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1
2 An act relating to prohibited insurance acts;
3 reordering and amending s. 626.9891, F.S.; defining
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 the
17 failure to comply with requirements of the section;
18 requiring the Division of Investigative and Forensic
19 Services of the department to create, by a specified
20 date, a report detailing best practices for the
21 detection, investigation, prevention, and reporting of
22 insurance fraud and other fraudulent insurance acts;
23 requiring such report to be updated at certain
24 intervals; specifying required information in the
25 report; requiring the department to adopt rules

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26 relating to insurers' annual reporting of certain
27 data; creating s. 626.9896, F.S.; requiring the
28 department to collect specified data from certain
29 state attorney offices; requiring such state attorneys
30 to submit such data at specified intervals; requiring
31 the Division of Investigative and Forensic Services to
32 provide an annual report to the Executive Office of
33 the Governor, the Speaker of the House of
34 Representatives, and the President of the Senate;
35 amending s. 641.221, F.S.; requiring a health
36 maintenance organization authorized to exclusively
37 market, sell, or offer to sell Medicare Advantage
38 plans in this state to meet certain criteria to
39 maintain eligibility for a certificate of authority;
40 authorizing the Office of Insurance Regulation to
41 extend the period of eligibility; amending s.
42 641.3915, F.S.; deleting an obsolete provision;
43 amending s. 626.9911, F.S.; defining the terms
44 "fraudulent viatical settlement act" and "stranger-
45 originated life insurance practice" for purposes of
46 provisions relating to the Viatical Settlement Act;
47 amending ss. 626.9924 and 626.99245, F.S.; conforming
48 cross-references; amending s. 626.99275, F.S.;
49 providing additional prohibited acts related to
50 viatical settlement contracts; amending s. 626.99287,

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51 F.S.; providing that a viatical settlement contract is
52 void and unenforceable by either party if the viatical
53 settlement policy is subject, within a specified
54 timeframe, to a loan secured by an interest in the
55 policy; revising conditions and requirements in which
56 viatical settlement contracts entered into within
57 specified timeframes are valid and enforceable;
58 deleting provisions related to the transfer of
59 insurance policies or certificates to viatical
60 settlement providers; creating s. 626.99289, F.S.;
61 providing that certain contracts, agreements,
62 arrangements, or transactions relating to stranger-
63 originated life insurance practices are void and
64 unenforceable; creating s. 626.99291, F.S.;
65 authorizing a life insurer to contest policies
66 obtained through such practices; creating s.
67 626.99292, F.S.; requiring life insurers to provide a
68 specified statement to individual life insurance
69 policyholders; authorizing such statements to
70 accompany or be included in notices or mailings
71 provided to the policyholders; requiring such
72 statements to include contact information of the
73 department; amending s. 627.744, F.S.; deleting a
74 provision that provides construction; authorizing
75 insurers to opt out of the preinsurance inspection

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76 requirements for private passenger motor vehicles;
 77 requiring insurers opting out to file a certain manual
 78 rule with the Office of Insurance Regulation;
 79 authorizing such insurers to establish their own
 80 preinsurance inspection requirements, which must be
 81 included in the filed manual rule; prohibiting such
 82 insurers from requiring applicants to pay for the cost
 83 of inspections; deleting an obsolete provision;
 84 amending s. 641.3915, F.S.; deleting obsolete
 85 provisions; providing effective dates.

86
 87 Be It Enacted by the Legislature of the State of Florida:

88
 89 Section 1. Effective September 1, 2017, section 626.9891,
 90 Florida Statutes, is reordered and amended to read:

91 626.9891 Insurer anti-fraud investigative units; reporting
 92 requirements; penalties for noncompliance.—

93 (1)(5) ~~As used in For purposes of~~ this section, the term:

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

97 (b) "Designated anti-fraud unit or division" includes a
 98 distinct unit or division or a unit or division made up of the
 99 ~~assignment of fraud investigation to~~ employees whose principal
 100 responsibilities are the investigation and disposition of claims

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101 who are also assigned investigation of fraud. ~~If an insurer~~
 102 ~~creates a distinct unit or division, hires additional employees,~~
 103 ~~or contracts with another entity to fulfill the requirements of~~
 104 ~~this section, the additional cost incurred must be included as~~
 105 ~~an administrative expense for ratemaking purposes.~~

106 (2)(1) By December 31, 2017, every insurer admitted to do
 107 business in this state ~~who in the previous calendar year, at any~~
 108 ~~time during that year, had \$10 million or more in direct~~
 109 ~~premiums written~~ shall:

110 (a)1. Establish and maintain a designated anti-fraud unit
 111 or division within the company to investigate and report
 112 possible fraudulent insurance acts ~~claims~~ by insureds or by
 113 persons making claims for services or repairs against policies
 114 held by insureds; or

115 2.(b) Contract with others to investigate and report
 116 possible fraudulent insurance acts by insureds or by persons
 117 making claims for services or repairs against policies held by
 118 insureds.

