SB43

69LN13Z-1

By Senator Kitchens

RFD: Judiciary

First Read: 06-Feb-24

SYNOPSIS:

Under existing law, various fraudulent activities by persons engaged in the transaction of the business of insurance constitute insurance fraud. The Department of Insurance is delegated the duty to enforce insurance fraud laws and to investigate violations. The statute of limitations on bringing a charge for a violation is two years after the fraud was detected.

This bill would increase the statute of limitations to seven years after the fraud was detected.

Also, under existing law, the Insurance Fraud Unit is established within the department to investigate alleged violations. Investigators of the Insurance Fraud Unit have the power vested in law enforcement officers including the power of arrest.

This bill would delete a limitation in existing law limiting the power of the investigators only to powers necessary for enforcement of this chapter.

A BILL

TO BE ENTITLED

AN ACT

Relating to insurance fraud and the Department of Insurance; to amend Section 27-12A-6 and Section 27-12A-40 of the Code of Alabama 1975, to increase the statute of limitations for prosecutions of insurance fraud after an alleged violation is detected and to further specify that investigators of the department would have the powers vested in law enforcement officers, including the power of arrest and service of process, for any violations of state law discovered during the course of an investigation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 27-12A-6 and Section 27-12A-40 of the Code of Alabama 1975, are amended to read as follows:

"§27-12A-6

(a) No prosecution may be commenced under this article more than ~~two~~ seven years after the alleged violation was detected.

(b) An individual who has been convicted of insurance fraud in the first degree or insurance fraud in the second degree shall be disqualified from engaging in the business of insurance in this state.

(c) A person may not willfully permit another person who has been convicted of insurance fraud in the first degree or insurance fraud in the second degree to transact in the business of insurance in this state.

(d) For the purposes of Article 4A of Chapter 18 of Title 15, insurance fraud shall be considered criminal activity."

"§27-12A-40

(a) There is ~~hereby~~ established within the department the Insurance Fraud Unit. The commissioner shall appoint the necessary full-time supervisory and investigative personnel of the unit who shall be qualified by training and experience to perform the duties of their positions. The commissioner shall furnish offices, equipment, operating expenses, and necessary personnel to maintain and operate the unit.

(b) The unit shall perform all of the following duties:

(1) Initiate independent inquiries and conduct independent investigations when the unit has cause to believe that any insurance fraud may be, is being, or has been, committed.

(2) Review reports or complaints of alleged insurance fraud from federal, state, and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and the public to determine whether the reports or complaints require further investigation and, if so, to conduct these investigations.

(3) Conduct independent examinations of alleged insurance fraud and undertake independent studies to determine the extent of insurance fraud.

(c) In performing its duties, the unit ~~shall have the powers to~~ may do all of the following:

(1) Inspect, copy, or collect records and evidence.

(2) Issue and serve subpoenas.

(3) Administer oaths and affirmations.

(4) Share records and evidence with federal, state, or local law enforcement and regulatory agencies.

(5) Execute arrest warrants for criminal violations of this chapter or other state laws.

(6) Arrest upon probable cause without warrant a person found in the act of violating or attempting to violate this chapter or other state laws.

(7) Make criminal referrals to the Attorney General.

(8) Conduct investigations outside of this state. If the information the unit seeks to obtain is located outside of this state, the person from whom the information is sought may make the information available to the unit to examine at the place where the information is located. The unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the unit, and the unit may respond to similar requests from officials of other states.

(d) Investigators of the unit shall have all the powers vested in law enforcement officers of the State of Alabama, including, but not limited to, the powers of arrest and the power to serve process~~, but only as necessary to enforce this chapter, and~~ for any violation of this chapter or any violation of other state laws discovered during the course of an investigation. The investigators shall perform the duties, responsibilities, and functions as may be required for the unit to carry out its duties and responsibilities ~~pursuant~~ to enforce this chapter. ~~No person shall~~An individual may not serve as investigator of the unit ~~who~~ unless he or she has ~~not~~ met the minimum standards established for law enforcement officers by the Alabama Peace Officers' Standards and Training

Commission, or other standards as may be provided ~~hereafter~~ by law.

(e) Information relating to criminal activity discovered in the course of an investigation by the unit shall be provided to the ~~Department of Public Safety~~ Alabama State Law Enforcement Agency."

Section 2. This act shall become effective on October 1, 2024.