

Senate BILL NO. 270

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INTRODUCED BY BENEDICT

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING INSURANCE FRAUD TO COVER AN ACT OF ACTUAL FRAUD OR CONSTRUCTIVE FRAUD BY AN INSURER OR PURPORTED INSURER AGAINST AN INSURED OR PROSPECTIVE INSURED; AND AMENDING SECTION 33-1-1202, MCA."

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

Section 1. Section 33-1-1202, MCA, is amended to read:

"33-1-1202. Insurance fraud. (1) A person commits the act of insurance fraud when the person:

~~(1)(a)~~ for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer, purported insurer, broker, or agent any written or oral statement, including computer-generated documents, containing false, incomplete, or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy;

~~(2)(b)~~ assists, abets, solicits, or conspires with another to prepare or make any written or oral statement containing false, incomplete, or misleading information concerning any fact that is intended to be presented to any insurer or purported insurer or in connection with, material to, or in support of any claim for payment or other benefit pursuant to an insurance policy or contract;

~~(3)(c)~~ presents or causes to be presented to or by an insurer, purported insurer, broker, or agent a materially false or altered application of insurance;

~~(4)(d)~~ accepts premium money knowing that coverage will not be provided;

~~(5)(e)~~ as a health care provider, submits a false or altered bill or report of physical condition to an insurer; or

~~(6)(f)~~ offers or accepts a direct or indirect inducement to file a false statement of claim with the intent of deceiving an insurer.

(2) An insurer, purported insurer, broker, or agent commits the act of insurance fraud by committing actual fraud, as defined in 28-2-405, or constructive fraud, as defined in 28-2-406, against an insured or prospective insured."

-END-

1 SENATE BILL NO. 270

2 INTRODUCED BY BENEDICT

3
4 A BILL FOR AN ACT ENTITLED: "~~AN ACT EXPANDING INSURANCE FRAUD TO COVER AN ACT OF~~
5 ~~ACTUAL FRAUD OR CONSTRUCTIVE FRAUD BY AN INSURER OR PURPORTED INSURER AGAINST AN~~
6 ~~INSURED OR PROSPECTIVE INSURED; AND AMENDING SECTION 33-1-1202, MCA. CLARIFYING AND~~
7 EXPANDING INSURANCE AND SECURITIES FRAUD; CREATING AN INSURANCE AND SECURITIES
8 EDUCATION AND PREVENTION PROGRAM; REQUIRING DISCLOSURE OF SUSPECTED INSURANCE AND
9 SECURITIES FRAUD TO THE COMMISSIONER OF INSURANCE AND COMMISSIONER OF SECURITIES;
10 CLARIFYING THE OFFENSE OF THEFT; AND PROVIDING PENALTIES FOR INSURANCE AND SECURITIES
11 FRAUD."

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

14 (Refer to Introduced Bill)

15 Strike everything after the enacting clause and insert:

16
17 NEW SECTION. Section 1. Insurance and securities fraud education program. The commissioner
18 may:

19 (1) establish an education and prevention program for those people who are affected by insurance
20 or securities fraud; and

21 (2) conduct investigations of insurance and securities fraud.

22
23 NEW SECTION. Section 2. Insurance fraud. (1) A person commits the act of insurance fraud when
24 in the course of offering or selling insurance, the person misrepresents a material fact, known to the person
25 to be untrue or made with reckless indifference as to whether it is true, with the intention of causing
26 another person to rely upon the misrepresentation to that relying person's detriment.

27 (2) The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose the
28 penalties provided for in 33-1-317 for a violation of this section. Failure to pay a fine under this section
29 results in a lien upon the assets and property of the person as provided in 33-1-318(3).

30 (3) In addition to any penalty provided for in 33-1-317, the commissioner may require a person who

1 commits insurance fraud to make full restitution to the victim for all financial losses sustained as a result
2 of the fraud with interest of 10% a year from the date of the fraud plus any costs and reasonable attorney
3 fees, less the amount of any income or refund received by the victim from the insurance.

