

**§ 58-2-161. False statement to procure or deny benefit of insurance policy or certificate.**

- (a) For the purposes of this section:
  - (1) "Insurer" has the same meaning as in G.S. 58-1-5(3) and also includes:
    - a. Any hull insurance and protection and indemnity club operating under Article 20 of this Chapter.
    - b. Any surplus lines insurer operating under Article 21 of this Chapter.
    - c. Any risk retention group or purchasing group operating under Article 22 of this Chapter.
    - d. Any local government risk pool operating under Article 23 of this Chapter.
    - e. Any risk-sharing plan operating under Article 42 of this Chapter.
    - f. The North Carolina Insurance Underwriting Association operating under Article 45 of this Chapter.
    - g. The North Carolina Joint Insurance Underwriting Association operating under Article 46 of this Chapter.
    - h. The North Carolina Insurance Guaranty Association operating under Article 48 of this Chapter.
    - i. Any multiple employer welfare arrangement operating under Article 49 of this Chapter.
    - j. The North Carolina Life and Health Insurance Guaranty Association operating under Article 62 of this Chapter.
    - k. Any service corporation operating under Article 65 of this Chapter.
    - l. Any health maintenance organization operating under Article 67 of this Chapter.
    - m. The State Health Plan for Teachers and State Employees and any optional plans or programs operating under Part 2 of Article 3 of Chapter 135 of the General Statutes.
    - n. A group of employers self-insuring their workers' compensation liabilities under Article 47 of this Chapter.
    - o. An employer self-insuring its workers' compensation liabilities under Article 5 of Chapter 97 of the General Statutes.
    - p. The North Carolina Self-Insurance Security Association under Article 4 of Chapter 97 of the General Statutes.
    - q. Any reinsurer licensed or accredited under this Chapter.
  - (2) "Statement" includes any application, notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X rays, test result, or other evidence of loss, injury, or expense.
- (b) Any person who, with the intent to injure, defraud, or deceive an insurer or insurance claimant:
  - (1) Presents or causes to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the claim, or
  - (2) Assists, abets, solicits, or conspires with another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing

that the statement contains false or misleading information concerning a fact or matter material to the claim is guilty of a Class H felony. Each claim shall be considered a separate count. Upon conviction, if the court imposes probation, the court may order the defendant to pay restitution as a condition of probation. In determination of the amount of restitution pursuant to G.S. 15A-1343(d), the reasonable costs and attorneys' fees incurred by the victim in the investigation of, and efforts to recover damages arising from, the claim, may be considered part of the damage caused by the defendant arising out of the offense.

In a civil cause of action for recovery based upon a claim for which a defendant has been convicted under this section, the conviction may be entered into evidence against the defendant. The court may award the prevailing party compensatory damages, attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can demonstrate that the defendant has engaged in a pattern of violations of this section, the court may award treble damages. (1899, c. 54, s. 60; Rev., s. 3487; 1913, c. 89, s. 28; C.S., s. 4369; 1937, c. 248; 1967, c. 1088, s. 1; 1979, c. 760, s. 5; 1989 (Reg. Sess., 1990), c. 1054, s. 2; 1995, c. 43, s. 1; 1999-294, s. 3; 2005-400, s. 17; 2007-298, s. 8.1; 2007-323, s. 28.22A(o); 2007-345, s. 12.)