOR THE SAME LINE OR LINES OF INSURANCE DURING SUCH TWELVE-MONTH PERIOD AND THAT THE LICENSE WAS IN GOOD STANDING, SHALL BE REQUIRED TO TAKE ONLY THAT PORTION OF THE EXAMINATION PERTAINING TO COLORADO LAWS AND RULES PERTINENT TO THE LINE OR LINES OF INSURANCE PREVIOUSLY HELD AND FOR WHICH APPLICATION IS MADE.

(2) EXAMINATION FOR LICENSING SHALL BE HELD AT SUCH REASONABLE TIMES AND PLACES AS ARE DESIGNATED BY THE COMMISSIONER, AND SUCH TIMES AND PLACES SHALL BE MADE PUBLIC.

(3) EACH INDIVIDUAL APPLYING FOR AN EXAMINATION SHALL REMIT A NONREFUNDABLE FEE AS PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413.

(4) AT THE DISCRETION OF THE COMMISSIONER, FILING OF THE APPLICATION FOR LICENSE MAY BE REQUIRED EITHER BEFORE OR AFTER PASSING THE EXAMINATION.

(5) THE COMMISSIONER SHALL GIVE, CONDUCT, AND GRADE ALL EXAMINATIONS, OR THE COMMISSIONER MAY ARRANGE TO HAVE EXAMINATIONS ADMINISTERED AND GRADED BY AN INDEPENDENT TESTING SERVICE, AS SPECIFIED BY CONTRACT, IN A FAIR AND IMPARTIAL MANNER AND WITHOUT DISCRIMINATION AS TO INDIVIDUALS EXAMINED. THE COMMISSIONER MAY ARRANGE FOR SUCH TESTING SERVICE TO COLLECT THE EXCISE TAX ON THE EXAMINATION FEE AS PRESCRIBED UNDER SECTION 24-34-104.4, C.R.S., AND TO RECOVER THE COST OF THE EXAMINATION FROM THE APPLICANT.

(6) THERE SHALL BE A SEPARATE PORTION OF THE EXAMINATION REQUIRED FOR EACH LINE OF INSURANCE WHICH THE APPLICANT PROPOSES TO TRANSACT UNDER THE LICENSE.

(7) THE INDIVIDUAL SHALL PASS THE EXAMINATION WITH A GRADE DETERMINED BY THE COMMISSIONER TO INDICATE THE MINIMUM ACCEPTABLE LEVEL OF COMPETENCE AS TO KNOWLEDGE AND UNDERSTANDING OF THE LINES OF INSURANCE FOR WHICH THE APPLICANT SEEKS QUALIFICATION. WITHIN TEN DAYS AFTER THE EXAMINATION, THE COMMISSIONER SHALL INFORM THE INDIVIDUAL AS TO WHETHER THE INDIVIDUAL PASSED OR FAILED THE EXAMINATION. FORMAL EVIDENCE OF LICENSING SHALL BE ISSUED BY THE COMMISSIONER TO ALL LICENSEES WITHIN A REASONABLE TIME.

(8) AN INDIVIDUAL WHO FAILS TO PASS AN EXAMINATION SHALL REMIT THE REQUIRED FEE AND ANY FORMS REQUIRED TO RETAKE THE FAILED EXAMINATION.

(9) AN INDIVIDUAL WHO FAILS TO APPEAR FOR A SCHEDULED EXAMINATION SHALL REMIT THE REQUIRED FEE AND ANY FORMS REQUIRED TO REAPPLY TO TAKE THE EXAMINATION.

(10) APPLICANTS FOR LIFE, HEALTH COVERAGES, PROPERTY, OR CASUALTY EXAMINATIONS SHALL COMPLY WITH PRELICENSURE EDUCATION REQUIREMENTS AS PRESCRIBED IN SECTION 10-2-201 PRIOR TO TAKING THE WRITTEN EXAMINATION.

10-2-403. Exemption from license examination. (1) THE FOLLOWING APPLICANTS SHALL BE EXEMPT FROM THE WRITTEN EXAMINATION REQUIREMENTS SET FORTH IN SECTION 10-4-402:

(a) AN INDIVIDUAL APPLICANT FOR A LICENSE COVERING THE SAME LINE OR LINES OF INSURANCE FOR WHICH THE INDIVIDUAL WAS LICENSED IN THIS STATE WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE DATE OF RECEIPT OF APPLICATION, UNLESS THE PREVIOUS LICENSE WAS REVOKED, SUSPENDED, OR CONTINUATION WAS REFUSED BY THE COMMISSIONER;

(b) AN INDIVIDUAL APPLICANT FOR A HEALTH MAINTENANCE ORGANIZATION OR

NONPROFIT HOSPITAL REPRESENTATIVE PRODUCER LICENSE OR A TRAVEL-TICKET-SELLING INSURANCE PRODUCER LICENSE TO SOLICIT, PROCURE, AND DELIVER ACCIDENT AND HEALTH OR TRAVEL BAGGAGE INSURANCE POLICIES OFFERED BY A LIFE, CASUALTY, OR MULTIPLE-LINE INSURER LICENSED IN THIS STATE;

(c) AN INDIVIDUAL APPLICANT WHO HOLDS THE DESIGNATION OF CHARTERED LIFE UNDERWRITER ("CLU"); EXCEPT THAT SUCH INDIVIDUAL IS EXEMPT ONLY FROM THAT PORTION OF THE EXAMINATION PERTAINING TO COLORADO LAWS AND RULES PERTINENT TO LIFE INSURANCE AND HEALTH COVERAGE INSURANCE;

(d) AN INDIVIDUAL APPLICANT WHO HAS ATTAINED THE DESIGNATION OF CHARTERED PROPERTY AND CASUALTY UNDERWRITER ("CPCU"); EXCEPT THAT SUCH INDIVIDUAL IS NOT EXEMPT FROM TAKING THAT PORTION OF THE EXAMINATION PERTAINING TO COLORADO LAWS AND RULES PERTAINING TO PROPERTY, CASUALTY, OR HEALTH COVERAGE;

(e) A NONRESIDENT INDIVIDUAL APPLICANT WHO IS IN COMPLIANCE WITH SECTION 10-2-501 (1) (a);

(f) A LICENSED LIFE INSURANCE PRODUCER APPLICANT FOR A VARIABLE CONTRACTS LICENSE WHO IS IN COMPLIANCE WITH THE QUALIFICATION REQUIREMENT IN SECTION 10-2-407 (2).

10-2-404. Application for license. (1) AN APPLICANT FOR AN INSURANCE PRODUCER LICENSE SHALL MAKE APPLICATION ON A FORM SPECIFIED BY THE COMMISSIONER AND SHALL DECLARE UNDER PENALTY OF REFUSAL, SUSPENSION, OR REVOCATION OF THE LICENSE THAT THE STATEMENTS MADE IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE TO THE BEST OF THE INDIVIDUAL'S KNOWLEDGE AND BELIEF. BEFORE APPROVING THE APPLICATION, THE COMMISSIONER SHALL VERIFY THAT:

(a) THE INDIVIDUAL IS AT LEAST EIGHTEEN YEARS OF AGE;

(b) THE INDIVIDUAL HAS NOT COMMITTED ANY ACT WHICH IS A GROUND FOR DENIAL, SUSPENSION, OR REVOCATION AS SET FORTH IN SECTION 10-2-801;

(c) THE INDIVIDUAL IS A RESIDENT OF THIS STATE OR IS A RESIDENT OF ANOTHER STATE WITH WHICH A RECIPROCAL AGREEMENT OR WRITTEN AGREEMENT OR ARRANGEMENT HAS BEEN ENTERED INTO BY THE COMMISSIONER;

(d) IF THE INDIVIDUAL APPLICANT IS A NONRESIDENT, SUCH APPLICANT HAS FURNISHED THE COMMISSIONER WITH A CURRENT CERTIFICATION OF LICENSE STATUS PURSUANT TO SECTION 10-2-501 (1) (a);

(e) UNLESS EXEMPT, THE INDIVIDUAL HAS SATISFIED MINIMUM PRELICENSURE EDUCATION REQUIREMENTS PURSUANT TO PART 2 OF THIS ARTICLE;

(f) THE INDIVIDUAL HAS PAID THE LICENSE FEE PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413;

(g) THE INDIVIDUAL HAS SUCCESSFULLY PASSED THE EXAMINATION OR HAS

SATISFIED EXAMINATION QUALIFICATION REQUIREMENTS FOR THE LINE OR LINES OF INSURANCE FOR WHICH THE INDIVIDUAL HAS APPLIED; AND

(h) THE INDIVIDUAL IS COMPETENT, TRUSTWORTHY, AND OF GOOD MORAL CHARACTER AND GOOD BUSINESS REPUTATION.

(2) AN INSURANCE AGENCY ACTING AS AN INSURANCE PRODUCER SHALL OBTAIN AN INSURANCE PRODUCER LICENSE. THE INSURANCE AGENCY SHALL MAKE APPLICATION ON A FORM SPECIFIED BY THE COMMISSIONER. BEFORE APPROVING THE APPLICATION, THE COMMISSIONER SHALL VERIFY THAT:

(a) THE AGENCY HAS DISCLOSED TO THE INSURANCE COMMISSIONER ALL OFFICERS, PARTNERS, AND DIRECTORS, WHETHER OR NOT THEY ARE LICENSED AS INSURANCE PRODUCERS;

(b) THE AGENCY'S OFFICERS, DIRECTORS, OR PARTNERS ARE TRUSTWORTHY, OF GOOD MORAL CHARACTER, AND OF GOOD BUSINESS REPUTATION;

(c) THE AGENCY HAS PAID THE FEES PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413;

(d) THE AGENCY HAS DESIGNATED A LICENSED OFFICER, PARTNER, OR DIRECTOR RESPONSIBLE FOR THE AGENCY'S COMPLIANCE WITH THE INSURANCE LAWS AND RULES OF THIS STATE;

(e) THE AGENCY HAS REGISTERED WITH THE COMMISSIONER THE NAME OF EACH NATURAL PERSON WHO, AS AN OFFICER, DIRECTOR, PARTNER, OWNER, OR MEMBER OF THE AGENCY, IS ACTING AS AND IS LICENSED AS AN INSURANCE PRODUCER;

(f) THE AGENCY HAS REGISTERED WITH THE COMMISSIONER AT LEAST ONE INDIVIDUAL WHO HOLDS A VALID INSURANCE PRODUCER LICENSE FOR THE LINE OR LINES OF INSURANCE REQUESTED IN THE APPLICATION;

(g) IF THE AGENCY'S FILING STATUS IS NONRESIDENT, THE AGENCY HAS COMPLIED WITH THE QUALIFICATION REQUIREMENTS OF SECTION 10-2-501.

(3) THE COMMISSIONER MAY REQUIRE THE FILING OF ANY DOCUMENTS REASONABLY NECESSARY TO VERIFY THE INFORMATION CONTAINED OR REQUIRED IN THE APPLICATION.

10-2-405. Residency - individuals - agencies. (1) THE COMMISSIONER MAY QUALIFY AN APPLICANT AS A RESIDENT OF THIS STATE AND SHALL ISSUE AN INSURANCE PRODUCER LICENSE TO ANY QUALIFIED RESIDENT PERSON OF THIS STATE IN ACCORDANCE WITH THE FOLLOWING:

(a) AN INDIVIDUAL APPLICANT MAY QUALIFY AS A RESIDENT ONLY IF HE OR SHE RESIDES IN THIS STATE. ANY LICENSE ISSUED PURSUANT TO ANY APPLICATION CLAIMING RESIDENCY FOR LICENSING PURPOSES SHALL CONSTITUTE AN ELECTION OF RESIDENCY IN THIS STATE AND SHALL BE VOID IF THE LICENSEE, WHILE HOLDING A RESIDENT LICENSE IN THIS STATE, ALSO HOLDS OR MAKES APPLICATION FOR A LICENSE IN OR THEREAFTER CLAIMS TO BE A RESIDENT OF ANY OTHER STATE OR JURISDICTION,

OR IF THE LICENSEE CEASES TO BE A RESIDENT OF THIS STATE.

(b) AN INSURANCE AGENCY MAY QUALIFY AS A RESIDENT IF THE AGENCY HAS ITS PRINCIPAL OFFICE IN THIS STATE;

(c) THE RESIDENT PERSON IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 10-2-404.

10-2-406. Licensing of agencies. (1) FOR THE PURPOSES SET FORTH IN SECTION 10-2-701, AN INSURANCE AGENCY SHALL BE LICENSED AS AN INSURANCE PRODUCER.

(2) (a) THE INSURANCE AGENCY SHALL REGISTER THE NAME OF EVERY NATURAL PERSON WHO, AS A MEMBER, OFFICER, DIRECTOR, STOCKHOLDER, OWNER, OR EMPLOYEE OF THE AGENCY, IS ACTING AS AND IS LICENSED AS AN INSURANCE PRODUCER.

(b) A FEE, PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413, SHALL BE PAID FOR THE REGISTRATION OF EACH INSURANCE PRODUCER.

(3) THE INSURANCE AGENCY SHALL, WITHIN TEN DAYS, NOTIFY THE COMMISSIONER, ON A FORM PRESCRIBED BY THE COMMISSIONER, OF EVERY CHANGE RELATIVE TO THE LICENSED INDIVIDUAL INSURANCE PRODUCERS REGISTERED AND AUTHORIZED TO ACT AS INSURANCE PRODUCERS FOR THE INSURANCE AGENCY.

(4) THE INSURANCE AGENCY SHALL, WITHIN TEN DAYS, NOTIFY THE COMMISSIONER, ON A FORM PRESCRIBED BY THE COMMISSIONER, OF ANY CHANGE RELATIVE TO THE AGENCY NAME, OFFICERS, DIRECTORS, PARTNERS, OR OWNERS, TO REPORT A MERGER, OR THAT THE AGENCY HAS CEASED DOING BUSINESS IN THIS STATE.

(5) WHEN AN INSURANCE AGENCY CEASES TO DO BUSINESS IN THIS STATE, THE AGENCY SHALL RETURN THE PRODUCER LICENSE TO THE COMMISSIONER WITHIN TEN DAYS AFTER CEASING TO DO BUSINESS.

(6) WHEN AN INSURANCE AGENCY CHANGES ITS PRINCIPAL ADDRESS TO ANOTHER STATE, THE AGENCY SHALL, WITHIN TEN DAYS, NOTIFY THE COMMISSIONER AND RETURN THE PRODUCER LICENSE FOR CANCELLATION. RELICENSING WILL BE SUBJECT TO THE PROVISIONS OF PART 5 OF THIS ARTICLE.

(7) (a) THE INSURANCE AGENCY SHALL COMPLY WITH SECTION 10-2-404.

(b) A NONRESIDENT INSURANCE AGENCY SHALL ALSO COMPLY WITH THE QUALIFICATION REQUIREMENTS OF SECTION 10-2-501.

