

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 961

Short Title: Insurance Fraud.

(Public)

Sponsors: Representatives Brawley; Gardner, Hayes, and C. Wilson.

Referred to: Judiciary II.

April 15, 1993

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, but is not limited to, 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 conviction, shall be punished as a Class I felon. who, with the intent to injure, defraud, or deceive any insurer~~

- 1 (1) Presents or causes to be presented to any insurer, any written or oral
2 statement including computer-generated documents as part of, or in
3 support of, a claim for payment or other benefit pursuant to an
4 insurance policy, knowing that such statement contains any false,
5 incomplete, or misleading information concerning any fact or thing
6 material to such claim, or
7 (2) Assists, abets, solicits, or conspires with another to prepare or make
8 any written or oral statement that is intended to be presented to any
9 insurer in connection with, or in support of, any claim for payment or
10 other benefit pursuant to an insurance policy, knowing that such
11 statement contains any false, incomplete, or misleading information
12 concerning any fact or thing material to such claim
13 is guilty of a felony and, upon conviction, shall be punished as a Class I felon. Each
14 claim shall be considered a separate count. Upon conviction, the court shall also order
15 the defendant to pay restitution to the insurer as well as the insurer's reasonable
16 investigative costs and attorneys fees.

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

24 Sec. 2. This act becomes effective October 1, 1993, and applies to violations
25 occurring on or after that date.