

Union Calendar No. 260

103D CONGRESS
2D SESSION

H. R. 665

[Report No. 103-468]

A BILL

To amend title 18, United States Code, to provide that fraud against insurance companies will be subject to strong Federal criminal and civil penalties.

MARCH 25, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. DINGELL (for himself and Mr. BROOKS) introduced the following bill;
which was referred to the Committee on the Judiciary

MARCH 25, 1994

Additional sponsors: Mr. BONIOR and Mr. POMEROY

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[Omit the part struck through and insert the part printed in italic]

A BILL

To amend title 18, United States Code, to provide that
fraud against insurance companies will be subject to
strong Federal criminal and civil penalties.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Insurance Fraud Pre-
3 vention Act of ~~1993~~ 1994”.

4 **SEC. 2. CRIMES BY OR AFFECTING PERSONS ENGAGED IN**
5 **THE BUSINESS OF INSURANCE WHOSE AC-**
6 **TIVITIES AFFECT INTERSTATE COMMERCE.**

7 (a) IN GENERAL.—Chapter 47 of title 18, United
8 States Code, is amended by adding at the end thereof the
9 following new sections:

10 **“§ 1033. Crimes by or affecting persons engaged in**
11 **the business of insurance whose activi-**
12 **ties affect interstate commerce**

13 “(a)(1) Whoever is engaged in the business of insur-
14 ance whose activities affect interstate commerce and
15 knowingly, with the intent to deceive, makes any false ma-
16 terial statement or report or willfully and materially
17 overvalues any land, property or security—

18 “(A) in connection with any financial reports or
19 documents presented to any insurance regulatory of-
20 ficial or agency or an agent or examiner appointed
21 by such official or agency to examine the affairs of
22 such person, and

23 “(B) for the purpose of influencing the actions
24 of such official or agency or such an appointed agent
25 or examiner,

26 shall be punished as provided in paragraph (2).

1 “(2) The punishment for an offense under paragraph
2 (1) is a fine as established under this title or imprison-
3 ment for not more than 10 years, or both, except that
4 the term of imprisonment shall be not more than 15 years
5 if the statement or report or overvaluing of land, property,
6 or security jeopardized the safety and soundness of an in-
7 surer and was a significant cause of such insurer being
8 placed in conservation, rehabilitation, or liquidation by an
9 appropriate court.

10 “(b)(1) Whoever—

11 “(A) acting as, or being an officer, director,
12 agent, or employee of, any person engaged in the
13 business of insurance whose activities affect inter-
14 state commerce, or

15 “(B) is engaged in the business of insurance
16 whose activities affect interstate commerce or is in-
17 volved (other than as an insured or beneficiary
18 under a policy of insurance) in a transaction relating
19 to the conduct of affairs of such a business,

20 willfully embezzles, abstracts, purloins, or misappropriates
21 any of the moneys, funds, premiums, credits, or other
22 property of such person so engaged shall be punished as
23 provided in paragraph (2).

24 “(2) The punishment for an offense under paragraph
25 (1) is a fine as provided under this title or imprisonment

1 for not more than 10 years, or both, except that if such
2 embezzlement, abstraction, purloining, or misappropria-
3 tion described in paragraph (1) jeopardized the safety and
4 soundness of an insurer and was a significant cause of
5 such insurer being placed in conservation, rehabilitation,
6 or liquidation by an appropriate court, such imprisonment
7 shall be not more than 15 years. If the amount or value
8 so embezzled, abstracted, purloined, or misappropriated
9 does not exceed \$5,000, whoever violates paragraph (1)
10 shall be fined as provided in this title or imprisoned not
11 more than one year, or both.

12 “(c)(1) Whoever is engaged in the business of insur-
13 ance and whose activities affect interstate commerce or is
14 involved (other than as an insured or beneficiary under
15 a policy of insurance) in a transaction relating to the con-
16 duct of affairs of such a business, knowingly makes any
17 false entry of material fact in any book, report, or state-
18 ment of such person engaged in the business of insurance
19 with intent to deceive any person, including any officer,
20 employee, or agent of such person engaged in the business
21 of insurance, any insurance regulatory official or agency,
22 or any agent or examiner appointed by such official or
23 agency to examine the affairs of such person, about the
24 financial condition or solvency of such business shall be
25 punished as provided in paragraph (2).

1 “(2) The punishment for an offense under paragraph
2 (1) is a fine as provided under this title or imprisonment
3 for not more than 10 years, or both, except that if the
4 false entry in any book, report, or statement of such per-
5 son jeopardized the safety and soundness of an insurer
6 and was a significant cause of such insurer being placed
7 in conservation, rehabilitation, or liquidation by an appro-
8 priate court, such imprisonment shall be not more than
9 15 years.

10 “(d) Whoever, by threats or force or by any threaten-
11 ing letter or communication, corruptly influences, ob-
12 structs, or impedes or endeavors corruptly to influence, ob-
13 struct, or impede the due and proper administration of
14 the law under which any proceeding involving the business
15 of insurance whose activities affect interstate commerce
16 is pending before any insurance regulatory official or
17 agency or any agent or examiner appointed by such official
18 or agency to examine the affairs of a person engaged in
19 the business of insurance whose activities affect interstate
20 commerce, shall be fined as provided in this title or impris-
21 oned not more than 10 years, or both.

22 “(e)(1)(A) Any individual who has been convicted of
23 any criminal felony involving dishonesty or a breach of
24 trust, or who has been convicted of an offense under this
25 section, and who willfully engages in the business of insur-

1 ance whose activities affect interstate commerce or partici-
2 pates in such business, shall be fined as provided in this
3 title or imprisoned not more than 5 years, or both.

