

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0714.01 Kristen Forrestal x4217

SENATE BILL 12-110

SENATE SPONSORSHIP

Steadman, Hodge, Lambert

HOUSE SPONSORSHIP

Levy, Becker, Gerou

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A FUND CONSISTING OF SURCHARGES ON INSURANCE**
102 **PREMIUMS TO PAY FOR COSTS ASSOCIATED WITH CRIMINAL**
103 **PROSECUTION OF INSURANCE FRAUD INVESTIGATIONS, AND, IN**
104 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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>.)

Joint Budget Committee. The commissioner of insurance is required to establish a tiered fee schedule based upon the prior year's

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.

direct written premiums, gross contract funds, or charges received in Colorado by each regulated insurance entity. The fees are transmitted to the insurance fraud cash fund to pay for insurance fraud investigations and prosecutions by the attorney general's office. Currently the fee is set at \$561 for each entity. The tiered fee schedule is set to approximate the direct and indirect costs of the investigations and prosecutions of insurance fraud. The bill allows the department of law to give the same attention to all workers' compensation companies, including Pinnacol Assurance. The insurance fraud cash fund is moved from the division of insurance in the department of regulatory agencies to the department of law.

The bill appropriates moneys to the department of law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** 24-31-104.5 as follows:

4 **24-31-104.5. [Formerly 10-3-207.5] Funding for insurance**
5 **fraud investigations and prosecutions - creation of fund.** (1) (a) For
6 the purpose of providing adequate funds to the Colorado department of
7 law for the investigation and prosecution of allegations of insurance
8 fraud, in addition to any other fee collected pursuant to section 10-3-207
9 (1), C.R.S., each entity regulated by the division OF INSURANCE shall pay
10 to the division a nonrefundable annual fee. ~~of five hundred sixty-one~~
11 ~~dollars~~ BASED UPON THE APPROPRIATIONS MADE TO THE DEPARTMENT OF
12 LAW FROM THE INSURANCE FRAUD CASH FUND AND THE
13 RECOMMENDATION OF THE ATTORNEY GENERAL, THE COMMISSIONER OF
14 INSURANCE SHALL SET THE FEE SO THAT THE REVENUE GENERATED FROM
15 THE FEE APPROXIMATES THE DIRECT AND INDIRECT COSTS OF THE
16 INVESTIGATION AND PROSECUTION OF ALLEGATIONS OF INSURANCE
17 FRAUD. THE FEE SHALL NOT EXCEED THREE THOUSAND DOLLARS AND IS
18 payable on or before March 1 of each year.

19 (b) THE COMMISSIONER OF INSURANCE SHALL ESTABLISH A TIERED

1 FEE SCHEDULE THAT SETS THE ANNUAL FEE REQUIRED BY PARAGRAPH (a)
2 OF THIS SUBSECTION (1) BASED UPON THE PRIOR YEAR'S DIRECT WRITTEN
3 PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES RECEIVED IN
4 COLORADO BY EACH REGULATED ENTITY. THE REGULATED ENTITIES WITH
5 DIRECT WRITTEN PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES
6 RECEIVED IN COLORADO IN EXCESS OF ONE MILLION DOLLARS SHALL PAY
7 ONE FEE, AND THE REGULATED ENTITIES WITH ONE MILLION DOLLARS OR
8 LESS SHALL PAY A LESSER FEE.

9 (2) The division OF INSURANCE shall transmit fees collected
10 pursuant to subsection (1) of this section to the state treasurer for deposit
11 in the insurance fraud cash fund, which fund is hereby created in the state
12 treasury. The fund ~~shall consist~~ CONSISTS of fees collected pursuant to
13 this section and any other moneys deposited into the fund. Interest derived
14 from the deposit and investment of moneys in the fund shall be credited
15 to the fund. The moneys in the fund are subject to annual appropriation
16 by the general assembly to the department of law for use in investigating
17 and prosecuting allegations of insurance fraud. Any unexpended and
18 unencumbered moneys remaining in the fund at the end of any fiscal year
19 ~~shall~~ remain in the fund and ~~shall~~ DO not revert to the general fund.

