

HB1215_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.HB12-1215 be amended as follows:

1 Amend printed bill, page 4, line 17, strike "approved" and substitute
2 "approved ELIGIBLE".

3 Page 5, line 4, strike "APPROVED" and substitute "ELIGIBLE".

4 Page 5, line 5, strike "THE approved" and substitute "approved THE
5 ELIGIBLE".

6 Page 9, line 13, strike "10-3-209 OR 10-5-111," and substitute "10-3-209,
7 10-5-111, OR 10-5-111.5,".

8 Page 10, after line 2 insert:

9 **"SECTION 7.** In Colorado Revised Statutes, 10-1-203, **amend**
10 (1) as follows:

11 **10-1-203. Authority, scope, and scheduling of examinations.**

12 (1) The commissioner or the commissioner's designee may conduct an
13 examination or investigation of any company as often as the
14 commissioner, in the commissioner's sole discretion, deems appropriate
15 but shall, at a minimum, conduct a formal financial examination of every
16 insurer licensed in this state not less frequently than once every five years;
17 except that this does not include ~~approved~~ ELIGIBLE nonadmitted insurers
18 regulated in accordance with article 5 of this title. In scheduling financial
19 or market conduct examinations and in determining their nature, scope,
20 and frequency, the commissioner shall consider such matters as the results
21 of financial statement analyses and ratios, changes in management or
22 ownership, actuarial opinions, reports of independent certified public
23 accountants, complaint analyses, underwriting and claims practices,
24 pricing, product solicitation, policy form compliance, market share
25 analyses, and other criteria as set forth in the most recent available edition
26 of the examiners' handbook adopted by the national association of
27 insurance commissioners.

28 **SECTION 8.** In Colorado Revised Statutes, 10-3-1004, **amend**
29 (1) (b) as follows:

30 **10-3-1004. Defense of action by unauthorized insurer.**

31 (1) Before any unauthorized foreign or alien insurer files or causes to be
32 filed any pleading in any action, suit, or proceeding instituted against it,
33 such unauthorized insurer shall either deposit, with the clerk of the court



1 in which such action, suit, or proceeding is pending, cash or securities, or
2 file with such clerk a bond with good and sufficient sureties, to be
3 approved by the court, in an amount to be fixed by the court sufficient to
4 secure the payment of any final judgment which may be rendered in such
5 action, or procure a certificate of authority to transact the business of
6 insurance in this state, unless one or more of the following is applicable:

7 (b) At the time the insurer files any pleading in any action, suit, or
8 proceeding instituted against it, the insurer is listed on the approved
9 ELIGIBLE nonadmitted insurers list prepared by the commissioner pursuant
10 to subsection (1) of section 10-5-108;

11 **SECTION 9.** In Colorado Revised Statutes, 10-5-101.1, **amend**
12 (1) (b) as follows:

13 **10-5-101.1. Legislative declaration.** (1) The general assembly
14 finds and declares that property and casualty insurance transactions with
15 nonadmitted insurers are so affected with a public interest as to require
16 regulation, taxation, supervision, and control of such transactions and
17 matters relating thereto, as provided in this article, in order to:

18 (b) Provide for the public, except for transactions related to the
19 diligent effort requirements of this article for exempt commercial
20 policyholders, as defined pursuant to section 10-4-1402 and rules adopted
21 by the commissioner pursuant to that section, to the extent that insurance
22 is not procurable from admitted insurers, orderly, reasonable, and
23 regulated access to such insurance from approved ELIGIBLE nonadmitted
24 insurers through qualified, licensed, and supervised surplus line agents
25 and brokers;

26 **SECTION 10.** In Colorado Revised Statutes, **amend** 10-5-104 as
27 follows:

28 **10-5-104. Endorsement of contract.** Every insurance contract
29 procured and delivered as a surplus line coverage pursuant to this article
30 shall be initialed by or bear the name of the surplus line broker who
31 procured it and shall have stamped upon it the following: "This contract
32 is delivered as a surplus line coverage under the 'Nonadmitted Insurance
33 Act'. The insurer issuing this contract is not licensed in Colorado but is
34 an approved ELIGIBLE nonadmitted insurer. There is no protection under
35 the provisions of the 'Colorado Insurance Guaranty Association Act'."

36 **SECTION 11.** In Colorado Revised Statutes, 13-64-301, **amend**
37 (1) (a) (I), (1) (a.5) (I), and (1) (b) as follows:

38 **13-64-301. Financial responsibility.** (1) As a condition of active
39 licensure or authority to practice in this state, every physician or dentist,
40 and every health care institution as defined in section 13-64-202, except
41 as provided in section 13-64-303.5, that provides health care services



1 shall establish financial responsibility, as follows:

2 (a) (I) If a dentist, by maintaining commercial professional
3 liability insurance coverage with an insurance company authorized to do
4 business in this state or an ~~approved~~ ELIGIBLE nonadmitted insurer
5 allowed to insure in Colorado pursuant to article 5 of title 10, C.R.S., in
6 a minimum indemnity amount of five hundred thousand dollars per
7 incident and one million five hundred thousand dollars annual aggregate
8 per year; except that this requirement is not applicable to a dentist who is
9 a public employee under the "Colorado Governmental Immunity Act",
10 article 10 of title 24, C.R.S.

11 (a.5) (I) If a physician, by maintaining commercial professional
12 liability insurance coverage with an insurance company authorized to do
13 business in this state or an ~~approved~~ ELIGIBLE nonadmitted insurer
14 allowed to insure in Colorado pursuant to article 5 of title 10, C.R.S., in
15 a minimum indemnity amount of one million dollars per incident and
16 three million dollars annual aggregate per year; except that this
17 requirement is not applicable to a physician who is a public employee
18 under the "Colorado Governmental Immunity Act", article 10 of title 24,
19 C.R.S.

20 (b) If a health care institution, by maintaining, as a condition of
21 licensure, certification, or other authority to render health care services in
22 this state, commercial professional liability insurance coverage with an
23 insurance company authorized to do business in this state or an ~~approved~~
24 ELIGIBLE nonadmitted insurer allowed to insure in Colorado pursuant to
25 article 5 of title 10, C.R.S., in a minimum indemnity amount of five
26 hundred thousand dollars per incident and three million dollars annual
27 aggregate per year; except that this requirement is not applicable to a
28 certified health care institution that is a public entity under the "Colorado
29 Governmental Immunity Act". In the event a health care institution does
30 not have a commercial professional liability insurance policy in
31 compliance with this paragraph (b), or the limits of professional liability
32 insurance coverage are in excess of any self-insured retention amount, or
33 there is a deductible other than zero dollars, the health care institution
34 shall procure evidence that the commissioner of insurance has accepted
35 and approved an alternative form of establishing financial responsibility
36 in compliance with paragraph (c), (d), or (e) of this subsection (1), in
37 accordance with applicable rules promulgated by the division of
38 insurance. The health care institution shall furnish evidence of alternative
39 financial responsibility compliance to the department of public health and
40 environment as part of the health care institution's application for an
41 initial or renewal license, certification, or other authority."

1 Renumber succeeding section accordingly.

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