

Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1978
COMMITTEE ON:**

INSURANCE



VOLUME III

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 224

December, 1977

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COLORADO GENERAL ASSEMBLY

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The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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COLORADO DIVISION
OF
INSURANCE

*Colorado Legislative Council recommendations
for 1975.*

Colorado Legislative Council,
Report to the
Colorado General Assembly

Research Publication No. 224

December, 1977

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LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
839 3521
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December 7, 1977

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REP. RUBEN A. VALDEZ

To Members of the Fifty-first Colorado General Assembly:

The accompanying report and recommendations relating to a study and review of the Colorado Division of Insurance was accepted by the Legislative Council for transmission to the Governor and to the members of the Fifty-first General Assembly. All the bills in this report, with the exception of Bill 6, are transmitted with favorable recommendation.

A motion to transmit Bill 6, without recommendation, was defeated by the Legislative Council at the November 28th meeting.

Respectfully submitted,

/s/ Representative Carl Gustafson
Chairman

CG/pm

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Representative Carl Gustafson, Chairman
Colorado Legislative Council
Room 46, State Capitol Building
Denver, CO 80203

Dear Representative Gustafson:

Submitted herewith is the report of your Committee on Insurance. The committee held a total of six meetings. The first meeting was devoted to a review of a report by the Executive Director of the Department of Regulatory Agencies and a performance audit of the Division of Insurance prepared by the State Auditor. Subsequently, testimony was given by various individuals and organizations representing both insurance consumers and industry. The Commissioner of Insurance reported to the committee on activities of the Division of Insurance and submitted his comments concerning various recommendations contained in the DORA and Audit reports.

One meeting was devoted specifically to insurance consumers. With the cooperation of the newspaper and broadcast media, committee members and staff provided public notice of this meeting.

The regulation of insurance is an extremely complex matter, and the committee simply did not have time to complete a detailed revision of draft proposals. Thus, the bills submitted with this report were approved in concept.

Very truly yours,

/s/ Representative John Hamlin
Chairman
Committee on Insurance

JH/pm

FOREWORD

The Colorado Legislative Council appointed a committee to study and review the Colorado Division of Insurance in the Department of Regulatory Agencies. The report is one of the so-called "Sunset" studies.

A significant amount of written material and oral testimony relating to insurance regulation was presented to the committee during the study. The committee wishes to express its appreciation to the many members of the insurance industry, various state officials, and those insurance consumers who provided information during the course of the study. A particular expression of gratitude is made to the following persons who contributed a great deal of time and effort in the study of Colorado insurance regulation: Insurance Commissioner J. Richard Barnes and members of his staff; Dr. Michael March, and interns Daniel Hall and Harry Rogoff, of the University of Colorado; Robert Dineen, of the National Association of Insurance Commissioners; Robert Brooks, Deputy Director of the Department of Regulatory Agencies; Robert Waxman, Deputy State Auditor, and staff members of the Auditor's Office; and Bernard Tessler, representing senior citizens' groups.

Mr. Vince Hogan and Ms. Becky Lennahan from the Legislative Drafting Office were responsible for preparation of the committee's bills. David F. Morrissey and James Gottschalk of the Legislative Council staff prepared the committee's report.

December, 1977

Lyle C. Kyle
Director

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LEGISLATIVE COUNCIL
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COMMITTEE RECOMMENDATIONS

Historical Perspective

The Colorado Division of Insurance is one of 50 state agencies regulating the insurance industry in the United States. Apparently, an 1869 decision by the U.S. Supreme Court paved the way for state regulation of the insurance industry, rather than the growth of a federal regulatory system. In Paul v. Virginia (1869), 8 Wall. 168, the United States Supreme Court held that the issuance of an insurance policy was not a transaction of commerce. This ruling was generally thought to mean that insurance did not come under the interstate commerce clause of the U.S. Constitution.

In the 19th century, insurance companies encountered problems of severe competition in which rate-cutting and high commissions for agents posed problems of solvency for many companies. To stabilize pricing, the industry formulated local boards to set uniform premium rates. A National Board of Fire Underwriters was also created in 1866. The board was not completely successful and rate-cutting, coupled with losses incurred in the Chicago Fire, ruined a number of companies.

In 1910, Kansas adopted the first rate regulatory law. ^{1/} The U.S. Supreme Court upheld this law in German Alliance Insurance Co. v. Lewis (1912) 233 U.S. 389. In 1911 New York adopted legislation which permitted rating bureaus to fix rates and to require those to be filed with the state insurance commissioner. ^{2/} Subsequently, the National Association of Insurance Commissioners recommended the supervision of rating bureaus, suggested that each company be required to be a member of a rating bureau, and that bureau rates be reviewed by state regulatory agencies. In general, the basic pattern of rate regulation that emerged in the early part of the 20th century involved the use of bureau rates. The primary concern of public policy was to ensure that rates were adequate to protect companies from insolvency.

^{1/} National Association of Insurance Commissioners, Monitoring Competition: A Means of Regulating the Property and Liability Insurance Business, Vol. I, 1974, pages 1-17.

^{2/} New York State Insurance Department, The Public Interest Now in Property and Liability Insurance, 1969.

In 1944, the U.S. Supreme Court reversed its earlier position and held that insurance was indeed commerce and, therefore, subject to interstate regulation (United States v. South-Eastern Underwriters Association, 322 U.S. 533). The South-Eastern case prompted a great deal of controversy, particularly since it seemed to imply that the various state regulatory mechanisms would need to be dismantled in deference to a new federal regulatory authority.

Congress supported the state regulatory system by enacting the McCarran-Ferguson Act (1945 Session). This act reaffirmed federal authority to preempt the insurance regulatory field, but also recognized the existence of significant state regulatory mechanisms. It reconciled the two viewpoints by providing that the federal authority, including the application of the Sherman, Clayton, and Federal Trade Commission Acts, be held in abeyance so long as the industry was significantly regulated by state law.

Possible effect of Sunset termination or deregulation. Section 24-34-104 (2) (a), C.R.S. 1973 (Colorado Sunset Law), provides for the expiration of the Division of Insurance on July 1, 1977, but subsection (5) of this section permits the division to continue to function until July 1, 1978. Unless the Governor places this matter on his agenda for the 1978 legislative session, and legislation is enacted in the 1978 session, the Division of Insurance would cease to exist next July 1.

Deregulation of the insurance industry in Colorado would have national implications under the McCarran-Ferguson Act and the cooperative programs of regulation established through the joint efforts of the various state commissioners of insurance through the National Association of Insurance Commissioners. At present, cooperative programs exist for the examination of insurance companies, including an early warning system, in which state regulatory agencies are notified of changes in a company's financial condition, a program for cross checking of licenses, research projects, and other cooperative activities. There also could be a substantial fiscal impact to the State of Colorado if the termination date under Sunset occurred without specific legislation to continue or replace the existing taxes collected on gross premiums of insurance policies.

"Colorado Law provides for a 2 1/4% premium tax on all premiums received by the companies doing business in Colorado. This is modified in two basic ways. First, any company maintaining a qualified Home Office operation or a qualified Regional Home Office operation in Colorado pays only 1% premium tax. Other foreign (non-Colorado) companies pay the higher of 2 1/4% or the rate of tax their state of domicile charges Colorado companies doing business there. This reaches as high as 4% in some cases, but varies greatly from state to state." 3/

3/ Report of the Commissioner of Insurance to the Colorado Legislative Council Committee on Insurance, July 29, 1977.

The five percent tax on the net taxable income of corporations would yield only a portion of the revenue generated by the tax on gross premiums, at least based on national corporate income and profit data. 4/ Total premium taxes collected by the Division of Insurance exceeded \$27 million for 1976-77, compared to income tax receipts for all corporations of about \$72 million.

Continued State Regulation of the Insurance Industry

The performance audit prepared by the State Auditor for the Division of Insurance specifically found a definite need for the continued state regulation of insurance. In part, the report states:

This need arises from the highly sophisticated nature of insurance contract law and concepts with which the public is not adequately familiar to protect itself. Regulation can provide protection for the public by ensuring that insurance companies are solvent and able to meet policy obligations. The Division's efforts in this area appear to be successful since only two domestic insurance companies have been placed in receivership by the Commissioner during his 13-year tenure.

Public needs also include: adequate insurance policies and contracts, fair premium rates, timely and fair claim processing, and adequate complaint processes....

The principal finding of the report of the Executive Director of the Department of Regulatory Agencies is that:

... the public interest requires continuation of regulation of the insurance industry in order to protect the consumer's vast investments in future policy benefits and to ensure that the consumers get the best policies and service possible for their insurance dollars....

The committee supports the continued state regulation of the insurance industry. Bill 1 is recommended in concept.

"Accountability" of the Commissioner of Insurance

In the course of committee hearings, reference was made, on a number of occasions, to the "accountability" of the Commissioner of Insurance. The commissioner is appointed pursuant to the provisions

4/ Based on data from U.S. Department of Commerce reports: Statistical Abstract of the U.S., 1975, Table 628, and Survey of Current Business, July, 1977, Vol. 57, No. 7.

of Article XII, Section 13, Colorado Constitution -- the State Personnel System. Specifically, the State Personnel System consists of all appointive public officers and employees of the state, except those specifically exempted by the constitution. Since there is no constitutional exemption from the State Personnel System for individuals serving as division heads, it would probably take a constitutional amendment to remove the Commissioner of Insurance from the personnel system.

Briefly, a person appointed to a position under the personnel system must be one of three persons ranking highest on an eligibility list for that position, developed on the basis of merit "ascertained by competitive tests of competence". Personnel system employees hold their positions "during efficient service". Dismissal, suspension, or discipline may occur only upon written findings by the appointing authority of: (a) failure to comply with standards of efficient service or competence; (b) willful misconduct; (c) willful failure or inability to perform duties; or (d) final conviction of a felony or offense involving moral turpitude. These written findings are subject to appeal to the State Personnel Board.

The Division of Insurance has been established under the Department of Regulatory Agencies under a Type 1 transfer. The executive director of the department is appointed by the Governor, subject to confirmation by the Senate. He, in turn, appoints the Commissioner of Insurance, pursuant to the provisions of Article XII, Section 13. All employees within the division, excluding the assistant attorney general assigned to the division, are appointed by the commissioner.

Under a Type 1 transfer, the Commissioner of Insurance exercises the "... statutory powers, duties, and functions, including rule-making, regulation, licensing, and registration, the promulgation of rules, rates, regulations and standards ... independently of the head of the principal department." ^{5/} The department head does exercise budgeting, planning, and purchasing authority over all divisions.

Arguments against the present system. Some persons believe that the Colorado Commissioner of Insurance is too isolated by the present provisions of the State Personnel System. Colorado is the only state in which the insurance commissioner is a civil service employee. In 39 states the insurance commissioner is appointed, and in 11 states he is elected. Texas has a full-time state insurance board and there is a part-time board in South Carolina. Those persons supporting an appointive position or an appointive board argue that public officers who set policy are generally elected or, at least, appointed by an elective official. Thus, appointees are more directly accountable to changes in the political climate.

^{5/} 24-1-105 (1), C.R.S. 1973, as amended.

Arguments for the present system. Persons supporting the present arrangement in which the commissioner is under the State Personnel System believe that decisions made by the commissioner should not involve political considerations. It is argued by some that the office of commissioner should not be a stepping stone for political careers, and that political considerations should not be an impediment to a stable regulatory system.

The present system has its own checks and balances. Through various mechanisms for legislative oversight, the General Assembly establishes policy and accountability. Recourse also is available through the courts if the commissioner is not carrying out legislative policy. Finally, persons supporting the present system believe there are adequate procedures established under the personnel system for removal of a commissioner who is not functioning in a satisfactory manner.

Committee recommendation. Specifically, the committee recommends that the Division of Insurance be continued and that the Sunset Law be amended to revise the expiration date for the Division of Insurance to July 1, 1983. A majority of the members of the committee also supported continuation of the Division of Insurance under a Commissioner of Insurance. This recommendation would be implemented by the provisions of Bill 11.

The committee supports the concept of a constitutional amendment which would allow the gubernatorial appointment of a Commissioner of Insurance. It is recommended that such a proposal should not apply to the present Insurance Commissioner, but should be applicable to subsequent Insurance Commissioners.

"Open Competition" -- Recent Evolution in Insurance Rate Regulation

As previously mentioned, the state regulation of insurance rates evolved out of the system of approval of rates established by rating bureaus. Gradually, individual companies were permitted to establish rates based on their own loss experiences. These rates were subject to approval by state insurance commissioners. A few states, Massachusetts and Texas, for example, elected to set their own rates. In general, states utilizing bureau established rates or modifications thereof have been classified as "prior approval" states.

Recent studies by the National Association of Insurance Commissioners and the Insurance Department of the State of New York support greater emphasis on allowing market forces to assume a major role in the determination of rates. The Department of Regulatory Agencies report also supports the market mechanism. States emphasizing market determination of rates are classified as "open-competition" states. Colorado is one of 16 states which has some form of open competition in rate regulation. A recent review by the Division of Insurance lists the following states as open-competition, or modified open-competition states in fire and casualty lines:

California
Colorado
Connecticut
Florida

Georgia
Idaho
Minnesota
Missouri

Montana
Nevada
New Mexico
New York

Oregon
Utah
Virginia
Wisconsin

In addition, Illinois does not have any filing requirements for fire and casualty insurance. Apparently, litigation invalidated the Illinois law.

In California, rates are not filed with the state regulatory agency. In other states, considered as open-competition states, rates are filed with the state agency, but the rates may become effective without approval of the state agency. There are variations to this so-called "file and use" system. In some instances, the rates go into effect immediately, while other states establish a short delay before a rate may become effective.

