

CHAPTER 306

INSURANCE

SENATE BILL 01-034

BY SENATOR(S) Owen;
also REPRESENTATIVE(S) Williams T.

AN ACT

CONCERNING THE REGULATION OF INSURANCE PRODUCERS BY THE DIVISION OF INSURANCE.

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

SECTION 1. 10-2-101, Colorado Revised Statutes, is amended to read:

10-2-101. Short title. This article shall be known and may be cited as the "Colorado ~~Single Insurance~~ Producer Licensing MODEL Act".

SECTION 2. 10-2-102, Colorado Revised Statutes, is amended to read:

10-2-102. Scope - applicability. This article governs the qualifications and procedures for THE licensing OF 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~~ IS INTENDED TO SIMPLIFY AND ORGANIZE SOME STATUTORY LANGUAGE TO IMPROVE EFFICIENCY, PERMIT THE USE OF NEW TECHNOLOGY, AND REDUCE COSTS ASSOCIATED WITH ISSUING, CONTINUING, AND RENEWING INSURANCE LICENSES.

SECTION 3. 10-2-103 (3), (4), (5), (7), (8), and (9), Colorado Revised Statutes, are amended, and the said 10-2-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

10-2-103. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "HOME STATE" MEANS THE DISTRICT OF COLUMBIA AND ANY STATE OR TERRITORY OF THE UNITED STATES IN WHICH AN INSURANCE PRODUCER MEETS THE

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

FOLLOWING:

(a) MAINTAINS THE PRODUCER'S PRINCIPAL PLACE OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS; AND

(b) IS LICENSED TO ACT AS AN INSURANCE PRODUCER.

(3) "Individual" means any private or natural person as distinguished from a partnership, corporation, or association, OR ANY FOREIGN OR DOMESTIC ENTITY AS DEFINED IN SECTION 7-90-102, C.R.S.

(4) "Insurance" means any of the lines of insurance AUTHORITY set forth in section 10-2-407 (1).

(5) "Insurance agency" OR "BUSINESS ENTITY" means a corporation, partnership, association, OR FOREIGN OR DOMESTIC ENTITY AS DEFINED IN SECTION 7-90-102, C.R.S., or other legal entity which THAT transacts the business of insurance.

(6.5) "INSURER" MEANS EVERY PERSON ENGAGED AS PRINCIPAL, INDEMNITOR, SURETY, OR CONTRACTOR IN THE BUSINESS OF MAKING CONTRACTS OF INSURANCE.

(7) "License" means a document issued by the commissioner which THAT authorizes a person to act as an insurance producer for the lines of insurance AUTHORITY, 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.

(7.1) "LIMITED LINES CREDIT INSURANCE" INCLUDES CREDIT LIFE, CREDIT DISABILITY, CREDIT PROPERTY, CREDIT UNEMPLOYMENT, INVOLUNTARY UNEMPLOYMENT, MORTGAGE LIFE, MORTGAGE GUARANTY, MORTGAGE DISABILITY, GUARANTEED AUTOMOBILE PROTECTION INSURANCE, AND ANY OTHER FORM OF INSURANCE OFFERED IN CONNECTION WITH AN EXTENSION OF CREDIT THAT IS LIMITED TO PARTIALLY OR WHOLLY EXTINGUISHING THE INSURED CREDIT OBLIGATION THAT THE COMMISSIONER DETERMINES SHOULD BE DESIGNATED A FORM OF LIMITED LINE CREDIT INSURANCE.

(7.3) "LIMITED LINES CREDIT INSURANCE PRODUCER" MEANS A PERSON WHO SELLS, SOLICITS, OR NEGOTIATES ONE OR MORE FORMS OF LIMITED LINES CREDIT INSURANCE COVERAGE TO INDIVIDUALS THROUGH A MASTER, CORPORATE, GROUP, OR INDIVIDUAL POLICY.

(7.5) "LIMITED LINE INSURANCE" MEANS THOSE LINES OF AUTHORITY OTHER THAN THOSE DEFINED IN SECTION 10-2-407 (1) (a) TO (1) (e), OR ANY OTHER LINE OF INSURANCE THAT THE COMMISSIONER MAY DEEM NECESSARY TO RECOGNIZE FOR THE PURPOSE OF COMPLYING WITH SECTION 10-2-502.

(7.7) "LIMITED LINE PRODUCER" MEANS A PERSON AUTHORIZED BY THE COMMISSIONER TO SELL, SOLICIT, OR NEGOTIATE LIMITED LINES OF INSURANCE.

(7.9) "NEGOTIATE" MEANS THE ACT OF CONFERRING DIRECTLY WITH OR OFFERING ADVICE DIRECTLY TO A PURCHASER OR PROSPECTIVE PURCHASER OF A PARTICULAR

CONTRACT OF INSURANCE CONCERNING ANY OF THE SUBSTANTIVE BENEFITS, TERMS, OR CONDITIONS OF THE CONTRACT, PROVIDED THAT THE PERSON ENGAGED IN THAT ACT EITHER SELLS INSURANCE OR OBTAINS INSURANCE FROM INSURERS FOR PURCHASERS.

(8) "Person" includes any ~~natural person, corporation, association, partnership, or other legal entity~~ INDIVIDUAL OR A BUSINESS ENTITY.

(9) ~~"State" means any state, district, territory, or province of the United States or Canada.~~

(10) "SELL" MEANS TO EXCHANGE A CONTRACT OF INSURANCE BY ANY MEANS, FOR MONEY OR ITS EQUIVALENT, ON BEHALF OF AN INSURANCE COMPANY.

(11) "SOLICIT" MEANS ATTEMPTING TO SELL INSURANCE OR ASKING OR URGING A PERSON TO APPLY FOR A PARTICULAR KIND OF INSURANCE FROM A PARTICULAR COMPANY.

(12) "TERMINATE" MEANS THE CANCELLATION OF THE RELATIONSHIP BETWEEN AN INSURANCE PRODUCER AND THE INSURER OR THE TERMINATION OF A PRODUCER'S AUTHORITY TO TRANSACT INSURANCE.

(13) "UNIFORM BUSINESS ENTITY APPLICATION" MEANS THE CURRENT VERSION OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' UNIFORM BUSINESS ENTITY APPLICATION FOR RESIDENT AND NONRESIDENT BUSINESS ENTITIES.

(14) "UNIFORM APPLICATION" MEANS THE CURRENT VERSION OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' UNIFORM APPLICATION FOR RESIDENT AND NONRESIDENT PRODUCER LICENSING.

SECTION 4. 10-2-104, Colorado Revised Statutes, is amended to read:

10-2-104. Authority of commissioner - rules. Pursuant to the provisions of article 4 of title 24, C.R.S., the commissioner may ~~adopt~~ PROMULGATE 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.

SECTION 5. 10-2-105, Colorado Revised Statutes, is amended to read:

10-2-105. Insurance producer - exemption from definition. (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE AN INSURER TO OBTAIN AN INSURANCE PRODUCER LICENSE. IN THIS SECTION, THE TERM "INSURER" DOES NOT INCLUDE AN INSURER'S OFFICERS, DIRECTORS, EMPLOYEES, SUBSIDIARIES, OR AFFILIATES.

(+) (2) Notwithstanding section 10-2-103 (6), "insurance producer" does not include the following:

(a) Any person who is a regularly salaried officer, DIRECTOR, or employee of an insurance company OR AN INSURANCE PRODUCER 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, SO LONG AS THE OFFICER, DIRECTOR, OR EMPLOYEE DOES NOT RECEIVE ANY COMMISSION ON POLICIES WRITTEN OR SOLD TO INSURE RISKS RESIDING, LOCATED, OR TO BE PERFORMED IN THIS STATE;

(b) Any person who is a salaried employee in the office of an insurance producer OR INSURER 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:~~ AN OFFICER, DIRECTOR, OR EMPLOYEE WHOSE ACTIVITIES ARE EXECUTIVE, ADMINISTRATIVE, MANAGERIAL, CLERICAL, OR A COMBINATION OF THESE, AND ARE ONLY INDIRECTLY RELATED TO THE SALE, SOLICITATION, OR NEGOTIATION OF INSURANCE;

~~(I) Group life insurance, annuities, or group or blanket health coverage, or for the purpose of enrolling individuals under such plans; or~~

~~(H) Issuing certificates under group life insurance, annuities, or group or blanket health coverage, or otherwise assisting in administering such plans;~~

(c.3) AN OFFICER, DIRECTOR, OR EMPLOYEE WHOSE FUNCTION RELATES TO UNDERWRITING, LOSS CONTROL, INSPECTION, OR THE PROCESSING, ADJUSTING, INVESTIGATING, OR SETTLING OF A CLAIM ON A CONTRACT OF INSURANCE;

(c.5) AN OFFICER, DIRECTOR, OR EMPLOYEE WHO IS ACTING IN THE CAPACITY OF A SPECIAL AGENT OR AGENCY SUPERVISOR ASSISTING INSURANCE PRODUCERS, WHERE THE OFFICER'S, DIRECTOR'S, OR EMPLOYEE'S ACTIVITIES ARE LIMITED TO PROVIDING TECHNICAL ADVICE AND ASSISTANCE TO LICENSED INSURANCE PRODUCERS AND DO NOT INCLUDE THE SALE, SOLICITATION, OR NEGOTIATION OF INSURANCE;

(c.7) A PERSON WHO SECURES AND FURNISHES INFORMATION FOR THE PURPOSE OF GROUP LIFE INSURANCE, GROUP PROPERTY AND CASUALTY INSURANCE, GROUP ANNUITIES, OR GROUP OR BLANKET ACCIDENT AND HEALTH INSURANCE OR FOR THE PURPOSE OF ENROLLING INDIVIDUALS UNDER PLANS, ISSUING CERTIFICATES UNDER PLANS, OR OTHERWISE ASSISTING IN ADMINISTERING PLANS OR PERFORMS ADMINISTRATIVE SERVICES RELATED TO MASS MARKETED PROPERTY AND CASUALTY INSURANCE, WHERE NO COMMISSION IS PAID TO THE PERSON FOR THE SERVICE;

(d) Employers, ~~or~~ ASSOCIATIONS, OR their officers, DIRECTORS, or employees, or the trustees of any employee trust plan, to the extent that such employers, ASSOCIATIONS, officers, DIRECTORS, 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~~ INSURER; except that such employers, ASSOCIATIONS, officers, DIRECTORS, employees, or trustees shall not in

any manner be compensated, directly or indirectly, by the company issuing the contracts;

(e) Employees of ~~insurance companies~~ INSURERS OR INSURANCE AGENCIES or organizations employed by ~~insurance companies~~ INSURERS OR INSURANCE AGENCIES 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;

(g) Officers or employees of a motor vehicle rental company that offers coverage in connection with and incidental to the rental of motor vehicles under motor vehicle rental agreements, so long as such coverage is:

(I) Offered at the point of the rental transaction or by preselection of coverage in master, corporate, group, or individual rental agreements;

(II) Limited in scope to the parties to such motor vehicle rental agreements and to other authorized drivers or occupants of the vehicles being rented;

(III) Limited in duration to coverage of damages incurred as a result of events occurring during the rental period; and

(IV) For traditionally recognized risks associated with motor vehicle operation and travel, including, without limitation, personal injury or death, personal liability and property damage, collision, damage to or loss of personal effects, roadside assistance, and emergency repairs;

(h) A PERSON WHOSE ACTIVITIES IN THIS STATE ARE LIMITED TO ADVERTISING WITHOUT THE INTENT TO SOLICIT INSURANCE IN THIS STATE THROUGH COMMUNICATIONS IN PRINTED PUBLICATIONS OR OTHER FORMS OF ELECTRONIC MASS MEDIA WHOSE DISTRIBUTION IS NOT LIMITED TO RESIDENTS OF THE STATE, SO LONG AS THE PERSON DOES NOT SELL, SOLICIT, OR NEGOTIATE INSURANCE THAT WOULD INSURE RISKS RESIDING, LOCATED, OR TO BE PERFORMED IN THIS STATE;

(i) A PERSON WHO IS NOT A RESIDENT OF THIS STATE WHO SELLS, SOLICITS, OR NEGOTIATES A CONTRACT OF INSURANCE, FOR COMMERCIAL PROPERTY AND CASUALTY RISKS, TO AN INSURED WITH RISKS LOCATED IN MORE THAN ONE STATE INSURED UNDER THAT CONTRACT, SO LONG AS THE PERSON IS OTHERWISE LICENSED AS AN INSURANCE PRODUCER TO SELL, SOLICIT, OR NEGOTIATE THAT INSURANCE IN THE STATE WHERE THE INSURED MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS AND THE CONTRACT OF INSURANCE INSURES RISKS LOCATED IN THAT STATE; OR

(j) A SALARIED FULL-TIME EMPLOYEE WHO COUNSELS OR ADVISES HIS OR HER EMPLOYER RELATIVE TO THE INSURANCE INTERESTS OF THE EMPLOYER OR OF THE SUBSIDIARIES OR BUSINESS AFFILIATES OF THE EMPLOYER, SO LONG AS THE EMPLOYEE DOES NOT SELL OR SOLICIT INSURANCE OR RECEIVE A COMMISSION.

SECTION 6. 10-2-202 (1) (d), Colorado Revised Statutes, is amended to read:

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

(1) Precicensure education as set forth in section 10-2-201 shall not be required of an individual who is:

(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 precicensure education requirements in his or her home state~~ pertinent to the line or lines of insurance applied for AUTHORITY HELD in ~~this~~ THE PRODUCER'S HOME state.

SECTION 7. 10-2-301 (3), Colorado Revised Statutes, is amended to read:

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

(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:

(I) Life insurance and annuity contracts, including variable life and annuity contracts;

(II) Sickness, accident and health insurance;

(III) Property and casualty insurance; and

(IV) 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 division of this state have in effect a reciprocity agreement concerning continuing education requirements~~ IF SUCH LICENSE IS IN GOOD STANDING WITH THE DIVISION AND NO COMPLAINTS HAVE BEEN FILED AGAINST THE LICENSEE.

SECTION 8. 10-2-401 (1), Colorado Revised Statutes, is amended to read:

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. A PERSON SHALL NOT SELL, SOLICIT, OR NEGOTIATE INSURANCE IN THIS STATE FOR ANY CLASS OR CLASSES OF INSURANCE UNLESS THE PERSON IS LICENSED FOR THAT LINE OF AUTHORITY IN ACCORDANCE WITH THIS ARTICLE.

SECTION 9. 10-2-402 (1), (4), and (7), Colorado Revised Statutes, are amended, and the said 10-2-402 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-2-402. License examination requirement. (1) Unless exempt pursuant to

section 10-2-403, ~~an~~ A RESIDENT 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~~ AUTHORITY for which the individual applicant seeks qualification, ~~except that~~ UNLESS an individual applicant ~~who~~ has been licensed as an insurance producer for the same line or lines of ~~insurance~~ AUTHORITY 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~~ AUTHORITY 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.~~

(4) ~~At the discretion of the commissioner, filing of the application for license may be required either before or after passing the examination.~~

(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.~~

(11) AN INSURANCE PRODUCER LICENSE ISSUED ON OR BEFORE JANUARY 1, 2002, FOR CROP HAIL, HEALTH MAINTENANCE ORGANIZATIONS ("HMO"), OR NONPROFITS MAY BE RENEWED OR CONTINUED UNTIL THE LICENSEE FAILS TO MEET THE REQUIREMENTS OF THIS PART 4.

