

26 requirements for the rules; amending s. 634.095, F.S.;
 27 revising requirements for advertisements issued or
 28 caused to be issued by service agreement companies or
 29 licensed salespersons; amending s. 775.15, F.S.;
 30 revising felony violations for which prosecutions must
 31 be commenced within a specified timeframe; amending s.
 32 817.234, F.S.; providing that certain insurers are
 33 entitled to specified expenses at trials and appellate
 34 courts under certain circumstances; providing
 35 effective dates.

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

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 39 Section 1. Subsection (2) of section 501.165, Florida
 40 Statutes, is amended to read:

41 501.165 Automatic renewal of service contracts.—

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

43 (a) A ~~Any~~ seller that sells, leases, or offers to sell or
 44 lease any service to a consumer pursuant to a service contract
 45 that has an automatic renewal provision, unless the consumer
 46 cancels that contract, shall disclose the automatic renewal
 47 provision clearly and conspicuously in the contract or contract
 48 offer.

49 (b) A ~~Any~~ seller that sells or offers to sell any service
 50 to a consumer pursuant to a service contract the term of which

51 is a specified period of 12 months or more and that
52 automatically renews for a specified period of more than 1
53 month, unless the consumer cancels the contract, shall provide
54 the consumer with written or electronic notification of the
55 automatic renewal provision. Notification shall be provided to
56 the consumer no less than 30 days or no more than 60 days before
57 the cancellation deadline pursuant to the automatic renewal
58 provision. Such notification shall disclose clearly and
59 conspicuously:

60 1. That unless the consumer cancels the contract the
61 contract will automatically renew.

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

66 (c) A seller that fails to comply with the requirements of
67 this subsection violates ~~is in violation of~~ this subsection
68 unless the seller demonstrates that:

69 1. As part of the seller's routine business practice, the
70 seller has established and implemented written procedures to
71 comply with this section and enforces compliance with the
72 procedures;

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

75 3. As part of the seller's routine business practice,

76 | where an error has caused the failure to comply with this
 77 | subsection, the unearned portion of the contract subject to the
 78 | automatic renewal provision is refunded as of the date on which
 79 | the seller is notified of the error.

80 | (d) A seller shall allow a consumer to cancel a service
 81 | contract that has an automatic renewal provision in the same
 82 | manner, and by the same means, as the service contract was
 83 | entered into.

84 | ~~(e)-(d)~~ This subsection does not apply to:

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

87 | 2. A foreign bank maintaining a branch or agency licensed
 88 | under the laws of any state of the United States.

89 | 3. Any subsidiary or affiliate of an entity described in
 90 | subparagraph 1. or subparagraph 2.

91 | 4. A health studio as defined in s. 501.0125.

92 | 5. Any entity licensed under chapter 624, chapter 627,
 93 | chapter 634, chapter 636, or chapter 641.

94 | 6. Any electric utility as defined in s. 366.02.

95 | 7. Any private company as defined in s. 180.05 providing
 96 | services described in chapter 180 which is competing against a
 97 | governmental entity or has a governmental entity providing
 98 | billing services on its behalf.

99 | ~~(f)-(e)~~ A violation of this subsection renders the
 100 | automatic renewal provision void and unenforceable.

101 Section 2. Paragraphs (b) and (c) of subsection (22) of
102 section 626.854, Florida Statutes, are amended, and paragraph
103 (a) of that subsection is republished, to read:

104 626.854 "Public adjuster" defined; prohibitions.—The
105 Legislature finds that it is necessary for the protection of the
106 public to regulate public insurance adjusters and to prevent the
107 unauthorized practice of law.

108 (22) (a) Any following act by a public adjuster, a public
109 adjuster apprentice, or a person acting on behalf of a public
110 adjuster or public adjuster apprentice is prohibited and shall
111 result in discipline as applicable under this part:

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

115 a. Allowing a contractor, a public adjuster, a public
116 adjuster apprentice, or a person acting on behalf of a public
117 adjuster or public adjuster apprentice to conduct an inspection
118 of the residential property owner's roof; or

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

121 2. Offering, delivering, receiving, or accepting any
122 compensation, inducement, or reward for the referral of any
123 services for which property insurance proceeds would be used for
124 roofing repairs or replacement.

125 (b) Notwithstanding the fine set forth in s. 626.8698, a

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126 public adjuster or public adjuster apprentice may be subject to
127 a fine not to exceed \$10,000 per act for a violation of this
128 subsection and a fine not to exceed \$20,000 per act for a
129 violation of this subsection that occurs during a state of
130 emergency declared by executive order or proclamation of the
131 Governor pursuant to s. 252.36.