Arguments for open competition. 6/ The following arguments have been offered in support of price competition and market determined rates:

- for most lines of insurance, there is competition from a large number of companies, and the insurance industry is not like a utility in which the consumer is limited in his choice of a product;
- the rating system is not an exact science in which certain measured losses are easily identified and rates readily projected;
- elimination of restrictions in the rate structure permits more flexibility in the provision of the insurance product and provides an opportunity for more specialization and a wider variety of services;
- flexibility in rate setting allows quicker adjustments to market conditions of the economy over which the insurance industry has no control; and
- may allow a reduction in the workload of the insurance regulatory agency and permit it to spend more time in assisting consumers.

6/ Public Hearing before Assembly Commerce, Banking and Insurance Committee on Insurance Ratemaking, Trenton, New Jersey: 1976; and

The New York State Insurance Department, Cartels vs. Competition: A Critique of Insurance Price Regulation, New York Department of Insurance, 1975.

"File and use" in Colorado. The Colorado General Assembly first adopted a modified open-competition system in the 1971 session. The Colorado program is classified as a "file and use" system. Under the provisions of this law, the General Assembly declared that the purpose of the open-competition law was to regulate in a manner that rates:

... not be excessive, inadequate, or unfairly discriminatory, to prohibit price-fixing agreements and other anticompetitive behavior by insurers, to promote price competition among insurers, to provide rates that are responsible to competitive market conditions, and to improve the availability and reliability of insurance....

Section 10-4-405 (3), C.R.S. 1973, requires that insurers must file rating changes on a monthly basis. Justification of rate changes must be filed at least quarterly.

Unprocessed filings. A performance audit of the Division of Insurance indicates that rate filings have created a major backlog in the division. In the fall of 1976, there was an estimated 33,000 unprocessed filings in the division's property and casualty unit. This backlog has been reduced, but about 60 percent of the backlog may be attributed to rate filings. The monthly filing of changes in rate schedules is considered unnecessary and is placing an unmanageable burden on the division. The committee recommends that Colorado follow the lead established by the State of California in the elimination of the rate filing requirement.

Committee recommendation. Bill 2 would implement the committee's recommendation to eliminate the present filing requirements and to expand Colorado's open-competition law to include other lines of insurance -- life, accident, health, and title insurance. The proposal would also place nonprofit health and hospital insurance in the same competitive position as private health and accident insurance.

Each company would have to maintain an accurate record of its rating structure and have this information available for inspection by the division. Bill 2 would place greater emphasis on the examination process and would probably result in a substantial redirection of the division's activity. Successful implementation would require strengthening the examination staff and release of other personnel for other services by the division. The bill also provides for an increase in the guaranty funds and surplus requirements of insurance companies. This provision was recommended in both the Audit and DORA reports.

Nonprofit Hospital and Health Service Corporations

Title 10, Article 16, C.R.S. 1973, provides for the regulation of nonprofit hospital and health service corporations, most notably Colorado Blue Cross and Blue Shield. Specifically, section 10-16-127, C.R.S. 1973, provides that the Commissioner of Insurance shall approve any rate filing. The competitors to a nonprofit corporation such as Blue Cross and Blue Shield are not as stringently controlled and are not subject to the same procedure for the approval of rate filings. The committee recommends, in concept, Bill 3 which would repeal provisions requiring prior approval of rates charged by nonprofit hospital and health service corporations. The proposal is designed to place these corporations in a more competitive position.

Licenses

There are over 83,000 licenses issued annually by the Division of Insurance. During fiscal year 1976-77, revenues from license and certification fees amounted to \$470,000. Section 10-2-205, C.R.S. 1973, states that an "... agent must have a license from the commissioner for each company for which business is solicited." Thus, many agents have more than one license. The division estimates that there are about 25,300 agents, 7,245 brokers, 1,112 adjusters, 419 pre-need agents.

Basic fee schedules for the annual licenses of agents, brokers, and adjusters follow:

<u>Type of License</u>	<u>Initial Fee</u>	<u>Renewal</u>
Agent	\$ 5.00	\$ 2.00
Broker	10.00	10.00
Adjuster	10.00	10.00

The committee believes that the annual issuance of licenses constitutes an unnecessary burden on both the Division of Insurance and the members of the insurance industry. Bill 4 is recommended by the committee, in concept, and would establish licenses for insurance agents, brokers, adjusters, and others, on a two-year basis. The two-year period was selected because this is utilized by other states and would facilitate reciprocal practices.

The committee also believes that the number of insurance agent licenses issued could be greatly reduced by elimination of the requirement that an insurance agent obtain a license for each company that he represents. Therefore, the committee recommends, in concept, Bill 5, which would eliminate the multiple license requirement and requires insurance companies to maintain a current list of agents with the division.

Licensing of insurance consultants. Apparently, there are a growing number of individuals who are providing independent analysis of a consumer's needs for insurance and are charging a fee for this service. Theoretically, the service is rendered on an unbiased, consulting basis. However, an individual may serve both in the capacity of an insurance consultant and as an agent or broker. There is no prohibition in the law to prevent a person from collecting a fee as a consultant and a commission as an insurance agent or broker. In order to eliminate any possible conflict of interest, the committee believes that an individual or firm which provides consulting services to a buyer of insurance should not be allowed to also collect commissions for the sale of such insurance. Bill 6 would implement this prohibition.

The skills required of a person acting in a consulting capacity may be more demanding than those required of an agent. The committee believes that if agents are to be licensed, it is logical to require that consultants be licensed. Licensing is an important mechanism to assist the commissioner in the enforcement of ethical standards of practice and to ensure minimum standards of competence. Bill 6, also would require the licensing of insurance consultants.

Medicare Supplemental Insurance

Despite the coverage of certain basic medical expenses for senior citizens under the Medicare provisions of the Social Security Act, many older persons are hard pressed to meet certain deductible and supplemental health expenses. In order to meet these costs, senior citizens are purchasing supplemental health insurance policies. In many instances, more than one policy is purchased by an individual in order to meet deductible or non-covered expenses. Many persons find the policies complex and hard to understand and this situation makes comparison shopping difficult. Furthermore, in purchasing more than one policy, there often is confusion as to whether the provisions of one policy overlap with the provisions of another policy.

Representatives of senior citizens organizations suggested that a major concern of seniors is to be sure that they are making effective use of their limited dollars when purchasing supplemental insurance. Loss ratios presented to the committee indicate that, in the area of supplemental insurance, the dollar return of some supplemental policies has been below 50 percent of premiums. To remedy this problem the committee recommends, in concept, Bill 7 which would allow the Commissioner of Insurance to establish minimum loss ratios for supplemental insurance policies for persons on the Federal Medicare program.

Bill 8 would require any insurance company issuing policies supplemental to Medicare to provide to prospective purchasers a standard form setting forth the benefits provided and other conditions of the policy, as prescribed by the Commissioner of Insurance. Also, the bill would require the mailing of a follow-up form to persons who have

purchased such policies to determine whether the purchaser was adequately informed and to offer to rescind the policy if the insured returns it within a specified period. This bill is recommended in concept.

In order to provide better information to aged persons concerning their insurance needs, the committee recommends that the Division of Insurance develop an insurance training program to assist volunteers and others working with aged. Bill 9 is recommended in concept.

Continuing Education of Agents

The National Association of Insurance Commissioners is in the process of preparing a model regulation or legislation for the continuing education of insurance agents and brokers. A few states, Kansas, Maine, Nevada, Oregon, and Pennsylvania, for example, have adopted by statute, or regulation, requirements for continuing education. The committee was concerned that it is difficult for agents to be continually informed with the rapid changes within the industry, as well as changes in federal and state laws. Programs could be developed in cooperation with the institutions of higher education or through training seminars offered by individual companies. Bill 10 is recommended, in concept, and would authorize the Commissioner of Insurance to approve not less than 15 hours of continuing education for agents and brokers during their licensing period.

Replacement Insurance

Representatives of the Colorado Investment Dealers Association testified that a regulation adopted by the Commissioner of Insurance (Regulation No. 72-7) was an impediment to competition in the replacement of life insurance coverage. Article VI(4) (C) of Regulation 72-7 states:

(4). Where a replacement is involved:

(C) Immediately notify any insurer whose life insurance is being replaced of the fact of such intended replacement, the name of the insured and the policy number of the replaced insurance or other information sufficient to identify the policy and upon request of the applicant promptly furnish said insurer a copy of any proposal used and the completed "Disclosure Statement";

Bill 11 is recommended by the committee, in concept, and would require an insurance agent proposing to furnish replacement insurance to compare, in writing, the coverage he proposes with the policies that are to be replaced. Specifically, the bill would eliminate any requirement for disclosure of any facts concerning replacement coverage, if the applicant so chooses. In part, the proposal states:

The agent shall also request the applicant or insured to indicate his understanding by signing such explanation, along with the consumer applicant's right to declare whether he consents to the divulging of any facts concerning the replacement coverage to anyone.

Funding of the Division of Insurance

As part of its recommendation to continue the Division of Insurance, the committee believes that consideration should be given to increased funding of the division's activities. Testimony to the committee, and findings of the DORA report, indicate that the level of funding of the division has not kept pace with the growth in premium volume of the insurance industry. Staffing of the division has remained stable for a number of years. In order to improve services to the public, and to permit the redirection of division activity as suggested by Bill 2, relating to open competition, a substantial increase in the annual appropriation to the division is needed.

Applicability of No-fault Insurance to School Buses

At the final meeting of the committee, the issue of school bus insurance was discussed. There has been a problem throughout the state in both the availability and the high cost of insurance for school buses. These problems have occurred in both the transportation of school children, and the use of buses for outside or non-school purposes. The committee did not have time to prepare a specific proposal or bill. The committee believes, however, that this matter should be given consideration in the 1978 session. Specifically, the committee recommends that the Governor place on his agenda for the 1978 session a revision of the "No-fault Law", to either exempt school buses from the law, or to revise the benefit package.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 1

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE DIVISION OF INSURANCE.

Bill Summary

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

Continues the division of insurance, which was terminated on July 1, 1977, and is scheduled to cease its activities on July 1, 1978, pursuant to the sunset law.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 24-34-104 (4.1) (a), Colorado Revised Statutes
4 1973, as enacted by Session Laws of Colorado 1977, is amended to
5 read:

6 24-34-104. General assembly review of regulatory agencies
7 for termination, continuation, or reestablishment.

8 (4.1) (a) The following divisions in the department of
9 regulatory agencies shall terminate on July 1, 1983:

10 (I) THE DIVISION OF INSURANCE, CREATED BY SECTIONS 10-1-103
11 AND 10-1-104, C.R.S. 1973;

12 (II) The division of racing events, including the Colorado
13 racing commission, created by article 60 of title 12, C.R.S.
14 1973.

1 SECTION 2. Repeal. 24-34-104 (2) (a) (II), Colorado
2 Revised Statutes 1973, as amended, is repealed.

3 SECTION 3. Effective date. This act shall take effect July
4 1, 1978.

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

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 2

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF INSURANCE.

Bill Summary

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

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 10-1-101, Colorado Revised Statutes 1973, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 10-1-101. Legislative declaration. The general assembly
6 finds and declares that the purpose of this title is to promote
7 the public welfare by regulating insurance to the end that
8 insurance rates shall not be excessive, inadequate, or unfairly
9 discriminatory, to give consumers thereof the greatest choice of
10 policies at the most reasonable cost possible, to permit and
11 encourage open competition between insurers on a sound financial
12 basis, and to avoid regulation of insurance rates except under
13 circumstances specifically authorized under the provisions of
14 this title. Such policy requires that all persons having to do
15 with insurance services to the public be at all times actuated by

1 good faith in everything pertaining thereto, abstain from
2 deceptive or misleading practices, and keep, observe, and
3 practice the principles of law and equity in all matters
4 pertaining to such business.

5 SECTION 2. 10-1-104 (2), Colorado Revised Statutes 1973, is
6 amended to read:

7 10-1-104. Commissioner of insurance - other employees.

8 (2) The commissioner shall have such employees as may be
9 required for the transaction of the business of his office. One
10 OR MORE shall be deputy ~~commissioner~~ COMMISSIONERS of insurance
11 who ~~is~~ ARE authorized in all matters to act as and for the
12 commissioner of insurance in the absence of the commissioner.
13 Examiners shall be classified as senior and junior. A senior
14 examiner shall have had three full years' experience in the
15 examination of insurance companies as an employee of a state
16 insurance department. The salary and term of office of the
17 commissioner and the employees of the division shall be fixed
18 pursuant to article XII, section 13, of the constitution of
19 Colorado.

20 SECTION 3. 10-1-108, Colorado Revised Statutes 1973, as
21 amended, and as further amended by Session Laws of Colorado 1977,
22 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23 10-1-108. Duties of commissioner - reports - publications -
24 disposition of funds. (12) It is the duty of the commissioner
25 to encourage the dissemination of general information concerning
26 insurance by those engaged in the business of insurance to the
27 public, so as to work toward informed choices of insurance needs

1 and options.

2 SECTION 4. 10-1-110 (5), Colorado Revised Statutes 1973, is
3 amended to read:

4 10-1-110. Examinations and investigations. (5) The costs
5 of such examinations of DOMESTIC COMPANIES IN THIS STATE, OF
6 foreign companies made outside the borders of this state, and of
7 executive or branch offices of domestic companies located outside
8 the borders of this state shall be paid by the company examined
9 and shall include the expenses of the commissioner and
10 assistants, who shall be paid the same compensation as other
11 examiners on such examinations. When insurance companies not
12 admitted to do business in this state, or companies adjudged
13 insolvent, or companies for any cause withdrawing from the state
14 neglect, fail, or refuse to pay the charges for examination as
15 approved by the commissioner, such charges shall be paid by the
16 state treasurer from the general fund upon the order of the
17 commissioner, and the amount so paid shall be a first lien upon
18 all the assets and property of such company and may be recovered
19 by suit by the attorney general on behalf of the state of
20 Colorado and restored to the general fund.

