

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

**REREVISED**

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

LLS NO. 23-1015.01 Christy Chase x2008

**HOUSE BILL 23-1303**

---

**HOUSE SPONSORSHIP**

**Brown and McCluskie**, Amabile, Bacon, Boesenecker, deGruy Kennedy, Duran, English, Froelich, Hamrick, Jodeh, Joseph, Kipp, Lindsay, Lindstedt, Lukens, McCormick, Parenti, Ricks, Sharbini, Soper, Titone, Velasco, Willford, Young

**SENATE SPONSORSHIP**

**Hansen and Roberts**,

---

**House Committees**

Public & Behavioral Health & Human Services

**Senate Committees**

Health & Human Services

---

**A BILL FOR AN ACT**

101 **CONCERNING PROTECTIONS IN THE EVENT OF AN INSURANCE COMPANY**  
102 **FAILURE.**

---

**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 amends the priority of distribution of insurance claims paid from an insurer's estate in the event of the insurer's liquidation to include in the class 1 distribution priority payments that an impaired or insolvent insurer owes to the risk adjustment program that are necessary to prevent another insurer from becoming impaired or insolvent. This prioritization adjustment repeals on July 1, 2026.

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.*

SENATE  
3rd Reading Unamended  
May 4, 2023

SENATE  
2nd Reading Unamended  
May 3, 2023

HOUSE  
3rd Reading Unamended  
April 29, 2023

HOUSE  
Amended 2nd Reading  
April 26, 2023

The bill also amends the "Life and Health Insurance Protection Association Act" (act) as follows:

- Adds health maintenance organizations (HMOs) as members of the association and subjects HMOs to assessments from the association;
- Allocates responsibility for long-term care insurance assessments between health insurance and life insurance association members; and
- Specifies that the act does not provide coverage to a person that acquires rights to receive, or to a payee or beneficiary that transfers its rights in, a structured settlement factoring transaction, as defined in federal law, regardless of when the transaction occurred.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-541, **amend**  
3 (1)(a), (1)(c), and (3); and **add (2.5) and (4)** as follows:

4 **10-3-541. Priority of distribution - definitions - repeal.** (1) The  
5 priority of distribution of claims from the insurer's estate shall be in  
6 accordance with the order in which each class of claims is set forth in this  
7 section. Every claim in each class shall be paid in full, or adequate funds  
8 shall be retained for such payment, before the members of the next class  
9 receive any payment. No subclasses shall be established within any class.  
10 The order of distribution of claims shall be:

11 (a) **Class 1.** (I) The costs and expenses of administration during  
12 rehabilitation and liquidation, including but not limited to the following:

13 ~~(H)~~ (A) The actual and necessary costs of preserving or recovering  
14 the assets of the insurer;

15 ~~(H)~~ (B) Compensation for all authorized services rendered in the  
16 rehabilitation and liquidation;

17 ~~(H)~~ (C) Any necessary filing fees;

18 ~~(H)~~ (D) The fees and mileage payable to witnesses;

1           ~~(V)~~ (E) Authorized reasonable attorney fees and fees for other  
2 professional services rendered in the rehabilitation and liquidation; and

3           ~~(VI)~~ (F) The administrative expenses of guaranty associations;  
4 AND

5           (II) CLAIMS BY MEMBER INSURERS FOR THEIR PRO RATA SHARE OF  
6 THE RISK ADJUSTMENT PROGRAM PAYABLE BY AN IMPAIRED INSURER OR  
7 INSOLVENT INSURER IF THE COMMISSIONER DETERMINES THAT THE  
8 FAILURE OF THE IMPAIRED INSURER OR INSOLVENT INSURER TO PAY SUCH  
9 RISK ADJUSTMENT PROGRAM PAYMENTS WOULD RESULT IN THE  
10 IMPAIRMENT OR INSOLVENCY OF THE CLAIMANT MEMBER INSURER AND  
11 THAT SUCH IMPAIRMENT OR INSOLVENCY WOULD BE AVOIDED BY  
12 PAYMENT OF THE CLAIM. THE AMOUNT OF THE PAYMENT OF THE CLAIM  
13 MUST NOT EXCEED THE LESSER OF:

14           (A) THE PRO RATA AMOUNT THE CLAIMANT MEMBER INSURER  
15 WOULD BE ENTITLED TO FROM THE RISK ADJUSTMENT PROGRAM BUT DID  
16 NOT RECEIVE BECAUSE THE ESTATE OF THE IMPAIRED OR INSOLVENT  
17 INSURER HAS NOT MADE THE FULL PAYMENT; OR

18           (B) THE AMOUNT NEEDED TO AVOID THE CLAIMANT MEMBER  
19 INSURER'S IMPAIRMENT OR INSOLVENCY.

20           (c) (I) **Class 3.** Claims of the federal government, except those  
21 described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF  
22 THIS SECTION.

23           (II) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION  
24 (1)(c)(II) THROUGH JUNE 30, 2026, CLASS 3 CLAIMS INCLUDE ALL CLAIMS  
25 OWED FOR THE RISK ADJUSTMENT PROGRAM.

26           (2.5) THE COMMISSIONER SHALL ORDER A MEMBER INSURER THAT  
27 RECEIVED PAYMENTS PURSUANT TO SUBSECTION (1)(a)(II) OF THIS

1 SECTION TO REFUND TO THE ESTATE OF AN IMPAIRED INSURER OR  
2 INSOLVENT INSURER ANY AMOUNTS RECEIVED PURSUANT TO SUBSECTION  
3 (1)(a)(II) OF THIS SECTION THAT DUPLICATE PAYMENTS THE MEMBER  
4 INSURER RECEIVED FROM THE RISK ADJUSTMENT PROGRAM.

5 (3) As used in this section:

6 (a) "IMPAIRED INSURER" HAS THE SAME MEANING AS SET FORTH IN  
7 SECTION 10-20-103 (6.7).

8 (b) "INSOLVENT INSURER" HAS THE SAME MEANING AS SET FORTH  
9 IN SECTION 10-20-103 (7).

10 (a) (c) "Insurer's estate" OR "ESTATE" means the general assets of  
11 such insurer less any assets held in separate accounts that, pursuant to  
12 section 10-7-402, are not chargeable with liabilities arising out of any  
13 other business of the insurer. To the extent, if any, assets maintained in  
14 the separate account are in excess of the amounts needed to satisfy claims  
15 under the separate account contracts, the excess shall be treated as part of  
16 the insurer's estate.

17 (d) "MEMBER INSURER" HAS THE SAME MEANING AS SET FORTH IN  
18 SECTION 10-20-103 (8).

19 (e) "RISK ADJUSTMENT PROGRAM" MEANS THE PROGRAM  
20 ESTABLISHED PURSUANT TO SECTION 1343 OF THE FEDERAL "PATIENT  
21 PROTECTION AND AFFORDABLE CARE ACT", PUB.L. 111-148, AS  
22 AMENDED BY THE FEDERAL "HEALTH CARE AND EDUCATION  
23 RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE  
24 FURTHER AMENDED, 42 U.S.C. SEC. 18063, TO PROVIDE PAYMENTS TO  
25 HEALTH INSURANCE CARRIERS THAT COVER HIGH-RISK POPULATIONS AND  
26 TO MORE EVENLY DISTRIBUTE THE FINANCIAL RISK BORNE BY CARRIERS.

27 (b) (f) "Separate account contract" means any life policy or

1 contract, annuity contract, funding agreement, or guaranteed investment  
2 contract providing for the allocation of amounts received in connection  
3 with such policy, contract, or agreement to a separate account authorized  
4 by section 10-7-402.

5 (4) SUBSECTIONS (1)(a)(II), (1)(c)(II), (2.5), (3)(a), (3)(b), (3)(d),  
6 AND (3)(e) OF THIS SECTION AND THIS SUBSECTION (4) ARE REPEALED,  
7 EFFECTIVE JULY 1, 2026.

8 **SECTION 2.** In Colorado Revised Statutes, **amend** 10-20-101 as  
9 follows:

10 **10-20-101. Short title.** ~~This article shall be known and may be~~  
11 ~~cited as~~ THE SHORT TITLE OF THIS ARTICLE 20 IS the "Life and Health  
12 Insurance Protection Association Act".

13 **SECTION 3.** In Colorado Revised Statutes, **amend** 10-20-102 as  
14 follows:

15 **10-20-102. Legislative declaration.** (1) The general assembly  
16 finds and declares that the purpose of this ~~article~~ ARTICLE 20 is to protect,  
17 subject to certain limitations, the persons specified in section 10-20-104  
18 (1) against failure by member insurers in the performance of their  
19 contractual obligations under life ~~and~~ INSURANCE POLICIES, health  
20 insurance policies, HEALTH BENEFIT PLANS, and annuity POLICIES, PLANS,  
21 OR contracts specified in section 10-20-104 (2) because of the insolvency  
22 of the member insurer that issued the policies, PLANS, or contracts.

