

CHAMBER ACTION

1 The Commerce Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to offenses involving insurance; amending
7 s. 400.9935, F.S.; prohibiting clinical directors from
8 engaging in certain patient referral activities; providing
9 a definition; providing a criminal penalty; requiring
10 health care clinics to display signs displaying certain
11 information relating to insurance fraud; authorizing
12 compliance inspections by the Division of Insurance Fraud;
13 requiring clinics to allow inspection access; amending s.
14 440.105, F.S.; deleting violations of certain stop-work
15 orders from a list of employer activities subject to
16 criminal penalty; providing criminal penalties for
17 employers who fail to provide required workers'
18 compensation coverage for employees under certain
19 circumstances; amending s. 624.15, F.S.; specifying
20 violations of rules of the Department of Financial
21 Services, Office of Insurance Regulation, or Financial
22 Services Commission as misdemeanors; specifying a
23 violation of emergency rules or orders as a felony of the

24 | third degree; providing penalties; providing for
25 | nonapplication to certain persons; amending s. 624.155,
26 | F.S.; providing that civil actions may be brought against
27 | any person acting as an insurer without a certificate of
28 | authority if damaged by such acting; amending s. 626.112,
29 | F.S.; providing a criminal penalty for transacting
30 | insurance without a license; amending s. 626.901, F.S.;
31 | clarifying nonapplication to certain independently
32 | procured coverage of a prohibition against representing or
33 | aiding an unauthorized insurer; amending s. 626.918, F.S.;
34 | providing that certain letters of credit issued or
35 | confirmed by a qualified United States financial
36 | institution may be used for certain purposes; providing a
37 | definition; amending s. 626.938, F.S.; revising provisions
38 | requiring a report and taxation of independently procured
39 | coverages; specifying nonauthorization of independent
40 | procurement of workers' compensation, life, or health
41 | insurance; amending s. 626.989, F.S.; including self-
42 | insured entities associated with the National Insurance
43 | Crime Bureau within a list of entities required to report
44 | insurance fraud; authorizing the division to adopt rules
45 | for standardized reporting of fraudulent activity;
46 | creating s. 626.9893, F.S.; authorizing the division to
47 | deposit certain revenues into the Insurance Regulatory
48 | Trust Fund; specifying accounting and uses of such
49 | revenues; providing for appropriation and use of such
50 | revenues; amending s. 817.234, F.S.; clarifying provisions
51 | specifying material omission and insurance fraud;

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52 | prohibiting scheming to create documentation of a motor
 53 | vehicle crash that did not occur; providing a criminal
 54 | penalty; amending s. 817.2361, F.S.; providing that
 55 | creating, presenting, or marketing fraudulent proof of
 56 | motor vehicle insurance is a felony of the third degree;
 57 | amending s. 817.50, F.S.; specifying nonapplication of
 58 | provisions specifying evidence of intent to defraud to
 59 | certain investigative actions taken by law enforcement
 60 | officers; amending s. 817.505, F.S.; providing an
 61 | additional patient brokering prohibition; revising a
 62 | definition; amending s. 843.08, F.S.; providing a criminal
 63 | penalty for falsely assuming or pretending to be an
 64 | officer of the Department of Financial Services; amending
 65 | s. 932.7055, F.S.; requiring certain proceeds seized by
 66 | the division under the Florida Contraband Forfeiture Act
 67 | to be deposited into certain trust funds; providing
 68 | severability; providing an effective date.

69 |
 70 | Be It Enacted by the Legislature of the State of Florida:

71 |
 72 | Section 1. Paragraph (h) is added to subsection (1) of
 73 | section 400.9935, Florida Statutes, and subsection (13) is added
 74 | to said section, to read:

75 | 400.9935 Clinic responsibilities.--

76 | (1) Each clinic shall appoint a medical director or clinic
 77 | director who shall agree in writing to accept legal
 78 | responsibility for the following activities on behalf of the
 79 | clinic. The medical director or the clinic director shall:

80 (h) Not engage in referring patients to the clinic if the
 81 clinic performs magnetic resonance imaging, static radiographs,
 82 computed tomography, or positron emission tomography. The term
 83 "referring patients" means referring one or more patients of the
 84 medical or clinic director or a member of the medical or clinic
 85 director's group practice to the clinic for magnetic resonance
 86 imaging, static radiographs, computed tomography, or positron
 87 emission tomography. A medical or clinic director who is found
 88 to violate this paragraph commits a felony of the third degree,
 89 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

90 (13) The clinic shall display a sign in a conspicuous
 91 location within the clinic readily visible to all patients
 92 indicating that, pursuant to s. 626.9892, the Department of
 93 Financial Services may pay rewards of up to \$25,000 to persons
 94 providing information leading to the arrest and conviction of
 95 persons committing crimes investigated by the Division of
 96 Insurance Fraud arising from violations of s. 440.105, s.
 97 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized
 98 employee of the Division of Insurance Fraud may make unannounced
 99 inspections of a clinic licensed under this part as necessary to
 100 determine whether the clinic is in compliance with this
 101 subsection. A licensed clinic shall allow full and complete
 102 access to the premises to such authorized employee of the
 103 division who makes an inspection to determine compliance with
 104 this subsection.

