

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
10.7.09

BILL 10

LLS NO. 10-0222.01 Kristen Forrester

INTERIM COMMITTEE BILL

Interim Committee to Study Issues Related to Pinnacol Assurance

SHORT TITLE: "Privatize Pinnacol Assurance"

A BILL FOR AN ACT

101 **CONCERNING THE PRIVATIZATION OF PINNACOL ASSURANCE.**

Bill Summary

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

Interim Committee to Study Issues Related to Pinnacol Assurance. This bill directs the chief executive officer of Pinnacol Assurance, a special purpose authority of the state, to create a private insurance entity and transfer all of the assets of Pinnacol Assurance to the private entity, and the private entity to assume all of the liabilities of Pinnacol Assurance. Requires the private entity to be a domestic stock insurer, domestic mutual insurer, or reciprocal or inter-insurance exchange organized pursuant to the insurance laws of this state. Requires the private entity to be subject to the insurance laws of this state and be

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

1 OF INSURANCE ISSUED BY PINNACOL ASSURANCE SHALL LIE AGAINST THE
2 PRIVATE ENTITY ARISING OUT OF THE TRANSFER OF ASSETS OR OTHER
3 TRANSACTIONS PERMITTED UNDER THIS SECTION; EXCEPT THAT THIS
4 SUBSECTION (3) SHALL NOT LIMIT THE RIGHTS OR REMEDIES OF THE
5 HOLDER UNDER A POLICY OF INSURANCE ISSUED BY PINNACOL ASSURANCE
6 AND ASSUMED BY THE PRIVATE ENTITY TO CONTEST THE INSURANCE
7 COVERAGE ARISING UNDER A POLICY OF INSURANCE ISSUED BY PINNACOL
8 ASSURANCE. NO CAUSE OF ACTION ON BEHALF OF ANY HOLDER OF A
9 POLICY OF INSURANCE ISSUED BY PINNACOL ASSURANCE SHALL LIE
10 AGAINST THE STATE OF COLORADO OR ANY POLITICAL SUBDIVISION OF THE
11 STATE ARISING OUT OF THE TRANSFER OF ASSETS OR OTHER TRANSACTIONS
12 PERMITTED UNDER THIS SECTION, OR ARISING UNDER POLICIES OF
13 INSURANCE ISSUED BY PINNACOL ASSURANCE.

14 (4) EXCEPT FOR TAXES OTHERWISE IMPOSED BY THE STATE OF
15 COLORADO OR ANY POLITICAL SUBDIVISION OF THE STATE, THE TRANSFER
16 OF ASSETS PERMITTED UNDER THIS SECTION SHALL BE FREE AND CLEAR OF
17 ANY LIENS, CLAIMS, OR INTERESTS OF THE STATE OF COLORADO OR ANY
18 PERSON CLAIMING THROUGH OR UNDER THE STATE OF COLORADO.

19 **8-45-202. Private entity - change of control.** NO PERSON OTHER
20 THAN THE PRIVATE ENTITY SHALL ACQUIRE ALL OR SUBSTANTIALLY ALL
21 OF THE ASSETS OF PINNACOL ASSURANCE. THE TRANSITION OF PINNACOL
22 ASSURANCE TO A PRIVATE ENTITY SHALL CONSTITUTE A PROPOSED
23 CHANGE OF CONTROL OF A DOMESTIC INSURER WITHIN THE MEANING OF
24 THIS PART 2 AND SHALL BE SUBJECT TO ALL THE REQUIREMENTS OF PART
25 8 OF ARTICLE 3 OF TITLE 10, C.R.S., GOVERNING A CHANGE OF CONTROL
26 OF A DOMESTIC INSURER.

27 **8-45-203. Regulation by the commissioner of insurance.** THE

1 PRIVATE ENTITY SHALL BE SUBJECT TO REGULATION BY THE
2 COMMISSIONER OF INSURANCE IN THE SAME MANNER AS ANY OTHER
3 INSURER.

4 **8-45-204. Transfer of property.** (1) AT THE DIRECTION OF THE
5 CHIEF EXECUTIVE OFFICER OF PINNACOL ASSURANCE, ALL ITEMS OF
6 PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND
7 FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF PINNACOL ASSURANCE,
8 AS IT EXISTED PRIOR TO THE CREATION OF THE PRIVATE ENTITY AND THE
9 TRANSFER OF ASSETS FROM PINNACOL ASSURANCE, ARE TRANSFERRED TO
10 AND SHALL BECOME THE PROPERTY OF THE PRIVATE ENTITY.

11 (2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION,
12 WHENEVER PINNACOL ASSURANCE OR THE BOARD OF DIRECTORS OF
13 PINNACOL ASSURANCE, AS THEY EXISTED PRIOR TO THE EFFECTIVE DATE
14 OF THIS SECTION, IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR
15 OTHER DOCUMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED
16 TO APPLY TO THE PRIVATE ENTITY OR THE BOARD OF DIRECTORS OF THE
17 PRIVATE ENTITY. ALL CONTRACTS ENTERED INTO BY PINNACOL
18 ASSURANCE OR ITS BOARD PRIOR TO THE EFFECTIVE DATE OF THIS SECTION
19 AND PRIOR TO CREATION OF THE PRIVATE ENTITY CREATED UNDER
20 SECTION 8-45-201, ARE HEREBY VALIDATED AS IF ENTERED INTO BY THE
21 PRIVATE ENTITY CREATED UNDER SECTION 8-45-201, WHICH SHALL
22 SUCCEED TO ALL RIGHTS AND OBLIGATIONS UNDER SUCH CONTRACTS.

