

1 A bill to be entitled
2 An act relating to insurer anti-fraud efforts;
3 reordering and amending s. 626.9891, F.S.; providing
4 and revising definitions; requiring every insurer to
5 designate at least one primary anti-fraud employee for
6 certain purposes; requiring insurers to adopt an anti-
7 fraud plan; revising insurer requirements in providing
8 anti-fraud information to the Department of Financial
9 Services; requiring specified information to be filed
10 annually with the department; revising the information
11 to be provided by insurers who write workers'
12 compensation insurance; requiring each insurer to
13 provide annual anti-fraud education and training;
14 requiring insurers who submit an application for a
15 certificate of authority after a specified date to
16 comply with the section; providing penalties for
17 failure to comply with requirements of the section;
18 requiring rulemaking in certain cases; creating s.
19 626.9896, F.S.; requiring certain state attorneys to
20 submit data; requiring the Division of Investigative
21 and Forensic Services to provide an annual report to
22 the Executive Office of the Governor, the Speaker of
23 the House of Representatives, and the President of the
24 Senate; amending s. 641.3915, F.S.; deleting obsolete
25 provisions; providing effective dates.

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

Section 1. Section 626.9891, Florida Statutes, is reordered and amended to read:

626.9891 Insurer anti-fraud investigative units; reporting requirements; penalties for noncompliance.—

(1)-(5) ~~As used in For purposes of~~ this section, the term:

(a) "Anti-fraud investigative unit" means the designated anti-fraud unit or division, or contractor authorized under subparagraph (2) (a) 2.

(b) "Designated anti-fraud unit or division" includes a distinct unit or division or a unit or division made up of the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims who are also assigned investigation of fraud. ~~If an insurer creates a distinct unit or division, hires additional employees, or contracts with another entity to fulfill the requirements of this section, the additional cost incurred must be included as an administrative expense for ratemaking purposes.~~

(2)-(1) By December 31, 2017, every insurer admitted to do business in this state ~~who in the previous calendar year, at any time during that year, had \$10 million or more in direct premiums written~~ shall:

(a) 1. Establish and maintain a designated anti-fraud unit

51 or division within the company to investigate and report
52 possible fraudulent insurance acts ~~claims~~ by insureds or by
53 persons making claims for services or repairs against policies
54 held by insureds; or

55 2.~~(b)~~ Contract with others to investigate and report
56 possible fraudulent insurance acts by insureds or by persons
57 making claims for services or repairs against policies held by
58 insureds.

59 (b) Adopt an anti-fraud plan.

60 (c) Designate at least one employee with primary
61 responsibility for implementing the requirements of this
62 section.

63 (d) Electronically ~~An insurer subject to this subsection~~
64 ~~shall~~ file with the Division of Investigative and Forensic
65 Services of the department, and annually thereafter on or before
66 ~~July 1, 1996,~~ a detailed description of the designated anti-
67 fraud unit or division established pursuant to paragraph (a) or
68 a copy of the contract executed under subparagraph (a)2., as
69 applicable, a copy of the anti-fraud plan, and the name of the
70 employee designated under paragraph (c) and related documents
71 ~~required by paragraph (b).~~

72
73 An insurer must include the additional cost incurred in creating
74 a distinct unit or division, hiring additional employees, or
75 contracting with another entity to fulfill the requirements of

76 | this section, as an administrative expense for ratemaking
 77 | purposes.

78 | ~~(2) Every insurer admitted to do business in this state,~~
 79 | ~~which in the previous calendar year had less than \$10 million in~~
 80 | ~~direct premiums written, must adopt an anti-fraud plan and file~~
 81 | ~~it with the Division of Investigative and Forensic Services of~~
 82 | ~~the department on or before July 1, 1996. An insurer may, in~~
 83 | ~~lieu of adopting and filing an anti-fraud plan, comply with the~~
 84 | ~~provisions of subsection (1).~~

85 | (3) Each insurers anti-fraud plan must plans shall
 86 | include:

87 | (a) An acknowledgement that the insurer has established
 88 | procedures for detecting and investigating possible fraudulent
 89 | insurance acts relating to the different types of insurance by
 90 | that insurer ~~A description of the insurer's procedures for~~
 91 | ~~detecting and investigating possible fraudulent insurance acts;~~

