

CHAPTER 62

GOVERNMENT - STATE

SENATE BILL 14-097

BY SENATOR(S) Tochtrop, Aguilar, Guzman, Heath, Jones, Kefalas, King, Lambert, Newell, Roberts, Schwartz, Todd;
also REPRESENTATIVE(S) Hamner, Conti, Ginal, Hullinghorst, Labuda, Lee, Mitsch Bush, Rosenthal, Schafer, Young.

AN ACT

CONCERNING THE IMMUNITY OF PUBLIC AGENCIES AGAINST LIABILITY ARISING FROM THE
WILDFIRE MITIGATION ACTIVITIES OF INSURANCE COMPANIES.

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

SECTION 1. In Colorado Revised Statutes, 24-33.5-1505, **amend** (1) and (1.5) as follows:

24-33.5-1505. Immunity. (1) EXCEPT FOR WILLFUL AND WANTON ACTS OR OMISSIONS, no state commission or agency or county or municipal agency, including local emergency planning committees, citizen corps councils, fire protection districts, and volunteer fire, ambulance, or emergency service and rescue groups, nor their officers, officials, directors, employees, or volunteers, when engaged in emergency planning, service, or response activities regarding a hazardous material release, threat of release, or act of terrorism, shall be liable for:

(a) The death of or injury to any person or for the loss of or damage to property or the environment resulting from the hazardous material release, threat of release, or act of terrorism; ~~except for willful and wanton acts or omissions.~~ OR

(b) THE ACTS OF AN INSURER OR INSURANCE COMPANY, CORPORATION, ASSOCIATION, OR PARTNERSHIP, INCLUDING ANY EMPLOYEES, CONTRACTORS, OR AGENTS, ENGAGED IN ACTIVITIES INTENDED TO PROTECT THE INSURABLE PRIVATE PROPERTY INTERESTS OF THE INSURER'S POLICYHOLDERS FROM HARM, LOSS, DAMAGE, OR DESTRUCTION.

(1.5) (a) No private organization or any of its officers, officials, directors, employees, or volunteers, when working under the direction of a local emergency planning committee or state or local fire or law enforcement agency and when

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

engaged in emergency planning, training, or response activities regarding a hazardous material release, threat of release, or act of terrorism, shall be liable for the death of or injury to any person or for the loss of or damage to property or the environment resulting from the hazardous material release, threat of release, or act of terrorism, except for willful and wanton acts or omissions.

(b) AN INSURER, INSURANCE COMPANY, CORPORATION, ASSOCIATION, OR PARTNERSHIP, INCLUDING ANY EMPLOYEES, CONTRACTORS, OR AGENTS, ENGAGED IN ACTIVITIES INTENDED TO PROTECT THE INSURABLE PRIVATE PROPERTY INTERESTS OF THE INSURER'S POLICYHOLDERS FROM HARM, LOSS, DAMAGE, OR DESTRUCTION DOES NOT CONSTITUTE A PRIVATE ORGANIZATION ENTITLED TO IMMUNITY FROM LIABILITY UNDER THE PROVISIONS OF THIS SECTION, AND AN EMPLOYEE, CONTRACTOR, OR AGENT OF THE INSURER IS NOT A VOLUNTEER AS THAT TERM IS DEFINED OR CONSTRUED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF THIS TITLE, REGARDLESS OF WHETHER SUCH ACTIVITIES MAY BE SUBJECT TO THE DIRECTION OF A LOCAL EMERGENCY PLANNING COMMITTEE OR A STATE OR LOCAL FIRE OR LAW ENFORCEMENT AGENCY.

SECTION 2. In Colorado Revised Statutes, **add 10-4-121** as follows:

10-4-121. Authority of insurer to protect policyholders' property - emergency. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSURER MAY PROVIDE SERVICES PROTECTING THE PROPERTY OF ITS POLICYHOLDERS IN THE EVENT OF AN EMERGENCY.

SECTION 3. Effective date. This act takes effect July 1, 2014.

SECTION 4. 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: March 21, 2014