119 (b) Adopt an anti-fraud plan.

120 (c) Designate at least one employee with primary
 121 responsibility for implementing the requirements of this
 122 section.

123 (d) Electronically ~~An insurer subject to this subsection~~
 124 ~~shall~~ file with the Division of Investigative and Forensic
 125 Services of the department, and annually thereafter ~~on or before~~

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126 ~~July 1, 1996,~~ a detailed description of the designated anti-
 127 fraud unit or division ~~established pursuant to paragraph (a) or~~
 128 a copy of the contract executed under subparagraph (a)2., as
 129 applicable, a copy of the anti-fraud plan, and the name of the
 130 employee designated under paragraph (c) and related documents
 131 ~~required by paragraph (b).~~

132
 133 An insurer must include the additional cost incurred in creating
 134 a distinct unit or division, hiring additional employees, or
 135 contracting with another entity to fulfill the requirements of
 136 this section, as an administrative expense for ratemaking
 137 purposes.

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

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

147 (a) An acknowledgement that the insurer has established
 148 procedures for detecting and investigating possible fraudulent
 149 insurance acts relating to the different types of insurance by
 150 that insurer ~~A description of the insurer's procedures for~~

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151 ~~detecting and investigating possible fraudulent insurance acts;~~
152 (b) An acknowledgment that the insurer has established A
153 ~~description of the insurer's~~ procedures for the mandatory
154 reporting of possible fraudulent insurance acts to the Division
155 of Investigative and Forensic Services of the department;
156 (c) An acknowledgement that the insurer provides the A
157 ~~description of the insurer's plan for~~ anti-fraud education and
158 training required by this section to the anti-fraud
159 investigative unit of its claims adjusters or other personnel;
160 and
161 (d) A description of the required anti-fraud education and
162 training;
163 (e) A ~~written~~ description or chart ~~outlining the~~
164 ~~organizational arrangement~~ of the insurer's anti-fraud
165 investigative unit, including the position titles and
166 descriptions of staffing; and ~~personnel who are responsible for~~
167 ~~the investigation and reporting of possible fraudulent insurance~~
168 ~~acts~~
169 (f) The rationale for the level of staffing and resources
170 being provided for the anti-fraud investigative unit which may
171 include objective criteria, such as the number of policies
172 written, the number of claims received on an annual basis, the
173 volume of suspected fraudulent claims detected on an annual
174 basis, an assessment of the optimal caseload that one
175 investigator can handle on an annual basis, and other factors.

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176 (4) By December 31, 2018, each insurer shall provide staff
177 of the anti-fraud investigative unit at least 2 hours of initial
178 anti-fraud training that is designed to assist in identifying
179 and evaluating instances of suspected fraudulent insurance acts
180 in underwriting or claims activities. Annually thereafter, an
181 insurer shall provide such employees a 1-hour course that
182 addresses detection, referral, investigation, and reporting of
183 possible fraudulent insurance acts for the types of insurance
184 lines written by the insurer.

185 (5) Each insurer is required to report data related to
186 fraud for each identified line of business written by the
187 insurer during the prior calendar year. The data shall be
188 reported to the department by March 1, 2019, and annually
189 thereafter, and must include, at a minimum:

190 (a) The number of policies in effect;

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

192 (c) The number of claims received;

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

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

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

200 (g) The number of other insurance fraud matters

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201 investigated or accepted by the anti-fraud investigative unit
 202 that were not claim related;

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

205 (i) The number of cases referred to other law enforcement
 206 agencies;

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

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

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

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

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

224 (c) The number of cases referred to the Division of
 225 Investigative and Forensic Services, delineated by the type of

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226 fraud, including claimant, employer, provider, agent, or other
 227 type.

