SLS 10RS-2624 REENGROSSED

Regular Session, 2010

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SENATE BILL NO. 792 (Substitute for Senate Bill No. 136 by Senator Morrish)

BY SENATOR MORRISH

PUBLIC SFTY/CORRECT DEPT. Provides relative to the insurance fraud investigation unit. (8/15/10)

AN ACT

| 2 | To amend and reenact R.S. 22:2134(B)(3)(d), R.S. 40:1421, the introductory paragraph of |
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| 3 | 1422(A), 1422(C), the introductory paragraph of 1427, 1427(1) and (3), 1428(A)(1) |
| 4 | and (4)(a) and (C), and 1429, relative to the insurance fraud investigation unit within |
| 5 | the Department of Public Safety and Corrections, public safety services, office of |
| 6 | state police; to provide for definitions; to provide for powers and duties of the unit; |
| 7 | to provide for reporting; to provide relative to the Insurance Fraud Investigation |
| 8 | Fund; to extend the termination date of the unit; and to provide for related matters. |
| 9 | Be it enacted by the Legislature of Louisiana: |
| 10 | Section 1. R.S. 22:2134(B)(3)(d) is hereby amended and reenacted to read as |
| 11 | follows: |
| 12 | §2134. Automobile Theft and Insurance Fraud Prevention Authority Fund |
| 13 | * * * |
| 14 | B. Any monies in the Automobile Theft and Insurance Fraud Prevention |
| 15 | Authority Fund shall be administered only by the director of the authority, upon a |
| 16 | majority vote of the board, in the following order of priority: |
| 17 | * * * |

| 1 | (3) To achieve the purposes and objectives of this Part, which may include |
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| 2 | but not be limited to the following: |
| 3 | * * * |
| 4 | (d) Conducting educational and public awareness programs designed to |
| 5 | inform motor vehicle owners the citizens of the state about methods of preventing |
| 6 | motor vehicle theft and combating insurance fraud. |
| 7 | * * * |
| 8 | Section 2. R.S. 40:1421, the introductory paragraph of 1422(A) and 1422(C), the |
| 9 | introductory paragraph of 1427, 1427(1) and (3), 1428(A)(1) and (4)(a) and (C), and 1429 |
| 10 | are hereby amended and reenacted to read as follows: |
| 11 | §1421. Definitions |
| 12 | As used in this Chapter, the following words shall have the following |
| 13 | meanings: |
| 14 | (1) "Commissioner" means commissioner of insurance. |
| 15 | (2) "Fraud unit" or "unit" means the insurance fraud investigation unit within |
| 16 | the Department of Public Safety and Corrections, office of state police. |
| 17 | (3) "Fraud support unit" means the insurance fraud support unit within the |
| 18 | Department of Justice. |
| 19 | (4) "Insurance fraud" means any commission or attempted commission of |
| 20 | criminal acts or practices as provided in R.S. 22:1923, 1924, or 1925 which involves |
| 21 | any type of insurance as provided in R.S. 22:47. |
| 22 | (5) "Insurance fraud section" means the insurance fraud section within |
| 23 | the Louisiana Department of Insurance. |
| 24 | (5)(6) "Insurance policy" means a contract or other written instrument |
| 25 | between an insured and insurer setting forth the obligations and responsibilities of |
| 26 | each party. |
| 27 | (6)(7) "Insurance premium finance company" means a person engaged or |
| 28 | purporting to engage in the business of advancing money, directly or indirectly, to |
| 29 | an insurer or producer at the request of an insured pursuant to the terms of a premium |

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| 1 | finance agreement, including but not limited to loan contracts, notes, agreements, or |
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| 2 | obligations, wherein the insured has assigned the unearned premiums, accrued |
| 3 | dividends, or loss payments as security for such advancement in payment of |
| 4 | premiums on insurance policies only, and does not include the financing of insurance |
| 5 | premiums purchased in connection with the financing of goods and services. |
| 6 | (7)(8) "Insurance professional" means an adjuster, agent, managing general |
| 7 | agent, surplus lines broker, reinsurance intermediary, insurance consultant, broker, |
| 8 | or attorney-in-fact. |
| 9 | (8)(9) "Insurance transaction", "insurance business", and "business of |
| 10 | insurance" include solicitation, negotiations preliminary to execution of an insurance |
| 11 | contract, execution of an insurance contract and the transaction of matters subsequent |
| 12 | to execution of a contract and arising out of it, and matters arising out of any |
| 13 | relationship among or between an insured, an insurer, and a third party for which an |
| 14 | insurance policy provides coverage. |
| 15 | (9)(10) "Insured" means any person covered by an insurance policy. |
| 16 | (10)(11) "Insurer" means any person or company subject to regulation |
| 17 | pursuant to Title 22 of the Louisiana Revised Statutes of 1950. |
| 18 | (12) "LATIFPA" means the Louisiana Automobile Theft and Insurance |
| 19 | Fraud Prevention Authority within the Louisiana Department of Insurance. |
| 20 | §1422. Insurance fraud investigation unit; powers and duties |
| 21 | A. There is hereby created an insurance fraud investigation unit in the |
| 22 | Department of Public Safety and Corrections, public safety services, office of state |
| 23 | police and the unit shall be solely dedicated to the investigation of property and |
| 24 | casualty, worker's compensation, life, and health insurance fraud. The purposes |
| 25 | of this unit shall be to: |
| 26 | * * * |
| 27 | C. The police employees of the unit shall have the same duties and powers |
| 28 | as are provided for other police employees of the office in R.S. 40:1379 and such |
| | |

