

CHAPTER 255

**INSURANCE**

**HOUSE BILL 04-1234**

BY REPRESENTATIVE(S) Fairbank, Coleman, Frangas, Jahn, Marshall, McFadyen, Paccione, Spence, Stafford, and Williams S.; also SENATOR(S) McElhany.

**AN ACT**

**CONCERNING MEASURERS TO ENHANCE CONSUMER PROTECTION FOR CERTAIN MOTOR VEHICLE COVERAGES.**

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

**SECTION 1.** 10-3-1110 (2), Colorado Revised Statutes, is amended to read:

**10-3-1110. Regulations.** (2) The commissioner may, after notice and hearing, as provided in article 4 of title 24, C.R.S., promulgate rules ~~and regulations~~ with respect to the payment of benefits under group and individual contracts of property or casualty coverage ~~except for property and casualty coverage provided pursuant to part 6 of article 4 of this title~~, issued by organizations authorized to do business in this state under the provisions of article 4 of this title. Such rules may establish a penalty payable to the claimant on benefit payments that are delayed more than sixty days after a valid and complete filing of the claim unless there is a reasonable dispute between the parties concerning such claim. Such penalty shall not exceed twenty dollars on claims of less than one hundred dollars or interest at a rate of eight percent annually on claims above one hundred dollars. In addition to such penalties payable to the claimant, the commissioner, after notice and hearing, may assess a civil penalty against any insurer of one hundred dollars per day for each day benefit payments are delayed more than sixty days after a valid and complete filing of the claim unless there is a reasonable dispute between the parties concerning such claim.

**SECTION 2.** 10-3-1110 (2), Colorado Revised Statutes, is amended to read:

**10-3-1110. Regulations.** (2) The commissioner may, after notice and hearing, as provided in article 4 of title 24, C.R.S., promulgate rules ~~and regulations~~ with respect to the payment of benefits under group and individual contracts of property or casualty coverage ~~except for property and casualty coverage provided pursuant to~~

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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.*

~~part 6 of article 4 of this title~~, issued by organizations authorized to do business in this state under the provisions of article 4 of this title; EXCEPT THAT, TO THE EXTENT THAT A PROVISION OF THIS SUBSECTION (2) CONFLICTS WITH SECTION 10-4-634, THE PROVISIONS OF SECTION 10-4-634 SHALL GOVERN. Such rules may establish a penalty payable to the claimant on benefit payments that are delayed more than sixty days after a valid and complete filing of the claim unless there is a reasonable dispute between the parties concerning such claim. Such penalty shall not exceed twenty dollars on claims of less than one hundred dollars or interest at a rate of eight percent annually on claims above one hundred dollars. In addition to such penalties payable to the claimant, the commissioner, after notice and hearing, may assess a civil penalty against any insurer of one hundred dollars per day for each day benefit payments are delayed more than sixty days after a valid and complete filing of the claim unless there is a reasonable dispute between the parties concerning such claim.

**SECTION 3.** 10-4-619, Colorado Revised Statutes, is amended to read:

**10-4-619. Coverage compulsory.** (1) Every owner of a motor vehicle who operates the motor vehicle on the public highways of this state or who knowingly permits the operation of the motor vehicle on the public highways of this state shall have in full force and effect a complying policy under the terms of this part 6 covering the said motor vehicle, and any owner who fails to do so shall be subject to the sanctions provided under sections 42-4-1409 and 42-7-301, C.R.S., of the "Motor Vehicle Financial Responsibility Act". This section shall not apply to persons who hold a current and valid certificate of self-insurance pursuant to section 10-4-624.

(2) AN INSURER SHALL NOT REFUSE TO PROVIDE BENEFITS TO AN INSURED ON THE BASIS THAT THE INSURED IS A VOLUNTEER FOR A FIRE DEPARTMENT AND IS INJURED IN A MOTOR VEHICLE WHILE RESPONDING TO AN EMERGENCY.

**SECTION 4.** Part 6 of article 4 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**10-4-639. Claims practices for property damage.** (1) AN INSURER SHALL PAY TITLE FEES, SALES TAX, AND ANY OTHER TRANSFER OR REGISTRATION FEE ASSOCIATED WITH THE TOTAL LOSS OF A MOTOR VEHICLE.

(2) AN INSURER SHALL CLEARLY DISCLOSE TO AN INSURED OR INFORM A THIRD-PARTY CLAIMANT WHAT BENEFITS ARE PROVIDED RELATED TO TOWING AND STORAGE OF A MOTOR VEHICLE THAT SUSTAINS PROPERTY DAMAGE, AND SHALL SPECIFICALLY ADVISE AN INSURED OR THIRD-PARTY CLAIMANT CONCERNING EXCESS CHARGES THAT MAY BE INCURRED RELATED TO TOWING AND STORAGE OF A MOTOR VEHICLE FOR WHICH THE INSURED OR THIRD-PARTY CLAIMANT MAY BE RESPONSIBLE.

