



167518

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/26/2017	.	
	.	
	.	
	.	

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 308

and insert:

Section 1. Effective September 1, 2017, section 626.9891, Florida Statutes, is reordered and amended to read:

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

(1)(5) As used in For purposes of this section, the term:

(a) "Anti-fraud investigative unit" means the designated



167518

11 anti-fraud unit or division, or contractor authorized under
12 subparagraph (2) (a) 2.

13 (b) "Designated anti-fraud unit or division" includes a
14 distinct unit or division or a unit or division made up of the
15 assignment of fraud investigation to employees whose principal
16 responsibilities are the investigation and disposition of claims
17 who are also assigned investigation of fraud. If an insurer
18 creates a distinct unit or division, hires additional employees,
19 or contracts with another entity to fulfill the requirements of
20 this section, the additional cost incurred must be included as
21 an administrative expense for ratemaking purposes.

22 (2) (1) By December 31, 2017, every insurer admitted to do
23 business in this state who in the previous calendar year, at any
24 time during that year, had \$10 million or more in direct
25 premiums written shall:

26 (a) 1. Establish and maintain a designated anti-fraud unit
27 or division within the company to investigate and report
28 possible fraudulent insurance acts claims by insureds or by
29 persons making claims for services or repairs against policies
30 held by insureds; or

31 2. (b) Contract with others to investigate and report
32 possible fraudulent insurance acts by insureds or by persons
33 making claims for services or repairs against policies held by
34 insureds.

35 (b) Adopt an anti-fraud plan.

36 (c) Designate at least one employee with primary
37 responsibility for implementing the requirements of this
38 section.

39 (d) Electronically An insurer subject to this subsection



167518

40 ~~shall~~ file with the Division of Investigative and Forensic
41 Services of the department, and annually thereafter ~~on or before~~
42 July 1, 1996, a detailed description of the designated anti-
43 fraud unit or division ~~established pursuant to paragraph (a) or~~
44 a copy of the contract executed under subparagraph (a)2., as
45 applicable, a copy of the anti-fraud plan, and the name of the
46 employee designated under paragraph (c) and related documents
47 ~~required by paragraph (b).~~

48
49 An insurer must include the additional cost incurred in creating
50 a distinct unit or division, hiring additional employees, or
51 contracting with another entity to fulfill the requirements of
52 this section, as an administrative expense for ratemaking
53 purposes.

54 ~~(2) Every insurer admitted to do business in this state,~~
55 ~~which in the previous calendar year had less than \$10 million in~~
56 ~~direct premiums written, must adopt an anti-fraud plan and file~~
57 ~~it with the Division of Investigative and Forensic Services of~~
58 ~~the department on or before July 1, 1996. An insurer may, in~~
59 ~~lieu of adopting and filing an anti-fraud plan, comply with the~~
60 ~~provisions of subsection (1).~~

61 (3) Each ~~insurers~~ anti-fraud plan must ~~plans shall~~ include:

62 (a) An acknowledgement that the insurer has established
63 procedures for detecting and investigating possible fraudulent
64 insurance acts relating to the different types of insurance by
65 that insurer ~~A description of the insurer's procedures for~~
66 ~~detecting and investigating possible fraudulent insurance acts;~~

67 (b) An acknowledgment that the insurer has established ~~A~~
68 ~~description of the insurer's procedures for the mandatory~~



167518

69 reporting of possible fraudulent insurance acts to the Division
70 of Investigative and Forensic Services of the department;

71 (c) An acknowledgement that the insurer provides the A
72 description of the insurer's plan for anti-fraud education and
73 training required by this section to the anti-fraud
74 investigative unit of its claims adjusters or other personnel;
75 and

76 (d) A description of the required anti-fraud education and
77 training;

78 (e) A written description or chart outlining the
79 organizational arrangement of the insurer's anti-fraud
80 investigative unit, including the position titles and
81 descriptions of staffing; and personnel who are responsible for
82 the investigation and reporting of possible fraudulent insurance
83 acts

84 (f) The rationale for the level of staffing and resources
85 being provided for the anti-fraud investigative unit which may
86 include objective criteria, such as the number of policies
87 written, the number of claims received on an annual basis, the
88 volume of suspected fraudulent claims detected on an annual
89 basis, an assessment of the optimal caseload that one
90 investigator can handle on an annual basis, and other factors.

