

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 103
Committee Substitute Favorable 3/13/95

Short Title: Insurance Fraud.

(Public)

Sponsors:

Referred to:

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 or deny benefit of insurance policy or certificate.

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

(1) ~~'insurer'~~ 'Insurer' includes an entity under Articles 49 and 65 through 67 of this ~~Chapter and includes Chapter~~, the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General ~~Statutes. Statutes~~, and an employer or group of employers that insure its workers' compensation liability under Chapter 97 of the General Statutes.

(2) 'Statement' includes any application, 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~~

1 ~~payment of a loss or other benefits under any insurance policy, certificate, or coverage; or~~
2 ~~prepares, makes, or subscribes to a false or fraudulent account, certificate, affidavit, proof~~
3 ~~of loss, or other documents or writing, to an insurer, with the intent that the same may be~~
4 ~~presented or used in support of such claim, shall be guilty of a felony and, upon~~
5 ~~conviction, shall be punished as a Class I felon. who, with the intent to injure, defraud, or~~
6 ~~deceive an insurer or insurance claimant:~~

7 (1) Presents or causes to be presented a written or oral statement, including
8 computer-generated documents as part of, in support of, or in opposition
9 to, a claim for payment or other benefit pursuant to an insurance policy,
10 knowing that the statement contains false or misleading information
11 concerning any fact or matter material to the claim, or
12 (2) Assists, abets, solicits, or conspires with another person to prepare or
13 make any written or oral statement that is intended to be presented to an
14 insurer or insurance claimant in connection with, in support of, or in
15 opposition to, a claim for payment or other benefit pursuant to an
16 insurance policy, knowing that the statement contains false or
17 misleading information concerning a fact or matter material to the claim
18 is guilty of a Class H felony. Each claim shall be considered a separate count. Upon
19 conviction, if the court imposes probation, the court may order the defendant to pay
20 restitution as a condition of probation. In determination of the amount of restitution
21 pursuant to G.S. 15A-1343(d), the reasonable costs and attorneys' fees incurred by the
22 victim in the investigation of, and efforts to recover damages arising from, the claim, may
23 be considered part of the damage caused by the defendant arising out of the offense.

24 In a civil cause of action for recovery based upon a claim for which a defendant has
25 been convicted under this section, the conviction may be entered into evidence against
26 the defendant. The court may award the prevailing party compensatory damages,
27 attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can
28 demonstrate that the defendant has engaged in a pattern of violations of this section, the
29 court may award treble damages."

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