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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2022	.	
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The Committee on Banking and Insurance (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 324.252, Florida Statutes, is created to
read:

324.252 Electronic insurance verification.-

(1) In order to empower drivers in this state and reduce
the incidence of automobile insurance fraud within this state,
by July 1, 2023, the electronic credentialing system, as defined



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11 in s. 322.032(1), must display driver vehicle registration and
12 insurance information, provide a driver with notification of any
13 lapse in his or her insurance coverage needed for compliance
14 with the financial responsibility requirements of this chapter,
15 and allow the driver to update his or her policy information via
16 the system.

17 (2) By October 1, 2023, the department shall provide the
18 Legislature with recommendations on the means by which the
19 department, law enforcement agencies, and other entities
20 authorized by the department may electronically verify a
21 driver's compliance with the financial responsibility
22 requirements of this chapter.

23 Section 2. Subsection (2) of section 501.165, Florida
24 Statutes, is amended to read:

25 501.165 Automatic renewal of service contracts.—

26 (2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—

27 (a) A Any seller that sells, leases, or offers to sell or
28 lease any service to a consumer pursuant to a service contract
29 that has an automatic renewal provision, unless the consumer
30 cancels that contract, shall disclose the automatic renewal
31 provision clearly and conspicuously in the contract or contract
32 offer.

33 (b) A Any seller that sells or offers to sell any service
34 to a consumer pursuant to a service contract the term of which
35 is a specified period of 12 months or more and that
36 automatically renews for a specified period of more than 1
37 month, unless the consumer cancels the contract, shall provide
38 the consumer with written or electronic notification of the
39 automatic renewal provision. Notification shall be provided to



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40 the consumer no less than 30 days or no more than 60 days before
41 the cancellation deadline pursuant to the automatic renewal
42 provision. Such notification shall disclose clearly and
43 conspicuously:

44 1. That unless the consumer cancels the contract the
45 contract will automatically renew.

46 2. Methods by which the consumer may obtain details of the
47 automatic renewal provision and cancellation procedure, whether
48 by contacting the seller at a specified telephone number or
49 address, by referring to the contract, or by any other method.

50 (c) A seller that fails to comply with the requirements of
51 this subsection violates ~~is in violation of~~ this subsection
52 unless the seller demonstrates that:

53 1. As part of the seller's routine business practice, the
54 seller has established and implemented written procedures to
55 comply with this section and enforces compliance with the
56 procedures;

57 2. Any failure to comply with this subsection is the result
58 of error; and

59 3. As part of the seller's routine business practice, where
60 an error has caused the failure to comply with this subsection,
61 the unearned portion of the contract subject to the automatic
62 renewal provision is refunded as of the date on which the seller
63 is notified of the error.

64 (d) A seller shall allow a consumer to cancel a service
65 contract that has an automatic renewal provision in the same
66 manner, and by the same means, as the service contract was
67 entered into.

68 (e) This subsection does not apply to:



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69 1. A financial institution as defined in s. 655.005 or any
70 depository institution as defined in 12 U.S.C. s. 1813(c)(2).

71 2. A foreign bank maintaining a branch or agency licensed
72 under the laws of any state of the United States.

73 3. Any subsidiary or affiliate of an entity described in
74 subparagraph 1. or subparagraph 2.

75 4. A health studio as defined in s. 501.0125.

76 5. Any entity licensed under chapter 624, chapter 627,
77 chapter 634, chapter 636, or chapter 641.

78 6. Any electric utility as defined in s. 366.02.

79 7. Any private company as defined in s. 180.05 providing
80 services described in chapter 180 which is competing against a
81 governmental entity or has a governmental entity providing
82 billing services on its behalf.

83 ~~(f)(e)~~ A violation of this subsection renders the automatic
84 renewal provision void and unenforceable.

85 Section 3. Paragraphs (b) and (c) of subsection (22) of
86 section 626.854, Florida Statutes, are amended, and paragraph
87 (a) of that subsection is republished, to read:

88 626.854 "Public adjuster" defined; prohibitions.—The
89 Legislature finds that it is necessary for the protection of the
90 public to regulate public insurance adjusters and to prevent the
91 unauthorized practice of law.

92 (22) (a) Any following act by a public adjuster, a public
93 adjuster apprentice, or a person acting on behalf of a public
94 adjuster or public adjuster apprentice is prohibited and shall
95 result in discipline as applicable under this part:

96 1. Offering to a residential property owner a rebate, gift,
97 gift card, cash, coupon, waiver of any insurance deductible, or



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98 any other thing of value in exchange for:

99 a. Allowing a contractor, a public adjuster, a public
100 adjuster apprentice, or a person acting on behalf of a public
101 adjuster or public adjuster apprentice to conduct an inspection
102 of the residential property owner's roof; or

103 b. Making an insurance claim for damage to the residential
104 property owner's roof.

105 2. Offering, delivering, receiving, or accepting any
106 compensation, inducement, or reward for the referral of any
107 services for which property insurance proceeds would be used for
108 roofing repairs or replacement.

