

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0192.01 Josh Schultz x5486

HOUSE BILL 24-1083

HOUSE SPONSORSHIP

Willford and Brown,

SENATE SPONSORSHIP

Cutter,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INSURANCE COVERAGE FOR CONSTRUCTION
102 PROFESSIONALS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the division of insurance (division) to conduct or cause to be conducted a study of construction liability insurance for construction professionals in Colorado. The study must identify the following:

- All insurers offering construction liability policies in Colorado (policies);

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- The rates charged by insurers for policies and the basis for the rates, including data for the past 5 years, if available;
- Risk factors, classifications, and coverage descriptions insurers use to set policy rates;
- A comparison of the policy rates insurers charge with rates charged by other states in the region to cover similar residential projects;
- Policy coverage terms; and
- Common limitations or exclusions from policy coverage.

The bill requires that, at least 14 days prior to closing the sale of a new residence, the seller of the residence provide the purchaser and the county clerk and recorder's office for the county where the new residence is located with information regarding the insurance coverage for the property subject to the sale, including:

- Identification of each policy and the coverage provider that may provide coverage for a construction professional's work on the residence;
- The amount of the policy limits for each policy identified;
- The policy period for each policy identified, including whether the policy provides coverage on a claims-made basis or occurrence basis; and
- Identification of relevant exclusions from coverage.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-4-122 as
3 follows:

4 **10-4-122. Construction liability insurance study - report -**
5 **definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "CONSTRUCTION LIABILITY POLICY" HAS THE MEANING SET
8 FORTH IN SECTION 6-29-101 (1).

9 (b) "RATES" MEANS THE AMOUNT AN INSURER CHARGES FOR AN
10 INSURANCE POLICY, INCLUDING PREMIUMS OR OTHER AMOUNTS CHARGED
11 FOR COVERAGE.

12 (c) "RESIDENTIAL PROJECT" HAS THE MEANING SET FORTH IN
13 SECTION 6-29-101 (4).

1 (d) "STUDY" MEANS THE CONSTRUCTION LIABILITY POLICIES
2 STUDY DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

3 (2) THE COMMISSIONER SHALL CONDUCT OR CAUSE TO BE
4 CONDUCTED A STUDY OF CONSTRUCTION LIABILITY POLICIES IN
5 COLORADO.

6 (3) THE STUDY MUST IDENTIFY, AT A MINIMUM:

7 (a) ALL INSURERS OFFERING CONSTRUCTION LIABILITY POLICIES IN
8 THE STATE, INCLUDING TO RESIDENTIAL PROPERTY DEVELOPERS;

9 (b) THE RATES CHARGED BY INSURERS, AND THE BASIS FOR THE
10 RATES, FOR CONSTRUCTION LIABILITY POLICIES IN THE STATE, INCLUDING
11 DATA FOR THE PAST FIVE YEARS, IF AVAILABLE;

12 (c) RISK FACTORS, CLASSIFICATIONS, AND COVERAGE
13 DESCRIPTIONS THAT INSURERS USE TO SET RATES FOR CONSTRUCTION
14 LIABILITY POLICIES IN THE STATE;

15 (d) A COMPARISON OF THE RATES DESCRIBED IN SUBSECTION (3)(b)
16 OF THIS SECTION WITH THE RATES CHARGED BY OTHER STATES IN THE
17 REGION FOR SIMILAR RESIDENTIAL PROJECTS;

18 (e) THE TERMS OF COVERAGE IN EACH INSURER'S CONSTRUCTION
19 LIABILITY POLICIES IN THE STATE;

20 (f) LIMITATIONS OR EXCLUSIONS FROM COVERAGE IN EACH
21 INSURER'S CONSTRUCTION LIABILITY POLICIES IN THE STATE, INCLUDING:

22 (I) MULTIFAMILY PROJECTS;

23 (II) PROJECTS DESCRIBED IN THE "COLORADO COMMON INTEREST
24 OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38; AND

25 (III) PROJECTS COVERED UNDER AN OWNER-CONTROLLED
26 INSURANCE PROGRAM; AND

27 (g) THE APPROPRIATE POLICY LIMITS FOR A RESIDENTIAL PROJECT

1 WITH REGARD TO THE SIZE AND COST OF CONSTRUCTION.

2 (4) THE COMMISSIONER MAY CONTRACT WITH A THIRD PARTY TO
3 CONDUCT PART OR ALL OF THE STUDY.

4 (5) THE COMMISSIONER SHALL:

5 (a) ON OR BEFORE DECEMBER 31, 2026, SUBMIT A REPORT
6 SUMMARIZING THE STUDY, INCLUDING THE COMMISSIONER'S FINDINGS AND
7 RECOMMENDATIONS ON THE ISSUES IDENTIFIED IN SUBSECTION (3) OF THIS
8 SECTION AND OTHER INFORMATION THAT THE COMMISSIONER DEEMS
9 APPROPRIATE, TO THE HOUSE OF REPRESENTATIVES HEALTH AND
10 INSURANCE COMMITTEE; THE HOUSE OF REPRESENTATIVES
11 TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE; THE
12 SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE; AND THE
13 SENATE LOCAL GOVERNMENT AND HOUSING COMMITTEE; OR THEIR
14 SUCCESSOR COMMITTEES; AND

15 (b) POST THE REPORT, WHICH MUST BE MADE AVAILABLE AS A
16 PUBLIC RECORD ON A PUBLIC-FACING PORTION OF THE DIVISION'S WEBSITE.

