

**Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 04-0189.01 Julie Hoerner

HOUSE BILL 04-1234

HOUSE SPONSORSHIP

Fairbank

SENATE SPONSORSHIP

McElhany

House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURERS TO ENHANCE CONSUMER PROTECTION FOR**
102 **CERTAIN MOTOR VEHICLE COVERAGES.**

Bill Summary

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

Requires a property and casualty insurer to:

Provide payments for title fees, sales tax, and any other registration fees or charges associated with the total loss of a motor vehicle;

Clearly disclose the coverage provided for the towing and storage of a motor vehicle and specifically advise an insured of additional expenses that may be incurred by the insured for towing and storage;

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.

Create a fair and consistent methodology for evaluation of total loss of a motor vehicle;
Provide, in certain circumstances, payment to third-party claimants for waivers when required by rental car companies;
Provide, for a third-party claim, a comparable rental car while the insured's motor vehicle is repaired or determined to be a total loss;
Provide coverage for a rental car to an insured until 3 days after the date of mailing a check for the total loss of the insured's motor vehicle; and
Provide coverage for loss of use of a motor vehicle for first- and third-party claims.

Allows the insurance commissioner to promulgate rules, including unfair and deceptive trade practices related to motor vehicle insurance. Corrects references to self-insurers for the purpose of motor vehicle insurance. Recreates prior provisions allowing issuance of an operator's motor vehicle insurance policy.

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

2 **SECTION 1.** 10-3-1110 (2), Colorado Revised Statutes, is
3 amended to read:

4 **10-3-1110. Regulations.** (2) The commissioner may, after notice
5 and hearing, as provided in article 4 of title 24, C.R.S., promulgate rules
6 and regulations with respect to the payment of benefits under group and
7 individual contracts of property or casualty coverage ~~except for property~~
8 ~~and casualty coverage provided pursuant to part 6 of article 4 of this title,~~
9 issued by organizations authorized to do business in this state under the
10 provisions of article 4 of this title. Such rules may establish a penalty
11 payable to the claimant on benefit payments that are delayed more than
12 sixty days after a valid and complete filing of the claim unless there is a
13 reasonable dispute between the parties concerning such claim. Such
14 penalty shall not exceed twenty dollars on claims of less than one
15 hundred dollars or interest at a rate of eight percent annually on claims

1 above one hundred dollars. In addition to such penalties payable to the
2 claimant, the commissioner, after notice and hearing, may assess a civil
3 penalty against any insurer of one hundred dollars per day for each day
4 benefit payments are delayed more than sixty days after a valid and
5 complete filing of the claim unless there is a reasonable dispute between
6 the parties concerning such claim.

7 **SECTION 2.** 10-4-619, Colorado Revised Statutes, is amended
8 to read:

9 **10-4-619. Coverage compulsory.** (1) Every owner of a motor
10 vehicle who operates the motor vehicle on the public highways of this
11 state or who knowingly permits the operation of the motor vehicle on the
12 public highways of this state shall have in full force and effect a
13 complying policy under the terms of this part 6 covering the said motor
14 vehicle, and any owner who fails to do so shall be subject to the sanctions
15 provided under sections 42-4-1409 and 42-7-301, C.R.S., of the "Motor
16 Vehicle Financial Responsibility Act". This section shall not apply to
17 persons who hold a current and valid certificate of self-insurance
18 pursuant to section 10-4-624.

19 (2) AN INSURER SHALL NOT REFUSE TO PROVIDE BENEFITS TO AN
20 INSURED ON THE BASIS THAT THE INSURED IS A VOLUNTEER FOR A FIRE
21 DEPARTMENT AND IS INJURED IN A MOTOR VEHICLE WHILE RESPONDING TO
22 AN EMERGENCY.

23 **SECTION 3.** Part 6 of article 4 of title 10, Colorado Revised
24 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
25 SECTIONS to read:

26 **10-4-634. Claims practices for property damage.** (1) AN
27 INSURER SHALL PAY TITLE FEES, SALES TAX, AND ANY OTHER TRANSFER OR

1 REGISTRATION FEE ASSOCIATED WITH THE TOTAL LOSS OF A MOTOR
2 VEHICLE.

3 (2) AN INSURER SHALL CLEARLY DISCLOSE TO AN INSURED OR
4 CLAIMANT WHAT BENEFITS ARE PROVIDED RELATED TO TOWING AND
5 STORAGE OF A MOTOR VEHICLE THAT SUSTAINS PROPERTY DAMAGE, AND
6 SHALL SPECIFICALLY ADVISE AN INSURED OR CLAIMANT CONCERNING
7 EXCESS CHARGES THAT MAY BE INCURRED RELATED TO TOWING AND
8 STORAGE OF A MOTOR VEHICLE FOR WHICH THE INSURED OR CLAIMANT
9 MAY BE RESPONSIBLE.

10 (3) INSURERS SHALL ESTABLISH A FAIR AND CONSISTENT METHOD
11 FOR DETERMINING TOTAL LOSS OF A MOTOR VEHICLE. SUCH METHOD
12 SHALL INCLUDE CONSIDERATION OF UNIQUE CHARACTERISTICS OF THE
13 MOTOR VEHICLE AND A CREDIBLE SOURCE OF VALUATION. AN INSURER
14 SHALL MAINTAIN A RECORD OF ITS METHODOLOGY FOR DETERMINING
15 TOTAL LOSS EVALUATION AND PROVIDE SUCH METHODOLOGY TO THE
16 COMMISSIONER UPON REQUEST. THE COMMISSIONER MAY PROMULGATE
17 RULES FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS SUBSECTION
18 (3). AN INSURER MAY NOT USE DIFFERENT CREDIBLE SOURCES OF
19 VALUATION ONLY TO DETERMINE THE LOWEST AMOUNT PAYABLE FOR THE
20 TOTAL LOSS OF THE MOTOR VEHICLE.

