

SENATE BILL NO. 75—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 2, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes regarding insurance. (BDR 57-336)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~{omitted material}~~ is material to be omitted.

AN ACT relating to insurance; providing immunity from criminal penalties and civil liability under certain circumstances to persons who provide information concerning acts of insurance fraud; limiting the use of that information by insurers and the employees and representatives of insurers; authorizing insurers to increase or decrease rates without the approval of the commissioner of insurance under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 686A of NRS is hereby amended by adding thereto
2
3 a new section to read as follows:
4 ***1. A person who, without malice, provides information concerning***
5 ***an act or suspected act of insurance fraud prohibited by NRS 686A.291 is***
6 ***not subject to a criminal penalty or liable in a civil action if the***
7 ***information is provided to:***
8 ***(a) The commissioner, or his employees, agents or representatives;***
9 ***(b) A person from a federal, state or local law enforcement agency or***
10 ***other agency that regulates insurance, or an employee, agent or***
11 ***representative of such a person;***
12 ***(c) An organization that is involved in the prevention and detection of***
13 ***acts of insurance fraud, or the employees, agents or representatives of***
14 ***such an organization;***
15 ***(d) The National Association of Insurance Commissioners, or its***
16 ***employees, agents or representatives; or***
17 ***(e) An insurer, or an employee, agent or representative of an insurer.***

1 **2. In a civil action brought against a person for providing**
2 **information concerning an act or a suspected act of insurance fraud, the**
3 **plaintiff must plead specifically that the person against whom the civil**
4 **action is filed is not immune from civil liability pursuant to this section**
5 **because the person who provided the information acted with actual**
6 **malice.**

7 **3. The provisions of this section do not abrogate or modify any**
8 **common law or statutory privilege or immunity that otherwise applies to**
9 **a person who provides information concerning an act or a suspected act**
10 **of insurance fraud.**

11 **4. An insurer, or an employee, agent or representative of an insurer,**
12 **shall not use any information disclosed to him pursuant to this section**
13 **for any purpose other than to investigate a suspicious or fraudulent**
14 **claim for benefits under a policy of insurance.**

15 **Sec. 2.** NRS 686A.281 is hereby amended to read as follows:

16 686A.281 As used in NRS 686A.281 to 686A.295, inclusive, **and**
17 **section 1 of this act**, unless the context otherwise requires, the term
18 “investigative or law enforcement agency” includes:

- 19 1. The state fire marshal;
- 20 2. The district attorney of the county where any fraudulent activity has
21 occurred or a fraudulent claim has been made;
- 22 3. The chief or other officer of the fire department where a fire
23 occurred; and
- 24 4. Any other agency in this state who has the authority to investigate
25 the fraudulent claims or activities.

26 **Sec. 3.** NRS 686A.283 is hereby amended to read as follows:

27 686A.283 1. Any person, insurer or ~~{authorized}~~ **employee, agent or**
28 **representative of an insurer, who believes, or has reason to believe, that a**
29 **fraudulent claim for benefits under a policy of insurance has been made, or**
30 **is about to be made, shall file a report** ~~{any information}~~ **concerning that**
31 **claim** ~~{to}~~ **with the commissioner .** ~~{on a}~~ **The report must be made in**
32 **writing or in any other** form prescribed by the commissioner.

33 **2. If the report is filed by an insurer or an employee, agent or**
34 **representative of an insurer, the report must include, without limitation:**

- 35 **(a) The names of the insurer and the insured.**
- 36 **(b) The number of the policy involved and the number of the claim.**
- 37 **(c) The date of loss, if known.**
- 38 **(d) The name, address and telephone number of the employee, agent**
39 **or representative of the insurer who is responsible for investigative the**
40 **claim.**
- 41 **(e) The name, date of birth and social security number, if known, of each**
42 **person who is being investigated by the insurer concerning the**
43 **claim.**

1 ***(f) A brief description of the facts that have caused the insurer or the***
2 ***employee, agent or representative of the insurer who files the report to***
3 ***believe that the claim is fraudulent.***

4 ***3. If the report is filed by a person other than an insurer or an***
5 ***employee, agent or representative of an insurer, the report must include,***
6 ***without limitation:***

7 ***(a) A brief description of the facts that have caused the person who***
8 ***files the report to believe that the claim is fraudulent.***

9 ***(b) Any information required pursuant to paragraphs (a) to (e),***
10 ***inclusive, of subsection 2, if known by the person who files the report.***

11 ***4. The commissioner shall:***

12 ***(a) Review each report of a fraudulent claim; and***

13 ***(b) Determine whether an investigation should be made of the facts in***
14 ***the report.***

15 ~~***3. 5.***~~ During his investigation, the commissioner shall determine
16 whether there is probable cause to believe that there was deceit, fraud or an
17 intentional misrepresentation of a material fact in the claim.