other duties as are assigned by the deputy secretary of public safety services of the

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1 Department of Public Safety and Corrections. The police employees of the unit 2 shall complete the National Insurance Crime Training Academy, phases 1, 2, and 3, and Fraud Claims Law Specialist program, within the first two years of 3 assignment to the unit. 4 5 §1427. Reports 6 7 The insurance fraud investigation unit, fraud support unit, and insurance 8 fraud section shall submit an a combined annual report to the governor and the 9 insurance committees of each house of the legislature no later than February fifteenth 10 of each year on the progress made in deterring insurance fraud. Such report shall detail: 11 (1) All expenditures and receipts of the insurance fraud investigation unit, 12 13 fraud support unit, and insurance fraud section. 14 (3) The results achieved as a consequence of such expenditures, including 15 the number of notifications or inquiries received, the number of inquiries and 16 investigations undertaken, the number of inquiries to which an investigation was not 17 initiated, the number of arrests, the number of files presented to prosecutors, the 18 19 number of prosecutions, the number of convictions, and the total dollar amount of 20 restitution resulting from the operation of the insurance fraud investigation unit, 21 fraud support unit, and insurance fraud section, as applicable to each. 22 §1428. Special assessment; creation of fund 23 24 A.(1) Except as provided in Paragraph (2) of this Subsection, the commissioner of insurance may assess a fee on the direct premiums received by each 25 insurer licensed by the Department of Insurance to conduct business in this state. 26 27 Such fee shall be imposed by rule adopted by the commissioner in accordance with the Administrative Procedure Act. The total fees assessed for any year shall not 28

exceed the amount necessary to pay the costs of investigation, enforcement, public

education and public awareness, and prosecution of insurance fraud in this state by the programs to which funds are allocated in Paragraph (4) of this Subsection.

The total fee assessed in any year shall not exceed an amount equal to 0.000375 multiplied times the annual direct premium dollars received that are subject to the fee.

* * *

(4)(a) Prior to making the allocations specified in Subparagraph (b) of this Paragraph, the commissioner of insurance is authorized to withhold the sum of thirty thousand dollars per year from the fees collected pursuant to this Section to defray the expense of collection of the fees, enforcement of this Subpart, and operation of the Department of Insurance and shall withhold one hundred eighty-seven thousand dollars to fund the Louisiana Automobile Theft and Insurance Fraud Prevention Authority pursuant to R.S. 22:2134.

* * *

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special fund hereby created in the state treasury to be known as the Insurance Fraud Investigation Fund. The monies in this fund shall be used solely as provided by Subsection A of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in such fund. The monies shall be irrevocably dedicated and deposited in the Insurance Fraud Investigation Fund and shall be used solely as provided in Subsection A of this Section and only in the amounts appropriated by the legislature. Monies in the fund shall be appropriated, administered, and used solely and exclusively for purposes of the fraud unit, fraud support unit, insurance fraud section, LATIFPA, and as further provided in this Section. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall be refunded to each insurer licensed

1 by the Department of Insurance to conduct business in this state assessed a fee 2 pursuant to this Section on a pro-rata basis based on each insurer's 3 proportionate share of the total fees collected pursuant to this Section. 4 5 §1429. Effectiveness of Subpart This Subpart shall be null, void, and unenforceable on July 1, 2010 2012. 6 7 Section 3. This Act shall become effective on July 1, 2010. The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was

prepared by Dawn Romero Watson.

DIGEST

Morrish (SB 792)

Present law creates the Automobile Theft and Insurance Fraud Prevention Authority Fund and provides for the administration and the priorities of the fund.

Present law provides that monies in the fund shall be administered only by the director of the authority, upon a majority vote of the board, in the following order of priority:

- (1) To pay costs of administration.
- (2) To pay the costs of legal counsel.
- To achieve the purposes and objectives of the Automobile Theft and Insurance Fraud (3) Prevention Authority, which may include the following:
 - Providing financial support to state or local law enforcement agencies for (a) motor vehicle theft and insurance fraud prevention, detection and enforcement and for programs designed to reduce the incidence of motor vehicle theft and insurance fraud.
 - (b) Providing financial support for state and local prosecutors for programs designed to reduce incidence of motor vehicle theft and insurance fraud.
 - Conducting educational programs designed to inform motor vehicle owners (c) of methods of preventing motor vehicle theft and insurance fraud.

