

# SENATE BILL REPORT

## SB 5408

As of February 7, 2019

**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:** Senators Mullet, Das and Liias; by request of Insurance Commissioner.

**Brief History:**

**Committee Activity:** Financial Institutions, Economic Development & Trade: 1/24/19, 1/31/19.

### Brief Summary of Bill

- Creates the Insurance Fraud Account in the state treasury for depositing monies collected from the newly established insurance fraud surcharge.
- The insurance fraud surcharge is collected from insurers to support the annual cost of operating the Insurance Fraud Program.

## SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE

**Staff:** Clint McCarthy (786-7319)

**Background:** Under existing statute, the annual cost of operating the Office of the Insurance Commissioner (OIC) is determined by legislative appropriation. A pro rata share of the cost is charged to insurers as a regulatory surcharge. Each insurer must contribute a sufficient amount to the OIC regulatory account to pay reasonable costs, including overhead. The surcharge is calculated separately for each class of insurer. The regulatory surcharge must not exceed 0.125 percent of receipts and the minimum regulatory surcharge is \$1,000.

The Criminal Investigations Unit (CIU) is the criminal investigations arm of the OIC. The CIU's focus is criminal investigations and the prosecution of fraudulent activities against insurance companies. For insurance fraud, there is always an insurer involved as the victim of the alleged fraud, and typically the holder of critical evidence needed to evaluate and investigate the case. According to the last report by the OIC to the Legislature in 2017, the OIC opened 150 criminal cases in 2016.

*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.*

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The term "insurance fraud surcharge" is defined as the fees to cover the annual cost of operating the insurance fraud program. This surcharge is charged to all insurers. Each class of insurers must contribute a sufficient amount to the insurance commissioner's fraud account to pay reasonable costs of the program, including overhead. The amount collected from each insurer represents the insurer's portion of the receipts collected or received on business in this state during the previous calendar year. The surcharge must not exceed 0.125 percent of receipts, and the minimum insurance fraud surcharge is \$100.

The Insurance Fraud Account is created in the state treasury for depositing all monies collected from the insurance fraud surcharge. Unexpended funds from the insurance commissioner's Insurance Fraud Account are carried forward to the succeeding fiscal year to and are used to reduce insurance fraud surcharges.

The title and description is amended to accurately capture the name of the insurance fraud account. In addition, clarifying language is made that insurance fraud surcharges are not used in the calculation of taxes, licenses, fees, deposits or other obligations or prohibitions imposed on insurers.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2019.

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: The criminal investigations unit does a great job at investigating insurance crime. This proposal creates a transparent account to see how much money specifically goes to CIU. Many insurers have their own investigators and bring their cases to the CIU that helps reduce fraud.

**Persons Testifying:** PRO: Senator Mark Mullet, Prime Sponsor; Mel Sorensen, Property Casualty Insurers Association of America; Lonnie Johns-Brown, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** No one.