



Ohio Legislative Service Commission

122nd House Bill Analysis

H.B. 248

122nd General Assembly
(As Introduced)

Reps. Reid, O'Brien, Garcia, Mottley, Fox, Vesper, Netzley, Haines

- 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.
- Requires insurers to provide the Department of Insurance with a list of its employees who will investigate insurance fraud, while limiting the civil immunity relating to the exchange of information on fraud to these employees.

CONTENT AND OPERATION

Each insurer to adopt an antifraud program

(sec. 3999.41)

The bill requires every insurer to adopt an antifraud program. The bill also requires every insurer to specify in a written plan the procedures the insurer will follow when instances of insurance fraud or suspected insurance fraud are brought to its attention. For the purpose of identifying insurers that must adopt an antifraud program, the bill defines "insurer" to mean any person authorized to engage in the business of insurance in Ohio, any prepaid dental plan organization, medical care corporation, health care corporation, dental care corporation, or health maintenance organization, and any other person engaging directly or indirectly in Ohio in the business of insurance or entering into contracts substantially amounting to insurance.

Every insurer that is engaged in the business of insurance within Ohio on the effective date of the bill must produce a written plan pursuant to this provision of the bill within 90 days after the bill's effective date. An insurer that is not currently engaged in the business of insurance within Ohio is required to produce 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 file a copy of its written plan with the Department of Insurance. The plan must identify the person or persons responsible for the insurer's antifraud program.

The bill requires an insurer to file an amended plan with the Department of Insurance if the 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.

Insurers to notify Department of Insurance of suspected insurance fraud

(sec. 3999.42)

The bill 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 by section 2913.47 of the Criminal Code) involving a claim of \$1,000 or more. The notification requirement applies to insurance fraud perpetrated 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.

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

(secs. 3905.49 and 3905.491)

The bill 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.

Current law specifies several items for which the Superintendent of Insurance 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 currently 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 bill adds an agent's or solicitor's failure to report a felony conviction to the list of items for which the Superintendent may act against an agent's or solicitor's license.

Insurer's designation of persons to investigate insurance fraud

(sec. 3999.31)

The bill requires every insurer to file a written notice with the Department of Insurance identifying every officer, director, trustee, representative, agent, broker, or other employee of the insurer who has been designated by the insurer to investigate suspected fraudulent insurance acts. Insurers are required to file amendments to the notice as necessary.

Current law provides civil immunity to persons providing or receiving information relating to suspected fraudulent insurance acts, when the information is provided to or received from a law enforcement official, another person subject to the provisions of Ohio's Insurance Law, the Department of Insurance, or any other person involved in the detection or prevention of fraudulent insurance acts. The bill limits this immunity. The immunity does not apply to any officer, director, trustee, representative, agent, broker, or other employee of an insurer who has not been identified in a notice filed with the Department of Insurance pursuant to the requirements of this bill, or in a subsequent amendment to that notice.

HISTORY

ACTION DATE JOURNAL ENTRY

Introduced 02-25-97 p. 269

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