91 (4) By December 31, 2018, each insurer shall provide staff
92 of the anti-fraud investigative unit at least 2 hours of initial
93 anti-fraud training that is designed to assist in identifying
94 and evaluating instances of suspected fraudulent insurance acts
95 in underwriting or claims activities. Annually thereafter, an
96 insurer shall provide such employees a 1-hour course that
97 addresses detection, referral, investigation, and reporting of



167518

98 possible fraudulent insurance acts for the types of insurance
99 lines written by the insurer.

100 (5) Each insurer is required to report data related to
101 fraud for each line of insurance written by the insurer during
102 the prior calendar year. The data shall be reported to the
103 department by March 1, 2019, and annually thereafter, and must
104 include, at a minimum:

105 (a) The number of policies in effect;

106 (b) The amount of premiums written for policies;

107 (c) The number of claims received;

108 (d) The number of claims referred to the anti-fraud
109 investigative unit;

110 (e) The number of other insurance fraud matters referred to
111 the anti-fraud investigative unit that were not claim related;

112 (f) The number of claims investigated or accepted by the
113 anti-fraud investigative unit;

114 (g) The number of other insurance fraud matters
115 investigated or accepted by the anti-fraud investigative unit
116 that were not claim related;

117 (h) The number of cases referred to the Division of
118 Investigative and Forensic Services;

119 (i) The number of cases referred to other law enforcement
120 agencies;

121 (j) The number of cases referred to other entities; and

122 (k) The estimated dollar amount or range of damages on
123 cases referred to the Division of Investigative and Forensic
124 Services or other agencies.

125 (6) In addition to providing information required under
126 subsections (2), (4), and (5), each insurer writing workers'



167518

127 compensation insurance shall also report the following
128 information to the department, on or before March 1, 2019, and
129 annually thereafter ~~August 1 of each year, on its experience in~~
130 ~~implementing and maintaining an anti-fraud investigative unit or~~
131 ~~an anti-fraud plan. The report must include, at a minimum:~~

132 (a) The estimated dollar amount of losses attributable to
133 workers' compensation fraud delineated by the type of fraud,
134 including claimant, employer, provider, agent, or other type.

135 (b) The estimated dollar amount of recoveries attributable
136 to workers' compensation fraud delineated by the type of fraud,
137 including claimant, employer, provider, agent, or other type.

138 (c) The number of cases referred to the Division of
139 Investigative and Forensic Services, delineated by the type of
140 fraud, including claimant, employer, provider, agent, or other
141 type.

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

145 ~~(b) The number of referrals to the Bureau of Workers'~~
146 ~~Compensation Fraud for the prior year.~~

147 ~~(c) A description of the organization of the anti-fraud~~
148 ~~investigative unit, if applicable, including the position titles~~
149 ~~and descriptions of staffing.~~

150 ~~(d) The rationale for the level of staffing and resources~~
151 ~~being provided for the anti-fraud investigative unit, which may~~
152 ~~include objective criteria such as number of policies written,~~
153 ~~number of claims received on an annual basis, volume of~~
154 ~~suspected fraudulent claims currently being detected, other~~
155 ~~factors, and an assessment of optimal caseload that can be~~



167518

156 ~~handled by an investigator on an annual basis.~~

157 ~~(e) The inservice education and training provided to~~
158 ~~underwriting and claims personnel to assist in identifying and~~
159 ~~evaluating instances of suspected fraudulent activity in~~
160 ~~underwriting or claims activities.~~

161 ~~(f) A description of a public awareness program focused on~~
162 ~~the costs and frequency of insurance fraud and methods by which~~
163 ~~the public can prevent it.~~

164 ~~(7)(4) An~~ Any insurer who obtains a certificate of
165 authority has 6 ~~after July 1, 1995,~~ shall have 18 months in
166 which to comply with subsection (2), and one calendar year
167 thereafter, to comply with subsections (4), (5), and (6) ~~the~~
168 ~~requirements of this section.~~

