

## CHAPTER 135

---

**INSURANCE**

---

**SENATE BILL 00-106**

BY SENATORS Owen and Tebedo;  
also REPRESENTATIVE Taylor.

**AN ACT**

CONCERNING THE ELIMINATION OF REQUIREMENTS FOR APPROVAL BY THE COMMISSIONER OF INSURANCE FOR CERTAIN TYPES OF INSURANCE.

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

**SECTION 1. Legislative declaration.** The general assembly hereby finds and determines that open competition between insurers encourages lower prices for consumers and more efficient practices for insurers. Further, the general assembly finds that prior approval by the commissioner of insurance of credit forms and rates and preneed funeral forms detracts from an insurer's ability to meet the immediate needs of the insurance market. Therefore, the general assembly declares that it is in the best interests of the insurance consumers of Colorado and the insurers of this market to eliminate the preapproval requirements for these forms.

**SECTION 2.** 10-3-1104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS 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:

(aa) CERTIFYING PURSUANT TO SECTION 10-10-109 (3) OR 10-10-109 (4), ISSUING, SOLICITING, OR USING A CREDIT INSURANCE POLICY FORM, CERTIFICATE OF INSURANCE, NOTICE OF PROPOSED INSURANCE, APPLICATION FOR INSURANCE, ENDORSEMENT, OR RIDER THAT DOES NOT COMPLY WITH COLORADO LAW. SUCH CERTIFICATION, ISSUANCE, SOLICITATION, OR USE SHALL BE SUBJECT TO THE SANCTIONS DESCRIBED IN SECTIONS 10-3-1107, 10-3-1108, AND 10-3-1109.

(bb) CERTIFYING PURSUANT TO SECTION 10-15-105 (1), ISSUING, SOLICITING, OR

---

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

USING A PRENEED FUNERAL CONTRACT FORM OR A FORM OF ASSIGNMENT THAT DOES NOT COMPLY WITH COLORADO LAW. SUCH CERTIFICATION, ISSUANCE, SOLICITATION, OR USE SHALL BE SUBJECT TO THE SANCTIONS DESCRIBED IN SECTIONS 10-3-1107, 10-3-1108, AND 10-3-1109.

**SECTION 3.** 10-4-401 (2) (f) and (3), Colorado Revised Statutes, are amended to read:

**10-4-401. Purpose - applicability.** (2) This part 4 shall apply to all kinds of insurance except:

(f) ~~Credit life insurance and other credit insurance regulated under article 10 of this title;~~

(3) The kinds of insurance subject to this part 4 shall be divided into two classes, as follows:

(a) Type I kinds of insurance, regulated by prior filing and approval of rating information, which shall be subject to all provisions of this part 4 unless specifically excluded by the terms of a section. The following kinds of insurance shall be classified as type I:

(I) ~~Workers' compensation and employer's liability incidental thereto and written in connection therewith for rates filed by insurers and for any pure premium rate filed by a rating organization;~~

(II) ~~Insurance written by the medical malpractice joint underwriting association regulated under part 9 of this article;~~

(III) Assigned risk motor vehicle insurance;

(IV) and (V) Repealed.

(VI) Such other kinds of insurance as the commissioner shall order classified as type I pursuant to the provisions of section 10-4-403 (5).

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title, ~~insurance~~; MEDICAL MALPRACTICE BY A JOINT UNDERWRITING ASSOCIATION REGULATED UNDER PART 9 OF THIS ARTICLE, CREDIT, WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INCIDENTAL THERETO AND WRITTEN IN CONNECTION THEREWITH FOR RATES FILED BY INSURERS, and all other kinds of insurance THAT ARE subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner; EXCEPT THAT CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURERS SHALL FILE SCHEDULES OF PREMIUM RATES PURSUANT TO SECTIONS 10-10-109 AND 10-10-110.

