

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0237.01 Bob Lackner x4350

SENATE BILL 14-097

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

(None),

Senate Committees
Local Government

House Committees

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.

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.

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 - rules.** NOTWITHSTANDING ANY OTHER
4 PROVISION OF LAW, AN INSURER MAY PROVIDE SERVICES PROTECTING THE
5 PROPERTY OF ITS POLICYHOLDERS IN THE EVENT OF AN EMERGENCY. THE
6 DIVISION MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

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

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