

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representatives Brown, Berfield, Clarke, Goodlette, and Ross offered the following:

Amendment (with title amendment)

Between line(s) 5243 and 5244, insert:

Section 39. Subsections (1) and (2) of section 443.1715, Florida Statutes, are amended to read:

443.1715 Disclosure of information; confidentiality.--

(1) RECORDS AND REPORTS.--Information revealing the employing unit's or individual's identity obtained from the employing unit or from any individual pursuant to the administration of this chapter, and any determination revealing such information, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending or is receiving compensation benefits, must be held confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I

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28 of the State Constitution. Such information may be made
29 available only to public employees in the performance of their
30 public duties, including employees of the Department of
31 Education in obtaining information for the Florida Education and
32 Training Placement Information Program and the Office of
33 Tourism, Trade, and Economic Development in its administration
34 of the qualified defense contractor tax refund program
35 authorized by s. 288.1045 and the qualified target industry tax
36 refund program authorized by s. 288.106. Except as otherwise
37 provided by law, public employees receiving such information
38 must retain the confidentiality of such information. Any
39 claimant, or the claimant's legal representative, at a hearing
40 before an appeals referee or the commission shall be supplied
41 with information from such records to the extent necessary for
42 the proper presentation of her or his claim. Any employee or
43 member of the commission or any employee of the division, or any
44 other person receiving confidential information, who violates
45 any provision of this subsection commits a misdemeanor of the
46 second degree, punishable as provided in s. 775.082 or s.
47 775.083. However, the division may furnish to any employer
48 copies of any report previously submitted by such employer, upon
49 the request of such employer, and may furnish to any claimant
50 copies of any report previously submitted by such claimant, upon
51 the request of such claimant, and the division is authorized to
52 charge therefor such reasonable fee as the division may by rule
53 prescribe not to exceed the actual reasonable cost of the
54 preparation of such copies. Fees received by the division for
55 copies as provided in this subsection must be deposited to the
56 credit of the Employment Security Administration Trust Fund.

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57 (2) DISCLOSURE OF INFORMATION.-

58 (a) Subject to such restrictions as the division
59 prescribes by rule, information declared confidential under this
60 section may be made available to any agency of this or any other
61 state, or any federal agency, charged with the administration of
62 any unemployment compensation law or the maintenance of a system
63 of public employment offices, or the Bureau of Internal Revenue
64 of the United States Department of the Treasury, or the Florida
65 Department of Revenue and information obtained in connection
66 with the administration of the employment service may be made
67 available to persons or agencies for purposes appropriate to the
68 operation of a public employment service or a job-preparatory or
69 career education or training program. The division shall on a
70 quarterly basis, furnish the National Directory of New Hires
71 with information concerning the wages and unemployment
72 compensation paid to individuals, by such dates, in such format
73 and containing such information as the Secretary of Health and
74 Human Services shall specify in regulations. Upon request
75 therefor, the division shall furnish any agency of the United
76 States charged with the administration of public works or
77 assistance through public employment, and may furnish to any
78 state agency similarly charged, the name, address, ordinary
79 occupation, and employment status of each recipient of benefits
80 and such recipient's rights to further benefits under this
81 chapter. Except as otherwise provided by law, the receiving
82 agency must retain the confidentiality of such information as
83 provided in this section. The division may request the
84 Comptroller of the Currency of the United States to cause an
85 examination of the correctness of any return or report of any

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86 national banking association rendered pursuant to the provisions
87 of this chapter and may in connection with such request transmit
88 any such report or return to the Comptroller of the Currency of
89 the United States as provided in s. 3305(c) of the federal
90 Internal Revenue Code.

91 (b)1. The employer or the employer's workers' compensation
92 carrier against whom a claim for benefits under chapter 440 has
93 been made, or a representative of either, may request from the
94 division records of wages of the employee reported to the
95 division by any employer for the quarter that includes the date
96 of the accident that is the subject of such claim and for
97 subsequent quarters. The request must be made with the
98 authorization or consent of the employee or any employer who
99 paid wages to the employee subsequent to the date of the
100 accident.

101 2. The employer or carrier shall make the request on a
102 form prescribed by rule for such purpose by the division. Such
103 form shall contain a certification by the requesting party that
104 it is a party entitled to the information requested as
105 authorized by this paragraph.

106 3. The division shall provide the most current information
107 readily available within 15 days after receiving the request.

108 Section 40. Subsection (9) of section 626.989, Florida
109 Statutes, is amended to read:

110 626.989 Investigation by department or Division of
111 Insurance Fraud; compliance; immunity; confidential information;
112 reports to division; division investigator's power of arrest.--

113 (9) In recognition of the complementary roles of
114 investigating instances of workers' compensation fraud and

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115 enforcing compliance with the workers' compensation coverage
116 requirements under chapter 440, the Department of Financial
117 Services shall ~~Insurance is directed to~~ prepare and submit a
118 joint performance report to the President of the Senate and the
119 Speaker of the House of Representatives by November 1, 2003, and
120 then by January 1 of each year ~~November 1 every 3 years~~
121 ~~thereafter, describing the results obtained in achieving~~
122 ~~compliance with the workers' compensation coverage requirements~~
123 ~~and reducing the incidence of workers' compensation fraud. The~~
124 annual report must include, but need not be limited to:

125 (a) The total number of initial referrals received, cases
126 opened, cases presented for prosecution, cases closed, and
127 convictions resulting from cases presented for prosecution by
128 the Bureau of Workers' Compensation Insurance Fraud by type of
129 workers' compensation fraud and circuit.

130 (b) The number of referrals received from insurers and the
131 Division of Workers' Compensation and the outcome of those
132 referrals.

