

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0453.01 Richard Sweetman x4333

HOUSE BILL 17-1048

HOUSE SPONSORSHIP

Foote,

SENATE SPONSORSHIP

Smallwood,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROSECUTION 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://leg.colorado.gov/>.)

The bill amends language describing the criminal offense of insurance fraud.

The bill states that, for criminal offenses relating to insurance fraud, the period within which a prosecution must be commenced begins to run upon discovery of the criminal or delinquent act.

The bill adds insurance fraud to the definition of "racketeering activity" for purposes of the "Colorado Organized Crime Control Act".

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, 18-5-211, **amend**
3 (1)(a), (1)(b), (1)(d), (1)(e), (2), (3), and (6) as 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 presented an
7 application OR REQUEST for the issuance, MODIFICATION, or renewal of an
8 insurance policy, which application OR REQUEST, or documentation in
9 support of such application or ~~renewal~~ REQUEST, contains false material
10 information or withholds material information that is requested by the
11 insurer and results in the issuance of an insurance policy or insurance
12 coverage for the applicant or another;

13 (b) With an intent to defraud presents or causes to be presented
14 any INSURANCE claim, ~~for a loss or injury~~, which claim contains false
15 material information or withholds material information;

16 (d) With an intent to defraud presents or causes to be presented ~~a~~
17 AN INSURANCE claim ~~for the payment of a loss~~ where the loss, INJURY, or
18 damage claimed ~~preexisted the execution of~~ OCCURRED OUTSIDE OF THE
19 PERIOD OF TIME THAT COVERAGE WAS IN EFFECT FOR the applicable
20 contract of insurance OR POLICY unless otherwise permitted under the
21 contract of insurance or policy; or

22 (e) With an intent to defraud presents or causes to be presented
23 any written, oral, or electronic material or statement as part of, in support
24 of or in opposition to, a claim for payment or other benefit pursuant to an
25 insurance policy, knowing that the MATERIAL OR statement contains false
26 material information or withholds material information.

1 (2) ~~An insurance producer or agent of an insurance producer~~ A
2 PERSON commits insurance fraud if he or she knowingly moves, diverts,
3 or misappropriates premium funds belonging to an insurer or unearned
4 premium funds belonging to an insured or applicant for insurance from
5 a ~~producer's~~ trust or other account without the authorization of the owner
6 of the funds or other lawful justification.

7 (3) ~~An insurance producer or agent of an insurance producer~~ A
8 PERSON commits insurance fraud if he or she with an intent to defraud
9 ~~creates, utters, or~~ MAKES, ALTERS, presents, OR CAUSES TO BE PRESENTED
10 a certificate or ~~any~~ other evidence of THE EXISTENCE OF insurance
11 ~~containing~~ IN ANY FORM THAT CONTAINS false MATERIAL information ~~to~~
12 ~~any person or entity~~ OR OMITS MATERIAL INFORMATION.

13 (6) ~~Nothing in this section precludes a prosecutor from~~
14 ~~prosecuting any other offense~~ NO PROVISION OF THIS ARTICLE 5 MAY BE
15 INTERPRETED TO SUPERSEDE, LIMIT, ABROGATE, OR IMPAIR THE ABILITY OF
16 THE PROSECUTING AUTHORITY TO CONCURRENTLY BRING CHARGES FOR
17 ANY OTHER STATE CRIMINAL OFFENSE THAT IS OTHERWISE APPLICABLE IN
18 ADDITION TO ANY OFFENSES DESCRIBED BY THIS SECTION.

19 **SECTION 2.** In Colorado Revised Statutes, 16-5-401, **amend**
20 (4.5)(v) and (4.5)(w); and **add** (4.5)(x) as follows:

21 **16-5-401. Limitation for commencing criminal proceedings**
22 **and juvenile delinquency proceedings.** (4.5) The period within which
23 a prosecution must be commenced begins to run upon discovery of the
24 criminal act or the delinquent act for:

25 (v) Criminal offenses relating to savings and loan associations,
26 pursuant to section 11-41-127; ~~C.R.S.~~; and

27 (w) Criminal offenses relating to securities fraud, pursuant to part

1 5 of article 51 of title 11; ~~C.R.S.~~ AND

2 (x) INSURANCE FRAUD, PURSUANT TO SECTION 18-5-211.

3 **SECTION 3.** In Colorado Revised Statutes, 18-17-103, **amend**
4 the introductory portion and (5)(b)(IV) as follows:

5 **18-17-103. Definitions.** As used in this ~~article~~ ARTICLE 17, unless
6 the context otherwise requires:

7 (5) "Racketeering activity" means to commit, to attempt to
8 commit, to conspire to commit, or to solicit, coerce, or intimidate another
9 person to commit:

10 (b) Any violation of the following provisions of the Colorado
11 statutes or any criminal act committed in any jurisdiction of the United
12 States which, if committed in this state, would be a crime under the
13 following provisions of the Colorado statutes:

14 (IV) Offenses involving fraud, as defined in sections 18-5-102
15 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal
16 possession of forged instrument), 18-5-109 (criminal possession of
17 forgery devices), 18-5-110.5 (trademark counterfeiting), ~~6-16-111 C.R.S.~~,
18 (felony charitable fraud), 18-5-206 (defrauding a secured creditor or
19 debtor), 18-5-211 (INSURANCE FRAUD), 18-5-309 (money laundering),
20 18-5-403 (bribery in sports), 18-5-113 (criminal impersonation), 18-5-114
21 (offering a false ~~document~~ INSTRUMENT for recording), 18-5-702
22 (unauthorized use of a financial transaction device), 18-5-705 (criminal
23 possession or sale of a blank financial transaction device), 18-5-706
24 (criminal possession of forgery devices), 18-5-707 (unlawful manufacture
25 of a financial transaction device), 18-5-902 (identity theft), 18-5-903
26 (criminal possession of a financial device), 18-5-903.5 (criminal
27 possession of an identification document), 18-5-904 (gathering identity

1 information by deception), and 18-5-905 (possession of identity theft
2 tools);

3 **SECTION 4. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2018 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.