
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 850 Session of
1993

INTRODUCED BY SCANLON AND HOLL, MARCH 30, 1993

REFERRED TO BANKING AND INSURANCE, MARCH 30, 1993

AN ACT

1 Providing for insurance fraud prevention; establishing the
2 Insurance Fraud Prevention Authority and providing for its
3 powers and duties; establishing the Insurance Fraud
4 Prevention Trust Fund; establishing the Division of Insurance
5 Fraud within the Office of Attorney General and providing for
6 its powers and duties; and providing for confidentiality and
7 for certain immunities.

8 TABLE OF CONTENTS

9 Chapter 1. Preliminary Provisions

10 Section 101. Short title.

11 Section 102. Purpose.

12 Section 103. Definitions.

13 Chapter 3. Insurance Fraud Prevention Authority

14 Section 301. Establishment of authority.

15 Section 302. Powers and duties.

16 Section 303. Insurance Fraud Prevention Trust Fund.

17 Section 304. Immunity.

18 Chapter 5. Division of Insurance Fraud

19 Section 501. Establishment.

20 Section 502. Powers and duties.

1 Section 503. Document confidentiality and immunity from
2 subpoena.
3 Section 504. Duties of insurers, employees, agents and brokers.
4 Section 505. Persons not connected with insurance industry.
5 Section 506. Refusal to cooperate with investigation.
6 Section 507. Immunity.

7 Chapter 11. Miscellaneous Provisions

8 Section 1101. Other law enforcement authority.

9 Section 1102. Repeals.

10 Section 1103. Effective date.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 CHAPTER 1

14 PRELIMINARY PROVISIONS

15 Section 101. Short title.

16 This act shall be known and may be cited as the Insurance
17 Fraud Prevention Act.

18 Section 102. Purpose.

19 The purpose of this act is to establish, coordinate and fund
20 activities in this Commonwealth to prevent, combat and reduce
21 insurance fraud, to improve and support insurance fraud law
22 enforcement and administration and to improve and support
23 insurance fraud prosecution.

24 Section 103. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Authority." The Insurance Fraud Prevention Authority
29 established in section 301.

30 "Board." The board of directors of the Insurance Fraud

1 Prevention Authority.

2 "Division." The Division of Insurance Fraud in the Office of
3 Attorney General.

4 "Fund." The Insurance Fraud Prevention Trust Fund
5 established in section 303.

6 "Insurance fraud." Any activity defined as an offense under
7 18 Pa.C.S. § 4117 (relating to insurance fraud).

8 CHAPTER 3

9 INSURANCE FRAUD PREVENTION AUTHORITY

10 Section 301. Establishment of authority.

11 (a) Establishment.--There is hereby established a body
12 corporate and politic to be known as the Insurance Fraud
13 Prevention Authority. The purposes, powers and duties of the
14 authority shall be vested in and exercised by a board of
15 directors.

16 (b) Composition.--The board of the authority shall consist
17 of seven members, composed and appointed in accordance with the
18 following:

19 (1) The Attorney General.

20 (2) The Commissioner of the Pennsylvania State Police.

21 (3) Four representatives of insurers, two of whom shall
22 be appointed by the President pro tempore of the Senate and
23 two of whom shall be appointed by the Governor. Each of the
24 four members shall be, respectively, a representative of a
25 foreign or domestic insurer having a greater than 1% share of
26 this Commonwealth's workers' compensation, accident and
27 health, automobile or general commercial liability market.

28 (4) One representative of purchasers of insurance in
29 this Commonwealth who is not employed by or connected with
30 the business of insurance and is appointed by the Governor.

1 (c) Terms.--With the exception of the Attorney General and
2 the Commissioner of the Pennsylvania State Police, members of
3 the board shall serve for terms of four years. No appointed
4 member shall be eligible to serve more than two full consecutive
5 terms.

6 (d) Compensation.--Members of the board shall serve without
7 compensation, but shall receive reimbursement for all reasonable
8 and necessary expenses incurred in connection with their duties
9 in accordance with the rules of the Executive Board.

10 (e) Quorum.--A majority of the members of the board shall
11 constitute a quorum for the transaction of business at a meeting
12 or the exercise of a power or function of the authority.
13 Notwithstanding any other provision of law, action may be taken
14 by the board at a meeting upon a vote of the majority of its
15 members present in person or through the use of amplified
16 telephonic equipment, if authorized by the bylaws of the board.
17 The board shall meet at the call of the chairperson or as may be
18 provided in the bylaws of the board. The board shall meet at
19 least quarterly. Meetings of the board may be held anywhere
20 within this Commonwealth. The board shall elect its own
21 chairperson.