105 Section 2. Subsections (2) and (4) of section 440.105,
 106 Florida Statutes, are amended to read:

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107 | 440.105 Prohibited activities; reports; penalties;
 108 | limitations.--
 109 | (2) Whoever violates any provision of this subsection
 110 | commits a misdemeanor of the first degree, punishable as
 111 | provided in s. 775.082 or s. 775.083.
 112 | (a) It shall be unlawful for any employer to knowingly:
 113 | 1. Coerce or attempt to coerce, as a precondition to
 114 | employment or otherwise, an employee to obtain a certificate of
 115 | election of exemption pursuant to s. 440.05.
 116 | 2. Discharge or refuse to hire an employee or job
 117 | applicant because the employee or applicant has filed a claim
 118 | for benefits under this chapter.
 119 | 3. Discharge, discipline, or take any other adverse
 120 | personnel action against any employee for disclosing information
 121 | to the department or any law enforcement agency relating to any
 122 | violation or suspected violation of any of the provisions of
 123 | this chapter or rules promulgated hereunder.
 124 | ~~4. Violate a stop-work order issued by the department~~
 125 | ~~pursuant to s. 440.107.~~
 126 | (b) It shall be unlawful for any insurance entity to
 127 | revoke or cancel a workers' compensation insurance policy or
 128 | membership because an employer has returned an employee to work
 129 | or hired an employee who has filed a workers' compensation
 130 | claim.
 131 | (4) Unless otherwise specifically provided, whoever
 132 | violates any provision of this subsection commits insurance
 133 | fraud, punishable as provided in paragraph (f).
 134 | (a) It shall be unlawful for any employer to knowingly:

135 1. Present or cause to be presented any false, fraudulent,
136 or misleading oral or written statement to any person as
137 evidence of compliance with s. 440.38.

138 2. Make a deduction from the pay of any employee entitled
139 to the benefits of this chapter for the purpose of requiring the
140 employee to pay any portion of premium paid by the employer to a
141 carrier or to contribute to a benefit fund or department
142 maintained by such employer for the purpose of providing
143 compensation or medical services and supplies as required by
144 this chapter.

145 3. Fail to secure workers' payment of compensation
146 coverage if required to do so by this chapter.

147 a. However, if an employer knowingly fails to secure
148 workers' compensation coverage for an employee as required by
149 this chapter, and such employee subsequently suffers a work-
150 related injury requiring medical treatment, the employer commits
151 a felony of the second degree, punishable as provided in s.
152 775.082, s. 775.083, or s. 775.084.

153 b. However, if an employer knowingly fails to secure
154 workers' compensation coverage for an employee as required by
155 this chapter, and such employee subsequently suffers a work
156 related death, the employer commits a felony of the first
157 degree, punishable as provided in s. 775.082, s. 775.083, or s.
158 775.084.

159 (b) It shall be unlawful for any person:

160 1. To knowingly make, or cause to be made, any false,
161 fraudulent, or misleading oral or written statement for the

162 | purpose of obtaining or denying any benefit or payment under
163 | this chapter.

164 | 2. To present or cause to be presented any written or oral
165 | statement as part of, or in support of, a claim for payment or
166 | other benefit pursuant to any provision of this chapter, knowing
167 | that such statement contains any false, incomplete, or
168 | misleading information concerning any fact or thing material to
169 | such claim.

170 | 3. To prepare or cause to be prepared any written or oral
171 | statement that is intended to be presented to any employer,
172 | insurance company, or self-insured program in connection with,
173 | or in support of, any claim for payment or other benefit
174 | pursuant to any provision of this chapter, knowing that such
175 | statement contains any false, incomplete, or misleading
176 | information concerning any fact or thing material to such claim.

177 | 4. To knowingly assist, conspire with, or urge any person
178 | to engage in activity prohibited by this section.

179 | 5. To knowingly make any false, fraudulent, or misleading
180 | oral or written statement, or to knowingly omit or conceal
181 | material information, required by s. 440.185 or s. 440.381, for
182 | the purpose of obtaining workers' compensation coverage or for
183 | the purpose of avoiding, delaying, or diminishing the amount of
184 | payment of any workers' compensation premiums.

