

# **COLORADO**

## **INSURANCE GUARANTY ASSOCIATION ACT**

**10-4-501. Short title.**

This part 5 shall be known and may be cited as the "Colorado Insurance Guaranty Association Act".

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-1.

**10-4-502. Legislative declaration.**

The purposes of this part 5 are to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payment and financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-2.

**10-4-503. Definitions.**

As used in this part 5, unless the context otherwise requires:

- (1) "Account" means any one of the three accounts created by section 10-4-506.
- (2) "Association" means the Colorado insurance guaranty association created under section 10-4-506.
- (3) "Commissioner" means the commissioner of insurance of this state.
- (4) (a) "Covered claim" means an unpaid claim, including one for unearned premiums,
  - (I) That arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this part 5 applies issued by an insurer if such insurer becomes an insolvent insurer after July 1, 1971, and
  - (II) With respect to which the claimant or insured is a resident of this state at the time of the insured event or the claim is a first-party claim for damage to property with a permanent location in this state.
- (b) "Covered claim" does not include:
  - (I) Any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; except that:
    - (A) A claim for any such amount asserted against a person insured under a policy issued by an insurer that has become insolvent and which would be a covered claim, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, or underwriting association, may be filed directly with the receiver or the insolvent insurer; and
    - (B) In no event may any such claim be asserted in any legal action against the insured of such insolvent insurer.
  - (II) A first-party claim by an insured whose net worth exceeds ten million dollars on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer. An insured's net worth on such date includes the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis.
  - (III) Any claim for incurred but not reported losses; except that nothing in this subparagraph (III) affects any covered claims or rights under this part 5.
- (5) "Insolvent insurer" means an insurer licensed to transact insurance business in this state, either at the time the policy was issued or when the insured event occurred, and against whom an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction in the

insurer's state of domicile or of this state and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.

- (6) "Member insurer" means any person who writes any kind of insurance to which this part 5 applies under section 10-4-504, including the exchange of reciprocal or interinsurance contracts, and who is licensed to transact insurance business in this state.
- (7) "Net direct written premiums" means direct gross premiums written in this state on insurance policies to which this part 5 applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers and reinsurers.
- (8) "Person" means any individual, corporation, partnership, association, or voluntary organization.  
**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-5; Laws 1977, H.B. 1357, § 1; Laws 1979, H.B. 1475, § 1; Laws 1999, Ch. 34, § 1, eff. Aug. 4, 1999; Laws 2011, ch 14, §1, Aug 10, 2011.

#### **10-4-504. Scope.**

This part 5 shall apply to all kinds of direct insurance, except life, title, surety, sickness and accident, disability, credit, mortgage guaranty, financial guaranty, and ocean marine insurance.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, §72-34-3; Laws 1977, H.B. 1357, § 4; Laws 1989, H.B. 1258, § 1; Laws 1999, ch. 34, § 2, eff. Aug. 4, 1999.

#### **10-4-505. Construction.**

This part 5 shall be liberally construed to effect the purposes enumerated in section 10-4-502, which section shall constitute an aid and guide to interpretation.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-4.

#### **10-4-506. Colorado insurance guaranty association.**

There is created a nonprofit unincorporated legal entity to be known as the Colorado insurance guaranty association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance business in this state. The association shall perform its functions under a plan of operation established and approved under section 10-4-509 and shall exercise its powers through a board of directors established under section 10-4-507. For purposes of administration and assessment, the association shall be divided into three separate accounts: Workers' compensation insurance account; automobile insurance account; and the account for all other insurance to which this part 5 applies.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-6; Amended, Laws 1990, H.B. 90-1160, § 17, eff. July 1, 1990.

#### **10-4-507. Board of directors**

- (1) The board of directors of the association shall consist of not less than five nor more than nine persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers, subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments.
- (2) In approving selections to the board, the commissioner shall consider among other things whether all

member insurers are fairly represented.

- (3) Members of the board may be reimbursed from the assets of the association for actual and necessary expenses incurred by them as members of the board of directors.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-7.

