

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 08-0411.01 Kristen Forrestal

HOUSE BILL 08-1228

HOUSE SPONSORSHIP

Green,

SENATE SPONSORSHIP

Gordon,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING FINANCIAL RESPONSIBILITY FOR UNFAIR BUSINESS**
102 **PRACTICES IN THE SALE OF INSURANCE.**

Bill Summary

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

Authorizes the commissioner of insurance to collect restitution from insurance producers and insurance companies for wrongful acts. Requires an insurer to be financially responsible for the unfair business practices of an insurance producer authorized to sell a product or plan of the insurer, if the insurer knew or should have known about the unfair business practices.

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.

HOUSE
Amended 3rd Reading
February 27, 2008

HOUSE
Amended 2nd Reading
February 26, 2008

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

2 **SECTION 1.** The introductory portion to 10-2-801 (1), Colorado
3 Revised Statutes, is amended, and the said 10-2-801 is further amended
4 **BY THE ADDITION OF A NEW SUBSECTION**, to read:

5 **10-2-801. Licenses - denial, suspension, revocation,**
6 **termination - reporting of actions - definitions.** (1) The commissioner
7 may place AN INSURANCE PRODUCER on probation; suspend, revoke, OR
8 refuse to ISSUE, continue, or renew ~~refuse to issue~~ an insurance producer
9 license; **ORDER RESTITUTION TO BE PAID FROM AN INSURANCE PRODUCER;**
10 or assess a civil penalty pursuant to section 10-2-804 or 10-3-1108, if,
11 after notice to the insurance producer licensee and after A hearing HELD
12 in accordance with sections 24-4-104 and 24-4-105, C.R.S., the
13 commissioner finds that as to the licensee or applicant any one or more
14 of the following conditions exist:

15 (5) **FOR THE PURPOSES OF THIS SECTION, "RESTITUTION" MEANS**
16 **BENEFITS OR MONEYS OWED DUE TO THE REGULATED ENTITY'S INCORRECT**
17 **ACTION OR WRONGDOING.**

18 **SECTION 2.** 10-3-105, Colorado Revised Statutes, is amended
19 **BY THE ADDITION OF A NEW SUBSECTION** to read:

20 **10-3-105. Certificate of authority to do business - companies**
21 **prohibited - definitions.** (4) (a) THE COMMISSIONER MAY **ORDER AN**
22 **INSURER TO PAY RESTITUTION** TO A PERSON, IF, AFTER NOTICE TO THE
23 INSURER AND AFTER A HEARING HELD IN ACCORDANCE WITH SECTIONS
24 24-4-104 AND 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT THE
25 INSURER HAS VIOLATED THE PROVISIONS OF THIS ARTICLE OR THAT THE
26 INSURER IS FINANCIALLY RESPONSIBLE FOR THE UNFAIR BUSINESS

1 PRACTICES OF AN INSURANCE PRODUCER PURSUANT TO SECTION 10-3-131.

2 (b) AS USED IN THIS SUBSECTION (4), "INSURANCE PRODUCER"
3 SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 10-2-103 (6).

4 (c) FOR THE PURPOSES OF THIS SUBSECTION (4), "RESTITUTION"
5 MEANS BENEFITS OR MONEYS OWED DUE TO THE REGULATED ENTITY'S
6 INCORRECT ACTION OR WRONGDOING.

7 **SECTION 3.** Part 1 of article 3 of title 10, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 **10-3-131. Acts of producers - responsibility of the insurer -**
11 **definitions.** (1) AN INSURER AUTHORIZED TO CONDUCT BUSINESS
12 IN THIS STATE, WHO KNEW OR SHOULD HAVE KNOWN ABOUT THE UNFAIR
13 BUSINESS PRACTICES OF AN INSURANCE PRODUCER, MAY BE FINANCIALLY
14 RESPONSIBLE FOR THE UNFAIR BUSINESS PRACTICES OF THE INSURANCE
15 PRODUCER, WHO, WHILE ACTING ON BEHALF OF THE INSURER, ENGAGED IN
16 UNFAIR BUSINESS PRACTICES THAT VIOLATE THIS TITLE.

17 (2) AS USED IN THIS SECTION, "INSURANCE PRODUCER" SHALL
18 HAVE THE MEANING SET FORTH IN SECTION 10-2-103.

19 **SECTION 4. Effective date - applicability.** (1) This act shall
20 take effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly that is
22 allowed for submitting a referendum petition pursuant to article V,
23 section 1 (3) of the state constitution, (August 6, 2008, if adjournment
24 sine die is on May 7, 2008); except that, if a referendum petition is filed
25 against this act or an item, section, or part of this act within such period,
26 then the act, item, section, or part, if approved by the people, shall take
27 effect on the date of the official declaration of the vote thereon by

- 1 proclamation of the governor.
- 2 (2) The provisions of this act shall apply to acts or occurrences on
- 3 or after the applicable effective date of this act.