(3) AN INSURER SHALL ESTABLISH A FAIR AND CONSISTENT METHOD FOR DETERMINING TOTAL LOSS OF A MOTOR VEHICLE. SUCH METHOD SHALL INCLUDE CONSIDERATION OF UNIQUE CHARACTERISTICS OF THE MOTOR VEHICLE AND A CREDIBLE SOURCE OF VALUATION. AN INSURER SHALL MAINTAIN A RECORD OF ITS METHODOLOGY FOR DETERMINING TOTAL LOSS EVALUATION AND PROVIDE SUCH METHODOLOGY TO THE COMMISSIONER UPON REQUEST. THE COMMISSIONER MAY PROMULGATE RULES FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS SUBSECTION (3). AN INSURER MAY NOT USE DIFFERENT CREDIBLE SOURCES OF

VALUATION ONLY TO DETERMINE THE LOWEST AMOUNT PAYABLE FOR THE TOTAL LOSS OF THE MOTOR VEHICLE.

(4) THE COMMISSIONER SHALL PROMULGATE RULES CONCERNING WHEN PAYMENTS FOR ANY APPLICABLE REPLACEMENT MOTOR VEHICLE SHALL BE MADE BY AN INSURER AND COLLISION WAIVERS FOR THIRD-PARTY CLAIMANT COVERAGE.

**10-4-640. Operator's policy of insurance.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8) OF THIS SECTION, ANY NATURAL PERSON MAY SATISFY THE REQUIREMENTS OF SECTION 10-4-619 BY OBTAINING, IN LIEU OF AN OWNER'S POLICY OF INSURANCE, AN OPERATOR'S POLICY OF LIABILITY INSURANCE THAT MEETS THE REQUIREMENTS OF THIS SECTION AND OF THIS PART 6.

(2) AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL PROVIDE COVERAGE AND SHALL STATE IN A CONSPICUOUS TYPE FACE AND FONT ON THE FACE OF THE POLICY, THAT:

(a) THE INSURER IS ONLY LIABLE UNDER THE POLICY FOR LIABILITY OR DAMAGES INCURRED BY THE INSURED WHILE THE NAMED INSURED IS THE OPERATOR OF A MOTOR VEHICLE OR WHILE A MOTOR VEHICLE OWNED BY THE INSURED IS NOT BEING OPERATED BY ANY OTHER PERSON;

(b) THE POLICY DOES NOT PROVIDE COVERAGE FOR ANY VICARIOUS LIABILITY IMPOSED ON THE OWNER OF THE MOTOR VEHICLE AS A RESULT OF THE OPERATION BY ANOTHER PERSON OF A MOTOR VEHICLE OWNED BY THE INSURED;

(c) THE COVERAGE PROVIDED BY THE POLICY MAY NOT MEET THE REQUIREMENTS OF THE MANDATORY MOTOR VEHICLE INSURANCE OR FINANCIAL RESPONSIBILITY LAWS OF ANOTHER STATE.

(3) NO OPERATOR'S POLICY OF LIABILITY INSURANCE ISSUED PURSUANT TO THIS SECTION MAY BE DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE UNLESS THE INSURED HAS SIGNED A STATEMENT, IN THE SAME MEDIUM AS THE APPLICATION WAS TAKEN, THAT APPEARS ON THE CONTRACT AND STATES THAT THE INSURED HAS READ AND UNDERSTOOD THE POLICY AND ITS LIMITATIONS.

(4) AN OWNER OF A MOTOR VEHICLE THAT IS REGISTERED OR REQUIRED TO BE REGISTERED IN THIS STATE AND WHO HOLDS AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL NOT PERMIT ANOTHER PERSON TO OPERATE SUCH MOTOR VEHICLE IF THE OWNER KNOWS OR SHOULD HAVE KNOWN THAT THE PERSON DOES NOT HAVE INSURANCE TO COVER SUCH OTHER PERSON'S OPERATION OF SUCH MOTOR VEHICLE. IF A MOTOR VEHICLE INSURED UNDER AN OPERATOR'S POLICY OF LIABILITY INSURANCE IS DRIVEN BY A PERSON WHO DOES NOT HAVE IN EFFECT A COMPLYING POLICY AS REQUIRED BY SECTION 10-4-619, AND SUCH PERSON IS INVOLVED IN AN ACCIDENT, THE OWNER OF SUCH MOTOR VEHICLE AND SUCH DRIVER SHALL BE LIABLE FOR ANY LIABILITY OR DAMAGES ARISING OUT OF SUCH PERSON'S USE OF THE MOTOR VEHICLE.