185 | 6. To knowingly misrepresent or conceal payroll,
186 | classification of workers, or information regarding an
187 | employer's loss history which would be material to the
188 | computation and application of an experience rating modification

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189 factor for the purpose of avoiding or diminishing the amount of
190 payment of any workers' compensation premiums.

191 7. To knowingly present or cause to be presented any
192 false, fraudulent, or misleading oral or written statement to
193 any person as evidence of compliance with s. 440.38, as evidence
194 of eligibility for a certificate of exemption under s. 440.05.

195 8. To knowingly violate a stop-work order issued by the
196 department pursuant to s. 440.107.

197 9. To knowingly present or cause to be presented any
198 false, fraudulent, or misleading oral or written statement to
199 any person as evidence of identity for the purpose of obtaining
200 employment or filing or supporting a claim for workers'
201 compensation benefits.

202 (c) It shall be unlawful for any physician licensed under
203 chapter 458, osteopathic physician licensed under chapter 459,
204 chiropractic physician licensed under chapter 460, podiatric
205 physician licensed under chapter 461, optometric physician
206 licensed under chapter 463, or any other practitioner licensed
207 under the laws of this state to knowingly and willfully assist,
208 conspire with, or urge any person to fraudulently violate any of
209 the provisions of this chapter.

210 (d) It shall be unlawful for any person or governmental
211 entity licensed under chapter 395 to maintain or operate a
212 hospital in such a manner so that such person or governmental
213 entity knowingly and willfully allows the use of the facilities
214 of such hospital by any person, in a scheme or conspiracy to
215 fraudulently violate any of the provisions of this chapter.

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216 (e) It shall be unlawful for any attorney or other person,
217 in his or her individual capacity or in his or her capacity as a
218 public or private employee, or any firm, corporation,
219 partnership, or association, to knowingly assist, conspire with,
220 or urge any person to fraudulently violate any of the provisions
221 of this chapter.

222 (f) If the monetary value of any violation of this
223 subsection:

224 1. Is less than \$20,000, the offender commits a felony of
225 the third degree, punishable as provided in s. 775.082, s.
226 775.083, or s. 775.084.

227 2. Is \$20,000 or more, but less than \$100,000, the
228 offender commits a felony of the second degree, punishable as
229 provided in s. 775.082, s. 775.083, or s. 775.084.

230 3. Is \$100,000 or more, the offender commits a felony of
231 the first degree, punishable as provided in s. 775.082, s.
232 775.083, or s. 775.084.

233 Section 3. Section 624.15, Florida Statutes, is amended to
234 read:

235 624.15 General penalty.--

236 (1) Each willful violation of this code or rule of the
237 department, office, or commission as to which a greater penalty
238 is not provided by another provision of this code, rule of the
239 department, office, or commission or by other applicable laws of
240 this state is a misdemeanor of the second degree and is, in
241 addition to any prescribed applicable denial, suspension, or
242 revocation of certificate of authority, license, or permit,
243 punishable as provided in s. 775.082 or s. 775.083. Each

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244 instance of such violation shall be considered a separate
245 offense.

246 (2) Each willful violation of an emergency rule or order
247 of the department, office, or commission by a person who is not
248 licensed, authorized, or eligible to engage in business in
249 accordance with the Florida Insurance Code is a felony of the
250 third degree, punishable as provided in s. 775.082, s. 775.083,
251 or s. 775.084. Each instance of such violation is a separate
252 offense. This subsection does not apply to licensees or
253 affiliated parties of licensees.

254 Section 4. Subsection (2) of section 624.155, Florida
255 Statutes, is amended to read:

256 624.155 Civil remedy.--

257 (2) Any party may bring a civil action against any person
258 acting as an ~~unauthorized~~ insurer without a certificate of
259 authority if such party is damaged by a violation of s. 624.401
260 by that person ~~the unauthorized insurer.~~

261 Section 5. Subsection (9) is added to section 626.112,
262 Florida Statutes, to read:

263 626.112 License and appointment required; agents, customer
264 representatives, adjusters, insurance agencies, service
265 representatives, managing general agents.--

266 (9) Any person who transacts insurance or otherwise
267 engages in insurance activities in this state without a license
268 in violation of this section commits a felony of the third
269 degree, punishable as provided in s. 775.082, s. 775.083, or s.
270 775.084.

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271 Section 6. Paragraph (d) of subsection (4) of section
272 626.901, Florida Statutes, is amended to read:

273 626.901 Representing or aiding unauthorized insurer
274 prohibited.--

275 (4) This section does not apply to:

276 (d) Independently procured coverage written pursuant to s.
277 626.938, which is not solicited, marketed, negotiated, or sold
278 within this state.

