

Section 1.	Purpose
Section 2.	Definitions
Section 3.	Fraudulent Insurance Acts, Interference and Participation of Convicted Felons Prohibited
Section 4.	Fraud Warning Required
Section 5.	Investigative [and Prosecutive] Authority of the Commissioner
Section 6.	Mandatory Reporting of Fraudulent Insurance Acts
Section 7.	Immunity from Liability
Section 8.	Confidentiality
Section 9.	Creation and Purpose of the Insurance Fraud Unit
Section 10.	Other Law Enforcement or Regulatory Authority
Section 11.	Insurer Antifraud Initiatives
Section 12.	Regulations
Section 13.	Penalties

The [insert name for state's legislature] finds that the business of insurance involves many transactions that have potential for fraud, abuse and other illegal activities. This Act is intended to permit full utilization of the expertise of the commissioner to investigate and discover fraudulent insurance acts more effectively, halt fraudulent insurance acts and assist and receive assistance from state, local and federal law enforcement and regulatory agencies in enforcing laws prohibiting fraudulent insurance acts.

As used in this Act:

- A. "Business of insurance" means the writing of insurance or the reinsuring of risks by an insurer, including acts necessary or incidental to writing insurance or reinsuring risks and the activities of persons who act as or are officers, directors, agents or employees of insurers, or who are other persons authorized to act on their behalf.
- B. "Commissioner" means the commissioner of insurance, the commissioner's designees or the department of insurance.

Use the title of the chief insurance regulatory official wherever the term "commissioner" appears.

- C. "Fraudulent insurance act" means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:
 - (1) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:
 - (a) An application for the issuance or renewal of an insurance policy or reinsurance contract;

- (3) Pay an annuity to another; or
 - (4) Act as surety.
- E. “Insurer” means a person entering into arrangements or contracts of insurance or reinsurance and who agrees to perform any of the acts set forth in Subsection D of this section. A person is an insurer regardless of whether the person is acting in violation of laws requiring a certificate of

- A. Claim forms and applications for insurance, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

“Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.”

- B. The lack of a statement as required in Subsection A of this section does not constitute a defense in any prosecution for a fraudulent insurance act.

- C. Policies issued by unauthorized insurers nsetuetcr e9 (c)7.5 (u)-0.8 (n)-9.6 (l)-3.3 2nc-3.2 (n)-0.8 (s)3.2 (ze)

- A. A person engaged in the business of insurance having knowledge or a reasonable belief that a fraudulent insurance act is being, will be or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.
 - B. Any other person having knowledge or a reasonable belief that a fraudulent insurance act is being, will be or has been committed may provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.
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- A. There shall be no civil liability imposed on and no cause of action shall arise from a person's furnishing information concerning suspected, anticipated or completed fraudulent insurance acts, if the information is provided to or received from:
 - (1) The commissioner or the commissioner's employees, agents or representatives;
 - (2) Federal, state, or local law enforcement or regulatory officials or their employees, agents or representatives;
 - (3) A person involved in the prevention and detection of fraudulent insurance acts or that person's agents, employees or representatives; or
 - (4) The NAIC or its employees, agents or representatives.
 - B. Subsection A of this section shall not apply to statements made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent insurance act, the party bringing the action shall plead specifically any allegation that Subsection A of this section does not apply because the person filing the report or furnishing the information did so with actual malice.
 - C. This section does not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in Subsection A of this section.
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- A. Documents, materials or other information in the possession or control of the Department of Insurance that are provided pursuant to Section 6 of this Act or obtained by the commissioner in an investigation of suspected or actual fraudulent insurance acts shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.
 - B. Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to Subsection A.

- C. In order to assist in the performance of the commissioner's duties, the commissioner:
- (1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Subsection A, with other state, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries; provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information; and
 - (2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries, and from regulatory officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

: The language in Subsection C(1) assumes the recipient has the authority to protect the applicable confidentiality or privilege, but does not address the verification of that authority, which would presumably occur in the context of a broader information-sharing agreement.

- D. Nothing in this section shall prohibit the commissioner from providing information to or receiving information from any local, state, federal or international law enforcement authorities, including any prosecuting authority; or from complying with subpoenas or other lawful process in criminal actions; or as may otherwise be provided in this Act.
- E. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection C.
- A. The [insert name of state] insurance fraud unit is established within the [insert designation of organization, such as department of insurance]. The commissioner shall appoint the full-time supervisory and investigative personnel of the insurance fraud unit, who shall be qualified by training and experience to perform the duties of their positions. The commissioner shall also appoint clerical and other staff necessary for the insurance fraud unit to carry out its duties and responsibilities under this Act.
- B. It shall be the duty of the insurance fraud unit to:
- (1) Initiate independent inquiries and conduct independent investigations when the insurance fraud unit has cause to believe that a fraudulent insurance act may be, is being or has been committed;
 - (2) Review reports or complaints of alleged fraudulent insurance activities from federal, state and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and the public to determine whether the reports require further investigation and to conduct these investigations; and
 - (3) Conduct independent examinations of alleged fraudulent insurance acts and undertake independent studies to determine the extent of fraudulent insurance acts.

- C. The insurance fraud unit shall have the authority to:
- (1) Inspect, copy or collect records and evidence;
 - (2) Serve subpoenas;
 - (3) Administer oaths and affirmations;
 - (4) Share records and evidence with federal, state or local law enforcement or regulatory agencies;
 - (5) Execute search warrants and arrest warrants for criminal violations of this Act;
 - (6) Arrest upon probable cause without warrant a person found in the act of violating or attempting to violate a provision of this Act;

