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HOUSE BILL 17-1263

BY REPRESENTATIVE(S) McKean and Hansen, Van Winkle;
also SENATOR(S) Gardner, Holbert, Tate, Grantham.

CONCERNING AN AUTHORIZATION FOR THE COMMISSIONER OF INSURANCE
TO ISSUE A LICENSE THAT ALLOWS A LIMITED LINES PRODUCER TO
SELL LIMITED LINES SELF-STORAGE INSURANCE.

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

SECTION 1. In Colorado Revised Statutes, **add** part 17 to article 4 of title 10 as follows:

PART 17
SELF-STORAGE INSURANCE LIMITED LICENSES

10-4-1701. Definitions. AS USED IN THIS PART 17, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BUSINESS ENTITY" INCLUDES AN INDIVIDUAL WORKING FOR OR ACTING ON BEHALF OF THE SELF-STORAGE RETAILER.

(2) "INSURER" MEANS AN ADMITTED COMPANY OR AUTHORIZED COMPANY, AS DEFINED IN SECTION 10-1-102 (3), APPROVED TO TRANSACT

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

INSURANCE IN THIS STATE.

(3) "OCCUPANT" MEANS A PERSON OR HIS OR HER LESSEE, SUCCESSOR, OR ASSIGNEE ENTITLED TO THE USE OF A SELF-STORAGE SPACE AT A SELF-SERVICE STORAGE FACILITY, TO THE EXCLUSION OF OTHERS, UNDER A SELF-STORAGE RENTAL AGREEMENT.

(4) "OFFER AND DISSEMINATE" MEANS TO PROVIDE GENERAL INFORMATION ABOUT SELF-STORAGE INSURANCE, INCLUDING A DESCRIPTION OF THE COVERAGE AND PRICE, AS WELL AS PROCESSING THE APPLICATION, COLLECTING PREMIUMS, AND PERFORMING OTHER NONLICENSEABLE ACTIVITIES PERMITTED BY THE STATE.

(5) "SELF-SERVICE STORAGE FACILITY" MEANS REAL PROPERTY DESIGNED AND USED FOR THE SOLE PURPOSE OF RENTING OR LEASING INDIVIDUAL STORAGE SPACE TO OCCUPANTS WHO ARE GIVEN ACCESS TO A SELF-STORAGE SPACE FOR THE SOLE PURPOSE OF STORING AND REMOVING PERSONAL PROPERTY.

(6) "SELF-STORAGE INSURANCE" MEANS INSURANCE COVERAGE FOR PROPERTY LOSS INCIDENTAL TO THE RENTAL OF A SELF-STORAGE SPACE AT A SELF-SERVICE STORAGE FACILITY.

(7) "SELF-STORAGE RENTAL AGREEMENT" MEANS A WRITTEN AGREEMENT SETTING FORTH THE TERMS AND CONDITIONS GOVERNING THE USE OF A SELF-STORAGE SPACE PROVIDED BY A SELF-SERVICE STORAGE FACILITY FOR RENT OR LEASE.

(8) "SELF-STORAGE RETAILER" MEANS A BUSINESS ENTITY THAT RENTS SELF-STORAGE UNITS AND MAY OFFER AND DISSEMINATE SELF-STORAGE INSURANCE AS A SERVICE TO ITS CUSTOMERS ON BEHALF OF AND UNDER THE DIRECTION OF A SUPERVISING ENTITY.

(9) "SELF-STORAGE SPACE" MEANS A DESIGNATED STORAGE UNIT OR OTHER DESIGNATED SPACE AT A SELF-SERVICE STORAGE FACILITY.

(10) "SUPERVISING ENTITY" MEANS A BUSINESS ENTITY OR PERSON THAT IS A LIMITED LINE PRODUCER, AS THAT TERM IS DEFINED IN SECTION 10-2-103 (7.3), AUTHORIZED BY AN INSURER TO SUPERVISE A SELF-STORAGE RETAILER.

10-4-1702. Authority to issue license. (1) A SUPERVISING ENTITY MUST HOLD A LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE ISSUED BY THE DIVISION IN ACCORDANCE WITH PART 4 OF ARTICLE 2 OF THIS TITLE 10 IN ORDER TO SELL, SOLICIT, OR NEGOTIATE SELF-STORAGE INSURANCE.

(2) AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF A SELF-STORAGE RETAILER MAY OFFER AND DISSEMINATE SELF-STORAGE INSURANCE TO A CUSTOMER AT EACH SELF-STORAGE RETAILER LOCATION AT WHICH THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE IS SUPERVISED BY A SUPERVISING ENTITY.

