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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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



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11 anti-fraud unit or division, or contractor authorized under  
12 subparagraph (2) (a) 2.

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

22 (2) (1) By December 31, 2017, every insurer admitted to do  
23 business in this state who in the previous calendar year, at any  
24 time during that year, had \$10 million or more in direct  
25 premiums written shall:

26 (a) 1. Establish and maintain a designated anti-fraud unit  
27 or division within the company to investigate and report  
28 possible fraudulent insurance acts ~~claims~~ by insureds or by  
29 persons making claims for services or repairs against policies  
30 held by insureds; or

31 2. (b) Contract with others to investigate and report  
32 possible fraudulent insurance acts by insureds or by persons  
33 making claims for services or repairs against policies held by  
34 insureds.

35 (b) Adopt an anti-fraud plan.

36 (c) Designate at least one employee with primary  
37 responsibility for implementing the requirements of this  
38 section.

39 (d) Electronically ~~An insurer subject to this subsection~~



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40 ~~shall~~ file with the Division of Investigative and Forensic  
41 Services of the department, and annually thereafter ~~on or before~~  
42 July 1, 1996, a detailed description of the designated anti-  
43 fraud unit or division ~~established pursuant to paragraph (a) or~~  
44 a copy of the contract executed under subparagraph (a)2., as  
45 applicable, a copy of the anti-fraud plan, and the name of the  
46 employee designated under paragraph (c) and related documents  
47 required by paragraph (b).

48  
49 An insurer must include the additional cost incurred in creating  
50 a distinct unit or division, hiring additional employees, or  
51 contracting with another entity to fulfill the requirements of  
52 this section, as an administrative expense for ratemaking  
53 purposes.

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

61 (3) Each ~~insurers~~ anti-fraud plan must ~~plans~~ shall include:

62 (a) An acknowledgement that the insurer has established  
63 procedures for detecting and investigating possible fraudulent  
64 insurance acts relating to the different types of insurance by  
65 that insurer ~~A description of the insurer's procedures for~~  
66 ~~detecting and investigating possible fraudulent insurance acts;~~

67 (b) An acknowledgment that the insurer has established ~~A~~  
68 ~~description of the insurer's procedures for the mandatory~~



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69 reporting of possible fraudulent insurance acts to the Division  
70 of Investigative and Forensic Services of the department;

71 (c) An acknowledgement that the insurer provides the A  
72 description of the insurer's plan for anti-fraud education and  
73 training required by this section to the anti-fraud  
74 investigative unit of its claims adjusters or other personnel;  
75 and

76 (d) A description of the required anti-fraud education and  
77 training;

78 (e) A written description or chart outlining the  
79 organizational arrangement of the insurer's anti-fraud  
80 investigative unit, including the position titles and  
81 descriptions of staffing; and personnel who are responsible for  
82 the investigation and reporting of possible fraudulent insurance  
83 acts

84 (f) The rationale for the level of staffing and resources  
85 being provided for the anti-fraud investigative unit which may  
86 include objective criteria, such as the number of policies  
87 written, the number of claims received on an annual basis, the  
88 volume of suspected fraudulent claims detected on an annual  
89 basis, an assessment of the optimal caseload that one  
90 investigator can handle on an annual basis, and other factors.

91 (4) By December 31, 2018, each insurer shall provide staff  
92 of the anti-fraud investigative unit at least 2 hours of initial  
93 anti-fraud training that is designed to assist in identifying  
94 and evaluating instances of suspected fraudulent insurance acts  
95 in underwriting or claims activities. Annually thereafter, an  
96 insurer shall provide such employees a 1-hour course that  
97 addresses detection, referral, investigation, and reporting of



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98 possible fraudulent insurance acts for the types of insurance  
99 lines written by the insurer.

100 (5) Each insurer is required to report data related to  
101 fraud for each line of insurance written by the insurer during  
102 the prior calendar year. The data shall be reported to the  
103 department by March 1, 2019, and annually thereafter, and must  
104 include, at a minimum:

105 (a) The number of policies in effect;

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

107 (c) The number of claims received;

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

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

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

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

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

119 (i) The number of cases referred to other law enforcement  
120 agencies;

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

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

125 (6) In addition to providing information required under  
126 subsections (2), (4), and (5), each insurer writing workers'



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127 compensation insurance shall also report the following  
128 information to the department, on or before March 1, 2019, and  
129 annually thereafter ~~August 1 of each year, on its experience in~~  
130 ~~implementing and maintaining an anti-fraud investigative unit or~~  
131 ~~an anti-fraud plan. The report must include, at a minimum:~~

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

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

138 (c) The number of cases referred to the Division of  
139 Investigative and Forensic Services, delineated by the type of  
140 fraud, including claimant, employer, provider, agent, or other  
141 type.