169 ~~(8)(7) If an insurer fails to timely submit a final~~
170 ~~acceptable anti-fraud plan or anti-fraud investigative unit~~
171 ~~description, fails to implement the provisions of a plan or an~~
172 ~~anti-fraud investigative unit description,~~ or otherwise refuses
173 to comply with the provisions of this section, the department,
174 office, or commission may:

175 (a) Impose an administrative fine of not more than \$2,000
176 per day for such failure ~~by an insurer to submit an acceptable~~
177 ~~anti-fraud plan or anti-fraud investigative unit description,~~
178 until the department, office, or commission deems the insurer to
179 be in compliance;

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

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

184 (9) On or before December 31, 2018, the Division of



167518

185 Investigative and Forensic Services shall create a report
186 detailing best practices for the detection, investigation,
187 prevention, and reporting of insurance fraud and other
188 fraudulent insurance acts. The report must be updated as
189 necessary but at least every 2 years. The report must provide:

190 (a) Information on the best practices for the establishment
191 of anti-fraud investigative units within insurers;

192 (b) Information on the best practices and methods for
193 detecting and investigating insurance fraud and other fraudulent
194 insurance acts;

195 (c) Information on appropriate anti-fraud education and
196 training of insurer personnel;

197 (d) Information on the best practices for reporting
198 insurance fraud and other fraudulent insurance acts to the
199 Division of Investigative and Forensic Services and to other law
200 enforcement agencies;

201 (e) Information regarding the appropriate level of staffing
202 and resources for anti-fraud investigative units within
203 insurers;

204 (f) Information detailing statistics and data relating to
205 insurance fraud which insurers should maintain; and

206 (g) Other information as determined by the Division of
207 Investigative and Forensic Services.

208 (10) ~~(8)~~ The department may adopt rules to administer this
209 section, except that it shall adopt rules to administer
210 subsection (5).

211 Section 2. Effective September 1, 2017, section 626.9896,
212 Florida Statutes, is created to read:

213 626.9896 Insurance Fraud Dedicated Prosecutor Program.—



167518

214 (1) LEGISLATIVE INTENT.—The Legislature recognizes the
215 increasing problem of insurance fraud, the need to adequately
216 investigate and prosecute insurance fraud, and the need to
217 create a program dedicated to the prosecution of insurance
218 fraud. The Legislature recognizes that the Division of
219 Investigative and Forensic Services of the department can
220 efficiently and effectively implement and monitor such a
221 program, and can direct and reallocate resources as insurance
222 fraud trends change and demand for prosecutorial resources shift
223 between judicial circuits.

224 (2) ESTABLISHMENT OF THE INSURANCE FRAUD DEDICATED
225 PROSECUTOR PROGRAM.—There is created within the department a
226 grant program to fund the Insurance Fraud Dedicated Prosecutor
227 Program. The purpose of the program is to provide grants to
228 state attorneys' offices to fund attorney and paralegal
229 positions that are dedicated exclusively to the prosecution of
230 insurance fraud. The program shall consist only of funds
231 appropriated by the state specifically for this program.

232 (3) GRANT APPLICATIONS.—Beginning in 2018, a state
233 attorney's office seeking grant funds must submit an application
234 to the Division of Investigative and Forensic Services detailing
235 the proposed number of dedicated prosecutors and paralegals
236 requested for the prosecution of insurance fraud. Applications
237 must be received by July 1 of each even-numbered year and shall
238 identify funding needs for 2 years. Grant awards are contingent
239 upon legislative appropriation in the Insurance Regulatory Trust
240 Fund and Workers' Compensation Administration Trust Fund and
241 subject to renewal by the department. The division must compile
242 and review the timely submitted applications to establish its



167518

243 legislative budget request for the program for the upcoming two
244 years.