(3) AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF A SELF-STORAGE RETAILER SHALL NOT ADVERTISE, REPRESENT, OR OTHERWISE HOLD HIMSELF OR HERSELF OUT AS A LICENSED INSURER, INSURANCE AGENT, OR INSURANCE PRODUCER, AND SHALL NEITHER EVALUATE NOR INTERPRET THE TECHNICAL TERMS, BENEFITS, OR CONDITIONS OF THE OFFERED SELF-STORAGE INSURANCE WITH THE OCCUPANT OR EVALUATE OR PROVIDE ADVICE CONCERNING AN OCCUPANT'S EXISTING INSURANCE COVERAGE.

(4) UNLESS THE SELF-STORAGE RETAILER IS A SUPERVISING ENTITY, THE SELF-STORAGE RETAILER SHALL NOT ADVERTISE, REPRESENT, OR OTHERWISE HOLD ITSELF OUT AS A LICENSED INSURER, INSURANCE AGENT, OR INSURANCE PRODUCER, AND SHALL NEITHER EVALUATE NOR INTERPRET THE TECHNICAL TERMS, BENEFITS, OR CONDITIONS OF THE OFFERED SELF-STORAGE INSURANCE WITH THE OCCUPANT OR EVALUATE OR PROVIDE ADVICE CONCERNING AN OCCUPANT'S EXISTING INSURANCE COVERAGE.

(5) A SUPERVISING ENTITY SHALL MAINTAIN A REGISTRY OF SELF-STORAGE RETAILER LOCATIONS THAT ARE AUTHORIZED TO OFFER AND DISSEMINATE SELF-STORAGE INSURANCE COVERAGE IN THIS STATE. UPON REQUEST BY THE COMMISSIONER AND WITH TEN DAYS' NOTICE TO THE SUPERVISING ENTITY, THE SUPERVISING ENTITY SHALL MAKE THE REGISTRY OPEN TO INSPECTION AND EXAMINATION BY THE COMMISSIONER DURING REGULAR BUSINESS HOURS OF THE SUPERVISING ENTITY.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LICENSE ISSUED PURSUANT TO THIS PART 17 AUTHORIZES THE LICENSEE AND ITS EMPLOYEES OR AUTHORIZED REPRESENTATIVES TO ENGAGE IN THOSE

ACTIVITIES THAT ARE PERMITTED IN THIS PART 17.

10-4-1703. License - application - restrictions. (1) (a) BEFORE BEING ISSUED A LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE, A PERSON MUST SUBMIT AN APPLICATION FOR A LIMITED LINES SELF-STORAGE LICENSE IN ACCORDANCE WITH SECTION 10-2-404; EXCEPT THAT THE APPLICANT IS NOT REQUIRED TO PROVIDE THE INFORMATION SPECIFIED IN SECTION 10-2-404 (2).

(b) A SUPERVISING ENTITY IS RESPONSIBLE FOR COMPLIANCE WITH THIS PART 17. IF A SELF-STORAGE RETAILER HAS MORE THAN ONE SUPERVISING ENTITY, THE COMMISSIONER MAY HOLD ALL SUPERVISING ENTITIES RESPONSIBLE FOR A VIOLATION OF THIS PART 17 IN ACCORDANCE WITH SECTION 10-4-1709. IF A SELF-STORAGE RETAILER DERIVES MORE THAN FIFTY PERCENT OF ITS REVENUE FROM THE SALE OF LIMITED LINES SELF-STORAGE INSURANCE, THE SELF-STORAGE RETAILER SHALL PROVIDE THE LOCATION OF THE SELF-STORAGE RETAILER'S HOME OFFICE AND THE NAME, RESIDENTIAL ADDRESS, AND OTHER INFORMATION REQUIRED BY THE COMMISSIONER FOR ALL OFFICERS, DIRECTORS, AND SHAREHOLDERS OF RECORD HAVING BENEFICIAL OWNERSHIP OF TEN PERCENT OR MORE OF ANY CLASS OF THE SELF-STORAGE RETAILER'S SECURITIES REGISTERED UNDER FEDERAL SECURITIES LAWS. FOR PURPOSES OF THIS SECTION:

(I) A SUPERVISING ENTITY IS NOT REQUIRED TO BE AN OFFICER, PARTNER, OR DIRECTOR OF THE SELF-STORAGE RETAILER; AND

(II) THE APPLICANT FOR A LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE PURSUANT TO THIS PART 17 IS EXEMPT FROM THE REQUIREMENTS OF SECTION 10-2-406.