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

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

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

150 ~~(d) The rationale for the level of staffing and resources~~  
151 ~~being provided for the anti-fraud investigative unit, which may~~  
152 ~~include objective criteria such as number of policies written,~~  
153 ~~number of claims received on an annual basis, volume of~~  
154 ~~suspected fraudulent claims currently being detected, other~~  
155 ~~factors, and an assessment of optimal caseload that can be~~



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156 ~~handled by an investigator on an annual basis.~~

157 ~~(e) The inservice education and training provided to~~  
158 ~~underwriting and claims personnel to assist in identifying and~~  
159 ~~evaluating instances of suspected fraudulent activity in~~  
160 ~~underwriting or claims activities.~~

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

164 ~~(7)(4) An~~ Any insurer who obtains a certificate of  
165 authority has 6 ~~after July 1, 1995,~~ shall have ~~18~~ months in  
166 which to comply with subsection (2), and one calendar year  
167 thereafter, to comply with subsections (4), (5), and (6) ~~the~~  
168 ~~requirements of this section.~~

169 ~~(8)(7) If an insurer fails to timely submit a final~~  
170 ~~acceptable anti-fraud plan or anti-fraud investigative unit~~  
171 ~~description, fails to implement the provisions of a plan or an~~  
172 ~~anti-fraud investigative unit description,~~ or otherwise refuses  
173 to comply with the provisions of this section, the department,  
174 office, or commission may:

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

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

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

184 ~~(9)(8) The department may adopt rules to administer this~~



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185 section.

186 Section 2. Section 626.9896, Florida Statutes, is created  
187 to read:

188 626.9896 Insurance Fraud Dedicated Prosecutor Program.—

189 (1) LEGISLATIVE INTENT.—The Legislature recognizes the  
190 increasing problem of insurance fraud, the need to adequately  
191 investigate and prosecute insurance fraud, and the need to  
192 create a program dedicated to the prosecution of insurance  
193 fraud. The Legislature recognizes that the Division of  
194 Investigative and Forensic Services of the department can  
195 efficiently and effectively implement and monitor such a  
196 program, and can direct and reallocate resources as insurance  
197 fraud trends change and demand for prosecutorial resources shift  
198 between judicial circuits.

199 (2) ESTABLISHMENT OF THE INSURANCE FRAUD DEDICATED  
200 PROSECUTOR PROGRAM.—There is created within the department a  
201 grant program to fund the Insurance Fraud Dedicated Prosecutor  
202 Program. The purpose of the program is to provide grants to  
203 state attorneys' offices to fund attorney and paralegal  
204 positions that are dedicated exclusively to the prosecution of  
205 insurance fraud. The program shall consist only of funds  
206 appropriated by the state specifically for this program.

207 (3) GRANT APPLICATIONS.—Beginning in 2018, a state  
208 attorney's office seeking grant funds must submit an application  
209 to the Division of Investigative and Forensic Services detailing  
210 the proposed number of dedicated prosecutors and paralegals  
211 requested for the prosecution of insurance fraud. Applications  
212 must be received by July 1 of each even-numbered year and shall  
213 identify funding needs for 2 years. Grant awards are contingent





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214 upon legislative appropriation in the Insurance Regulatory Trust  
215 Fund and Workers' Compensation Administration Trust Fund and  
216 subject to renewal by the department. The division must compile  
217 and review the timely submitted applications to establish its  
218 legislative budget request for the program for the upcoming two  
219 years.

220 (4) AWARD OF GRANTS.—The division is authorized to award  
221 grants to state attorneys' offices using a formula adopted by  
222 rule of the department and based on metrics and data compiled by  
223 the division which allocate funds to the judicial circuits based  
224 on trends in insurance fraud and the performance and output  
225 measures reported as required by this section. A grant awarded  
226 to a state attorney's office may only be used to fund attorney  
227 and paralegal positions that are dedicated exclusively to the  
228 prosecution of insurance fraud. Grants are subject to the  
229 provisions of s. 215.971. The division shall establish the  
230 annual maximum grant amount, based on funds appropriated to the  
231 department for funding the Insurance Fraud Dedicated Prosecutor  
232 Program.

