

ASSEMBLY, No. 2281

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 6, 2014

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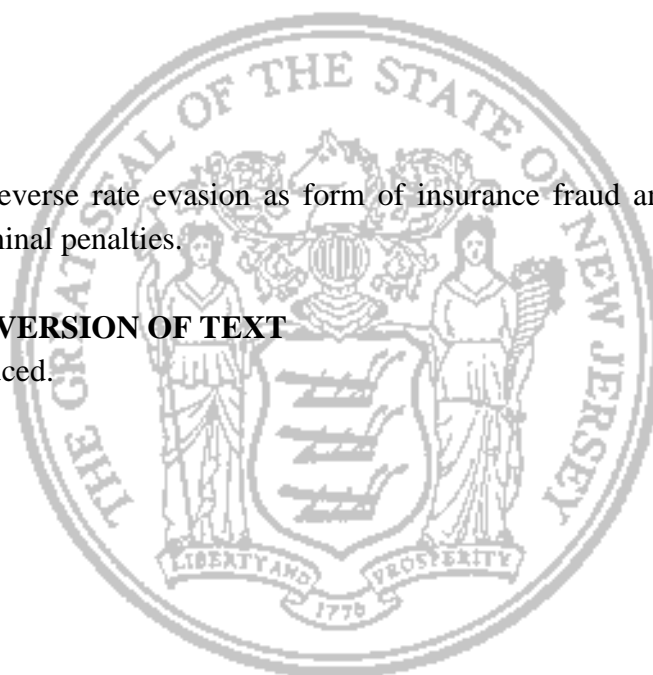
Assemblyman Coughlin

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/17/2015)

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 knowingly prepared or made any written, electronic or oral
31 statement, presented to any insurance company or producer licensed
32 to transact the business of insurance under the laws of that other
33 state, and which resulted in obtaining a motor vehicle insurance
34 policy for his motor vehicle in that other state, that the person to be
35 insured: (1) maintains a principal residence in the other state when,
36 in fact, that person's principal residence is in this State; or (2) has
37 his motor vehicle principally garaged in the other state, when, in
38 fact, that person has his motor vehicle principally garaged in this
39 State. This subsection shall not apply to a person who insures a
40 vehicle in another state, as permitted by and in accordance with the
41 laws of that state, based on a second residence, or attendance at an
42 educational institution, in that other state, if in obtaining the policy
43 the person truthfully discloses to the insurance company or
44 producer the state of the person's principal residence and the state
45 where the vehicle is principally garaged.

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

17 **【c.】** d. Proof that a person has signed or initialed an application,
18 bill, claim, affidavit, certification, record or other document may
19 give rise to an inference that the person has read and reviewed the
20 application, bill, claim, affidavit, certification, record or other
21 document.

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

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

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

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

33

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

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

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

44 (2) Prepares or makes any written or oral statement that is
45 intended to be presented to any insurance company, the Unsatisfied
46 Claim and Judgment Fund or any claimant thereof in connection
47 with, or in support of or opposition to any claim for payment or
48 other benefit pursuant to an insurance policy or the "Unsatisfied