SECTION 10. 10-2-403 (1) (a) and (1) (f), Colorado Revised Statutes, are amended, and the said 10-2-403 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

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~~ AN INDIVIDUAL WHO APPLIES FOR AN INSURANCE PRODUCER LICENSE IN THIS STATE WHO WAS PREVIOUSLY LICENSED FOR THE SAME LINES OF AUTHORITY IN THIS STATE OR ANOTHER STATE SHALL NOT BE REQUIRED TO COMPLETE ANY PRELICENSING EDUCATION OR EXAMINATION. THIS EXEMPTION IS ONLY AVAILABLE TO A NONRESIDENT APPLICANT IF:

(I) (A) THE PERSON IS CURRENTLY LICENSED IN HIS OR HER HOME STATE FOR THE SAME LINE OR LINES OF AUTHORITY; OR

(B) THE APPLICATION IS RECEIVED WITHIN TWELVE MONTHS AFTER THE CANCELLATION OF THE APPLICANT'S PREVIOUS LICENSE; AND

(II) (A) THE PRIOR STATE ISSUES A CERTIFICATION THAT, AT THE TIME OF CANCELLATION, THE APPLICANT WAS IN GOOD STANDING IN THAT STATE; OR

(B) THE STATE'S PRODUCER DATABASE RECORDS, MAINTAINED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES, INDICATE THAT THE PRODUCER IS OR WAS LICENSED IN GOOD STANDING FOR THE LINE OF AUTHORITY REQUESTED.

(b.5) A PERSON LICENSED AS AN INSURANCE PRODUCER IN ANOTHER STATE WHO MOVES TO THIS STATE SHALL MAKE APPLICATION WITHIN NINETY DAYS AFTER ESTABLISHING LEGAL RESIDENCE TO BECOME A RESIDENT LICENSEE PURSUANT TO SECTION 10-2-404. NO PRELICENSING EDUCATION OR EXAMINATION SHALL BE REQUIRED OF THAT PERSON TO OBTAIN ANY LINE OF AUTHORITY PREVIOUSLY HELD IN THE PRIOR STATE EXCEPT WHERE THE INSURANCE COMMISSIONER DETERMINES OTHERWISE BY REGULATION.

(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)~~:

(g) AN INDIVIDUAL APPLICANT WHO HOLDS THE DESIGNATION OF CHARTERED FINANCIAL CONSULTANT ("CHFC"); EXCEPT THAT SUCH INDIVIDUAL IS NOT EXEMPT FROM THAT PORTION OF THE EXAMINATION PERTAINING TO COLORADO LAWS AND RULES PERTINENT TO LIFE INSURANCE AND HEALTH COVERAGE INSURANCE;

(h) AN INDIVIDUAL APPLICANT WHO HOLDS THE DESIGNATION OF REGISTERED HEALTH UNDERWRITER ("RHU"); EXCEPT THAT SUCH INDIVIDUAL IS NOT EXEMPT FROM THAT PORTION OF THE EXAMINATION PERTAINING TO COLORADO LAWS AND RULES PERTINENT TO LIFE INSURANCE AND HEALTH COVERAGE INSURANCE.

SECTION 11. The introductory portion to 10-2-404 (1), 10-2-404 (1) (c), (1) (d), (1) (g), the introductory portion to 10-2-404 (2), and 10-2-404 (2) (c), (2) (d), (2) (e), (2) (f), and (2) (g), Colorado Revised Statutes, are amended, and the said 10-2-404 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-2-404. Application for license. (1) An applicant for ~~an~~ A RESIDENT 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:

(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~~ AND MEETS THE REQUIREMENTS OF SECTION 10-2-502;

(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)~~ 10-2-502 (1) (e);

(g) The individual has successfully passed the examination or has satisfied examination qualification requirements for the line or lines of insurance AUTHORITY for which the individual has applied; and

(2) An insurance agency OR BUSINESS ENTITY acting as an insurance producer shall obtain an insurance producer license. ~~The insurance agency shall make~~ Application SHALL BE MADE on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

(c) The INSURANCE agency OR BUSINESS ENTITY has paid the fees prescribed by the commissioner in accordance with section 10-2-413;

(d) The INSURANCE agency OR BUSINESS ENTITY has designated a licensed ~~officer, partner, or director~~ PRODUCER WHO IS AN OFFICER, PARTNER, OR DIRECTOR responsible for the INSURANCE agency's OR BUSINESS ENTITY'S compliance with the insurance laws and rules of this state;

(e) The INSURANCE agency OR BUSINESS ENTITY has registered with the commissioner the name of each natural person who, as an officer, director, partner, owner, or member of the INSURANCE agency OR BUSINESS ENTITY, is acting as and is licensed as an insurance producer;

(f) The INSURANCE agency OR BUSINESS ENTITY has registered with the commissioner at least one individual who holds a valid insurance producer license for the line or lines of insurance AUTHORITY requested in the application;

(g) If the INSURANCE agency's OR BUSINESS ENTITY'S filing status is nonresident, the INSURANCE agency OR BUSINESS ENTITY has complied with the qualification requirements of section 10-2-502.

(4) EACH INSURER THAT SELLS, SOLICITS, OR NEGOTIATES ANY FORM OF LIMITED LINE CREDIT INSURANCE SHALL PROVIDE TO EACH INDIVIDUAL WHOSE DUTIES WILL INCLUDE SELLING, SOLICITING, OR NEGOTIATING LIMITED LINES CREDIT INSURANCE, A PROGRAM OF INSTRUCTION THAT MAY BE APPROVED BY THE INSURANCE COMMISSIONER.

SECTION 12. 10-2-405 (1) (b), Colorado Revised Statutes, is amended to read:

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:

(b) An insurance agency OR BUSINESS ENTITY may qualify as a resident if the agency has its principal office in this state;

SECTION 13. 10-2-406 (1), (2) (a), (3), (4), (5), (6), and (7) (a), Colorado Revised Statutes, are amended to read:

10-2-406. Licensing of agencies. (1) For the purposes set forth in section

10-2-701, an insurance agency OR BUSINESS ENTITY shall be licensed as an insurance producer.

(2) (a) The insurance agency OR BUSINESS ENTITY shall register the name of every natural person who, as a member, officer, director, stockholder, owner, or employee of the agency OR BUSINESS ENTITY, is acting as and is licensed as an insurance producer.

(3) The insurance agency OR BUSINESS ENTITY 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 OR BUSINESS ENTITY.

(4) The insurance agency OR BUSINESS ENTITY shall, within ten days, notify the commissioner, on a form prescribed by the commissioner, of any change relative to the INSURANCE agency OR BUSINESS ENTITY name, officers, directors, partners, or owners, to report a merger, or that the INSURANCE agency OR BUSINESS ENTITY has ceased doing business in this state.

(5) When an insurance agency OR BUSINESS ENTITY ceases to do business in this state, the INSURANCE agency OR BUSINESS ENTITY shall return the producer license to the commissioner within ten days after ceasing to do business.

(6) When an insurance agency OR BUSINESS ENTITY changes its principal address to another state, the INSURANCE agency OR BUSINESS ENTITY 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 OR BUSINESS ENTITY shall comply with section 10-2-404.

