

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, provide certain notification for a
6 specified purpose, and allow drivers to update certain
7 information by a specified date; requiring the
8 Department of Highway Safety and Motor Vehicles to
9 provide the Legislature with recommendations for
10 compliance verification with certain financial
11 responsibility requirements by a specified date;
12 amending s. 501.165, F.S.; requiring sellers to allow
13 consumers to cancel in a specified manner and by
14 specified means service contracts that have automatic
15 renewal provisions; amending s. 626.854, F.S.;
16 revising maximum fines for public adjusters and public
17 adjuster apprentices for certain violations under a
18 specified circumstance; revising maximum fines for
19 certain violations by certain persons under a
20 specified circumstance; amending s. 626.989, F.S.;
21 authorizing the Department of Financial Services to
22 impose an administrative fine on insurers under
23 certain circumstances; authorizing the Division of
24 Investigative and Forensic Services to adopt certain
25 rules; amending s. 633.126, F.S.; authorizing the

26 department to impose an administrative fine on
 27 insurance companies under certain circumstances;
 28 deleting criminal penalties; authorizing the division
 29 to adopt certain rules; amending s. 634.095, F.S.;
 30 revising requirements for advertisements issued or
 31 caused to be issued by service agreement companies or
 32 salespersons; amending s. 775.15, F.S.; revising
 33 felony violations for which prosecutions must be
 34 commenced within a specified timeframe; amending s.
 35 817.234, F.S.; providing that certain insurers are
 36 entitled to recover specified expenses at the trial
 37 and appellate courts under certain circumstances;
 38 providing effective dates.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Section 324.252, Florida Statutes, is created
 43 to read:

44 324.252 Electronic insurance verification.—

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

51 with the financial responsibility requirements of this chapter,
 52 and allow the driver to update his or her policy information via
 53 the system.

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

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

62 501.165 Automatic renewal of service contracts.—

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

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

70 (b) A ~~Any~~ seller that sells or offers to sell any service
 71 to a consumer pursuant to a service contract the term of which
 72 is a specified period of 12 months or more and that
 73 automatically renews for a specified period of more than 1
 74 month, unless the consumer cancels the contract, shall provide
 75 the consumer with written or electronic notification of the

76 automatic renewal provision. Notification shall be provided to
77 the consumer no less than 30 days or no more than 60 days before
78 the cancellation deadline pursuant to the automatic renewal
79 provision. Such notification shall disclose clearly and
80 conspicuously:

81 1. That unless the consumer cancels the contract the
82 contract will automatically renew.

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

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

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

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

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

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

105 (e) This subsection does not apply to:

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

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

110 3. Any subsidiary or affiliate of an entity described in
 111 subparagraph 1. or subparagraph 2.

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

113 5. Any entity licensed under chapter 624, chapter 627,
 114 chapter 634, chapter 636, or chapter 641.

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

116 7. Any private company as defined in s. 180.05 providing
 117 services described in chapter 180 which is competing against a
 118 governmental entity or has a governmental entity providing
 119 billing services on its behalf.

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

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

125 626.854 "Public adjuster" defined; prohibitions.—The

126 Legislature finds that it is necessary for the protection of the
 127 public to regulate public insurance adjusters and to prevent the
 128 unauthorized practice of law.

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

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

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

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

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

146 (b) Notwithstanding the fine set forth in s. 626.8698, a
 147 public adjuster or public adjuster apprentice may be subject to
 148 a fine not to exceed \$10,000 per act for a violation of this
 149 subsection and a fine not to exceed \$20,000 per act for a
 150 violation of this subsection that occurs during a state of

151 emergency declared by executive order or proclamation of the
152 Governor pursuant to s. 252.36.

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

157 1. Subject to all applicable penalties set forth in this
158 part.

159 2. Notwithstanding subparagraph 1., subject to a fine not
160 to exceed \$10,000 per act for a violation of this subsection and
161 a fine not to exceed \$20,000 per act for a violation of this
162 subsection that occurs during a state of emergency declared by
163 executive order or proclamation of the Governor pursuant to s.
164 252.36.

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

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

174 (6) Any person, other than an insurer, agent, or other
175 person licensed under the code, or an employee thereof, having

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

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

200 | (8) The Division of Investigative and Forensic Services

201 shall review such information or reports and select such
202 information or reports as, in its judgment, may require further
203 investigation. It shall then cause an independent examination of
204 the facts surrounding such information or report to be made to
205 determine the extent, if any, to which a fraudulent insurance
206 act or any other act or practice which, upon conviction,
207 constitutes a felony or a misdemeanor under the code, or under
208 s. 817.234, is being committed. The Division of Investigative
209 and Forensic Services shall report any alleged violations of law
210 which its investigations disclose to the appropriate licensing
211 agency and state attorney or other prosecuting agency having
212 jurisdiction with respect to any such violation, as provided in
213 s. 624.310. If prosecution by the state attorney or other
214 prosecuting agency having jurisdiction with respect to such
215 violation is not begun within 60 days of the division's report,
216 the state attorney or other prosecuting agency having
217 jurisdiction with respect to such violation shall inform the
218 division of the reasons for the lack of prosecution.

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

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

224 (b) They must identify specific factors that determine the
225 grades of penalty.

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

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

231 633.126 Investigation of fraudulent insurance claims and
232 crimes; immunity of insurance companies supplying information.—

233 (2) If an insurance company has reason to suspect that a
234 fire or explosion loss to its insured's real or personal
235 property was caused by intentional means, the company shall
236 notify the State Fire Marshal and shall furnish her or him with
237 all material acquired by the company during its investigation.
238 The State Fire Marshal may adopt rules to implement this
239 subsection.

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

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

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

251 this section.

252 (b) They must identify specific factors that determine the
 253 grades of penalty.

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

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

262 634.095 Prohibited acts.—Any service agreement company or
 263 salesperson that engages in one or more of the following acts
 264 is, in addition to any applicable denial, suspension,
 265 revocation, or refusal to renew or continue any appointment or
 266 license, guilty of a misdemeanor of the second degree,
 267 punishable as provided in s. 775.082 or s. 775.083:

268 (3) Issuing or causing to be issued any advertisement that
 269 ~~which~~:

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

274 (b) Does not fully disclose in a radio or television
 275 advertisement the full legal name of the licensed salesperson or

276 | the service agreement company.

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

285 | Section 7. Subsection (11) of section 775.15, Florida
 286 | Statutes, is amended to read:

287 | 775.15 Time limitations; general time limitations;
 288 | exceptions.—

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

292 | Section 8. Subsection (5) of section 817.234, Florida
 293 | Statutes, is amended to read:

294 | 817.234 False and fraudulent insurance claims.—

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

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

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