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

136 1. Subject to all applicable penalties set forth in this
137 part.

138 2. Notwithstanding subparagraph 1., subject to a fine not
139 to exceed \$10,000 per act for a violation of this subsection and
140 a fine not to exceed \$20,000 per act for a violation of this
141 subsection that occurs during a state of emergency declared by
142 executive order or proclamation of the Governor pursuant to s.
143 252.36.

144 Section 3. Subsections (7), (8), and (9) of section
145 626.989, Florida Statutes, are renumbered as subsections (9),
146 (10), and (11), respectively, subsections (5) and (6) are
147 amended, and new subsections (7) and (8) and subsection (12) are
148 added to that section, to read:

149 626.989 Investigation by department or Division of
150 Investigative and Forensic Services; compliance; immunity;

151 confidential information; reports to division; division
 152 investigator's power of arrest.—

153 (5) The office's and the department's papers, documents,
 154 reports, or evidence relative to the subject of an investigation
 155 under this section are confidential and exempt from ~~the~~
 156 ~~provisions of s. 119.07(1) until such investigation is completed~~
 157 ~~or ceases to be active. For purposes of this subsection, the~~
 158 ~~term an investigation is considered "active" has the same~~
 159 ~~meaning as in s. 119.011(3) (d) while the investigation is being~~
 160 ~~conducted by the office or department with a reasonable, good~~
 161 ~~faith belief that it could lead to the filing of administrative,~~
 162 ~~civil, or criminal proceedings. An investigation does not cease~~
 163 ~~to be active if the office or department is proceeding with~~
 164 ~~reasonable dispatch and has a good faith belief that action~~
 165 ~~could be initiated by the office or department or other~~
 166 ~~administrative or law enforcement agency. After an investigation~~
 167 ~~is completed or ceases to be active, portions of records~~
 168 ~~relating to the investigation shall remain exempt from ~~the~~~~
 169 ~~provisions of s. 119.07(1) if disclosure would:~~

- 170 (a) Jeopardize the integrity of another active
- 171 investigation;
- 172 (b) Impair the safety and soundness of an insurer;
- 173 (c) Reveal personal financial information;
- 174 (d) Reveal the identity of a confidential source;
- 175 (e) Defame or cause unwarranted damage to the good name or

176 reputation of an individual or jeopardize the safety of an
177 individual; or

178 (f) Reveal investigative techniques or procedures.

179 Further, such papers, documents, reports, or evidence relative
180 to the subject of an investigation under this section shall not
181 be subject to discovery until the investigation is completed or
182 ceases to be active. Office, department, or division
183 investigators shall not be subject to subpoena in civil actions
184 by any court of this state to testify concerning any matter of
185 which they have knowledge pursuant to a pending insurance fraud
186 investigation by the division.

187 (6) Any person, other than an insurer, agent, or other
188 person licensed under the code, or an employee thereof, having
189 knowledge or who believes that a fraudulent insurance act or any
190 other act or practice which, upon conviction, constitutes a
191 felony or a misdemeanor under the code, or under s. 817.234, is
192 being or has been committed may send to the Division of
193 Investigative and Forensic Services a report or information
194 pertinent to such knowledge or belief and such additional
195 information relative thereto as the department may request. Any
196 professional practitioner licensed or regulated by the
197 Department of Business and Professional Regulation, except as
198 otherwise provided by law, any medical review committee as
199 defined in s. 766.101, any private medical review committee, and
200 any insurer, agent, or other person licensed under the code, or

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201 an employee thereof, having knowledge or who believes that a
202 fraudulent insurance act or any other act or practice which,
203 upon conviction, constitutes a felony or a misdemeanor under the
204 code, or under s. 817.234, is being or has been committed shall
205 send to the Division of Investigative and Forensic Services a
206 report or information pertinent to such knowledge or belief and
207 such additional information relative thereto as the department
208 may require.

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

213 (8) The Division of Investigative and Forensic Services
214 shall review such information or reports and select such
215 information or reports as, in its judgment, may require further
216 investigation. It shall then cause an independent examination of
217 the facts surrounding such information or report to be made to
218 determine the extent, if any, to which a fraudulent insurance
219 act or any other act or practice which, upon conviction,
220 constitutes a felony or a misdemeanor under the code, or under
221 s. 817.234, is being committed. The Division of Investigative
222 and Forensic Services shall report any alleged violations of law
223 which its investigations disclose to the appropriate licensing
224 agency and state attorney or other prosecuting agency having
225 jurisdiction with respect to any such violation, as provided in

226 s. 624.310. If prosecution by the state attorney or other
227 prosecuting agency having jurisdiction with respect to such
228 violation is not begun within 60 days of the division's report,
229 the state attorney or other prosecuting agency having
230 jurisdiction with respect to such violation shall inform the
231 division of the reasons for the lack of prosecution.