245 (4) AWARD OF GRANTS.—The division is authorized to award
246 grants to state attorneys' offices using a formula adopted by
247 rule of the department and based on metrics and data compiled by
248 the division which allocate funds to the judicial circuits based
249 on trends in insurance fraud and the performance and output
250 measures reported as required by this section. A grant awarded
251 to a state attorney's office may only be used to fund attorney
252 and paralegal positions that are dedicated exclusively to the
253 prosecution of insurance fraud. Grants are subject to the
254 provisions of s. 215.971. The division shall establish the
255 annual maximum grant amount, based on funds appropriated to the
256 department for funding the Insurance Fraud Dedicated Prosecutor
257 Program.

258 (5) REPORTING.—The division must track and report on the
259 effectiveness and efficiency of each state attorney's office's
260 use of the awarded grant funds. To help complete the report,
261 each state attorney's office that is awarded a grant under this
262 section must submit performance and output information as
263 determined by the division. The report must be provided to the
264 Executive Office of the Governor, the Speaker of the House of
265 Representatives, and the President of the Senate by September 1,
266 2020, and annually thereafter. The report must include, but is
267 not limited to, the following:

268 (a) The amount of grant funds received and expended by each
269 state attorney's office;

270 (b) A description of the purposes for which the funds were
271 expended, including payment of salaries, expenses, and any other



167518

272 costs needed to support the delivery of services;

273 (c) The results achieved from the expenditures made,
274 including the number of complaints filed, the number of
275 investigations initiated, the number of arrests made, the number
276 of convictions, and the amount of restitution or fines paid as a
277 result of the cases presented for prosecution.

278 (6) RULES.—The department may adopt rules pursuant to ss.
279 120.536(1) and 120.54 for the administration and implementation
280 of the Insurance Fraud Dedicated Prosecutor Program. Such rules
281 may establish procedures for the Insurance Fraud Dedicated
282 Prosecutor Program, including forms to be used by the state
283 attorney's offices. The department may establish a formula for
284 allocating grant funds, eligibility criteria, renewal
285 requirements, and standards for evaluating the effectiveness and
286 efficiency of expended funds.

287 Section 3. Present subsections (2) through (7) of section
288 626.9911, Florida Statutes, are renumbered as subsections (3)
289 through (8), respectively, present subsections (8) through (14)
290 of that section are renumbered as subsections (10) through (16),
291 respectively, and new subsections (2) and (9) are added to that
292 section, to read:

293 626.9911 Definitions.—As used in this act, the term:

294 (2) "Fraudulent viatical settlement act" means an act or
295 omission committed by a person who knowingly, or with intent to
296 defraud for the purpose of depriving another of property or for
297 pecuniary gain, commits or allows an employee or agent to commit
298 any of the following acts:

299 (a) Presenting, causing to be presented, or preparing with
300 the knowledge or belief that it will be presented to or by



167518

301 another person, false or concealed material information as part
302 of, in support of, or concerning a fact material to:
303 1. An application for the issuance of a viatical settlement
304 contract or a life insurance policy;
305 2. The underwriting of a viatical settlement contract or a
306 life insurance policy;
307 3. A claim for payment or benefit pursuant to a viatical
308 settlement contract or a life insurance policy;
309 4. Premiums paid on a life insurance policy;
310 5. Payments and changes in ownership or beneficiary made in
311 accordance with the terms of a viatical settlement contract or a
312 life insurance policy;
313 6. The reinstatement or conversion of a life insurance
314 policy;
315 7. The solicitation, offer, effectuation, or sale of a
316 viatical settlement contract or a life insurance policy;
317 8. The issuance of written evidence of a viatical
318 settlement contract or a life insurance policy; or
319 9. A financing transaction for a viatical settlement
320 contract or life insurance policy.
321 (b) Employing a plan, financial structure, device, scheme,
322 or artifice relating to viaticated policies for the purpose of
323 perpetrating fraud.
324 (c) Engaging in a stranger-originated life insurance
325 practice.
326 (d) Failing to disclose, upon request by an insurer, that
327 the prospective insured has undergone a life expectancy
328 evaluation by a person other than the insurer or its authorized
329 representatives in connection with the issuance of the life



167518

330 insurance policy.