**SECTION 4. Repeal.** 10-4-403 (2.1) (d) and (4.6), Colorado Revised Statutes,

are repealed as follows:

**10-4-403. Standards for rates - competition - procedure - requirement for independent actuarial opinions regarding 1991 legislation.** ~~(2.1) (d) The commissioner may disapprove or modify rates or rate increases which do not reflect the effect of the enactment of tort reform or any of the other factors specified in paragraph (c) of this subsection (2.1) on medical malpractice rates.~~

~~(4.6) With respect to filings for medical malpractice insurance, the commissioner may examine and review the assignment and assessment of risk for different classifications for different specialties or practices of medicine. The commissioner may hold a public hearing pursuant to section 10-4-407 on any filing containing a risk assignment for medical malpractice insurance to determine whether such risk assignment is reasonable and whether it meets the requirements of this part 4. The commissioner may issue orders concerning such risk assignment pursuant to this part 4.~~

**SECTION 5.** 10-4-419 (3), Colorado Revised Statutes, is amended to read:

**10-4-419. Claims-made policy forms.** (3) (a) The commissioner may prohibit the use of a claims-made liability policy if the policy does not contain one or more of the following policy provisions:

(I) ~~A policy provision that legal defense costs are covered by the policy but that legal defense costs are excluded from the claims-made policy aggregate;~~

(II) A policy provision that, in the event of cancellation or nonrenewal for any reason, the policy guarantees the insured the right of a sixty-day period to purchase coverage for an extended reporting period as provided in subparagraph (III) of this paragraph (a); OR

(III) A policy provision that, at the insured's option, the insured may purchase coverage for an extended reporting period of at least the length of time of exposure under the applicable statute of limitation. ~~and~~

(IV) ~~Any other policy provisions that meet any rules and regulations the commissioner may promulgate to further define the standards for approval and use of such policy forms in Colorado.~~

(b) ~~In administering this subsection (3), the commissioner shall recognize and balance the public interests in availability of insurance and adequate coverage at reasonable rates.~~

**SECTION 6.** 10-4-706 (2) (a) (I), the introductory portion to 10-4-706 (2) (f), and 10-4-706 (3) (h), Colorado Revised Statutes, are amended to read:

**10-4-706. Required coverages - complying policies - PIP examination program - repeal.** (2) (a) (I) An insurer may offer, and provide at the option of the named insured, the benefits described in subsection (1) (b) and (1) (c) of this section through managed care arrangements such as a health maintenance organization (HMO) or a preferred provider organization. Insurers shall make deductibles and

coinsurance options available in such policy and may make other conditions and limitations to coverage available. ~~The commissioner shall approve such deductibles, coinsurance options, conditions, and limitations unless a finding is made by the commissioner that such deductibles, coinsurance options, conditions, and limitations are unreasonable when compared with benefits provided.~~

(f) An insurer offering the coverages authorized in paragraphs (a) and (b) of this subsection (2) shall demonstrate in rate filings submitted to the commissioner the savings to the insured to be realized under the plan and shall further ~~submit~~ CERTIFY PURSUANT TO SECTION 10-4-725 to the commissioner ~~for preapproval~~ any disclosure form to be used to record an insured's election for any coverage authorized in paragraphs (a) and (b) of this subsection (2). A disclosure form for a managed care arrangement shall include the following information in type of at least twelve-point size:

(3) (h) For the first year an insurer offers the coverages authorized in this subsection (3), such insurer shall demonstrate in rate filings submitted to the commissioner that a savings of a minimum of fifteen percent of the personal injury protection coverage premium shall be realized under the plan. ~~Any disclosure form to be used to record an insured's election for any coverage authorized in this subsection (3) shall be submitted to the commissioner for preapproval.~~ AN INSURER SHALL CERTIFY, PURSUANT TO SECTION 10-4-725, TO THE COMMISSIONER ANY DISCLOSURE FORM USED TO RECORD AN INSURED'S ELECTION FOR ANY COVERAGE AUTHORIZED IN THIS SUBSECTION (3).

**SECTION 7.** 10-10-109 (1), (2), (3), (4), (5), and (6), Colorado Revised Statutes, are amended to read:

**10-10-109. Filing form certification, filing of rating data, and withdrawal of forms.** (1) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders delivered or issued for delivery in this state SHALL BE CERTIFIED, and the schedules of premium rates pertaining thereto shall be filed with the commissioner PURSUANT TO SUBSECTIONS (3) AND (4) OF THIS SECTION.

