

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0373.01 Michael Dohr x4347

SENATE BILL 14-092

SENATE SPONSORSHIP

Rivera,

HOUSE SPONSORSHIP

Williams,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE CRIME 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://www.leg.state.co.us/bills summaries>.)

The bill creates the crime of insurance fraud and criminalizes various claimant and insurance broker or agent conduct that would result in defrauding an insurance company or customer. A first offense is a class 5 felony, and a second or subsequent offense is a class 4 felony. If an insurance producer is convicted of the offense, the insurance commission shall revoke the person's license for a period of 5 years.

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.*

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

2 **SECTION 1.** In Colorado Revised Statutes, add 18-5-211 as
3 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
7 PRESENTED AN APPLICATION FOR THE ISSUANCE OR RENEWAL OF AN
8 INSURANCE POLICY, WHICH APPLICATION, OR DOCUMENTATION IN SUPPORT
9 OF SUCH APPLICATION OR RENEWAL, CONTAINS FALSE MATERIAL
10 INFORMATION OR WITHHOLDS MATERIAL INFORMATION THAT IS
11 REQUESTED BY THE INSURER AND RESULTS IN THE ISSUANCE OF AN
12 INSURANCE POLICY OR INSURANCE COVERAGE FOR THE APPLICANT OR
13 ANOTHER;

14 (b) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
15 PRESENTED ANY CLAIM FOR A LOSS OR INJURY, WHICH CLAIM CONTAINS
16 FALSE MATERIAL INFORMATION OR WITHHOLDS MATERIAL INFORMATION;

17 (c) WITH AN INTENT TO DEFRAUD CAUSES OR PARTICIPATES, OR
18 PURPORTS TO BE INVOLVED, IN A VEHICULAR COLLISION, OR ANY OTHER
19 VEHICULAR ACCIDENT, FOR THE PURPOSE OF PRESENTING ANY FALSE OR
20 FRAUDULENT INSURANCE CLAIM;

21 (d) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
22 PRESENTED A CLAIM FOR THE PAYMENT OF A LOSS WHERE THE LOSS OR
23 DAMAGE CLAIMED PREEXISTED THE EXECUTION OF THE APPLICABLE
24 CONTRACT OF INSURANCE UNLESS OTHERWISE PERMITTED UNDER THE
25 CONTRACT OF INSURANCE OR POLICY; OR

26 (e) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE

1 PRESENTED ANY WRITTEN, ORAL, OR ELECTRONIC MATERIAL OR
2 STATEMENT AS PART OF, IN SUPPORT OF OR IN OPPOSITION TO, A CLAIM FOR
3 PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY,
4 KNOWING THAT THE STATEMENT CONTAINS FALSE MATERIAL
5 INFORMATION OR WITHHOLDS MATERIAL INFORMATION.

6 (2) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE
7 PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE KNOWINGLY MOVES,
8 DIVERTS, OR MISAPPROPRIATES PREMIUM FUNDS BELONGING TO AN
9 INSURER OR UNEARNED PREMIUM FUNDS BELONGING TO AN INSURED OR
10 APPLICANT FOR INSURANCE FROM A PRODUCER'S TRUST OR OTHER
11 ACCOUNT WITHOUT THE AUTHORIZATION OF THE OWNER OF THE FUNDS OR
12 OTHER LAWFUL JUSTIFICATION.

13 (3) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE
14 PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE WITH AN INTENT TO
15 DEFRAUD CREATES, UTTERS, OR PRESENTS A CERTIFICATE OR ANY OTHER
16 EVIDENCE OF INSURANCE CONTAINING FALSE INFORMATION TO ANY
17 PERSON OR ENTITY.

18 (4) INSURANCE FRAUD COMMITTED IN VIOLATION OF PARAGRAPH
19 (a) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 1 MISDEMEANOR.
20 INSURANCE FRAUD COMMITTED IN VIOLATION OF PARAGRAPHS (b) TO (e)
21 OF SUBSECTION (1) OF THIS SECTION OR SUBSECTION (2) OR (3) OF THIS
22 SECTION IS A CLASS 5 FELONY.

23 (5) THE COMMISSIONER OF INSURANCE SHALL REVOKE THE
24 LICENSE TO CONDUCT BUSINESS IN THIS STATE OF ANY LICENSED
25 INSURANCE PRODUCER UNDER ARTICLE 2 OF TITLE 10, C.R.S., WHO IS
26 CONVICTED OF ANY PROVISION UNDER THIS SECTION.

