

THE REPORT OF THE

**STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL**

HENRY McMASTER

INSURANCE FRAUD DIVISION

2008 ANNUAL REPORT



June 2009

MESSAGE FROM THE ATTORNEY GENERAL

I am honored to present the 2008 Annual Report of the South Carolina Insurance Fraud Division to the General Assembly. My office continues to address the problem of insurance fraud through prosecution and raising awareness of the problem among the citizens of South Carolina.

One fact that I would specifically like to bring to your attention is that the attorneys in the Insurance Fraud Division of my office secured 135 convictions during 2008. This is an increase of 44 percent over 2007 (94). This number also represents the most convictions for the Insurance Fraud Division since its creation in 1994.

During 2008, there was an increase in the number of complaints received by my office. We received 815 complaints in 2008, as compared to 712 in 2007. As we see these numbers increase, we are reminded of the need to continue our fight against Insurance Fraud. Of the 815 complaints received, the type of fraud vary as follows:

Automobile – 57% (463), Personal/Commercial Property – 12% (98), Worker’s Compensation – 11% (87), Health/Medical – 11% (83), Disability – 4% (29), Life Insurance – 3% (23), Premium – 2% (20), and Other – 1% (12).

We were able to have a record-breaking year in our number of convictions in 2008. I am proud of my office's accomplishments in the past year, but it also serves as a grim reminder that we must work hard to continue the fight.

A handwritten signature in black ink that reads "Henry McMaster". The signature is written in a cursive, flowing style with a prominent initial "H".

Henry McMaster

MESSAGE FROM THE DIRECTOR
OF INSURANCE FRAUD

On July 1, 1994, the Governor enacted into law the Omnibus Insurance Fraud and Reporting Immunity Act establishing the Insurance Fraud Division of the Office of the Attorney General and mandating the prosecution of insurance fraud by this new division with the South Carolina Law Enforcement Division (SLED) conducting the investigations. The intention of the legislation was to aggressively confront the problem of insurance fraud in South Carolina. The Insurance Fraud Division receives referrals from the Department of Insurance, the South Carolina Worker's Compensation Commission, insurance companies, private citizens, law enforcement agencies, as well as attorneys and private law firms throughout the state of South Carolina.

Last year was a banner year for the Insurance Fraud Division of the Attorney General's Office. Our division secured 135 convictions, which is the greatest number of convictions in the division's 15-year history and is significantly higher than any other year. I am sure that our diligence in prosecuting insurance fraud sends the message that insurance fraud is a problem that our office takes seriously and will not tolerate.

While our office receives complaints from many sources, our work is often a direct result of the efforts of law enforcement and the insurance industry. I specifically

thank the members of the South Carolina Insurance Fraud Investigators (SCI-FI) and the National Insurance Crime Bureau (NICB).

Our division thanks Attorney General Henry McMaster for his leadership and support. We also thank Lieutenant Lansing P. Logan of SLED, and the insurance fraud investigators of SLED, specifically Agents Joe Jordan (Ret.), Danny Remion, Bridgette Lott, Ted Shealy, and Don Titus. Without the hard work and dedication of these agents, we would be greatly hindered in our work prosecuting insurance fraud.

We thank everyone who aided us in 2008, and look forward to continuing our hard work in 2009.

Respectfully Submitted

Jennifer D. Evans
Chief of Prosecution
Director of Insurance Fraud Division

**CUMULATIVE STATISTICS OF THE
INSURANCE FRAUD DIVISION
1995 - 2008**

TOTAL COMPLAINTS RECEIVED	8922
TOTAL FILES OPENED	5851
CRIMINAL CONVICTIONS	1096
CIVIL REMEDIES	625

Type of Fraud	Amount Reported
Personal/Commercial Property	\$17,861,465.25
Life Insurance	\$14,628,989.02
Automobile Insurance	\$11,185,062.47
Workers' Compensation	\$8,647,278.46
Premium	\$8,214,149.47
Disability Insurance	\$6,499,406.15
Health/Medical	\$6,347,976.24
Other	\$4,484,434.19
TOTAL	<u>\$77,868,761.25</u>

Types of Monies Collected	Amount Collected
Criminal Restitution	\$3,174,530.07
Civil Penalties	\$1,353,667.24
Civil Restitution	\$1,117,136.31
Criminal Fines	\$311,381.03
Total	<u>\$5,956,714.65</u>

