

1 A bill to be entitled
2 An act relating to insurance fraud; amending s.
3 400.9905, F.S.; revising requirements for a health
4 care clinic to receive certain insurance
5 reimbursement; repealing s. 400.993, F.S., relating to
6 the operation or reporting of unlicensed health care
7 clinics; amending s. 400.9935, F.S.; revising the
8 responsibilities of a health care clinic; revising and
9 providing penalties for making unlawful charges,
10 operating or failing to report an unlicensed clinic,
11 filing false or misleading information related to a
12 clinic license application, and other violations of
13 such responsibilities; revising and providing
14 penalties for violations of certificate of exemption
15 requirements; requiring the Agency for Health Care
16 Administration to adopt rules; amending s. 627.736,
17 F.S.; requiring certain clinics to have a certificate
18 of exemption to receive reimbursement under the
19 Florida Motor Vehicle No-Fault Law under specified
20 circumstances; amending s. 626.9891, F.S.; defining
21 terms; requiring insurers to establish insurance fraud
22 special investigative units; providing requirements
23 for such units; revising insurance fraud detection
24 requirements for insurers; providing penalties for
25 failure to comply with such requirements; authorizing
26 the Office of Insurance Regulation to adopt rules;

27 | amending ss. 627.351 and 641.3915, F.S.; requiring
 28 | Citizens Property Insurance Corporation and health
 29 | maintenance organizations, respectively, to comply
 30 | with certain insurance fraud detection provisions;
 31 | amending s. 626.9894, F.S.; conforming provisions to
 32 | changes made by the act; repealing s. 626.9895, F.S.,
 33 | relating to the establishment of a motor vehicle
 34 | insurance fraud direct-support organization; amending
 35 | s. 921.0022, F.S.; conforming provisions of the
 36 | offense severity ranking chart of the Criminal
 37 | Punishment Code to changes made by the act; providing
 38 | an effective date.

39 |
 40 | Be It Enacted by the Legislature of the State of Florida:

41 |
 42 | Section 1. Subsection (4) of section 400.9905, Florida
 43 | Statutes, is amended to read:

44 | 400.9905 Definitions.—

45 | (4) "Clinic" means an entity where health care services
 46 | are provided to individuals and which tenders charges for
 47 | reimbursement for such services, including a mobile clinic and a
 48 | portable equipment provider. As used in this part, the term does
 49 | not include and the licensure requirements of this part do not
 50 | apply to:

51 | (a) Entities licensed or registered by the state under
 52 | chapter 395; entities licensed or registered by the state and

53 providing only health care services within the scope of services
54 authorized under their respective licenses under ss. 383.30-
55 383.335, chapter 390, chapter 394, chapter 397, this chapter
56 except part X, chapter 429, chapter 463, chapter 465, chapter
57 466, chapter 478, part I of chapter 483, chapter 484, or chapter
58 651; end-stage renal disease providers authorized under 42
59 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
60 part 485, subpart B or subpart H; or any entity that provides
61 neonatal or pediatric hospital-based health care services or
62 other health care services by licensed practitioners solely
63 within a hospital licensed under chapter 395.

64 (b) Entities that own, directly or indirectly, entities
65 licensed or registered by the state pursuant to chapter 395;
66 entities that own, directly or indirectly, entities licensed or
67 registered by the state and providing only health care services
68 within the scope of services authorized pursuant to their
69 respective licenses under ss. 383.30-383.335, chapter 390,
70 chapter 394, chapter 397, this chapter except part X, chapter
71 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
72 of chapter 483, chapter 484, or chapter 651; end-stage renal
73 disease providers authorized under 42 C.F.R. part 405, subpart
74 U; providers certified under 42 C.F.R. part 485, subpart B or
75 subpart H; or any entity that provides neonatal or pediatric
76 hospital-based health care services by licensed practitioners
77 solely within a hospital licensed under chapter 395.

78 (c) Entities that are owned, directly or indirectly, by an

79 entity licensed or registered by the state pursuant to chapter
80 395; entities that are owned, directly or indirectly, by an
81 entity licensed or registered by the state and providing only
82 health care services within the scope of services authorized
83 pursuant to their respective licenses under ss. 383.30-383.335,
84 chapter 390, chapter 394, chapter 397, this chapter except part
85 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
86 478, part I of chapter 483, chapter 484, or chapter 651; end-
87 stage renal disease providers authorized under 42 C.F.R. part
88 405, subpart U; providers certified under 42 C.F.R. part 485,
89 subpart B or subpart H; or any entity that provides neonatal or
90 pediatric hospital-based health care services by licensed
91 practitioners solely within a hospital under chapter 395.

