

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0451.01 Julie Hoerner

HOUSE BILL 00-1093

STATE OF COLORADO

BY REPRESENTATIVE Kester;
also SENATOR Anderson.

ENGROSSED

A BILL FOR AN ACT

101 CONCERNING INSURANCE INSOLVENCY COVERAGE FOR THE PROTECTION
102 OF INSURED.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Adds definitions of an owner of a policy or contract for insurance, a structured settlement annuity, and an unallocated annuity contract to the laws governing the life and health insurance protection association (the association). Clarifies the definition of a resident to include a resident who is owed a contractual obligation on the date of the insurer's insolvency. Includes United States citizens living in a foreign country or a United States possession, territory, or protectorate as residents.

Expands the circumstances in which insolvency coverage is available for payees of structured settlement annuities. Allows for denial of insolvency coverage to an owner, payee, beneficiary, or assignee if another state would provide insolvency coverage.

Clarifies the circumstances in which insurance insolvency coverage is not provided, including for unallocated annuity contracts and noncitizens of the United States. Clarifies the date to be used for interest or other value changes. Limits the per-individual benefit liability of the association for health insurance contracts to:

- \$100,000 for health and life insurance policies not including basic hospitalization, major medical, disability, or medical and surgical insurance;
- \$300,000 for disability insurance;
- \$500,000 for basic hospitalization, major medical, or medical and surgical coverage; and
- \$100,000 to a payee of a structured settlement annuity.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

Increases the total amount of liability for the association, except for basic hospitalization, major medical, or medical and surgical coverage, to \$500,000 per individual.

Enables the commissioner of insurance (the commissioner) to request information on contractual obligations of any insurer that is a member of the association (a member). Provides standing for the association to intervene in any Colorado court or agency in which a member may be a party. Allows the association to request information to determine the extent of its obligation. Allows the association to take necessary action to fulfill its obligations and exercise its authority. Limits the benefits available from the association to the obligations under the life and health insurance protection association laws. Establishes the venue for litigation filed against the association in the city and county of Denver. Eliminates the current requirement for filing of an appeal bond for the association. Allows the association to issue substitute coverage that is substantially similar to original coverage prior to insolvency.

Requires the board of the association (the board) to report and make recommendations on matter of insolvency upon request of the commissioner. Requires the board to notify the commissioner when the board has actual knowledge that a member may be insolvent. Removes the requirement of a majority vote for actions taken by the board concerning insolvency.

Allows the board to use discretion when:

- Recommending to the commissioner that insolvency or liquidation proceedings occur for a member; and
- Preparing a report for the commissioner following the insolvency of a member.

Extends the offset of premium tax liability for a member to 5 years. Increases the amount of the offset to \$ 4 million.

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

2 **SECTION 1.** 10-20-103 (13), Colorado Revised Statutes, is
3 amended, and the said 10-20-103 is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

5 **10-20-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (10.5) "OWNER" OF A POLICY OR CONTRACT FOR INSURANCE, OR

1 "POLICY OWNER", OR "CONTRACT OWNER", MEANS THE PERSON WHO IS
2 IDENTIFIED AS THE LEGAL OWNER UNDER THE TERMS OF THE POLICY OR
3 CONTRACT FOR INSURANCE OR WHO IS OTHERWISE VESTED WITH LEGAL
4 TITLE TO THE POLICY OR CONTRACT FOR INSURANCE THROUGH A VALID
5 ASSIGNMENT COMPLETED IN ACCORDANCE WITH THE TERMS OF THE POLICY
6 OR CONTRACT FOR INSURANCE AND PROPERLY RECORDED AS THE OWNER
7 ON THE BOOKS OF THE INSURER. THE TERMS "OWNER", "CONTRACT
8 OWNER", AND "POLICY OWNER" DO NOT INCLUDE PERSONS WITH A
9 BENEFICIAL INTEREST IN A POLICY OR CONTRACT.

