

## CHAPTER 158

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**INSURANCE**

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**SENATE BILL 12-110**

BY SENATOR(S) Steadman, Hodge, Lambert, Aguilar;  
also REPRESENTATIVE(S) Levy, Becker, Gerou, Kefalas.

**AN ACT**

**CONCERNING A FUND CONSISTING OF SURCHARGES ON INSURANCE PREMIUMS TO PAY FOR COSTS ASSOCIATED WITH CRIMINAL PROSECUTION OF INSURANCE FRAUD INVESTIGATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **add with amended and relocated provisions 24-31-104.5** as follows:

**24-31-104.5. [Formerly 10-3-207.5] Funding for insurance fraud investigations and prosecutions - creation of fund.** (1) (a) For the purpose of providing adequate funds to the Colorado department of law for the investigation and prosecution of allegations of insurance fraud, in addition to any other fee collected pursuant to section 10-3-207 (1), C.R.S., each entity regulated by the division OF INSURANCE shall pay to the division a nonrefundable annual fee. ~~of five hundred sixty-one dollars~~ **BASED UPON THE APPROPRIATIONS MADE TO THE DEPARTMENT OF LAW FROM THE INSURANCE FRAUD CASH FUND AND THE RECOMMENDATION OF THE ATTORNEY GENERAL, THE COMMISSIONER OF INSURANCE SHALL SET THE FEE SO THAT THE REVENUE GENERATED FROM THE FEE APPROXIMATES THE DIRECT AND INDIRECT COSTS OF THE INVESTIGATION AND PROSECUTION OF ALLEGATIONS OF INSURANCE FRAUD. THE FEE SHALL NOT EXCEED THREE THOUSAND DOLLARS AND IS payable on or before March 1 of each year.**

(b) **THE COMMISSIONER OF INSURANCE SHALL ESTABLISH A TIERED FEE SCHEDULE THAT SETS THE ANNUAL FEE REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1) BASED UPON THE PRIOR YEAR'S DIRECT WRITTEN PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES RECEIVED IN COLORADO BY EACH REGULATED ENTITY. THE REGULATED ENTITIES WITH DIRECT WRITTEN PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES RECEIVED IN COLORADO IN EXCESS OF ONE MILLION DOLLARS SHALL PAY ONE FEE, AND THE REGULATED ENTITIES WITH ONE MILLION DOLLARS OR LESS**

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

SHALL PAY A LESSER FEE.

(2) The division OF INSURANCE shall transmit fees collected pursuant to subsection (1) of this section to the state treasurer for deposit in the insurance fraud cash fund, which fund is hereby created in the state treasury. The fund ~~shall consist~~ CONSISTS of fees collected pursuant to this section and any other moneys deposited into the fund. Interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are subject to annual appropriation by the general assembly to the department of law for use in investigating and prosecuting allegations of insurance fraud. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year ~~shall~~ remain in the fund and ~~shall~~ DO not revert to the general fund.

(3) The attorney general shall provide annual reports to the joint budget committee, the senate business, labor, and technology committee, and the house ECONOMIC AND business ~~affairs and labor~~ DEVELOPMENT committee, or any ~~such~~ successor committees, and shall post on the attorney general's web site a statistical report of the number of FULL-TIME EMPLOYEES DEDICATED TO INSURANCE FRAUD, referrals, OPEN INVESTIGATIONS, convictions, arrests, AND actions initiated, and THE NUMBER OF restitutions, fines, costs, and forfeitures obtained, from the investigation and prosecution of insurance fraud as provided in this section. IN THE REPORT, THE ATTORNEY GENERAL SHALL MAKE HIS OR HER BEST EFFORT TO DELINEATE BETWEEN THE TYPES OF CASES PROSECUTED BY LINE OF INSURANCE.

**SECTION 2. Repeal of relocated provisions in this act.** In Colorado Revised Statutes, **repeal** 10-3-207.5.

**SECTION 3.** In Colorado Revised Statutes, 8-43-401, **amend** (1) as follows:

**8-43-401. District attorney or attorney of division to act for director or office - penalties for failure of insurer to pay benefits.** (1) Upon the request of the director or the industrial claim appeals office, ~~the attorney general or~~ the district attorney of any district or any attorney-at-law ~~in the regular employ of~~ EMPLOYED BY the division shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of articles 40 to 47 of this title, or any award or order of the director, an administrative law judge, or the industrial claim appeals office, or for the recovery of any money due TO Pinnacol Assurance, or any penalty provided in said articles, and shall defend in like manner all suits, actions, or proceedings brought against the director, an administrative law judge, or the industrial claim appeals office.

**SECTION 4.** In Colorado Revised Statutes, 8-45-117, **amend** (1)(c) as follows:

**8-45-117. Regulation by commissioner of insurance.** (1) Pinnacol Assurance shall be subject to regulation by the commissioner of insurance as provided in:

(c) ~~Sections~~ SECTIONS 24-31-104.5, C.R.S.; 10-1-108 (7), 10-1-109, and 10-1-102, C.R.S., except subsections (3) and (6); 10-1-205, C.R.S., (1) to (6) and (8); 10-3-109, C.R.S., except for the publication requirements; 10-3-118, C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.; 10-3-207, C.R.S.; ~~10-3-207.5, C.R.S.;~~ 10-3-208, C.R.S.; 10-3-231, C.R.S.; 10-3-239, C.R.S.; 10-3-701, C.R.S.; and part

8 of article 3 of title 10, C.R.S., except as these sections are inconsistent with the provisions of this article.

**SECTION 5.** In Colorado Revised Statutes, **amend** 10-1-129 as follows:

**10-1-129. Fraudulent insurance acts - enforcement.** The attorney general shall have concurrent jurisdiction with the district attorneys of this state to investigate and prosecute allegations of criminal conduct related to insurance fraud pursuant to this title and titles 8 and 18, C.R.S. The cost to the attorney general of such investigations and prosecutions shall be paid from fees collected from entities regulated by the division pursuant to section ~~10-3-207.5~~ 24-31-104.5, C.R.S.

**SECTION 6.** In Colorado Revised Statutes, 10-5-108, **amend** (1) (a) as follows:

**10-5-108. Placement of surplus line insurance.** (1) No broker shall place any coverage with a nonadmitted insurer unless, at the time of placement, such nonadmitted insurer is included on the list of approved nonadmitted insurers prepared by the commissioner at least annually. Nothing in this section shall require the commissioner to place or maintain the name of any nonadmitted insurer on the list. To be placed and remain on said approved list, such nonadmitted insurer shall:

(a) Establish and maintain satisfactory evidence of good repute and financial integrity and submit a current year's application, fees as prescribed by sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S., a copy of its current annual statement, an actuarial opinion, and other information required by the commissioner. In the case of an insurance exchange, an aggregate combined statement of all underwriting syndicates operating during the period reported, in addition to individual statements for each syndicate, shall be submitted.

**SECTION 7.** In Colorado Revised Statutes, 10-11-116, **amend** (1) (c) as follows:

**10-11-116. Title insurance agents licensed.** (1) (c) A license shall be issued to an attorney-at-law licensed to practice in this state if a title insurance company notifies the commissioner in writing of the name and address of each such attorney it desires to appoint as its agent and upon payment of the fees required by sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S.

**SECTION 8.** In Colorado Revised Statutes, **amend** 10-14-603 as follows:

**10-14-603. Annual certificate of authority.** Societies that are authorized to transact business in this state as of July 1, 1993, and all societies authorized thereafter, may continue such business until June 30, 1994. The authority of all such societies may thereafter be renewed annually but shall terminate on the last day of the succeeding June. However, a certificate of authority so issued shall continue in full force and effect unless specifically terminated. For each such certificate of authority or renewal the society shall pay to the division of insurance fees as prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S. A duly certified copy or duplicate of such certificate of authority shall be prima facie evidence that the society is a fraternal benefit society within the meaning of this article.

**SECTION 9.** In Colorado Revised Statutes, **amend** 10-14-702 as follows:

**10-14-702. Fees.** Except as otherwise specifically provided in this article, societies shall pay the applicable fees specified in sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S., and be subject to the assessment of late fees pursuant to section 10-3-109 (2) and (3).

**SECTION 10.** In Colorado Revised Statutes, 10-16-110, **amend** (1) (a), (2) (a), and (3) as follows:

**10-16-110. Fees paid by health coverage entities.** (1) (a) There shall be paid to the division of insurance by every corporation subject to the provisions of this part 1 and part 3 of this article such fees as are prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S.

(2) (a) Every health maintenance organization subject to this part 1 and part 4 of this article shall pay to the commissioner the fees as prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S.

(3) Coincident with the filing of the annual report prescribed by section 10-16-111, each prepaid dental care plan organization subject to this part 1 and part 5 of this article shall pay to the state treasurer through the commissioner fees for transacting a prepaid dental care plan. The fees shall be as prescribed pursuant to sections 10-3-207 and ~~10-3-207.5~~ 24-31-104.5, C.R.S.

**SECTION 11. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of moneys in the insurance fraud cash fund, created in section 24-31-104.5 (2), Colorado Revised Statutes, not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 2012, the sum of \$196,677 and 2.0 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

- (a) \$168,096 and 2.0 FTE for the special prosecutions unit, personal services; and
- (b) \$28,581 for the special prosecutions unit, operating expenses.

**SECTION 12. Effective date.** This act takes effect July 1, 2012.

**SECTION 13. 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: May 3, 2012