4 (4) The commissioner may require a person who commits insurance fraud to make full restitution
5 to any insurer, purported insurer, or insurance producer who may have sustained any losses as a result of
6 the fraud with interest of 10% a year from the date of the loss plus any costs and reasonable attorney fees.

7 (5) An insurer, insurance producer, or other person who sustained any losses and who was awarded
8 restitution may, in addition to the commissioner, bring suit to recover those sums, including any attorney
9 fees, interest at 10% a year, and costs incurred in obtaining a judgment.

10 (6) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
11 right to do business in this state.

12 (7) A person who purposely or knowingly is involved in the misappropriation or theft of insurance
13 premiums or proceeds commits the offense of theft and is punishable as provided in 45-6-301, and the
14 commissioner may refer evidence concerning the violation to the attorney general or other appropriate
15 prosecuting attorney.

16
17 **NEW SECTION. Section 3. Reporting requirements.** (1) An insurer, insurance producer, or other
18 person who has reason to believe insurance fraud has occurred shall report the suspected fraud to the
19 commissioner or to the insurance producer's or other person's insurer within 60 days of discovery of the
20 occurrence. An insurer shall forward any reports from a producer or employee that it receives within 30
21 days of receipt.

22 (2) In the absence of malice, an insurer, insurance producer, or other person may not be subjected
23 to civil liability for reporting or providing information or otherwise cooperating with an investigation of
24 insurance fraud.

25
26 **NEW SECTION. Section 4. Securities restitution.** (1) The commissioner may, after conducting a
27 hearing pursuant to 30-10-305, require a person found to have committed a violation of 30-10-301 to
28 make restitution for all financial losses sustained by any person as a result of the violation. The
29 commissioner may further require a person found to have violated 30-10-301 to pay 10% annual interest
30 on the amount of restitution from the date of the violation, reasonable attorney fees, and costs associated

1 with bringing the administrative action.

2 (2) An amount required to be paid under this section is in addition to all other penalties imposed by
3 law. If a person fails to pay an amount referred to in this section, the amount required to be paid is a lien
4 upon all of the assets and property of the person in this state and may be recovered by suit by the
5 commissioner and remitted to the person ordered to receive restitution.

6 (3) The commissioner or a person awarded restitution may bring suit in a court of competent
7 jurisdiction to recover the sums awarded, attorney fees, and costs incurred in obtaining a judgment.

8 (4) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
9 right to do business in this state.

10

11 **NEW SECTION. Section 5. Reporting requirements.** (1) A broker-dealer, investment adviser,
12 investment adviser representative, or other person who has reason to believe fraud has occurred shall report
13 the suspected fraud to the commissioner within 60 days of discovery of the occurrence.

14 (2) In the absence of malice, a broker-dealer, investment adviser, investment adviser representative,
15 or other person may not be subjected to civil liability for reporting or providing information or otherwise
16 cooperating with an investigation of fraud under this chapter.

17

18 **NEW SECTION. Section 6. Codification instruction.** (1) [Sections 1 through 3] are intended to be
19 codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to
20 [sections 1 through 3].

21 (2) [Sections 4 and 5] are intended to be codified as an integral part of Title 30, chapter 10, part
22 3, and the provisions of Title 30, chapter 10, part 3, apply to [sections 4 and 5].

23

-END-

1 SENATE BILL NO. 270

2 INTRODUCED BY BENEDICT

3
 4 A BILL FOR AN ACT ENTITLED: "~~AN ACT EXPANDING INSURANCE FRAUD TO COVER AN ACT OF~~
 5 ~~ACTUAL FRAUD OR CONSTRUCTIVE FRAUD BY AN INSURER OR PURPORTED INSURER AGAINST AN~~
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 7 ~~EXPANDING INSURANCE AND SECURITIES FRAUD; CREATING AN INSURANCE AND SECURITIES~~
 8 ~~EDUCATION AND PREVENTION PROGRAM; REQUIRING DISCLOSURE OF SUSPECTED INSURANCE AND~~
 9 ~~SECURITIES FRAUD TO THE COMMISSIONER OF INSURANCE AND COMMISSIONER OF SECURITIES;~~
 10 ~~CLARIFYING THE OFFENSE OF THEFT; AND PROVIDING PENALTIES FOR INSURANCE AND SECURITIES~~
 11 ~~FRAUD.~~"

12

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

14

(Refer to Introduced Bill)

15

Strike everything after the enacting clause and insert:

16

17 NEW SECTION. Section 1. Insurance and securities fraud education program. The commissioner
 18 may:

19 (1) establish an education and prevention program for those people who are affected by insurance
 20 or securities fraud; and

21 (2) conduct investigations of insurance and securities fraud.