21 SECTION 5. 10-1-114, Colorado Revised Statutes 1973, is
22 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

23 10-1-114. Filing of insurance forms. (1) Every insurer,
24 rating organization, or advisory organization and every group,
25 association, or other organization of insurers which engages in
26 joint underwriting or joint reinsurance shall maintain reasonable
27 records, of the type and kind reasonably adapted to its method of

1 operation, of its experience or the experience of its members and
2 of the data, statistics, or information collected or used by it
3 in connection with the rates, rating plans, rating systems,
4 underwriting rules, policy or bond forms, surveys, or inspections
5 made or used by it, so that such records will be available at all
6 reasonable times to enable the commissioner to determine whether
7 such organization, insurer, group, or association and, in the
8 case of an insurer or rating organization, every rate, rating
9 plan and rating system made or used by it complies with the
10 provisions of this title applicable to it. The maintenance of
11 such records in the office of a licensed rating organization of
12 which an insurer is a member or subscriber will be sufficient
13 compliance with this section for any insurer maintaining
14 membership or subscribership in such organization to the extent
15 that the insurer uses the rates, rating plans, rating systems, or
16 underwriting rule of such organization. Such records shall be
17 maintained in an office within this state or shall be made
18 available for examination or inspection by the commissioner
19 within this state at any time, upon reasonable notice.

20 (2) All records of any such organization or individual
21 insurer dealing with workmen's compensation and employers'
22 liability insurance, incidental thereto and written in connection
23 therewith, shall be subject to the requirements of article 44 of
24 title 8, C.R.S. 1973, concerning the filing of its system of
25 rates.

26 SECTION 6. Article 1 of title 10, Colorado Revised Statutes
27 1973, as amended, and as further amended by Session Laws of

1 Colorado 1977, is amended BY THE ADDITION OF THE FOLLOWING NEW
2 SECTIONS to read:

3 10-1-114.3. Review of policy forms and rate structures.

4 (1) The commissioner may, at any reasonable time, make or cause
5 to be made an examination of every admitted insurer transacting
6 any class of insurance to which the provisions of this title are
7 applicable to ascertain whether such insurer and every rate and
8 rating system used by it for every such class of insurance
9 complies with the requirements and standards of this title
10 applicable thereto. Such examination shall not be a part of a
11 periodic general examination participated in by representatives
12 of more than one state.

13 (2) The officers, managers, agents, and employees of any
14 such organization, group, association, or insurer may be examined
15 at any time under oath and shall exhibit all books, records,
16 accounts, documents, or agreements governing its method of
17 operation, together with all data, statistics, and information of
18 every kind and character collected or considered by such
19 organization, group, association, or insurer in the conduct of
20 the operations to which such examination relates.

21 (3) The commissioner may conduct such examination on the
22 basis of concern for an insurer's solvency or the complaint of a
23 person claiming to be aggrieved or to ascertain compliance by
24 insurers and rating organizations with the requirements of this
25 title.

26 10-1-114.4. Hearings and judicial review. (1) Any person
27 aggrieved by any rate charged, rating plan, rating system, or

1 underwriting rule followed or adopted by an insurer or rating
2 organization may request the insurer or rating organization to
3 review the manner in which the rate, plan, system, or rule has
4 been applied with respect to insurance afforded him. Such
5 request may be made by his authorized representative and shall be
6 written. If the request is not granted within thirty days after
7 it is made, it may be treated as rejected. Any person aggrieved
8 by the action of an insurer or rating organization in refusing
9 the review requested or in failing or refusing to grant all or
10 part of the relief requested may file a written complaint and
11 request for hearing with the commissioner, specifying the grounds
12 relied upon. If the commissioner finds that probable cause for
13 the complaint does not exist or that the complaint is not made in
14 good faith, he shall deny the hearing; however, if he finds that
15 the complaint charges a violation of this title and that the
16 complainant would be aggrieved if the violation is proven, he
17 shall proceed as provided in subsection (2) of this section.

18 (2) If, after examination of an insurer, rating
19 organization, advisory organization, or group, association, or
20 other organization of insurers which engages in joint
21 underwriting or joint reinsurance, or upon the basis of other
22 information, or upon sufficient complaint as provided in
23 subsection (1) of this section, the commissioner has good cause
24 to believe that such insurer, organization, group, or
25 association, or any rate, rating plan, or rating system made or
26 used by any such insurer or rating organization, does not comply
27 with the applicable requirements and standards of this title, he

1 shall, unless he has good cause to believe such noncompliance is
2 willful, give notice in writing to such insurer, organization,
3 group, or association, stating therein in what manner and to what
4 extent such noncompliance is alleged to exist and specifying
5 therein a reasonable time, not less than ten days thereafter, in
6 which such noncompliance shall be corrected. Notices under this
7 section shall be confidential as between the commissioner and the
8 parties unless a hearing is held under subsection (3) of this
9 section.

10 (3) If the commissioner has good cause to believe that such
11 noncompliance is willful or if, within the period prescribed by
12 the commissioner in the notice required by subsection (2) of this
13 section, the insurer, organization, group, or association does
14 not make such changes as may be necessary to correct the
15 noncompliance specified by the commissioner or establish to the
16 satisfaction of the commissioner that such specified
17 noncompliance does not exist, the commissioner may hold a public
18 hearing in connection therewith. Within a reasonable period of
19 time, not less than ten days before the date of such hearing, he
20 shall mail a written notice of the hearing to such insurer,
21 organization, group, or association. The notice given under this
22 subsection (3) shall state in what manner and to what extent
23 noncompliance is alleged to exist and the matters to be
24 considered at such hearing. The hearing shall not include
25 subjects not specified in the notice. The hearing shall be
26 conducted in accordance with section 24-4-105, C.R.S. 1973, and
27 the commissioner shall have all the powers granted in said

1 section.

2 (4) If, after a hearing pursuant to subsection (3) of this
3 section, the commissioner finds:

4 (a) That any rate, rating plan, or rating system violates
5 the provisions of this title applicable to it, he may issue an
6 order to the insurer or rating organization which has been the
7 subject of the hearing, specifying in what respects such
8 violation exists and stating when, within a reasonable period of
9 time, the further use of such rate or rating system by such
10 insurer or rating organization in contracts of insurance made
11 thereafter shall be prohibited;

12 (b) That an insurer, rating organization, advisory
13 organization, or group, association, or other organization of
14 insurers which engages in joint underwriting or joint reinsurance
15 is in violation of the provisions of this title applicable to it,
16 other than the provisions dealing with rates, rating plans, or
17 rating systems, he may issue an order to such insurer,
18 organization, group, or association which has been the subject of
19 the hearing, specifying in what respects such violation exists
20 and requiring compliance within a specified time thereafter;

21 (c) That the violation of any of the provisions of this
22 title applicable to it by any insurer or rating organization
23 which has been the subject of hearing was willful, he may suspend
24 or revoke, in whole or in part, the certificate of authority of
25 such insurer or the license of such rating organization with
26 respect to the class of insurance which has been the subject
27 matter of the hearing;

1 (d) That any rating organization has willfully engaged in
2 any fraudulent or dishonest act or practice, he may suspend or
3 revoke, in whole or in part, the license of such organization in
4 addition to any other penalty provided in this title.

5 (5) In addition to other penalties provided by law, the
6 commissioner may suspend or revoke, in whole or in part, the
7 license of any rating organization or the certificate of
8 authority of any insurer with respect to the class of insurance
9 specified in such order which fails to comply within the time
10 limited in such order or any extension thereof which the
11 commissioner may grant, by an order of the commissioner lawfully
12 made by him pursuant to this subsection (5).

13 (6) Any findings, determination, rule, ruling, or order
14 made by the commissioner shall be subject to judicial review, and
15 proceedings on review shall be in accordance with the provisions
16 of section 24-4-106, C.R.S. 1973.

17 SECTION 7. 10-3-201 (1), Colorado Revised Statutes 1973, is
18 amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

19 10-3-201. Cash capital - guaranty fund - deposit.

20 (1) (c) No insurance company, issued a certificate of authority
21 on or after July 1, 1978, shall be permitted to do any business
22 in this state unless, in addition to the other requirements of
23 law, it is possessed of an actual paid-up cash capital or
24 guaranty fund and an accumulated surplus not less than the
25 following:

26	CAPITAL OR		
27	TYPE OF COMPANY	GUARANTY FUND	SURPLUS

1	Life	\$1,000,000.00	\$500,000.00
2	Fire	1,000,000.00	500,000.00
3	Fire (territory limited to Colorado)	500,000.00	500,000.00
4	Casualty (including fidelity and surety)	1,000,000.00	500,000.00
5	Casualty (excluding fidelity and surety)	750,000.00	500,000.00
6	Casualty (excluding fidelity and surety -		
7	territory limited to Colorado)	500,000.00	500,000.00
8	Multiple Line	1,250,000.00	750,000.00
9	Title insurance	1,000,000.00	500,000.00
10	Title insurance (territory limited to		
11	Colorado)	500,000.00	500,000.00

12 (d) Companies previously qualified under paragraphs (a) and
13 (b) of this subsection (1) shall be granted ten years in which to
14 increase their capital or guaranty fund and surplus to the new
15 limits specified in paragraph (c) of this subsection (1). Ten
16 percent of the amount of the deficit in capital and surplus,
17 based on the new requirements as compared to the capital and
18 surplus which the company had on July 1, 1978, shall be added to
19 the capital and surplus each year during such ten-year period.
20 The commissioner, upon a showing of adequate justification by the
21 company, may waive the ten percent increase in any one year;
22 however, in the succeeding year the amount waived shall be made
23 up.

24 SECTION 8. The introductory portion to 10-3-1104 (1) (h),
25 Colorado Revised Statutes 1973, is amended to read:

26 10-3-1104. Unfair methods of competition and unfair or
27 deceptive acts or practices. (1) (h) Unfair claim settlement

1 practices: Committing or performing ~~with-such-frequency-as-to~~
2 ~~indicate-a-general-business-practice~~ any of the following:

3 SECTION 9. Part 3 of article 4 of title 10, Colorado
4 Revised Statutes 1973, is REPEALED AND REENACTED, WITH
5 AMENDMENTS, to read:

6 PART 3

7 BONDS EXECUTED BY QUALIFIED SURETY COMPANIES

8 10-4-301. Bond executed by surety company. (1) Whenever
9 any bond, undertaking, recognizance, or other obligation is, by
10 law or the charter, ordinance, rules, or regulations of any
11 municipality, board, body, organization, court, judge, or public
12 officer, required or permitted to be made, given, tendered, or
13 filed with surety and whenever the performance of any act, duty,
14 contract, or obligation or the refraining from any act is
15 required or permitted to be guaranteed, such bond, undertaking,
16 obligation, recognizance, or guaranty may be executed as surety
17 by a company qualified as provided in this title. Such execution
18 by the company of such bond, undertaking, obligation,
19 recognizance, or guaranty shall be in all respects a full and
20 complete compliance with every requirement of every law, charter,
21 ordinance, rule, or regulation that the bond, undertaking,
22 obligation, recognizance, or guaranty was executed by one or more
23 sureties or that sureties shall be residents or householders or
24 freeholders, or either, or both, or possess any other
25 qualifications.

26 (2) All courts, judges, heads of departments, boards,
27 bodies, municipalities, and public officers of every character

1 shall accept and treat such bond, undertaking, obligation,
2 recognizance, or guaranty, when so executed by such company, as
3 conforming to and fully and completely complying with every such
4 requirement of every such law, charter, ordinance, rule, or
5 regulation; except that such company may be required to justify,
6 in such terms and for such amounts as may be satisfactory, to the
7 court, person, or body authorized to approve such surety.

8 10-4-302. Release of surety - other security. Any surety
9 upon the bond of any state, county, municipal, judicial district,
10 irrigation district, or court officer shall be released from
11 further liability as such surety for such officer by filing, with
12 the person having authority to approve said bond or with whom
13 said bond is directed to be filed, a notice that said surety is
14 unwilling longer to be surety for such officer. When any such
15 notice is filed, written notice thereof shall immediately be
16 given to such officer, who shall thereupon file other security to
17 be approved as provided by law. If such officer, within ten days
18 after the service of such notice upon him, does not file such
19 bond to be approved, the office shall become vacant, and the
20 vacancy shall be filled in the manner provided by law. If a new
21 bond is given by any officer, as provided, the former surety
22 shall be entirely released and discharged from all liability
23 incurred by such officer from and after the time of giving of
24 such notice, and the sureties to the new bond shall be liable
25 therefor as provided in such bond.

26 10-4-303. Application for release of surety - refund.
27 When any company, surety upon the official bond of any trustee,

1 committee, conservator, guardian, assignee, receiver, executor,
2 administrator, or other fiduciary in this state desires to be
3 released from such obligation, such surety shall file its
4 application for such release in the court having jurisdiction of
5 such fiduciary, and, thereupon, the clerk of such court shall
6 issue, under the seal thereof, a notice to such fiduciary
7 requiring him to furnish a new bond, with sureties to be approved
8 by the court, within ten days after the date of the service of
9 said notice. Such notice may be served in the manner provided by
10 law for the service of a summons in a civil action. If such
11 fiduciary fails to furnish such bond within the time prescribed,
12 he shall be summarily removed from office, and a new trustee,
13 committee, conservator, guardian, assignee, receiver, executor,
14 administrator, or other fiduciary shall be forthwith appointed.
15 From and after the time when such new bond is furnished and
16 approved, or such new fiduciary appointed and qualified, the
17 surety making such application shall be released from all
18 liability upon its bond, except for such default or other
19 misconduct on the part of such fiduciary as occurred prior
20 thereto. In case of the release or withdrawal of any surety as
21 provided in this title, if the principal accounts in due form of
22 law for all of his acts and doings, and all trust funds or estate
23 in his hands and secured by such bond, and such account has been
24 approved so that there is no further liability of the surety upon
25 such bond, the unearned portion of any premium paid to such
26 surety shall be refunded and repaid by the said surety.