27 (6) NOTHING IN THIS SECTION PRECLUDES A PROSECUTOR FROM

1 PROSECUTING ANY OTHER OFFENSE.

2 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

4 (a) "CLAIM" MEANS A DEMAND FOR MONEY, PROPERTY, OR
5 SERVICES PURSUANT TO A CONTRACT OF INSURANCE AS WELL AS ANY
6 DOCUMENTATION IN SUPPORT OF SUCH CLAIM WHETHER SUBMITTED
7 CONTEMPORANEOUSLY WITH THE CLAIM OR AT A DIFFERENT TIME. A
8 CLAIM AND ANY SUPPORTING INFORMATION MAY BE IN WRITTEN, ORAL,
9 ELECTRONIC, OR DIGITAL FORM.

10 (b) "INSURANCE" HAS THE SAME MEANING AS DEFINED IN SECTION
11 10-1-102 (12), C.R.S.

12 (c) "INSURANCE PRODUCER" HAS THE SAME MEANING AS DEFINED
13 IN SECTION 10-2-103 (6), C.R.S.

14 (d) "INSURER" HAS THE SAME MEANING AS DEFINED IN SECTION
15 10-1-102 (13),C.R.S.

16 (e) "MATERIAL INFORMATION" IS A STATEMENT OR ASSERTION
17 DIRECTLY PERTAINING TO AN APPLICATION FOR INSURANCE OR AN
18 INSURANCE CLAIM THAT A REASONABLE PERSON MAKING SUCH AN
19 ASSERTION KNOWS OR SHOULD KNOW WILL AFFECT THE ACTION, CONDUCT,
20 OR DECISION OF THE PERSON WHO RECEIVES OR IS INTENDED TO RECEIVE
21 THE ASSERTED INFORMATION IN A MANNER THAT WOULD DIRECTLY OR
22 INDIRECTLY BENEFIT THE PERSON MAKING THE ASSERTION.

23 **SECTION 2.** In Colorado Revised Statutes, 10-2-801, **amend (3);**
24 **and add (1.5) as follows:**

25 **10-2-801. Licenses - denial, suspension, revocation,**
26 **termination - reporting of actions - definitions. (1.5) THE**
27 **COMMISSIONER SHALL REVOKE THE LICENSE OF AN INSURANCE PRODUCER**

1 LICENSE IF, AFTER NOTICE TO THE INSURANCE PRODUCER LICENSEE AND
2 AFTER A HEARING HELD IN ACCORDANCE WITH SECTIONS 24-4-104 AND
3 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT THE LICENSEE WAS
4 CONVICTED UNDER SECTION 18-5-211, C.R.S.

5 (3) (a) A producer or business entity shall report to the
6 commissioner any administrative action taken against the producer in
7 another jurisdiction or by another governmental agency in this state
8 within thirty days after the final disposition of the matter. This report shall
9 include a copy of the order, consent to order, or other relevant legal
10 document.

11 (b) A PRODUCER SHALL REPORT WITHIN THIRTY DAYS AFTER THE
12 CONVICTION TO THE COMMISSIONER IF HE OR SHE IS CONVICTED UNDER
13 SECTION 18-5-211, C.R.S.

14 **SECTION 3.** In Colorado Revised Statutes, 10-4-1002, amend
15 (1.5) as follows:

16 **10-4-1002. Definitions.** As used in this part 10, unless the context
17 otherwise requires:

18 (1.5) "Fraudulent insurance act" has the meaning set forth in
19 section 10-1-128 OR MEANS THE COMMISSION OF INSURANCE FRAUD
20 PURSUANT TO SECTION 18-5-211, C.R.S.

21 **SECTION 4. Potential appropriation.** Pursuant to section
22 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
23 in periods of imprisonment in the state correctional facilities must include
24 an appropriation of moneys that is sufficient to cover any increased
25 capital construction and operational costs for the first five fiscal years in
26 which there is a fiscal impact. Because this act may increase periods of
27 imprisonment, this act may require a five-year appropriation.

1 **SECTION 5. Effective date - applicability.** This act takes effect
2 July 1, 2014, and applies to offenses committed on or after said date.

3 **SECTION 6. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.