

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0809.01 Yelana Love x2295

HOUSE BILL 23-1288

HOUSE SPONSORSHIP

McCluskie and Amabile,

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Roberts,

House Committees

State, Civic, Military, & Veterans Affairs

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A BILL FOR AN ACT

101 **CONCERNING FAIR ACCESS TO INSURANCE COVERAGE FOR PERSONS**
102 **UNABLE TO OBTAIN INSURANCE COVERAGE FOR THEIR REAL**
103 **PROPERTY.**

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 creates a nonprofit unincorporated legal entity, the fair access to insurance requirements plan association (association), to help persons who are unable to find coverage in the voluntary market obtain property insurance coverage for their real property.

The association must:

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.*

- Establish, offer, and maintain a property insurance policy that satisfies the requirements specified in the bill;
- Establish a reinsurance association; and
- Assess and share among member insurers all expenses, income, and losses based on each member insurer's written premium in the state.

The association is managed by a board of directors consisting of 9 members appointed by the governor. The board is required to administer the fair access to insurance requirements plan (FAIR plan).

The FAIR plan must include rates that:

- Are not excessive, inadequate, or unfairly discriminatory;
- Are actuarially sound so that revenue generated from premiums is adequate to pay for expected losses, expenses, and taxes and the cost of reinsurance; and
- Reflect the investment income of the FAIR plan.

The plan of operation for the FAIR plan may include provisions establishing maximum limits of liability, reasonable underwriting standards for determining the insurability of a risk, and commissions to be paid to the licensed producers that offer the FAIR plan.

The commissioner of insurance may suspend or revoke the certificate of authority to transact insurance business in this state of any member insurer that fails to timely pay a fee or to comply with the plan of operation for the FAIR plan.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 18 to article
3 4 of title 10 as follows:

4 **PART 18**

5 **FAIR ACCESS TO INSURANCE REQUIREMENTS**

6 **10-4-1801. Short title.** THE SHORT TITLE OF THIS PART 18 IS THE
7 "FAIR ACCESS TO INSURANCE REQUIREMENTS ACT" OR "FAIR ACT".

8 **10-4-1802. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 FINDS THAT:

10 (a) THE IMPACTS OF CLIMATE CHANGE HAVE RESULTED IN AN
11 INCREASING FREQUENCY OF NATURAL DISASTERS IN COLORADO;

12 (b) COLORADO EXPERIENCED THREE OF THE LARGEST WILDFIRES

1 IN ITS HISTORY IN THE LAST FIVE YEARS, AND THE 2021 MARSHALL FIRE
2 RESULTED IN THE LOSS OF OVER ONE THOUSAND HOMES AND COMMERCIAL
3 PROPERTIES;

4 (c) THE GROWING THREATS POSED BY WILDFIRES AND OTHER
5 NATURAL DISASTERS IN COLORADO HAVE PUT NEW PRESSURE ON THE
6 RESIDENTIAL AND COMMERCIAL INSURANCE MARKETS; AND

7 (d) IF HOMEOWNERS AND COMMERCIAL PROPERTY OWNERS ARE
8 UNABLE TO SECURE INSURANCE COVERAGE FOR THE HOMES AND
9 PROPERTIES IN THEIR COMMUNITIES, THE LACK OF COVERAGE WILL
10 FRUSTRATE AND ERODE THOSE COMMUNITIES' HOUSING AND COMMERCIAL
11 PROPERTY MARKETS.

12 (2) THE GENERAL ASSEMBLY DECLARES THAT IT IS IMPERATIVE TO
13 ESTABLISH AND MAKE AVAILABLE TO COLORADO HOMEOWNERS AND
14 COMMERCIAL PROPERTY OWNERS AN INSURANCE PLAN THAT:

15 (a) ENSURES STABILITY IN THE PROPERTY INSURANCE MARKET FOR
16 PROPERTY LOCATED IN COLORADO;

17 (b) ENSURES THE AVAILABILITY OF PROPERTY INSURANCE FOR
18 RESIDENTS OF COLORADO; AND

19 (c) COMPLEMENTS THE PRIVATE MARKET BY REQUIRING
20 CONSUMERS TO PURCHASE COVERAGE THROUGH THE PRIVATE MARKET
21 WHEN POSSIBLE.