92 (d) Entities that are under common ownership, directly or
93 indirectly, with an entity licensed or registered by the state
94 pursuant to chapter 395; entities that are under common
95 ownership, directly or indirectly, with an entity licensed or
96 registered by the state and providing only health care services
97 within the scope of services authorized pursuant to their
98 respective licenses under ss. 383.30-383.335, chapter 390,
99 chapter 394, chapter 397, this chapter except part X, chapter
100 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
101 of chapter 483, chapter 484, or chapter 651; end-stage renal
102 disease providers authorized under 42 C.F.R. part 405, subpart
103 U; providers certified under 42 C.F.R. part 485, subpart B or
104 subpart H; or any entity that provides neonatal or pediatric

105 hospital-based health care services by licensed practitioners
106 solely within a hospital licensed under chapter 395.

107 (e) An entity that is exempt from federal taxation under
108 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
109 under 26 U.S.C. s. 409 that has a board of trustees at least
110 two-thirds of which are Florida-licensed health care
111 practitioners and provides only physical therapy services under
112 physician orders, any community college or university clinic,
113 and any entity owned or operated by the federal or state
114 government, including agencies, subdivisions, or municipalities
115 thereof.

116 (f) A sole proprietorship, group practice, partnership, or
117 corporation that provides health care services by physicians
118 covered by s. 627.419, that is directly supervised by one or
119 more of such physicians, and that is wholly owned by one or more
120 of those physicians or by a physician and the spouse, parent,
121 child, or sibling of that physician.

122 (g) A sole proprietorship, group practice, partnership, or
123 corporation that provides health care services by licensed
124 health care practitioners under chapter 457, chapter 458,
125 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
126 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
127 chapter 490, chapter 491, or part I, part III, part X, part
128 XIII, or part XIV of chapter 468, or s. 464.012, and that is
129 wholly owned by one or more licensed health care practitioners,
130 or the licensed health care practitioners set forth in this

131 paragraph and the spouse, parent, child, or sibling of a
132 licensed health care practitioner if one of the owners who is a
133 licensed health care practitioner is supervising the business
134 activities and is legally responsible for the entity's
135 compliance with all federal and state laws. However, a health
136 care practitioner may not supervise services beyond the scope of
137 the practitioner's license, except that, for the purposes of
138 this part, a clinic owned by a licensee in s. 456.053(3)(b)
139 which provides only services authorized pursuant to s.
140 456.053(3)(b) may be supervised by a licensee specified in s.
141 456.053(3)(b).

142 (h) Clinical facilities affiliated with an accredited
143 medical school at which training is provided for medical
144 students, residents, or fellows.

145 (i) Entities that provide only oncology or radiation
146 therapy services by physicians licensed under chapter 458 or
147 chapter 459 or entities that provide oncology or radiation
148 therapy services by physicians licensed under chapter 458 or
149 chapter 459 which are owned by a corporation whose shares are
150 publicly traded on a recognized stock exchange.

151 (j) Clinical facilities affiliated with a college of
152 chiropractic accredited by the Council on Chiropractic Education
153 at which training is provided for chiropractic students.

154 (k) Entities that provide licensed practitioners to staff
155 emergency departments or to deliver anesthesia services in
156 facilities licensed under chapter 395 and that derive at least

157 90 percent of their gross annual revenues from the provision of
158 such services. Entities claiming an exemption from licensure
159 under this paragraph must provide documentation demonstrating
160 compliance.

161 (l) Orthotic, prosthetic, pediatric cardiology, or
162 perinatology clinical facilities or anesthesia clinical
163 facilities that are not otherwise exempt under paragraph (a) or
164 paragraph (k) and that are a publicly traded corporation or are
165 wholly owned, directly or indirectly, by a publicly traded
166 corporation. As used in this paragraph, a publicly traded
167 corporation is a corporation that issues securities traded on an
168 exchange registered with the United States Securities and
169 Exchange Commission as a national securities exchange.

170 (m) Entities that are owned by a corporation that has \$250
171 million or more in total annual sales of health care services
172 provided by licensed health care practitioners where one or more
173 of the persons responsible for the operations of the entity is a
174 health care practitioner who is licensed in this state and who
175 is responsible for supervising the business activities of the
176 entity and is responsible for the entity's compliance with state
177 law for purposes of this part.

178 (n) Entities that employ 50 or more licensed health care
179 practitioners licensed under chapter 458 or chapter 459 where
180 the billing for medical services is under a single tax
181 identification number. The application for exemption under this
182 subsection shall contain information that includes: the name,

183 residence, and business address and phone number of the entity
 184 that owns the practice; a complete list of the names and contact
 185 information of all the officers and directors of the
 186 corporation; the name, residence address, business address, and
 187 medical license number of each licensed Florida health care
 188 practitioner employed by the entity; the corporate tax
 189 identification number of the entity seeking an exemption; a
 190 listing of health care services to be provided by the entity at
 191 the health care clinics owned or operated by the entity and a
 192 certified statement prepared by an independent certified public
 193 accountant which states that the entity and the health care
 194 clinics owned or operated by the entity have not received
 195 payment for health care services under personal injury
 196 protection insurance coverage for the preceding year. If the
 197 agency determines that an entity which is exempt under this
 198 subsection has received payments for medical services under
 199 personal injury protection insurance coverage, the agency may
 200 deny or revoke the exemption from licensure under this
 201 subsection.

