

By the Committees on Appropriations; and Banking and Insurance;
and Senators Gruters and Bradley

576-03534-22

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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 for specified purposes by a specified
6 date; requiring the Department of Highway Safety and
7 Motor Vehicles to provide the Legislature with
8 recommendations for compliance verification with
9 certain financial responsibility requirements by a
10 specified date; amending s. 501.165, F.S.; requiring
11 sellers to allow consumers to cancel in a specified
12 manner and by specified means service contracts that
13 have automatic renewal provisions; amending s.
14 626.854, F.S.; revising maximum fines for public
15 adjusters and public adjuster apprentices for certain
16 violations under a specified circumstance; revising
17 maximum fines for certain violations by certain
18 persons under a specified circumstance; amending s.
19 633.126, F.S.; authorizing the Department of Financial
20 Services to impose an administrative fine on insurance
21 companies under certain circumstances; deleting
22 criminal penalties; authorizing the Division of
23 Investigative and Forensic Services to adopt certain
24 rules; amending s. 634.095, F.S.; revising
25 requirements for advertisements issued or caused to be
26 issued by service agreement companies or salespersons;
27 specifying that certain materials are not included in
28 the definition of the term "written advertisement";
29 amending s. 775.15, F.S.; revising felony violations

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30 for which prosecutions must be commenced within a
31 specified timeframe; amending s. 817.234, F.S.;
32 providing that certain insurers are entitled to
33 recover specified expenses at the trial and appellate
34 courts under certain circumstances; providing an
35 appropriation; providing effective dates.

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

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

41 324.252 Electronic insurance verification.-

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

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

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

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59 501.165 Automatic renewal of service contracts.—

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

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

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

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

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

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

87 1. As part of the seller's routine business practice, the

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88 seller has established and implemented written procedures to
89 comply with this section and enforces compliance with the
90 procedures;

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

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

98 (d) A seller who enters into or renews any service contract
99 with a consumer which includes an automatic renewal provision
100 must allow the consumer to cancel the service contract in the
101 same manner, and by the same means, as the consumer manifested
102 his or her acceptance of the service contract.

103 (e) This subsection does not apply to:

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

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

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

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

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

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

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

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117 billing services on its behalf.

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

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

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

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

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

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

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

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

144 (b) Notwithstanding the fine set forth in s. 626.8698, a
145 public adjuster or public adjuster apprentice may be subject to

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146 a fine not to exceed \$10,000 per act for a violation of this
147 subsection and a fine not to exceed \$20,000 per act for a
148 violation of this subsection that occurs during a state of
149 emergency declared by executive order or proclamation of the
150 Governor pursuant to s. 252.36.

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

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

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

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

166 633.126 Investigation of fraudulent insurance claims and
167 crimes; immunity of insurance companies supplying information.-

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

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

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

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

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

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

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

197 634.095 Prohibited acts.—Any service agreement company or
198 salesperson that engages in one or more of the following acts
199 is, in addition to any applicable denial, suspension,
200 revocation, or refusal to renew or continue any appointment or
201 license, guilty of a misdemeanor of the second degree,
202 punishable as provided in s. 775.082 or s. 775.083:

203 (3) Issuing or causing to be issued any advertisement

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204 which:

205 (a) Does not fully disclose in a written advertisement, in
206 at least 12-point, boldface ~~boldfaced~~ type, the name, address,
207 and Florida Company Code ~~license number~~ of the service agreement
208 company. As used in this paragraph, the term "written
209 advertisement" does not include material prepared for a specific
210 consumer and presented to that consumer at the point of sale of
211 the product to be covered by a warranty or service agreement.

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

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

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

225 775.15 Time limitations; general time limitations;
226 exceptions.-

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

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

232 817.234 False and fraudulent insurance claims.-

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

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

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

253 Section 9. For the 2022-2023 fiscal year, the nonrecurring
254 sum of \$1,413,270 from the Highway Safety Operating Trust Fund
255 is appropriated to the Information Systems Administration budget
256 entity in the Department of Highway Safety and Motor Vehicles to
257 implement the electronic insurance verification provisions
258 required under s. 324.252, Florida Statutes.

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