

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

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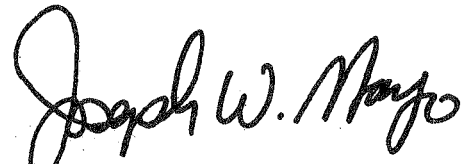
H.P. 1553

House of Representatives, January 30, 1998

**An Act to Create the Crime of Insurance Fraud and Require Reporting of
Convictions to Licensing Authorities.**

Reported by Representative O'NEIL for the Commission to Study Insurance Fraud,
pursuant to Resolve 1997, chapter 77.

Reference to the Joint Standing Committee on Banking and Insurance suggested and
printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 17-A MRSA c. 16 is enacted to read:**

6 **CHAPTER 16**

8 **INSURANCE FRAUD**

10 **§371. Insurance fraud**

12 1. A person is guilty of insurance fraud if the person
commits knowingly and with intent to defraud a fraudulent
insurance act as defined in subsection 2.

14 2. "Fraudulent insurance act" means any of the following
acts or omissions when committed knowingly and with intent to
defraud:

18 A. Presenting, or causing to be presented, or preparing any
information containing false representations as to a
material fact with knowledge or belief that the information
will be presented by or on behalf of an insured, claimant or
applicant to an insurer, insurance producer or other person
engaged in the business of insurance concerning any of the
following:

20 (1) An application for the issuance or renewal of an
insurance policy;

22 (2) The rating of an insurance policy;

24 (3) A claim for payment or benefit pursuant to an
insurance policy;

26 (4) Payments made in accordance with an insurance
policy; or

28 (5) Premiums paid on an insurance policy;

30 B. Presenting, or causing to be presented, or preparing any
information containing false representations as to a
material fact with knowledge or belief that the information
will be presented to or by an insurer, insurance producer or
other person engaged in the business of insurance concerning
any of the following:

32 (1) A document filed with the Superintendent of
Insurance or the insurance regulatory official or
agency of another jurisdiction;

- 2 (2) The financial condition of an insurer;
- 4 (3) The formation, acquisition, merger,
reconsolidation, dissolution or withdrawal from one or
6 more lines of insurance in all or part of this State by
an insurer;
- 8 (4) The issuance of written evidence of insurance; or
- 10 (5) The reinstatement of an insurance policy;
- 12 C. Soliciting or accepting new or renewal insurance risks
on behalf of an insurer or other person engaged in the
14 business of insurance by a person who knows or should know
that the insurer or other person responsible for the risk is
16 insolvent at the time of the transaction;
- 18 D. Removing, concealing, altering or destroying the assets
or records of an insurer or other person engaged in the
20 business of insurance;
- 22 E. Embezzling, abstracting, purloining or converting money,
funds, premiums, credits or other property of an insurer or
24 other person engaged in the business of insurance;
- 26 F. Transacting the business of insurance in violation of
laws requiring a license, certificate of authority or other
28 legal authority for the transaction of the business of
insurance; or
- 30 G. Attempting to commit, aiding or abetting in the
32 commission of or conspiring to commit the acts or omissions
described in this subsection.

34 **§372. Classification of insurance fraud offenses**

- 36 1. All violations of this chapter are classified, for
38 sentencing purposes, according to this section. The facts set
forth in this section upon which the classification depends must
40 be proved by the State beyond a reasonable doubt.
- 42 2. Insurance fraud is a Class B crime if:
- 44 A. The value of the property, services or benefits
wrongfully obtained is more than \$10,000; or
- 46 B. The insurance fraud is a violation under section 371,
48 subsection 2, paragraphs C, D, E or F.

2 3. Insurance fraud is a Class C crime if the value of the
3 property, services or benefits wrongfully obtained is more than
4 \$2,000 but not more than \$10,000.

6 4. Insurance fraud is a Class C crime if the actor has 2
7 prior Maine convictions for insurance fraud or any violation of
8 chapter 15; any violation of section 453, 651, 702, 703 or 708;
9 or any violation of section 401 in which the crime intended to be
10 committed inside the structure is theft or any attempts at
11 theft. For purposes of this subsection, the dates of both of the
12 prior convictions must precede the commission of the offense
13 being enhanced by no more than 10 years, although both prior
14 convictions may have occurred on the same day. This subsection
15 does not apply if the commission of the 2 prior offenses occurred
16 within a 3-day period. The date of a conviction is deemed to be
17 the date that the sentence is imposed, even though an appeal was
18 taken. The date of a commission of prior offenses is presumed to
19 be that stated in the complaint, information or indictment,
20 notwithstanding the use of the words "on or about" or the
21 equivalent.

22 5. Insurance fraud is a Class D crime if the value of the
23 property, services or benefits wrongfully obtained is more than
24 \$1,000 but not more than \$2,000.

26 6. Insurance fraud is a Class E crime if the value of the
27 property, services or benefits wrongfully obtained is less than
28 \$1,000.

30 **§373. Reporting of insurance fraud convictions**

32 If a person who is licensed or registered under the laws of
33 this State to engage in a profession is convicted of or pleads
34 guilty to insurance fraud as prohibited by this chapter, the
35 court shall forward upon conviction a copy of the conviction or
36 plea to the Office of Licensing and Registration within the
37 Department of Professional and Financial Regulation or to the
38 agency, board or organization that licensed or registered the
39 person. Upon receipt of notice of a conviction for insurance
40 fraud, the Office of Licensing and Registration shall refer the
41 notice to the appropriate licensing board charged with regulating
42 the profession of the person convicted. The court shall also
43 order a person convicted of insurance fraud to notify the
44 appropriate licensing authority of the conviction. A victim of
45 insurance fraud may notify the Office of Licensing and
46 Registration or the appropriate licensing authority of a person's
47 conviction for insurance fraud.

SUMMARY

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4 This bill implements a recommendation of the Commission to
6 Study Insurance Fraud, as established in Resolve 1997, chapter
8 77, and creates the crime of insurance fraud. It also requires
 that the court notify the appropriate licensing authority of a
 conviction for insurance fraud against a person licensed or
 registered under the laws of this State.