17 (6) THE COMMISSIONER MAY USE THE INFORMATION GATHERING
18 AUTHORITY GRANTED TO THE COMMISSIONER IN SECTION 10-1-108 IN
19 FURTHERANCE OF THE STUDY.

20 (7) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027.

21 **SECTION 2.** In Colorado Revised Statutes, **add** article 29 to title
22 6 as follows:

23 **ARTICLE 29**

24 **Builder and Developer Disclosures**
25 **of Insurance Coverage**

26 **6-29-101. Definitions.** AS USED IN THIS ARTICLE 29, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "CONSTRUCTION LIABILITY POLICY" MEANS AN INSURANCE
2 POLICY, INCLUDING A COMMERCIAL GENERAL LIABILITY POLICY, AN
3 ERRORS AND OMISSIONS POLICY, A DIRECTORS AND OFFICERS POLICY, A
4 CONTRACTOR-CONTROLLED INSURANCE PROGRAM, AN
5 OWNER-CONTROLLED INSURANCE PROGRAM, OR ANY OTHER INSURANCE
6 POLICY, WHETHER UNDERLYING, EXCESS, OR UMBRELLA, THAT MAY COVER
7 OCCURRENCES OF DAMAGE OR INJURY DURING THE POLICY PERIOD AND
8 THAT MAY INSURE A CONSTRUCTION PROFESSIONAL FOR LIABILITY ARISING
9 FROM CONSTRUCTION-RELATED WORK, INCLUDING:

10 (a) WHEN A CONSTRUCTION PROFESSIONAL MAY BE ENTITLED TO
11 A DEFENSE OR INDEMNITY AS AN ADDITIONAL INSURED UNDER ANOTHER
12 CONSTRUCTION PROFESSIONAL'S LIABILITY INSURANCE POLICY; OR

13 (b) WHEN A CONSTRUCTION PROFESSIONAL MAY BE ENTITLED TO
14 A DEFENSE OR INDEMNITY AS AN ENROLLED CONSTRUCTION PROFESSIONAL
15 UNDER AN OWNER-CONTROLLED INSURANCE PROGRAM OR A
16 CONTRACTOR-CONTROLLED INSURANCE PROGRAM.

17 (2) "CONSTRUCTION PROFESSIONAL" MEANS AN ARCHITECT,
18 CONTRACTOR, SUBCONTRACTOR, DEVELOPER, BUILDER, BUILDER VENDOR,
19 ENGINEER, OR INSPECTOR PERFORMING OR FURNISHING THE DESIGN,
20 SUPERVISION, INSPECTION, CONSTRUCTION, OR OBSERVATION OF THE
21 CONSTRUCTION OF AN IMPROVEMENT TO REAL PROPERTY.

22 (3) "NEW RESIDENCE" MEANS A STRUCTURE OR UNIT IN A
23 RESIDENTIAL PROJECT.

24 (4) "RESIDENTIAL PROJECT" MEANS A DEVELOPMENT CONTAINING
25 TWO OR MORE FOR-SALE RESIDENCES FOR SEPARATE OWNERSHIP,
26 INCLUDING STRUCTURES DESIGNED FOR NONRESIDENTIAL USES WITHIN THE
27 PROJECT.

1 ATTORNEY FEES AND COSTS, MULTIPLIED BY THREE, TO THE PURCHASER.

2 (3) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO
3 CONSTRUCTS A RESIDENTIAL STRUCTURE IN WHICH THE INDIVIDUAL WILL
4 RESIDE.

5 **6-29-103. Disclosures of insurance coverage to county.** (1) AT
6 LEAST FOURTEEN DAYS PRIOR TO CLOSING THE SALE OF ANY NEW
7 RESIDENCE, THE SELLER OF THE NEW RESIDENCE SHALL FILE IN THE
8 COUNTY CLERK AND RECORDER'S OFFICE FOR THE COUNTY IN WHICH THE
9 PROPERTY IS LOCATED INFORMATION REGARDING THE INSURANCE
10 COVERAGE FOR THE PROPERTY SUBJECT TO THE SALE, INCLUDING:

11 (a) THE IDENTITY OF THE ISSUER OF EACH CONSTRUCTION
12 LIABILITY POLICY;

13 (b) THE TYPE AND LIMITS OF INSURANCE COVERAGE;

14 (c) THE POLICY PERIOD FOR EACH POLICY, INCLUDING WHETHER
15 THE POLICY PROVIDES COVERAGE ON A CLAIMS-MADE BASIS OR
16 OCCURRENCE BASIS; AND

17 (d) IDENTIFICATION OF RELEVANT EXCLUSIONS FROM COVERAGE,
18 INCLUDING AN EXCLUSION CONTAINED IN AN ENDORSEMENT AND AN
19 EXCLUSION THAT MAY IMPACT COVERAGE FOR THE RESIDENTIAL PROJECT
20 BASED UPON THE TYPE OF CONSTRUCTION OR POTENTIAL LOSS.

21 (2) THE COUNTY CLERK AND RECORDER SHALL ENSURE THE
22 INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION IS MADE
23 AVAILABLE FOR PUBLIC INSPECTION.

24 **SECTION 3. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly; except that, if a referendum petition is filed pursuant

1 to section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2024 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.

7 (2) This act applies to sales of new residences occurring on or
8 after the applicable effective date of this act.