

CHAPTER 168

INSURANCE

HOUSE BILL 23-1174

BY REPRESENTATIVE(S) Amabile and Brown, Boesenecker, Dickson, Herod, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, Martinez, McCormick, Michaelson Jenet, Ricks, Sharbini, Story, Titone, Velasco, Weissman, Willford, McCluskie, Bacon, Bird, English, Epps, Froelich, Garcia, Hamrick, Mauro, Ortiz, Parenti, Valdez;
also SENATOR(S) Baisley and Roberts, Cutter, Danielson, Gardner, Hansen, Jaquez Lewis, Kirkmeyer, Kolker, Liston, Marchman, Pelton B., Priola, Smallwood, Sullivan, Will, Fenberg.

AN ACT

CONCERNING HOMEOWNER'S INSURANCE, AND, IN CONNECTION THEREWITH, REQUIRING CERTAIN REPORTS RELATED TO THE COST OF RECONSTRUCTING A HOME, INCREASING THE NOTICE REQUIREMENT BEFORE AN INSURER CAN CANCEL OR REFUSE TO RENEW A HOMEOWNER'S INSURANCE POLICY, CREATING GUARANTEED REPLACEMENT COST COVERAGE IN HOMEOWNER'S INSURANCE, AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 10-1-144 as follows:

10-1-144. Cost to reconstruct a home - annual report - homeowner's insurance affordability study - rules. (1) (a) THE COMMISSIONER SHALL CONTRACT WITH AN INDEPENDENT THIRD PARTY TO PREPARE AN ANNUAL RESIDENTIAL RECONSTRUCTION CONSUMER INFORMATION REPORT ON THE COST OF RECONSTRUCTING HOMES IN COLORADO, TAKING INTO ACCOUNT THE REGION OF THE STATE, THE HOME TYPES BY DESIGN STRUCTURE, DIFFERENT HOME CUSTOMIZATION TYPES, AND THE FACTORS INCLUDED IN SECTION 10-4-110.8(8). THE COMMISSIONER SHALL COMPLETE THE REPORT BY APRIL 1, 2025, AND BY APRIL 1 OF EACH YEAR THEREAFTER BASED ON DATA FROM THE PRECEDING CALENDAR YEAR.

(b) THE DIVISION SHALL POST THE ANNUAL REPORT PREPARED PURSUANT TO THIS SUBSECTION (1) ON THE DIVISION'S WEBSITE BY APRIL 15 OF EACH YEAR.

(2) AFTER A STAKEHOLDER PROCESS, THE COMMISSIONER MAY CONTRACT WITH AN INDEPENDENT THIRD PARTY TO EVALUATE POLICIES TO ADDRESS THE AFFORDABILITY OF HOMEOWNER'S INSURANCE.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(3) THE COMMISSIONER MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 10-4-110.7, **amend** (3) as follows:

10-4-110.7. Cancellation or nonrenewal - homeowner's insurance policies.

(3) ~~No~~ AN insurer shall NOT cancel or refuse to renew a policy of homeowner's insurance unless such insurer mails, by first-class mail to the named insured, at the last address shown in the insurer's records, at least ~~thirty~~ SIXTY days in advance, a notice of its intended action pursuant to section 10-4-110 that specifically states the reasons for proposing to take such action; ~~pursuant to section 10-4-110~~; except that, where cancellation is for nonpayment of premium, THE INSURER SHALL PROVIDE at least ten days' notice of cancellation accompanied by the reasons ~~therefor shall be given~~ FOR TAKING SUCH ACTION.

SECTION 3. In Colorado Revised Statutes, 10-4-110.8 **amend** (6)(a), (8), and (15); and **add** (3)(d.7) and (9.5) as follows:

10-4-110.8. Homeowner's insurance - prohibited and required practices - estimates of replacement value - additional living expense coverage - copies of policies - personal property contents coverage - inventory of personal property - requirements concerning total loss scenarios resulting from wildlife disasters - definitions - rules. (3) As used in this section, unless the context otherwise requires:

(d.7) "INFLATION PROTECTION COVERAGE" MEANS COVERAGE THAT PROVIDES AUTOMATIC ADJUSTMENTS OF THE COVERAGE AMOUNT ON THE DWELLING OR STRUCTURE BEING INSURED TO PROTECT AGAINST THE IMPACT OF INFLATION.

