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AB-1681 Insurance: fraud prevention and detection. (2021-2022)

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Date Published: 10/03/2022 02:00 PM

Assembly Bill No. 1681

CHAPTER 861

An act to repeal and add Section 1879.1 of the Insurance Code, relating to insurance fraud.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1681, Daly. Insurance: fraud prevention and detection.

Existing law authorizes the Insurance Commissioner or their designated deputy commissioner to convene meetings with insurance companies to discuss specific information concerning suspected, anticipated, or completed acts of insurance fraud. Existing law protects a person sharing information pursuant to that authorization from civil liability for libel, slander, or any other relevant cause of action if the commissioner or their designated deputy commissioner is present at the meeting and advises meeting participants of guidelines to ensure compliance with federal and state antitrust laws, as specified, and if there is no fraud or malice on the part of the participants.

This bill, instead, would authorize the commissioner or their designated deputy commissioner to convene meetings with representatives of insurance companies or representatives of self-insured employers to discuss specific information concerning suspected, anticipated, or completed acts of insurance fraud.

This bill would also authorize a district attorney to convene a meeting described above with representatives of insurance companies or representatives of self-insured employers. The bill would require the commissioner, their designated deputy commissioner, or designated employees of the department from the department's Fraud or Legal Division to attend such a meeting.

This bill would protect a person sharing information pursuant to that authorization from civil liability for libel, slander, or any other relevant cause of action if the commissioner, their designated deputy commissioner, or designated employees of the department from the department's Fraud Division or the department's legal division are present at the meeting, they advise meeting participants, as specified, of guidelines to ensure compliance with federal and state antitrust laws, and there is no fraud or malice on the part of the participants.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Insurance fraud is rampant in the state, amounting to billions of dollars in damages annually, particularly within workers' compensation insurance.

(b) The cost of insurance fraud results in higher insurance premiums for consumers, increased costs for self-insured employers, and higher taxes for public entities.

(c) The Insurance Commissioner and numerous district attorneys have recently publicly called upon insurers, self-insured employers, and public entities to more proactively investigate and fight insurance fraud, including workers' compensation insurance fraud.

(d) In 2010, the Legislature passed, and the Governor signed into law, Section 1879.1 of the Insurance Code to empower the commissioner to convene investigative debriefings as a tool to fight fraud.

(e) Existing law does not authorize self-insured employers, including public entities that are self-insured employers, and district attorneys to participate in those debriefings if they are convened.

(f) An analysis of major fraud prosecutions of the last decade demonstrates that investigative debriefings are an indispensable tool to combat major fraud rings.

(g) Multimillion dollar prosecutions are often complex and require sophisticated investigative approaches to identify and gather evidence in a timely manner, which would be made possible with the participation of representatives of insurance companies, self-insured employers, and district attorneys in the debriefings.

SEC. 2. Section 1879.1 of the Insurance Code is repealed.

SEC. 3. Section 1879.1 is added to the Insurance Code, to read:

1879.1. (a) The commissioner or their designated deputy commissioner may convene meetings with representatives of insurance companies or representatives of self-insured employers to discuss specific information concerning suspected, anticipated, or completed acts of insurance fraud.

(b) A district attorney may convene meetings with representatives of insurance companies or representatives of self-insured employers to discuss specific information concerning suspected, anticipated, or completed acts of insurance fraud. The commissioner, their designated deputy commissioner, or designated employees of the department from the department's Fraud Division or the department's legal division shall attend such a meeting. Only one meeting per month may be convened pursuant to this subdivision. If more than one district attorney seeks to convene a meeting in a given month or a district attorney seeks to convene more than one meeting in a given month, then the commissioner shall choose which meeting the commissioner, their designated deputy commissioner, or designated employees of the department shall attend.

(c) The party that convenes a meeting pursuant to this section may invite a district attorney to participate in the meeting if the suspected, anticipated, or completed acts of insurance fraud to be discussed at the meeting previously occurred or may occur in the county that the district attorney represents.

(d) Information shared at a meeting convened pursuant to this section regarding specific suspected, anticipated, or completed acts of insurance fraud shall not make a person subject to civil liability for libel, slander, or any other relevant cause of action provided that all of the following requirements are met at the meeting:

(1) The commissioner, their designated deputy commissioner, or designated employees of the department from the department's Fraud Division or the department's legal division are present at the meeting or meetings.

(2) The commissioner, their designated deputy commissioner, or a designated employee of the department from the department's Fraud Division or the department's legal division advises meeting participants, at the beginning of any meeting convened pursuant to this section, of guidelines to ensure compliance with federal and state antitrust laws.

(3) There is no fraud or malice on the part of any of the following attending the meeting:

(A) The representatives of the insurance companies.

(B) The representatives of the self-insured employers.

(C) The commissioner, their designated deputy commissioner, or designated employees of the department.

(D) Any district attorney or their employees.

(e) A report of a fraudulent claim made by an insurance company under Section 1872.4 or made by a self-insured employer under Section 1877.3 that is based on information obtained at a meeting convened pursuant to this section shall comply with all requirements set forth in Section 1872.4 or 1877.3, as applicable, as well as Article 2 of Subchapter 9 of Chapter 5 of Title 10 of the California Code of Regulations and all other applicable regulations.

(f) If the commissioner reasonably believes or knows that a fraudulent claim is being made based on information obtained at a meeting convened pursuant to this section, the commissioner may share this information with any district attorney with whom the department has entered into a written agreement for the investigation and prosecution of insurance fraud.

(g) A district attorney may be represented at a meeting convened pursuant to this section only by employees who are licensees of the State Bar of California.