

FEB 28 1994

*Substituted for SF 2275 3/14/94 (P. 645)*

HOUSE FILE 2314  
BY COMMITTEE ON COMMERCE

**Place On Calendar**

(SUCCESSOR TO HSB 636)

Passed House, Date 3/8/94 (P. 462) Passed Senate, Date 4-5-94 (P. 1026)  
Vote: Ayes 98 Nays 0 Vote: Ayes 50 Nays 0

Approved April 13, 1994  
Passed 4-8-94  
Vote 97-0  
(P. 1275) A BILL FOR

1 An Act relating to insurance fraud and establishing an insurance  
2 fraud bureau within the insurance division of the department  
3 of commerce.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*HF 2314*

1 Section 1. NEW SECTION. 507E.1 TITLE.

2 This chapter may be cited as the "Iowa Insurance Fraud  
3 Act".

4 Sec. 2. NEW SECTION. 507E.2 PURPOSE.

5 An insurance fraud bureau is created within the insurance  
6 division. Upon a reasonable determination by the division, by  
7-its own inquiries or as a result of complaints filed with the  
8 division, that a person has engaged in, is engaging in, or may  
9 be engaging in an act or practice that violates this chapter  
10 or any other provision of the insurance code, the division may  
11 administer oaths and affirmations, serve subpoenas ordering  
12 the attendance of witnesses, and collect evidence related to  
13 such act or practice.

14 Sec. 3. NEW SECTION. 507E.3 FRAUDULENT SUBMISSIONS --  
15 PENALTY.

16 1. For purposes of this chapter, "statement" includes, but  
17 is not limited to, any notice, statement, proof of loss, bill  
18 of lading, receipt for payment, invoice, account, estimate of  
19 property damage, bill for services, diagnosis, prescription,  
20 hospital or physician record, X ray, test result, or other  
21 evidence of loss, injury, or expense.

22 2. A person commits a class "D" felony, if the person,  
23 with the intent to injure, defraud, or deceive an insurer,  
24 does either of the following:

25 a. Presents or causes to be presented to an insurer, any  
26 written document or oral statement, including a computer-  
27 generated document, as part of, or in support of, a claim for  
28 payment or other benefit pursuant to an insurance policy,  
29 knowing that such document or statement contains any false,  
30 incomplete, or misleading information concerning a material  
31 fact.

32 b. Assists, abets, solicits, or conspires with another to  
33 present or cause to be presented to an insurer, any written  
34 document or oral statement, including a computer-generated  
35 document, that is intended to be presented to any insurer in

1 connection with, or in support of, any claim for payment or  
2 other benefit pursuant to an insurance policy, knowing that  
3 such document or statement contains any false, incomplete, or  
4 misleading information concerning a material fact.

5 Sec. 4. NEW SECTION. 507E.4 EXAMINATION OF INFORMATION  
6 OUTSIDE THE STATE.

7 The bureau shall seek to obtain by request, any information  
8 related to the enforcement of this chapter in the possession  
9 of a person located outside the state. The bureau may  
10 designate a representative, including an official of the state  
11 where the information is located, to inspect the information  
12 on behalf of the bureau at the place where the information is  
13 located. The bureau may respond to similar requests from an  
14 official from another state.

15 Sec. 5. NEW SECTION. 507E.5 CONFIDENTIALITY.

16 Notwithstanding chapter 22, the papers, documents, reports,  
17 or evidence in the possession of the bureau which are related  
18 to the subject of an investigation under this chapter shall  
19 not be subject to public inspection as long as the bureau  
20 deems such confidentiality reasonably necessary to complete  
21 the investigation, to protect the person investigated from  
22 unwarranted injury, or not to be in the public interest.  
23 Additionally, such papers, documents, reports, or evidence  
24 related to the subject of an investigation under this chapter  
25 is not subject to subpoena until opened for public inspection  
26 by the bureau, upon the consent of the bureau, or until the  
27 court determines, after notice to the bureau and hearing, that  
28 the bureau would not be unnecessarily hindered by such  
29 subpoena. An investigator of the bureau is not subject to  
30 subpoena in a civil action concerning any matter of which the  
31 investigator has knowledge pursuant to a pending investigation  
32 by the bureau pursuant to this chapter.

