

By the Committee on Banking and Insurance; and Senator Rossin

311-1984B-99

1                                   A bill to be entitled  
2           An act relating to insurance fraud; amending s.  
3           626.321, F.S.; providing requirements for  
4           limited licenses for credit life or disability  
5           insurance and credit insurance; amending s.  
6           626.989, F.S.; defining the terms "insurer" and  
7           "insurance policy" for purposes of determining  
8           insurance fraud; creating s. 626.9892, F.S.;  
9           establishing the Anti-Fraud Reward Program in  
10          the department; providing for rewards under  
11          certain circumstances; requiring the department  
12          to adopt rules to implement the program;  
13          exempting review of department decisions  
14          relating to rewards; creating s. 641.3915,  
15          F.S.; requiring health maintenance  
16          organizations to comply with insurer anti-fraud  
17          requirements; amending s. 775.15, F.S.;  
18          extending the statute of limitations for  
19          certain insurance fraud violations; amending s.  
20          817.234, F.S.; specifying a schedule of  
21          criminal penalties for committing insurance  
22          fraud; providing definitions; providing  
23          application to health maintenance organizations  
24          and contracts; amending s. 817.505, F.S.;  
25          revising a penalty for patient brokering;  
26          reenacting s. 455.657(3), F.S., relating to  
27          kickbacks, to incorporate changes; providing an  
28          appropriation; providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Paragraphs (e) and (f) of subsection (1) of  
2 section 626.321, Florida Statutes, 1998 Supplement are amended  
3 to read:

4           626.321 Limited licenses.--

5           (1) The department shall issue to a qualified  
6 individual, or a qualified individual or entity under  
7 paragraphs (c), (d), and (e), a license as agent authorized to  
8 transact a limited class of business in any of the following  
9 categories:

10           (e) Credit life or disability insurance.--License  
11 covering only credit life or disability insurance. The  
12 license may be issued only to an individual employed by a life  
13 or health insurer as an officer or other salaried or  
14 commissioned representative, or to an individual employed by  
15 or associated with a lending or financing institution or  
16 creditor, and may authorize the sale of such insurance only  
17 with respect to borrowers or debtors of such lending or  
18 financing institution or creditor. However, only the  
19 individual or entity whose tax identification number is used  
20 in receiving or is credited with receiving the commission from  
21 the sale of such insurance shall be the licensed agent of the  
22 insurer. No individual while so licensed shall hold a license  
23 as an agent or solicitor as to any other or additional kind or  
24 class of life or health insurance coverage. An entity other  
25 than a lending or financial institution defined in s. 626.988  
26 holding a limited license under this paragraph shall also be  
27 authorized to sell credit property insurance. An entity  
28 applying for a license under this section:

29           1. Is required to submit only one application for a  
30 license under s. 626.171.

1           2. Is required to obtain a license for each office,  
2 branch office, or place of business making use of the entity's  
3 business name by applying to the department for the license on  
4 a simplified form developed by rule of the department for this  
5 purpose.

6           3. Is not required to pay any additional application  
7 fees for a license issued to the offices or places of business  
8 referenced in subsection (2), but is required to pay the  
9 license fee as prescribed in s. 624.501, be appointed under s.  
10 626.112, and pay the prescribed appointment fee under s.  
11 624.501. The license obtained under this paragraph shall be  
12 posted at the business location for which it was issued so as  
13 to be readily visible to prospective purchasers of such  
14 coverage.

15           (f) Credit insurance.--License covering only credit  
16 insurance, as such insurance is defined in s. 624.605(1)(i),  
17 and no individual or entity so licensed shall, during the same  
18 period, hold a license as an agent or solicitor as to any  
19 other or additional kind of life or health insurance with the  
20 exception of credit life or disability insurance as defined in  
21 paragraph (e). The same licensing provisions as outlined in  
22 paragraph (e) apply to entities licensed as credit insurance  
23 agents under this paragraph.

