

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Insurance fraud reporting.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to the insurance code; requiring the
2 reporting of insurance fraud; requiring cooperation in
3 investigations of insurance fraud; providing immunity from
4 civil liability for reporting and cooperating in
5 investigations of insurance fraud; providing a definition;
6 requiring rulemaking; and providing for effective dates.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 26-13-401 through 26-13-404 are
11 created to read:

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ARTICLE 4 - INSURANCE FRAUD REPORTING

26-13-401. Definitions.

(a) As used in this article:

(i) "Insurance fraud" means an act or omission committed by a person who knowingly and with intent to defraud commits or conceals any material information concerning one (1) or more of the following:

(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, a broker or its agent false information as part of, in support of or concerning a fact material to one (1) or more of the following:

(I) An application for the issuance or renewal of an insurance policy or reinsurance contract;

(II) The rating of an insurance policy or reinsurance contract;

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(III) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract;

(IV) Premiums paid on an insurance policy or reinsurance contract;

(V) Payments made in accordance with the terms of an insurance policy or reinsurance contract;

(VI) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction;

(VII) The financial condition of an insurer or reinsurer;

(VIII) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one (1) or more lines of insurance or reinsurance in all or part of this state by an insurer or reinsurer;

1 (IX) The issuance of written evidence
2 of insurance;

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4 (X) The reinstatement of an insurance
5 policy.

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7 (B) Solicitation or acceptance of new or
8 renewal insurance risks on behalf of an insurer, reinsurer
9 or other person engaged in the business of insurance by a
10 person who knows or should know that the insurer or other
11 person responsible for the risk is insolvent at the time of
12 the transaction;

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14 (C) Removal, concealment, alteration or
15 destruction of the assets or records of an insurer,
16 reinsurer or other person engaged in the business of
17 insurance;

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19 (D) Willful embezzlement, abstracting,
20 purloining or conversion of monies, funds, premiums,
21 credits or other property of an insurer, reinsurer or
22 person engaged in the business of insurance;

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1 (E) Transaction of the business of
2 insurance in violation of laws requiring a license,
3 certificate of authority or other legal authority for the
4 transaction of the business of insurance; or

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6 (F) Attempt to commit, aiding or abetting
7 in the commission of or conspiracy to commit the acts or
8 omissions specified in this paragraph.

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12 **STAFF COMMENT**

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14 The Wyoming Insurance Code does not define "insurance
15 fraud." The definition of "insurance fraud" included in
16 this bill draft is modeled after the definition of a
17 "fraudulent insurance act" in the NAIC Insurance Fraud
18 Prevention Model Act.

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20 The Committee may wish to consider alternative definitions
21 of insurance fraud. The following is the definition under
22 Wisconsin law:

23
24 "[I]nsurance fraud" means the presentation of any
25 statement, document or claim, or the preparation
26 of a statement, document or claim with the
27 knowledge that the statement, document or claim
28 will be presented, that the person knew or should
29 have known contained materially false, incomplete
30 or misleading information concerning any of the
31 following:

32
33 (a) An application for the issuance of an
34 insurance policy.

35 (b) A claim for payment, reimbursement or
36 benefits payable under an insurance policy.

1 (c) A payment made in accordance with the terms
2 of an insurance policy.

3 (d) A premium on an insurance policy.

4 (e) The rating of an insurance policy.

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6 Wis. Stat. Ann. § 895.486.

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8 The following is the definition under Kansas law:

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10 "[F]raudulent insurance act" means an act
11 committed by any person who, knowingly and with
12 intent to defraud, presents, causes to be
13 presented or prepares with knowledge or belief
14 that it will be presented to or by an insurer,
15 purported insurer, broker or any agent thereof,
16 any written, electronic, electronic impulse,
17 facsimile, magnetic, oral, or telephonic
18 communication or statement as part of, or in
19 support of, an application for the issuance of,
20 or the rating of an insurance policy for personal
21 or commercial insurance, or a claim for payment
22 or other benefit pursuant to an insurance policy
23 for commercial or personal insurance that such
24 person knows to contain materially false
25 information concerning any fact material thereto;
26 or conceals, for the purpose of misleading,
27 information concerning any fact material thereto.

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29 Kan. Stat. Ann. § 40-2-118.

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34 26-13-402. Requirement to report insurance fraud.

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36 A person who engages in or conducts the business of
37 insurance in this state who knows or has reason to believe
38 that insurance fraud is being, will be or has been
39 committed by another person shall report the insurance

1 fraud or suspected insurance fraud to the commissioner in
2 the manner prescribed by rule of the commissioner not later
3 than sixty (60) days after discovering the insurance fraud
4 or suspected insurance fraud.

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8 **STAFF COMMENT**

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10 The Wyoming Insurance Code defines what it means for a
11 person to be engaged in or conduct the "business of
12 insurance" as follows:

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14 (xlii) A natural person who engages in or
15 conducts the "business of insurance" means a
16 person has duties that require licensure under
17 this code or that are a major part of a person's
18 duties and require specialized knowledge of
19 insurance, which knowledge has been acquired
20 through training and experience and is sufficient
21 that close supervision from a person licensed
22 under this code is not needed. A person is not
23 engaged in the business of insurance who performs
24 tasks often found in business offices not engaged
25 in insurance and who requires close supervision
26 from a person licensed under this code to engage
27 in tasks requiring specialized insurance
28 knowledge. A person in training who performs
29 duties requiring specialized knowledge of
30 insurance is not engaged in the business of
31 insurance if that person is under close
32 supervision from a person licensed under this
33 code;

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35 W.S. 26-1-102(a) (xlii).

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1 **26-13-403. Requirement to fully cooperate with**
2 **investigations of insurance fraud.**

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4 A person who engages in or conducts the business of
5 insurance in this state shall fully cooperate with the
6 commissioner in any investigation of insurance fraud or
7 suspected insurance fraud by providing the commissioner the
8 information required by and in the manner prescribed by the
9 commissioner, subject to all confidentiality requirements
10 that would otherwise apply to the information under law.

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12 **26-13-404. Immunity from civil liability.**

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14 In the absence of malice, a person who engages in or
15 conducts the business of insurance in this state shall not
16 be subject to civil liability for reporting insurance fraud
17 or suspected insurance fraud to the commissioner pursuant
18 to W.S. 26-13-402 or for cooperating with the commissioner
19 in any investigation of insurance fraud or suspected
20 insurance fraud pursuant to W.S. 26-13-403. Nothing in this
21 section shall be construed to limit a person's immunity
22 from liability under W.S. 26-2-131(b).

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3 STAFF COMMENT

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5 For reference, W.S. 26-2-131(b) provides immunity to
6 persons who communicate or deliver information or data to
7 commissioners and others as specified.

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9 26-2-131. Immunity from liability.

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11 (a) No cause of action shall arise nor shall any
12 liability be imposed against the commissioner,
13 the commissioner's authorized representatives or
14 any examiner appointed by the commissioner for
15 any statements made or conduct performed in good
16 faith while carrying out an examination or
17 related activity under the provisions of this
18 chapter.

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20 (b) No cause of action shall arise nor shall any
21 liability be imposed against any person for the
22 act of communicating or delivering information or
23 data to the commissioner, the commissioner's
24 authorized representative or examiner or law
25 enforcement agencies pursuant to an examination
26 made under this chapter or any other criminal
27 investigation under title 6 of the Wyoming
28 statutes, if the act of communication or delivery
29 was performed in good faith and without
30 fraudulent intent.

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32 (c) Any person identified in subsection (a) or
33 (b) of this section shall be entitled to an award
34 of attorney's fees and costs if he is a
35 prevailing party in a civil cause of action for
36 libel, slander or any other relevant tort arising
37 out of activities in carrying out an examination
38 or related activity under the provisions of this
39 chapter and the party bringing the action was not
40 substantially justified in doing so. For purposes
41 of this section, a proceeding is "substantially
42 justified" if it had a reasonable basis in law or
43 fact at the time it was initiated.

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