

## CHAPTER 2022-169

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 749

An act relating to fraud prevention; creating s. 324.252, F.S.; requiring that the electronic credentialing system display certain vehicle information, provide certain notification for a specified purpose, and allow drivers to update certain information by a specified date; requiring the Department of Highway Safety and Motor Vehicles to provide the Legislature with recommendations for compliance verification with certain financial responsibility requirements by a specified date; amending s. 501.165, F.S.; requiring certain sellers to allow consumers to cancel in a specified manner and by a specified means service contracts that include automatic renewal provisions; amending s. 626.854, F.S.; revising maximum fines for public adjusters and public adjuster apprentices for certain violations under a specified circumstance; revising maximum fines for certain violations by certain persons under a specified circumstance; amending s. 633.126, F.S.; authorizing the department to impose an administrative fine on insurance companies under certain circumstances; deleting criminal penalties; authorizing the division to adopt certain rules; amending s. 634.095, F.S.; revising requirements for advertisements issued or caused to be issued by service agreement companies or salespersons; amending s. 775.15, F.S.; revising felony violations for which prosecutions must be commenced within a specified timeframe; amending s. 817.234, F.S.; providing that certain insurers are entitled to recover specified expenses at the trial and appellate courts under certain circumstances; providing a transfer of funds; providing an appropriation; providing effective dates.

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

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

324.252 Electronic insurance verification.—

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

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

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

501.165 Automatic renewal of service contracts.—

(2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—

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

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

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

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

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

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

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

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

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

(e) This subsection does not apply to:

1. A financial institution as defined in s. 655.005 or any depository institution as defined in 12 U.S.C. s. 1813(c)(2).
2. A foreign bank maintaining a branch or agency licensed under the laws of any state of the United States.
3. Any subsidiary or affiliate of an entity described in subparagraph 1. or subparagraph 2.
4. A health studio as defined in s. 501.0125.
5. Any entity licensed under chapter 624, chapter 627, chapter 634, chapter 636, or chapter 641.
6. Any electric utility as defined in s. 366.02.
7. Any private company as defined in s. 180.05 providing services described in chapter 180 which is competing against a governmental entity or has a governmental entity providing billing services on its behalf.

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

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

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

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

1. Offering to a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for:
  - a. Allowing a contractor, a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice to conduct an inspection of the residential property owner’s roof; or
  - b. Making an insurance claim for damage to the residential property owner’s roof.
2. Offering, delivering, receiving, or accepting any compensation, inducement, or reward for the referral of any services for which property insurance proceeds would be used for roofing repairs or replacement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

775.15 Time limitations; general time limitations; exceptions.—

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

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

817.234 False and fraudulent insurance claims.—

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

(b) If an insurer damaged as a result of a violation of any provision of this section has reported the possible fraudulent insurance act to the Division of Investigative and Forensic Services pursuant to s. 626.9891 and if there has

been a criminal adjudication of guilt, the insurer is entitled to recover reasonable investigation and litigation expenses, including attorney fees, at the trial and appellate courts.

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

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

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

Approved by the Governor June 3, 2022.

Filed in Office Secretary of State June 3, 2022.