10 (13) "Resident" means any person TO WHOM A CONTRACTUAL
11 OBLIGATION IS OWED AND who resides in this state ~~at the time~~ ON THE
12 DATE OF ENTRY OF A COURT ORDER THAT DETERMINES a member insurer
13 ~~is determined~~ to be an insolvent insurer. ~~and to whom a contractual~~
14 ~~obligation is owed.~~ A person may be a resident of only one state, which
15 in the case of a person other than a natural person shall be its principal
16 place of business. CITIZENS OF THE UNITED STATES WHO ARE RESIDENTS
17 OF A FOREIGN COUNTRY, UNITED STATES POSSESSION, UNITED STATES
18 TERRITORY, OR UNITED STATES PROTECTORATE, WHICH COUNTRY,
19 POSSESSION, TERRITORY, OR PROTECTORATE DOES NOT HAVE AN
20 ASSOCIATION SIMILAR TO THE ASSOCIATION CREATED BY THIS ARTICLE,
21 SHALL BE DEEMED RESIDENTS OF THE STATE OF DOMICILE OF THE INSURER
22 THAT ISSUED THE POLICIES OR CONTRACTS.

23 (13.5) "STRUCTURED SETTLEMENT ANNUITY" MEANS AN ANNUITY
24 PURCHASED IN ORDER TO FUND PERIODIC PAYMENTS FOR A PLAINTIFF OR
25 OTHER CLAIMANT IN PAYMENT FOR OR WITH RESPECT TO PERSONAL INJURY
26 SUFFERED BY THE PLAINTIFF OR OTHER CLAIMANT.

1 (15) "UNALLOCATED ANNUITY CONTRACT" MEANS AN ANNUITY
2 CONTRACT OR GROUP ANNUITY CERTIFICATE THAT IS NOT ISSUED TO AND
3 OWNED BY AN INDIVIDUAL, EXCEPT TO THE EXTENT OF ANY ANNUITY
4 BENEFITS GUARANTEED TO AN INDIVIDUAL BY AN INSURER UNDER THE
5 CONTRACT OR CERTIFICATE.

6 **SECTION 2.** The introductory portion to 10-20-104 (1) (a) and
7 10-20-104 (2) (b) (III), (2) (b) (VII), (2) (b) (XIII), (2) (b) (XIV), and (3)
8 (b), Colorado Revised Statutes, are amended, and the said 10-20-104 is
9 further amended BY THE ADDITION OF THE FOLLOWING NEW
10 SUBSECTIONS, to read:

11 **10-20-104. Coverage and limitations - coordination of benefits.**

12 (1) This article shall provide coverage for the policies and contracts
13 specified in subsection (2) of this section and to persons:

14 (a) Who are owners of or certificate holders under such policies
15 or contracts, OTHER THAN STRUCTURED SETTLEMENT ANNUITIES, and who:

16 (1.3) SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO
17 STRUCTURED SETTLEMENT ANNUITIES. EXCEPT AS OTHERWISE PROVIDED
18 IN SUBSECTIONS (1.5) AND (1.7) OF THIS SECTION, THIS ARTICLE SHALL
19 PROVIDE COVERAGE TO A PERSON WHO IS A PAYEE UNDER A STRUCTURED
20 SETTLEMENT ANNUITY OR TO A BENEFICIARY OF A DECEASED PAYEE IF THE
21 PAYEE:

22 (a) IS A RESIDENT, REGARDLESS OF WHERE THE CONTRACT OWNER
23 RESIDES; OR

24 (b) IS NOT A RESIDENT, BUT ONLY UNDER BOTH OF THE FOLLOWING
25 CONDITIONS:

26 (I) EITHER:

1 (A) THE CONTRACT OWNER OF THE STRUCTURED SETTLEMENT
2 ANNUITY IS A RESIDENT; OR

3 (B) THE CONTRACT OWNER OF THE STRUCTURED SETTLEMENT
4 ANNUITY IS NOT A RESIDENT, BUT THE INSURER THAT ISSUED THE
5 STRUCTURED SETTLEMENT ANNUITY IS DOMICILED IN THIS STATE AND THE
6 STATE IN WHICH THE CONTRACT OWNER RESIDES HAS AN ASSOCIATION
7 SIMILAR TO THE ASSOCIATION CREATED BY THIS ARTICLE; AND

8 (II) NEITHER THE PAYEE, THE BENEFICIARY, NOR THE CONTRACT
9 OWNER IS ELIGIBLE FOR COVERAGE BY THE ASSOCIATION OF THE STATE IN
10 WHICH THE PAYEE OR CONTRACT OWNER RESIDES.

