

609.611 INSURANCE FRAUD.

Subdivision 1. **Insurance fraud prohibited.** Whoever with the intent to defraud for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to commit any of the following acts, is guilty of insurance fraud and may be sentenced as provided in subdivision 3:

(a) presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact concerning any of the following:

- (1) an application for, rating of, or renewal of, an insurance policy;
- (2) a claim for payment or benefit under an insurance policy;
- (3) a payment made according to the terms of an insurance policy;
- (4) an application used in a premium finance transaction;

(b) presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, to or by an insurer, insurance professional, or a premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact, concerning any of the following:

- (1) a solicitation for sale of an insurance policy or purported insurance policy;
 - (2) an application for certificate of authority;
 - (3) the financial condition of an insurer; or
 - (4) the acquisition, formation, merger, affiliation, or dissolution of an insurer;
- (c) solicits or accepts new or renewal insurance risks by or for an insolvent insurer;

(d) removes the assets or any record of assets, transactions, and affairs or any material part thereof, from the home office or other place of business of an insurer, or from the place of safekeeping of an insurer, or destroys or sequesters the same from the Department of Commerce;

(e) diverts, misappropriates, converts, or embezzles funds of an insurer, insured, claimant, or applicant for insurance in connection with:

- (1) an insurance transaction;
- (2) the conducting of business activities by an insurer or insurance professional; or
- (3) the acquisition, formation, merger, affiliation, or dissolution of any insurer.

Subd. 2. **Statute of limitations.** The applicable statute of limitations provision under section 628.26 shall not begin to run until the insurance company or law enforcement agency is aware of the fraud, but in no event may the prosecution be commenced later than seven years after the act has occurred.

Subd. 3. **Sentence.** Whoever violates this provision may be sentenced as provided in section 609.52, subdivision 3, based on the greater of (i) the value of property, services, or other benefit wrongfully obtained

or attempted to obtain, or (ii) the aggregate economic loss suffered by any person as a result of the violation. A person convicted of a violation of this section must be ordered to pay restitution to persons aggrieved by the violation. Restitution must be ordered in addition to a fine or imprisonment but not in lieu of a fine or imprisonment.

Subd. 4. **Definitions.** (a) "Insurance policy" means the written instrument in which are set forth the terms of any certificate of insurance, binder of coverage, or contract of insurance (including a certificate, binder, or contract issued by a state-assigned risk plan); benefit plan; nonprofit hospital service plan; motor club service plan; or surety bond, cash bond, or any other alternative to insurance authorized by a state's Financial Responsibility Act.

(b) "Insurance professional" means sales agents, agencies, managing general agents, brokers, producers, claims representatives, adjusters, and third-party administrators.

(c) "Insurance transaction" means a transaction by, between, or among: (1) an insurer or a person who acts on behalf of an insurer; and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, 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 thereof or therefrom.

(d) "Insurer" means a person purporting to engage in the business of insurance or authorized to do business in the state or subject to regulation by the state, who undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event. Insurer includes, but is not limited to, an insurance company; self-insurer; reinsurer; reciprocal exchange; interinsurer; risk retention group; Lloyd's insurer; fraternal benefit society; surety; medical service, dental, optometric, or any other similar health service plan; and any other legal entity engaged or purportedly engaged in the business of insurance, including any person or entity that falls within the definition of insurer found within section 60A.951, subdivision 5.

(e) "Premium" means consideration paid or payable for coverage under an insurance policy. Premium includes any payment, whether due within the insurance policy term or otherwise, and any deductible payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, any self-insured retention or payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, and any collateral or security to be provided to collateralize obligations to pay any of the above.

(f) "Premium finance company" means a person engaged or purporting to engage in the business of advancing money, directly or indirectly, to an insurer or producer at the request of an insured under the terms of a premium finance agreement, including but not limited to, loan contracts, notes, agreements or obligations, wherein the insured has assigned the unearned premiums, accrued dividends, or loss payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

(g) "Premium finance transaction" means a transaction by, between, or among an insured, a producer or other party claiming to act on behalf of an insured and a third-party premium finance company, for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured under the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loan payments as security for such advancement in payment

of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

History: 1976 c 124 s 8; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 217 s 2; 1994 c 636 art 2 s 43; 1996 c 408 art 3 s 36