(6) (a) (I) Before issuance or renewal of a replacement-cost homeowner's insurance policy whose dwelling limit is equal to or greater than the estimated replacement cost of the residence, the insurer shall make available to an applicant the opportunity to obtain extended replacement-cost coverage and law and ordinance coverage. At a minimum, the insurer shall ~~make available~~ OFFER law and ordinance coverage in an amount of insurance equal to ~~ten~~ TWENTY percent of the limit of the insurance for the dwelling and extended replacement-cost coverage in an amount of insurance that is at least ~~twenty~~ FIFTY percent of the limit of the insurance for the dwelling. Information provided must be accompanied by an explanation of the purpose, terms, and cost of these coverages. ~~This paragraph (a) SUBSECTION (6)(a) does not apply to any homeowner's insurance policy that already includes GUARANTEED REPLACEMENT COST COVERAGE, INFLATION PROTECTION COVERAGE, extended replacement-cost coverage, and OR law and ordinance coverage in amounts greater than or equal to the amounts specified in this paragraph (a) SUBSECTION (6)(a).~~

(II) NO LATER THAN JANUARY 1, 2025, AND AS PRESCRIBED BY THE COMMISSIONER BY RULE, THE INSURER SHALL:

(A) LIST ON THE DECLARATION PAGE OF THE POLICY, IN BOLD AND IN TWELVE-POINT TYPE, WHETHER A CONSUMER PURCHASED OR REJECTED THE ADDITIONAL COVERAGES LISTED IN THIS SUBSECTION (6)(a); AND

(B) PROVIDE THE PREMIUM COST ASSOCIATED WITH THE REJECTED ADDITIONAL COVERAGES LISTED IN THIS SUBSECTION (6)(a) IN A SEPARATE NOTICE WITH THE APPLICATION OR RENEWAL OF THE POLICY.

~~(8) The insurer must consider subject to the insurer's underwriting requirements, an estimate from a licensed contractor or licensed architect submitted by the policyholder as the basis for establishing the replacement cost of a dwelling.~~ THE FOLLOWING FACTORS AS A BASIS FOR ESTABLISHING THE RECONSTRUCTION COST OF A DWELLING:

(a) THE RECONSTRUCTION COST ESTIMATED FROM THE ANNUAL REPORT PREPARED PURSUANT TO SECTION 10-1-144;

(b) THE RECONSTRUCTION COST ESTIMATING SOFTWARE USED AND THE SOFTWARE ESTIMATE;

(c) SPECIFIC RECONSTRUCTION EXPENSES, INCLUDING:

(I) LABOR, BUILDING MATERIALS, AND SUPPLIES;

(II) A CONTRACTOR'S OVERHEAD AND PROFIT;

(III) DEMOLITION AND DEBRIS REMOVAL;

(IV) COST OF PERMITS AND ARCHITECT'S PLANS AND FEES; AND

(V) FEATURES OF THE STRUCTURE, INCLUDING:

(A) THE FOUNDATION TYPE;

(B) THE TYPE OF FRAME;

(C) ROOFING MATERIALS AND TYPE OF ROOF;

(D) SIDING MATERIALS AND TYPE OF SIDING;

(E) SQUARE FOOTAGE;

(F) NUMBER OF STORIES;

(G) ANY WALL HEIGHTS THAT ARE NOT STANDARD;

(H) INTERIOR FEATURES AND FINISHES, SUCH AS THE HEATING AND AIR CONDITIONING SYSTEM, WALLS, FLOORING, CEILING, FIREPLACES, KITCHEN, AND BATHROOMS;

(I) THE AGE OF THE ORIGINAL STRUCTURE OR THE YEAR OF THE ORIGINAL STRUCTURE'S CONSTRUCTION; AND

(J) THE SIZE AND TYPE OF ANY ATTACHED GARAGE; AND

(d) AN ESTIMATE FROM A CONTRACTOR OR AN ARCHITECT LICENSED PURSUANT TO ARTICLE 120 OF TITLE 12, IF SUBMITTED BY THE POLICYHOLDER.