SECTION 14. The introductory portion to 10-2-407 (1) and 10-2-407 (1) (a), (1) (b), (1) (c), (1) (d), (1) (e), (1) (g), (1) (h), (1) (l), (1) (m), and (2), Colorado Revised Statutes, are amended, and the said 10-2-407 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

10-2-407. License - definitions of lines of insurance - authority. (1) UNLESS DENIED LICENSURE PURSUANT TO SECTION 10-2-801 OR 12-7-106, C.R.S., A PERSON WHO HAS MET THE REQUIREMENTS OF SECTIONS 10-2-401, 10-2-404, 12-7-102, OR 12-7-103, C.R.S., MAY BE ISSUED AN INSURANCE PRODUCER LICENSE. An insurance producer may receive qualification for a single license to include one or more of the following lines OF AUTHORITY:

- (a) "Life" WHICH MEANS INSURANCE COVERAGE ON HUMAN LIVES THAT:
 - (I) SHALL INCLUDE BENEFITS OF ENDOWMENT AND ANNUITIES; AND
 - (II) MAY INCLUDE BENEFITS FOR:
 - (A) THE EVENT OF DEATH OR DISMEMBERMENT BY ACCIDENT; AND

(B) DISABILITY INCOME;

(b) "ACCIDENT AND health coverage" WHICH MEANS INSURANCE COVERAGE FOR SICKNESS, BODILY INJURY, OR ACCIDENTAL DEATH AND THAT MAY INCLUDE BENEFITS FOR DISABILITY INCOME;

(c) "VARIABLE life and variable ~~contracts~~ ANNUITY PRODUCTS", WHICH MEANS INSURANCE COVERAGE PROVIDED UNDER VARIABLE LIFE INSURANCE CONTRACTS AND VARIABLE ANNUITIES;

(d) "Property" WHICH MEANS INSURANCE COVERAGE FOR THE DIRECT OR CONSEQUENTIAL LOSS OR DAMAGE TO PROPERTY OF EVERY KIND;

(e) "Casualty" WHICH MEANS INSURANCE COVERAGE AGAINST LEGAL LIABILITY, INCLUDING THAT FOR DEATH, INJURY, OR DISABILITY OR DAMAGE TO REAL OR PERSONAL PROPERTY;

(g) LIMITED LINES credit INSURANCE;

(h) Crop hail; EXCEPT THAT NO PERSON SHALL BE ISSUED A NEW LICENSE FOR THIS INDIVIDUAL LINE OF AUTHORITY ON OR AFTER JANUARY 1, 2002, PURSUANT TO SECTION 10-2-402;

(l) Health maintenance organizations ("HMO"); EXCEPT THAT NO PERSON SHALL BE ISSUED A NEW LICENSE FOR THIS INDIVIDUAL LINE OF AUTHORITY ON OR AFTER JANUARY 1, 2002, PURSUANT TO SECTION 10-2-402;

(m) Nonprofits; EXCEPT THAT NO PERSON SHALL BE ISSUED A NEW LICENSE FOR THIS INDIVIDUAL LINE OF AUTHORITY ON OR AFTER JANUARY 1, 2002, PURSUANT TO SECTION 10-2-402;

(n) "PERSONAL LINES" WHICH MEANS PROPERTY AND CASUALTY INSURANCE SOLD TO INDIVIDUALS AND FAMILIES FOR PRIMARILY NONCOMMERCIAL PURPOSES; OR

(o) ANY OTHER LINE OF INSURANCE PERMITTED UNDER STATE LAW OR REGULATION.

~~(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.~~

SECTION 15. 10-2-408 (6), Colorado Revised Statutes, is amended, and the said 10-2-408 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-2-408. License - contents - continuation due date. (6) Any person who is ~~a resident of the state of Colorado and~~ holds EITHER a Colorado insurance producer license, A RESIDENT SURPLUS LINES LICENSE, OR THE EQUIVALENT ISSUED BY

ANOTHER STATE OR TERRITORY THAT OFFERS COLORADO SURPLUS LINES PRODUCERS' NONRESIDENT LICENSES ON A RECIPROCAL BASIS 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 twenty-five thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned~~ UPON THE CONDITION that the producer ~~will~~ SHALL conduct business under the license in accordance with the provisions of this article and ~~will~~ SHALL 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.~~

(7) A LICENSED INSURANCE PRODUCER WHO FAILS TO COMPLY WITH LICENSE CONTINUATION OR RENEWAL PROCEDURES DUE TO MILITARY SERVICE, LONG-TERM MEDICAL DISABILITY, OR ANY OTHER CONDITION THE COMMISSIONER DEEMS APPROPRIATE, MAY REQUEST A WAIVER OF THOSE PROCEDURES. THE PRODUCER MAY ALSO REQUEST A WAIVER OF ANY EXAMINATION REQUIREMENT OR ANY OTHER FINE OR SANCTION IMPOSED FOR FAILURE TO COMPLY WITH CONTINUATION OR RENEWAL PROCEDURES.

SECTION 16. Repeal. 10-2-409 (2), Colorado Revised Statutes, is repealed as follows:

10-2-409. License - amendment - reissuance. (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.~~

SECTION 17. The introductory portion to 10-2-410 (1) and 10-2-410 (1) (c), Colorado Revised Statutes, are amended, and the said 10-2-410 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-2-410. Temporary licensing. (1) The commissioner may issue A temporary license ~~authority~~ to an individual to act as an insurance producer for a period not to exceed ~~ninety~~ ONE HUNDRED EIGHTY 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:

(c) To a member, employee, or officer of a licensed insurance agency OR BUSINESS ENTITY, LICENSED AS AN INSURANCE producer upon the death or disability of an individual designated in or registered as to the agency OR BUSINESS ENTITY license;

(2) THE COMMISSIONER MAY, BY ORDER, LIMIT THE AUTHORITY OF ANY TEMPORARY LICENSEE IN ANY WAY DEEMED NECESSARY TO PROTECT INSURED AND THE PUBLIC. THE COMMISSIONER MAY REQUIRE THE TEMPORARY LICENSEE TO HAVE A SUITABLE SPONSOR WHO IS A LICENSED PRODUCER OR INSURER AND WHO ASSUMES RESPONSIBILITY FOR ALL ACTS OF THE TEMPORARY LICENSEE. THE COMMISSIONER MAY IMPOSE OTHER REQUIREMENTS DESIGNED TO PROTECT INSURED AND THE PUBLIC. THE COMMISSIONER MAY, BY ORDER, REVOKE A TEMPORARY LICENSE IF THE INTEREST OF INSURED OR THE PUBLIC ARE ENDANGERED. A TEMPORARY LICENSE

MAY NOT CONTINUE AFTER THE OWNER OR THE PERSONAL REPRESENTATIVE DISPOSES OF THE BUSINESS.

SECTION 18. 10-2-411, Colorado Revised Statutes, is amended to read:

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.~~

SECTION 19. 10-2-412, Colorado Revised Statutes, is amended to read:

10-2-412. Change of address - notification. (1) Individual and insurance agency producer licensees shall inform the commissioner in writing, in a form ~~furnished~~ PRESCRIBED by the commissioner, of any change of address within thirty days ~~of~~ AFTER 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.~~

SECTION 20. 10-2-413 (1), Colorado Revised Statutes, is amended to read:

10-2-413. Fees. (1) The commissioner shall, by rule, set reasonable fees ~~for the following:~~ AND PENALTIES FOR THE FOLLOWING:

- (a) Insurance producer license; AND
- (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) and (p) Repealed.~~

~~(q) Penalty for failure to inform commissioner of change of address;~~

~~(r) Repealed.~~

~~(s) Prelicensing education cash fund fee;~~

~~(t) Registration of a continuing education course or program;~~

~~(u) Renewal of registration of a continuing education course or program.~~

SECTION 21. 10-2-414, Colorado Revised Statutes, is amended to read:

10-2-414. Additional lines of authority - application for license. An insurance producer licensee requesting licensure for any additional line or lines of ~~insurance~~ AUTHORITY 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.

