

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 10-1030.01 Christy Chase

**HOUSE BILL 10-1385**

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**HOUSE SPONSORSHIP**

**Lambert**, Ferrandino, Pommer

**SENATE SPONSORSHIP**

**Tapia**, Keller, White

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**House Committees**  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING FEES COLLECTED BY THE DIVISION OF INSURANCE TO**  
102             **FUND INSURANCE FRAUD CASES PURSUED BY THE DEPARTMENT**  
103             **OF LAW, AND MAKING APPROPRIATIONS IN CONNECTION**  
104             **THEREWITH.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Budget Package Bill.** Under current law, insurance companies pay an annual insurance fraud fee of \$425 to fund part of the department

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
Am ended 2nd Reading  
March 31, 2010

of law's expenses in investigating and prosecuting allegations of insurance fraud. The revenue from this insurance fraud fee is deposited in the division of insurance cash fund.

The bill redirects the insurance fraud fee into the newly created insurance fraud cash fund, and replaces the fixed insurance fraud fee, as set in statute, with a fee set annually by the attorney general at a level sufficient to provide for the department of law's direct and indirect costs for insurance fraud investigations and prosecutions and to allow for the creation and maintenance of a 3-month reserve in the fund, phased in over 3 fiscal years.

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

2           **SECTION 1.** Part 2 of article 3 of title 10, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION  
4 CONTAINING A RELOCATED PROVISION, WITH AMENDMENTS,  
5 to read:

6           **10-3-207.5. [Formerly 10-3-207 (1) (e)] Funding for insurance**  
7 **fraud investigations and prosecutions.** (1) ~~(e)~~ (a) For the purpose  
8 of providing adequate funds to the Colorado department of law for the  
9 investigation and prosecution of allegations of insurance fraud, in  
10 addition to any other fee collected pursuant to ~~this subsection~~ (1) SECTION  
11 10-3-207 (1), each entity regulated by the division shall pay TO THE  
12 DIVISION a nonrefundable annual fee of ~~four hundred twenty-five dollars,~~  
13 ~~payable~~ IN AN AMOUNT DETERMINED BY THE ATTORNEY GENERAL IN  
14 ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (1) AND  
15 COMMUNICATED TO THE DIVISION BEFORE THE START OF THE FISCAL YEAR  
16 IN WHICH THE FEE WILL BE COLLECTED. THE REGULATED ENTITY SHALL  
17 PAY THE FEE on or before March 1 of each year.

18           (b) FOR PURPOSES OF THE FEES AUTHORIZED IN PARAGRAPH (a) OF  
19 THIS SUBSECTION (1) THAT ARE COLLECTED BY MARCH 1, 2011, AND BY  
20 MARCH 1 OF EACH YEAR THEREAFTER, THE ATTORNEY GENERAL SHALL

1 SET THE AMOUNT OF THE FEE AT A LEVEL THAT WILL PAY FOR THE DIRECT  
2 AND INDIRECT COSTS OF THE DEPARTMENT OF LAW FOR INSURANCE FRAUD  
3 INVESTIGATIONS AND PROSECUTIONS, AS REFLECTED IN THE  
4 APPROPRIATION TO THE DEPARTMENT OF LAW FOR THE FISCAL YEAR IN  
5 WHICH THE FEE IS COLLECTED, AND WILL ALLOW FOR THE CREATION AND  
6 MAINTENANCE OF A THREE-MONTH RESERVE IN THE INSURANCE FRAUD  
7 CASH FUND CREATED IN SUBSECTION (2) OF THIS SECTION; EXCEPT THAT:

8 (I) THE FEES COLLECTED IN THE 2010-11 FISCAL YEAR SHALL  
9 ALLOW FOR A ONE-MONTH RESERVE; AND

10 (II) THE FEES COLLECTED IN THE 2011-12 FISCAL YEAR SHALL  
11 ALLOW FOR A TWO-MONTH RESERVE.

12 (2) THE DIVISION SHALL TRANSMIT FEES COLLECTED PURSUANT TO  
13 SUBSECTION (1) OF THIS SECTION TO THE STATE TREASURER FOR DEPOSIT  
14 IN THE INSURANCE FRAUD CASH FUND, WHICH FUND IS HEREBY CREATED  
15 IN THE STATE TREASURY. THE FUND SHALL CONSIST OF FEES COLLECTED  
16 PURSUANT TO THIS SECTION AND ANY OTHER MONEYS DEPOSITED INTO THE  
17 FUND. INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF  
18 MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. THE MONEYS IN  
19 THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
20 ASSEMBLY TO THE DEPARTMENT OF LAW FOR USE IN INVESTIGATING AND  
21 PROSECUTING ALLEGATIONS OF INSURANCE FRAUD. ANY UNEXPENDED  
22 AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF  
23 ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO  
24 THE GENERAL FUND.

