

CHAPTER 135

INSURANCE

HOUSE BILL 95-1271

BY REPRESENTATIVES Swenson and Schauer;
also SENATOR Schroeder.

AN ACT

CONCERNING THE REGULATION OF APPROVED NONADMITTED INSURERS.

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

SECTION 1. 10-2-408 (6), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-2-408. License - contents - continuation due date - bond. (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~~ TWENTY-FIVE THOUSAND 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.

SECTION 2. 10-3-118 (5) (d) (I), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-3-118. Reinsurance - conditions - credit for reinsurance. (5) (d) (I) Credit shall be allowed when the reinsurance is ceded to a reinsurer ~~which~~ THAT maintains a trust fund in a qualified United States financial institution, as defined in section

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

10-1-102 (9.5), for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest. The reinsurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers ~~or health maintenance organizations~~ to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single reinsurer, the trust shall consist of a trustee account representing the reinsurer's liabilities attributable to business written in the United States and, in addition, the reinsurer shall maintain a trustee surplus ~~or net worth~~ of not less than twenty million dollars. In the case of a group ~~of~~ INCLUDING INCORPORATED AND individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition: The group shall maintain a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group; THE INCORPORATED MEMBERS OF THE GROUP SHALL NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE GROUP AND SHALL BE SUBJECT TO THE SAME LEVEL OF SOLVENCY REGULATION AND CONTROL BY THE GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

SECTION 3. The introductory portion to 10-3-207 (1) (b), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-3-207. Fees paid by insurance companies. (1) There shall be paid to the division of insurance by every entity regulated by the division of insurance in this state the following:

(b) In each year subsequent to 1992, in addition to any fee collected under paragraph (a) of this subsection (1), every insurance company, interinsurance company, fraternal benefit society, health maintenance organization, and nonprofit hospital, medical-surgical, and health service corporation licensed or authorized in this state which is regulated by the division of insurance shall make an annual nonrefundable payment on or before March 1 of each year based on the schedule specified in this paragraph (b) at the time of authorization and each subsequent renewal year. For ~~surplus line~~ NONADMITTED insurers and accredited reinsurers, the fee specified in this paragraph (b) shall be considered to include the fee pursuant to paragraph (a) of this subsection (1):

SECTION 4. 10-3-209 (1) (b) (I), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-3-209. Tax on premiums collected - exemptions - penalties. (1) (b) The rate of tax shall be as follows:

(I) For companies not exempted or charged a different rate of tax by another provision of this section OR PURSUANT TO SECTION 10-5-111, the rate of tax on the gross amount shall be two and one-fourth percent.

SECTION 5. 10-3-1102 (3), Colorado Revised Statutes, 1994 Repl. Vol., is

amended to read:

10-3-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(3) "Person" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds insurer, ~~surplus line~~ NONADMITTED insurer, fraternal benefit society, and other legal entities engaged in the insurance business, including agents, limited insurance representatives, agencies, brokers, surplus line brokers, and adjusters. Such term shall also include medical service plans and hospital service plans regulated under parts 1 and 3 of article 16 of this title and health maintenance organizations regulated under parts 1 and 4 of article 16 of this title. Such plans and organizations shall be deemed to be engaged in the business of insurance for purposes of this part 11 only.

SECTION 6. 10-5-101, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-101. Short title. This article shall be known and may be cited as the "~~Surplus Lines~~ NONADMITTED Insurance Act".

SECTION 7. The introductory portion to 10-5-101.1 (1) and 10-5-101.1 (1) (b) and (1) (e), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-5-101.1. Legislative declaration. (1) The general assembly finds and declares that PROPERTY AND CASUALTY insurance transactions with nonadmitted insurers are so affected with a public interest as to require regulation, taxation, supervision, and control of such transactions and matters relating thereto, as provided in this article, in order to:

(b) Provide for the public, to the extent that insurance is not procurable from admitted insurers, orderly, reasonable, and regulated access to such insurance from APPROVED nonadmitted insurers through qualified, licensed, and supervised surplus line agents and brokers;

(e) Regulate and supervise the effectuation of ~~nonadmitted~~ SURPLUS LINES insurance in accordance with the laws of this state and federal law, including the FEDERAL "McCarran-Ferguson Act"; and

SECTION 8. 10-5-101.2 (1) and (2), Colorado Revised Statutes, 1994 Repl. Vol., are amended, and the said 10-5-101.2 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-5-101.2. Definitions. As used in this article, unless the context otherwise requires:

(1) "Broker" means a surplus ~~line broker~~ LINES PRODUCER duly licensed to export insurance under this article.

