

ASSEMBLY BILL NO. 523—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning insurance fraud.
(BDR 57-881)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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; revising provisions governing insurance fraud; revising procedures for the reporting, investigation and prosecution of certain fraudulent claims for benefits under a policy of insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Commissioner of Insurance and the Attorney General share responsibility for the investigation of insurance fraud in this State. (Chapters 679B and 686A of NRS) The Attorney General, acting through the Fraud Control Unit for Insurance, has primary responsibility for the criminal prosecution of insurance fraud. (NRS 228.412)

Under existing law, a person who discloses information concerning a fraudulent claim or a suspicious fire is immune from civil and criminal liability for the disclosure if he is acting without malice. (NRS 679B.670) **Section 1** of this bill expands the grant of immunity to include insurance fraud generally and clarifies that the immunity applies to disclosures of information to the Commissioner, the Attorney General, the Fraud Control Unit or any other investigative or law enforcement agency or any agency of the Federal Government.

Under existing law, any person, governmental entity or insurer who has information concerning insurance fraud is required to provide the information to the Commissioner and the Attorney General. The Commissioner and the Attorney General are required to conduct independent investigations and reach independent conclusions whether there is probable cause to believe that insurance fraud has occurred. (NRS 686A.283) **Sections 4 and 5** of this bill establish a different procedure in cases that involve an insurer who knows or has reasonable suspicions that a person is making a fraudulent claim for benefits under an insurance policy. **Section 5** provides that the insurer shall file a report concerning the fraudulent claim with the Commissioner. The Commissioner is required to investigate the claim and complete his investigation within 30 days after receiving the report. Within 10 days after completing his investigation, the Commissioner must notify



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the insurer of the results of his investigation. If the Commissioner determines that any fraud, deceit or intentional misrepresentation was committed in connection with the claim, the Commissioner is required to notify the Fraud Control Unit. Within 60 days after being notified, the Fraud Control Unit must commence a criminal prosecution concerning the fraudulent claim or inform the Commissioner and the insurer why no such prosecution has been commenced.

Under existing law, an insurer is required to provide information concerning insurance fraud to the Commissioner, the Attorney General or any other investigative or law enforcement agency or any agency of the Federal Government upon request. (NRS 686A.287) **Section 6** of this bill clarifies that the Fraud Control Unit is included among the agencies that may require an insurer to provide such information. **Section 6** also provides that an insurer's duty to provide such information does not authorize the insurer to disclose confidential medical information except as otherwise provided by law.

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

Section 1. NRS 679B.670 is hereby amended to read as follows:

679B.670 Any person, governmental entity, insurer, employee or representative of an insurer, official of an investigative or law enforcement agency, employee of the Division, the Commissioner, the Attorney General or a member of the Fraud Control Unit 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~~ *concerning insurance fraud, a fraudulent claim or suspicious fire H, including, without limitation, information that he is required or authorized to disclose pursuant to NRS 686A.281 to 686A.295, inclusive, and section 2 of this act.*

Sec. 2. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

"Fraud Control Unit" means the Fraud Control Unit for Insurance established by the Attorney General pursuant to NRS 228.412.

Sec. 3. NRS 686A.281 is hereby amended to read as follows:

686A.281 As used in NRS 686A.281 to 686A.295, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 686A.2815, 686A.282 and 686A.2825 *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 686A.283 is hereby amended to read as follows:

686A.283 1. ~~Any~~ *Except as otherwise provided in NRS 686A.285, any* person, governmental entity, insurer or authorized representative of an insurer shall report any information concerning



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1 insurance fraud to the Commissioner and Attorney General on a
2 form prescribed by the Commissioner and Attorney General.

3 2. The Commissioner and Attorney General shall each
4 independently:

5 (a) Review each report of insurance fraud; and

6 (b) Determine whether an investigation should be made of the
7 facts in the report.

8 3. During their respective investigations, the Commissioner
9 and Attorney General shall independently determine whether there
10 is probable cause to believe that insurance fraud has occurred.

11 4. A district attorney of any county where fraudulent activity
12 has occurred or is occurring or where a fraudulent claim that would
13 constitute insurance fraud has been made may, with the permission
14 of the Attorney General or at the request of the Attorney General,
15 institute proceedings in the name of the State of Nevada.

16 **Sec. 5.** NRS 686A.285 is hereby amended to read as follows:

17 686A.285 1. ~~If an~~ **An insurer that knows or** has a
18 reasonable suspicion that a ~~loss to an insured may have been caused~~
19 ~~by other than an accidental or a natural occurrence, the insurer shall~~
20 ~~notify~~ **claim for benefits under a policy of insurance may be**
21 **fraudulent shall, within 60 days after the insurer determines that**
22 **the claim may be fraudulent:**

23 (a) **File a report with** the Commissioner ~~and Attorney General~~
24 ~~in writing of the insurer's reasons for the suspicion.~~

25 ~~— 2. — Any insurer making such a report~~ **on a form prescribed by**
26 **the Commissioner. The insurer** shall provide the Commissioner
27 ~~and Attorney General~~ **with all the information that is required for**
28 **the completion of the form and may provide** any additional
29 information the insurer obtained during its investigation of the claim
30 ~~to.~~

31 ~~— 3. — If the loss referred to in subsection 1 is believed to be~~ ,
32 **including, without limitation, information concerning the factual**
33 **circumstances of the claim, the loss or damage for which the claim**
34 **is made or the parties to the claim.**

35 (b) **If the claim involves a loss** caused by fire, ~~the insurer shall~~
36 ~~also so notify~~ **provide notification of the claim to** an investigative
37 or law enforcement agency.