92 | (b) An acknowledgment that the insurer has established A
 93 | ~~description of the insurer's~~ procedures for the mandatory
 94 | reporting of possible fraudulent insurance acts to the Division
 95 | of Investigative and Forensic Services of the department;

96 | (c) An acknowledgement that the insurer provides the A
 97 | ~~description of the insurer's~~ plan for anti-fraud education and
 98 | training required by this section to the anti-fraud
 99 | investigative unit ~~of its claims adjusters or other personnel;~~
 100 | and

101 (d) A description of the required anti-fraud education and
102 training;

103 (e) A written description or chart outlining the
104 organizational arrangement of the insurer's anti-fraud
105 investigative unit, including the position titles and
106 descriptions of staffing personnel who are responsible for the
107 investigation and reporting of possible fraudulent insurance
108 acts; and

109 (f) The rationale for the level of staffing and resources
110 being provided for the anti-fraud investigative unit which may
111 include objective criteria, such as the number of policies
112 written, the number of claims received on an annual basis, the
113 volume of suspected fraudulent claims detected on an annual
114 basis, an assessment of the optimal caseload that one
115 investigator can handle on an annual basis, and other factors.

116 (4) By December 31, 2018, each insurer shall provide staff
117 of the anti-fraud investigative unit at least 2 hours of initial
118 anti-fraud training that is designed to assist in identifying
119 and evaluating instances of suspected fraudulent insurance acts
120 in underwriting or claims activities. Annually thereafter, an
121 insurer shall provide such employees a 1-hour course that
122 addresses detection, referral, investigation, and reporting of
123 possible fraudulent insurance acts for the types of insurance
124 lines written by the insurer.

125 (5) Each insurer is required to report data related to

126 fraud for each line of insurance written by the insurer during
127 the prior calendar year. The data shall be reported to the
128 department by March 1, 2019, and annually thereafter, and must
129 include, at a minimum:

130 (a) The number of policies in effect;

131 (b) The amount of premiums written for policies;

132 (c) The number of claims received;

133 (d) The number of claims referred to the anti-fraud
134 investigative unit;

135 (e) The number of other insurance fraud matters referred
136 to the anti-fraud investigative unit that were not claim
137 related;

138 (f) The number of claims investigated or accepted by the
139 anti-fraud investigative unit;

140 (g) The number of other insurance fraud matters
141 investigated or accepted by the anti-fraud investigative unit
142 that were not claim related;

143 (h) The number of cases referred to the Division of
144 Investigative and Forensic Services;

145 (i) The number of cases referred to other law enforcement
146 agencies;

147 (j) The number of cases referred to other entities; and

148 (k) The estimated dollar amount or range of damages on
149 cases referred to the Division of Investigative and Forensic
150 Services or other agencies.

151 (6) In addition to providing information required under
152 subsections (2), (4), and (5), each insurer writing workers'
153 compensation insurance shall also report the following
154 information to the department, on or before March 1, 2019, and
155 annually thereafter August 1 of each year, on its experience in
156 ~~implementing and maintaining an anti-fraud investigative unit or~~
157 ~~an anti-fraud plan. The report must include, at a minimum:~~

158 (a) The estimated dollar amount of losses attributable to
159 workers' compensation fraud delineated by the type of fraud,
160 including claimant, employer, provider, agent, or other type.

161 (b) The estimated dollar amount of recoveries attributable
162 to workers' compensation fraud delineated by the type of fraud,
163 including claimant, employer, provider, agent, or other type.

164 (c) The number of cases referred to the Division of
165 Investigative and Forensic Services, delineated by the type of
166 fraud, including claimant, employer, provider, agent, or other
167 type.