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

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

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

236 ~~(d) The rationale for the level of staffing and resources~~
 237 ~~being provided for the anti-fraud investigative unit, which may~~
 238 ~~include objective criteria such as number of policies written,~~
 239 ~~number of claims received on an annual basis, volume of~~
 240 ~~suspected fraudulent claims currently being detected, other~~
 241 ~~factors, and an assessment of optimal caseload that can be~~
 242 ~~handled by an investigator on an annual basis.~~

243 ~~(e) The inservice education and training provided to~~
 244 ~~underwriting and claims personnel to assist in identifying and~~
 245 ~~evaluating instances of suspected fraudulent activity in~~
 246 ~~underwriting or claims activities.~~

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

250 (7)(4) An Any insurer who obtains a certificate of

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251 authority has 6 ~~after July 1, 1995,~~ shall have 18 months in
252 which to comply with subsection (2), and one calendar year
253 thereafter, to comply with subsections (4), (5), and (6) the
254 ~~requirements of this section.~~

255 ~~(8)(7)~~ If an insurer fails to ~~timely submit a final~~
256 ~~acceptable anti-fraud plan or anti-fraud investigative unit~~
257 ~~description, fails to implement the provisions of a plan or an~~
258 ~~anti-fraud investigative unit description,~~ or otherwise refuses
259 to comply with the provisions of this section, the department,
260 office, or commission may:

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

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

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

270 (9) On or before December 31, 2018, the Division of
271 Investigative and Forensic Services shall create a report
272 detailing best practices for the detection, investigation,
273 prevention, and reporting of insurance fraud and other
274 fraudulent insurance acts. The report must be updated as
275 necessary but at least every 2 years. The report must provide:

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276 (a) Information on the best practices for the
 277 establishment of anti-fraud investigative units within insurers;

278 (b) Information on the best practices and methods for
 279 detecting and investigating insurance fraud and other fraudulent
 280 insurance acts;

281 (c) Information on appropriate anti-fraud education and
 282 training of insurer personnel;

283 (d) Information on the best practices for reporting
 284 insurance fraud and other fraudulent insurance acts to the
 285 Division of Investigative and Forensic Services and to other law
 286 enforcement agencies;

287 (e) Information regarding the appropriate level of
 288 staffing and resources for anti-fraud investigative units within
 289 insurers;

290 (f) Information detailing statistics and data relating to
 291 insurance fraud which insurers should maintain; and

292 (g) Other information as determined by the Division of
 293 Investigative and Forensic Services.

294 (10)-(8) The department may adopt rules to administer this
 295 section, except that it shall adopt rules to administer
 296 subsection (5).

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

299 626.9896 Dedicated insurance fraud prosecutors.-

300 (1) The department shall collect data from each state

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301 attorney office that receives an appropriation to fund attorneys
302 and paralegals dedicated solely to the prosecution of insurance
303 fraud cases and report on the use of such funds. The data must
304 be submitted by the state attorneys to the Division of
305 Investigative and Forensic Services on the last day of each
306 calendar quarter beginning September 30, 2017, and quarterly
307 thereafter. Data must be submitted for each attorney funded by
308 the appropriation and grouped by case type, including Division
309 of Investigative and Forensic Services insurance fraud cases,
310 other insurance fraud cases, and cases not involving insurance
311 fraud. For each type of case, the data must include the number
312 of cases in which an information has been filed; the number of
313 cases pending at pretrial or intake, the number of cases in
314 which the attorney is assisting in the investigation; the number
315 of cases closed or disposed of during the prior quarter; the
316 disposition of the cases closed during the prior quarter; and
317 the number of cases currently pending in a pretrial diversion
318 program.

319 (2) The Division of Investigative and Forensic Services
320 must report the data collected pursuant to subsection (1) for
321 the year ending June 30, to the Executive Office of the
322 Governor, the Speaker of the House of Representatives, and the
323 President of the Senate by September 1, 2018, and annually
324 thereafter.

325 Section 3. Section 641.221, Florida Statutes, is amended

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326 to read:

327 641.221 Continued eligibility for certificate of
328 authority.—

329 (1) In order to maintain its eligibility for a certificate
330 of authority, a health maintenance organization shall continue
331 to meet all conditions required to be met under this part and
332 the rules promulgated thereunder for the initial application for
333 and issuance of its certificate of authority under s. 641.22.

334 (2) In order to maintain eligibility for a certificate of
335 authority, a health maintenance organization authorized under
336 the Florida Insurance Code to exclusively market, sell, or offer
337 to sell Medicare Advantage plans in this state shall be actively
338 engaged in managed care within 24 months after licensure, shall
339 designate and maintain at least one primary anti-fraud employee,
340 and shall adopt an anti-fraud plan. The Office of Insurance
341 Regulation may extend the period of eligibility upon written
342 request.