25 ~~(H)~~ (3) ~~Commencing January 1, 2007,~~ The attorney general shall  
26 provide annual reports to the joint budget committee, the senate business,  
27 labor, and technology committee, and the house business affairs and labor

1 committee, or any such successor committees, and shall post on the  
2 attorney general's web site a statistical report of the number of referrals,  
3 convictions, arrests, actions initiated, and restitutions, fines, costs, and  
4 forfeitures obtained from the investigation and prosecution of insurance  
5 fraud as provided in ~~subparagraph (f) of this paragraph (e)~~ THIS SECTION.

6 **SECTION 2.** 8-45-117 (1) (c), Colorado Revised Statutes, is  
7 amended to read:

8 **8-45-117. Regulation by commissioner of insurance.**

9 (1) Pinnacol Assurance shall be subject to regulation by the  
10 commissioner of insurance as provided in:

11 (c) Sections 10-1-108 (7), 10-1-109, and 10-1-102, C.R.S., except  
12 subsections (3) and (6); 10-1-205, C.R.S., (1) ~~through~~ TO (6) and (8);  
13 10-3-109, C.R.S., except for the publication requirements; 10-3-118,  
14 C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.; ~~10-3-207, C.R.S.~~ 10-3-207,  
15 C.R.S.; 10-3-207.5, C.R.S.; 10-3-208, C.R.S.; 10-3-231, C.R.S.;  
16 10-3-239, C.R.S.; 10-3-701, C.R.S.; and part 8 of article 3 of title 10,  
17 C.R.S., except as these sections are inconsistent with the provisions of  
18 this article.

19 **SECTION 3.** 10-1-129, Colorado Revised Statutes, is amended  
20 to read:

21 **10-1-129. Fraudulent insurance acts - enforcement.** The  
22 attorney general shall have concurrent jurisdiction with the district  
23 attorneys of this state to investigate and prosecute allegations of criminal  
24 conduct related to insurance fraud pursuant to this title and titles 8 and 18,  
25 C.R.S. The cost to the attorney general of such investigations and  
26 prosecutions shall be paid from fees collected from entities regulated by  
27 the division pursuant to section ~~10-3-207 (1) (e)~~ 10-3-207.5.

1           **SECTION 4.** 10-5-108 (1) (a), Colorado Revised Statutes, is  
2 amended to read:

3           **10-5-108. Placement of surplus line insurance.** (1) No broker  
4 shall place any coverage with a nonadmitted insurer unless, at the time of  
5 placement, such nonadmitted insurer is included on the list of approved  
6 nonadmitted insurers prepared by the commissioner at least annually.  
7 Nothing in this section shall require the commissioner to place or  
8 maintain the name of any nonadmitted insurer on the list. To be placed  
9 and remain on said approved list, such nonadmitted insurer shall:

10           (a) Establish and maintain satisfactory evidence of good repute  
11 and financial integrity and submit a current year's application, ~~a fee~~ FEES  
12 as prescribed by ~~section~~ SECTIONS 10-3-207 AND 10-3-207.5, a copy of its  
13 current annual statement, an actuarial opinion, and other information  
14 required by the commissioner. In the case of an insurance exchange, an  
15 aggregate combined statement of all underwriting syndicates operating  
16 during the period reported, in addition to individual statements for each  
17 syndicate, shall be submitted.

18           **SECTION 5.** 10-11-116 (1) (c), Colorado Revised Statutes, is  
19 amended to read:

20           **10-11-116. Title insurance agents licensed.** (1) (c) A license  
21 shall be issued to an attorney-at-law licensed to practice in this state if a  
22 title insurance company notifies the commissioner in writing of the name  
23 and address of each such attorney it desires to appoint as its agent and  
24 upon payment of the ~~fee~~ FEES required by ~~section~~ SECTIONS 10-3-207 AND  
25 10-3-207.5.

26           **SECTION 6.** 10-14-603, Colorado Revised Statutes, is amended  
27 to read:

1           **10-14-603. Annual certificate of authority.** Societies which  
2 THAT are authorized to transact business in this state as of July 1, 1993,  
3 and all societies authorized thereafter, may continue such business until  
4 June 30, 1994. The authority of all such societies may thereafter be  
5 renewed annually but shall terminate on the last day of the succeeding  
6 June. However, a certificate of authority so issued shall continue in full  
7 force and effect unless specifically terminated. For each such certificate  
8 of authority or renewal the society shall pay to the division of insurance  
9 ~~a fee~~ FEES as prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND  
10 10-3-207.5. A duly certified copy or duplicate of such certificate of  
11 authority shall be prima facie evidence that the society is a fraternal  
12 benefit society within the meaning of this article.

