

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0453.01 Richard Sweetman x4333

HOUSE BILL 17-1048

HOUSE SPONSORSHIP

Foote,

SENATE SPONSORSHIP

Smallwood,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING THE PROSECUTION OF INSURANCE FRAUD.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill amends language describing the criminal offense of insurance fraud.

The bill states that, for criminal offenses relating to insurance fraud, the period within which a prosecution must be commenced begins to run upon discovery of the criminal or delinquent act.

The bill adds insurance fraud to the definition of "racketeering activity" for purposes of the "Colorado Organized Crime Control Act".

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
March 14, 2017

SENATE
2nd Reading Unamended
March 13, 2017

HOUSE
3rd Reading Unamended
February 10, 2017

HOUSE
Amended 2nd Reading
February 9, 2017

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

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

4 **18-5-211. Insurance fraud - definitions.** (1) A person commits
5 insurance fraud if the person does any of the following:

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

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

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

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

1 statement contains false material information or withholds material
2 information.

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

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

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

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

26 **SECTION 2.** In Colorado Revised Statutes, 16-5-401, **amend**
27 (4.5)(v) and (4.5)(w); and **add** (4.5)(x) as follows:

1 **16-5-401. Limitation for commencing criminal proceedings**
2 **and juvenile delinquency proceedings.** (4.5) The period within which
3 a prosecution must be commenced begins to run upon discovery of the
4 criminal act or the delinquent act for:

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

7 (w) Criminal offenses relating to securities fraud, pursuant to part
8 5 of article 51 of title 11; ~~C.R.S.~~ AND

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

10 █

11 **SECTION 3.** In Colorado Revised Statutes, 10-4-1005, **amend**
12 (1), (2), and (3) as follows:

13 **10-4-1005. Immunity.** (1) In the case of actions taken under this
14 part 10, and except where information is furnished with knowledge that
15 the information is false or with reckless disregard for its truth or falsity,
16 there ~~shall~~ MAY be no civil penalty or damages on the part of, and no
17 claim for relief ~~shall~~ MAY be brought against, any person, insurer, or
18 authorized agency OR SECONDARY AGENCY for furnishing information or
19 taking other action pursuant to the provisions of this part 10.

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

25 (a) An agency of the federal or any state, county, or municipal
26 government that is involved in the detection, prosecution, or prevention
27 of arson or insurance fraud;

1 (a.5) ANY SECONDARY AGENCY;
2 (b) Any employee or agent of an agency listed in paragraph (a) of
3 ~~this subsection (2)~~ SUBSECTION (2)(a) OR (2)(a.5) OF THIS SECTION; and
4 (c) Another insurer, if acting in accordance with section
5 10-4-1003 (8)(c) solely for the purpose of detecting, investigating,
6 preventing, or prosecuting an actual or suspected fraudulent insurance act.
7 Information so provided ~~shall~~ MAY not be used for underwriting or rating
8 purposes except in connection with an application or policy under which
9 a fraudulent insurance act was committed.

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

17 **SECTION 4. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2018 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.