

## **Legislature Rushes to Consider Bills as Deadline Approaches**

The first major deadline for the consideration of bills during the 2006 legislative session arrives on Friday, February 3. Although over 1600 bills have been introduced in the first three weeks of the session, only those that have been approved by House or Senate committees by the deadline will continue to be considered this year. Committees are scrambling to establish priorities, and hundreds of bills will be left behind simply because there is not time for them to be included on a hearing agenda. With only a little more than five weeks remaining in the 2006 legislative session, priorities are being sorted out.

## **OIC Outlines Changes in Insurance Fraud Proposal to Address Media and Plaintiff Lawyer Concerns**

On Thursday, January 26 the Office of the Insurance Commissioner circulated proposed amendments to the OIC's fraud bill that have been negotiated with plaintiff lawyers and media representatives. For insurers, a key change would add an additional consumer representative to the advisory board established by the bill—resulting in a minority position for insurers on the board. The amendments also address public disclosure issues raised by the Allied Daily Newspapers of Washington. Insurance industry representatives previously spoke on behalf of the proposal when it was considered by legislative committees in the House and Senate. The new amendments are now under review as House and Senate Committees prepare to take action before the February 3 cut-off. The companion bills (HB 2482 and SB 6234) would establish a new insurance fraud unit within the Office of the Insurance Commissioner. The OIC has apparently resolved remaining issues raised by prosecutors.

The proposal would use existing surplus from the OIC's regulatory account to provide approximately \$1 million per year (\$2 million per biennium) for the program. The OIC has agreed to limit the size of the program to approximately eight staff members until 2010. The OIC will also provide funding for two new prosecuting attorneys—one located within the Office of the Attorney General, and one located within the Fraud Division of the King County Prosecuting Attorney. Additional funding will be made available for one officer to be placed within the Washington State Patrol. It is likely that House and Senate committees will take action on the measures this week.

## **Senate Committee to Consider Bill Creating Criminal Penalties for the Fraudulent Refusal of an Insurance Claim**

The Senate Financial Institutions, Housing and Consumer Protection Committee has scheduled a hearing to consider SB 6346—a measure that would establish felony penalties for a person in the business of insurance to knowingly present a false refusal of a claim. The hearing will be held on Wednesday, February 1 at 3:30 p.m. The bill would add the provision to an existing statute that imposes felony penalties on individuals who submit false claims for payment. Insurers plan to oppose the measure—arguing that it is inappropriate to attach such language to an insurance

fraud statute, and that the OIC maintains significant regulatory authority to assure that claims are appropriately handled.

**Legislative Staff Search for Options to Avoid Retaliatory Tax Impacts Associated with Surcharges on Property and Casualty Policies Proposed in Emergency Management Preparedness Bill**

Legislative staff, together with staff from the Office of the Insurance Commissioner, are looking for ways to allow new surcharges on property and casualty policies to become effective without resulting in retaliatory tax impacts on domestic insurers. Last week, the PCI, together with other industry representatives, presented testimony in opposition to provisions in SB 6433 that would impose new surcharges on property and casualty policies to fund a new emergency management preparedness program. The bill proposes new annual surcharges on certain property and casualty policies: \$4 per year on each commercial fire, commercial multiple peril, and business owner's property insurance policy; and \$2 per year on every homeowner's, mobile homeowner's, tenant homeowner's, and condominium unit owner's insurance policy. Insurance representatives indicated that the surcharges would likely expose domestic insurers to retaliatory tax treatment in other states. Legislative and OIC staff are currently reviewing language included in similar legislation that has been enacted in Florida to determine if Florida was able to impose surcharges without imposing retaliatory tax treatment on its domestic insurers who do business in other states.

**Hearing Scheduled for Bill Imposing New Annual Surcharges on Motor Vehicle Insurance Policies**

The Senate Transportation Committee has scheduled a hearing to consider SB 6726—a measure that would impose a fee of \$1 per year on each motor vehicle insurance policy. The measure will be heard on Thursday, February 2 at 1:30 p.m. Two thirds of the funds generated would be used by the State Highway Patrol for additional emphasis patrols in certain high risk corridors. The remaining funds would be placed in a highway safety fund to assist counties with emphasis patrol programs. Concern has been raised that the proposal would expose domestic insurers to retaliatory tax treatment in other states.

**House Committee Considers Bill Prohibiting Insurers from Holding an Ownership Interest in Auto Repair Facilities**

On Tuesday, January 24, the House Financial Institutions and Insurance Committee held a hearing to consider HB 2050—a measure that would prohibit insurers from holding a financial interest in auto repair facilities. A similar measure was considered by the committee in 2005, but it was never brought to a vote. As expected, the Washington Autobody Craftsmen Association spoke in favor of the proposal. Insurance representatives opposed the measure, arguing that there is no justification for restricting competition with respect to auto repair. Washington's anti-steering law allows individuals free choice in selecting where to have repairs completed. This would remain true with respect to repair facilities that are owned by an insurer, although there has been no information presented demonstrating that any insurer has an ownership interest in an auto repair facility in the state. Questions advanced by legislators during the hearing

suggest that the measure does not enjoy sufficient support to pass out of committee, but the measure will be available for action until the February 3 cut-off.

### **Bill Eliminating the Statute of Repose in Residential Construction Stalled on House Floor**

An effort to advance a controversial construction measure for consideration on the House floor appears to have stalled due to heavy opposition from insurers and the construction industry. The bill is SHB 2004—a measure that started out last year as a proposal to extend the residential construction statute of repose from 6 to 15 years, and was later amended in the House Judiciary Committee to simply eliminate the statute of repose for residential construction. The measure was killed last year when it was not brought to a vote prior to the end of session. The bill was strongly opposed by homebuilders, insurers, and general contractors.

The measure was revived last week when a draft amendment was quietly prepared by Rep. Dennis Flannigan (D, Tacoma) and Rep. Rep. Judy Clibborn (D, Mercer Island), and the bill was moved to the House floor possible consideration. The amendment would increase the statute of repose from 6 to 12 years. Under the amendment, however, it appears that the statute of repose would not run until the time of discovery of the defect, which would arguably leave contractors without any timeframe for being free of construction defect claims. Swift opposition from contractors and insurers appears to have brought the measure to a halt.