- 1 Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et
2 seq.), knowing that the statement contains any false or misleading
3 information concerning any fact or thing material to the claim; or
- 4 (3) Conceals or knowingly fails to disclose the occurrence of an
5 event which affects any person's initial or continued right or
6 entitlement to (a) any insurance benefit or payment or (b) the
7 amount of any benefit or payment to which the person is entitled;
- 8 (4) Prepares or makes any written or oral statement, intended to
9 be presented to any insurance company or producer for the purpose
10 of obtaining:
- 11 (a) a motor vehicle insurance policy, that the person to be
12 insured maintains a principal residence in this State when, in fact,
13 that person's principal residence is in a state other than this State; or
- 14 (b) an insurance policy, knowing that the statement contains any
15 false or misleading information concerning any fact or thing
16 material to an insurance application or contract;
- 17 (5) Conceals or knowingly fails to disclose any evidence,
18 written or oral, which may be relevant to a finding that a violation
19 of the provisions of paragraph (4) of this subsection a. has or has
20 not occurred.
- 21 b. A person or practitioner violates this act if he knowingly
22 assists, conspires with, or urges any person or practitioner to violate
23 any of the provisions of this act.
- 24 c. A person or practitioner violates this act if, due to the
25 assistance, conspiracy or urging of any person or practitioner, he
26 knowingly benefits, directly or indirectly, from the proceeds
27 derived from a violation of this act.
- 28 d. A person or practitioner who is the owner, administrator or
29 employee of any hospital violates this act if he knowingly allows
30 the use of the facilities of the hospital by any person in furtherance
31 of a scheme or conspiracy to violate any of the provisions of this
32 act.
- 33 e. A person or practitioner violates this act if, for pecuniary
34 gain, for himself or another, he directly or indirectly solicits any
35 person or practitioner to engage, employ or retain either himself or
36 any other person to manage, adjust or prosecute any claim or cause
37 of action, against any person, for damages for negligence, or, for
38 pecuniary gain, for himself or another, directly or indirectly solicits
39 other persons to bring causes of action to recover damages for
40 personal injuries or death, or for pecuniary gain, for himself or
41 another, directly or indirectly solicits other persons to make a claim
42 for personal injury protection benefits pursuant to P.L.1972, c.70
43 (C.39:6A-1 et seq.); provided, however, that this subsection shall
44 not apply to any conduct otherwise permitted by law or by rule of
45 the Supreme Court.
- 46 f. A person who operates a motor vehicle on the public
47 highways of this State, which motor vehicle is insured by a policy
48 issued under the laws of another state, and who maintains a

1 principal residence in this State or who has his motor vehicle
2 principally garaged in this State violates the provisions of P.L.1983,
3 c.320 (C.17:33A-1 et seq.) if he has knowingly prepared or made
4 any written or oral statement, presented to any insurance company
5 or producer licensed to transact the business of insurance under the
6 laws of that other state, and which resulted in obtaining a motor
7 vehicle insurance policy for his motor vehicle in that other state,
8 that the person to be insured:

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

11 (2) Has his vehicle principally garaged in the other state, when,
12 in fact, that person has his motor vehicle principally garaged in this
13 State.

14 This subsection shall not apply to a person who insures a vehicle in
15 another state, as permitted by and in accordance with the laws of
16 that state, based on a second residence, or attendance at an
17 educational institution, in that other state, if in obtaining the policy
18 the person truthfully discloses to the insurance company or
19 producer the state of the person's principal residence and the state
20 where the vehicle is principally garaged.

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

22
23 3. This act shall take effect immediately.

24 25 26 STATEMENT

27
28 This bill includes "reverse rate evasion" as a form of insurance
29 fraud that violates the "New Jersey Insurance Fraud Prevention
30 Act," P.L.1983, c.320 (C.17:33A-1 et seq.) and the criminal statutes
31 that define the crime of insurance fraud. Reverse rate evasion
32 occurs when New Jersey residents fraudulently obtain automobile
33 insurance in another state even though New Jersey is their principal
34 residence or they principally garage the insured vehicle in New
35 Jersey.

36 An individual who maintains a principal residence in New Jersey
37 or has a motor vehicle principally garaged in New Jersey and who
38 drives on the public highways of New Jersey, but has the motor
39 vehicle insured by a policy issued under the laws of another state is
40 committing insurance fraud under this bill if that person obtained
41 the insurance by knowingly preparing or making any written or oral
42 statement to an insurance company in that other state falsely
43 indicating that the person to be insured:

44 (1) maintains a principal residence in the other state when, in
45 fact, that person's principal residence is New Jersey; or

46 (2) has the motor vehicle principally garaged in the other state,
47 when, in fact, that person has his motor vehicle principally garaged
48 in New Jersey.

A2281 DEANGELO, LAGANA

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1 The bill includes reverse rate evasion as a crime of insurance
2 fraud and makes it a crime of the fourth degree. The bill also
3 specifies that reverse rate evasion constitutes a violation of the
4 “New Jersey Insurance Fraud Prevention Act,” and that the various
5 civil penalties and remedies provided for in that act apply.
6 The bill’s reverse rate evasion provisions do not apply to a
7 person who insures a motor vehicle in another state, as permitted by
8 and in accordance with the laws of that state, based on a second
9 residence or attendance at an educational institution in that other
10 state, if in obtaining that insurance policy the person truthfully
11 discloses to the insurance company or producer the state of the
12 person's principal residence and the state where the vehicle is
13 principally garaged.