21 (4) AN INSURER SHALL PROVIDE COVERAGE TO A THIRD-PARTY
22 CLAIMANT FOR A COLLISION DAMAGE WAIVER REQUIRED BY ANY MOTOR
23 VEHICLE RENTAL COMPANY WHEN THE CLAIMANT DOES NOT HAVE
24 COLLISION COVERAGE FOR SUCH COLLISION DAMAGE WAIVER THROUGH
25 HIS OR HER MOTOR VEHICLE INSURANCE.

26 (5) PAYMENTS FOR THIRD-PARTY COVERAGE FOR A REPLACEMENT
27 MOTOR VEHICLE SHALL NOT BE DISCONTINUED UNTIL:

1 (a) THREE DAYS AFTER PAYMENT FOR THE LOSS OF THE INSURED'S
2 MOTOR VEHICLE WAS MAILED TO THE LAST-KNOWN ADDRESS OF THE
3 CLAIMANT;

4 (b) ONE DAY AFTER PAYMENT FOR THE LOSS OF THE INSURED'S
5 MOTOR VEHICLE WAS TRANSMITTED VIA OVERNIGHT DELIVERY TO THE
6 LAST-KNOWN ADDRESS OF THE CLAIMANT; OR

7 (c) PAYMENT IS MADE DIRECTLY TO THE ENTITY REPAIRING THE
8 MOTOR VEHICLE OF THE CLAIMANT.

9 **10-4-635. Operator's policy of insurance.** (1) EXCEPT AS
10 OTHERWISE PROVIDED IN SUBSECTION (8) OF THIS SECTION, ANY NATURAL
11 PERSON MAY SATISFY THE REQUIREMENTS OF SECTION 10-4-619 BY
12 OBTAINING, IN LIEU OF AN OWNER'S POLICY OF INSURANCE, AN OPERATOR'S
13 POLICY OF LIABILITY INSURANCE THAT MEETS THE REQUIREMENTS OF THIS
14 SECTION AND OF THIS PART 6.

15 (2) AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL
16 PROVIDE COVERAGE AND SHALL STATE IN A CONSPICUOUS TYPE FACE AND
17 FONT ON THE FACE OF THE POLICY, THAT:

18 (a) THE INSURER IS ONLY LIABLE UNDER THE POLICY FOR LIABILITY
19 OR DAMAGES INCURRED BY THE INSURED WHILE THE NAMED INSURED IS
20 THE OPERATOR OF A MOTOR VEHICLE OR WHILE A MOTOR VEHICLE OWNED
21 BY THE INSURED IS NOT BEING OPERATED BY ANY OTHER PERSON;

22 (b) THE POLICY DOES NOT PROVIDE COVERAGE FOR ANY VICARIOUS
23 LIABILITY IMPOSED ON THE OWNER OF THE MOTOR VEHICLE AS A RESULT
24 OF THE OPERATION BY ANOTHER PERSON OF A MOTOR VEHICLE OWNED BY
25 THE INSURED;

26 (c) THE COVERAGE PROVIDED BY THE POLICY MAY NOT MEET THE
27 REQUIREMENTS OF THE MANDATORY MOTOR VEHICLE INSURANCE OR

1 FINANCIAL RESPONSIBILITY LAWS OF ANOTHER STATE.

2 (3) NO OPERATOR'S POLICY OF LIABILITY INSURANCE ISSUED
3 PURSUANT TO THIS SECTION MAY BE DELIVERED OR ISSUED FOR DELIVERY
4 IN THIS STATE UNLESS THE INSURED HAS SIGNED A STATEMENT THAT
5 APPEARS ON THE CONTRACT AND STATES THAT THE INSURED HAS READ
6 AND UNDERSTOOD THE POLICY AND ITS LIMITATIONS.

7 (4) AN OWNER OF A MOTOR VEHICLE THAT IS REGISTERED OR
8 REQUIRED TO BE REGISTERED IN THIS STATE AND WHO HOLDS AN
9 OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL NOT PERMIT ANOTHER
10 PERSON TO OPERATE SUCH MOTOR VEHICLE IF THE OWNER KNOWS OR
11 SHOULD HAVE KNOWN THAT THE PERSON DOES NOT HAVE INSURANCE TO
12 COVER SUCH OTHER PERSON'S OPERATION OF SUCH MOTOR VEHICLE. IF A
13 MOTOR VEHICLE INSURED UNDER AN OPERATOR'S POLICY OF LIABILITY
14 INSURANCE IS DRIVEN BY A PERSON WHO DOES NOT HAVE IN EFFECT A
15 COMPLYING POLICY AS REQUIRED BY SECTION 10-4-619, AND SUCH PERSON
16 IS INVOLVED IN AN ACCIDENT, THE OWNER OF SUCH MOTOR VEHICLE AND
17 SUCH DRIVER SHALL BE LIABLE FOR ANY LIABILITY OR DAMAGES ARISING
18 OUT OF SUCH PERSON'S USE OF THE MOTOR VEHICLE.

19 (5) AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL NOT
20 PROVIDE COVERAGE FOR DAMAGES INCURRED WHILE A PERSON OTHER
21 THAN THE NAMED INSURED IS OPERATING A MOTOR VEHICLE.

22 (6) AN OPERATOR'S POLICY OF LIABILITY INSURANCE MAY PROVIDE
23 COVERAGE THAT APPLIES IN OTHER JURISDICTIONS IF THE COVERAGE
24 AVAILABLE PURSUANT TO THIS SECTION DOES NOT MEET THE MANDATORY
25 MOTOR VEHICLE INSURANCE OR FINANCIAL RESPONSIBILITY
26 REQUIREMENTS OF OTHER JURISDICTIONS.

