

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 17-1048

BY REPRESENTATIVE(S) Foote, Arndt, Ginal, Gray, Hooton, Lawrence, Lontine, Mitsch Bush, Duran; also SENATOR(S) Smallwood, Baumgardner, Cooke, Crowder, Gardner, Hill, Holbert, Kagan, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Priola, Scott, Sonnenberg, Tate, Todd, Williams A., Grantham.

CONCERNING THE PROSECUTION OF INSURANCE FRAUD.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-5-211, **amend** (1)(a), (1)(b), (1)(d), (1)(e), (2), (3), (6), and (7)(a) as follows:

18-5-211. Insurance fraud - definitions. (1) A person commits insurance fraud if the person does any of the following:

(a) With an intent to defraud presents or causes to be presented IN WRITTEN, VERBAL, OR DIGITAL FORM an application OR REQUEST for the issuance, MODIFICATION, or renewal of an insurance policy, which application OR REQUEST, or documentation in support of such application or ~~renewal~~ REQUEST, contains false material information or withholds material information that is requested by the insurer and results in the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

issuance of an insurance policy or insurance coverage for the applicant or another;

(b) With an intent to defraud presents or causes to be presented any INSURANCE claim, ~~for a loss or injury~~, which claim contains false material information or withholds material information;

(d) With an intent to defraud presents or causes to be presented ~~a~~ AN INSURANCE claim ~~for the payment of a loss~~ where the loss or damage claimed ~~preexisted the execution of~~ OCCURRED OUTSIDE OF THE PERIOD OF TIME THAT COVERAGE WAS IN EFFECT FOR the applicable contract of insurance OR POLICY unless otherwise permitted under the contract of insurance or policy; or

(e) With an intent to defraud presents or causes to be presented any written, ~~oral, or electronic~~ VERBAL, OR DIGITAL material or statement as part of, in support of or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the MATERIAL OR statement contains false material information or withholds material information.

(2) ~~An insurance producer or agent of an insurance producer~~ A PERSON commits insurance fraud if he or she knowingly moves, diverts, or misappropriates premium funds belonging to an insurer or unearned premium funds belonging to an insured or applicant for insurance from a producer's trust or other account without the authorization of the owner of the funds or other lawful justification.

(3) ~~An insurance producer or agent of an insurance producer~~ A PERSON commits insurance fraud if he or she with an intent to defraud ~~creates, utters, or MAKES, ALTERS, presents, OR CAUSES TO BE PRESENTED~~ a certificate or ~~any~~ other evidence of THE EXISTENCE OF insurance ~~containing~~ IN ANY FORM THAT CONTAINS false MATERIAL information ~~to any person or entity~~ OR OMITS MATERIAL INFORMATION.

(6) ~~Nothing in this section precludes a prosecutor from prosecuting any other offense~~ NO PROVISION OF THIS ARTICLE 5 MAY BE INTERPRETED TO SUPERSEDE, LIMIT, ABROGATE, OR IMPAIR THE ABILITY OF THE PROSECUTING AUTHORITY TO CONCURRENTLY BRING CHARGES FOR ANY OTHER STATE CRIMINAL OFFENSE THAT IS OTHERWISE APPLICABLE IN ADDITION TO ANY OFFENSES DESCRIBED BY THIS SECTION.

(7) (a) "Claim" means a demand for money, property, or services pursuant to a contract of insurance as well as any documentation in support of such claim whether submitted contemporaneously with the claim or at a different time. A claim and any supporting information may be in written, ~~oral, electronic, VERBAL~~, or digital form.

SECTION 2. In Colorado Revised Statutes, 16-5-401, **amend** (4.5)(v) and (4.5)(w); and **add** (4.5)(x) as follows:

16-5-401. Limitation for commencing criminal proceedings and juvenile delinquency proceedings. (4.5) The period within which a prosecution must be commenced begins to run upon discovery of the criminal act or the delinquent act for:

(v) Criminal offenses relating to savings and loan associations, pursuant to section 11-41-127; ~~C.R.S.~~; and

(w) Criminal offenses relating to securities fraud, pursuant to part 5 of article 51 of title 11; ~~C.R.S.~~ AND

(x) INSURANCE FRAUD, PURSUANT TO SECTION 18-5-211.

SECTION 3. In Colorado Revised Statutes, 10-4-1005, **amend** (1), (2), and (3) as follows:

10-4-1005. Immunity. (1) In the case of actions taken under this part 10, and except where information is furnished with knowledge that the information is false or with reckless disregard for its truth or falsity, there ~~shall~~ **MAY** be no civil penalty or damages on the part of, and no claim for relief ~~shall~~ **MAY** be brought against, any person, insurer, or authorized agency OR SECONDARY AGENCY for furnishing information or taking other action pursuant to the provisions of this part 10.

(2) Every person, insurer, and authorized agency ~~shall be~~ AND SECONDARY AGENCY IS immune from civil liability when acting in good faith to cooperate with, furnish evidence to or on behalf of, provide information to, or solicit or receive information from, any of the following with regard to an actual or suspected fraudulent insurance act:

(a) An agency of the federal or any state, county, or municipal

government that is involved in the detection, prosecution, or prevention of arson or insurance fraud;

(a.5) ANY SECONDARY AGENCY;

(b) Any employee or agent of an agency listed in ~~paragraph (a) of this subsection~~ (2) SUBSECTION (2)(a) OR (2)(a.5) OF THIS SECTION; and

(c) Another insurer, if acting in accordance with section 10-4-1003 (8)(c) solely for the purpose of detecting, investigating, preventing, or prosecuting an actual or suspected fraudulent insurance act. Information so provided ~~shall~~ MAY not be used for underwriting or rating purposes except in connection with an application or policy under which a fraudulent insurance act was committed.

(3) Every person, insurer, and authorized agency ~~shall be~~ AND SECONDARY AGENCY IS immune from civil liability when acting in good faith to comply with a court order to provide evidence or testimony with regard to an actual or suspected fraudulent insurance act; except that such immunity ~~shall~~ DOES not apply to a person or insurer that has committed, or has conspired in or aided and abetted the commission of, such fraudulent insurance act.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO