

CHAPTER 212

INSURANCE

HOUSE BILL 05-1297

BY REPRESENTATIVE(S) Green, Boyd, and Coleman;
also SENATOR(S) Mitchell.

AN ACT**CONCERNING CHANGES TO THE "NONADMITTED INSURANCE ACT".**

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

SECTION 1. 10-5-101.5, Colorado Revised Statutes, is amended to read:

10-5-101.5. Exemptions. (1) The provisions of this article controlling the placing of insurance with nonadmitted insurers shall not apply to reinsurance or, except as to subsection (2) of this section, to the following types of insurance when placed by licensed agents or brokers of this state:

(a) Insurance on vessels or crafts or their hulls or cargoes or on marine builders' risks or marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy;

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state or on vehicles or aircraft owned and principally garaged outside this state;

(c) Insurance on the operations of railroads engaged in transportation in interstate commerce and their property used in such operations;

(d) Insurance on aircraft owned or operated by manufacturers of aircraft or on aircraft operated in commercial scheduled interstate flight or the cargo of such aircraft or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of such aircraft;

(e) **INSURANCE ON SATELLITES OR OTHER DEVICES INTENDED FOR LAUNCH BEYOND THE EARTH'S ATMOSPHERE.**

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

(2) Brokers placing any insurance referred to in subsection (1) of this section shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this article. The record shall be preserved for not less than three years ~~from~~ AFTER the effective date of the insurance; shall be kept in ~~this state~~ THE BROKER'S OFFICE and open to the COMMISSIONER'S examination ~~of the commissioner,~~ ~~at his request~~ and on forms designated and furnished by ~~him~~ THE COMMISSIONER; and shall contain a report of all such coverages so placed in a designated calendar year.

SECTION 2. 10-5-112, Colorado Revised Statutes, is amended to read:

10-5-112. Penalty for failure to comply. If any surplus line broker fails to file ~~his~~ THE annual statement, or fails to remit the tax provided by section 10-5-111, prior to the first day of April after the tax is due, ~~he~~ THE BROKER shall be liable for a fine of twenty-five dollars for each day of delinquency commencing with the first day of April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction.

SECTION 3. 10-5-113 (1) (a), (2), and (4), Colorado Revised Statutes, are amended to read:

10-5-113. Revocation of broker's license. (1) The commissioner may revoke any surplus line broker's license:

(a) If the broker fails to file ~~his~~ THE annual statement or to remit the tax as required by this article; or

(2) The commissioner may suspend or revoke any such license whenever ~~he~~ THE COMMISSIONER deems suspension or revocation to be for the best interest of the people of this state.

(4) No broker whose license has been so revoked or suspended shall again be so licensed within one year thereafter or until any fines or delinquent taxes owing by ~~him~~ THE BROKER have been paid.

SECTION 4. 10-5-116, Colorado Revised Statutes, is amended to read:

10-5-116. Records produced on order. Every person for whom insurance is placed with a nonadmitted insurer pursuant to or in violation of this article, upon the commissioner's order, shall produce for ~~his~~ THE COMMISSIONER'S examination all policies and other documents evidencing the insurance and shall disclose to the commissioner the amount of the gross premiums paid or agreed to be paid for the insurance. For each refusal to obey such order, such person shall be liable to a fine of not more than ten thousand dollars.

SECTION 5. 10-5-119, Colorado Revised Statutes, is amended to read:

10-5-119. Disclosures regarding claims-made policies by surplus line brokers or insurers. (1) In the event that a contract procured or placed by a Colorado surplus line broker is on a claims-made or other nonoccurrence policy form, the broker or the nonadmitted insurer shall stamp on the face of the policy a clear disclosure, as prescribed by the commissioner, which shall be in predominate type.

(2) THE DISCLOSURE REQUIREMENT IN SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO TRANSACTIONS WITH EXEMPT COMMERCIAL POLICYHOLDERS AS DEFINED BY SECTION 10-4-1402 AND THE RULES ADOPTED BY THE COMMISSIONER PURSUANT TO SUCH SECTION.

SECTION 6. Effective date - applicability. (1) This act shall take effect January 1, 2006.

(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 policies issued on or after the applicable effective date of this act.

Approved: June 1, 2005