27 (7) AN OPERATOR'S POLICY OF LIABILITY INSURANCE SHALL

1 PROVIDE COVERAGE FOR LIABILITY INCURRED BY THE INSURED WHILE A
2 MOTOR VEHICLE OWNED BY THE INSURED IS NOT BEING OPERATED BY ANY
3 OTHER PERSON.

4 (8) THIS SECTION SHALL NOT APPLY TO A LESSOR, DEALER,
5 MANUFACTURER, REBUILDER, OR DISTRIBUTOR OF A MOTOR VEHICLE, AN
6 OWNER OF A FLEET, A COMMON, CONTRACT, OR PRIVATE MOTOR CARRIER,
7 OR ANY OTHER INDIVIDUAL WHO OWNS A MOTOR VEHICLE FOR USE IN THE
8 INDIVIDUAL'S BUSINESS.

9 (9) IF AN INSURER WRITING POLICIES OF INSURANCE PURSUANT TO
10 THIS PART 6 OFFERS AN OPERATOR'S POLICY OF INSURANCE, SUCH POLICY
11 SHALL MEET THE REQUIREMENTS OF THIS SECTION.

12 **SECTION 4.** 10-1-102 (3), Colorado Revised Statutes, is
13 amended to read:

14 **10-1-102. Definitions.** As used in this title, unless the context
15 otherwise requires:

16 (3) "Admitted company" or "authorized company" designates
17 companies duly qualified and licensed to transact business in this state,
18 under the provisions of this title. "Nonadmitted companies" or
19 "unauthorized companies" designates companies not licensed to transact
20 business in this state, under the provisions of this title (except ~~part 7 of~~
21 ~~article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24,
22 C.R.S.

23 **SECTION 5.** 10-1-108 (5), (8), and (9), Colorado Revised
24 Statutes, are amended to read:

25 **10-1-108. Duties of commissioner - reports - publications - fees**
26 **- disposition of funds - adoption of rules - examinations and**
27 **investigations.** (5) It is the duty of the commissioner to make such

1 investigations and examinations as are authorized by this title (except ~~part~~
2 ~~7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24,
3 C.R.S., and to investigate such information as is presented to the
4 commissioner by authority that the commissioner believes to be reliable
5 pertaining to violation of the insurance laws of Colorado, and it is the
6 commissioner's duty to present the result of such investigations and
7 examinations for further investigation and prosecution to either the
8 district attorney of the proper judicial district or the attorney general
9 when, in the commissioner's opinion, such violations justify such action.

10 (8) It is the duty of the commissioner to examine all requests and
11 applications from insurers for certificates of authority to be issued
12 pursuant to section 10-3-105. The commissioner is authorized to refuse
13 to issue any such certificates of authority until the commissioner is
14 reasonably satisfied as to the qualifications and general fitness of the
15 insurer to comply with the requirements of the provisions of this title
16 (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article
17 14 of title 24, C.R.S.

18 (9) It is the duty of the commissioner to transmit all surcharges,
19 costs, taxes, penalties, and fines collected by the division of insurance
20 under any provision of this title (except ~~part 7 of article 4 and~~ article 15),
21 article 7 of title 12, and article 14 of title 24, C.R.S., to the department of
22 the treasury. All funds so transmitted shall be credited to the general
23 fund; except that any funds collected by the commissioner as
24 reimbursement for out-of-state travel costs in conjunction with the
25 examination of an insurance company or with an activity to improve
26 regulation of insurance companies are hereby continuously appropriated
27 to the division of insurance in addition to any other funds appropriated

1 for its normal operation.

2 **SECTION 6.** 10-1-111, Colorado Revised Statutes, is amended
3 to read:

4 **10-1-111. Invoking aid of courts.** The commissioner, through
5 the attorney general, may invoke the aid of the courts through injunction
6 or other proper process, mandatory or otherwise, to enforce any proper
7 order made by the commissioner or action taken by the commissioner; but
8 nothing in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of
9 title 12, and article 14 of title 24, C.R.S., shall be construed to prevent the
10 company or person affected by any order, ruling, proceeding, act, or
11 action of the commissioner, or any person acting on behalf and at
12 instance of the commissioner, from testing the validity of the same in any
13 court of competent jurisdiction, through injunction, appeal, or other
14 proper process or proceeding, mandatory or otherwise.

15 **SECTION 7.** 10-1-112, Colorado Revised Statutes, is amended
16 to read:

17 **10-1-112. Policy conditions required by other states.** The
18 policies of a domestic insurance company, when issued or delivered in
19 any other state, territory, district, or country, may contain any provision
20 required by the laws of the state, territory, district, or country in which
21 the same are issued, anything in this title (except ~~part 7 of article 4 and~~
22 article 15), article 7 of title 12, and article 14 of title 24, C.R.S., to the
23 contrary notwithstanding.

24

25 **SECTION 8.** 10-3-103, Colorado Revised Statutes, is amended
26 to read:

27 **10-3-103. Names of companies.** No domestic insurance company

1 shall adopt the name of any existing company transacting a similar
2 business nor any name so similar as to be calculated to mislead the
3 public, but any domestic mutual or mutual assessment insurance
4 company, upon complying with the terms and conditions of this title
5 (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article
6 14 of title 24, C.R.S., may be reorganized and reincorporated as a joint
7 stock company under the same name by which it was incorporated as a
8 mutual or assessment company, with the omission of the word "mutual",
9 and it is unlawful for any other company to be incorporated or transact
10 business under or by the name under which any such mutual or mutual
11 assessment company was operating at the time of reincorporation.