22 Section 302. Powers and duties.

23 The authority shall have the powers necessary and convenient
24 to carry out and effectuate the purposes and provisions of this
25 act and the purposes of the authority and the powers delegated
26 by other laws, including, but not limited to:

27 (1) Employ administrative, professional, clerical and
28 other personnel as may be required and organize the staff as
29 may be appropriate to effectuate the purposes of this act.

30 (2) Have a seal and alter the same at pleasure, have

1 perpetual succession, make, execute and deliver contracts,
2 conveyances and other instruments necessary or convenient to
3 the exercise of its powers and make and amend bylaws.

4 (3) Procure insurance against any loss in connection
5 with its property, assets or activities.

6 (4) Apply for, solicit, receive, establish priorities
7 for, allocate, disburse, contract for, administer and spend
8 funds in the fund, and other funds that are made available to
9 the authority from any source consistent with the purposes of
10 this act.

11 (5) Make grants to and provide financial support for the
12 Division of Insurance Fraud, other government agencies,
13 community, consumer and business organizations consistent
14 with the purposes of the act.

15 (6) Invest any money held in the fund and any funds held
16 in reserve or sinking funds, and any money not required for
17 immediate use or disbursement, at its discretion and to name
18 and use depositories for its money.

19 (7) Assess the scope of the problem of insurance fraud,
20 including areas of this Commonwealth where the problem is
21 greatest, and review State and local criminal justice
22 policies, programs and plans dealing with insurance fraud.

23 (8) Develop and sponsor the implementation of Statewide
24 plans, programs and strategies to combat insurance fraud,
25 improve the administration of the insurance fraud laws and
26 provide a forum for identification of critical problems for
27 those persons dealing with insurance fraud.

28 (9) Coordinate the development, adoption and
29 implementation of plans, programs and strategies relating to
30 interagency and intergovernmental cooperation with respect to

1 insurance fraud law enforcement.

2 (10) Promulgate rules or regulations related to the
3 expenditure of moneys held in the fund in order to assist and
4 support those agencies, units of government and other
5 organizations charged with the responsibility of reducing
6 insurance fraud or interested and involved in achieving this
7 goal.

8 (11) Audit at its discretion the plans and programs that
9 it has funded in whole or in part in order to evaluate the
10 effectiveness of the plans and programs and withdraw funding
11 should the authority determine that a plan or program is
12 ineffective or is no longer in need of further financial
13 support from the fund.

14 (12) Report annually, on or before the first day of
15 April falling after the act has been in effect for at least
16 12 months and annually thereafter on the same schedule, to
17 the Governor and the General Assembly on the authority's
18 activities in the preceding period of operation.

19 (13) Meet with the Division of Insurance Fraud on at
20 least a quarterly basis in order to advise and assist it in
21 implementing its statutory mandate.

22 (14) Advise the Governor on matters relating to
23 insurance fraud and recommend to the Governor, on an annual
24 basis, any changes to the operation of the Division of
25 Insurance Fraud. The report shall be available for public
26 inspection.

27 Section 303. Insurance Fraud Prevention Trust Fund.

28 (a) Establishment.--There is hereby established a separate
29 account in the State Treasury to be known as the Insurance Fraud
30 Prevention Trust Fund. This fund shall be administered by the

1 authority. All interest earned from the investment or deposit of
2 moneys accumulated in the fund shall be deposited in the fund
3 for the same use.

4 (b) Funds.--All moneys deposited into the fund shall be held
5 in trust and shall not be considered general revenue of the
6 Commonwealth, but shall be used only to effectuate the purposes
7 of this act as determined by the authority and shall be subject
8 to audit by the Auditor General.

9 (c) Assessment.--

10 (1) Prior to the first day of April following the
11 effective date of this act and prior to the first day of
12 April of each year thereafter so long as this act shall
13 remain in effect, each insurer engaged in the writing of the
14 insurance coverages listed below, as a condition of its
15 authorization to transact business in this Commonwealth,
16 shall pay into the fund in trust an amount equal to the
17 product obtained by multiplying \$8,000,000 by a fraction, the
18 numerator of which is the total premium collected for those
19 coverages listed below by that insurer in this Commonwealth
20 during the preceding calendar year and the denominator of
21 which is the total premium written on such coverages in this
22 Commonwealth by all insurers in the same period.