331 (e) Perpetuating a fraud or preventing the detection of a
332 fraud by:

333 1. Removing, concealing, altering, destroying, or
334 sequestering from the office the assets or records of a licensee
335 or other person engaged in the business of viatical settlements;

336 2. Misrepresenting or concealing the financial condition of
337 a licensee, financing entity, insurer, or other person;

338 3. Transacting in the business of viatical settlements in
339 violation of laws requiring a license, certificate of authority,
340 or other legal authority to transact such business; or

341 4. Filing with the office or the equivalent chief insurance
342 regulatory official of another jurisdiction a document that
343 contains false information or conceals information about a
344 material fact from the office or other regulatory official.

345 (f) Embezzlement, theft, misappropriation, or conversion of
346 moneys, funds, premiums, credits, or other property of a
347 viatical settlement provider, insurer, insured, viator,
348 insurance policyowner, or other person engaged in the business
349 of viatical settlements or life insurance.

350 (g) Entering into, negotiating, brokering, or otherwise
351 dealing in a viatical settlement contract, the subject of which
352 is a life insurance policy that was obtained based on
353 information that was falsified or concealed for the purpose of
354 defrauding the policy's issuer, viatical settlement provider, or
355 viator.

356 (h) Facilitating the viator's change of residency state to
357 avoid the provisions of this act.

358 (i) Facilitating or causing the creation of a trust with a



167518

359 non-Florida or other nonresident entity for the purpose of
360 owning a life insurance policy covering a Florida resident to
361 avoid the provisions of this act.

362 (j) Facilitating or causing the transfer of the ownership
363 of an insurance policy covering a Florida resident to a trust
364 with a situs outside this state or to another nonresident entity
365 to avoid the provisions of this act.

366 (k) Applying for or obtaining a loan that is secured
367 directly or indirectly by an interest in a life insurance policy
368 with intent to defraud, for the purpose of depriving another of
369 property or for pecuniary gain.

370 (l) Attempting to commit, assisting, aiding, or abetting in
371 the commission of, or conspiring to commit, an act or omission
372 specified in this subsection.

373 (9) "Stranger-originated life insurance practice" means an
374 act, practice, arrangement, or agreement to initiate a life
375 insurance policy for the benefit of a third-party investor who,
376 at the time of policy origination, has no insurable interest in
377 the insured. Stranger-originated life insurance practices
378 include, but are not limited to:

379 (a) The purchase of a life insurance policy with resources
380 or guarantees from or through a person who, at the time of such
381 policy's inception, could not lawfully initiate the policy and
382 the execution of a verbal or written arrangement or agreement to
383 directly or indirectly transfer the ownership of such policy or
384 policy benefits to a third party.

385 (b) The creation of a trust or other entity that has the
386 appearance of an insurable interest in order to initiate
387 policies for investors, in violation of insurable interest laws



167518

388 and the prohibition against wagering on life.

389 Section 4. Subsection (7) of section 626.9924, Florida
390 Statutes, is amended to read:

391 626.9924 Viatical settlement contracts; procedures;
392 rescission.—

393 (7) At any time during the contestable period, within 20
394 days after a viator executes documents necessary to transfer
395 rights under an insurance policy or within 20 days of any
396 agreement, option, promise, or any other form of understanding,
397 express or implied, to viaticate the policy, the provider must
398 give notice to the insurer of the policy that the policy has or
399 will become a viaticated policy. The notice must be accompanied
400 by the documents required by s. 626.99287 ~~626.99287(5)(a)~~ ~~in~~
401 ~~their entirety.~~

402 Section 5. Subsection (2) of section 626.99245, Florida
403 Statutes, is amended to read:

404 626.99245 Conflict of regulation of viaticals.—

405 (2) This section does not affect the requirement of ss.
406 626.9911(14) ~~626.9911(12)~~ and 626.9912(1) that a viatical
407 settlement provider doing business from this state must obtain a
408 viatical settlement license from the office. As used in this
409 subsection, the term "doing business from this state" includes
410 effectuating viatical settlement contracts from offices in this
411 state, regardless of the state of residence of the viator.

412 Section 6. Subsection (1) of section 626.99275, Florida
413 Statutes, is amended to read:

414 626.99275 Prohibited practices; penalties.—

415 (1) It is unlawful for a ~~any~~ person to:

416 (a) ~~To~~ Knowingly enter into, broker, or otherwise deal in a



167518

417 viatical settlement contract the subject of which is a life
418 insurance policy, knowing that the policy was obtained by
419 presenting materially false information concerning any fact
420 material to the policy or by concealing, for the purpose of
421 misleading another, information concerning any fact material to
422 the policy, where the viator or the viator's agent intended to
423 defraud the policy's issuer.

424 (b) ~~Te~~ Knowingly or with the intent to defraud, for the
425 purpose of depriving another of property or for pecuniary gain,
426 issue or use a pattern of false, misleading, or deceptive life
427 expectancies.

428 (c) ~~Te~~ Knowingly engage in any transaction, practice, or
429 course of business intending thereby to avoid the notice
430 requirements of s. 626.9924(7).

431 (d) ~~Te~~ Knowingly or intentionally facilitate the change of
432 state of residency of a viator to avoid the provisions of this
433 chapter.

434 (e) Knowingly enter into a viatical settlement contract
435 before the application for or issuance of a life insurance
436 policy that is the subject of a viatical settlement contract or
437 during an applicable period specified in s. 626.99287(1) or (2),
438 unless the viator provides a sworn affidavit and accompanying
439 independent evidentiary documentation in accordance with s.
440 626.99287.

441 (f) Engage in a fraudulent viatical settlement act, as
442 defined in s. 626.9911.

443 (g) Knowingly issue, solicit, market, or otherwise promote
444 the purchase of a life insurance policy for the purpose of or
445 with an emphasis on selling the policy to a third party.



167518

446 (h) Engage in a stranger-originated life insurance
447 practice, as defined in s. 626.9911.

448 Section 7. Section 626.99287, Florida Statutes, is amended
449 to read:

450 626.99287 Contestability of viaticated policies.—

451 (1) Except as hereinafter provided, if a viatical
452 settlement contract is entered into within the 2-year period
453 commencing with the date of issuance of the insurance policy or
454 certificate to be acquired, the viatical settlement contract is
455 void and unenforceable by either party.

456 (2) Except as hereinafter provided, if a viatical
457 settlement policy is subject to a loan secured directly or
458 indirectly by an interest in the policy within a 5-year period
459 commencing on the date of issuance of the policy or certificate,
460 the viatical settlement contract is void and unenforceable by
461 either party.

462 (3) Notwithstanding the limitations in subsections (1) and
463 (2) ~~this limitation~~, such a viatical settlement contract is not
464 void and unenforceable if the viator provides a sworn affidavit
465 and accompanying independent evidentiary documentation
466 certifying to the viatical settlement provider that one or more
467 of the following conditions were met during the periods
468 applicable to the viaticated policy as stated in subsections (1)
469 or (2):

470 (a) ~~(1)~~ The policy was issued upon the owner's exercise of
471 conversion rights arising out of a group or term policy, if the
472 total time covered under the prior policy is at least 60 months.
473 The time covered under a group policy must be calculated without
474 regard to any change in insurance carriers, provided the



167518

475 coverage has been continuous and under the same group
476 sponsorship.

477 (b)(2) The owner of the policy is a charitable organization
478 exempt from taxation under 26 U.S.C. s. 501(c)(3).

479 ~~(3) The owner of the policy is not a natural person;~~

480 ~~(4) The viatical settlement contract was entered into~~
481 ~~before July 1, 2000;~~

482 (c)(5) The viator certifies by producing independent
483 evidence to the viatical settlement provider that one or more of
484 the following conditions were ~~have been~~ met ~~within the 2-year~~
485 ~~period:~~

486 ~~(a)1.~~ The viator or insured is terminally or chronically
487 ill ~~diagnosed with an illness or condition that is either:~~

488 ~~a. Catastrophic or life threatening; or~~

489 ~~b. Requires a course of treatment for a period of at least~~
490 ~~3 years of long term care or home health care; and~~