33 Sec. 6. NEW SECTION. 507E.6 DUTIES OF INSURER.

34 An insurer which believes that a claim is being made which  
35 is a violation of section 507E.3 shall provide, within sixty

1 days of the receipt of such claim, provide written  
2 notification to the bureau of the claim on a form prescribed  
3 by the bureau, including any additional information requested  
4 by the bureau related to the claim or the party making the  
5 claim. The fraud bureau shall review each notification and  
6 determine whether further investigation is warranted. If the  
7 bureau determines that further investigation is warranted, the  
8 bureau shall conduct an independent investigation of the facts  
9 surrounding the claim to determine the extent, if any, to  
10 which fraud, deceit, or intentional misrepresentation occurred  
11 in the submission of the claim. The bureau shall report any  
12 alleged violation of law disclosed by the investigation to the  
13 appropriate licensing agency or prosecuting authority having  
14 jurisdiction with respect to such violation.

15 Sec. 7. NEW SECTION. 507E.7 IMMUNITY FROM LIABILITY.

16 1. A person acting without malice, fraudulent intent, or  
17 bad faith, is not liable civilly as a result of filing a  
18 report or furnishing, orally or in writing, other information  
19 concerning alleged acts in violation of this chapter, if the  
20 report or information is provided to or received from any of  
21 the following:

22 a. Law enforcement officials, their agents and employees.

23 b. The national association of insurance commissioners,  
24 the insurance division, a federal or state governmental agency  
25 or bureau established to detect and prevent fraudulent  
26 insurance acts, or any other organization established for such  
27 purpose, and their agents, employees, or designees.

28 2. This section does not affect in any way any common law  
29 or statutory privilege or immunity applicable to such person  
30 or entity.

31 3. A person or entity against whom an action is brought  
32 for libel, slander, or any other relevant tort, where the  
33 action involves acts subject to immunity under this section  
34 and is not substantially justified, is entitled to an award of  
35 court costs and reasonable attorney fees. For purposes of

1 this section, an action is "substantially justified" if it had  
2 a reasonable basis in law or fact at the time that it was  
3 initiated.

4 Sec. 8. NEW SECTION. 507E.8 PEACE OFFICER STATUS.

5 Bureau investigators shall have the power and status of  
6 peace officers when making arrests for criminal violations  
7 established as a result of their investigations pursuant to  
8 this chapter. The general laws applicable to arrests by peace  
9 officers of the state also apply to bureau investigators.  
10 Bureau investigators shall have the power to execute arrest  
11 warrants and search warrants for the same criminal violations,  
12 serve subpoenas issued for the examination, investigation, and  
13 trial of all offenses identified through their investigations,  
14 and arrest upon probable cause without warrant a person found  
15 in the act of committing a violation of the provisions of this  
16 chapter.

17 Sec. 9. CREATION OF INSURANCE FRAUD BUREAU CONTINGENT UPON  
18 FUNDING. The creation of an insurance fraud bureau within the  
19 insurance division shall only be implemented, and this Act  
20 shall only be effective, if the state receives a federal grant  
21 for its implementation and the general assembly appropriates  
22 matching funds from the general fund of the state for its  
23 implementation.

24 EXPLANATION

25 This bill creates a new chapter 507E, the Insurance Fraud  
26 Act. Section 507E.1 sets forth the title of the chapter.

27 Section 507E.2 creates the insurance fraud bureau in the  
28 insurance division of the department of commerce.

29 Section 507E.3 provides that a person submitting a  
30 fraudulent claim for payment or other benefit pursuant to an  
31 insurance policy, or who assists or conspires to submit such  
32 claim, commits a felony and is subject to a term of  
33 imprisonment not to exceed five years, or a fine not to exceed  
34 \$5,000, or both, on each count.

35 Section 507E.4 authorizes the insurance fraud bureau to

1 seek to obtain by request information related to insurance  
2 fraud in the possession of a person located outside the state,  
3 or to inspect such information where the information is  
4 located.

5 Section 507E.5 provides that information gathered as a  
6 result of an investigation under this chapter is to be kept  
7 confidential and is not subject to subpoena until opened for  
8 public inspection by the bureau, upon consent of the bureau,  
9 or upon court order.

10 Section 507E.6 directs an insurance company to provide  
11 written notification to the bureau within 60 days of receipt  
12 of a claim the company believes is fraudulent and has been  
13 submitted in violation of section 507E.3.

14 Section 507E.7 provides that a person acting without  
15 malice, fraudulent intent, or bad faith, is not liable as a  
16 result of filing a report or furnishing, orally or in writing,  
17 other information concerning alleged fraudulent insurance  
18 acts.