10-2-407. License - lines of insurance - authority. (1) AN INSURANCE PRODUCER MAY RECEIVE QUALIFICATION FOR A SINGLE LICENSE TO INCLUDE ONE OR MORE OF THE FOLLOWING LINES:

(a) LIFE;

(b) HEALTH COVERAGE;

- (c) LIFE AND VARIABLE CONTRACTS;
- (d) PROPERTY;
- (e) CASUALTY;
- (f) BAIL BONDS;
- (g) CREDIT;
- (h) CROP HAIL;
- (i) TITLE;
- (j) SURPLUS LINES;
- (k) TRAVEL-TICKET-SELLING;
- (l) HEALTH MAINTENANCE ORGANIZATIONS ("HMO");
- (m) NONPROFITS.

(2) AN INDIVIDUAL LIFE INSURANCE PRODUCER APPLYING FOR LICENSE QUALIFICATION TO INCLUDE VARIABLE CONTRACTS SHALL FURNISH EVIDENCE TO THE COMMISSIONER THAT HE OR SHE IS REGISTERED WITH THE NATIONAL ASSOCIATION OF SECURITY DEALERS OR THE UNITED STATES SECURITIES COMMISSION AND, IN ADDITION, SHALL QUALIFY ON SUCH EXAMINATION AS MAY BE PRESCRIBED BY THE COMMISSIONER. LIFE INSURANCE PRODUCERS NOT SO QUALIFIED SHALL NOT SOLICIT THE SALE OF VARIABLE CONTRACTS.

(3) AN INSURANCE PRODUCER LICENSE FOR SURPLUS LINES MAY BE ISSUED TO RESIDENT PERSONS PURSUANT TO ARTICLE 5 OF THIS TITLE.

10-2-408. License - contents - continuation due date - bond. (1) THE COMMISSIONER SHALL ISSUE A PERPETUAL INSURANCE PRODUCER LICENSE TO AN APPLICANT WHO HAS MET THE REQUIREMENTS OF SECTION 10-2-404.

(2) THE LICENSE SHALL STATE THE NAME, ADDRESS, AND PERSONAL IDENTIFICATION NUMBER OF THE LICENSEE, THE DATE OF ISSUANCE, GENERAL CONDITIONS RELATIVE TO EXPIRATION OR CANCELLATION, THE LINE OR LINES OF INSURANCE COVERED BY THE LICENSE, AND ANY OTHER INFORMATION THE COMMISSIONER DEEMS PROPER OR NECESSARY.

(3) THE LICENSE ISSUED TO AN INDIVIDUAL, AS A SOLE PROPRIETOR, SHALL INCLUDE THE TRADE NAME UNDER WHICH THE LICENSEE ACTS IN THE SOLICITATION OR NEGOTIATION OF INSURANCE CONTRACTS.

(4) SUBJECT TO CONTINUATION, EACH INSURANCE PRODUCER LICENSE SHALL REMAIN IN EFFECT UNLESS REVOKED OR SUSPENDED AS LONG AS THE CONTINUATION FEE AS PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413 IS PAID AND EDUCATION REQUIREMENTS ARE MET ON OR BEFORE THE DUE DATE.

(5) THE COMMISSIONER SHALL ESTABLISH, BY RULE, THE CONTINUATION DUE DATE AND APPLICATION PROCEDURES FOR CONTINUATION OF THE LICENSE AND FOR THE ACCEPTANCE OF A LATE FILING FEE.

(6) ANY PERSON WHO IS A RESIDENT OF THE STATE OF COLORADO AND HOLDS A COLORADO INSURANCE PRODUCER LICENSE AND IS DEEMED BY THE COMMISSIONER TO BE COMPETENT AND TRUSTWORTHY MAY BE LICENSED AS A SURPLUS LINE PRODUCER. PRIOR TO ISSUANCE OF THE LICENSE, THE APPLICANT SHALL FILE WITH THE COMMISSIONER, AND THEREAFTER FOR AS LONG AS THE LICENSE REMAINS IN EFFECT SHALL KEEP IN FORCE, EVIDENCE OF A SAVINGS ACCOUNT, DEPOSIT, OR CERTIFICATE OF DEPOSIT MEETING THE REQUIREMENTS OF SECTION 11-35-101, C.R.S., OR A BOND IN FAVOR OF THE STATE OF COLORADO IN THE PENAL SUM OF FIFTEEN HUNDRED DOLLARS, WITH AUTHORIZED CORPORATE SURETIES APPROVED BY THE COMMISSIONER, CONDITIONED THAT THE PRODUCER WILL CONDUCT BUSINESS UNDER THE LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND WILL PROMPTLY REMIT THE TAXES PROVIDED BY SECTION 10-5-111. NO SUCH BOND SHALL BE TERMINATED UNLESS WRITTEN NOTICE THEREOF IS FILED WITH THE COMMISSIONER AT LEAST THIRTY DAYS PRIOR TO THE SPECIFIED DATE OF TERMINATION.

10-2-409. License - amendment - reissuance. (1) AN INSURANCE PRODUCER LICENSEE SHALL PROMPTLY NOTIFY THE COMMISSIONER, ON A FORM PRESCRIBED BY THE COMMISSIONER, OF ANY CHANGE THAT WILL REQUIRE AMENDING A LICENSE TO REFLECT THAT CHANGE, INCLUDING WITHOUT LIMITATION A LEGAL CHANGE OF THE LICENSEE'S NAME, A CHANGE OF ADDRESS, OR CHANGE OR REMOVAL OF A TRADE NAME. THE COMMISSIONER MAY REQUIRE THE LICENSEE TO FURNISH ANY DOCUMENTS NECESSARY TO VERIFY ANY CHANGE AND TO PROPERLY AMEND THE LICENSE.

(2) A FEE, PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413, SHALL ACCOMPANY THE REQUEST TO AMEND AND ISSUE AN AMENDED LICENSE.

10-2-410. Temporary authority. (1) THE COMMISSIONER MAY ISSUE TEMPORARY LICENSE AUTHORITY TO AN INDIVIDUAL TO ACT AS AN INSURANCE PRODUCER FOR A PERIOD NOT TO EXCEED NINETY DAYS, WITHOUT REQUIRING AN EXAMINATION, IF THE COMMISSIONER DEEMS THAT SUCH TEMPORARY LICENSE AUTHORITY IS NECESSARY FOR THE SERVICING OF AN INSURANCE BUSINESS IN THE FOLLOWING CASES:

(a) TO THE SURVIVING SPOUSE OR NEXT OF KIN, OR TO THE EXECUTOR OR AN EMPLOYEE, OF A LICENSED INSURANCE PRODUCER WHO BECOMES DECEASED;

(b) TO THE SURVIVING SPOUSE OR NEXT OF KIN, OR TO AN EMPLOYEE OR THE LEGAL GUARDIAN, OF A LICENSED INSURANCE PRODUCER WHO BECOMES DISABLED;

(c) TO A MEMBER, EMPLOYEE, OR OFFICER OF A LICENSED INSURANCE AGENCY PRODUCER UPON THE DEATH OR DISABILITY OF AN INDIVIDUAL DESIGNATED IN OR REGISTERED AS TO THE AGENCY LICENSE;

(d) TO THE DESIGNEE OF A LICENSED INSURANCE PRODUCER UPON ENTERING ACTIVE SERVICE IN THE ARMED FORCES OF THE UNITED STATES;

(e) TO ANY PERSON IN ANY OTHER CIRCUMSTANCE WHERE THE COMMISSIONER DEEMS THAT THE PUBLIC INTEREST WILL BEST BE SERVED BY THE ISSUANCE OF SUCH LICENSE.

10-2-411. Duplicate license. THE COMMISSIONER MAY ISSUE A DUPLICATE LICENSE TO ANY ACTIVELY LICENSED INSURANCE PRODUCER IF SUCH PRODUCER'S LICENSE IS LOST, STOLEN, OR DESTROYED UPON AN AFFIDAVIT BY THE PRODUCER IN A FORM PRESCRIBED AND FURNISHED BY THE COMMISSIONER CONCERNING THE FACTS OF SUCH LOSS, THEFT, OR DESTRUCTION AND UPON PAYMENT OF THE FEE PRESCRIBED IN SECTION 10-2-413 FOR THE ISSUANCE OF A DUPLICATE LICENSE.

10-2-412. Change of address - notification. (1) INDIVIDUAL AND INSURANCE AGENCY PRODUCER LICENSEES SHALL INFORM THE COMMISSIONER IN WRITING, IN A FORM FURNISHED BY THE COMMISSIONER, OF ANY CHANGE OF ADDRESS WITHIN THIRTY DAYS OF THE CHANGE.

(2) FAILURE OF ANY LICENSEE TO INFORM THE COMMISSIONER OF ANY CHANGE TO THE LICENSEE'S ADDRESS OF RECORD OR RESIDENCE ADDRESS SHALL BE GROUNDS FOR THE ASSESSMENT OF A PENALTY FEE PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413.

10-2-413. Fees. (1) THE COMMISSIONER SHALL, BY RULE, SET REASONABLE FEES FOR THE FOLLOWING:

- (a) INSURANCE PRODUCER LICENSE;
- (b) CONTINUATION OF LICENSE;
- (c) CONTINUATION OF LICENSE LATE FILING PENALTY FEE;
- (d) LICENSE REFLECTING AMENDED LINES OF INSURANCE;
- (e) DUPLICATE LICENSE;
- (f) AMENDED LICENSE (OTHER THAN FOR ADDITION OR DELETION OF LINES OF INSURANCE);
- (g) TEMPORARY AUTHORITY;
- (h) LICENSE EXAMINATION;
- (i) CERTIFICATION OF LICENSE STATUS;
- (j) LETTER OF CLEARANCE;
- (k) REGISTRATION OF PRELICENSURE EDUCATION COURSE;
- (l) RENEWAL OR CONTINUATION OF PRELICENSURE COURSE;
- (m) REGISTRATION OF TRADE NAME OR ASSUMED NAME;

(n) REGISTRATION OF THE NAME OF A NATURAL PERSON AUTHORIZED TO ACT AS AN INSURANCE PRODUCER FOR AN INSURANCE AGENCY LICENSEE;

(o) APPOINTMENT FEE;

(p) TERMINATION FEE;

(q) PENALTY FOR FAILURE TO INFORM COMMISSIONER OF CHANGE OF ADDRESS;

(r) RENEWAL OF APPOINTMENT FEE;

(s) PRELICENSING EDUCATION CASH FUND FEE.

(2) ALL FEES PAYABLE TO THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE NONREFUNDABLE. FEES SHALL BE SET AT THE LEVELS NECESSARY TO ENSURE THAT REVENUES FROM SUCH FEES, TOGETHER WITH REVENUES FROM ALL OTHER FEES AND TAXES COLLECTED BY THE DIVISION OF INSURANCE IN ANY FISCAL YEAR, DO NOT EXCEED THE DIVISION'S ACTUAL DIRECT AND INDIRECT COSTS OF OPERATION FOR THAT YEAR.

10-2-414. Additional lines of insurance - application for license. AN INSURANCE PRODUCER LICENSEE REQUESTING LICENSURE FOR ANY ADDITIONAL LINE OR LINES OF INSURANCE SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 10-2-404. UPON RECEIPT OF THE APPLICATION FILING, ANY SUPPORTING DOCUMENTS AS REQUIRED BY SECTION 10-2-404, AND THE APPLICABLE FEE, THE COMMISSIONER MAY ISSUE A REPLACEMENT LICENSE TO INCLUDE THE ADDITIONAL LINES.

10-2-415. Appointment of insurance producer by insurer - continuation - exceptions. (1) NO INSURANCE PRODUCER SHALL CLAIM TO BE A REPRESENTATIVE OR AUTHORIZED OR APPOINTED AGENT OF, OR ANY OTHER TERM IMPLYING A CONTRACTUAL RELATIONSHIP WITH, A PARTICULAR INSURER OR ACCEPT APPLICATIONS ON BEHALF OF SUCH INSURER UNLESS SUCH INSURANCE PRODUCER BECOMES A PRODUCER APPOINTEE, APPOINTED BY THAT INSURER IN ACCORDANCE WITH THIS SECTION, TO ACT IN THE CAPACITY OF AN AGENT OF THAT INSURER.

(2) (a) THE INSURER SHALL NOTIFY THE COMMISSIONER OF INSURANCE OF PRODUCER APPOINTMENTS. EACH INSURER SHALL KEEP ON FILE WITH THE COMMISSIONER A CURRENT LIST OF INSURANCE PRODUCERS WHICH IT HAS APPOINTED TO SOLICIT BUSINESS ON ITS BEHALF. THE INSURER SHALL FILE WITH THE COMMISSIONER A LIST OF NEW APPOINTMENTS OF INSURANCE PRODUCERS. THE LIST MAY BE SUBMITTED TO THE COMMISSIONER MONTHLY OR AT SUCH OTHER INTERVALS AS THE COMMISSIONER MAY PRESCRIBE. THE INSURER SHALL REPORT ALL PERTINENT APPOINTMENT INFORMATION AS PRESCRIBED BY THE COMMISSIONER, INCLUDING THE EFFECTIVE DATE OF APPOINTMENT.

(b) SUBJECT TO CONTINUATION OR RENEWAL, EACH INSURANCE PRODUCER APPOINTMENT SHALL REMAIN IN EFFECT UNTIL:

(1) THE INSURANCE PRODUCER'S LICENSE IS DISCONTINUED OR CANCELLED BY THE INSURANCE PRODUCER OR REVOKED BY THE COMMISSIONER; OR

(II) NOTICE OF TERMINATION OF THE APPOINTMENT IS FILED WITH THE COMMISSIONER BY THE INSURER.

(3) EACH ACTIVE INSURANCE PRODUCER APPOINTMENT SHALL BE SUBJECT TO CONTINUATION OR RENEWAL EFFECTIVE OCTOBER 1 OF THE YEAR IN WHICH THE PRODUCER'S LICENSE IS SUBJECT TO CONTINUATION. A COMPUTER LIST OF ACTIVE INSURANCE PRODUCER APPOINTEES SHALL BE PRODUCED BY THE COMMISSIONER AND FURNISHED TO THE INSURER ALONG WITH A RENEWAL INVOICE STATING THE FEE REQUIRED FOR THE CONTINUATION OF EACH SUCH ACTIVE INSURANCE PRODUCER APPOINTMENT.

(4) ANY APPOINTMENT WHICH IS NOT CONTINUED ON OR BEFORE OCTOBER 1 SHALL BE DEEMED TO HAVE EXPIRED OR DISCONTINUED EFFECTIVE ON THAT DATE.

(5) THE COMMISSIONER MAY, ON OR BEFORE OCTOBER 31 OF ANY YEAR, CONTINUE OR RENEW THE APPOINTMENTS OF AN INSURER WHO HAS FAILED TO PAY THE APPOINTMENT RENEWAL OR CONTINUATION FEE BY OCTOBER 1 UPON RECEIPT OF THE RENEWAL OR CONTINUATION INVOICE TOGETHER WITH THE CONTINUATION FEES DUE AND THE APPLICABLE LATE PENALTY FEE.

(6) NOTWITHSTANDING ANY PROVISION OF SUBSECTIONS (1) TO (5) OF THIS SECTION TO THE CONTRARY:

(a) AN INSURANCE PRODUCER MAY SHOW THE BENEFITS, RATES, AND FEATURES OF INSURANCE PRODUCTS OF COMPANIES BY WHICH THE PRODUCER HAS NOT BEEN APPOINTED.