SECTION 22. 10-2-416, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

10-2-416. Notification to the commissioner of termination. (1) **Termination for cause.** AN INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER THAT TERMINATES EMPLOYMENT, A CONTRACT, OR OTHER INSURANCE BUSINESS RELATIONSHIP WITH A PRODUCER SHALL NOTIFY THE COMMISSIONER WITHIN THIRTY DAYS FOLLOWING THE EFFECTIVE DATE OF THE TERMINATION, USING A FORMAT PRESCRIBED BY THE COMMISSIONER, IF THE REASON FOR TERMINATION IS ONE OF THE REASONS SET FORTH IN THIS ARTICLE AND ARTICLE 3 OF THIS TITLE, OR THE INSURER HAS KNOWLEDGE THE PRODUCER WAS FOUND BY A COURT, GOVERNMENT BODY, OR SELF-REGULATORY ORGANIZATION AUTHORIZED BY LAW TO HAVE ENGAGED IN ANY OF THE ACTIVITIES IN THIS ARTICLE AND ARTICLE 3 OF THIS TITLE. UPON THE WRITTEN REQUEST OF THE COMMISSIONER, THE INSURER SHALL PROVIDE ADDITIONAL INFORMATION, DOCUMENTS, RECORDS, OR OTHER DATA PERTAINING TO THE TERMINATION OR ACTIVITY OF THE PRODUCER.

(2) **Ongoing notification requirement.** THE INSURER OR THE AUTHORIZED REPRESENTATIVE OF THE INSURER SHALL PROMPTLY NOTIFY THE COMMISSIONER, IN A FORMAT PRESCRIBED BY THE COMMISSIONER, IF, UPON FURTHER REVIEW OR INVESTIGATION, THE INSURER DISCOVERS ADDITIONAL INFORMATION THAT WOULD HAVE BEEN REPORTABLE TO THE COMMISSIONER PURSUANT TO SUBSECTION (1) OF THIS SECTION HAD THE INSURER KNOWN OF ITS EXISTENCE.

(3) **Copy of notification to be provided to producer.** A COPY OF THE NOTIFICATION PURSUANT TO THIS SUBSECTION (3) SHALL BE PROVIDED TO THE PRODUCER PURSUANT TO THE FOLLOWING REQUIREMENTS:

(a) WITHIN FIFTEEN DAYS AFTER MAKING THE NOTIFICATION REQUIRED BY SUBSECTIONS (1) AND (2) OF THIS SECTION, THE INSURER SHALL MAIL A COPY OF THE NOTIFICATION TO THE PRODUCER AT THE PRODUCER'S LAST-KNOWN ADDRESS. IF THE PRODUCER IS TERMINATED FOR CAUSE AS LISTED IN SECTION 10-2-801, THE INSURER SHALL PROVIDE A COPY OF THE NOTIFICATION TO THE PRODUCER AT THE PRODUCER'S LAST-KNOWN ADDRESS BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED AND POSTAGE PREPAID, OR BY OVERNIGHT DELIVERY USING A NATIONALLY RECOGNIZED CARRIER.

(b) WITHIN THIRTY DAYS AFTER THE PRODUCER HAS RECEIVED THE ORIGINAL OR ADDITIONAL NOTIFICATION, THE PRODUCER MAY FILE WRITTEN COMMENTS CONCERNING THE SUBSTANCE OF THE NOTIFICATION WITH THE COMMISSIONER. THE PRODUCER SHALL, BY THE SAME MEANS, SIMULTANEOUSLY SEND A COPY OF THE COMMENTS TO THE REPORTING INSURER, AND THE COMMENTS SHALL BECOME A PART OF THE COMMISSIONER'S FILE AND ACCOMPANY EVERY COPY OF A REPORT DISTRIBUTED OR DISCLOSED FOR ANY REASON ABOUT THE PRODUCER AS PERMITTED UNDER SUBSECTION (5) OF THIS SECTION.

(4) **Immunities.** (a) IN THE ABSENCE OF WILFUL AND WANTON BEHAVIOR, AN INSURER, THE AUTHORIZED REPRESENTATIVE OF THE INSURER, A PRODUCER, THE COMMISSIONER, OR AN ORGANIZATION OF WHICH THE COMMISSIONER IS A MEMBER AND THAT COMPILES THE INFORMATION AND MAKES IT AVAILABLE TO OTHER COMMISSIONERS OR REGULATORY OR LAW ENFORCEMENT AGENCIES SHALL NOT BE SUBJECT TO CIVIL LIABILITY, AND A CIVIL CAUSE OF ACTION OF ANY NATURE SHALL NOT ARISE AGAINST THESE ENTITIES OR THEIR RESPECTIVE AGENTS OR EMPLOYEES, AS A RESULT OF ANY STATEMENT OR INFORMATION REQUIRED BY OR PROVIDED PURSUANT TO THIS SECTION OR ANY INFORMATION RELATING TO ANY STATEMENT THAT MAY BE REQUESTED IN WRITING BY THE COMMISSIONER, FROM AN INSURER OR PRODUCER OR A STATEMENT BY A TERMINATING INSURER OR PRODUCER TO AN INSURER OR PRODUCER LIMITED SOLELY AND EXCLUSIVELY TO WHETHER A TERMINATION FOR CAUSE UNDER THIS PARAGRAPH (a) WAS REPORTED TO THE COMMISSIONER, IF THE PROPRIETY OF ANY TERMINATION FOR CAUSE UNDER SUBSECTION (1) OF THIS SECTION IS CERTIFIED IN WRITING BY AN OFFICER OR AUTHORIZED REPRESENTATIVE OF THE INSURER OR PRODUCER TERMINATING THE RELATIONSHIP.

(b) PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL NOT ABROGATE OR MODIFY ANY EXISTING STATUTORY OR COMMON LAW PRIVILEGES OR IMMUNITIES.

(5) **Confidentiality.** (a) (I) EXCEPT AS PROVIDED IN PARAGRAPH (e) OF THIS SUBSECTION (5), ANY DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE CONTROL OR POSSESSION OF THE DIVISION OF INSURANCE THAT IS FURNISHED BY AN INSURER, PRODUCER, OR EMPLOYEE OR AGENT THEREOF ACTING ON BEHALF OF THE INSURER OR PRODUCER, OR OBTAINED BY THE COMMISSIONER IN AN INVESTIGATION PURSUANT TO THIS SECTION, SHALL NOT BE SUBJECT TO ARTICLE 72 OF TITLE 24, C.R.S.

(II) THE COMMISSIONER IS AUTHORIZED TO USE THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS A PART OF THE COMMISSIONER'S DUTIES.

(b) NEITHER THE COMMISSIONER NOR ANY PERSON WHO RECEIVED DOCUMENTS, MATERIALS, OR OTHER INFORMATION WHILE ACTING UNDER THE AUTHORITY OF THE COMMISSIONER SHALL BE REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY CONFIDENTIAL DOCUMENTS, MATERIALS, OR INFORMATION SUBJECT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

(c) IN ORDER TO ASSIST IN THE PERFORMANCE OF THE COMMISSIONER'S DUTIES UNDER THIS ARTICLE, THE COMMISSIONER, IF THE RECIPIENT AGREES TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENT, MATERIAL, OR OTHER INFORMATION, AND HAS THE AUTHORITY TO DO SO, MAY:

(I) SHARE DOCUMENTS, MATERIALS, OR OTHER INFORMATION, INCLUDING THE DOCUMENTS, MATERIALS, OR INFORMATION SUBJECT TO PARAGRAPH (a) OF THIS SUBSECTION (5), WITH ANY OF THE FOLLOWING:

(A) OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY AGENCIES;

(B) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES; AND

(C) STATE, FEDERAL, AND INTERNATIONAL LAW ENFORCEMENT AUTHORITIES.

