

## CHAPTER 113

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**INSURANCE**

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**HOUSE BILL 93-1207**

BY REPRESENTATIVES Greenwood, Owen, Dyer, Anderson, Armstrong, Epps, Hagedorn, R. Hernandez, Morrison, Reeves, Strom, Tanner, Thiebaut, and Tucker;  
also SENATORS Owens, Norton, Schroeder, and Tebedo.

**AN ACT****CONCERNING INSURANCE FRAUD.**

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

**SECTION 1.** 10-1-127 (2) and (4), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are repealed as follows:

**10-1-127. Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud.** (2) ~~In the absence of fraud or bad faith, no civil cause of action of any nature shall arise against any person or his agents, designees, or employees for:~~

~~(a) Furnishing to or receiving from law enforcement officials, or their agents and employees, any information relating to a suspected fraudulent insurance act; or~~

~~(b) Furnishing to or receiving from any person subject to this title or to any other provision of Colorado law relating to the business of insurance any information relating to suspected fraudulent insurance acts; or~~

~~(c) Furnishing to or receiving from the commissioner or his agents, designees, and employees any information relating to a suspected fraudulent insurance act or any information required by any other provision of Colorado law pertaining to the business of insurance or required by the commissioner under the authority granted in this title; or~~

~~(d) Furnishing any information in reports to an organization in any other state comparable to the division of insurance of this state, to the national association of insurance commissioners, or to any organization established to detect and prevent~~

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

~~fraudulent insurance acts:~~

~~(c) Furnishing any information to a professional licensing board relating to a suspected fraudulent insurance act.~~

~~(4) Nothing in this section shall be construed to abrogate or modify in any way any common law or statutory privilege or immunity enjoyed by any person prior to March 25, 1987.~~

**SECTION 2.** 10-3-1108 (1) (a), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**10-3-1108. Orders.** (1) If, after a hearing conducted under section 10-3-1107, the commissioner determines that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, he shall reduce his findings to writing and shall issue and cause to be served on such person a copy of such findings and an order requiring such person to cease and desist from engaging in such method of competition, act, or practice, and, if such act or practice is a violation of section 10-3-1104, 10-3-1105, or 10-18-105 the commissioner may, at his discretion, order any one or more of the following:

(a) Payment of a monetary penalty of not more than one thousand dollars for each and every act or violation but not to exceed an aggregate penalty of ten thousand dollars, unless such person, being an insurer, knew or reasonably should have known he was in violation of this part 11, in which case the penalty shall not be more than ~~five~~ TEN thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of ~~fifty~~ ONE HUNDRED FIFTY thousand dollars in any six-month period; or

**SECTION 3.** Part 10 of article 4 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

PART 10  
FRAUDULENT CLAIMS AND  
ARSON INFORMATION REPORTING ACT

**10-4-1001. Short title.** This part 10 shall be known and may be cited as the "FRAUDULENT CLAIMS AND Arson Information Reporting Act".

**10-4-1002. Definitions.** As used in this part 10, unless the context otherwise requires:

(1) "Authorized agencies" means:

(a) Fire departments and ~~local~~ OTHER law enforcement agencies authorized or charged with the investigation of fires ~~within the jurisdiction where the fire occurred~~ CRIMES;

(b) The Colorado bureau of investigation;

(c) ~~The~~ ANY district attorney or county attorney and their representatives; ~~who are~~

~~responsible for prosecution in the county or city and county where the fire occurred.~~

(d) ANY PROFESSIONAL LICENSING BOARD.

(2) "INSURER" MEANS ANY INSURER AND ANY PERSON LICENSED OR REGULATED UNDER THIS TITLE AND THE COLORADO COMPENSATION INSURANCE AUTHORITY.

~~(2)~~ (3) "Notice" or "notify" means the notification in writing to an authorized agency by an ~~insurance company of a fire loss~~ INSURER.

~~(3)~~ (4) "Person" means every natural person, firm, partnership, association, or corporation.

~~(4)~~ (5) "Relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

**10-4-1003. Disclosure of information.** (1) When an ~~insurance company~~ INSURER has reason to believe that a fire loss in which it has an interest may have been caused by other than accidental means OR WHEN AN INSURER HAS REASON TO BELIEVE THAT ANY CLAIM IN WHICH IT HAS AN INTEREST MAY BE FRAUDULENT, then the company shall notify an authorized agency for the purpose of having such fire loss OR CLAIM investigated.

(2) Any authorized agency may, in writing, require the ~~insurance company~~ INSURER having an interest in a fire loss OR OTHER CLAIM to release to the authorized agency specific, relevant information or evidence deemed important by the authorized agency which the ~~insurance companies have~~ INSURER HAS in ~~their~~ ITS possession and which relates to the fire loss OR OTHER CLAIM in question. Relevant information may include, but shall not be limited to:

(a) Insurance policy information pertaining to a fire loss OR OTHER CLAIM under investigation and any application for such a policy;

(b) Policy premium payment records;

(c) History of previous claims made by the insured; and

(d) Any other material relating to the investigation of the loss, including statements of any person who may have information about the loss and any proof of such loss.

