

Sec. 21.36.360. Fraudulent or criminal insurance acts. (a) A person may not commit a fraudulent or criminal insurance act involving an insurance transaction that is subject to the provisions of this title. The penalty for a fraudulent or criminal insurance act described in this section is in addition to a civil penalty levied under this title.

(b) A fraudulent insurance act is committed by a person who, with intent to injure, defraud, or deceive

(1) collects a sum as premium or charge for insurance if the insurance has not been provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy authorized under this title;

(2) presents to an insurer a written or oral statement in support of a claim for payment or other benefit under an insurance policy, knowing that the statement contains false, incomplete, or misleading information concerning a matter material to the claim;

(3) assists or conspires with another to prepare or make a written or oral statement that is presented to an insurer in support of a claim for a benefit under an insurance policy, knowing that the statement contains false, incomplete, or misleading information concerning a matter material to the claim;

(4) wilfully collects as premium or charge for insurance a sum in excess of the premium or charge applicable to the insurance as specified in the policy by the insurer in accordance with the applicable classifications and rates approved by the director, or in cases where classifications and rates are not subject to approval, the premiums and charges applicable to the insurance as specified in the policy and fixed by the insurer;

(5) fails to make disposition of funds received or held or misappropriates funds received or held representing premiums or return premiums; or

(6) fails to pay its tax liability under this title when due.

(c) A fraudulent insurance act is committed by a person forming or proposing to form an insurer, an insurance holding corporation, a stock corporation to finance an insurer or insurance production, a corporation to manage an insurer, a corporation to be attorney-in-fact for a reciprocal insurer, or a syndicate for any of these purposes that advertises, or solicits or receives funds, agreement, stock subscription, or membership on account unless the person has applied for and has received from the director a solicitation permit as required by AS 21.69.

(d) A fraudulent insurance act is committed by a person who makes a false sworn statement that the person does not believe to be true as to matter material to an examination, investigation, or hearing of the division.

(e) A fraudulent insurance act is committed by a person if

(1) as to a matter material to an examination, investigation, or hearing by the division, the person makes two or more sworn statements that are irreconcilably inconsistent to the degree that one of them is necessarily false; and

(2) the person does not believe one of the statements to be true at the time the statement is made.

(f) A fraudulent insurance act is committed by a person who with intent to

deceive, knowingly exhibits a false account, document, or advertisement, relative to the affairs of an insurer, a corporation, or syndicate of the kind described in AS 21.69.060, formed or proposed to be formed.

(g) A fraudulent insurance act is committed by a person who wrongfully removes or attempts to remove records from the place where they are required to be kept under AS 21.69.390(a) or who conceals or attempts to conceal records from the director.

(h) A fraudulent insurance act is committed by a person who deliberately perpetrates a fraud upon the director under AS 21.22.

(i) A criminal insurance act is committed by a person doing business in this state or relative to a subject resident, located, or to be performed in this state who knowingly

(1) writes, places, or causes to be written or placed in this state or relative to a subject resident, located, or to be performed in this state a policy, duplicate policy, or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated, or located in this state, from or through a person not authorized to transact business under AS 21.27 or a risk retention group or purchasing group not registered under AS 21.96.090; or

(2) pays a commission or other form of remuneration to a person, firm, or organization for the writing or placing of insurance coverage in this state or relative to a subject resident, located, or to be performed in this state unless that person, firm, or organization is authorized under AS 21.27 to transact the kind or class of insurance written or placed, or, in the case of a risk retention group or purchasing group, is registered under AS 21.96.090.

(j) A criminal insurance act is committed by a person in this state or relative to a subject resident, located, or to be performed in this state who acts as an insurance producer, managing general agent, third-party administrator, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster without being licensed by the director as required under this title or as a risk retention group or purchasing group without being registered as required under AS 21.96.090. A criminal insurance act is committed by an insurance producer, managing general agent, third-party administrator, reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker who solicits or takes application for, procures, or places for others any insurance for which the person is not licensed as required under AS 21.27 or for which the license of the person has been suspended or revoked. A criminal insurance act is committed by a person in this state or relative to a subject resident, located, or to be performed in this state who acts as or on behalf of a risk retention group or a purchasing group that is not registered under AS 21.96.090.

(k) A criminal insurance act is committed by an insurance producer, managing general agent, third-party administrator, reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker who knowingly compensates or offers to compensate in any manner a person other than an insurance producer, managing general agent, third-party administrator, reinsurance

intermediary broker, reinsurance intermediary manager, or surplus lines broker licensed as required under this title in this or another jurisdiction, for procuring or in any manner helping to procure applications for or to place insurance in this state. A criminal insurance act is committed by a person in this state or relative to a subject resident, located, or to be performed in this state who acts as or on behalf of a risk retention group or a purchasing group that is not registered under AS 21.96.090. This subsection does not apply to the payment of compensation that is not contingent upon volume of business transacted in the form of salaries to the regular employees of the insurance producer, managing general agent, third-party administrator, reinsurance intermediary broker, reinsurance intermediary manager, or surplus lines broker.

(l) A criminal insurance act is committed by a person who has placed insurance with an unauthorized insurer and refuses to obey an order by the director to produce for examination all policies and other documents evidencing the insurance and the amount of premiums paid or agreed to be paid for the insurance.

(m) A criminal insurance act is committed by a director of a domestic stock or mutual insurer who votes for or concurs in a declaration or payment of a dividend to stockholders or members other than as authorized under AS 21.69.490 - 21.69.500.

(n) A criminal insurance act is committed by an agent, managing general agent, third-party administrator, reinsurance intermediary broker, reinsurance intermediary manager, or other representative of an insurer involved in the procuring or issuance of an insurance contract who intentionally fails to report to the insurer the exact amount of consideration charged as premium for the contract and to maintain records showing that information.

(o) A fraudulent insurance act is committed by a person who, with intent to injure, defraud, or deceive, knowingly makes a false or fraudulent statement or representation in or with reference to an application for insurance.

(p) A fraudulent insurance act is committed by a person who

- (1) violates a provision of this title or a regulation issued under it;
- (2) falsely makes, completes, or alters a certificate of insurance or other document relating to insurance;
- (3) knowingly possesses a forged certificate of insurance or other document relating to insurance; or
- (4) knowingly issues a forged certificate of insurance or other document relating to insurance.

(q) A fraudulent or criminal insurance act described in

- (1) (b) of this section that is committed to obtain \$10,000 or more is a class B felony;
- (2) (c), (d), or (p)(4) of this section is a class B felony;
- (3) (b) of this section that is committed to obtain \$500 or more but less than \$10,000 is a class C felony;
- (4) (e), (f), (g), or (h), of this section is a class C felony;
- (5) (b) of this section that is committed to obtain less than \$500 is a class A

misdemeanor;

(6) (i), (j), (k), (l), (m), or (n) of this section is a class A misdemeanor;

(7) (o) of this section is a class B misdemeanor;

(8) (p)(1) of this section is a class B misdemeanor unless another specific penalty is provided for the violation of the provision; and

(9) (p)(2) and (3) of this section may be prosecuted under AS 11.46.

(r) The director may adopt regulations to implement, define, and enforce this section.

(s) For the purpose of this section, the charging and collection by surplus line brokers licensed under AS 21.27 of the amount of applicable state and federal taxes and filing fees under AS 21.34 is not considered a premium or charge for insurance.