

CHAPTER 22

INSURANCE

HOUSE BILL 04-1154

BY REPRESENTATIVE(S) Jahn, Borodkin, Vigil, and Williams S. ;
also SENATOR(S) McElhany, Jones, and Owen.

AN ACT

CONCERNING THE AUTHORITY OF THE DIVISION OF INSURANCE TO RETAIN CERTAIN PROFESSIONALS FOR PURPOSES OF MARKET CONDUCT EXAMINATIONS.

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

SECTION 1. Part 2 of article 1 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-1-208. Informal investigations. (1) THE COMMISSIONER MAY CONTRACT PURSUANT TO SECTION 24-50-504 (2) (c) AND (2) (e), C.R.S., WITH A PERSON, CORPORATION, OR ENTITY HAVING TECHNICAL OR SUBJECT MATTER EXPERTISE OR SKILL AND EXPERIENCE IN INVESTIGATIVE TECHNIQUES TO ASSIST THE DIVISION IN PERFORMING INFORMAL INVESTIGATIONS OF AN INSURER OR PRODUCER PURSUANT TO THIS PART 2 WHEN THE COMMISSIONER DETERMINES THAT THE DIVISION IS WITHOUT SUFFICIENT TECHNICAL EXPERTISE TO PERFORM SUCH INVESTIGATION. INFORMAL INVESTIGATIONS CONDUCTED PURSUANT TO THIS SECTION SHALL NOT INCLUDE FORMAL FINANCIAL EXAMINATIONS OR MARKET CONDUCT EXAMINATIONS. THE COMMISSIONER SHALL, BY RULE, ESTABLISH WHEN CONTRACT INVESTIGATORS MAY BE USED FOR INFORMAL INVESTIGATIONS. THE RULES SHALL INCLUDE, BUT NOT BE LIMITED TO, OUT-OF-STATE TRAVEL REQUIREMENTS, SPECIAL EXPERTISE REQUIRED FOR THE INVESTIGATION, AND A SIGNIFICANT PATTERN OF COMPLAINTS OR A WELL DOCUMENTED ALLEGATION AGAINST A CARRIER THAT WARRANTS AN INFORMAL INVESTIGATION.

(2) THE REASONABLE EXPENSES AND CHARGES OF PERSONS SO RETAINED OR DESIGNATED FOR INFORMAL INVESTIGATIONS OF AN INSURER OR A PRODUCER PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY BE PAID DIRECTLY BY THE EXAMINEE TO SUCH PERSONS AS DETERMINED BY THE COMMISSIONER. THE EXAMINEE MAY CONTEST THE AMOUNT OF FEES, COSTS, AND EXPENSES CHARGED TO IT BY SUCH

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

PERSONS BY FILING AN OBJECTION WITH THE COMMISSIONER, WHICH SETS FORTH THE CHARGES THAT THE EXAMINEE CONSIDERS TO BE UNREASONABLE AND THE BASIS FOR THE CLAIM THAT THE CHARGES ARE UNREASONABLE. NO AMOUNTS THAT ARE SO DISPUTED WILL BE DUE TO THE EXAMINER UNLESS AND UNTIL THE COMMISSIONER HAS REVIEWED THE OBJECTION AND MADE A WRITTEN FINDING THAT THE DISPUTED CHARGES WERE REASONABLE IN RELATION TO THE INVESTIGATION PERFORMED.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 8, 2004