**10-4-508. Powers and duties of the association.**

(1) The association shall:

(a)(I) Be obligated to the extent of the covered claims existing prior to a determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date, if less than thirty days after such determination, or before the insured replaces the policy or on request effects cancellation, if the insured does so within thirty days after such determination, but such obligation includes only that amount of each covered claim that is less than fifty thousand dollars; except that:

(A) For an order of liquidation with a finding of insolvency by a court of competent jurisdiction entered between July 1, 1988, and the effective date of sub-subparagraph (B) of this subparagraph (I), such obligation includes only that amount of each covered claim that is less than one hundred thousand dollars;

(B) For an order of liquidation with a finding of insolvency by a court of competent jurisdiction entered on or after the effective date of this sub-subparagraph (B), such obligation includes only that amount of each covered claim that is less than three hundred thousand dollars; and

(C) Notwithstanding sub-subparagraph (A) or (B) of this subparagraph (I), the association shall pay the full amount of any covered claim arising out of workers' compensation policies.

(II) In no event is the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

(III) Notwithstanding any other provision of this part 5, a covered claim does not include any claim filed with the guaranty fund after the earlier of:

(A) Twenty-four months after the date of the order of liquidation; or

(B) The final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(c) Allocate claims paid and expenses incurred among the three accounts separately and assess member insurers amounts separately for each account necessary to pay: The obligations of the association under paragraph (a) of this subsection (1) subsequent to an insolvency; the expenses of handling covered claims subsequent to an insolvency; the cost of examinations under section 10-4-513; and other expenses authorized by this part 5. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member

insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year on any account an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be pro rated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; but during the period of deferment no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital and surplus below required minimums. Such payment shall be refunded to those companies receiving larger assessments by virtue of such deferment or, in the discretion of any such company, credited against future assessments. Each member insurer may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made.

- (d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation, and deny all other claims and may review settlements, releases, and judgments to which the insolvent insurer or its insured were parties to determine the extent to which such settlements, releases, and judgments may be properly contested;
  - (e) Notify such persons as the commissioner directs under section 10-4-510 (2) (a);
  - (f) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.
  - (g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this part 5.
- (2) The association may;
- (a) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;
  - (b) Borrow funds necessary to effect the purposes of this part 5 in accord with the plan of operation;

- (c) Sue or be sued, and such power to sue includes the power and right to intervene as a party before any court in this state that has jurisdiction over an insolvent insurer, as defined in section 10-4-503 (5);
- (d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this part 5;
- (e) Perform such other acts as are necessary or proper to effectuate the purposes of this part 5;
- (f) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-8; Laws 1977, H.B. 1357, § 3; Amended, Laws 1988, S.B. 70, § 1; amended, Laws 1990, H.B. 90-1160, § 18, eff. July 1, 1990; Laws 1999, ch. 34, § 4, eff. Aug. 4, 1999; Laws 2002, ch. 31, § 1, eff. March 22, 2002; Laws 2011, ch 14, §2 eff. Aug. 10 2011.

**10-4-508.5. Aggregate liability of association.**

- (1) (a) Notwithstanding any other provision of this part 5, except in the case of a claim for benefits under workers’ compensation coverage, any obligation of the association to any and all persons shall cease when ten million dollars shall have been paid in the aggregate by the association and any one or more associations similar to the association of any other state or states or any property/casualty insurance security fund that obtains contributions from insurers on a pre-insolvency basis, to or on behalf of any insured and its affiliates on covered claims or allowed claims arising under the policy or policies of any one insolvent insurer.
  - (b) For purposes of this section, the term “affiliate” shall mean a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.
- (2) If the association determines that there may be more than one claimant having a covered claim or allowed claim against the association or any associations similar to the association or any property/casualty insurance security fund in other states, under the policy or policies of any one insolvent insurer, the association may establish a plan to allocate amounts payable by the association in such manner as the association in its discretion deems equitable.