23 (2) The following coverages, as listed in the Annual
24 Statistical Report of the Insurance Department, shall be
25 considered in determining assessments: all fire and casualty
26 business; and accident and health and credit accident and
27 health written under life/annuity/accident and health
28 business. Assessments made under this section shall not be
29 considered burdens and prohibitions under section 212 of the
30 act of May 17, 1921 (P.L.789, No.285), known as The Insurance

Department Act of one thousand nine hundred and twenty-one.

(d) Base amount.--In succeeding years the authority may vary the base amount of \$8,000,000, provided, however, that any increase which on an annual basis exceeds the increase in the Consumer Price Index for this Commonwealth must be approved by three of the four insurance representatives on the board.

(e) Expenditures.--Moneys in the fund may be expended by the authority for the following purposes:

(1) Effectuate the powers, duties and responsibilities of the authority as set forth in this act.

(2) Pay the costs of administration and operation of the Division of Insurance Fraud.

(3) Provide financial support to law enforcement, correctional agencies and prosecutors for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(4) Provide financial support for other governmental agencies, community, consumer and business organizations for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(5) Provide financial support to programs designed to inform insurance consumers about the costs of insurance fraud to individuals and to society and to suggest methods for preventing insurance fraud.

(6) Provide financial support for reward programs leading to the arrest and conviction of persons and organizations engaged in insurance fraud.

(7) Provide financial support for other plans, programs and strategies consistent with the purposes of this act.

(f) Dissolution.--In the event that the trust fund is

1 discontinued or the authority is dissolved by operation of law,
2 any balance remaining in the fund, after deducting
3 administrative costs for liquidation, shall be returned to
4 insurers in proportion to their financial contributions to the
5 fund in the preceding calendar year.

6 Section 304. Immunity.

7 In the absence of malice, no board member and no employee of
8 the authority shall be subject to any civil or criminal
9 liability for receiving or disclosing information related to
10 insurance fraud or the activities of the authority. In the
11 absence of malice, persons or organizations shall not be subject
12 to civil or criminal liability for providing information
13 relating to insurance fraud to the authority, its employees,
14 agents or designees. This section does not abrogate or modify in
15 any way any common law or statutory privilege or immunity
16 heretofore enjoyed by any person.

17 CHAPTER 5

18 DIVISION OF INSURANCE FRAUD

19 Section 501. Establishment.

20 (a) Establishment.--There is hereby established within the
21 Office of Attorney General, a Division of Insurance Fraud to
22 investigate and prosecute insurance fraud.

23 (b) Funding.--All costs of administration and operation of
24 the division shall be borne by the fund. Any moneys or other
25 property awarded to the division as costs of investigation or as
26 a fine shall be credited to the fund.

27 Section 502. Powers and duties.

28 The division shall have the powers necessary and convenient
29 to carry out and effectuate the purposes and provisions of this
30 act and the powers delegated by other laws, including, but not

1 limited to, the power:

2 (1) To employ administrative, professional, clerical and
3 other personnel as may be required and organize the staff as
4 may be appropriate to effectuate the purposes of this act.

5 (2) To initiate inquiries and conduct investigations
6 when the division has reason to believe that insurance fraud
7 may have been or is being committed.

8 (3) To respond to notifications or complaints of
9 suspected insurance fraud generated by State and local
10 police, other law enforcement authorities, governmental
11 units, including the Federal Government, and the general
12 public.

13 (4) To review notices and reports of insurance fraud
14 submitted by authorized insurers, their employees and
15 licensed insurance agents or producers and to select those
16 incidents of suspected fraud as, in its judgment, require
17 further investigation and undertake such investigation.

18 (5) To conduct independent examination of insurance
19 fraud, conduct studies to determine the extent of insurance
20 fraud, deceit or intentional misrepresentation of any kind in
21 the insurance process and publish information and reports on
22 such examinations or studies.

23 (6) To prosecute both on its own and in conjunction with
24 other divisions within the Office of Attorney General any
25 incidents of insurance fraud disclosed by its investigations
26 and to assemble evidence, prepare charges, bring charges and
27 otherwise assist any other prosecutory authority having
28 jurisdiction over such incidents.

29 (7) To report incidents of insurance fraud disclosed by
30 its investigations to any other appropriate law enforcement,

1 administrative, regulatory or licensing agency.

2 (8) To pay over all civil and criminal fines and
3 penalties collected for violations and acts subject to
4 investigation and prosecution into the fund.

5 (9) To undertake programs to investigate insurance fraud
6 and to meet, at least on a quarterly basis, with the
7 Insurance Fraud Prevention Authority.

