

## CHAPTER 1

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**INSURANCE**

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**SENATE BILL 04-011**

BY SENATOR(S) Anderson, Taylor, Tupa, Andrews, Cairns, Chlouber, Entz, Evans, Gordon, Groff, Hanna, Jones, Keller, Kester, Lamborn, May R., McElhany, Sandoval, Tapia, Teck, Veiga, and Windels;  
also REPRESENTATIVE(S) Coleman, Rhodes, Williams T., Borodkin, Boyd, Butcher, Cadman, Carroll, Cerbo, Cloer, Frangas, Garcia, Harvey, Jahn, Madden, McFadyen, Merrifield, Mitchell, Paccione, Plant, Pommer, Ragsdale, Romano ff, Schultheis, Spradley, Stengel, Vigil, Weissmann, and Wiens.

**AN ACT**

**CONCERNING LIMITATIONS ON ALLOWABLE QUALIFIED DISTRIBUTIONS PURSUANT TO THE "CERTIFIED CAPITAL COMPANY ACT".**

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

**SECTION 1.** 10-3.5-103 (13) (b), (13) (c), and (13) (d), Colorado Revised Statutes, are amended to read:

**10-3.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(13) "Qualified distribution" means any distribution out of certified capital in connection with any of the following:

(b) Reasonable costs and expenses of managing and operating the certified capital company, including an annual management fee in an amount that does not exceed two and one-half percent of certified capital; except that:

(I) No such cost or expense shall be paid to a certified investor or affiliate of a certified investor;

(II) NO SUCH COST OR EXPENSE SHALL BE PAID FOR FEDERAL OR STATE TAXES, INCLUDING PENALTIES AND INTEREST RELATED TO STATE AND FEDERAL INCOME TAXES, OF THE EQUITY OWNERS OF A CERTIFIED CAPITAL COMPANY RESULTING FROM A TAX LIABILITY OF THE CERTIFIED CAPITAL COMPANY; and ~~that~~

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

(III) Such costs and expenses in the aggregate shall not exceed five percent of certified capital in any one year;

(c) Reasonable and necessary fees in accordance with industry custom for professional services, including but not limited to legal and accounting services, related to the operation of the certified capital company; ~~and EXCEPT THAT SUCH PROFESSIONAL SERVICES SHALL NOT BE CONSTRUED TO INCLUDE LITIGATION CHALLENGING THE VALIDITY OR EFFECT OF THIS ARTICLE, LOBBYING, OR GOVERNMENTAL RELATIONS.~~

~~(d) Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of a certified capital company resulting from a tax liability of the certified capital company to the extent that the increase is related to the ownership, management, or operation of a certified capital company.~~

**SECTION 2. Applicability.** This act shall apply to qualified distributions made on or after the effective date of this act.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: January 20, 2004