SUMMARY
Status of Cases – 2008

Complaints

Complaints Carried Forward from 2007	216
Complaints Received in 2008	815
Complaints Referred to other Agencies	82
Complaints Unfounded or Declined	298
Files Opened 2008	472
Complaints Carried Forward to 2009	238

Open Files

Files Opened in 2008	472
Open Files Disposed of 2008	378
Open Files on December 31, 2008	801
Open Files under SLED Investigation as of 12/31/08	605

Disposition

2008 Convictions	135
2008 Civil Remedies	73

On the Docket

Indicted Cases as of December 31, 2008	168
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MONIES ORDERED AND/OR COLLECTED IN 2008

Criminal Penalties, Civil Penalties, Fines and Restitution

The following tables indicate the amounts of fines, penalties, restitution and attorneys' fees that have been ordered paid by the Courts or by a Memorandum of Understanding.

Monies Ordered and/or Collected Pursuant to Court Order

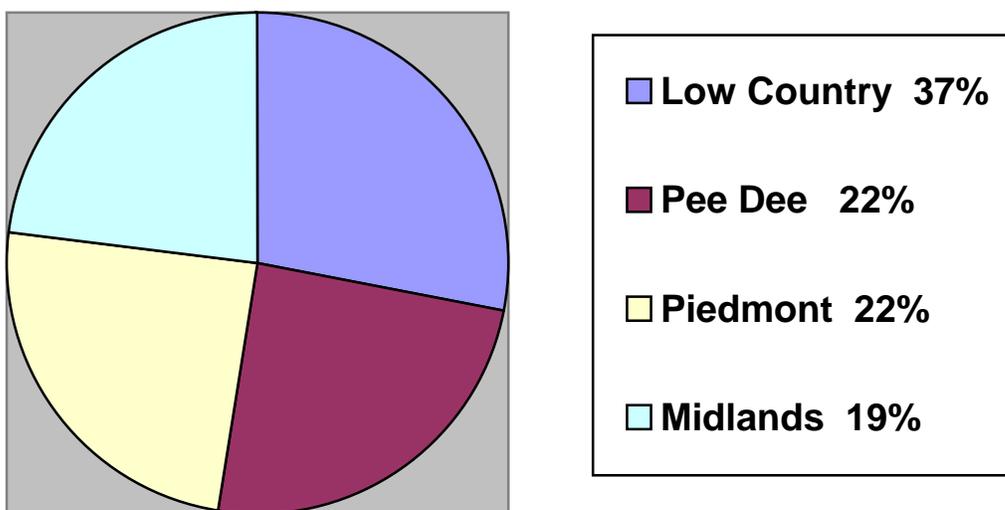
CRIMINAL	AMOUNT
Court Ordered Fines	\$5,241.08
Restitution Ordered	\$258,104.62
TOTAL	<u>\$263,345.70</u>

Monies Ordered and/or Collected Pursuant to Civil Disposition

CIVIL	AMOUNT
Fines Ordered	\$77,750.00
Fines Collected	\$77,750.00
Restitution Ordered	\$21,643.45
Restitution Collected	\$21,643.45
TOTAL ORDERED	<u>\$99,393.45</u>
TOTAL COLLECTED	<u>\$99,393.45</u>

BREAKDOWN OF CASES BY REGION

During 2008, the Insurance Fraud Division of the Attorney General's office opened 472 cases. As the chart below indicates, these cases were received from all areas of the state:



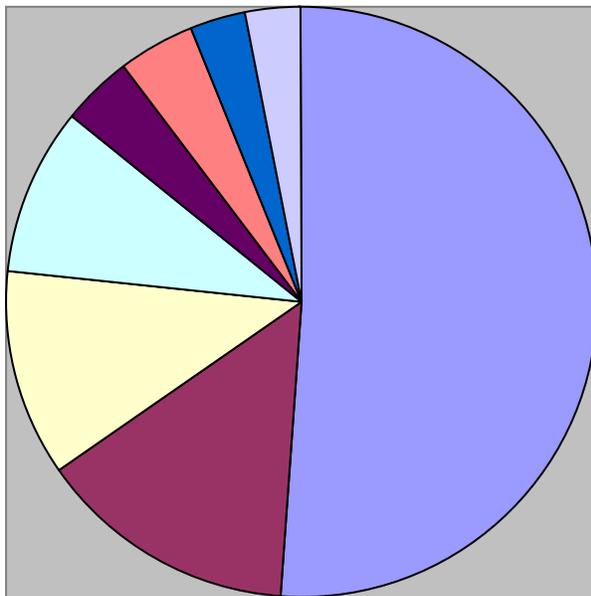
REGION	NUMBER OF CASES	PERCENT OF TOTAL
Low Country	175	37%
Pee Dee	106	22%
Piedmont	103	22%
Midlands	88	19%
TOTAL	472	100%

