



## Ohio Legislative Service Commission 122nd Final Bill Analysis

Effective Date update from the LSC Status Sheet: 03/17/98

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### Am. Sub. H.B. 248 122nd General Assembly (As Passed by the General Assembly)

**Reps. Reid, O'Brien, Garcia, Mottley, Fox, Vesper, Netzley, Haines, Hottinger, Batchelder, Grendell, Myers, Mottl, Lewis, Buchy, Brading, Olman, Salerno**

**Sens. Ray, Dix, Watts, Gillmor, Latell, Drake, Gaeth, Kearns**

**Effective date:** \*\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.

- Requires insurers to adopt an antifraud program that includes written procedures for pursuing insurance fraud.
- Requires insurers to report persons suspected of insurance fraud to the Department of Insurance.
- Requires persons convicted of a felony while licensed as an agent or solicitor to report the conviction to the Department of Insurance.
- Designates the office of the Warden in the Department of Insurance as a criminal justice agency.

### CONTENT AND OPERATION

#### *Each insurer to adopt an antifraud program*

(sec. 3999.41)

The act requires every insurer that is engaged in writing direct insurance in Ohio to adopt an antifraud program. These insurers must specify in a written plan the procedures they will follow when instances of insurance fraud or suspected insurance fraud are brought to their attention and must identify the person or persons responsible for their antifraud program. The act defines "insurer," for this purpose, as any person authorized to engage in the business of insurance in Ohio, any health insuring corporation, and any other person engaging directly or indirectly in Ohio in the business of insurance or entering into contracts substantially amounting to insurance. (A health insuring corporation is a managed health care provider recognized by the enactment of Am. Sub. S.B. 67 of the 122nd General Assembly.)

Every insurer that is engaged in the business of insurance within Ohio on the effective date of the act must develop the written plan required by the act within 90 days after the act's effective date. An insurer that is not currently engaged in the business of insurance within Ohio is required to develop such a written plan within 90 days after obtaining its license to transact business within this state or within 90 days after beginning to engage in the business of insurance in this state. All insurers must maintain the written plan they have developed. If an insurer modifies the procedures it follows for instances of insurance fraud or suspected insurance fraud, or if there is a change in the person or persons responsible for the insurer's antifraud program, the insurer must modify the plan.

#### *Insurers to notify Department of Insurance of suspected insurance fraud*

(sec. 3999.42)

The act requires an insurer to notify the Department of Insurance whenever it has a reasonable belief that a person is

perpetrating or facilitating, or has perpetrated or facilitated, an insurance fraud (as established in the Theft and Fraud Law by section 2913.47 of the Criminal Code) involving a claim of \$1,000 or more. The notification requirement applies to insurance fraud perpetrated or facilitated by any person, including, but not limited to, any applicant, policyholder, subscriber, or enrollee, or any officer, director, manager, employee, representative, or agent of the insurer. The notification is to be made in accordance with rules adopted by the Department of Insurance.

The act defines "insurer," for purposes of the notification requirement, as any person authorized to engage in the business of insurance in Ohio, any health insuring corporation, and any other person engaging directly or indirectly in Ohio in the business of insurance or entering into contracts substantially amounting to insurance.

**Insurance agents and solicitors must report felony convictions to the Superintendent of Insurance**

(secs. 3905.49(A)(13) and 3905.491)

The act requires any person who is convicted of a felony while licensed as an agent or solicitor under Chapter 3905. of the Revised Code to report the conviction to the Superintendent of Insurance within 30 days of the entry date of the judgment or conviction. Within this 30-day period, the person convicted must also provide the Superintendent with a copy of the judgment, the probation or commitment order, and any other relevant documents.

Ongoing law specifies several acts or practices for which the Superintendent may suspend, revoke, refuse to continue or renew, or refuse to issue an agent's or solicitor's license, after providing the licensee or applicant with an opportunity for a hearing. The law permits the Superintendent to take action against an agent's or solicitor's license based on a felony conviction of the agent or solicitor, if the Superintendent becomes aware of such a conviction (sec. 3905.49(A)(7)). The act adds an agent's or solicitor's failure to report a felony conviction as required by the act to the list of acts or practices for which the Superintendent may take action against an agent's or solicitor's license.

**"Insurance fraud investigation" defined; references to "division of insurance fraud" replaced**

(secs. 3901.44 and 3999.31)

Prior law provided that all papers, documents, reports, and evidence in the possession of the Division of Insurance Fraud of the Department of Insurance that pertain to an investigation conducted or authorized by the Division were confidential law enforcement investigatory records. The law did not define an "investigation" for this purpose.

The act changes this law to provide for the confidential treatment of papers, documents, reports, and other evidence that pertain to an "insurance fraud investigation," rather than an "investigation," and provides a definition of "insurance fraud investigation." An "insurance fraud investigation" means any investigation conducted by the Superintendent or a designee of the Superintendent that relates to a fraudulent insurance act as that term is defined in the Insurance Law by section 3999.31 of the Revised Code. Section 3999.31 grants immunity, in the absence of fraud or bad faith, to persons who provide information, without malice, relating to suspected fraudulent insurance acts.

The act also replaces references to the Division of Insurance Fraud in both of these sections with more general references to the Superintendent of Insurance and designees of the Superintendent.

**Office of the Warden designated a criminal justice agency**

(sec. 3901.03)

Ongoing law requires the Superintendent of Insurance to appoint a warden to investigate reported violations of law relating to insurance and to perform any other duty in the administration of laws relating to insurance that the Superintendent requests.

The act designates the office of the Warden as a criminal justice agency in investigating reported violations of law relating to insurance. As a criminal justice agency, the office of the Warden is authorized to apply for access to the computerized databases administered by the National Crime Information Center or the Law Enforcement Automated Data System in Ohio, and to other computerized databases administered for the purpose of making criminal justice information accessible to state criminal justice agencies.

## **HISTORY**

### **ACTION DATE JOURNAL ENTRY**

Introduced 02-25-97 p. 269

Reported, H. Insurance 05-07-97 p. 725

Passed House (96-1) 05-20-97 pp. 878-879

Reported, S. Insurance,  
Commerce & Labor 11-12-97 p. 1312  
Passed Senate (33-0) 11-13-97 pp. 1331-1332  
House concurred in  
Senate amendments (98-1) 11-19-97 pp. 1858-1859

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