

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative Clemons offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 324.252 Electronic insurance verification.—

10 (1)In order to empower drivers in this state and reduce the  
 11 incidence of automobile insurance fraud within this state, by  
 12 July 1, 2023, the electronic credentialing system, as defined in  
 13 s. 322.032(1), must display driver vehicle registration and  
 14 insurance information, provide a driver with notification of any  
 15 lapse in his or her insurance coverage needed for compliance  
 16 with the financial responsibility requirements of this chapter,

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17 and allow the driver to update his or her policy information via  
18 the system.

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

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

27 501.165 Automatic renewal of service contracts.—

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

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

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

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

46 1. That unless the consumer cancels the contract the  
47 contract will automatically renew.

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

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

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

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

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

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

70           (e) This subsection does not apply to:

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

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

75           3. Any subsidiary or affiliate of an entity described in  
76 subparagraph 1. or subparagraph 2.

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

78           5. Any entity licensed under chapter 624, chapter 627,  
79 chapter 634, chapter 636, or chapter 641.

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

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

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

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

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

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

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

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

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

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

111           (b) Notwithstanding the fine set forth in s. 626.8698, a  
112 public adjuster or public adjuster apprentice may be subject to  
113 a fine not to exceed \$10,000 per act for a violation of this  
114 subsection and a fine not to exceed \$20,000 per act for a

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115 violation of this subsection that occurs during a state of  
116 emergency declared by executive order or proclamation of the  
117 Governor pursuant to s. 252.36.

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

122 1. Subject to all applicable penalties set forth in this  
123 part.

124 2. Notwithstanding subparagraph 1., subject to a fine not  
125 to exceed \$10,000 per act for a violation of this subsection and  
126 a fine not to exceed \$20,000 per act for a violation of this  
127 subsection that occurs during a state of emergency declared by  
128 executive order or proclamation of the Governor pursuant to s.  
129 252.36.

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

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

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

161 (7) If an insurer fails or otherwise refuses to comply  
162 with this section, the department may impose an administrative

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163 fine of not more than \$2,000 per day for such failure until the  
164 department deems the insurer to be in compliance.

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

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



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

189 (b) They must identify specific factors that determine the  
190 grades of penalty.

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

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

196 633.126 Investigation of fraudulent insurance claims and  
197 crimes; immunity of insurance companies supplying information.-

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

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

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

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

217 (b) They must identify specific factors that determine the  
218 grades of penalty.

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

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

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

233 (3) Issuing or causing to be issued any advertisement that  
234 ~~which~~:

235 (a) Does not fully disclose in a written advertisement, in  
236 at least 12-point, boldface ~~boldfaced~~ type, the name, address,

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237 and Florida Company Code license number of the service agreement  
238 company.

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

242 (c) Does not fully identify the soliciting licensed  
243 salesperson's full legal name and license number when the  
244 salesperson begins, and the soliciting salesperson's telephone  
245 number when the salesperson concludes, each outbound telephone  
246 solicitation. For the purposes of this paragraph, the actual  
247 telephone number of the salesperson may be the number on file  
248 with the department or the number at which the salesperson may  
249 be contacted.

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

252 775.15 Time limitations; general time limitations;  
253 exceptions.—

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

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

259 817.234 False and fraudulent insurance claims.—

260 (5)(a) Any insurer damaged as a result of a violation of  
261 any provision of this section when there has been a criminal

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262 adjudication of guilt shall have a cause of action to recover  
263 compensatory damages, plus all reasonable investigation and  
264 litigation expenses, including attorney attorneys' fees, at the  
265 trial and appellate courts.

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

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

275 -----  
276 -----

277 **T I T L E A M E N D M E N T**

278 Remove everything before the enacting clause and insert:  
279 An act relating to fraud prevention; creating s. 324.252, F.S.;  
280 requiring that the electronic credentialing system display  
281 certain vehicle information for specified purposes by a  
282 specified date; requiring the Department of Highway Safety and  
283 Motor Vehicles to provide the Legislature with recommendations  
284 for compliance verification with certain financial  
285 responsibility requirements by a specified date; amending s.  
286 501.165, F.S.; requiring sellers to allow consumers to cancel in

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287 a specified manner and by specified means service contracts that  
288 have automatic renewal provisions; amending s. 626.854, F.S.;  
289 revising maximum fines for public adjusters and public adjuster  
290 apprentices for certain violations under a specified  
291 circumstance; revising maximum fines for certain violations by  
292 certain persons under a specified circumstance; amending s.  
293 626.989, F.S.; authorizing the Department of Financial Services  
294 to impose an administrative fine on insurers under certain  
295 circumstances; authorizing the Division of Investigative and  
296 Forensic Services to adopt certain rules; amending s. 633.126,  
297 F.S.; authorizing the department to impose an administrative  
298 fine on insurance companies under certain circumstances;  
299 deleting criminal penalties; authorizing the division to adopt  
300 certain rules; amending s. 634.095, F.S.; revising requirements  
301 for advertisements issued or caused to be issued by service  
302 agreement companies or salespersons; amending s. 775.15, F.S.;  
303 revising felony violations for which prosecutions must be  
304 commenced within a specified timeframe; amending s. 817.234,  
305 F.S.; providing that certain insurers are entitled to recover  
306 specified expenses at the trial and appellate courts under  
307 certain circumstances; providing effective dates.