

BILL ANALYSIS

Senate Research Center
79R13572 PB-F

H.B. 2388
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Business & Commerce
5/18/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law weakens the effectiveness of the Insurance Fraud Unit by making prompt reporting difficult. Allowing for prompt reporting would enable the Insurance Fraud Unit to prosecute more persons committing insurance fraud. H.B. 2388 encourages prompt reporting, enhances the confidentiality of information and materials obtained during investigations and ensures that insurers have an appropriate level of immunity.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 701.051, Insurance Code, by amending Subsections (a) and (b), and adding Subsection (c), as follows:

Sec. 701.051. DUTY TO REPORT. (a) Adds a provision that not later than the 30th day after the date a person makes the determination or reasonably suspects a fraudulent insurance act has been committed or is about to be committed in this state, as newly specified, the person may take certain actions.

(b) Provides that a report made to the insurance fraud unit, rather than one authorized governmental agency or the Texas Department of Insurance (department), constitutes notice to each other authorized governmental agency. Deletes the provision providing that the report constitutes notice to the department.

(c) Provides that a person who is a member of an anti-fraud organization fully complies with the person's obligations under Subsection (a) by authorizing certain reporting actions by the organization. Provides that a person retains liability resulting from the failure of the organization to report in a manner that complies with Subsection (a).

SECTION 2. Amends Section 701.109, Insurance Code, as follows:

Sec. 701.109. REQUEST FOR INVESTIGATION BY INSURER. (a) Creates this subsection from existing text. Provides that an insurer who conducts an independent investigation, rather than an investigation, of suspected insurance fraud is not required to complete that investigation before requesting that the commissioner conduct an investigation. Deletes a provision requiring that a draft report of the insurer's findings be done prior to requesting that the commissioner conduct an investigation.

(b) Requires the insurer to draft a report of the insurer's finding and submit the report and any, rather than the, related investigation file to the commissioner, as soon as practicable, when requesting the commissioner to conduct an investigation.

SECTION 3. Repealer: Section 701.052(f), (requiring an insurer to exercise reasonable care concerning the accuracy of information conveyed to certain authorities or persons), Insurance Code.

SECTION 4. Effective date: September 1, 2005.