**Source:** Added by Laws 1999, ch. 34, § 3, eff. Aug. 4, 1999.

**10-4-509. Plan of operation.**

- (1) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner.
- (2) If the association fails to submit a suitable plan of operation within ninety days following July 1, 1971, or if at any time thereafter the association fails to submit suitable amendments to the plan, the

commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this part 5. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

- (3) All member insurers shall comply with the plan of operation.
- (4) The plan of operation shall:
  - (a) Establish the procedures whereby all the powers and duties of the association under section 10-4-508 will be performed;
  - (b) Establish procedures for handling assets of the association;
  - (c) Establish the amount and method of reimbursing members of the board of directors under section 10-4-507;
  - (d) Establish procedures by which claims may be filed with the association and provide acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent, and a list of such claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator.
  - (e) Establish regular places and times for meetings of the board of directors;
  - (f) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;
  - (g) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within thirty days after the action or decision;
  - (h) Establish the procedures whereby selections for the board of directors will be submitted to the commissioner;
  - (i) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.
- (5) The plan of operation may provide that any or all powers and duties of the association, except those under section 10-4-508 (1) (c) and (2) (c), are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of the association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation under this subsection (5) shall take effect only with the approval of both the board of directors and the commissioner and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this part 5.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-9.

**10-4-510. Duties and powers of commissioner.**

- (1) The commissioner shall:
  - (a) Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency;
  - (b) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.
- (2) The commissioner may:
  - (a) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this part 5. Such notification shall be by first-class mail at their last known addresses, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.
  - (b) Require each agent of the insolvent insurer to give prompt written notice to each insured of the insolvent insurer for whom he was agent of record by sending such notice by first-class mail to the insured's last known address;
  - (c) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance business in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. Such fine shall not exceed five percent of the unpaid assessment per month; except that no fine shall be less than one hundred dollars per month.
  - (d) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.
- (3) Any final action or order of the commissioner under this part 5 shall be subject to judicial review by the court of appeals pursuant to section 24-4-106(11), C.R.S.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-10; Amended by Laws 1992, S.B.92-90, § 60, eff. May 20, 1992.

**10-4-511. Effect of paid claims.**

- (1) Any person recovering under this part 5 from the association shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this part 5 shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out.
- (2) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements



of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimants would have been entitled in the absence of this part 5 against the assets of the insolvent insurer. The expenses of the association or a similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

- (3) The association shall periodically file with the receiver or liquidator of an insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association, which shall preserve the rights of the association against the assets of the insolvent insurer.
- (4) (a) The association shall have the right to recover from the following persons the amount of any covered claim paid on behalf of such person pursuant to this part 5:
  - (I) Any insured whose net worth on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer exceeds twenty-five million dollars and whose liability obligations to other persons are satisfied in whole or in part by payments made under this part 5. An insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis; and
  - (II) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this part 5.
- (b) The association and any similar organization in another state shall be recognized as claimants in the liquidation of an insolvent insurer for any amounts paid by them on covered claims obligations as determined under this part 5 or similar laws in other states and shall receive dividends and any other distributions at the priority set forth in part 5 of article 3 of this title. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by determinations of covered claim eligibility under this part 5 and by settlements of claims made by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this part 5 against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

**Source:** Laws 1971, p. 761 § 1 C.R.S. 1963, § 72-34-11; Laws 1977, H.B. 1357, § 4; Laws 1999, ch. 34, § 5, eff. Aug. 4, 1999.

**10-4-512. Nonduplication of recovery.**

- (1) Any person having a claim against an insurer under any provision in any insurance policy that is also a covered claim shall exhaust first the person's right under such policy. Any amount payable on a covered claim under this part 5 is reduced by the amount recoverable under such insurance policy.
- (2) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured; except that, if it is a first-party claim for damage to property with a permanent location,

recovery shall be sought from the association of the location of the property, and, if it is a workers' compensation claim, recovery shall be sought from the association of the residence of the claimant. A claimant or first-party insured who has received a recovery for any other guaranty association or its equivalent in an amount equal to or greater than the recovery allowed under this part 5 shall not be eligible to receive any recovery from the Colorado insurance guaranty association. In addition, any recovery under this part 5 shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-12; Amended, Laws 1989, H.B. 1258, § 2; amended, Laws 1990, H.B. 90-1170, § 19; Laws 1999, ch. 34, § 6, eff. Aug. 4, 1999; Laws 2011, ch 14, §3, eff. Aug. 10, 2011.