(5) AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL NOT PROVIDE COVERAGE FOR DAMAGES INCURRED WHILE A PERSON OTHER THAN THE NAMED INSURED IS OPERATING A MOTOR VEHICLE.

(6) AN OPERATOR'S POLICY OF LIABILITY INSURANCE MAY PROVIDE COVERAGE THAT APPLIES IN OTHER JURISDICTIONS IF THE COVERAGE AVAILABLE PURSUANT TO THIS SECTION DOES NOT MEET THE MANDATORY MOTOR VEHICLE INSURANCE OR FINANCIAL RESPONSIBILITY REQUIREMENTS OF OTHER JURISDICTIONS.

(7) AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL PROVIDE COVERAGE FOR LIABILITY INCURRED BY THE INSURED WHILE A MOTOR VEHICLE OWNED BY THE INSURED IS NOT BEING OPERATED BY ANY OTHER PERSON.

(8) THIS SECTION SHALL NOT APPLY TO A LESSOR, DEALER, MANUFACTURER, REBUILDER, OR DISTRIBUTOR OF A MOTOR VEHICLE, AN OWNER OF A FLEET, A COMMON, CONTRACT, OR PRIVATE MOTOR CARRIER, OR ANY OTHER INDIVIDUAL WHO OWNS A MOTOR VEHICLE FOR USE IN THE INDIVIDUAL'S BUSINESS.

(9) IF AN INSURER WRITING POLICIES OF INSURANCE PURSUANT TO THIS PART 6 OFFERS AN OPERATOR'S POLICY OF INSURANCE, SUCH POLICY SHALL MEET THE REQUIREMENTS OF THIS SECTION.

**SECTION 5.** 10-1-102 (3), Colorado Revised Statutes, is amended to read:

**10-1-102. Definitions.** As used in this title, unless the context otherwise requires:

(3) "Admitted company" or "authorized company" designates companies duly qualified and licensed to transact business in this state, under the provisions of this title. "Nonadmitted companies" or "unauthorized companies" designates companies not licensed to transact business in this state, under the provisions of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S.

**SECTION 6.** 10-1-108 (5), (8), and (9), Colorado Revised Statutes, are amended to read:

**10-1-108. Duties of commissioner - reports - publications - fees - disposition of funds - adoption of rules - examinations and investigations.** (5) It is the duty of the commissioner to make such investigations and examinations as are authorized by this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., and to investigate such information as is presented to the commissioner by authority that the commissioner believes to be reliable pertaining to violation of the insurance laws of Colorado, and it is the commissioner's duty to present the result of such investigations and examinations for further investigation and prosecution to either the district attorney of the proper judicial district or the attorney general when, in the commissioner's opinion, such violations justify such action.

(8) It is the duty of the commissioner to examine all requests and applications from insurers for certificates of authority to be issued pursuant to section 10-3-105. The commissioner is authorized to refuse to issue any such certificates of authority until the commissioner is reasonably satisfied as to the qualifications and general fitness of the insurer to comply with the requirements of the provisions of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S.

(9) It is the duty of the commissioner to transmit all surcharges, costs, taxes,

penalties, and fines collected by the division of insurance under any provision of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., to the department of the treasury. All funds so transmitted shall be credited to the general fund; except that any funds collected by the commissioner as reimbursement for out-of-state travel costs in conjunction with the examination of an insurance company or with an activity to improve regulation of insurance companies are hereby continuously appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

**SECTION 7.** 10-1-111, Colorado Revised Statutes, is amended to read:

**10-1-111. Invoking aid of courts.** The commissioner, through the attorney general, may invoke the aid of the courts through injunction or other proper process, mandatory or otherwise, to enforce any proper order made by the commissioner or action taken by the commissioner; but nothing in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall be construed to prevent the company or person affected by any order, ruling, proceeding, act, or action of the commissioner, or any person acting on behalf and at instance of the commissioner, from testing the validity of the same in any court of competent jurisdiction, through injunction, appeal, or other proper process or proceeding, mandatory or otherwise.

**SECTION 8.** 10-1-112, Colorado Revised Statutes, is amended to read:

**10-1-112. Policy conditions required by other states.** The policies of a domestic insurance company, when issued or delivered in any other state, territory, district, or country, may contain any provision required by the laws of the state, territory, district, or country in which the same are issued, anything in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., to the contrary notwithstanding.

**SECTION 9.** 10-3-103, Colorado Revised Statutes, is amended to read:

**10-3-103. Names of companies.** No domestic insurance company shall adopt the name of any existing company transacting a similar business nor any name so similar as to be calculated to mislead the public, but any domestic mutual or mutual assessment insurance company, upon complying with the terms and conditions of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., may be reorganized and reincorporated as a joint stock company under the same name by which it was incorporated as a mutual or assessment company, with the omission of the word "mutual", and it is unlawful for any other company to be incorporated or transact business under or by the name under which any such mutual or mutual assessment company was operating at the time of reincorporation.

