

1 AN ACT relating to insurance fraud.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 304.47-010 is amended to read as follows:

4 As used in this subtitle ~~47 of this chapter~~, unless the context requires otherwise:

- 5 (1) **"Criminal syndicate" means five (5) or more persons collaborating to promote or**
6 **engage in any fraudulent insurance act, as set forth in subsection (1) of Section 2**
7 **of this Act, on a continuing basis;**
- 8 (2) **"Division" means the department's Division of Insurance Fraud Investigation**
9 **and its employees or authorized representatives;**
- 10 (3) **"Insurance policy" or "policy" means any individual or group policy, including**
11 **those defined by KRS Chapter 342, certificate, or contract of an insurer,**
12 **including reinsurance affecting the rights of any Kentucky resident or bearing a**
13 **reasonable relation to Kentucky regardless of whether delivered or issued for**
14 **delivery in Kentucky;**
- 15 (4) **"Insured" means any person who is:**
16 **(a) A named insured or beneficiary under an insurance policy; or**
17 **(b) Not a named insured or beneficiary under an insurance policy due to the**
18 **fraudulent action of another, but who in good faith believes himself or**
19 **herself to be an insured or beneficiary;**
- 20 (5) "Insurer" means any:
21 **(a) Person, entity, organization, or reinsurer subject to regulation by or**
22 **registration with the department under this chapter, including any:**
23 **1. Fraternal benefit society[societies] as defined in Subtitle 29 of this**
24 **chapter;[,-]**
25 **2. Nonprofit hospital, medical-surgical, dental, and health service**
26 **corporation as defined in Subtitle 32 of this chapter;[,-]**
27 **3. Health maintenance organization as defined in Subtitle 38 of this**

1 chapter;~~[,]~~

2 4. Prepaid dental plan organization as defined in Subtitle 43 of this
3 chapter;~~[,]~~ or

4 5. Unauthorized insurer as defined in Subtitle 11 of this chapter; or;~~[,]~~
5 subject to regulation by or registration with the Department of Insurance
6 under this chapter, and]

7 (b) ~~[Any "]Carrier,["] ["]self-insurer,["] or ["]insurance carrier["] as defined~~
8 in~~[by]~~ KRS Chapter 342;

9 ~~[(2) "Insurance policy" or "policy" means any individual or group policy, including~~
10 ~~those defined by KRS Chapter 342, certificate, or contract of an insurer as defined~~
11 ~~in subsection (1) of this section including reinsurance affecting the rights of any~~
12 ~~Kentucky resident or bearing a reasonable relation to Kentucky regardless of~~
13 ~~whether delivered or issued for delivery in Kentucky;~~

14 ~~(3) "Insured" means any person who is a named insured or beneficiary under a policy~~
15 ~~as defined in subsection (2) of this section or a person who is not a named insured~~
16 ~~or beneficiary under a policy due to the fraudulent action of another, but who in~~
17 ~~good faith believes himself or herself to be an insured or beneficiary;]~~

18 (6)~~[(4)]~~ "Law enforcement agency" means any federal, state, county, or consolidated
19 police or law enforcement department and any prosecuting official of the federal,
20 state, county, local, or consolidated government; and

21 (7)~~[(5)]~~ "Statement" includes~~[,]~~ but is not limited to~~[,]~~ any notice, statement, proof of
22 loss, bill of lading, invoice, account, estimate of property or casualty damages, bid
23 or proposal relating to property or casualty damages, bill for services, diagnosis,
24 prescription, hospital or physician record or report, X-ray, test result, or other
25 evidence of loss, injury, or expense that is~~[. A statement may be]~~ in any form,
26 including oral, written, and electronic transmissions~~;~~

27 ~~(6) "Division" means the Division of Insurance Fraud Investigation of the Kentucky~~

1 Department of Insurance, its employees, or authorized representatives; and

2 ~~(7) "Criminal syndicate" means five (5) or more persons collaborating to promote or~~
3 ~~engage in any fraudulent insurance act, as set forth in KRS 304.47-020(1), on a~~
4 ~~continuing basis}.~~

5 ➔Section 2. KRS 304.47-020 is amended to read as follows:

6 (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance
7 act" if he or she engages in any of the following, including but not limited to
8 matters relating to workers' compensation:

9 (a) Knowingly and with intent to defraud or deceive presents, causes to be
10 presented, or prepares with knowledge or belief that it will be presented to an
11 insurer, Board of Claims, Special Fund, or any agent thereof:

12 1. Any~~[written or oral]~~ statement as part of, or in support of, a claim for
13 payment or other benefit pursuant to an insurance policy or from a "self-
14 insurer" as defined by KRS Chapter 342, knowing that the statement
15 contains any false, incomplete, or misleading information concerning
16 any fact or thing material to a claim;~~[or]~~

17 2. To the extent not otherwise included under subparagraph 1. of this
18 paragraph, any statement that misrepresents the scope of damages,
19 including repair costs and other expenses, associated with a property,
20 casualty, or property and casualty insurance claim, including any
21 claim for towing or storage benefits under a property, casualty, or
22 property and casualty insurance policy; or