233 (5) REPORTING.—The division must track and report on the  
234 effectiveness and efficiency of each state attorney's office's  
235 use of the awarded grant funds. To help complete the report,  
236 each state attorney's office that is awarded a grant under this  
237 section must submit performance and output information as  
238 determined by the division. The report must be provided to the  
239 Executive Office of the Governor, the Speaker of the House of  
240 Representatives, and the President of the Senate by September 1,  
241 2020, and annually thereafter. The report must include, but is  
242 not limited to, the following:



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243 (a) The amount of grant funds received and expended by each  
244 state attorney's office;

245 (b) A description of the purposes for which the funds were  
246 expended, including payment of salaries, expenses, and any other  
247 costs needed to support the delivery of services;

248 (c) The results achieved from the expenditures made,  
249 including the number of complaints filed, the number of  
250 investigations initiated, the number of arrests made, the number  
251 of convictions, and the amount of restitution or fines paid as a  
252 result of the cases presented for prosecution.

253 (6) RULES.—The department may adopt rules pursuant to ss.  
254 120.536(1) and 120.54 for the administration and implementation  
255 of the Insurance Fraud Dedicated Prosecutor Program. Such rules  
256 may establish procedures for the Insurance Fraud Dedicated  
257 Prosecutor Program, including forms to be used by the state  
258 attorney's offices. The department may establish a formula for  
259 allocating grant funds, eligibility criteria, renewal  
260 requirements, and standards for evaluating the effectiveness and  
261 efficiency of expended funds.

262 Section 3. Section 641.3915, Florida Statutes, is amended  
263 to read:

264 641.3915 Health maintenance organization anti-fraud plans  
265 and investigative units.—Each authorized health maintenance  
266 organization and applicant for a certificate of authority shall  
267 comply with the provisions of ss. 626.989 and 626.9891 as though  
268 such organization or applicant were an authorized insurer. ~~For~~  
269 ~~purposes of this section, the reference to the year 1996 in s.~~  
270 ~~626.9891 means the year 2000 and the reference to the year 1995~~  
271 ~~means the year 1999.~~



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272 Section 4. This act shall take effect September 1, 2017.

273

274 ===== T I T L E A M E N D M E N T =====

275 And the title is amended as follows:

276 Delete everything before the enacting clause

277 and insert:

278 A bill to be entitled

279 An act relating to insurer anti-fraud efforts;

280 reordering and amending s. 626.9891, F.S.; defining

281 and revising definitions; requiring every insurer to

282 designate at least one primary anti-fraud employee for

283 certain purposes; requiring insurers to adopt an anti-

284 fraud plan; revising insurer requirements in providing

285 anti-fraud information to the Department of Financial

286 Services; requiring specified information to be filed

287 annually with the department; revising the information

288 to be provided by insurers who write workers'

289 compensation insurance; requiring each insurer to

290 provide annual anti-fraud education and training;

291 requiring insurers who submit an application for a

292 certificate of authority after a specified date to

293 comply with the section; providing penalties for

294 failure to comply with requirements of the section;

295 creating s. 626.9896, F.S.; providing legislative

296 intent; creating a grant program to fund the Insurance

297 Fraud Dedicated Prosecutor Program within the

298 department; requiring moneys that are appropriated for

299 the program be used to fund specific attorney and

300 paralegal positions; specifying procedures to be used



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301 by state attorneys' offices when applying for biennial  
302 grants; specifying that grants are for two years but  
303 authorizing the division to renew the grants;  
304 specifying procedures to be used by the department in  
305 awarding grant funds; requiring the Division of  
306 Investigative and Forensic Services to provide an  
307 annual report to the Executive Office of the Governor,  
308 the Speaker of the House of Representatives, and the  
309 Senate President; specifying information to be  
310 contained in the report; authorizing the department to  
311 adopt rules to administer and implement the insurance  
312 fraud dedicated prosecutor program; amending s.  
313 641.3915, F.S.; deleting obsolete provisions;  
314 providing an effective date.