19 Section 507E.8 grants peace officer status to insurance  
20 fraud bureau investigators, which permits them to execute  
21 arrest warrants and search warrants, serve subpoenas, and make  
22 warrantless arrests.

23 The last section in the bill provides that the fraud bureau  
24 shall only be created when the state receives a federal grant  
25 and the general assembly appropriates matching funds from the  
26 state general fund for that purpose.

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HOUSE FILE 2314

S-5258

- 1 Amend House File 2314, as passed by the House, as  
2 follows:  
3 1. Page 3, line 1, by striking the word  
4 "provide".

By MICHAEL E. GRONSTAL

S-5258 FILED MARCH 17, 1994

*adopted 4-5-94 (P 1026)*

HOUSE FILE 2314

S-5308

- 1 Amend House File 2314, as passed by the House as  
2 follows:  
3 1. Page 1, line 23, by striking the words  
4 "injure, defraud, or deceive" and inserting the  
5 following: "defraud".  
6 2. Page 1, lines 29 and 30, by striking the words  
7 "false, incomplete, or misleading" and inserting the  
8 following: "false".  
9 3. Page 2, lines 3 and 4, by striking the words  
10 "false, incomplete, or misleading" and inserting the  
11 following: "false".  
12 4. Page 3, line 10, by striking the words "fraud,  
13 deceit, or intentional misrepresentation" and  
14 inserting the following: "fraud".

By TOM VILSACK

S-5308 FILED MARCH 28, 1994

*adopted 4-5-94 (P 1026)*

SENATE AMENDMENT TO HOUSE FILE 2314

H-5991

- 1 Amend House File 2314, as passed by the House as  
2 follows:  
3 1. Page 1, line 23, by striking the words  
4 "injure, defraud, or deceive" and inserting the  
5 following: "defraud".  
6 2. Page 1, lines 29 and 30, by striking the words  
7 "false, incomplete, or misleading" and inserting the  
8 following: "false".  
9 3. Page 2, lines 3 and 4, by striking the words  
10 "false, incomplete, or misleading" and inserting the  
11 following: "false".  
12 4. Page 3, line 1, by striking the word  
13 "provide".  
14 5. Page 3, line 10, by striking the words "fraud,  
15 deceit, or intentional misrepresentation" and  
16 inserting the following: "fraud".  
17 6. By renumbering, relettering, or redesignating  
18 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5991 FILED APRIL 6, 1994

*House concurred 4-8-94 (P 1275)*

HSB 636

Commerce

Now

SENATE/HOUSE FILE 2314  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/INSURANCE DIVISION  
BILL)

*Metcalf - Chr.*

*Churchhill  
Corbett  
McCoy  
Weigel*

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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20 hospital or physician record, X ray, test result, or other  
21 evidence of loss, injury, or expense.

22 2. A person commits a class "D" felony, if the person,  
23 with the intent to injure, defraud, or deceive an insurer,  
24 does either of the following:

25 a. Presents or causes to be presented to an insurer, any  
26 written document or oral statement, including a computer-  
27 generated document, as part of, or in support of, a claim for  
28 payment or other benefit pursuant to an insurance policy,  
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19 concerning alleged acts in violation of this chapter, if the  
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21 the following:

22 a. Law enforcement officials, their agents and employees.

23 b. The national association of insurance commissioners,  
24 the insurance division, a federal or state governmental agency  
25 or bureau established to detect and prevent fraudulent  
26 insurance acts, or any other organization established for such  
27 purpose, and their agents, employees, or designees.

28 2. This section does not affect in any way any common law  
29 or statutory privilege or immunity applicable to such person  
30 or entity.

31 3. A person or entity against whom an action is brought  
32 for libel, slander, or any other relevant tort, where the  
33 action involves acts subject to immunity under this section  
34 and is not substantially justified, is entitled to an award of  
35 court costs and reasonable attorney fees. For purposes of

1 this section, an action is "substantially justified" if it had  
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14 and arrest upon probable cause without warrant a person found  
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16 chapter.

17 Sec. 9. CREATION OF INSURANCE FRAUD BUREAU CONTINGENT UPON  
18 FUNDING. The creation of an insurance fraud bureau within the  
19 insurance division shall only be implemented, and this Act  
20 shall only be effective, if the state receives a federal grant  
21 for its implementation and the general assembly appropriates  
22 matching funds from the general fund of the state for its  
23 implementation.

