

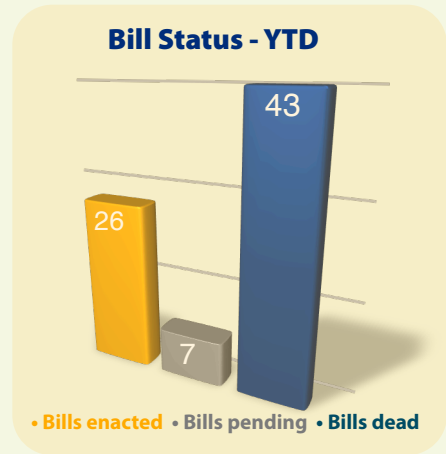


**Welcome to *FraudWire — Government Affairs***, a quarterly report to the insurance fraud-fighting community on key developments within legislation, regulation and other government anti-fraud activities. This publication aims to keep you apprised of the developments that likely have affected you and your organization during the last quarter, and will look at upcoming government activities. We hope you find this publication useful, and we encourage you to share it with your colleagues.

### Legislative Wrap-Up

State budget crises kept legislatures busy throughout the year dealing with the slowing economy. Yet, anti-fraud issues still were on the agenda in several states. Several key anti-fraud bills that were passed in 2008 include:

- **California** — Assembly Bill 2143: Extends the special assessment on automobile insurance to 2015 to help fund anti-fraud programs. Assembly Bill 1150: Prohibits health insurers from rewarding employees for limiting insured's coverage.
- **Connecticut** — House Bill 1157: Gives the department of insurance greater authority to regulate discount medical plans.
- **Louisiana** — House Bill 413: Requires an affidavit to file a stolen vehicle report.
- **Maryland** — House Bill 404: Requires fraud warnings on claim and application forms.
- **New Hampshire** — Senate Bill 500: Adds applications to the requirement for having fraud warnings.
- **New York** — Assembly Bill 10371: Changes the date for insurers to file the annual fraud report to March 15.



### State Spotlight — Indiana

Serious discussions have been going on in the Hoosier State the past several weeks between insurers and the insurance department on creating an insurance fraud bureau in 2009. More than 40 states already have created such bureaus to assist the investigation and prosecution of fraud cases. The Indiana unit would be based in the insurance department, with funding coming from the department's existing budget.



Several years ago, insurers in the state worked together with the insurance department and national groups like the coalition to strengthen the then-existing weak insurance fraud law. Indiana's insurance fraud law is now as good as any state's, with insurers actively investigating suspected frauds. The problem insurers have is that without a fraud bureau, there is not a clear government entity to prosecute the criminal insurance fraud activity.

**Indiana’s Insurance Fraud Laws**

- ☑ Defines claims fraud as a specific crime
- ☑ Defines application fraud (knowingly lying on an insurance application) as a specific crime
- ☑ Criminalizes falsely supplying information for a rating of an insurance policy
- ☑ Defines diversion or embezzlement of insurance funds as a crime
- ☑ Defines looting or plundering the assets of an insurance company as a crime

- ☑ Grants broad immunity for reporting without “malice, fraudulent intent, or bad faith” a report or information about insurance fraud to law enforcement, the insurance department, the National Association of Insurance Commissioners or “any other organization established to detect and prevent fraudulent insurance acts.”
- ☑ Requires a fraud warning on insurance forms sent to consumers.



Another element of a good insurance fraud law that is lacking in Indiana is a mechanism for reporting to state licensing boards medical providers (doctors, chiropractors etc.) who are convicted of insurance fraud. Hopefully, this element could be added when the fraud bureau bill is being finalized.

*Profile:*

**Five questions for Dale Banda**

*On September 30, Dale retired as longtime chief of the insurance fraud bureau within the California Department of Insurance.*

**What was the best and worst parts of your job:**

The best reward was in those cases that clearly made a difference in the lives of Californians. The satisfaction that what we were doing had an effect on changes in behavior. The greatest frustration was that we had so many referrals from insurance companies but not enough time or resources to follow through on investigations on all referrals. Also, from a peace officer background, knowing you have someone dead to rights but having that person get away with insurance fraud.