23 (2) To provide the protection specified in subsection (1) of this  
24 section, an association of MEMBER insurers shall be created and shall exist  
25 to pay benefits and to continue coverages as limited pursuant to this  
26 ~~article. Members~~ ARTICLE 20. MEMBER INSURERS of the association are  
27 subject to assessment to provide funds to carry out the purpose of this

1 ~~article~~ ARTICLE 20.

2 **SECTION 4.** In Colorado Revised Statutes, 10-20-103, **amend**  
3 the introductory portion, (6), (8) introductory portion, (8)(i.5), (8)(j),  
4 (10.5), (12), (12.7), and (13); **repeal** (8)(b); and **add** (6.6) as follows:

5 **10-20-103. Definitions.** As used in this ~~article~~ ARTICLE 20, unless  
6 the context otherwise requires:

7 (6) "Covered policy", "COVERED CONTRACT", OR "COVERED  
8 POLICY OR CONTRACT" means a policy or contract, or a portion of a policy  
9 or contract, for which coverage is provided under section 10-20-104.

10 (6.6) (a) "HEALTH BENEFIT PLAN" MEANS ANY HOSPITAL OR  
11 MEDICAL EXPENSE POLICY OR CERTIFICATE, HEALTH MAINTENANCE  
12 ORGANIZATION SUBSCRIBER CONTRACT, OR OTHER SIMILAR HEALTH  
13 CONTRACT THAT IS SUBJECT TO THE JURISDICTION OF THE COMMISSIONER  
14 AND AVAILABLE FOR USE, OFFERED, OR SOLD IN COLORADO.

15 (b) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

16 (I) AN ACCIDENT ONLY PLAN;

17 (II) CREDIT INSURANCE;

18 (III) DENTAL INSURANCE;

19 (IV) VISION INSURANCE;

20 (V) A MEDICARE SUPPLEMENT PLAN;

21 (VI) BENEFITS FOR LONG-TERM CARE, HOME HEALTH CARE,  
22 COMMUNITY-BASED CARE, OR ANY COMBINATION OF SUCH BENEFITS;

23 (VII) DISABILITY INCOME INSURANCE;

24 (VIII) LIABILITY INSURANCE INCLUDING GENERAL LIABILITY  
25 INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

26 (IX) COVERAGE FOR ON-SITE MEDICAL CLINICS;

27 (X) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY

1 INSURANCE, WORKERS' COMPENSATION, OR SIMILAR INSURANCE;  
2 (XI) AUTOMOBILE MEDICAL PAYMENT INSURANCE; OR  
3 (XII) SPECIFIED DISEASE, HOSPITAL CONFINEMENT INDEMNITY, OR  
4 LIMITED BENEFIT HEALTH INSURANCE IF THE TYPE OF COVERAGE DOES NOT  
5 PROVIDE COORDINATION OF BENEFITS AND IS PROVIDED UNDER A  
6 SEPARATE POLICY OR CERTIFICATE.

7 (8) "Member insurer" means any insurer OR HEALTH  
8 MAINTENANCE ORGANIZATION THAT IS licensed or ~~who~~ holds a certificate  
9 of authority in this state to write any kind of insurance OR HEALTH  
10 MAINTENANCE ORGANIZATION BUSINESS for which coverage is provided  
11 pursuant to section 10-20-104 and includes any insurer OR HEALTH  
12 MAINTENANCE ORGANIZATION whose license or certificate of authority in  
13 this state may have been suspended, revoked, not renewed, or voluntarily  
14 withdrawn. ~~but~~ "Member insurer" does not include:

15 (b) ~~A health maintenance organization;~~

16 (i.5) A health-care coverage cooperative ~~and~~ WITH A CERTIFICATE  
17 OF AUTHORITY ISSUED AND OPERATING UNDER PART 10 OF ARTICLE 16 OF  
18 THIS TITLE 10; OR

19 (j) Any entity similar to those specified in ~~this subsection~~ (8)  
20 SUBSECTIONS (8)(a) TO (8)(i.5) OF THIS SECTION.

21 (10.5) "Owner" of a policy or contract, ~~for insurance, or~~ "policy  
22 owner", "POLICYHOLDER", "CONTRACT HOLDER", or "contract owner"  
23 means the person who is identified as the legal owner under the terms of  
24 the policy or contract ~~for insurance~~ or who is otherwise vested with legal  
25 title to the policy or contract ~~for insurance~~ through a valid assignment  
26 completed in accordance with the terms of the policy or contract ~~for~~  
27 ~~insurance~~ and properly recorded as the owner on the books of the

1 MEMBER insurer. The terms "owner", "contract owner", "POLICYHOLDER",  
2 "CONTRACT HOLDER" and "policy owner" do not include persons with a  
3 MERE beneficial interest in a policy or contract.

4 (12) (a) "Premiums" means ~~amounts~~ THE AMOUNT of money or  
5 other consideration, however designated, received on covered policies or  
6 contracts less returned premiums, returned consideration, and returned  
7 deposits, and less dividends and experience credits. ~~thereon.~~

8 (b) "Premiums" does not include:

9 (I) Any ~~amounts~~ AMOUNT of money or other consideration  
10 received for any policies or contracts or for the portions of any policies  
11 or contracts for which coverage is not provided under section 10-20-104  
12 (2); except that assessable premiums shall not be reduced on account of  
13 section 10-20-104 (2)(b)(III) relating to interest limitations and section  
14 10-20-104 (3)(b) relating to limitations with respect to any one life;  
15 ~~"Premiums" does not include:~~

16 (a) (II) Premiums on an unallocated annuity contract; or

17 (b) (III) Premiums in excess of five million dollars with respect  
18 to multiple nongroup policies of life insurance owned by one owner,  
19 regardless of:

20 (H) (A) Whether the policy owner is an individual, firm,  
21 corporation, or other person;

22 (H) (B) Whether the persons insured are officers, managers,  
23 employees, or other persons; or

24 (H) (C) The number of policies or contracts held by the owner.

25 (12.7) "Receivership court" means the court in an impaired or  
26 insolvent insurer's state having jurisdiction over the conservation,  
27 rehabilitation, or liquidation of the MEMBER insurer.



1 (13) "Resident" means any person to whom a contractual  
2 obligation is owed and who resides in this state on the date of entry of a  
3 court order that determines a member insurer to be an impaired insurer or  
4 a court order that determines a member insurer to be an insolvent insurer.  
5 A person ~~may~~ MUST be a resident of only one state, which in the case of  
6 a person other than a natural person ~~shall~~ MUST be its principal place of  
7 business. Citizens of the United States who are residents of a foreign  
8 country, United States possession, United States territory, or United States  
9 protectorate, which country, possession, territory, or protectorate does not  
10 have an association similar to the association created by this ~~article~~, ~~shall~~  
11 ~~be~~ ARTICLE 20, ARE deemed residents of the state of domicile of the  
12 MEMBER insurer that issued the policies or contracts.

13 **SECTION 5.** In Colorado Revised Statutes, 10-20-104, **amend**  
14 (1) introductory portion, (1)(a) introductory portion, (1)(a)(II)(A),  
15 (1)(a)(II)(B), (1)(b), (1.5), (1.7), (2)(a), (2)(b) introductory portion,  
16 (2)(b)(XII), (2)(b)(XVI), (2)(b)(XVIII) introductory portion,  
17 (2)(b)(XVIII)(B), (2)(b)(XVIII)(C), (3) introductory portion, (3)(a),  
18 (3)(b)(I) introductory portion, (3)(b)(I)(B), (3)(b)(II)(A), and (4); and **add**  
19 (2)(b)(XX), (2)(c), and (3.5) as follows:

20 **10-20-104. Coverage and limitations - coordination of benefits.**

21 (1) This ~~article shall provide~~ ARTICLE 20 PROVIDES coverage for the  
22 policies and contracts specified in subsection (2) of this section and to  
23 persons:

24 (a) Who are owners of, ~~or~~ certificate holders under, ~~OR~~ ENROLLEES  
25 IN such policies or contracts, other than structured settlement annuities,  
26 and who:

27 (II) Are not residents, but only under all of the following

1 conditions:

2 (A) The MEMBER insurer ~~which~~ THAT issued ~~such~~ THE policies or  
3 contracts is domiciled in this state;

4 (B) ~~Such~~ THE MEMBER insurer never held a license or certificate  
5 of authority in the states in which such persons reside;

6 (b) Regardless of where they reside, except for nonresident  
7 certificate holders under group policies or contracts, who are the  
8 beneficiaries, assignees, or payees, INCLUDING HEALTH-CARE PROVIDERS  
9 RENDERING SERVICES UNDER A HEALTH INSURANCE OR HEALTH  
10 MAINTENANCE ORGANIZATION POLICY, CONTRACT, OR CERTIFICATE, of the  
11 persons covered under ~~paragraph (a) of this subsection (1)~~ SUBSECTION  
12 (1)(a) OF THIS SECTION.

