

Prosecutions for State Insurance Fraud

Most states have statutes governing the issue of insurance fraud. One may be charged with insurance fraud if:

- The individual prepared or presented a false or fraudulent written statement.
- The individual aided, solicited, or conspired in presenting a fraudulent written statement.
- The individual had the specific intent to defraud the insurer.

Generally, the court requires proof that the claim of loss was presented with the intent to defraud. Insurance fraud is a specific intent offense meaning that the individual seeking to defraud the insurer must have had the specific intent to defraud.

Elements Elaborated

Presentation of a false claim

The prosecutor may prove that the defendant presented a false claim by showing evidence that the instrument presented to the insurer constituted a false statement in furtherance of a scheme to defraud the insurer. Examples of types of evidence that may be presented during the defendant's trial include:

- Applications.
- Claim forms.
- False proof of loss claim.

Specific Intent To Defraud

The prosecutor must prove that the defendant had the specific intent to defraud the insurer. Specific intent requires that the defendant either had knowledge of the falsity of his claim or that he made the claim with reckless disregard for the truth. The prosecutor may show the defendant's intent to defraud the insurer by way of circumstantial evidence.

Insurance Contract Between the Defendant and Insurer

It is not required that the prosecutor show that a valid insurance contract existed between the insurer and the defendant. The prosecutor is only required to show that the defendant believed that the policy was valid and in force.

Prosecution of Insurance Fraud with Other Offenses

The defendant may be tried with insurance fraud as well as with other offenses. Often times the defendant may be involved with an underlying criminal act and attempt to recover for the damages sustained as a result of that act. An example is when the defendant commits arson and then attempts to collect under his property insurance policy for the damages suffered, the defendant may be charged with both fraud and arson.