**10-4-513. Prevention of insolvencies.**

- (1) To aid in the detection and prevention of insurer insolvencies, it is the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating that any member insurer may be insolvent or is in a financial condition hazardous to the policy holders or the public.
- (2) To aid in the detection and prevention of insurer insolvencies, it is the duty of the commissioner:
  - (a) To notify the commissioners of all other states and territories of the United States and the District of Columbia by mail within thirty days of any of the following actions taken by him against a member insurer;
    - (I) Revocation of license;
    - (II) Suspension of license;
    - (III) Any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors;
  - (b) To report to the board of directors when he has taken any of the actions set forth in paragraph (a) of this subsection (2) or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.
  - (c) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be insolvent or in a financial condition hazardous to the policyholders or the public;
  - (d) To furnish to the board of directors the early warning tests developed by the national association of insurance commissioners. The board of directors may use the information contained in such tests in carrying out its duties and responsibilities pursuant to this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner of another lawful authority.

- (3) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.
- (4) The board of directors, upon majority vote, may make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do business in this state. Such reports and recommendations shall not be considered public documents.
- (5) It is the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating that any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public.
- (6) The board of directors, upon majority vote, may request that the commissioner order an examination of any member insurer which the board in good faith believes to be in a financial condition hazardous to the policyholders or the public. Within thirty days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association, and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection (1) of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner, but it shall not be open to public inspection prior to the release of the examination report to the public.
- (7) The board of directors, upon majority vote, may make recommendations to the commissioner for the detection and prevention of insurer insolvencies.
- (8) The board of directors, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, shall prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board of directors shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer and may adopt by reference any report prepared by such other associations.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-13; Laws 1977, H.B. 1357, § 5.

#### **10-4-514. Examination of the association.**

The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-14.

**10-4-515. Tax exemption.**

The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivision, except taxes levied on real or personal property.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-15.

**10-4-516. Recognition of assessments in rates.**

The rates and premiums charged for insurance policies to which this part 5 applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer, less any amounts returned to the member insurer by the association, and such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-16.

**10-4-517. Immunity.**

There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, the association or its agents or employees, the board of directors, or the commissioner or his representatives for any action taken by them in the performance of their powers and duties under this part 5.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-17.

**10-4-518. Stay of proceedings.**

All proceedings to which an insolvent insurer is a party in any court in this state shall be stayed for sixty days after the date the insolvency is determined to permit proper defense by the association of all pending causes of action.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-18.

**10-4-519. Termination - distribution of funds.**

- (1) The commissioner shall by order terminate the operation of the association as to any kind of insurance covered by this part 5 with respect to which he has found, after hearing that there is in effect a statutory or voluntary plan which;
  - (a) Is a permanent plan which is adequately funded or for which adequate funding is provided; and
  - (b) Extends, or will extend, to the Colorado policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to such policyholders and residents than the protection and benefits provided with respect to such kinds of insurance under this part 5.
- (2) The commissioner shall by the same order authorize discontinuance of future payments by insurers to the association with respect to the same kinds of insurance; but the assessments and payments shall continue, as necessary, to liquidate covered claims of insurers adjudged insolvent prior to said order and the related expenses not covered by such other plan.
- (3) In the event the operation of the association is so terminated as to all kinds of insurance otherwise within its scope, the association as soon as possible thereafter shall distribute the balance of moneys and assets remaining after discharge of the functions of the association with respect to prior insurer

insolvencies not covered by such other plan, together with related expenses, to the insurers which are then writing in this state policies of the kinds of insurance covered by this part 5 and which have made payments to the association pro rata upon the basis of the aggregate of such payments made by the respective insurers during the period of five years next preceding the date of such order. Upon completion of such distribution with respect to all of the kinds of insurance covered by this part 5, this part 5 shall be deemed to be repealed.

**Source:** Laws 1971, S.B. 395, § 1; C.R.S. 1963, § 72-34-19.

**10-4-520. Advertising.**

No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in any newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter, or poster or over any radio station or television station or in any other way any advertisement, announcement, or statement which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this part 5, but this section shall not apply to the Colorado insurance guaranty association or to any other entity which does not sell or solicit insurance.

**Source:** Laws 1977, H.B. 1357, § 6.