***If you had a carte blanche to change laws or regulations to target insurance fraud, what would you put into place?***

First, increase penalties for committing insurance fraud. Get prosecutors and judges to fully understand that fraud is not a victimless crime; work to change attitudes. A lot of people have no clue how insurance fraud affects their financial security. Second, work on the insurance system. It was not established to deal with insurance fraud. We have laws on top of laws with different ways of dealing with fraud depending on the line of business. For instance, it is a lesser penalty for a business to

avoid having workers compensation insurance than for a business to falsely report their employees and payroll.

### ***How would you grade insurer anti-fraud efforts? And, how would you improve their efforts?***

Insurers are all over the board from "F" to "A+." Some are doing an excellent job and others are slugs that do little or nothing at all and reap the benefits from those that open themselves up by being actively anti-fraud. We know from our interviews with suspects, especially rings, that they target the weaknesses in the system and that includes insurers that aren't doing enough to combat fraud. To change insurer's efforts we need to start from the top down. Get the CEO and top management to buy into an anti-fraud vision, and that will filter down to all levels in the company. We also need to do a better job in acknowledging and rewarding those companies that are in the forefront in the anti-fraud effort.

### ***How can the anti-fraud community do a better job in getting the legal establishment (prosecutors, judges etc.), media and consumers to better understand the effect of insurance fraud on the quality of life of a community or state?***

Prosecutors have a full plate and are affected by budgetary concerns. We need to show how insurance fraud is economic driven and a cost driver that affects individuals, businesses, communities and the state. For instance, prior to greater workers comp reforms, including anti-fraud, businesses were leaving the state. It was after the reforms that we saw an improved business environment for everyone. We need to produce/create insurance fraud modules that can be used at judicial continuing education programs to have the judiciary become aware of the economic effect of insurance fraud — going back to the understanding that insurance fraud is not a victimless crime. As for media and consumers, we need to get them to understand the economic factors of insurance fraud and how the fraud is a cost driver that affects everyone.

### ***What is next for Dale Banda?***

I am finishing serving under my fifth insurance commissioner regardless of political party (California's commissioner is an elected position). I'm retiring on my terms. Insurance fraud-fighting is in my blood. I have been approached by insurers about positions, but my next move will be on my terms. I've enjoyed my time at the department and I am not finished yet.

More on Dale's departure can be found at [www.InsuranceFraud.org/blog](http://www.InsuranceFraud.org/blog).

## **2008 Farewells**

The anti-fraud community lost a number of friends in the past several months. **Nevada** insurance commissioner Alice Molaskey-Armen left after years of service. She was a leader in seeking greater anti-fraud laws in Nevada and a national voice to protect consumers from phony insurance practices. **Alabama** commissioner Walter Bell left office. As president of the NAIC, he was an active member of the organization's anti-

fraud task force. He was a strong supporter of efforts to pass an insurance fraud law that failed in his state, but not for his lack of effort. The head of **Maryland's** insurance fraud unit, Ron Sallow retired after almost a decade of work in the anti-fraud community. His replacement is Carolyn Henneman, a veteran prosecutor. And, the head of **California's** fraud unit, Dale Banda retired after years of service. See our farewell interview with Dale above. Rick Plein, a veteran of the state's fraud unit is the new director in California.

## Looking to Q4

The last quarter of a year is usually taken up by efforts to complete tasks and goals that were set at the beginning of the year, But in government affairs, it is now time to start looking toward the next year's legislative season. State legislatures in 2009 will open their sessions in January or close to the beginning of the year.

This last quarter also is an important one for another factor — the November election. Besides electing a new president to run the country and a new Congress, several states will elect governors, legislators and in the case of **North Carolina**, a new insurance commissioner.

One race for governor that may effect the insurance fraud agenda for the coming year is being held in **Indiana** where the incumbent governor is running for another term. The Indiana governor appoints the insurance commissioner. A change at the executive level could affect whether we can move forward to create an insurance fraud bureau in the state.

The **North Carolina** insurance commissioner race is an interesting one mainly because of the retirement of Commissioner Jim Long, who has been the elective commissioner for six terms. He supports Wayne Goodwin to replace him over John Odom. Whoever is elected will have a role in how the department looks at fighting insurance fraud in North Carolina.