27 10-4-304. Place of deposit. It is lawful for any party of

1 whom a bond, undertaking, or other obligation is required to
2 agree with his surety for the deposit of any moneys and assets
3 for which such surety is or may be held responsible with a bank,
4 savings bank, or safe deposit or trust company authorized by law
5 to do business as such or other depository approved by the court,
6 if such deposit is otherwise proper, for the safekeeping thereof,
7 and in such manner as to prevent the withdrawal of such moneys
8 and assets or any part thereof, without the written consent of
9 such surety or an order of the court made on such notice to such
10 surety as such court may direct, and such agreement shall not in
11 any manner release or change the liability of the principal or
12 sureties as established by the terms of the bond.

13 10-4-305. Bond part of expense. Any receiver, assignee,
14 guardian, trustee, committee, executor, administrator, curator,
15 or other fiduciary required by law or the order of any court to
16 give a bond or other obligation as such may include, as a part of
17 the lawful expense of executing his trust, such reasonable sum
18 paid a company authorized under the laws of this state so to do
19 for becoming his surety on such bond as may be allowed by the
20 court in which he is required to account, not exceeding one
21 percent per annum on the amount of such bond or other obligation.
22 A party to any action, suit, or proceeding entitled to recover
23 costs in such action, suit, or proceeding shall be allowed and
24 may have taxed and may recover, as costs therein, such sum as
25 said party has paid such a company as premium for executing any
26 bond, recognizance, undertaking, stipulation, or other obligation
27 therein, not exceeding five dollars per annum for each thousand

1 dollars or fraction thereof of the penalty of such bond,
2 recognizance, undertaking, stipulation, or other obligation for
3 each year or part thereof that the same has been in force. The
4 premium so paid shall be taxed by the clerk of the court in which
5 such action, suit, or proceeding is pending, as costs therein,
6 upon production to him of proper receipt for the payment of such
7 premium, which receipt shall be by him filed with the papers in
8 the cause.

9 SECTION 10. 10-4-401 (2), Colorado Revised Statutes 1973,
10 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

11 10-4-401. Purpose - applicability - definitions -
12 construction. (2) This part 4 shall apply to all kinds of
13 insurance except for provisions specifically made applicable to
14 workmen's compensation and employers' liability insurance
15 incidental thereto and written in connection therewith and to
16 assigned risk motor vehicle liability insurance.

17 SECTION 11. 10-4-402 (2) and (3), Colorado Revised Statutes
18 1973, as amended, are REPEALED AND REENACTED, WITH AMENDMENTS, to
19 read:

20 10-4-402. Standards for rates - competition - procedure.
21 (2) Except for workmen's compensation and employer's liability
22 insurance incidental thereto and written in connection therewith
23 and except for assigned risk motor vehicle liability insurance,
24 prior filing of rates, schedules of rates, rating plans, rating
25 classifications and territories, rating rules, and rate manuals
26 with the commissioner, or his prior approval thereof, shall not
27 be required. In lieu thereof, the provisions of sections

1 10-1-114, 10-1-114.3, and 10-1-114.4 regarding the availability
2 of such items, the review thereof, and hearings and judicial
3 review thereof are applicable.

4 (3) In considering past and prospective loss experience for
5 all types of insurance, the commissioner may consider loss
6 experience outside this state only if there is insufficient
7 experience within this state upon which a rate could be based.
8 Prior to considering experience outside this state, the
9 commissioner shall first make a finding with or without a formal
10 hearing that there is insufficient experience within this state
11 upon which a rate could be based. However, in considering
12 experience outside this state, the commissioner shall attempt to
13 gather experience only from states with similar cost and
14 frequency of claims as in this state. In all other instances,
15 the commissioner shall consider this state's experience
16 exclusively, and, in instances when this state's experience is
17 insufficient, the commissioner shall give as much weight as
18 possible to this state's experience.

19 SECTION 12. 10-4-403, Colorado Revised Statutes 1973, is
20 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

21 10-4-403. Filing of rating information - certain coverages.

22 (1) As to workmen's compensation and employers' liability
23 insurance incidental thereto and written in connection therewith
24 and assigned risk motor vehicle liability insurance, every
25 insurer shall file with the commissioner every manual of
26 classifications, rules, and rates, every rating plan, and every
27 modification of any of the foregoing which it proposes to use.

1 (2) (a) Every filing shall state the proposed effective
2 date thereof and shall indicate the character and extent of the
3 coverage contemplated. When a filing is not accompanied by the
4 information upon which the insurer supports the filing and the
5 commissioner does not have sufficient information to determine
6 whether the filing meets the requirements of this title, he
7 shall, within fifteen days after the date of filing, require the
8 insurer to furnish the information upon which it supports the
9 filing, and in such event the waiting period provided for in
10 section 10-4-403.5 (3) shall commence as of the date such
11 information is furnished.

12 (b) The information furnished in support of a filing may
13 include: The experience or judgment of the insurer or rating
14 organization making the filing; its interpretation of any
15 statistical data it relied upon; the experience of other insurers
16 or rating organizations; or any other factors which the insurer
17 or rating organization deems relevant.

18 (3) A filing and any supporting information shall be open
19 to public inspection as provided in section 10-4-405.

20 (4) An insurer may satisfy its obligation to make such
21 filings by becoming a member of, or a subscriber to, a licensed
22 rating organization which makes such filings and by authorizing
23 the commissioner to accept such filings in its behalf; but
24 nothing contained in this title shall be construed as requiring
25 any insurer to become a member of, or a subscriber to, any rating
26 organization.

27 (5) Upon the written application of the insured, stating

1 his reasons therefor, filed with and approved by the
2 commissioner, a rate in excess of that provided by filing,
3 otherwise applicable, may be used on any specific risk, and such
4 application shall not be subject to any of the provisions of
5 section 10-4-405.

6 SECTION 13. Part 4 of article 4 of title 10, Colorado
7 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
8 A NEW SECTION to read:

9 10-4-403.5. Disapproval of filings - certain coverages.

10 (1) Upon receipt of filings required under the provisions of
11 section 10-4-403 (1), the commissioner shall review the same as
12 soon as reasonably possible after they have been made in order to
13 determine whether they meet the requirements of this part 4.

14 (2) Within fifteen days after the date of the filing,
15 together with any additional information, if any, in support of
16 the filing which has been requested by the commissioner has been
17 received by the commissioner, the commissioner shall place the
18 filing and its supporting information on file in his office for
19 public inspection and give notice thereof to the insurer or
20 rating organization that made the filing. Prior to being so
21 placed on file for public inspection, the filing shall be deemed
22 a privileged communication not open to public inspection; but
23 this provision shall not be deemed to prohibit any insurer or
24 rating organization from discussing, or require any such insurer
25 or rating organization to discuss, with any person or
26 organization any filing which it proposes to make or has made
27 with the commissioner.

1 (3) A filing which the commissioner has placed on file for
2 public inspection, as provided in subsection (2) of this section,
3 shall so remain on file for fifteen days (counting such filing
4 date as the first day of such public inspection period) and shall
5 not be approved, disapproved, or become effective during such
6 fifteen-day period except after a public hearing. If not
7 theretofore approved or disapproved after a public hearing
8 thereon, or affirmatively approved or disapproved by the
9 commissioner on the sixteenth day after the filing was so placed
10 on file for public inspection, the filing shall become effective
11 as of 12:01 a.m. on such sixteenth day, unless within such
12 fifteen-day period the commissioner concludes it to be in the
13 public interest to hold a public hearing to determine whether the
14 filing meets the requirements of this part 4 and gives notice of
15 such hearing to the insurer or rating organization that made the
16 filing, in which case the effectiveness of the filing shall be
17 subject to the further order of the commissioner.

18 (4) An insurer or rating organization may, at the time it
19 makes a filing with the commissioner, request a public hearing
20 thereon. In such event the commissioner shall forthwith place
21 the filing on file in his office for public inspection, and shall
22 give notice of the hearing, and shall otherwise hold and conduct
23 the hearing as provided in section 10-4-418; and the
24 effectiveness of the filing shall be subject to the
25 commissioner's order made following the hearing.

26 (5) (a) If any such filing results in a change in premium
27 rate as to assigned risk motor vehicle liability insurance, the

1 commissioner shall, coincidentally with placing the filing on
2 file in his office for public inspection as provided in this
3 section, inform two established news agencies having offices at
4 Denver thereof by mailing, postage prepaid, to each of said news
5 agencies a notice of such filing. Such notice shall read as
6 follows:

7 "Notice of (name of type of insurance) rate filing, pursuant
8 to section 10-4-403.5 (5), Colorado Revised Statutes 1973, is
9 hereby given by the commissioner of insurance that a rate change
10 has been filed by:

- 11 Name of insurance company
- 12 Type of property affected
- 13 Type of insurance coverage
- 14 Nature of rate change
- 15 Date of filing

16 Dated and signed at Denver, Colorado, this () day of
17 (month), 19... .

18 By:
19 Commissioner of Insurance"

20 The commissioner shall use the above form of such notice, but may
21 therein summarize the filings covered thereby, and may make a
22 reasonable grouping of filings by different rating organizations
23 and insurers which may be pending at the same time for inclusion
24 in the same such notice. The commissioner shall certify in
25 writing as to the mailing of the aforesaid notices to such news
26 agencies, and a copy of the certificate shall be made part of the
27 commissioner's records pertaining to such filings. The

1 effectiveness of any such filing or action of the commissioner
2 relative thereto shall not be affected by failure of the
3 commissioner so to inform any particular news agency.

4 (b) It is the intent of this subsection (5) that the
5 sending of said notice is the responsibility of the commissioner
6 and not of the company or rating organization requesting the rate
7 change.

8 (6) If the commissioner disapproves a filing, he shall
9 promptly give notice of such disapproval to the insurer or rating
10 organization that made the filing, stating the respects in which
11 he finds the filing does not meet the requirements of this part
12 4. If the commissioner approves a filing, he shall give prompt
13 notice thereof to the insurer or rating organization that made
14 the filing, in which case the filing shall become effective upon
15 such approval or upon such subsequent date as may be satisfactory
16 to the commissioner and the insurer or rating organization that
17 made the filing. If the filing becomes effective in the absence
18 of affirmative approval or disapproval, as provided in subsection
19 (3) of this section, the filing shall become operative upon such
20 effective date or upon such subsequent date as may be provided
21 for therein.

22 SECTION 14. 10-4-405, Colorado Revised Statutes 1973, as
23 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24 10-4-405. Public disclosure of items filed with
25 commissioner. (1) All policy forms and rating classifications
26 filed with the commissioner pursuant to section 10-4-403 and
27 involving workmen's compensation and employers' liability

1 incidental thereto and written in connection therewith or
2 assigned risk motor vehicle liability insurance shall be
3 available for public inspection at the division of insurance.

4 (2) With respect to forms and ratings referred to in
5 subsection (1) of this section, every rating organization and
6 every insurer which makes its own rates, within a reasonable time
7 after receiving written request therefor and upon payment of such
8 reasonable charge as it may make, not to exceed one hundred
9 dollars, shall furnish to any insured affected by a rate made by
10 it, or to the authorized representative of such insured, all
11 pertinent information as to such rate.

12 (3) With respect to forms and ratings referred to in
13 subsection (1) of this section, every insurer and rating
14 organization shall monthly furnish the commissioner all changes
15 in the rating rules and schedules of rates such insurer or rating
16 organization is then using in this state and shall quarterly
17 furnish the commissioner statistical, rating, and other
18 information in support of changes in rating rules, schedules of
19 rates, and rating classifications and territories. Such rules,
20 schedules, and information shall be available for public
21 inspection at the division of insurance.

22 SECTION 15. 10-4-406 (1), Colorado Revised Statutes 1973,
23 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24 10-4-406. Enforcement. (1) With respect to policy forms
25 and rating classifications involving workmen's compensation and
26 employers' liability incidental thereto and written in connection
27 therewith or assigned risk motor vehicle liability insurance, the

1 commissioner may, as often as he deems it expedient, examine any
2 insurer or rating organization to ascertain whether its rating
3 and underwriting practices are in accordance with law. Filed
4 reports on examinations shall be available for public inspection
5 at the division of insurance.

6 SECTION 16. 10-4-407, Colorado Revised Statutes 1973, is
7 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

8 10-4-407. Rating organizations - licensing. (1) A
9 corporation, an unincorporated association, a partnership, or an
10 individual, whether located within or outside this state, may
11 make application to the commissioner for a license as a rating
12 organization for such kinds of insurance or subdivisions thereof
13 as are specified in its application and shall file therewith:

14 (a) A copy of its constitution, its articles of agreement
15 or association or its certificate of incorporation, and its
16 bylaws, rules, and regulations governing the conduct of its
17 business;

18 (b) A list of its members and subscribers;

19 (c) The name and address of a resident of this state upon
20 whom notices or orders of the commissioner or process affecting
21 such rating organization may be served; and

22 (d) A statement of its qualifications as a rating
23 organization.

24 (2) If the commissioner finds that the applicant is
25 competent, trustworthy, and otherwise qualified to act as a
26 rating organization and that its constitution, articles of
27 agreement or association or its certificate of incorporation, and

1 its bylaws, rules, and regulations governing the conduct of its
2 business conform to the requirements of law, he shall issue a
3 license specifying the kinds of insurance or subdivisions thereof
4 for which the applicant is authorized to act as a rating
5 organization. Every such application shall be granted or denied
6 in whole or in part by the commissioner within sixty days of the
7 date of its filing with him. Licenses issued pursuant to this
8 section shall remain in effect for three years unless sooner
9 suspended or revoked by the commissioner. The fee for said
10 license shall be twenty-five dollars.