**SECTION 10.** 10-3-113 (2), Colorado Revised Statutes, is amended to read:

**10-3-113. Increase of capital.** (2) The provisions of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall also apply in the formation and authorization of domestic insurance companies formed upon the mutual plan, and to associations formed upon the assessment plan,

~~which~~ THAT are organized with a guaranty fund in lieu of capital as provided in said references.

**SECTION 11.** 10-3-123 (2), (5), and (7), Colorado Revised Statutes, are amended to read:

**10-3-123. Assessment accident associations.** (2) Twenty-five or more persons WHO ARE citizens of this state may form a corporation to carry on the business of casualty insurance on the assessment plan, but no such corporation shall begin to do business until a guaranty fund of at least ten thousand dollars is provided and deposited, in cash or in such securities as are permitted by law in case of stock companies, with the commissioner under the conditions named in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S. When this is done and at least two hundred persons have subscribed in writing to be insured, and when each has paid in at least one monthly assessment or premium, the commissioner, if the laws have been complied with, shall issue a certificate of authority for such corporation, which authorizes it to commence business. The word "association" shall be used in the title or name of all corporations organized under this section instead of the word "company".

(5) Any corporation organized under the authority of any other state or government to issue policies or certificates of casualty insurance on the assessment plan, as a condition precedent to transacting business in this state, shall pay such fees and comply with the same requirements as exacted of stock casualty insurance companies of other states or countries, as provided by this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., and thereafter be subject to the same general laws and penalties of this title, unless otherwise provided in this section, and it shall deposit with the commissioner or with the proper official of some other state, for the protection of all its policyholders, a sum not less than that required to be deposited by domestic casualty insurance companies organized upon the mutual assessment plan. Such corporation shall also file with the commissioner a copy of its policies or certificates and applications therefor, for approval by the commissioner, and a sworn statement from the proper officers of such corporation that they have received a copy of this section, and shall be governed thereby in issuing policies or certificates in this state. The commissioner may thereupon issue or renew the authority of such corporation to do business in this state.

(7) Any corporation doing a casualty insurance business in this state on April 15, 1913, ~~which~~ THAT is incorporated to do business on the assessment plan may reincorporate under the provisions of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., but nothing in said references shall be construed as requiring any such corporation to reincorporate, and any such corporation may continue to exercise all rights, powers, and privileges conferred by said references, or its articles of incorporation not inconsistent herewith.

**SECTION 12.** 10-3-201 (2), Colorado Revised Statutes, is amended to read:

**10-3-201. Cash capital - guaranty fund - deposit.** (2) The cash or securities representing the minimum capital or guaranty fund and surplus required by paragraph (a) of subsection (1) of this section shall be deposited, in the case of domestic companies, with the commissioner in the manner provided by law and, in the case of

foreign or alien companies, with the commissioner or with the duly authorized officer of some other state of the United States; except that the guaranty fund of mutual companies shall be construed to include deposits held for the benefit of policyholders as provided in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, C.R.S., and article 14 of title 24, C.R.S.

**SECTION 13.** 10-3-206 (1), Colorado Revised Statutes, is amended to read:

**10-3-206. Security deposits - certificates.** (1) The commissioner shall receive and hold on deposit, in the manner provided in this law, the securities of domestic companies ~~which~~ THAT are deposited by any such company under the provisions of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., for the purpose of securing policyholders, or to comply with any similar law of another state to enable such company to transact business in such state. All securities so offered for deposit shall belong to and be the sole property of such company and shall be free and clear of any claims whatsoever, and the commissioner shall determine the same by proper inquiry.

**SECTION 14.** 10-3-208 (1), Colorado Revised Statutes, is amended to read:

**10-3-208. Financial statements.** (1) All insurance companies doing business in this state, unless otherwise provided in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall make and file with the commissioner annually, on or before the first day of March in each year, a statement under oath, upon a form to be prescribed by the commissioner, stating the amount of all premiums collected or contracted for in this state or from residents thereof, in cash or notes, by the company making such statement during the year ending the last day of December next preceding; the amounts actually paid policyholders on losses and the amounts paid policyholders as returned premiums by property and casualty insurance companies; the amount of insurance reinsured in other companies authorized to do business in this state and the amount of premiums paid therefor; the amount of insurance reinsured in companies, naming them, not authorized to do business in this state and the amount of premiums paid therefor; and the amount of reinsurance accepted from admitted companies and the premiums received from such reinsurance on residents of this state or risks located in this state, with the name of the companies so reinsured. The annual statement made to the commissioner pursuant to this section or other provisions of said references shall at least include the substance of that which is required by what is known as the convention blank form adopted from year to year by the national association of insurance commissioners, including any instructions, procedures, and guidelines not in conflict with any provision of this title for completing the convention blank form.

