

## CHAPTER 305

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**INSURANCE**


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**SENATE BILL 04-211**

BY SENATOR(S) Hillman, Arnold, Evans, Hagedorn, and Isgar;  
also REPRESENTATIVE(S) Spradley, Butcher, Coleman, Hoppe, Larson, Marshall, McCluskey, and Spence.

**AN ACT**

**CONCERNING INCREASED EFFICIENCIES IN THE OPERATION OF THE UNCLAIMED PROPERTY PROGRAM  
IN ORDER TO MAKE AVAILABLE A PORTION OF THE UNCLAIMED PROPERTY TRUST FUND TO SUPPORT  
COVER COLORADO.**

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

**SECTION 1.** 38-13-111 (1), the introductory portion to 38-13-111 (2), and 38-13-111 (2) (a) and (3), Colorado Revised Statutes, are amended, and the said 38-13-111 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**38-13-111. Electronic notice of abandoned property.** (1) ~~The administrator shall cause a notice to be published not later than March 1 of the year immediately following the report required by section 38-13-110 or, in the case of property reported by life insurance companies, not later than September 1 of the year of the report required by section 38-13-110, at least once a week for two consecutive weeks in a newspaper of general circulation in the county of this state in which is located the last-known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of business within this state~~ THE ADMINISTRATOR SHALL MAINTAIN AN ELECTRONIC, ALPHABETICAL LIST OF THE OWNERS OF UNCLAIMED PROPERTY AND SHALL MAKE SUCH LIST AVAILABLE TO THE PUBLIC ON THE WORLD WIDE WEB. THE ADMINISTRATOR SHALL PROVIDE TO EACH COUNTY TREASURER AND PUBLIC LIBRARY IN THE STATE A WRITTEN COPY OF THE LIST OF OWNERS OF UNCLAIMED PROPERTY IN THAT COUNTY. THE OFFICE OF THE TREASURER SHALL ALSO MAINTAIN A WRITTEN COPY OF THE LIST OF UNCLAIMED PROPERTY OWNERS.

(2) ~~The published notice must be entitled "Notice of Names of Persons Appearing~~

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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.*

~~to be Owners of Abandoned Property" and must contain~~ ELECTRONIC, ALPHABETICAL LIST OF THE NAMES OF OWNERS OF UNCLAIMED PROPERTY MAINTAINED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL INCLUDE THE FOLLOWING INFORMATION:

~~(a) The names in alphabetical order and last-known addresses, if any, of persons listed in the report and entitled to notice within the county as specified in subsection (1) of this section;~~

~~(3) The administrator is not required to publish notice regarding any items valued at less than fifty dollars unless the administrator considers such publication to be in the public interest.~~

(7) THE ADMINISTRATOR SHALL LIMIT THE AMOUNT OF MONEYS EXPENDED FOR PUBLICATION AND NECESSARY CORRESPONDENCE PURSUANT TO THIS SECTION TO NOT MORE THAN TWO PERCENT OF THE PREVIOUS YEAR'S PAID CLAIMS FROM THE UNCLAIMED PROPERTY TRUST FUND CREATED IN SECTION 38-13-116.5.

**SECTION 2.** 38-13-116.5 (1) (b) and (1) (c), Colorado Revised Statutes, are amended, and the said 38-13-116.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**38-13-116.5. Unclaimed property trust fund - creation - payments - interest - appropriations - records - rules.** (1) (b) Except as provided in subsections (2), ~~and~~ (2.5), AND (2.7) of this section, the principal of the trust fund shall not be expended except to pay claims made pursuant to this article. Moneys comprising the principal of the trust fund ~~that are credited to or expended from such trust fund~~ shall NOT constitute fiscal year spending of the state for purposes of section 20 of article X of the state constitution and ~~such moneys shall be deemed custodial funds that are not subject to appropriation by the general assembly.~~

(c) All interest derived from the deposit and investment of moneys in the trust fund shall be credited to the ~~CoverColorado cash fund established in section 10-8-530 (2), C.R.S., and shall be subject to appropriation by the general assembly for the purposes of part 5 of article 8 of title 10, C.R.S.~~ TRUST FUND.

(2.7) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2.7), ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.7), THE STATE TREASURER SHALL TRANSMIT TO COVERCOLORADO THE AMOUNT EQUAL TO THE PRINCIPAL AND INTEREST IN THE TRUST FUND MINUS:

(I) THE CLAIMS PAID PURSUANT TO THIS ARTICLE FOR EACH FISCAL YEAR;

(II) THE RESERVE AMOUNT NECESSARY TO PAY ANTICIPATED CLAIMS; AND

(III) PUBLICATION AND CORRESPONDENCE EXPENSES PURSUANT TO SECTION 38-13-111 (7).

(b) IF, BASED ON THE DETERMINATION OF THE AMOUNT NECESSARY BY THE BOARD OF COVERCOLORADO PURSUANT TO SECTION 10-8-530 (1.3), C.R.S., AND SUBSTANTIATED BY THE ACTUARIAL EVALUATIONS REQUIRED PURSUANT TO SECTION 10-8-530 (1.5) (c), C.R.S., THE BOARD OF COVERCOLORADO DETERMINES THAT

COVERCOLORADO REQUIRES ONLY A PORTION OF THE MONEYS AVAILABLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.7), THE STATE TREASURER SHALL ONLY TRANSMIT THE PORTION REQUIRED PURSUANT TO SECTION 10-8-530 (1.3), C.R.S.

(c) THE TREASURER SHALL REPORT TO THE GENERAL ASSEMBLY ANNUALLY ANY TRANSMISSION OF MONEYS TO COVERCOLORADO PURSUANT TO THIS SUBSECTION (2.7).

(d) THE TREASURER MAY PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., CONCERNING THE TIME FRAME FOR THE TRANSMITTAL OF MONEYS TO COVERCOLORADO PURSUANT TO THIS SUBSECTION (2.7).

**SECTION 3.** 10-8-530 (1) (a), (1.5) (c), (2), and (4), Colorado Revised Statutes, are amended, and the said 10-8-530 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**10-8-530. Funding of program - repeal.** (1) The program shall be funded by the following:

(a) Moneys ~~credited~~ TRANSMITTED pursuant to section 38-13-116.5 ~~(1)(c)~~ (2.7), C.R.S.;

(1.3) THE BOARD SHALL REPORT TO THE STATE TREASURER ANNUALLY, BASED ON THE PROJECTED OPERATING REVENUES OF THE PROGRAM, COMBINED WITH THE PROJECTED CASH BALANCE OF ALL PROGRAM ACCOUNTS, IF THE PROGRAM'S MONEYS WILL NOT BE ADEQUATE OVER THE NEXT TWENTY-FOUR-MONTH PERIOD TO PROVIDE FOR THE PROJECTED CLAIMS, ADMINISTRATIVE EXPENSES, RESERVES FOR CLAIMS INCURRED BUT NOT REPORTED, AND SURPLUS EQUAL TO TEN PERCENT OF PROJECTED ANNUAL CLAIMS. THE REPORT SHALL BE SUBSTANTIATED BY THE ACTUARIAL EVALUATIONS REQUIRED BY PARAGRAPH (c) OF SUBSECTION (1.5) OF THIS SECTION. BASED ON THIS REPORT, THE STATE TREASURER SHALL TRANSMIT TO THE BOARD THE AMOUNT NECESSARY TO MEET THE PROJECTED CLAIMS, ADMINISTRATIVE EXPENSES, RESERVES FOR CLAIMS INCURRED BUT NOT REPORTED, AND SURPLUS EQUAL TO TEN PERCENT OF PROJECTED ANNUAL CLAIMS, PURSUANT TO AND WITHIN THE LIMITATIONS OF SECTION 38-13-116.5 (2.7), C.R.S. THE MONEYS TRANSMITTED BY THE STATE TREASURER SHALL BE USED TO PAY THE ADMINISTRATIVE EXPENSES AND THE LOSSES RELATED TO ELIGIBLE INDIVIDUALS. NO PART OF THE MONEYS TRANSMITTED BY THE STATE TREASURER SHALL BE USED TO PAY FOR THE ADMINISTRATIVE EXPENSES OR LOSSES OF ANY DEPENDENTS WHO HAVE CHOSEN COVERAGE UNDER THE PROGRAM.