13           **SECTION 7.** 10-14-702, Colorado Revised Statutes, is amended  
14 to read:

15           **10-14-702. Fees.** Except as otherwise specifically provided in this  
16 article, societies shall pay the applicable fees specified in ~~section~~  
17 SECTIONS 10-3-207 AND 10-3-207.5 and be subject to the assessment of  
18 late fees pursuant to section 10-3-109 (2) and (3).

19           **SECTION 8.** 10-16-110 (1) (a), (2) (a), and (3), Colorado  
20 Revised Statutes, are amended to read:

21           **10-16-110. Fees paid by health coverage entities.** (1) (a) There  
22 shall be paid to the division of insurance by every corporation subject to  
23 the provisions of this part 1 and part 3 of this article such fees as are  
24 prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND 10-3-207.5.

25           (2) (a) Every health maintenance organization subject to this part  
26 1 and part 4 of this article shall pay to the commissioner the ~~fee~~ FEES as  
27 prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND 10-3-207.5.

1 (3) Coincident with the filing of the annual report prescribed by  
2 section 10-16-111, each prepaid dental care plan organization subject to  
3 this part 1 and part 5 of this article shall pay to the state treasurer through  
4 the commissioner ~~a fee~~ FEES for transacting a prepaid dental care plan.  
5 The ~~fee~~ FEES shall be as prescribed pursuant to ~~section~~ SECTIONS  
6 10-3-207 AND 10-3-207.5.

7 **SECTION 9. Repeal of provision being relocated in this act.**  
8 10-3-207 (1) (e), Colorado Revised Statutes, is repealed.

9 **SECTION 10. Appropriation - adjustments in long bill.**  
10 (1) For the implementation of this act, appropriations made in the annual  
11 general appropriation act to the department of law, criminal justice and  
12 appellate division, for the fiscal year beginning July 1, 2010, are adjusted  
13 as follows:

14 (a) The appropriation for the special prosecutions unit from the  
15 division of insurance cash fund, through the appropriation for insurance  
16 fraud prosecution to the department of regulatory agencies, is decreased  
17 by six hundred fifty-five thousand five hundred forty-seven dollars  
18 (\$655,547).

19 (b) The appropriation for indirect cost assessments from the  
20 division of insurance cash fund, through the appropriation for insurance  
21 fraud prosecution to the department of regulatory agencies, is decreased  
22 by ninety-three thousand four hundred seven dollars (\$93,407).

23 (2) For the implementation of this act, appropriations made in the  
24 annual general appropriation act to the department of law, administration  
25 division, for the fiscal year beginning July 1, 2010, are adjusted as  
26 follows:

27 (a) The appropriation from various sources of reappropriated funds

1 is decreased by one hundred eleven thousand two hundred thirty-two  
2 dollars (\$111,232).

3 (b) The appropriation from various sources of cash funds is  
4 increased by one hundred eleven thousand two hundred thirty-two dollars  
5 (\$111,232).

6 (3) In addition to any other appropriation, there is hereby  
7 appropriated, out of any moneys in the insurance fraud cash fund created  
8 in section 10-1-103 (3), Colorado Revised Statutes, not otherwise  
9 appropriated, to the department of law, for allocation to the criminal  
10 justice and appellate division, for the fiscal year beginning July 1, 2010,  
11 the sum of seven hundred forty-eight thousand nine hundred fifty-four  
12 dollars (\$748,954) cash funds. Of said sum, six hundred fifty-five  
13 thousand five hundred forty-seven dollars (\$655,547) shall be allocated  
14 to the special prosecutions unit and ninety-three thousand four hundred  
15 seven dollars (\$93,407) shall be allocated to indirect cost assessments.

16 (4) For the implementation of this act, the appropriation of  
17 reappropriated funds to the department of regulatory agencies, division  
18 of insurance, for insurance fraud prosecution, from the division of  
19 insurance cash fund, for the fiscal year beginning July 1, 2010, is reduced  
20 by eight hundred sixty thousand one hundred eighty-six dollars  
21 (\$860,186).

22 **SECTION 11. Safety clause.** The general assembly hereby finds,  
23 determines, and declares that this act is necessary for the immediate  
24 preservation of the public peace, health, and safety.