12

13 **SECTION 9.** 10-3-113 (2), Colorado Revised Statutes, is
14 amended to read:

15 **10-3-113. Increase of capital.** (2) The provisions of this title
16 (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article
17 14 of title 24, C.R.S., shall also apply in the formation and authorization
18 of domestic insurance companies formed upon the mutual plan, and to
19 associations formed upon the assessment plan, ~~which~~ THAT are organized
20 with a guaranty fund in lieu of capital as provided in said references.

21 **SECTION 10.** 10-3-123 (2), (5), and (7), Colorado Revised
22 Statutes, are amended to read:

23 **10-3-123. Assessment accident associations.** (2) Twenty-five
24 or more persons WHO ARE citizens of this state may form a corporation to
25 carry on the business of casualty insurance on the assessment plan, but
26 no such corporation shall begin to do business until a guaranty fund of at
27 least ten thousand dollars is provided and deposited, in cash or in such

1 securities as are permitted by law in case of stock companies, with the
2 commissioner under the conditions named in this title (except ~~part 7 of~~
3 ~~article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24,
4 C.R.S. When this is done and at least two hundred persons have
5 subscribed in writing to be insured, and when each has paid in at least
6 one monthly assessment or premium, the commissioner, if the laws have
7 been complied with, shall issue a certificate of authority for such
8 corporation, which authorizes it to commence business. The word
9 "association" shall be used in the title or name of all corporations
10 organized under this section instead of the word "company".

11 (5) Any corporation organized under the authority of any other
12 state or government to issue policies or certificates of casualty insurance
13 on the assessment plan, as a condition precedent to transacting business
14 in this state, shall pay such fees and comply with the same requirements
15 as exacted of stock casualty insurance companies of other states or
16 countries, as provided by this title (except ~~part 7 of article 4 and~~ article
17 15), article 7 of title 12, and article 14 of title 24, C.R.S., and thereafter
18 be subject to the same general laws and penalties of this title, unless
19 otherwise provided in this section, and it shall deposit with the
20 commissioner or with the proper official of some other state, for the
21 protection of all its policyholders, a sum not less than that required to be
22 deposited by domestic casualty insurance companies organized upon the
23 mutual assessment plan. Such corporation shall also file with the
24 commissioner a copy of its policies or certificates and applications
25 therefor, for approval by the commissioner, and a sworn statement from
26 the proper officers of such corporation that they have received a copy of
27 this section, and shall be governed thereby in issuing policies or

1 certificates in this state. The commissioner may thereupon issue or renew
2 the authority of such corporation to do business in this state.

3 (7) Any corporation doing a casualty insurance business in this
4 state on April 15, 1913, ~~which~~ THAT is incorporated to do business on the
5 assessment plan may reincorporate under the provisions of this title
6 (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article
7 14 of title 24, C.R.S., but nothing in said references shall be construed as
8 requiring any such corporation to reincorporate, and any such corporation
9 may continue to exercise all rights, powers, and privileges conferred by
10 said references, or its articles of incorporation not inconsistent herewith.

11 **SECTION 11.** 10-3-201 (2), Colorado Revised Statutes, is
12 amended to read:

13 **10-3-201. Cash capital - guaranty fund - deposit.** (2) The cash
14 or securities representing the minimum capital or guaranty fund and
15 surplus required by paragraph (a) of subsection (1) of this section shall
16 be deposited, in the case of domestic companies, with the commissioner
17 in the manner provided by law and, in the case of foreign or alien
18 companies, with the commissioner or with the duly authorized officer of
19 some other state of the United States; except that the guaranty fund of
20 mutual companies shall be construed to include deposits held for the
21 benefit of policyholders as provided in this title (except ~~part 7 of article~~
22 ~~4 and~~ article 15), article 7 of title 12, C.R.S., and article 14 of title 24,
23 C.R.S.

24 **SECTION 12.** 10-3-206 (1), Colorado Revised Statutes, is
25 amended to read:

26 **10-3-206. Security deposits - certificates.** (1) The
27 commissioner shall receive and hold on deposit, in the manner provided

1 in this law, the securities of domestic companies ~~which~~ THAT are
2 deposited by any such company under the provisions of this title (except
3 ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of
4 title 24, C.R.S., for the purpose of securing policyholders, or to comply
5 with any similar law of another state to enable such company to transact
6 business in such state. All securities so offered for deposit shall belong
7 to and be the sole property of such company and shall be free and clear
8 of any claims whatsoever, and the commissioner shall determine the same
9 by proper inquiry.

10 **SECTION 13.** 10-3-208 (1), Colorado Revised Statutes, is
11 amended to read:

12 **10-3-208. Financial statements.** (1) All insurance companies
13 doing business in this state, unless otherwise provided in this title (except
14 ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article 14 of
15 title 24, C.R.S., shall make and file with the commissioner annually, on
16 or before the first day of March in each year, a statement under oath,
17 upon a form to be prescribed by the commissioner, stating the amount of
18 all premiums collected or contracted for in this state or from residents
19 thereof, in cash or notes, by the company making such statement during
20 the year ending the last day of December next preceding; the amounts
21 actually paid policyholders on losses and the amounts paid policyholders
22 as returned premiums by property and casualty insurance companies; the
23 amount of insurance reinsured in other companies authorized to do
24 business in this state and the amount of premiums paid therefor; the
25 amount of insurance reinsured in companies, naming them, not authorized
26 to do business in this state and the amount of premiums paid therefor; and
27 the amount of reinsurance accepted from admitted companies and the

1 premiums received from such reinsurance on residents of this state or
2 risks located in this state, with the name of the companies so reinsured.
3 The annual statement made to the commissioner pursuant to this section
4 or other provisions of said references shall at least include the substance
5 of that which is required by what is known as the convention blank form
6 adopted from year to year by the national association of insurance
7 commissioners, including any instructions, procedures, and guidelines not
8 in conflict with any provision of this title for completing the convention
9 blank form.

