

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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,**
102 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

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
Amended 2nd Reading
March 18, 2014

shall revoke the person's license for a period of 5 years.

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**

1 (e) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE
2 PRESENTED ANY WRITTEN, ORAL, OR ELECTRONIC MATERIAL OR
3 STATEMENT AS PART OF, IN SUPPORT OF OR IN OPPOSITION TO, A CLAIM FOR
4 PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY,
5 KNOWING THAT THE STATEMENT CONTAINS FALSE MATERIAL
6 INFORMATION OR WITHHOLDS MATERIAL INFORMATION.

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

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

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

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

1 (6) NOTHING IN THIS SECTION PRECLUDES A PROSECUTOR FROM
2 PROSECUTING ANY OTHER OFFENSE.

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

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

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

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

15 (d) "INSURER" HAS THE SAME MEANING AS DEFINED IN SECTION
16 10-1-102 (13),C.R.S.

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

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

26 **10-2-801. Licenses - denial, suspension, revocation,**
27 **termination - reporting of actions - definitions. (1.5) THE**

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

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

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

15 **SECTION 3.** In Colorado Revised Statutes, 10-4-1002, amend
16 (1.5) as follows:

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

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

22 **SECTION 4.** In Colorado Revised Statutes, add 17-18-111 as
23 follows:

24 **17-18-111. Appropriation to comply with section 2-2-703 - SB**
25 **14-092 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
26 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
27 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT SENATE BILL 14-092,

1 ENACTED IN 2014:

2 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO
3 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
4 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
5 OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR
6 HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

7 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, IN ADDITION TO
8 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
9 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
10 OTHERWISE APPROPRIATED, THE SUM OF NINETEEN THOUSAND SIX
11 HUNDRED FORTY DOLLARS (\$19,640).

12 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

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

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