279 Section 7. Section 626.918, Florida Statutes, is amended
280 to read:

281 626.918 Eligible surplus lines insurers.--

282 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
283 coverage with any unauthorized insurer which is not then an
284 eligible surplus lines insurer, except as permitted under
285 subsections (6)~~(5)~~ and (7)~~(6)~~.

286 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or become
287 an eligible surplus lines insurer unless made eligible by the
288 office in accordance with the following conditions:

289 (a) Eligibility of the insurer must be requested in
290 writing by the Florida Surplus Lines Service Office;

291 (b) The insurer must be currently an authorized insurer in
292 the state or country of its domicile as to the kind or kinds of
293 insurance proposed to be so placed and must have been such an
294 insurer for not less than the 3 years next preceding or must be
295 the wholly owned subsidiary of such authorized insurer or must
296 be the wholly owned subsidiary of an already eligible surplus
297 lines insurer as to the kind or kinds of insurance proposed for
298 a period of not less than the 3 years next preceding. However,

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299 | the office may waive the 3-year requirement if the insurer
 300 | provides a product or service not readily available to the
 301 | consumers of this state or has operated successfully for a
 302 | period of at least 1 year next preceding and has capital and
 303 | surplus of not less than \$25 million;

304 | (c) Before granting eligibility, the requesting surplus
 305 | lines agent or the insurer shall furnish the office with a duly
 306 | authenticated copy of its current annual financial statement in
 307 | the English language and with all monetary values therein
 308 | expressed in United States dollars, at an exchange rate (in the
 309 | case of statements originally made in the currencies of other
 310 | countries) then-current and shown in the statement, and with
 311 | such additional information relative to the insurer as the
 312 | office may request;

313 | (d)1. The insurer must have and maintain surplus as to
 314 | policyholders of not less than \$15 million; in addition, an
 315 | alien insurer must also have and maintain in the United States a
 316 | trust fund for the protection of all its policyholders in the
 317 | United States under terms deemed by the office to be reasonably
 318 | adequate, in an amount not less than \$5.4 million. Any such
 319 | surplus as to policyholders or trust fund shall be represented
 320 | by investments consisting of eligible investments for like funds
 321 | of like domestic insurers under part II of chapter 625 provided,
 322 | however, that in the case of an alien insurance company, any
 323 | such surplus as to policyholders may be represented by
 324 | investments permitted by the domestic regulator of such alien
 325 | insurance company if such investments are substantially similar
 326 | in terms of quality, liquidity, and security to eligible

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327 | investments for like funds of like domestic insurers under part
 328 | II of chapter 625. Clean, irrevocable, unconditional, and
 329 | evergreen letters of credit issued or confirmed by a qualified
 330 | United States financial institution, as defined in subsection
 331 | (3), may be used to fund the trust;

332 | 2. For those surplus lines insurers that were eligible on
 333 | January 1, 1994, and that maintained their eligibility
 334 | thereafter, the required surplus as to policyholders shall be:

335 | a. On December 31, 1994, and until December 30, 1995, \$2.5
 336 | million.

337 | b. On December 31, 1995, and until December 30, 1996, \$3.5
 338 | million.

339 | c. On December 31, 1996, and until December 30, 1997, \$4.5
 340 | million.

341 | d. On December 31, 1997, and until December 30, 1998, \$5.5
 342 | million.

343 | e. On December 31, 1998, and until December 30, 1999, \$6.5
 344 | million.

345 | f. On December 31, 1999, and until December 30, 2000, \$8
 346 | million.

347 | g. On December 31, 2000, and until December 30, 2001, \$9.5
 348 | million.

349 | h. On December 31, 2001, and until December 30, 2002, \$11
 350 | million.

351 | i. On December 31, 2002, and until December 30, 2003, \$13
 352 | million.

353 | j. On December 31, 2003, and thereafter, \$15 million.

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354 3. The capital and surplus requirements as set forth in
 355 subparagraph 2. do not apply in the case of an insurance
 356 exchange created by the laws of individual states, where the
 357 exchange maintains capital and surplus pursuant to the
 358 requirements of that state, or maintains capital and surplus in
 359 an amount not less than \$50 million in the aggregate. For an
 360 insurance exchange which maintains funds in the amount of at
 361 least \$12 million for the protection of all insurance exchange
 362 policyholders, each individual syndicate shall maintain minimum
 363 capital and surplus in an amount not less than \$3 million. If
 364 the insurance exchange does not maintain funds in the amount of
 365 at least \$12 million for the protection of all insurance
 366 exchange policyholders, each individual syndicate shall meet the
 367 minimum capital and surplus requirements set forth in
 368 subparagraph 2.;

369 4. A surplus lines insurer which is a member of an
 370 insurance holding company that includes a member which is a
 371 Florida domestic insurer as set forth in its holding company
 372 registration statement, as set forth in s. 628.801 and rules
 373 adopted thereunder, may elect to maintain surplus as to
 374 policyholders in an amount equal to the requirements of s.
 375 624.408, subject to the requirement that the surplus lines
 376 insurer shall at all times be in compliance with the
 377 requirements of chapter 625.