10 **SECTION 14.** 10-3-209 (1) (c), Colorado Revised Statutes, is
11 amended to read:

12 **10-3-209. Tax on premiums collected - exemptions - penalties.**

13 (1) (c) The taxes prescribed in paragraph (b) of this subsection (1) shall
14 constitute all taxes collectible under the laws of this state against any
15 such insurance companies, and no other occupation tax or other taxes
16 shall be levied or collected from any insurance company by any county,
17 city, or town within this state; but this title (except ~~part 7 of article 4 and~~
18 article 15), article 7 of title 12, and article 14 of title 24, C.R.S., shall not
19 be construed to prohibit the levy and collection of state, county, school,
20 and municipal taxes upon the real and personal property of such
21 companies, nor shall it include or prohibit the levy and collection of a tax
22 to be paid on net workers' compensation premiums, as provided under the
23 "Colorado Medical Disaster Insurance Fund Act", part 3 of article 46 of
24 title 8, C.R.S.

25 **SECTION 15.** 10-3-213 (1), Colorado Revised Statutes, is
26 amended to read:

27 **10-3-213. Investments eligible as admitted assets.**

1 (1) Domestic insurance companies may invest their funds in the
2 categories of assets described in sections 10-3-215 to 10-3-230 and
3 10-3-242. Every such investment shall be an admitted asset of the
4 company; except that, if the section describing a category of asset
5 contains a quantitative limitation, an investment in that category of asset
6 shall be an admitted asset under that section to the extent that it does not
7 exceed such limitation. Any such limitation shall apply only with respect
8 to the category of assets described in that section and shall not constitute
9 a general prohibition and shall not be applicable to any other section.
10 Except as provided in section 10-3-237, any investment, or part thereof,
11 ~~which~~ THAT does not qualify under any of said sections shall not be an
12 admitted asset under the provisions of this part 2. Except as specifically
13 provided in this title (except ~~part 7 of article 4 and~~ article 15), article 7 of
14 title 12, and article 14 of title 24, C.R.S., a domestic insurance company
15 shall not be prohibited from acquiring or holding an asset ~~which~~ THAT is
16 not an admitted asset, and such company may lend, pledge, sell, transfer,
17 assign, hypothecate, dispose of, or exchange any asset acquired by it.

18 **SECTION 16.** 10-3-214, Colorado Revised Statutes, is amended
19 to read:

20 **10-3-214. Quantitative investment limitations - manner of**
21 **applying.** In applying the investment limitations set forth in this part 2,
22 which are expressed as percentages of a company's admitted assets, there
23 shall be used as a base the total of all assets of the company ~~which~~ THAT
24 would be admitted under this title (except ~~part 7 of article 4 and~~ article
25 15), article 7 of title 12, and article 14 of title 24, C.R.S., without regard
26 to such limitations and without regard to any condition or restriction set
27 forth in section 10-3-237 (2), and asset values will be those values

1 determined at the current annual statement date or, in case of any
2 statement or examination as of a date other than an annual statement date,
3 those values determined at such other date. In applying any investment
4 limitation set forth in this part 2, which is expressed as a percentage of a
5 company's surplus, the amount of the company's surplus shall be that
6 determined at the current annual statement date or, in the case of any
7 statement or examination as of a date other than an annual statement date,
8 the amount determined at such other date.

9

10 **SECTION 17.** 10-3-235 (2) and (4), Colorado Revised Statutes,
11 are amended to read:

12 **10-3-235. Certain admitted assets deemed securities for deposit**
13 **purposes.** (2) For purposes of optional reserve deposits permitted by
14 section 10-7-101 (3) or other deposits permitted but not required by this
15 title (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and
16 article 14 of title 24, C.R.S., the following admitted assets, in addition to
17 those referred to in subsection (1) of this section, shall be deemed to be
18 securities eligible for such deposits: Any asset qualified as an admitted
19 asset under section 10-3-220 or 10-3-226 to 10-3-228, and any life
20 insurance policy, to the extent of the company's interest in the cash value
21 thereof.

22 (4) For purposes of all deposits required or permitted by this title
23 (except ~~part 7 of article 4 and~~ article 15), article 7 of title 12, and article
24 14 of title 24, C.R.S., assets shall be valued at their fair market value;
25 except that, for purposes of optional reserve deposits permitted by section
26 10-7-101 (3), or other deposits permitted but not required by said
27 references, bonds and mortgages shall be valued at their current book

1 values under the methods used in determining admitted asset values for
2 annual statement purposes.

3 **SECTION 18.** 10-3-236, Colorado Revised Statutes, is amended
4 to read:

5 **10-3-236. Assets acquired through merger, consolidation, or**
6 **reinsurance.** Any investments acquired after May 31, 1969, through
7 merger, consolidation, or reinsurance ~~which~~ THAT are not admitted assets
8 under this title (except ~~part 7 of article 4 and~~ article 15), article 7 of title
9 12, and article 14 of title 24, C.R.S., shall not be deemed admitted assets
10 by reason of their acquisition through merger, consolidation, or
11 reinsurance.