(II) RECEIVE DOCUMENTS, MATERIALS, OR INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS, OR INFORMATION, FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, ITS AFFILIATES OR SUBSIDIARIES, AND REGULATORY AND LAW ENFORCEMENT OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS, AND SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENT, MATERIAL, OR INFORMATION RECEIVED WITH THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL, OR INFORMATION; AND

(III) ENTER INTO AGREEMENTS GOVERNING SHARING AND USE OF INFORMATION CONSISTENT WITH THIS SUBSECTION (5).

(d) NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN THE DOCUMENTS, MATERIALS, OR INFORMATION SHALL OCCUR AS A RESULT OF DISCLOSURE TO THE COMMISSIONER UNDER THIS SECTION OR AS A RESULT OF SHARING AS AUTHORIZED IN PARAGRAPH (c) OF THIS SUBSECTION (5).

(e) NOTHING IN THIS ARTICLE SHALL PRECLUDE THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE FROM RELEASING FINAL DISCIPLINARY ACTIONS OR CLOSED FILES, INCLUDING THOSE PORTIONS OF THE RECORD PERTAINING TO FOR CAUSE TERMINATIONS THAT SHALL BE OPEN TO PUBLIC INSPECTION PURSUANT TO ARTICLE 72 OF TITLE 24, C.R.S., AND TO A DATABASE OR OTHER CLEARINGHOUSE SERVICE MAINTAINED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES.

(f) NOTHING IN THIS ARTICLE SHALL PRECLUDE THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE FROM DISCLOSING ANY INFORMATION OBTAINED PURSUANT TO THE PROVISIONS OF THIS ARTICLE TO ANY STATE, FEDERAL, OR INTERNATIONAL LAW ENFORCEMENT AGENCY FOR USE IN ANY CRIMINAL OR CIVIL INVESTIGATION OR PROSECUTION, NOR SHALL ANY SUCH INFORMATION BE CONSIDERED PRIVILEGED AND CONFIDENTIAL IN ANY CRIMINAL OR CIVIL MATTER, INVESTIGATION, OR PROSECUTION BY A GOVERNMENT AGENCY, EXCEPT AS PROVIDED IN PART 3 OF ARTICLE 72 OF TITLE 24, C.R.S.

(g) NOTHING IN THIS ARTICLE SHALL PRECLUDE THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE FROM DISCLOSING ANY INFORMATION OBTAINED OR DEVELOPED PURSUANT TO THE PROVISIONS OF THIS ARTICLE FOR USE IN ANY PRIVATE CIVIL MATTER, NOR SHALL ANY SUCH INFORMATION BE CONSIDERED PRIVILEGED OR CONFIDENTIAL, EXCEPT AS PROVIDED IN PART 3 OF ARTICLE 72 OF TITLE 24, C.R.S. ANY PARTY IN INTEREST MAY REQUEST THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE TO FIND THAT DISCLOSURE OF SUCH INFORMATION IN ANY PRIVATE CIVIL MATTER SHALL CAUSE SUBSTANTIAL INJURY TO THE PUBLIC INTEREST. IF THE COMMISSIONER FINDS THAT DISCLOSURE SHALL CAUSE SUBSTANTIAL INJURY TO THE PUBLIC INTEREST, THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY APPLY TO THE DISTRICT COURT FOR AN ORDER PERMITTING RESTRICTIONS ON DISCLOSURE AS AUTHORIZED BY SECTION 24-72-204 (6), C.R.S.

(6) **Penalties for failing to report.** AN INSURER, THE AUTHORIZED REPRESENTATIVE OF THE INSURER, OR PRODUCER THAT FAILS TO REPORT AS REQUIRED UNDER THE PROVISIONS OF THIS SECTION OR THAT IS FOUND TO HAVE REPORTED WITH ACTUAL MALICE BY A COURT OF COMPETENT JURISDICTION, MAY, AFTER NOTICE AND HEARING, HAVE THE PRODUCER'S LICENSE OR INSURER'S CERTIFICATE OF AUTHORITY SUSPENDED OR REVOKED AND MAY BE FINED IN ACCORDANCE WITH SECTIONS 10-2-804 (4) AND 10-3-1108.

SECTION 23. 10-2-501, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

10-2-501. Reciprocity. (1) THE COMMISSIONER SHALL WAIVE ANY REQUIREMENTS FOR A NONRESIDENT LICENSE APPLICANT WITH A VALID LICENSE FROM THE APPLICANT'S HOME STATE, EXCEPT THOSE REQUIREMENTS IMPOSED BY SECTION 10-2-502, IF THE APPLICANT'S HOME STATE AWARDS NONRESIDENT LICENSES TO RESIDENTS OF THIS STATE ON THE SAME BASIS.

(2) A NONRESIDENT PRODUCER'S SATISFACTION OF A NONPRODUCER'S HOME STATE'S CONTINUING EDUCATION REQUIREMENTS FOR LICENSED INSURANCE PRODUCERS SHALL CONSTITUTE SATISFACTION OF THIS STATE'S CONTINUING EDUCATION REQUIREMENTS IF THE NONRESIDENT PRODUCER'S HOME STATE RECOGNIZES THE SATISFACTION OF ITS CONTINUING EDUCATION REQUIREMENTS IMPOSED UPON PRODUCERS FROM THIS STATE ON THE SAME BASIS.

SECTION 24. 10-2-502 (1), (2), and (3), Colorado Revised Statutes, are amended, and the said 10-2-502 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

10-2-502. Nonresident licensing - qualification. (1) EXCEPT FOR INDIVIDUALS

OR ENTITIES WRITING BAIL, the commissioner may qualify an applicant as a nonresident, UNLESS THE APPLICANT IS DENIED LICENSURE PURSUANT TO SECTION 10-2-801, 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.~~ THE PERSON MAINTAINS A LICENSE IN GOOD STANDING IN THE PERSON'S HOME STATE;

(b) An insurance agency OR BUSINESS ENTITY may qualify as a nonresident if the agency OR BUSINESS ENTITY 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~~ THAT IS AWARDED ON THE SAME BASIS IN THE NONRESIDENT'S HOME state and for the same line or lines of ~~insurance~~ AUTHORITY applied for in this state;

(d) ~~The nonresident person is in compliance with the requirements of section 10-2-404~~ THE PERSON HAS SUBMITTED THE PROPER REQUEST FOR LICENSURE AND HAS PAID THE FEES SET FORTH BY REGULATION;

(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. ~~(+)~~.

(f) THE PERSON HAS SUBMITTED OR TRANSMITTED TO THE INSURANCE COMMISSIONER THE APPLICATION FOR LICENSURE THAT THE PERSON SUBMITTED TO HIS OR HER HOME STATE, OR IN LIEU OF THE APPLICATION, A COMPLETED UNIFORM APPLICATION.

(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.~~ THE COMMISSIONER MAY VERIFY THE PRODUCER'S LICENSING STATUS THROUGH THE PRODUCER DATABASE MAINTAINED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES.

(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.