13 (1.5) This ~~article shall~~ ARTICLE 20 DOES not provide coverage to  
14 a person ~~who~~ THAT:

15 (a) Is a payee or beneficiary of ~~a contract~~ AN owner OR ENROLLEE  
16 who is a resident of this state if the payee or beneficiary is afforded any  
17 coverage by the association of another state; OR

18 (b) ACQUIRES RIGHTS TO RECEIVE PAYMENTS THROUGH A  
19 STRUCTURED SETTLEMENT FACTORING TRANSACTION, AS DEFINED IN 26  
20 U.S.C. SEC. 5891 (c)(3)(A), REGARDLESS OF WHETHER THE TRANSACTION  
21 OCCURRED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF 26 U.S.C. SEC.  
22 5891 (c)(3)(A).

23 (1.7) This ~~article~~ ARTICLE 20 is intended to provide coverage to a  
24 person who is a resident of this state and, in special circumstances, to a  
25 nonresident. In order to avoid duplicate coverage, if a person who would  
26 otherwise receive coverage under this ~~article~~ ARTICLE 20 is provided  
27 coverage under the laws of any other state, the person shall not be

1 provided coverage under this ~~article~~ ARTICLE 20. In determining the  
2 application of the provisions of this subsection (1.7) in situations where  
3 a person could be covered by the association of more than one state,  
4 whether as an owner, payee, beneficiary, ENROLLEE, or assignee, this  
5 ~~article~~ ARTICLE 20 shall be construed in conjunction with other state laws  
6 to result in coverage by only one association.

7 (2) (a) This ~~article~~ ARTICLE 20 provides coverage to the persons  
8 specified in subsections (1) and (1.3) of this section for direct, nongroup  
9 life INSURANCE, health INSURANCE, HEALTH MAINTENANCE  
10 ORGANIZATION, annuity, and supplemental policies or contracts and for  
11 certificates under direct group life INSURANCE, health INSURANCE,  
12 HEALTH MAINTENANCE ORGANIZATION, OR annuity policies or contracts,  
13 and FOR supplemental contracts to any of these, issued by member  
14 insurers pursuant to ~~articles 7 and 8~~ ARTICLE 7 and parts 1, ~~and 2~~ 2, AND  
15 4 of article 16 of this ~~title~~ TITLE 10, except as limited by this ~~article~~  
16 ARTICLE 20. Annuity contracts and certificates under group annuity  
17 contracts include allocated funding agreements, structured settlement  
18 annuities, and any immediate or deferred annuity contracts.

19 (b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(c) OF  
20 THIS SECTION, this ~~article~~ ARTICLE 20 does not provide coverage for:

21 (XII) Any MEMBER insurer ~~which~~ THAT was insolvent or unable  
22 to fulfill its contractual obligations as of July 1, 1991; except that an  
23 annuity contract issued or assumed by such ~~an~~ A MEMBER insurer shall be  
24 covered under this ~~article~~ ARTICLE 20 if ~~such~~ THE MEMBER insurer was  
25 ordered into liquidation between July 1, 1991, and August 31, 1991;

26 (XVI) Any policy or contract providing hospital, medical,  
27 prescription drug, or other health-care benefits under:

1 (A) Part C or part D of subchapter XVIII, chapter 7 of title 42,  
2 United States Code, or any regulation issued under ~~these~~ THOSE parts C  
3 OR D; OR

4 (B) SUBCHAPTER XIX, CHAPTER 7 OF TITLE 42, UNITED STATES  
5 CODE, OR ANY REGULATION ISSUED UNDER TITLE XIX;

6 (XVIII) Any obligation that does not arise under the expressed  
7 written terms of the policy or contract issued by the MEMBER insurer to  
8 the ~~contract owner, or to the policy~~ owner, CERTIFICATE HOLDER, OR  
9 ENROLLEE, including: ~~and without limitation:~~

10 (B) Claims based on side letters, riders, or other documents that  
11 were issued by the MEMBER insurer without meeting applicable policy OR  
12 CONTRACT form filing or approval requirements;

13 (C) Misrepresentations of, or regarding, policy OR CONTRACT  
14 benefits;

15 (XX) STRUCTURED SETTLEMENT ANNUITY BENEFITS TO WHICH A  
16 PAYEE OR BENEFICIARY HAS TRANSFERRED THE PAYEE'S OR BENEFICIARY'S  
17 RIGHTS IN A STRUCTURED SETTLEMENT FACTORING TRANSACTION, AS  
18 DEFINED IN 26 U.S.C. SEC. 5891 (c)(3)(A), REGARDLESS OF WHETHER THE  
19 TRANSACTION OCCURRED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF  
20 26 U.S.C. SEC. 5891 (c)(3)(A).

21 (c) THE EXCLUSIONS FROM COVERAGE SPECIFIED IN SUBSECTION  
22 (2)(b)(III) OF THIS SECTION DO NOT APPLY TO ANY PORTION OF A POLICY  
23 OR CONTRACT, INCLUDING A RIDER, THAT PROVIDES LONG-TERM CARE OR  
24 ANY OTHER HEALTH INSURANCE BENEFITS.

25 (3) The benefits for which the association may become liable ~~shall~~  
26 MUST not exceed the lesser of:

27 (a) The contractual obligations for which the MEMBER insurer is

1 liable or would have been liable if it were not an impaired or insolvent  
2 insurer; or

3 (b) (I) With respect to any one life, regardless of the number of  
4 policies or contracts with that MEMBER insurer:

5 (B) For health insurance benefits OR COVERAGE RECEIVED UNDER  
6 HEALTH MAINTENANCE ORGANIZATION CONTRACTS: One hundred  
7 thousand dollars for coverages not defined as disability, ~~basic hospital,~~  
8 ~~medical and surgical, or major medical insurance~~ COVERAGE OR SERVICES  
9 UNDER HEALTH BENEFIT PLANS, or long-term care insurance, including  
10 any net cash surrender and net cash withdrawal values; three hundred  
11 thousand dollars for disability insurance; three hundred thousand dollars  
12 for long-term care insurance; or five hundred thousand dollars for ~~basic~~  
13 ~~hospital, medical and surgical, or major medical insurance~~ COVERAGE OR  
14 SERVICES UNDER HEALTH BENEFIT PLANS;

15 (II) The association is not obligated to cover:

16 (A) More than three hundred thousand dollars in benefits, in the  
17 aggregate, with respect to any one life under ~~sub-paragraphs (A) to~~  
18 ~~(D) of subparagraph (I) of this paragraph (b)~~ SUBSECTION (3)(b)(I) OF  
19 THIS SECTION; except that, with respect to benefits for ~~basic hospital,~~  
20 ~~medical and surgical, and major medical insurance~~ COVERAGE OR  
21 SERVICES UNDER HEALTH BENEFIT PLANS under ~~sub-paragraph (B) of~~  
22 ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (3)(b)(I)(B) OF THIS  
23 SECTION, the aggregate liability of the association ~~shall~~ MUST not exceed  
24 five hundred thousand dollars with respect to any one ~~individual~~ LIFE; or

25 (3.5) FOR PURPOSES OF THIS ARTICLE 20, BENEFITS PROVIDED BY  
26 A LONG-TERM CARE RIDER TO A LIFE INSURANCE POLICY OR ANNUITY ARE  
27 CONSIDERED THE SAME TYPE OF BENEFITS AS THE BENEFITS PROVIDED BY

1 THE UNDERLYING LIFE INSURANCE POLICY OR ANNUITY CONTRACT TO  
2 WHICH THE RIDER RELATES.

3 (4) In performing its obligations to provide coverage under section  
4 10-20-108, the association is not required to guarantee, assume, reinsure,  
5 REISSUE, or perform, or cause to be guaranteed, assumed, reinsured,  
6 REISSUED, or performed, the contractual obligations of the impaired or  
7 insolvent insurer under a covered policy or contract that do not materially  
8 affect the economic values or economic benefits of the covered policy or  
9 contract.

10 **SECTION 6.** In Colorado Revised Statutes, 10-20-106, **amend**  
11 (1) introductory portion as follows:

12 **10-20-106. Creation of the association.** (1) There is hereby  
13 created a private nonprofit legal entity to be known as the life and health  
14 insurance protection association. All member insurers shall be and remain  
15 members of the association as a condition of their authority to transact  
16 insurance OR HEALTH MAINTENANCE ORGANIZATION BUSINESS in this  
17 state. The association shall perform its functions pursuant to the plan of  
18 operation specified in section 10-20-110 and shall exercise its powers  
19 through the board of directors provided in section 10-20-107. For  
20 purposes of administration and assessment, the association shall maintain  
21 three accounts:

22 **SECTION 7.** In Colorado Revised Statutes, 10-20-107, **amend**  
23 (1) and (2) as follows:

24 **10-20-107. Board of directors.** (1) The board of directors of the  
25 association ~~shall consist of not less~~ CONSISTS OF NO FEWER than ~~five~~  
26 SEVEN nor more than ~~nine~~ ELEVEN member insurers serving terms as  
27 established in the plan of operation. ~~The members of the board~~ MEMBER

1 INSURERS shall ~~be selected by member insurers~~ SELECT MEMBERS OF THE  
2 BOARD, subject to the approval of the commissioner. ~~Vacancies on the~~  
3 ~~board shall be filled~~ IF A VACANCY OCCURS, THE REMAINING BOARD  
4 MEMBERS SHALL FILL THE VACANCY for the remaining period of the term  
5 by a majority vote, ~~of the remaining board members~~, subject to the  
6 approval of the commissioner. To select the first board and initially  
7 organize the association, the commissioner shall give notice to all  
8 member insurers of the time and place of the organizational meeting. At  
9 the organizational meeting, each member insurer ~~shall be~~ IS entitled to  
10 one vote in person or by proxy. If the board is not selected within sixty  
11 days after notice of the organizational meeting, the commissioner may  
12 appoint the initial members.