24           Section 2. Subsection (1) of section 626.989, Florida  
25 Statutes, 1998 Supplement, is amended to read:

26           626.989 Division of Insurance Fraud; definition;  
27 investigative, subpoena powers; protection from civil  
28 liability; reports to division; division investigator's power  
29 to execute warrants and make arrests.--

30           (1) For the purposes of this section, a person commits  
31 a "fraudulent insurance act" if the person knowingly and with

1 intent to defraud presents, causes to be presented, or  
2 prepares with knowledge or belief that it will be presented,  
3 to or by an insurer, self-insurer, self-insurance fund,  
4 servicing corporation, purported insurer, broker, or any agent  
5 thereof, any written statement as part of, or in support of,  
6 an application for the issuance of, or the rating of, any  
7 insurance policy, or a claim for payment or other benefit  
8 pursuant to any insurance policy, which the person knows to  
9 contain materially false information concerning any fact  
10 material thereto or if the person conceals, for the purpose of  
11 misleading another, information concerning any fact material  
12 thereto. For the purposes of this section, the term "insurer"  
13 also includes any health maintenance organization and the term  
14 "insurance policy" also includes a health maintenance  
15 organization subscriber contract.

16 Section 3. Section 626.9892, Florida Statutes, is  
17 created to read:

18 626.9892 Anti-Fraud Reward Program; reporting of  
19 insurance fraud.--

20 (1) The Anti-Fraud Reward Program is established  
21 within the department, to be funded from the Insurance  
22 Commissioner's Regulatory Trust Fund.

23 (2) The department may pay rewards of up to \$25,000 to  
24 persons providing information leading to the arrest and  
25 conviction of persons committing complex or organized crimes  
26 investigated by the Division of Insurance Fraud arising from  
27 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989,  
28 or s. 817.234.

29 (3) Only a single reward amount may be paid by the  
30 department for claims arising out of the same transaction or  
31 occurrence, regardless of the number of persons arrested and

1 convicted and the number of persons submitting claims for the  
2 reward. The reward may be disbursed among more than one  
3 person in amounts determined by the department.

4 (4) The department shall adopt rules that set forth  
5 the application and approval process, including the criteria  
6 against which claims are to be evaluated, the basis for  
7 determining specific reward amounts, and the manner in which  
8 rewards are disbursed. Applications for rewards authorized by  
9 this section must be made under rules established by the  
10 department.

11 (5) Determinations by the department to grant or deny  
12 a reward under this section is not considered agency action  
13 subject to review under s. 120.569 or s. 120.57.

14 Section 4. Section 641.3915, Florida Statutes, is  
15 created to read:

16 641.3915 Health maintenance organization anti-fraud  
17 plans and investigative units.--Each authorized health  
18 maintenance organization and applicant for a certificate of  
19 authority shall comply with the provisions of ss. 626.989 and  
20 626.9891 as though such organization or applicant were an  
21 authorized insurer. For purposes of this section, the  
22 reference to the year 1996 in s. 626.9891 means the year 2000  
23 and the reference to the year 1995 means the year 1999.

24 Section 5. Paragraph (h) of subsection (2) of section  
25 775.15, Florida Statutes, 1998 Supplement, is amended to read:

26 775.15 Time limitations.--

27 (2) Except as otherwise provided in this section,  
28 prosecutions for other offenses are subject to the following  
29 periods of limitation:

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1 (h) A prosecution for a felony violation of s. 440.105  
2 or s. 817.234 must be commenced within 5 years after the  
3 violation is committed.

4 Section 6. Subsections (1), (2), (3), (4), and (10) of  
5 section 817.234, Florida Statutes, 1998 Supplement, are  
6 amended and subsections (11) and (12) are added to that  
7 section to read:

8 817.234 False and fraudulent insurance claims.--

9 (1)(a) A person commits insurance fraud punishable as  
10 provided in subsection (11) if that person ~~Any person who~~,  
11 with the intent to injure, defraud, or deceive any insurer:

12 1. Presents or causes to be presented any written or  
13 oral statement as part of, or in support of, a claim for  
14 payment or other benefit pursuant to an insurance policy or  
15 health maintenance organization subscriber or provider  
16 contract, knowing that such statement contains any false,  
17 incomplete, or misleading information concerning any fact or  
18 thing material to such claim;

19 2. Prepares or makes any written or oral statement  
20 that is intended to be presented to any insurer in connection  
21 with, or in support of, any claim for payment or other benefit  
22 pursuant to an insurance policy or health maintenance  
23 organization subscriber or provider contract, knowing that  
24 such statement contains any false, incomplete, or misleading  
25 information concerning any fact or thing material to such  
26 claim; or

