

CHAPTER 22

INSURANCE

HOUSE BILL 96-1101

BY REPRESENTATIVE Reeser;
also SENATOR Schroeder.

AN ACT

CONCERNING THE MANDATORY DEPOSIT OF CERTAIN SECURITIES BY COMPANIES LICENSED TO PROVIDE INSURANCE.

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

SECTION 1. 10-3-210, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-3-210. Deposit and safekeeping of securities. (1) (a) (I) The commissioner shall give receipts for all securities deposited with the commissioner, as required or permitted by law, to the company depositing them.

(II) It is the duty of the commissioner, upon the receipt of ~~such~~ securities from any ~~insurance~~ company, to forthwith deposit such securities, in the presence of the authorized agent of the company, in a strong iron box which requires two distinct and different keys to unlock it, one key to be kept by the commissioner and the other by the company. The box shall not be opened except in the presence of the commissioner and the authorized agent of the company.

(b) If the company ~~having such~~ DEPOSITING securities ~~on deposit~~ IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1) is adjudged insolvent or is dissolved, any court of competent jurisdiction may make and enforce the necessary orders to place such securities, or any part of them, at the sole disposal of the court or the commissioner.

(c) The boxes USED FOR DEPOSIT OF SECURITIES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) shall be in the vault of a trust company, safe deposit company, or bank in the city AND COUNTY of Denver, to be selected by the commissioner and

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

the insurance companies shall pay the several fees for such boxes.

(d) ~~So long as~~ IF the company ~~so~~ depositing ~~shall continue~~ SECURITIES IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1) REMAINS solvent, the commissioner shall permit such company, or its assigns, to:

(I) Collect and receive the interest and dividends on ~~its~~ DEPOSITED securities; ~~so deposited and from time to time~~ AND

(II) Withdraw any ~~such~~ DEPOSITED securities ~~on depositing~~ IF THE COMPANY SIMULTANEOUSLY DEPOSITS other securities ~~in the stead of those so~~ TO REPLACE THOSE withdrawn.

(e) THE PROVISIONS OF THIS SUBSECTION (1) SHALL NOT APPLY TO SECURITIES SUBJECT TO PART 12 OF THIS ARTICLE.

(2) (a) (I) Notwithstanding any other provision of law, the securities qualified for deposit under this section may be deposited as provided in part 12 of this article with a clearing corporation or held in the federal reserve book-entry system.

(II) Securities deposited with a clearing corporation or held in the federal reserve book-entry system and used to meet the deposit requirements set forth in this section shall be under the control of the commissioner and shall not be withdrawn by the ~~insurance~~ company without the approval of the commissioner.

(b) THE COMMISSIONER MAY PRESCRIBE OR APPROVE REASONABLE ARRANGEMENTS AND SAFEGUARDS UNDER WHICH A SOLVENT COMPANY MAY SELL A PARTICULAR DEPOSITED SECURITY IF THE COMPANY:

(I) IMMEDIATELY REINVESTS THE PROCEEDS OF THE SALE IN OTHER SECURITIES ELIGIBLE FOR DEPOSIT UNDER THIS ARTICLE; AND

(II) DEPOSITS OTHER SECURITIES TO REPLACE THOSE SECURITIES THAT WERE SOLD.

(c) Any owner, nominee owner, depository, or custodian of ~~such~~ securities HELD IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) shall not sell, claim against, or otherwise dispose of said securities without written permission of the commissioner.

(d) Any ~~insurance~~ company holding securities ~~in such manner~~ IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) shall provide to the commissioner evidence issued by its custodian or member bank through which such ~~insurance~~ company has deposited such securities in a clearing corporation or through which such securities are held in the federal reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or other direct participant or member bank and that the records of the custodian, other participant, or member bank reflect that such securities are held subject to the order of the commissioner.