11 (3) Licenses issued pursuant to this section may be
12 suspended or revoked by the commissioner, after hearing upon
13 notice, in the event the rating organization ceases to meet the
14 requirements of this section.

15 (4) Every rating organization shall notify the commissioner
16 promptly of every change in:

17 (a) Its constitution, its articles of agreement or
18 association or its certificate of incorporation, and its bylaws,
19 rules, and regulations governing the conduct of its business;

20 (b) Its list of members and subscribers;

21 (c) The name and address of the resident of this state
22 designated by it upon whom notices or orders of the commissioner
23 or process affecting such rating organization may be served.

24 SECTION 17. 10-4-408, Colorado Revised Statutes 1973, is
25 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

26 10-4-408. Rates furnished - cooperation among
27 organizations. (1) Subject to rules and regulations which are

1 approved by the commissioner as reasonable, each rating
2 organization shall permit any insurer, not a member, to be a
3 subscriber to its rating services for any kind of insurance or
4 subdivision thereof for which it is authorized to act as a rating
5 organization. Notice of proposed changes in such rules and
6 regulations shall be given to subscribers. Each rating
7 organization shall furnish its rating services without
8 discrimination to its members and subscribers. The
9 reasonableness of any rule or regulation in its application to
10 subscribers or the refusal of any rating organization to admit an
11 insurer as a subscriber, at the request of any subscriber or any
12 such insurer, shall be reviewed by the commissioner at a hearing
13 held upon at least ten days' written notice to such rating
14 organization and to such subscriber or insurer. If the
15 commissioner finds that such rule or regulation is unreasonable
16 in its application to subscribers, he shall order that such rule
17 or regulation shall not be applicable to subscribers. If the
18 rating organization fails to grant or reject an insurer's
19 application for subscribership within thirty days after it is
20 made, the insurer may request a review by the commissioner as if
21 the application has been rejected. If the commissioner finds
22 that the insurer has been refused admittance to the rating
23 organization as a subscriber without justification, he shall
24 order the rating organization to admit the insurer as a
25 subscriber. If he finds that the action of the rating
26 organization is justified, he shall make an order affirming its
27 action.

1 (2) No rating organization shall adopt any rule the effect
2 of which would prohibit or regulate the payment of dividends,
3 savings, or unabsorbed premium deposits allowed or returned by
4 insurers to their policyholders, members, or subscribers.

5 (3) Cooperation among rating organizations or among rating
6 organizations and insurers in rate making or in other matters
7 within the scope of this part 4 is authorized, if the rates
8 resulting from such cooperation are subject to all the provisions
9 of this part 4 which are applicable to rates generally. The
10 commissioner may review such cooperative activities and practices
11 and if, after a hearing, he finds that any such activity or
12 practice is unfair or unreasonable or otherwise inconsistent with
13 the provisions of this part 4, he may issue a written order
14 specifying in what respects such activity or practice is unfair
15 or unreasonable or otherwise inconsistent with the provisions of
16 this part 4 and requiring the discontinuance of such activity or
17 practice.

18 (4) Nothing in this part 4 shall be construed as requiring
19 any insurer to become a member of or a subscriber to any rating
20 organization.

21 SECTION 18. Part 4 of article 4 of title 10, Colorado
22 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
23 THE FOLLOWING NEW SECTIONS to read:

24 10-4-409. Deviations. Every member of or subscriber to a
25 rating organization shall adhere to the rates made on its behalf
26 by such organization; except that any such insurer may make
27 written application to the commissioner for permission to make a

1 uniform percentage decrease or increase to be applied to the
2 premiums produced by the rating system for a kind of insurance,
3 or for a class of insurance, which is found by the commissioner
4 to be a proper rating unit for the application of such uniform
5 percentage decrease or increase, or for a subdivision of a kind
6 of insurance comprised of a group of manual classifications which
7 is treated as a separate unit for rate-making purposes or for
8 which separate expense provisions are applicable. Such
9 application shall specify the basis for the modification and
10 shall be accompanied by the data upon which the applicant relies.
11 A copy of the application and data shall be sent simultaneously
12 to such rating organization. The commissioner shall set a time
13 and place for a hearing at which the insurer and such rating
14 organization may be heard and shall give them not less than ten
15 days' written notice thereof. In the event the commissioner is
16 advised by the rating organization that it does not desire a
17 hearing, he may waive such hearing upon the consent of the
18 applicant. The commissioner shall issue an order permitting the
19 modification for such insurer to be made if he finds it to be
20 justified, and it shall thereupon become effective. He shall
21 issue an order denying such application if he finds that the
22 modification is not justified or that the resulting premiums
23 would be excessive, inadequate, or unfairly discriminatory. Each
24 deviation permitted to be made shall be effective for a period of
25 one year from the date of such permission unless terminated
26 sooner with the approval of the commissioner.

27 10-4-410. Appeal from rating organization decision. Any

1 member of or a subscriber to a rating organization may appeal to
2 the commissioner from the action or decision of such rating
3 organization in approving or rejecting any proposed change in or
4 addition to the rates of such rating organization; and the
5 commissioner, after a hearing held upon not less than ten days'
6 written notice to the appellant and to such rating organization,
7 shall issue an order approving the action or decision of such
8 rating organization or directing it to give further consideration
9 to such proposal; or, if such appeal is from the action or
10 decision of the rating organization in rejecting a proposed
11 addition to its rates, he may issue an order directing the rating
12 organization to make an addition to its rates on behalf of its
13 members and subscribers, in a manner consistent with his
14 findings, within a reasonable time after the issuance of such
15 order, in the event he finds that such action or decision was
16 unreasonable.

17 10-4-411. Advisory organizations. (1) Every group,
18 association, or other organization of insurers, whether located
19 within or outside this state, which assists insurers which make
20 their own rates or rating organizations in rate making by the
21 collection and furnishing of loss or expense statistics or by the
22 submission of recommendations, but which does not make rates
23 under this part 4, shall be known as an advisory organization.

24 (2) Every advisory organization shall file with the
25 commissioner a copy of its constitution, its articles of
26 agreement or association or its certificate of incorporation, and
27 its bylaws, rules, and regulations governing its activities, a

1 list of its members, the name and address of a resident of this
2 state upon whom notices or orders of the commissioner or process
3 issued at his direction may be served, and an agreement that the
4 commissioner may examine such advisory organization in accordance
5 with the provisions of section 10-4-413.

6 (3) If, after hearing, the commissioner finds that the
7 furnishing of such information or assistance involves any act or
8 practice which is unfair or unreasonable or otherwise
9 inconsistent with the provisions of this part 4, he may issue a
10 written order specifying in what respects such act or practice is
11 unfair or unreasonable or otherwise inconsistent with the
12 provisions of this part 4 and requiring the discontinuance of
13 such act or practice.

14 (4) No insurer which makes its own rates nor any rating
15 organization shall support its rates by statistics or adopt
16 rate-making recommendations furnished to it by an advisory
17 organization which has not complied with this section or with an
18 order of the commissioner involving such statistics or
19 recommendations issued under subsection (3) of this section. If
20 the commissioner finds such insurer or rating organization to be
21 in violation of this subsection (4), he may issue an order
22 requiring the discontinuance of such violation.

23 10-4-412. Joint underwriting. (1) Every group,
24 association, or other organization of insurers which engages in
25 joint reinsurance or joint underwriting shall be subject to
26 regulation with respect thereto as provided in this part 4.

27 (2) If, after a hearing, the commissioner finds that any

1 activity or practice of any such group, association, or other
2 organization is unfair or unreasonable or otherwise inconsistent
3 with the provisions of this part 4, he may issue a written order
4 specifying in what respects such activity or practice is unfair
5 or unreasonable or otherwise inconsistent with the provisions of
6 this part 4 and requiring the discontinuance of such activity or
7 practice.

8 10-4-413. Examinations. The commissioner, at least once in
9 five years, shall make or cause to be made an examination of each
10 rating organization licensed in this state as provided in
11 sections 10-4-407 and 10-4-408, and he, as often as he deems it
12 expedient, may make or cause to be made an examination of each
13 advisory organization referred to in section 10-4-411 and of each
14 group, association, or other organization referred to in section
15 10-4-412. The reasonable costs of any such examination shall be
16 paid by the rating organization, advisory organization, or group,
17 association, or other organization examined upon presentation to
18 it of a detailed account of such costs. The officer, manager,
19 agents, and employees of such rating organization, advisory
20 organization, or group, association, or other organization may be
21 examined at any time under oath and shall exhibit all books,
22 records, accounts, documents, or agreements governing its method
23 of operation. In lieu of any such examination, the commissioner
24 may accept the report of an examination made by the insurance
25 supervisory official of another state, pursuant to the laws of
26 such state.

27 10-4-414. Rate administration. (1) The commissioner may

1 promulgate reasonable rules and statistical plans, reasonably
2 adapted to each of the rating systems used by the various
3 insurers, which may be modified from time to time and which shall
4 be used thereafter by each insurer in the recording and reporting
5 of its loss and countrywide expense experience, in order that the
6 experience of all insurers may be made available at least
7 annually in such form and detail as may be necessary to aid him
8 in determining whether rating systems comply with the standards
9 set forth in section 10-4-403. Such rules and plans may also
10 provide for the recording and reporting of expense experience
11 items which are specially applicable to this state and are not
12 susceptible of determination by a prorating of countrywide
13 expense experience. In promulgating such rules and plans, the
14 commissioner shall give due consideration to the rating systems
15 used by the various insurers and, in order that such rules and
16 plans may be as uniform as is practicable among the several
17 states, to the rules and to the form of the plans used for such
18 rating systems in other states. No insurer shall be required to
19 record or report its loss experience on a classification basis
20 that is inconsistent with the rating system used by it. The
21 commissioner may designate one or more rating organizations or
22 other agencies to assist him in gathering such experience and
23 making compilations thereof, and such compilations shall be made
24 available, subject to reasonable rules promulgated by the
25 commissioner, to insurers and rating organizations. No insurer
26 shall be required to record or report its experience to a rating
27 organization or agency unless it is a member of such organization

1 or agency.

2 (2) Reasonable rules and plans may be promulgated by the
3 commissioner for the interchange of data necessary for the
4 application of rating plans.

5 (3) In order to further uniform administration of rate
6 regulatory laws, the commissioner and every insurer and rating
7 organization may exchange information and experience data with
8 the insurance supervisory officials, insurers, and rating
9 organizations in other states and may consult with them with
10 respect to rate making and the application of rating systems.

11 (4) The commissioner may make reasonable rules and
12 regulations necessary to effect the purposes of this part 4.

13 10-4-415. False or misleading information. No person or
14 organization shall willfully withhold information from, or
15 knowingly give false or misleading information to, the
16 commissioner, any statistical agency designated by the
17 commissioner, any rating organization, or any insurer which will
18 affect the rates or premiums chargeable under this part 4. A
19 violation of this section shall subject the one guilty of such
20 violation to the penalties provided in section 10-4-417.

21 10-4-416. Assigned risks. (1) The commissioner may, after
22 consultation with the insurers licensed to write motor vehicle
23 insurance in this state, establish or approve a reasonable plan,
24 and rules governing the same, for the equitable apportionment
25 among such insurers of applicants for such insurance who are in
26 good faith entitled to but are unable to procure insurance
27 through ordinary methods, and, when such plan has been approved,

1 all such insurers shall subscribe thereto and shall participate
2 therein. Any applicant for such insurance, any person insured
3 under such plan, and any insurer affected may appeal to the
4 commissioner from any ruling or decision of the manager or
5 committee designated to operate such plan.

6 (2) If an insurer admitted to transact motor vehicle
7 insurance fails to subscribe to the plan or to any amendments
8 thereto or fails to comply with the rules of the plan, the
9 commissioner shall give ten days' written notice to such insurer
10 to so subscribe or so comply. If such insurer fails to comply
11 with such notice, the commissioner, after hearing, may suspend
12 the certificate of authority of such insurer to transact
13 insurance business in this state until such insurer so complies.

14 10-4-417. Penalties. Any person or organization willfully
15 violating any provision of this part 4 shall be subject to a
16 penalty of not more than one hundred dollars for each such
17 violation. Such penalty may be in addition to any other penalty
18 provided by law. The commissioner may suspend the license of any
19 rating organization or insurer which fails to comply with an
20 order of the commissioner within the time limited by such order,
21 or any extension thereof which the commissioner may grant. The
22 commissioner shall not suspend the license of any rating
23 organization or insurer for failure to comply with an order until
24 the time prescribed for an appeal therefrom has expired or, if an
25 appeal has been taken, until such order has been affirmed. The
26 commissioner may determine when a suspension of license shall
27 become effective, and it shall remain in effect for the period

1 fixed by him, unless he modifies or rescinds such suspension or
2 until the order upon which such suspension is based is modified,
3 rescinded, or reversed. No license shall be suspended or revoked
4 except upon a written order of the commissioner, stating his
5 findings, made after a hearing held upon not less than ten days'
6 written notice to such person or organization specifying the
7 alleged violation.

8 10-4-418. Hearing. (1) If, pursuant to section 10-4-403.5
9 (3), the commissioner determines to hold a public hearing as to a
10 filing or holds such a public hearing pursuant to request
11 therefor under section 10-4-403.5 (4), he shall give written
12 notice thereof to the rating organization or insurer that made
13 the filing, shall hold such hearing within thirty days after
14 commencement of the public inspection period provided for in
15 section 10-4-403.5 (2) or (4), and, not less than ten days prior
16 to the date of the hearing, he shall give written notice of the
17 hearing to the insurer or rating organization that made the
18 filing. The commissioner may also, in his discretion, give
19 advance public notice of such hearing by publication of notice in
20 one or more daily newspapers of general circulation in this
21 state.