BREAKDOWN OF COMPLAINTS RECEIVED BY TYPE

The fraud complaints received during 2008 by the Insurance Fraud Division consisted of the following types of fraud:

Type of Fraud	Number of Complaints	Percentage of Total	Amount Reported
Automobile	463	57%	\$165,638.20
Personal/Commercial Property	98	12%	\$2,117,000.00
Workers' Comp	87	11%	\$208,069.15
Health/Medical	83	10%	\$34,445.61
Disability	29	4%	\$139,970.51
Life Insurance	23	3%	\$318,219.85
Premium	20	2%	\$337,788.63
Other	12	1%	\$708.00
TOTAL	815	100%	\$3,321,839.95

Breakdown of Complaints by Type of Fraud – 2008



- Auto 57%**
- Pers/Comm Prop 12%**
- Workers' Comp 11%**
- Health/Medical 10%**
- Disability 4%**
- Life Insurance 3%**
- Premium 2%**
- Other 1%**

BREAKDOWN OF COMPLAINTS BY COUNTY

Note: Tables may show cases reported with no corresponding dollar amounts. In these cases, no dollar amount could be determined at the time the complaint was received, or the claim had been withdrawn or denied.

ABBEVILLE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	3	0	2
Personal/Commercial Property	1	0	1
TOTAL	4	0	3

AIKEN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	13	\$4,645.23	5
Personal/Commercial Property	4	0	2
Workers' Comp	2	0	0
TOTAL	19	\$4,645.23	7

ALLENDALE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	1	0	0
Disability	1	0	1
Life Insurance	1	0	1
Personal/Commercial Property	1	0	0
TOTAL	4	0	2

ANDERSON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	11	\$1,920.00	5
Health/Medical	4	0	0
Life Insurance	1	0	0
Personal/Commercial Property	6	0	1
Workers' Comp	3	\$33,627.96	0
TOTAL	25	\$35,547.96	6

BAMBERG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	4	0	2
TOTAL	4	0	2

BARNWELL COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	4	\$2,313.74	1
Personal/Commercial Property	1	0	0
Premium Fraud	1	\$484.00	1
TOTAL	6	\$2,797.74	2

BEAUFORT COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	13	\$3,615.08	3
Health/Medical	2	0	0
Personal/Commercial Property	3	0	0
Workers' Comp	6	0	1
TOTAL	24	\$3,615.08	4

BERKELEY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	12	0	1
Disability	1	0	0
Health/Medical	1	0	0
Personal/Commercial Property	3	0	0
Workers' Comp	1	0	0
TOTAL	18	0	1

CALHOUN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
TOTAL	0	0	0

CHARLESTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	50	0	20
Disability	4	\$4,067.42	1
Health/Medical	5	\$365.35	2
Life Insurance	1	0	0
Other	2	0	0
Personal/Commercial Property	5	\$800,000.00	2
Premium Fraud	7	\$117,323.72	0
Workers' Comp	9	0	4
TOTAL	83	\$921,756.49	29

CHEROKEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	5	\$17,069.95	0
TOTAL	5	\$17,069.95	0

CHESTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	6	0	0
Personal/Commercial Property	1	0	0
TOTAL	7	0	0

CHESTERFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	2	0	1
Health/Medical	2	0	0
Other	1	0	0
Personal/Commercial Property	3	\$175,000.00	0
TOTAL	8	\$175,000.00	1

CLARENDON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	2	\$5,290.61	0
Workers' Comp	1	0	0
TOTAL	3	\$5,290.61	0

COLLETON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	30	\$4,929.93	8
Personal/Commercial Property	2	0	2
Workers' Comp	3	0	0
TOTAL	35	\$4,929.93	10

DARLINGTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	8	\$5,871.39	2
Disability	1	0	0
Health/Medical	2	0	1
Life Insurance	1	0	0
Personal/Commercial Property	3	0	1
TOTAL	15	\$5,871.39	4

DILLON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	9	0	2
Workers' Comp	1	0	0
TOTAL	10	0	2

DORCHESTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	17	\$39,418.00	3
Disability	1	0	0
Health/Medical	3	0	0
Life Insurance	2	0	0
Personal/Commercial Property	3	0	1
Workers' Comp	4	0	0
TOTAL	30	\$39,418.00	4

EDGEFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Health/Medical	2	0	2
Life Insurance	1	0	1
TOTAL	3	0	3

FAIRFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	8	0	4
Personal/Commercial Property	1	0	1
Workers' Comp	1	0	0
TOTAL	10	0	5

FLORENCE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	14	\$10,000.00	3
Disability	2	0	0
Health/Medical	6	\$4,337.00	2
Life Insurance	1	0	1
Personal/Commercial Property	4	0	3
Premium Fraud	2	\$2,807.33	1
TOTAL	29	\$17,144.33	10

GEORGETOWN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	6	0	3
Disability	1	0	0
Health/Medical	5	\$2,198.46	1
TOTAL	12	\$2,198.46	4

GREENVILLE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	29	0	14
Disability	1	0	1
Health/Medical	5	\$905.10	1
Life Insurance	1	0	0
Other	3	0	1
Personal/Commercial Property	15	\$107,000.00	4
Premium Fraud	1	\$126,996.90	0
Workers' Comp	13	\$73,631.98	2
TOTAL	68	\$308,533.98	23

GREENWOOD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	3	\$1,323.00	1
Disability	2	\$29,546.78	0
Personal/Commercial Property	1	0	0
TOTAL	6	\$30,869.78	1

HAMPTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	6	0	4
Other	1	0	0
Personal/Commercial Property	1	0	0
TOTAL	8	0	4

HORRY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	39	0	10
Disability	1	0	1
Health/Medical	5	0	2
Life Insurance	1	\$17,714.04	0
Other	1	\$708.00	0
Personal/Commercial Property	8	0	3
Premium Fraud	2	0	1
Workers' Comp	6	0	2
TOTAL	63	\$18,422.04	19

JASPER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	9	0	4
Disability	2	0	0
Personal/Commercial Property	2	\$200,000.00	0
TOTAL	13	\$200,000.00	4

KERSHAW COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	2	0	2
Health/Medical	1	0	0
Personal/Commercial Property	2	0	0
Premium Fraud	1	\$60,000.00	0
Workers' Comp	5	\$85,570.00	0
TOTAL	11	\$145,570.00	2

LANCASTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	3	0	1
Disability	1	0	0
Health/Medical	2	0	0
Personal/Commercial Property	1	0	1
TOTAL	7	0	2

LAURENS COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	4	0	1
Workers' Comp	3	0	1
TOTAL	7	0	2

LEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	2	0	0
Health/Medical	1	0	1
TOTAL	3	0	1

LEXINGTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	18	\$21,645.00	7
Disability	1	\$47,048.59	1
Health/Medical	3	\$11,100.00	1
Life Insurance	2	\$300,000.00	1
Personal/Commercial Property	3	0	0
Premium Fraud	1	0	1
Workers' Comp	5	\$10,239.21	2
TOTAL	33	\$390,032.80	13

MARION COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	6	0	4
Health/Medical	1	0	0
Premium Fraud	1	0	0
TOTAL	8	0	4

MARLBORO COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	1	0	0
Disability	1	\$427.00	0
Health/Medical	2	0	0
Personal/Commercial Property	1	0	0
TOTAL	5	\$427.00	0

MCCORMICK COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	3	0	1
Disability	1	\$3,840.00	0
TOTAL	4	\$3,840.00	1

NEWBERRY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	4	0	3
Health/Medical	1	0	0
TOTAL	5	0	3

OCONEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	1	0	0
Health/Medical	3	0	1
Personal/Commercial Property	1	0	0
Workers' Comp	1	0	1
TOTAL	6	0	2

ORANGEBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	16	0	3
Health/Medical	1	0	0
Life Insurance	2	\$505.81	0
Personal/Commercial Property	4	0	3
Premium Fraud	1	0	0
Workers' Comp	1	0	0
TOTAL	25	\$505.81	6