12 
13 **SECTION 19.** 10-3-238, Colorado Revised Statutes, is amended
14 to read:

15 **10-3-238. Refunds.** Whenever it appears to the satisfaction of the
16 commissioner that, because of some mistake of fact, error in calculation,
17 or erroneous interpretation of a statute of this or any other state, any
18 insurer or other person engaged in the business of insurance in this state
19 has paid to ~~him~~ THE COMMISSIONER or to the state of Colorado, pursuant
20 to any provision of this title (except ~~part 7 of article 4 and~~ article 15),
21 article 7 of title 12, and article 14 of title 24, C.R.S., any taxes, fees, or
22 other charges in excess of the amount legally chargeable against said
23 insurer or other person during the one-year period immediately preceding
24 the discovery of such overpayment, the commissioner has the authority
25 to refund to such insurer or other person the amount of such excess by
26 applying the amount thereof toward the payment of taxes, fees, or other
27 charges already due, or ~~which~~ THAT may thereafter become due, from

1 such insurer or other person until such excess has been fully refunded; or,
2 at his THE COMMISSIONER'S discretion, the commissioner may make a cash
3 refund thereof.

4 **SECTION 20.** 10-3-1104 (1) (l), Colorado Revised Statutes, is
5 amended to read:

6 **10-3-1104. Unfair methods of competition and unfair or**
7 **deceptive acts or practices.** (1) The following are defined as unfair
8 methods of competition and unfair or deceptive acts or practices in the
9 business of insurance:

10 (l) Violation of or noncompliance with any insurance law in part
11 7 6 of article 4 of this title;

12 **SECTION 21.** 10-12-105 (1), Colorado Revised Statutes, is
13 amended to read:

14 **10-12-105. Guaranty fund of mutual companies.** (1) Guaranty
15 fund certificates may be issued to provide a guaranty fund for domestic
16 life and fire insurance companies incorporated upon the mutual plan and
17 for domestic casualty insurance associations incorporated upon the
18 assessment plan, such fund to be held as security for the payment of all
19 losses and other policy liabilities of such companies. Guaranty fund
20 certificates may draw interest or dividends not exceeding in the aggregate
21 eight percent per annum, which shall only be paid from the profits of the
22 company. The certificates may only be retired or redeemed by using the
23 profits of the company for that purpose, but the full fund as required of
24 each kind of mutual and assessment company by this title (except ~~part 7~~
25 ~~of article 4 and~~ article 15), article 7 of title 12, and article 14 of title 24,
26 C.R.S., shall at all times be maintained. Such guaranty fund shall be a
27 liability until redeemed or retired. It shall only be used to pay policy

1 claims or liabilities when the contingent mutual liability of the
2 policyholders has been drawn upon and found insufficient to meet the
3 losses of policy claims, or when the directors for any cause fail to provide
4 for the payment of policy claims.

5 **SECTION 22.** 10-12-106, Colorado Revised Statutes, is amended
6 to read:

7 **10-12-106. Fees of mutual companies.** Mutual and assessment
8 companies, unless otherwise specified in this title (except ~~part 7 of article~~
9 ~~4 and~~ article 15), article 7 of title 12, and article 14 of title 24, C.R.S., are
10 required to pay the same fees and be under the same supervision and
11 authority of the commissioner as companies ~~which~~ THAT are engaged in
12 the same kind of insurance business and ~~which~~ THAT are organized upon
13 the joint-stock plan, and they shall comply with the general laws of this
14 title, unless otherwise specified, and be subject to the penalties provided
15 therein.

16 **SECTION 23.** 10-16-602 (2), Colorado Revised Statutes, is
17 amended to read:

18 **10-16-602. Definitions.** As used in this part 6, unless the context
19 otherwise requires:

20 (2) "Insurer" means a sickness and accident insurer ~~including a~~
21 ~~provider of personal injury protection benefits under part 7 of article 4 of~~
22 ~~this title~~; and any health maintenance organization; fraternal benefit
23 society; nonprofit hospital, medical-surgical, and health services
24 corporation; prepaid health plans; or other entity providing health care
25 coverage or health benefits or health care services, whether as a principal,
26 indemnitor, surety, or contractor, authorized by the commissioner to
27 conduct business in Colorado. "Insurer" also includes a self-insurer

1 providing any health coverage or health benefit or health care services
2 certificate, agreement, contract, policy, or plan; except that the term
3 "insurer" under this part 6 shall apply only to this part 6 and shall not
4 include an insurer or self-insured employer under articles 40 to 47 of title
5 8, C.R.S.

6 **SECTION 24.** 8-40-201 (8), Colorado Revised Statutes, is
7 amended to read:

8 **8-40-201. Definitions - repeal.** As used in articles 40 to 47 of
9 this title, unless the context otherwise requires:

10 (8) "Employment" means any trade, occupation, job, position, or
11 process of manufacture or any method of carrying on any trade,
12 occupation, job, position, or process of manufacture in which any person
13 may be engaged; except that it shall not include participation in a
14 ridesharing arrangement, as defined in section ~~10-4-707.5 (2)~~ 39-22-509
15 (1) (a) (II), C.R.S., and participation in such a ridesharing arrangement
16 shall not affect the wages paid to or hours or conditions of employment
17 of an employee; nor shall it include the employee's participation in a
18 voluntary recreational activity or program, regardless of whether the
19 employer promoted, sponsored, or supported the recreational activity or
20 program.