20 (3) The attorney general shall provide annual reports to the joint
21 budget committee, the senate business, labor, and technology committee,
22 and the house ECONOMIC AND business ~~affairs and labor~~ DEVELOPMENT
23 committee, or any ~~such~~ successor committees, and shall post on the
24 attorney general's web site a statistical report of the number of FULL-TIME
25 EMPLOYEES DEDICATED TO INSURANCE FRAUD, referrals, OPEN
26 INVESTIGATIONS, convictions, arrests, AND actions initiated, and THE
27 NUMBER OF restitutions, fines, costs, and forfeitures obtained, from the

1 investigation and prosecution of insurance fraud as provided in this
2 section. IN THE REPORT, THE ATTORNEY GENERAL SHALL MAKE HIS OR HER
3 BEST EFFORT TO DELINEATE BETWEEN THE TYPES OF CASES PROSECUTED
4 BY LINE OF INSURANCE.

5 **SECTION 2. Repeal of relocated provisions in this act.** In
6 Colorado Revised Statutes, **repeal** 10-3-207.5.

7 **SECTION 3.** In Colorado Revised Statutes, 8-43-401, **amend** (1)
8 as follows:

9 **8-43-401. District attorney or attorney of division to act for**
10 **director or office - penalties for failure of insurer to pay benefits.**

11 (1) Upon the request of the director or the industrial claim appeals office,
12 ~~the attorney general or the district attorney of any district or any~~
13 ~~attorney-at-law in the regular employ of~~ EMPLOYED BY the division shall
14 institute and prosecute the necessary actions or proceedings for the
15 enforcement of any of the provisions of articles 40 to 47 of this title, or
16 any award or order of the director, an administrative law judge, or the
17 industrial claim appeals office, or for the recovery of any money due TO
18 Pinnacol Assurance, or any penalty provided in said articles, and shall
19 defend in like manner all suits, actions, or proceedings brought against
20 the director, an administrative law judge, or the industrial claim appeals
21 office.

22 **SECTION 4.** In Colorado Revised Statutes, 8-45-117, **amend** (1)
23 (c) as follows:

24 **8-45-117. Regulation by commissioner of insurance.**

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

27 (c) ~~Sections~~ SECTIONS 24-31-104.5, C.R.S.; 10-1-108 (7),

1 10-1-109, and 10-1-102, C.R.S., except subsections (3) and (6); 10-1-205,
2 C.R.S., (1) to (6) and (8); 10-3-109, C.R.S., except for the publication
3 requirements; 10-3-118, C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.;
4 10-3-207, C.R.S.; ~~10-3-207.5, C.R.S.~~; 10-3-208, C.R.S.; 10-3-231,
5 C.R.S.; 10-3-239, C.R.S.; 10-3-701, C.R.S.; and part 8 of article 3 of title
6 10, C.R.S., except as these sections are inconsistent with the provisions
7 of this article.

8 **SECTION 5.** In Colorado Revised Statutes, **amend** 10-1-129 as
9 follows:

10 **10-1-129. Fraudulent insurance acts - enforcement.** The
11 attorney general shall have concurrent jurisdiction with the district
12 attorneys of this state to investigate and prosecute allegations of criminal
13 conduct related to insurance fraud pursuant to this title and titles 8 and 18,
14 C.R.S. The cost to the attorney general of such investigations and
15 prosecutions shall be paid from fees collected from entities regulated by
16 the division pursuant to section ~~10-3-207.5~~ 24-31-104.5, C.R.S.