4 “(B) Any individual who is engaged in the business
5 of insurance whose activities affect interstate commerce
6 and who willfully permits the participation described in
7 subparagraph (A) shall be fined as provided in this title
8 or imprisoned not more than 5 years, or both.

9 “(2) A person described in paragraph (1)(A) may en-
10 gage in the business of insurance or participate in such
11 business if such person has the written consent of any in-
12 surance regulatory official authorized to regulate the in-
13 surer, which consent specifically refers to this subsection.

14 “(f) As used in this section—

15 “(1) the term ‘business of insurance’ means—

16 “(A) the writing of insurance, or

17 “(B) the reinsuring of risks,

18 by an insurer, including all acts necessary or inci-
19 dental to such writing or reinsuring and the activi-
20 ties of persons who act as, or are, officers, directors,
21 agents, or employees of insurers or who are other
22 persons authorized to act on behalf of such persons;

23 “(2) the term ‘insurer’ means any entity the
24 business activity of which is the writing of insurance
25 or the reinsuring of risks, and includes any person

1 who acts as, or is, an officer, director, agent, or em-
2 ployee of that business;

3 “(3) the term ‘interstate commerce’ means—

4 “(A) commerce within the District of Co-
5 lumbia, or any territory or possession of the
6 United States;

7 “(B) all commerce between any point in
8 the State, territory, possession, or the District
9 of Columbia and any point outside thereof;

10 “(C) all commerce between points within
11 the same State through any place outside such
12 State; or

13 “(D) all other commerce over which the
14 United States has jurisdiction; and

15 “(4) the term ‘State’ includes any State, the
16 District of Columbia, the Commonwealth of Puerto
17 Rico, the Northern Mariana Islands, the Virgin Is-
18 lands, American Samoa, and the Trust Territory of
19 the Pacific Islands.

20 **“§ 1034. Civil penalties and injunctions for violations**
21 **of section 1033**

22 “(a) The Attorney General may bring a civil action
23 in the appropriate United States district court against any
24 person who engages in conduct constituting an offense
25 under section 1033 and, upon proof of such conduct by

1 a preponderance of the evidence, such person shall be sub-
2 ject to a civil penalty of not more than \$50,000 for each
3 violation or the amount of compensation which the person
4 received or offered for the prohibited conduct, whichever
5 amount is greater. If the offense has contributed to the
6 decision of a court of appropriate jurisdiction to issue an
7 order directing the conservation, rehabilitation, or liquida-
8 tion of an insurer, such penalty shall be remitted to the
9 appropriate regulatory official for the benefit of the policy-
10 holders, claimants, and creditors of such insurer. The im-
11 position of a civil penalty under this subsection does not
12 preclude any other criminal or civil statutory, common
13 law, or administrative remedy, which is available by law
14 to the United States or any other person.

15 “(b) If the Attorney General has reason to believe
16 that a person is engaged in conduct constituting an of-
17 fense under section 1033, the Attorney General may peti-
18 tion an appropriate United States district court for an
19 order prohibiting that person from engaging in such con-
20 duct. The court may issue an order prohibiting that person
21 from engaging in such conduct if the court finds that the
22 conduct constitutes such an offense. The filing of a peti-
23 tion under this section does not preclude any other remedy
24 which is available by law to the United States or any other
25 person.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 47 of such title is amended by adding at the
3 end the following new items:

“1033. Crimes by or affecting persons engaged in the business of insurance
whose activities affect interstate commerce.

“1034. Civil penalties and injunctions for violations of section 1033.”.

4 **SEC. 3. MISCELLANEOUS AMENDMENTS TO TITLE 18,**
5 **UNITED STATES CODE.**

6 (a) TAMPERING WITH INSURANCE REGULATORY
7 PROCEEDINGS.—Section 1515(a)(1) of title 18, United
8 States Code, is amended—

9 (1) by striking “or” at the end of subparagraph
10 (B);

11 (2) by inserting “or” at the end of subpara-
12 graph (C); and

13 (3) by adding at the end thereof the following
14 new subparagraph:

15 “(D) a proceeding involving the business of
16 insurance whose activities affect interstate com-
17 merce before any insurance regulatory official
18 or agency or any agent or examiner appointed
19 by such official or agency to examine the affairs
20 of any person engaged in the business of insur-
21 ance whose activities affect interstate com-
22 merce; or”.

23 (b) LIMITATIONS.—Section 3293 of such title is
24 amended by inserting “1033,” after “1014,”.

1 (c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—
2 Section 1510 of title 18, United States Code, is amended
3 by adding at the end the following new subsection:

4 “(d)(1) Whoever—

5 “(A) acting as, or being, an officer, director,
6 agent or employee of a person engaged in the busi-
7 ness of insurance whose activities affect interstate
8 commerce, or

9 “(B) is engaged in the business of insurance
10 whose activities affect interstate commerce or is in-
11 volved (other than as an insured or beneficiary
12 under a policy of insurance) in a transaction relating
13 to the conduct of affairs of such a business,

14 with intent to obstruct a judicial proceeding, directly or
15 indirectly notifies any other person about the existence or
16 contents of a subpoena for records of that person engaged
17 in such business or information that has been furnished
18 to a Federal grand jury in response to that subpoena, shall
19 be fined as provided by this title or imprisoned not more
20 than 5 years, or both.

21 “(2) As used in paragraph (1), the term ‘subpoena
22 for records’ means a Federal grand jury subpoena for
23 records that has been served relating to a violation of, or
24 a conspiracy to violate, section 1033 of this title.”.

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