27 3.a. Knowingly presents, causes to be presented, or  
28 prepares or makes with knowledge or belief that it will be  
29 presented to any insurer, purported insurer, servicing  
30 corporation, insurance broker, or insurance agent, or any  
31 employee or agent thereof, any false, incomplete, or

1 misleading information or written or oral statement as part  
2 of, or in support of, an application for the issuance of, or  
3 the rating of, any insurance policy, or health maintenance  
4 organization subscriber or provider contract;or

5 b. Knowingly ~~who~~ conceals information concerning any  
6 fact material to such application,

7  
8 ~~commits a felony of the third degree, punishable as provided~~  
9 ~~in s. 775.082, s. 775.083, or s. 775.084.~~

10 (b) All claims and application forms shall contain a  
11 statement that is approved by the Department of Insurance that  
12 clearly states in substance the following: "Any person who  
13 knowingly and with intent to injure, defraud, or deceive any  
14 insurer files a statement of claim or an application  
15 containing any false, incomplete, or misleading information is  
16 guilty of a felony of the third degree." This paragraph does  
17 not apply to reinsurance contracts, reinsurance agreements, or  
18 reinsurance claims transactions.~~The changes in this paragraph~~  
19 ~~relating to applications shall take effect on March 1, 1996.~~

20 (2) Any physician licensed under chapter 458,  
21 osteopathic physician licensed under chapter 459, chiropractic  
22 physician licensed under chapter 460, or other practitioner  
23 licensed under the laws of this state who knowingly and  
24 willfully assists, conspires with, or urges any insured party  
25 to fraudulently violate any of the provisions of this section  
26 or part XI of chapter 627, or any person who, due to such  
27 assistance, conspiracy, or urging by said physician,  
28 osteopathic physician, chiropractic physician, or  
29 practitioner, knowingly and willfully benefits from the  
30 proceeds derived from the use of such fraud, commits insurance  
31 fraud ~~is guilty of a felony of the third degree, punishable as~~

1 provided in subsection (11)~~s. 775.082, s. 775.083, or s.~~  
2 ~~775.084~~. In the event that a physician, osteopathic physician,  
3 chiropractic physician, or practitioner is adjudicated guilty  
4 of a violation of this section, the Board of Medicine as set  
5 forth in chapter 458, the Board of Osteopathic Medicine as set  
6 forth in chapter 459, the Board of Chiropractic Medicine as  
7 set forth in chapter 460, or other appropriate licensing  
8 authority shall hold an administrative hearing to consider the  
9 imposition of administrative sanctions as provided by law  
10 against said physician, osteopathic physician, chiropractic  
11 physician, or practitioner.

12 (3) Any attorney who knowingly and willfully assists,  
13 conspires with, or urges any claimant to fraudulently violate  
14 any of the provisions of this section or part XI of chapter  
15 627, or any person who, due to such assistance, conspiracy, or  
16 urging on such attorney's part, knowingly and willfully  
17 benefits from the proceeds derived from the use of such fraud,  
18 commits insurance fraud ~~a felony of the third degree,~~  
19 punishable as provided in subsection (11)~~s. 775.082, s.~~  
20 ~~775.083, or s. 775.084.~~

21 (4) Any ~~No~~ person or governmental unit licensed under  
22 chapter 395 to maintain or operate a hospital, and any ~~no~~  
23 administrator or employee of any such hospital, who shall  
24 knowingly and willfully allows ~~allow~~ the use of the facilities  
25 of said hospital by an insured party in a scheme or conspiracy  
26 to fraudulently violate any of the provisions of this section  
27 or part XI of chapter 627. ~~Any hospital administrator or~~  
28 ~~employee who violates this subsection~~ commits insurance fraud  
29 ~~a felony of the third degree,~~ punishable as provided in  
30 subsection (11)~~s. 775.082, s. 775.083, or s. 775.084.~~ Any  
31 adjudication of guilt for a violation of this subsection, or



1 the use of business practices demonstrating a pattern  
2 indicating that the spirit of the law set forth in this  
3 section or part XI of chapter 627 is not being followed, shall  
4 be grounds for suspension or revocation of the license to  
5 operate the hospital or the imposition of an administrative  
6 penalty of up to \$5,000 by the licensing agency, as set forth  
7 in chapter 395.