(b) IF AN INSURANCE PRODUCER WHO SEEKS TO PLACE A RISK OR POLICY WHICH THE COMPANY APPOINTING THE PRODUCER CANNOT ACCEPT FOR ANY REASON, THE PRODUCER MAY PLACE SUCH RISK IN ANOTHER COMPANY DOING THE SAME TYPE OF BUSINESS WITHOUT BEING APPOINTED BY SUCH OTHER COMPANY; EXCEPT THAT NO INSURER SHALL BE REQUIRED TO ACCEPT A RISK FROM A PRODUCER WITH WHOM THE INSURER DOES NOT HAVE A CONTRACTUAL RELATIONSHIP. NOTHING IN THIS PARAGRAPH (b) SHALL BE DEEMED TO SUPERSEDE ANY PROVISION CONTAINED IN A CONTRACT BETWEEN A PRODUCER AND A COMPANY.

10-2-416. Termination of appointment - notice. (1) UPON TERMINATION OF THE AGENT APPOINTMENT OF AN INSURANCE PRODUCER, THE INSURER SHALL WITHIN FIFTEEN DAYS NOTIFY THE COMMISSIONER AND THE APPOINTEE OF SUCH TERMINATION. THE COMMISSIONER MAY REQUIRE THE INSURER TO DEMONSTRATE THAT THE INSURER HAS MADE A REASONABLE EFFORT TO GIVE SUCH NOTICE TO THE INSURANCE PRODUCER.

(2) IN THE EVENT THE TERMINATION IS FOR ANY OF THE CAUSES LISTED UNDER SECTION 10-2-704, THE INSURER SHALL NOTIFY THE COMMISSIONER OF THE REASON AND IF THE COMMISSIONER SO REQUESTS, THE INSURER SHALL PROVIDE ANY INFORMATION, RECORDS, STATEMENTS, OR OTHER DATA PERTAINING TO THE TERMINATION WHICH MAY BE USED BY THE DIVISION OF INSURANCE IN ANY ACTION TAKEN PURSUANT TO SECTION 10-2-801.

(3) ANY INFORMATION, DOCUMENTS, RECORDS, OR STATEMENTS PROVIDED

PURSUANT TO THIS SECTION SHALL BE PRIVILEGED, AND THERE SHALL BE NO LIABILITY ON THE PART OF, NOR SHALL A CAUSE OF ACTION OF ANY NATURE ARISE AGAINST, THE DIVISION OF INSURANCE, THE INSURANCE COMPANY, OR ANY AUTHORIZED REPRESENTATIVE OF EITHER.

(4) IN ADDITION TO ANY OTHER PENALTY OR LIABILITY AUTHORIZED BY LAW, THE FAILURE OR REFUSAL OF ANY INSURER TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (1) OR (2) OF THIS SECTION SHALL BE CAUSE FOR THE ASSESSMENT AGAINST THE INSURER OF A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR EACH SUCH FAILURE OR REFUSAL.

PART 5 NONRESIDENT LICENSEES

10-2-501. Reciprocity. (1) THE COMMISSIONER SHALL, WHERE APPROPRIATE, ENTER INTO A RECIPROCAL AGREEMENT OR ARRANGEMENT WITH THE COMMISSIONER OR DIRECTOR HAVING SUPERVISION OF INSURANCE IN ANY OTHER STATE TO:

(a) ACCEPT FROM THE COMMISSIONER OR DIRECTOR OF INSURANCE OF SUCH OTHER STATE, IN LIEU OF THE EXAMINATION OTHERWISE REQUIRED UNDER SECTION 10-2-402, A CURRENT CERTIFICATION THAT THE APPLICANT IS LICENSED IN THAT STATE AS AN INSURANCE PRODUCER OR HOLDS A LICENSE FOR THE LINE OR LINES OF INSURANCE APPLIED FOR IN THIS STATE;

(b) RECIPROCATATE REGARDING CONTINUING EDUCATION FOR INDIVIDUAL APPLICANTS;

(c) RECIPROCATATE REGARDING PRELICENSURE EDUCATION OR TRAINING FOR INDIVIDUALS, AS NECESSARY;

(d) RECIPROCATATE IN THE LICENSING OF NONRESIDENT INSURANCE AGENCIES.

(2) CERTIFICATION OF THE APPLICANT'S LICENSE STATUS, AS DESCRIBED IN SUBSECTION (1) (a) OF THIS SECTION FOR INDIVIDUALS, SHALL BE REQUIRED OF NONRESIDENT INSURANCE AGENCY APPLICANTS.

10-2-502. Nonresident licensing - qualification. (1) THE COMMISSIONER MAY QUALIFY AN APPLICANT AS A NONRESIDENT AND SHALL ISSUE AN INSURANCE PRODUCER LICENSE TO ANY QUALIFIED NONRESIDENT PERSON IN ACCORDANCE WITH THE FOLLOWING:

(a) AN INDIVIDUAL APPLICANT MAY QUALIFY AS A NONRESIDENT ONLY IF HE OR SHE RESIDES IN ANOTHER STATE WITH WHICH A RECIPROCAL AGREEMENT OR ARRANGEMENT HAS BEEN ENTERED INTO BY THE COMMISSIONER;

(b) AN INSURANCE AGENCY MAY QUALIFY AS A NONRESIDENT IF THE AGENCY HAS ITS PRINCIPAL OFFICE LOCATED IN ANOTHER STATE WITH WHICH A RECIPROCAL AGREEMENT OR ARRANGEMENT HAS BEEN ENTERED INTO BY THE COMMISSIONER;

(c) THE NONRESIDENT PERSON HOLDS A SIMILAR LICENSE IN THAT RECIPROCAL LICENSING STATE AND FOR THE SAME LINE OR LINES OF INSURANCE APPLIED FOR IN

THIS STATE;

(d) THE NONRESIDENT PERSON IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 10-2-404;

(e) THE NONRESIDENT PERSON HAS FILED WITH THE COMMISSIONER A CURRENT CERTIFICATION OF LICENSE STATUS FOR THE PURPOSES SET FORTH IN SECTION 10-2-501 (1).

(2) WHEN, BY THE LAWS OR REGULATIONS OF ANY OTHER STATE OR JURISDICTION, ANY LIMITATION OF RIGHTS AND PRIVILEGES, CONDITIONS PRECEDENT, OR ANY OTHER REQUIREMENTS ARE IMPOSED UPON RESIDENTS OF THIS STATE OR JURISDICTION IN ADDITION TO OR IN EXCESS OF THOSE IMPOSED ON NONRESIDENTS UNDER THIS ARTICLE, THE SAME SUCH REQUIREMENTS SHALL BE IMPOSED UPON RESIDENTS OF SUCH OTHER STATE OR JURISDICTION.

(3) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A LICENSE ISSUED TO A NONRESIDENT PERSON SHALL CONFER THE SAME RIGHTS AND PRIVILEGES AS THOSE AFFORDED A RESIDENT LICENSEE.

(4) IF THE INSURANCE DEPARTMENT OF THE NONRESIDENT INSURANCE PRODUCER'S RESIDENT STATE SUSPENDS, TERMINATES, OR REVOKES THE PRODUCER'S INSURANCE LICENSE IN THAT STATE, THE NONRESIDENT INSURANCE PRODUCER SHALL NOTIFY THE COMMISSIONER AND SHALL RETURN THE COLORADO NONRESIDENT LICENSE PURSUANT TO SECTION 10-2-804.

10-2-503. Commissioner as agent for service of process. (1) BY THE FILING OF THE APPLICATION AND ISSUANCE OF A NONRESIDENT INSURANCE PRODUCER LICENSE, A NONRESIDENT INSURANCE PRODUCER LICENSEE SHALL BE DEEMED TO HAVE APPOINTED THE COMMISSIONER AND SUCCESSORS IN OFFICE AS SAID NONRESIDENT'S AGENT UPON WHOM ALL LAWFUL PROCESS IN ANY LEGAL PROCEEDING AGAINST THE NONRESIDENT MAY BE SERVED AND TO HAVE AGREED THAT ANY SUCH LAWFUL PROCESS HAS THE SAME LEGAL FORCE AND VALIDITY AS PERSONAL SERVICE OF PROCESS UPON SUCH NONRESIDENT.

(2) THE COMMISSIONER SHALL, WITHIN TEN WORKING DAYS AFTER RECEIVING THREE COPIES OF THE PROCESS SERVED AND A FEE OF TEN DOLLARS, FORWARD A COPY OF SUCH PROCESS BY REGISTERED OR CERTIFIED MAIL TO THE PERSON FOR WHOM THE COMMISSIONER HAS RECEIVED SUCH PROCESS AT THE NONRESIDENT INDIVIDUAL'S ADDRESS OF RECORD, OR, IF THE NONRESIDENT IS AN INSURANCE AGENCY, AT THE AGENCY'S PRINCIPAL PLACE OF BUSINESS. THE COMMISSIONER SHALL KEEP A RECORD OF ALL PROCESS SO SERVED.

(3) SERVICE OF PROCESS UPON ANY SUCH LICENSEE IN ANY ACTION OR PROCEEDING INSTITUTED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE MADE BY THE COMMISSIONER BY MAILING SUCH PROCESS BY REGISTERED MAIL TO AN INDIVIDUAL LICENSEE AT THE LICENSEE'S LAST KNOWN ADDRESS OF RECORD OR TO AN INSURANCE AGENCY LICENSEE AT ITS PRINCIPAL PLACE OF BUSINESS.

PART 6
BANKS AND BANK HOLDING COMPANIES

10-2-601. Bank or bank holding company may sell insurance - where - regulation. (1) FOR THE PURPOSES OF THIS SECTION:

(a) "BANK" MEANS A STATE BANK, INCLUDING AN INDUSTRIAL BANK, OR BANK AND TRUST COMPANY CHARTERED BY THIS STATE OR ANY NATIONAL BANK.

(b) "BANK HOLDING COMPANY" MEANS A CORPORATION OR OTHER ENTITY WHICH DIRECTLY OR INDIRECTLY:

(I) OWNS, CONTROLS, OR HAS THE POWER TO VOTE TWENTY-FIVE PERCENT OR MORE OF ANY CLASS OF VOTING SECURITIES OF A BANK OR BANK HOLDING COMPANY;

(II) CONTROLS THE ELECTION OF A MAJORITY OF THE DIRECTORS OR TRUSTEES OF A BANK OR BANK HOLDING COMPANY; OR

(III) EXERCISES A CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF A BANK OR BANK HOLDING COMPANY.

(c) "CREDIT INSURANCE" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-10-103 (2).

(d) "CREDIT LIFE INSURANCE" MEANS INSURANCE ON THE LIFE OF A DEBTOR PURSUANT TO OR IN CONNECTION WITH A SPECIFIC LOAN OR OTHER CREDIT TRANSACTION.

(2) NO BANK OR BANK HOLDING COMPANY, NOR ANY SUBSIDIARY, AFFILIATE, OR EMPLOYEE THEREOF, SHALL BE LICENSED OR ADMITTED, DIRECTLY OR INDIRECTLY, AS AN INSURER OR BE LICENSED TO SELL INSURANCE IN THIS STATE EXCEPT IN THE MANNER PROVIDED FOR BANKS IN SECTION 11-6-101 (2), C.R.S.; EXCEPT THAT:

(a) A BANK OR BANK HOLDING COMPANY, OR ANY SUBSIDIARY, AFFILIATE, OR EMPLOYEE THEREOF, MAY BE LICENSED TO SELL CREDIT INSURANCE IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE COMMISSIONER;

(b) A BANK HOLDING COMPANY OR ANY SUBSIDIARY, AFFILIATE, OR EMPLOYEE THEREOF, IN A MUNICIPALITY OR TRADE AREA THE POPULATION OF WHICH DOES NOT EXCEED FIVE THOUSAND AS SHOWN BY THE LAST PRECEDING FEDERAL CENSUS, MAY BE LICENSED TO SELL INSURANCE IN ACCORDANCE WITH RULES OF THE COMMISSIONER AND WITH FEDERAL LAW;

(c) ANY EMPLOYEE OF A BANK OR BANK HOLDING COMPANY LICENSED TO SELL INSURANCE, OR SUCH PERSON'S SUCCESSOR IN THE SAME OR SIMILAR POSITION, IN CONNECTION WITH THE BUSINESS OF SAID BANK OR BANK HOLDING COMPANY ON JULY 1, 1977, MAY CONTINUE TO SELL INSURANCE OF THE TYPE SOLD PRIOR TO SAID DATE;

(d) ANY BANK OR BANK HOLDING COMPANY OR ANY SUBSIDIARY, AFFILIATE, OR EMPLOYEE THEREOF MAY BE PERMITTED TO OWN AN INSURANCE COMPANY AUTHORIZED TO SELL, AND THAT INSURANCE COMPANY'S EMPLOYEES MAY BE LICENSED TO SELL, INSURANCE TO GUARANTEE THE PAYMENT OF ANY AMOUNTS DUE IN CONNECTION WITH ANY SECURITIES OR OBLIGATIONS DESCRIBED IN SECTION 11-57-101, C.R.S.; EXCEPT THAT NO BANK, BANK HOLDING COMPANY, SUBSIDIARY,

OR AFFILIATE SUBJECT TO THE SUPERVISION OF THE BANKING BOARD CREATED IN SECTION 11-2-102, C.R.S., SHALL OWN SUCH AN INSURANCE COMPANY WITHOUT THE CONSENT OF THE BANKING BOARD, AND NO BANK SHALL INVEST MORE THAN TEN PERCENT OF ITS CAPITAL AND SURPLUS IN SUCH AN INSURANCE COMPANY; AND

(e) ANY BANK OR BANK HOLDING COMPANY, OR ANY SUBSIDIARY OR AFFILIATE THEREOF, MAY OWN, DIRECTLY OR INDIRECTLY, A CAPTIVE INSURANCE COMPANY OPERATING UNDER ARTICLE 6 OF THIS TITLE; EXCEPT THAT SUCH A CAPTIVE INSURANCE COMPANY MAY PROVIDE INSURANCE ONLY FOR THE PURPOSES SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION.

(3) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THIS SECTION SHALL NOT BE CONSTRUED TO PROHIBIT:

(a) ANY INSURANCE COMPANY OR ANY OF ITS LICENSED INSURANCE PRODUCERS FROM CONDUCTING BUSINESS SEPARATE AND APART FROM ANY BANK;

(b) ANY BANK OR BANK HOLDING COMPANY, OR ANY SUBSIDIARY OR AFFILIATE THEREOF, OPERATING AN AGENCY WHICH SOLD INSURANCE IN THIS STATE ON JULY 1, 1977, FROM CONTINUING SUCH OPERATION SO LONG AS SUCH AGENCY CONTINUES TO FUNCTION AS IT WAS CONSTITUTED ON SAID DATE; OR

(c) ANY TRADE ASSOCIATION ORGANIZED PRIMARILY TO PROMOTE THE COMMON INTERESTS OF BANKS, OR AN AFFILIATE OR SUBSIDIARY OF SUCH ASSOCIATION, FROM HOLDING STOCK OR OTHER INTERESTS IN AN INSURANCE COMPANY, OR AN AFFILIATE OR SUBSIDIARY THEREOF, FOR THE PURPOSE OF, AND LIMITED TO, OBTAINING FOR MEMBERS OF THE ASSOCIATION, EITHER THROUGH THE ASSOCIATION ITSELF OR THROUGH ITS AFFILIATE OR SUBSIDIARY, DIRECTORS' AND OFFICERS' LIABILITY INSURANCE, BLANKET BOND INSURANCE, AND SURETY INSURANCE, IF SUCH TRADE ASSOCIATION IS NOT AN AFFILIATE OR SUBSIDIARY OF ANY PARTICULAR BANK OR BANK HOLDING COMPANY. FOR PURPOSES OF THIS PARAGRAPH (c), "BANKS" MEANS BANKS ORGANIZED UNDER THE "COLORADO BANKING CODE OF 1957", ARTICLES 1 TO 11 AND 22 AND 23 OF TITLE 11, C.R.S., OR UNDER CHAPTER 2 OF TITLE 12 OF THE UNITED STATES CODE, AND "AFFILIATE" AND "SUBSIDIARY" SHALL HAVE THE MEANINGS SET FORTH IN SECTION 10-3-801 (1) AND (8).