(3.5) A NONRESIDENT PRODUCER WHO MOVES FROM ONE STATE TO ANOTHER STATE OR A RESIDENT PRODUCER WHO MOVES FROM THIS STATE TO ANOTHER STATE SHALL FILE A CHANGE OF ADDRESS AND PROVIDE CERTIFICATION FROM THE NEW RESIDENT STATE WITHIN THIRTY DAYS AFTER THE CHANGE OF LEGAL RESIDENCE. NO FEE OR LICENSE APPLICATION IS REQUIRED.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A PERSON

LICENSED AS A SURPLUS LINES PRODUCER IN THE SURPLUS LINES PRODUCER'S HOME STATE SHALL RECEIVE A NONRESIDENT SURPLUS LINES PRODUCER LICENSE PURSUANT TO SUBSECTION (1) OF THIS SECTION; EXCEPT THAT NOTHING IN THIS SECTION OTHERWISE AMENDS OR SUPERCEDES ANY PROVISION OF THIS PART 5.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A PERSON LICENSED AS A LIMITED LINES CREDIT INSURANCE OR OTHER TYPE OF LIMITED LINE PRODUCER IN THE LIMITED LINE PRODUCER'S HOME STATE SHALL RECEIVE A NONRESIDENT LIMITED LINE PRODUCER LICENSE, PURSUANT TO SUBSECTION (1) OF THIS SECTION, GRANTING THE SAME SCOPE OF AUTHORITY GRANTED UNDER THE LICENSE ISSUED BY THE PRODUCER'S HOME STATE. FOR THE PURPOSES OF THIS SUBSECTION (6), LIMITED LINES INSURANCE IS ANY AUTHORITY GRANTED BY THE HOME STATE WHICH RESTRICTS THE AUTHORITY OF THE LICENSE TO LESS THAN THE TOTAL AUTHORITY PRESCRIBED IN THE ASSOCIATED MAJOR LINES PURSUANT TO SECTION 10-2-407.

SECTION 25. 10-2-503 (2), Colorado Revised Statutes, is amended to read:

10-2-503. Commissioner as agent for service of process. (2) ~~(a)~~ 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.

~~(b) Notwithstanding the amount specified for the fee in paragraph (a) of this subsection (2), the commissioner by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commissioner by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.~~

SECTION 26. 10-2-601 (2) (a), Colorado Revised Statutes, is amended to read:

10-2-601. Financial institutions may sell insurance - where - regulation. (2) No financial institution or employee thereof shall be licensed or admitted, directly or indirectly, to sell insurance in this state; except that:

(a) A financial institution or employee thereof may engage in the activities of an insurance producer, ~~or~~ an insurance agency, OR A BUSINESS ENTITY in this state and shall be licensed pursuant to this article. Such producers, ~~and~~ agencies, AND BUSINESS ENTITIES shall be subject to the provisions of this title and rules promulgated pursuant thereto.

SECTION 27. 10-2-604 (1) (e), Colorado Revised Statutes, is amended to read:

10-2-604. Disclosures. (1) A financial institution, and any person selling insurance with a cash value or a cash accumulation component on behalf of a financial institution, shall disclose to the financial institution's customers or members,

and on any advertisements or promotional material, that insurance offered, recommended, sponsored, or sold by the financial institution, or on the premises of the financial institution:

(e) May be purchased from ~~an agent or broker~~ A PRODUCER of the customer's choice and that the customer's choice of another insurance provider will not affect the customer's relationship with the financial institution.

SECTION 28. 10-2-606 (1) (c) and (1) (d), Colorado Revised Statutes, are amended to read:

10-2-606. Discrimination against affiliated agents. (1) No financial institution shall:

(c) Impose any requirement on any insurance ~~agent or broker~~ PRODUCER who is not associated with the financial institution that is not imposed on any insurance ~~agent~~ PRODUCER who is associated with such institution; or

(d) Unless otherwise authorized by applicable federal or state law, require any debtor, insurer, ~~broker~~, or ~~agent~~ PRODUCER to pay a separate charge in connection with the handling of insurance that is required under a contract.

SECTION 29. 10-2-701, Colorado Revised Statutes, is amended to read:

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.

SECTION 30. 10-2-702, Colorado Revised Statutes, is amended to read:

10-2-702. Commissions. (1) 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~~ SELLING, SOLICITING, OR NEGOTIATING INSURANCE within this state unless, at the time such services were performed, such person was a duly licensed insurance producer under this article for the performance of such services. In addition, 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 consideration; except that any person duly licensed under this article may pay or assign such person's commissions to, or direct that such person's commissions be paid to, a partnership of which the person is a member, employee, or agent or to a corporation of which the person is an officer, employee, or agent. This section shall not prevent payment or receipt of renewal or

other deferred commissions to or by any person entitled thereto under this section.

(2) EXCEPT FOR INDIVIDUALS OR ENTITIES WRITING BAIL, AN INSURER OR INSURANCE PRODUCER MAY PAY OR ASSIGN COMMISSIONS, SERVICE FEES, BROKERAGES, OR OTHER VALUABLE CONSIDERATION TO AN INSURANCE AGENCY, BUSINESS ENTITY, OR PERSONS WHO DO NOT SELL, SOLICIT, OR NEGOTIATE INSURANCE IN THIS STATE, UNLESS THE PAYMENT WOULD VIOLATE SECTION 10-3-1104 (1) (g).

SECTION 31. Repeal. 10-2-703, Colorado Revised Statutes, is repealed as follows:

10-2-703. Countersignature not required. ~~An insurance producer is not required to countersign a policy of insurance written by a foreign insurance company.~~

SECTION 32. 10-2-704 (4), Colorado Revised Statutes, is amended to read:

10-2-704. Fiduciary responsibilities. (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.~~

SECTION 33. 10-2-801, Colorado Revised Statutes, is amended to read:

10-2-801. Licenses - denial, suspension, revocation, termination - reporting of actions. (1) The commissioner may PLACE ON PROBATION, suspend, revoke, refuse to continue or renew, ~~or~~ refuse to issue an insurance producer license, OR ASSESS A CIVIL PENALTY PURSUANT TO SECTIONS 10-2-804 OR 10-3-1108, 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 INCORRECT, MISLEADING, INCOMPLETE, OR materially untrue ~~statement~~ INFORMATION 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, OR SUBPOENA 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 OR PROPERTY 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 OR APPLICATION FOR INSURANCE;

(g) (I) Conviction of a felony or misdemeanor involving moral turpitude.

(II) FOR THE PURPOSES OF THIS PARAGRAPH (g), "MORAL TURPITUDE" SHALL INCLUDE ANY SEXUAL OFFENSE AGAINST A CHILD AS DEFINED IN SECTION 18-3-411, C.R.S.

(h) Commission of ~~an~~ ANY 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~~ DEMONSTRATING INCOMPETENCE, UNTRUSTWORTHINESS, OR FINANCIAL IRRESPONSIBILITY IN THIS STATE OR ELSEWHERE;

(j) Suspension, ~~or~~ revocation, OR DENIAL 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~~ TO ANY DOCUMENT RELATED TO AN INSURANCE TRANSACTION;

(l) Cheating on an examination, INCLUDING, BUT NOT LIMITED TO, IMPROPERLY USING NOTES OR ANY OTHER REFERENCE MATERIAL TO COMPLETE AN EXAMINATION for an insurance license; ~~or~~

(m) Failure to fully meet the licensing requirements;

(n) KNOWINGLY ACCEPTING INSURANCE BUSINESS FROM A PERSON WHO IS NOT LICENSED;

(o) FAILING TO COMPLY WITH AN ADMINISTRATIVE OR COURT ORDER IMPOSING A CHILD SUPPORT OBLIGATION; OR

(p) FAILING TO PAY STATE INCOME TAX OR COMPLY WITH ANY ADMINISTRATIVE OR COURT ORDER DIRECTING PAYMENT OF STATE INCOME TAX.

(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 AND ADVISE, IN WRITING, THE APPLICANT OR LICENSEE OF THE REASON FOR THE DENIAL OR NONRENEWAL OF THE APPLICANT'S OR LICENSEE'S LICENSE.