133 (c) The number of investigations undertaken by the office
134 which were not the result of a referral from an insurer or the
135 Division of Workers' Compensation.

136 (d) The number of investigations that resulted in a
137 referral to a regulatory agency and the disposition of those
138 referrals.

139 (e) The number and reasons provided by local prosecutors
140 or the statewide prosecutor for declining prosecution of a case
141 presented by the office by circuit.

142 (f) The total number of employees assigned to the office
143 and the Division of Workers' Compliance unit delineated by

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144 location of staff assigned and the number and location of
145 employees assigned to the office who were assigned to work other
146 types of fraud cases.

147 (g) The average caseload and turnaround time by type of
148 case for each investigator and division compliance employee.

149 (h) The training provided during the year to workers'
150 compensation fraud investigators and the division's compliance
151 employees.

152 Section 41. Section 626.9891, Florida Statutes, is amended
153 to read:

154 626.9891 Insurer anti-fraud investigative units; reporting
155 requirements; penalties for noncompliance.--

156 (1) Every insurer admitted to do business in this state
157 who in the previous calendar year, at any time during that year,
158 had \$10 million or more in direct premiums written shall:

159 (a) Establish and maintain a unit or division within the
160 company to investigate possible fraudulent claims by insureds or
161 by persons making claims for services or repairs against
162 policies held by insureds; or

163 (b) Contract with others to investigate possible
164 fraudulent claims for services or repairs against policies held
165 by insureds.

166
167 An insurer subject to this subsection shall file with the
168 Division of Insurance Fraud of the department on or before July
169 1, 1996, a detailed description of the unit or division
170 established pursuant to paragraph (a) or a copy of the contract
171 and related documents required by paragraph (b).

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172 (2) Every insurer admitted to do business in this state,
173 which in the previous calendar year had less than \$10 million in
174 direct premiums written, must adopt an anti-fraud plan and file
175 it with the Division of Insurance Fraud of the department on or
176 before July 1, 1996. An insurer may, in lieu of adopting and
177 filing an anti-fraud plan, comply with the provisions of
178 subsection (1).

179 (3) Each insurers anti-fraud plans shall include:

180 (a) A description of the insurer's procedures for
181 detecting and investigating possible fraudulent insurance acts;

182 (b) A description of the insurer's procedures for the
183 mandatory reporting of possible fraudulent insurance acts to the
184 Division of Insurance Fraud of the department;

185 (c) A description of the insurer's plan for anti-fraud
186 education and training of its claims adjusters or other
187 personnel; and

188 (d) A written description or chart outlining the
189 organizational arrangement of the insurer's anti-fraud personnel
190 who are responsible for the investigation and reporting of
191 possible fraudulent insurance acts.

192 (4) Any insurer who obtains a certificate of authority
193 after July 1, 1995, shall have 18 months in which to comply with
194 the requirements of this section.

195 (5) For purposes of this section, the term "unit or
196 division" includes the assignment of fraud investigation to
197 employees whose principal responsibilities are the investigation
198 and disposition of claims. If an insurer creates a distinct unit
199 or division, hires additional employees, or contracts with
200 another entity to fulfill the requirements of this section, the

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201 additional cost incurred must be included as an administrative
202 expense for ratemaking purposes.

203 (6) Each insurer writing workers' compensation insurance
204 shall report to the department, on or before August 1 of each
205 year, on its experience in implementing and maintaining an anti-
206 fraud investigative unit or an anti-fraud plan. The report must
207 include, at a minimum:

208 (a) The dollar amount of recoveries and losses
209 attributable to workers' compensation fraud delineated by the
210 type of fraud: claimant, employer, provider, agent, or other.

211 (b) The number of referrals to the Bureau of Workers'
212 Compensation Fraud for the prior year.

213 (c) A description of the organization of the anti-fraud
214 investigative unit, if applicable, including the position titles
215 and descriptions of staffing.

216 (d) The rationale for the level of staffing and resources
217 being provided for the anti-fraud investigative unit, which may
218 include objective criteria such as number of policies written,
219 number of claims received on an annual basis, volume of
220 suspected fraudulent claims currently being detected, other
221 factors, and an assessment of optimal caseload that can be
222 handled by an investigator on an annual basis.

223 (e) The in-service education and training provided to
224 underwriting and claims personnel to assist in identifying and
225 evaluating instances of suspected fraudulent activity in
226 underwriting or claims activities.

227 (f) A description of a public awareness program focused on
228 the costs and frequency of insurance fraud and methods by which
229 the public can prevent it.

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230 (7) If an insurer fails to submit a final anti-fraud plan
231 or otherwise fails to submit a plan, fails to implement the
232 provisions of a plan or an anti-fraud investigative unit, or
233 otherwise refuses to comply with the provisions of this section,
234 the department may:

235 (a) Impose an administrative fine of not more than \$2,000
236 per day for such failure by an insurer, until the department
237 deems the insurer to be in compliance;

238 (b) Impose upon the insurer a fraud detection and
239 prevention plan that is deemed to be appropriate by the
240 department and that must be implemented by the insurer; or

241 (c) Impose the provisions of both paragraphs (a) and (b).

242 (8) The department may adopt rules to administer this
243 section.

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245 ===== T I T L E A M E N D M E N T =====

246 Remove line(s) 102, and insert:

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248 references; amending s. 443.1715, F.S.; revising
249 provisions relating to records and reports; providing for
250 disclosure of specified information; amending s. 625.989,
251 F.S.; providing that the Department of Financial Services
252 shall prepare an annual report relating to workers'
253 compensation fraud and compliance; amending s. 626.9891,
254 F.S.; amending reporting requirements for insurers;
255 providing penalties for noncompliance; providing for
256 rules; repealing s. 440.1925, F.S., relating to