

CHAPTER 357

INSURANCE

HOUSE BILL 00-1466

BY REPRESENTATIVES Stengel, Dean, Plant, and Tupa;
also SENATORS Blickensderfer, Hernandez, and Tebedo.

AN ACT

CONCERNING INSURANCE FRAUD.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-1002 (1), Colorado Revised Statutes, is amended, and the said 10-4-1002 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-4-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Authorized ~~agencies~~ AGENCY" means:

(a) A fire ~~departments and other law enforcement agencies authorized or charged with the investigation of crimes~~ DEPARTMENT;

(b) The Colorado bureau of investigation, THE OFFICE OF THE ATTORNEY GENERAL, AND ANY OTHER LAW ENFORCEMENT AGENCY AUTHORIZED OR CHARGED WITH THE INVESTIGATION OF CRIMES;

(c) Any district attorney or county attorney and their representatives; AND

(d) Any professional licensing board OR REGULATORY AGENCY, INCLUDING, WITHOUT LIMITATION, THE DIVISION OF INSURANCE.

(1.5) "FRAUDULENT INSURANCE ACT" HAS THE MEANING SET FORTH IN SECTION 10-1-127.

SECTION 2. 10-4-1003 (1) and (8), Colorado Revised Statutes, are amended to

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

read:

10-4-1003. Disclosure of information. (1) (a) When any person OR INSURER has reason to believe that a fire loss may have been caused by other than accidental means or that any insurance claim may be fraudulent, then such person may, AND SUCH INSURER SHALL, notify an authorized agency. ~~for the purpose of having such fire loss or claim investigated.~~

(b) A NOTIFICATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE CONFIDENTIAL, SHALL NOT CONSTITUTE A PUBLIC RECORD UNDER PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., AND SHALL NOT BE DISCOVERABLE OR ADMISSIBLE IN ANY CIVIL ACTION.

(c) NO INSURER OR AUTHORIZED AGENCY SHALL INTENTIONALLY REFUSE TO RELEASE ANY RELEVANT INFORMATION CONCERNING A POSSIBLE NONACCIDENTAL FIRE LOSS OR FRAUDULENT INSURANCE ACT, UPON REQUEST, TO:

(I) AN INSURER THAT IS OR COULD BE REQUIRED TO PAY A CLAIM TO WHICH SUCH INFORMATION RELATES; OR

(II) ANY AUTHORIZED AGENCY.

(8) (a) Any ~~insurer or~~ person that has reason to believe that a fire loss may have been caused by other than accidental means, ~~or~~ that any insurance claim OR APPLICATION FOR INSURANCE COVERAGE may be fraudulent, OR THAT A FRAUDULENT INSURANCE ACT HAS BEEN COMMITTED, may, AND ANY INSURER THAT HAS REASON TO BELIEVE THE SAME SHALL, furnish and disclose any relevant information in its possession concerning such loss, ~~or~~ claim, OR ACT to any INSURER OR authorized agency ~~as defined in section 10-4-1002(1)~~; for the purpose of detecting, prosecuting, or preventing fraudulent insurance claims. Such reporting shall be confidential, shall not be a public record under article 72 of title 24, C.R.S., and shall not be discoverable or admissible under the Colorado rules of civil procedure in any civil litigation, BUT ONLY TO THE EXTENT THAT THE INSURER OR PERSON DISCLOSING THE INFORMATION IS GRANTED IMMUNITY UNDER SECTION 10-4-1005. The immunity as set forth in section 10-4-1005 shall apply to any report made pursuant to this subsection (8). The commissioner of insurance may promulgate rules regarding such reporting.

(b) PARAGRAPH (a) OF THIS SUBSECTION (8) SHALL NOT BE CONSTRUED TO PROHIBIT THE ADMISSION OF EVIDENCE OF A FRAUDULENT INSURANCE ACT:

(I) IN ANY CIVIL LITIGATION INVOLVING SUCH FRAUDULENT INSURANCE ACT; OR

(II) IN ANY CIVIL LITIGATION INVOLVING THE ALLEGED DISCLOSURE OF INFORMATION AS TO WHICH THE INSURER OR PERSON ALLEGED TO HAVE MADE SUCH DISCLOSURE DOES NOT HAVE IMMUNITY UNDER SECTION 10-4-1005.

(c) AN INSURER DISCLOSING INFORMATION TO ANOTHER INSURER UNDER THIS SUBSECTION (8) MAY MAKE A WRITTEN REQUEST TO SUCH OTHER INSURER FOR THE RELEASE OF INFORMATION RELATING TO OTHER FIRE LOSSES, INSURANCE CLAIMS, OR APPLICATIONS FOR COVERAGE SUBMITTED BY THE SAME INSURED OR APPLICANT;

EXCEPT THAT SUCH REQUEST AND ANY SUCH RELEASE OF INFORMATION SHALL BE SOLELY FOR THE PURPOSE OF DETECTING, INVESTIGATING, PREVENTING, OR PROSECUTING AN ACTUAL OR SUSPECTED FRAUDULENT INSURANCE ACT. INFORMATION SO PROVIDED SHALL NOT BE USED FOR UNDERWRITING OR RATING PURPOSES EXCEPT IN CONNECTION WITH AN APPLICATION OR POLICY UNDER WHICH A FRAUDULENT INSURANCE ACT WAS COMMITTED. INFORMATION RELEASED PURSUANT TO SUCH REQUEST SHALL BE SUBJECT TO THE CONFIDENTIALITY AND IMMUNITY PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (8).

SECTION 3. 10-4-1005, Colorado Revised Statutes, is amended to read:

10-4-1005. Immunity. (1) In the case of actions taken under this part 10, and except where information is furnished with knowledge that the information is false OR WITH RECKLESS DISREGARD FOR ITS TRUTH OR FALSITY, there shall be no civil penalty or damages on the part of, and no ~~cause of action~~ CLAIM FOR RELIEF shall ~~rise~~ BE BROUGHT against, any person, INSURER, OR AUTHORIZED AGENCY for furnishing information or taking other action pursuant to the provisions of this part 10.

(2) EVERY PERSON, INSURER, AND AUTHORIZED AGENCY SHALL BE IMMUNE FROM CIVIL LIABILITY WHEN ACTING IN GOOD FAITH TO COOPERATE WITH, FURNISH EVIDENCE TO OR ON BEHALF OF, PROVIDE INFORMATION TO, OR SOLICIT OR RECEIVE INFORMATION FROM, ANY OF THE FOLLOWING WITH REGARD TO AN ACTUAL OR SUSPECTED FRAUDULENT INSURANCE ACT:

(a) AN AGENCY OF THE FEDERAL OR ANY STATE, COUNTY, OR MUNICIPAL GOVERNMENT THAT IS INVOLVED IN THE DETECTION, PROSECUTION, OR PREVENTION OF ARSON OR INSURANCE FRAUD;

(b) ANY EMPLOYEE OR AGENT OF AN AGENCY LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (2); AND

(c) ANOTHER INSURER, IF ACTING IN ACCORDANCE WITH SECTION 10-4-1003 (8) (c) SOLELY FOR THE PURPOSE OF DETECTING, INVESTIGATING, PREVENTING, OR PROSECUTING AN ACTUAL OR SUSPECTED FRAUDULENT INSURANCE ACT. INFORMATION SO PROVIDED SHALL NOT BE USED FOR UNDERWRITING OR RATING PURPOSES EXCEPT IN CONNECTION WITH AN APPLICATION OR POLICY UNDER WHICH A FRAUDULENT INSURANCE ACT WAS COMMITTED.

(3) EVERY PERSON, INSURER, AND AUTHORIZED AGENCY SHALL BE IMMUNE FROM CIVIL LIABILITY WHEN ACTING IN GOOD FAITH TO COMPLY WITH A COURT ORDER TO PROVIDE EVIDENCE OR TESTIMONY WITH REGARD TO AN ACTUAL OR SUSPECTED FRAUDULENT INSURANCE ACT; EXCEPT THAT SUCH IMMUNITY SHALL NOT APPLY TO A PERSON OR INSURER THAT HAS COMMITTED, OR HAS CONSPIRED IN OR AIDED AND ABETTED THE COMMISSION OF, SUCH FRAUDULENT INSURANCE ACT.

(4) THE IMMUNITY GRANTED BY THIS SECTION SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ANY RIGHT, PRIVILEGE, OR IMMUNITY AVAILABLE UNDER THE COMMON LAW OR ANY OTHER APPLICABLE STATUTE OR RULE.

SECTION 4. 24-72-202 (6) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(V) NOTIFICATION OF A POSSIBLE NONACCIDENTAL FIRE LOSS OR FRAUDULENT INSURANCE ACT GIVEN TO AN AUTHORIZED AGENCY PURSUANT TO SECTION 10-4-1003 (1), C.R.S.

SECTION 5. Effective date - applicability. This act shall take effect upon passage and shall apply to all insurance claims and applications for insurance submitted on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000