

By the Committee on Banking and Insurance; and Senator Gruters

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1 A bill to be entitled
2 An act relating to fraud prevention; creating s.
3 324.252, F.S.; requiring that the electronic
4 credentialing system display certain vehicle
5 information for specified purposes by a specified
6 date; requiring the Department of Highway Safety and
7 Motor Vehicles to provide the Legislature with
8 recommendations for compliance verification with
9 certain financial responsibility requirements by a
10 specified date; amending s. 501.165, F.S.; requiring
11 sellers to allow consumers to cancel in a specified
12 manner and by specified means service contracts that
13 have automatic renewal provisions; amending s.
14 626.854, F.S.; revising maximum fines for public
15 adjusters and public adjuster apprentices for certain
16 violations under a specified circumstance; revising
17 maximum fines for certain violations by certain
18 persons under a specified circumstance; amending s.
19 626.989, F.S.; authorizing the Department of Financial
20 Services to impose an administrative fine on insurers
21 under certain circumstances; authorizing the Division
22 of Investigative and Forensic Services to adopt
23 certain rules; amending s. 633.126, F.S.; authorizing
24 the department to impose an administrative fine on
25 insurance companies under certain circumstances;
26 deleting criminal penalties; authorizing the division
27 to adopt certain rules; amending s. 634.095, F.S.;
28 revising requirements for advertisements issued or
29 caused to be issued by service agreement companies or

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30 salespersons; amending s. 775.15, F.S.; revising
31 felony violations for which prosecutions must be
32 commenced within a specified timeframe; amending s.
33 817.234, F.S.; providing that certain insurers are
34 entitled to recover specified expenses at the trial
35 and appellate courts under certain circumstances;
36 providing effective dates.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Section 324.252, Florida Statutes, is created to
41 read:

42 324.252 Electronic insurance verification.—

43 (1) In order to empower drivers in this state and reduce
44 the incidence of automobile insurance fraud within this state,
45 by July 1, 2023, the electronic credentialing system, as defined
46 in s. 322.032(1), must display driver vehicle registration and
47 insurance information, provide a driver with notification of any
48 lapse in his or her insurance coverage needed for compliance
49 with the financial responsibility requirements of this chapter,
50 and allow the driver to update his or her policy information via
51 the system.

52 (2) By October 1, 2023, the department shall provide the
53 Legislature with recommendations on the means by which the
54 department, law enforcement agencies, and other entities
55 authorized by the department may electronically verify a
56 driver's compliance with the financial responsibility
57 requirements of this chapter.

58 Section 2. Subsection (2) of section 501.165, Florida

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59 Statutes, is amended to read:

60 501.165 Automatic renewal of service contracts.—

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

62 (a) A ~~Any~~ seller that sells, leases, or offers to sell or
63 lease any service to a consumer pursuant to a service contract
64 that has an automatic renewal provision, unless the consumer
65 cancels that contract, shall disclose the automatic renewal
66 provision clearly and conspicuously in the contract or contract
67 offer.

68 (b) A ~~Any~~ seller that sells or offers to sell any service
69 to a consumer pursuant to a service contract the term of which
70 is a specified period of 12 months or more and that
71 automatically renews for a specified period of more than 1
72 month, unless the consumer cancels the contract, shall provide
73 the consumer with written or electronic notification of the
74 automatic renewal provision. Notification shall be provided to
75 the consumer no less than 30 days or no more than 60 days before
76 the cancellation deadline pursuant to the automatic renewal
77 provision. Such notification shall disclose clearly and
78 conspicuously:

79 1. That unless the consumer cancels the contract the
80 contract will automatically renew.