22

23 NEW SECTION. Section 2. Insurance fraud. (1) A person commits the act of insurance fraud when
 24 in the course of offering or selling insurance, the person misrepresents a material fact, known to the person
 25 to be untrue or made with reckless indifference as to whether it is true, with the intention of causing
 26 another person to rely upon the misrepresentation to that relying person's detriment.

27 (2) The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose the
 28 penalties provided for in 33-1-317 for a violation of this section. Failure to pay a fine under this section
 29 results in a lien upon the assets and property of the person as provided in 33-1-318(3).

30 (3) In addition to any penalty provided for in 33-1-317, the commissioner may require a person who

THIRD READING

1 commits insurance fraud to make full restitution to the victim for all financial losses sustained as a result
2 of the fraud with interest of 10% a year from the date of the fraud plus any costs and reasonable attorney
3 fees, less the amount of any income or refund received by the victim from the insurance.

4 (4) The commissioner may require a person who commits insurance fraud to make full restitution
5 to any insurer, purported insurer, or insurance producer who may have sustained any losses as a result of
6 the fraud with interest of 10% a year from the date of the loss plus any costs and reasonable attorney fees.

7 (5) An insurer, insurance producer, or other person who sustained any losses and who was awarded
8 restitution may, in addition to the commissioner, bring suit to recover those sums, including any attorney
9 fees, interest at 10% a year, and costs incurred in obtaining a judgment.

10 (6) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
11 right to do business in this state.

12 (7) A person who purposely or knowingly is involved in the misappropriation or theft of insurance
13 premiums or proceeds commits the offense of theft and is punishable as provided in 45-6-301, and the
14 commissioner may refer evidence concerning the violation to the attorney general or other appropriate
15 prosecuting attorney.

16
17 **NEW SECTION. Section 3. Reporting requirements.** (1) An insurer, insurance producer, or other
18 person who has reason to believe insurance fraud has occurred shall report the suspected fraud to the
19 commissioner or to the insurance producer's or other person's insurer within 60 days of discovery of the
20 occurrence. An insurer shall forward any reports from a producer or employee that it receives within 30
21 days of receipt.

22 (2) In the absence of malice, an insurer, insurance producer, or other person may not be subjected
23 to civil liability for reporting or providing information or otherwise cooperating with an investigation of
24 insurance fraud.

25
26 **NEW SECTION. Section 4. Securities restitution.** (1) The commissioner may, after conducting a
27 hearing pursuant to 30-10-305, require a person found to have committed a violation of 30-10-301 to
28 make restitution for all financial losses sustained by any person as a result of the violation. The
29 commissioner may further require a person found to have violated 30-10-301 to pay 10% annual interest
30 on the amount of restitution from the date of the violation, reasonable attorney fees, and costs associated

1 with bringing the administrative action.

2 (2) An amount required to be paid under this section is in addition to all other penalties imposed by
3 law. If a person fails to pay an amount referred to in this section, the amount required to be paid is a lien
4 upon all of the assets and property of the person in this state and may be recovered by suit by the
5 commissioner and remitted to the person ordered to receive restitution.

6 (3) The commissioner or a person awarded restitution may bring suit in a court of competent
7 jurisdiction to recover the sums awarded, attorney fees, and costs incurred in obtaining a judgment.

8 (4) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
9 right to do business in this state.

10

11 **NEW SECTION. Section 5. Reporting requirements.** (1) A broker-dealer, investment adviser,
12 investment adviser representative, or other person who has reason to believe fraud has occurred shall report
13 the suspected fraud to the commissioner within 60 days of discovery of the occurrence.

