

Regular Session, 2010

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)

1 AN ACT

2 To amend and reenact R.S. 22:2134(B)(3)(d), R.S. 40:1421, the introductory paragraph of

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
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

1 finance agreement, including but not limited to loan contracts, notes, agreements, or
 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
 29 other duties as are assigned by the deputy secretary of public safety services of the

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,**
 3 **and 3, and Fraud Claims Law Specialist program, within the first two years of**
 4 **assignment to the unit.**

5 * * *

6 §1427. Reports

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
 11 detail:

12 (1) All expenditures and receipts of the insurance fraud investigation unit,
 13 **fraud support unit, and insurance fraud section.**

14 * * *

15 (3) The results achieved as a consequence of such expenditures, including
 16 the number of notifications or inquiries received, the number of inquiries and
 17 investigations undertaken, the number of inquiries to which an investigation was not
 18 initiated, the number of arrests, the number of files presented to prosecutors, the
 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 * * *

23 §1428. Special assessment; creation of fund

24 A.(1) Except as provided in Paragraph (2) of this Subsection, the
 25 commissioner of insurance may assess a fee on the direct premiums received by each
 26 insurer licensed by the Department of Insurance to conduct business in this state.
 27 Such fee shall be imposed by rule adopted by the commissioner in accordance with
 28 the Administrative Procedure Act. The total fees assessed for any year shall not
 29 exceed the amount necessary to pay the costs of investigation, enforcement, **public**

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

Proposed law 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.

Present law 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.

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

Present law 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. Present law 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.

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

Present law 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.

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

Present law 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.

Proposed law 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.

Proposed law 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.

Present law 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 proposed law definition of "insurance fraud section" from the Louisiana Automobile Theft and Insurance Fraud Prevention Authority to the insurance fraud section.
2. Changes from requiring a separate annual report from the insurance fraud investigation unit, fraud support unit and insurance fraud section to 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 proposed law sunset date of the insurance fraud investigation unit from July 1, 2016 to July 1, 2012.
6. Adds special effective date of July 1, 2010.