(2) "Export" means to place ~~in~~ WITH an insurer under this article insurance covering a subject of insurance ~~which~~ THAT is resident, located, or to be performed

in Colorado.

(4) "SURPLUS LINES INSURANCE" MEANS COVERAGE PLACED WITH AN APPROVED NONADMITTED INSURER AS PROVIDED BY SECTION 10-5-108.

SECTION 9. 10-5-102, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-102. Validity of certain contracts. A contract of insurance effectuated by ~~an unauthorized~~ A NONADMITTED insurer in violation of the provisions of this article shall be voidable except at the instance of the insurer.

SECTION 10. The introductory portion to 10-5-103 (1) and 10-5-103 (1) (b), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-5-103. Conditions for export. (1) If certain insurance coverages cannot be procured from ~~authorized~~ ADMITTED insurers, such coverages, designated in this article as "surplus lines", may be procured from nonadmitted insurers, subject to the following conditions:

(b) The full amount of insurance required shall not be procurable, after diligent effort has been made to do so, from among ADMITTED insurers authorized to transact and actually transacting that kind of insurance in this state; and placing the insurance ~~in~~ WITH a nonadmitted insurer shall not be for the purpose of securing a lower premium rate than that which would be accepted by an ~~authorized~~ ADMITTED insurer unless the premium rate quoted by the ~~licensed~~ ADMITTED insurer is more than ten percent higher than that quoted by the nonadmitted insurer.

SECTION 11. 10-5-104, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-104. Endorsement of contract. Every insurance contract procured and delivered as a surplus line coverage pursuant to this article shall be initialed by or bear the name of the surplus line broker who procured it and shall have stamped upon it the following: "This contract is ~~registered and~~ delivered as a surplus line coverage under the ~~`Surplus Lines`~~ `NONADMITTED Insurance Act`. THE INSURER ISSUING THIS CONTRACT IS NOT LICENSED IN COLORADO BUT IS AN APPROVED NONADMITTED INSURER. THERE IS NO PROTECTION UNDER THE PROVISIONS OF THE `COLORADO INSURANCE GUARANTY ASSOCIATION ACT`."

SECTION 12. 10-5-105, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-105. Surplus line insurance valid. Insurance contracts procured as surplus line coverage from ~~unauthorized~~ NONADMITTED insurers in accordance with this article shall be fully valid and enforceable as to all parties and shall be given recognition in all matters and respects to the same effect as like contracts issued by ~~authorized~~ ADMITTED insurers.

SECTION 13. 10-5-108, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-108. Placement of surplus line insurance. (1) ~~Notwithstanding the other provisions of this section, the commissioner may approve the placement of surplus line insurance in insurance pools or underwriting associations or under other specific programs on an individual case basis.~~ No broker shall place any coverage with a nonadmitted insurer unless, at the time of placement, such nonadmitted insurer is included on the ~~approved~~ list of APPROVED nonadmitted insurers prepared by the commissioner at least annually. Nothing in this section shall require the commissioner to place or maintain the name of any nonadmitted insurer on the list. To be placed AND REMAIN on said APPROVED list, such nonadmitted insurer shall:

(a) Establish AND MAINTAIN satisfactory evidence of good repute and financial integrity and SUBMIT A CURRENT YEAR'S APPLICATION, A FEE AS PRESCRIBED BY SECTION 10-3-207, A COPY OF ITS CURRENT ANNUAL STATEMENT, AN ACTUARIAL OPINION, AND OTHER INFORMATION REQUIRED BY THE COMMISSIONER. IN THE CASE OF AN INSURANCE EXCHANGE, AN AGGREGATE COMBINED STATEMENT OF ALL UNDERWRITING SYNDICATES OPERATING DURING THE PERIOD REPORTED, IN ADDITION TO INDIVIDUAL STATEMENTS FOR EACH SYNDICATE, SHALL BE SUBMITTED.

(b) IN THE CASE OF a foreign insurer, ~~must~~ HAVE AND maintain a deposit in cash or marketable securities having a fair market value of at least two million five hundred thousand dollars with the commissioner or the duly authorized officer of some other state of the United States, to be held for the benefit of all policyholders wherever located, and qualify under one of the following:

(I) Have AND MAINTAIN capital and surplus or its equivalent at least equal to fifteen million dollars, but not less than the amount ~~which~~ THAT would be required by section 10-3-201 for a ~~licensed~~ AN ADMITTED company writing the same lines of insurance. ~~except that nonadmitted insurers currently qualified and who would have qualified prior to July 1, 1992, shall have at least ten million dollars on December 31, 1992, twelve million five hundred thousand dollars on December 31, 1993, and fifteen million dollars on December 31, 1994.~~ Notwithstanding the provisions of this subsection (1), the commissioner may approve an insurer with less than the required minimum upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon such factors as, but not limited to, quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, MARKET AVAILABILITY, and company record and reputation within the industry. In no event shall the commissioner make an affirmative finding of acceptability when the insurer's capital and surplus is less than four million five hundred thousand dollars.

