

# ASSEMBLY, No. 2052

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

**Sponsored by:**

**Assemblyman WAYNE P. DEANGELO**  
**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Includes reverse rate evasion as form of insurance fraud and provides for civil and criminal penalties.

**CURRENT VERSION OF TEXT**

As introduced.



A2052 DEANGELO

2

1 AN ACT concerning insurance fraud and amending P.L.2003, c.89  
2 and P.L.1983, c.320.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 73 of P.L.2003, c.89 (C.2C:21-4.6) is amended to  
8 read as follows:

9 73. a. A person is guilty of the crime of insurance fraud if that  
10 person knowingly makes, or causes to be made, a false, fictitious,  
11 fraudulent, or misleading statement of material fact in, or omits a  
12 material fact from, or causes a material fact to be omitted from, any  
13 record, bill, claim or other document, in writing, electronically,  
14 orally or in any other form, that a person attempts to submit,  
15 submits, causes to be submitted, or attempts to cause to be  
16 submitted as part of, in support of or opposition to or in connection  
17 with: (1) a claim for payment, reimbursement or other benefit  
18 pursuant to an insurance policy, or from an insurance company or  
19 the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174  
20 (C.39:6-61 et seq.); (2) an application to obtain or renew an  
21 insurance policy; (3) any payment made or to be made in  
22 accordance with the terms of an insurance policy or premium  
23 finance transaction; or (4) an affidavit, certification, record or other  
24 document used in any insurance or premium finance transaction.

25 b. A person who operates a motor vehicle on the public  
26 highways of this State, which motor vehicle is insured by a policy  
27 issued under the laws of another state, is guilty of the crime of  
28 insurance fraud if that person maintains a principal residence in this  
29 State or has his motor vehicle principally garaged in this State and  
30 he has prepared or made any written or oral statement, presented to  
31 any insurance company or producer licensed to transact the business  
32 of insurance under the laws of that other state, and which resulted in  
33 obtaining a motor vehicle insurance policy for his motor vehicle in  
34 that other state, that the person to be insured: (1) maintains a  
35 principal residence in the other state when, in fact, that person's  
36 principal residence is in this State; or (2) has his motor vehicle  
37 principally garaged in the other state, when, in fact, that person has  
38 his motor vehicle principally garaged in this State.

39 c. Insurance fraud constitutes a crime of the second degree if  
40 the person knowingly commits five or more acts of insurance fraud,  
41 including acts of health care claims fraud pursuant to section 2 of  
42 P.L.1997, c.353 (C.2C:21-4.2) and if the aggregate value of  
43 property, services or other benefit wrongfully obtained or sought to  
44 be obtained is at least \$1,000. Otherwise, insurance fraud in  
45 violation of subsection a. of this section is a crime of the third

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 degree and insurance fraud in violation of subsection b. of this  
2 section is a crime of the fourth degree. Each act of insurance fraud  
3 shall constitute an additional, separate and distinct offense, except  
4 that five or more separate acts may be aggregated for the purpose of  
5 establishing liability pursuant to this subsection. Multiple acts of  
6 insurance fraud which are contained in a single record, bill, claim,  
7 application, payment, affidavit, certification or other document shall  
8 each constitute an additional, separate and distinct offense for  
9 purposes of this **【subsection】** section .

10 **【c.】** d. Proof that a person has signed or initialed an application,  
11 bill, claim, affidavit, certification, record or other document may  
12 give rise to an inference that the person has read and reviewed the  
13 application, bill, claim, affidavit, certification, record or other  
14 document.

15 **【d.】** e. In order to promote the uniform enforcement of this act,  
16 the Attorney General shall develop insurance fraud prosecution  
17 guidelines and disseminate them to county prosecutors within 180  
18 days of the effective date of this act.

19 **【e.】** f. Nothing in this act shall preclude an indictment and  
20 conviction for any other offense defined by the laws of this State.

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

25 (cf: P.L.2003, c.89, s.73)

26

27 2. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to  
28 read as follows:

29 4. a. A person or a practitioner violates this act if he:

30 (1) Presents or causes to be presented any written or oral  
31 statement as part of, or in support of or opposition to, a claim for  
32 payment or other benefit pursuant to an insurance policy or the  
33 "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174  
34 (C.39:6-61 et seq.), knowing that the statement contains any false or  
35 misleading information concerning any fact or thing material to the  
36 claim; or

37 (2) Prepares or makes any written or oral statement that is  
38 intended to be presented to any insurance company, the Unsatisfied  
39 Claim and Judgment Fund or any claimant thereof in connection  
40 with, or in support of or opposition to any claim for payment or  
41 other benefit pursuant to an insurance policy or the "Unsatisfied  
42 Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et  
43 seq.), knowing that the statement contains any false or misleading  
44 information concerning any fact or thing material to the claim; or

45 (3) Conceals or knowingly fails to disclose the occurrence of an  
46 event which affects any person's initial or continued right or