343 Section 4. Section 641.3915, Florida Statutes, is amended
344 to read:

345 641.3915 Health maintenance organization anti-fraud plans
346 and investigative units.—Each authorized health maintenance
347 organization and applicant for a certificate of authority shall
348 comply with the provisions of ss. 626.989 and 626.9891 as though
349 such organization or applicant were an authorized insurer. ~~For~~
350 ~~purposes of this section, the reference to the year 1996 in s.~~

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351 ~~626.9891 means the year 2000 and the reference to the year 1995~~
 352 ~~means the year 1999.~~

353 Section 5. Present subsections (2) through (7) of section
 354 626.9911, Florida Statutes, are renumbered as subsections (3)
 355 through (8), respectively, present subsections (8) through (14)
 356 of that section are renumbered as subsections (10) through (16),
 357 respectively, and new subsections (2) and (9) are added to that
 358 section, to read:

359 626.9911 Definitions.—As used in this act, the term:

360 (2) "Fraudulent viatical settlement act" means an act or
 361 omission committed by a person who knowingly, or with intent to
 362 defraud for the purpose of depriving another of property or for
 363 pecuniary gain, commits or allows an employee or agent to commit
 364 any of the following acts:

365 (a) Presenting, causing to be presented, or preparing with
 366 the knowledge or belief that it will be presented to or by
 367 another person, false or concealed material information as part
 368 of, in support of, or concerning a fact material to:

369 1. An application for the issuance of a viatical
 370 settlement contract or a life insurance policy;

371 2. The underwriting of a viatical settlement contract or a
 372 life insurance policy;

373 3. A claim for payment or benefit pursuant to a viatical
 374 settlement contract or a life insurance policy;

375 4. Premiums paid on a life insurance policy;

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376 5. Payments and changes in ownership or beneficiary made
 377 in accordance with the terms of a viatical settlement contract
 378 or a life insurance policy;

379 6. The reinstatement or conversion of a life insurance
 380 policy;

381 7. The solicitation, offer, effectuation, or sale of a
 382 viatical settlement contract or a life insurance policy;

383 8. The issuance of written evidence of a viatical
 384 settlement contract or a life insurance policy; or

385 9. A financing transaction for a viatical settlement
 386 contract or life insurance policy.

387 (b) Employing a plan, financial structure, device, scheme,
 388 or artifice relating to viaticated policies for the purpose of
 389 perpetrating fraud.

390 (c) Engaging in a stranger-originated life insurance
 391 practice.

392 (d) Failing to disclose, upon request by an insurer, that
 393 the prospective insured has undergone a life expectancy
 394 evaluation by a person other than the insurer or its authorized
 395 representatives in connection with the issuance of the life
 396 insurance policy.

397 (e) Perpetuating a fraud or preventing the detection of a
 398 fraud by:

399 1. Removing, concealing, altering, destroying, or
 400 sequestering from the office the assets or records of a licensee

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401 or other person engaged in the business of viatical settlements;
402 2. Misrepresenting or concealing the financial condition
403 of a licensee, financing entity, insurer, or other person;
404 3. Transacting in the business of viatical settlements in
405 violation of laws requiring a license, certificate of authority,
406 or other legal authority to transact such business; or
407 4. Filing with the office or the equivalent chief
408 insurance regulatory official of another jurisdiction a document
409 that contains false information or conceals information about a
410 material fact from the office or other regulatory official.
411 (f) Embezzlement, theft, misappropriation, or conversion
412 of moneys, funds, premiums, credits, or other property of a
413 viatical settlement provider, insurer, insured, viator,
414 insurance policyowner, or other person engaged in the business
415 of viatical settlements or life insurance.
416 (g) Entering into, negotiating, brokering, or otherwise
417 dealing in a viatical settlement contract, the subject of which
418 is a life insurance policy that was obtained based on
419 information that was falsified or concealed for the purpose of
420 defrauding the policy's issuer, viatical settlement provider, or
421 viator.
422 (h) Facilitating the viator's change of residency state to
423 avoid the provisions of this act.
424 (i) Facilitating or causing the creation of a trust with a
425 non-Florida or other nonresident entity for the purpose of

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426 | owning a life insurance policy covering a Florida resident to
 427 | avoid the provisions of this act.

428 | (j) Facilitating or causing the transfer of the ownership
 429 | of an insurance policy covering a Florida resident to a trust
 430 | with a situs outside this state or to another nonresident entity
 431 | to avoid the provisions of this act.

