

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0857.01 Christy Chase x2008

SENATE BILL 20-145

SENATE SPONSORSHIP

Smallwood,

HOUSE SPONSORSHIP

(None),

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF THE COLORADO REINSURANCE
102 PROGRAM AFTER ONE YEAR OF OPERATION.

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 repeals the Colorado reinsurance program in 2022 and limits the operation of the program to one benefit year.

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

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

1 **SECTION 1.** In Colorado Revised Statutes, 10-16-1104, **amend**
2 (1)(e), (2)(b) introductory portion, and (2)(c) as follows:

3 **10-16-1104. Commissioner powers and duties - rules - study**
4 **and report.** (1) The commissioner has all powers necessary to
5 implement this part 11 and is specifically authorized to:

6 (e) Establish or adjust the payment parameters in accordance with
7 section 10-16-1105 (2) for ~~each~~ THE 2020 benefit year;

8 (2) (b) After ~~the second~~ A full year of operation of the program,
9 the commissioner shall complete a study that evaluates:

10 (c) The commissioner shall issue a report on the study within one
11 hundred twenty days after the end of ~~the second~~ A full year of operation
12 of the program, post the report on the division's website, and submit the
13 report to the governor, the senate committee on health and human
14 services or its successor committee, and the house of representatives
15 health and insurance committee or its successor committee.

16 **SECTION 2.** In Colorado Revised Statutes, 10-16-1105, **amend**
17 (1)(e)(I) introductory portion, (1)(e)(II), (3)(a), (3)(c) introductory
18 portion, (4)(a), and (4)(b); and **repeal** (2)(b) as follows:

19 **10-16-1105. Reinsurance program - creation - enterprise**
20 **status - subject to waiver or funding approval - operation - payment**
21 **parameters - calculation of reinsurance payments - eligible carrier**
22 **requests - definition.** (1) (e) (I) On a quarterly basis during the
23 ~~applicable~~ 2020 benefit year:

24 (II) For ~~each applicable~~ THE 2020 benefit year, the commissioner
25 shall notify eligible carriers of reinsurance payments to be made for the
26 ~~applicable~~ benefit year no later than June 30, ~~of the year following the~~
27 ~~applicable~~ benefit year 2021. By August 15, ~~of the year following the~~

1 applicable benefit year 2021, the commissioner shall disburse all
2 applicable reinsurance payments to an eligible carrier.

3 (2) (b) For the 2021 benefit year, after a stakeholder process, the
4 commissioner shall establish and publish the payment parameters for that
5 benefit year by March 15, 2020. In setting the payment parameters under
6 this subsection (2)(b), the commissioner shall consider the following
7 factors as they apply in each geographic rating area in the state:

8 (I) Participation and competition by carriers in the individual
9 market;

10 (II) Enrollment across all income levels and morbidity in the
11 individual market;

12 (III) Participation and competition by providers; and

13 (IV) Rates in the individual market.

14 (3) (a) An eligible carrier that meets the requirements of this
15 subsection (3) and subsection (4) of this section may request reinsurance
16 payments from the reinsurance program FOR CLAIMS INCURRED IN THE
17 2020 BENEFIT YEAR.

18 (c) To receive reinsurance payments through the reinsurance
19 program, an eligible carrier must, by April 30, of the year following the
20 benefit year for which reinsurance payments are requested 2021:

21 (4) (a) (I) The commissioner shall calculate each reinsurance
22 payment based on an eligible carrier's incurred claims costs for a covered
23 person's covered benefits in the applicable 2020 benefit year. If the claims
24 costs do not exceed the attachment point for the applicable 2020 benefit
25 year, the carrier is not eligible for a reinsurance payment.

26 (II) If the claims costs exceed the attachment point for the
27 applicable 2020 benefit year, the commissioner shall calculate the

1 reinsurance payment as the product of the coinsurance rate and the
2 eligible carrier's claims costs, up to the reinsurance cap.

3 (b) A carrier is ineligible for reinsurance payments for claims
4 costs for a covered person's covered benefits in the ~~applicable~~ 2020
5 benefit year that exceed the reinsurance cap.

6 **SECTION 3.** In Colorado Revised Statutes, 10-16-1106, **amend**
7 (1) introductory portion, (2), and (4) as follows:

8 **10-16-1106. Accounting - reports - audits.** (1) The
9 commissioner shall maintain an accounting for ~~each~~ THE 2020 benefit
10 year of all:

11 (2) By November 1, ~~of the year following the applicable benefit~~
12 ~~year~~ 2021, or sixty calendar days after the final disbursement of
13 reinsurance payments for the ~~applicable~~ 2020 benefit year, whichever is
14 later, the commissioner shall make available to the public a report
15 summarizing the reinsurance program's operations for ~~each~~ THE 2020
16 benefit year. The commissioner shall post the report on the division's
17 website.

18 (4) On or before November 1, 2020, ~~and on or before November~~
19 ~~1, 2021~~, the division shall include an update regarding the program in its
20 report to the members of the applicable committees of reference in the
21 senate and house of representatives as required by the "State
22 Measurement for Accountable, Responsive, and Transparent (SMART)
23 Government Act", part 2 of article 7 of title 2.

