

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

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.

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

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.

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)-(f)~~ (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 (f)~~ 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
21 SET THE AMOUNT OF THE FEE AT A LEVEL THAT WILL PAY FOR THE DIRECT

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

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

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

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

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

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

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

7 **8-45-117. Regulation by commissioner of insurance.**

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

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

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

20 **10-1-129. Fraudulent insurance acts - enforcement.** The
21 attorney general shall have concurrent jurisdiction with the district
22 attorneys of this state to investigate and prosecute allegations of criminal
23 conduct related to insurance fraud pursuant to this title and titles 8 and 18,
24 C.R.S. The cost to the attorney general of such investigations and
25 prosecutions shall be paid from fees collected from entities regulated by
26 the division pursuant to section ~~10-3-207 (1) (e)~~ 10-3-207.5.

27 **SECTION 4.** 10-5-108 (1) (a), Colorado Revised Statutes, is

1 amended to read:

2 **10-5-108. Placement of surplus line insurance.** (1) No broker
3 shall place any coverage with a nonadmitted insurer unless, at the time of
4 placement, such nonadmitted insurer is included on the list of approved
5 nonadmitted insurers prepared by the commissioner at least annually.
6 Nothing in this section shall require the commissioner to place or
7 maintain the name of any nonadmitted insurer on the list. To be placed
8 and remain on said approved list, such nonadmitted insurer shall:

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

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

19 **10-11-116. Title insurance agents licensed.** (1) (c) A license
20 shall be issued to an attorney-at-law licensed to practice in this state if a
21 title insurance company notifies the commissioner in writing of the name
22 and address of each such attorney it desires to appoint as its agent and
23 upon payment of the ~~fee~~ FEES required by ~~section~~ SECTIONS 10-3-207 AND
24 10-3-207.5.

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

27 **10-14-603. Annual certificate of authority.** Societies which

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

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

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

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

20 **10-16-110. Fees paid by health coverage entities.** (1) (a) There
21 shall be paid to the division of insurance by every corporation subject to
22 the provisions of this part 1 and part 3 of this article such fees as are
23 prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND 10-3-207.5.

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

27 (3) Coincident with the filing of the annual report prescribed by

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

6 **SECTION 9. Repeal of provision being relocated in this act.**

7 10-3-207 (1) (e), Colorado Revised Statutes, is repealed.

8 **SECTION 10. Appropriation - adjustments in long bill.**

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

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

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

21 (2) In addition to any other appropriation, there is hereby
22 appropriated, out of any moneys in the insurance fraud cash fund created
23 in section 10-1-103 (3), Colorado Revised Statutes, not otherwise
24 appropriated, to the department of law, for allocation to the criminal
25 justice and appellate division, for the fiscal year beginning July 1, 2010,
26 the sum of seven hundred forty-eight thousand nine hundred fifty-four
27 dollars (\$748,954) cash funds. Of said sum, six hundred fifty-five

1 thousand five hundred forty-seven dollars (\$655,547) shall be allocated
2 to the special prosecutions unit and ninety-three thousand four hundred
3 seven dollars (\$93,407) shall be allocated to indirect cost assessments.

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