

## CHAPTER 301

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**INSURANCE**

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**SENATE BILL 20-176**

BY SENATOR(S) Danielson and Ginal, Bridges, Fields, Hansen, Lee, Moreno, Pettersen, Priola, Rodriguez, Smallwood, Story, Winter, Zenzinger;  
also REPRESENTATIVE(S) Titone and Young, Bird, Duran, Exum, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, Michaelson Jenet, Weissman, Becker.

**AN ACT****CONCERNING MEASURES TO FACILITATE ENFORCEMENT OF EXISTING PROHIBITIONS AGAINST UNREASONABLE CONDUCT BY HEALTH INSURERS.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly finds, determines, and declares that:

(a) Sections 10-3-1115 and 10-3-1116, Colorado Revised Statutes, are remedial legislation, and therefore should be construed broadly and inclusively to effectuate their remedial purposes; and

(b) Section 10-3-1116 took effect August 5, 2008, and subsections (2) and (3) of that section were intended to apply to every health and disability insurance policy, insurance contract, insurance certificate, and insurance agreement existing, offered, issued, delivered, or renewed in the state of Colorado or providing health or disability benefits to a resident or domiciliary of the state of Colorado and every employee benefit plan covering a resident or domiciliary of the state of Colorado (whether or not on behalf of an employer located or domiciled in Colorado) on or after August 5, 2008, notwithstanding any contractual or statutory choice-of-law provision to the contrary.

**SECTION 2.** In Colorado Revised Statutes, 10-3-1116, **amend** (2), (3), and (6); and **add** (8) as follows:

**10-3-1116. Remedies for unreasonable delay or denial of benefits - required contract provision - frivolous actions - severability - rules.** (2) An insurance

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*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.*

policy, insurance contract, or plan that is issued in this state AND that offers health or disability benefits shall not contain a provision purporting to reserve discretion to the insurer, plan administrator, or claim administrator to interpret the terms of the policy, contract, or plan or to determine eligibility for benefits. IF AN INSURANCE POLICY, CONTRACT, OR PLAN CONTAINS SUCH A PROVISION, THE PROVISION IS VOID.

(3) An insurance policy, insurance contract, or plan that is issued in this state shall provide that a person who claims health, life, or disability benefits, whose claim has been denied in whole or in part, and who has exhausted ~~his or her~~ THE PERSON'S administrative remedies: ~~shall be~~

(a) Is entitled to have ~~his or her~~ THE PERSON'S claim reviewed de novo in any court with jurisdiction; and

(b) IS ENTITLED to a trial by jury.

(6) If any provision of this section, OR OF ANY SUBSECTION OR PORTION OF THIS SECTION, or its application to any person or circumstance is held illegal, invalid, or unenforceable, no other provisions or applications of this section shall be affected that can be given effect without the illegal, invalid, or unenforceable provision or application, and to this end the provisions of this section are severable.

(8) AS USED IN THIS SECTION, "ISSUED IN THIS STATE" REFERS TO EVERY HEALTH AND DISABILITY INSURANCE POLICY, INSURANCE CONTRACT, INSURANCE CERTIFICATE, AND INSURANCE AGREEMENT EXISTING, OFFERED, ISSUED, DELIVERED, OR RENEWED IN THE STATE OF COLORADO OR PROVIDING HEALTH OR DISABILITY BENEFITS TO A RESIDENT OR DOMICILIARY OF THE STATE OF COLORADO AND EVERY EMPLOYEE BENEFIT PLAN COVERING A RESIDENT OR DOMICILIARY OF THE STATE OF COLORADO, WHETHER OR NOT ON BEHALF OF AN EMPLOYER LOCATED OR DOMICILED IN COLORADO, ON OR AFTER AUGUST 5, 2008, NOTWITHSTANDING ANY CONTRACTUAL OR STATUTORY CHOICE-OF-LAW PROVISION TO THE CONTRARY.

**SECTION 3. Act subject to petition - effective date - applicability.** (1) 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 (August 5, 2020, if adjournment sine die is on May 6, 2020); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to every health and disability insurance policy, insurance contract, insurance certificate, and insurance agreement existing, offered, issued, delivered, or renewed in the state of Colorado or providing health or disability benefits to a resident or domiciliary of the state of Colorado and every employee benefit plan covering a resident or domiciliary of the state of Colorado, whether or not on behalf of an employer located or domiciled in Colorado, on or after the

applicable effective date of this act, notwithstanding any contractual or statutory choice-of-law provision to the contrary.

Approved: July 14, 2020