**SECTION 15.** 10-3-209 (1) (c), Colorado Revised Statutes, is amended to read:

**10-3-209. Tax on premiums collected - exemptions - penalties.** (1) (c) The taxes prescribed in paragraph (b) of this subsection (1) shall constitute all taxes collectible under the laws of this state against any such insurance companies, and no other occupation tax or other taxes shall be levied or collected from any insurance company by any county, city, or town within this state; but this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall not be construed to prohibit the levy and collection of state, county, school, and

municipal taxes upon the real and personal property of such companies, nor shall it include or prohibit the levy and collection of a tax to be paid on net workers' compensation premiums, as provided under the "Colorado Medical Disaster Insurance Fund Act", part 3 of article 46 of title 8, C.R.S.

**SECTION 16.** 10-3-213 (1), Colorado Revised Statutes, is amended to read:

**10-3-213. Investments eligible as admitted assets.** (1) Domestic insurance companies may invest their funds in the categories of assets described in sections 10-3-215 to 10-3-230 and 10-3-242. Every such investment shall be an admitted asset of the company; except that, if the section describing a category of asset contains a quantitative limitation, an investment in that category of asset shall be an admitted asset under that section to the extent that it does not exceed such limitation. Any such limitation shall apply only with respect to the category of assets described in that section and shall not constitute a general prohibition and shall not be applicable to any other section. Except as provided in section 10-3-237, any investment, or part thereof, ~~which~~ THAT does not qualify under any of said sections shall not be an admitted asset under the provisions of this part 2. Except as specifically provided in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., a domestic insurance company shall not be prohibited from acquiring or holding an asset ~~which~~ THAT is not an admitted asset, and such company may lend, pledge, sell, transfer, assign, hypothecate, dispose of, or exchange any asset acquired by it.

**SECTION 17.** 10-3-214, Colorado Revised Statutes, is amended to read:

**10-3-214. Quantitative investment limitations - manner of applying.** In applying the investment limitations set forth in this part 2, which are expressed as percentages of a company's admitted assets, there shall be used as a base the total of all assets of the company ~~which~~ THAT would be admitted under this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., without regard to such limitations and without regard to any condition or restriction set forth in section 10-3-237 (2), and asset values will be those values determined at the current annual statement date or, in case of any statement or examination as of a date other than an annual statement date, those values determined at such other date. In applying any investment limitation set forth in this part 2, which is expressed as a percentage of a company's surplus, the amount of the company's surplus shall be that determined at the current annual statement date or, in the case of any statement or examination as of a date other than an annual statement date, the amount determined at such other date.

**SECTION 18.** 10-3-235 (2) and (4), Colorado Revised Statutes, are amended to read:

**10-3-235. Certain admitted assets deemed securities for deposit purposes.** (2) For purposes of optional reserve deposits permitted by section 10-7-101 (3) or other deposits permitted but not required by this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., the following admitted assets, in addition to those referred to in subsection (1) of this section, shall be deemed to be securities eligible for such deposits: Any asset qualified as an admitted asset under section 10-3-220 or 10-3-226 to 10-3-228, and any life

insurance policy, to the extent of the company's interest in the cash value thereof.

(4) For purposes of all deposits required or permitted by this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., assets shall be valued at their fair market value; except that, for purposes of optional reserve deposits permitted by section 10-7-101 (3), or other deposits permitted but not required by said references, bonds and mortgages shall be valued at their current book values under the methods used in determining admitted asset values for annual statement purposes.

**SECTION 19.** 10-3-236, Colorado Revised Statutes, is amended to read:

**10-3-236. Assets acquired through merger, consolidation, or reinsurance.** Any investments acquired after May 31, 1969, through merger, consolidation, or reinsurance ~~which~~ THAT are not admitted assets under this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall not be deemed admitted assets by reason of their acquisition through merger, consolidation, or reinsurance.

**SECTION 20.** 10-3-238, Colorado Revised Statutes, is amended to read:

**10-3-238. Refunds.** Whenever it appears to the satisfaction of the commissioner that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, any insurer or other person engaged in the business of insurance in this state has paid to ~~him~~ THE COMMISSIONER or to the state of Colorado, pursuant to any provision of this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., any taxes, fees, or other charges in excess of the amount legally chargeable against said insurer or other person during the one-year period immediately preceding the discovery of such overpayment, the commissioner has the authority to refund to such insurer or other person the amount of such excess by applying the amount thereof toward the payment of taxes, fees, or other charges already due, or ~~which~~ THAT may thereafter become due, from such insurer or other person until such excess has been fully refunded; or, at ~~his~~ THE COMMISSIONER'S discretion, the commissioner may make a cash refund thereof.