### Upcoming Meetings:

The **National Association of Insurance Commissioners** will hold its winter meeting in Texas, December 5-8. The commissioners will elect a new president to replace Kansas Commissioner Sandy Praeger. There also will be changes in committee assignments that could affect the organization's anti-fraud task force. Any changes will become effective in 2009.

The **National Conference of Insurance Legislators** will hold its annual meeting in Florida November 20-23. The coalition advises NCOIL on anti-fraud issues and will give a report to the legislators attending the conference.

The coalition's government affairs committee will meet to continue to plan for the 2009 legislative sessions.

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## Online resources

*Links to legislative and regulatory resources at [InsuranceFraud.org](http://InsuranceFraud.org)*

- [Current legislation](#)
- [Fraud bills enacted this year](#)
- [Latest legislative news](#)
- [Model insurance fraud act](#)
- [State anti-fraud requirements on insurers](#)
- [State insurance fraud laws](#)

— Howard Goldblatt  
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## State anti-fraud legislation - 2008

### Arizona

Life insurance, [H 2513](#), Bill status: Enacted

- *Defines a STOLI transaction as fraud and prohibits a life settlement within 2 years of issuance.*

### California

Fraud assessment, [A 2143](#), Bill status: Enacted

- *Extends the special assessment on auto insurers from 2010 to expire in 2015 to fund anti-fraud and theft programs.*

Health insurance, [A 1150](#), Bill status: Enacted

- *Prohibits health insurers rewarding employees for canceling or limiting insured's coverage.*

Health insurance, [A 1945](#), Bill status: Dead

- *Requires state review before health insurer could deny or rescind a policy.*

Automobile fraud, [A 2825](#), Bill status: Enacted

- *Requires auto repair shops to produce invoice showing parts that were used in repair.*

Life insurance, [S 1543](#), Bill status: Dead

- *Restricted the use of Stranger Originated Life Insurance.*

### Connecticut

Life insurance, [H 5512](#), Bill status: Enacted

- *Defines a STOLI transaction as fraud and prohibits a life settlement within 2 years of issuance.*

Health insurance fraud, [H 5157](#), Bill status: Enacted

- *Gives the department of insurance greater authority to regulate discount medical plans and marketers of plans.*

### Florida

Automobile insurance fraud, [S 752](#), Bill status: Dead

- *Sets mandatory minimum sentences for convictions of auto PIP fraud.*

Agent fraud, [S 2082](#), Bill status: Enacted

- *Increases penalty to agents who are accused of twisting or churning policies/annuities of seniors.*

Workers compensation, [H 239](#), Bill status: Dead

- *Requires the contract between employee leasing firm and client to specify which entity would provide workers comp coverage.*

Agent fraud, [H 1003](#), Bill status: Dead

- *Increases penalty to agents who are accused of twisting or churning policies/annuities of seniors.*

### Hawaii

Workers compensation, [H 305](#), Bill status: Dead

- *Authorizes insurance commissioner to investigate complaints and prosecute cases of workers comp fraud provided complaint is against insurer.*

## **Hawaii**

Fraud bureau, [H 1326](#), Bill status: Dead

- *Expands the insurance fraud bureau to encompass all lines of insurance.*

Fraud bureau, [H 1327](#), Bill status: Dead

- *Expands the fraud bureau to include workers compensation fraud.*

Fraud bureau, [S 1412](#), Bill status: Dead

- *Expands the fraud bureau to encompass all lines of insurance.*

Fraud bureau, [S 1413](#), Bill status: Dead

- *Expands the fraud bureau to include workers compensation fraud.*

Fraud bureau, [H 88](#), Bill status: Dead

- *Expands the state's fraud unit to all lines of business including workers comp fraud. Sunsets the larger unit in 2010.*

Fraud bureau, [S 165](#), Bill status: Dead

- *Appropriates funds to be used to hire more staff for the insurance fraud bureau.*

Fraud bureau, [S 2313](#), Bill status: Dead

- *Expands the state's insurance fraud bureau to include all lines of insurance except for workers comp fraud.*

Fraud bureau, [H 2249](#), Bill status: Dead

- *Expands the insurance fraud bureau to include all lines of insurance except for workers compensation.*

Life insurance, [H 94](#), Bill status: Enacted

- *Defines a STOLI transaction as fraud and prohibits a life settlement within 2 years of issuance.*