23 3.[2.]Any statement as part of, or in support of, an application for an
24 insurance policy, for renewal, reinstatement, or replacement of
25 insurance, or in support of an application to a lender for money to pay a
26 premium, knowing that the statement contains any false, incomplete, or
27 misleading information concerning any fact or thing material to the

1 application;

2 (b) Knowingly and willfully transacts any contract, agreement, or instrument
3 which violates this title;

4 (c) Knowingly and with intent to defraud or deceive:

5 1. Receives money for the purpose of purchasing insurance, and fails to
6 obtain insurance;

7 2. Fails to make payment or disposition of money or voucher as defined in
8 KRS 304.17A-750, as required by agreement or legal obligation, that
9 comes into his or her possession while acting as a licensee under this
10 chapter;

11 3. Presents, causes to be presented, or prepares with knowledge or belief
12 that it will be presented to or by an insurer, or to the commissioner, any
13 statement, knowing that the statement contains any false, incomplete, or
14 misleading information concerning any material fact or thing, as part of,
15 or in support of one (1) or more of the following:

16 a. The rating of an insurance policy;

17 b. The financial condition of an insurer;

18 c. The formation, acquisition, merger, reconsolidation, dissolution, or
19 withdrawal from one (1) or more lines of insurance in all or part of
20 this Commonwealth by an insurer; or

21 d. A document filed with the commissioner; or

22 4. Engages in any of the following:

23 a. Solicitation or acceptance of new or renewal insurance risks on
24 behalf of an insolvent insurer; or

25 b. Removal, concealment, alteration, tampering, or destruction of
26 money, records, or any other property or assets of an insurer;

27 (d) Issues or knowingly presents fake or counterfeit insurance policies,

1 certificates of insurance, insurance identification cards, insurance binders, or
2 any other documents that purport to evidence insurance;

3 (e) Makes any false or fraudulent representation as to the death or disability of a
4 policy or certificate holder in any written statement or certificate for the
5 purpose of fraudulently obtaining money or benefit from an insurer;

6 (f) Engages in unauthorized insurance, as set forth in KRS 304.11-030; or

7 (g) Assists, abets, solicits, or conspires with another to commit a fraudulent
8 insurance act in violation of this subtitle.

9 (2) A person convicted of a violation of subsection (1) of this section shall be guilty of
10 a Class A misdemeanor, unless the aggregate of the claim, benefit, or money
11 referred to in subsection (1) of this section is:

12 (a) Five hundred dollars (\$500) or more but less than ten thousand dollars
13 (\$10,000), in which case it is a Class D felony;

14 (b) Ten thousand dollars (\$10,000) or more but less than one million dollars
15 (\$1,000,000), in which case it is a Class C felony; or

16 (c) One million dollars (\$1,000,000) or more, in which case it is a Class B felony.

17 (3) A person, with the purpose to establish or maintain a criminal syndicate or to
18 facilitate any of its activities, shall be guilty of engaging in organized crime, a Class
19 B felony, if he or she engages in any of the activities set forth in KRS 506.120(1).

20 (4) A person convicted of a crime established in this section shall be punished by:

21 (a) Imprisonment for a term:

22 1. Not to exceed the period set forth in KRS 532.090 if the crime is a Class
23 A misdemeanor; or

24 2. Within the periods set forth in KRS 532.060 if the crime is a Class D, C,
25 or B felony;

26 (b) A fine, per occurrence, of:

27 1. For a misdemeanor, not more than one thousand dollars (\$1,000) per

1 individual nor five thousand dollars (\$5,000) per corporation or twice
2 the amount of gain received as a result of the violation, whichever is
3 greater; or

4 2. For a felony, not more than ten thousand dollars (\$10,000) per
5 individual nor one hundred thousand dollars (\$100,000) per corporation,
6 or twice the amount of gain received as a result of the violation;
7 whichever is greater; or

8 (c) Both imprisonment and a fine, as set forth in paragraphs (a) and (b) of this
9 subsection.

10 (5) (a) In addition to imprisonment, the assessment of a fine, or both, a person
11 convicted of a crime established in this section may be ordered to make
12 restitution to any victim who suffered a monetary loss due to any actions by
13 that person which resulted in the adjudication of guilt, and to the division for
14 the cost of any investigation.

15 (b) The amount of restitution ordered shall equal the monetary value of the actual
16 loss or twice the amount of gain received as a result of the violation,
17 whichever is greater.

18 (6) Any person damaged as a result of a violation of any provision of this section shall
19 have a cause of action to recover compensatory damages, plus all reasonable
20 investigation and litigation expenses, including attorneys' fees, at the trial and
21 appellate courts.

22 (7) (a) The provisions of this section shall also apply to any agent, unauthorized
23 insurer or its agents or representatives, or surplus lines carrier who, with
24 intent, injures, defrauds, or deceives any claimant with regard to any claim.

25 (b) The claimant shall have the right to recover the damages provided in
26 subsection (6) of this section.