22 **10-4-1803. Definitions.** AS USED IN THIS PART 18, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE FAIR PLAN
25 ASSOCIATION CREATED IN SECTION 10-4-1805.

26 (2) "FAIR PLAN" OR "PLAN" MEANS THE FAIR ACCESS TO
27 INSURANCE REQUIREMENTS PLAN ESTABLISHED BY THE BOARD PURSUANT

1 TO SECTION 10-4-1806.

2 (3) "FAIR PLAN ASSOCIATION" OR "ASSOCIATION" MEANS THE FAIR
3 ACCESS TO INSURANCE REQUIREMENTS PLAN ASSOCIATION CREATED IN
4 SECTION 10-4-1804.

5 (4) "MEMBER INSURER" MEANS ANY ADMITTED COMPANY THAT
6 OFFERS OR SELLS ANY PROPERTY OR COMMERCIAL INSURANCE.

7 **10-4-1804. Fair access to insurance requirements plan**
8 **association - creation - participation required.** (1) THERE IS CREATED
9 THE FAIR ACCESS TO INSURANCE REQUIREMENTS PLAN ASSOCIATION, OR
10 FAIR PLAN ASSOCIATION, WHICH IS A NONPROFIT UNINCORPORATED
11 LEGAL ENTITY. ALL MEMBER INSURERS ARE AND REMAIN MEMBERS OF THE
12 ASSOCIATION AS A CONDITION OF EACH MEMBER'S AUTHORITY TO
13 TRANSACT INSURANCE BUSINESS IN THIS STATE. THE ASSOCIATION SHALL
14 PERFORM ITS FUNCTIONS UNDER A PLAN OF OPERATION ESTABLISHED AND
15 APPROVED UNDER SECTION 10-4-1807 AND SHALL EXERCISE ITS POWERS
16 THROUGH A BOARD OF DIRECTORS ESTABLISHED UNDER SECTION
17 10-4-1805.

18 (2) THE FAIR PLAN ASSOCIATION IS ESTABLISHED TO HELP
19 PERSONS OBTAIN PROPERTY INSURANCE COVERAGE, INCLUDING
20 COMMERCIAL INSURANCE, WHEN SUCH COVERAGE IS NOT AVAILABLE FROM
21 ADMITTED COMPANIES.

22 (3) SUBJECT TO RULES PROMULGATED BY THE COMMISSIONER
23 PURSUANT TO SECTION 10-4-1811, THE FAIR PLAN ASSOCIATION SHALL:

24 (a) ESTABLISH, OFFER, AND MAINTAIN A PROPERTY INSURANCE
25 POLICY THAT SATISFIES THE REQUIREMENTS OF THE FAIR PLAN SPECIFIED
26 IN SECTION 10-4-1806; AND

27 (b) ASSESS AND SHARE AMONG MEMBER INSURERS, ON A FAIR AND

1 EQUITABLE BASIS, ALL EXPENSES, INCOME, AND LOSSES BASED ON EACH
2 MEMBER INSURER'S WRITTEN PREMIUM IN THE STATE IN A MANNER
3 CONSISTENT WITH THIS PART 18.

4 (4) THE FAIR PLAN ASSOCIATION SHALL ESTABLISH A
5 REINSURANCE ASSOCIATION THAT HAS AUTHORITY, ON BEHALF OF ITS
6 MEMBER INSURERS AS THEIR AGENT, TO CAUSE TO BE ISSUED PROPERTY
7 INSURANCE POLICIES, TO REINSURE IN WHOLE OR IN PART ANY SUCH
8 POLICIES, AND TO CEDE ANY SUCH REINSURANCE.

