
Judiciary Committee

HB 1707

Title: An act relating to actions by insurance companies against violators.

Brief Description: Establishing provisions for actions by insurance companies against violators.

Sponsors: Representatives Kirby, Shea, Rodne, Pettigrew, Roach and Kelley.

Brief Summary of Bill

- Creates a cause of action for an insurance company to recover compensatory damages, including reasonable investigation expenses and attorneys' fees, when an insurance company is a victim of a crime.
- Permits treble damages when a court determines that a defendant has engaged in a pattern of violations against an insurance company.
- Allows the Office of the Insurance Commissioner to join in an action and recover attorneys' fees.
- Creates a six-year statute of limitations on claims brought by insurance companies.

Hearing Date: 2/11/09

Staff: Courtney Barnes (786-7194)

Background:

In 2006, the Legislature created an insurance fraud program administered by the Office of the Insurance Commissioner (OIC). The insurance fraud program identifies and investigates criminal organizations and individuals engaged in fraud schemes that target the insurance industry. The OIC insurance fraud program is administered by the Insurance Commissioner's Special Investigation Unit (SIU).

Many of the cases investigated by the SIU are referred by insurance companies and other law enforcement agencies. By statute, insurers are mandated to report fraudulent activity and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

provided with immunity from liability for reporting. When the SIU has gathered enough evidence to warrant a criminal prosecution, the SIU gives the case to a local prosecutor or the Attorney General's Office for prosecution.

In a criminal prosecution for any crime in which an insurance company is a victim, the insurance company is entitled to be considered a victim for the purposes of restitution ordered by the criminal court.

Summary of Bill:

An insurance company damaged as a result of a violation by a defendant may sue to recover compensatory damages, including reasonable investigation expenses, costs of the suit, and attorneys' fees. An insurance company may recover treble damages if the court determines that the defendant has engaged in a pattern of violations.

The insurance company is required to mail a copy of the initial claim, amended claim, counterclaims, briefs, and legal memoranda to the commissioner at the time of filing. The successful claimant is required to report the amount recovered to the commission on a form prescribed by the commissioner. The commissioner may join in the action for the purpose of seeking judgment for the payment of a civil penalty. If the commissioner prevails, the court may also award court costs and reasonable attorneys' fees.

An action brought by an insurance company may not be brought more than six years after the cause of action has accrued.

Appropriation: None.

Fiscal Note: Requested on February 6, 2009.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.