

§ 2C:21-4.4. Findings, declarations relative to insurance fraud

With respect to sections 72 through 74 of P.L. 2003, c. 89, the Legislature finds and declares:

a. Insurance fraud is inimical to public safety, welfare and order within the State of New Jersey. Insurance fraud is pervasive and expensive, costing consumers and businesses millions of dollars in direct and indirect losses each year. Insurance fraud increases insurance premiums, to the detriment of individual policyholders, small businesses, large corporations and governmental entities. All New Jerseyans ultimately bear the societal burdens and costs caused by those who commit insurance fraud.

b. The problem of insurance fraud must be confronted aggressively by facilitating the detection, investigation and prosecution of such misconduct, as well as by reducing its occurrence and achieving deterrence through the implementation of measures that more precisely target specific conduct constituting insurance fraud.

c. To enable more efficient prosecution of criminally culpable persons who knowingly commit or assist or conspire with others in committing fraud against insurance companies, it is necessary to establish a crime of "insurance fraud" to directly and comprehensively criminalize this type of harmful conduct, with substantial criminal penalties to punish wrongdoers and to appropriately deter others from such illicit activity.

d. In addition to criminal penalties, in order to maintain the public trust and ensure the integrity of professional licensees and certificate-holders who by virtue of their professions are involved in insurance transactions, it is appropriate to provide civil remedial provisions governing license or certificate forfeiture and suspension tailored to this new crime of insurance fraud and other criminal insurance-related activities.

e. To enhance the State's ability to detect insurance fraud, which will lead to more productive investigations and, ultimately, more successful criminal prosecutions, it is appropriate to provide members of the public with significant incentives to come forward when they may have reasonable suspicions or knowledge of a person or persons committing insurance fraud. The establishment of an Insurance Fraud Detection Reward Program will enable the Insurance Fraud Prosecutor to obtain information which may lead to the arrest, prosecution and conviction of persons or entities who have committed insurance-related fraud.

§ 2C:21-4.5. Definitions relative to insurance fraud

As used in sections 73 and 74 of P.L. 2003, c. 89, unless the context otherwise requires, the following words and terms shall have the following meanings:

"Insurance company" means any person, company, corporation, unincorporated association, partnership, professional corporation, agency of government and any other entity authorized or permitted to do business in New Jersey, subject to regulation by the State, or incorporated or organized under the laws of any other state of the United States or of any foreign nation or of any province or territory thereof, to indemnify another against loss, damage, risk or liability arising from a contingent or unknown event. "Insurance company" includes, but is not limited to, an insurance company as that term is defined in section 3 of P.L. 1983, c. 320 (*C. 17:33A-3*), self-insurer, re-insurer, reciprocal exchange, inter-insurer, hospital, medical or health service corporation, health maintenance organization, surety, assigned risk plan, joint insurance fund, and any other entity legally engaged in the business of insurance as authorized or permitted by the State of New Jersey, including but not limited to any such entity incorporated or organized under the laws of any other state of the United States or of any foreign nation or of any province or territory thereof.

"Insurance policy" means the instrument, in writing, electronically or in any other form, in which are set forth the terms of any certificate of insurance, binder of coverage, contract of insurance or contract of re-insurance, issued by an insurance company, including, but not limited to, a State-assigned risk plan, plan of indemnity protection provided by or on behalf of a joint insurance fund or benefit plan, motor club service plan, or guaranty bond, surety bond, cash bond or any other alternative to insurance authorized or permitted by the State of New Jersey.

"Insurance transaction" means a transaction by, between, or among (1) an insurance company and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner as defined by section 2 of P.L. 1997, c. 353 (*C. 2C:21-4.2*), attorney, or any person who acts on behalf of any of the foregoing for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self insurance, or reinsurance, or obtaining the benefits or annuities thereof or therefrom.

"Premium finance transaction" means a transaction involving or related to insurance premium financing which is subject to the "Insurance Premium Finance Company Act," P.L. 1968, c. 221 (*C. 17:16D-1 et seq.*).

§ 2C:21-4.6. Crime of insurance fraud

a. A person is guilty of the crime of insurance fraud if that person knowingly makes, or causes to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omits a material fact from, or causes a material fact to be omitted from, any record, bill, claim or other document, in writing, electronically, orally or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted as part of, in support of or opposition to or in connection with: (1) a claim for payment, reimbursement or other benefit pursuant to an insurance policy, or from an insurance company or the "Unsatisfied

Claim and Judgment Fund Law," P.L. 1952, c. 174 (*C. 39:6-61 et seq.*); (2) an application to obtain or renew an insurance policy; (3) any payment made or to be made in accordance with the terms of an insurance policy or premium finance transaction; or (4) an affidavit, certification, record or other document used in any insurance or premium finance transaction.

b. Insurance fraud constitutes a crime of the second degree if the person knowingly commits five or more acts of insurance fraud, including acts of health care claims fraud pursuant to section 2 of P.L. 1997, c. 353 (*C. 2C:21-4.2*) and if the aggregate value of property, services or other benefit wrongfully obtained or sought to be obtained is at least \$ 1,000. Otherwise, insurance fraud is a crime of the third degree. Each act of insurance fraud shall constitute an additional, separate and distinct offense, except that five or more separate acts may be aggregated for the purpose of establishing liability pursuant to this subsection. Multiple acts of insurance fraud which are contained in a single record, bill, claim, application, payment, affidavit, certification or other document shall each constitute an additional, separate and distinct offense for purposes of this subsection.

c. Proof that a person has signed or initialed an application, bill, claim, affidavit, certification, record or other document may give rise to an inference that the person has read and reviewed the application, bill, claim, affidavit, certification, record or other document.

d. In order to promote the uniform enforcement of this act, the Attorney General shall develop insurance fraud prosecution guidelines and disseminate them to county prosecutors within 180 days of the effective date of this act.

e. Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.

f. Nothing in this act shall preclude an assignment judge from dismissing a prosecution of insurance fraud if the assignment judge determines, pursuant to *N.J.S. 2C:2-11*, the conduct charged to be a de minimis infraction.