(e) IF THE COMPANY DEPOSITING SECURITIES IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) REMAINS SOLVENT, THE COMMISSIONER SHALL PERMIT

SUCH COMPANY, OR ITS ASSIGNS, TO:

(I) COLLECT AND RECEIVE THE INTEREST AND DIVIDENDS ON THOSE DEPOSITED SECURITIES; AND

(II) WITHDRAW ANY DEPOSITED SECURITIES IF THE COMPANY SIMULTANEOUSLY DEPOSITS OTHER SECURITIES TO REPLACE THOSE WITHDRAWN.

(f) IF THE COMPANY DEPOSITING SECURITIES IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) IS ADJUDGED INSOLVENT OR IS DISSOLVED, ANY COURT OF COMPETENT JURISDICTION MAY MAKE AND ENFORCE THE NECESSARY ORDERS TO PLACE SUCH SECURITIES, OR ANY PART OF THEM, AT THE SOLE DISPOSAL OF THE COURT OR THE COMMISSIONER.

(g) (I) THE COMMISSIONER MAY DESIGNATE ANY SOLVENT NATIONAL BANK, STATE BANK, OR TRUST COMPANY LOCATED IN THE CITY AND COUNTY OF DENVER, AS THE COMMISSIONER'S DEPOSITORY FOR RECEIVING AND HOLDING AS CUSTODIAN, ANY DEPOSIT OF SECURITIES IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2).

(II) ANY DEPOSIT RECEIVED AND HELD PURSUANT TO THIS SUBSECTION (2) SHALL BE RECEIVED AND HELD AT THE EXPENSE OF THE COMPANY.

SECTION 2. 10-16-310 (2), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-16-310. Surplus - guarantee fund deposit - regulations. (2) The cash or securities representing the guarantee fund required by this section shall be deposited with the commissioner ~~who shall give receipts for all securities so deposited with the commissioner to the corporation depositing them. It is the duty of the commissioner upon the receipt of such securities to forthwith deposit the same in the presence of an authorized officer of the depositing corporation, in a safety deposit box accessible only to the commissioner or a representative of the commissioner who may be an employee of the division of insurance or a designated trust officer of the depository, and an authorized officer of the corporation, in the vault of any bank, trust company, or safety deposit company in the state of Colorado to be selected by the commissioner, and the depositing corporation shall pay the several fees for such boxes. So long as the depositing corporation continues solvent, the commissioner shall permit such corporation to collect and receive the interest and dividends on the securities so deposited, and from time to time, withdraw any such securities on depositing other acceptable securities in the place of those so withdrawn.~~ UNDER JOINT CONTROL IN THE SAME MANNER AS PRESCRIBED IN SECTIONS 10-3-206, 10-3-210, AND 10-3-211.

SECTION 3. 10-16-505 (2), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-16-505. Guarantee fund deposit. (2) The cash or securities representing the guarantee fund required by this section shall be deposited with the commissioner ~~who shall give receipts for all securities so deposited with the commissioner to the prepaid dental care plan organization depositing them. It is the duty of the commissioner~~

~~upon the receipt of such securities to forthwith deposit the same, in the presence of an authorized officer of the depositing organization, in a safety deposit box accessible only to the commissioner or the commissioner's representative, who may be an employee of the division of insurance or a designated trust officer of the depository, and an authorized officer of the organization or in the vault of any bank, trust company, or safety deposit company in the state of Colorado to be selected by the commissioner, and the depositing organization shall pay the several fees for such boxes. So long as the depositing organization continues solvent, the commissioner shall permit such organization to collect and receive the interest and dividends on the securities so deposited, and, from time to time, withdraw any such securities on depositing other acceptable securities in the place of those so withdrawn. UNDER JOINT CONTROL IN THE SAME MANNER AS PRESCRIBED IN SECTIONS 10-3-206, 10-3-210, AND 10-3-211.~~

SECTION 4. Effective date. This act shall take effect July 1, 1996.

SECTION 5. 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 20, 1996