378
 379 The election shall be submitted to the office and shall be
 380 effective upon the office's being satisfied that the
 381 requirements of subparagraph 4. have been met. The initial date

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382 of election shall be the date of office approval. The election
 383 approval application shall be on a form adopted by commission
 384 rule. The office may approve an election form submitted pursuant
 385 to subparagraph 4. only if it was on file with the former
 386 Department of Insurance before February 28, 1998;

387 (e) The insurer must be of good reputation as to the
 388 providing of service to its policyholders and the payment of
 389 losses and claims;

390 (f) The insurer must be eligible, as for authority to
 391 transact insurance in this state, under s. 624.404(3); and

392 (g) This subsection does not apply as to unauthorized
 393 insurers made eligible under s. 626.917 as to wet marine and
 394 aviation risks.

395 (3) For purposes of subsection (2) relating to letters of
 396 credit, the term "qualified United States financial institution"
 397 means an institution that:

398 (a) Is organized or, in the case of a United States office
 399 of a foreign banking organization, is licensed under the laws of
 400 the United States or any state thereof.

401 (b) Is regulated, supervised, and examined by United
 402 States or state authorities having regulatory authority over
 403 banks and trust companies.

404 (c) Has been determined by the office or the Securities
 405 Valuation Office of the National Association of Insurance
 406 Commissioners to meet such standards of financial condition and
 407 standing as are considered necessary and appropriate to regulate
 408 the quality of financial institutions whose letters of credit
 409 are acceptable to the office.

410 (4)~~(3)~~ The office shall from time to time publish a list
 411 of all currently eligible surplus lines insurers and shall mail
 412 a copy thereof to each licensed surplus lines agent at his or
 413 her office of record with the office.

414 (5)~~(4)~~ This section shall not be deemed to cast upon the
 415 office any duty or responsibility to determine the actual
 416 financial condition or claims practices of any unauthorized
 417 insurer; and the status of eligibility, if granted by the
 418 office, shall indicate only that the insurer appears to be sound
 419 financially and to have satisfactory claims practices and that
 420 the office has no credible evidence to the contrary.

421 (6)~~(5)~~ When it appears that any particular insurance risk
 422 which is eligible for export, but on which insurance coverage,
 423 in whole or in part, is not procurable from the eligible surplus
 424 lines insurers, after a search of eligible surplus lines
 425 insurers, then the surplus lines agent may file a supplemental
 426 signed statement setting forth such facts and advising the
 427 office that such part of the risk as shall be unprocurable, as
 428 aforesaid, is being placed with named unauthorized insurers, in
 429 the amounts and percentages set forth in the statement. Such
 430 named unauthorized insurer shall, however, before accepting any
 431 risk in this state, deposit with the department cash or
 432 securities acceptable to the office and department of the market
 433 value of \$50,000 for each individual risk, contract, or
 434 certificate, which deposit shall be held by the department for
 435 the benefit of Florida policyholders only; and the surplus lines
 436 agent shall procure from such unauthorized insurer and file with
 437 the office a certified copy of its statement of condition as of

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438 | the close of the last calendar year. If such statement reveals,
 439 | including both capital and surplus, net assets of at least that
 440 | amount required for licensure of a domestic insurer, then the
 441 | surplus lines agent may proceed to consummate such contract of
 442 | insurance. Whenever any insurance risk, or any part thereof, is
 443 | placed with an unauthorized insurer, as provided herein, the
 444 | policy, binder, or cover note shall contain a statement signed
 445 | by the insured and the agent with the following notation: "The
 446 | insured is aware that certain insurers participating in this
 447 | risk have not been approved to transact business in Florida nor
 448 | have they been declared eligible as surplus lines insurers by
 449 | the Office of Insurance Regulation of Florida. The placing of
 450 | such insurance by a duly licensed surplus lines agent in Florida
 451 | shall not be construed as approval of such insurer by the Office
 452 | of Insurance Regulation of Florida. Consequently, the insured is
 453 | aware that the insured has severely limited the assistance
 454 | available under the insurance laws of Florida. The insured is
 455 | further aware that he or she may be charged a reasonable per
 456 | policy fee, as provided in s. 626.916(4), Florida Statutes, for
 457 | each policy certified for export." All other provisions of this
 458 | code shall apply to such placement the same as if such risks
 459 | were placed with an eligible surplus lines insurer.