13 (2) In approving selections or in appointing members to the board,  
14 the commissioner shall ~~consider, among other things, whether~~ ENSURE  
15 THAT all member insurers are fairly represented BETWEEN MEMBER  
16 INSURERS THAT WRITE PRIMARILY LIFE INSURANCE OR ANNUITY  
17 CONTRACTS AND MEMBER INSURERS THAT WRITE PRIMARILY HEALTH  
18 BENEFIT PLANS. THE COMMISSIONER SHALL ALSO CONSIDER WHETHER  
19 MEMBER INSURERS WITH EXPERIENCE IN PROVIDING LARGE GROUP HEALTH  
20 BENEFIT PLANS TO EMPLOYERS WHOSE EMPLOYEES ARE SUBJECT TO A  
21 COLLECTIVE BARGAINING AGREEMENT ARE REPRESENTED ON THE BOARD.

22 **SECTION 8.** In Colorado Revised Statutes, 10-20-108, **amend**  
23 (1)(a), (2)(a), (2)(c), (5), (6), (11), (12), (13)(c), (13)(f), (19), (22)  
24 introductory portion, and (24) introductory portion; and **add** (13)(i) as  
25 follows:

26 **10-20-108. Powers and duties of the association.** (1) If a  
27 member insurer is an impaired insurer, the association may, in its

1 discretion and subject to any conditions imposed by the association that  
2 do not impair the contractual obligations of the impaired insurer and that  
3 are approved by the commissioner:

4 (a) Guarantee, assume, REISSUE, or reinsure or cause to be  
5 guaranteed, assumed, REISSUED, or reinsured any or all of the policies or  
6 contracts of the impaired insurer; or

7 (2) If a member insurer is an insolvent insurer, the association  
8 shall, in its discretion, either:

9 (a) Guarantee, assume, REISSUE, or reinsure or cause to be  
10 guaranteed, assumed, REISSUED, or reinsured the covered policies OR  
11 CONTRACTS of the insolvent insurer and provide such ~~moneys~~ MONEY,  
12 pledges, notes, guarantees, or other means as are reasonably necessary to  
13 discharge those duties; or

14 (c) Provide benefits and coverages in accordance with the  
15 following provisions:

16 (I) With respect only to life ~~and~~ INSURANCE, health insurance,  
17 ~~policies~~ HEALTH BENEFIT PLANS, and annuities, assure payment of benefits  
18 ~~for premiums identical to the premiums and benefits, except for terms of~~  
19 ~~conversion and renewability~~, that would have been payable under the  
20 policies OR CONTRACTS of the insolvent insurer for claims incurred:

21 (A) With respect to group policies and contracts, not later than the  
22 earlier of the next renewal date under ~~such~~ THE policies or contracts or  
23 forty-five days, but in no event less than thirty days, after the date on  
24 which the association becomes obligated with respect to ~~such~~ THE policies  
25 or contracts;

26 (B) With respect to nongroup policies, contracts, and annuities,  
27 not later than the earlier of the next renewal date, if any, under ~~such~~ THE



1 policies or contracts or one year, but in no event less than thirty days,  
2 after the date on which the association becomes obligated with respect to  
3 ~~such~~ THE policies or contracts.

4 (II) Make diligent efforts to provide to all known insureds,  
5 ENROLLEES, or annuitants for nongroup policies and contracts, or to group  
6 policy OR CONTRACT owners with respect to group policies and contracts,  
7 thirty days' notice of the termination under ~~subparagraph (I) of this~~  
8 ~~paragraph (c)~~ SUBSECTION (2)(c)(I) OF THIS SECTION of the benefits  
9 provided.

10 (III) With respect to nongroup life ~~and~~ INSURANCE, health  
11 insurance, ~~policies~~ HEALTH BENEFIT PLANS, and annuities covered by the  
12 association, make available to each known insured, ENROLLEE, or  
13 annuitant, or TO THE owner if other than the insured, ENROLLEE, or  
14 annuitant, and with respect to an individual formerly insured OR  
15 ENROLLED or formerly an annuitant under a group policy OR CONTRACT  
16 who is not eligible for replacement group coverage, substitute coverage  
17 on an individual basis in accordance with ~~the provisions of subparagraph~~  
18 ~~(IV) of this paragraph (c)~~ SUBSECTION (2)(c)(IV) OF THIS SECTION, if the  
19 insureds, ENROLLEES, or annuitants had a right under law or the  
20 terminated policy, CONTRACT, or annuity to convert coverage to  
21 individual coverage or to continue an individual policy, CONTRACT, or  
22 annuity in force until a specified age or for a specified time, during which  
23 the insurer OR HEALTH MAINTENANCE ORGANIZATION had no right to  
24 unilaterally make changes in any provisions of the policy, CONTRACT, or  
25 annuity or had a right only to make changes in premium by class.

26 (IV) (A) In providing the substitute coverage required under  
27 ~~subparagraph (III) of this paragraph (c)~~ SUBSECTION (2)(c)(III) OF THIS

1 SECTION, the association may offer either to reissue the terminated  
2 coverage or to issue an alternative policy OR CONTRACT AT ACTUARIALLY  
3 JUSTIFIED RATES APPROVED BY THE COMMISSIONER.

4 (B) The association shall offer alternative or reissued policies OR  
5 CONTRACTS without requiring evidence of insurability, and the policies  
6 OR CONTRACTS must not provide for any waiting period or exclusion that  
7 would not have applied under the terminated policy OR CONTRACT.

8 (C) The association may reinsure any alternative or reissued  
9 policy OR CONTRACT.

10 (V) (A) Alternative policies OR CONTRACTS adopted by the  
11 association are subject to the approval of the ~~domiciliary~~ commissioner.  
12 ~~and the receivership court.~~ The association may adopt alternative policies  
13 OR CONTRACTS of various types for future issuance without regard to any  
14 particular impairment or insolvency.

15 (B) Alternative policies OR CONTRACTS must contain at least the  
16 minimum statutory provisions required in this state and provide benefits  
17 reasonably related to the premium charged. The association shall set the  
18 premium in accordance with a table of rates ~~which it shall adopt~~ THAT  
19 THE ASSOCIATION ADOPTS. The premium must reflect the amount of  
20 insurance OR COVERAGE to be provided and the age and class of risk of  
21 each insured but ~~shall~~ MUST not reflect any changes in the health of the  
22 insured after the original policy OR CONTRACT was last underwritten.

23 (C) Any alternative policy OR CONTRACT issued by the association  
24 must provide coverage of a type similar to that of the policy OR  
25 CONTRACT issued by the impaired or insolvent insurer, as determined by  
26 the association.

27 (VI) If the association elects to reissue terminated coverage at a

1 premium rate different from that charged under the terminated policy OR  
2 CONTRACT, the association shall set ~~the~~ AN ACTUARIALLY JUSTIFIED  
3 premium in accordance with the amount of insurance OR COVERAGE  
4 provided and the age and class of risk, subject to approval by the  
5 commissioner. ~~or by a court of competent jurisdiction.~~

6 (VII) The obligations of the association, with respect to coverage  
7 under any policy OR CONTRACT of the impaired or insolvent insurer or  
8 under any reissued or alternative policy OR CONTRACT, cease on the date  
9 ~~such~~ THE coverage, ~~or~~ policy, OR CONTRACT is replaced by another similar  
10 policy OR CONTRACT by the policy owner, ~~the~~ insured, ENROLLEE, or ~~the~~  
11 association.

12 (VIII) When proceeding under this ~~paragraph (c)~~ SUBSECTION  
13 (2)(c), with respect to any policy or contract carrying guaranteed  
14 minimum interest rates, the association shall assure the payment or  
15 crediting of a rate of interest consistent with section 10-20-104 (2)(b)(III).

16 (5) Nonpayment of premiums within thirty-one days after the date  
17 required under the terms of any guaranteed, assumed, alternative, or  
18 reissued policy or contract or substitute coverage ~~shall terminate~~  
19 TERMINATES the obligations of the association under ~~such~~ THE policy,  
20 CONTRACT, or coverage under this ~~article~~ ARTICLE 20 with respect to ~~such~~  
21 THE policy, CONTRACT, or coverage, except with respect to any claims  
22 incurred or any net cash surrender value ~~which~~ THAT may be due in  
23 accordance with ~~the provisions of this article~~ ARTICLE 20.

