

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2446

By: Easley

COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2001, Sections 361 and 362, as amended by Sections 5 and 6, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2003, Sections 361 and 362), which relate the Anti-Fraud Unit; modifying Division within the Insurance Department in which the Anti-Fraud unit is placed; modifying fee; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2001, Section 361, as amended by Section 5, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2003, Section 361), is amended to read as follows:

Section 361. A. There is hereby created within the Insurance Department, under the control and direction of the Insurance Commissioner, an "Anti-Fraud Unit" within the Legal and Investigation Division ~~of the General Counsel~~ of the Insurance Department.

B. The Anti-Fraud Unit, upon inquiry, complaint, or referral shall investigate the extent, if any, to which a violation has occurred of any statute or administrative rule of this state pertaining to insurance fraud and may initiate any necessary investigation. Whenever the Unit determines that a violation of any criminal law of this state may have occurred, it shall refer the matter to the Oklahoma State Bureau of Investigation for further investigation pursuant to Section 150.5 of Title 74 of the Oklahoma Statutes or the Attorney General pursuant to Section 18b of Title 74 of the Oklahoma Statutes. The Insurance Department shall retain the

1 authority to initiate and prosecute any civil action it deems
2 necessary or advisable.

3 C. Records, documents, reports and evidence obtained or created
4 by the Anti-Fraud Division as a result of an inquiry or
5 investigation of suspected insurance fraud shall be confidential and
6 shall not be subject to the Oklahoma Open Records Act or to outside
7 review or release by any individual, but shall be subject to court
8 order. Information and records shall be disclosed upon request to
9 officers and agents of federal, state, county, or municipal law
10 enforcement agencies, to the Oklahoma State Bureau of Investigation,
11 to the Attorney General's office and to district attorneys, in the
12 furtherance of criminal investigations.

13 SECTION 2. AMENDATORY 36 O.S. 2001, Section 362, as
14 amended by Section 6, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2003,
15 Section 362), is amended to read as follows:

16 Section 362. A. There is hereby created in the State Treasury
17 a revolving fund for the Insurance Commissioner to be designated the
18 "Insurance Department Anti-Fraud Revolving Fund". The fund shall be
19 a continuing fund, not subject to fiscal year limitations and shall
20 consist of all monies received and collected by the Insurance
21 Department pursuant to subsection B of this section and all other
22 monies designated to the fund by law. All monies accruing to the
23 credit of said fund are hereby appropriated and may be budgeted and
24 expended by the Insurance Commissioner for the purposes of
25 investigation of suspected insurance fraud and civil or
26 administrative action in cases involving suspected insurance fraud.
27 Expenditures from said fund shall be made upon warrants issued by
28 the State Treasurer against claims filed as prescribed by law with
29 the Director of State Finance for approval and payment.

30 B. The following shall pay an annual fee of ~~Six Hundred Dollars~~
31 ~~(\$600.00)~~ Seven Hundred Fifty Dollars (\$750.00) to the Insurance
32 Department which shall be payable quarterly in the amount of ~~One~~

1 ~~Hundred Fifty Dollars (\$150.00)~~ One Hundred Eighty-seven Dollars and
2 fifty cents (\$187.50): Life, accident and health insurers; property
3 and casualty insurers; county mutual fire insurers; mutual benefit
4 associations; fraternal benefit societies; reciprocal insurers;
5 motor service clubs; title insurers; nonprofit insurers; health
6 maintenance organizations (HMOs); service warranty associations;
7 surplus lines carriers; multiple employer welfare arrangements
8 (MEWAs); trusts which write surety policies; prepaid dental plan
9 organizations; and accredited reinsurers. The payments shall be due
10 on or before the last day of the month following each calendar
11 quarter. Within sixty (60) days after each calendar quarter, the
12 Commissioner shall transfer:

13 1. Twenty-five percent (25%) of all monies collected by the
14 Insurance Department pursuant to this section to the Attorney
15 General's Insurance Fraud Unit Revolving Fund created in Section
16 19.3 of Title 74 of the Oklahoma Statutes, for use by the Attorney
17 General in the investigation and prosecution of insurance fraud; and

18 2. Fifteen percent (15%) of all monies collected by the
19 Insurance Department pursuant to this section to the OSBI Revolving
20 Fund created in Section 150.19a of Title 74 of the Oklahoma
21 Statutes, for use by the Oklahoma State Bureau of Investigation in
22 the investigation of insurance fraud.

23 SECTION 3. This act shall become effective July 1, 2004.

24 SECTION 4. It being immediately necessary for the preservation
25 of the public peace, health and safety, an emergency is hereby
26 declared to exist, by reason whereof this act shall take effect and
27 be in full force from and after its passage and approval.

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49-2-8492 SD 02/13/04