

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 10-1030.01 Christy Chase

HOUSE BILL 10-1385

HOUSE SPONSORSHIP

Lambert, Ferrandino, Pommer

SENATE SPONSORSHIP

Tapia, Keller, White

House Committees
Appropriations

Senate Committees

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.**

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
3rd Reading Unamended
April 1, 2010

HOUSE
Amended 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.

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.