18 ~~***4. 6.***~~ If the commissioner determines that the provisions of NRS
19 686A.010 to 686A.310, inclusive, have been violated he shall report his
20 findings to the district attorney of the county where the violation occurred.

21 ***Sec. 4.*** NRS 686B.110 is hereby amended to read as follows:

22 ~~686B.110~~ 1. ~~***{The}***~~ ***Except as otherwise provided in subsection 2,***
23 ***the*** commissioner shall consider each proposed increase or decrease in the
24 rate of any kind or line of insurance or subdivision thereof filed with him
25 pursuant to NRS 686B.070. If the commissioner finds that a proposed
26 increase will result in a rate which is not in compliance with NRS
27 686B.050, he shall disapprove the proposal. The commissioner shall
28 approve or disapprove each proposal no later than 60 days after it is
29 determined by him to be complete pursuant to subsection ~~***{4.} 5.***~~ If the
30 commissioner fails to approve or disapprove the proposal within that
31 period, the proposal shall be deemed approved.

32 ***2. The commissioner shall not consider for approval or disapproval a***
33 ***proposed increase or decrease in the rate of property or casualty***
34 ***insurance or a line or subdivision thereof filed with him pursuant to NRS***
35 ***686B.070 if the proposed increase or decrease does not change:***

36 ***(a) The average premium for the insureds in this state for the line of***
37 ***insurance within the preceding 12 months by more than 5 percent; and***

38 ***(b) The premium for an insured for property or casualty insurance***
39 ***within the preceding 12 months by more than 20 percent.***

40 ***3.*** Whenever an insurer has no legally effective rates as a result of the
41 commissioner's disapproval of rates or other act, the commissioner shall on request
42 specify interim rates for the insurer that are high enough to protect
43 the interests of all parties and may order that a specified portion of the

1 premiums be placed in an escrow account approved by him. When new
2 rates become legally effective, the commissioner shall order the escrowed
3 funds or any overcharge in the interim rates to be distributed appropriately,
4 except that refunds to policyholders that are de minimis must not be
5 required.

6 ~~[3.]~~ 4. If the commissioner disapproves a proposed rate and an insurer
7 requests a hearing to determine the validity of his action, the insurer has the
8 burden of showing compliance with the applicable standards for rates
9 established in NRS 686B.010 to 686B.1799, inclusive. Any such hearing
10 must be held:

11 (a) Within 30 days after the request for a hearing has been submitted to
12 the commissioner; or

13 (b) Within a period agreed upon by the insurer and the commissioner.
14 If the hearing is not held within the period specified in paragraph (a) or (b),
15 or if the commissioner fails to issue an order concerning the proposed rate
16 for which the hearing is held within 45 days after the hearing, the proposed
17 rate shall be deemed approved.

18 ~~[4.]~~ 5. The commissioner shall by regulation specify the documents or
19 any other information which must be included in a proposal to increase or
20 decrease a rate submitted to him pursuant to ~~[subsection 1.]~~ **NRS**
21 **686B.070**. Each such proposal shall be deemed complete upon its filing
22 with the commissioner, unless the commissioner, within 15 business days
23 after the proposal is filed with him, determines that the proposal is
24 incomplete because the proposal does not comply with the regulations
25 adopted by him pursuant to this subsection.

26 **Sec. 5.** NRS 679B.157 is hereby repealed.

TEXT OF REPEALED SECTION

679B.157 Liability for disclosure of information on fraudulent claim or suspicious fire. An insurer, employee or representative of an insurer, official of an investigative or law enforcement agency, employee of the division or the commissioner is not subject to a criminal penalty or subject to civil liability for libel, slander or any similar cause of action in tort if he, without malice, discloses information on a fraudulent claim or suspicious fire.