

SENATE BILL NO. 36
INTRODUCED BY HOFMAN

IN THE SENATE

JANUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 9, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 10, 1989	PRINTING REPORT.
JANUARY 12, 1989	SECOND READING, DO PASS AS AMENDED.
JANUARY 13, 1989	ENGROSSING REPORT.
JANUARY 14, 1989	THIRD READING, PASSED. AYES, 46; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 83; NOES, 8.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 36
2 INTRODUCED BY HOFMAN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE
5 INSURANCE DEPARTMENT AS A CRIMINAL JUSTICE AGENCY; PROVIDING
6 IMMUNITY FROM SUIT FOR PERSONS CONDUCTING AN OFFICIAL
7 INVESTIGATION OF ALLEGED INSURANCE OR REINSURANCE FRAUD AND
8 PERSONS DISSEMINATING INFORMATION RELATED TO THE
9 INVESTIGATION; AMENDING SECTION 33-1-311, MCA; AND PROVIDING
10 AN IMMEDIATE EFFECTIVE DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 33-1-311, MCA, is amended to read:14 "33-1-311. General powers and duties. (1) The
15 commissioner shall enforce the provisions of this code and
16 shall execute the duties imposed upon him by this code.17 (2) The commissioner shall have the powers and
18 authority expressly conferred upon him by or reasonably
19 implied from the provisions of this code.20 (3) The commissioner may conduct such examinations and
21 investigations of insurance matters, in addition to
22 examinations and investigations expressly authorized, as he
23 may deem proper to determine whether any person has violated
24 any provision of this code or to secure information useful
25 in the lawful administration of any such provision. The1 cost of such additional examinations and investigations
2 shall be borne by the state.3 (4) The commissioner shall have such additional powers
4 and duties as may be provided by other laws of this state.5 (5) The department is a criminal justice agency as
6 defined in 44-5-103."7 **Section 2. Fraud -- investigation and report --**
8 immunity. (1) A person or his employee or agent, if he acts
9 without malice, is immune from suit for acts or omissions
10 associated with furnishing to the commissioner, under the
11 requirements of law or at the direction of the commissioner,
12 reports or other information relating to any known or
13 suspected fraudulent insurance or reinsurance transaction.14 (2) The commissioner or an employee, agent, or
15 designee of the commissioner, if he acts without malice, is
16 immune from suit for damages arising from his lawful
17 discharge of an official duty associated with an
18 investigation of an allegedly fraudulent insurance or
19 reinsurance transaction or the publication or dissemination
20 of an official report related to an official investigation
21 of insurance or reinsurance fraud.22 **Section 3. Extension of authority.** Any existing
23 authority to make rules on the subject of the provisions of
24 [this act] is extended to the provisions of [this act].25 **Section 4. Codification instruction.** [Section 2] is

LC 0303/01

1 intended to be codified as an integral part of Title 33,
2 chapter 1, part 3, and the provisions of Title 33, chapter
3 1, part 3, apply to [section 2].

4 **Section 5. Two-thirds vote required.** Since [section 2]
5 limits governmental liability, Article II, section 18, of
6 the Montana constitution requires a vote of two-thirds of
7 the members of each house for passage.

8 **Section 6. Effective date.** [This act] is effective on
9 passage and approval.

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

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19 implied from the provisions of this code.
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21 investigations of insurance matters, in addition to
22 examinations and investigations expressly authorized, as he
23 may deem proper to determine whether any person has violated
24 any provision of this code or to secure information useful
25 in the lawful administration of any such provision. The

1 cost of such additional examinations and investigations
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4 and duties as may be provided by other laws of this state.

5 (5) The department is a criminal justice agency as
6 defined in 44-5-103."

7 **Section 2. Fraud -- investigation and report --**
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9 without malice, is immune from suit for acts or omissions
10 associated with furnishing to the commissioner, under the
11 requirements of law or at the direction of the commissioner,
12 reports or other information relating to any known or
13 suspected fraudulent insurance or reinsurance transaction.

14 (2) The commissioner or an employee, agent, or
15 designee of the commissioner, if he acts without malice, is
16 immune from suit for damages arising from his lawful
17 discharge of an official duty associated with an
18 investigation of an allegedly fraudulent insurance or
19 reinsurance transaction or the publication or dissemination
20 of an official report related to an official investigation
21 of insurance or reinsurance fraud.

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24 [this act] is extended to the provisions of [this act].

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-311, MCA, is amended to read:

"33-1-311. General powers and duties. (1) The commissioner shall enforce the provisions of this code and shall execute the duties imposed upon him by this code.

(2) The commissioner shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(3) The commissioner may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The

cost of such additional examinations and investigations shall be borne by the state.

(4) The commissioner shall have such additional powers and duties as may be provided by other laws of this state.

(5) The department is a criminal justice agency as defined in 44-5-103."

NEW SECTION. Section 2. ~~Fraud investigation and report--immunity--(1)--A person or his employee or agent, if he acts without malice, is immune from suit for acts or omissions associated with furnishing to the commissioner, under the requirements of law or at the direction of the commissioner, reports or other information relating to any known or suspected fraudulent insurance or reinsurance transaction;~~

~~(2)--The commissioner or an employee, agent, or designee of the commissioner, if he acts without malice, is immune from suit for damages arising from his lawful discharge of an official duty associated with an investigation of an allegedly fraudulent insurance or reinsurance transaction or the publication or dissemination of an official report related to an official investigation of insurance or reinsurance fraud;~~

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

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{this act}.

~~NEW SECTION. Section 4. Codification. Instruction.~~
~~{Section 2} is intended to be codified as an integral part~~
~~of Title 33, chapter 1, part 3, and the provisions of Title~~
~~33, chapter 1, part 3, apply to {section 2}.~~

~~NEW SECTION. Section 5. Two thirds vote required.~~
~~Since {section 2} limits governmental liability, Article II,~~
~~section 18, of the Montana constitution requires a vote of~~
~~two thirds of the members of each house for passage.~~

NEW SECTION. Section 3. Effective date. [This act] is
effective on passage and approval.

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(4) The commissioner shall have such additional powers and duties as may be provided by other laws of this state.

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NEW SECTION. **Section 2.** ~~Fraud~~ ~~investigation~~ and report ~~immunity~~ ~~(1) A person or his employee or agent, if he acts without malice, is immune from suit for acts or omissions associated with furnishing to the commissioner, under the requirements of law or at the direction of the commissioner, reports or other information relating to any known or suspected fraudulent insurance or reinsurance transaction.~~

~~(2) The commissioner or an employee, agent, or designee of the commissioner, if he acts without malice, is immune from suit for damages arising from his lawful discharge of an official duty associated with an investigation of an allegedly fraudulent insurance or reinsurance transaction or the publication or dissemination of an official report related to an official investigation of insurance or reinsurance fraud.~~

NEW SECTION. **Section 2.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

~~NEW SECTION. Section 4. Codification instruction.~~
~~{Section 2} is intended to be codified as an integral part~~
~~of Title 33, chapter 17, part 3, and the provisions of Title~~
~~33, chapter 17, part 3, apply to {section 2}.~~

~~NEW SECTION. Section 5. Two thirds vote required.~~
~~Since {section 2} limits governmental liability, Article II,~~
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