PICKENS COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	3	\$4,090.00	1
Disability	1	0	0
Health/Medical	2	0	1
Other	1	0	0
Personal/Commercial Property	1	0	0
Workers' Comp	2	0	0
TOTAL	10	\$4,090.00	2

RICHLAND COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	43	\$31,565.63	11
Disability	4	\$52,500.00	0
Health/Medical	10	\$11,168.15	5
Life Insurance	3	0	0
Other	2	0	0
Personal/Commercial Property	11	\$35,000.00	2
Premium Fraud	1	\$8,000.00	1
Workers' Comp	8	0	2
TOTAL	82	\$138,233.78	21

SALUDA COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	1	0	0
TOTAL	1	0	0

SPARTANBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	11	0	5
Disability	1	0	0
Health/Medical	8	\$4,371.55	3
Life Insurance	3	0	0
Personal/Commercial Property	1	0	1
Premium Fraud	1	\$7,000.00	1
Workers' Comp	5	0	1
TOTAL	30	\$11,371.55	11

SUMTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	18	\$9,163.00	8
Health/Medical	1	0	0
Life Insurance	1	0	0
Personal/Commercial Property	2	0	1
Workers' Comp	3	\$5,000.00	0
TOTAL	25	\$14,163.00	9

UNION COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	2	0	1
TOTAL	2	0	1

WILLIAMSBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	6	0	2
Life Insurance	1	0	0
TOTAL	7	0	2

YORK COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	14	\$2,777.64	3
Disability	2	\$2,540.72	1
Health/Medical	2	0	0
Personal/Commercial Property	3	0	1
Premium Fraud	1	\$2,676.68	0
Workers' Comp	4	0	1
TOTAL	26	\$7,995.04	6

UNKNOWN/OTHER/OUT OF STATE

Type of Fraud	Number of Complaints	Total Amount Reported	2008 Complaints Pending
Automobile	1	0	0
Health/Medical	3	0	0
Life Insurance	1	0	0
Other	1	0	0
TOTAL	6	0	0

SELECTED STATUTES FROM THE SOUTH CAROLINA CODE OF LAWS PERTAINING TO THE INVESTIGATION AND PROSECUTION OF INSURANCE FRAUD and GLASS COUPONING

§ 38-55-530. Definitions.

As used in this article:

(A) "Authorized agency" means any duly constituted criminal investigative department or agency of the United States or of this State; the Department of Insurance; the Department of Revenue; the Department of Public Safety; the Workers' Compensation Commission; the State Accident Fund; the Second Injury Fund; the Employment Security Commission; the Department of Consumer Affairs; the Human Affairs Commission; the Department of Health and Environmental Control; the Department of Social Services; the Department of Health and Human Services; the Department of Labor, Licensing and Regulation; all other state boards, commissions, and agencies; the Office of the Attorney General of South Carolina; or the prosecuting attorney of any judicial circuit, county, municipality, or political subdivision of this State or of the United States, and their respective employees or personnel acting in their official capacity.

(B) "Insurer" shall have the meaning set forth in Section 38-1-20(25) and includes any authorized insurer, self-insurer, reinsurer, broker, producer, or any agent thereof.

(C) "Person" means any natural person, company, corporation, unincorporated association, partnership, professional corporation, or other legal entity and includes any applicant, policyholder, claimant, medical providers, vocational rehabilitation provider, attorney, agent, insurer, fund, or advisory organization.

(D) "False statement and misrepresentation" means a statement or representation made by a person that is false, material, made with the person's knowledge of the falsity of the statement, and made with the intent of obtaining or causing another to obtain or attempting to obtain or causing another to obtain an undeserved economic advantage or benefit or made with the intent to deny or cause another to deny any benefit or payment in connection with an insurance transaction and such shall constitute fraud.

§ 38-55-540. Criminal penalties for making false statement or misrepresentation, or assisting, abetting, soliciting or conspiring to do so; restitution to victims.