14 (2) In the absence of malice, a broker-dealer, investment adviser, investment adviser representative,
15 or other person may not be subjected to civil liability for reporting or providing information or otherwise
16 cooperating with an investigation of fraud under this chapter.

17

18 **NEW SECTION. Section 6. Codification instruction.** (1) [Sections 1 through 3] are intended to be
19 codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to
20 [sections 1 through 3].

21 (2) [Sections 4 and 5] are intended to be codified as an integral part of Title 30, chapter 10, part
22 3, and the provisions of Title 30, chapter 10, part 3, apply to [sections 4 and 5].

23

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0270, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying and expanding insurance and securities fraud.


ASSUMPTIONS:

1. Passage and approval of this bill will add workload to the State Auditor's Office (SAO) estimated to require an additional 1.00 FTE compliance specialist/investigator, grade 14, and associated operating expenses and start-up equipment.
2. The additional staff person will offer compliance, investigation, and education services to address insurance fraud investigations and securities fraud cases.
3. Section 33-1-317, MCA, provides for administrative fines of up to \$25,000 for insurance companies and \$5,000 for insurance producers per violation.
4. Section 30-10-305, MCA, provides for \$5,000 per violation in administrative fines for securities violations.
5. The combined enforcement collection deposited to the general fund, based on six administrative actions, one of which is estimated to be appealed to the fair hearing process, for both insurance and securities, and based on an average fine of \$3,500 for five of the administrative actions, will be \$17,500 per year (\$3,500 x 5).

FISCAL IMPACT:

State Auditor's Office:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	31,835	31,835
Operating Expenses	7,300	7,300
Equipment	<u>3,585</u>	<u>0</u>
Total	42,720	39,135
 <u>Funding:</u>		
General Fund (01)	42,720	39,135
 <u>Revenues:</u>		
General Fund (fines) (01)	17,500	17,500
 <u>Net Impact on Fund Balance:</u> (Revenues minus expenses)		
General Fund (01)	(25,220)	(21,635)


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

STEVE BENEDICT, PRIMARY SPONSOR DATE
Fiscal Note for SB0270, third reading

SB 270

SENATE BILL NO. 270

INTRODUCED BY BENEDICT

A BILL FOR AN ACT ENTITLED: "~~AN ACT EXPANDING INSURANCE FRAUD TO COVER AN ACT OF ACTUAL FRAUD OR CONSTRUCTIVE FRAUD BY AN INSURER OR PURPORTED INSURER AGAINST AN INSURED OR PROSPECTIVE INSURED; AND AMENDING SECTION 33-1-1202, MCA. CLARIFYING AND EXPANDING INSURANCE AND SECURITIES FRAUD; CREATING AN INSURANCE AND SECURITIES FRAUD EDUCATION AND PREVENTION PROGRAM; REQUIRING DISCLOSURE OF SUSPECTED INSURANCE AND SECURITIES FRAUD TO THE COMMISSIONER OF INSURANCE AND COMMISSIONER OF SECURITIES; CLARIFYING THE OFFENSE OF THEFT; AND PROVIDING PENALTIES FOR INSURANCE AND SECURITIES FRAUD.~~"

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Insurance and securities fraud education AND PREVENTION program.

The commissioner may:

- (1) establish an INSURANCE AND SECURITIES FRAUD education and prevention program ~~for these people who are affected by insurance or securities fraud;~~ and
- (2) conduct investigations of insurance and securities fraud.

NEW SECTION. Section 2. Insurance fraud. (1) A person commits the act of insurance fraud when in the course of offering or selling insurance, the person misrepresents a material fact, known to the person to be untrue or made with reckless indifference as to whether it is true, with the intention of causing another person to rely upon the misrepresentation to that relying person's detriment.

(2) The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of this section. Failure to pay a fine under this section results in a lien upon the assets and property of the person as provided in 33-1-318(3).