1 entitlement to (a) any insurance benefit or payment or (b) the  
2 amount of any benefit or payment to which the person is entitled;

3 (4) Prepares or makes any written or oral statement, intended to  
4 be presented to any insurance company or producer for the purpose  
5 of obtaining:

6 (a) a motor vehicle insurance policy, that the person to be  
7 insured maintains a principal residence in this State when, in fact,  
8 that person's principal residence is in a state other than this State; or

9 (b) an insurance policy, knowing that the statement contains any  
10 false or misleading information concerning any fact or thing  
11 material to an insurance application or contract;

12 (5) Conceals or knowingly fails to disclose any evidence,  
13 written or oral, which may be relevant to a finding that a violation  
14 of the provisions of paragraph (4) of this subsection a. has or has  
15 not occurred.

16 b. A person or practitioner violates this act if he knowingly  
17 assists, conspires with, or urges any person or practitioner to violate  
18 any of the provisions of this act.

19 c. A person or practitioner violates this act if, due to the  
20 assistance, conspiracy or urging of any person or practitioner, he  
21 knowingly benefits, directly or indirectly, from the proceeds  
22 derived from a violation of this act.

23 d. A person or practitioner who is the owner, administrator or  
24 employee of any hospital violates this act if he knowingly allows  
25 the use of the facilities of the hospital by any person in furtherance  
26 of a scheme or conspiracy to violate any of the provisions of this  
27 act.

28 e. A person or practitioner violates this act if, for pecuniary  
29 gain, for himself or another, he directly or indirectly solicits any  
30 person or practitioner to engage, employ or retain either himself or  
31 any other person to manage, adjust or prosecute any claim or cause  
32 of action, against any person, for damages for negligence, or, for  
33 pecuniary gain, for himself or another, directly or indirectly solicits  
34 other persons to bring causes of action to recover damages for  
35 personal injuries or death, or for pecuniary gain, for himself or  
36 another, directly or indirectly solicits other persons to make a claim  
37 for personal injury protection benefits pursuant to P.L.1972, c.70  
38 (C.39:6A-1 et seq.); provided, however, that this subsection shall  
39 not apply to any conduct otherwise permitted by law or by rule of  
40 the Supreme Court.

41 f. A person who operates a motor vehicle on the public  
42 highways of this State, which motor vehicle is insured by a policy  
43 issued under the laws of another state, and who maintains a  
44 principal residence in this State or who has his motor vehicle  
45 principally garaged in this State violates the provisions of P.L.1983,  
46 c.320 (C.17:33A-1 et seq.) if he has prepared or made any written  
47 or oral statement, presented to any insurance company or producer  
48 licensed to transact the business of insurance under the laws of that

1 other state, and which resulted in obtaining a motor vehicle  
2 insurance policy for his motor vehicle in that other state, that the  
3 person to be insured:

4 (1) Maintains a principal residence in the other state when, in  
5 fact, that person's principal residence is in this State; or

6 (2) Has his vehicle principally garaged in the other state, when,  
7 in fact, that person has his motor vehicle principally garaged in this  
8 State.

9 (cf: P.L. 1997, c.151, s.3)

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11 3. This act shall take effect immediately.

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#### STATEMENT

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16 This bill includes "reverse rate evasion" as a form of insurance  
17 fraud that violates the "New Jersey Insurance Fraud Prevention  
18 Act," P.L.1983, c.320 (C.17:33A-1 et seq.) and the criminal statutes  
19 that define the crime of insurance fraud. Reverse rate evasion  
20 occurs when New Jersey residents fraudulently obtain automobile  
21 insurance in another state even though New Jersey is their principal  
22 residence or they principally garage the insured vehicle in New  
23 Jersey.

24 A person commits this crime if that person operates a motor  
25 vehicle on the public highways of this State, which motor vehicle is  
26 insured by a policy issued under the laws of another state, and he  
27 maintains a principal residence in this State or has his motor vehicle  
28 principally garaged in this State and has prepared or made any  
29 written or oral statement, presented to any insurance company or  
30 producer licensed to transact the business of insurance under the  
31 laws of that other state, and which resulted in obtaining a motor  
32 vehicle insurance policy in that other state, that the person to be  
33 insured:

34 (1) maintains a principal residence in the other state when, in  
35 fact, that person's principal residence is in this State; or

36 (2) has his motor vehicle principally garaged in the other state,  
37 when, in fact, that person has his motor vehicle principally garaged  
38 in this State.

39 This bill includes reverse rate evasion as a crime of insurance  
40 fraud and makes it a crime of the fourth degree.

41 The bill also includes reverse rate evasion, as defined above, as a  
42 form of insurance fraud that constitutes a violation of the "New  
43 Jersey Insurance Fraud Prevention Act," and applies to reverse rate  
44 evasion, the various civil penalties and remedies provided for in  
45 that act.