

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0237.01 Bob Lackner x4350

**SENATE BILL 14-097**

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**SENATE SPONSORSHIP**

**Tochtrop,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**  
Local Government

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE IMMUNITY OF PUBLIC AGENCIES AGAINST LIABILITY**  
102 **ARISING FROM THE WILDFIRE MITIGATION ACTIVITIES OF**  
103 **INSURANCE COMPANIES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Wildfire Matters Review Committee.** The bill extends existing protections held by public agencies concerning immunity from civil liability to immunize such agencies from the acts of an insurer or insurance company, corporation, association, or partnership (insurer),

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.*

including any employees, contractors, or agents (agents), engaged in activities intended to protect the insurable private property interests of the insurer's policyholders from damage.

The bill further specifies that neither an insurer nor any of its agents engaged in activities intended to protect the insurable private property interests of the insurer's policyholders from damage constitute a private organization entitled to immunity from liability under the statute nor is any agent of the insurer a volunteer for purposes of the "Colorado Governmental Immunity Act", regardless of whether such activities may be subject to the direction of a local emergency planning committee or a state or local fire or law enforcement agency.

The bill authorizes an insurer to provide services protecting the property of its policyholders in the course of an emergency. The division of insurance may promulgate rules to implement this provision.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-33.5-1505,  
3 **amend** (1) and (1.5) as follows:

4 **24-33.5-1505. Immunity.** (1) EXCEPT FOR WILLFUL AND WANTON  
5 ACTS OR OMISSIONS, no state commission or agency or county or  
6 municipal agency, including local emergency planning committees,  
7 citizen corps councils, fire protection districts, and volunteer fire,  
8 ambulance, or emergency service and rescue groups, nor their officers,  
9 officials, directors, employees, or volunteers, when engaged in emergency  
10 planning, service, or response activities regarding a hazardous material  
11 release, threat of release, or act of terrorism, shall be liable for:

12 (a) The death of or injury to any person or for the loss of or  
13 damage to property or the environment resulting from the hazardous  
14 material release, threat of release, or act of terrorism; ~~except for willful~~  
15 ~~and wanton acts or omissions.~~ OR

16 (b) THE ACTS OF AN INSURER OR INSURANCE COMPANY,  
17 CORPORATION, ASSOCIATION, OR PARTNERSHIP, INCLUDING ANY

1 EMPLOYEES, CONTRACTORS, OR AGENTS, ENGAGED IN ACTIVITIES  
2 INTENDED TO PROTECT THE INSURABLE PRIVATE PROPERTY INTERESTS OF  
3 THE INSURER'S POLICYHOLDERS FROM HARM, LOSS, DAMAGE, OR  
4 DESTRUCTION.

5 (1.5) (a) No private organization or any of its officers, officials,  
6 directors, employees, or volunteers, when working under the direction of  
7 a local emergency planning committee or state or local fire or law  
8 enforcement agency and when engaged in emergency planning, training,  
9 or response activities regarding a hazardous material release, threat of  
10 release, or act of terrorism, shall be liable for the death of or injury to any  
11 person or for the loss of or damage to property or the environment  
12 resulting from the hazardous material release, threat of release, or act of  
13 terrorism, except for willful and wanton acts or omissions.

14 (b) AN INSURER, INSURANCE COMPANY, CORPORATION,  
15 ASSOCIATION, OR PARTNERSHIP, INCLUDING ANY EMPLOYEES,  
16 CONTRACTORS, OR AGENTS, ENGAGED IN ACTIVITIES INTENDED TO  
17 PROTECT THE INSURABLE PRIVATE PROPERTY INTERESTS OF THE INSURER'S  
18 POLICYHOLDERS FROM HARM, LOSS, DAMAGE, OR DESTRUCTION DOES NOT  
19 CONSTITUTE A PRIVATE ORGANIZATION ENTITLED TO IMMUNITY FROM  
20 LIABILITY UNDER THE PROVISIONS OF THIS SECTION, AND AN EMPLOYEE,  
21 CONTRACTOR, OR AGENT OF THE INSURER IS NOT A VOLUNTEER AS THAT  
22 TERM IS DEFINED OR CONSTRUED IN ACCORDANCE WITH THE PROVISIONS  
23 OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF  
24 THIS TITLE, REGARDLESS OF WHETHER SUCH ACTIVITIES MAY BE SUBJECT  
25 TO THE DIRECTION OF A LOCAL EMERGENCY PLANNING COMMITTEE OR A  
26 STATE OR LOCAL FIRE OR LAW ENFORCEMENT AGENCY.

27 **SECTION 2.** In Colorado Revised Statutes, **add** 10-4-121 as

1 follows:

2           **10-4-121. Authority of insurer to protect policyholders'**  
3 **property - emergency.** NOTWITHSTANDING ANY OTHER PROVISION OF  
4 LAW, AN INSURER MAY PROVIDE SERVICES PROTECTING THE PROPERTY OF  
5 ITS POLICYHOLDERS IN THE EVENT OF AN EMERGENCY.

6           **SECTION 3. Effective date.** This act takes effect July 1, 2014.

7           **SECTION 4. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.