(A) A person who knowingly makes a false statement or misrepresentation, and any other person knowingly, with an intent to injure, defraud, or deceive, or who assists, abets, solicits, or conspires with a person to make a false statement or misrepresentation, is guilty of a:

- (1) misdemeanor, for a first offense violation, if the amount of the economic advantage or benefit received is less than one thousand dollars. Upon conviction, the person must be fined not less than one hundred nor more than five hundred dollars or imprisoned not more than thirty days;
- (2) misdemeanor, for a first offense violation, if the amount of the economic advantage or benefit received is one thousand dollars or more but less than ten thousand dollars. Upon conviction, the person must be fined not less than two thousand nor more than ten thousand dollars or imprisoned not more than three years, or both;
- (3) felony, for a first offense violation, if the amount of the economic advantage or benefit received is ten thousand dollars or more but less than fifty thousand dollars. Upon conviction, the person must be fined not less than ten thousand nor more than fifty thousand dollars or imprisoned not more than five years, or both;
- (4) felony, for a first offense violation, if the amount of the economic advantage or benefit received is fifty thousand dollars or more. Upon conviction, the person must be fined not less than twenty thousand nor more than one hundred thousand dollars or imprisoned not more than ten years, or both;
- (5) felony, for a second or subsequent violation, regardless of the amount of the economic advantage or benefit received. Upon conviction, the person must be fined not less than twenty thousand nor more than one hundred thousand dollars or imprisoned not more than ten years, or both.

(B) In addition to the criminal penalties set forth in subsection (A), a person convicted pursuant to the provisions of this section must be ordered by the court to make full restitution to a victim for any economic advantage or benefit which has been obtained by the person

as a result of that violation, and to pay the difference between any taxes owed and any taxes the person paid, if applicable."

§ 38-55-170. Presenting false claims for payment.

A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:

(1) felony if the amount of the claim is five thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;

(2) felony if the amount of the claim is more than one thousand dollars but less than five thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrate's court if the amount of the claim is one thousand dollars or less. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment by the grand jury.

§ 38-55-550. Civil penalties for violations of article; costs; payment; use of revenues; Attorney General to assist Insurance Fraud Division; consent agreements.

(A) In addition to any criminal liability, any person who is found by a court of competent jurisdiction to have violated any provision of this article, including Section 38-55-170, is subject to a civil penalty for each violation as follows:

(1) for a first offense, a fine not to exceed five thousand dollars;

(2) for a second offense, a fine of not less than five thousand dollars but not to exceed ten thousand dollars;

(3) for a third and subsequent offense, a fine of not less than ten thousand dollars but not to exceed fifteen thousand dollars.

(B) The civil penalty must be paid to the director of the Insurance Fraud Division to be used in accordance with subsection (D) of this section. The court may also award court costs and reasonable attorneys' fees to the director. When requested by the director, the Attorney General may assign one or more deputies attorneys general to assist the bureau in any civil court proceedings against the person.

(C) Nothing in subsections (A) and (B) shall be construed to prohibit the director of the Insurance Fraud Division and the person alleged to be guilty of a violation of this article from entering into a written agreement in which the person does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding relating to any violation of this article.

(D) All revenues from the civil penalties imposed pursuant to this section must be used to provide funds for the costs of enforcing and administering the provisions of this article.

§ 39-5-170. Vehicle glass repair business; unlawful practices.

It is an unfair trade practice and unlawful for a person who is acting on behalf of or engaged in a vehicle glass repair business to offer or make a payment or transfer money or other consideration to:

- (1) a third person for the third person's referral of an insurance claimant to the vehicle glass repair business for the repair or replacement of vehicle safety glass;
- (2) an insurance claimant in connection with the repair or replacement of vehicle safety glass; or
- (3) waive, rebate, give, or pay all or part of an insurance claimant's casualty or property insurance deductible as consideration for selecting the vehicle glass repair business.

§ 38-55-173. Unlawful vehicle glass repair business practices; penalties.

(A) A person who is acting on behalf of or engaged in a vehicle glass repair business is guilty of a misdemeanor if the person offers or makes a payment or transfer of money or other consideration to:

- (1) a third person for the third person's referral of an insurance claimant to the vehicle glass repair business for the repair or replacement of vehicle safety glass;
- (2) an insurance claimant in connection with the repair or replacement of vehicle safety glass; or
- (3) waive, rebate, give, or pay all or part of an insurance claimant's casualty or property insurance deductible as consideration for selecting the vehicle glass repair business.

(B) If the amount of the payment or transfer of subsection (A) has a value of:

- (1) one thousand dollars or more, the person, upon conviction, must be fined in the discretion of the court or imprisoned for not more than three years, or both, per violation; or
- (2) less than one thousand dollars, the person, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both, per violation.

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