202
 203 Notwithstanding this subsection, an entity is ~~shall be~~ deemed a
 204 clinic and must be licensed under this part in order to receive
 205 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
 206 627.730-627.7405, unless the entity is exempted under s.
 207 627.736(5)(h)1. and, if required under s. 627.736(5)(h)2., has
 208 obtained a valid certificate of exemption ~~627.736(5)(h).~~

209 Section 2. Section 400.993, Florida Statutes, is repealed.

210 Section 3. Subsections (3), (4), and (6) of section
211 400.9935, Florida Statutes, are amended to read:

212 400.9935 Clinic responsibilities.—

213 (3) A charge ~~All charges~~ or reimbursement claim ~~claims~~
214 made by or on behalf of a clinic that is required to be licensed
215 under this part, but that is not so licensed, or that is
216 otherwise operating in violation of this part or rules of the
217 agency, regardless of whether a service is rendered or whether
218 the charge or reimbursement claim is paid, is an, ~~are~~ unlawful
219 charge ~~charges~~, and is ~~therefore are~~ noncompensable and
220 unenforceable. A person who knowingly makes or causes to be made
221 an unlawful charge commits theft within the meaning of, and
222 punishable as provided in, s. 812.014.

223 (4) (a) Regardless of whether notification is provided by
224 the agency under ~~In addition to the requirements of s. 408.812,~~
225 a any person commits a felony of the third degree, punishable as
226 provided in s. 775.082, s. 775.083, or s. 775.084, if the person
227 knowingly:

228 1. Establishes, owns, operates, manages, or maintains
229 establishing, operating, or managing an unlicensed clinic
230 ~~otherwise~~ required to be licensed under this part or part II of
231 chapter 408; ~~or~~

232 2. Offers or advertises services that require licensure as
233 a clinic under this part or part II of chapter 408 without a
234 license.

235 (b) If the agency provides notification under s. 408.812
236 of, or if a person is arrested for, a violation of subparagraph
237 (a)1. or subparagraph (a)2., each day during which a violation
238 of subparagraph (a)1. or subparagraph (a)2. occurs constitutes a
239 separate offense.

240 (c) A person convicted of a second or subsequent violation
241 of subparagraph (a)1. or subparagraph (a)2. commits a felony of
242 the second degree, punishable as provided in s. 775.082, s.
243 775.083, or s. 775.084. If the agency provides notification of,
244 or if a person is arrested for, a violation of this paragraph,
245 each day that this paragraph is violated thereafter constitutes
246 a separate offense. For purposes of this paragraph, the term
247 "convicted" means a determination of guilt which is the result
248 of a trial or the entry of a plea of guilty or nolo contendere,
249 regardless of whether adjudication is withheld.

250 (d) In addition to the requirements of part II of chapter
251 408, a health care provider who is aware of the operation of an
252 unlicensed clinic shall report the clinic to the agency. Failure
253 to report a clinic that the provider knows or has reasonable
254 cause to suspect is unlicensed shall be reported to the
255 provider's licensing board.

256 (e) A person commits a felony of the third degree,
257 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
258 if the ~~any~~ person ~~who~~ knowingly:

259 1. Files a false or misleading license application or
260 license renewal application, or files false or misleading

261 information related to such application or agency ~~department~~
262 rule; or

263 2. Fails to report information to the agency as required
264 by s. 408.810(3), ~~commits a felony of the third degree,~~
265 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

266 (6) (a) A ~~Any~~ person or entity providing health care
267 services which is not a clinic, as defined under s. 400.9905,
268 may ~~voluntarily~~ apply, and an entity subject to s.
269 627.736(5)(h)2. shall apply, for a certificate of exemption from
270 licensure under its exempt status with the agency on a form that
271 sets forth its name and the address of each physical location
272 where services are provided ~~or names and addresses,~~ a statement
273 of the reasons ~~why~~ it cannot be defined as a clinic, and other
274 information deemed necessary by the agency. An exemption is not
275 transferable. The agency may charge an applicant for an initial
276 a certificate of exemption or for a renewal certificate of
277 exemption in an amount equal to \$100 or the actual cost of
278 processing the certificate, whichever is less. An entity seeking
279 an initial or renewal ~~a certificate of exemption~~ must publish
280 and maintain a schedule of charges for the medical services
281 offered to patients. The schedule must include the prices
282 charged to an uninsured person paying for such services by cash,
283 check, credit card, or debit card. The schedule must be posted
284 in a conspicuous place in the reception area of the entity and
285 must include, but is not limited to, the 50 services most
286 frequently provided by the entity. The schedule may group

287 services by three price levels, listing services in each price
288 level. The posting must be at least 15 square feet in size. As a
289 condition precedent to receiving an initial or renewal a
290 certificate of exemption, an applicant must provide to the
291 agency documentation of compliance with this paragraph ~~these~~
292 ~~requirements~~.