(3) Nothing in subsection (1) of this section shall abrogate or impair the rights or powers created under subsection (2) of this section.

(4) Any authorized agency provided with relevant information or evidence pursuant to subsection (1) or (2) of this section may release such information to any other authorized agency.

(5) ANY INSURER PROVIDING INFORMATION TO AN AUTHORIZED AGENCY OR AGENCIES PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION MAY, IN WRITING, REQUEST SUCH AGENCY TO RELEASE TO SUCH INSURER SPECIFIC, RELEVANT

INFORMATION OR EVIDENCE RELATING TO THE FIRE LOSS OR OTHER CLAIM UNDER INVESTIGATION. SUCH AGENCY MAY, IN ITS SOLE DISCRETION, AND WITH SUCH RESTRICTIONS AS SUCH AGENCY DEEMS APPROPRIATE, RELEASE SUCH INFORMATION TO SUCH INSURER.

(6) ANY AUTHORIZED AGENCY RECEIVING A NOTICE OR OTHER INFORMATION PURSUANT TO THIS PART 10 MAY RELEASE SUCH NOTICE OR OTHER INFORMATION TO OTHER LAW ENFORCEMENT AGENCIES.

(7) ANY INSURER PROVIDING INFORMATION PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION SHALL COOPERATE WITH ANY LAW ENFORCEMENT AGENCY OF COMPETENT JURISDICTION.

**10-4-1004. Evidence - confidential nature thereof.** (1) Any authorized agency or ~~insurance company~~ INSURER which receives any information furnished pursuant to this part 10 shall hold the information in confidence except as provided in section 10-4-1003 (4) or until such time as its release is required pursuant to a civil or criminal proceeding.

(2) Any authorized agency or its agents or employees may be required to testify in any civil or criminal proceeding in which the ~~insurance company~~ INSURER at interest is named as a party.

**10-4-1005. Immunity.** (1) IN THE CASE OF ACTIONS TAKEN UNDER THIS PART 10 INVOLVING SUSPECTED ARSON, AND in the absence of actual malice, there shall be no ~~liability~~ CIVIL PENALTY, OR DAMAGES on the part of, and no cause of action shall rise against, any authorized agency or ~~insurance company~~ INSURER or their authorized representatives, agents, or employees for furnishing information or taking other action pursuant to the provisions of this part 10.

(2) IN THE CASE OF ACTIONS TAKEN UNDER THIS PART 10 NOT INVOLVING SUSPECTED ARSON, AND EXCEPT WHERE INFORMATION IS FURNISHED WITH KNOWLEDGE THAT THE INFORMATION IS FALSE OR WITH RECKLESS DISREGARD FOR WHETHER IT IS FALSE OR NOT, THERE SHALL BE NO CIVIL PENALTY, OR DAMAGES ON THE PART OF, AND NO CAUSE OF ACTION SHALL RISE AGAINST, ANY AUTHORIZED AGENCY OR INSURER OR THEIR AUTHORIZED REPRESENTATIVES, AGENTS, OR EMPLOYEES FOR FURNISHING INFORMATION OR TAKING OTHER ACTION PURSUANT TO THE PROVISIONS OF THIS PART 10.

**10-4-1006. Enforcement.** (1) No person, authorized agency, or ~~insurance company~~ INSURER shall:

(a) Intentionally or knowingly refuse to release any information requested pursuant to section 10-4-1003 (2);

(b) Intentionally or knowingly fail to provide authorized agencies with relevant information pursuant to section 10-4-1003 (1); or

(c) Fail to hold in confidence information required to be held in confidence pursuant to section 10-4-1004 (1).

**10-4-1007. Penalty.** Any person who violates any of the provisions of this part 10 commits a class 2 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

**10-4-1008. Municipal ordinances - concurrent jurisdiction - common law.**

(1) The provisions of this part 10 shall not be construed to affect, supersede, or repeal any ordinance of any municipality relating to fire prevention or control of arson.

(2) The Colorado bureau of investigation shall have investigative authority concurrent with that of county or municipal authorities when the county or municipality in which investigation of a fire loss OR OTHER CLAIM is taking place requests the assistance of said bureau.

(3) With the exception of section 10-4-1005, the provisions of this part 10 shall not be construed to impair any existing statutory or common law rights, IMMUNITIES, PRIVILEGES, or powers.

**10-4-1009. Continuing duties of insurers - unfair claim settlement practices.**

THE PROVISIONS OF THIS PART 10 SHALL NOT BE CONSTRUED TO AFFECT OR SUPERSEDE THE DUTIES OF INSURERS AND OTHER PERSONS PURSUANT TO THE PROVISIONS OF PART 11 OF ARTICLE 3 OF THIS TITLE.

**SECTION 4. Effective date - applicability.** This act shall take effect July 1, 1993, and shall apply to acts committed or occurring on or after said date.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1993