11 (1.5) THIS ARTICLE SHALL NOT PROVIDE COVERAGE TO A PERSON
12 WHO IS A PAYEE OR BENEFICIARY OF A CONTRACT OWNER WHO IS A
13 RESIDENT OF THIS STATE IF THE PAYEE OR BENEFICIARY IS AFFORDED ANY
14 COVERAGE BY THE ASSOCIATION OF ANOTHER STATE.

15 (1.7) THIS ARTICLE IS INTENDED TO PROVIDE COVERAGE TO A
16 PERSON WHO IS A RESIDENT OF THIS STATE AND, IN SPECIAL
17 CIRCUMSTANCES, TO A NONRESIDENT. IN ORDER TO AVOID DUPLICATE
18 COVERAGE, IF A PERSON WHO WOULD OTHERWISE RECEIVE COVERAGE
19 UNDER THIS ARTICLE IS PROVIDED COVERAGE UNDER THE LAWS OF ANY
20 OTHER STATE, THE PERSON SHALL NOT BE PROVIDED COVERAGE UNDER
21 THIS ARTICLE. IN DETERMINING THE APPLICATION OF THE PROVISIONS OF
22 THIS SUBSECTION (1.7) IN SITUATIONS WHERE A PERSON COULD BE
23 COVERED BY THE ASSOCIATION OF MORE THAN ONE STATE, WHETHER AS
24 AN OWNER, PAYEE, BENEFICIARY, OR ASSIGNEE, THIS ARTICLE SHALL BE
25 CONSTRUED IN CONJUNCTION WITH OTHER STATE LAWS TO RESULT IN
26 COVERAGE BY ONLY ONE ASSOCIATION.

1 (2) (b) This article shall not provide coverage for:

2 (III) Any portion of a policy or contract TO THE EXTENT THAT THE
3 RATE OF INTEREST ON WHICH IT IS BASED, OR THE INTEREST RATE,
4 CREDITING RATE, OR OTHER FACTOR EMPLOYED IN CALCULATING RETURNS
5 OR CHANGES IN VALUE WHICH MAY INCLUDE, WITHOUT LIMITATION, AN
6 INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR
7 CONTRACT:

8 (A) ~~To the extent that the rate of interest on which it is based,~~
9 When averaged over the period of four years prior to the date ~~on which~~
10 THAT the association becomes obligated with respect to such policy or
11 ~~contract~~ MEMBER INSURER BECOMES AN INSOLVENT INSURER UNDER THIS
12 ARTICLE, exceeds a rate of interest determined by subtracting two
13 percentage points from Moody's average, averaged for that same
14 four-year period, or for such lesser period if the policy or contract was
15 issued less than four years before the ~~association became obligated~~
16 MEMBER INSURER BECOMES AN INSOLVENT INSURER UNDER THIS ARTICLE;
17 and

18 (B) ~~To the extent that the rate of interest on which it is based,~~ On
19 and after the date ~~on which~~ THAT the association becomes obligated with
20 ~~respect to such policy or contract~~ MEMBER INSURER BECOMES AN
21 INSOLVENT INSURER UNDER THIS ARTICLE, exceeds the rate of interest
22 determined by subtracting three percentage points from Moody's average
23 as most recently available;

24 (VII) Any UNALLOCATED annuity contract; ~~or group annuity~~
25 ~~certificate which is not issued to and not owned by an individual, except~~
26 ~~to the extent of any annuity benefits guaranteed to an individual by an~~

1 ~~insurer under such contract or certificate;~~

2 (XIII) Any policy or contract covering persons who are not
3 citizens ~~or permanent residents~~ of the United States;

4 (XIV) Any portion of a ~~financial guarantee, funding agreement,~~
5 ~~or guaranteed investment contract which contains no mortality guarantees~~
6 ~~and is not issued to or in connection with a specific employee benefit~~
7 ~~plan or a governmental lottery;~~ POLICY OR CONTRACT TO THE EXTENT IT