(c) BY JULY 1, 2018, A PERSON ENGAGED IN THE SALE, SOLICITATION, OR NEGOTIATION OF SELF-STORAGE INSURANCE BEFORE THE EFFECTIVE DATE OF THIS PART 17 SHALL EITHER APPLY FOR A LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE OR CEASE ENGAGING IN THE SALE OF SELF-STORAGE INSURANCE. TO SELL, SOLICIT, OR NEGOTIATE SELF-STORAGE INSURANCE ON OR AFTER JULY 1, 2018, A PERSON MUST FIRST OBTAIN A LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE. A LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE APPLICATION MUST BE ACCOMPANIED BY A FEE PRESCRIBED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-2-413. A LIMITED LINES

SELF-STORAGE INSURANCE PRODUCER LICENSE MUST BE RENEWED AS SET FORTH IN SECTION 10-2-408.

(2) A SUPERVISING ENTITY MAY SELL, SOLICIT, OR NEGOTIATE, OR OFFER TO SELL, SOLICIT, OR NEGOTIATE, SELF-STORAGE INSURANCE ONLY IN CONNECTION WITH, AND INCIDENTAL TO, THE RENTAL OF A SELF-STORAGE SPACE IN A SELF-SERVICE STORAGE FACILITY. THE SELF-STORAGE INSURANCE MAY PROVIDE COVERAGE ONLY FOR DAMAGE OR LOSS TO THE PERSONAL PROPERTY OF THE OCCUPANT CONTAINED IN THE SELF-STORAGE SPACE.

10-4-1704. Disclosures to occupant. (1) BEFORE ISSUING A POLICY UNDER THIS PART 17, A SELF-STORAGE RETAILER SHALL PROVIDE AN OCCUPANT WITH A WRITTEN SELF-STORAGE INSURANCE POLICY OR SELF-STORAGE INSURANCE CERTIFICATE THAT:

(a) SUMMARIZES CLEARLY AND CORRECTLY THE MATERIAL TERMS OF COVERAGE OFFERED TO THE OCCUPANT, INCLUDING THE IDENTITY AND CONTACT INFORMATION OF BOTH THE INSURER AND THE SUPERVISING ENTITY;

(b) STATES THE BENEFITS OF COVERAGE;

(c) STATES THAT THE SELF-STORAGE INSURANCE BEING OFFERED MAY PROVIDE A DUPLICATION OF INSURANCE COVERAGE ALREADY PROVIDED BY A HOMEOWNER'S INSURANCE POLICY OR OTHER SOURCE OF COVERAGE IN EFFECT FOR THE OCCUPANT. THE STATEMENT MUST INCLUDE A SPACE THAT ALLOWS THE OCCUPANT TO WRITE THE OCCUPANT'S INITIALS TO SIGNIFY THE OCCUPANT'S ACKNOWLEDGMENT AND UNDERSTANDING OF THE POTENTIAL DUPLICATION REFERENCED IN THIS SUBSECTION (1)(c). THE RETAILER SHALL SPECIFICALLY BRING THE POTENTIAL DUPLICATION REFERENCED IN THIS SUBSECTION (1)(c) AND THE OPPORTUNITY TO WRITE THE OCCUPANT'S INITIALS TO THE OCCUPANT'S ATTENTION BY ORALLY OFFERING THE OCCUPANT AN OPPORTUNITY TO READ THE STATEMENT AND WRITE THE OCCUPANT'S INITIALS IN THE SPACE PROVIDED.

(d) STATES THE DEDUCTIBLE OF THE SELF-STORAGE INSURANCE COVERAGE AND DESCRIBES THE PROCESS FOR FILING A CLAIM;

(e) STATES WHETHER THE POLICY COVERS FLOOD DAMAGE TO

STORED PROPERTY; AND

(f) STATES THAT THE SELF-STORAGE RETAILER CAN ANSWER GENERAL INFORMATION ABOUT THE SELF-STORAGE INSURANCE OFFERED, INCLUDING A DESCRIPTION OF THE COVERAGE AND PREMIUM, BUT IS NEITHER QUALIFIED NOR AUTHORIZED TO ANSWER TECHNICAL QUESTIONS ABOUT THE TERMS AND CONDITIONS OF THE SELF-STORAGE INSURANCE OFFERED AND DISSEMINATED BY THE SUPERVISING ENTITY OR TO EVALUATE THE ADEQUACY OF THE OCCUPANT'S EXISTING INSURANCE COVERAGE, IF ANY.