9 (5) THE ASSOCIATION SHALL ESTABLISH A PUBLIC WEBSITE THAT
10 INCLUDES INFORMATION ABOUT THE FAIR PLAN. THE WEBSITE MUST
11 INCLUDE A TOLL-FREE TELEPHONE NUMBER THAT A PERSON MAY USE TO
12 OBTAIN INFORMATION ABOUT THE PLAN.

13 **10-4-1805. Fair access to insurance requirements plan**
14 **association - board of directors - membership - duties.** (1) (a) THE
15 FAIR PLAN ASSOCIATION BOARD OF DIRECTORS IS CREATED AS THE
16 GOVERNING BODY OF THE ASSOCIATION AND TO ADMINISTER THE FAIR
17 PLAN. THE BOARD CONSISTS OF NINE MEMBERS APPOINTED BY THE
18 GOVERNOR AS FOLLOWS:

19 (I) ONE MEMBER REPRESENTING AN ADMITTED MUTUAL INSURER
20 WRITING PROPERTY INSURANCE IN COLORADO;

21 (II) ONE MEMBER REPRESENTING AN ADMITTED STOCK INSURER
22 WRITING PROPERTY INSURANCE IN COLORADO;

23 (III) ONE MEMBER REPRESENTING A COLORADO-BASED INSURANCE
24 TRADE ORGANIZATION THAT REPRESENTS INSURERS OF VARIOUS PROPERTY
25 INTERESTS;

26 (IV) ONE MEMBER REPRESENTING A NATIONAL INSURANCE TRADE
27 ORGANIZATION THAT REPRESENTS INSURERS OF VARIOUS PROPERTY

1 INTERESTS;

2 (V) ONE MEMBER REPRESENTING A COLORADO-BASED INSURANCE
3 TRADE ASSOCIATION THAT REPRESENTS INDEPENDENT INSURANCE AGENTS
4 LICENSED TO WRITE PROPERTY AND CASUALTY INSURANCE IN COLORADO;

5 (VI) ONE MEMBER WHO IS AN INSURANCE PRODUCER LICENSED
6 PURSUANT TO ARTICLE 2 OF THIS TITLE 10 TO WRITE PROPERTY AND
7 CASUALTY INSURANCE IN COLORADO; AND

8 (VII) THREE MEMBERS REPRESENTING THE INTERESTS OF
9 CONSUMERS AND, TO THE EXTENT PRACTICABLE, REPRESENTING DIVERSE
10 GEOGRAPHIC AREAS OF THE STATE.

11 (b) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO
12 THE BOARD ON OR BEFORE JANUARY 1, 2024.

13 (c) THE TERM OF OFFICE OF BOARD MEMBERS IS THREE YEARS;
14 EXCEPT THAT:

15 (I) EACH BOARD MEMBER SERVES AT THE PLEASURE OF THE
16 GOVERNOR; AND

17 (II) TO ENSURE STAGGERED MEMBERSHIP, OF THE INITIAL
18 MEMBERS APPOINTED TO THE BOARD:

19 (A) ONE OF THE MEMBERS INITIALLY APPOINTED PURSUANT TO
20 SUBSECTION (1)(a)(I) OR (1)(a)(II) OF THIS SECTION AND ONE OF THE
21 MEMBERS INITIALLY APPOINTED PURSUANT TO SUBSECTION (1)(a)(V) OR
22 (1)(a)(VI) OF THIS SECTION SHALL EACH SERVE AN INITIAL TERM OF ONE
23 YEAR; AND

24 (B) ONE OF THE MEMBERS INITIALLY APPOINTED PURSUANT TO
25 SUBSECTION (1)(a)(III) OR (1)(a)(IV) OF THIS SECTION AND ONE OF THE
26 MEMBERS INITIALLY APPOINTED PURSUANT TO SUBSECTION (1)(a)(VII) OF
27 THIS SECTION SHALL EACH SERVE AN INITIAL TERM OF TWO YEARS.

1 (d) A BOARD MEMBER MAY SERVE AN UNLIMITED NUMBER OF
2 TERMS.

3 (e) IF A VACANCY OCCURS ON THE BOARD, THE GOVERNOR SHALL
4 APPOINT A NEW BOARD MEMBER TO COMPLETE THE REMAINDER OF THE
5 BOARD MEMBER'S TERM.

6 (2) THE BOARD MAY, ON ITS OWN INITIATIVE, OR SHALL, AT THE
7 REQUEST OF THE COMMISSIONER, AMEND THE PLAN OF OPERATION
8 DESCRIBED IN SECTION 10-4-1807, SUBJECT TO APPROVAL BY THE
9 COMMISSIONER.

10 (3) IF THE COMMISSIONER DETERMINES AT ANY TIME THAT A
11 REASONABLE DEGREE OF COMPETITION DOES NOT EXIST IN THE PROPERTY
12 AND COMMERCIAL INSURANCE MARKETS, THE COMMISSIONER SHALL ISSUE
13 A DECLARATION TO THAT EFFECT AND DIRECT THE BOARD TO PROMPTLY
14 AMEND THE FAIR PLAN TO INCLUDE ADDITIONAL COVERAGES.

15 (4) (a) ON OR BEFORE APRIL 1, 2025, AND ON OR BEFORE EACH
16 APRIL 1 THEREAFTER, THE BOARD SHALL SUBMIT TO THE COMMISSIONER,
17 IN THE FORM AND MANNER DETERMINED BY THE COMMISSIONER, A REPORT
18 CONCERNING THE FAIR PLAN DURING THE PRECEDING CALENDAR YEAR.
19 THE REPORT MUST INCLUDE INFORMATION CONCERNING:

20 (I) THE FINANCIAL CONDITION OF THE PLAN;

21 (II) THE NUMBER OF POLICIES AND THE COVERAGE AVAILABLE
22 THROUGH THE PLAN;

23 (III) THE NUMBER AND TYPES OF CLAIMS MADE UNDER THE PLAN;

24 AND

25 (IV) A DESCRIPTION OF THE SUFFICIENCY OF COVERAGE UNDER
26 AND FINANCES OF THE PLAN.

27 (b) IN ADDITION TO THIS ANNUAL REPORTING REQUIREMENT, THE

1 COMMISSIONER MAY REQUIRE THE BOARD TO SUBMIT QUARTERLY REPORTS
2 OR MAY EXAMINE THE AFFAIRS OF THE FAIR PLAN ASSOCIATION IF THE
3 COMMISSIONER DETERMINES THAT SUCH ACTION IS NECESSARY TO ENSURE
4 THE CONTINUED SOLVENCY OF THE PLAN.

5 **10-4-1806. FAIR plan - plan requirements - insurer**
6 **requirements.** (1) THE BOARD SHALL ESTABLISH THE FAIR PLAN. THE
7 FAIR PLAN MUST SATISFY THE REQUIREMENTS OF THIS PART 18 AND ANY
8 RULES PROMULGATED BY THE COMMISSIONER PURSUANT TO THIS PART 18.

9 (2) RATES FOR THE FAIR PLAN MUST:

10 (a) NOT BE EXCESSIVE, INADEQUATE, OR UNFAIRLY
11 DISCRIMINATORY;

12 (b) BE ACTUARIALLY SOUND SO THAT REVENUE GENERATED FROM
13 PREMIUMS IS ADEQUATE TO PAY FOR EXPECTED LOSSES, EXPENSES, AND
14 TAXES;

15 (c) REFLECT THE INVESTMENT INCOME OF THE PLAN; AND

16 (d) REFLECT THE COST OF REINSURANCE.