8 (10) As used in this section, the term "insurer" means  
9 any insurer, health maintenance organization, self-insurer,  
10 self-insurance fund, or other similar entity or person  
11 regulated under chapter 440 or chapter 641 or by the  
12 Department of Insurance under the Florida Insurance Code.

13 (11) If the value of any property involved in a  
14 violation of this section:

15 (a) Is less than \$20,000, the offender commits a  
16 felony of the third degree, punishable as provided in s.  
17 775.082, s. 775.083, or s. 775.084.

18 (b) Is \$20,000 or more, but less than \$100,000, the  
19 offender commits a felony of the second degree, punishable as  
20 provided in s. 775.082, s. 775.083, or s. 775.084.

21 (c) Is \$100,000 or more, the offender commits a felony  
22 of the first degree, punishable as provided in s. 775.082, s.  
23 775.083, or s. 775.084.

24 (12) As used in this section, the term:

25 (a) "Property" means property as defined in s.  
26 812.012.

27 (b) "Value" means value as defined in s. 812.012.

28 Section 7. Subsection (4) of section 817.505, Florida  
29 Statutes, 1998 Supplement, is amended to read:

30 817.505 Patient brokering prohibited; exceptions;  
31 penalties.--

1           (4) Any person, including an officer, partner, agent,  
2 attorney, or other representative of a firm, joint venture,  
3 partnership, business trust, syndicate, corporation, or other  
4 business entity, who violates any provision of this section  
5 commits+

6           ~~(a) A misdemeanor of the first degree for a first~~  
7 ~~violation, punishable as provided in s. 775.082 or by a fine~~  
8 ~~not to exceed \$5,000, or both.~~

9           ~~(b) a felony of the third degree for a second or~~  
10 ~~subsequent violation, punishable as provided in s. 775.082, s.~~  
11 ~~775.083, or s. 775.084 or by a fine not to exceed \$10,000, or~~  
12 ~~both.~~

13           Section 8. For the purpose of incorporating the  
14 amendment to subsection (4) of section 817.505, Florida  
15 Statutes, 1998 Supplement, in a reference thereto, subsection  
16 (3) of section 455.657, Florida Statutes, is reenacted to  
17 read:

18           455.657 Kickbacks prohibited.--

19           (3) Violations of this section shall be considered  
20 patient brokering and shall be punishable as provided in s.  
21 817.505.

22           Section 9. The sum of \$250,000 is appropriated from  
23 the Insurance Commissioner's Regulatory Trust Fund in a  
24 nonoperating category for fiscal year 1999-2000 for the  
25 purpose of implementing the reward program under section  
26 626.9892, Florida Statutes, as created by this act.

27           Section 10. This act shall take effect July 1, 1999.  
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2 COMMITTEE SUBSTITUTE FOR  
3 Senate Bill 2516

- 4 1. Allows entities licensed to market credit life, credit  
5 disability, and credit property insurance as well as  
6 credit insurance, to submit only one application to the  
7 Department of Insurance, to obtain a license for each  
8 branch office, and apply for licensure using an  
9 abbreviated fee for a license issued to a branch office,  
10 but are required to pay certain appointment fees.
- 11 2. Health maintenance organizations (HMOs) and HMO  
12 contracts would be included under the law prohibiting  
13 false and fraudulent insurance claims and applications.  
14 Health maintenance organizations would be required to  
15 file anti-fraud plans with the Department of Insurance  
16 or establish special investigative units.
- 17 3. The Department of Insurance would be authorized to  
18 create an "Anti-Fraud Reward Program" in order to pay  
19 rewards to individuals who provide information leading  
20 to the arrest and conviction of persons committing  
21 insurance fraud. Appropriates \$250,000 from the  
22 Insurance Commissioner's Regulatory Trust Fund to  
23 implement the reward program.
- 24 4. Criminal penalties for insurance fraud would be  
25 increased using a sliding scale based on the value of  
26 the property involved in the fraudulent activity. The  
27 statute of limitations for prosecuting insurance fraud  
28 would be extended from 3 years to 5 years.
- 29 5. The criminal penalties for patient brokering would be  
30 increased. Reenacts the provision which prohibits  
31 kickbacks under s. 455.657, F.S.