38 2. **The Commissioner shall, pursuant to NRS 679B.600 to**
39 **679B.700, inclusive, investigate each report of a fraudulent claim**
40 **that is filed with him. The Commissioner shall complete his**
41 **investigation within 30 days after the report is filed. Not later than**
42 **10 days after the Commissioner completes his investigation, the**
43 **Commissioner shall:**

44 (a) **If he determines that any fraud, deceit or intentional**
45 **misrepresentation has been committed in connection with the**



1 *claim, notify the Fraud Control Unit and the insurer of his*
2 *determination; or*

3 *(b) If he determines that no fraud, deceit or intentional*
4 *misrepresentation has been committed in connection with the*
5 *claim, notify the insurer of his determination.*

6 *3. The Attorney General, acting through the Fraud Control*
7 *Unit, shall, not later than 60 days after he receives notification of*
8 *a fraudulent claim from the Commissioner:*

9 *(a) Commence a criminal prosecution against any person*
10 *determined by the Commissioner to have committed fraud in*
11 *connection with the claim; or*

12 *(b) Inform the Commissioner and the insurer why a criminal*
13 *prosecution has not been commenced.*

14 **Sec. 6.** NRS 686A.287 is hereby amended to read as follows:

15 686A.287 1. ~~{Every}~~ *Except as otherwise provided in this*
16 *section, an insurer shall provide information concerning insurance*
17 *fraud , including, without limitation, a fraudulent claim for*
18 *benefits under an insurance policy, to the Attorney General, the*
19 *Commissioner, the Fraud Control Unit, any other investigative or*
20 *law enforcement agency or any agency of the Federal Government,*
21 *if the insurer receives a request in writing for that information.*

22 2. The information requested from an insurer may include:

23 (a) Information about the policy of insurance ~~{on the property~~
24 ~~which was demolished or destroyed.}~~ *under which the claim is*
25 *made, including , without limitation, information from the*
26 *application for insurance;*

27 (b) Information on previous claims made by the insured;

28 (c) Records of the premiums paid for the policy of insurance;
29 ~~{and}~~

30 (d) Information concerning the insurer's investigation of the
31 claim, including statements of any person, information submitted as
32 proof of the loss or any other relevant information on the claim ~~{;}~~ ;
33 *and*

34 *(e) Any document that purports to authorize the payment of a*
35 *premium by means of a bank draft.*

36 *3. This section does not authorize an insurer to disclose*
37 *confidential medical information in its possession except as*
38 *otherwise provided by law.*

39 **Sec. 7.** NRS 686A.292 is hereby amended to read as follows:

40 686A.292 1. A court may, in addition to imposing the
41 penalties set forth in NRS 193.130, order a person who is convicted
42 of, or who pleads guilty or nolo contendere to, insurance fraud to
43 pay:

44 (a) Court costs; and



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(b) The cost of the investigation and prosecution of the insurance fraud for which the person was convicted or to which the person pleaded guilty or nolo contendere.

2. Any money received by the Attorney General pursuant to paragraph (b) of subsection 1 must be accounted for separately and used to pay the expenses of the Fraud Control Unit, ~~{for Insurance established pursuant to NRS 228.412,}~~ and is hereby authorized for expenditure for that purpose. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

3. An insurer or other organization, or any other person, subject to the jurisdiction of the Commissioner pursuant to this title shall be deemed to be a victim for the purposes of restitution in a case that involves insurance fraud or that is related to a claim of insurance fraud.

Sec. 8. NRS 228.412 is hereby amended to read as follows:

228.412 1. The Attorney General has primary jurisdiction to conduct criminal investigations into and may bring a criminal prosecution for any act alleged to be insurance fraud.

2. The Attorney General shall establish within his office a Fraud Control Unit for Insurance. The Fraud Control Unit must consist of such persons as are necessary to carry out the duties set forth in this section, NRS 679B.600 to 679B.700, inclusive, and NRS 686A.281 to 686A.292, inclusive, *and section 2 of this act*, including, without limitation, attorneys and investigators.

3. The Attorney General, acting through the Fraud Control Unit:

(a) Is the single state agency responsible for the criminal prosecution of insurance fraud;

(b) Shall cooperate with the Commissioner of Insurance, insurers, and investigators and prosecutors of other states and the Federal Government in coordinating state and federal criminal investigations and criminal prosecutions involving insurance fraud;

(c) Shall protect the privacy of insurers and insured persons who are eligible to receive benefits pursuant to the provisions of title 57 of NRS and shall establish procedures to prevent the misuse of information obtained in carrying out this section; and

(d) May, upon written request, inspect the records of any insurer, the Commissioner of Insurance and the Division of Insurance of the Department of Business and Industry to conduct a criminal investigation into any act alleged to be insurance fraud.

4. To investigate any act alleged to be insurance fraud, the Attorney General and members of the Fraud Control Unit may conduct investigations into any activity related thereto occurring



1 outside of this State, if necessary. To conduct these investigations,
2 the Attorney General and members of the Fraud Control Unit may:

3 (a) Travel outside of this State;

4 (b) Cooperate with appropriate agencies or persons outside of
5 this State; and

6 (c) Designate those agencies or persons to conduct
7 investigations for the Attorney General.

8 5. When acting pursuant to this section, the Attorney General
9 may commence his investigation and file a criminal action without
10 leave of court, and he has exclusive charge of the conduct of the
11 prosecution. The Attorney General may conduct preliminary
12 hearings or grand juries for the purposes of filing an information or
13 indictment.

14 6. The Attorney General shall report the name of each person
15 who has been convicted of insurance fraud to the Commissioner of
16 Insurance.

17 7. The provisions of this section must not be construed to limit
18 or diminish the jurisdiction of the Commissioner of Insurance to
19 regulate persons transacting insurance in this State.

20 8. As used in this section, "insurance fraud" has the meaning
21 ascribed to it in NRS 686A.2815.

