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Authorizing Units of Local Government to Insure Their Property Against Loss or Damage Thereto, Including the Use of Self-insurance and Self-Insurance Pools

Colorado General Assembly

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CHAPTER 295

GOVERNMENT — LOCAL

LOCAL GOVERNMENTS — AUTHORITY TO INSURE PROPERTY

HOUSE BILL NO. 1342, BY REPRESENTATIVES Tancred, Hilsmeier, McElderry, Reeves, Hudson, Showalter, Traylor, and Winkler; also SENATORS Meiklejohn and Barnhill.

AN ACT

AUTHORIZING UNITS OF LOCAL GOVERNMENT TO INSURE THEIR PROPERTY AGAINST LOSS OR DAMAGE THERETO, INCLUDING THE USE OF SELF-INSURANCE AND SELF-INSURANCE POOLS.

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

Section 1. Title 29, Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 13

Local Governments - Authority to Insure Property

29-13-101. Insurance on property of local governments. (1) Any unit of local government, which for purposes of this article includes counties, municipalities, school and special districts, and every other type of local government having the power to own property and impose taxes, may insure its property against all types of risk of loss for which such insurance may be procured from insurance companies authorized to do such business in this state.

(2) The insurance authorized by subsection (1) of this section may be provided by:

(a) Self-insurance, which may be funded by appropriations to establish or maintain reserves for self-insurance purposes;

(b) An insurance company authorized to do business in this state which meets all of the requirements of the division of insurance for that purpose;

(c) A combination of the methods of obtaining insurance authorized in paragraphs (a) and (b) of this subsection (2).

(3) A unit of local government may establish and maintain an insurance reserve fund for self-insurance purposes and may include in the annual tax

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

levy of the local government such amounts as are determined by its governing body to be necessary for the uses and purposes of the insurance reserve fund, subject to the limitations imposed by section 29-1-301. In the event that a local government has no annual tax levy, it may appropriate from any unexpended balance in the general fund such amounts as the governing body shall deem necessary for the purposes and uses of the insurance reserve fund. The fund established pursuant to this subsection (3) shall be kept separate and apart from all other funds and shall be used only for the payment of loss of or damage to the property of the unit of local government or to secure and pay for premiums on insurance as provided in this article.

29-13-102. Authority for units of local government to pool insurance coverage. (1) Units of local government may cooperate with one another to form a self-insurance pool to provide all or part of the insurance coverage authorized by this article.

(2) Any self-insurance pool authorized by subsection (1) of this section shall not be construed to be an insurance company nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies; except that the pool shall comply with the applicable provisions of section 10-1-110 (1) to (4) and (6), C.R.S. 1973.

(3) Prior to the formation of a self-insurance pool, there shall be submitted to the commissioner of insurance a complete written proposal of the pool's operation, including, but not limited to, the administration, claims adjusting, membership, and capitalization of the pool. The commissioner shall approve or disapprove such proposal within thirty days after receipt to assure that proper insurance techniques and procedures are included in the proposal. After such review, the commissioner shall submit written comments or recommendations regarding the proposal to the governing bodies of each participating unit of local government. If the commissioner approves the proposal, he shall issue a certificate of authority. If the commissioner disapproves the proposal, it may be resubmitted for approval after the necessary changes have been made in accordance with the written comments or recommendations of the commissioner. The costs of such review shall be paid by those units desiring to form such a pool. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

(4) Each self-insurance pool for units of local government created in this state shall file, with the commissioner of insurance on or before March 30 of the next succeeding year, a written report, in a form prescribed by the commissioner, signed and verified by its chief executive officer as to its condition. Such report shall include a detailed statement of assets and liabilities, the amount and character of the business transacted, and the moneys reserved and expended during the year. All such reports shall be transmitted to the governor and the general assembly.

(5) The commissioner of insurance, or any person authorized by him, shall conduct an insurance examination at least once a year to determine that proper underwriting techniques and sound funding, loss reserves, and claims procedures are being followed. This examination shall be paid for by the self-insurance pool out of its funds at the same rate as provided for foreign insurance companies under section 10-1-110 (5), C.R.S. 1973. Any such payment received by the

commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

29-13-103. Grounds and procedure for suspension or revocation of certificate. (1) The certificate of authority issued to a unit of local government under this article may be revoked or suspended by the commissioner of insurance for any of the following reasons:

- (a) Insolvency or impairment;
- (b) Refusal or failure to submit an annual report as required by section 29-13-102 (4);
- (c) Failure to comply with the provisions of its own ordinances, resolutions, contracts, or other conditions relating to the self-insurance pool;
- (d) Failure to submit to examination or any legal obligation relative thereto;
- (e) Refusal to pay the cost of examination as required by section 29-13-102 (3);
- (f) Use of methods which, although not otherwise specifically proscribed by law, nevertheless render the operation of the self-insurance pool hazardous, or its condition unsound, to the public;
- (g) Failure to otherwise comply with the law of this state, if such failure renders the operation of the self-insurance pool hazardous to the public.

(2) If the commissioner of insurance finds upon examination, hearing, or other evidence that any unit of local government has committed any of the acts specified in subsection (1) of this section or any act otherwise prohibited in this article, the commissioner may suspend or revoke such certificate of authority if he deems it in the best interest of the public. Notice of any revocation shall be published in one or more daily newspapers in Denver which have a general state circulation. Before suspending or revoking any certificate of authority of a unit of local government, the commissioner shall grant the unit of local government fifteen days in which to show cause why such action should not be taken.

Section 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 1979