(II) ~~In the case of an "insurance exchange" created by the laws of individual states, maintain capital and surplus, or the substantial equivalent thereof, of not less than fifty million dollars in the aggregate, or less upon affirmative finding of acceptability by the commissioner. Insurance exchanges must maintain funds for the protection of all insurance exchange policyholders, with each individual syndicate maintaining a capital and surplus, or the substantial equivalent thereof, of not less than three million five hundred thousand dollars.~~ IN THE CASE OF AN "INSURANCE EXCHANGE" CREATED BY THE LAWS OF A STATE OTHER THAN THIS STATE, THE SYNDICATES OF THE EXCHANGE SHALL HAVE AND MAINTAIN, UNDER TERMS ACCEPTABLE TO THE COMMISSIONER, CAPITAL AND SURPLUS OF NOT LESS THAN SEVENTY-FIVE MILLION DOLLARS IN THE AGGREGATE. THE INSURANCE EXCHANGE SHALL MAINTAIN, UNDER

TERMS ACCEPTABLE TO THE COMMISSIONER, NOT LESS THAN FIFTY PERCENT OF THE POLICYHOLDER SURPLUS OF EACH SYNDICATE IN A CUSTODIAL ACCOUNT ACCESSIBLE TO THE EXCHANGE OR ITS DOMICILIARY COMMISSIONER IN THE EVENT OF INSOLVENCY OR IMPAIRMENT OF THE INDIVIDUAL SYNDICATE. IN ADDITION, EACH INDIVIDUAL SYNDICATE TO BE ELIGIBLE TO ACCEPT SURPLUS LINES INSURANCE PLACEMENTS FROM THIS STATE SHALL MEET EITHER OF THE FOLLOWING REQUIREMENTS:

(A) FOR INSURANCE EXCHANGES THAT MAINTAIN FUNDS IN AN AMOUNT OF NOT LESS THAN FIFTEEN MILLION DOLLARS FOR THE PROTECTION OF ALL EXCHANGE POLICYHOLDERS, THE SYNDICATE SHALL HAVE AND MAINTAIN, UNDER TERMS ACCEPTABLE TO THE COMMISSIONER, MINIMUM CAPITAL AND SURPLUS OF NOT LESS THAN FIVE MILLION DOLLARS; OR

(B) FOR INSURANCE EXCHANGES THAT DO NOT MAINTAIN FUNDS IN AN AMOUNT OF NOT LESS THAN FIFTEEN MILLION DOLLARS FOR THE PROTECTION OF ALL EXCHANGE POLICYHOLDERS, THE SYNDICATE SHALL MAINTAIN, UNDER TERMS ACCEPTABLE TO THE COMMISSIONER, MINIMUM CAPITAL AND SURPLUS OF NOT LESS THAN THE MINIMUM CAPITAL AND SURPLUS REQUIREMENTS UNDER THE LAWS OF ITS DOMICILIARY JURISDICTION OR FIFTEEN MILLION DOLLARS, WHICHEVER IS GREATER.

(c) (I) ~~In addition,~~ IN THE CASE OF an alien insurer, as defined in section 10-3-301 (1), ~~must~~ have AND MAINTAIN in force in the United States ~~in~~ an irrevocable trust account in a qualified United States financial institution, for the benefit of United States policyholders, THAT IS IN an amount not less than two million five hundred thousand dollars OR SUCH GREATER AMOUNT AS MAY BE DETERMINED BY THE COMMISSIONER AND ADOPTED BY RULE AND THAT CONSISTS OF CASH, SECURITIES, LETTERS OF CREDIT, OR INVESTMENTS OF SUBSTANTIALLY THE SAME CHARACTER AND QUALITY AS THOSE THAT ARE ELIGIBLE INVESTMENTS FOR THE CAPITAL AND STATUTORY RESERVES OF ADMITTED INSURERS TO WRITE LIKE KINDS OF INSURANCE IN THIS STATE ~~and consisting of eligible investments, which may include letters of credit in a form acceptable to the commissioner, for the capital and statutory reserves of licensed insurers and~~ ~~must~~ maintain status on the current national association of insurance commissioners' ~~nonadmitted insurers quarterly~~ INTERNATIONAL INSURERS DEPARTMENT listing;

