

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 17, 2014

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB14-092 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:
3 "SECTION 1. In Colorado Revised Statutes, **add** 18-5-211 as
4 follows:
5 **18-5-211. Insurance fraud - definitions.** (1) A PERSON COMMITS
6 INSURANCE FRAUD IF THE PERSON DOES ANY OF THE FOLLOWING:
7 (a) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
8 PRESENTED AN APPLICATION FOR THE ISSUANCE OR RENEWAL OF AN
9 INSURANCE POLICY, WHICH APPLICATION, OR DOCUMENTATION IN SUPPORT
10 OF SUCH APPLICATION OR RENEWAL, CONTAINS FALSE MATERIAL
11 INFORMATION OR WITHHOLDS MATERIAL INFORMATION THAT IS
12 REQUESTED BY THE INSURER AND RESULTS IN THE ISSUANCE OF AN
13 INSURANCE POLICY OR INSURANCE COVERAGE FOR THE APPLICANT OR
14 ANOTHER;
15 (b) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
16 PRESENTED ANY CLAIM FOR A LOSS OR INJURY, WHICH CLAIM CONTAINS
17 FALSE MATERIAL INFORMATION OR WITHHOLDS MATERIAL INFORMATION;
18 (c) WITH AN INTENT TO DEFRAUD CAUSES OR PARTICIPATES, OR
19 PURPORTS TO BE INVOLVED, IN A VEHICULAR COLLISION, OR ANY OTHER
20 VEHICULAR ACCIDENT, FOR THE PURPOSE OF PRESENTING ANY FALSE OR
21 FRAUDULENT INSURANCE CLAIM;
22 (d) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
23 PRESENTED A CLAIM FOR THE PAYMENT OF A LOSS WHERE THE LOSS OR
24 DAMAGE CLAIMED PREEXISTED THE EXECUTION OF THE APPLICABLE
25 CONTRACT OF INSURANCE UNLESS OTHERWISE PERMITTED UNDER THE
26 CONTRACT OF INSURANCE OR POLICY; OR

1 (e) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
2 PRESENTED ANY WRITTEN, ORAL, OR ELECTRONIC MATERIAL OR
3 STATEMENT AS PART OF, IN SUPPORT OF OR IN OPPOSITION TO, A CLAIM FOR
4 PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY,
5 KNOWING THAT THE STATEMENT CONTAINS FALSE MATERIAL
6 INFORMATION OR WITHHOLDS MATERIAL INFORMATION.

7 (2) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE
8 PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE KNOWINGLY MOVES,
9 DIVERTS, OR MISAPPROPRIATES PREMIUM FUNDS BELONGING TO AN
10 INSURER OR UNEARNED PREMIUM FUNDS BELONGING TO AN INSURED OR
11 APPLICANT FOR INSURANCE FROM A PRODUCER'S TRUST OR OTHER
12 ACCOUNT WITHOUT THE AUTHORIZATION OF THE OWNER OF THE FUNDS OR
13 OTHER LAWFUL JUSTIFICATION.

14 (3) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE
15 PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE WITH AN INTENT TO
16 DEFRAUD CREATES, UTTERS, OR PRESENTS A CERTIFICATE OR ANY OTHER
17 EVIDENCE OF INSURANCE CONTAINING FALSE INFORMATION TO ANY
18 PERSON OR ENTITY.

19 (4) INSURANCE FRAUD COMMITTED IN VIOLATION OF PARAGRAPH
20 (a) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 1 MISDEMEANOR.
21 INSURANCE FRAUD COMMITTED IN VIOLATION OF PARAGRAPHS (b) TO (e)
22 OF SUBSECTION (1) OF THIS SECTION OR SUBSECTION (2) OR (3) OF THIS
23 SECTION IS A CLASS 5 FELONY.

24 (5) THE COMMISSIONER OF INSURANCE SHALL REVOKE THE
25 LICENSE TO CONDUCT BUSINESS IN THIS STATE OF ANY LICENSED
26 INSURANCE PRODUCER UNDER ARTICLE 2 OF TITLE 10, C.R.S., WHO IS
27 CONVICTED OF ANY PROVISION UNDER THIS SECTION.

