

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 certain sellers
13 to allow consumers to cancel in a specified manner and
14 by a specified means service contracts that include
15 automatic renewal provisions; amending s. 626.854,
16 F.S.; revising maximum fines for public adjusters and
17 public adjuster apprentices for certain violations
18 under a specified circumstance; revising maximum fines
19 for certain violations by certain persons under a
20 specified circumstance; amending s. 633.126, F.S.;
21 authorizing the department to impose an administrative
22 fine on insurance companies under certain
23 circumstances; deleting criminal penalties;
24 authorizing the division to adopt certain rules;
25 amending s. 634.095, F.S.; revising requirements for

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

35
36 Be It Enacted by the Legislature of the State of Florida:

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

40 324.252 Electronic insurance verification.-

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

50 (2) By October 1, 2023, the department shall provide the

51 Legislature with recommendations on the means by which the
 52 department, law enforcement agencies, and other entities
 53 authorized by the department may electronically verify a
 54 driver's compliance with the financial responsibility
 55 requirements of this chapter.

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

58 501.165 Automatic renewal of service contracts.—

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

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

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

76 conspicuously:

77 1. That unless the consumer cancels the contract the
78 contract will automatically renew.

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

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

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

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

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

97 (d) A seller that enters into or renews any service
98 contract with a consumer which includes an automatic renewal
99 provision must allow the consumer to cancel the service contract
100 in the same manner, and by the same means, as the consumer

101 manifested his or her acceptance of the service contract.

102 (e) This subsection does not apply to:

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

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

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

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

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

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

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

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

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

122 626.854 "Public adjuster" defined; prohibitions.—The
123 Legislature finds that it is necessary for the protection of the
124 public to regulate public insurance adjusters and to prevent the
125 unauthorized practice of law.

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

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

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

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

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

143 (b) Notwithstanding the fine set forth in s. 626.8698, a
 144 public adjuster or public adjuster apprentice may be subject to
 145 a fine not to exceed \$10,000 per act for a violation of this
 146 subsection and a fine not to exceed \$20,000 per act for a
 147 violation of this subsection that occurs during a state of
 148 emergency declared by executive order or proclamation of the
 149 Governor pursuant to s. 252.36.

150 (c) A person who engages in an act prohibited by this

151 subsection and who is not a public adjuster or a public adjuster
 152 apprentice, or is not otherwise exempt from licensure, is guilty
 153 of the unlicensed practice of public adjusting and may be:

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

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

162 Section 4. Subsection (9) of section 633.126, Florida
 163 Statutes, is amended, subsection (10) is added to that section,
 164 and subsection (2) of that section is republished, to read:

165 633.126 Investigation of fraudulent insurance claims and
 166 crimes; immunity of insurance companies supplying information.—

167 (2) If an insurance company has reason to suspect that a
 168 fire or explosion loss to its insured's real or personal
 169 property was caused by intentional means, the company shall
 170 notify the State Fire Marshal and shall furnish her or him with
 171 all material acquired by the company during its investigation.
 172 The State Fire Marshal may adopt rules to implement this
 173 subsection.

174 (9) If an insurance company fails or otherwise refuses to
 175 comply with this section, the department may impose an

176 administrative fine of not more than \$2,000 per day for such
177 failure until the department deems the insurance company to be
178 in compliance ~~A person who willfully violates this section~~
179 ~~commits a misdemeanor of the first degree, punishable as~~
180 ~~provided in s. 775.082 or s. 775.083.~~

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

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

186 (b) They must identify specific factors that determine the
187 grades of penalty.

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

190 Section 5. Effective March 1, 2023, present paragraphs
191 (b), (c), and (d) of subsection (3) of section 634.095, Florida
192 Statutes, are redesignated as paragraphs (d), (e), and (f),
193 respectively, new paragraphs (b) and (c) are added to that
194 subsection, and paragraph (a) of that subsection is amended, to
195 read:

196 634.095 Prohibited acts.—Any service agreement company or
197 salesperson that engages in one or more of the following acts
198 is, in addition to any applicable denial, suspension,
199 revocation, or refusal to renew or continue any appointment or
200 license, guilty of a misdemeanor of the second degree,

201 punishable as provided in s. 775.082 or s. 775.083:

202 (3) Issuing or causing to be issued any advertisement that
 203 ~~which~~:

204 (a) Does not fully disclose in a written advertisement, in
 205 at least 12-point, boldfaced type, the name, address, and
 206 Florida Company Code ~~license number~~ of the service agreement
 207 company.

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

211 (c) Does not fully identify the soliciting licensed
 212 salesperson's full legal name and license number when the
 213 salesperson begins, and the soliciting salesperson's telephone
 214 number when the salesperson concludes, each outbound telephone
 215 solicitation. For the purposes of this paragraph, the actual
 216 telephone number of the salesperson may be the number on file
 217 with the department or the number at which the salesperson may
 218 be contacted.

219 Section 6. Subsection (11) of section 775.15, Florida
 220 Statutes, is amended to read:

221 775.15 Time limitations; general time limitations;
 222 exceptions.—

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

226 Section 7. Subsection (5) of section 817.234, Florida
 227 Statutes, is amended to read:

228 817.234 False and fraudulent insurance claims.—

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

235 (b) If an insurer damaged as a result of a violation of
 236 any provision of this section has reported the possible
 237 fraudulent insurance act to the Division of Investigative and
 238 Forensic Services pursuant to s. 626.9891 and if there has been
 239 a criminal adjudication of guilt, the insurer is entitled to
 240 recover reasonable investigation and litigation expenses,
 241 including attorney fees, at the trial and appellate courts.

242 Section 8. The nonrecurring sum of \$1,413,270 for Fiscal
 243 Year 2022-2023 shall be transferred by nonoperating budget
 244 authority from the Insurance Regulatory Trust Fund of the
 245 Department of Financial Services to the Highway Safety Operating
 246 Trust Fund of the Department of Highway Safety and Motor
 247 Vehicles to implement the electronic insurance verification
 248 provisions of s. 324.252, Florida Statutes.

249 Section 9. For the 2022-2023 fiscal year, the nonrecurring
 250 sum of \$1,413,270 from the Highway Safety Operating Trust Fund

251 is appropriated to the Information Systems Administration budget
252 entity in the Department of Highway Safety and Motor Vehicles to
253 implement the electronic insurance verification provisions
254 required under s. 324.252, Florida Statutes.

255 Section 10. Except as otherwise expressly provided in this
256 act, this act shall take effect upon becoming a law.