24 (6) Premiums due for coverage after entry of an order of  
25 liquidation of an insolvent insurer ~~shall~~ belong to and ~~be~~ ARE payable at  
26 the direction of the association, and the association ~~shall be~~ IS liable for  
27 unearned premiums due to policy OR contract owners arising after the

1 entry of ~~such~~ THE order.

2 (11) The association ~~shall have~~ HAS standing to appear or  
3 intervene before any court or agency in this state ~~which~~ THAT has  
4 jurisdiction over a member insurer for which the association is or may  
5 become obligated under this ~~article~~ ARTICLE 20, or with jurisdiction over  
6 any person or property against which the association may have rights  
7 through subrogation or otherwise. ~~Such~~ THE ASSOCIATION'S standing ~~shall~~  
8 ~~extend~~ EXTENDS to all matters germane to the powers and duties of the  
9 association, including ~~but not limited to~~ proposals for reinsuring,  
10 REISSUING, modifying, or guaranteeing the policies or contracts of the  
11 member insurer and the determination of the policies or contracts and  
12 contractual obligations. The association ~~shall also have~~ HAS the right to  
13 appear or intervene before a court or agency in another state with  
14 jurisdiction over a member insurer for which the association is or may  
15 become obligated or with jurisdiction over any person or property against  
16 whom the association may have rights through subrogation or otherwise.

17 (12) (a) Any person receiving benefits under this ~~article shall be~~  
18 ARTICLE 20 IS deemed to have assigned the rights under, and any causes  
19 of action against any person for losses arising under, resulting from, or  
20 otherwise relating to, the covered policy or contract to the association to  
21 the extent of the benefits received because of this ~~article~~ ARTICLE 20,  
22 whether the benefits are payments of or on account of contractual  
23 obligations, continuation of coverage, or the provision of substitute or  
24 alternative POLICIES, CONTRACTS, OR coverage. The association may  
25 require ~~an assignment to it of such rights and causes of action by~~ any  
26 payee, policy, or contract owner, beneficiary, insured, ENROLLEE, or  
27 annuitant TO ASSIGN THE PERSON'S RIGHTS UNDER, AND CAUSES OF ACTION

1 AGAINST ANY PERSON FOR LOSSES ARISING UNDER, RESULTING FROM, OR  
2 OTHERWISE RELATING TO, THE COVERED POLICY OR CONTRACT TO THE  
3 ASSOCIATION as a condition precedent to the receipt of any right or  
4 benefits conferred by this ~~article~~ ARTICLE 20 upon ~~such~~ THE person.

5 (b) The subrogation rights of the association under this subsection  
6 (12) ~~shall~~ have the same priority against the assets of the impaired or  
7 insolvent insurer as ~~that~~ THE RIGHTS possessed by the person entitled to  
8 receive benefits under this ~~article~~ ARTICLE 20.

9 (c) In addition to ~~paragraphs (a) and (b) of this subsection (12)~~  
10 SUBSECTIONS (12)(a) AND (12)(b) OF THIS SECTION, the association ~~shall~~  
11 ~~have~~ HAS all common-law rights of subrogation and any other equitable  
12 or legal remedy ~~which~~ THAT would have been available to the impaired  
13 or insolvent insurer, owner, beneficiary, ENROLLEE, or payee of a policy  
14 or contract.

15 (d) If any provision of ~~paragraph (a), (b), or (c) of this subsection~~  
16 ~~(12)~~ SUBSECTION (12)(a), (12)(b), OR (12)(c) OF THIS SECTION is invalid  
17 or ineffective with respect to any person or claim for any reason, the  
18 amount payable by the association with respect to the related covered  
19 obligations is reduced by the amount realized by any other person with  
20 respect to the person or claim that is attributable to the policies OR  
21 CONTRACTS or portions of the policies OR CONTRACTS covered by the  
22 association.

23 (e) If the association has provided benefits with respect to a  
24 covered obligation and a person recovers amounts as to which the  
25 association has rights as described in ~~paragraphs (a) to (d) of this~~  
26 ~~subsection (12)~~ SUBSECTIONS (12)(a) TO (12)(d) OF THIS SECTION, the  
27 person shall pay to the association the portion of the recovery attributable

1 to the policies OR CONTRACTS, or portions of policies OR CONTRACTS,  
2 covered by the association.

3 (13) The association may:

4 (c) Borrow money to effect the purposes of this ~~article~~ ARTICLE  
5 20, and any notes or other evidence of indebtedness of the association not  
6 in default ~~shall be~~ ARE legal investments for domestic MEMBER insurers  
7 and may be carried as admitted assets;

8 (f) Exercise, for the purposes of this ~~article~~ ARTICLE 20 and to the  
9 extent approved by the commissioner, the powers of a domestic life ~~or~~  
10 INSURER, health insurer, OR HEALTH MAINTENANCE ORGANIZATION, but  
11 the association shall not issue ~~insurance~~ policies or ~~annuity~~ contracts  
12 other than those issued to perform its obligations under this ~~article~~  
13 ARTICLE 20;

14 (i) FILE FOR AN ACTUARIALLY JUSTIFIED RATE OR PREMIUM  
15 INCREASE FOR ANY POLICY OR CONTRACT THAT IT GUARANTEES, ASSUMES,  
16 REINSURES, REISSUES, OR OTHERWISE PROVIDES COVERAGE UNDER THIS  
17 SECTION IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE  
18 POLICY OR CONTRACT AND IN ACCORDANCE WITH OTHER APPLICABLE  
19 PROVISIONS OF STATE LAW.

20 (19) A person who has a claim against ~~an~~ A MEMBER insurer  
21 pursuant to a provision of ~~an insurance~~ A policy OR CONTRACT, other than  
22 a policy OR CONTRACT of an impaired or insolvent insurer, that also is a  
23 contractual obligation under this ~~article~~ ARTICLE 20, must first exhaust ~~his~~  
24 ~~or her~~ THE PERSON'S right under that policy OR CONTRACT. The amount of  
25 an approved claim under this ~~article shall~~ ARTICLE 20 MUST be reduced by  
26 the policy OR CONTRACT limits of, or amount paid under, that ~~insurance~~  
27 policy OR CONTRACT, whichever amount is greater. If a claimant exhausts

1 all rights under a policy OR CONTRACT, other than a policy OR CONTRACT  
2 of an impaired or insolvent insurer, the MEMBER insurer issuing that  
3 policy OR CONTRACT is not entitled to sue or continue a suit against the  
4 insured of the impaired or insolvent insurer to recover an amount paid to  
5 the claimant under the policy OR CONTRACT; except that a person having  
6 a contractual obligation, as defined by this ~~article~~ ARTICLE 20, under a life  
7 insurance policy or an annuity contract issued by an impaired or insolvent  
8 insurer is not required to exhaust other coverage for that claim, and the  
9 amount of an approved claim under a life insurance policy or annuity  
10 contract issued by an impaired or insolvent insurer may not be reduced  
11 because of that duplicate coverage.

12 (22) In carrying out its duties in connection with guaranteeing,  
13 assuming, REISSUING, or reinsuring policies or contracts under this  
14 section, the association may issue substitute coverage AT ACTUARIALLY  
15 JUSTIFIED RATES for a policy or contract that provides for the calculation  
16 of returns or changes in value OR BENEFITS by the use of an interest rate,  
17 crediting rate, or similar factor determined by use of an index or other  
18 external reference, by issuing an alternative policy or contract in  
19 accordance with the following provisions:

20 (24) In carrying out its duties in connection with guaranteeing,  
21 assuming, REISSUING, or reinsuring policies or contracts under subsection  
22 (1) or (2) of this section, the association may ~~subject to approval by the~~  
23 ~~receivership court,~~ issue substitute coverage for a policy or contract that  
24 provides an interest rate, crediting rate, or similar factor, determined by  
25 use of an index or other external reference stated in the policy or contract,  
26 employed in calculating returns or changes in value by issuing an  
27 alternative policy or contract in accordance with the following provisions:

1           **SECTION 9.** In Colorado Revised Statutes, 10-20-109, **amend**  
2 (2) introductory portion, (2)(a), (3)(b), (5)(a), (5)(b), (6), (7), (8)  
3 introductory portion, and (9) as follows:

4           **10-20-109. Assessments.** (2) ~~There~~ THE BOARD shall ~~be~~ IMPOSE  
5 two assessments, as follows:

6           (a) Class A assessments must be authorized and called for the  
7 purpose of meeting administrative and legal costs and other expenses and  
8 examinations conducted under the authority of ~~section 10-20-112 (5)~~  
9 SECTION ~~10-20-112~~ **10-20-115**; EXCEPT THAT THE BOARD SHALL NOT IMPOSE A CLASS  
10 A ASSESSMENT AGAINST A MEMBER INSURER THAT HAS NOT RECEIVED  
11 PREMIUMS FOR A COVERED POLICY IN THE CALENDAR YEAR IMMEDIATELY  
12 PRECEDING THE CALENDAR YEAR IN WHICH THE ASSESSMENT IS IMPOSED.

13 Class A assessments may be authorized and called whether or not related  
14 to a particular impaired or insolvent insurer.