(2) ~~The commissioner shall, within thirty days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, or deceptive, or encourage misrepresentation of the coverage, or are contrary to any provisions of the insurance code or of any rule or regulation promulgated thereunder.~~ A premium rate or schedule of premium rates shall be deemed reasonable for all purposes under this article if the rate or schedule produces, or reasonably may be expected to produce, a ratio of incurred claims to earned premium of not less than forty percent.

(3) ~~If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application,~~

~~endorsement, or rider, shall be issued or used until the expiration of thirty days after it has been so filed, unless the commissioner gives his prior written approval thereto.~~ ALL INSURERS PROVIDING CREDIT INSURANCE THAT ARE AUTHORIZED BY THE COMMISSIONER TO CONDUCT BUSINESS IN COLORADO SHALL SUBMIT TO THE COMMISSIONER:

(a) AN ANNUAL REPORT LISTING ANY POLICY FORMS, CERTIFICATES OF INSURANCE, NOTICES OF PROPOSED INSURANCE, APPLICATIONS FOR INSURANCE, ENDORSEMENTS, AND RIDERS ISSUED OR DELIVERED IN THIS STATE. SUCH LISTING SHALL BE SUBMITTED ON OR BEFORE JULY 15, 2000, AND ON OR BEFORE JULY 1 OF EACH SUBSEQUENT YEAR. EACH ANNUAL REPORT SHALL INCLUDE A CERTIFICATION BY AN OFFICER OF THE ORGANIZATION THAT, TO THE BEST OF THE OFFICER'S KNOWLEDGE, EACH POLICY FORM, CERTIFICATE OF INSURANCE, NOTICE OF PROPOSED INSURANCE, APPLICATION FOR INSURANCE, ENDORSEMENT, OR RIDER IN USE COMPLIES WITH COLORADO LAW.

(b) A LIST OF NEW POLICY FORMS, CERTIFICATES OF INSURANCE, NOTICES OF PROPOSED INSURANCE, APPLICATIONS FOR INSURANCE, ENDORSEMENTS, AND RIDERS. SUCH LIST SHALL ALSO INCLUDE A CERTIFICATION BY AN OFFICER OF THE ORGANIZATION THAT, TO THE BEST OF THE OFFICER'S KNOWLEDGE, EACH POLICY FORM, CERTIFICATE OF INSURANCE, NOTICE OF PROPOSED INSURANCE, APPLICATION FOR INSURANCE, ENDORSEMENT, OR RIDER IN USE COMPLIES WITH COLORADO LAW.

~~(4) The commissioner may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection (2) of this section. The written notice of such hearing shall state the reason for the proposed withdrawal.~~ THE COMMISSIONER SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE INSURERS AUTHORIZED TO CONDUCT BUSINESS WITHIN COLORADO TO DETERMINE WHETHER CREDIT INSURANCE POLICY FORMS, CERTIFICATES OF INSURANCE, NOTICES OF PROPOSED INSURANCE, APPLICATIONS FOR INSURANCE, ENDORSEMENTS, AND RIDERS COMPLY WITH THE CERTIFICATION MADE BY THE INSURER'S OFFICER AND WITH COLORADO LAW. THE COMMISSIONER MAY PROMULGATE RULES REGARDING THE ELEMENTS NECESSARY IN AN INSURER'S CERTIFICATION OF COMPLIANCE WITH COLORADO LAW.

~~(5) It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.~~

~~(6) If a group policy of credit insurance has been delivered in this state before July 1, 1969, or has been or is delivered in another state before or after July 1, 1969, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state, as specified in section 10-10-108 (2) and (4) and such forms shall be approved by the commissioner if they conform with the requirements specified in said subsections (2) and (4) and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner.~~

**SECTION 8.** 10-11-118, Colorado Revised Statutes, is amended to read:

**10-11-118. Title insurance.** (1) Title insurance rates and ~~rating organizations~~ FEES shall be regulated in the manner provided in part 4 of article 4 of this title,

except as otherwise provided in this section.

