

Legislative Analysis



INSURANCE FRAUD PENALTIES

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House Bill 6238

Sponsor: Rep. Roger Kahn

Committee: Insurance

Complete to 6-27-06

A SUMMARY OF HOUSE BILL 6238 AS INTRODUCED 6-21-06

The bill would amend the Insurance Code (MCL 500.4511) to double the penalties for insurance fraud.

Currently, committing a fraudulent insurance act is a felony punishable by imprisonment for not more than four years and/or a fine of not more than \$50,000. The bill would increase the punishment to a maximum of eight years' imprisonment and/or a maximum fine of \$100,000. (Restitution is also required.)

Currently, entering into an agreement or conspiracy to commit a fraudulent insurance act is a felony punishable by imprisonment for not more than 10 years and/or a fine of not more than \$50,000. The bill would increase the punishment to a maximum of 20 years' imprisonment and/or a maximum fine of \$100,000. (Restitution is also required.)

FISCAL INFORMATION:

The bill's fiscal impact would depend on how it affected sentencing for the crimes of insurance fraud and conspiracy to commit insurance fraud. In 2003, there were a total of 185 sentences for violations or attempted violations of MCL 500.4511; of those, 10 were prison sentences, 154 were probation, 17 were jail, and 4 were other sentences (such as delayed or suspended sentences). There were two commitments to prison in 2003 with insurance fraud as the most serious offense; one offender was sentenced to a minimum of 1.4 years and the other to a minimum of 2.0 years. The total prisoner population at the end of calendar year 2003 included six prisoners with insurance fraud as the most serious offense; those prisoners were serving minimum sentences ranging from one to 10 years, and averaging about three years. The following table provides additional detail on 2003 sentences.

2003 Felony Dispositions					
	Prison	Probation	Jail	Other	Total
500.4511(1) Insurance Fraud - Fraudulent Acts					
Violations	8	101	12	3	124
Attempts	1	36	2	0	39
500.4511(2) Insurance Fraud - Conspiracies					
Violations	1	15	2	1	19
Attempts	0	2	1	0	3
Grand Total	10	154	17	4	185

To the extent that offenders were incarcerated for longer periods or were sentenced more frequently to imprisonment instead of probation, the state or local units of government could incur increased costs. Costs of incarceration in the county jail vary by county. Costs of felony probation supervision are borne by the state; costs of supervision of parolees and probationers average about \$2,000 per supervised offender per year. Costs of incarceration in a state correctional facility average about \$30,000 per offender per year. Increases in collections of penal fines could benefit local libraries, which are the constitutionally-designated recipients of such revenue.

BACKGROUND INFORMATION:

[Under Section 4503 of the Insurance Code, a fraudulent insurance act includes, but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

(a) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or any agent of an insurer, or any agent of an insurer, reinsurer, or broker any oral or written statement knowing that the statement contains any false information concerning any fact material to an application for the issuance of an insurance policy.

(b) Prepares or assists, abets, solicits, or conspires with another to prepare or make an oral or written statement that is intended to be presented to or by any insurer in connection with, or in support of, any application for the issuance of an insurance policy, knowing that the statement contains any false information concerning any fact or thing material to the application.

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

(d) Assists, abets, solicits, or conspires with another to prepare or make any oral or written statement including computer-generated documents that is intended to be presented to or by any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false information concerning any fact or thing material to the claim.

(e) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer.

(f) Removes or attempts to remove the assets or records of assets, transactions, and affairs, or a material part of the assets or records, from the home office or other place of business of the insurer or from the place of safekeeping of the insurer, or who conceals or attempts to conceal the assets or record of assets, transactions, and affairs, or a material part of the assets or records, from the commissioner.

(g) Diverts, attempts to divert, or conspires to divert funds of an insurer or of other persons in connection with any of the following:

(i) The transaction of insurance or reinsurance.

(ii) The conduct of business activities by an insurer.

(iii) The formation, acquisition, or dissolution of an insurer.

(h) Knowingly and willfully assists, conspires with, or urges any person to fraudulently violate this act, or any person who due to that assistance, conspiracy, or urging knowingly and willfully benefits from the proceeds derived from the fraud.]

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