

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 a transfer of funds; providing an
 39 appropriation; providing effective dates.

40

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

42

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

45 324.252 Electronic insurance verification.-

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

51 lapse in his or her insurance coverage needed for compliance
 52 with the financial responsibility requirements of this chapter,
 53 and allow the driver to update his or her policy information via
 54 the system.

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

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

63 501.165 Automatic renewal of service contracts.—

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

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

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

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

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

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

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

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

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

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

101 the seller is notified of the error.

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

106 (e) This subsection does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

151 violation of this subsection that occurs during a state of
152 emergency declared by executive order or proclamation of the
153 Governor pursuant to s. 252.36.

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

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

160 2. Notwithstanding subparagraph 1., subject to a fine not
161 to exceed \$10,000 per act for a violation of this subsection and
162 a fine not to exceed \$20,000 per act for a violation of this
163 subsection that occurs during a state of emergency declared by
164 executive order or proclamation of the Governor pursuant to s.
165 252.36.

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

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

175 (6) Any person, other than an insurer, agent, or other

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

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

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

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

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

225 (b) They must identify specific factors that determine the

226 | grades of penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

275 (b) Does not fully disclose in a radio or television

276 advertisement the full legal name of the licensed salesperson or
 277 the service agreement company.

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

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

288 775.15 Time limitations; general time limitations;
 289 exceptions.—

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

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

295 817.234 False and fraudulent insurance claims.—

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

301 trial and appellate courts.

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

309 Section 9. The nonrecurring sum of \$1,413,270 for Fiscal
310 Year 2022-2023 shall be transferred by nonoperating budget
311 authority from the Insurance Regulatory Trust Fund of the
312 Department of Financial Services to the Highway Safety Operating
313 Trust Fund of the Department of Highway Safety and Motor
314 Vehicles to implement the electronic insurance verification
315 provisions of s. 324.252, Florida Statutes.

316 Section 10. For the 2022-2023 fiscal year, the
317 nonrecurring sum of \$1,413,270 from the Highway Safety Operating
318 Trust Fund is appropriated to the Information Systems
319 Administration budget entity in the Department of Highway Safety
320 and Motor Vehicles to implement the electronic insurance
321 verification provisions required under s. 324.252, Florida
322 Statutes.

323 Section 11. Except as otherwise expressly provided in this
324 act, this act shall take effect upon becoming a law.