

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 05-0764.01 Kristen Forrestal

HOUSE BILL 05-1297

HOUSE SPONSORSHIP

Green,

SENATE SPONSORSHIP

Mitchell,

House Committees

Business Affairs and Labor

Senate Committees

Business, Labor and Technology

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE "NONADMITTED INSURANCE ACT".**

Bill Summary

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

Exempts insurance on satellites or other devices intended for launch beyond the earth's atmosphere from the statutory provisions governing transactions with nonadmitted insurers. Requires a licensed broker who places an exempt type of insurance with a nonadmitted insurer to keep the record of coverage in the broker's office. Exempts transactions with exempt commercial policyholders from the disclosure requirements regarding claims-made policies by surplus line brokers or insurers.

Updates statutory language to include gender-neutral terms.

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.

SENATE
2nd Reading Unamended
March 29, 2005

HOUSE
3rd Reading Unamended
March 2, 2005

HOUSE
2nd Reading Unamended
February 28, 2005

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

2 **SECTION 1.** 10-5-101.5, Colorado Revised Statutes, is amended
3 to read:

4 **10-5-101.5. Exemptions.** (1) The provisions of this article
5 controlling the placing of insurance with nonadmitted insurers shall not
6 apply to reinsurance or, except as to subsection (2) of this section, to the
7 following types of insurance when placed by licensed agents or brokers
8 of this state:

9 (a) Insurance on vessels or crafts or their hulls or cargoes or on
10 marine builders' risks or marine protection and indemnity or other risks,
11 including strikes and war risks commonly insured under ocean or wet
12 marine forms of policy;

13 (b) Insurance on subjects located, resident, or to be performed
14 wholly outside of this state or on vehicles or aircraft owned and
15 principally garaged outside this state;

16 (c) Insurance on the operations of railroads engaged in
17 transportation in interstate commerce and their property used in such
18 operations;

19 (d) Insurance on aircraft owned or operated by manufacturers of
20 aircraft or on aircraft operated in commercial scheduled interstate flight
21 or the cargo of such aircraft or against liability, other than workers'
22 compensation and employers' liability, arising out of the ownership,
23 maintenance, or use of such aircraft;

24 (e) INSURANCE ON SATELLITES OR OTHER DEVICES INTENDED FOR
25 LAUNCH BEYOND THE EARTH'S ATMOSPHERE.

26 (2) Brokers placing any insurance referred to in subsection (1) of

1 this section shall keep a full and true record of each such coverage in
2 detail as required of surplus line insurance under this article. The record
3 shall be preserved for not less than three years ~~from~~ AFTER the effective
4 date of the insurance; shall be kept in ~~this state~~ THE BROKER'S OFFICE and
5 open to the COMMISSIONER'S examination ~~of the commissioner, at his~~
6 ~~request~~ and on forms designated and furnished by ~~him~~ THE
7 COMMISSIONER; and shall contain a report of all such coverages so placed
8 in a designated calendar year.

9 **SECTION 2.** 10-5-112, Colorado Revised Statutes, is amended
10 to read:

11 **10-5-112. Penalty for failure to comply.** If any surplus line
12 broker fails to file ~~his~~ THE annual statement, or fails to remit the tax
13 provided by section 10-5-111, prior to the first day of April after the tax
14 is due, ~~he~~ THE BROKER shall be liable for a fine of twenty-five dollars for
15 each day of delinquency commencing with the first day of April. The tax
16 may be collected by distraint, or the tax and fine may be recovered by an
17 action instituted by the commissioner in any court of competent
18 jurisdiction.

19 **SECTION 3.** 10-5-113 (1) (a), (2), and (4), Colorado Revised
20 Statutes, are amended to read:

21 **10-5-113. Revocation of broker's license.** (1) The
22 commissioner may revoke any surplus line broker's license:

23 (a) If the broker fails to file ~~his~~ THE annual statement or to remit
24 the tax as required by this article; or

25 (2) The commissioner may suspend or revoke any such license
26 whenever ~~he~~ THE COMMISSIONER deems suspension or revocation to be
27 for the best interest of the people of this state.

1 (4) No broker whose license has been so revoked or suspended
2 shall again be so licensed within one year thereafter or until any fines or
3 delinquent taxes owing by ~~him~~ THE BROKER have been paid.

4 **SECTION 4.** 10-5-116, Colorado Revised Statutes, is amended
5 to read:

6 **10-5-116. Records produced on order.** Every person for whom
7 insurance is placed with a nonadmitted insurer pursuant to or in violation
8 of this article, upon the commissioner's order, shall produce for ~~his~~ THE
9 COMMISSIONER'S examination all policies and other documents evidencing
10 the insurance and shall disclose to the commissioner the amount of the
11 gross premiums paid or agreed to be paid for the insurance. For each
12 refusal to obey such order, such person shall be liable to a fine of not
13 more than ten thousand dollars.

14 **SECTION 5.** 10-5-119, Colorado Revised Statutes, is amended
15 to read:

16 **10-5-119. Disclosures regarding claims-made policies by**
17 **surplus line brokers or insurers.** (1) In the event that a contract
18 procured or placed by a Colorado surplus line broker is on a claims-made
19 or other nonoccurrence policy form, the broker or the nonadmitted insurer
20 shall stamp on the face of the policy a clear disclosure, as prescribed by
21 the commissioner, which shall be in predominate type.

22 (2) THE DISCLOSURE REQUIREMENT IN SUBSECTION (1) OF THIS
23 SECTION SHALL NOT APPLY TO TRANSACTIONS WITH EXEMPT COMMERCIAL
24 POLICYHOLDERS AS DEFINED BY SECTION 10-4-1402 AND THE RULES
25 ADOPTED BY THE COMMISSIONER PURSUANT TO SUCH SECTION.

26 **SECTION 6. Effective date - applicability.** (1) This act shall
27 take effect January 1, 2006.

1 (2) However, if a referendum petition is filed against this act or
2 an item, section, or part of this act during the 90-day period after final
3 adjournment of the general assembly that is allowed for submitting a
4 referendum petition pursuant to article V, section 1 (3) of the state
5 constitution, then the act, item, section, or part, shall not take effect
6 unless approved by the people at a biennial regular general election and
7 shall take effect on the date specified in subsection (1) or on the date of
8 the official declaration of the vote thereon by proclamation of the
9 governor, whichever is later.

10 (3) The provisions of this act shall apply to policies issued on or
11 after the applicable effective date of this act.