28 (6) NOTHING IN THIS SECTION PRECLUDES A PROSECUTOR FROM
29 PROSECUTING ANY OTHER OFFENSE.

30 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
31 REQUIRES:

32 (a) "CLAIM" MEANS A DEMAND FOR MONEY, PROPERTY, OR
33 SERVICES PURSUANT TO A CONTRACT OF INSURANCE AS WELL AS ANY
34 DOCUMENTATION IN SUPPORT OF SUCH CLAIM WHETHER SUBMITTED
35 CONTEMPORANEOUSLY WITH THE CLAIM OR AT A DIFFERENT TIME. A
36 CLAIM AND ANY SUPPORTING INFORMATION MAY BE IN WRITTEN, ORAL,
37 ELECTRONIC, OR DIGITAL FORM.

38 (b) "INSURANCE" HAS THE SAME MEANING AS DEFINED IN SECTION
39 10-1-102 (12), C.R.S.

40 (c) "INSURANCE PRODUCER" HAS THE SAME MEANING AS DEFINED
41 IN SECTION 10-2-103 (6), C.R.S.

1 (d) "INSURER" HAS THE SAME MEANING AS DEFINED IN SECTION
2 10-1-102 (13),C.R.S.

3 (e) "MATERIAL INFORMATION" IS A STATEMENT OR ASSERTION
4 DIRECTLY PERTAINING TO AN APPLICATION FOR INSURANCE OR AN
5 INSURANCE CLAIM THAT A REASONABLE PERSON MAKING SUCH AN
6 ASSERTION KNOWS OR SHOULD KNOW WILL AFFECT THE ACTION, CONDUCT,
7 OR DECISION OF THE PERSON WHO RECEIVES OR IS INTENDED TO RECEIVE
8 THE ASSERTED INFORMATION IN A MANNER THAT WOULD DIRECTLY OR
9 INDIRECTLY BENEFIT THE PERSON MAKING THE ASSERTION.

10 **SECTION 2.** In Colorado Revised Statutes, 10-2-801, **amend** (3);
11 and **add** (1.5) as follows:

12 **10-2-801. Licenses - denial, suspension, revocation,**
13 **termination - reporting of actions - definitions.** (1.5) THE
14 COMMISSIONER SHALL REVOKE THE LICENSE OF AN INSURANCE PRODUCER
15 LICENSE IF, AFTER NOTICE TO THE INSURANCE PRODUCER LICENSEE AND
16 AFTER A HEARING HELD IN ACCORDANCE WITH SECTIONS 24-4-104 AND
17 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT THE LICENSEE WAS
18 CONVICTED UNDER SECTION 18-5-211, C.R.S.

19 (3) (a) A producer or business entity shall report to the
20 commissioner any administrative action taken against the producer in
21 another jurisdiction or by another governmental agency in this state
22 within thirty days after the final disposition of the matter. This report shall
23 include a copy of the order, consent to order, or other relevant legal
24 document.

25 (b) A PRODUCER SHALL REPORT WITHIN THIRTY DAYS AFTER THE
26 CONVICTION TO THE COMMISSIONER IF HE OR SHE IS CONVICTED UNDER
27 SECTION 18-5-211, C.R.S.

28 **SECTION 3.** In Colorado Revised Statutes, 10-4-1002, **amend**
29 (1.5) as follows:

30 **10-4-1002. Definitions.** As used in this part 10, unless the context
31 otherwise requires:

32 (1.5) "Fraudulent insurance act" has the meaning set forth in
33 section 10-1-128 OR MEANS THE COMMISSION OF INSURANCE FRAUD
34 PURSUANT TO SECTION 18-5-211, C.R.S.

35 **SECTION 4. Potential appropriation.** Pursuant to section
36 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
37 in periods of imprisonment in the state correctional facilities must include
38 an appropriation of moneys that is sufficient to cover any increased
39 capital construction and operational costs for the first five fiscal years in
40 which there is a fiscal impact. Because this act may increase periods of
41 imprisonment, this act may require a five-year appropriation.

1 **SECTION 5. Effective date - applicability.** This act takes effect
2 July 1, 2014, and applies to offenses committed on or after said date.

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

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