

HCS HB 1495 -- Reporting of Insurance Fraud

SPONSOR: Nance

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 12 to 0.

Currently, insurers and others can share information related to insurance fraud investigations without being subject to civil liability for libel. This substitute expands the immunity afforded to insurers and others for filing reports and furnishing other information related to an insurance fraud investigation so that the insurer will not be subject to civil liability of any kind, including libel and slander.

A civil cause of action of any nature cannot arise against a person for furnishing or receiving information related to suspected or anticipated fraudulent insurance acts to or from:

- (1) Law enforcement officials and their agents and employees;
- (2) Persons subject to the Fraudulent Insurance Act; and
- (3) Reports to a federal or state agency or office, the National Association of Insurance Commissioners, the National Insurance Crime Bureau, or any other organization established to detect and prevent fraudulent insurance acts or a department-recognized database system.

The substitute allows an insurer that has been injured in business or property by a fraudulent insurance act committed with the intent to defraud can recover:

- (1) Any profits, benefits, compensation, or payment received by the person directly resulting from the violation;
- (2) Reasonable attorney fees and other related legal expenses; and
- (3) All other economic damages directly resulting from the violation.

If the insurer can show by clear and convincing evidence that the violation was committed knowingly with an intent to defraud, it must be entitled to recover up to three times the amount of damages for its economic damages. An insurer must bring the action to recover damages within five years of the commission of the acts constituting the violation or within two years of the time the insurer discovered, or with reasonable diligence could have discovered, the violation, whichever is later.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that broadening the exchange of information sharing among insurers as well as anti-fraud and law enforcement communities will have a positive impact on the fight against insurance fraud in Missouri. Data from the National Insurance Crime Bureau indicates Missouri has had a 20% increase over the past three years in questionable claims including medical fraud, billing for services not rendered, over-billing, over-utilization, property fraud, contractor abuses, and staged auto-accidents and collisions. Expanded information sharing efforts among all parties is a top weapon in the fight against insurance fraud. Without protections, insurers are reluctant to disclose potential criminal fraud for fear of bad faith or malicious prosecution. The civil remedy provision will help insurance companies sue those that defraud the company and provide an ability to recover monetary damages.

Testifying for the bill were Representative Nance; Tim Lynch, National Insurance Crime Bureau; Missouri Insurance Coalition; State Farm Insurance Companies; Travelers Companies, Incorporated and Subsidiaries; and Property Casualty Insurers Association of America.

OPPOSERS: There was no opposition voiced to the committee.