(3) A PRODUCER OR BUSINESS ENTITY SHALL REPORT TO THE COMMISSIONER ANY ADMINISTRATIVE ACTION TAKEN AGAINST THE PRODUCER IN ANOTHER JURISDICTION OR BY ANOTHER GOVERNMENTAL AGENCY IN THIS STATE WITHIN THIRTY DAYS AFTER THE FINAL DISPOSITION OF THE MATTER. THIS REPORT SHALL INCLUDE A COPY OF THE ORDER, CONSENT TO ORDER, OR OTHER RELEVANT LEGAL DOCUMENT.

(4) WITHIN THIRTY DAYS AFTER THE INITIAL PRETRIAL HEARING DATE, A PRODUCER

OR BUSINESS ENTITY SHALL REPORT TO THE COMMISSIONER ANY CRIMINAL PROSECUTION OF THE PRODUCER IN ANY JURISDICTION. THE REPORT SHALL INCLUDE A COPY OF THE INITIAL COMPLAINT, THE ORDER RESULTING FROM THE HEARING, AND ANY OTHER RELEVANT LEGAL DOCUMENTS.

SECTION 34. 10-2-802 (3), Colorado Revised Statutes, is amended to read:

10-2-802. Surrender of license. (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 OR BUSINESS ENTITY, the person given responsibility for custody of the license, as to the facts concerning such loss, theft, or destruction.

SECTION 35. 10-2-803, Colorado Revised Statutes, is amended to read:

10-2-803. Notice of penalty, suspension, termination, revocation, or denial.

(1) The commissioner shall promptly notify any insurance producer licensee regarding any PENALTY ASSESSED, suspension, revocation, ~~or~~ termination, OR DENIAL of the licensee's license by the commissioner.

(2) Upon ASSESSMENT OF A PENALTY, 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)~~ OR ITS AFFILIATE OR SUBSIDIARY.

SECTION 36. 10-2-804 (2), (3), and (4), Colorado Revised Statutes, are amended, and the said 10-2-804 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-2-804. Investigation by commissioner. (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 DISCONTINUE, 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 OR BUSINESS ENTITY may be suspended or revoked or the renewal ~~thereof~~ OR CONTINUATION 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 OR BUSINESS ENTITY, INCLUDING ANY FOREIGN OR DOMESTIC ENTITY AS DEFINED IN SECTION 7-90-102, C.R.S., 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~~ ANY REMEDY OR civil penalty of not more than one

thousand dollars for each such violation.

(5) THE COMMISSIONER SHALL RETAIN THE AUTHORITY TO ENFORCE THE PROVISIONS OF AND IMPOSE ANY PENALTY OR REMEDY AUTHORIZED BY THIS ARTICLE AGAINST ANY PERSON WHO IS UNDER INVESTIGATION FOR OR CHARGED WITH A VIOLATION OF THIS ARTICLE EVEN IF THE PERSON'S LICENSE HAS BEEN SURRENDERED OR HAS LAPSED BY OPERATION OF LAW.

SECTION 37. 10-3-903 (2) (j), Colorado Revised Statutes, is amended to read:

10-3-903. Definition of transacting insurance business. (2) The provisions of this section do not apply to:

(j) The sale of authorized insurance by agents of a motor vehicle rental company if such sale complies with the limitations set forth in section ~~10-2-105 (1) (g)~~ 10-2-105 (2) (g).

SECTION 38. 10-5-107, Colorado Revised Statutes, is amended to read:

10-5-107. Brokers may accept business from producers. A licensed surplus line broker may accept and place surplus line business for any insurance ~~agent or broker~~ PRODUCER licensed in this state for the kind of insurance involved and may compensate such agent or broker therefor.

SECTION 39. 10-5-109, Colorado Revised Statutes, is amended to read:

10-5-109. Records of surplus line broker. Each licensed surplus line broker shall keep in ~~his~~ THE BROKER'S office ~~in this state~~ a full and true record of each surplus line contract procured by ~~him~~ THE BROKER, including a copy of the daily report, if any, showing such of the following items as may be applicable: Amount of the insurance; gross premiums charged; return premium paid, if any; rate of premium charged upon the several items of property; effective date of the contract and the terms thereof; name and address of the insurer; name and address of the insured; brief general description of property insured and where located; other information as may be required by the commissioner. The record shall at all times be open to examination by the commissioner.

SECTION 40. 10-5-113 (1) (b), Colorado Revised Statutes, is amended to read:

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

(b) If the broker fails to ~~maintain an office in this state~~, or to keep the records, or to allow the commissioner to examine ~~his~~ THE BROKER'S records as required by this article; or

SECTION 41. 10-5-114 (2), Colorado Revised Statutes, is amended to read:

10-5-114. Actions against insurer - service. (2) Service of legal process against the insurer may be made in any such action by service upon the commissioner. The commissioner shall forthwith mail the documents of process served, or a true copy

thereof, to the person designated by the insurer pursuant to rule of the commissioner for the purpose by prepaid certified mail with return receipt requested. The insurer shall have forty days from the date of service upon the commissioner within which to plead, answer, or otherwise defend the action. Upon service of process upon the commissioner in accordance with this provision, the court shall be deemed to have jurisdiction in personam of the insurer. ~~For each service of process, the sum of ten dollars shall be paid to the division of insurance at the time of such service.~~

SECTION 42. 10-16-107 (1.5) (b), Colorado Revised Statutes, is amended to read:

10-16-107. Rate regulation - approval of policy forms - benefit certificates - evidences of coverage - loss ratio guarantees - disclosures on treatment of intractable pain. (1.5) Rates for an individual sickness, accident, or health insurance policy, contract, certificate, or other evidence of coverage issued or delivered to any policyholder, enrollee, subscriber, or member in Colorado by an insurer subject to the provisions of part 2 of this article or an entity subject to the provisions of part 3 or 4 of this article shall not be excessive, inadequate, or unfairly discriminatory to assure compliance with the requirements of this section that rates are not excessive in relation to benefits. Rates on a particular individual policy form, contract, or other evidence of coverage issued or delivered to any policyholder, subscriber, or member in Colorado subject to the provisions of parts 1 to 4 of this article will not be considered excessive in relation to benefits upon filing with the commissioner if the health care coverage entity has filed with the commissioner a loss ratio guarantee which meets the requirements of this subsection (1.5) and loss ratio standards conforming with generally accepted actuarial principles and standards and regulations adopted by the commissioner of insurance. In promulgating such regulations the commissioner shall consider the standards on health rate filings adopted by the national association of insurance commissioners. Rates will not be considered excessive so long as such entity complies with the terms of the loss ratio guarantee as provided for in this subsection (1.5). This loss ratio guarantee shall be in writing, signed by an officer of the entity, and shall contain at least the following:

(b) A certification by ~~an independent~~ A QUALIFIED actuary that the loss ratio standards referred to in paragraph (a) of this subsection (1.5) conform with generally accepted actuarial principles and standards and that the rates are not excessive, inadequate, nor unfairly discriminatory;

SECTION 43. 11-35-101 (1), Colorado Revised Statutes, as it will become effective July 1, 2001, 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 ~~10-2-408;~~ 12-5.5-202 (2) (b), 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), 12-59-115 (1), 12-60-509 (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), 39-21-105 (4), 39-27-104 (2) (a), (2) (b), (2) (c), (2) (d), (2) (e), (2.1) (a), (2.1) (b), (2.1) (c), (2.5) (a), and (2.5) (b), 39-28-105 (1), 42-6-115 (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 44. Effective date - applicability. (1) This act shall take effect January 1, 2002, unless a referendum petition is filed during 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. If such 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.

(2) The provisions of this act shall apply to insurance producer licenses that are issued, renewed, continued, suspended, or revoked and any fines, fees, or penalties assessed by the division of insurance against an insurance agency, business entity, limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company on or after the applicable effective date of this act.

Approved: June 5, 2001