

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 43
HOUSE BILL 103

AN ACT TO STRENGTHEN THE INSURANCE FRAUD LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-2-161 reads as rewritten:

"§ 58-2-161. False statement to procure or deny benefit of insurance policy or certificate.

(a) For the purposes of this ~~section~~section:

(1) ~~'insurer'~~ 'Insurer' includes an entity under Articles 49 and 65 through 67 of this ~~Chapter and includes Chapter~~, the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General ~~Statutes~~Statutes, and an employer or group of employers that insure its workers' compensation liability under Chapter 97 of the General Statutes.

(2) 'Statement' includes any application, notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X rays, test result, or other evidence of loss, injury, or expense.

(b) ~~Any person who willfully and knowingly presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, to an insurer for the payment of a loss or other benefits under any insurance policy, certificate, or coverage; or prepares, makes, or subscribes to a false or fraudulent account, certificate, affidavit, proof of loss, or other documents or writing, to an insurer, with the intent that the same may be presented or used in support of such claim, shall be guilty of a felony and, upon conviction, shall be punished as a Class I felon who, with the intent to injure, defraud, or deceive an insurer or insurance claimant:~~

(1) Presents or causes to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the claim, or

(2) Assists, abets, solicits, or conspires with another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an

insurance policy, knowing that the statement contains false or misleading information concerning a fact or matter material to the claim

is guilty of a Class H felony. Each claim shall be considered a separate count. Upon conviction, if the court imposes probation, the court may order the defendant to pay restitution as a condition of probation. In determination of the amount of restitution pursuant to G.S. 15A-1343(d), the reasonable costs and attorneys' fees incurred by the victim in the investigation of, and efforts to recover damages arising from, the claim, may be considered part of the damage caused by the defendant arising out of the offense.

In a civil cause of action for recovery based upon a claim for which a defendant has been convicted under this section, the conviction may be entered into evidence against the defendant. The court may award the prevailing party compensatory damages, attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can demonstrate that the defendant has engaged in a pattern of violations of this section, the court may award treble damages."

Sec. 2. This act becomes effective October 1, 1995, and applies to violations occurring on or after that date.

In the General Assembly read three times and ratified this the 18th day of April, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives