

## CHAPTER 74

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**INSURANCE**

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**HOUSE BILL 93-1241**

BY REPRESENTATIVES Anderson, Reeser, and Shoemaker;  
also SENATOR Schroeder.

**AN ACT****CONCERNING AN EXEMPTION FROM REGULATION BY THE DIVISION OF INSURANCE FOR CERTAIN  
MULTIPLE EMPLOYER HEALTH BENEFIT ARRANGEMENTS.**

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

**SECTION 1.** 10-3-903.5, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**10-3-903.5. Jurisdiction over providers of health care benefits.** (7) (a) THE PROVISIONS OF THIS SECTION AND ANY OTHER LAWS OF THIS STATE THAT REGULATE INSURANCE OR INSURANCE COMPANIES SHALL NOT APPLY TO ANY MULTIPLE EMPLOYER HEALTH TRUST WHICH MEETS THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (7) OR ANY MULTIPLE EMPLOYER WELFARE ARRANGEMENT WHICH MEETS THE REQUIREMENTS OF PARAGRAPH (c) OF THIS SUBSECTION (7). ANY SUCH TRUST OR ARRANGEMENT SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (7) AND SECTION 10-3-1104. THE EXEMPTION PROVIDED BY THIS SUBSECTION (7) SHALL NOT APPLY TO ANY ENTITY IF THE DIVISION OF INSURANCE DETERMINES THAT ITS OPERATION IS HAZARDOUS TO THE PUBLIC OR TO INDIVIDUALS RECEIVING BENEFITS.

(b) A MULTIPLE EMPLOYER HEALTH TRUST IS ANY TRUST WHICH IS:

(I) SPONSORED, MAINTAINED, AND FUNDED BY ONE OR MORE ENTITIES OF STATE GOVERNMENT OR POLITICAL SUBDIVISIONS OF THE STATE ORGANIZED PURSUANT TO STATE LAW AND IS FOR THE BENEFIT OF THE ENTITY'S EMPLOYEES; OR

(II) ESTABLISHED AND MAINTAINED PURSUANT TO THE PROVISIONS OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN ONE OR MORE UNIONS AND EMPLOYERS OR AN ASSOCIATION OF EMPLOYERS FOR THE BENEFIT OF EMPLOYEES

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

WHO ARE COVERED BY SUCH AGREEMENT, AND PURSUANT TO WHICH HEALTH BENEFITS, WAGES, PENSION BENEFITS, AND OTHER TERMS OF EMPLOYMENT HAVE BEEN BARGAINED FOR IN GOOD FAITH AND THE SPONSORING UNION PROVIDES SERVICES AND BENEFITS TO ITS MEMBERS OTHER THAN HEALTH BENEFITS.

(c) A MULTIPLE EMPLOYER WELFARE ARRANGEMENT IS ANY ARRANGEMENT WHICH COMPLIES WITH THE FOLLOWING REQUIREMENTS:

(I) THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT SHALL HAVE BEEN IN EXISTENCE CONTINUOUSLY SINCE AT LEAST JANUARY 1, 1983, AND SHALL MAINTAIN UNALLOCATED RESERVES OF NOT LESS THAN FIVE PERCENT OF THE FIRST TWO MILLION DOLLARS OF ANNUAL CONTRIBUTIONS MADE TO SUCH ARRANGEMENT IN THE PRECEDING YEAR.

(II) THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT SHALL FILE ITS ANNUAL FINANCIAL STATEMENT WITH THE DIVISION WITHIN SIXTY DAYS AFTER THE END OF ITS FISCAL YEAR TO DEMONSTRATE THAT THE REQUIRED RESERVES ARE BEING MAINTAINED, AND IT SHALL FILE ITS AUDITED FINANCIAL STATEMENT WITH THE DIVISION WITHIN THE TIME PERIOD THAT INSURANCE COMPANIES ARE REQUIRED TO FILE SUCH STATEMENTS.

(III) THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT SHALL FILE AN ACTUARIAL OPINION WITH THE DIVISION WHICH STATES THAT THE RESERVES AND THE CONTRIBUTION AND FUNDING LEVELS OF THE ARRANGEMENT ARE ADEQUATE AND WHICH INCLUDES THE UNDERLYING ACTUARIAL REPORT IN SUPPORT OF THE OPINION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 10-7-114, AND SUCH ARRANGEMENT SHALL FILE SUCH OPINION AND REPORT WITHIN THE TIME PERIOD THAT INSURANCE COMPANIES ARE REQUIRED TO FILE SUCH ACTUARIAL OPINION.

(IV) THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT SHALL PROVIDE BENEFITS WHICH ARE IN SUBSTANTIAL COMPLIANCE WITH THE MANDATED BENEFIT PROVISIONS THAT ARE APPLICABLE TO INSURERS OFFERING HEALTH INSURANCE COVERAGE IN THIS STATE.

(V) THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT SHALL BE SPONSORED AND MAINTAINED BY AN ASSOCIATION WHICH:

(A) HAS WITHIN ITS MEMBERSHIP THE EMPLOYERS WHO PARTICIPATE IN AND FUND THE ARRANGEMENT;

(B) IS ENGAGED IN SUBSTANTIAL ACTIVITIES FOR ITS EMPLOYER MEMBERS, OTHER THAN THE SPONSORSHIP OF AN EMPLOYEE WELFARE BENEFIT PLAN, AND PROVIDES BUSINESS OR PROFESSIONAL ASSISTANCE AND BENEFITS TO ITS MEMBERS WHO SHARE A COMMON BUSINESS INTEREST AND ARE PRIMARILY ENGAGED IN THE SAME TRADE OR BUSINESS; AND

(C) HAS BEEN IN EXISTENCE FOR A PERIOD OF AT LEAST TEN YEARS.

**SECTION 2. 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: March 31, 1993