

## CHAPTER 169

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**INSURANCE**

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**HOUSE BILL 08-1228**

BY REPRESENTATIVE(S) Green, Borodkin, Butcher, Carroll M., Casso, Fischer, Frangas, Kefalas, Kerr A., Levy, Madden, McFadyen, McGihon, Merrifield, Middleton, Peniston, Primavera, Rice, Todd, Carroll T., and Romanoff; also SENATOR(S) Gordon, Groff, Sandoval, Shaffer, and Tupa.

**AN ACT****CONCERNING FINANCIAL RESPONSIBILITY FOR UNFAIR BUSINESS PRACTICES IN THE SALE OF INSURANCE.**

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

**SECTION 1.** The introductory portion to 10-2-801 (1), Colorado Revised Statutes, is amended, and the said 10-2-801 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**10-2-801. Licenses - denial, suspension, revocation, termination - reporting of actions - definitions.** (1) The commissioner may place AN INSURANCE PRODUCER on probation; suspend, revoke, OR refuse to ISSUE, continue, or renew ~~refuse to issue~~ an insurance producer license; ORDER RESTITUTION TO BE PAID FROM AN INSURANCE PRODUCER; or assess a civil penalty pursuant to section 10-2-804 or 10-3-1108, if, after notice to the insurance producer licensee and after A hearing HELD in accordance with sections 24-4-104 and 24-4-105, C.R.S., the commissioner finds that as to the licensee or applicant any one or more of the following conditions exist:

(6) FOR THE PURPOSES OF THIS SECTION, "RESTITUTION" MEANS BENEFITS OR MONEYS OWED DUE TO THE REGULATED ENTITY'S VIOLATION OF THIS TITLE.

**SECTION 2.** 10-3-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**10-3-105. Certificate of authority to do business - companies prohibited - definitions.** (4) (a) THE COMMISSIONER MAY ORDER AN INSURER TO PAY RESTITUTION TO A PERSON, IF, AFTER NOTICE TO THE INSURER AND AFTER A HEARING

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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.*

HELD IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT THE INSURER HAS VIOLATED THIS TITLE OR THAT THE INSURER IS FINANCIALLY RESPONSIBLE FOR THE UNFAIR BUSINESS PRACTICES OF AN INSURANCE PRODUCER PURSUANT TO SECTION 10-3-131.

(b) AS USED IN THIS SUBSECTION (4), "INSURANCE PRODUCER" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 10-2-103 (6).

(c) FOR THE PURPOSES OF THIS SUBSECTION (4), "RESTITUTION" MEANS BENEFITS OR MONEYS OWED DUE TO THE REGULATED ENTITY'S VIOLATION OF THIS TITLE.

**SECTION 3.** Part 1 of article 3 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-3-131. Acts of producers - responsibility of the insurer - definitions.**

(1) AN INSURER AUTHORIZED TO CONDUCT BUSINESS IN THIS STATE, WHO KNEW OR SHOULD HAVE KNOWN ABOUT THE UNFAIR BUSINESS PRACTICES OF AN INSURANCE PRODUCER, MAY BE FINANCIALLY RESPONSIBLE FOR THE UNFAIR BUSINESS PRACTICES OF THE INSURANCE PRODUCER, WHO, WHILE ACTING ON BEHALF OF THE INSURER, ENGAGED IN UNFAIR BUSINESS PRACTICES THAT VIOLATE THIS TITLE.

(2) AS USED IN THIS SECTION, "INSURANCE PRODUCER" SHALL HAVE THE MEANING SET FORTH IN SECTION 10-2-103.

**SECTION 4. Effective date - applicability.** (1) 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 6, 2008, if adjournment sine die is on May 7, 2008); 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.

(2) The provisions of this act shall apply to acts or occurrences on or after the applicable effective date of this act.

Approved: April 21, 2008