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

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

237 (b) They must identify specific factors that determine the
238 grades of penalty.

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

241 Section 4. Subsection (7) of section 633.112, Florida
242 Statutes, is amended to read:

243 633.112 State Fire Marshal; hearings; investigations;
244 recordkeeping and reports; subpoenas of witnesses; orders of
245 circuit court.—

246 (7) The State Fire Marshal shall keep a record of all
247 fires and explosions occurring in this state upon which she or
248 he had caused an investigation to be made and all facts
249 concerning the same. These records, obtained or prepared by the
250 State Fire Marshal pursuant to her or his investigation, include

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251 documents, papers, letters, maps, diagrams, tapes, photographs,
252 films, sound recordings, and evidence. These records are
253 confidential and exempt from ~~the provisions of~~ s. 119.07(1)
254 until the investigation is completed or ceases to be active. For
255 purposes of this section, the term an investigation is
256 ~~considered~~ "active" has the same meaning as in s. 119.011(3)(d)
257 ~~while such investigation is being conducted by the department~~
258 ~~with a reasonable, good faith belief that it may lead to the~~
259 ~~filing of administrative, civil, or criminal proceedings. An~~
260 ~~investigation does not cease to be active if the department is~~
261 ~~proceeding with reasonable dispatch, and there is a good faith~~
262 ~~belief that action may be initiated by the department or other~~
263 ~~administrative or law enforcement agency.~~ Further, these
264 documents, papers, letters, maps, diagrams, tapes, photographs,
265 films, sound recordings, and evidence relative to the subject of
266 an investigation are ~~shall~~ not be subject to subpoena until the
267 investigation is completed or ceases to be active, unless the
268 State Fire Marshal consents. These records shall be made daily
269 from the reports furnished the State Fire Marshal by her or his
270 agents or others.

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

274 633.126 Investigation of fraudulent insurance claims and
275 crimes; immunity of insurance companies supplying information.-

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276 (2) If an insurance company has reason to suspect that a
277 fire or explosion loss to its insured's real or personal
278 property was caused by intentional means, the company shall
279 notify the State Fire Marshal and shall furnish her or him with
280 all material acquired by the company during its investigation.
281 The State Fire Marshal may adopt rules to implement this
282 subsection.

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

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

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

295 (b) They must identify specific factors that determine the
296 grades of penalty.

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

299 Section 6. Effective January 1, 2023, paragraphs (b), (c),
300 and (d) of subsection (3) of section 634.095, Florida Statutes,

301 are redesignated as paragraphs (d), (e), and (f), respectively,
 302 paragraph (a) of that subsection is amended, and new paragraphs
 303 (b) and (c) are added to that subsection, to read:

304 634.095 Prohibited acts.—Any service agreement company or
 305 salesperson that engages in one or more of the following acts
 306 is, in addition to any applicable denial, suspension,
 307 revocation, or refusal to renew or continue any appointment or
 308 license, guilty of a misdemeanor of the second degree,
 309 punishable as provided in s. 775.082 or s. 775.083:

310 (3) Issuing or causing to be issued any advertisement that
 311 ~~which~~:

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

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

319 (c) Does not fully identify the soliciting licensed
 320 salesperson's full legal name and license number when the
 321 salesperson begins, and the soliciting salesperson's telephone
 322 number when the salesperson concludes, each telephone
 323 solicitation. For the purposes of this paragraph, the actual
 324 telephone number of the salesperson may be the number on file
 325 with the department or the number at which the salesperson may

326 be contacted.

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

329 775.15 Time limitations; general time limitations;
 330 exceptions.—

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

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

336 817.234 False and fraudulent insurance claims.—

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

343 (b) If an insurer damaged as a result of a violation of
 344 any provision of this section has reported the possible
 345 fraudulent insurance act to the Division of Investigative and
 346 Forensic Services pursuant to s. 626.9891 and if there has been
 347 a criminal adjudication of guilt, the insurer is entitled to
 348 recover reasonable investigation and litigation expenses,
 349 including attorney fees, at the trial and appellate courts.

350 Section 9. Except as otherwise provided in this act, this

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351 | act shall take effect upon becoming a law.