

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 16, 2012  
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB12-1215 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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,

1 and frequency, the commissioner shall consider such matters as the results  
2 of financial statement analyses and ratios, changes in management or  
3 ownership, actuarial opinions, reports of independent certified public  
4 accountants, complaint analyses, underwriting and claims practices,  
5 pricing, product solicitation, policy form compliance, market share  
6 analyses, and other criteria as set forth in the most recent available edition  
7 of the examiners' handbook adopted by the national association of  
8 insurance commissioners.

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

11 **10-3-1004. Defense of action by unauthorized insurer.**

12 (1) Before any unauthorized foreign or alien insurer files or causes to be  
13 filed any pleading in any action, suit, or proceeding instituted against it,  
14 such unauthorized insurer shall either deposit, with the clerk of the court  
15 in which such action, suit, or proceeding is pending, cash or securities, or  
16 file with such clerk a bond with good and sufficient sureties, to be  
17 approved by the court, in an amount to be fixed by the court sufficient to  
18 secure the payment of any final judgment which may be rendered in such  
19 action, or procure a certificate of authority to transact the business of  
20 insurance in this state, unless one or more of the following is applicable:

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

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

27 **10-5-101.1. Legislative declaration.** (1) The general assembly  
28 finds and declares that property and casualty insurance transactions with  
29 nonadmitted insurers are so affected with a public interest as to require  
30 regulation, taxation, supervision, and control of such transactions and  
31 matters relating thereto, as provided in this article, in order to:

32 (b) Provide for the public, except for transactions related to the  
33 diligent effort requirements of this article for exempt commercial  
34 policyholders, as defined pursuant to section 10-4-1402 and rules adopted  
35 by the commissioner pursuant to that section, to the extent that insurance  
36 is not procurable from admitted insurers, orderly, reasonable, and  
37 regulated access to such insurance from ~~approved~~ ELIGIBLE nonadmitted  
38 insurers through qualified, licensed, and supervised surplus line agents  
39 and brokers;

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

1           **10-5-104. Endorsement of contract.** Every insurance contract  
2 procured and delivered as a surplus line coverage pursuant to this article  
3 shall be initialed by or bear the name of the surplus line broker who  
4 procured it and shall have stamped upon it the following: "This contract  
5 is delivered as a surplus line coverage under the 'Nonadmitted Insurance  
6 Act'. The insurer issuing this contract is not licensed in Colorado but is  
7 an ~~approved~~ ELIGIBLE nonadmitted insurer. There is no protection under  
8 the provisions of the 'Colorado Insurance Guaranty Association Act'."

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

11           **13-64-301. Financial responsibility.** (1) As a condition of active  
12 licensure or authority to practice in this state, every physician or dentist,  
13 and every health care institution as defined in section 13-64-202, except  
14 as provided in section 13-64-303.5, that provides health care services  
15 shall establish financial responsibility, as follows:

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

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

34           (b) If a health care institution, by maintaining, as a condition of  
35 licensure, certification, or other authority to render health care services in  
36 this state, commercial professional liability insurance coverage with an  
37 insurance company authorized to do business in this state or an ~~approved~~  
38 ELIGIBLE nonadmitted insurer allowed to insure in Colorado pursuant to  
39 article 5 of title 10, C.R.S., in a minimum indemnity amount of five  
40 hundred thousand dollars per incident and three million dollars annual  
41 aggregate per year; except that this requirement is not applicable to a

1 certified health care institution that is a public entity under the "Colorado  
2 Governmental Immunity Act". In the event a health care institution does  
3 not have a commercial professional liability insurance policy in  
4 compliance with this paragraph (b), or the limits of professional liability  
5 insurance coverage are in excess of any self-insured retention amount, or  
6 there is a deductible other than zero dollars, the health care institution  
7 shall procure evidence that the commissioner of insurance has accepted  
8 and approved an alternative form of establishing financial responsibility  
9 in compliance with paragraph (c), (d), or (e) of this subsection (1), in  
10 accordance with applicable rules promulgated by the division of  
11 insurance. The health care institution shall furnish evidence of alternative  
12 financial responsibility compliance to the department of public health and  
13 environment as part of the health care institution's application for an  
14 initial or renewal license, certification, or other authority."

15 Renumber succeeding section accordingly.

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