491 ~~2.~~ the condition was not known to the insured at the time
492 the life insurance contract was entered into;

493 ~~2.(b)~~ The viator's spouse dies;

494 ~~3.(e)~~ The viator divorces his or her spouse;

495 ~~4.(d)~~ The viator retires from full-time employment;

496 ~~5.(e)~~ The viator becomes physically or mentally disabled
497 and a physician determines that the disability prevents the
498 viator from maintaining full-time employment;

499 ~~6.(f)~~ The owner of the policy was the insured's employer at
500 the time the policy or certificate was issued and the employment
501 relationship terminated;

502 ~~7.(g)~~ A final order, judgment, or decree is entered by a
503 court of competent jurisdiction, on the application of a



167518

504 creditor of the viator, adjudicating the viator bankrupt or
505 insolvent, or approving a petition seeking reorganization of the
506 viator or appointing a receiver, trustee, or liquidator to all
507 or a substantial part of the viator's assets; or

508 8.-(h) The viator experiences a significant decrease in
509 income which is unexpected by the viator and which impairs his
510 or her reasonable ability to pay the policy premium.

511 (d) The viator entered into a viatical settlement contract
512 more than 2 years after the policy's issuance date and, with
513 respect to the policy, at all times before the date that is 2
514 years after policy issuance, each of the following conditions is
515 met:

516 1. Policy premiums have been funded exclusively with
517 unencumbered assets, including an interest in the life insurance
518 policy being financed only to the extent of its net cash
519 surrender value, provided by, or fully recourse liability
520 incurred by, the insured;

521 2. There is no agreement or understanding with any other
522 person to guarantee any such liability or to purchase, or stand
523 ready to purchase, the policy, including through an assumption
524 or forgiveness of the loan; and

525 3. Neither the insured or the policy has been evaluated for
526 settlement.

527
528 ~~If the viatical settlement provider submits to the insurer a~~
529 ~~copy of the viator's or owner's certification described above,~~
530 ~~then the provider submits a request to the insurer to effect the~~
531 ~~transfer of the policy or certificate to the viatical settlement~~
532 ~~provider, the viatical settlement agreement shall not be void or~~



167518

533 ~~unenforceable by operation of this section. The insurer shall~~
534 ~~timely respond to such request. Nothing in this section shall~~
535 ~~prohibit an insurer from exercising its right during the~~
536 ~~contestability period to contest the validity of any policy on~~
537 ~~grounds of fraud.~~

538 Section 8. Section 626.99289, Florida Statutes, is created
539 to read:

540 626.99289 Void and unenforceable contracts, agreements,
541 arrangements, and transactions.—Notwithstanding s. 627.455, a
542 contract, agreement, arrangement, or transaction, including, but
543 not limited to, a financing agreement or any other arrangement
544 or understanding entered into, whether written or verbal, for
545 the furtherance or aid of a stranger-originated life insurance
546 practice is void and unenforceable.

547 Section 9. Section 626.99291, Florida Statutes, is created
548 to read:

549 626.99291 Contestability of life insurance policies.—
550 Notwithstanding s. 627.455, a life insurer may contest a life
551 insurance policy if the policy was obtained by a stranger-
552 originated life insurance practice, as defined in s. 626.9911.

553 Section 10. Section 626.99292, Florida Statutes, is created
554 to read:

555 626.99292 Notice to insureds.—

556 (1) A life insurer shall provide an individual life
557 insurance policyholder with a statement informing him or her
558 that if he or she is considering making changes in the status of
559 his or her policy, he or she should consult with a licensed
560 insurance or financial advisor. The statement may accompany or
561 be included in notices or mailings otherwise provided to the



167518

562 policyholder.

563 (2) The statement must also advise the policyholder that he
564 or she may contact the office for more information and include a
565 website address or other location or manner by which the
566 policyholder may contact the office.