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

85 (c) A seller that fails to comply with the requirements of
86 this subsection violates ~~is in violation of~~ this subsection
87 unless the seller demonstrates that:

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88 1. As part of the seller's routine business practice, the
89 seller has established and implemented written procedures to
90 comply with this section and enforces compliance with the
91 procedures;

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

94 3. As part of the seller's routine business practice, where
95 an error has caused the failure to comply with this subsection,
96 the unearned portion of the contract subject to the automatic
97 renewal provision is refunded as of the date on which the seller
98 is notified of the error.

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

103 (e) This subsection does not apply to:

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

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

108 3. Any subsidiary or affiliate of an entity described in
109 subparagraph 1. or subparagraph 2.

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

111 5. Any entity licensed under chapter 624, chapter 627,
112 chapter 634, chapter 636, or chapter 641.

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

114 7. Any private company as defined in s. 180.05 providing
115 services described in chapter 180 which is competing against a
116 governmental entity or has a governmental entity providing

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117 billing services on its behalf.

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

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

123 626.854 "Public adjuster" defined; prohibitions.—The
124 Legislature finds that it is necessary for the protection of the
125 public to regulate public insurance adjusters and to prevent the
126 unauthorized practice of law.

127 (22) (a) Any following act by a public adjuster, a public
128 adjuster apprentice, or a person acting on behalf of a public
129 adjuster or public adjuster apprentice is prohibited and shall
130 result in discipline as applicable under this part:

131 1. Offering to a residential property owner a rebate, gift,
132 gift card, cash, coupon, waiver of any insurance deductible, or
133 any other thing of value in exchange for:

134 a. Allowing a contractor, a public adjuster, a public
135 adjuster apprentice, or a person acting on behalf of a public
136 adjuster or public adjuster apprentice to conduct an inspection
137 of the residential property owner's roof; or

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

140 2. Offering, delivering, receiving, or accepting any
141 compensation, inducement, or reward for the referral of any
142 services for which property insurance proceeds would be used for
143 roofing repairs or replacement.

144 (b) Notwithstanding the fine set forth in s. 626.8698, a
145 public adjuster or public adjuster apprentice may be subject to

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146 a fine not to exceed \$10,000 per act for a violation of this
147 subsection and a fine not to exceed \$20,000 per act for a
148 violation of this subsection that occurs during a state of
149 emergency declared by executive order or proclamation of the
150 Governor pursuant to s. 252.36.

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

155 1. Subject to all applicable penalties set forth in this
156 part.

157 2. Notwithstanding subparagraph 1., subject to a fine not
158 to exceed \$10,000 per act for a violation of this subsection and
159 a fine not to exceed \$20,000 per act for a violation of this
160 subsection that occurs during a state of emergency declared by
161 executive order or proclamation of the Governor pursuant to s.
162 252.36.

163 Section 4. Present subsections (7), (8), and (9) of section
164 626.989, Florida Statutes, are redesignated as subsections (9),
165 (10), and (11), respectively, new subsections (7) and (8) and
166 subsection (12) are added to that section, and subsection (6) of
167 that section is amended, to read:

168 626.989 Investigation by department or Division of
169 Investigative and Forensic Services; compliance; immunity;
170 confidential information; reports to division; division
171 investigator's power of arrest.—

172 (6) Any person, other than an insurer, agent, or other
173 person licensed under the code, or an employee thereof, having
174 knowledge or who believes that a fraudulent insurance act or any

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175 other act or practice which, upon conviction, constitutes a
176 felony or a misdemeanor under the code, or under s. 817.234, is
177 being or has been committed may send to the Division of
178 Investigative and Forensic Services a report or information
179 pertinent to such knowledge or belief and such additional
180 information relative thereto as the department may request. Any
181 professional practitioner licensed or regulated by the
182 Department of Business and Professional Regulation, except as
183 otherwise provided by law, any medical review committee as
184 defined in s. 766.101, any private medical review committee, and
185 any insurer, agent, or other person licensed under the code, or
186 an employee thereof, having knowledge or who believes that a
187 fraudulent insurance act or any other act or practice which,
188 upon conviction, constitutes a felony or a misdemeanor under the
189 code, or under s. 817.234, is being or has been committed shall
190 send to the Division of Investigative and Forensic Services a
191 report or information pertinent to such knowledge or belief and
192 such additional information relative thereto as the department
193 may require.