(9.5)(a) AT APPLICATION AND RENEWAL OF A REPLACEMENT COST HOMEOWNER'S INSURANCE POLICY FOR A DWELLING THAT IS ISSUED OR RENEWED ON AND AFTER JANUARY 1, 2025, THE INSURER SHALL:

(I) PROVIDE THE APPLICANT OR POLICYHOLDER WITH AN ESTIMATE OF THE COST NECESSARY TO RECONSTRUCT THE COVERED STRUCTURE;

(II) DISCLOSE TO THE APPLICANT OR POLICYHOLDER, IN A FORM AND MANNER PRESCRIBED BY THE COMMISSIONER BY RULE:

(A) HOW THE ESTIMATE WAS CALCULATED, TAKING INTO ACCOUNT THE FACTORS LISTED IN SUBSECTION (8) OF THIS SECTION; AND

(B) THE RECONSTRUCTION COSTS FOR HOMES AS DETAILED IN THE ANNUAL REPORT REQUIRED IN SECTION 10-1-144 FOR THE SAME GEOGRAPHIC AREA OF THE INSURED'S HOME;

(III) PROVIDE COPIES OF ANY GENERATED ESTIMATES FROM ANY SOFTWARE OR TOOLS OR SERVICES USED BY THE INSURER TO ESTABLISH THE RECONSTRUCTION COSTS;

(IV) PROVIDE THE APPLICANT OR POLICYHOLDER WITH THE WEB ADDRESS OF, OR A LINK TO, THE REPORT PREPARED PURSUANT TO SECTION 10-1-144; AND

(b) AN INSURER OTHERWISE SUBJECT TO THIS SUBSECTION (9.5) DOES NOT HAVE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION (9.5) IF:

(I) WITHIN THE TWO YEARS PRIOR TO THE OFFER OF RENEWAL OF THE HOMEOWNER'S INSURANCE POLICY, THE POLICYHOLDER HAS REQUESTED AND THE INSURER HAS PROVIDED COVERAGE LIMITS GREATER THAN THE LIMITS PREVIOUSLY SELECTED BY THE POLICYHOLDER; OR

(II) IN CONNECTION WITH ITS ANNUAL OFFER TO RENEW THE POLICY, THE INSURER HAS OFFERED THE POLICYHOLDER, ON AN EVERY-OTHER-YEAR BASIS, THE RIGHT TO RECALCULATE THE RECONSTRUCTION COST ESTIMATE AND THE POLICY INCLUDES INFLATION PROTECTION COVERAGE.

(15) The commissioner may adopt rules as necessary ~~for wildfire disasters that the governor declares pursuant to section 24-33.5-704 and for the implementation of subsections (13) and (14) of this section.~~ TO IMPLEMENT THIS SECTION, INCLUDING RULES REGARDING:

(a) THE INFORMATION THAT INSURERS MUST CONSIDER IN ESTIMATING RECONSTRUCTION COSTS;

(b) THE USE OF RECONSTRUCTING COST ESTIMATOR TOOLS AND SERVICES; AND

(c) THE REQUIREMENTS TO PROVIDE INFORMATION IN THE SUMMARY DISCLOSURE

FORM TO CONSUMERS THAT EXPLAINS REPLACEMENT COST COVERAGE, ACTUAL CASH VALUE COVERAGE, AND THE ABILITY OF CONSUMERS TO PURCHASE AFFORDABLE COVERAGE.

SECTION 4. Appropriation. (1) For the 2023-24 state fiscal year, \$109,955 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$64,139 for personal services, which amount is based on an assumption that the division will require an additional 0.8 FTE;

(b) \$7,750 for operating expenses; and

(c) \$38,066 for the purchase of legal services.

(2) For the 2023-24 state fiscal year, \$38,066 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section and is based on the assumption that the department of law will require an additional 0.2 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

SECTION 5. Act subject to petition - effective date. Section 10-4-110.8 (8), Colorado Revised Statutes, as amended in section 3 of this act, takes effect January 1, 2025, and the remainder of this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor; except that section 10-4-110.8 (8), Colorado Revised Statutes, as amended in section 3 of this act, takes effect January 1, 2025.

Approved: May 12, 2023