(II) In the case of a Lloyd's plan or other similar unincorporated group of individual insurers, OR A COMBINATION OF BOTH UNINCORPORATED AND INCORPORATED INSURERS, such alien insurer shall HAVE AND maintain a trust fund, REPRESENTING THE GROUP'S LIABILITIES ATTRIBUTABLE TO BUSINESS WRITTEN IN THE UNITED STATES, WITH A TRUST SURPLUS of not less than ~~fifty~~ ONE HUNDRED million dollars, WHICH SURPLUS SHALL BE AVAILABLE FOR THE BENEFIT OF UNITED STATES SURPLUS LINES POLICYHOLDERS OF ANY MEMBER OF THE GROUP. ~~as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group.~~ THE INCORPORATED MEMBERS OF THE GROUP SHALL NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE GROUP AND SHALL BE SUBJECT TO THE SAME LEVEL OF SOLVENCY REGULATION AND CONTROL BY THE GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS. THE TRUST FUNDS SHALL BE MAINTAINED IN AN IRREVOCABLE TRUST ACCOUNT IN THE UNITED STATES IN A QUALIFIED FINANCIAL INSTITUTION AND SHALL CONSIST OF CASH, SECURITIES, LETTERS OF CREDIT, OR INVESTMENTS OF SUBSTANTIALLY THE SAME CHARACTER AND QUALITY AS THOSE THAT ARE ELIGIBLE INVESTMENTS FOR THE

CAPITAL AND STATUTORY RESERVES OF ADMITTED INSURERS TO WRITE LIKE KINDS OF INSURANCE IN THIS STATE, AND THE TRUST INSTRUMENT REPRESENTING THE SURPLUS PORTION OF THE TRUST DEPOSIT SHALL SATISFY THE REQUIREMENTS OF THE STANDARD TRUST AGREEMENT REQUIRED FOR LISTING WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' INTERNATIONAL INSURERS DEPARTMENT.

(III) IN THE CASE OF A GROUP OF INCORPORATED INSURERS UNDER COMMON ADMINISTRATION THAT HAS CONTINUOUSLY TRANSACTED AN INSURANCE BUSINESS OUTSIDE THE UNITED STATES FOR AT LEAST THREE YEARS IMMEDIATELY BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH (c), AS AMENDED, AND THAT SUBMITS TO THIS STATE'S AUTHORITY TO EXAMINE ITS BOOKS AND RECORDS AND BEARS THE EXPENSE OF THE EXAMINATION, HAVE AND MAINTAIN AN AGGREGATE POLICYHOLDERS' SURPLUS OF TEN BILLION DOLLARS AND HAVE AND MAINTAIN IN TRUST A SURPLUS IN THE AMOUNT OF ONE HUNDRED MILLION DOLLARS, ALL OF WHICH SURPLUS FUNDS SHALL BE AVAILABLE FOR THE BENEFIT OF UNITED STATES SURPLUS LINES POLICYHOLDERS OF ANY MEMBER OF THE GROUP. EACH INSURER SHALL INDIVIDUALLY MAINTAIN CAPITAL AND SURPLUS OF NOT LESS THAN TWENTY-FIVE MILLION DOLLARS PER COMPANY. THE TRUST FUNDS SHALL SATISFY THE REQUIREMENTS OF THE STANDARD TRUST AGREEMENT REQUIREMENT FOR LISTING WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' INTERNATIONAL INSURERS DEPARTMENT, SHALL BE MAINTAINED IN AN IRREVOCABLE TRUST ACCOUNT IN THE UNITED STATES IN A QUALIFIED FINANCIAL INSTITUTION, AND SHALL CONSIST OF CASH, SECURITIES, LETTERS OF CREDIT, OR INVESTMENTS OF SUBSTANTIALLY THE SAME CHARACTER AND QUALITY AS THOSE THAT ARE ELIGIBLE INVESTMENTS FOR THE CAPITAL AND STATUTORY RESERVES OF ADMITTED INSURERS TO WRITE LIKE KINDS OF INSURANCE IN THIS STATE. ADDITIONALLY, EACH MEMBER OF THE GROUP SHALL MAKE AVAILABLE TO THE COMMISSIONER AN ANNUAL CERTIFICATION OF THE MEMBER'S SOLVENCY BY THE MEMBER'S DOMICILIARY REGULATOR AND ITS INDEPENDENT PUBLIC ACCOUNTANT.