460 | (7)~~(6)~~ When any particular insurance risk subject to
 461 | subsection (6)~~(5)~~ is eligible for placement with an unauthorized
 462 | insurer and not more than 12.5 percent of the risk is so
 463 | subject, the office may, at its discretion, permit the agent to
 464 | obtain from the insured a signed statement as indicated in
 465 | subsection (6)~~(5)~~. All other provisions of this code apply to

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466 | such placement the same as if such risks were placed with an
467 | eligible surplus lines insurer.

468 | Section 8. Subsections (1), (2), and (9) of section
469 | 626.938, Florida Statutes, are amended to read:

470 | 626.938 Report and tax of independently procured
471 | coverages.--

472 | (1) Every insured who resides in this state and procures
473 | or causes to be procured or continues or renews insurance from
474 | another state or country with an unauthorized foreign or alien
475 | insurer legitimately licensed in that jurisdiction, or any self-
476 | insurer who resides in this state and so procures or continues
477 | excess loss, catastrophe, or other insurance, upon a subject of
478 | insurance resident, located, or to be performed within this
479 | state, other than insurance procured through a surplus lines
480 | agent pursuant to the Surplus Lines Law of this state or
481 | exempted from tax under s. 626.932(4), shall, within 30 days
482 | after the date such insurance was so procured, continued, or
483 | renewed, file a report of the same with the Florida Surplus
484 | Lines Service Office in writing and upon forms designated by the
485 | Florida Surplus Lines Service Office and furnished to such an
486 | insured upon request, or in a computer readable format as
487 | determined by the Florida Surplus Lines Service Office. The
488 | report shall show the name and address of the insured or
489 | insureds, the name and address of the insurer, the subject of
490 | the insurance, a general description of the coverage, the amount
491 | of premium currently charged therefor, and such additional
492 | pertinent information as is reasonably requested by the Florida
493 | Surplus Lines Service Office.

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494 (2) Any insurance in an unauthorized insurer legitimately
 495 licensed in another state or country procured through
 496 solicitations, negotiations, or an application, ~~in whole or in~~
 497 ~~part~~ occurring or made outside ~~within or from within~~ this state,
 498 ~~or for which premiums in whole or in part are remitted directly~~
 499 ~~or indirectly from within this state,~~ shall be deemed to be
 500 insurance procured, continued, or renewed ~~in this state~~ within
 501 the intent of subsection (1).

502 (9) This section does not authorize independent
 503 procurement of workers' compensation insurance, ~~apply as to~~ life
 504 insurance, or health insurance.

505 Section 9. Subsection (6) of section 626.989, Florida
 506 Statutes, is amended to read:

507 626.989 Investigation by department or Division of
 508 Insurance Fraud; compliance; immunity; confidential information;
 509 reports to division; division investigator's power of arrest.--

510 (6) Any person, ~~other than an insurer, agent, or other~~
 511 ~~person licensed under the code, or an employee thereof,~~ having
 512 knowledge or who believes that a fraudulent insurance act or any
 513 other act or practice which, upon conviction, constitutes a
 514 felony or a misdemeanor under the code, or under s. 817.234, is
 515 being or has been committed may send to the Division of
 516 Insurance Fraud a report or information pertinent to such
 517 knowledge or belief and such additional information relative
 518 thereto as the department may request. However, any professional
 519 practitioner licensed or regulated by the Department of Business
 520 and Professional Regulation, except as otherwise provided by
 521 law, any medical review committee as defined in s. 766.101, any

522 | private medical review committee, any self-insured entity
 523 | contracting or associated with the National Insurance Crime
 524 | Bureau, and any insurer, agent, or other person licensed under
 525 | the code, or an employee thereof, having knowledge or who
 526 | believes that a fraudulent insurance act or any other act or
 527 | practice which, upon conviction, constitutes a felony or a
 528 | misdemeanor under the code, or under s. 817.234, is being or has
 529 | been committed shall send to the Division of Insurance Fraud a
 530 | report or information pertinent to such knowledge or belief and
 531 | such additional information relative thereto as the department
 532 | may require. The Division of Insurance Fraud shall review such
 533 | information or reports and select such information or reports
 534 | as, in its judgment, may require further investigation. It shall
 535 | then cause an independent examination of the facts surrounding
 536 | such information or report to be made to determine the extent,
 537 | if any, to which a fraudulent insurance act or any other act or
 538 | practice which, upon conviction, constitutes a felony or a
 539 | misdemeanor under the code, or under s. 817.234, is being
 540 | committed. The Division of Insurance Fraud shall report any
 541 | alleged violations of law which its investigations disclose to
 542 | the appropriate licensing agency and state attorney or other
 543 | prosecuting agency having jurisdiction with respect to any such
 544 | violation, as provided in s. 624.310. If prosecution by the
 545 | state attorney or other prosecuting agency having jurisdiction
 546 | with respect to such violation is not begun within 60 days of
 547 | the division's report, the state attorney or other prosecuting
 548 | agency having jurisdiction with respect to such violation shall
 549 | inform the division of the reasons for the lack of prosecution.