109 (b) Notwithstanding the fine set forth in s. 626.8698, a
110 public adjuster or public adjuster apprentice may be subject to
111 a fine not to exceed \$10,000 per act for a violation of this
112 subsection and a fine not to exceed \$20,000 per act for a
113 violation of this subsection that occurs during a state of
114 emergency declared by executive order or proclamation of the
115 Governor pursuant to s. 252.36.

116 (c) A person who engages in an act prohibited by this
117 subsection and who is not a public adjuster or a public adjuster
118 apprentice, or is not otherwise exempt from licensure, is guilty
119 of the unlicensed practice of public adjusting and may be:

120 1. Subject to all applicable penalties set forth in this
121 part.

122 2. Notwithstanding subparagraph 1., subject to a fine not
123 to exceed \$10,000 per act for a violation of this subsection and
124 a fine not to exceed \$20,000 per act for a violation of this
125 subsection that occurs during a state of emergency declared by
126 executive order or proclamation of the Governor pursuant to s.



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127 252.36.

128 Section 4. Present subsections (7), (8), and (9) of section
129 626.989, Florida Statutes, are redesignated as subsections (9),
130 (10), and (11), respectively, new subsections (7) and (8) and
131 subsection (12) are added to that section, and subsection (6) of
132 that section is amended, to read:

133 626.989 Investigation by department or Division of
134 Investigative and Forensic Services; compliance; immunity;
135 confidential information; reports to division; division
136 investigator's power of arrest.—

137 (6) Any person, other than an insurer, agent, or other
138 person licensed under the code, or an employee thereof, having
139 knowledge or who believes that a fraudulent insurance act or any
140 other act or practice which, upon conviction, constitutes a
141 felony or a misdemeanor under the code, or under s. 817.234, is
142 being or has been committed may send to the Division of
143 Investigative and Forensic Services a report or information
144 pertinent to such knowledge or belief and such additional
145 information relative thereto as the department may request. Any
146 professional practitioner licensed or regulated by the
147 Department of Business and Professional Regulation, except as
148 otherwise provided by law, any medical review committee as
149 defined in s. 766.101, any private medical review committee, and
150 any insurer, agent, or other person licensed under the code, or
151 an employee thereof, having knowledge or who believes that a
152 fraudulent insurance act or any other act or practice which,
153 upon conviction, constitutes a felony or a misdemeanor under the
154 code, or under s. 817.234, is being or has been committed shall
155 send to the Division of Investigative and Forensic Services a



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156 report or information pertinent to such knowledge or belief and
157 such additional information relative thereto as the department
158 may require.

159 (7) If an insurer fails or otherwise refuses to comply with
160 this section, the department may impose an administrative fine
161 of not more than \$2,000 per day for such failure until the
162 department deems the insurer to be in compliance.

163 (8) The Division of Investigative and Forensic Services
164 shall review such information or reports and select such
165 information or reports as, in its judgment, may require further
166 investigation. It shall then cause an independent examination of
167 the facts surrounding such information or report to be made to
168 determine the extent, if any, to which a fraudulent insurance
169 act or any other act or practice which, upon conviction,
170 constitutes a felony or a misdemeanor under the code, or under
171 s. 817.234, is being committed. The Division of Investigative
172 and Forensic Services shall report any alleged violations of law
173 which its investigations disclose to the appropriate licensing
174 agency and state attorney or other prosecuting agency having
175 jurisdiction with respect to any such violation, as provided in
176 s. 624.310. If prosecution by the state attorney or other
177 prosecuting agency having jurisdiction with respect to such
178 violation is not begun within 60 days of the division's report,
179 the state attorney or other prosecuting agency having
180 jurisdiction with respect to such violation shall inform the
181 division of the reasons for the lack of prosecution.

182 (12) The Division of Investigative and Forensic Services
183 may adopt reasonable rules as are necessary to administer this
184 section. Such rules must meet all of the following requirements:



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185 (a) They may not enlarge upon or extend the provisions of
186 this section.

187 (b) They must identify specific factors that determine the
188 grades of penalty.

189 (c) They must specify mitigating and aggravating factors
190 for a violation of this section.

191 Section 5. Subsection (9) of section 633.126, Florida
192 Statutes, is amended, subsection (10) is added to that section,
193 and subsection (2) of that section is republished, to read:

194 633.126 Investigation of fraudulent insurance claims and
195 crimes; immunity of insurance companies supplying information.-

196 (2) If an insurance company has reason to suspect that a
197 fire or explosion loss to its insured's real or personal
198 property was caused by intentional means, the company shall
199 notify the State Fire Marshal and shall furnish her or him with
200 all material acquired by the company during its investigation.
201 The State Fire Marshal may adopt rules to implement this
202 subsection.