17 **SECTION 6.** In Colorado Revised Statutes, 10-5-108, **amend** (1)
18 (a) as follows:

19 **10-5-108. Placement of surplus line insurance.** (1) No broker
20 shall place any coverage with a nonadmitted insurer unless, at the time of
21 placement, such nonadmitted insurer is included on the list of approved
22 nonadmitted insurers prepared by the commissioner at least annually.
23 Nothing in this section shall require the commissioner to place or
24 maintain the name of any nonadmitted insurer on the list. To be placed
25 and remain on said approved list, such nonadmitted insurer shall:

26 (a) Establish and maintain satisfactory evidence of good repute
27 and financial integrity and submit a current year's application, fees as

1 prescribed by sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S., a
2 copy of its current annual statement, an actuarial opinion, and other
3 information required by the commissioner. In the case of an insurance
4 exchange, an aggregate combined statement of all underwriting
5 syndicates operating during the period reported, in addition to individual
6 statements for each syndicate, shall be submitted.

7 **SECTION 7.** In Colorado Revised Statutes, 10-11-116, **amend**
8 (1) (c) as follows:

9 **10-11-116. Title insurance agents licensed.** (1) (c) A license
10 shall be issued to an attorney-at-law licensed to practice in this state if a
11 title insurance company notifies the commissioner in writing of the name
12 and address of each such attorney it desires to appoint as its agent and
13 upon payment of the fees required by sections 10-3-207 and ~~10-3-207.5~~
14 24-31-104.5, C.R.S.

15 **SECTION 8.** In Colorado Revised Statutes, **amend** 10-14-603 as
16 follows:

17 **10-14-603. Annual certificate of authority.** Societies that are
18 authorized to transact business in this state as of July 1, 1993, and all
19 societies authorized thereafter, may continue such business until June 30,
20 1994. The authority of all such societies may thereafter be renewed
21 annually but shall terminate on the last day of the succeeding June.
22 However, a certificate of authority so issued shall continue in full force
23 and effect unless specifically terminated. For each such certificate of
24 authority or renewal the society shall pay to the division of insurance fees
25 as prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5,
26 C.R.S. A duly certified copy or duplicate of such certificate of authority
27 shall be prima facie evidence that the society is a fraternal benefit society

1 within the meaning of this article.

2 **SECTION 9.** In Colorado Revised Statutes, **amend** 10-14-702 as
3 follows:

4 **10-14-702. Fees.** Except as otherwise specifically provided in this
5 article, societies shall pay the applicable fees specified in sections
6 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S., and be subject to the
7 assessment of late fees pursuant to section 10-3-109 (2) and (3).

8 **SECTION 10.** In Colorado Revised Statutes, 10-16-110, **amend**
9 (1) (a), (2) (a), and (3) as follows:

10 **10-16-110. Fees paid by health coverage entities.** (1) (a) There
11 shall be paid to the division of insurance by every corporation subject to
12 the provisions of this part 1 and part 3 of this article such fees as are
13 prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5,
14 C.R.S.

15 (2) (a) Every health maintenance organization subject to this part
16 1 and part 4 of this article shall pay to the commissioner the fees as
17 prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5,
18 C.R.S.

19 (3) Coincident with the filing of the annual report prescribed by
20 section 10-16-111, each prepaid dental care plan organization subject to
21 this part 1 and part 5 of this article shall pay to the state treasurer through
22 the commissioner fees for transacting a prepaid dental care plan. The fees
23 shall be as prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~
24 24-31-104.5, C.R.S.

25 **SECTION 11. Appropriation.** (1) In addition to any other
26 appropriation, there is hereby appropriated, out of moneys in the
27 insurance fraud cash fund, created in section 24-31-104.5 (2), Colorado

1 Revised Statutes, not otherwise appropriated, to the department of law,
2 for the fiscal year beginning July 1, 2012, the sum of \$196,677 and 2.0
3 FTE, or so much thereof as may be necessary, to be allocated for the
4 implementation of this act as follows:

5 (a) \$168,096 and 2.0 FTE for the special prosecutions unit,
6 personal services; and

7 (b) \$28,581 for the special prosecutions unit, operating expenses.

8 **SECTION 12. Effective date.** This act takes effect July 1, 2012.

9 **SECTION 13. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.