432 | (k) Applying for or obtaining a loan that is secured
 433 | directly or indirectly by an interest in a life insurance policy
 434 | with intent to defraud, for the purpose of depriving another of
 435 | property or for pecuniary gain.

436 | (l) Attempting to commit, assisting, aiding, or abetting
 437 | in the commission of, or conspiring to commit, an act or
 438 | omission specified in this subsection.

439 | (9) "Stranger-originated life insurance practice" means an
 440 | act, practice, arrangement, or agreement to initiate a life
 441 | insurance policy for the benefit of a third-party investor who,
 442 | at the time of policy origination, has no insurable interest in
 443 | the insured. Stranger-originated life insurance practices
 444 | include, but are not limited to:

445 | (a) The purchase of a life insurance policy with resources
 446 | or guarantees from or through a person who, at the time of such
 447 | policy's inception, could not lawfully initiate the policy and
 448 | the execution of a verbal or written arrangement or agreement to
 449 | directly or indirectly transfer the ownership of such policy or
 450 | policy benefits to a third party.

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451 (b) The creation of a trust or other entity that has the
 452 appearance of an insurable interest in order to initiate
 453 policies for investors, in violation of insurable interest laws
 454 and the prohibition against wagering on life.

455 Section 6. Subsection (7) of section 626.9924, Florida
 456 Statutes, is amended to read:

457 626.9924 Viatical settlement contracts; procedures;
 458 rescission.-

459 (7) At any time during the contestable period, within 20
 460 days after a viator executes documents necessary to transfer
 461 rights under an insurance policy or within 20 days of any
 462 agreement, option, promise, or any other form of understanding,
 463 express or implied, to viaticate the policy, the provider must
 464 give notice to the insurer of the policy that the policy has or
 465 will become a viaticated policy. The notice must be accompanied
 466 by the documents required by s. 626.99287 ~~626.99287(5)(a)~~ ~~in~~
 467 ~~their entirety.~~

468 Section 7. Subsection (2) of section 626.99245, Florida
 469 Statutes, is amended to read:

470 626.99245 Conflict of regulation of viaticals.-

471 (2) This section does not affect the requirement of ss.
 472 626.9911(14) ~~626.9911(12)~~ and 626.9912(1) that a viatical
 473 settlement provider doing business from this state must obtain a
 474 viatical settlement license from the office. As used in this
 475 subsection, the term "doing business from this state" includes

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476 effectuating viatical settlement contracts from offices in this
 477 state, regardless of the state of residence of the viator.

478 Section 8. Subsection (1) of section 626.99275, Florida
 479 Statutes, is amended to read:

480 626.99275 Prohibited practices; penalties.—

481 (1) It is unlawful for a ~~any~~ person to:

482 (a) ~~To~~ Knowingly enter into, broker, or otherwise deal in
 483 a viatical settlement contract the subject of which is a life
 484 insurance policy, knowing that the policy was obtained by
 485 presenting materially false information concerning any fact
 486 material to the policy or by concealing, for the purpose of
 487 misleading another, information concerning any fact material to
 488 the policy, where the viator or the viator's agent intended to
 489 defraud the policy's issuer.

490 (b) ~~To~~ Knowingly or with the intent to defraud, for the
 491 purpose of depriving another of property or for pecuniary gain,
 492 issue or use a pattern of false, misleading, or deceptive life
 493 expectancies.

494 (c) ~~To~~ Knowingly engage in any transaction, practice, or
 495 course of business intending thereby to avoid the notice
 496 requirements of s. 626.9924(7).

497 (d) ~~To~~ Knowingly or intentionally facilitate the change of
 498 state of residency of a viator to avoid the provisions of this
 499 chapter.

500 (e) Knowingly enter into a viatical settlement contract

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501 before the application for or issuance of a life insurance
 502 policy that is the subject of a viatical settlement contract or
 503 during an applicable period specified in s. 626.99287(1) or (2),
 504 unless the viator provides a sworn affidavit and accompanying
 505 independent evidentiary documentation in accordance with s.
 506 626.99287.

507 (f) Engage in a fraudulent viatical settlement act, as
 508 defined in s. 626.9911.

509 (g) Knowingly issue, solicit, market, or otherwise promote
 510 the purchase of a life insurance policy for the purpose of or
 511 with an emphasis on selling the policy to a third party.

512 (h) Engage in a stranger-originated life insurance
 513 practice, as defined in s. 626.9911.