203 (9) If an insurance company fails or otherwise refuses to
204 comply with this section, the department may impose an
205 administrative fine of not more than \$2,000 per day for such
206 failure until the department deems the insurance company to be
207 in compliance ~~A person who willfully violates this section~~
208 ~~commits a misdemeanor of the first degree, punishable as~~
209 ~~provided in s. 775.082 or s. 775.083.~~

210 (10) The Division of Investigative and Forensic Services
211 may adopt reasonable rules as are necessary to administer this
212 section. Such rules must meet all of the following requirements:

213 (a) They may not enlarge upon or extend the provisions of



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214 this section.

215 (b) They must identify specific factors that determine the
216 grades of penalty.

217 (c) They must specify mitigating and aggravating factors
218 for a violation of this section.

219 Section 6. Effective January 1, 2023, present paragraphs
220 (b), (c), and (d) of subsection (3) of section 634.095, Florida
221 Statutes, are redesignated as paragraphs (d), (e), and (f),
222 respectively, new paragraphs (b) and (c) are added to that
223 subsection, and paragraph (a) of that subsection is amended, to
224 read:

225 634.095 Prohibited acts.—Any service agreement company or
226 salesperson that engages in one or more of the following acts
227 is, in addition to any applicable denial, suspension,
228 revocation, or refusal to renew or continue any appointment or
229 license, guilty of a misdemeanor of the second degree,
230 punishable as provided in s. 775.082 or s. 775.083:

231 (3) Issuing or causing to be issued any advertisement that
232 which:

233 (a) Does not fully disclose in a written advertisement, in
234 at least 12-point, boldface ~~boldfaced~~ type, the name, address,
235 and Florida Company Code license number of the service agreement
236 company.

237 (b) Does not fully disclose in a radio or television
238 advertisement the full legal name of the licensed salesperson or
239 the service agreement company.

240 (c) Does not fully identify the soliciting licensed
241 salesperson's full legal name and license number when the
242 salesperson begins, and the soliciting salesperson's telephone



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243 number when the salesperson concludes, each outbound telephone
244 solicitation. For the purposes of this paragraph, the actual
245 telephone number of the salesperson may be the number on file
246 with the department or the number at which the salesperson may
247 be contacted.

248 Section 7. Subsection (11) of section 775.15, Florida
249 Statutes, is amended to read:

250 775.15 Time limitations; general time limitations;
251 exceptions.—

252 (11) A prosecution for a felony violation of s. 440.105 or
253 s. 817.234 ~~ss. 440.105 and 817.234~~ must be commenced within 5
254 years after the violation is committed.

255 Section 8. Subsection (5) of section 817.234, Florida
256 Statutes, is amended to read:

257 817.234 False and fraudulent insurance claims.—

258 (5) (a) Any insurer damaged as a result of a violation of
259 any provision of this section when there has been a criminal
260 adjudication of guilt shall have a cause of action to recover
261 compensatory damages, plus all reasonable investigation and
262 litigation expenses, including attorney ~~attorneys'~~ fees, at the
263 trial and appellate courts.

264 (b) If an insurer damaged as a result of a violation of any
265 provision of this section has reported the possible fraudulent
266 insurance act to the Division of Investigative and Forensic
267 Services pursuant to s. 626.9891 and if there has been a
268 criminal adjudication of guilt, the insurer is entitled to
269 recover reasonable investigation and litigation expenses,
270 including attorney fees, at the trial and appellate courts.

271 Section 9. Except as otherwise expressly provided in this



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272 act, this act shall take effect upon becoming a law.

273

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

275 And the title is amended as follows:

276 Delete everything before the enacting clause
277 and insert:

278 A bill to be entitled
279 An act relating to fraud prevention; creating s.
280 324.252, F.S.; requiring that the electronic
281 credentialing system display certain vehicle
282 information for specified purposes by a specified
283 date; requiring the Department of Highway Safety and
284 Motor Vehicles to provide the Legislature with
285 recommendations for compliance verification with
286 certain financial responsibility requirements by a
287 specified date; amending s. 501.165, F.S.; requiring
288 sellers to allow consumers to cancel in a specified
289 manner and by specified means service contracts that
290 have automatic renewal provisions; amending s.
291 626.854, F.S.; revising maximum fines for public
292 adjusters and public adjuster apprentices for certain
293 violations under a specified circumstance; revising
294 maximum fines for certain violations by certain
295 persons under a specified circumstance; amending s.
296 626.989, F.S.; authorizing the Department of Financial
297 Services to impose an administrative fine on insurers
298 under certain circumstances; authorizing the Division
299 of Investigative and Forensic Services to adopt
300 certain rules; amending s. 633.126, F.S.; authorizing



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301 the department to impose an administrative fine on
302 insurance companies under certain circumstances;
303 deleting criminal penalties; authorizing the division
304 to adopt certain rules; amending s. 634.095, F.S.;
305 revising requirements for advertisements issued or
306 caused to be issued by service agreement companies or
307 salespersons; amending s. 775.15, F.S.; revising
308 felony violations for which prosecutions must be
309 commenced within a specified timeframe; amending s.
310 817.234, F.S.; providing that certain insurers are
311 entitled to recover specified expenses at the trial
312 and appellate courts under certain circumstances;
313 providing effective dates.