**SECTION 21.** 10-3-1104 (1) (I), Colorado Revised Statutes, is amended 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:

(I) Violation of or noncompliance with any insurance law in ~~part 7 6~~ of article 4 of this title;

**SECTION 22.** 10-4-622 (2), Colorado Revised Statutes, is amended to read:

**10-4-622. Required provision for intrastate and interstate operation.** (2) Nothing in this section shall be construed to require that a complying policy provide coverage while the insured motor vehicle is operated in ~~such~~ other jurisdictions by reason of any program, statute, law, or administrative rule in effect

in such other jurisdiction by which coverage is afforded in such other jurisdiction through a government agency or publicly financed auto accident reparations plan such as, by way of illustration and not limitation, plans presently in effect in the province of Saskatchewan, Canada, and the commonwealth of Puerto Rico, U.S.A.

**SECTION 23.** 10-12-105 (1), Colorado Revised Statutes, is amended to read:

**10-12-105. Guaranty fund of mutual companies.** (1) Guaranty fund certificates may be issued to provide a guaranty fund for domestic life and fire insurance companies incorporated upon the mutual plan and for domestic casualty insurance associations incorporated upon the assessment plan, such fund to be held as security for the payment of all losses and other policy liabilities of such companies. Guaranty fund certificates may draw interest or dividends not exceeding in the aggregate eight percent per annum, which shall only be paid from the profits of the company. The certificates may only be retired or redeemed by using the profits of the company for that purpose, but the full fund as required of each kind of mutual and assessment company by this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall at all times be maintained. Such guaranty fund shall be a liability until redeemed or retired. It shall only be used to pay policy claims or liabilities when the contingent mutual liability of the policyholders has been drawn upon and found insufficient to meet the losses of policy claims, or when the directors for any cause fail to provide for the payment of policy claims.

**SECTION 24.** 10-12-106, Colorado Revised Statutes, is amended to read:

**10-12-106. Fees of mutual companies.** Mutual and assessment companies, unless otherwise specified in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., are required to pay the same fees and be under the same supervision and authority of the commissioner as companies ~~which~~ THAT are engaged in the same kind of insurance business and ~~which~~ THAT are organized upon the joint-stock plan, and they shall comply with the general laws of this title, unless otherwise specified, and be subject to the penalties provided therein.

**SECTION 25.** 10-16-602 (2), Colorado Revised Statutes, is amended to read:

**10-16-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(2) "Insurer" means a sickness and accident insurer ~~including a provider of personal injury protection benefits under part 7 of article 4 of this title~~; and any health maintenance organization; fraternal benefit society; nonprofit hospital, medical-surgical, and health services corporation; prepaid health plans; or other entity providing health care coverage or health benefits or health care services, whether as a principal, indemnitor, surety, or contractor, authorized by the commissioner to conduct business in Colorado. "Insurer" also includes a self-insurer providing any health coverage or health benefit or health care services certificate, agreement, contract, policy, or plan; except that the term "insurer" under this part 6 shall apply only to this part 6 and shall not include an insurer or self-insured employer under articles 40 to 47 of title 8, C.R.S.

**SECTION 26.** 8-40-201 (8), Colorado Revised Statutes, is amended to read:

**8-40-201. Definitions - repeal.** As used in articles 40 to 47 of this title, unless the context otherwise requires:

(8) "Employment" means any trade, occupation, job, position, or process of manufacture or any method of carrying on any trade, occupation, job, position, or process of manufacture in which any person may be engaged; except that it shall not include participation in a ridesharing arrangement, as defined in section ~~10-4-707.5~~ ~~(2)~~ 39-22-509 (1) (a) (II), C.R.S., and participation in such a ridesharing arrangement shall not affect the wages paid to or hours or conditions of employment of an employee; nor shall it include the employee's participation in a voluntary recreational activity or program, regardless of whether the employer promoted, sponsored, or supported the recreational activity or program.

**SECTION 27. Repeal.** 18-1.3-602 (2.5), Colorado Revised Statutes, is repealed as follows:

**18-1.3-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(2.5) "PIP" means personal injury protection, as defined in section ~~10-4-703 (11)~~, C.R.S.

**SECTION 28.** 18-1.3-603 (8) (c) (I), (8) (c) (II) (B), and (8) (d), Colorado Revised Statutes, are amended to read:

**18-1.3-603. Assessment of restitution - corrective orders.** (8) (c) (I) Except as otherwise provided in this paragraph (c), a court may not award restitution to a victim concerning a pecuniary loss for which the victim has received or is entitled to receive benefits or reimbursement under a policy of insurance or other indemnity agreement. ~~including but not limited to PIP benefits.~~

(II) (B) ~~A victim, as defined in section 18-1.3-602 (4) (a) (III), may be awarded restitution for PIP benefits or equivalent benefits paid to another only if the court finds that the defendant on the date of the offense did not meet state compulsory insurance requirements.~~

(d) (I) ~~If, at the time of an offense for which a victim seeks restitution, the victim owned and operated a vehicle involved in the offense, or knowingly permitted the operation of a vehicle involved in the offense that was not covered by a complying insurance policy, the court's restitution order shall not include damages that would have been covered under a complying policy containing PIP or PIP-equivalent benefits except upon the specific request of the prosecuting attorney and with the approval of the court.~~

(II) Nothing in this paragraph (d) shall prohibit a ~~non-owner~~ NONOWNER driver or passenger in the vehicle from being awarded restitution if the driver or passenger was not covered by his or her own ~~complying PIP~~ MEDICAL PAYMENTS COVERAGE policy.