~~(d) Submit a current years' application, a fee as prescribed pursuant to section 10-3-207, a copy of its current annual statement, and other information required by the commissioner. In the case of an insurance exchange, the statement shall be an aggregate combined statement of all underwriting syndicates operating during the period reported in addition to individual statements for each syndicate.~~

(2) Any surplus line broker who places surplus line insurance with any surplus line A NONADMITTED insurance company pool, association, or under a program which THAT has not been approved by the commissioner is subject to a penalty of up to ~~two hundred fifty~~ TEN THOUSAND dollars as determined by the commissioner and ~~may have his~~ THE surplus line broker's license MAY BE revoked.

SECTION 14. The introductory portion to 10-5-113 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-113. Revocation of broker's license. (1) The commissioner ~~shall~~ MAY revoke any surplus line broker's license:

SECTION 15. 10-5-114 (1) and (3), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-5-114. Actions against insurer - service. (1) ~~An unauthorized~~ A NONADMITTED insurer may be sued, upon any cause of action arising in this state under any contract issued by it as a surplus line contract, pursuant to this article, in the district court of the county in which the cause of action arose.

(3) ~~An unauthorized~~ A NONADMITTED insurer issuing such policy shall be deemed thereby to have authorized service of process against it, in the manner and to the effect as provided in this section, and to have appointed the commissioner as its agent for service of process issuing upon any cause of action arising in this state under any such policy. Any such policy shall contain a provision stating the substance of this section and designating the person to whom the commissioner shall mail process as provided in subsection (2) of this section.

SECTION 16. 10-5-115 (2) (b), (6), and (7), Colorado Revised Statutes, 1994 Repl. Vol., are amended, and the said 10-5-115 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-5-115. Requirements imposed upon commissioner - assistance of brokers' association. (2) The commissioner shall rely upon the advice and assistance of a duly constituted association of brokers in carrying out the purposes of this article, if the association files with the commission:

~~(b) An agreement that, as a condition of continued acceptability under this subsection (2), the commissioner may examine the association in accordance with the provisions of this section;~~

(2.5) THE COMMISSIONER MAY EXAMINE THE ASSOCIATION'S RECORDS CONCERNING THE FUNCTIONS OR DUTIES PERFORMED ON BEHALF OF THE COMMISSIONER BY THE ASSOCIATION.

~~(6) No licensee may be compelled to join an association as a condition of continued licensure under this article~~ A BROKER SHALL COOPERATE WITH THE ASSOCIATION AND THE COMMISSIONER OF INSURANCE IN FULFILLING THE BROKER'S STATUTORY RESPONSIBILITIES UNDER THIS ARTICLE.

~~(7) The association may submit reports and make recommendations to the commissioner regarding the financial condition of any nonadmitted insurer. These reports and recommendations shall not be considered to be public information. There shall not be liability on the part of, or NOR SHALL a cause of action of any nature shall not arise against, nonadmitted insurers, the association or its agents, or employees, the OR directors or the commissioner or authorized representatives of the commissioner for ACTIONS TAKEN OR OMITTED statements in any reports or recommendations made by them in good faith~~ THE PERFORMANCE OF THEIR POWERS AND DUTIES under this section.

SECTION 17. 10-5-116, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-116. Records produced on order. Every person for whom insurance is placed with ~~an unauthorized~~ A NONADMITTED insurer pursuant to or in violation of this article, upon the commissioner's order, shall produce for his examination all

policies and other documents evidencing the insurance and shall disclose to the commissioner the amount of the gross premiums paid or agreed to be paid for the insurance. For each refusal to obey such order, such person shall be liable to a fine of not more than ~~five hundred~~ TEN THOUSAND dollars.

SECTION 18. 10-5-119, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-5-119. Disclosures regarding claims-made policies by surplus line brokers or insurers. In the event that a contract procured or placed by a Colorado surplus line broker is on a claims-made or other nonoccurrence policy form, the broker or the ~~surplus line~~ NONADMITTED insurer shall stamp on the face of the policy a clear disclosure, as prescribed by the commissioner, which shall be in predominate type.

SECTION 19. 10-3-910 (2), Colorado Revised Statutes, 1994 Repl. Vol, is amended to read:

10-3-910. Application of this part 9. (2) For purposes of this section, an "industrial insured" is:

(a) An insured who procures the insurance of any risk other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant WHO DOES NOT RECEIVE A COMMISSION OR COMPENSATION FOR PLACING THE RISK; and

(b) An insured whose aggregate annual premiums for insurance on all risks total at least ~~twenty-five~~ ONE HUNDRED thousand dollars; and

(c) An insured having at least ~~twenty-five~~ ONE HUNDRED full-time employees.

SECTION 20. Effective date - applicability. This act shall take effect upon passage and shall apply to acts taken on or after said date.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 16, 1995