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550 The division may adopt rules which set forth requirements for
 551 the manner in which suspected fraudulent activity shall be
 552 reported to the division through the use of a standard referral
 553 form.

554 Section 10. Section 626.9893, Florida Statutes, is created
 555 to read:

556 626.9893 Disposition of revenues; criminal or forfeiture
 557 proceedings.--

558 (1) The Division of Insurance Fraud of the Department of
 559 Financial Services may deposit revenues received as a result of
 560 criminal proceedings or forfeiture proceedings, other than
 561 revenues deposited into the Department of Financial Services'
 562 Federal Equitable Sharing Trust Fund under s. 17.43, into the
 563 Insurance Regulatory Trust Fund. Moneys deposited pursuant to
 564 this section shall be separately accounted for and shall be used
 565 solely for the division to carry out its duties and
 566 responsibilities.

567 (2) Moneys deposited into the Insurance Regulatory Trust
 568 Fund pursuant to this section shall be appropriated by the
 569 Legislature, pursuant to the provisions of chapter 216, for the
 570 sole purpose of enabling the division to carry out its duties
 571 and responsibilities.

572 (3) Notwithstanding the provisions of s. 216.301 and
 573 pursuant to s. 216.351, any balance of moneys deposited into the
 574 Insurance Regulatory Trust Fund pursuant to this section
 575 remaining at the end of any fiscal year shall remain in the
 576 trust fund at the end of that year and shall be available for
 577 carrying out the duties and responsibilities of the division.

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578 Section 11. Paragraph (a) of subsection (7) and subsection
579 (9) of section 817.234, Florida Statutes, are amended to read:

580 817.234 False and fraudulent insurance claims.--

581 (7)(a) It shall constitute a material omission and
582 insurance fraud, punishable as provided in subsection (11), for
583 any service ~~physician or other~~ provider, other than a hospital,
584 to engage in a general business practice of billing amounts as
585 its usual and customary charge, if such provider has agreed with
586 the insured ~~patient~~ or intends to waive deductibles or
587 copayments, or does not for any other reason intend to collect
588 the total amount of such charge. With respect to a determination
589 as to whether a service ~~physician or other~~ provider has engaged
590 in such general business practice, consideration shall be given
591 to evidence of whether the service ~~physician or other~~ provider
592 made a good faith attempt to collect such deductible or
593 copayment. This paragraph does not apply to physicians or other
594 providers who waive deductibles or copayments or reduce their
595 bills as part of a bodily injury settlement or verdict.

596 (9) A person may not organize, plan, or knowingly
597 participate in an intentional motor vehicle crash or a scheme to
598 create documentation of a motor vehicle crash that did not occur
599 for the purpose of making motor vehicle tort claims or claims
600 for personal injury protection benefits as required by s.
601 627.736. Any person who violates this subsection commits a
602 felony of the second degree, punishable as provided in s.
603 775.082, s. 775.083, or s. 775.084. A person who is convicted of
604 a violation of this subsection shall be sentenced to a minimum
605 term of imprisonment of 2 years.

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606 Section 12. Section 817.2361, Florida Statutes, is amended
607 to read:

608 817.2361 False or fraudulent proof of motor vehicle
609 insurance ~~card~~.--Any person who, with intent to deceive any
610 other person, creates, markets, or presents a false or
611 fraudulent proof of motor vehicle insurance ~~card~~ commits a
612 felony of the third degree, punishable as provided in s.
613 775.082, s. 775.083, or s. 775.084.

614 Section 13. Subsection (2) of section 817.50, Florida
615 Statutes, is amended to read:

616 817.50 Fraudulently obtaining goods, services, etc., from
617 a health care provider.--

618 (2) If any person gives to any health care provider in
619 this state a false or fictitious name or a false or fictitious
620 address or assigns to any health care provider the proceeds of
621 any health maintenance contract or insurance contract, then
622 knowing that such contract is no longer in force, is invalid, or
623 is void for any reason, such action shall be prima facie
624 evidence of the intent of such person to defraud the health care
625 provider. However, this subsection does not apply to
626 investigative actions taken by law enforcement officers for law
627 enforcement purposes in the course of their official duties.