**SECTION 29.** 24-82-103 (4) (a), Colorado Revised Statutes, is amended to read:

**24-82-103. Off-street parking - financing.** (4) (a) Moneys received pursuant to this section in excess of those necessary to pay current capital and operating costs, which moneys to pay such costs are hereby appropriated, shall be deposited to the credit of a special account within the state treasury, and such moneys shall be expended only for incentives and programs to increase state employee participation in ridesharing arrangements, as defined in section ~~10-4-707.5 (2)~~ 39-22-509 (1) (a) (II), C.R.S., and state employee use of bicycles or mass transit.

**SECTION 30.** 39-22-509 (1) (a), Colorado Revised Statutes, is amended to read:

**39-22-509. Mass transit and ridesharing arrangements - employer deductions.** (1) There shall be allowed to corporate employers a deduction from Colorado gross income, to the extent not previously deducted in arriving at Colorado gross income, equal to the employer's contribution to:

(a) (I) Free or partially subsidized ridesharing arrangements ~~as defined in section 10-4-707.5 (2), C.R.S.~~, for employees, including, but not limited to, providing vehicles for such arrangements, cash incentives (not to exceed the value of such transportation) for participation in ridesharing arrangements, and the payment of all or part of the administrative cost incurred in organizing, establishing, or administering a ridesharing program; and

(II) FOR THE PURPOSES OF THIS SECTION, "RIDESHARING ARRANGEMENT" MEANS THE VEHICULAR TRANSPORTATION OF PASSENGERS TRAVELING TOGETHER PRIMARILY TO AND FROM SUCH PASSENGERS' PLACES OF BUSINESS OR WORK OR TRAVELING TOGETHER ON A REGULARLY SCHEDULED BASIS WITH A COMMONALITY OF PURPOSES IF THE VEHICLE USED IN SUCH TRANSPORTATION IS NOT OPERATED FOR PROFIT BY AN ENTITY PRIMARILY ENGAGED IN THE TRANSPORTATION BUSINESS AND IF NO CHARGE IS MADE THEREFOR OTHER THAN THAT REASONABLY CALCULATED TO RECOVER THE DIRECT AND INDIRECT COSTS OF THE "RIDESHARING ARRANGEMENT", INCLUDING, BUT NOT LIMITED TO, A REASONABLE INCENTIVE TO MAXIMIZE OCCUPANCY OF THE VEHICLE. HOWEVER, NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED AS EXCLUDING FROM THIS DEFINITION AN ARRANGEMENT BY AN EMPLOYER ENGAGED IN THE TRANSPORTATION BUSINESS WHO PROVIDES RIDESHARING ARRANGEMENTS FOR ITS EMPLOYEES. THE TERM INCLUDES "RIDESHARING ARRANGEMENTS" COMMONLY KNOWN AS CARPOOLS AND VANPOOLS; EXCEPT THAT THIS TERM DOES NOT INCLUDE SCHOOL TRANSPORTATION VEHICLES OPERATED BY ELEMENTARY AND SECONDARY SCHOOLS WHEN THEY ARE OPERATED FOR THE TRANSPORTATION OF CHILDREN TO OR FROM SCHOOL OR ON SCHOOL-RELATED EVENTS.

**SECTION 31.** 40-1-102 (3) (b), Colorado Revised Statutes, is amended to read:

**40-1-102. Definitions.** As used in articles 1 to 7 of this title, unless the context otherwise requires:

(3) (b) "Common carrier" does not include a ridesharing arrangement, as defined in section ~~10-4-707.5 (2)~~ 39-22-509 (1) (a) (II), C.R.S., or a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4).

**SECTION 32.** 40-10-101 (4) (a), Colorado Revised Statutes, is amended to read:

**40-10-101. Definitions.** As used in this article, unless the context otherwise requires:

(4) (a) "Motor vehicle carrier" means every person, lessee, trustee, receiver, or trustee appointed by any court whatsoever owning, controlling, operating, or managing any motor vehicle used in serving the public in the business of the transportation of persons for compensation as a common carrier over any public highway between fixed points or over established routes or otherwise, whether such business or transportation is engaged in or transacted by contract or otherwise; except that the term "motor vehicle carrier" does not include a ridesharing arrangement, as defined in section ~~10-4-707.5 (2)~~ 39-22-509 (1) (a) (II), C.R.S., or a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4).