(4) NO PERSON LICENSED TO SELL INSURANCE IN THIS STATE SHALL BE PROHIBITED FROM SERVING AS AN OFFICER, DIRECTOR, OR EMPLOYEE OF A BANK OR BANK HOLDING COMPANY IF SUCH PERSON CONDUCTS THE PERSON'S INSURANCE ACTIVITIES FREE OF OWNERSHIP OR CONTROL OF THE BANK OR BANK HOLDING COMPANY AND THE BANK OR BANK HOLDING COMPANY DOES NOT PARTICIPATE DIRECTLY OR INDIRECTLY IN THE EARNINGS FROM THE PERSON'S INSURANCE ACTIVITIES.

(5) THE COMMISSIONER SHALL PROMULGATE SUCH RULES AS ARE NECESSARY TO MAINTAIN THE SEPARATION BETWEEN BANKS OR BANK HOLDING COMPANIES AND THE INSURANCE BUSINESS AND TO PROMOTE FAIR TRADE PRACTICES.

PART 7 BUSINESS CONDUCT OF LICENSEES

10-2-701. Assumed names - registration. ANY INSURANCE PRODUCER USING AN

ASSUMED NAME, INCLUDING WITHOUT LIMITATION A TRADE OR FICTITIOUS NAME, UNDER WHICH THE INSURANCE PRODUCER CONDUCTS BUSINESS SHALL REGISTER THE NAME WITH THE INSURANCE COMMISSIONER PRIOR TO USING THE ASSUMED NAME. SUCH REGISTRATION SHALL BE ACCOMPANIED BY THE APPLICABLE FEE PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413. THE COMMISSIONER SHALL NOT ACCEPT REGISTRATION OF ANY NAME THAT IS SIMILAR TO ANOTHER CURRENTLY ON FILE, THAT WOULD TEND TO BE MISLEADING TO THE PUBLIC, OR THAT IS IDENTICAL OR SIMILAR TO THE NAME OF ANY PRODUCER WHOSE LICENSE HAS BEEN REVOKED OR SUSPENDED. EVERY INSURANCE PRODUCER LICENSEE SHALL PROMPTLY FILE WITH THE COMMISSIONER A WRITTEN NOTICE OF ANY CHANGE IN OR DISCONTINUATION OF THE USE OF ANY NAME. THE COMMISSIONER MAY PROMULGATE ALL RULES NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

10-2-702. Commissions. NO INSURER OR INSURANCE PRODUCER SHALL PAY, DIRECTLY OR INDIRECTLY, ANY COMMISSION, SERVICE FEE, BROKERAGE, OR OTHER VALUABLE CONSIDERATION TO ANY PERSON FOR SERVICES AS AN INSURANCE PRODUCER WITHIN THIS STATE UNLESS SUCH PERSON HELD, AT THE TIME SUCH SERVICES WERE PERFORMED, A VALID LICENSE FOR THE LINE OR LINES OF INSURANCE AS REQUIRED BY THE LAWS OF THIS STATE. NO PERSON, OTHER THAN A PERSON APPROPRIATELY LICENSED BY THIS STATE AS AN INSURANCE PRODUCER AT THE TIME SUCH SERVICES WERE PERFORMED, SHALL ACCEPT ANY SUCH COMMISSION, SERVICE FEE, BROKERAGE, OR OTHER VALUABLE CONSIDERATION FOR SUCH SERVICES. THIS SECTION SHALL NOT PREVENT PAYMENT OR RECEIPT OF RENEWAL OR OTHER DEFERRED COMMISSIONS TO OR BY ANY PERSON ENTITLED THERETO UNDER THIS SECTION.

10-2-703. Countersignature not required. AN INSURANCE PRODUCER IS NOT REQUIRED TO COUNTERSIGN A POLICY OF INSURANCE WRITTEN BY A FOREIGN INSURANCE COMPANY.

10-2-704. Fiduciary responsibilities. (1) (a) ALL PREMIUMS BELONGING TO INSURERS AND ALL UNEARNED PREMIUMS BELONGING TO INSURED RECEIVED BY AN INSURANCE PRODUCER LICENSEE UNDER THIS ARTICLE SHALL BE TREATED BY SUCH INSURANCE PRODUCER IN A FIDUCIARY CAPACITY. THE COMMISSIONER MAY PROMULGATE SUCH RULES AS ARE NECESSARY AND PROPER RELATING TO THE TREATMENT OF SUCH PREMIUMS.

(b) ALL PREMIUMS RECEIVED, LESS COMMISSIONS IF AUTHORIZED, SHALL BE REMITTED TO THE INSURER OR ITS AGENT ENTITLED THERETO ON OR BEFORE THE CONTRACTUAL DUE DATE OR, IF THERE IS NO CONTRACTUAL DUE DATE, WITHIN FORTY-FIVE DAYS AFTER RECEIPT.

(c) ALL RETURNED PREMIUMS RECEIVED FROM INSURERS OR CREDITED BY INSURERS TO THE ACCOUNT OF THE LICENSEE SHALL BE REMITTED TO OR CREDITED TO THE ACCOUNT OF THE PERSON ENTITLED THERETO WITHIN THIRTY DAYS AFTER SUCH RECEIPT OR CREDIT.

(d) IF ANY INSURANCE PRODUCER HAS FAILED TO ACCOUNT FOR ANY COLLECTED PREMIUM TO THE INSURER TO WHOM IT IS OWING OR TO ITS AGENT ENTITLED THERETO FOR MORE THAN FORTY-FIVE DAYS AFTER THE CONTRACTUAL DUE DATE OR, IF THERE IS NO CONTRACTUAL DUE DATE, MORE THAN NINETY DAYS AFTER RECEIPT, THE

INSURER OR ITS AGENT SHALL PROMPTLY REPORT SUCH FAILURE TO THE COMMISSIONER IN WRITING.

(2) EVERY INSURER SHALL REMIT UNEARNED PREMIUMS TO THE INSURED OR THE PROPER AGENT, OR SHALL OTHERWISE CREDIT THE ACCOUNT OF THE PROPER LICENSEE, AS SOON AS IS PRACTICABLE AFTER ENTITLEMENT THERETO HAS BEEN ESTABLISHED, BUT IN NO EVENT MORE THAN FORTY-FIVE DAYS AFTER THE EFFECTIVE DATE OF ANY CANCELLATION OR TERMINATION EFFECTED BY THE INSURER OR AFTER THE DATE OF ENTITLEMENT THERETO AS ESTABLISHED BY NOTIFICATION OF CANCELLATION OR OF TERMINATION OR AS OTHERWISE ESTABLISHED. IT SHALL BE THE RESPONSIBILITY OF ANY INSURANCE PRODUCER HAVING KNOWLEDGE OF A FAILURE ON THE PART OF ANY INSURER TO COMPLY WITH THIS SUBSECTION (2) TO PROMPTLY REPORT SUCH FAILURE TO THE COMMISSIONER IN WRITING.

(3) NO INSURANCE PRODUCER UNDER THIS ARTICLE SHALL COMMINGLE PREMIUMS BELONGING TO INSURERS AND RETURNED PREMIUMS BELONGING TO INSURED WITH THE PRODUCER'S PERSONAL FUNDS OR WITH ANY OTHER FUNDS EXCEPT THOSE DIRECTLY CONNECTED WITH THE PRODUCER'S INSURANCE BUSINESS.

(4) ANY INSURER THAT DELIVERS, IN THIS STATE, A POLICY OF INSURANCE TO AN INSURANCE PRODUCER REPRESENTING THE INTEREST OF THE INSURED UPON THE APPLICATION OR REQUEST OF SUCH PRODUCER SHALL BE DEEMED TO HAVE AUTHORIZED SUCH PRODUCER TO RECEIVE ON THE INSURER'S BEHALF ANY PREMIUM DUE UPON ISSUANCE OR DELIVERY OF THE POLICY; AND THE INSURER SHALL BE DEEMED TO HAVE SO AUTHORIZED THE PRODUCER REGARDLESS OF WHETHER THE POLICY IS DELIVERED TO THE PRODUCER DIRECTLY OR THROUGH AN INSURANCE PRODUCER APPOINTED BY THE INSURER.

PART 8 DISCIPLINARY ACTIONS

10-2-801. Licenses - denial, suspension, revocation, termination. (1) THE COMMISSIONER MAY SUSPEND, REVOKE, REFUSE TO CONTINUE OR RENEW, OR REFUSE TO ISSUE AN INSURANCE PRODUCER LICENSE IF, AFTER NOTICE TO THE INSURANCE PRODUCER LICENSEE AND AFTER HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT AS TO THE LICENSEE OR APPLICANT ANY ONE OR MORE OF THE FOLLOWING CONDITIONS EXIST:

- (a) ANY MATERIALLY UNTRUE STATEMENT IN THE LICENSE APPLICATION;
- (b) ANY CAUSE FOR WHICH ISSUANCE OF THE LICENSE COULD HAVE BEEN REFUSED HAD IT THEN EXISTED AND BEEN KNOWN TO THE COMMISSIONER AT THE TIME OF ISSUANCE;
- (c) VIOLATION OF, OR NONCOMPLIANCE WITH, ANY INSURANCE LAW, OR VIOLATION OF ANY LAWFUL RULE OR ORDER OF THE COMMISSIONER OR OF THE INSURANCE DEPARTMENT OF ANOTHER STATE;
- (d) OBTAINING OR ATTEMPTING TO OBTAIN ANY SUCH LICENSE THROUGH MISREPRESENTATION OR FRAUD;

(e) IMPROPERLY WITHHOLDING, MISAPPROPRIATING, OR CONVERTING TO THE LICENSEE'S OR APPLICANT'S OWN USE ANY MONEYS BELONGING TO POLICYHOLDERS, INSURERS, BENEFICIARIES, OR OTHERS RECEIVED IN THE COURSE OF THE BUSINESS OF INSURANCE;

(f) MISREPRESENTATION OF THE TERMS OF ANY ACTUAL OR PROPOSED INSURANCE CONTRACT;

(g) CONVICTION OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE;

(h) COMMISSION OF AN UNFAIR TRADE PRACTICE OR FRAUD AS DEFINED IN THIS TITLE;

(i) IN THE CONDUCT OF BUSINESS AFFAIRS UNDER THE LICENSE, THE USE OF FRAUDULENT, COERCIVE, OR DISHONEST PRACTICES OR THE SHOWING OF THE LICENSEE OR APPLICANT TO BE INCOMPETENT, UNTRUSTWORTHY, OR FINANCIALLY IRRESPONSIBLE;

(j) SUSPENSION OR REVOCATION OF AN INSURANCE LICENSE IN ANY OTHER STATE, PROVINCE, DISTRICT, OR TERRITORY;

(k) FORGERY OF ANOTHER'S NAME TO AN APPLICATION FOR INSURANCE OR FOR AN INSURANCE LICENSE;

(l) CHEATING ON AN EXAMINATION FOR AN INSURANCE LICENSE; OR

(m) FAILURE TO FULLY MEET THE LICENSING REQUIREMENTS.

(2) IN THE EVENT THAT THE ACTION BY THE COMMISSIONER IS TO NOT RENEW OR CONTINUE OR TO DENY AN APPLICATION FOR A LICENSE, THE COMMISSIONER SHALL PROMPTLY NOTIFY THE APPLICANT OR LICENSEE OF THE REASONS FOR SUCH ACTION.

10-2-802. Surrender of license. (1) AN INSURANCE PRODUCER LICENSE ISSUED UNDER THIS ARTICLE, ALTHOUGH ISSUED AND DELIVERED TO THE LICENSEE, SHALL AT ALL TIMES BE THE PROPERTY OF THE STATE OF COLORADO AND SHALL BE SURRENDERED OR RETURNED PROMPTLY TO THE COMMISSIONER BY PERSONAL DELIVERY OR BY CERTIFIED OR REGISTERED MAIL WITHIN FIFTEEN DAYS UNDER ANY OF THE FOLLOWING CONDITIONS:

(a) SUSPENSION, REVOCATION, OR TERMINATION OF THE LICENSE;

(b) DISCONTINUATION OR NONRENEWAL OF THE LICENSE BY THE LICENSEE;

(c) CESSATION OF RESIDENCY IN THIS STATE OR, IN THE CASE OF A NONRESIDENT LICENSEE, CESSATION OF RESIDENCY IN THE LICENSEE'S RESIDENT STATE; OR

(d) SUSPENSION, TERMINATION, OR REVOCATION OF A NONRESIDENT LICENSEE'S LICENSE IN THE STATE OF RESIDENCE.

(2) THE COMMISSIONER MAY REQUIRE SURRENDER OF AN INSURANCE PRODUCER LICENSE FOR ANY PROPER REASON IN ADDITION TO THE GROUNDS STATED IN

SUBSECTION (1) OF THIS SECTION.

(3) AS TO ANY INSURANCE PRODUCER LICENSE ISSUED PURSUANT TO THIS ARTICLE WHICH IS LOST, STOLEN, OR DESTROYED WHILE IN THE POSSESSION OF THE LICENSEE, THE COMMISSIONER MAY ACCEPT, IN LIEU OF RETURN OF THE LICENSE, THE AFFIDAVIT OF THE INDIVIDUAL LICENSEE OR, IN THE CASE OF AN INSURANCE AGENCY, THE PERSON GIVEN RESPONSIBILITY FOR CUSTODY OF THE LICENSE, AS TO THE FACTS CONCERNING SUCH LOSS, THEFT, OR DESTRUCTION.

10-2-803. Notice of suspension, termination, or revocation. (1) THE COMMISSIONER SHALL PROMPTLY NOTIFY ANY INSURANCE PRODUCER LICENSEE REGARDING ANY SUSPENSION, REVOCATION, OR TERMINATION OF THE LICENSEE'S LICENSE BY THE COMMISSIONER.

(2) UPON SUSPENSION, REVOCATION, OR TERMINATION OF THE LICENSE OF A RESIDENT LICENSEE, THE COMMISSIONER SHALL NOTIFY THE CENTRAL OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND THE INSURANCE COMMISSIONER OF EACH STATE WHO HAS EXECUTED A CERTIFICATION AS PROVIDED FOR IN SECTION 10-2-501 (1) (a).