8 PROVIDES FOR INTEREST OR OTHER CHANGES IN VALUE TO BE DETERMINED
9 BY THE USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE
10 POLICY OR CONTRACT BUT SUCH CHANGES HAVE NOT BEEN CREDITED TO
11 THE POLICY OR CONTRACT, OR TO THE EXTENT THE POLICY OR CONTRACT
12 OWNER'S RIGHTS ARE SUBJECT TO FORFEITURE, AS OF THE DATE THE
13 MEMBER INSURER BECOMES AN INSOLVENT INSURER UNDER TO THIS
14 ARTICLE. IF A POLICY'S OR CONTRACT'S INTEREST OR CHANGES IN VALUE
15 ARE CREDITED LESS FREQUENTLY THAN ANNUALLY, THEN FOR PURPOSES
16 OF DETERMINING THE VALUES THAT HAVE BEEN CREDITED AND ARE NOT
17 SUBJECT TO FORFEITURE UNDER THIS SECTION, THE INTEREST OR CHANGE
18 IN VALUE DETERMINED BY USING THE PROCEDURES DEFINED IN THE POLICY
19 OR CONTRACT SHALL BE CREDITED AS IF THE CONTRACTUAL DATE OF
20 CREDITING INTEREST OR CHANGING VALUES WAS THE DATE OF
21 INSOLVENCY, AND SUCH INTEREST OR CHANGES SHALL NOT BE SUBJECT TO
22 FORFEITURE.

23 (3) The benefits for which the association may become liable shall
24 not exceed the lesser of:

25 (b) (I) With respect to any one life, regardless of the number of
26 policies or contracts with that insurer:

1 (A) Three hundred thousand dollars in net life insurance death
2 benefits, and no more than one hundred thousand dollars in net cash
3 surrender and net cash withdrawal values for life insurance;

4 (B) ~~One hundred thousand dollars in~~ FOR health insurance
5 benefits: ~~including net cash surrender and net cash withdrawal values~~
6 ONE HUNDRED THOUSAND DOLLARS FOR COVERAGES NOT DEFINED AS
7 DISABILITY, BASIC HOSPITAL, MEDICAL AND SURGICAL, OR MAJOR MEDICAL
8 INSURANCE, INCLUDING ANY NET CASH SURRENDER AND NET CASH
9 WITHDRAWAL VALUES; THREE HUNDRED THOUSAND DOLLARS FOR
10 DISABILITY INSURANCE; OR FIVE HUNDRED THOUSAND DOLLARS FOR BASIC
11 HOSPITAL, MEDICAL AND SURGICAL, OR MAJOR MEDICAL INSURANCE;

12 (C) One hundred thousand dollars in the present value of annuity
13 benefits, including net cash surrender and net cash withdrawal values; OR

14 (D) WITH RESPECT TO EACH PAYEE OF A STRUCTURED SETTLEMENT
15 ANNUITY, ONE HUNDRED THOUSAND DOLLARS IN PRESENT VALUE ANNUITY
16 BENEFITS, IN THE AGGREGATE, INCLUDING NET CASH SURRENDER AND NET
17 CASH WITHDRAWAL VALUES.

18 (II) The association shall not be liable to expend more than three
19 hundred thousand dollars, in the aggregate, with respect to any one life
20 under sub-subparagraphs (A) ~~(B), and (C)~~ THROUGH (D) of subparagraph
21 (I) of this paragraph (b); EXCEPT THAT, WITH RESPECT TO BENEFITS FOR
22 BASIC HOSPITAL, MEDICAL AND SURGICAL, AND MAJOR MEDICAL
23 INSURANCE UNDER SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH (b), THE AGGREGATE LIABILITY OF THE ASSOCIATION SHALL
25 NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS WITH RESPECT TO ANY
26 ONE INDIVIDUAL.

1 **SECTION 3.** 10-20-108 (10), (11), (12) (a), and (12) (c),
2 Colorado Revised Statutes, are amended, and the said 10-20-108 is
3 further amended BY THE ADDITION OF THE FOLLOWING NEW
4 SUBSECTIONS, to read:

5 **10-20-108. Powers and duties of the association.** (10) The
6 association may render assistance and advice to the commissioner, upon
7 ~~his~~ THE COMMISSIONER'S request, concerning payment of claims,
8 continuance of coverage, ~~or~~ the performance of other contractual
9 obligations of any insolvent insurer, OR ANY MEMBER INSURER'S
10 PERFORMANCE OF ITS CONTRACTUAL OBLIGATIONS.

11 (11) The association shall have standing to appear OR INTERVENE
12 before any court OR AGENCY in this state which has jurisdiction over ~~an~~
13 ~~insolvent~~ A MEMBER insurer for which the association is or may become
14 obligated under this article, OR WITH JURISDICTION OVER ANY PERSON OR
15 PROPERTY AGAINST WHICH THE ASSOCIATION MAY HAVE RIGHTS THROUGH
16 SUBROGATION OR OTHERWISE. Such standing shall extend to all matters
17 germane to the powers and duties of the association, including but not
18 limited to proposals for reinsuring, modifying, or guaranteeing the
19 policies or contracts of the ~~insolvent~~ MEMBER insurer and the
20 determination of the policies or contracts and contractual obligations.
21 The association shall also have the right to appear or intervene before a
22 court OR AGENCY in another state with jurisdiction over ~~an insolvent~~ A
23 MEMBER insurer for which the association is or may become obligated or
24 with jurisdiction over ~~a third party~~ ANY PERSON OR PROPERTY against
25 whom the association may have rights through subrogation ~~of the~~
26 ~~insurer's policyholders~~ OR OTHERWISE.

1 (12) (a) Any person receiving benefits under this article shall be
2 deemed to have assigned the rights under, and any causes of action
3 AGAINST ANY PERSON FOR LOSSES ARISING UNDER, RESULTING FROM, OR
4 OTHERWISE relating to, the covered policy or contract to the association
5 to the extent of the benefits received because of this article, whether the
6 benefits are payments of or on account of contractual obligations,
7 continuation of coverage, or the provision of substitute or alternative
8 coverage. The association may require an assignment to it of such rights
9 and causes of action by any payee, policy, or contract owner, beneficiary,
10 insured, or annuitant as a condition precedent to the receipt of any right
11 or benefits conferred by this article upon such person.

12 (c) In addition to paragraphs (a) and (b) of this subsection (12),
13 the association shall have all common-law rights of subrogation and any
14 other equitable or legal remedy which would have been available to the
15 insolvent insurer ~~or holder of the~~ OWNER, BENEFICIARY, OR PAYEE OF A
16 policy or contract with respect to such policy or contract, INCLUDING
17 WITHOUT LIMITATION, IN THE CASE OF A STRUCTURED SETTLEMENT
18 ANNUITY, ANY RIGHTS OF THE OWNER, BENEFICIARY, OR PAYEE OF THE
19 ANNUITY, TO THE EXTENT THE BENEFITS RECEIVED PURSUANT TO THIS
20 ARTICLE AGAINST A PERSON ORIGINALLY OR BY SUCCESSION RESPONSIBLE
21 FOR THE LOSSES ARISING FROM THE PERSONAL INJURY RELATING TO THE
22 ANNUITY OR PAYMENT THEREFOR, EXCEPTING ANY SUCH PERSON
23 RESPONSIBLE SOLELY BY REASON OF SERVING AS AN ASSIGNEE IN RESPECT
24 OF A QUALIFIED ASSIGNMENT UNDER SECTION 130 OF THE FEDERAL
25 "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

26 (20) WHERE THE ASSOCIATION HAS ARRANGED OR OFFERED TO

1 PROVIDE THE BENEFITS OF THIS ARTICLE TO A COVERED PERSON UNDER A
2 PLAN OR ARRANGEMENT THAT FULFILLS THE ASSOCIATION'S OBLIGATIONS
3 UNDER THIS ARTICLE, THE PERSON SHALL NOT BE ENTITLED TO BENEFITS
4 FROM THE ASSOCIATION IN ADDITION TO OR OTHER THAN THOSE PROVIDED
5 UNDER THE PLAN OR ARRANGEMENT.