168 ~~(a) The dollar amount of recoveries and losses~~
169 ~~attributable to workers' compensation fraud delineated by the~~
170 ~~type of fraud: claimant, employer, provider, agent, or other.~~

171 ~~(b) The number of referrals to the Bureau of Workers'~~
172 ~~Compensation Fraud for the prior year.~~

173 ~~(c) A description of the organization of the anti-fraud~~
174 ~~investigative unit, if applicable, including the position titles~~
175 ~~and descriptions of staffing.~~

176 ~~(d) The rationale for the level of staffing and resources~~
177 ~~being provided for the anti-fraud investigative unit, which may~~
178 ~~include objective criteria such as number of policies written,~~
179 ~~number of claims received on an annual basis, volume of~~
180 ~~suspected fraudulent claims currently being detected, other~~
181 ~~factors, and an assessment of optimal caseload that can be~~
182 ~~handled by an investigator on an annual basis.~~

183 ~~(e) The inservice education and training provided to~~
184 ~~underwriting and claims personnel to assist in identifying and~~
185 ~~evaluating instances of suspected fraudulent activity in~~
186 ~~underwriting or claims activities.~~

187 ~~(f) A description of a public awareness program focused on~~
188 ~~the costs and frequency of insurance fraud and methods by which~~
189 ~~the public can prevent it.~~

190 (7)(4) An Any insurer who obtains a certificate of
191 authority has 6 ~~after July 1, 1995,~~ shall have 18 months in
192 which to comply with subsection (2), and 1 calendar year
193 thereafter, to comply with subsections (4), (5), and (6) the
194 requirements of this section.

195 (8)(7) If an insurer fails to ~~timely submit a final~~
196 ~~acceptable anti-fraud plan or anti-fraud investigative unit~~
197 ~~description, fails to implement the provisions of a plan or an~~
198 ~~anti-fraud investigative unit description, or otherwise refuses~~
199 ~~to comply with the provisions of this section, the department,~~
200 ~~office, or commission may:~~

201 (a) Impose an administrative fine of not more than \$2,000
 202 per day for such failure ~~by an insurer to submit an acceptable~~
 203 ~~anti-fraud plan or anti-fraud investigative unit description,~~
 204 until the department, office, or commission deems the insurer to
 205 be in compliance;

206 (b) Impose an administrative fine for failure by an
 207 insurer to implement or follow the provisions of an anti-fraud
 208 plan or anti-fraud investigative unit description; or

209 (c) Impose the provisions of both paragraphs (a) and (b).

210 (9)(8) The department may adopt rules to administer this
 211 section and must adopt rules to administer subsection (5).

212 Section 2. Effective July 1, 2017, section 626.9896,
 213 Florida Statutes, is created to read:

214 626.9896 Dedicated insurance fraud prosecutors.-

215 (1) The department shall collect data from each state
 216 attorney office that receives an appropriation to fund attorneys
 217 and paralegals dedicated solely to the prosecution of insurance
 218 fraud cases and report on the use of such funds. The data must
 219 be submitted by the state attorneys to the Division of
 220 Investigative and Forensic Services on the last day of each
 221 calendar quarter beginning September 30, 2017, and quarterly
 222 thereafter. Data must be submitted for each attorney funded by
 223 the appropriation and grouped by case type, including Division
 224 of Investigative and Forensic Services insurance fraud cases,
 225 other insurance fraud cases, and cases not involving insurance

226 fraud. For each type of case, the data must include the number
227 of cases in which an information has been filed; the number of
228 cases pending at pretrial or intake, the number of cases in
229 which the attorney is assisting in the investigation; the number
230 of cases closed or disposed of during the prior quarter; the
231 disposition of the cases closed during the prior quarter; and
232 the number of cases currently pending in a pretrial diversion
233 program.

234 (2) The Division of Investigative and Forensic Services
235 must report the data collected pursuant to subsection (1) for
236 the year ending June 30, to the Executive Office of the
237 Governor, the Speaker of the House of Representatives, and the
238 President of the Senate by September 1, 2018, and annually
239 thereafter.

240 Section 3. Section 641.3915, Florida Statutes, is amended
241 to read:

242 641.3915 Health maintenance organization anti-fraud plans
243 and investigative units.—Each authorized health maintenance
244 organization and applicant for a certificate of authority shall
245 comply with the provisions of ss. 626.989 and 626.9891 as though
246 such organization or applicant were an authorized insurer. ~~For~~
247 ~~purposes of this section, the reference to the year 1996 in s.~~
248 ~~626.9891 means the year 2000 and the reference to the year 1995~~
249 ~~means the year 1999.~~

250 Section 4. Except as otherwise expressly provided in this

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251 | act and except for this section, which shall take effect upon
252 | this act becoming a law, this act shall take effect September 1,
253 | 2017.