10-2-804. Investigation by commissioner. (1) THE COMMISSIONER MAY EXAMINE AND INVESTIGATE THE BUSINESS AFFAIRS AND CONDUCT OF EVERY PERSON APPLYING FOR OR HOLDING AN INSURANCE PRODUCER LICENSE UNDER THIS ARTICLE TO DETERMINE WHETHER SUCH PERSON HAS BEEN OR IS ENGAGED IN ANY VIOLATION OF THE INSURANCE LAWS OR RULES OF THIS STATE OR HAS ENGAGED IN UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN ANY STATE.

(2) ON RECEIPT OF ANY INFORMATION REGARDING THE POSSIBLE VIOLATION OF THE INSURANCE LAWS OR RULES OF THIS OR ANY OTHER STATE, OR THE POSSIBLE USE OF UNFAIR OR DECEPTIVE PRACTICES BY A PERSON APPLYING FOR OR HOLDING AN INSURANCE PRODUCER LICENSE UNDER THIS ARTICLE, THE COMMISSIONER MAY REQUIRE SUCH PERSON TO APPEAR AND SHOW CAUSE WHY THE COMMISSIONER SHOULD NOT REVOKE, SUSPEND, OR REFUSE TO ISSUE OR RENEW THE PERSON'S LICENSE AND MAY, UPON THE FAILURE OF SUCH PERSON TO SHOW CAUSE, REVOKE, SUSPEND, OR REFUSE TO ISSUE OR RENEW THE LICENSE.

(3) THE LICENSE OF AN INSURANCE AGENCY MAY BE SUSPENDED OR REVOKED OR THE RENEWAL THEREOF REFUSED IF THE COMMISSIONER FINDS, AFTER HEARING, THAT AN INDIVIDUAL LICENSEE'S VIOLATION WAS KNOWN OR SHOULD HAVE BEEN KNOWN TO ONE OR MORE OF THE PARTNERS, OFFICERS, OR MANAGERS ACTING ON BEHALF OF THE INSURANCE AGENCY AND THAT SUCH VIOLATION WAS NOT REPORTED TO THE DIVISION OF INSURANCE NOR CORRECTIVE ACTION TAKEN IN RELATION THERETO.

(4) IN ADDITION TO OR IN LIEU OF ANY APPLICABLE DENIAL, SUSPENSION, OR REVOCATION OF AN INSURANCE PRODUCER LICENSE, ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE MAY, AFTER HEARING, BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH SUCH VIOLATION.

PART 9
REINSURANCE INTERMEDIARY MODEL ACT

10-2-901. Short title. THIS PART 9 SHALL BE KNOWN AND MAY BE CITED AS THE "REINSURANCE INTERMEDIARY ACT".

10-2-902. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONTROLLING PERSON" MEANS ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION THAT DIRECTLY OR INDIRECTLY HAS THE POWER TO DIRECT OR CAUSE TO BE DIRECTED, THE MANAGEMENT, CONTROL, OR ACTIVITIES OF THE REINSURANCE INTERMEDIARY.

(2) "INSURER" MEANS ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION DULY LICENSED IN THIS STATE PURSUANT TO APPLICABLE PROVISIONS OF THE INSURANCE LAWS AS AN INSURER.

(3) "LICENSED PRODUCER" MEANS AN INSURANCE PRODUCER OR REINSURANCE INTERMEDIARY LICENSED IN THIS STATE PURSUANT TO APPLICABLE PROVISIONS OF THE INSURANCE LAWS.

(4) "REINSURANCE INTERMEDIARY" MEANS A REINSURANCE INTERMEDIARY -- PRODUCER AS DEFINED IN SUBSECTION (5) OF THIS SECTION OR A REINSURANCE INTERMEDIARY -- MANAGER AS DEFINED IN SUBSECTION (6) OF THIS SECTION.

(5) "REINSURANCE INTERMEDIARY -- PRODUCER", REFERRED TO IN THIS PART 9 AS "RP", MEANS ANY PERSON, OTHER THAN AN OFFICER OR EMPLOYEE OF THE CEDING INSURER, FIRM, ASSOCIATION, OR CORPORATION, THAT SOLICITS, NEGOTIATES, OR PLACES REINSURANCE CESSIONS OR RETROCESSIONS ON BEHALF OF A CEDING INSURER WITHOUT THE AUTHORITY OR POWER TO BIND REINSURANCE ON BEHALF OF SUCH INSURER.

(6) "REINSURANCE INTERMEDIARY -- MANAGER", REFERRED TO IN THIS PART 9 AS "RM", MEANS ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION THAT HAS AUTHORITY TO BIND OR MANAGES ALL OR PART OF THE ASSUMED REINSURANCE BUSINESS OF A REINSURER (INCLUDING THE MANAGEMENT OF A SEPARATE DIVISION, DEPARTMENT, OR UNDERWRITING OFFICE) AND ACTS AS AN AGENT FOR SUCH REINSURER WHETHER KNOWN AS AN RM, MANAGER, OR OTHER SIMILAR TERM. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (6), THE FOLLOWING PERSONS SHALL NOT BE CONSIDERED AN RM, WITH RESPECT TO SUCH REINSURER, FOR THE PURPOSES OF THIS PART 9:

(a) AN EMPLOYEE OF THE REINSURER;

(b) A UNITED STATES MANAGER OF THE UNITED STATES BRANCH OF AN ALIEN REINSURER;

(c) AN UNDERWRITING MANAGER WHO, PURSUANT TO CONTRACT, MANAGES ALL THE REINSURANCE OPERATIONS OF THE REINSURER AND WHO IS UNDER COMMON CONTROL WITH THE REINSURER SUBJECT TO THE PROVISIONS OF PART 8 OF ARTICLE 3 OF THIS TITLE AND WHOSE COMPENSATION IS NOT BASED ON THE VOLUME OF PREMIUMS WRITTEN.

(d) THE MANAGER OF A GROUP, ASSOCIATION, POOL, OR ORGANIZATION OF INSURERS WHICH ENGAGE IN JOINT UNDERWRITING OR JOINT REINSURANCE AND ARE SUBJECT TO EXAMINATION BY THE COMMISSIONER OR THE EQUIVALENT INSURANCE REGULATORY AUTHORITY OF THE STATE IN WHICH THE MANAGER'S PRINCIPAL BUSINESS OFFICE IS LOCATED.

(7) "REINSURER" MEANS ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION DULY LICENSED IN THIS STATE PURSUANT TO THE APPLICABLE PROVISIONS OF THE INSURANCE LAWS AS AN INSURER WITH THE AUTHORITY TO ASSUME REINSURANCE.

(8) "TO BE IN VIOLATION" MEANS THAT THE REINSURANCE INTERMEDIARY, INSURER, OR REINSURER FOR WHOM THE REINSURANCE INTERMEDIARY WAS ACTING FAILED TO SUBSTANTIALLY COMPLY WITH THE PROVISIONS OF THIS PART 9.

10-2-903. Licensure. (1) NO PERSON, FIRM, ASSOCIATION, OR CORPORATION SHALL ACT AS AN RP IN THIS STATE IF THE RP MAINTAINS AN OFFICE EITHER DIRECTLY OR AS A MEMBER OR EMPLOYEE OF A FIRM OR ASSOCIATION, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF A CORPORATION:

(a) IN THIS STATE, UNLESS SUCH RP IS A LICENSED PRODUCER IN THIS STATE; OR

(b) IN ANOTHER STATE, UNLESS SUCH RP IS A LICENSED PRODUCER IN THIS STATE OR ANOTHER STATE HAVING A LAW SUBSTANTIALLY SIMILAR TO THIS PART 9, OR SUCH RP IS LICENSED IN THIS STATE AS A NONRESIDENT REINSURANCE INTERMEDIARY.

(2) NO PERSON, FIRM, ASSOCIATION, OR CORPORATION SHALL ACT AS AN RM:

(a) FOR A REINSURER DOMICILED IN THIS STATE, UNLESS SUCH RM IS A LICENSED PRODUCER IN THIS STATE;

(b) IN THIS STATE, IF THE RM MAINTAINS AN OFFICE EITHER DIRECTLY OR AS A MEMBER OR EMPLOYEE OF A FIRM OR ASSOCIATION, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF A CORPORATION IN THIS STATE, UNLESS SUCH RM IS A LICENSED PRODUCER IN THIS STATE;

(c) IN ANOTHER STATE FOR A NONDOMESTIC INSURER, UNLESS SUCH RM IS A LICENSED PRODUCER IN THIS STATE OR ANOTHER STATE HAVING A LAW SUBSTANTIALLY SIMILAR TO THIS PART 9 OR SUCH PERSON IS LICENSED IN THIS STATE AS A NONRESIDENT REINSURANCE INTERMEDIARY.

(3) THE COMMISSIONER MAY REQUIRE AN RM SUBJECT TO SUBSECTION (2) OF THIS SECTION TO:

(a) FILE A BOND IN AN AMOUNT FROM AN INSURER ACCEPTABLE TO THE COMMISSIONER FOR THE PROTECTION OF THE REINSURER; AND

(b) MAINTAIN AN ERRORS AND OMISSIONS POLICY IN AN AMOUNT ACCEPTABLE TO THE COMMISSIONER.

(4) (a) THE COMMISSIONER MAY ISSUE A REINSURANCE INTERMEDIARY LICENSE TO ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION THAT HAS COMPLIED WITH THE

REQUIREMENTS OF THIS PART 9. ANY SUCH LICENSE ISSUED TO A FIRM OR ASSOCIATION WILL AUTHORIZE ALL THE MEMBERS OF SUCH FIRM OR ASSOCIATION AND ANY DESIGNATED EMPLOYEES TO ACT AS REINSURANCE INTERMEDIARIES UNDER THE LICENSE, AND ALL SUCH PERSONS SHALL BE NAMED IN THE APPLICATION AND ANY SUPPLEMENTS THERETO. ANY SUCH LICENSE ISSUED TO A CORPORATION SHALL AUTHORIZE ALL OF THE OFFICERS, AND ANY DESIGNATED EMPLOYEES AND DIRECTORS THEREOF TO ACT AS REINSURANCE INTERMEDIARIES ON BEHALF OF SUCH CORPORATION, AND ALL SUCH PERSONS SHALL BE NAMED IN THE APPLICATION AND ANY SUPPLEMENTS THERETO.

(b) IF THE APPLICANT FOR A REINSURANCE INTERMEDIARY LICENSE IS A NONRESIDENT, SUCH APPLICANT, AS A CONDITION PRECEDENT TO RECEIVING OR HOLDING A LICENSE, SHALL DESIGNATE THE COMMISSIONER AS AGENT FOR SERVICE OF PROCESS IN THE MANNER, AND WITH THE SAME LEGAL EFFECT, PROVIDED FOR BY THIS PART 9 FOR DESIGNATION OF SERVICE OF PROCESS UPON UNAUTHORIZED INSURERS; AND ALSO SHALL FURNISH THE COMMISSIONER WITH THE NAME AND ADDRESS OF A RESIDENT OF THIS STATE UPON WHOM NOTICES OR ORDERS OF THE COMMISSIONER OR PROCESS AFFECTING SUCH NONRESIDENT REINSURANCE INTERMEDIARY MAY BE SERVED. SUCH LICENSEE SHALL PROMPTLY NOTIFY THE COMMISSIONER IN WRITING OF EVERY CHANGE IN ITS DESIGNATED AGENT FOR SERVICE OF PROCESS, AND SUCH CHANGE SHALL NOT BECOME EFFECTIVE UNTIL ACKNOWLEDGED BY THE COMMISSIONER.

(5) THE COMMISSIONER MAY REFUSE TO ISSUE A REINSURANCE INTERMEDIARY LICENSE IF, IN THE COMMISSIONER'S JUDGMENT, THE APPLICANT, ANY ONE NAMED ON THE APPLICATION, OR ANY MEMBER, PRINCIPAL, OFFICER, OR DIRECTOR OF THE APPLICANT, IS NOT TRUSTWORTHY, OR THAT ANY CONTROLLING PERSON OF SUCH APPLICANT IS NOT TRUSTWORTHY TO ACT AS A REINSURANCE INTERMEDIARY, OR THAT ANY INDIVIDUAL SPECIFIED IN THIS SUBSECTION (5) HAS GIVEN CAUSE FOR REVOCATION OR SUSPENSION OF SUCH LICENSE, OR HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE ISSUANCE OF SUCH LICENSE. UPON WRITTEN REQUEST THEREFOR, THE COMMISSIONER SHALL FURNISH A SUMMARY OF THE BASIS FOR REFUSAL TO ISSUE A LICENSE, WHICH DOCUMENT SHALL BE PRIVILEGED AND NOT SUBJECT TO THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(6) LICENSED ATTORNEYS AT LAW OF THIS STATE WHEN ACTING IN THEIR PROFESSIONAL CAPACITY AS SUCH SHALL BE EXEMPT FROM THIS SECTION.

10-2-904. Required contract provisions - reinsurance intermediary -- producers. (1) TRANSACTIONS BETWEEN AN RP AND THE INSURER SUCH RP REPRESENTS SHALL ONLY BE ENTERED INTO PURSUANT TO A WRITTEN AUTHORIZATION, SPECIFYING THE RESPONSIBILITIES OF EACH PARTY. THE AUTHORIZATION SHALL, AT A MINIMUM, CONTAIN PROVISIONS THAT:

(a) THE INSURER MAY TERMINATE THE RP'S AUTHORITY AT ANY TIME;

(b) THE RP SHALL RENDER ACCOUNTS TO THE INSURER ACCURATELY DETAILING ALL MATERIAL TRANSACTIONS, INCLUDING INFORMATION NECESSARY TO SUPPORT ALL COMMISSIONS, CHARGES, AND OTHER FEES RECEIVED BY, OR OWING TO, THE RP, AND REMIT ALL FUNDS DUE TO THE INSURER WITHIN THIRTY DAYS OF RECEIPT;

(c) ALL FUNDS COLLECTED FOR THE INSURER'S ACCOUNT SHALL BE HELD BY THE RP IN A FIDUCIARY CAPACITY IN A BANK WHICH IS A QUALIFIED UNITED STATES FINANCIAL INSTITUTION;

(d) THE RP SHALL COMPLY WITH SECTION 10-2-905;

(e) THE RP SHALL COMPLY WITH THE WRITTEN STANDARDS ESTABLISHED BY THE INSURER FOR THE CESSION OR RETROCESSION OF ALL RISKS;

(f) THE RP SHALL DISCLOSE TO THE INSURER ANY RELATIONSHIP WITH ANY REINSURER TO WHICH BUSINESS WILL BE CEDED OR RETROCEDED.

10-2-905. Books and records - reinsurance intermediary -- producers.