(3) In addition to any penalty provided for in 33-1-317, the commissioner may require a person

1 REGULATED UNDER THIS TITLE who commits insurance fraud to make full restitution to the victim for all
2 financial losses sustained as a result of the fraud with interest of 10% a year from the date of the fraud
3 plus any costs and reasonable attorney fees, less the amount of any income or refund received by the
4 victim from the insurance.

5 (4) The commissioner may require a person who commits insurance fraud to make full restitution
6 to any insurer, purported insurer, or insurance producer who may have sustained any losses as a result of
7 the fraud with interest of 10% a year from the date of the loss plus any costs and reasonable attorney fees.

8 (5) An insurer, insurance producer, or other person who sustained any losses and who was awarded
9 restitution may, ~~in addition to the commissioner,~~ bring suit to recover those sums, including any attorney
10 fees, interest at 10% a year, and costs incurred in obtaining a judgment.

11 (6) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
12 right to do business in this state.

13 (7) A person who purposely or knowingly is involved in the misappropriation or theft of insurance
14 premiums or proceeds commits the offense of theft and is punishable as provided in 45-6-301, and the
15 commissioner may refer evidence concerning the violation to the attorney general or other appropriate
16 prosecuting attorney.

17

18 NEW SECTION. Section 3. Reporting requirements. (1) An insurer, insurance producer, or other
19 person who has reason to believe insurance fraud has occurred shall report the suspected fraud to the
20 commissioner or to the insurance producer's or other person's insurer within 60 days of discovery of the
21 occurrence. An insurer shall forward TO THE COMMISSIONER any reports from a producer or employee
22 that it receives within 30 days of receipt.

23 (2) In the absence of malice, an insurer, insurance producer, or other person may not be subjected
24 to civil liability for reporting or providing information or otherwise cooperating with an investigation of
25 insurance fraud.

26

27 NEW SECTION. Section 4. Securities restitution. (1) The commissioner may, after conducting a
28 hearing pursuant to 30-10-305, require a person found to have committed a violation of 30-10-301 to
29 make restitution for all financial losses sustained by any person as a result of the violation. The
30 commissioner may further require a person found to have violated 30-10-301 to pay 10% annual interest

1 on the amount of restitution from the date of the violation, reasonable attorney fees, and costs associated
2 with bringing the administrative action.

3 (2) An amount required to be paid under this section is in addition to all other penalties imposed by
4 law. If a person fails to pay an amount referred to in this section, the amount required to be paid is a lien
5 upon all of the assets and property of the person in this state and may be recovered by suit by the
6 commissioner and remitted to the person ordered to receive restitution.

7 (3) The commissioner or a person awarded restitution may bring suit in a court of competent
8 jurisdiction to recover the sums awarded, attorney fees, and costs incurred in obtaining a judgment.

9 (4) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
10 right to do business in this state.

11

12 **NEW SECTION. Section 5. Reporting requirements.** (1) A broker-dealer, investment adviser,
13 investment adviser representative, or other person who has reason to believe fraud has occurred shall report
14 the suspected fraud to the commissioner within 60 days of discovery of the occurrence.

15 (2) In the absence of malice, a broker-dealer, investment adviser, investment adviser representative,
16 or other person may not be subjected to civil liability for reporting or providing information or otherwise
17 cooperating with an investigation of fraud under this chapter.

18

19 **NEW SECTION. Section 6. Codification instruction.** (1) [Sections 1 through 3] are intended to be
20 codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to
21 [sections 1 through 3].

22 (2) [Sections 4 and 5] are intended to be codified as an integral part of Title 30, chapter 10, part
23 3, and the provisions of Title 30, chapter 10, part 3, apply to [sections 4 and 5].