22 (2) If the commissioner's order disapproves the filing, the
23 filing shall not become effective during the effectiveness of
24 such order. If the commissioner's order approves the filing, the
25 filing shall become effective upon the date of the order or upon
26 such subsequent date as may be satisfactory to the insurer or
27 rating organization that made the filing.

1 (3) Any person aggrieved by the approval by the
2 commissioner of a rate filing may make written application to the
3 commissioner for a hearing thereon, and such application shall
4 specify the grounds to be relied upon by the applicant. If the
5 commissioner finds that the application is made in good faith,
6 that the applicant would be so aggrieved if his grounds are
7 established, and that such grounds otherwise justify holding such
8 a hearing, he shall hold a hearing as provided in sections
9 24-4-102 to 24-4-107, C.R.S. 1973.

10 (4) Any insurer or rating organization aggrieved by an
11 order or decision of the commissioner made without a hearing may,
12 within thirty days after notice of the order or decision to the
13 insurer or rating organization, make written application to the
14 commissioner for a hearing thereon. The commissioner shall hold
15 a hearing as provided in sections 24-4-102 to 24-4-107, C.R.S.
16 1973. Within fifteen days after such hearing, the commissioner
17 shall affirm, reverse, or modify his previous action, specifying
18 his reasons therefor. Pending such hearing and decision thereon,
19 the commissioner may suspend or postpone the effective date of
20 his previous action.

21 SECTION 19. Part 6 of article 4 of title 10, Colorado
22 Revised Statutes 1973, is amended BY THE ADDITION OF A NEW
23 SECTION to read:

24 10-4-609. Insurance protection against uninsured motorists.
25 No automobile liability or motor vehicle liability policy
26 insuring against loss resulting from liability imposed by law for
27 bodily injury or death suffered by any person arising out of the

1 ownership, maintenance, or use of a motor vehicle shall be
2 delivered or issued for delivery in this state with respect to
3 any motor vehicle registered or principally garaged in this state
4 unless coverage is provided therein or supplemental thereto, in
5 limits for bodily injury or death set forth in section 42-7-103
6 (2), C.R.S. 1973, under provisions approved by the commissioner,
7 for the protection of persons insured thereunder who are legally
8 entitled to recover damages from owners or operators of uninsured
9 motor vehicles because of bodily injury, sickness, or disease,
10 including death, resulting therefrom; except that the coverage
11 required under this section shall not be applicable where any
12 insured named in the policy rejects the coverage and except that,
13 unless the named insured requests such coverage in writing, such
14 coverage need not be provided in or supplemental to a renewal
15 policy where the named insured had rejected the coverage in
16 connection with a policy previously issued to him by the same
17 insurer.

18 SECTION 20. 10-6-125 (3), Colorado Revised Statutes 1973,
19 is amended to read:

20 10-6-125. Filing of rates. (3) All such filings shall be
21 subject to the provisions of ~~parts-2-to~~ PART 4 of article 4 of
22 this title, as applicable.

23 SECTION 21. 5-4-107 (1), Colorado Revised Statutes 1973, is
24 amended to read:

25 5-4-107. Maximum charge by creditor for insurance. (1)
26 Except as provided in subsection (2) of this section, if a
27 creditor contracts for or receives a separate charge for

1 insurance, the amount charged to the debtor for the insurance may
2 not exceed the premium to be charged by the insurer, as computed
3 at the time the charge to the debtor is determined. ~~conforming to~~
4 ~~any rate filings required by law and made by the insurer with the~~
5 ~~commissioner of insurance:~~

6 SECTION 22. 5-4-108 (4), Colorado Revised Statutes 1973, is
7 amended to read:

8 5-4-108. Refund or credit required; amount. (4) A refund
9 or credit required by subsection (3) of this section is
10 appropriate as to amount if it is computed according to a method
11 prescribed ~~or approved by the commissioner of insurance or a~~
12 ~~formula filed by the insurer with the commissioner of insurance~~
13 ~~at least thirty days before the debtor's right to a refund or~~
14 ~~credit becomes determinable, unless the method or formula is~~
15 ~~employed after the commissioner of insurance notifies the insurer~~
16 ~~that he disapproves it~~ IN THE FILES OF INSURER AND AVAILABLE FOR
17 INSPECTION PURSUANT TO SECTION 10-1-114 C.R.S. 1973.

18 SECTION 23. 42-7-414 (1), Colorado Revised Statutes 1973,
19 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

20 42-7-414. Requirements to be complied with. (1) Except as
21 provided in section 42-7-417, no motor vehicle liability policy
22 or operator's policy of liability insurance shall be issued in
23 this state unless and until all of the requirements of subsection
24 (2) of this section are met.

25 SECTION 24. Repeal. 5-4-112, 5-4-203, 10-4-401 (3),
26 10-16-125, 10-16-126, 10-16-127, 10-16-128, and 10-16-129,
27 Colorado Revised Statutes 1973, as amended, and as further

1 amended by Session Laws of Colorado 1977, are repealed.

2 SECTION 25. Effective date. This act shall take effect
3 July 1, 1978.

4 SECTION 26. Safety clause. The general assembly hereby
5 finds, determines, and declares that this act is necessary for
6 the immediate preservation of the public peace, health, and
7 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 3

A BILL FOR AN ACT

1 CONCERNING THE REQUIREMENT THAT RATES CHARGED BY NONPROFIT
2 HOSPITAL AND HEALTH SERVICE CORPORATIONS BE APPROVED BY THE
3 COMMISSIONER OF INSURANCE.

Bill Summary

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

Repeals statutory provisions requiring prior approval of rates charged by nonprofit hospital and health service corporations by the commissioner of insurance.

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Repeal. 10-16-127 and 10-16-128, Colorado
6 Revised Statutes 1973, as amended, are repealed.

7 SECTION 2. 10-16-126 (2) (b) and (3), Colorado Revised
8 Statutes 1973, are amended to read:

9 10-16-126. Filing of rating information. (2) (b) When a
10 filing is not accompanied by the information upon which the
11 corporation supports the filing and the commissioner does not
12 have sufficient information to determine whether the filing meets
13 the requirements of this article, he shall within fifteen days
14 after the date of filing require the corporation to furnish the

1 information upon which it supports the filing. ~~and, in such~~
2 ~~event, the waiting period provided for in section 10-16-127 (2)~~
3 ~~shall commence as of the date such information is furnished.~~

4 (3) A filing and any supporting information shall be open
5 to public inspection. ~~as provided in section 10-16-127.~~

6 SECTION 3. 10-16-129, Colorado Revised Statutes 1973, as
7 amended by chapter 58, Session Laws of Colorado 1977, is amended
8 to read:

9 10-16-129. Costs of administration. To defray the cost of
10 administering ~~and implementing the rate review procedures~~
11 ~~established under sections 10-16-125 to 10-16-128~~ THIS ARTICLE,
12 every corporation subject to the provisions of this article shall
13 pay annually to the commissioner on March 1 an amount equivalent
14 to five cents per person exceeding ten thousand in number
15 enrolled in the health service plans of such corporation.

16 SECTION 4. Effective date - applicability. This act shall
17 take effect July 1, 1978, and shall apply to filings made under
18 section 10-16-126, Colorado Revised Statutes 1973, on and after
19 such date.

20 SECTION 5. Safety clause. The general assembly hereby
21 finds, determines, and declares that this act is necessary for
22 the immediate preservation of the public peace, health, and
23 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 4

A BILL FOR AN ACT

1 CONCERNING THE EXTENSION OF THE TERMS OF LICENSES ISSUED BY THE
2 DIVISION OF INSURANCE.

Bill Summary

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

Provides for a multi-year, instead of an annual, license for insurance agents, insurance brokers, limited insurance representatives, insurance adjusters, preneed funeral contract salesmen, enrollment representatives of nonprofit hospital and health service corporations, and motor club representatives. Adjusts original license and renewal fees accordingly.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-2-110 (1) (a) and (1) (b), Colorado Revised
5 Statutes 1973, are amended to read:

6 10-2-110. Fees for license and examination.

7 (1) (a) Insurance adjuster, ~~each--year;--ten~~ EVERY TWO YEARS,
8 TWENTY dollars;

9 (b) Public adjuster, ~~each-year;--ten~~ EVERY TWO YEARS, TWENTY
10 dollars;

11 SECTION 2. 10-2-114 (1), Colorado Revised Statutes 1973, is
12 amended to read:

13 10-2-114. Expiration and renewal of licenses. (1) An

1 adjuster's license shall expire on the first day of January next
2 OF THE SECOND YEAR following the date of issuance.

3 SECTION 3. 10-2-207 (3), (4), (5) (b), (6) (a), (6) (b)
4 (I), (6) (b) (II), (6) (b) (V), (6) (b) (VI), (6) (c) (I), (6)
5 (c) (II), (6) (e) (I), (6) (e) (II), (6) (e) (IV), and (6) (e)
6 (V), Colorado Revised Statutes 1973, as amended by chapter 97,
7 Session Laws of Colorado 1977, are amended to read:

8 10-2-207. Licenses. (3) EXCEPT FOR SURPLUS LINES
9 INSURANCE BROKERS' LICENSES, all licenses issued pursuant to this
10 part 2 shall expire on January 1 next OF THE SECOND YEAR
11 following the date of issuance unless the licensee, before said
12 date, has filed with the commissioner, on forms prescribed and
13 furnished by him THE COMMISSIONER, a request for continuation of
14 such license for an ensuing ~~twelve-month~~ TWO-YEAR period. A
15 SURPLUS LINES INSURANCE BROKER'S LICENSE SHALL EXPIRE ON JANUARY
16 1 NEXT FOLLOWING THE DATE OF ISSUANCE UNLESS THE LICENSEE, BEFORE
17 SAID DATE, HAS FILED WITH THE COMMISSIONER, ON FORMS PRESCRIBED
18 AND FURNISHED BY THE COMMISSIONER, A REQUEST FOR CONTINUATION FOR
19 AN ENSUING ONE-YEAR PERIOD. ~~Such~~ EVERY request FOR CONTINUATION
20 OF A LICENSE shall be accompanied by payment of the continuation
21 fee as provided in this part 2.

22 (4) Subject to the right of the commissioner to suspend,
23 revoke, or refuse to continue any license as provided in this
24 part 2, ~~such~~ AN INSURANCE AGENT'S, INSURANCE BROKER'S, OR LIMITED
25 INSURANCE REPRESENTATIVE'S license may be continued for another
26 ~~twelve-month~~ TWO-YEAR period, AND A SURPLUS LINES INSURANCE
27 BROKER'S LICENSE MAY BE CONTINUED FOR ANOTHER ONE-YEAR PERIOD.

1 (5) (b) The application for an insurance agent or limited
2 insurance representative license shall be accompanied by a
3 written appointment. Such appointment shall be made by an
4 officer of the insurer or person authorized by the insurer
5 designating the applicant as an insurance agent or limited
6 insurance representative for such lines of insurance as the
7 applicant will be authorized to write for said insurer. All
8 appointments for any insurance agent or limited insurance
9 representative shall be submitted on behalf of the appointing
10 insurer on a form prescribed by the commissioner and shall remain
11 in force until the ~~annual~~ expiration date prescribed by
12 subsection (3) of this section.

13 (6) (a) All applications shall be accompanied by the
14 applicable fees. An appointment shall terminate upon failure to
15 pay the prescribed ~~annual~~ continuation fee.

16 (b) (I) Initial licensing, ~~five~~ SEVEN dollars;

17 (II) ~~Annual~~ Continuation, ~~two~~ FOUR dollars;

18 (V) Initial appointment, ~~five~~ SEVEN dollars;

19 (VI) ~~Annual~~ Continuation of appointment, ~~two~~ FOUR dollars.

20 (c) (I) Initial fee, ~~ten~~ TWENTY dollars;

21 (II) ~~Annual~~ Continuation, ~~ten~~ TWENTY dollars;

22 (e) (I) Initial fee, ~~five~~ SEVEN dollars;

23 (II) ~~Annual~~ Continuation, ~~two~~ FOUR dollars;

24 (IV) Appointment fee, ~~five~~ SEVEN dollars;

25 (V) ~~Annual~~ Continuation of appointment, ~~two~~ FOUR dollars;

26 SECTION 4. 10-3-207 (1) (h), (1) (i), (2) (d), and (2) (e),

27 Colorado Revised Statutes 1973, are amended to read:

1 10-3-207. Fees paid by insurance companies. (1) (h) For
2 each agent's initial license, ~~five~~ SEVEN dollars;

3 (i) For filing each ~~annual~~ notice of intention to keep the
4 agent's license in force, ~~two~~ FOUR dollars;

5 (2) (d) For each broker's license, ~~ten~~ TWENTY dollars;

6 (e) For filing each ~~annual~~ notice of intention to keep a
7 broker's license in force, ~~ten~~ TWENTY dollars;

8 SECTION 5. 10-15-105 (2), Colorado Revised Statutes 1973,
9 is amended to read:

10 10-15-105. License to accept funds, application, records,
11 annual report, investigation of records. (2) Upon receipt of
12 the application, the commissioner shall issue a license, unless
13 he determines that the applicant has made false statements or
14 representations in such application, or is insolvent, or is not
15 duly authorized to transact business in the state of Colorado, or
16 has been convicted of fraud or a crime involving misappropriation
17 or misuse of funds; but any applicant who was engaged in
18 substantially the business described in this article on May 1,
19 1961, may continue to do business, pending action by the
20 commissioner, so long as an application is filed pursuant to the
21 provisions of this section. Every license shall expire on ~~August~~
22 ~~1-of-each-year~~ JANUARY 1 OF THE SECOND YEAR FOLLOWING ITS
23 ISSUANCE and may be renewed ~~annually~~ for a period of ~~one-year~~ TWO
24 YEARS upon application and payment of the fee prescribed in this
25 article. THE PERIOD OF VALIDITY OF LICENSES SCHEDULED TO EXPIRE
26 ON AUGUST 1, 1978, IS HEREBY EXTENDED TO JANUARY 1, 1979.

27 SECTION 6. 10-15-112, Colorado Revised Statutes 1973, is

1 (5) (b) The application for an insurance agent or limited
2 insurance representative license shall be accompanied by a
3 written appointment. Such appointment shall be made by an
4 officer of the insurer or person authorized by the insurer
5 designating the applicant as an insurance agent or limited
6 insurance representative for such lines of insurance as the
7 applicant will be authorized to write for said insurer. All
8 appointments for any insurance agent or limited insurance
9 representative shall be submitted on behalf of the appointing
10 insurer on a form prescribed by the commissioner and shall remain
11 in force until the ~~annual~~ expiration date prescribed by
12 subsection (3) of this section.

13 (6) (a) All applications shall be accompanied by the
14 applicable fees. An appointment shall terminate upon failure to
15 pay the prescribed ~~annual~~ continuation fee.

16 (b) (I) Initial licensing, ~~five~~ SEVEN dollars;

17 (II) ~~Annual~~ Continuation, ~~two~~ FOUR dollars;

18 (V) Initial appointment, ~~five~~ SEVEN dollars;

19 (VI) ~~Annual~~ Continuation of appointment, ~~two~~ FOUR dollars.

20 (c) (I) Initial fee, ~~ten~~ TWENTY dollars;

21 (II) ~~Annual~~ Continuation, ~~ten~~ TWENTY dollars;

22 (e) (I) Initial fee, ~~five~~ SEVEN dollars;

23 (II) ~~Annual~~ Continuation, ~~two~~ FOUR dollars;

24 (IV) Appointment fee, ~~five~~ SEVEN dollars;

25 (V) ~~Annual~~ Continuation of appointment, ~~two~~ FOUR dollars;

26 SECTION 4. 10-3-207 (1) (h), (1) (i), (2) (d), and (2) (e),

27 Colorado Revised Statutes 1973, are amended to read:

1 10-3-207. Fees paid by insurance companies. (1) (h) For
2 each agent's initial license, ~~five~~ SEVEN dollars;

3 (i) For filing each ~~annual~~ notice of intention to keep the
4 agent's license in force, ~~two~~ FOUR dollars;

5 (2) (d) For each broker's license, ~~ten~~ TWENTY dollars;

6 (e) For filing each ~~annual~~ notice of intention to keep a
7 broker's license in force, ~~ten~~ TWENTY dollars;

8 SECTION 5. 10-15-105 (2), Colorado Revised Statutes 1973,
9 is amended to read:

10 10-15-105. License to accept funds, application, records,
11 annual report, investigation of records. (2) Upon receipt of
12 the application, the commissioner shall issue a license, unless
13 he determines that the applicant has made false statements or
14 representations in such application, or is insolvent, or is not
15 duly authorized to transact business in the state of Colorado, or
16 has been convicted of fraud or a crime involving misappropriation
17 or misuse of funds; but any applicant who was engaged in
18 substantially the business described in this article on May 1,
19 1961, may continue to do business, pending action by the
20 commissioner, so long as an application is filed pursuant to the
21 provisions of this section. Every license shall expire on August
22 ~~1-of-each-year~~ JANUARY 1 OF THE SECOND YEAR FOLLOWING ITS
23 ISSUANCE and may be renewed ~~annually~~ for a period of ~~one-year~~ TWO
24 YEARS upon application and payment of the fee prescribed in this
25 article. THE PERIOD OF VALIDITY OF LICENSES SCHEDULED TO EXPIRE
26 ON AUGUST 1, 1978, IS HEREBY EXTENDED TO JANUARY 1, 1979.

27 SECTION 6. 10-15-112, Colorado Revised Statutes 1973, is

1 amended to read:

2 10-15-112. License of agent - fee. No agent shall sell
3 contracts in this state without first obtaining from the
4 commissioner a license so to do and paying ~~ten~~ TWENTY dollars as
5 fee for such license. The commissioner shall not issue such
6 license without requiring an applicant for the license to make
7 proof of good moral character by presenting with his application
8 affidavits from his employer stating that, to the employer's best
9 information, knowledge, and belief, the applicant is of good
10 moral character. The acts of the agent shall be deemed acts of
11 the employer. The commissioner shall require the applicant to
12 pass a written examination sufficient to ascertain the
13 applicant's knowledge of the industry and the provisions of this
14 article. In determining the character of an applicant, the
15 commissioner shall be governed by the provisions of section
16 24-5-101, C.R.S. 1973.

17 SECTION 7. 10-15-114 (1) (a), Colorado Revised Statutes
18 1973, is amended to read:

19 10-15-114. Revocation of license. (1) (a) The licensee
20 has failed to pay the ~~annual~~ license fee;

21 SECTION 8. 10-16-109 (1) (f) and (1) (g), Colorado Revised
22 Statutes 1973, are amended to read:

23 10-16-109. Fees paid by corporations. (1) (f) For each
24 enrollment representative's initial license, ~~ten~~ TWELVE dollars;

25 (g) For each enrollment representative's renewal license,
26 ~~two~~ FOUR dollars;

27 SECTION 9. 10-16-119, Colorado Revised Statutes 1973, is

1 amended to read:

2 10-16-119. Renewals of licenses. If for cause shown, and
3 after a hearing or examination, the commissioner determines any
4 person to be unsuitable to act as an enrollment representative or
5 agent, he shall thereupon refuse to issue a license or shall
6 revoke any license previously issued, and shall notify in writing
7 both the appointee and the corporation of such refusal. Unless
8 revoked by the commissioner or unless the corporation by written
9 notification to the commissioner cancels the authority of an
10 agent or representative to act for it, any license issued or any
11 renewal thereof shall expire on the first day of January next OF
12 THE SECOND YEAR after its issuance and may be renewed ~~annually~~
13 FOR A TWO-YEAR PERIOD upon payment of the ~~annual~~ license renewal
14 fee.

15 SECTION 10. 12-53-108 (2) and (6), Colorado Revised
16 Statutes 1973, are amended to read:

17 12-53-108. Registration of motor club representatives.
18 (2) Every licensee shall, through its proper officer or agent,
19 promptly notify the commissioner in writing of the name, title,
20 and address of each person it desires to appoint to act as a
21 representative in this state. Upon receipt of such written
22 notice accompanied by an initial registration fee of ~~five~~ SEVEN
23 dollars, if it appears to the commissioner that the appointee is
24 a suitable and competent person of good moral character, intends
25 to hold himself out in good faith as a representative, and has
26 not previously been refused registration or had a registration
27 revoked pursuant to subsection (4) of this section and the

1 appointee qualifies under the provisions of this section, the
2 commissioner shall issue to such appointee a registration
3 certificate which states, in substance, that the individual named
4 therein is a registered representative of such licensee in this
5 state. In determining an appointee's character, the commissioner
6 shall be governed by the provisions of section 24-5-101, C.R.S.
7 1973.

8 (6) Unless revoked by the commissioner or unless the
9 licensee, by written notice to the commissioner, cancels the
10 representative's authority to act for it, such registration of a
11 representative or any renewal thereof shall expire on the first
12 day of January ~~next~~ OF THE SECOND YEAR after its issue and may be
13 renewed ~~annually~~ FOR A TWO-YEAR PERIOD upon filing with the
14 commissioner ~~an--annual~~ A notice by the licensee, which notice
15 shall be accompanied by the payment of a ~~two--dollar~~ FOUR-DOLLAR
16 registration fee.

17 SECTION 11. Effective date. This act shall take effect
18 July 1, 1978.

19 SECTION 12. Safety clause. The general assembly hereby
20 finds, determines, and declares that this act is necessary for
21 the immediate preservation of the public peace, health, and
22 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 5

A BILL FOR AN ACT

1 AUTHORIZING A SINGLE LICENSE FOR INSURANCE AGENTS AND LIMITED
2 INSURANCE REPRESENTATIVES.

Bill Summary

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

Eliminates the requirement that insurance agents and limited insurance representatives have a separate license for each company for which they solicit business. Requires insurance companies to maintain a current list of their agents and representatives on file with the commissioner of insurance.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-2-204 (4) (a), Colorado Revised Statutes
5 1973, as amended by chapter 97, Session Laws of Colorado 1977, is
6 amended to read:

7 10-2-204. License requirements. (4) (a) An insurance
8 agent shall be licensed and qualified for each and every line of
9 insurance for which the company ~~requisitioning-his-license~~ HE
10 REPRESENTS is certified in this state and which is offered for
11 sale in this state; except that only those insurance agents
12 designated by the company need be licensed and qualified as to
13 variable contracts.

1 SECTION 2. 10-2-204 (6), Colorado Revised Statutes 1973, as
2 amended by Session Laws of Colorado 1977, is REPEALED AND
3 REENACTED, WITH AMENDMENTS, to read:

4 10-2-204. License requirements. (6) Every insurer shall
5 keep on file with the commissioner a current list of insurance
6 agents and limited insurance representatives which it has
7 appointed to solicit business on its behalf. The insurer shall
8 promptly give written notice to the commissioner of new
9 appointments of insurance agents and limited insurance
10 representatives and shall report termination of appointments in
11 accordance with section 10-2-216.

12 SECTION 3. 10-2-210, Colorado Revised Statutes 1973, as
13 amended by chapter 97, Session Laws of Colorado 1977, is amended
14 to read:

15 10-2-210. Denial of license. (1) If the commissioner
16 finds that the applicant has not fully met the requirements for
17 licensing, he shall refuse to issue the license and promptly
18 notify the applicant, ~~and the appointing insurer,~~ in writing, of
19 such denial, stating the grounds therefor.

20 (2) If a license is refused, ~~the commissioner shall~~
21 ~~promptly refund the appointment fee tendered with the license~~
22 ~~application,~~ all other fees accompanying the application for
23 license as insurance agent, insurance broker, surplus lines
24 insurance broker, and OR limited insurance representative shall
25 be deemed earned and shall not be refundable.

26 SECTION 4. Repeal. 10-2-204 (8) and 10-2-207 (2), (5) (b),
27 (6) (b) (V), (6) (b) (VI), (6) (e) (V), and (6) (e) (VI),

1 Colorado Revised Statutes 1973, as amended by Sossion Laws of
2 Colorado 1977, are repealed.

3 SECTION 5. Effective date. This act shall take effect
4 January 1, 1979.

5 SECTION 6. Safety clause. The general assembly hereby
6 finds, determines, and declares that this act is necessary for
7 the immediate preservation of the public peace, health, and
8 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 6

A BILL FOR AN ACT

1 CONCERNING THE LICENSING OF INSURANCE CONSULTANTS.

Bill Summary

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

Requires persons who are in the business of advising others with regard to advantages and disadvantages of insurance policies to be licensed as insurance consultants. Prohibits an insurance consultant from receiving any remuneration as an insurance agent or broker in conjunction with services rendered as a consultant.

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 10-2-201, Colorado Revised Statutes 1973, as
4 amended by chapter 97, Session Laws of Colorado 1977, is amended
5 to read:

6 10-2-201. Scope. This part 2 governs the qualifications
7 and procedures for the licensing of insurance agents, insurance
8 brokers, surplus lines insurance brokers, and limited insurance
9 representatives, AND INSURANCE CONSULTANTS. This part 2 applies
10 to any and all lines of insurance and types of insurers,
11 including but not limited to life, health, property, casualty,
12 credit, title, fire, or marine, operating on a stock, mutual,

1 reciprocal, or fraternal plan.

2 SECTION 2. 10-2-202, Colorado Revised Statutes 1973, as
3 amended by Session Laws of Colorado 1977, is amended BY THE
4 ADDITION OF A NEW SUBSECTION to read:

5 10-2-202. Definitions. (2.5) "Insurance consultant" means
6 a person who, for a fee, holds himself out to the public as
7 engaged in the business of offering any advice, counsel, opinion,
8 or service with respect to the benefits, advantages, or
9 disadvantages promised under any policy of insurance that could
10 be issued in this state.

11 SECTION 3. 10-2-204 (1), Colorado Revised Statutes 1973, as
12 amended by chapter 97, Session Laws of Colorado 1977, is amended
13 to read:

14 10-2-204. License requirements. (1) No person shall act
15 as or hold himself out to be an insurance agent, insurance
16 broker, surplus lines insurance broker, or limited insurance
17 representative, OR INSURANCE CONSULTANT unless he is duly
18 licensed therefor.

19 SECTION 4. 10-2-207 (16) (a), Colorado Revised Statutes
20 1973, as amended by chapter 97, Session Laws of Colorado 1977, is
21 amended to read:

22 10-2-207. Licenses. (16) (a) After the completion and
23 filing of the application with the commissioner, the commissioner
24 may subject each applicant for license as an insurance agent,
25 insurance broker, surplus lines insurance broker, or limited
26 insurance representative, OR INSURANCE CONSULTANT to a written
27 examination as to his competence to act as such licensee, which

1 examination shall be passed to the satisfaction of the
2 commissioner.

3 SECTION 5. 10-2-210 (2), Colorado Revised Statutes 1973, as
4 amended by chapter 97, Session Laws of Colorado 1977, is amended
5 to read:

6 10-2-210. Denial of license. (2) If a license is refused,
7 the commissioner shall promptly refund the appointment fee
8 tendered with the license application. All other fees
9 accompanying the application for license as insurance agent,
10 insurance broker, surplus lines insurance broker, and limited
11 insurance representative, OR INSURANCE CONSULTANT shall be deemed
12 earned and shall not be refundable.