23 (3) NO SUIT, ACTION, OR OTHER JUDICIAL OR ADMINISTRATIVE
24 PROCEEDING LAWFULLY COMMENCED PRIOR TO THE EFFECTIVE DATE OF
25 THIS SECTION, OR WHICH COULD HAVE BEEN COMMENCED PRIOR TO SAID
26 DATE, BY OR AGAINST PINNACOL ASSURANCE, ITS BOARD OF DIRECTORS,
27 OR ANY OFFICER THEREOF IN SUCH OFFICER'S OFFICIAL CAPACITY OR IN

1 RELATION TO THE DISCHARGE OF THE OFFICIAL'S DUTIES SHALL ABATE BY
2 REASON OF THE ABOLISHMENT OF PINNACOL ASSURANCE AND ITS BOARD,
3 AS THEY EXISTED PRIOR TO SAID DATE, AND THE CREATION OF THE
4 PRIVATE ENTITY.

5 **8-45-205. Acquiring entity - duties.** (1) ON AND AFTER THE
6 DATE OF THE CREATION OF THE PRIVATE ENTITY, THE PRIVATE ENTITY
7 SHALL BE SUBJECT TO THE FOLLOWING:

8 (a) THE PRIVATE ENTITY SHALL ASSUME, INDEMNIFY, AND HOLD
9 THE STATE OF COLORADO AND ANY OF ITS SUBDIVISIONS HARMLESS FROM
10 AND AGAINST ALL EXISTING LIABILITIES OF PINNACOL ASSURANCE UNDER
11 POLICIES OF WORKERS' COMPENSATION INSURANCE ISSUED BY PINNACOL
12 ASSURANCE.

13 (b) THE PRIVATE ENTITY SHALL, IN A MANNER CONSISTENT WITH
14 PART 1 OF THIS ARTICLE, PROVIDE WORKERS' COMPENSATION INSURANCE
15 TO INSUREDS. THE PRIVATE ENTITY SHALL NOT ADOPT OR UNDERTAKE
16 ANY UNDERWRITING PRACTICES OR PROCEDURES IN CONNECTION WITH
17 WORKERS' COMPENSATION INSURANCE THAT DISCRIMINATE AGAINST
18 INSUREDS SOLELY ON THE BASIS OF THE SIZE OF THE PREMIUM OF THE
19 INSURED.

20 (c) THE PRIVATE ENTITY SHALL MAINTAIN INVESTMENT
21 SECURITIES, CASH, AND RESERVE FUNDS ACQUIRED IN THE TRANSFER AND
22 THOSE GENERATED FROM DOING BUSINESS IN COLORADO ON DEPOSIT OR
23 IN CUSTODY WITHIN THE STATE OF COLORADO.

24 (d) FOR A PERIOD OF ONE YEAR AFTER THE CREATION OF THE
25 PRIVATE ENTITY, THE PRIVATE ENTITY SHALL EMPLOY, ON TERMS AND
26 CONDITIONS DETERMINED BY THE PRIVATE ENTITY, AND SUBJECT TO THE
27 RIGHT OF THE PRIVATE ENTITY TO TERMINATE EMPLOYMENT FOR GOOD

1 CAUSE, THE EMPLOYEES OF PINNACOL ASSURANCE AS OF THE DATE OF THE
2 CREATION OF THE PRIVATE ENTITY.

3 (e) WITHIN NINETY DAYS AFTER THE CREATION OF THE PRIVATE
4 ENTITY, THE PRIVATE ENTITY SHALL NOTIFY EACH HOLDER OF A POLICY OF
5 INSURANCE, THE OBLIGATIONS OF WHICH ARE ASSUMED BY THE PRIVATE
6 ENTITY, THAT THE PRIVATE ENTITY IS NOW THE INSURER UNDER THE
7 POLICY AND THAT THE PRIVATE ENTITY IS NOT A GOVERNMENT ENTITY.

8 (2) UPON PROBABLE CAUSE THE COMMISSIONER OF INSURANCE
9 MAY EXAMINE AND INVESTIGATE INTO THE AFFAIRS OF THE PRIVATE
10 ENTITY TO DETERMINE WHETHER THE ENTITY HAS BEEN OR IS ENGAGED IN
11 ANY PRACTICE IN VIOLATION OF THIS PART 2.

12 **8-45-206. Treasurer disbursement of funds.** THE STATE
13 TREASURER SHALL DISBURSE THE MONEYS IN THE PINNACOL ASSURANCE
14 FUND TO THE PRIVATE ENTITY AS DIRECTED BY THE CHIEF EXECUTIVE
15 OFFICER OF PINNACOL ASSURANCE.

16 **8-45-207. Rules.** THE COMMISSIONER OF INSURANCE MAY
17 PROMULGATE RULES AS NECESSARY FOR THE IMPLEMENTATION OF THIS
18 PART 2.

19 **SECTION 2.** Part 1 of article 45 of title 8, Colorado Revised
20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
21 read:

22 **8-45-126. Repeal of part.** Part 1 of this article is repealed,
23 effective July 1, 2012.

24 **SECTION 3. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety. <does the committee
27 want a safety clause?>