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

198 (8) The Division of Investigative and Forensic Services
199 shall review such information or reports and select such
200 information or reports as, in its judgment, may require further
201 investigation. It shall then cause an independent examination of
202 the facts surrounding such information or report to be made to
203 determine the extent, if any, to which a fraudulent insurance

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204 act or any other act or practice which, upon conviction,
205 constitutes a felony or a misdemeanor under the code, or under
206 s. 817.234, is being committed. The Division of Investigative
207 and Forensic Services shall report any alleged violations of law
208 which its investigations disclose to the appropriate licensing
209 agency and state attorney or other prosecuting agency having
210 jurisdiction with respect to any such violation, as provided in
211 s. 624.310. If prosecution by the state attorney or other
212 prosecuting agency having jurisdiction with respect to such
213 violation is not begun within 60 days of the division's report,
214 the state attorney or other prosecuting agency having
215 jurisdiction with respect to such violation shall inform the
216 division of the reasons for the lack of prosecution.

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

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

222 (b) They must identify specific factors that determine the
223 grades of penalty.

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

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

229 633.126 Investigation of fraudulent insurance claims and
230 crimes; immunity of insurance companies supplying information.-

231 (2) If an insurance company has reason to suspect that a
232 fire or explosion loss to its insured's real or personal

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233 property was caused by intentional means, the company shall
234 notify the State Fire Marshal and shall furnish her or him with
235 all material acquired by the company during its investigation.
236 The State Fire Marshal may adopt rules to implement this
237 subsection.

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

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

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

250 (b) They must identify specific factors that determine the
251 grades of penalty.

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

254 Section 6. Effective January 1, 2023, present paragraphs
255 (b), (c), and (d) of subsection (3) of section 634.095, Florida
256 Statutes, are redesignated as paragraphs (d), (e), and (f),
257 respectively, new paragraphs (b) and (c) are added to that
258 subsection, and paragraph (a) of that subsection is amended, to
259 read:

260 634.095 Prohibited acts.—Any service agreement company or
261 salesperson that engages in one or more of the following acts

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262 is, in addition to any applicable denial, suspension,
263 revocation, or refusal to renew or continue any appointment or
264 license, guilty of a misdemeanor of the second degree,
265 punishable as provided in s. 775.082 or s. 775.083:

266 (3) Issuing or causing to be issued any advertisement that
267 ~~which~~:

268 (a) Does not fully disclose in a written advertisement, in
269 at least 12-point, boldface boldfaced type, the name, address,
270 and Florida Company Code license number of the service agreement
271 company.

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

275 (c) Does not fully identify the soliciting licensed
276 salesperson's full legal name and license number when the
277 salesperson begins, and the soliciting salesperson's telephone
278 number when the salesperson concludes, each outbound telephone
279 solicitation. For the purposes of this paragraph, the actual
280 telephone number of the salesperson may be the number on file
281 with the department or the number at which the salesperson may
282 be contacted.

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

285 775.15 Time limitations; general time limitations;
286 exceptions.—

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

290 Section 8. Subsection (5) of section 817.234, Florida

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291 Statutes, is amended to read:

292 817.234 False and fraudulent insurance claims.—

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

299 (b) If an insurer damaged as a result of a violation of any
300 provision of this section has reported the possible fraudulent
301 insurance act to the Division of Investigative and Forensic
302 Services pursuant to s. 626.9891 and if there has been a
303 criminal adjudication of guilt, the insurer is entitled to
304 recover reasonable investigation and litigation expenses,
305 including attorney fees, at the trial and appellate courts.

306 Section 9. Except as otherwise expressly provided in this
307 act, this act shall take effect upon becoming a law.