HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1346 By: Kirby of the House

and

Justice of the Senate

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 2011, Section 307.3, as amended by Section 122, Chapter 304, O.S.L. 2012 (36 O.S. Supp. 2012, Section 307.3), which relates to the State Insurance Commissioner Revolving Fund; modifying fees that are not included in fund; amending 36 O.S. 2011, Section 307.5, as amended by Section 123, Chapter 304, O.S.L. 2012 (36 O.S. Supp. 2012, Section 307.5), which relates to the Insurance Department Anti-Fraud Revolving Fund; specifying that certain fees shall be deposited into the fund; exempting fees from certain transfer requirements; amending 36 O.S. 2011, Section 362, which relates to fees designated for the investigation and prevention of certain fraud; providing that fees shall be paid into certain fund; providing an effective date; and declaring an emergency.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 1. AMENDATORY 36 O.S. 2011, Section 307.3, as amended by Section 122, Chapter 304, O.S.L. 2012 (36 O.S. Supp. 2012, Section 307.3), is amended to read as follows:

Section 307.3 A. Effective July 1, 2009, there is hereby created in the State Treasury a revolving fund for the Insurance Commissioner called the State Insurance Commissioner Revolving Fund. The revolving fund shall be used to fund the operations of the Office of the Insurance Commissioner.

1. Notwithstanding any other law to the contrary, the revolving fund shall consist of and consolidate all funds that are or have been paid or collected by the Insurance Commissioner pursuant to the laws of this state and the rules of the Insurance Department except that the revolving fund shall not include:

a. premium taxes,

b. <u>fees paid to the Insurance Department Anti-Fraud Revolving Fund for the purposes of investigation of suspected insurance fraud and</u> monies transferred to the Attorney General's Insurance Fraud Unit Revolving Fund pursuant to Section 362 of this title,

c. funds paid to and collected pursuant to the Oklahoma Certified Real Estate Appraisers Act, Sections 858-700 through 858-732 of Title 59 of the Oklahoma Statutes,

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d. health carrier access payments paid to and collected by the Insurance Commissioner and deposited into the Health Carrier Access Payment Revolving Fund, and

e. recoveries obtained as a result of insurance-related crimes, and other fines, late fees, and penalties assessed and collected.

2. The revolving fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from the revolving fund shall be made pursuant to the laws of this state and the statutes relating to the Insurance Department. Warrants for expenditures from the revolving fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Insurance Department and filed with the Director of the Office of Management and Enterprise Services.

B. All funds collected by the Insurance Commissioner shall be paid into the State Treasury weekly.

C. After the effective date of this act, the State Treasury is authorized and directed to deduct from the funds paid or collected by the State Insurance Commissioner Revolving Fund a sum equal to seventy-six and one- half percent (76.5%) of the payment and place the same to the credit of the General Revenue Fund of the state. The State Treasurer shall place to the credit of the State Insurance Commissioner Revolving Fund the remainder of the funds so paid and collected by the Insurance Commissioner.

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SECTION 2. AMENDATORY 36 O.S. 2011, Section 307.5, as amended by Section 123, Chapter 304, O.S.L. 2012 (36 O.S. Supp. 2012, Section 307.5), is amended to read as follows:

Section 307.5 A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Insurance Department, to be designated the "Insurance Department Anti-Fraud Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitation, and shall consist of any monies designated to the fund as provided in subsections B and C of this section. Warrants for expenditures from the revolving fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Insurance Department and filed with the Director of the Office of Management and Enterprise Services. The fund shall be used for the purpose of administering investigations of abuse, negligence or criminal conduct regarding insurance laws or regulations.

B. The Department shall deposit all of the monies obtained as a result of insurance-related crimes, and other fines, late fees, and penalties assessed and collected into the Insurance Department Anti-Fraud Revolving Fund.

C. ~~Each~~ <u>Except as provided in subsection D of this subsection, each</u> year~~,~~ the Department shall transfer to the General Revenue Fund the first Four Hundred Eighty-two Thousand Five Hundred Dollars ($482,500.00) collected by the Department and deposited in the

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Insurance Department Anti-Fraud Revolving Fund. The next Five Hundred Thousand Dollars ($500,000.00) collected by the Department each year shall be divided evenly between the Department and the Oklahoma Attorney General. All collections to be submitted to the Attorney General shall be deposited in the Attorney General's Insurance Fraud Unit Revolving Fund. Any collections above Nine Hundred Eighty-two Thousand Five Hundred Dollars ($982,500.00) shall be deposited each year into the Insurance Department Anti-Fraud Revolving Fund and shall be retained for use by the Department for the purposes of administering investigations of abuse, negligence or criminal conduct regarding insurance laws or regulations.

D. Fees collected pursuant to Section 362 of this title that are not subject to transfer to the Attorney General's Insurance Fraud Unit Revolving Fund shall be deposited into the Insurance Department Anti-Fraud Revolving Fund. These monies are not subject to the calculations or transfers referenced in subsection C of this section.

SECTION 3. AMENDATORY 36 O.S. 2011, Section 362, is amended to read as follows:

Section 362. An annual fee of Seven Hundred Fifty Dollars ($750.00) shall be paid to the "Insurance ~~Commissioner~~ Department Anti-Fraud Revolving Fund" to be expended by the Insurance Commissioner for the purposes of investigation of suspected insurance fraud and civil or administrative action in cases

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involving suspected insurance fraud. The following shall pay an annual fee of Seven Hundred Fifty Dollars ($750.00) to the Insurance Department which shall be payable quarterly in the amount of 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. Beginning in the calendar year 2010, payment of the annual fee shall be made as one payment of Seven Hundred Fifty Dollars ($750.00) which shall be paid on or before July 1. Within sixty (60) days after each calendar quarter in which monies are collected, the Commissioner shall transfer 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.

SECTION 4. This act shall become effective July 1, 2013.

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SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/25/2013 - DO PASS, As Coauthored.

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