Proposed law adds public awareness programs designed to inform the citizens of the state on methods of combating insurance fraud and preventing motor vehicle theft to the list of methods to achieve the purposes and objectives of the authority.

<u>Proposed law</u> defines the "insurance fraud section" as the insurance fraud section within the Dept. of Insurance and defines "LATIFPA" as the Louisiana Automobile Theft and Insurance Fraud Prevention Authority within the Louisiana Dept. of Insurance.

Present law creates an insurance fraud investigation unit ("unit") in the Dept. of Public Safety and Corrections, public safety services, office of state police.

<u>Proposed law</u> provides that the unit shall be solely dedicated to the investigation of property

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.

and casualty, worker's compensation, life, and health insurance fraud.

<u>Proposed law</u> provides that the police employees of the unit shall complete the National Insurance Crime Training, phases 1, 2, and 3, and Fraud Claims Law Specialist, within the first two years of assignment to the unit.

<u>Present law</u> provides that the insurance fraud investigation unit shall submit an annual report to the governor and insurance committees of each house of the legislature not later than February 15th of each year on the progress made in deterring insurance fraud and provides for the contents of such report.

<u>Proposed law</u> requires that the annual report be a combined report of the insurance fraud investigation unit, the fraud support unit and the insurance fraud section.

<u>Present law</u> provides that the commissioner of insurance may assess a special fee on the direct premiums received by each insurer licensed by the Department of Insurance to conduct business in the state. <u>Present law</u> provides that total fees assessed for any year shall not exceed the amount necessary to pay the costs of investigation, enforcement, and prosecution of insurance fraud in the state by the programs to which funds are allocated.

<u>Proposed law</u> provides that the fees assessed for any year shall also cover public education and public awareness programs.

<u>Present law</u> authorizes the commissioner of insurance to withhold \$30,000 per year from the special assessment fee collected to defray the expense of collection of the fees, enforcement of the law and operation of the Department of Insurance.

<u>Proposed law</u> adds that the commission may withhold an additional \$187,000 to fund the Louisiana Automobile Theft and Insurance Fraud Prevention Authority.

<u>Present law</u> provides that the fees collected shall be used solely for the purpose specified in law and shall be allocated as follows:

- (1) 75% of the fees collected shall be allocated to the insurance fraud investigation unit within the office of state police.
- (2) 15% of the fees collected shall be allocated to the Department of Justice to be used solely for the insurance fraud support unit.
- (3) 10% of the fees collected shall be allocated to the Department of Insurance to be used solely for the section of insurance fraud.

<u>Proposed law</u> provides that the monies in the fund shall be irrevocably dedicated and deposited in the Insurance Fraud Investigation Fund and shall be used solely as provided for in law and only in the amounts appropriated by the legislature. Monies in the fund shall be appropriated, administered, and used solely and exclusively for purposes of the fraud unit, fraud support unit, insurance fraud section, LATIFPA, and as further provided in law.

<u>Proposed law</u> further provides that all unexpended and unencumbered monies in this fund at the end of the fiscal year shall be refunded to each insurer licensed by the Department of Insurance to conduct business in this state assessed a fee on a pro-rata basis based on each insurer's proportionate share of the total fees collected pursuant to law.

<u>Present law</u> provides that the insurance fraud investigation unit within the Department of Public Safety and Corrections, public safety service, office of state police, shall be null, void, and unenforceable on July 1, 2010.

Proposed law extends the termination date of the unit until July 1, 2012.

Effective July 1, 2010.

(Amends R.S. 22:2134(B)(3)(d) and R.S. 40:1421, 1422(A)(intro para), 1422(C), 1427(intro para), 1427(1) and (3), 1428(A)(1) and (4)(a) and (C), and 1429)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

- 1. Changes <u>proposed law</u> definition of "insurance fraud section" <u>from</u> the Louisiana Automobile Theft and Insurance Fraud Prevention Authority <u>to</u> the insurance fraud section.
- 2. Changes <u>from</u> requiring a separate annual report from the insurance fraud investigation unit, fraud support unit and insurance fraud section <u>to</u> a combined annual report of the three units.
- 3. Adds authorization for the commissioner of insurance to withhold \$187,000 of special assessment fee to fund the Louisiana Automobile Theft and Insurance Fraud Prevention Authority.
- 4. Deletes changes to distribution of special assessment fees.
- 5. Changes <u>proposed law</u> sunset date of the insurance fraud investigation unit <u>from</u> July 1, 2016 to July 1, 2012.
- 6. Adds special effective date of July 1, 2010.