17 (3) THE FAIR PLAN IS SUBJECT TO THE RATE FILING AND REVIEW
18 REQUIREMENTS IN THIS ARTICLE 4.

19 **10-4-1807. Plan of operation - mandatory components -**
20 **amendments - revocation by commissioner - rules.** (1) ON OR BEFORE
21 JULY 1, 2024, THE BOARD SHALL ESTABLISH AND SUBMIT TO THE
22 COMMISSIONER A PLAN OF OPERATION FOR THE FAIR PLAN, WHICH PLAN
23 OF OPERATION IS CONSISTENT WITH THIS PART 18. THE PLAN OF OPERATION
24 AND ANY AMENDMENTS TO THE PLAN OF OPERATION BECOME EFFECTIVE
25 UPON WRITTEN APPROVAL BY THE COMMISSIONER.

26 (2) WITH REGARD TO THE FAIR PLAN, THE PLAN OF OPERATION
27 MUST PROVIDE FOR:

- 1 (a) THE LINES OF INSURANCE COVERAGES TO BE WRITTEN;
- 2 (b) COVERAGE LIMITS NOT TO EXCEED ONE MILLION DOLLARS FOR
3 HOMEOWNERS AND FIVE MILLION DOLLARS FOR COMMERCIAL PROPERTY
4 OWNERS;
- 5 (c) THE POLICY FORMS TO BE USED;
- 6 (d) THE PERILS TO BE COVERED;
- 7 (e) THE ESTABLISHMENT OF REASONABLE UNDERWRITING
8 STANDARDS TO DETERMINE THE ELIGIBILITY OF A RISK, INCLUDING
9 MITIGATION REQUIREMENTS AND PROPERTY INSPECTIONS;
- 10 (f) THE COMPENSATION AND COMMISSIONS TO BE PAID TO
11 LICENSED PRODUCERS OFFERING THE FAIR PLAN;
- 12 (g) THE TIME FRAMES FOR FEES TO BE COLLECTED FROM MEMBER
13 INSURERS;
- 14 (h) ASSESSMENTS AGAINST MEMBER INSURERS IN THE PROPORTION
15 THAT THE PREMIUMS RECEIVED ON PROPERTY INSURANCE LINES IN THIS
16 STATE BY EACH ASSESSED MEMBER INSURER FOR THE THREE MOST RECENT
17 CALENDAR YEARS FOR WHICH INFORMATION IS AVAILABLE BEARS TO
18 PREMIUMS RECEIVED ON PROPERTY INSURANCE LINES IN THIS STATE FOR
19 SUCH CALENDAR YEARS BY ALL ASSESSED MEMBER INSURERS;
- 20 (i) THE ADMINISTRATION OF THE PLAN OF OPERATION BY THE
21 BOARD, INCLUDING ANY SERVICING AGREEMENTS THE BOARD MAY ENTER
22 INTO TO SUPPORT THE OPERATIONS OF THE FAIR PLAN ASSOCIATION; AND
- 23 (j) ANY OTHER MATTER NECESSARY OR CONVENIENT FOR THE
24 PURPOSE OF ASSURING FAIR ACCESS TO A FAIR PLAN.
- 25 (3) IF THE BOARD FAILS TO SUBMIT A SUITABLE PLAN OF
26 OPERATION BY JULY 1, 2024, OR FAILS TO TIMELY SUBMIT SUITABLE
27 AMENDMENTS TO THE PLAN, THE COMMISSIONER SHALL, AFTER NOTICE

1 AND HEARING, ADOPT REASONABLE RULES THAT ARE NECESSARY TO
2 EFFECTUATE THE PROVISIONS OF THIS PART 18. IF THE BOARD
3 SUBSEQUENTLY SUBMITS A SUITABLE PLAN OF OPERATION OR SUITABLE
4 AMENDMENTS, THE COMMISSIONER SHALL PROMULGATE RULES ALLOWING
5 THE PLAN OF OPERATION OR AMENDMENTS TO SUPERSEDE THE FORMER
6 RULES.

