

CHAPTER 398

INSURANCE

HOUSE BILL 04-1236

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also SENATOR(S) Cairns, Fitz-Gerald, Gordon, Groff, Hanna, Isgar, Keller, Nichol, Phillips, Tapia, Veiga, and Windels.

AN ACT

CONCERNING NOTICE REQUIREMENTS TO BE MADE BY AN INSURER TO AN APPLICANT FOR HOMEOWNER'S INSURANCE.

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

SECTION 1. 10-4-110.7, Colorado Revised Statutes, is amended to read:

10-4-110.7. Cancellation or nonrenewal of policies of homeowner's insurance.

(1) (a) IF AN INSURER ISSUES A BINDER OF INSURANCE DURING A PERIOD IN WHICH THE INSURER ASSESSES THE RISK RELATED TO AN INDIVIDUAL'S REAL AND PERSONAL PROPERTY FOR THE PURPOSES OF HOMEOWNER'S INSURANCE, THE INSURER SHALL PROVIDE NOTICE TO THE POTENTIAL INSURED THAT THE DOCUMENTS ARE ONLY A BINDER AND SUBJECT TO CANCELLATION.

(b) THE COMMISSIONER MAY PROMULGATE A RULE OR ISSUE A BULLETIN CONCERNING DISCLOSURE REQUIREMENTS FOR A BINDER OF INSURANCE FOR HOMEOWNER'S INSURANCE.

(2) (a) IF AN INSURER USES UNDERWRITING CRITERIA BASED ON AN INDIVIDUAL'S CREDIT SCORE, THE CLAIMS HISTORY OF THE PROPERTY, OR THE CLAIMS HISTORY OF THE APPLICANT, THE INSURER SHALL NOTIFY THE APPLICANT OF THE USE OF SUCH CRITERIA DURING THE APPLICATION PROCESS.

(b) IF AN INSURER USES CLAIMS EXPERIENCE FOR THE PROPERTY AND SUCH CLAIMS HISTORY RESULTS IN AN ADVERSE ACTION TO THE APPLICANT OR POLICYHOLDER, THE INSURER SHALL DISCLOSE TO THE APPLICANT OR POLICYHOLDER THE SPECIFIC CLAIM INFORMATION THAT RESULTED IN THE ADVERSE ACTION.

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

(3) No insurer shall cancel or refuse to renew a policy of homeowner's insurance unless such insurer mails, by first-class mail to the named insured, at the last address shown in the insurer's records, at least thirty days in advance, a notice of its intended action ~~which~~ PURSUANT TO SECTION 10-4-110 THAT specifically states the reasons for proposing to take such action; ~~but~~ EXCEPT THAT, where cancellation is for nonpayment of premium, at least ten days' notice of cancellation accompanied by the reasons therefor shall be given.

(4) AN INSURER OFFERING HOMEOWNER'S INSURANCE IN THIS STATE SHALL FILE WITH THE COMMISSIONER THE UNDERWRITING METHODOLOGIES USED BY THE INSURER. SUCH UNDERWRITING METHODOLOGIES ARE NOT PUBLIC RECORDS AND ARE EXEMPTED FROM ARTICLE 72 OF TITLE 24, C.R.S., AND ARE PROPRIETARY AND NOT SUBJECT TO PUBLIC EXAMINATION; EXCEPT THAT THE COMMISSIONER MAY USE INFORMATION FROM THE UNDERWRITING METHODOLOGIES FILED PURSUANT TO THIS SUBSECTION (4) THAT DOES NOT IDENTIFY A SPECIFIC INSURER FOR CONSUMER INFORMATION PUBLICATIONS CONCERNING HOMEOWNER'S INSURANCE.

(5) IF AN INSURER ISSUES A BINDER OR A POLICY OF INSURANCE DURING A PERIOD IN WHICH THE INSURER ASSESSES THE RISK RELATED TO AN INDIVIDUAL'S REAL AND PERSONAL PROPERTY FOR THE PURPOSES OF HOMEOWNER'S INSURANCE, THE INSURER SHALL PROVIDE NOTICE TO THE POTENTIAL INSURED THAT THE DOCUMENTS ARE CONDITIONAL AND THAT THE INSURER HAS THIRTY BUSINESS DAYS, COMMENCING ON THE EFFECTIVE DATE OF THE CONDITIONAL COVERAGE, TO EVALUATE THE ISSUANCE OF A POLICY FOR HOMEOWNER'S INSURANCE. IF THE INSURER REFUSES TO ISSUE A POLICY OF HOMEOWNER'S INSURANCE OR CANCELS A CONDITIONAL POLICY THAT HAS BEEN ISSUED AS OF AN EFFECTIVE DATE WITHIN THIS THIRTY-BUSINESS-DAY PERIOD, THE INSURER SHALL NOTIFY THE HOMEOWNER OF THE INSURER'S DECISION. IF, PRIOR TO THE EXPIRATION OF THE THIRTY-BUSINESS-DAY PERIOD, THE INSURER OBTAINS INFORMATION SHOWING AN ARTICULABLE AND REASONABLE BASIS ON WHICH THE INSURER MIGHT BE JUSTIFIED IN CANCELLING COVERAGE AND THE INSURER BELIEVES THAT FURTHER INVESTIGATION OR REPAIR OF THE PROPERTY IS NECESSARY, THE THIRTY-BUSINESS-DAY PERIOD MAY BE EXTENDED. THE INSURER SHALL COMPLETE ANY INSPECTION ASSOCIATED WITH THE UNDERWRITING OF THE NEW PROPERTY WITHIN THE THIRTY-BUSINESS-DAY PERIOD.