24 EXPLANATION

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26 Act. Section 507E.1 sets forth the title of the chapter.

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32 claim, commits a felony and is subject to a term of  
33 imprisonment not to exceed five years, or a fine not to exceed  
34 \$5,000, or both, on each count.

35 Section 507E.4 authorizes the insurance fraud bureau to

1 seek to obtain by request information related to insurance  
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6 result of an investigation under this chapter is to be kept  
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13 submitted in violation of section 507E.3.

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15 malice, fraudulent intent, or bad faith, is not liable as a  
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19 Section 507E.8 grants peace officer status to insurance  
20 fraud bureau investigators, which permits them to execute  
21 arrest warrants and search warrants, serve subpoenas, and make  
22 warrantless arrests.

23 The last section in the bill provides that the fraud bureau  
24 shall only be created when the state receives a federal grant  
25 and the general assembly appropriates matching funds from the  
26 state general fund for that purpose.

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#### BACKGROUND STATEMENT

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#### SUBMITTED BY THE AGENCY

29 This bill is based upon the National Association of  
30 Insurance Commissioner's model act concerning insurance fraud.  
31 Insurance fraud is the second most committed crime involving  
32 fraud in the United States. The Federal Bureau of  
33 Investigation is specifically targeting insurance fraud by  
34 establishing a special task force, providing more agents and  
35 funding to combat this white collar crime.

1 Iowa ranks second in per capita in the number of insurance  
2 companies domiciled in a state. Des Moines ranks second only  
3 to Hartford, Connecticut in the number of insurance companies  
4 present. Iowa is accredited by the National Association of  
5 Insurance Commissioners. However, Iowa has no antifraud  
6 statute. There is no statutory definition of insurance fraud  
7 in the Iowa Code and no mandatory fraud reporting by insurers.

8 Under this new chapter, the crime of insurance fraud is a  
9 felony subject to certain penalties. An insurance fraud  
10 bureau to investigate alleged insurance fraud is established  
11 in the Insurance Division. The insurance fraud bureau shall  
12 have the authority to examine records and information and make  
13 arrests for criminal violations under the chapter.

14 Insurance companies shall have an affirmative duty to  
15 notify the bureau of insurance fraud if they believe a  
16 fraudulent claim is being made by or involving an Iowa  
17 resident. A person who acts without malice or fraudulent  
18 intent and files a report concerning possible fraudulent  
19 insurance acts is not subject to liability when the report or  
20 information is provided to or received from law enforcement  
21 officials, federal or state governmental agencies, the  
22 national association of insurance commissioners or other  
23 specific agencies.

24 The creation of the fraud bureau shall be implemented only  
25 when the state receives a federal grant, which the division is  
26 pursuing, along with any federally required state funds.

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HOUSE FILE 2314

AN ACT

RELATING TO INSURANCE FRAUD AND ESTABLISHING AN INSURANCE FRAUD BUREAU WITHIN THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 507E.1 TITLE.

This chapter may be cited as the "Iowa Insurance Fraud Act".

Sec. 2. NEW SECTION. 507E.2 PURPOSE.

An insurance fraud bureau is created within the insurance division. Upon a reasonable determination by the division, by its own inquiries or as a result of complaints filed with the division, that a person has engaged in, is engaging in, or may be engaging in an act or practice that violates this chapter or any other provision of the insurance code, the division may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses, and collect evidence related to such act or practice.

Sec. 3. NEW SECTION. 507E.3 FRAUDULENT SUBMISSIONS -- PENALTY.

1. For purposes of this chapter, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of

property damage, bill for services, diagnosis, prescription, hospital or physician record, X ray, test result, or other evidence of loss, injury, or expense.

2. A person commits a class "D" felony, if the person, with the intent to defraud an insurer, does either of the following:

a. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

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1. A person acting without malice, fraudulent intent, or bad faith, is not liable civilly as a result of filing a report or furnishing, orally or in writing, other information concerning alleged acts in violation of this chapter, if the

report or information is provided to or received from any of the following:

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- b. The national association of insurance commissioners, the insurance division, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance acts, or any other organization established for such purpose, and their agents, employees, or designees.

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---

HAROLD VAN MAANEN  
Speaker of the House

---

LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2314, Seventy-fifth General Assembly.

---

ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 13, 1994

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TERRY E. BRANSTAD  
Governor