

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

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

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
Appropriations

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.

SENATE
Am ended 2nd Reading
April 8, 2010

HOUSE
3rd Reading Unam ended
April 1, 2010

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.

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)~~ 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 FIVE
13 HUNDRED SIXTY-ONE dollars, payable on or before March 1 of each year.

14

15 (2) THE DIVISION SHALL TRANSMIT FEES COLLECTED PURSUANT TO
16 SUBSECTION (1) OF THIS SECTION TO THE STATE TREASURER FOR DEPOSIT
17 IN THE INSURANCE FRAUD CASH FUND, WHICH FUND IS HEREBY CREATED
18 IN THE STATE TREASURY. THE FUND SHALL CONSIST OF FEES COLLECTED
19 PURSUANT TO THIS SECTION AND ANY OTHER MONEYS DEPOSITED INTO THE
20 FUND. INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF

1 MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. THE MONEYS IN
2 THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
3 ASSEMBLY TO THE DEPARTMENT OF LAW FOR USE IN INVESTIGATING AND
4 PROSECUTING ALLEGATIONS OF INSURANCE FRAUD. ANY UNEXPENDED
5 AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF
6 ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO
7 THE GENERAL FUND.

8 ~~(H)~~ (3) ~~Commencing January 1, 2007,~~ The attorney general shall
9 provide annual reports to the joint budget committee, the senate business,
10 labor, and technology committee, and the house business affairs and labor
11 committee, or any such successor committees, and shall post on the
12 attorney general's web site a statistical report of the number of referrals,
13 convictions, arrests, actions initiated, and restitutions, fines, costs, and
14 forfeitures obtained from the investigation and prosecution of insurance
15 fraud as provided in ~~subparagraph (f) of this paragraph (e)~~ THIS SECTION.

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

18 **8-45-117. Regulation by commissioner of insurance.**

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

21 (c) Sections 10-1-108 (7), 10-1-109, and 10-1-102, C.R.S., except
22 subsections (3) and (6); 10-1-205, C.R.S., (1) ~~through~~ TO (6) and (8);
23 10-3-109, C.R.S., except for the publication requirements; 10-3-118,
24 C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.; ~~10-3-207, C.R.S.~~ 10-3-207,
25 C.R.S.; 10-3-207.5, C.R.S.; 10-3-208, C.R.S.; 10-3-231, C.R.S.;
26 10-3-239, C.R.S.; 10-3-701, C.R.S.; and part 8 of article 3 of title 10,
27 C.R.S., except as these sections are inconsistent with the provisions of

1 this article.

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

4 **10-1-129. Fraudulent insurance acts - enforcement.** The
5 attorney general shall have concurrent jurisdiction with the district
6 attorneys of this state to investigate and prosecute allegations of criminal
7 conduct related to insurance fraud pursuant to this title and titles 8 and 18,
8 C.R.S. The cost to the attorney general of such investigations and
9 prosecutions shall be paid from fees collected from entities regulated by
10 the division pursuant to section ~~10-3-207(1)(e)~~ 10-3-207.5.

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

13 **10-5-108. Placement of surplus line insurance.** (1) No broker
14 shall place any coverage with a nonadmitted insurer unless, at the time of
15 placement, such nonadmitted insurer is included on the list of approved
16 nonadmitted insurers prepared by the commissioner at least annually.
17 Nothing in this section shall require the commissioner to place or
18 maintain the name of any nonadmitted insurer on the list. To be placed
19 and remain on said approved list, such nonadmitted insurer shall:

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

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

3 **10-11-116. Title insurance agents licensed.** (1) (c) A license
4 shall be issued to an attorney-at-law licensed to practice in this state if a
5 title insurance company notifies the commissioner in writing of the name
6 and address of each such attorney it desires to appoint as its agent and
7 upon payment of the ~~fee~~ FEES required by ~~section~~ SECTIONS 10-3-207 AND
8 10-3-207.5.

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

11 **10-14-603. Annual certificate of authority.** Societies ~~which~~
12 THAT are authorized to transact business in this state as of July 1, 1993,
13 and all societies authorized thereafter, may continue such business until
14 June 30, 1994. The authority of all such societies may thereafter be
15 renewed annually but shall terminate on the last day of the succeeding
16 June. However, a certificate of authority so issued shall continue in full
17 force and effect unless specifically terminated. For each such certificate
18 of authority or renewal the society shall pay to the division of insurance
19 ~~a fee~~ FEES as prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND
20 10-3-207.5. A duly certified copy or duplicate of such certificate of
21 authority shall be prima facie evidence that the society is a fraternal
22 benefit society within the meaning of this article.

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

25 **10-14-702. Fees.** Except as otherwise specifically provided in this
26 article, societies shall pay the applicable fees specified in ~~section~~
27 SECTIONS 10-3-207 AND 10-3-207.5 and be subject to the assessment of

1 late fees pursuant to section 10-3-109 (2) and (3).

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

4 **10-16-110. Fees paid by health coverage entities.** (1) (a) There
5 shall be paid to the division of insurance by every corporation subject to
6 the provisions of this part 1 and part 3 of this article such fees as are
7 prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND 10-3-207.5.

8 (2) (a) Every health maintenance organization subject to this part
9 1 and part 4 of this article shall pay to the commissioner the ~~fee~~ FEES as
10 prescribed pursuant to ~~section~~ SECTIONS 10-3-207 AND 10-3-207.5.

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

17 **SECTION 9. Repeal of provision being relocated in this act.**
18 10-3-207 (1) (e), Colorado Revised Statutes, is repealed.

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

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

24 (a) The appropriation for the special prosecutions unit from the
25 division of insurance cash fund, through the appropriation for insurance
26 fraud prosecution to the department of regulatory agencies, is decreased
27 by six hundred fifty-five thousand five hundred forty-seven dollars

1 (\$655,547).

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

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

10 (a) The appropriation from various sources of reappropriated funds
11 is decreased by one hundred eleven thousand two hundred thirty-two
12 dollars (\$111,232).

13 (b) The appropriation from various sources of cash funds is
14 increased by one hundred eleven thousand two hundred thirty-two dollars
15 (\$111,232).

16 (3) In addition to any other appropriation, there is hereby
17 appropriated, out of any moneys in the insurance fraud cash fund created
18 in section 10-3-207.5 (2), Colorado Revised Statutes, not otherwise
19 appropriated, to the department of law, for allocation to the criminal
20 justice and appellate division, for the fiscal year beginning July 1, 2010,
21 the sum of seven hundred forty-eight thousand nine hundred fifty-four
22 dollars (\$748,954) cash funds. Of said sum, six hundred fifty-five
23 thousand five hundred forty-seven dollars (\$655,547) shall be allocated
24 to the special prosecutions unit and ninety-three thousand four hundred
25 seven dollars (\$93,407) shall be allocated to indirect cost assessments.

26 (4) For the implementation of this act, the appropriation of cash
27 funds to the department of regulatory agencies, division of insurance, for

1 insurance fraud prosecution, from the division of insurance cash fund, for
2 the fiscal year beginning July 1, 2010, is reduced by eight hundred sixty
3 thousand one hundred eighty-six dollars (\$860,186).

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.