(1) FOR AT LEAST TEN YEARS AFTER EXPIRATION OF EACH CONTRACT OF REINSURANCE TRANSACTED BY THE RP, THE RP SHALL KEEP A COMPLETE RECORD FOR EACH TRANSACTION SHOWING:

(a) THE TYPE OF CONTRACT, LIMITS, UNDERWRITING RESTRICTIONS, CLASSES, OR RISKS AND TERRITORY;

(b) THE PERIOD OF COVERAGE, INCLUDING EFFECTIVE AND EXPIRATION DATES, CANCELLATION PROVISIONS, AND NOTICE REQUIRED OF CANCELLATION;

(c) THE REPORTING AND SETTLEMENT REQUIREMENTS OF BALANCES;

(d) THE RATE USED TO COMPUTE THE REINSURANCE PREMIUM;

(e) THE NAMES AND ADDRESSES OF ASSUMING REINSURERS;

(f) THE RATES OF ALL REINSURANCE COMMISSIONS, INCLUDING THE COMMISSIONS ON ANY RETROCESSIONS HANDLED BY THE RP;

(g) RELATED CORRESPONDENCE AND MEMORANDA;

(h) PROOF OF PLACEMENT;

(i) DETAILS REGARDING RETROCESSIONS HANDLED BY THE RP INCLUDING THE IDENTITY OF RETROCESSIONAIRES AND THE PERCENTAGE OF EACH CONTRACT ASSUMED OR CEDED;

(j) FINANCIAL RECORDS, INCLUDING BUT NOT LIMITED TO PREMIUM AND LOSS ACCOUNTS; AND

(k) WHEN THE RP PROCURES A REINSURANCE CONTRACT ON BEHALF OF A LICENSED CEDING INSURER:

(I) DIRECTLY FROM ANY ASSUMING REINSURER, WRITTEN EVIDENCE THAT THE ASSUMING REINSURER HAS AGREED TO ASSUME THE RISK; OR

(II) IF PLACED THROUGH A REPRESENTATIVE OF THE ASSUMING REINSURER, OTHER THAN AN EMPLOYEE, WRITTEN EVIDENCE THAT SUCH REINSURER HAS DELEGATED

BINDING AUTHORITY TO THE REPRESENTATIVE.

(2) THE INSURER SHALL HAVE ACCESS AND THE RIGHT TO COPY AND AUDIT ALL ACCOUNTS AND RECORDS MAINTAINED BY THE RP RELATED TO ITS BUSINESS IN A FORM USABLE BY THE INSURER.

10-2-906. Duties of insurers utilizing the services of a reinsurance intermediary -- producer. (1) AN INSURER SHALL NOT ENGAGE THE SERVICES OF ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION TO ACT AS AN RP ON ITS BEHALF UNLESS SUCH PERSON IS LICENSED AS REQUIRED BY SECTION 10-2-903 (1).

(2) AN INSURER MAY NOT EMPLOY AN INDIVIDUAL WHO IS EMPLOYED BY AN RP WITH WHICH IT TRANSACTS BUSINESS, UNLESS SUCH RP IS UNDER COMMON CONTROL WITH THE INSURER AND SUBJECT TO THE PROVISIONS OF PART 8 OF ARTICLE 3 OF THIS TITLE.

(3) THE INSURER SHALL ANNUALLY OBTAIN A COPY OF STATEMENTS OF THE FINANCIAL CONDITION OF EACH RP WITH WHICH IT TRANSACTS BUSINESS.

10-2-907. Required contract provisions - reinsurance intermediary -- managers. (1) TRANSACTIONS BETWEEN AN RM AND THE REINSURER SUCH RM REPRESENTS SHALL ONLY BE ENTERED INTO PURSUANT TO A WRITTEN CONTRACT, SPECIFYING THE RESPONSIBILITIES OF EACH PARTY, WHICH SHALL BE APPROVED BY THE REINSURER'S BOARD OF DIRECTORS. AT LEAST THIRTY DAYS BEFORE SUCH REINSURER ASSUMES OR CEDES BUSINESS THROUGH SUCH PRODUCER, A TRUE COPY OF THE APPROVED CONTRACT SHALL BE FILED WITH THE COMMISSIONER FOR APPROVAL. THE CONTRACT SHALL, AT A MINIMUM, CONTAIN PROVISIONS THAT INCORPORATE ALL OF THE FOLLOWING:

(a) THE REINSURER MAY TERMINATE THE CONTRACT FOR CAUSE UPON WRITTEN NOTICE TO THE RM. THE REINSURER MAY SUSPEND THE AUTHORITY OF THE RM TO ASSUME OR CEDE BUSINESS DURING THE PENDENCY OF ANY DISPUTE REGARDING THE CAUSE FOR TERMINATION.

(b) THE RM SHALL RENDER ACCOUNTS TO THE REINSURER ACCURATELY DETAILING ALL MATERIAL TRANSACTIONS, INCLUDING INFORMATION NECESSARY TO SUPPORT ALL COMMISSIONS, CHARGES, AND OTHER FEES RECEIVED BY, OR OWING TO, THE RM, AND REMIT ALL FUNDS DUE UNDER THE CONTRACT TO THE REINSURER ON NOT LESS THAN A MONTHLY BASIS.

(c) ALL FUNDS COLLECTED FOR THE REINSURER'S ACCOUNT SHALL BE HELD BY THE RM IN A FIDUCIARY CAPACITY IN A BANK WHICH IS A QUALIFIED UNITED STATES FINANCIAL INSTITUTION AS DEFINED IN SECTION 10-1-102 (9.5). THE RM MAY RETAIN NO MORE THAN THREE MONTHS' ESTIMATED CLAIMS PAYMENTS AND ALLOCATED LOSS ADJUSTMENT EXPENSES. THE RM SHALL MAINTAIN A SEPARATE BANK ACCOUNT FOR EACH REINSURER THAT SUCH RM REPRESENTS.

(d) FOR AT LEAST TEN YEARS AFTER EXPIRATION OF EACH CONTRACT OF REINSURANCE TRANSACTED BY THE RM, THE RM SHALL KEEP A COMPLETE RECORD FOR EACH TRANSACTION SHOWING:

(I) THE TYPE OF CONTRACT, LIMITS, UNDERWRITING RESTRICTIONS, CLASSES, OR RISKS AND TERRITORY;

(II) THE PERIOD OF COVERAGE, INCLUDING EFFECTIVE AND EXPIRATION DATES, CANCELLATION PROVISIONS, NOTICE REQUIRED FOR CANCELLATION, AND DISPOSITION OF OUTSTANDING RESERVES ON COVERED RISKS;

(III) THE REPORTING AND SETTLEMENT REQUIREMENTS OF BALANCES;

(IV) THE RATE USED TO COMPUTE THE REINSURANCE PREMIUM;

(V) THE NAMES AND ADDRESSES OF REINSURERS;

(VI) THE RATES OF ALL REINSURANCE COMMISSIONS, INCLUDING THE COMMISSIONS ON ANY RETROCESSIONS HANDLED BY THE RM;

(VII) RELATED CORRESPONDENCE AND MEMORANDA;

(VIII) PROOF OF PLACEMENT;

(IX) DETAILS REGARDING RETROCESSIONS HANDLED BY THE RM, AS PERMITTED BY SECTION 10-2-909 (4), INCLUDING THE IDENTITY OF RETROCESSIONAIRES AND PERCENTAGE OF EACH CONTRACT ASSUMED OR CEDED;

(X) FINANCIAL RECORDS, INCLUDING BUT NOT LIMITED TO PREMIUM AND LOSS ACCOUNTS; AND

(XI) WHEN THE RM PLACES A REINSURANCE CONTRACT ON BEHALF OF A CEDING INSURER:

(A) DIRECTLY FROM ANY ASSUMING REINSURER, WRITTEN EVIDENCE THAT THE ASSUMING REINSURER HAS AGREED TO ASSUME THE RISK; OR

(B) IF PLACED THROUGH A REPRESENTATIVE OF THE ASSUMING REINSURER, OTHER THAN AN EMPLOYEE, WRITTEN EVIDENCE THAT SUCH REINSURER HAS DELEGATED BINDING AUTHORITY TO THE REPRESENTATIVE.

(e) THE REINSURER SHALL HAVE ACCESS AND THE RIGHT TO COPY ALL ACCOUNTS AND RECORDS MAINTAINED BY THE RM RELATED TO SUCH RM'S BUSINESS IN A FORM USABLE BY THE REINSURER.

(f) THE CONTRACT CANNOT BE ASSIGNED IN WHOLE OR IN PART BY THE RM.

(g) THE RM SHALL COMPLY WITH THE WRITTEN UNDERWRITING AND RATING STANDARDS ESTABLISHED BY THE INSURER FOR THE ACCEPTANCE, REJECTION, OR CESSION OF ALL RISKS.

(h) THE CONTRACT SETS FORTH THE RATES, TERMS, AND PURPOSES OF COMMISSIONS, CHARGES, AND OTHER FEES WHICH THE RM MAY LEVY AGAINST THE REINSURER.

(i) (I) IF THE CONTRACT PERMITS THE RM TO SETTLE CLAIMS ON BEHALF OF THE REINSURER, ALL CLAIMS SHALL BE REPORTED TO THE REINSURER IN A TIMELY MANNER.

(II) A COPY OF THE CLAIM FILE SHALL BE SENT TO THE REINSURER AT ITS REQUEST OR AS SOON AS IT BECOMES KNOWN THAT THE CLAIM:

(A) HAS THE POTENTIAL TO EXCEED THE LESSER OF AN AMOUNT DETERMINED BY THE COMMISSIONER OR THE LIMIT SET BY THE REINSURER;

(B) INVOLVES A COVERAGE DISPUTE;

(C) MAY EXCEED THE RM CLAIMS SETTLEMENT AUTHORITY;

(D) IS OPEN FOR MORE THAN SIX MONTHS; OR

(E) IS CLOSED BY PAYMENT OF THE LESSER OF AN AMOUNT SET BY THE COMMISSIONER OR AN AMOUNT SET BY THE REINSURER;

(III) ALL CLAIM FILES SHALL BE THE JOINT PROPERTY OF THE REINSURER AND RM. HOWEVER, UPON AN ORDER OF LIQUIDATION OF THE REINSURER, SUCH FILES SHALL BECOME THE SOLE PROPERTY OF THE REINSURER OR ITS ESTATE; THE RM SHALL HAVE REASONABLE ACCESS TO AND THE RIGHT TO COPY THE FILES ON A TIMELY BASIS;

(IV) ANY SETTLEMENT AUTHORITY GRANTED TO THE RM MAY BE TERMINATED FOR CAUSE UPON THE REINSURER'S WRITTEN NOTICE TO THE RM OR UPON THE TERMINATION OF THE CONTRACT. THE REINSURER MAY SUSPEND THE SETTLEMENT AUTHORITY DURING THE PENDENCY OF THE DISPUTE REGARDING THE CAUSE OF TERMINATION.

(j) IF THE CONTRACT PROVIDES FOR A SHARING OF INTERIM PROFITS BY THE RM, THAT SUCH INTERIM PROFITS WILL NOT BE PAID UNTIL ONE YEAR AFTER THE END OF EACH UNDERWRITING PERIOD FOR PROPERTY BUSINESS AND FIVE YEARS AFTER THE END OF EACH UNDERWRITING PERIOD FOR CASUALTY BUSINESS OR A LATER PERIOD SET BY THE COMMISSIONER FOR SPECIFIED LINES OF INSURANCE AND NOT UNTIL THE ADEQUACY OF RESERVES ON REMAINING CLAIMS HAS BEEN VERIFIED PURSUANT TO SECTION 10-2-909 (3).

(k) THE RM SHALL ANNUALLY PROVIDE THE REINSURER WITH A STATEMENT OF ITS FINANCIAL CONDITION PREPARED BY AN INDEPENDENT CERTIFIED ACCOUNTANT.

(l) THE REINSURER SHALL PERIODICALLY AND AT LEAST SEMIANNUALLY CONDUCT AN ON-SITE REVIEW OF THE UNDERWRITING AND CLAIMS PROCESSING OPERATIONS OF THE RM.

(m) THE RM SHALL DISCLOSE TO THE REINSURER ANY RELATIONSHIP SUCH RM HAS WITH ANY INSURER PRIOR TO CEDING OR ASSUMING ANY BUSINESS WITH SUCH INSURER PURSUANT TO THE CONTRACT.

(n) THE ACTS OF THE RM SHALL BE DEEMED TO BE THE ACTS OF THE REINSURER ON WHOSE BEHALF IT IS ACTING.

10-2-908. Prohibited acts. (1) THE RM SHALL NOT:

(a) BIND RETROCESSIONS ON BEHALF OF THE REINSURER; EXCEPT THAT THE RM MAY BIND FACULTATIVE RETROCESSIONS PURSUANT TO OBLIGATORY FACULTATIVE AGREEMENTS IF THE CONTRACT WITH THE REINSURER CONTAINS REINSURANCE UNDERWRITING GUIDELINES FOR SUCH RETROCESSIONS. SUCH GUIDELINES SHALL INCLUDE A LIST OF REINSURERS WITH WHICH SUCH AUTOMATIC AGREEMENTS ARE IN EFFECT, AND FOR EACH SUCH REINSURER, THE COVERAGES AND AMOUNTS OR PERCENTAGES THAT MAY BE REINSURED, AND COMMISSION SCHEDULES.

(b) COMMIT THE REINSURER TO PARTICIPATE IN REINSURANCE SYNDICATES;

(c) APPOINT ANY PRODUCER WITHOUT ASSURING THAT THE PRODUCER IS LAWFULLY LICENSED TO TRANSACT THE TYPE OF REINSURANCE FOR WHICH HE IS APPOINTED;

(d) WITHOUT PRIOR APPROVAL OF THE REINSURER, PAY OR COMMIT THE REINSURER TO PAY A CLAIM, NET OF RETROCESSIONS, THAT EXCEEDS THE LESSER OF AN AMOUNT SPECIFIED BY THE REINSURER OR ONE PERCENT OF THE REINSURER'S POLICYHOLDER'S SURPLUS AS OF DECEMBER 31 OF THE LAST COMPLETE CALENDAR YEAR;

(e) COLLECT ANY PAYMENT FROM A RETROCESSIONAIRE OR COMMIT THE REINSURER TO ANY CLAIM SETTLEMENT WITH A RETROCESSIONAIRE, WITHOUT PRIOR APPROVAL OF THE REINSURER. IF PRIOR APPROVAL IS GIVEN, A REPORT SHALL BE PROMPTLY FORWARDED TO THE REINSURER.

(f) JOINTLY EMPLOY AN INDIVIDUAL WHO IS EMPLOYED BY THE REINSURER;

(g) APPOINT A SUB-RM.

10-2-909. Duties of reinsurers utilizing the services of a reinsurance intermediary - manager. (1) A REINSURER SHALL NOT ENGAGE THE SERVICES OF ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION TO ACT AS AN RM ON ITS BEHALF UNLESS SUCH PERSON IS LICENSED AS REQUIRED BY SECTION 10-2-903 (2).

(2) THE REINSURER SHALL ANNUALLY OBTAIN A COPY OF STATEMENTS OF THE FINANCIAL CONDITION OF EACH RM WHICH SUCH REINSURER HAS ENGAGED PREPARED BY AN INDEPENDENT CERTIFIED ACCOUNTANT IN A FORM ACCEPTABLE TO THE COMMISSIONER.