## **Illinois**

Public adjuster, [H 5489](#), Bill status: Pending

- *Sets strict license requirements to be a public insurance adjuster.*

## **Iowa**

Application fraud, [HF 2555](#), Bill status: Enacted

- *Insurance bill that expands fraud reporting to include application fraud.*

## **Kansas**

Prescription monitoring program, [S 491](#), Bill status: Enacted

- *Creates a statewide prescription monitoring program.*

## **Kentucky**

Event data recorder, [S 34](#), Bill status: Dead

- *Requires notification if an automobile has an event data recorder installed in the vehicle. Also requires court order for law enforcement to access the information.*

**Louisiana**

insurance fraud, [H 333](#), Bill status: Enacted

- *Adds the manufacturing and distributing of phony proof of insurance cards to the definition of insurance fraud.*

**Louisiana**

Fraud bureau, [H 1147](#), Bill status: Enacted

- *Extends the state police insurance fraud unit to 2010.*

Automobile insurance fraud, [H 413](#), Bill status: Enacted

- *Requires an affidavit for filing a report of a stolen vehicle.*

Insurance fraud, [H 241](#), Bill status: Enacted

- *Makes it a crime to forge insurance documents.*

**Maryland**

Fraud warning, [H 404](#), Bill status: Enacted

- *Requires a fraud warning on claims and application forms.*

**Massachusetts**

Fraud investigations, [S 2120](#), Bill status: Pending

- *Allows fraud investigators access to motor vehicle photographs.*

Life insurance, [S 2818](#), Bill status: Pending

- *Requires life insurers to deny claim only if they knew insured lied or insurer should have known insured was in bad health.*

**Michigan**

Anti runner, [S 355](#), Bill status: Pending

- *Sets criminal penalties for acting as or hiring a runner to solicit patients to file fraudulent claims.*

Fraud authority, [S 1438](#), Bill status: Pending

- *Creates an insurance fraud prevention authority.*

**Minnesota**

Automobile insurance fraud, [SF 2765](#), Bill status: Enacted

- *Restricts providers from contacting victims of automobile accidents.*

Automobile insurance fraud, [HF 2721](#), Bill status: Dead

- *Restricts providers from contacting victims of automobile accidents.*

**Mississippi**

Prompt payment, [H 754](#), Bill status: Dead

- *Requires insurers to pay claim within 90 days. Bill has no fraud exclusion.*

Prompt pay, [H 1025](#), Bill status: Dead

- *Requires paying a claim within 60 days. Appears to have no exclusion for the investigation of possible fraud.*

Prescription monitoring program, [S 2713](#), Bill status: Enacted

- *Requires the state board of pharmacy to implement a monitoring program for controlled substances.*

### **New Hampshire**

Mandatory reporting, [H 1578](#), Bill status: Dead

- *Adds a fine of up to \$2500 for non-compliance with the mandatory reporting law.*

Fraud warning, [S 500](#), Bill status: Enacted

- *Adds applications to include a fraud warning -- currently only claims forms are required to have a warning.*

Prescription monitoring program, [H 630](#), Bill status: Dead

- *Establishes a state-wide prescription monitoring program.*

### **New Jersey**

Immunity, [S 248](#), Bill status: Pending

- *Expands the state immunity law to include insurer-to-insurer elements.*

Health insurance, [S 787](#), Bill status: Pending

- *Gives physicians greater ability to refer patients to outpatient surgical facilities the physician has a financial interest.*

Workers compensation, [S 1918](#), Bill status: Dead

- *Gives the insurance fraud prosecutor a role in prosecuting businesses that fail to have workers compensation.*

### **New Mexico**

Insurance fraud penalties, [S 136](#), Bill status: Dead

- *Allows for an aggregation of false insurance claims to determine penalty.*

### **New York**

Auto insurance fraud, [A 1273](#), Bill status: Dead

- *Requires that the insurance fraud report to the legislature include incidences of misrepresentation of the principal place vehicles are garaged.*

Event data recorder, [S 1734](#), Bill status: Dead

- *Requires all vehicles manufactured after 2007 to have event data recorders.*

Auto insurance fraud, [A 3837](#), Bill status: Dead

- *Reduces time to submit a claim for payment; increases the time for an insurer to pay a claim; requires a report on incidence of misrepresentation of the principal place vehicle garaged.*