**SECTION 33.** 40-11-101 (3), Colorado Revised Statutes, is amended to read:

**40-11-101. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Contract carrier by motor vehicle" means every corporation, person, firm, association of persons, lessee, or trustee or any receiver or trustee appointed by any court, other than motor vehicle carriers as defined by section 40-10-101 (4) (a), owning, controlling, operating, or managing any motor vehicle in the business of transporting persons for compensation or hire, over any public highway of this state between fixed points or over established routes or otherwise, by special contract or otherwise; except that the term "contract carrier by motor vehicle" does not include a ridesharing arrangement, as defined in section ~~10-4-707.5 (2)~~ 39-22-509 (1) (a) (II), C.R.S., or a motor vehicle carrier exempt from regulation as a public utility, as defined in section 40-16-101 (4).

**SECTION 34.** 40-11.5-102 (5) (b), Colorado Revised Statutes, is amended to read:

**40-11.5-102. Lease provisions.** (5) (b) For purposes of this subsection (5), "similar coverage" means disability insurance for on and off the job injury, health insurance, and life insurance. The specifications of such insurance, including the amount of any deductible, shall meet or exceed standards set by the division of insurance in the department of regulatory agencies, and such standards shall specify that the benefits offered by such insurance coverage shall be at least comparable to the benefits offered under the workers' compensation system. ~~"Similar coverage" does not mean motor vehicle insurance pursuant to the requirements of section 10-4-706, C.R.S.~~

**SECTION 35.** 42-5-112 (2) (a) (III) (A), Colorado Revised Statutes, is amended to read:

**42-5-112. Automobile theft prevention authority - board - creation - duties - rules - fund - repeal.** (2) (a) There is hereby created the automobile theft prevention board, referred to in this section as the "board", which shall consist of nine members as follows:

(III) Seven members appointed by the governor as follows:

(A) Three representatives of insurance companies who are authorized to issue motor vehicle insurance policies pursuant to part 7 6 of article 4 of title 10, C.R.S.;

**SECTION 36.** 42-7-510 (1), Colorado Revised Statutes, is amended to read:

**42-7-510. Insurance or bond required.** (1) Every owner of a truck ~~which~~ THAT is subject to the registration fee imposed pursuant to section 42-3-134 (13) (b) or (15) and ~~which~~ THAT is not subject to regulation by the public utilities commission under article 10, 11, 13, or 16 of title 40, C.R.S., before operating or permitting the operation of such vehicle upon any public highway in this state shall have in each such vehicle a motor vehicle liability insurance policy or a certificate evidencing such policy issued by an insurance carrier or insurer authorized to do business in the state of Colorado, or a copy of a valid certificate of self-insurance issued pursuant to section ~~10-4-716~~ 10-4-624, C.R.S., or a surety bond issued by a company authorized to do a surety business in the state of Colorado in the sum of fifty thousand dollars for damages to property of others; the sum of one hundred thousand dollars for damages for or on account of bodily injury or death of one person as a result of any one accident; and, subject to such limit as to one person, the sum of three hundred thousand dollars for or on account of bodily injury to or death of all persons as a result of any one accident.

**SECTION 37.** 42-7-604 (5) (a) (I), Colorado Revised Statutes, is amended to read:

**42-7-604. Motorist insurance identification database program - creation - administration - selection of designated agent - legislative declaration.** (5) (a) Not later than January 1, 1999, the designated agent, using its own computer network, shall develop and maintain a computer database with information provided by:

(I) Insurers, pursuant to section 10-4-615, C.R.S.; except that any person who qualifies as self-insured pursuant to section ~~10-4-716~~ 10-4-624, C.R.S., shall not be required to provide information to the designated agent; and

**SECTION 38.** 42-7-605 (5), Colorado Revised Statutes, is amended to read:

**42-7-605. Notice of lack of financial responsibility.** (5) Prior to the reinstatement of any motor vehicle registration that has been suspended pursuant to subsection (1) of this section, the owner of such motor vehicle shall provide to the department proof of insurance coverage in accordance with section ~~10-4-705~~ 10-4-619, C.R.S., proof of self-insurance in accordance with section ~~10-4-716~~ 10-4-624, C.R.S., or proof of an exemption from any such financial security requirements.

**SECTION 39. Applicability.** (1) This act shall apply to property and casualty claims filed on or after the effective date of this act.

(2) (a) Section 2 of this act shall only take effect if Senate Bill 04-125 is enacted and becomes law.

(b) Section 1 of this act shall not take effect if Senate Bill 04-125 is enacted and

becomes law.

**SECTION 40. 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: May 21, 2004