(3) IF AN RM ESTABLISHES LOSS RESERVES, THE REINSURER SHALL ANNUALLY OBTAIN THE OPINION OF AN ACTUARY ATTESTING TO THE ADEQUACY OF LOSS RESERVES ESTABLISHED FOR LOSSES INCURRED AND OUTSTANDING ON BUSINESS PRODUCED BY THE RM. THIS OPINION SHALL BE IN ADDITION TO ANY OTHER REQUIRED LOSS RESERVE CERTIFICATION.

(4) BINDING AUTHORITY FOR ALL RETROCESSIONAL CONTRACTS OR PARTICIPATION IN REINSURANCE SYNDICATES SHALL REST WITH AN OFFICER OF THE REINSURER WHO SHALL NOT BE AFFILIATED WITH THE RM.

(5) WITHIN THIRTY DAYS OF TERMINATION OF A CONTRACT WITH AN RM, THE

REINSURER SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH TERMINATION TO THE COMMISSIONER.

(6) A REINSURER SHALL NOT APPOINT TO ITS BOARD OF DIRECTORS, ANY OFFICER, DIRECTOR, EMPLOYEE, CONTROLLING SHAREHOLDER, OR SUBPRODUCER OF ITS RM. THIS SUBSECTION (6) SHALL NOT APPLY TO RELATIONSHIPS GOVERNED BY PART 8 OF ARTICLE 3 OF THIS TITLE.

10-2-910. Examination authority. (1) A REINSURANCE INTERMEDIARY SHALL BE SUBJECT TO EXAMINATION BY THE COMMISSIONER. THE COMMISSIONER SHALL HAVE ACCESS TO ALL BOOKS, BANK ACCOUNTS, AND RECORDS OF THE REINSURANCE INTERMEDIARY IN A FORM USABLE TO THE COMMISSIONER.

(2) AN RM MAY BE EXAMINED AS IF IT WERE THE REINSURER.

10-2-911. Penalties and liabilities. (1) A REINSURANCE INTERMEDIARY, INSURER, OR REINSURER FOUND BY THE COMMISSIONER, AFTER A HEARING CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., TO BE IN VIOLATION OF ANY PROVISION OF THIS PART 9, SHALL:

(a) FOR EACH SEPARATE VIOLATION, PAY A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS;

(b) BE SUBJECT TO REVOCATION OR SUSPENSION OF ITS LICENSE; AND

(c) IF A VIOLATION WAS COMMITTED BY THE REINSURANCE INTERMEDIARY, SUCH REINSURANCE INTERMEDIARY SHALL MAKE RESTITUTION TO THE INSURER, REINSURER, REHABILITATOR, OR LIQUIDATOR OF THE INSURER OR REINSURER FOR THE NET LOSSES INCURRED BY THE INSURER OR REINSURER ATTRIBUTABLE TO SUCH VIOLATION.

(2) THE DECISION, DETERMINATION, OR ORDER OF THE COMMISSIONER PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

(3) NOTHING CONTAINED IN THIS SECTION SHALL AFFECT THE RIGHT OF THE COMMISSIONER TO IMPOSE ANY OTHER PENALTIES PROVIDED IN THIS TITLE.

(4) NOTHING CONTAINED IN THIS PART 9 IS INTENDED TO OR SHALL IN ANY MANNER LIMIT OR RESTRICT THE RIGHTS OF POLICYHOLDERS, CLAIMANTS, CREDITORS, OR OTHER THIRD PARTIES OR CONFER ANY RIGHTS TO SUCH PERSONS.

10-2-912. Rules and regulations. THE COMMISSIONER MAY ADOPT REASONABLE RULES AND REGULATIONS FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE PROVISIONS OF THIS PART 9.

PART 10 MANAGING GENERAL AGENTS ACT

10-2-1001. Short title. THIS PART 10 SHALL BE KNOWN AND MAY BE CITED AS THE "MANAGING GENERAL AGENTS ACT".

10-2-1002. Definitions. AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "INSURER" MEANS ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION DULY LICENSED IN THIS STATE AS AN INSURANCE COMPANY PURSUANT TO THE APPLICABLE PROVISIONS OF THE INSURANCE LAWS.

(2) (a) "MANAGING GENERAL AGENT", REFERRED TO IN THIS PART 10 AS "MGA", MEANS ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION WHO NEGOTIATES AND BINDS CEDING REINSURANCE CONTRACTS ON BEHALF OF AN INSURER OR MANAGES ALL OR PART OF THE INSURANCE BUSINESS OF AN INSURER, INCLUDING THE MANAGEMENT OF A SEPARATE DIVISION, DEPARTMENT, OR UNDERWRITING OFFICE, AND ACTS AS AN AGENT FOR SUCH INSURER WHETHER KNOWN AS A MANAGING GENERAL AGENT, MANAGER, OR OTHER SIMILAR TERM, WHO, WITH OR WITHOUT THE AUTHORITY, EITHER SEPARATELY OR TOGETHER WITH AFFILIATES, PRODUCES, DIRECTLY OR INDIRECTLY, AND UNDERWRITES AN AMOUNT OF GROSS DIRECT WRITTEN PREMIUM EQUAL TO OR MORE THAN FIVE PERCENT OF THE POLICYHOLDER SURPLUS AS REPORTED IN THE LAST ANNUAL STATEMENT OF THE INSURER IN ANY ONE QUARTER OR YEAR TOGETHER WITH ONE OR BOTH OF THE FOLLOWING:

(I) ADJUSTS OR PAYS CLAIMS IN EXCESS OF AN AMOUNT DETERMINED BY THE COMMISSIONER; OR

(II) NEGOTIATES REINSURANCE ON BEHALF OF THE INSURER.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE FOLLOWING PERSONS SHALL NOT BE CONSIDERED AN MGA FOR THE PURPOSES OF THIS PART 10:

(I) AN EMPLOYEE OF THE INSURER;

(II) A UNITED STATES MANAGER OF THE UNITED STATES BRANCH OF AN ALIEN INSURER;

(III) AN UNDERWRITING MANAGER WHO, PURSUANT TO CONTRACT, MANAGES ALL THE INSURANCE OPERATIONS OF THE INSURER AND WHO IS UNDER COMMON CONTROL WITH THE INSURER SUBJECT TO THE PROVISIONS OF PART 8 OF ARTICLE 3 OF THIS TITLE AND WHOSE COMPENSATION IS NOT BASED ON THE VOLUME OF PREMIUMS WRITTEN;

(IV) THE ATTORNEY-IN-FACT AUTHORIZED BY AND ACTING FOR THE SUBSCRIBERS OF A RECIPROCAL INSURER OR INTERINSURANCE EXCHANGE UNDER POWERS OF ATTORNEY.

(3) "UNDERWRITE" MEANS THE AUTHORITY TO ACCEPT OR REJECT RISK ON BEHALF OF THE INSURER.

10-2-1003. Licensure. (1) NO PERSON, FIRM, ASSOCIATION, OR CORPORATION SHALL ACT IN THE CAPACITY OF AN MGA WITH RESPECT TO RISKS LOCATED IN THIS STATE FOR AN INSURER LICENSED IN THIS STATE UNLESS SUCH PERSON IS A LICENSED PRODUCER IN THIS STATE.

(2) NO PERSON, FIRM, ASSOCIATION, OR CORPORATION SHALL ACT IN THE CAPACITY OF AN MGA REPRESENTING AN INSURER DOMICILED IN THIS STATE WITH RESPECT TO RISKS LOCATED OUTSIDE THIS STATE UNLESS SUCH PERSON IS LICENSED AS A PRODUCER IN THIS STATE (SUCH LICENSE MAY BE A NONRESIDENT LICENSE) PURSUANT TO THE PROVISIONS OF THIS PART 10.

(3) THE COMMISSIONER MAY REQUIRE A BOND IN AN AMOUNT ACCEPTABLE TO THE COMMISSIONER FOR THE PROTECTION OF THE INSURER.

(4) THE COMMISSIONER MAY REQUIRE THE MGA TO MAINTAIN AN ERRORS AND OMISSIONS POLICY.

10-2-1004. Required contract provisions. (1) NO PERSON, FIRM, ASSOCIATION, OR CORPORATION ACTING IN THE CAPACITY OF AN MGA SHALL PLACE BUSINESS WITH AN INSURER UNLESS THERE IS IN FORCE A WRITTEN CONTRACT BETWEEN THE PARTIES WHICH SETS FORTH THE RESPONSIBILITIES OF EACH PARTY AND WHERE BOTH PARTIES SHARE RESPONSIBILITY FOR A PARTICULAR FUNCTION, WHICH SPECIFIES THE DIVISION OF SUCH RESPONSIBILITIES, AND WHICH CONTAINS THE FOLLOWING MINIMUM PROVISIONS:

(a) THE INSURER MAY TERMINATE THE CONTRACT FOR CAUSE UPON WRITTEN NOTICE TO THE MGA. THE INSURER MAY SUSPEND THE UNDERWRITING AUTHORITY OF THE MGA DURING THE PENDENCY OF ANY DISPUTE REGARDING THE CAUSE FOR TERMINATION.

(b) THE MGA SHALL RENDER ACCOUNTS TO THE INSURER DETAILING ALL TRANSACTIONS AND REMIT ALL FUNDS DUE UNDER THE CONTRACT TO THE INSURER ON NOT LESS THAN A MONTHLY BASIS.

(c) ALL FUNDS COLLECTED FOR THE INSURER'S ACCOUNT SHALL BE HELD BY THE MGA IN A FIDUCIARY CAPACITY IN A BANK WHICH IS A MEMBER OF THE FEDERAL RESERVE SYSTEM. THIS ACCOUNT SHALL BE USED FOR ALL PAYMENTS ON BEHALF OF THE INSURER. THE MGA MAY RETAIN NO MORE THAN THREE MONTHS' ESTIMATED CLAIMS PAYMENTS AND ALLOCATED LOSS ADJUSTMENT EXPENSES.

(d) SEPARATE RECORDS OF BUSINESS WRITTEN BY THE MGA SHALL BE MAINTAINED. THE INSURER SHALL HAVE ACCESS AND RIGHT TO COPY ALL ACCOUNTS AND RECORDS RELATED TO ITS BUSINESS IN A FORM USABLE BY THE INSURER, AND THE COMMISSIONER SHALL HAVE ACCESS TO ALL BOOKS, BANK ACCOUNTS, AND RECORDS OF THE MGA IN A FORM USABLE TO THE COMMISSIONER. SUCH RECORDS SHALL BE RETAINED FOR A PERIOD OF FIVE YEARS COMMENCING NO LATER THAN THE EFFECTIVE DATE OF THE LAST FINANCIAL EXAMINATION OF THE INSURER.

(e) THE CONTRACT MAY NOT BE ASSIGNED IN WHOLE OR PART BY THE MGA.

(f) (I) APPROPRIATE UNDERWRITING GUIDELINES WHICH SHALL INCLUDE:

(A) THE MAXIMUM ANNUAL PREMIUM VOLUME;

(B) THE BASIS OF THE RATES TO BE CHARGED;

- (C) THE TYPES OF RISKS WHICH MAY BE WRITTEN;
- (D) MAXIMUM LIMITS OF LIABILITY;
- (E) APPLICABLE EXCLUSIONS;
- (F) TERRITORIAL LIMITATIONS;
- (G) POLICY CANCELLATION PROVISIONS; AND
- (H) THE MAXIMUM POLICY PERIOD.

(II) THE INSURER SHALL HAVE THE RIGHT TO CANCEL OR NONRENEW ANY POLICY OF INSURANCE SUBJECT TO THE APPLICABLE LAWS AND REGULATIONS [CONCERNING THE CANCELLATION AND NONRENEWAL OF INSURANCE POLICIES].

(g) (I) IF THE CONTRACT PERMITS THE MGA TO SETTLE CLAIMS ON BEHALF OF THE INSURER, ALL CLAIMS SHALL BE REPORTED TO THE COMPANY IN A TIMELY MANNER.

(II) A COPY OF THE CLAIM FILE SHALL BE SENT TO THE INSURER AT ITS REQUEST OR AS SOON AS IT BECOMES KNOWN THAT THE CLAIM:

(A) HAS THE POTENTIAL TO EXCEED AN AMOUNT DETERMINED BY THE COMMISSIONER OR EXCEEDS THE LIMIT SET BY THE COMPANY, WHICHEVER IS LESS;

(B) INVOLVES A COVERAGE DISPUTE;

(C) MAY EXCEED THE MGA'S CLAIMS SETTLEMENT AUTHORITY;

(D) IS OPEN FOR MORE THAN SIX MONTHS; OR

(E) IS CLOSED BY PAYMENT OF AN AMOUNT SET BY THE COMMISSIONER OR AN AMOUNT SET BY THE COMPANY, WHICHEVER IS LESS;

(III) ALL CLAIM FILES SHALL BE THE JOINT PROPERTY OF THE INSURER AND THE MGA; HOWEVER, UPON AN ORDER OF LIQUIDATION OF THE INSURER, SUCH FILES SHALL BECOME THE SOLE PROPERTY OF THE INSURER OR ITS ESTATE. THE MGA SHALL HAVE REASONABLE ACCESS TO AND THE RIGHT TO COPY THE FILES ON A TIMELY BASIS.

(IV) ANY SETTLEMENT AUTHORITY GRANTED TO THE MGA MAY BE TERMINATED FOR CAUSE UPON THE INSURER'S WRITTEN NOTICE TO THE MGA OR UPON THE TERMINATION OF THE CONTRACT. THE INSURER MAY SUSPEND THE SETTLEMENT AUTHORITY DURING THE PENDENCY OF ANY DISPUTE REGARDING THE CAUSE FOR TERMINATION.

(h) WHERE ELECTRONIC CLAIMS FILES ARE IN EXISTENCE, THE CONTRACT MUST ADDRESS THE TIMELY TRANSMISSION OF THE DATA;

(i) IF THE CONTRACT PROVIDES FOR A SHARING OF INTERIM PROFITS BY THE MGA, AND THE MGA HAS THE AUTHORITY TO DETERMINE THE AMOUNT OF THE INTERIM PROFITS BY ESTABLISHING LOSS RESERVES OR CONTROLLING CLAIM PAYMENTS, OR IN

ANY OTHER MANNER, INTERIM PROFITS SHALL NOT BE PAID TO THE MGA UNTIL ONE YEAR AFTER THEY ARE EARNED FOR PROPERTY INSURANCE BUSINESS AND FIVE YEARS AFTER THEY ARE EARNED ON CASUALTY BUSINESS AND NOT UNTIL THE PROFITS HAVE BEEN VERIFIED PURSUANT TO SECTION 10-2-1005.

