

SENATE, No. 2195

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senators LESNIAK, SINGER, Adler, Sinagra, MacInnes,
Lipman, Lynch, Codey, O'Connor, Girgenti, Casey, Bryant,
McGreevey, Zane, Baer and Sacco

1 AN ACT establishing the position of Insurance Fraud Prosecutor in the
2 Department of Banking and Insurance.

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

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7 1. Notwithstanding the provisions of P.L.1944, c.20 (C.52:17A-1
8 et seq.) or any other law, rule or regulation to the contrary, there is
9 created the position of Insurance Fraud Prosecutor in the Department
10 of Banking and Insurance. The Insurance Fraud Prosecutor shall be
11 appointed by and serve at the pleasure of the Governor, with the
12 advice and consent of the Senate.

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14 2. The Insurance Fraud Prosecutor shall have access to the support
15 and resources of the Department of Banking and Insurance, including,
16 without limitation, such clerical and support staff as may be necessary
17 to discharge his responsibilities, and access to those units within the
18 Department of Law and Public Safety, Department of Human Services
19 and Department of Health and Senior Services established to enforce
20 the criminal and civil laws with respect to insurance fraud.

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22 3. a. The Insurance Fraud Prosecutor shall establish a coordinated
23 insurance fraud enforcement policy, shall prosecute insurance fraud
24 and shall oversee the prosecution of enforcement actions in priority
25 cases.

26 b. In furtherance of these responsibilities, the Insurance Fraud
27 Prosecutor shall have the following powers and obligations:

28 (1) The Insurance Fraud Prosecutor shall have access to all
29 information concerning insurance fraud enforcement which is in the
30 possession of all State agencies. Such information includes agency
31 inspection reports and license information, individual case files, and
32 intelligence information compiled and maintained by the Divisions of
33 State Police and Criminal Justice.

34 (2) The Insurance Fraud Prosecutor shall meet on a regular basis
35 with representatives of all State departments and agencies with

1 insurance fraud enforcement responsibilities: (a) to identify individual
2 matters as priority cases; (b) to set specific goals and strategies for the
3 most effective resolution of each such case, whether by criminal, civil
4 or administrative enforcement action or some combination thereof; and
5 (c) to formulate and evaluate proposals for legislative, administrative
6 and judicial initiatives to strengthen insurance fraud enforcement and
7 to further a coordinated enforcement policy.

8 (3) The Insurance Fraud Prosecutor shall prosecute insurance fraud
9 and shall oversee the processing, progress and prosecution of
10 individual priority cases. He shall work with the Directors of the
11 Divisions of Law and Criminal Justice when these matters are
12 receiving, or should receive, the attention of the Attorney General. He
13 shall also work through the heads of other departments and agencies
14 to oversee administrative enforcement activities in priority cases which
15 do not involve direct Attorney General attention.

16 (4) In connection with insurance fraud enforcement activities, the
17 Insurance Fraud Prosecutor shall act as the liaison for the Executive
18 Branch of government with agencies involved in insurance fraud
19 enforcement outside the Executive Branch, including federal agencies
20 and the judiciary.

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22 4. All departments and agencies of State government with
23 insurance fraud enforcement responsibilities are hereby directed to
24 cooperate with and to support fully the Insurance Fraud Prosecutor in
25 the discharge of his responsibilities and obligations.

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27 5. a. The Director of the Division of Budget and Accounting in the
28 Department of the Treasury shall, on or before September 1 in each
29 year, ascertain and certify to the Commissioner of Banking and
30 Insurance the total amount of expenses incurred by the State in
31 connection with the administration of this act during the preceding
32 fiscal year, which expenses shall include, in addition to the direct cost
33 of personal service, the cost of maintenance and operation, the cost of
34 retirement contributions made and the workers' compensation paid for
35 and on account of the position of Insurance Fraud Prosecutor, rentals
36 for space occupied in State owned or State leased buildings and all
37 other direct and indirect costs associated with the duties and
38 responsibilities of the Insurance Fraud Prosecutor.

39 b. The commissioner shall, on or before October 15 in each year,
40 apportion the amount so certified to him among all of the companies
41 writing the class or classes of insurance described in Subtitle 3 of Title
42 17 of the Revised Statutes (C.17:17-1 et seq.), and Subtitle 3 of Title
43 17B of the New Jersey Statutes (C.17B:17-1 et seq.), within this State
44 in the proportion that the net premiums received by each of them for
45 such insurance written or renewed on risks within this State during the
46 calendar year immediately preceding, as reported to him, bears to the

1 sum total of all such net premiums received by all companies writing
2 that insurance within the State during the year, as reported. The
3 commissioner shall certify the sum apportioned to each company on or
4 before November 15 next ensuing, and to the Division of Taxation in
5 the Department of the Treasury. Each company shall pay the amount
6 so certified as apportioned to it to the Division of Taxation on or
7 before December 31 next ensuing, and the sum paid shall be paid into
8 the State Treasury in reimbursement to the State for the expenses paid.

9 "Net premiums received" means gross premiums written, less return
10 premiums thereon and dividends credited or paid to policyholders.

11 c. Direct and indirect costs associated with the position of
12 Insurance Fraud Prosecutor shall be apportioned among insurance
13 companies pursuant to subsection b. of this section notwithstanding
14 the provisions of P.L.1995, c.156 (C.17:1C-20 et seq.).
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16 6. The Insurance Fraud Prosecutor shall report to the Governor
17 after six months of service, and at reasonable and appropriate intervals
18 thereafter, as to the progress of his work and as to whether any further
19 administrative and legislative action would be desirable to assist in the
20 discharge of his duties.
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22 7. This act shall take effect immediately.
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25 STATEMENT 26

27 This bill establishes a special Insurance Fraud Prosecutor and is
28 necessary to insure that perpetrators of insurance fraud are prosecuted
29 to the fullest extent of the law. Currently, many such perpetrators
30 often avoid criminal prosecution because they are channeled instead
31 through an administrative settlement process within the Department of
32 Banking and Insurance and the Department of Law and Public Safety.
33 This bill provides the resources necessary to insure that these
34 individuals are justly punished and that others are deterred from
35 committing insurance fraud offenses, which only add additional dollars
36 to the insurance premiums of all the citizens of this State.
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41 Establishes position of Insurance Fraud Prosecutor in DOBI.