(1.5) (c) Prior to notice of the first assessment to be paid by insurers, ~~and~~ prior to an increase in the amount of the assessment pursuant to this subsection (1.5), AND PRIOR TO SUBMISSION OF A REQUEST FOR MONEYS FROM THE UNCLAIMED PROPERTY TRUST FUND PURSUANT TO SUBSECTION (1.3) OF THIS SECTION, the board shall obtain at least two actuarial evaluations of the amount of the assessment OR FOR THE REQUEST OF TRANSFER OF MONEYS FROM THE UNCLAIMED PROPERTY TRUST FUND.

(2) Funds collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer, who shall credit the same to the CoverColorado cash fund, which fund is hereby created in the state treasury. The moneys in the fund are hereby subject to annual appropriation by the general assembly for the purposes

~~of this part 5, including payment of administrative expenses, funding of the losses of the program, and maintenance of such reserves as may be required by the commissioner. All moneys, including interest earned on the investment or deposit of moneys in the CoverColorado cash fund, shall remain in the fund and shall not revert to the general fund of the state at the end of any fiscal year.~~

(4) (a) Any special fees assessed shall be collected by and deposited into the accounts of the program, for use as provided in subsection (1.5) of this section. Any ~~funds~~ MONEYS that are not immediately needed to pay expenses and losses shall be invested as determined by the board in accordance with investment guidelines set forth in its plan of operation.

(b) ANY MONEYS RECEIVED FROM THE TREASURER PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL BE COLLECTED BY AND DEPOSITED INTO THE ACCOUNTS OF THE PROGRAM FOR THE USES PROVIDED IN SUBSECTION (1.3) OF THIS SECTION. ANY MONEYS THAT ARE NOT IMMEDIATELY NEEDED TO PAY EXPENSES AND LOSSES SHALL BE INVESTED AS DETERMINED BY THE BOARD IN ACCORDANCE WITH THE INVESTMENT GUIDELINES SET FORTH IN ITS PLAN OF OPERATION.

(c) (I) THE EXECUTIVE DIRECTOR OF THE PROGRAM SHALL REPORT ANNUALLY TO THE JOINT BUDGET COMMITTEE CONCERNING THE RECEIPT AND EXPENDITURE OF MONEYS IN THE ACCOUNTS OF THE PROGRAM.

(II) THE REPORTING REQUIREMENT PURSUANT TO THIS PARAGRAPH (c) SHALL BE EXEMPT FROM THE THIRD-YEAR REVIEW BY THE GENERAL ASSEMBLY PURSUANT TO SECTION 24-1-136, C.R.S.

(d) ANY MONEYS IN THE COVERCOLORADO CASH FUND AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH (d) SHALL BE COLLECTED BY AND DEPOSITED INTO THE ACCOUNTS OF THE PROGRAM TO BE USED FOR THE ADMINISTRATION OF THE PROGRAM.

**SECTION 4.** 10-8-530 (1.5) (a), Colorado Revised Statutes, as amended by House Bill 04-1206, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is amended to read:

**10-8-530. Funding of program - rules - repeal.** (1.5) (a) The program may assess against insurers such special fees as may be reasonable and necessary for the operation of the program. The special fees shall be assessed on a prospective, per capita basis, with the amount of the special fee assessed to each insurer equal to the number of Colorado lives insured by the insurer under a policy issued and delivered in the state of Colorado, multiplied by the per capita assessment. Special fees shall be assessed only when it is determined ~~by the board that the projected operating revenues of the program, combined with the projected cash balance of the CoverColorado cash fund and the balance of any funds held or invested by the board or the administering carrier, including~~ THAT THE AMOUNTS AVAILABLE TO BE TRANSFERRED TO THE PROGRAM PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND contributions received pursuant to the premium tax credit allocation provisions of section 10-8-534, will not be adequate over the next ~~twelve-month~~ TWENTY-FOUR-MONTH period to provide for the projected claims, administrative expenses, reserves for claims incurred but not reported, and surplus equal to ten percent of projected claims. All special fees collected shall be used to

pay the administrative expenses and the losses related to eligible individuals. No part of the special fees shall be used to pay for the administrative expenses or losses of any dependents who have chosen coverage under the program. In the event that any insurer fails to pay its special fee to the program in accordance with the time frames set forth by rule, the commissioner is authorized to utilize all powers conferred on the commissioner by the insurance laws of this state to enforce payment of the special fees.

**SECTION 5. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 27, 2004