

ENROLLED HOUSE  
BILL NO. 2446

By: Easley and Cox of the House

and

Robinson of the Senate

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; and providing an effective date.

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

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

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

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

B. The following shall pay an annual fee of ~~Six Hundred Dollars (\$600.00)~~ Seven Hundred Fifty Dollars (\$750.00) to the Insurance Department which shall be payable quarterly in the amount of ~~One Hundred Fifty Dollars (\$150.00)~~ One Hundred Eighty-seven Dollars and fifty cents (\$187.50): Life, accident and health insurers; property and casualty insurers; county mutual fire insurers; mutual benefit associations; fraternal benefit societies; reciprocal insurers; motor service clubs; title insurers; nonprofit insurers; health maintenance organizations (HMOs); service warranty associations; surplus lines carriers; multiple employer welfare arrangements (MEWAs); trusts which write surety policies; prepaid dental plan organizations; and accredited reinsurers. The payments shall be due on or before the last day of the month following each calendar quarter. Within sixty (60) days after each calendar quarter, the Commissioner shall transfer:

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

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

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

Passed the House of Representatives the 4th day of March, 2004.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 13th day of April, 2004.

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Presiding Officer of the Senate