567 Section 11. Effective September 1, 2017, section 641.3915,
568 Florida Statutes, is amended to read:

569 641.3915 Health maintenance organization anti-fraud plans
570 and investigative units.—Each authorized health maintenance
571 organization and applicant for a certificate of authority shall
572 comply with the provisions of ss. 626.989 and 626.9891 as though
573 such organization or applicant were an authorized insurer. ~~For~~
574 ~~purposes of this section, the reference to the year 1996 in s.~~
575 ~~626.9891 means the year 2000 and the reference to the year 1995~~
576 ~~means the year 1999.~~

577 Section 12. Except as otherwise expressly provided in this
578 act, this act shall take effect upon becoming a law.

579
580 ===== T I T L E A M E N D M E N T =====

581 And the title is amended as follows:

582 Delete lines 2 - 37

583 and insert:

584 An act relating to insurance fraud; reordering and
585 amending s. 626.9891, F.S.; defining and revising
586 definitions; requiring every insurer to designate at
587 least one primary anti-fraud employee for certain
588 purposes; requiring insurers to adopt an anti-fraud
589 plan; revising insurer requirements in providing anti-
590 fraud information to the Department of Financial



591 Services; requiring specified information to be filed
592 annually with the department; revising the information
593 to be provided by insurers who write workers'
594 compensation insurance; requiring each insurer to
595 provide annual anti-fraud education and training;
596 requiring insurers who submit an application for a
597 certificate of authority after a specified date to
598 comply with the section; providing penalties for the
599 failure to comply with requirements of the section;
600 requiring the Division of Investigative and Forensic
601 Services of the department to create, by a specified
602 date, a report detailing best practices for the
603 detection, investigation, prevention, and reporting of
604 insurance fraud and other fraudulent insurance acts;
605 requiring such report to be updated at certain
606 intervals; specifying required information in the
607 report; requiring the department to adopt rules
608 relating to insurers' annual reporting of certain
609 data; creating s. 626.9896, F.S.; providing
610 legislative intent; creating a grant program to fund
611 the Insurance Fraud Dedicated Prosecutor Program
612 within the department; requiring moneys that are
613 appropriated for the program be used to fund specific
614 attorney and paralegal positions; specifying
615 procedures to be used by state attorneys' offices when
616 applying for biennial grants; specifying that grants
617 are for 2 years but authorizing the division to renew
618 the grants; specifying procedures to be used by the
619 department in awarding grant funds; requiring the



167518

620 Division of Investigative and Forensic Services to
621 provide an annual report to the Executive Office of
622 the Governor, the Speaker of the House of
623 Representatives, and the Senate President; specifying
624 information to be contained in the report; authorizing
625 the department to adopt rules to administer and
626 implement the insurance fraud dedicated prosecutor
627 program; amending s. 626.9911, F.S.; defining the
628 terms "fraudulent viatical settlement act" and
629 "stranger-originated life insurance practice" for
630 purposes of provisions relating to the Viatical
631 Settlement Act; amending ss. 626.9924 and 626.99245,
632 F.S.; conforming cross-references; amending s.
633 626.99275, F.S.; providing additional prohibited acts
634 related to viatical settlement contracts; amending s.
635 626.99287, F.S.; providing that a viatical settlement
636 contract is void and unenforceable by either party if
637 the viatical settlement policy is subject, within a
638 specified timeframe, to a loan secured by an interest
639 in the policy; revising conditions and requirements in
640 which viatical settlement contracts entered into
641 within specified timeframes are valid and enforceable;
642 deleting provisions related to the transfer of
643 insurance policies or certificates to viatical
644 settlement providers; creating s. 626.99289, F.S.;
645 providing that certain contracts, agreements,
646 arrangements, or transactions relating to stranger-
647 originated life insurance practices are void and
648 unenforceable; creating s. 626.99291, F.S.;



167518

649 authorizing a life insurer to contest policies
650 obtained through such practices; creating s.
651 626.99292, F.S.; requiring life insurers to provide a
652 specified statement to individual life insurance
653 policyholders; authorizing such statements to
654 accompany or be included in notices or mailings
655 provided to the policyholders; requiring such
656 statements to include contact information; amending s.
657 641.3915, F.S.; deleting obsolete provisions;
658 providing effective dates.