FOR CONSIDERATION By the Committee on Banking and Insurance

597-00969-22 20227016pb

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 626.9891, F.S., which
4 provides an exemption from public records requirements
5 for certain information submitted by insurers to the
6 Department of Financial Services; removing the
7 scheduled repeal of the exemption; providing an
8 effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 626.9891, Florida Statutes, is amended
13 to read:
14 626.9891 Insurer anti-fraud investigative units; reporting
15 requirements; penalties for noncompliance.—
16 (1) As used in this section, the term:
17 (a) "Anti-fraud investigative unit" means the designated
18 anti-fraud unit or division, or contractor authorized under
19 subparagraph (2)(a)2.
20 (b) "Designated anti-fraud unit or division" includes a
21 distinct unit or division or a unit or division made up of
22 employees whose principal responsibilities are the investigation
23 and disposition of claims who are also assigned investigation of
24 fraud.
25 (2) By December 31, 2017, every insurer admitted to do
26 business in this state shall:
27 (a)1. Establish and maintain a designated anti-fraud unit
28 or division within the company to investigate and report
29 possible fraudulent insurance acts by insureds or by persons

30 making claims for services or repairs against policies held by
31 insureds; or
32 2. Contract with others to investigate and report possible
33 fraudulent insurance acts by insureds or by persons making
34 claims for services or repairs against policies held by
35 insureds.
36 (b) Adopt an anti-fraud plan.
37 (c) Designate at least one employee with primary
38 responsibility for implementing the requirements of this
39 section.
40 (d) Electronically file with the Division of Investigative
41 and Forensic Services of the department, and annually
42 thereafter, a detailed description of the designated anti-fraud
43 unit or division or a copy of the contract executed under
44 subparagraph (a)2., as applicable, a copy of the anti-fraud
45 plan, and the name of the employee designated under paragraph
46 (c).
47
48 An insurer must include the additional cost incurred in creating
49 a distinct unit or division, hiring additional employees, or
50 contracting with another entity to fulfill the requirements of
51 this section, as an administrative expense for ratemaking
52 purposes.
53 (3) Each anti-fraud plan must include:
54 (a) An acknowledgment that the insurer has established
55 procedures for detecting and investigating possible fraudulent
56 insurance acts relating to the different types of insurance by
57 that insurer;
58 (b) An acknowledgment that the insurer has established

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59 procedures for the mandatory reporting of possible fraudulent
60 insurance acts to the Division of Investigative and Forensic
61 Services of the department;
62 (c) An acknowledgment that the insurer provides the anti-
63 fraud education and training required by this section to the
64 anti-fraud investigative unit;
65 (d) A description of the required anti-fraud education and
66 training;
67 (e) A description or chart of the insurer’s anti-fraud
68 investigative unit, including the position titles and
69 descriptions of staffing; and
70 (f) The rationale for the level of staffing and resources
71 being provided for the anti-fraud investigative unit which may
72 include objective criteria, such as the number of policies
73 written, the number of claims received on an annual basis, the
74 volume of suspected fraudulent claims detected on an annual
75 basis, an assessment of the optimal caseload that one
76 investigator can handle on an annual basis, and other factors.
77 (4) By December 31, 2018, each insurer shall provide staff
78 of the anti-fraud investigative unit at least 2 hours of initial
79 anti-fraud training that is designed to assist in identifying
80 and evaluating instances of suspected fraudulent insurance acts
81 in underwriting or claims activities. Annually thereafter, an
82 insurer shall provide such employees a 1-hour course that
83 addresses detection, referral, investigation, and reporting of
84 possible fraudulent insurance acts for the types of insurance
85 lines written by the insurer.
86 (5) Each insurer is required to report data related to
87 fraud for each identified line of business written by the