~~(2) (a) Every title insurer INSURANCE COMPANY AND TITLE INSURANCE AGENT shall file with the commissioner its schedule of rates and every amendment or modification thereof which it proposes to use. Each filing shall set forth its effective date which shall be not earlier than the thirtieth day following its receipt by the commissioner. HAVE ON FILE IN THE COMPANY'S OR AGENT'S PRINCIPAL OFFICE WITHIN THE STATE:~~

~~(I) THE SCHEDULE OF RATES, FEES, AND EVERY AMENDMENT THERETO, INCLUDING THE EFFECTIVE DATE OF THE SCHEDULE AMENDMENT;~~

~~(II) A STATEMENT OF COMPLIANCE BY AN OFFICER OF THE TITLE INSURANCE COMPANY OR THE TITLE INSURANCE AGENT THAT TO THE BEST OF THE OFFICER'S KNOWLEDGE EACH RATE OR FEE IN USE COMPLIES WITH COLORADO LAW; AND~~

~~(III) INFORMATION OR SUPPORTING DOCUMENTATION THAT DEMONSTRATES COMPLIANCE WITH SECTION 10-4-403.~~

~~(b) No title insurer, or agent of a title insurer, shall use any rate in the business of title insurance prior to its effective date nor prior to such rate having been publicly displayed and made readily available to the public for a period of not less than thirty days in each office of the title insurer or agent of a title insurer in the county to which said rate applies, and no rate increase or decrease shall apply to title policies or services which have been contracted for prior to such effective date. PRIOR TO THE EFFECTIVE DATE OF ANY NEW OR AMENDED RATE OR FEE, EVERY TITLE INSURANCE COMPANY AND TITLE INSURANCE AGENT SHALL FILE WITH THE COMMISSIONER SUCH NEW OR AMENDED RATE. SUCH FILING SHALL NOT INCLUDE THE INFORMATION OR SUPPORTING DOCUMENTATION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2). EVERY TITLE INSURANCE COMPANY AND TITLE INSURANCE AGENT SHALL MAKE AVAILABLE UPON REQUEST TO THE COMMISSIONER THE STATEMENT OF COMPLIANCE AND ALL INFORMATION OR SUPPORTING DOCUMENTATION REFERRED TO IN PARAGRAPH (a) OF THIS SUBSECTION (2).~~

~~(c) NO TITLE INSURANCE COMPANY OR TITLE INSURANCE AGENT SHALL USE ANY RATE OR FEE IN THE BUSINESS OF TITLE INSURANCE PRIOR TO ITS EFFECTIVE DATE, AND NO RATE OR FEE INCREASE OR DECREASE SHALL APPLY TO TITLE POLICIES OR SERVICES THAT HAVE BEEN CONTRACTED FOR PRIOR TO SUCH EFFECTIVE DATE. ALL SUCH RATES OR FEES SHALL BE READILY AVAILABLE TO THE PUBLIC IN EACH OFFICE OF THE TITLE INSURANCE COMPANY OR TITLE INSURANCE AGENT IN THE COUNTY TO WHICH SAID RATES OR FEES APPLY.~~

~~(3) All title insurance manuals of classifications, rules and rates, rating plans, and all modifications thereof filed under any law repealed by this article shall be deemed to have been filed under this article, and all title insurance rating organizations licensed under such repealed law shall be deemed to be licensed under this article. All hearings and investigations pending under such repealed law shall be deemed to have been initiated under and shall be continued under this article.~~

**SECTION 9.** 10-15-105 (1) (b), Colorado Revised Statutes, is amended to read:

**10-15-105. Contract requirements - refund - full performance.** (1) (b) (I) The

contract seller shall ~~file~~ CERTIFY PURSUANT TO SUBPARAGRAPHS (II), (III), AND (IV) OF THIS PARAGRAPH (b) with the commissioner ~~a copy of~~ each form of preneed contract offered or sold by such contract seller unless the contract seller notifies the commissioner that it will use preauthorized forms made available by the commissioner. For preneed contracts ~~which~~ THAT are funded by the assignment of life insurance benefits, the assignment shall be deemed to be part of the preneed contract, and the contract seller shall ~~file~~ CERTIFY PURSUANT TO SUBPARAGRAPHS (II), (III), AND (IV) OF THIS PARAGRAPH (b) with the commissioner a copy of each form of assignment. ~~If the commissioner has not approved or disapproved any filed preneed contract within thirty days after the date of filing, the contract seller may consider the contract approved.~~