7 (4) THE COMMISSIONER MAY, AT ANY TIME, REVOKE THE
8 COMMISSIONER'S APPROVAL OF ALL OR ANY PART OF THE PLAN OF
9 OPERATION IF THE COMMISSIONER DETERMINES THAT REVOCATION IS
10 NECESSARY TO CARRY OUT THE PURPOSES OF THIS PART 18. A
11 REVOCATION OF ALL OR PART OF THE PLAN OF OPERATION DOES NOT
12 AFFECT THE VALIDITY OF ANY POLICIES EXECUTED BEFORE THE DATE OF
13 THE REVOCATION. IF THE COMMISSIONER REVOKES THE COMMISSIONER'S
14 APPROVAL OF ALL OR ANY PART OF THE PLAN OF OPERATION, THE BOARD
15 SHALL, WITHIN THIRTY DAYS AFTER THE REVOCATION, SUBMIT FOR THE
16 COMMISSIONER'S REVIEW AN APPROPRIATELY REVISED PLAN OF OPERATION
17 OR REVISED PART OF THE PLAN OF OPERATION. IF THE BOARD FAILS TO DO
18 SO, OR IF THE COMMISSIONER DEEMS THE REVISED PLAN OF OPERATION OR
19 REVISED PART OF THE PLAN OF OPERATION UNACCEPTABLE, THE
20 COMMISSIONER SHALL PROMULGATE RULES ESTABLISHING A PLAN OF
21 OPERATION OR PART OF A PLAN OF OPERATION THAT THE COMMISSIONER
22 DEEMS NECESSARY TO IMPLEMENT THIS PART 18.

23 **10-4-1808. Assessment of fees - tax offset.** (1) (a) THE FAIR
24 PLAN ASSOCIATION MAY COLLECT FEES FROM MEMBER INSURERS TO
25 GENERATE SUFFICIENT REVENUE TO START UP THE ASSOCIATION.

26 (b) A MEMBER INSURER THAT PAYS A FEE BASED ON SUBSECTION
27 (1)(a) OF THIS SECTION MAY RECOVER THE AMOUNT DIRECTLY FROM THE

1 MEMBER INSURERS' POLICYHOLDERS.

2 (c) A MEMBER INSURER SHALL NOT INCREASE PREMIUMS BASED ON
3 A FEE ASSESSED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION.

4 (d) THE FEE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION IS
5 NOT A PREMIUM FOR ANY PURPOSE, INCLUDING THE COMPUTATION OF THE
6 GROSS PREMIUM TAX DESCRIBED IN SECTION 10-3-209, OR A LICENSED
7 PRODUCER'S COMMISSION.

8 (2) (a) THE FAIR PLAN ASSOCIATION MAY COLLECT FEES FROM
9 MEMBER INSURERS AS NEEDED FOR THE ASSOCIATION TO MEET ITS
10 FINANCIAL OBLIGATIONS, SUBJECT TO APPROVAL BY THE COMMISSIONER.

11 (b) A MEMBER INSURER ASSESSED A FEE PURSUANT TO SUBSECTION
12 (2)(a) OF THIS SECTION MAY RECOVER UP TO FIFTY PERCENT OF THE FEE
13 DIRECTLY FROM THE MEMBER INSURERS' POLICYHOLDERS.

14 (c) (I) A MEMBER INSURER MAY OFFSET AGAINST ITS PREMIUM TAX
15 LIABILITY TO THIS STATE FIFTY PERCENT OF A FEE ASSESSED PURSUANT TO
16 SUBSECTION (2)(a) OF THIS SECTION.