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88 insurer during the prior calendar year. The data shall be
89 reported to the department by March 1, 2019, and annually
90 thereafter, and must include, at a minimum:
91 (a) The number of policies in effect;
92 (b) The amount of premiums written for policies;
93 (c) The number of claims received;
94 (d) The number of claims referred to the anti-fraud
95 investigative unit;
96 (e) The number of other insurance fraud matters referred to
97 the anti-fraud investigative unit that were not claim related;
98 (f) The number of claims investigated or accepted by the
99 anti-fraud investigative unit;
100 (g) The number of other insurance fraud matters
101 investigated or accepted by the anti-fraud investigative unit
102 that were not claim related;
103 (h) The number of cases referred to the Division of
104 Investigative and Forensic Services;
105 (i) The number of cases referred to other law enforcement
106 agencies;
107 (j) The number of cases referred to other entities; and
108 (k) The estimated dollar amount or range of damages on
109 cases referred to the Division of Investigative and Forensic
110 Services or other agencies.
111 (6) In addition to providing information required under
112 subsections (2), (4), and (5), each insurer writing workers'
113 compensation insurance shall also report the following
114 information to the department, on or before March 1, 2019, and
115 annually thereafter:
116 (a) The estimated dollar amount of losses attributable to

117 workers’ compensation fraud delineated by the type of fraud,
118 including claimant, employer, provider, agent, or other type.
119 (b) The estimated dollar amount of recoveries attributable
120 to workers’ compensation fraud delineated by the type of fraud,
121 including claimant, employer, provider, agent, or other type.
122 (c) The number of cases referred to the Division of
123 Investigative and Forensic Services, delineated by the type of
124 fraud, including claimant, employer, provider, agent, or other
125 type.
126 (7) An insurer who obtains a certificate of authority has 6
127 months in which to comply with subsection (2), and one calendar
128 year thereafter, to comply with subsections (4), (5), and (6).
129 (8) If an insurer fails or otherwise refuses to comply with
130 the provisions of this section, the department, office, or
131 commission may:
132 (a) Impose an administrative fine of not more than $2,000
133 per day for such failure until the department, office, or
134 commission deems the insurer to be in compliance;
135 (b) Impose an administrative fine for failure by an insurer
136 to implement or follow the provisions of an anti-fraud plan or
137 anti-fraud investigative unit description; or
138 (c) Impose the provisions of both paragraphs (a) and (b).
139 (9) On or before December 31, 2018, the Division of
140 Investigative and Forensic Services shall create a report
141 detailing best practices for the detection, investigation,
142 prevention, and reporting of insurance fraud and other
143 fraudulent insurance acts. The report must be updated as
144 necessary but at least every 2 years. The report must provide:
145 (a) Information on the best practices for the establishment

146 of anti-fraud investigative units within insurers;
147 (b) Information on the best practices and methods for
148 detecting and investigating insurance fraud and other fraudulent
149 insurance acts;
150 (c) Information on appropriate anti-fraud education and
151 training of insurer personnel;
152 (d) Information on the best practices for reporting
153 insurance fraud and other fraudulent insurance acts to the
154 Division of Investigative and Forensic Services and to other law
155 enforcement agencies;
156 (e) Information regarding the appropriate level of staffing
157 and resources for anti-fraud investigative units within
158 insurers;
159 (f) Information detailing statistics and data relating to
160 insurance fraud which insurers should maintain; and
161 (g) Other information as determined by the Division of
162 Investigative and Forensic Services.
163 (10) The department may adopt rules to administer this
164 section, except that it shall adopt rules to administer
165 subsection (5).
166 (11)(a) The information submitted to the department
167 pursuant to paragraphs (3)(d), (e), and (f) and paragraphs
168 (5)(d), (e), (f), (g), and (k) is exempt from s. 119.07(1) and
169 s. 24(a), Art. I of the State Constitution.
170 (b) ~~This subsection is subject to the Open Government~~
171 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
172 ~~repealed on October 2, 2022, unless reviewed and saved from~~
173 ~~repeal through reenactment by the Legislature.~~
174 ~~(c)~~ This exemption applies to records held before, on, or

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175 after the effective date of this act.

176 Section 2. This act shall take effect October 1, 2022.

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