514 Section 9. Section 626.99287, Florida Statutes, is amended
 515 to read:

516 626.99287 Contestability of viaticated policies.—

517 (1) Except as hereinafter provided, if a viatical
 518 settlement contract is entered into within the 2-year period
 519 commencing with the date of issuance of the insurance policy or
 520 certificate to be acquired, the viatical settlement contract is
 521 void and unenforceable by either party.

522 (2) Except as hereinafter provided, if a viatical
 523 settlement policy is subject to a loan secured directly or
 524 indirectly by an interest in the policy within a 5-year period
 525 commencing on the date of issuance of the policy or certificate,

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526 the viatical settlement contract is void and unenforceable by
 527 either party.

528 (3) Notwithstanding the limitations in subsections (1) and
 529 (2) ~~this limitation~~, such a viatical settlement contract is not
 530 void and unenforceable if the viator provides a sworn affidavit
 531 and accompanying independent evidentiary documentation
 532 certifying to the viatical settlement provider that one or more
 533 of the following conditions were met during the periods
 534 applicable to the viaticated policy as stated in subsections (1)
 535 or (2):

536 (a) ~~(1)~~ The policy was issued upon the owner's exercise of
 537 conversion rights arising out of a group or term policy, if the
 538 total time covered under the prior policy is at least 60 months.
 539 The time covered under a group policy must be calculated without
 540 regard to any change in insurance carriers, provided the
 541 coverage has been continuous and under the same group
 542 sponsorship.

543 (b) ~~(2)~~ The owner of the policy is a charitable
 544 organization exempt from taxation under 26 U.S.C. s. 501(c) (3).

545 ~~(3) The owner of the policy is not a natural person;~~

546 ~~(4) The viatical settlement contract was entered into~~
 547 ~~before July 1, 2000;~~

548 (c) ~~(5)~~ The viator certifies by producing independent
 549 evidence to the viatical settlement provider that one or more of
 550 the following conditions were have been met ~~within the 2-year~~

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551 ~~period:~~

552 ~~(a)~~1. The viator or insured is terminally or chronically

553 ill ~~diagnosed with an illness or condition that is either:~~

554 ~~a. Catastrophic or life threatening; or~~

555 ~~b. Requires a course of treatment for a period of at least~~

556 ~~3 years of long-term care or home health care; and~~

557 ~~2.~~ the condition was not known to the insured at the time

558 the life insurance contract was entered into;;

559 2.(b) The viator's spouse dies;

560 3.(e) The viator divorces his or her spouse;

561 4.(d) The viator retires from full-time employment;

562 5.(e) The viator becomes physically or mentally disabled

563 and a physician determines that the disability prevents the

564 viator from maintaining full-time employment;

565 6.(f) The owner of the policy was the insured's employer

566 at the time the policy or certificate was issued and the

567 employment relationship terminated;

568 7.(g) A final order, judgment, or decree is entered by a

569 court of competent jurisdiction, on the application of a

570 creditor of the viator, adjudicating the viator bankrupt or

571 insolvent, or approving a petition seeking reorganization of the

572 viator or appointing a receiver, trustee, or liquidator to all

573 or a substantial part of the viator's assets; or

574 8.(h) The viator experiences a significant decrease in

575 income which is unexpected by the viator and which impairs his

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576 or her reasonable ability to pay the policy premium.

577 (d) The viator entered into a viatical settlement contract
578 more than 2 years after the policy's issuance date and, with
579 respect to the policy, at all times before the date that is 2
580 years after policy issuance, each of the following conditions is
581 met:

582 1. Policy premiums have been funded exclusively with
583 unencumbered assets, including an interest in the life insurance
584 policy being financed only to the extent of its net cash
585 surrender value, provided by, or fully recourse liability
586 incurred by, the insured;

587 2. There is no agreement or understanding with any other
588 person to guarantee any such liability or to purchase, or stand
589 ready to purchase, the policy, including through an assumption
590 or forgiveness of the loan; and

591 3. Neither the insured or the policy has been evaluated
592 for settlement.