24 **SECTION 4.** In Colorado Revised Statutes, 10-16-1107, **amend**
25 (1)(a)(III); and **add** (4) as follows:

26 **10-16-1107. Funding for reinsurance program - sources -**
27 **permitted uses - reinsurance program cash fund - calculation of total**

1 **funding for program.** (1) (a) There is hereby created in the state
2 treasury the reinsurance program cash fund, which consists of:

3 (III) The following ~~amounts~~ AMOUNT transferred from the general
4 fund to the reinsurance program cash fund: ~~but only if House Bill~~
5 ~~19-1245 is enacted at the first regular session of the seventy-second~~
6 ~~general assembly and becomes law:~~

7 (A) Fifteen million dollars, transferred to the fund on June 30,
8 2020. ~~and~~

9 (B) ~~Forty million dollars, transferred to the fund on June 30, 2021;~~

10 (4) IF, ON DECEMBER 15, 2021, ALL OUTSTANDING CARRIER
11 CLAIMS FOR REINSURANCE PAYMENTS AND ALL PROGRAM EXPENSES HAVE
12 BEEN SATISFIED AND THERE IS ANY UNEXPENDED AND UNENCUMBERED
13 BALANCE IN THE FUND, THE STATE TREASURER SHALL REFUND OR
14 TRANSFER, AS APPROPRIATE, THE REMAINING MONEY TO THE ENTITIES OR
15 FUNDS SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION IN PROPORTION
16 TO THE AMOUNT IN THE REINSURANCE PROGRAM CASH FUND THAT WAS
17 CONTRIBUTED BY THE ENTITY OR TRANSFERRED FROM A FUND.

18 **SECTION 5.** In Colorado Revised Statutes, 10-16-1108, **amend**
19 (1)(a)(I) introductory portion and (1)(b)(I) as follows:

20 **10-16-1108. Special assessments against hospitals and carriers**
21 **- rules - enforcement.** (1) (a) (I) For the 2020 ~~and 2021~~ benefit years, ~~as~~
22 ~~applicable~~ YEAR, the commissioner may assess special fees against
23 hospitals, subject to the following:

24 (b) (I) For ~~any~~ THE 2020 benefit year, ~~starting on or after January~~
25 ~~1, 2020~~, if, after carriers have filed and the commissioner has approved
26 rates for the benefit year, the federal government suspends the fee
27 imposed pursuant to section 9010 of the federal act for that benefit year,

1 the commissioner shall assess against carriers a special fee of two and
2 two-tenths percent of premiums collected by carriers, or a special fee in
3 an amount equal to the amount of the fee imposed by the federal
4 government pursuant to section 9010 of the federal act if that fee amount
5 is different than the amount specified in this subsection (1)(b)(I), for the
6 period that carriers collected the fee imposed pursuant to section 9010 of
7 the federal act.

8 **SECTION 6.** In Colorado Revised Statutes, 10-16-1109, **amend**
9 (1)(a) introductory portion and (1)(a)(I) as follows:

10 **10-16-1109. State innovation waiver - federal funding -**
11 **Colorado reinsurance program.** (1) (a) For purposes of implementing
12 and operating the reinsurance program as set forth in this part 11 for ~~plan~~
13 ~~years starting on or after January 1, 2020~~ THE 2020 BENEFIT YEAR, the
14 commissioner may apply to the secretary of the United States department
15 of health and human services for:

16 (I) A ~~two-year~~ ONE-YEAR state innovation waiver in accordance
17 with section 1332 of the federal act, codified at 42 U.S.C. sec. 18052, and
18 45 CFR 155.1300;

19 **SECTION 7.** In Colorado Revised Statutes, 10-16-1110, **amend**
20 (2) as follows:

21 **10-16-1110. Repeal of part - notice to revisor of statutes.**

22 (2) This part 11 is repealed, effective ~~September 1, 2023~~ JANUARY 1,
23 2022.

24 **SECTION 8.** In Colorado Revised Statutes, 10-3-209, **amend**
25 (4)(a)(III) as follows:

26 **10-3-209. Tax on premiums collected - exemptions - penalties**
27 **- repeal.** (4) (a) The division of insurance shall transmit all taxes,

1 penalties, and fines it collects under this section to the state treasurer for
2 deposit in the general fund; except that the state treasurer shall deposit
3 amounts in the specified cash funds as follows:

4 (III) (A) For the 2020-21 ~~and 2021-22 state fiscal years~~ STATE
5 FISCAL YEAR, in the reinsurance program cash fund created in section
6 10-16-1107, an amount equal to the amount of premium taxes collected
7 pursuant to this section in the 2020 calendar year that exceeds the amount
8 of premium taxes collected pursuant to this section in the 2019 calendar
9 year.

10 (B) This subsection (4)(a)(III) is repealed, effective ~~September 1,~~
11 ~~2023~~ JANUARY 1, 2022.

12 **SECTION 9. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2020 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.