Anti-runner legislation, [A 58](#), Bill status: Dead

- *Makes it a felony to act as or to hire a runner to solicit for fraudulent purposes.*

Anti-runner legislation, [S 637](#), Bill status: Dead

- *Makes it a felony to act as or to hire a runner to solicit for fraudulent purposes.*

Auto insurance fraud, [S 644](#), Bill status: Dead

- *Makes it a crime to produce fake insurance identification cards.*

## **New York**

Event data recorder, [A 6428](#), Bill status: Dead

- *Requires owner of vehicle to allow law enforcement access to information on data recorder.*

Auto insurance fraud, [S 2634](#), Bill status: Dead

- *Makes it a crime to stage an automobile accident.*

Auto insurance fraud, [S 4040](#), Bill status: Dead

- *Allows for a one-year suspension of a drivers license if a person is convicted of automobile insurance fraud.*

Auto insurance fraud, [A 7293](#), Bill status: Dead

- *Allows for a one-year suspension of drivers license if a person is convicted of automobile insurance fraud.*

Auto insurance fraud, [S 188](#), Bill status: Dead

- *Requires the report that is sent to the legislature to include incidences of misrepresentation of the principal place vehicles are garaged.*

Anti-runner legislation, [A 488](#), Bill status: Dead

- *Sets civil penalties to act as a runner to solicit patients or clients for fraudulent purposes.*

Event data recorder, [A 498](#), Bill status: Dead

- *Requires all vehicles manufactured after 2007 to have event data recorders.*

Auto insurance fraud, [S 474](#), Bill status: Dead

- *Requires that the insurance fraud report to the legislature include incidences of misrepresentation of the principal place vehicles are garaged.*

Anti-arson applications, [S 7502](#), Bill status: Dead

- *Repeals state law requiring anti-arson applications to be filled before issuing insurance.*

Annual insurer report, [A 10371](#), Bill status: Enacted

- *Changes the date for the report to the insurance department from January to March.*

Annual insurer report, [S 7368](#), Bill status: Enacted

- *Changes the annual report that is filed with the department of insurance from January to March.*

## **Ohio**

Life Insurance, [H 404](#), Bill status: Enacted

- *Expands the definition of fraudulent viatical settlement act.*

## **Oklahoma**

Insurer fraud, [S 2122](#), Bill status: Enacted

- *Establishes a state-version of the federal insurance fraud law banning convicted felons from the business of insurance.*

Life insurance, [S 1980](#), Bill status: Enacted

- *Defines a STOLI transaction as fraud and prohibits a life settlement within 2 years of issuance.*

### **Rhode Island**

Automobile insurance , [H 7994](#), Bill status: Dead

- *Grants licensing board authority to deny or revoke a license of an auto body shop that gives a rebate for an insurer's deductible.*

### **Tennessee**

Immunity, [S 3178](#), Bill status: Dead

- *Amends existing immunity language to grant greater protection for reporting health care fraud.*

Immunity, [H 3415](#), Bill status: Dead

- *Amends existing immunity language to grant greater protection for reporting health care fraud.*

### **Utah**

Mandatory reporting, [H 93](#), Bill status: Enacted

- *Expands the state mandatory reporting law and immunity law.*

### **Vermont**

Workers Compensation, [S 334](#), Bill status: Dead

- *Workers comp bill that allows the department of labor to receive a copy of the workers comp insurer's anti-fraud plan.*

Workers compensation, [H 756](#), Bill status: Dead

- *Raises the fine and jail term for frauds under \$10,000. Also creates a fraud unit in the Labor department.*

Workers compensation, [S 345](#), Bill status: Enacted

- *Workers comp bill that allows the department of labor to receive a copy of the workers comp insurer's anti-fraud plan.*

### **West Virginia**

Event data recorder, [S 75](#), Bill status: Dead

- *Requires consent of automobile owner or court order to access information on an event data recorder.*

Life settlements, [S 704](#), Bill status: Enacted

- *STOLI bill that requires a life policy to be held 5 years before it could be sold as a viatical or life settlement.*