

103^D CONGRESS
1ST SESSION

H. R. 665

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

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

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Insurance Fraud Pre-
5 vention Act of 1993”.

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

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

7 **“§1033. Crimes by or affecting persons engaged in**
8 **the business of insurance whose activi-**
9 **ties affect interstate commerce**

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

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

20 “(B) for the purpose of influencing the actions
21 of such official or agency or such an appointed agent
22 or examiner,

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

24 “(2) The punishment for an offense under paragraph
25 (1) is a fine as established under this title or imprison-
26 ment for not more than 10 years, or both, except that

1 the term of imprisonment shall be not more than 15 years
2 if the statement or report or overvaluing of land, property,
3 or security jeopardized the safety and soundness of an in-
4 surer and was a significant cause of such insurer being
5 placed in conservation, rehabilitation, or liquidation by an
6 appropriate court.

7 “(b)(1) Whoever—

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

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

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

21 “(2) The punishment for an offense under paragraph
22 (1) is a fine as provided under this title or imprisonment
23 for not more than 10 years, or both, except that if such
24 embezzlement, abstraction, purloining, or misappropria-
25 tion described in paragraph (1) jeopardized the safety and

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

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

23 “(2) The punishment for an offense under paragraph
24 (1) is a fine as provided under this title or imprisonment
25 for not more than 10 years, or both, except that if the

1 false entry in any book, report, or statement of such per-
2 son jeopardized the safety and soundness of an insurer
3 and was a significant cause of such insurer being placed
4 in conservation, rehabilitation, or liquidation by an appro-
5 priate court, such imprisonment shall be not more than
6 15 years.

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

19 “(e)(1)(A) Any individual who has been convicted of
20 any criminal felony involving dishonesty or a breach of
21 trust, or who has been convicted of an offense under this
22 section, and who willfully engages in the business of insur-
23 ance whose activities affect interstate commerce or partici-
24 pates in such business, shall be fined as provided in this
25 title or imprisoned not more than 5 years, or both.

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

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

11 “(f) As used in this section—

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

13 “(A) the writing of insurance, or

14 “(B) the reinsuring of risks,

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

20 “(2) the term ‘insurer’ means any entity the
21 business activity of which is the writing of insurance
22 or the reinsuring of risks, and includes any person
23 who acts as, or is, an officer, director, agent, or em-
24 ployee of that business;

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

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

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

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 47 of such title is amended by adding at the
25 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.”.

1 **SEC. 3. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED**
2 **STATES CODE.**

3 (a) TAMPERING WITH INSURANCE REGULATORY
4 PROCEEDINGS.—Section 1515(a)(1) of title 18, United
5 States Code, is amended—

6 (1) by striking “or” at the end of subparagraph
7 (B);

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

10 (3) by adding at the end thereof the following
11 new subparagraph:

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

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

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

1 “(d)(1) Whoever—

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

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

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

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

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