

# HB140 INTRODUCED



1 HB140  
2 GXPVC66-1  
3 By Representative Ellis  
4 RFD: Insurance  
5 First Read: 07-Feb-24



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SYNOPSIS:

Under existing law, various fraudulent activities by persons engaged in the transaction of the business of insurance constitute insurance fraud. The Department of Insurance is delegated the duty to enforce insurance fraud laws and to investigate violations. The statute of limitations on bringing a charge for a violation is two years after the fraud was detected.

This bill would increase the statute of limitations to seven years after the fraud was detected.

Also, under existing law, the Insurance Fraud Unit is established within the department to investigate alleged violations. Investigators of the Insurance Fraud Unit have the power vested in law enforcement officers including the power of arrest.

This bill would delete a limitation in existing law limiting the power of the investigators only to powers necessary for enforcement of this chapter.

A BILL  
TO BE ENTITLED  
AN ACT



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29 Relating to insurance fraud and the Department of  
30 Insurance; to amend Section 27-12A-6 and Section 27-12A-40 of  
31 the Code of Alabama 1975, to increase the statute of  
32 limitations for prosecutions of insurance fraud after an  
33 alleged violation is detected and to further specify that  
34 investigators of the department would have the powers vested  
35 in law enforcement officers, including the power of arrest and  
36 service of process, for any violations of state law discovered  
37 during the course of an investigation.

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

39 Section 1. Section 27-12A-6 and Section 27-12A-40 of  
40 the Code of Alabama 1975, are amended to read as follows:

41 "§27-12A-6

42 (a) No prosecution may be commenced under this article  
43 more than ~~two~~ seven years after the alleged violation was  
44 detected.

45 (b) An individual who has been convicted of insurance  
46 fraud in the first degree or insurance fraud in the second  
47 degree shall be disqualified from engaging in the business of  
48 insurance in this state.

49 (c) A person may not willfully permit another person  
50 who has been convicted of insurance fraud in the first degree  
51 or insurance fraud in the second degree to transact in the  
52 business of insurance in this state.

53 (d) For the purposes of Article 4A of Chapter 18 of  
54 Title 15, insurance fraud shall be considered criminal  
55 activity."

56 "§27-12A-40



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57 (a) There is ~~hereby~~ established within the department  
58 the Insurance Fraud Unit. The commissioner shall appoint the  
59 necessary full-time supervisory and investigative personnel of  
60 the unit who shall be qualified by training and experience to  
61 perform the duties of their positions. The commissioner shall  
62 furnish offices, equipment, operating expenses, and necessary  
63 personnel to maintain and operate the unit.

64 (b) The unit shall perform all of the following duties:

65 (1) Initiate independent inquiries and conduct  
66 independent investigations when the unit has cause to believe  
67 that any insurance fraud may be, is being, or has been,  
68 committed.

69 (2) Review reports or complaints of alleged insurance  
70 fraud from federal, state, and local law enforcement and  
71 regulatory agencies, persons engaged in the business of  
72 insurance, and the public to determine whether the reports or  
73 complaints require further investigation and, if so, to  
74 conduct these investigations.

75 (3) Conduct independent examinations of alleged  
76 insurance fraud and undertake independent studies to determine  
77 the extent of insurance fraud.

78 (c) In performing its duties, the unit ~~shall have the~~  
79 ~~powers to~~ may do all of the following:

80 (1) Inspect, copy, or collect records and evidence.

81 (2) Issue and serve subpoenas.

82 (3) Administer oaths and affirmations.

83 (4) Share records and evidence with federal, state, or  
84 local law enforcement and regulatory agencies.



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85 (5) Execute arrest warrants for criminal violations of  
86 this chapter or other state laws.

87 (6) Arrest upon probable cause without warrant a person  
88 found in the act of violating or attempting to violate this  
89 chapter or other state laws.

90 (7) Make criminal referrals to the Attorney General.

91 (8) Conduct investigations outside of this state. If  
92 the information the unit seeks to obtain is located outside of  
93 this state, the person from whom the information is sought may  
94 make the information available to the unit to examine at the  
95 place where the information is located. The unit may designate  
96 representatives, including officials of the state in which the  
97 matter is located, to inspect the information on behalf of the  
98 unit, and the unit may respond to similar requests from  
99 officials of other states.

100 (d) Investigators of the unit shall have all the powers  
101 vested in law enforcement officers of the State of Alabama,  
102 including, but not limited to, the powers of arrest and the  
103 power to serve process, ~~but only as necessary to enforce this~~  
104 ~~chapter, and~~ for any violation of this chapter or any  
105 violation of other state laws discovered during the course of  
106 an investigation. The investigators shall perform the duties,  
107 responsibilities, and functions as may be required for the  
108 unit to carry out its duties and responsibilities ~~pursuant~~ to  
109 enforce this chapter. ~~No person shall~~ An individual may not  
110 serve as investigator of the unit ~~who~~ unless he or she has  
111 ~~not~~ met the minimum standards established for law enforcement  
112 officers by the Alabama Peace Officers' Standards and Training



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113 Commission, or other standards as may be provided ~~hereafter~~ by  
114 law.

115 (e) Information relating to criminal activity  
116 discovered in the course of an investigation by the unit shall  
117 be provided to the ~~Department of Public Safety~~ Alabama State  
118 Law Enforcement Agency."

119 Section 2. This act shall become effective on October  
120 1, 2024.