593

594 ~~If the viatical settlement provider submits to the insurer a~~
595 ~~copy of the viator's or owner's certification described above,~~
596 ~~then the provider submits a request to the insurer to effect the~~
597 ~~transfer of the policy or certificate to the viatical settlement~~
598 ~~provider, the viatical settlement agreement shall not be void or~~
599 ~~unenforceable by operation of this section. The insurer shall~~
600 ~~timely respond to such request. Nothing in this section shall~~

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601 ~~prohibit an insurer from exercising its right during the~~
 602 ~~contestability period to contest the validity of any policy on~~
 603 ~~grounds of fraud.~~

604 Section 10. Section 626.99289, Florida Statutes, is
 605 created to read:

606 626.99289 Void and unenforceable contracts, agreements,
 607 arrangements, and transactions.—Notwithstanding s. 627.455, a
 608 contract, agreement, arrangement, or transaction, including, but
 609 not limited to, a financing agreement or any other arrangement
 610 or understanding entered into, whether written or verbal, for
 611 the furtherance or aid of a stranger-originated life insurance
 612 practice is void and unenforceable.

613 Section 11. Section 626.99291, Florida Statutes, is
 614 created to read:

615 626.99291 Contestability of life insurance policies.—
 616 Notwithstanding s. 627.455, a life insurer may contest a life
 617 insurance policy if the policy was obtained by a stranger-
 618 originated life insurance practice, as defined in s. 626.9911.

619 Section 12. Section 626.99292, Florida Statutes, is
 620 created to read:

621 626.99292 Notice to insureds.—

622 (1) A life insurer shall provide an individual life
 623 insurance policyholder with a statement informing him or her
 624 that if he or she is considering making changes in the status of
 625 his or her policy, he or she should consult with a licensed

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626 insurance or financial advisor. The statement may accompany or
 627 be included in notices or mailings otherwise provided to the
 628 policyholder.

629 (2) The statement must also advise the policyholder that
 630 he or she may contact the department for more information and
 631 include a website address or other location or manner by which
 632 the policyholder may contact the department.

633 Section 13. Effective January 1, 2019, section 627.744,
 634 Florida Statutes, is amended to read:

635 627.744 ~~Required~~ Preinsurance inspection of private
 636 passenger motor vehicles.—

637 (1) A private passenger motor vehicle insurance policy
 638 providing physical damage coverage, including collision or
 639 comprehensive coverage, may not be issued in this state unless
 640 the insurer has inspected the motor vehicle in accordance with
 641 this section.

642 (2) This section does not apply:

643 (a) To a policy for a policyholder who has been insured
 644 for 2 years or longer, without interruption, under a private
 645 passenger motor vehicle policy that provides physical damage
 646 coverage for any vehicle if the agent of the insurer verifies
 647 the previous coverage.

648 (b) To a new, unused motor vehicle purchased or leased
 649 from a licensed motor vehicle dealer or leasing company. The
 650 insurer may require:

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651 1. A bill of sale, buyer's order, or lease agreement that
652 contains a full description of the motor vehicle; or

653 2. A copy of the title or registration that establishes
654 transfer of ownership from the dealer or leasing company to the
655 customer and a copy of the window sticker.

656
657 For the purposes of this paragraph, the physical damage coverage
658 on the motor vehicle may not be suspended during the term of the
659 policy due to the applicant's failure to provide or the
660 insurer's option not to require the documents. However, if the
661 insurer requires a document under this paragraph at the time the
662 policy is issued, payment of a claim may be conditioned upon the
663 receipt by the insurer of the required documents, and no
664 physical damage loss occurring after the effective date of the
665 coverage may be payable until the documents are provided to the
666 insurer.

667 (c) To a temporary substitute motor vehicle.

668 (d) To a motor vehicle which is leased for less than 6
669 months, if the insurer receives the lease or rental agreement
670 containing a description of the leased motor vehicle, including
671 its condition. Payment of a physical damage claim is conditioned
672 upon receipt of the lease or rental agreement.

673 (e) To a vehicle that is 10 years old or older, as
674 determined by reference to the model year.

675 (f) To any renewal policy.

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676 (g) To a motor vehicle policy issued in a county with a
677 1988 estimated population of less than 500,000.

678 (h) To any other vehicle or policy exempted by rule of the
679 commission. The commission may base a rule under this paragraph
680 only on a determination that the likelihood of a fraudulent
681 physical damage claim is remote or that the inspection would
682 cause a serious hardship to the insurer or the applicant.

683 (i) When the insurer's authorized inspection service has
684 no inspection facility either in the municipality in which the
685 automobile is principally garaged or within 10 miles of such
686 municipality.

687 (j) When the insured vehicle is insured under a
688 commercially rated policy that insures five or more vehicles.

689 (k) When an insurance producer is transferring a book of
690 business from one insurer to another.

691 (l) When an individual insured's coverage is being
692 transferred and initiated by a producer to a new insurer.