21 **SECTION 25. Repeal.** 18-1.3-602 (2.5), Colorado Revised
22 Statutes, is repealed as follows:

23 **18-1.3-602. Definitions.** As used in this part 6, unless the context
24 otherwise requires:

25 (2.5) ~~"PIP" means personal injury protection, as defined in section~~
26 ~~10-4-703 (11), C.R.S.~~

27 **SECTION 26.** 18-1.3-603 (8) (c) (I), (8) (c) (II) (B), and (8) (d),

1 Colorado Revised Statutes, are amended to read:

2 **18-1.3-603. Assessment of restitution - corrective orders.**

3 (8) (c) (I) Except as otherwise provided in this paragraph (c), a court may
4 not award restitution to a victim concerning a pecuniary loss for which
5 the victim has received or is entitled to receive benefits or reimbursement
6 under a policy of insurance or other indemnity agreement. ~~including but~~
7 ~~not limited to PIP benefits.~~

8 (II) (B) ~~A victim, as defined in section 18-1.3-602 (4) (a) (III),~~
9 ~~may be awarded restitution for PIP benefits or equivalent benefits paid to~~
10 ~~another only if the court finds that the defendant on the date of the~~
11 ~~offense did not meet state compulsory insurance requirements.~~

12 (d) (I) ~~If, at the time of an offense for which a victim seeks~~
13 ~~restitution, the victim owned and operated a vehicle involved in the~~
14 ~~offense, or knowingly permitted the operation of a vehicle involved in the~~
15 ~~offense that was not covered by a complying insurance policy, the court's~~
16 ~~restitution order shall not include damages that would have been covered~~
17 ~~under a complying policy containing PIP or PIP-equivalent benefits~~
18 ~~except upon the specific request of the prosecuting attorney and with the~~
19 ~~approval of the court.~~

20 (II) Nothing in this paragraph (d) shall prohibit a ~~non-owner~~
21 ~~NONOWNER~~ driver or passenger in the vehicle from being awarded
22 restitution if the driver or passenger was not covered by his or her own
23 ~~complying PIP~~ MEDICAL PAYMENTS COVERAGE policy.

24 **SECTION 27.** 24-82-103 (4) (a), Colorado Revised Statutes, is
25 amended to read:

26 **24-82-103. Off-street parking - financing.** (4) (a) Moneys
27 received pursuant to this section in excess of those necessary to pay

1 current capital and operating costs, which moneys to pay such costs are
2 hereby appropriated, shall be deposited to the credit of a special account
3 within the state treasury, and such moneys shall be expended only for
4 incentives and programs to increase state employee participation in
5 ridesharing arrangements, as defined in section ~~10-4-707.5(2)~~ 39-22-509
6 (1) (a) (II), C.R.S., and state employee use of bicycles or mass transit.

7 **SECTION 28.** 39-22-509 (1) (a), Colorado Revised Statutes, is
8 amended to read:

9 **39-22-509. Mass transit and ridesharing arrangements -**
10 **employer deductions.** (1) There shall be allowed to corporate
11 employers a deduction from Colorado gross income, to the extent not
12 previously deducted in arriving at Colorado gross income, equal to the
13 employer's contribution to:

14 (a) (I) Free or partially subsidized ridesharing arrangements ~~as~~
15 ~~defined in section 10-4-707.5(2), C.R.S.,~~ for employees, including, but
16 not limited to, providing vehicles for such arrangements, cash incentives
17 (not to exceed the value of such transportation) for participation in
18 ridesharing arrangements, and the payment of all or part of the
19 administrative cost incurred in organizing, establishing, or administering
20 a ridesharing program; and

21 (II) FOR THE PURPOSES OF THIS SECTION, "RIDESHARING
22 ARRANGEMENT" MEANS THE VEHICULAR TRANSPORTATION OF PASSENGERS
23 TRAVELING TOGETHER PRIMARILY TO AND FROM SUCH PASSENGERS'
24 PLACES OF BUSINESS OR WORK OR TRAVELING TOGETHER ON A REGULARLY
25 SCHEDULED BASIS WITH A COMMONALITY OF PURPOSES TO AND FROM
26 SHOPPING, HEALTH, EDUCATIONAL, RELIGIOUS, ATHLETIC, OR SPORTS
27 FACILITIES IF THE VEHICLE USED IN SUCH TRANSPORTATION IS NOT

1 OPERATED FOR PROFIT BY AN ENTITY PRIMARILY ENGAGED IN THE
2 TRANSPORTATION BUSINESS AND IF NO CHARGE IS MADE THEREFOR OTHER
3 THAN THAT REASONABLY CALCULATED TO RECOVER THE DIRECT AND
4 INDIRECT COSTS OF THE "RIDESHARING ARRANGEMENT", INCLUDING, BUT
5 NOT LIMITED TO, A REASONABLE INCENTIVE TO MAXIMIZE OCCUPANCY OF
6 THE VEHICLE. HOWEVER, NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE
7 CONSTRUED AS EXCLUDING FROM THIS DEFINITION AN ARRANGEMENT BY
8 AN EMPLOYER ENGAGED IN THE TRANSPORTATION BUSINESS WHO
9 PROVIDES RIDESHARING ARRANGEMENTS FOR ITS EMPLOYEES. THE TERM
10 INCLUDES "RIDESHARING ARRANGEMENTS" COMMONLY KNOWN AS
11 CARPOOLS AND VANPOOLS; EXCEPT THAT THIS TERM DOES NOT INCLUDE
12 SCHOOL TRANSPORTATION VEHICLES OPERATED BY ELEMENTARY AND
13 SECONDARY SCHOOLS WHEN THEY ARE OPERATED FOR THE
14 TRANSPORTATION OF CHILDREN TO OR FROM SCHOOL OR ON
15 SCHOOL-RELATED EVENTS.

16 **SECTION 29.** 40-1-102 (3) (b), Colorado Revised Statutes, is
17 amended to read:

18 **40-1-102. Definitions.** As used in articles 1 to 7 of this title,
19 unless the context otherwise requires:

20 (3) (b) "Common carrier" does not include a ridesharing
21 arrangement, as defined in section ~~40-4-707.5(2)~~ 39-22-509 (1) (a) (II),
22 C.R.S., or a motor vehicle carrier exempt from regulation as a public
23 utility, as defined in section 40-16-101 (4).

