

1 **TITLE: INSURANCE FRAUD: FEDERAL CRIMINALIZATION**
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3 **COMMITTEE: NCSL STANDING COMMITTEE ON COMMUNICATIONS,**
4 **FINANCIAL SERVICES & INTERSTATE COMMERCE**
5
6 **TYPE: DRAFT - POLICY STATEMENT**
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8 Insurance fraud presents an ever-increasing burden on the solvency of insurance
9 companies and on the costs of consumers to obtain insurance coverage. The most
10 conservative estimates place the annual cost of insurance fraud in the tens of billions of
11 dollars, which is then passed on to policyholders and even state taxpayers in the event
12 of insurer insolvency.

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14 The kinds of insurance fraud can vary from policyholder filing of exaggerated claims to
15 the setting up of a phony insurance company for the sole intent of stealing insurance
16 premiums. The National Conference of State Legislatures (NCSL) recognizes the toll
17 that policyholder and claimant initiated fraud has on the cost of insurance and the
18 solvency of the insurer. We applaud the action taken in various states to pass laws that
19 make it more difficult to file a false claim, increase the penalties for those who are guilty
20 of fraudulent activities, and expand state insurance department fraud units. In those
21 states that have taken appropriate action to curtail fraud, the rate of illegal activity has
22 decreased.

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24 NCSL believes that the prosecution of policyholder and claimant fraud should and must
25 remain in the jurisdiction of state and local law enforcement officials. However, in cases
26 of internal insurer fraud that may be the result of interstate and international

27 conspiracies to defraud, loot or plunder an insurance company, states and the federal
28 government should cooperate to prosecute such criminal activity.

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30 NCSL joined state insurance regulators, state and local law enforcement officials and
31 the insurance industry in supporting congressional passage of legislation that has made
32 it a federal crime to engage in certain fraudulent activity, such as knowingly file a false
33 report with a state insurance regulator; the embezzlement and theft of insurance
34 company money, assets, funds, premiums, or credits; the falsification of company
35 records with the intent to defraud, loot or plunder a company or its policyholders and
36 creditors; and the criminal obstruction of proceedings before state insurance regulatory
37 authorities.

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39 NCSL's endorsement of federal involvement in the criminal prosecution of certain kinds
40 of insurance fraud does not diminish our support for continued state regulation of the
41 insurance business. Federal criminal sanctions will assist state regulators in their efforts
42 to prevent future insolvencies.

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44 As a result of financial services modernization, the various federal and state financial
45 institutions regulators need to coordinate anti-fraud activities. However, federal
46 legislation to assist the coordination of state and federal anti-fraud activities should not
47 unnecessarily preempt state anti-fraud laws and regulations nor grant audit or subpoena
48 authority to a federal entity over a state agency operating under appropriate state
49 constitutions and laws.