8 (10) To employ investigators. The laws applicable to law
9 enforcement officers of this Commonwealth shall be applicable
10 to the investigators. Investigators of the division shall
11 have the following additional powers:

12 (i) To make arrests for criminal violations
13 established as a result of their investigations.

14 (ii) To execute arrest and search warrants for the
15 same criminal violations.

16 (iii) To administer oaths and affirmations, subpoena
17 witnesses, compel their attendance, take evidence and
18 require the production of any books, papers,
19 correspondence, memoranda, agreements, or other documents
20 or records that the division deems relevant or material
21 to an inquiry concerning insurance fraud.

22 (iv) To arrest, without warrant, any person found in
23 the act of violating any of the provisions of applicable
24 laws.

25 (11) To designate, if evidence, documentation and
26 related materials sought are located outside of this
27 Commonwealth, representatives, including officials of the
28 state where the matter is located, to secure the matter or
29 inspect the matter on its behalf. The person so requested
30 shall either make the matter available to the division or

1 shall make the matter available for inspection or examination
2 by a designated representative of the division.

3 (12) To establish either alone or in cooperation with
4 authorized insurance companies and licensed agents and
5 producers a fund to reward persons not connected with the
6 insurance industry who provide information or furnish
7 evidence leading to the arrest and conviction of persons
8 responsible for insurance fraud.

9 Section 503. Document confidentiality and immunity from
10 subpoena.

11 (a) General rule.--Papers, records, documents, reports,
12 materials or other evidence relative to the subject of an
13 insurance fraud investigation shall remain confidential and
14 shall not be subject to public inspection for so long as the
15 division deems it reasonably necessary to complete its
16 investigation or for so long as the division deems it reasonably
17 necessary to protect the privacy of the person investigated, to
18 protect the person furnishing the matter or to be in public
19 interest.

20 (b) Subpoena.--

21 (1) Papers, records, documents, reports, materials or
22 other evidence relative to the subject of an insurance fraud
23 investigation shall not be subject to subpoena until opened
24 for public inspection by the division unless the division
25 consents or until, after notice to the division and a
26 hearing, a court of record determines that the division will
27 not be unnecessarily hindered by a subpoena.

28 (2) Investigators employed by the division shall not be
29 subject to subpoena in civil actions by any court in this
30 Commonwealth to testify concerning any matter of which they

1 have knowledge pursuant to a pending or continuing insurance
2 fraud investigation being conducted by the division.

3 Section 504. Duties of insurers, employees, agents and brokers.

4 Every insurer, every employee of an insurer and every
5 licensed agent or broker shall cooperate fully with the
6 division. Where an insurer, agent or broker who believes that an
7 insurance fraud has been or is being committed notifies the
8 division, the notification shall toll any applicable time period
9 in the act of July 22, 1974 (P.L.589, No.205), known as the
10 Unfair Insurance Practices Act, or any other law or regulation.

11 Section 505. Persons not connected with insurance industry.

12 Any person having knowledge of or who believes that an
13 insurance fraud is being or has been committed may send to the
14 division a report or information pertinent to the knowledge and
15 belief.

16 Section 506. Refusal to cooperate with investigation.

17 It is unlawful for any person to resist an arrest authorized
18 by this act or in any manner to interfere either by abetting or
19 assisting such resistance or otherwise interfere with division
20 investigators in the duties imposed upon them by this act.

21 Section 507. Immunity.

22 (a) General rule.--In the absence of malice, persons or
23 organizations providing information to or otherwise cooperating
24 with the division, its employees, agents or designees, shall not
25 be subject to civil or criminal liability for supplying the
26 information.

27 (b) Civil and criminal liability.--

28 (1) In the absence of malice, persons or organizations
29 shall not be subject to civil or criminal liability for
30 complying with an order issued by a court of competent

jurisdiction acting in response to a request by the division.

(2) In the absence of malice, the Attorney General and any employee, agent or designee of the Office of Attorney General and the division shall not be subject to civil or criminal liability for the execution of official activities or duties of the division by virtue of the publication of any report or bulletin related to the official activities or duties of the division.

(c) Construction of section.--This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

CHAPTER 11

MISCELLANEOUS PROVISIONS

Section 1101. Other law enforcement authority.

This act shall not:

(1) Preempt the authority of or relieve the duty of any other law enforcement agencies to investigate and prosecute suspected violations of law.

(2) Prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency other than the division.

(3) Limit any of the powers granted to the Insurance Commissioner to investigate possible violations of law and to take appropriate action against wrongdoers.

Section 1102. Repeals.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 1103. Effective date.

This act shall take effect in 60 days.