(2) IF THE SELF-STORAGE RENTAL AGREEMENT REQUIRES THE OCCUPANT TO PROVIDE PROOF OF INSURANCE, THIS INSURANCE COVERAGE REQUIREMENT MAY BE SATISFIED IF THE OCCUPANT:

(a) PURCHASES THIS COVERAGE FROM A SELF-STORAGE RETAILER;
OR

(b) PROVIDES EVIDENCE OF THIS COVERAGE FROM ANOTHER SOURCE.

10-4-1705. Supervision of issuance - training. (1) A SUPERVISING ENTITY SHALL SUPERVISE THE ADMINISTRATION OF THE OFFERING AND DISSEMINATING OF SELF-STORAGE INSURANCE. THE SUPERVISING ENTITY SHALL DEVELOP A TRAINING PROGRAM FOR THE OFFERING AND DISSEMINATING OF THE SELF-STORAGE INSURANCE AND SHALL REQUIRE ANY INDIVIDUAL WORKING FOR OR ACTING ON BEHALF OF THE SELF-STORAGE RETAILER TO ATTEND THE TRAINING.

(2) THE TRAINING PROGRAM REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION IS MANDATORY FOR ANY INDIVIDUAL WORKING FOR OR ACTING ON BEHALF OF A SELF-STORAGE RETAILER THAT IS DIRECTLY ENGAGED IN THE ACTIVITY OF OFFERING OR DISSEMINATING SELF-STORAGE INSURANCE AND MUST INCLUDE THE FOLLOWING:

(a) AN EDUCATION PROGRAM REGARDING SELF-STORAGE INSURANCE THAT IS CONDUCTED AND OVERSEEN BY THE SUPERVISING ENTITY;

(b) INSTRUCTION TO ANY INDIVIDUAL OR BUSINESS ENTITY WORKING

FOR OR ACTING ON BEHALF OF A SELF-STORAGE RETAILER ABOUT THE SELF-STORAGE INSURANCE OFFERED TO OCCUPANTS AND THE DISCLOSURES REQUIRED PURSUANT TO THIS PART 17; AND

(c) INSTRUCTION THAT ANY INDIVIDUAL OR BUSINESS ENTITY WORKING FOR OR ACTING ON BEHALF OF A SELF-STORAGE RETAILER SHALL NOT:

(I) ADVERTISE, REPRESENT, OR OTHERWISE HOLD HIMSELF OR HERSELF OUT AS A LICENSED INSURANCE PRODUCER OF ANY KIND; OR

(II) EVALUATE OR INTERPRET TECHNICAL TERMS, BENEFITS, OR CONDITIONS OF THE OFFERED SELF-STORAGE INSURANCE OR EVALUATE AN OCCUPANT'S EXISTING INSURANCE COVERAGE, IF THE OCCUPANT HAS ANY SUCH COVERAGE.

(3) THE SELF-STORAGE RETAILER MAY BILL AND COLLECT PREMIUMS FOR SELF-STORAGE INSURANCE. THESE SELF-STORAGE INSURANCE PREMIUMS MUST BE SEPARATELY ITEMIZED IF THEY ARE NOT INCLUDED IN THE COST OF THE RENTAL. IF THE PREMIUMS ARE INCLUDED IN THE COST OF THE RENTAL OF THE SELF-STORAGE SPACE, A SUPERVISING ENTITY SHALL ENSURE THAT IT IS CLEARLY AND CONSPICUOUSLY DISCLOSED TO THE OCCUPANT THAT THE SELF-STORAGE INSURANCE IS INCLUDED WITH THE RENTAL FEES FOR THE SELF-STORAGE SPACE. A SUPERVISING ENTITY SHALL ESTABLISH A SEPARATE FIDUCIARY ACCOUNT FOR THE COLLECTED COVERAGE PREMIUMS BUT IS NOT REQUIRED TO SEGREGATE THE INDIVIDUAL OCCUPANTS' PREMIUMS IN THAT ACCOUNT. A SUPERVISING ENTITY SHALL REMIT THE COVERAGE PREMIUM CHARGES TO THE INSURER WITHIN SIXTY DAYS AFTER RECEIPT. ALL COVERAGE PREMIUMS HELD BY A SUPERVISING ENTITY ARE HELD IN TRUST BY THE SUPERVISING ENTITY IN A FIDUCIARY CAPACITY FOR THE BENEFIT OF THE INSURER.