17 (II) TO THE EXTENT THE OFFSETS SPECIFIED IN SUBSECTION
18 (2)(c)(I) OF THIS SECTION EXCEED THE MEMBER INSURER'S PREMIUM TAX
19 LIABILITY, THE OFFSETS MAY BE CARRIED FORWARD TO OFFSET PREMIUM
20 TAX LIABILITIES IN FUTURE YEARS. IN THE EVENT A MEMBER INSURER
21 CEASES DOING BUSINESS IN COLORADO, ALL UNCREDITED ASSESSMENTS
22 MAY BE CREDITED AGAINST THE MEMBER INSURER'S PREMIUM TAX
23 LIABILITY FOR THE YEAR THE MEMBER INSURER CEASES DOING BUSINESS.

24 (3) IF THE COMMISSIONER DETERMINES AT ANY TIME THAT THE
25 FAIR PLAN ASSOCIATION IS OR MAY BECOME UNABLE TO MEET ITS
26 FINANCIAL OBLIGATIONS, THE COMMISSIONER SHALL DIRECT THE BOARD
27 TO COLLECT FEES IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

1 (4) THE FAIR PLAN ASSOCIATION MAY ABATE OR DEFER, IN WHOLE
2 OR IN PART, A FEE ASSESSED TO A MEMBER INSURER IF, IN THE OPINION OF
3 THE BOARD, PAYMENT OF THE FEE WOULD ENDANGER THE SOLVENCY OF
4 A MEMBER INSURER. IN THE EVENT A FEE ASSESSED AGAINST A MEMBER
5 INSURER IS ABATED OR DEFERRED, IN WHOLE OR IN PART, THE AMOUNT BY
6 WHICH SUCH FEE IS ABATED OR DEFERRED MAY BE ASSESSED AGAINST THE
7 OTHER MEMBER INSURERS.

8 **10-4-1809. Enforcement - suspension or revocation of**
9 **certificate of authority - fines.** (1) AFTER NOTICE AND HEARING, THE
10 COMMISSIONER MAY SUSPEND OR REVOKE THE CERTIFICATE OF AUTHORITY
11 TO TRANSACT INSURANCE BUSINESS IN THIS STATE OF ANY MEMBER
12 INSURER THAT FAILS TO TIMELY PAY A FEE OR TO COMPLY WITH THE PLAN
13 OF OPERATION.

14 (2) AS AN ALTERNATIVE TO SUSPENSION OR REVOCATION OF A
15 CERTIFICATE OF AUTHORITY, AS DESCRIBED IN SUBSECTION (1) OF THIS
16 SECTION, THE COMMISSIONER MAY IMPOSE A FINE ON ANY MEMBER
17 INSURER THAT FAILS TO TIMELY PAY A FEE OR TO COMPLY WITH THE PLAN
18 OF OPERATION. THE FINE MUST BE THE GREATER OF:

19 (a) THE AMOUNT OF THE FEE PLUS INTEREST AND THE
20 COMMISSIONER'S COST OF ENFORCEMENT; OR

21 (b) FIVE THOUSAND DOLLARS.

22 **10-4-1810. Appeals - judicial review.** (1) ANY PERSON
23 AGGRIEVED BY AN ACTION OR DECISION OF THE BOARD OR THE
24 COMMISSIONER MAY APPEAL TO THE COMMISSIONER WITHIN THIRTY DAYS
25 AFTER THE DATE OF THE ACTION OR DECISION. THE COMMISSIONER SHALL,
26 AFTER A HEARING CONDUCTED IN ACCORDANCE WITH SECTION 24-4-105,
27 ISSUE A FINAL ORDER APPROVING OR NULLIFYING THE ACTION OR

1 DECISION.

2 (2) ANY FINAL ACTION OR ORDER OF THE COMMISSIONER ISSUED
3 PURSUANT TO SUBSECTION (1) OF THIS SECTION IS SUBJECT TO JUDICIAL
4 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11).

5 **10-4-1811. Rules.** THE COMMISSIONER MAY PROMULGATE RULES
6 FOR THE IMPLEMENTATION OF THIS PART 18.

7 **SECTION 2. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.