293 (b) A separate certificate of exemption must be obtained
294 for each physical location where services are provided
295 regardless of whether the location is operated under the same
296 business name or management as another location.

297 (c) A certificate of exemption issued on or before June
298 30, 2015, expires on June 30, 2017. An initial or renewal
299 certificate of exemption issued on or after July 1, 2015,
300 expires 2 years after the date of issuance.

301 (d) A clinic shall notify the agency of any change to
302 information set forth in an application for an initial or
303 renewal certificate of exemption at least 10 days before the
304 change takes effect. A failure to comply with this paragraph
305 renders the clinic unlicensed.

306 (e) If a change to a person's or entity's exempt status
307 occurs which causes the person or entity to no longer qualify
308 for an exemption from licensure as a clinic, the person's or
309 entity's certificate of exemption expires on the date the
310 disqualification occurs. In such case, the clinic must file with
311 the agency an application for licensure under this part within 5
312 days after becoming a clinic. Failure to timely file an

313 application for licensure within 5 days after becoming a clinic
314 renders the clinic unlicensed and subject to sanctions under
315 this part and part II of chapter 408.

316 (f) An entity subject to s. 627.736(5)(h)2. which does not
317 have a valid certificate of exemption is deemed a clinic that
318 must be licensed under this part to receive reimbursement under
319 ss. 627.730-627.7405. Failure of such entity to have a valid
320 certificate of exemption or license under this part renders the
321 entity an unlicensed clinic that is subject to sanctions under
322 this part and part II of chapter 408.

323 (g) A person commits a felony of the third degree,
324 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
325 if the person knowingly files a false or misleading initial or
326 renewal application for a certificate of exemption or files
327 false or misleading information related to such application or
328 agency rule.

329 (h) The agency shall adopt rules to implement this
330 subsection, including rules establishing initial and renewal
331 application procedures.

332 Section 4. Paragraph (h) of subsection (5) of section
333 627.736, Florida Statutes, is amended to read:

334 627.736 Required personal injury protection benefits;
335 exclusions; priority; claims.—

336 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

337 (h)1. As provided in s. 400.9905, an entity excluded from
338 the definition of a clinic shall be deemed a clinic and must be

339 licensed under part X of chapter 400 in order to receive
340 reimbursement under ss. 627.730-627.7405. However, this
341 licensing requirement does not apply to:

342 ~~a.1.~~ An entity wholly owned by a physician licensed under
343 chapter 458 or chapter 459, or by the physician and the spouse,
344 parent, child, or sibling of the physician;

345 ~~b.2.~~ An entity wholly owned by a dentist licensed under
346 chapter 466, or by the dentist and the spouse, parent, child, or
347 sibling of the dentist;

348 ~~c.3.~~ An entity wholly owned by a chiropractic physician
349 licensed under chapter 460, or by the chiropractic physician and
350 the spouse, parent, child, or sibling of the chiropractic
351 physician;

352 ~~d.4.~~ A hospital or ambulatory surgical center licensed
353 under chapter 395;

354 ~~e.5.~~ An entity that wholly owns or is wholly owned,
355 directly or indirectly, by a hospital or hospitals licensed
356 under chapter 395; or

357 ~~f.6.~~ An entity that is a clinical facility affiliated with
358 an accredited medical school at which training is provided for
359 medical students, residents, or fellows.

360 2. An entity that is exempted from licensure under sub-
361 subparagraph 1.a., sub-subparagraph 1.b., or sub-subparagraph
362 1.c. and that treats 10 or more patients, or seeks reimbursement
363 of \$100,000 or more, under ss. 627.730-627.7405 during any 12-
364 month period may not receive reimbursement under those sections

365 unless it has a valid certificate of exemption from licensure
366 under s. 400.9935(6) and agency rule.

367 Section 5. Section 626.9891, Florida Statutes, is amended
368 to read:

369 626.9891 Insurer special ~~anti-fraud~~ investigative units;
370 reporting requirements; penalties for noncompliance.-

371 (1) As used in this section, the term:

372 (a) "Division" means the Division of Insurance Fraud
373 within the Department of Financial Services.

374 (b) "Insurance fraud" means a fraudulent insurance act as
375 described in s. 626.989(1)(a) or any other act or practice that,
376 upon conviction, constitutes a felony or misdemeanor under the
377 Florida Insurance Code, chapter 440, s. 817.234, or s. 817.505.

378 (c) "Red flag" means facts, circumstances, or events that,
379 individually or in combination, support an inference that
380 insurance fraud is being or has been committed.

381 (d) "Report of suspected insurance fraud" means the
382 insurer's submission of reports or information pertinent to
383 suspected insurance fraud to the division as required by ss.
384 440.105, 626.989, 627.351, 627.711, and 627.736.

385 (e) "SIU" means a special investigative unit.

386 (f) "Suspected insurance fraud" means having knowledge or
387 a belief that insurance fraud is being or has been committed.

388 (2)(1) Every insurer that is admitted to do business and
389 that issues insurance policies in this state who in the previous
390 calendar year, at any time during that year, had \$10 million or

391 ~~more in direct premiums written shall:~~

392 (a) ~~Establish and maintain a unit or division within the~~
 393 ~~company, or contract for the establishment and maintenance of,~~
 394 ~~an SIU that is responsible for the detection, investigation, and~~
 395 ~~reporting of suspected insurance fraud. Each SIU shall:~~

396 1. Be separate from the insurer's underwriting, claims
 397 adjusting, and other units.

398 2. Establish written procedures for the:

399 a. Detection of suspected insurance fraud in applications,
 400 claims, and other documents or information, which includes the
 401 identification of red flags, by underwriting, claims adjusting,
 402 and SIU personnel.

403 b. Investigation and reporting of suspected insurance
 404 fraud by SIU personnel.

405 3. Be composed of personnel who have documented knowledge
 406 of:

407 a. The insurer's procedures for underwriting, issuing, and
 408 renewing policies and handling insurance claims.

409 b. Insurance fraud law.

410 c. The written procedures required by subparagraph 3. ~~to~~
 411 ~~investigate possible fraudulent claims by insureds or by persons~~
 412 ~~making claims for services or repairs against policies held by~~
 413 ~~insureds; or~~

414 (b) Annually provide anti-fraud training for its
 415 underwriting, claims adjusting, and SIU personnel which
 416 addresses the detection, referral, investigation, and reporting

HB 1127

2015

417 of suspected insurance fraud for the types of insurance lines
418 written by the insurer ~~Contract with others to investigate~~
419 ~~possible fraudulent claims for services or repairs against~~
420 ~~policies held by insureds.~~

421 (c) Electronically ~~An insurer subject to this subsection~~
422 ~~shall file~~ the following information with the division ~~of~~
423 ~~Insurance Fraud of the department~~ on or before September 1,
424 2015:

425 1. The name, title, telephone number, and e-mail address
426 of the individual responsible for the management of the
427 insurer's SIU.

428 2. A written description of the insurer's procedures
429 required by subparagraph (a)2.

430 3. If the insurer has contracted for the establishment and
431 maintenance of the SIU, ~~July 1, 1996, a detailed description of~~
432 ~~the unit or division established pursuant to paragraph (a) or a~~
433 ~~copy of the contract and related documents required by paragraph~~
434 ~~(b).~~ A contract for the establishment and maintenance of an SIU
435 does not relieve the insurer of any obligation under this
436 section.

437 (d) Electronically file the following information with the
438 division on or before September 1, 2016, and annually
439 thereafter:

440 1. A copy of any change to the documents required to be
441 filed under subparagraphs (c)1. and (c)2. or a written statement
442 indicating that no changes have occurred.

443 2. A description of the anti-fraud training completed by
 444 the underwriting, claims adjusting, and SIU personnel of the
 445 insurer during the previous calendar year.

446 ~~(2) Every insurer admitted to do business in this state,~~
 447 ~~which in the previous calendar year had less than \$10 million in~~
 448 ~~direct premiums written, must adopt an anti-fraud plan and file~~
 449 ~~it with the Division of Insurance Fraud of the department on or~~
 450 ~~before July 1, 1996. An insurer may, in lieu of adopting and~~
 451 ~~filing an anti-fraud plan, comply with the provisions of~~
 452 ~~subsection (1).~~

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

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

456 ~~(b) A description of the insurer's procedures for the~~
 457 ~~mandatory reporting of possible fraudulent insurance acts to the~~
 458 ~~Division of Insurance Fraud of the department;~~

459 ~~(c) A description of the insurer's plan for anti-fraud~~
 460 ~~education and training of its claims adjusters or other~~
 461 ~~personnel; and~~

462 ~~(d) A written description or chart outlining the~~
 463 ~~organizational arrangement of the insurer's anti-fraud personnel~~
 464 ~~who are responsible for the investigation and reporting of~~
 465 ~~possible fraudulent insurance acts.~~

466 (3)(4) An Any insurer shall comply with this section
 467 within 3 months after receipt of its who obtains a certificate
 468 of authority after July 1, 1995, shall have 18 months in which

469 ~~to comply with the requirements of this section.~~

470 ~~(4)-(5) Additional costs incurred by For purposes of this~~
471 ~~section, the term "unit or division" includes the assignment of~~
472 ~~fraud investigation to employees whose principal~~
473 ~~responsibilities are the investigation and disposition of~~
474 ~~claims. If an insurer to establish and maintain or contract for~~
475 ~~the establishment and maintenance of an SIU creates a distinct~~
476 ~~unit or division, hires additional employees, or contracts with~~
477 ~~another entity to fulfill the requirements of this section, the~~
478 ~~additional cost incurred must be included as an administrative~~
479 ~~expense for ratemaking purposes.~~

480 ~~(5)-(6) Each insurer issuing writing workers' compensation~~
481 ~~insurance policies in this state shall electronically file a~~
482 ~~report with ~~to~~ the division ~~department~~, on or before September~~
483 ~~1, 2017, and annually thereafter ~~August 1 of each year~~, on its~~
484 ~~experience in implementing an SIU and maintaining an anti-fraud~~
485 ~~investigative unit or an anti-fraud plan. For the previous~~
486 ~~calendar year, the report must include, at a minimum, for each~~
487 ~~line of insurance for policies issued in this state:~~

488 (a) ~~The number of policies in effect ~~dollar amount of~~~~
489 ~~recoveries and losses attributable to workers' compensation~~
490 ~~fraud delineated by the type of fraud: claimant, employer,~~
491 ~~provider, agent, or other.~~

492 ~~(b) The amount of direct premiums written for policies.~~

493 ~~(c) The number of applications received for policies.~~

494 ~~(d) The number of claims filed.~~

- 495 (e) The number of applications and claims:
- 496 1. Referred to SIU personnel.
- 497 2. Investigated by SIU personnel.
- 498 3. Denied, withdrawn, or mitigated after investigation.
- 499 (f) ~~(b)~~ The number of reports of suspected insurance fraud
- 500 submitted to the division ~~referrals to the Bureau of Workers'~~
- 501 ~~Compensation Fraud for the prior year.~~
- 502 (g) The number of cases of suspected insurance fraud
- 503 referred to:
- 504 1. Law enforcement agencies other than the division.
- 505 2. Other entities such as insurance fraud associations.
- 506 (h) The number of cases involving suspected insurance
- 507 fraud which were civilly litigated.
- 508 (i) The dollar amounts:
- 509 1. Of the insurer's exposure for claims in which there was
- 510 suspected insurance fraud.
- 511 2. Paid by the insurer for claims in which there was
- 512 suspected insurance fraud.
- 513 3. Recovered by the insurer through restitution resulting
- 514 from criminally prosecuted insurance fraud cases.
- 515 4. Recovered by the insurer through judgments or
- 516 settlements resulting from civilly litigated insurance fraud
- 517 cases.
- 518 5. Paid by the insurer for judgments or settlements
- 519 resulting from civilly litigated insurance fraud cases.
- 520 ~~(c) A description of the organization of the anti-fraud~~

521 ~~investigative unit, if applicable, including the position titles~~
522 ~~and descriptions of staffing.~~

523 (j)~~(d)~~ The rationale for the level of staffing and
524 resources being provided for the SIU anti-fraud investigative
525 ~~unit~~, which may include objective criteria such as number of
526 policies written, number of applications and claims received on
527 an annual basis, volume of suspected fraudulent applications and
528 claims currently being detected, other factors, and an
529 assessment of optimal caseload that can be handled by an
530 investigator on an annual basis.

531 ~~(e) The inservice education and training provided to~~
532 ~~underwriting and claims personnel to assist in identifying and~~
533 ~~evaluating instances of suspected fraudulent activity in~~
534 ~~underwriting or claims activities.~~

535 (k)~~(f)~~ A description of a public awareness program
536 provided by the insurer which is focused on the costs and
537 frequency of insurance fraud and methods by which the public can
538 prevent it.

539 (6) (a) The division shall review the electronic filings
540 received under this section to determine whether an insurer is
541 in compliance with paragraphs (2) (c) and (2) (d) and subsection
542 (5), and the office shall conduct examinations pursuant to s.
543 624.3161 to determine whether an insurer is compliant with
544 paragraphs (2) (a) and (2) (b).

545 (b)~~(7)~~ If an insurer fails to:

546 1. Timely file with the division information in compliance

547 with paragraph (2)(c) or paragraph (2)(d) or a report in
548 compliance with subsection (5), the division shall impose an
549 administrative fine of not more than \$2,000 per day for such
550 failure until the division determines that the insurer is in
551 compliance.

552 2. Submit a final acceptable anti-fraud plan or anti-fraud
553 investigative unit description, fails to Implement the
554 requirements for its SIU in compliance with paragraph (2)(a) or
555 paragraph (2)(b) provisions of a plan or an anti-fraud
556 investigative unit description, or otherwise refuses to comply
557 with the provisions of this section, the department, office
558 shall, or commission may:

559 (a) impose an administrative fine of not more than \$2,000
560 per day for such failure by an insurer to submit an acceptable
561 anti-fraud plan or anti-fraud investigative unit description,
562 until the department, office determines that, or commission
563 deems the insurer is to be in compliance;

564 (b) Impose an administrative fine for failure by an
565 insurer to implement or follow the provisions of an anti-fraud
566 plan or anti-fraud investigative unit description; or

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

568 (7) An insurer claiming that documents or other
569 information submitted to the division or office under this
570 section contain a trade secret shall comply with s. 624.4213.

571 (8) The department and office may adopt rules to
572 administer this section.

573 Section 6. Paragraph (k) of subsection (6) of section
 574 627.351, Florida Statutes, is amended to read:

575 627.351 Insurance risk apportionment plans.—

576 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

577 (k)1. The corporation shall comply with the requirements
 578 for an insurer that is admitted to do business and that issues
 579 insurance policies in this state as set forth in ~~establish and~~
 580 ~~maintain a unit or division to investigate possible fraudulent~~
 581 ~~claims by insureds or by persons making claims for services or~~
 582 ~~repairs against policies held by insureds; or it may contract~~
 583 ~~with others to investigate possible fraudulent claims for~~
 584 ~~services or repairs against policies held by the corporation~~
 585 ~~pursuant to s. 626.9891. The corporation must comply with~~
 586 ~~reporting requirements of s. 626.9891.~~ An employee of the
 587 corporation shall notify the corporation's Office of the
 588 Inspector General and the Division of Insurance Fraud within 48
 589 hours after having information that would lead a reasonable
 590 person to suspect that fraud may have been committed by any
 591 employee of the corporation.

592 2. The corporation shall establish a unit or division
 593 responsible for receiving and responding to consumer complaints,
 594 which unit or division is the sole responsibility of a senior
 595 manager of the corporation.

596 Section 7. Section 641.3915, Florida Statutes, is amended
 597 to read:

598 641.3915 Health maintenance organization special ~~anti-~~

599 ~~fraud~~ plans and investigative units.—Each authorized health
 600 maintenance organization and applicant for a certificate of
 601 authority shall comply with ~~the provisions of~~ ss. 626.989 and
 602 626.9891 as though such organization or applicant were an
 603 ~~authorized insurer~~ that is admitted to do business and that
 604 issues insurance policies in this state. ~~For purposes of this~~
 605 ~~section, the reference to the year 1996 in s. 626.9891 means the~~
 606 ~~year 2000 and the reference to the year 1995 means the year~~
 607 ~~1999.~~

608 Section 8. Subsection (5) of section 626.9894, Florida
 609 Statutes, is amended to read:

610 626.9894 Gifts and grants.—

611 (5) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 612 any balance of moneys deposited into the Insurance Regulatory
 613 Trust Fund pursuant to this section ~~or s. 626.9895~~ remaining at
 614 the end of any fiscal year is available for carrying out the
 615 duties and responsibilities of the division. The department may
 616 request annual appropriations from the grants and donations
 617 received pursuant to this section ~~or s. 626.9895~~ and cash
 618 balances in the Insurance Regulatory Trust Fund for the purpose
 619 of carrying out its duties and responsibilities related to the
 620 division's anti-fraud efforts, including the funding of
 621 dedicated prosecutors and related personnel.

622 Section 9. Section 626.9895, Florida Statutes, is
 623 repealed.

624 Section 10. Paragraphs (c) and (f) of subsection (3) of

HB 1127

2015

625 section 921.0022, Florida Statutes, are amended to read:

626 921.0022 Criminal Punishment Code; offense severity
627 ranking chart.—

628 (3) OFFENSE SEVERITY RANKING CHART

629 (c) LEVEL 3

630

631

Florida Statute	Felony Degree	Description
--------------------	------------------	-------------

632

119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
--------------	-----	---

633

316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
-----------------------	-----	---

634

316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
---------------	-----	-----------------------------

635

316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
-------------	-----	---

636

319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
-----------	-----	---

HB 1127

2015

637	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
638	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
639	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
640	327.35(2)(b)	3rd	Felony BUI.
641	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
642	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
643	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the

HB 1127

2015

644	379.2431 (1) (e) 5.	3rd	<p>Inland Protection Trust Fund.</p> <p>Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.</p>
645	379.2431 (1) (e) 6.	3rd	<p>Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</p>
646	<u>400.9935 (4) (a)</u> <u>or (b)</u>	3rd	<p><u>Operating a clinic, or offering services requiring licensure,</u> without a license or filing false license application or other required information.</p>
647	<u>400.9935 (4) (e)</u>	<u>3rd</u>	<p><u>Filing a false license application or other required information or failing to report</u></p>

HB 1127

2015

648			<u>information.</u>
649	<u>400.9935 (6) (g)</u>	<u>3rd</u>	<u>Filing a false application or other required information.</u>
650	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
651	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
652	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
653	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
654	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.

HB 1127

2015

655	697.08	3rd	Equity skimming.
656	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
657	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
658	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
659	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
660	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
661	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

HB 1127

2015

662	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
663	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
664	817.233	3rd	Burning to defraud insurer.
665	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
666	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
667	817.236	3rd	Filing a false motor vehicle insurance application.
668	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
669	817.413 (2)	3rd	Sale of used goods as new.

HB 1127

2015

670	817.505 (4)	3rd	Patient brokering.
671	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
672	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
673	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
674	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
675	843.19	3rd	Injure, disable, or kill police dog or horse.
676	860.15 (3)	3rd	Overcharging for repairs and parts.
677	870.01 (2)	3rd	Riot; inciting or encouraging.

HB 1127

2015

678	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
679	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
680	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
681	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.

HB 1127

2015

- 682 893.13 (7) (a) 8. 3rd Withhold information from
practitioner regarding previous
receipt of or prescription for a
controlled substance.
- 683 893.13 (7) (a) 9. 3rd Obtain or attempt to obtain
controlled substance by fraud,
forgery, misrepresentation, etc.
- 684 893.13 (7) (a) 10. 3rd Affix false or forged label to
package of controlled substance.
- 685 893.13 (7) (a) 11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.
- 686 893.13 (8) (a) 1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a controlled
substance through deceptive,
untrue, or fraudulent
representations in or related to
the practitioner's practice.
- 893.13 (8) (a) 2. 3rd Employ a trick or scheme in the

practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

687 893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.

688 893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

689 918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.

690 944.47 3rd Introduce contraband to (1)(a)1. & 2. correctional facility.

691 944.47(1)(c) 2nd Possess contraband while upon the grounds of a correctional

HB 1127

2015

institution.

692

985.721 3rd Escapes from a juvenile facility
(secure detention or residential
commitment facility).

693

(f) LEVEL 6

694

695

Florida	Felony	Description
Statute	Degree	

696

316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
-----------------	-----	--

697

316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
-----------------	-----	--

698

<u>400.9935 (4) (c)</u>	<u>2nd</u>	<u>Operating a clinic, or offering services requiring licensure, without a license.</u>
-------------------------	------------	---

699

499.0051 (3)	2nd	Knowing forgery of pedigree papers.
--------------	-----	--

700

499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from
--------------	-----	--

HB 1127

2015

unauthorized person.

701

499.0051 (5) 2nd Knowing sale or transfer of prescription drug to unauthorized person.

702

775.0875 (1) 3rd Taking firearm from law enforcement officer.

703

784.021 (1) (a) 3rd Aggravated assault; deadly weapon without intent to kill.

704

784.021 (1) (b) 3rd Aggravated assault; intent to commit felony.

705

784.041 3rd Felony battery; domestic battery by strangulation.

706

784.048 (3) 3rd Aggravated stalking; credible threat.

707

784.048 (5) 3rd Aggravated stalking of person under 16.

708

784.07 (2) (c) 2nd Aggravated assault on law enforcement officer.

HB 1127

2015

709	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
710	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
711	784.081 (2)	2nd	Aggravated assault on specified official or employee.
712	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
713	784.083 (2)	2nd	Aggravated assault on code inspector.
714	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
715	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
716	790.161 (2)	2nd	Make, possess, or throw

HB 1127

2015

destructive device with intent
to do bodily harm or damage
property.

717

790.164 (1) 2nd False report of deadly
explosive, weapon of mass
destruction, or act of arson or
violence to state property.

718

790.19 2nd Shooting or throwing deadly
missiles into dwellings,
vessels, or vehicles.

719

794.011 (8) (a) 3rd Solicitation of minor to
participate in sexual activity
by custodial adult.

720

794.05 (1) 2nd Unlawful sexual activity with
specified minor.

721

800.04 (5) (d) 3rd Lewd or lascivious molestation;
victim 12 years of age or older
but less than 16 years of age;
offender less than 18 years.

722

800.04 (6) (b) 2nd Lewd or lascivious conduct;

HB 1127

2015

			offender 18 years of age or older.
723	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
724	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
725	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
726	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
727	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
728	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
729	812.015 (9) (b)	2nd	Retail theft; property stolen

HB 1127

2015

730			\$3,000 or more; coordination of others.
731	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
732	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
733	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
734	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
735	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
736	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
737	827.03 (2) (c)	3rd	Abuse of a child.

HB 1127

2015

738	827.03(2)(d)	3rd	Neglect of a child.
739	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
740	836.05	2nd	Threats; extortion.
741	836.10	2nd	Written threats to kill or do bodily injury.
742	843.12	3rd	Aids or assists person to escape.
743	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
744	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

745
746
747
748
749
750
751
752

- 914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

- 944.35 (3) (a) 2. 3rd Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

- 944.40 2nd Escapes.

- 944.46 3rd Harboring, concealing, aiding escaped prisoners.

- 944.47 (1) (a) 5. 2nd Introduction of contraband (firearm, weapon, or explosive) into correctional facility.

- 951.22 (1) 3rd Intoxicating drug, firearm, or weapon introduced into county facility.

Section 11. This act shall take effect July 1, 2015.