10-4-1706. Compensation. (1) THIS PART 17 DOES NOT PROHIBIT THE PAYMENT OR RECEIPT OF RELATED COMPENSATION IN THE FORM OF A COMMISSION, SERVICE FEE, BROKERAGE, OR OTHER VALUABLE CONSIDERATION FOR THE SALE OF SELF-STORAGE INSURANCE THAT THE SUPERVISING ENTITY IS AUTHORIZED TO SELL, SOLICIT, OR NEGOTIATE UNDER THIS PART 17 IF THE SUPERVISING ENTITY WAS DULY LICENSED UNDER THIS PART 17 FOR THE PERFORMANCE OF THE SERVICES AND HAS MET ALL CONDITIONS AS SET FORTH IN THIS PART 17.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SELF-STORAGE RETAILER SHALL NOT COMPENSATE EMPLOYEES BASED PRIMARILY ON THE NUMBER OF OCCUPANTS ENROLLED FOR LIMITED LINES SELF-STORAGE INSURANCE, BUT THE SELF-STORAGE RETAILER MAY COMPENSATE EMPLOYEES FOR ACTIVITIES UNDER THE LIMITED LINES EMPLOYEE'S OR SUPERVISING ENTITY'S OVERALL COMPENSATION.

10-4-1707. Exemption from requirements. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 17, RULE PROMULGATED BY THE COMMISSIONER, OR ORDER ISSUED BY THE COMMISSIONER, A SUPERVISING ENTITY IS NOT REQUIRED TO MEET THE PRELICENSURE EDUCATIONAL REQUIREMENTS IN SECTION 10-2-201, CONTINUING EDUCATION REQUIREMENTS IN SECTION 10-2-301, OR EXAMINATION REQUIREMENTS IN SECTION 10-2-402.

10-4-1708. Notification. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

(a) (I) WHENEVER WRITTEN NOTICE OR CORRESPONDENCE WITH RESPECT TO A POLICY IS REQUIRED, THE INSURER SHALL SEND THE NOTICE WITHIN THE NOTICE PERIOD, IF ANY, SPECIFIED BY LAW AND MAY SEND NOTICES AND CORRESPONDENCE BY EITHER MAIL OR ELECTRONIC MEANS. FOR PURPOSES OF THIS SUBSECTION (1)(a)(I), AN OCCUPANT'S PROVISION OF AN E-MAIL ADDRESS TO THE INSURER OR SUPERVISING ENTITY IS CONSENT TO RECEIVE WRITTEN NOTICES AND CORRESPONDENCE BY ELECTRONIC MEANS.

(II) IF THE WRITTEN NOTICE IS MAILED, THE INSURER SHALL SEND IT TO THE SUPERVISING ENTITY AT THE SUPERVISING ENTITY'S ADDRESS AS WELL AS TO THE LAST-KNOWN ADDRESS OF THE OCCUPANT AND SHALL MAINTAIN PROOF OF MAILING IN A FORM AUTHORIZED OR ACCEPTED BY THE UNITED STATES POSTAL SERVICE OR OTHER COMMERCIAL MAIL DELIVERY SERVICE.

(III) IF THE WRITTEN NOTICE IS SENT BY ELECTRONIC MEANS, THE INSURER SHALL SEND IT TO THE SUPERVISING ENTITY AT THE SUPERVISING ENTITY'S E-MAIL ADDRESS AND TO THE OCCUPANT'S LAST-KNOWN E-MAIL ADDRESS AS PROVIDED BY THE OCCUPANT AND SHALL MAINTAIN PROOF THAT THE WRITTEN NOTICE WAS SENT.

(b) A SUPERVISING ENTITY MAY SEND ANY NOTICE OR CORRESPONDENCE REQUIRED BY THIS SECTION OR OTHERWISE REQUIRED BY LAW ON BEHALF OF THE INSURER OR SELF-STORAGE RETAILER.

10-4-1709. Enforcement. (1) THE COMMISSIONER MAY, AFTER NOTICE AND OPPORTUNITY FOR A HEARING, RESPOND TO A VIOLATION OF A PROVISION OF THIS PART 17 BY:

(a) TAKING DISCIPLINARY ACTION AGAINST ANY SUPERVISING ENTITY PURSUANT TO SECTION 10-2-801;

(b) IMPOSING OTHER PENALTIES, INCLUDING SUSPENDING THE LICENSE OF A SUPERVISING ENTITY FOR A VIOLATION OF THIS PART 17, AS THE COMMISSIONER CONSIDERS NECESSARY OR CONVENIENT TO CARRY OUT THIS PART 17; OR

(c) SUSPENDING OR REVOKING THE ABILITY OF ANY INDIVIDUAL WORKING FOR OR ACTING ON BEHALF OF A SELF-STORAGE RETAILER TO ACT UNDER THE LIMITED LINES SELF-STORAGE INSURANCE PRODUCER LICENSE.

SECTION 2. 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 9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 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 conduct occurring on or after the applicable effective date of this act.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO