

# HOUSE BILL REPORT

## HB 1069

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**As Reported by House Committee On:**  
Consumer Protection & Business

**Title:** An act relating to the creation of the insurance fraud surcharge account.

**Brief Description:** Concerning the creation of the insurance fraud surcharge account.

**Sponsors:** Representatives Stanford, Reeves, Santos and Ryu; by request of Insurance Commissioner.

**Brief History:**

**Committee Activity:**

Consumer Protection & Business: 1/16/19, 1/18/19 [DP].

**Brief Summary of Bill**

- Creates an insurance fraud surcharge dedicated to funding the Office of the Insurance Commissioner's Criminal Investigations Unit.

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### HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

**Majority Report:** Do pass. Signed by 13 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; Hoff, Assistant Ranking Minority Member; Barkis, Blake, Dufault, Ryu, Santos, Stanford, Volz, Walen and Ybarra.

**Staff:** Robbi Kesler (786-7153).

**Background:**

Legislation was enacted in 2006 to create an insurance fraud program (Program), at the Office of the Insurance Commissioner (OIC). The primary focus of the Program is on organized fraudulent activities committed against insurance companies. The Program may include supervisory, legal, and investigative personnel. All personnel must be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud in which the insurance company is a victim. The chief of the Program serves at the pleasure of the Insurance Commissioner (Commissioner). The Commissioner may use funds from the Program to fund: (1) one or more state patrol officers to work with the Program; (2) one or

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more assistant attorneys general to work with the Program; (3) support staff for the assistant attorneys general; and (4) make grants to or reimburse local prosecuting attorneys.

The annual cost of operating the OIC is determined by legislative appropriation. A pro rata share of the cost is charged to:

- all insurers with a certificate of authority to do business in this state;
- every health care service contractor;
- every health maintenance organization; and
- any self-funded multiple employer welfare arrangement program.

The annual cost of operating the Program is funded from the OIC's regulatory account.

The antifraud unit includes investigation and prosecution of fraudulent claims. The investigative activities are funded from the OIC's regulatory account.

The OIC may:

- initiate inquiries and conduct investigations;
- conduct independent examinations;
- review notices, reports, and complaints of suspected insurance fraud filed with federal, state, or local law enforcement to determine if further investigation is needed;
- share records and evidence with federal, state, and local law enforcement agencies and enter into interagency agreements;
- conduct investigations outside of Washington;
- designate officials outside of Washington to inspect information outside of the state;
- administer oaths, subpoena witnesses, and require the production of materials;
- report incidents of alleged insurance fraud to the appropriate prosecutorial authority and to any other appropriate law enforcement, administrative, regulatory, or licensing agency; and
- assemble evidence, prepare charges, and work with any prosecutorial authority that has the jurisdiction to prosecute insurance fraud.

In a criminal prosecution where the insurance company is a victim, a court may consider the insurer a victim for the purpose of ordering restitution as part of a criminal penalty.

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### **Summary of Bill:**

A new insurance fraud surcharge is created.

The surcharge will be paid by:

- all insurers with a certificate of authority to do business in this state;
- every health care service contractor;
- every health maintenance organization; and
- any self-funded multiple employer welfare arrangement program.

The fees collected may pay for the reasonable cost of administering the Program, including overhead costs. The surcharge collected from each organization is the cost of operating the

Program for the following fiscal year in a proportionate share based on the organization's receipts collected or received on business in the state during the previous calendar year; not to exceed one-eighth of 1 percent of receipts. The minimum fraud surcharge is \$100.

A new account, the Commissioner's Insurance Fraud Account (Account), is created at the State Treasury. All insurance fraud surcharge funds must be deposited in the Account. All unspent funds in the Account at the close of a fiscal year are carried forward to the next fiscal year and are used to reduce future insurance fraud surcharges.

Insurers may collect insurance fraud surcharges remitted in prior years by means of an annual policy holder surcharge.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2019.

**Staff Summary of Public Testimony:**

(In support) This bill allows for efficient management of the Criminal Investigation Unit (CIU) moving forward. Separate funding will increase the OIC's ability to go after bad actors in insurance fraud. It is important to have a dedicated line of funding. Separating out the funding for the CIU from the rest of the regulatory surcharges helps. The OIC will use the funds to increase staffing because current staff are unable to keep up with the demand for investigations. Many other states have created dedicated accounts. A dedicated account makes it more difficult to sweep funds away in the state budgeting process. Insurers like to know where the surcharges are going. In the future, adjustments to each account can be made specific to each need. The OIC plans to reduce fees for regulatory surcharges. Insurance fraud is not a victimless crime; it costs the average family through raised premiums. This is all funded by the insurance industry, not the taxpayers.

(Opposed) None.

**Persons Testifying:** Representative Stanford, prime sponsor; Lonnie Johns-Brown, Office of the Insurance Commissioner; Mel Sorensen, Property Casualty Insurers Association of America; and Dana MacDonald, National Insurance Crime Bureau.

**Persons Signed In To Testify But Not Testifying:** None.