
Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
10.9.09

BILL 3

LLS NO. 10-0211.01 Bart Miller

INTERIM COMMITTEE BILL

Interim Committee to Study Issues Related to Pinnacol Assurance

SHORT TITLE: "Workers' Comp Policyholder Prot Act 2010"

A BILL FOR AN ACT

101 **CONCERNING ENACTMENT OF THE "WORKERS' COMPENSATION**
102 **POLICYHOLDER PROTECTION ACT OF 2010", AND, IN**
103 **CONNECTION THEREWITH, REQUIRING THE DISTRIBUTION OF**
104 **EXCESS SURPLUS FUNDS HELD BY PINNACOL ASSURANCE TO**
105 **PINNACOL ASSURANCE POLICYHOLDERS AND LIMITING THE**
106 **INSURANCE COMMISSIONER'S DISCRETION WITH RESPECT TO**
107 **THE PRIOR APPROVAL OF WORKERS' COMPENSATION PURE**
108 **PREMIUM RATES FILED BY A RATING ORGANIZATION.**

Bill Summary

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

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

If the surplus of Pinnacol Assurance is greater than 1,000% of risk based capital, this bill requires the board of directors of Pinnacol Assurance to credit to the accounts of Pinnacol Assurance policyholders a dividend to bring the surplus of Pinnacol Assurance to less than 1,000% of risk based capital.

For the prior approval of a pure premium rate filed by a workers' compensation insurance rating agency, this bill would require the insurance commissioner to approve the lowest rate recommended either by the rating organization or by the independent actuary employed by the division of insurance, unless the commissioner explains the rationale or justification for a different rate in the final agency order. The bill requires background material related to a workers' compensation pure premium rate filing to be posted on the division of insurance web site prior to any public hearing.

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

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Workers' Compensation Policyholder Protection Act of
4 2010".

5 **SECTION 2.** 8-45-106 (1), Colorado Revised Statutes, is
6 amended to read:

7 **8-45-106. Insurance at cost - board may impose surcharges.**
8 (1) It is the duty of the board, in the exercise of the powers and discretion
9 conferred upon it by articles 40 to 47 of this title, ultimately to fix and
10 maintain, for each class of occupation, the lowest possible rates of
11 premium consistent with the maintenance of a solvent Pinnacol
12 Assurance fund, and the creation and maintenance of a reasonable
13 surplus, SUBJECT TO SECTION 8-45-112 (2), after the payment of legitimate
14 claims for injury and death, that may be authorized to be paid from the
15 Pinnacol Assurance fund for the benefit of injured EMPLOYEES and
16 dependents of killed employees.

17 **SECTION 3.** 8-45-112, Colorado Revised Statutes, is amended

1 to read:

2 **8-45-112. Amendment of rates - distribution to policyholders.**

3 (1) The board may amend at any time the rates for any class. No contract
4 of insurance between Pinnacol Assurance and any employer shall be in
5 effect until a policy or binder has been actually issued by the board and
6 the premium ~~therefor~~ HAS BEEN paid as ~~and when~~ required by this article.
7 ~~Not less often than~~ AT LEAST once a PER year, the chief executive officer
8 shall tabulate the earned premiums paid by policyholders of Pinnacol
9 Assurance. ~~Should~~ IF the experience of the Pinnacol Assurance fund
10 ~~show~~ SHOWS a credit balance, and after payment of all amounts that have
11 fallen due because of operating expenses, injury, or death, and after
12 setting aside proper reserves, the board shall distribute such credit balance
13 to the policyholders who have a balance to their credit in proportion to the
14 premium paid and losses incurred by each such policyholder during the
15 preceding insurance period. In the event any such policyholder fails to
16 renew a policy with Pinnacol Assurance for the period following the
17 period in which ~~said~~ THE dividends were earned, ~~said~~ THE policyholder
18 shall be entitled to ~~said~~ THE credit dividend if such policy is terminated
19 in good standing. ~~In the event~~ IF an employer actually discontinues
20 business, ~~said~~ THE employer's policy shall be cancelled, and the dividend,
21 if any, when ascertained, shall be returned to the employer.

22 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
23 IF THE SURPLUS OF PINNACOL ASSURANCE EXCEEDS ONE THOUSAND
24 PERCENT OF RISK BASED CAPITAL, THE BOARD SHALL DISTRIBUTE A CREDIT
25 BALANCE OR DIVIDEND TO POLICYHOLDERS WHO HAVE A BALANCE TO
26 THEIR CREDIT IN ORDER TO BRING THE SURPLUS OF PINNACOL ASSURANCE
27 TO LESS THAN ONE THOUSAND PERCENT OF RISK BASED CAPITAL.

1 **SECTION 4.** 10-4-401 (3) (a) (I), Colorado Revised Statutes, is
2 amended to read:

3 **10-4-401. Purpose - applicability.** (3) The kinds of insurance
4 subject to this part 4 shall be divided into two classes, as follows:

5 (a) Type I kinds of insurance, regulated by prior filing and
6 approval of rating information, which shall be subject to all provisions of
7 this part 4 unless specifically excluded by the terms of a section. The
8 following kinds of insurance shall be classified as type I:

9 (I) (A) Workers' compensation and employer's liability incidental
10 thereto for any pure premium rate filed by a rating organization;

11 (B) IN APPROVING ANY PURE PREMIUM RATE FILED BY A RATING
12 ORGANIZATION, THE COMMISSIONER SHALL CHOOSE THE LOWEST RATE
13 RECOMMENDED EITHER BY A RATING ORGANIZATION OR BY THE
14 INDEPENDENT ACTUARY EMPLOYED BY THE COMMISSIONER, UNLESS THE
15 COMMISSIONER EXPLAINS THE RATIONALE OR JUSTIFICATION FOR A
16 DIFFERENT RATE IN THE FINAL AGENCY ORDER. PRIOR TO ANY PUBLIC
17 HEARING TO CONSIDER A PURE PREMIUM RATE FILED BY A RATING
18 ORGANIZATION, THE COMMISSIONER SHALL POST ON THE DIVISION OF
19 INSURANCE WEB SITE THE COMPLETE RECOMMENDATIONS AND
20 SUPPORTING MATERIALS OF ANY RATING ORGANIZATION AND THE
21 INDEPENDENT ACTUARY EMPLOYED BY THE COMMISSIONER, INCLUDING
22 ANY RATIONALE FOR RATE CHANGES.

23 **SECTION 5. Act subject to petition - effective date -**
24 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
25 following the expiration of the ninety-day period after final adjournment
26 of the general assembly (August 11, 2010, if adjournment sine die is on
27 May 12, 2010); except that, if a referendum petition is filed pursuant to

1 section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part shall not take effect unless approved by the people at the
4 general election to be held in November 2010 and shall take effect on the
5 date of the official declaration of the vote thereon by the governor.

6 (2) The provisions of this act shall apply to the surplus held by
7 Pinnacol Assurance and to any pure premium rate for workers'
8 compensation and employers' liability incidental thereto, subject to
9 approval of the insurance commissioner on or after the applicable
10 effective date of this act.