15           (3) (b) (I) THE BOARD SHALL DETERMINE class B assessments  
16 against member insurers for each account ~~shall be in~~ BASED ON the  
17 proportion that the premiums received on business in this state by each  
18 assessed member insurer on policies or contracts covered by each account  
19 for the three most recent calendar years for which information is available  
20 preceding the year in which the MEMBER insurer became impaired or  
21 insolvent, bear to ~~such~~ THE premiums received on business in this state  
22 for ~~such~~ THOSE calendar years by all assessed member insurers.

23           (II) OF THE AMOUNT OF CLASS B ASSESSMENTS FOR LONG-TERM  
24 CARE INSURANCE WRITTEN BY THE IMPAIRED OR INSOLVENT INSURER, THE  
25 BOARD SHALL ALLOCATE:

26           (A) FIFTY PERCENT TO THE HEALTH INSURANCE ACCOUNT; EXCEPT  
27 THAT, A MEMBER INSURER THAT IS A NONPROFIT HEALTH MAINTENANCE



1 ORGANIZATION THAT PROVIDES A MAJORITY OF COVERED PROFESSIONAL  
2 SERVICES THROUGH PHYSICIANS IT EMPLOYS OR THROUGH A SINGLE  
3 CONTRACTED MEDICAL GROUP SHALL BE ASSESSED AS IF THE BOARD  
4 ALLOCATED ONLY TWENTY-FIVE PERCENT TO THE HEALTH INSURANCE  
5 ACCOUNT; AND

6 (B) FIFTY PERCENT, ON A PRO RATA BASIS, TO THE LIFE INSURANCE  
7 ACCOUNT AND THE ANNUITY ACCOUNT; EXCEPT THAT, ON A PRO RATA  
8 BASIS, THE LIFE INSURANCE ACCOUNT AND THE ANNUITY ACCOUNT SHALL  
9 COVER THE SHORTFALL FROM THE HEALTH INSURANCE ACCOUNT THAT  
10 RESULTS FROM THE LOWER ASSESSMENT RATE DESCRIBED IN SUBSECTION  
11 (3)(b)(II)(A) OF THIS SECTION ON A MEMBER INSURER THAT IS A  
12 NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES A  
13 MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS IT  
14 EMPLOYS OR THROUGH A SINGLE CONTRACTED MEDICAL GROUP.

15 (5) (a) Subject to ~~paragraph (b) of this subsection (5)~~ SUBSECTION  
16 (5)(b) OF THIS SECTION, the total of all assessments authorized by the  
17 association with respect to a member insurer for each account must not  
18 exceed, in any one calendar year, two percent of the average premiums  
19 received by the MEMBER insurer in this state on the policies and contracts  
20 covered by the account during the three calendar years preceding the year  
21 in which the MEMBER insurer became impaired or insolvent.

22 (b) If two or more assessments are authorized in one calendar year  
23 with respect to MEMBER insurers ~~who~~ THAT become impaired or insolvent  
24 in different calendar years, the average annual premiums for purposes of  
25 the aggregate assessment percentage limitation referenced in ~~paragraph~~  
26 ~~(a) of this subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION is equal and  
27 limited to the highest of the three-year average annual premiums for the

1 applicable account as calculated under this section.

2 (6) The board shall, by an equitable method as established in the  
3 plan of operation, refund to member insurers, in proportion to the  
4 contribution of each MEMBER insurer to that account, the amount by  
5 which the assets of the account exceed the amount the board finds is  
6 necessary to carry out, during the coming year, the obligations of the  
7 association with regard to that account, including assets accruing from  
8 assignment, subrogation, net realized gains, and income from  
9 investments. THE BOARD SHALL RETAIN a reasonable amount ~~shall be~~  
10 ~~retained~~ in each account to provide funds for the continuing expenses of  
11 the association and for future losses.

12 (7) (a) ~~It shall be proper for any~~ A member insurer, in determining  
13 its premium rates and policyholder dividends ~~as to~~ FOR any kind of  
14 insurance OR HEALTH MAINTENANCE ORGANIZATION BUSINESS within the  
15 scope of this ~~article, to~~ ARTICLE 20, MAY consider the amount reasonably  
16 necessary to meet its assessment obligations under this ~~article~~ ARTICLE 20.

17 (b) A MEMBER INSURER SUBJECT TO ASSESSMENTS PURSUANT TO  
18 SUBSECTION (2) OF THIS SECTION SHALL NOT CUT EMPLOYMENT, REDUCE  
19 EMPLOYEE PAY OR HOURS, OR REDUCE EMPLOYMENT BENEFITS AS A  
20 RESULT OF THE ASSESSMENTS LEVIED PURSUANT TO SUBSECTION (2) OF  
21 THIS SECTION.

22 (8) The association shall issue to each MEMBER insurer paying an  
23 assessment for the life and annuity accounts under this ~~article~~ ARTICLE 20,  
24 other than a class A assessment, a certificate of contribution from the  
25 association, in a form prescribed by the commissioner, for the amount of  
26 the assessment so paid. All outstanding certificates shall be of equal  
27 dignity and priority without reference to amounts or dates of issue. ~~Such~~

1 THE MEMBER INSURER MAY SHOW THE certificate of contribution ~~may be~~  
2 ~~shown by the insurer~~ in its financial statement as an asset in such form  
3 and for such amount, if any, and period of time as the commissioner may  
4 approve; but the MEMBER insurer, ~~shall~~, at its option, ~~have~~ HAS the right  
5 in any event to show ~~such~~ THE certificate of contribution as an admitted  
6 asset at percentages of the original face amount of the assessment for  
7 calendar years as follows:

8 (9) Any member insurer whose certificate of authority OR LICENSE  
9 has been terminated for any reason whatsoever ~~shall be~~ IS liable for any  
10 assessment based on insolvencies arising prior to ~~such~~ termination OF A  
11 MEMBER INSURER'S CERTIFICATE OF AUTHORITY OR LICENSE.

12 **SECTION 10.** In Colorado Revised Statutes, 10-20-110, **amend**  
13 (1)(b) and (4) as follows:

14 **10-20-110. Plan of operation - rules.** (1) (b) If the association  
15 fails to submit a suitable plan of operation or suitable amendments to the  
16 plan ~~by January 1, 1992~~ WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE  
17 OF THIS SUBSECTION (1)(b), AS AMENDED, the commissioner shall, after  
18 notice and hearing, adopt and promulgate ~~such~~ reasonable rules as ~~are~~  
19 necessary or advisable to effectuate ~~the provisions of this article. Such~~  
20 ARTICLE 20. THE rules ~~shall~~ continue in ~~force~~ EFFECT until modified by  
21 the commissioner or superseded by a plan submitted by the association  
22 and approved by the commissioner.

23 (4) The plan of operation may provide that any or all powers and  
24 duties of the association, except those established pursuant to sections  
25 ~~10-20-108 (12)(c)~~ 10-20-108 (13)(c) and 10-20-109, are delegated to a  
26 corporation, association, or other organization ~~which~~ THAT performs, or  
27 will perform, functions similar to those of the association established

1 pursuant to this ~~article~~, ARTICLE 20 or its equivalent in two or more states.  
2 ~~Such~~ THE ASSOCIATION SHALL REIMBURSE a corporation, association, or  
3 organization ~~shall be reimbursed~~ TO WHICH THE ASSOCIATION HAS  
4 DELEGATED ITS POWERS AND DUTIES for any payments made on behalf of  
5 the association and shall ~~be paid~~ PAY THE CORPORATION, ASSOCIATION, OR  
6 ORGANIZATION for its performance of any ASSOCIATION function. ~~of the~~  
7 ~~association~~. A delegation pursuant to this subsection (4) ~~shall take~~ TAKES  
8 effect only with the approval of both the board and the commissioner, and  
9 THE ASSOCIATION may ~~be made~~ DELEGATE ITS POWERS AND DUTIES only  
10 to a corporation, association, or organization ~~which~~ THAT extends  
11 protection not substantially less favorable and effective than ~~that~~ THE  
12 PROTECTION provided by this ~~article~~ ARTICLE 20.

13 **SECTION 11.** In Colorado Revised Statutes, 10-20-111, **amend**  
14 (1) introductory portion, (1)(c), and (2) as follows:

15 **10-20-111. Powers and duties of the commissioner.** (1) In  
16 addition to any other powers and duties specified in this ~~article~~ ARTICLE  
17 20, the commissioner shall:

18 (c) In any liquidation proceeding involving a domestic MEMBER  
19 insurer, be appointed as the liquidator.

20 (2) The commissioner may suspend or revoke, after notice and  
21 hearing, the certificate of authority OR LICENSE to transact insurance OR  
22 THE BUSINESS OF A HEALTH MAINTENANCE ORGANIZATION in this state of  
23 any member insurer ~~which~~ THAT fails to pay an assessment when due or  
24 fails to comply with the plan of operation. As an alternative, the  
25 commissioner may levy a forfeiture on any member insurer ~~which~~ THAT  
26 fails to pay an assessment when due. ~~Such~~ THE forfeiture ~~shall~~ MUST not  
27 exceed five percent of the unpaid assessment per month, but ~~no~~ A

1 forfeiture ~~shall~~ MUST NOT be less than one hundred dollars per month.