693 ~~(3) This subsection does not prohibit an insurer from~~
694 ~~requiring a preinsurance inspection of any motor vehicle as a~~
695 ~~condition of issuance of physical damage coverage.~~

696 (3)(4) The inspection required by this section shall be
697 provided by the insurer or by a person or organization
698 authorized by the insurer. The applicant may be required to pay
699 the cost of the inspection, not to exceed \$5. The inspection
700 shall be recorded on a form prescribed by the commission, and

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701 the form or a copy shall be retained by the insurer with its
 702 policy records for the insured. The insurer shall provide a copy
 703 of the form to the insured upon request. Any inspection fee paid
 704 directly by the applicant may not be considered part of the
 705 premium. However, an insurer that provides the inspection at no
 706 cost to the applicant may include the expense of the inspection
 707 within a rate filing.

708 (4)~~(5)~~ The inspection shall include at least the
 709 following:

710 (a) Taking a physical imprint of the vehicle
 711 identification number of the vehicle or otherwise recording the
 712 vehicle identification number in a manner prescribed by the
 713 commission.

714 (b) Recording the presence of accessories required by the
 715 commission to be recorded.

716 (c) Recording the locations of and a description of
 717 existing damage to the vehicle.

718 (5)~~(6)~~ An insurer may defer an inspection for 30 calendar
 719 days following the effective date of coverage for a new policy,
 720 but not for a renewal policy, and for additional or replacement
 721 vehicles to an existing policy, if an inspection at the time of
 722 the request for coverage would create a serious inconvenience
 723 for the applicant and such hardship is documented in the
 724 insured's policy record.

725 (6)~~(7)~~ The commission may, by rule, establish such

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726 | procedures and notice requirements that it finds necessary to
727 | implement this section.

728 | (7) Notwithstanding any other provision of this section,
729 | an insurer may opt out of the inspection requirements of this
730 | section. An insurer opting out of the inspection must file a
731 | manual rule with the office indicating that the insurer will not
732 | participate in the inspection program under this section. An
733 | insurer that files such a manual rule with the office may
734 | establish its own preinsurance inspection requirements as a
735 | condition to issuing a private passenger motor vehicle insurance
736 | policy. The insurer's preinsurance inspection requirements must
737 | be included in the manual rule filed with the office. An insurer
738 | opting out of the inspection requirements of this section may
739 | not require an applicant to pay for the cost of an inspection.

740 | ~~(8) The Division of Insurance Fraud of the Department of~~
741 | ~~Financial Services shall provide a report of data from the~~
742 | ~~required preinsurance inspection of motor vehicles to the~~
743 | ~~Governor, the President of the Senate, and the Speaker of the~~
744 | ~~House of Representatives by December 1, 2016.~~

745 | ~~(a) The data must include, but need not be limited to:~~

746 | ~~1. A written estimate of the total cost incurred by~~
747 | ~~insurers and policyholders in order to comply with the~~
748 | ~~inspections.~~

749 | ~~2. A written estimate of the total cost incurred by~~
750 | ~~insurers to have their motor vehicles inspected.~~

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751 ~~3. Documentation regarding the total premium savings for~~
 752 ~~policyholders as a result of the inspections.~~

753 ~~4. Documentation of the total number of inspected motor~~
 754 ~~vehicles that had a preexisting condition.~~

755 ~~5. Documentation regarding the potential fraud in motor~~
 756 ~~vehicle claims incurred within the first 125 days after issuance~~
 757 ~~of a new policy.~~

758 ~~6. Documentation of the total number of referrals of~~
 759 ~~fraudulent acts to the National Insurance Crime Bureau by~~
 760 ~~preinsurance inspectors during the past 5 years.~~

761 ~~(b) The Legislature may use the report data in determining~~
 762 ~~the future public necessity for this section.~~

763 Section 14. Effective September 1, 2017, section 641.3915,
 764 Florida Statutes, is amended to read:

765 641.3915 Health maintenance organization anti-fraud plans
 766 and investigative units.—Each authorized health maintenance
 767 organization and applicant for a certificate of authority shall
 768 comply with the provisions of ss. 626.989 and 626.9891 as though
 769 such organization or applicant were an authorized insurer. ~~For~~
 770 ~~purposes of this section, the reference to the year 1996 in s.~~
 771 ~~626.9891 means the year 2000 and the reference to the year 1995~~
 772 ~~means the year 1999.~~

773 Section 15. Except as otherwise expressly provided in this
 774 act, this act shall take effect upon becoming a law.
 775