

BILL ANALYSIS

C.S.H.B. 2388
By: Thompson
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law weakens the effectiveness of the Insurance Fraud Unit by making prompt reporting difficult. Allowing for prompt reporting would allow the Insurance Fraud Unit to prosecute more persons committing insurance fraud. The purpose of this legislation is to encourage prompt reporting, to enhance the confidentiality of information and materials obtained during investigations, and to ensure that insurers have an appropriate level of immunity

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 701.051, Insurance Code.

Subsec. (a) requires a person who has determined, or reasonable grounds to suspect that, a fraudulent violation has been or is about to be committed in this state, to provide a written report of the information to the insurance fraud unit within 30 days in the format prescribed by the National Association of Insurance Commissioners. Section 1 allows a person to also report information to another authorized governmental agency.

Subsec. (b) changes "authorized governmental agency or [Insurance] department" to "insurance fraud unit." It changes existing language that notice of fraud to a government agency or the department --- now, the insurance fraud unit --- constitutes notice to other government agencies.

Subsec. (c) authorizes persons who are members of organizations dedicated to the detection, investigation and prosecution of insurance fraud to authorize the organization to report suspected fraud.

SECTION 2. Amends Section 701.109, Insurance Code, to allow an insurer conducting an independent investigation to request that the commissioner conduct an investigation before the insurer completes his/her investigation. It requires an insurer to draft a report on its findings to the commissioner as soon as practicable.

SECTION 3. Repeals Section 701.052(f), Insurance Code

SECTION 4. Effective date.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

Section 1 of the original only amended Ins. Code § 75.051(a). Section 1 of the substitute amends the entire section. Section 1 of the original referred to Ins. Code § 70.051(a) "as effective April 1, 2005." This does not appear in the substitute. Section 1 of the substitute requires that a person "reasonably suspects" fraud. Section 1 of the original required the person to have "reasonable grounds for suspicion." Section 1 of the substitute adds "in this state" to the

fraudulent insurance act that must be reported; this was not in the original. Section 1 of the substitute amends Ins. Code § 75.051(b) and adds a new § 75.051(c); this does not appear in the original.

Section 2 of the substitute was Section 3 in the original. In the original, Section 2 amended Ins. Code 701.109 “as effective April 1, 2005;” this is not in the substitute. “When requesting the commissioner to conduct an investigation, the” was added to beginning of Ins. Code § 701.109(b) in the substitute; this was not in the original.

Section 2 of the original amended Ins. Code § 701.108, as effective April 1, 2005, to provide that anyone authorized to act on behalf of an insurer has the same obligations to provide information relating to an investigation as an insurer; this is not in the substitute.

Section 4 of the original amended Ins. Code §§ 701.151(a) and (b), as effective April 1, 2005, to define material acquired to the department relevant to an investigation as privileged and not a public record. It also provided that information and material gathered is not subject to subpoena by any governmental entity, other than a grand jury. This is not in the substitute.

Section 3 of the substitute was Section 5 in the original. Originally, it repealed Sections 701.051(b), 701.052(f), 701.151(c), and 701.154(c), Insurance Code, as effective April 1, 2005. Section 3 of the substitute only repeals Ins. Code 701.052(f).

Section 4 of the substitute was Section 6 of the original.