13 SECTION 6. Part 2 of article 2 of title 10, Colorado
14 Revised Statutes 1973, as amended by Session Laws of Colorado
15 1977, is amended BY THE ADDITION OF A NEW SECTION to read:

16 10-2-211.5. Insurance consultants. (1) No person shall
17 engage in the business of an insurance consultant until a license
18 therefor has been issued to him by the commissioner.

19 (2) A person shall not provide consultant services,
20 counsel, advice, or opinion with respect to benefits provided by,
21 coverage afforded by, or terms, value, effect, or advantages or
22 disadvantages of a policy of insurance or annuity, nor shall he
23 advertise, solicit, hold himself out as an insurance consultant,
24 or use terms which imply that he is an insurance consultant,
25 unless he is properly licensed as an insurance consultant
26 pursuant to this part 2.

27 (3) An application for a license to act as an insurance

1 consultant shall be made to the commissioner on a form prescribed
2 by the commissioner. Within a reasonable time after receipt of a
3 properly completed application form, the commissioner shall hold
4 a written examination for the applicant and may conduct
5 investigations and propound interrogatories concerning the
6 applicant's qualifications, residence, business affiliations, and
7 any other matter which he deems necessary or advisable to
8 determine compliance with this part 2 or for the protection of
9 the public.

10 (4) Such license shall be valid for not longer than two
11 years and may be renewed and extended in the same manner as an
12 insurance agent's license. The fees for issuing and renewing
13 such license and for an examination shall be the same as those
14 prescribed for an insurance agent.

15 (5) Before rendering any service, a written agreement, on a
16 form approved by the commissioner, shall be prepared by the
17 consultant and signed by both the consultant and the client. The
18 agreement shall outline the nature of the work to be performed by
19 the consultant and state his fee for the work. The consultant
20 shall leave a copy with the client and retain a copy of the
21 agreement for not less than two years after completion of the
22 services. A copy shall be made available to the commissioner.
23 No licensed consultant shall receive any remuneration as an
24 insurance agent, insurance broker, surplus lines insurance
25 broker, or limited insurance representative in conjunction with
26 services rendered as a consultant.

27 (6) An insurance consultant shall serve with objectivity

1 and complete loyalty the interests of his client alone and shall
2 render to his client such information, counsel, and service as
3 within the knowledge, understanding, and opinion in good faith of
4 the licensee will best serve the client's insurance or annuity
5 needs and interests.

6 (7) All requirements and standards relating to the denial,
7 revocation, or suspension of an insurance agent's license,
8 including penalties, shall apply to the denial, revocation, and
9 suspension of an insurance consultant's license as nearly as
10 practicable. Any administrative action taken by the commissioner
11 which would warrant the denial, revocation, or suspension of the
12 insurance consultant's license shall also include the
13 consideration of the denial, revocation, or suspension of the
14 insurance consultant's, insurance agent's, or insurance broker's
15 license.

16 SECTION 7. Effective date. This act shall take effect
17 January 1, 1979.

18 SECTION 8. Safety clause. The general assembly hereby
19 finds, determines, and declares that this act is necessary for
20 the immediate preservation of the public peace, health, and
21 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 7

A BILL FOR AN ACT

1 CONCERNING LOSS RATIO REQUIREMENTS FOR CERTAIN HEALTH AND
2 ACCIDENT INSURANCE POLICIES.

Bill Summary

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

Requires insurance companies who issue supplemental policies to Medicare to demonstrate that they comply with a loss ratio schedule prescribed by the commissioner of insurance. Authorizes the commissioner to order a rate reduction for insurers whose loss ratio is less than the one required.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-8-101, Colorado Revised Statutes 1973, is
5 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 10-8-101. Definitions. As used in this part 1, unless the
7 context otherwise requires:

8 (1) "Medicare supplemental policy" means a policy of
9 sickness and accident insurance which provides benefits
10 supplemental to those provided under the federal program of
11 medical insurance under Title XVIII of the federal "Social
12 Security Act".

13 (2) "Policy of sickness and accident insurance" means any

1 policy or contract of insurance against loss or expense resulting
2 from the sickness of the insured, or from the bodily injury or
3 death of the insured by accident, or both.

4 SECTION 2. Part 1 of article 8 of title 10, Colorado
5 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
6 A NEW SECTION to read:

7 10-8-102.5. Loss ratios - Medicare supplemental policies.

8 (1) The ratio of benefits paid by an insurer to persons insured
9 under Medicare supplemental policies to the total of premiums
10 paid to such insurer under such policies shall not be less than
11 that prescribed by the commissioner in any year. Every insurer
12 who issues Medicare supplemental policies shall submit, with its
13 report filed pursuant to section 10-3-109, a report of its loss
14 ratio for the prior year, together with such supporting data as
15 the commissioner may require.

16 (2) Whenever it appears that the loss ratio on Medicare
17 supplemental policies of any insurer is less than that prescribed
18 by the commissioner for any year, the commissioner, after
19 proceedings conducted in accordance with article 4 of title 24,
20 C.R.S. 1973, including a public hearing, may require the insurer
21 to reduce its rates on Medicare supplemental policies in order to
22 effect a loss ratio which complies with subsection (1) of this
23 section.

24 SECTION 3. Safety clause. The general assembly hereby
25 finds, determines, and declares that this act is necessary for
26 the immediate preservation of the public peace, health, and
27 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 8

A BILL FOR AN ACT

1 CONCERNING UNFAIR PRACTICES IN THE SALE OF MEDICARE SUPPLEMENTAL
2 INSURANCE POLICIES.

Bill Summary

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

Requires any insurance company issuing policies supplemental to Medicare to provide to prospective purchasers a standard form setting forth the benefits provided and other conditions of the policy, as prescribed by the commissioner of insurance. Also requires the mailing of a follow-up form to persons who have purchased such policies to determine whether the purchaser was adequately informed and to offer to rescind the policy if the insured returns it within a specified period.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-3-1102, Colorado Revised Statutes 1973, is
5 amended BY THE ADDITION OF A NEW SUBSECTION to read:

6 10-3-1102. Definitions. (2.5) "Medicare supplemental
7 policy" means a policy of sickness and accident insurance which
8 provides benefits supplemental to those provided under the
9 federal program of medical insurance under Title XVIII of the
10 federal "Social Security Act".

11 SECTION 2. 10-3-1104, Colorado Revised Statutes 1973, as

1 amended, is amended BY THE ADDITION OF THE FOLLOWING NEW
2 SUBSECTIONS to read:

3 10-3-1104. Unfair methods of competition and unfair or
4 deceptive acts or practices. (3) The commissioner shall
5 prescribe a standard form, to be completed by the insurer, which
6 shall be delivered by the insurer to every person desiring to
7 purchase any Medicare supplemental policy. The form shall
8 provide for the disclosure of whether the policy will pay
9 Medicare deductible amounts or copayment charges for hospital and
10 other medical insurance and, if so, what those amounts and
11 charges are; whether other benefits are provided under the
12 policy; what exceptions to, reductions of, or limitations on
13 benefits are included in the policy; the premium to be paid for
14 the policy; and any other matters required by the commissioner.
15 Failure to deliver the completed form prior to the purchase of a
16 Medicare supplemental policy constitutes an unfair practice in
17 the business of insurance.

18 (4) (a) The general assembly hereby declares that Medicare
19 supplemental policies are sold to the elderly, who are
20 particularly susceptible to unfair or deceptive practices in the
21 sale of insurance; that the purpose of this subsection (4) is to
22 assure that the individual purchasing a Medicare supplemental
23 policy has received the policy and understands what he has
24 purchased; and that the form required by this subsection (4) will
25 aid in determining whether the insured was adequately informed as
26 to the nature of the coverage prior to purchasing the policy and
27 whether the policy replaces one already in force.

1 (b) Not later than thirty days following the delivery of a
2 Medicare supplemental policy, the insurer shall mail to the
3 insured a form which shall conform to paragraph (c) of this
4 subsection (4).

5 (c) The form required by paragraph (b) of this subsection
6 (3) shall provide the following:

7 (I) A brief explanation of the policy;

8 (II) An offer of rescission if the insured returns the
9 policy within ten days;

10 (III) An inquiry as to whether the policy delivered
11 replaces another Medicare supplemental policy;

12 (IV) An inquiry as to whether the insured received an
13 outline of coverage prior to purchasing the policy;

14 (V) A statement that if the insured has questions
15 concerning the policy provisions or the coverage provided,
16 inquiries should be directed to the designated company
17 representative, other than the agent who delivered the policy;

18 (VI) A space for the signature of the insured;

19 (VII) A prominent statement requesting the insured to
20 complete the form and return it in the envelope provided;

21 (VIII) A postage paid return envelope.

22 (d) The form shall contain no advertising material.

23 (e) The insurer shall maintain a file of the returned
24 signed forms for a period of six months.

25 (f) Failure to mail the form as required by paragraph (b)
26 of this subsection (4) or failure to maintain a file of returned
27 forms as required by paragraph (e) of this subsection (4),

1 constitutes an unfair practice in the business of insurance.

2 SECTION 3. Effective date. This act shall take effect July
3 1, 1978.

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

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 9

A BILL FOR AN ACT

1 CONCERNING THE TRAINING OF PERSONS WORKING WITH THE AGING TO
2 ASSIST IN INSURANCE MATTERS.

Bill Summary

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

Requires the division of insurance to develop a training program for persons working with the aging to enable them to assist elderly persons in insurance matters.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Article 1 of title 10, Colorado Revised Statutes
5 1973, as amended, and as further amended by Session Laws of
6 Colorado 1977, is amended BY THE ADDITION OF A NEW SECTION to
7 read:

8 10-1-125. Training program for county social services
9 employees. The division of insurance shall develop a training
10 program for persons working with the aging on the local level
11 which will enable them to assist the elderly in dealing with
12 their insurance problems.

13 SECTION 2. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for
2 the immediate preservation of the public peace, health, and
3 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 10

A BILL FOR AN ACT

1 CONCERNING CONTINUING EDUCATION REQUIREMENTS FOR PERSONS LICENSED
2 BY THE DIVISION OF INSURANCE.

Bill Summary

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

Requires insurance agents, brokers, and limited representatives to meet continuing education requirements prescribed by the commissioner of insurance as a condition of the continuation of their licenses.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-2-207 (5), Colorado Revised Statutes 1973, as
5 amended by chapter 97, Session Laws of Colorado 1977, is amended
6 BY THE ADDITION OF A NEW PARAGRAPH to read:

7 10-2-207. Licenses. (5) (d) Every insurance agent,
8 insurance broker, and limited insurance representative who
9 requests continuation of his license shall present evidence of
10 having completed not less than fifteen hours of approved
11 continuing insurance education during the previous license
12 period. The commissioner shall promulgate rules establishing
13 continuing education requirements for each type of insurance

1 license and standards for approval of continuing education
2 activities, credits, and courses.

3 SECTION 2. Applicability. This act shall apply with
4 respect to licenses renewed on or after January 1, 1979.

5 SECTION 3. Safety clause. The general assembly hereby
6 finds, determines, and declares that this act is necessary for
7 the immediate preservation of the public peace, health, and
8 safety.

COMMITTEE ON THE DIVISION OF INSURANCE

BILL NO. 11

A BILL FOR AN ACT

1 CONCERNING DECEPTIVE PRACTICES BY AGENTS IN THE SALE OF
2 REPLACEMENT LIFE INSURANCE POLICIES.

Bill Summary

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

Requires a life insurance agent proposing to furnish replacement insurance to compare in writing the coverage he proposes with the policies to be replaced. Also allows the insured to declare that he does not want anyone notified of such transaction.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-3-1104 (1) (j), Colorado Revised Statutes
5 1973, is amended to read:

6 10-3-1104. Unfair methods of competition and unfair or
7 deceptive acts or practices. (1) (j) Misrepresentation in
8 insurance applications: Making false or fraudulent statements or
9 representations on or relative to any application for an
10 insurance policy, for the purpose of obtaining a fee, commission,
11 money, or other benefit from any person. IT SHALL BE DEEMED A
12 SPECIFIC MISREPRESENTATION IN THE OFFER AND SALE OF LIFE
13 INSURANCE BY AN AGENT, ORALLY OR BY MAIL, TO AVOID OR AVERT

1 ANSWERING IN A FORTHRIGHT, TRUTHFUL MANNER THE UNDERWRITING
2 QUESTION OF THE APPLICANT IN THE APPLICATION, "IS THIS INSURANCE
3 INTENDED TO REPLACE CURRENT OR EXISTING COVERAGE IN THIS OR ANY
4 OTHER COMPANY?" WHEN THE REPLY IS "YES", EVEN THOUGH QUALIFIED,
5 THE SOLICITING AGENT SHALL MAKE A WRITTEN EXPLANATION OF THE
6 APPLICANT'S OR INSURED'S CURRENT OR EXISTING POLICIES AND THE
7 AGENT'S PROPOSED POLICIES WHICH MAY BECOME REPLACEMENT COVERAGE.
8 THE AGENT SHALL ALSO REQUEST THE APPLICANT OR INSURED TO INDICATE
9 HIS UNDERSTANDING BY SIGNING SUCH EXPLANATION, ALONG WITH THE
10 CONSUMER APPLICANT'S RIGHT TO DECLARE WHETHER HE CONSENTS TO THE
11 DIVULGING OF ANY FACTS CONCERNING THE REPLACEMENT COVERAGE TO
12 ANYONE.

13 SECTION 2. Effective date. This act shall take effect July
14 1, 1978.

15 SECTION 3. Safety clause. The general assembly hereby
16 finds, determines, and declares that this act is necessary for
17 the immediate preservation of the public peace, health, and
18 safety.