2 **SECTION 12.** In Colorado Revised Statutes, 10-20-112, **amend**  
3 (1) introductory portion, (1)(a)(III), (1)(c), (2), (3), and (6) as follows:

4 **10-20-112. Prevention of insolvencies.** (1) To aid in the  
5 detection and prevention of MEMBER insurer insolvencies, it ~~shall be~~ IS the  
6 duty of the commissioner:

7 (a) To notify the commissioners of all the other states, territories  
8 of the United States, and the District of Columbia when action is taken in  
9 any of the following matters against a member insurer:

10 (III) Issuance of a formal order that ~~such~~ THE member insurer  
11 restrict its premium writing, obtain additional contributions to surplus,  
12 withdraw from the state, reinsure all or any part of its business, or  
13 increase capital, surplus, or any other account for the security of  
14 ~~policyholders~~ OWNERS, CERTIFICATE HOLDERS, ENROLLEES, or creditors.  
15 ~~Such~~ THE COMMISSIONER SHALL MAIL THE notice ~~shall be mailed~~ to all  
16 commissioners within thirty days following the action taken or the date  
17 on which ~~such~~ THE action occurs.

18 (c) To report to the board when the commissioner has reasonable  
19 cause to believe from an examination, whether completed or in process,  
20 of a member ~~company~~ INSURER that ~~such~~ THE member ~~company~~ INSURER  
21 may be an impaired or insolvent insurer;

22 (2) The commissioner may seek the advice and recommendations  
23 of the board concerning any matter affecting ~~said~~ THE commissioner's  
24 duties and responsibilities regarding the financial condition of member  
25 insurers and companies seeking admission to transact insurance OR  
26 HEALTH MAINTENANCE ORGANIZATION business in this state.

27 (3) UPON THE COMMISSIONER'S REQUEST, the board shall ~~upon~~

1 ~~request of the commissioner~~, report and make recommendations to the  
2 commissioner upon any matter germane to the solvency or liquidation of  
3 any member insurer or germane to the solvency of any company seeking  
4 to do ~~an~~ insurance OR HEALTH MAINTENANCE ORGANIZATION business in  
5 this state. ~~Such~~ THE reports and recommendations ~~shall~~ ARE not ~~be~~  
6 ~~considered~~ public documents.

7 (6) The board may make recommendations to the commissioner  
8 for the detection and prevention of MEMBER insurer insolvencies.

9 **SECTION 13.** In Colorado Revised Statutes, 10-20-113, **amend**  
10 (1)(d) as follows:

11 **10-20-113. Credits for assessments paid - tax offsets.**

12 (1)(d)(I) Each member insurer writing health insurance ~~is required to~~ OR  
13 HEALTH MAINTENANCE ORGANIZATION POLICIES OR CONTRACTS MAY  
14 recoup over a reasonable length of time a sum reasonably calculated to  
15 recoup the assessments paid by the member insurer under this ~~article~~  
16 ARTICLE 20 by ~~way of~~ IMPOSING a surcharge on premiums charged for  
17 health insurance OR HEALTH MAINTENANCE ORGANIZATION policies OR  
18 CONTRACTS to which this ~~article~~ ARTICLE 20 applies. Amounts recouped  
19 ~~shall~~ ARE not ~~be considered~~ premiums for any other purpose, including  
20 the computation of gross premium tax or AN agent's commission.

21 (II) A MEMBER INSURER THAT IMPOSES A SURCHARGE UNDER  
22 SUBSECTION (1)(d)(I) OF THIS SECTION SHALL INCLUDE the amount of the  
23 surcharge ~~shall be filed~~ as part of ~~an~~ THE MEMBER insurer's rate filing  
24 pursuant to section 10-16-107 (1). ~~Such~~ THE MEMBER INSURER MUST  
25 SHOW THE surcharge ~~must be shown~~ in the rate filing as a separate  
26 component of the rate and shall include supporting documentation.

27 (III) ~~Such member insurers who collect~~ A MEMBER INSURER THAT

1 COLLECTS surcharges in excess of assessments paid pursuant to this ~~article~~  
2 ARTICLE 20 for an insolvent insurer shall remit the excess to the  
3 association as an additional assessment within one hundred twenty days  
4 after the end of the collection period as determined by the association.  
5 The ASSOCIATION SHALL APPLY THE excess ~~shall be applied~~ AMOUNT to  
6 reduce future assessments for that MEMBER insurer in the appropriate  
7 category.

8 (IV) ~~Any such member insurer may omit the collection of the~~  
9 ~~surcharge in any year from its insureds when the expense of collecting the~~  
10 ~~surcharge in any such year would exceed the amount of the surcharge.~~  
11 ~~However, nothing in this paragraph (d) shall relieve the member insurer~~  
12 ~~of its ultimate obligation to recoup the amount of the surcharge otherwise~~  
13 ~~collectible from any such previous year.~~

14 **SECTION 14.** In Colorado Revised Statutes, **amend** 10-20-114  
15 as follows:

16 **10-20-114. Miscellaneous provisions - definition.** (1) Nothing  
17 in this ~~article~~ ARTICLE 20 reduces the liability for unpaid assessments of  
18 the insureds of an impaired or insolvent insurer operating under a plan  
19 with assessment liability.

20 (2) The association must keep records of all meetings of the board  
21 ~~of directors~~ to discuss the activities of the association in carrying out its  
22 powers and duties pursuant to section 10-20-108. Records of ~~such~~ THE  
23 meetings may be made public only upon the termination of a liquidation,  
24 rehabilitation, or conservation proceeding involving the impaired or  
25 insolvent insurer, upon the termination of the impairment or insolvency  
26 of the MEMBER insurer, or upon the order of a court of competent  
27 jurisdiction. Nothing in this subsection (2) limits the duty of the

1 association to render a report of its activities under section 10-20-115.

2 (3) For the purpose of carrying out its obligations under this  
3 ~~article~~ ARTICLE 20, the association is deemed a creditor of the impaired  
4 or insolvent insurer to the extent of assets attributable to covered policies  
5 AND COVERED CONTRACTS, reduced by any amounts to which the  
6 association is entitled as assignee or subrogee pursuant to section  
7 10-20-108 (12). Assets of the impaired or insolvent insurer attributable  
8 to covered policies AND COVERED CONTRACTS shall be used to continue  
9 all covered policies AND COVERED CONTRACTS and pay all contractual  
10 obligations of the impaired or insolvent insurer as required by this ~~article~~  
11 ARTICLE 20. "Assets OF THE IMPAIRED OR INSOLVENT INSURER attributable  
12 to covered policies AND COVERED CONTRACTS", as used in this subsection  
13 (3), ~~are~~ MEANS that proportion of the assets ~~which~~ THAT the reserves that  
14 should have been established for ~~such~~ THE policies OR CONTRACTS bear  
15 to the reserves that should have been established for all policies ~~of~~  
16 ~~insurance~~ OR CONTRACTS written by the impaired or insolvent insurer.

17 (3.5) As a creditor of an impaired or insolvent insurer as  
18 established in this section and consistent with section 10-3-533, the  
19 association and other similar associations are entitled to receive a  
20 disbursement of assets out of the marshaled assets from time to time as  
21 the assets become available to reimburse the association, as a credit  
22 against contractual obligations under this ~~article~~ ARTICLE 20. If the  
23 liquidator has not made an application to the receivership court for  
24 approval of a proposal to disburse assets out of marshaled assets to  
25 guaranty associations having obligations because of the insolvency within  
26 one hundred twenty days after a final determination of insolvency of ~~an~~  
27 A MEMBER insurer by the receivership court, the association may apply to



1 the receivership court for approval of its own proposal to disburse these  
2 assets.

3 (4) (a) Prior to the termination of any rehabilitation, conservation,  
4 or liquidation proceeding, the court may take into consideration the  
5 contributions of the respective parties, including the association,  
6 shareholders, ~~and policyholders~~ OWNERS, CERTIFICATE HOLDERS, OR  
7 ENROLLEES of the impaired or insolvent insurer, and any other party with  
8 a bona fide interest, in making an equitable distribution of the ownership  
9 rights of the insolvent insurer. In ~~such~~ MAKING a determination  
10 ~~consideration~~ UNDER THIS SUBSECTION (4)(a), THE COURT shall ~~be given~~  
11 ~~to~~ CONSIDER the welfare of the ~~policyholders~~ OWNERS, CERTIFICATE  
12 HOLDERS, OR ENROLLEES of the continuing or successor MEMBER insurer.

13 (b) ~~No~~ A distribution SHALL NOT BE MADE to stockholders, if any,  
14 of an impaired or insolvent insurer ~~shall be made~~ until ~~and unless~~ the total  
15 amount of valid claims of the association ~~with~~ FOR REIMBURSEMENT,  
16 INCLUDING interest, ~~thereon for~~ OF funds expended in carrying out its  
17 powers and duties pursuant to section 10-20-108 with respect to the  
18 IMPAIRED OR INSOLVENT insurer, have been fully recovered by the  
19 association.