24 **SECTION 30.** 40-10-101 (4) (a), Colorado Revised Statutes, is
25 amended to read:

26 **40-10-101. Definitions.** As used in this article, unless the context
27 otherwise requires:

1 (4) (a) "Motor vehicle carrier" means every person, lessee, trustee,
2 receiver, or trustee appointed by any court whatsoever owning,
3 controlling, operating, or managing any motor vehicle used in serving the
4 public in the business of the transportation of persons for compensation
5 as a common carrier over any public highway between fixed points or
6 over established routes or otherwise, whether such business or
7 transportation is engaged in or transacted by contract or otherwise; except
8 that the term "motor vehicle carrier" does not include a ridesharing
9 arrangement, as defined in section ~~10-4-707.5 (2)~~ 39-22-509 (1) (a) (II),
10 C.R.S., or a motor vehicle carrier exempt from regulation as a public
11 utility, as defined in section 40-16-101 (4).

12 **SECTION 31.** 40-11-101 (3), Colorado Revised Statutes, is
13 amended to read:

14 **40-11-101. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (3) "Contract carrier by motor vehicle" means every corporation,
17 person, firm, association of persons, lessee, or trustee or any receiver or
18 trustee appointed by any court, other than motor vehicle carriers as
19 defined by section 40-10-101 (4) (a), owning, controlling, operating, or
20 managing any motor vehicle in the business of transporting persons for
21 compensation or hire, over any public highway of this state between fixed
22 points or over established routes or otherwise, by special contract or
23 otherwise; except that the term "contract carrier by motor vehicle" does
24 not include a ridesharing arrangement, as defined in section ~~10-4-707.5~~
25 ~~(2)~~ 39-22-509 (1) (a) (II), C.R.S., or a motor vehicle carrier exempt from
26 regulation as a public utility, as defined in section 40-16-101 (4).

27 **SECTION 32.** 40-11.5-102 (5) (b), Colorado Revised Statutes,

1 is amended to read:

2 **40-11.5-102. Lease provisions.** (5) (b) For purposes of this
3 subsection (5), "similar coverage" means disability insurance for on and
4 off the job injury, health insurance, and life insurance. The specifications
5 of such insurance, including the amount of any deductible, shall meet or
6 exceed standards set by the division of insurance in the department of
7 regulatory agencies, and such standards shall specify that the benefits
8 offered by such insurance coverage shall be at least comparable to the
9 benefits offered under the workers' compensation system. ~~"Similar~~
10 ~~coverage" does not mean motor vehicle insurance pursuant to the~~
11 ~~requirements of section 10-4-706, C.R.S.~~

12 **SECTION 33.** 42-5-112 (2) (a) (III) (A), Colorado Revised
13 Statutes, is amended to read:

14 **42-5-112. Automobile theft prevention authority - board -**
15 **creation - duties - rules - fund - repeal.** (2) (a) There is hereby created
16 the automobile theft prevention board, referred to in this section as the
17 "board", which shall consist of nine members as follows:

18 (III) Seven members appointed by the governor as follows:

19 (A) Three representatives of insurance companies who are
20 authorized to issue motor vehicle insurance policies pursuant to part 7 6
21 of article 4 of title 10, C.R.S.;

22 **SECTION 34.** 42-7-510 (1), Colorado Revised Statutes, is
23 amended to read:

24 **42-7-510. Insurance or bond required.** (1) Every owner of a
25 truck ~~which~~ THAT is subject to the registration fee imposed pursuant to
26 section 42-3-134 (13) (b) or (15) and ~~which~~ THAT is not subject to
27 regulation by the public utilities commission under article 10, 11, 13, or

1 16 of title 40, C.R.S., before operating or permitting the operation of such
2 vehicle upon any public highway in this state shall have in each such
3 vehicle a motor vehicle liability insurance policy or a certificate
4 evidencing such policy issued by an insurance carrier or insurer
5 authorized to do business in the state of Colorado, or a copy of a valid
6 certificate of self-insurance issued pursuant to section ~~10-4-716~~ 10-4-624,
7 C.R.S., or a surety bond issued by a company authorized to do a surety
8 business in the state of Colorado in the sum of fifty thousand dollars for
9 damages to property of others; the sum of one hundred thousand dollars
10 for damages for or on account of bodily injury or death of one person as
11 a result of any one accident; and, subject to such limit as to one person,
12 the sum of three hundred thousand dollars for or on account of bodily
13 injury to or death of all persons as a result of any one accident.

14 **SECTION 35.** 42-7-604 (5) (a) (I), Colorado Revised Statutes,
15 is amended to read:

16 **42-7-604. Motorist insurance identification database program**
17 **- creation - administration - selection of designated agent - legislative**
18 **declaration.** (5) (a) Not later than January 1, 1999, the designated agent,
19 using its own computer network, shall develop and maintain a computer
20 database with information provided by:

21 (I) Insurers, pursuant to section 10-4-615, C.R.S.; except that any
22 person who qualifies as self-insured pursuant to section ~~10-4-716~~
23 10-4-624, C.R.S., shall not be required to provide information to the
24 designated agent; and

25 **SECTION 36.** 42-7-605 (5), Colorado Revised Statutes, is
26 amended to read:

27 **42-7-605. Notice of lack of financial responsibility.** (5) Prior

1 to the reinstatement of any motor vehicle registration that has been
2 suspended pursuant to subsection (1) of this section, the owner of such
3 motor vehicle shall provide to the department proof of insurance coverage
4 in accordance with section ~~10-4-705~~ 10-4-619, C.R.S., proof of
5 self-insurance in accordance with section ~~10-4-716~~ 10-4-624, C.R.S., or
6 proof of an exemption from any such financial security requirements.

7 **SECTION 37. Applicability.** This act shall apply to property
8 and casualty claims filed on or after the effective date of this act.

9 **SECTION 38. Safety clause.** The general assembly hereby
10 finds, determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.