

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 251** SLS 12RS 162

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 1, 2012	8:47 AM	Author: MORRISH
Dept./Agy.: Attorney General, Insurance, Public Safety		
Subject: Creates the Louisiana Insurance Fraud Prevention Act		Analyst: Alan M. Boxberger

INSURANCE CLAIMS EG INCREASE SD EX See Note
Creates the Louisiana Insurance Fraud Prevention Act. (8/1/12)

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Proposed law designates the attorney general as the agent with the ability, authority, and resources to pursue civil monetary penalties, liquidated damages or other remedies to protect the integrity of the insurance industry from fraud; provides definitions; defines violations with respect to false or fraudulent claims or misrepresentation; provides for a set prescriptive period; authorizes certain civil actions in court; defines burden of proof with respect to proposed law; defines allowable civil monetary penalties; provides with respect to recovery; sets a civil fine not to exceed \$10,000 per violation, or an amount equal to three times the value of the illegal remuneration, whichever is greater; provides with respect to civil monetary penalties between \$5,000 and \$10,000 for each fraudulent action; provides with respect interest payments; provides with respect to liability for costs, expenses, fees and attorney fees; provides for waivers and extenuating circumstances; provides for deposit of monies collected less actual damages incurred; provides for civil investigative demands and investigative depositions; and provides for asset forfeiture.

EXPENDITURES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW					
Agy. Self-Gen.	SEE BELOW					
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						

REVENUES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						

EXPENDITURE EXPLANATION

The proposed law may result in a significant but indeterminable additional expenditure impact on the Office of the Attorney General (AG). It empowers the AG to pursue civil actions, including monetary penalties, liquidated damages or other remedies, in order to protect the integrity of the insurance industry from fraud. The AG indicates that the proposed law will require its Civil Insurance Fraud Collection Unit to investigate and file claims to recover civil monetary penalties and fines associated with fraudulent insurance claims. The unit will be responsible for recovering civil damages from investigation and through adjudication in a civil court.

The Legislative Fiscal Office is unable to corroborate any increased workload demands that may be necessary within the AG as a result of the proposed law. Adequate staff levels associated with the investigation and prosecution of insurance fraud could be subjective and vary depending upon the desired impact on fraud within the state. Increasing levels of staff will eventually lead to diminishing returns on the discovery and prosecution of insurance fraud. To accomplish insurance fraud prevention and prosecution as detailed in the proposed law, the AG indicates that it will require 7 additional T.O. positions, necessary and customary operational support expenses for those positions, and will incur investigative and litigation costs.

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REVENUE EXPLANATION

The proposed law would result in increased revenues for the Office of the Attorney General (AG) through reimbursement of attorney and investigative costs, as well as civil fines and penalties. The proposed law specifies that all monies collected, minus actual damages incurred in pursuing a judgment or conviction, shall be dedicated to and deposited 60% into the Insurance Fraud Investigation Fund and 40% shall be dedicated to the attorney general's office. The Legislative Fiscal Office assumes the 40% allocation to the AG shall be designated as SGR. The legislative fiscal office is unable to determine the magnitude of any potential revenue increases resulting from proposed law, as those amounts are speculative and impacted by the level of identified fraud, successful prosecution, judicial discretion, decrees to forfeit assets, and the ability to pay costs, fees and penalties by any person determined by judicial process to have committed insurance fraud as defined in the proposed law.

The proposed law states that any person found to have violated the provisions of the proposed law shall be liable for all costs, expenses and fees related to investigations and proceedings associated with the violation. As such, local courts will realize an indeterminate increase in court cost reimbursements associated with insurance fraud litigation resulting in an increase of local funds revenue.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>	<i>Evan Brasseaux</i>
<input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input checked="" type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	Evan Brasseaux Staff Director

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CONTINUED EXPLANATION from page one:

AG's anticipated Operating Budget Impact

<u>EXPENDITURES</u>	<u>FY 2012/13</u>	<u>FY 2013/14</u>	<u>FY 2014/15</u>	<u>FY 2015/16</u>	<u>FY 2016/17</u>
SALARIES	\$401,000	\$417,040	\$433,722	\$451,070	\$469,113
RELATED BENEFITS	\$177,813	\$184,926	\$192,323	\$200,015	\$208,016
TRAVEL	\$23,500	\$23,500	\$23,500	\$23,500	\$23,500
OPERATING SERVICES	\$76,000	\$76,000	\$76,000	\$76,000	\$76,000
SUPPLIES	\$67,500	\$67,500	\$67,500	\$67,500	\$67,500
OTHER CHARGES	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000
<u>ACQUISITIONS</u>	<u>\$79,300</u>	<u>\$21,000</u>	<u>\$21,000</u>	<u>\$21,000</u>	<u>\$21,000</u>
TOTAL	\$975,113	\$939,966	\$964,045	\$989,085	\$1,015,129
T.O.	7	7	7	7	7

The expenditure impact could potentially be approximately \$975,000 in the first fiscal year. The operating budget impact assumes the addition of seven (7) positions as noted on the previous page and adjusts personal services expenditures by 4% in each year after the first to account for the possibility of merit increases. The seven positions and anticipated first year salary are as follows:

Attorney (2)	\$65,000 each =	\$130,000
Administrative Assistant (2)	\$38,000 each =	\$76,000
Forensic Accountant (1)		\$95,000
Investigator (1)		\$55,000
Paralegal (1)		\$45,000

The travel category includes anticipated in-state travel expenses for the attorneys, forensic accountant, investigator and paralegal. The operating services category includes costs such as insurance premiums, rent, telephone service, copier rental, printing and postage. The supplies category provides for office supplies for seven employees and fuel costs. The other charges category includes expenditures for investigative and litigation expenses. The acquisitions category includes a one time expenditure of \$58,300 for purchase of office and computer equipment and one vehicle for the investigator position, as well as \$21,000 of recurring expenditures for law reference materials and other expenses.

The proposed law states that any person found to have violated the provisions of the proposed law shall be liable for all costs, expenses and fees related to investigations and proceedings associated with the violation. As such, local courts will realize an indeterminate increase in court cost reimbursements associated with insurance fraud litigation resulting in an increase of local funds and expenditures.

NOTE: The AG indicates there will be a time interval between enactment of the proposed law and realization of additional revenues generated through court proceedings. The AG further indicates that it can potentially utilize monies from the pending Mortgage Settlement Agreement to pay for expenditures in the first two fiscal years (agency SGR), and convert to monies generated as a result of the proposed law in subsequent fiscal years. To the degree that revenues generated from the Mortgage Settlement Agreement or through judgments and legal fee reimbursements are insufficient to cover the expenses of the Civil Insurance Fraud Collection Unit, state general fund support may be required. To the degree that those funds are sufficient to cover or partially cover expenses, the impact on state general fund may be mitigated or eliminated.

Senate

Dual Referral Rules

House

- | | |
|--|--|
| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input checked="" type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S} |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

Evan Brasseaux

Evan Brasseaux
Staff Director