24

-END-

SENATE BILL NO. 270

INTRODUCED BY BENEDICT

A BILL FOR AN ACT ENTITLED: "AN ACT ~~EXPANDING INSURANCE FRAUD TO COVER AN ACT OF ACTUAL FRAUD OR CONSTRUCTIVE FRAUD BY AN INSURER OR PURPORTED INSURER AGAINST AN INSURED OR PROSPECTIVE INSURED; AND AMENDING SECTION 33-1-1202, MCA. CLARIFYING AND EXPANDING INSURANCE AND SECURITIES FRAUD; CREATING AN INSURANCE AND SECURITIES FRAUD EDUCATION AND PREVENTION PROGRAM; REQUIRING DISCLOSURE OF SUSPECTED INSURANCE AND SECURITIES FRAUD TO THE COMMISSIONER OF INSURANCE AND COMMISSIONER OF SECURITIES; CLARIFYING THE OFFENSE OF THEFT; AND PROVIDING PENALTIES FOR INSURANCE AND SECURITIES FRAUD.~~"

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(2) The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of this section. Failure to pay a fine under this section results in a lien upon the assets and property of the person as provided in 33-1-318(3).

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 2 financial losses sustained as a result of the fraud with interest of 10% a year from the date of the fraud
 3 plus any costs and reasonable attorney fees, less the amount of any income or refund received by the
 4 victim from the insurance.

5 (4) The commissioner may require a person who commits insurance fraud to make full restitution
 6 to any insurer, purported insurer, or insurance producer who may have sustained any losses as a result of
 7 the fraud with interest of 10% a year from the date of the loss plus any costs and reasonable attorney fees.

8 (5) An insurer, insurance producer, or other person who sustained any losses and who was awarded
 9 restitution may, ~~in addition to the commissioner,~~ bring suit to recover those sums, including any attorney
 10 fees, interest at 10% a year, and costs incurred in obtaining a judgment.

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 12 right to do business in this state.

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 19 person who has reason to believe insurance fraud has occurred shall report the suspected fraud to the
 20 commissioner or to the insurance producer's or other person's insurer within 60 days of discovery of the
 21 occurrence. An insurer shall ~~forward TO THE COMMISSIONER any reports from a producer or employee~~
 22 ~~that it receives~~ REVIEW A REPORT GIVEN TO THE INSURER, AND IF THE INSURER DETERMINES THAT
 23 THERE IS A REASONABLE LIKELIHOOD THAT FRAUD HAS OCCURRED THE INSURER SHALL FORWARD
 24 THE REPORT TO THE COMMISSIONER within 30 days of receipt.

25 (2) In the absence of malice, an insurer, insurance producer, or other person may not be subjected
 26 to civil liability for reporting or providing information or otherwise cooperating with an investigation of
 27 insurance fraud.

28

29 NEW SECTION. Section 4. Securities restitution. (1) The commissioner may, after conducting a
 30 hearing pursuant to 30-10-305, require a person found to have committed a violation of 30-10-301 to

1 make restitution for all financial losses sustained by any person as a result of the violation. The
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3 on the amount of restitution from the date of the violation, reasonable attorney fees, and costs associated
4 with bringing the administrative action.

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6 law. If a person fails to pay an amount referred to in this section, the amount required to be paid is a lien
7 upon all of the assets and property of the person in this state and may be recovered by suit by the
8 commissioner and remitted to the person ordered to receive restitution.

9 (3) The commissioner or a person awarded restitution may bring suit in a court of competent
10 jurisdiction to recover the sums awarded, attorney fees, and costs incurred in obtaining a judgment.

11 (4) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the
12 right to do business in this state.

13

14 **NEW SECTION. Section 5. Reporting requirements.** (1) A broker-dealer, investment adviser,
15 investment adviser representative, or other person who has reason to believe fraud has occurred shall report
16 the suspected fraud to the commissioner within 60 days of discovery of the occurrence.

17 (2) In the absence of malice, a broker-dealer, investment adviser, investment adviser representative,
18 or other person may not be subjected to civil liability for reporting or providing information or otherwise
19 cooperating with an investigation of fraud under this chapter.

20

21 **NEW SECTION. Section 6. Codification instruction.** (1) [Sections 1 through 3] are intended to be
22 codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to
23 [sections 1 through 3].

24 (2) [Sections 4 and 5] are intended to be codified as an integral part of Title 30, chapter 10, part
25 3, and the provisions of Title 30, chapter 10, part 3, apply to [sections 4 and 5].

26

-END-