6 (21) VENUE IN A SUIT AGAINST THE ASSOCIATION ARISING UNDER
7 THIS ARTICLE SHALL BE IN THE CITY AND COUNTY OF DENVER. THE
8 ASSOCIATION SHALL NOT BE REQUIRED TO GIVE AN APPEAL BOND IN AN
9 APPEAL THAT RELATES TO A CAUSE OF ACTION ARISING UNDER THIS
10 ARTICLE.

11 (22) IN CARRYING OUT ITS DUTIES IN CONNECTION WITH
12 GUARANTEEING, ASSUMING, OR REINSURING POLICIES OR CONTRACTS
13 UNDER THIS SECTION, THE ASSOCIATION MAY ISSUE SUBSTITUTE COVERAGE
14 FOR A POLICY OR CONTRACT THAT PROVIDES FOR THE CALCULATION OF
15 RETURNS OR CHANGES IN VALUE BY THE USE OF AN INTEREST RATE,
16 CREDITING RATE, OR SIMILAR FACTOR DETERMINED BY USE OF AN INDEX
17 OR OTHER EXTERNAL REFERENCE, BY ISSUING AN ALTERNATIVE POLICY OR
18 CONTRACT IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

19 (A) IN LIEU OF THE INDEX OR OTHER EXTERNAL REFERENCE
20 PROVIDED FOR IN THE ORIGINAL POLICY OR CONTRACT, THE ALTERNATIVE
21 POLICY OR CONTRACT PROVIDES FOR A FIXED INTEREST RATE, PAYMENT OF
22 DIVIDENDS WITH MINIMUM GUARANTEES, OR A DIFFERENT METHOD FOR
23 CALCULATING INTEREST OR CHANGES IN VALUE;

24 (B) THERE IS NO REQUIREMENT FOR THE EVIDENCE OF
25 INSURABILITY, A WAITING PERIOD, OR ANY OTHER EXCLUSION THAT
26 WOULD NOT HAVE APPLIED UNDER THE REPLACED POLICY OR CONTACT;

1 (C) THE ALTERNATIVE POLICY OR CONTRACT IS SUBSTANTIALLY
2 SIMILAR TO THE REPLACED POLICY OR CONTRACT IN ALL OTHER MATERIAL
3 TERMS.

4 **SECTION 4.** 10-20-108 (13), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF THE FOLLOWING NEW
6 PARAGRAPHS to read:

7 **10-20-108. Powers and duties of the association.** (13) The
8 association may:

9 (g.5) REQUEST INFORMATION FROM PERSONS SEEKING COVERAGE
10 FROM THE ASSOCIATION IN ORDER TO AID THE ASSOCIATION IN
11 DETERMINING ITS OBLIGATIONS UNDER THIS ARTICLE WITH RESPECT TO THE
12 PERSON; AND A PERSON RECEIVING SUCH REQUEST SHALL PROMPTLY
13 COMPLY;

14 (g.7) TAKE OTHER NECESSARY OR APPROPRIATE ACTION TO
15 EXERCISE ITS POWERS AND DISCHARGE ITS DUTIES AND OBLIGATIONS
16 UNDER THIS ARTICLE;

17 **SECTION 5.** 10-20-109 (8), Colorado Revised Statutes, is
18 amended to read:

19 **10-20-109. Assessments.** (8) The association shall issue to each
20 insurer paying an assessment for the life and annuity accounts under this
21 article, other than a class A assessment, a certificate of contribution from
22 the association, in a form prescribed by the commissioner, for the amount
23 of the assessment so paid. All outstanding certificates shall be of equal
24 dignity and priority without reference to amounts or dates of issue. Such
25 certificate of contribution may be shown by the insurer in its financial
26 statement as an asset in such form and for such amount, if any, and period

1 of time as the commissioner may approve; but the insurer shall, at its
2 option, have the right in any event to show such certificate of contribution
3 as an admitted asset at percentages of the original face amount of the
4 assessment for calendar years as follows:

5 (a) ~~Seventy-five~~ ONE HUNDRED percent for the first year after
6 issuance; and

7 (b) ~~Seventy-five~~ ONE HUNDRED percent less any amount already
8 taken as an offset against premium tax liability pursuant to section
9 10-20-113 for the second and subsequent years after issuance.

