

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

**REREVISED**

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

LLS NO. 08-0411.01 Kristen Forrestal

**HOUSE BILL 08-1228**

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**HOUSE SPONSORSHIP**

**Green,**

**SENATE SPONSORSHIP**

**Gordon,**

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**House Committees**

Business Affairs and Labor

**Senate Committees**

Business, Labor and Technology

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**A BILL FOR AN ACT**

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

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**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.*

SENATE  
3rd Reading Unamended  
March 27, 2008

SENATE  
Amended 2nd Reading  
March 26, 2008

HOUSE  
Amended 3rd Reading  
February 27, 2008

HOUSE  
Amended 2nd Reading  
February 26, 2008

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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 ==  
17 VIOLATION OF THIS TITLE.

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 THIS TITLE OR THAT THE INSURER IS FINANCIALLY  
26 RESPONSIBLE FOR THE UNFAIR BUSINESS PRACTICES OF AN INSURANCE

1 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 VIOLATION OF THIS TITLE.

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.