(II) ~~If a previously approved preneed contract is determined to be in violation of the provisions of this article where there has been no change in the preneed laws or regulations under which the preneed contract form had been previously approved, the commissioner shall give the contract seller at least five business days' notice of the specific alleged deficiencies. Following review of the contract seller's response, and, if appropriate, discussion with the contract seller, if the commissioner determines that the deficiencies have not been corrected, the commissioner may pursue administrative action pursuant to sections 10-15-114 and 10-15-115.~~ EACH CONTRACT SELLER OF PRENEED CONTRACTS SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER LISTING ANY FORMS OF PRENEED CONTRACTS AND EACH FORM OF ASSIGNMENT USED OR TO BE USED BY THE CONTRACT SELLER. SUCH LISTING SHALL BE SUBMITTED ON OR BEFORE JULY 15, 2000, AND ON OR BEFORE JULY 1 OF EACH SUBSEQUENT YEAR. THE ANNUAL REPORT SHALL INCLUDE A CERTIFICATION BY THE CONTRACT SELLER THAT, TO THE BEST OF THE SELLER'S KNOWLEDGE, EACH FORM FOR PRENEED CONTRACTS AND ASSIGNMENTS IN USE COMPLIES WITH COLORADO LAW. THE COMMISSIONER MAY PROMULGATE RULES SPECIFYING THE NECESSARY ELEMENTS OF THE CERTIFICATION.

(III) ~~Printed contract forms that were approved for use pursuant to this article as it was in effect prior to May 25, 1995, shall remain approved for use up to ninety days after such date. When such ninety-day period expires, only those forms may be used that are approved for use pursuant to this article as it is in effect after May 25, 1995.~~ EACH CONTRACT SELLER SHALL SUBMIT TO THE COMMISSIONER A LIST OF NEW PRENEED CONTRACTS AND FORMS OF ASSIGNMENT. SUCH LISTING SHALL INCLUDE A CERTIFICATION BY THE CONTRACT SELLER THAT, TO THE BEST OF THE SELLER'S KNOWLEDGE, EACH NEW PRENEED CONTRACT OR FORM OF ASSIGNMENT PROPOSED COMPLIES WITH COLORADO LAW. THE COMMISSIONER MAY PROMULGATE RULES SPECIFYING THE NECESSARY ELEMENTS OF THE CERTIFICATION.

(IV) THE COMMISSIONER SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE THE PRENEED CONTRACT SELLER TO DETERMINE WHETHER THE PRENEED CONTRACTS OR FORMS OF ASSIGNMENT COMPLY WITH THE SELLER'S CERTIFICATION AND COLORADO LAW.

**SECTION 10.** 8-44-103, Colorado Revised Statutes, is amended to read:

**8-44-103. Insurers to file system of rating - approval.** Every insurance carrier authorized to transact business in this state, except the Colorado compensation insurance authority, which insures employers against liability for compensation under the provisions of articles 40 to 47 of this title shall file with the commissioner of

insurance its classification of risks, any premiums relating thereto, and any subsequent proposed classification of risks and premiums, together with all rates and any systems of rating, ~~none of which shall take effect until approved by the commissioner of insurance, and the commissioner may disapprove the same as inadequate. The commissioner, at any time, may withdraw approval of any rate or system of rating.~~

**SECTION 11.** 8-44-104, Colorado Revised Statutes, is amended to read:

**8-44-104. Cutting rates - rebates - penalty.** Every insurance carrier, except the Colorado compensation insurance authority, which writes compensation insurance shall write insurance at the rates ~~approved as adequate by~~ FILED WITH the commissioner of insurance. The cutting of rates, rebating, or any other method whereby, directly or indirectly, any employer is given the benefit of or obtains a rate lower than that approved by the commissioner of insurance is prohibited. The commissioner of insurance may suspend the license of any insurance carrier, agent, or broker who violates any provision of this section. Also, any insurance carrier, any employer, or any officer, agent, or employee thereof who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars for each such violation.

**SECTION 12. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 24, 2000