20 (5) (a) If an order for rehabilitation or liquidation of ~~an~~ A MEMBER  
21 insurer domiciled in this state has been entered, the receiver appointed  
22 under ~~such~~ THE order ~~shall have~~ HAS a right to recover on behalf of the  
23 MEMBER insurer, from any affiliate that controlled it, the amount of  
24 distributions, other than stock dividends paid by the MEMBER insurer on  
25 its capital stock, made at any time during the five years preceding the  
26 petition for liquidation, subject to the limitations of ~~paragraphs (b) to (d)~~  
27 ~~of this subsection (5)~~ SUBSECTIONS (5)(b) TO (5)(d) OF THIS SECTION.

1           (b) ~~No such~~ A distribution ~~shall be~~ DESCRIBED IN SUBSECTION  
2 (5)(a) OF THIS SECTION IS NOT recoverable if the MEMBER insurer shows  
3 that ~~when paid~~ the distribution, WHEN IT WAS PAID, was lawful and  
4 reasonable and that the MEMBER insurer did not know, and could not  
5 reasonably have known, that the distribution might adversely affect the  
6 ability of the MEMBER insurer to fulfill its contractual obligations.

7           (c) Any person who was an affiliate ~~which~~ THAT controlled the  
8 MEMBER insurer at the time the distributions were paid ~~shall be~~ IS liable  
9 up to the amount of distributions ~~such~~ THE person received. Any person  
10 who was an affiliate ~~which~~ THAT controlled the MEMBER insurer at the  
11 time the distributions were declared ~~shall be~~ IS liable up to the amount of  
12 the distributions ~~such~~ THE person would have received if ~~said~~ THE  
13 distributions had been paid immediately. If two or more persons are liable  
14 with respect to the same distributions, they ~~shall be~~ ARE jointly and  
15 severally liable.

16           (d) The maximum amount recoverable under this subsection (5)  
17 is the amount needed, in excess of all other available assets of the  
18 impaired or insolvent insurer, to pay the contractual obligations of the  
19 impaired or insolvent insurer.

20           (e) If any person liable pursuant to ~~paragraph (c) of this subsection~~  
21 ~~(5)~~ SUBSECTION (5)(c) OF THIS SECTION is insolvent, all of its affiliates  
22 ~~which~~ THAT controlled it at the time the distribution was paid ~~shall be~~ ARE  
23 jointly and severally liable for any resulting deficiency in the amount  
24 recovered from the insolvent affiliate.

25           (6) Nothing in this ~~article shall be construed to make~~ ARTICLE 20  
26 IMPOSES ANY LIABILITY OR RESPONSIBILITY ON the state of Colorado ~~in~~  
27 ~~any way liable~~ for the obligations of the life and health insurance

1 protection association or the unpaid claims of impaired or insolvent life  
2 and health insurance companies INSURERS.

3 SECTION 15. In Colorado Revised Statutes, amend 10-20-119  
4 as follows:

5 10-20-119. Prohibited advertisement of association article in  
6 insurance sales - notice to owners, certificate holders, and enrollees.

7 (1) ~~No~~ A person, including ~~an~~ A MEMBER insurer AND ANY agent or  
8 affiliate of ~~an~~ A MEMBER insurer, shall NOT make, publish, disseminate,  
9 circulate, or place before the public, or cause directly or indirectly to be  
10 made, published, disseminated, circulated, or placed before the public, in  
11 any newspaper, magazine, or other publication, or in the form of a notice,  
12 circular, pamphlet, letter, or poster, or over any radio station or television  
13 station, or in any other way, any advertisement, announcement, or  
14 statement, written or oral, ~~which~~ THAT uses the existence of the life and  
15 health insurance protection association for the purpose of sales,  
16 solicitation, or inducement to purchase any form of insurance OR OTHER  
17 COVERAGE covered by ~~the "Life and Health Insurance Protection~~  
18 ~~Association Act"~~ THIS ARTICLE 20. However, this section ~~shall~~ DOES not  
19 apply to the association or any other entity ~~which~~ THAT does not sell or  
20 solicit insurance OR COVERAGE BY A HEALTH MAINTENANCE  
21 ORGANIZATION.

22 (2) ~~By December 1, 1991,~~ The association shall prepare a  
23 summary document, IN COMPLIANCE WITH SUBSECTION (3) OF THIS  
24 SECTION, describing the general purposes and current limitations of this  
25 article, ~~and such summary document shall be in compliance with~~  
26 ~~subsection (3) of this section.~~ Such ARTICLE 20. THE ASSOCIATION SHALL  
27 SUBMIT THE summary document ~~shall be submitted~~ to the commissioner

1 for approval. Sixty days after receiving ~~such~~ approval FROM THE  
2 COMMISSIONER, each member ~~shall~~ INSURER, when delivering a policy or  
3 contract as described in section 10-20-104 (2)(a) to a ~~policyholder or~~  
4 ~~contract holder~~ AN OWNER, A CERTIFICATE HOLDER, OR AN ENROLLEE,  
5 SHALL deliver ~~such~~ THE summary document concurrently WITH or ~~prior~~  
6 ~~to the delivery of such~~ BEFORE DELIVERING THE policy or contract ~~except~~  
7 ~~when~~ UNLESS subsection (4) of this section applies. The MEMBER INSURER  
8 SHALL ALSO MAKE THE summary document ~~shall also be~~ available upon  
9 request by a ~~policyholder~~ AN OWNER, A CERTIFICATE HOLDER, OR AN  
10 ENROLLEE. The distribution, delivery, or contents or interpretation of the  
11 summary document ~~shall~~ DOES not mean that either the policy or the  
12 contract or the ~~holder thereof~~ OWNER, CERTIFICATE HOLDER, OR ENROLLEE  
13 will be covered in the event of impairment or insolvency of a member  
14 insurer. The ASSOCIATION SHALL REVISE THE summary document ~~shall be~~  
15 ~~revised by the association pursuant to~~ AS NECESSARY BASED ON  
16 amendments to this ~~article~~ ARTICLE 20 or as other circumstances may  
17 require. Failure to receive this summary document does not give a  
18 ~~policyholder, a contract holder, or~~ AN OWNER, A CERTIFICATE HOLDER, an  
19 insured, OR AN ENROLLEE any rights other than those stated in this ~~article~~  
20 ARTICLE 20.

21 (3) The summary document prepared pursuant to subsection (2)  
22 of this section ~~shall~~ MUST contain a clear and conspicuous disclaimer on  
23 its face. The commissioner shall establish the form and content of the  
24 disclaimer. The disclaimer ~~shall~~ MUST:

25 (a) State the name and address of the association and the division  
26 of insurance;

27 (b) Prominently warn the ~~policyholder or contract holder~~ OWNER,

1 CERTIFICATE HOLDER, OR ENROLLEE that the association may not cover the  
2 policy OR CONTRACT or, if coverage is available, ~~such~~ THE policy OR  
3 CONTRACT may be subject to substantial limitations and exclusions and  
4 ~~shall be~~ IS conditioned on the continued residence in the state by the  
5 ~~policyholder or contract holder~~ OWNER, INSURED, CERTIFICATE HOLDER,  
6 OR ENROLLEE;

7 (c) State that the MEMBER insurer and its agents are prohibited by  
8 law from using the existence of the association for the purpose of sales,  
9 solicitation, or inducement to purchase any form of insurance OR HEALTH  
10 MAINTENANCE ORGANIZATION COVERAGE;

11 (d) Emphasize that the ~~policyholder or contract holder~~ OWNER,  
12 CERTIFICATE HOLDER, OR ENROLLEE should not rely on coverage by the  
13 association when selecting ~~an~~ A MEMBER insurer; AND

14 (e) Provide other information as directed by the commissioner.

15 (4) ~~No~~ A MEMBER insurer or agent ~~may~~ OF A MEMBER INSURER  
16 SHALL NOT deliver a policy or contract THAT IS described in section  
17 10-20-104 (2)(a) but excluded under section 10-20-104 (2)(b)(I) from  
18 coverage under this ~~article~~ ARTICLE 20, unless the MEMBER insurer or  
19 agent, ~~prior to~~ BEFORE or at the time of delivery, gives the ~~policyholder~~  
20 ~~or contract holder~~ OWNER, CERTIFICATE HOLDER, OR ENROLLEE a separate  
21 written notice ~~which~~ THAT clearly and conspicuously discloses that the  
22 policy or contract is not covered by the association. The commissioner  
23 shall specify the form and content of the notice.

24 **SECTION 16.** In Colorado Revised Statutes, **amend** 10-20-120  
25 as follows:

26 **10-20-120. Prospective application.** This ~~article shall~~ ARTICLE  
27 20, AS AMENDED, DOES not apply to any MEMBER insurer ~~which~~ THAT is

1 declared insolvent ~~before July 1, 1991~~ ON OR BEFORE THE EFFECTIVE DATE  
2 OF THIS SECTION, AS AMENDED.

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