SECTION 2. Part 1 of article 4 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

10-4-110.6. Homeowner's insurance - definition. FOR THE PURPOSES OF THIS ARTICLE, "HOMEOWNER'S INSURANCE" MEANS INSURANCE THAT COVERS DAMAGE OR LOSS TO ALL TYPES OF HOMES, INCLUDING, BUT NOT LIMITED TO, SITE-BUILT HOMES, MANUFACTURED HOMES, FACTORY-BUILT HOMES, AND MOBILE HOMES.

10-4-110.8. Homeowner's insurance - prohibited practice - definitions.

(1) AN INSURER MAY NOT CANCEL OR FAIL TO RENEW COVERAGE OF AN INSURED SOLELY BECAUSE THE INSURED INQUIRES ABOUT COVERAGE FOR HOMEOWNER'S INSURANCE AND THE INQUIRY IS NOT RELATED TO AN ACTUAL CLAIM TO THE PROPERTY INSURED.

(2) AN INSURER MAY ONLY PROVIDE INFORMATION REGARDING CLAIMS TO AN ENTITY THAT COMPILES OR MONITORS PERSONAL CLAIM OR LOSS EXPERIENCE SHARED

BY INSURERS FOR UNDERWRITING OR RATING PURPOSES.

(3) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CLAIM" INCLUDES A DEMAND FOR PAYMENT OF A BENEFIT BY THE INSURED, THE PAYMENT OF A COVERED BENEFIT BY AN INSURER, A LOSS RESERVE ESTABLISHED BY THE INSURER, A LOSS ADJUSTMENT EXPENSE INCURRED BY THE INSURER, OR A PAYMENT MADE TO THE INSURED.

(4) FOR THE PURPOSES OF THIS SECTION, "INQUIRY" MEANS A REQUEST FOR INFORMATION REGARDING THE TERMS, CONDITIONS, OR COVERAGES AFFORDED UNDER AN INSURANCE CONTRACT.

10-4-116. Loss history information report - notice to insured - definition.

(1) EACH INSURER SHALL PRINT IN AT LEAST TWELVE-POINT BOLD-FACED TYPE, ON THE FIRST PAGE OF EACH PACKET CONTAINING THE INSURANCE POLICY AND EACH PACKET CONTAINING THE RENEWAL NOTICE FOR HOMEOWNER'S INSURANCE OR AS A SEPARATE DOCUMENT:

(a) INFORMATION REGARDING HOW AN INSURED MAY OBTAIN A FREE COPY OF HIS OR HER LOSS HISTORY INFORMATION REPORT;

(b) A TOLL-FREE TELEPHONE NUMBER THAT THE INSURED MAY CALL TO OBTAIN THE LOSS HISTORY INFORMATION REPORT; AND

(c) A WEBSITE ADDRESS THAT THE INSURED MAY ACCESS TO OBTAIN THE LOSS HISTORY INFORMATION REPORT.

(2) FOR THE PURPOSES OF THIS SECTION, "LOSS HISTORY INFORMATION REPORT" MEANS A COMPILATION OF AN INSURED'S PRIOR LOSS HISTORY INFORMATION USED BY AN INSURER IN THE INSURED'S HOMEOWNER'S INSURANCE UNDERWRITING PROCESS. SUCH INFORMATION MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE INSURED'S NAME, DATE OF BIRTH, AND CLAIM INFORMATION SUCH AS DATE OF LOSS, TYPE OF LOSS, AND THE AMOUNTS PAID FOR THE LOSS, IF ANY, OR ANY OTHER INFORMATION THAT MAY NEGATIVELY AFFECT THE INSURED'S RATE OF HOMEOWNER'S INSURANCE OR ABILITY TO OBTAIN HOMEOWNER'S INSURANCE. A LOSS HISTORY INFORMATION REPORT SHALL INCLUDE ONLY INFORMATION REGARDING CLAIMS MADE TO AN INSURER AND SHALL NOT INCLUDE INFORMATION REGARDING INQUIRIES MADE TO THE INSURER.

10-4-117. Severability. IF ANY PROVISION OR CLAUSE OF THIS PART 1 OR APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS PART 1 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS TITLE ARE DECLARED TO BE SEVERABLE.

SECTION 3. Effective date - applicability. (1) This act shall take effect January 1, 2005.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to homeowner's insurance policies issued or renewed on or after the applicable effective date of this act.

Approved: June 4, 2004