

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 103

Short Title: Insurance Fraud.

(Public)

Sponsors: Representatives Brawley; Buchanan, Shubert, Gardner, Justus, and J. Brown.

Referred to: Insurance.

February 2, 1995

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE INSURANCE FRAUD LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-2-161 reads as rewritten:

"§ 58-2-161. False statement to procure benefit of insurance policy or certificate.

(a) For the purposes of this ~~section~~ section:

(1) ~~'insurer'~~ 'Insurer' includes an entity under Articles 65 through 67 of this Chapter and includes the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General Statutes.

(2) 'Statement' includes any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X rays, test result, or other evidence of loss, injury, or expense.

(b) ~~Any person who willfully and knowingly presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, to an insurer for the payment of a loss or other benefits under any insurance policy, certificate, or coverage; or prepares, makes, or subscribes to a false or fraudulent account, certificate, affidavit, proof of loss, or other documents or writing, to an insurer, with the intent that the same may be presented or used in support of such claim, shall be guilty of a felony and, upon~~

1 ~~conviction, shall be punished as a Class I felon. who, with the intent to injure, defraud, or~~
2 ~~deceive an insurer~~

3 (1) Presents or causes to be presented to any insurer a written or oral
4 statement, including computer-generated documents as part of, or in
5 support of, a claim for payment or other benefit pursuant to an insurance
6 policy, knowing that the statement contains false, incomplete, or
7 misleading information concerning any fact or matter material to the
8 claim, or

9 (2) Assists, abets, solicits, or conspires with another to prepare or make any
10 written or oral statement that is intended to be presented to an insurer in
11 connection with, or in support of, a claim for payment or other benefit
12 pursuant to an insurance policy, knowing that the statement contains
13 false, incomplete, or misleading information concerning a fact or matter
14 material to the claim

15 is guilty of a Class I felony. Each claim shall be considered a separate count. Upon
16 conviction, the court shall order the defendant to pay restitution as a condition of
17 probation or parole. Restitution shall include reasonable costs and attorneys' fees
18 incurred by the insurer in the investigation of, and efforts to recover damages arising
19 from, the claim.

20 In a civil cause of action of recovery based upon a claim for which a defendant has
21 been convicted under this section, the defendant shall be estopped from denying elements
22 of the violations for which the defendant was convicted. If the insurer prevails in the
23 civil action, the court may award the insurer its damages, attorneys' fees, costs, and
24 reasonable investigative costs. If the insurer can demonstrate to the court that the
25 defendant has engaged in a pattern of violations of this section, the court may award the
26 insurer treble damages."

27 Sec. 2. This act becomes effective October 1, 1995, and applies to violations
28 occurring on or after that date.