10 **SECTION 6.** 10-20-112 (3), (4), (5), (6), and (7), Colorado
11 Revised Statutes, are amended to read:

12 **10-20-112. Prevention of insolvencies.** (3) The board shall, upon
13 ~~majority vote~~ REQUEST OF THE COMMISSIONER, report and make
14 recommendations to the commissioner upon any matter germane to the
15 solvency or liquidation of any member insurer or germane to the solvency
16 of any company seeking to do an insurance business in this state. Such
17 reports and recommendations shall NOT be considered public documents.

18 (4) ~~It shall be the duty of The board upon majority vote, to~~ SHALL
19 notify the commissioner ~~of any information indicating that any member~~
20 ~~insurer may be insolvent~~ WHEN THE BOARD HAS ACTUAL KNOWLEDGE
21 THAT AN INSURER MAY BE INSOLVENT.

22 (5) The board shall ~~upon majority vote,~~ request that the
23 commissioner order an examination of any member insurer which the
24 board in good faith believes may be insolvent. Within thirty days after the
25 receipt of such request, the commissioner shall begin such examination.
26 The examination may be conducted as an NAIC examination or may be

1 conducted by such persons as the commissioner designates. The cost of
2 such examination shall be paid by the association, and the examination
3 report shall be treated confidentially. In no event shall such examination
4 report be released to the board prior to its release to the public, but this
5 shall not preclude the commissioner from complying with subsection (1)
6 of this section. The commissioner shall notify the board when the
7 examination is completed. The request for an examination shall be kept
8 on file by the commissioner, but it shall not be open to public inspection
9 prior to the release of the examination report to the public. For purposes
10 of this subsection (5), a "request" is not a report or recommendation.

11 (6) The board ~~shall, upon majority vote,~~ MAY make
12 recommendations to the commissioner for the detection and prevention
13 of insurer insolvencies.

14 (7) The board ~~shall~~ MAY, at the conclusion of any insurer
15 insolvency in which the association was obligated to pay covered claims,
16 prepare a report to the commissioner containing such information as it
17 may have in its possession bearing on the history and causes of such
18 insolvency. The board ~~shall~~ MAY cooperate with the boards of directors
19 of guaranty associations in other states in preparing a report on the
20 history and causes of insolvency of a particular insurer and may adopt by
21 reference any report prepared by such other associations.

22 **SECTION 7.** 10-20-113 (1) (a) and (1) (c), Colorado Revised
23 Statutes, are amended to read:

24 **10-20-113. Credits for assessments paid - tax offsets.** (1) (a) A
25 member insurer may offset against its premium tax liability to this state
26 that amount of its class B assessment described in section 10-20-109

1 ~~which~~ THAT was assessed for the association's life and annuity accounts
2 pursuant to section 10-20-106 to the ~~following~~ extent OF TWENTY
3 PERCENT OF THE AMOUNT OF SUCH ASSESSMENT FOR EACH OF THE FIRST,
4 SECOND, THIRD, FOURTH, AND FIFTH CALENDAR YEARS FOLLOWING THE
5 YEAR IN WHICH SUCH ASSESSMENT WAS PAID.

6 ~~(I) Twenty percent of the amount of such assessment for each of~~
7 ~~the first, second, and third calendar years following the year in which~~
8 ~~such assessment was paid; and~~

9 ~~(H) Seven and one-half percent of the amount of such assessment~~
10 ~~for each of the fourth and fifth calendar years following the year in which~~
11 ~~such assessment was paid.~~

12 (c) In no event shall the total amount of all such offsets for all
13 member insurers exceed ~~two~~ FOUR million dollars in any year. The
14 association shall prorate the amount of such offset among all member
15 insurers if the total amount of offset would otherwise exceed ~~two~~ FOUR
16 million dollars in any such year and shall notify each insurer of the
17 maximum amount of offset allowable for that year and the amount of the
18 excess offset, if any, ~~which~~ THAT may be carried forward to future years.

19 **SECTION 8. Effective date - applicability.** This act shall take
20 effect July 1, 2000, and shall apply to any insolvency of, assessment of,
21 offset created for, or liquidation of any member insurer commenced on
22 or after said date.

23 **SECTION 9. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.