(2) THE MGA SHALL NOT:

(a) BIND REINSURANCE OR RETROCESSIONS ON BEHALF OF THE INSURER; EXCEPT THAT THE MGA MAY BIND FACULTATIVE REINSURANCE CONTRACTS PURSUANT TO OBLIGATORY FACULTATIVE AGREEMENTS IF THE CONTRACT WITH THE INSURER CONTAINS REINSURANCE UNDERWRITING GUIDELINES INCLUDING, FOR BOTH REINSURANCE ASSUMED AND CEDED, A LIST OF REINSURERS WITH WHICH SUCH AUTOMATIC AGREEMENTS ARE IN EFFECT, THE COVERAGES AND AMOUNTS OR PERCENTAGES THAT MAY BE REINSURED, AND COMMISSION SCHEDULES;

(b) COMMIT THE INSURER TO PARTICIPATE IN INSURANCE OR REINSURANCE SYNDICATES;

(c) APPOINT ANY PRODUCER WITHOUT ASSURING THAT THE PRODUCER IS LAWFULLY LICENSED TO TRANSACT THE TYPE OF INSURANCE FOR WHICH SUCH PRODUCER IS APPOINTED;

(d) WITHOUT PRIOR APPROVAL OF THE INSURER, PAY OR COMMIT THE INSURER TO PAY A CLAIM OVER A SPECIFIED AMOUNT, NET OF REINSURANCE, WHICH SHALL NOT EXCEED ONE PERCENT OF THE INSURER'S POLICYHOLDER'S SURPLUS AS OF DECEMBER 31 OF THE LAST COMPLETED CALENDAR YEAR;

(e) COLLECT ANY PAYMENT FROM A REINSURER OR COMMIT THE INSURER TO ANY CLAIM SETTLEMENT WITH A REINSURER, WITHOUT PRIOR APPROVAL OF THE INSURER. IF PRIOR APPROVAL IS GIVEN, A REPORT SHALL BE PROMPTLY FORWARDED TO THE INSURER.

(f) PERMIT ITS SUBPRODUCER TO SERVE ON THE INSURER'S BOARD OF DIRECTORS;

(g) JOINTLY EMPLOY AN INDIVIDUAL WHO IS EMPLOYED WITH THE INSURER;

(h) APPOINT A SUB-MGA.

10-2-1005. Duties of insurers. (1) THE INSURER SHALL HAVE ON FILE AN INDEPENDENT FINANCIAL EXAMINATION, IN A FORM ACCEPTABLE TO THE COMMISSIONER, OF EACH MGA WITH WHICH IT HAS DONE BUSINESS.

(2) IF AN MGA ESTABLISHES LOSS RESERVES, THE INSURER SHALL ANNUALLY OBTAIN THE OPINION OF AN ACTUARY ATTESTING TO THE ADEQUACY OF LOSS RESERVES ESTABLISHED FOR LOSSES INCURRED AND OUTSTANDING ON BUSINESS PRODUCED BY THE MGA. THIS IS IN ADDITION TO ANY OTHER REQUIRED LOSS RESERVE CERTIFICATION.

(3) THE INSURER SHALL PERIODICALLY AND AT LEAST SEMIANNUALLY CONDUCT AN ON-SITE REVIEW OF THE UNDERWRITING AND CLAIMS PROCESSING OPERATIONS OF THE MGA.

(4) BINDING AUTHORITY FOR ALL REINSURANCE CONTRACTS OR PARTICIPATION IN INSURANCE OR REINSURANCE SYNDICATES SHALL REST WITH AN OFFICER OF THE INSURER, WHO SHALL NOT BE AFFILIATED WITH THE MGA.

(5) WITHIN THIRTY DAYS OF ENTERING INTO OR TERMINATION OF A CONTRACT WITH AN MGA, THE INSURER SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH APPOINTMENT OR TERMINATION TO THE COMMISSIONER. NOTICES OF APPOINTMENT OF AN MGA SHALL INCLUDE A STATEMENT OF DUTIES WHICH THE APPLICANT IS EXPECTED TO PERFORM ON BEHALF OF THE INSURER, THE LINES OF INSURANCE FOR WHICH THE APPLICANT IS TO BE AUTHORIZED TO ACT, AND ANY OTHER INFORMATION THE COMMISSIONER MAY REQUEST.

(6) AN INSURER SHALL REVIEW ITS BOOKS AND RECORDS EACH QUARTER TO DETERMINE IF ANY PRODUCER HAS BECOME AN MGA AS DEFINED IN SECTION 10-2-1002 (2). IF THE INSURER DETERMINES THAT A PRODUCER HAS BECOME AN MGA PURSUANT TO SECTION 10-2-1002 (2), THE INSURER SHALL PROMPTLY NOTIFY THE PRODUCER AND THE COMMISSIONER OF SUCH DETERMINATION AND THE INSURER AND PRODUCER SHALL FULLY COMPLY WITH THE PROVISIONS OF THIS PART 10 WITHIN THIRTY DAYS.

(7) AN INSURER SHALL NOT APPOINT TO ITS BOARD OF DIRECTORS AN OFFICER, DIRECTOR, EMPLOYEE, SUBPRODUCER, OR CONTROLLING SHAREHOLDER OF ITS MGA'S. THIS SUBSECTION (7) SHALL NOT APPLY TO RELATIONSHIPS GOVERNED BY PART 8 OF ARTICLE 3 OF THIS TITLE.

10-2-1006. Examination authority. THE ACTS OF THE MGA ARE CONSIDERED TO BE THE ACTS OF THE INSURER ON WHOSE BEHALF THE MGA IS ACTING. AN MGA MAY BE EXAMINED AS IF SAID MGA WERE THE INSURER.

10-2-1007. Penalties and liabilities. (1) IF THE COMMISSIONER FINDS, AFTER A HEARING CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THAT ANY PERSON HAS VIOLATED ANY PROVISION OF THIS PART 10, THE COMMISSIONER MAY ORDER:

(a) FOR EACH SEPARATE VIOLATION, A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS;

(b) REVOCATION OR SUSPENSION OF THE PRODUCER'S LICENSE; AND

(c) THE MGA TO REIMBURSE THE INSURER, THE REHABILITATOR, OR LIQUIDATOR OF THE INSURER FOR ANY LOSSES INCURRED BY THE INSURER CAUSED BY A VIOLATION OF THIS PART 10 COMMITTED BY THE MGA.

(2) THE DECISION, DETERMINATION, OR ORDER OF THE COMMISSIONER PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

(3) NOTHING CONTAINED IN THIS SECTION SHALL AFFECT THE RIGHT OF THE COMMISSIONER TO IMPOSE ANY OTHER PENALTIES PROVIDED FOR IN THIS TITLE.

(4) NOTHING CONTAINED IN THIS PART 10 IS INTENDED TO OR SHALL IN ANY

MANNER LIMIT OR RESTRICT THE RIGHTS OF POLICYHOLDERS, CLAIMANTS, AND AUDITORS.

10-2-1008. Rules and regulations. THE COMMISSIONER MAY ADOPT REASONABLE RULES AND REGULATIONS FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE PROVISIONS OF THIS PART 10.

PART 11
EFFECTIVE DATE - APPLICABILITY

10-2-1101. Effective date - applicability. THIS ARTICLE SHALL TAKE EFFECT JANUARY 1, 1995. INSURANCE AGENT AND BROKER LICENSES ISSUED PURSUANT TO PART 2 OF THIS ARTICLE PRIOR TO SAID DATE SHALL EXPIRE AT SUCH TIME AS THE COMMISSIONER SHALL DETERMINE BY RULE PROMULGATED UNDER THE AUTHORITY OF THIS ACT. THE HOLDERS OF SUCH LICENSES MAY OBTAIN COMPARABLE LICENSES UNDER THIS ACT BY COMPLYING WITH THE RULES PROMULGATED BY THE COMMISSIONER UNDER THE AUTHORITY OF THIS ACT.

SECTION 2. 2-3-1203 (3) (d) (I.5), (3) (k.5), and (3) (l), Colorado Revised Statutes, 1980 Repl. Vol., as amended, are amended to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(d) July 1, 1991:

(I.5) ~~The advisory committee concerning basic requirements for training and certification in the area of property and casualty insurance, appointed pursuant to section 10-2-207 (17), C.R.S.;~~

(k.5) ~~January 1, 1999: The insurance continuing education advisory committee, appointed pursuant to section 10-2-207.5 (7), C.R.S.~~

(l) July 1, 1999:

(I) The Colorado natural areas council, an advisory council to the board of parks and outdoor recreation, appointed pursuant to section 33-33-106, C.R.S.;

(II) THE INSURANCE CONTINUING EDUCATION ADVISORY COMMITTEE, APPOINTED PURSUANT TO SECTION 10-2-301, C.R.S.

SECTION 3. 10-1-103 (3), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

10-1-103. Division of insurance - subject to termination - repeal of article.

(3) All direct and indirect expenditures of the division shall be paid from the division of insurance cash fund, which fund is hereby created in the state treasury. All fees collected pursuant to sections 8-44-204 (7), C.R.S., 8-44-205 (6), C.R.S., ~~10-2-110;~~ ~~10-2-207;~~ 10-2-413, 10-3-108, 10-3-207, 10-12-106, 10-15-112, 10-16-110 (1) and (2), 10-16-111 (1), 10-16-503, 12-7-104, C.R.S., 24-10-115.5 (5), C.R.S., and

29-13-102 (5), C.R.S., and all taxes collected pursuant to section 10-3-209 (4) designated for the division of insurance, shall be transmitted to the state treasurer, who shall credit the same to the division of insurance cash fund. All moneys credited to the division of insurance cash fund shall be used as provided in this section, shall not be deposited in, or transferred to, the general fund of the state or to any other fund, and shall be subject to annual appropriation by the general assembly for the purposes authorized in this title and as otherwise authorized by law. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund.

SECTION 4. 10-1-108 (4), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

10-1-108. Duties of commissioner - reports - publications - disposition of funds. (4) It is the duty of the commissioner to examine all requests and applications for licenses to be issued under the authority of ~~part 2~~ PART 4 of article 2 of this title, and he is authorized to refuse to issue any such licenses until he is satisfied of the qualifications and general fitness of the applicant in accordance with the requirements of the insurance laws.

SECTION 5. 10-1-123, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

10-1-123. Insurance vending machines prohibited. No policy or contract of insurance of any kind shall be sold or dispensed through any mechanical device or vending machine, but this section shall not be construed as to prevent the use of office machines of any type by an insurance company. Insurance shall be sold only by ~~an agent or by a broker~~ AN INSURANCE PRODUCER, as defined in ~~part 2~~ PART 1 of article 2 of this title.

SECTION 6. 10-3-1104 (1)(s), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

10-3-1104. Unfair methods of competition and unfair or deceptive acts or practices. (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(s) Certifying pursuant to section 10-16-107.2 or issuing, soliciting, or using a policy form, endorsement, or rider that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in sections ~~10-2-212, 10-2-213,~~ 10-2-704, 10-2-801, 10-2-804, 10-3-1107, 10-3-1108, and 10-3-1109.

SECTION 7. 10-11-116 (1)(a), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

10-11-116. Title insurance agents licensed. (1) (a) Title insurance agents shall be licensed in the manner provided for ~~agents of insurance companies~~ INSURANCE PRODUCERS in ~~part 2~~ PART 4 of article 2 of this title, except as otherwise provided in this section.

SECTION 8. 10-14-116 (2), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

10-14-116. Annual license and licensing of agents. (2) Any person who is authorized by a fraternal benefit society to act in the solicitation, negotiation, or procurement of insurance shall be governed by the applicable provisions of ~~part 2~~ PART 4 of article 2 of this title.

SECTION 9. 11-6-101 (2), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

11-6-101. Branch banks and practices prohibited - facilities defined. (2) No bank shall directly or indirectly engage in trade or commerce; but any bank, located and doing business in any community the population of which does not exceed five thousand inhabitants, as shown by the last preceding federal census, may, pursuant to federal law, under such rules and regulations as may be prescribed by the banking board and subject to regulations promulgated by the commissioner of insurance concerning the sale of insurance by banks as provided in section ~~10-2-221~~, 10-2-601, C.R.S., act as the agent for any fire, life, or other insurance company authorized to do business in this state by soliciting and selling insurance and collecting premiums on policies issued by such company. For services so rendered, such bank may receive such fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent; except that no such bank shall in any case assume or guarantee the payment by its principal of any premium on insurance policies issued through its agency; and except that the bank shall not be held responsible for the truth of any statement made by an assured in filing his application for insurance.

SECTION 10. 11-35-101 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-35-101. Alternatives to surety bonds permitted - requirements. (1) The requirement of a surety bond as a condition to licensure or authority to conduct business or perform duties in this state provided in sections ~~10-2-104 (1) (g); 10-2-111 (1) and (3); 10-2-207 (8) (a) and (8) (b) (II);~~ 10-2-408, 12-6-111, 12-6-112, 12-6-112.2, 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-14-124 (1), 12-53-103 (2) (e) (I), 12-59-115 (1), 12-60-112 (2) and (2.5) (b), 33-4-101 (1), 33-12-104 (1), 35-33-403 (3), 35-55-104 (1), 37-91-107 (2) and (3), 38-29-119 (2), 38-39-102 (3) (b), 39-21-105 (4), 39-27-104 (2) (a), (2.5) (a), and (2.5) (b), 39-27-204 (4) (a), (4.5), and (6), 39-28-105 (1), 42-6-113 (2), and 42-7-301 (6), C.R.S., may be satisfied by a savings account or deposit in or a certificate of deposit issued by a state or national bank doing business in this state or by a savings account or deposit in or a certificate of deposit issued by a state or federal savings and loan association doing business in this state. Such savings account, deposit, or certificate of deposit shall be in the amount specified by statute, if any, and shall be assigned to the appropriate state agency for the use of the people of the state of Colorado. The aggregate liability of the bank or savings and loan association shall in no event exceed the amount of the deposit. For the purposes of the sections referred to in this section, "bond" includes the savings account, deposit, or certificate of deposit authorized by this section.

SECTION 11. 11-35-101.5 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-35-101.5. Irrevocable letter of credit permitted - requirements. (1) Where there is the requirement of either an irrevocable letter of credit or a bond as a condition to licensure in sections 12-16-106 (1) and 12-16-218 (1), C.R.S., or where an irrevocable letter of credit is permitted as an alternative to a surety bond, evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, as a condition to licensure or authority to conduct business or perform duties in this state, provided in sections ~~10-2-104 (1) (g), 10-2-111 (1) and (3),~~ 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-16-105 (5), 12-16-106 (1) (a) and (1) (b), 12-16-218 (1) (a) and (3), 33-4-101 (1), 33-12-104 (1), 37-91-107 (2), and 39-27-204 (6), C.R.S., the requirement shall be satisfied by an irrevocable letter of credit issued by a state or national bank or a state or federal savings and loan association doing business in this state. The requirement shall also be satisfied by an irrevocable letter of credit issued by the bank or banks for cooperatives which are organized pursuant to federal statutes and which serve the region in which the state of Colorado is located. Such letter of credit shall be in an amount specified by statute, if any, and shall name the appropriate state agency as beneficiary, in favor of the people of the state of Colorado.

SECTION 12. 24-34-104.4 (1) (a) (II), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-34-104.4. Excise tax on fees. (1) Notwithstanding any provision of law to the contrary except as provided in sections 12-38.1-104 and 12-38.1-109, there is imposed, and the executive director of the department of regulatory agencies shall collect, an excise tax of nine dollars upon the payment of the following fees:

(a) Within the division of insurance:

(II) License and examination fees for ~~agents, brokers, surplus line insurance brokers, and limited insurance representatives~~ INSURANCE PRODUCERS authorized pursuant to sections ~~10-2-207 (6)~~ 10-2-413 and 10-3-207 (1) (g), (1) (h), (1) (i), and (2), C.R.S.;

SECTION 13. Effective date. This act shall take effect January 1, 1995.

SECTION 14. 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: June 6, 1993