628 Section 14. Subsection (1) and paragraph (a) of subsection
629 (2) of section 817.505, Florida Statutes, are amended to read:

630 817.505 Patient brokering prohibited; exceptions;
631 penalties.--

632 (1) It is unlawful for any person, including any health
633 care provider or health care facility, to:

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634 (a) Offer or pay any commission, bonus, rebate, kickback,
635 or bribe, directly or indirectly, in cash or in kind, or engage
636 in any split-fee arrangement, in any form whatsoever, to induce
637 the referral of patients or patronage to or from a health care
638 provider or health care facility;

639 (b) Solicit or receive any commission, bonus, rebate,
640 kickback, or bribe, directly or indirectly, in cash or in kind,
641 or engage in any split-fee arrangement, in any form whatsoever,
642 in return for referring patients or patronage to or from a
643 health care provider or health care facility; ~~or~~

644 (c) Solicit or receive any commission, bonus, rebate,
645 kickback, or bribe, directly or indirectly, in cash or in kind,
646 or engage in any split-fee arrangement, in any form whatsoever,
647 in return for the acceptance or acknowledgement of treatment
648 from a health care provider or health care facility; or

649 (d)(e) Aid, abet, advise, or otherwise participate in the
650 conduct prohibited under paragraph (a), ~~or~~ paragraph (b), or
651 paragraph (c).

652 (2) For the purposes of this section, the term:

653 (a) "Health care provider or health care facility" means
654 any person or entity licensed, certified, or registered;
655 required to be licensed, certified, or registered; or lawfully
656 exempt from being required to be licensed, certified, or
657 registered with the Agency for Health Care Administration; any
658 person or entity that has contracted with the Agency for Health
659 Care Administration to provide goods or services to Medicaid
660 recipients as provided under s. 409.907; a county health
661 department established under part I of chapter 154; any

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662 community service provider contracting with the Department of
 663 Children and Family Services to furnish alcohol, drug abuse, or
 664 mental health services under part IV of chapter 394; any
 665 substance abuse service provider licensed under chapter 397; or
 666 any federally supported primary care program such as a migrant
 667 or community health center authorized under ss. 329 and 330 of
 668 the United States Public Health Services Act.

669 Section 15. Section 843.08, Florida Statutes, is amended
 670 to read:

671 843.08 Falsely personating officer, etc.--A person who
 672 falsely assumes or pretends to be a sheriff, officer of the
 673 Florida Highway Patrol, officer of the Fish and Wildlife
 674 Conservation Commission, officer of the Department of
 675 Environmental Protection, officer of the Department of
 676 Transportation, officer of the Department of Financial Services,
 677 officer of the Department of Corrections, correctional probation
 678 officer, deputy sheriff, state attorney or assistant state
 679 attorney, statewide prosecutor or assistant statewide
 680 prosecutor, state attorney investigator, coroner, police
 681 officer, lottery special agent or lottery investigator, beverage
 682 enforcement agent, or watchman, or any member of the Parole
 683 Commission and any administrative aide or supervisor employed by
 684 the commission, or any personnel or representative of the
 685 Department of Law Enforcement, and takes upon himself or herself
 686 to act as such, or to require any other person to aid or assist
 687 him or her in a matter pertaining to the duty of any such
 688 officer, commits a felony of the third degree, punishable as
 689 provided in s. 775.082, s. 775.083, or s. 775.084; however, a

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690 person who falsely personates any such officer during the course
 691 of the commission of a felony commits a felony of the second
 692 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 693 775.084; except that if the commission of the felony results in
 694 the death or personal injury of another human being, the person
 695 commits a felony of the first degree, punishable as provided in
 696 s. 775.082, s. 775.083, or s. 775.084.

697 Section 16. Paragraph (m) is added to subsection (6) of
 698 section 932.7055, Florida Statutes, to read:

699 932.7055 Disposition of liens and forfeited property.--

700 (6) If the seizing agency is a state agency, all remaining
 701 proceeds shall be deposited into the General Revenue Fund.
 702 However, if the seizing agency is:

703 (m) The Division of Insurance Fraud of the Department of
 704 Financial Services, the proceeds accrued pursuant to the
 705 provisions of the Florida Contraband Forfeiture Act shall be
 706 deposited into Insurance Regulatory Trust Fund as provided in s.
 707 626.9893 or into the Department of Financial Services' Federal
 708 Equitable Sharing Trust Fund as provided in s. 17.43, as
 709 applicable.

710 Section 17. If any provision of this act or the
 711 application thereof to any person or circumstance is held
 712 invalid, the invalidity does not affect other provisions or
 713 applications of the act which can be given effect without the
 714 invalid provision or application, and to this end, the
 715 provisions of this act are declared severable.

716 Section 18. This act shall take effect July 1, 2005.