

Bill No. CS for SB 312, 2nd Eng.

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Rossin moved the following amendment to House		
12	amendment (661825):		
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14	Senate Amendment (with title amendment)		
15	On page 3, line 11,		
16			
17	insert:		
18	Section 4. Paragraphs (e) and (f) of subsection (1) of		
19	section 626.321, Florida Statutes, 1998 Supplement, are		
20	amended to read:		
21	626.321 Limited licenses.--		
22	(1) The department shall issue to a qualified		
23	individual, or a qualified individual or entity under		
24	paragraphs (c), (d), and (e), a license as agent authorized to		
25	transact a limited class of business in any of the following		
26	categories:		
27	(e) Credit life or disability insurance.--License		
28	covering only credit life or disability insurance. The		
29	license may be issued only to an individual employed by a life		
30	or health insurer as an officer or other salaried or		
31	commissioned representative, or to an individual employed by		

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1 or associated with a lending or financing institution or
2 creditor, and may authorize the sale of such insurance only
3 with respect to borrowers or debtors of such lending or
4 financing institution or creditor. However, only the
5 individual or entity whose tax identification number is used
6 in receiving or is credited with receiving the commission from
7 the sale of such insurance shall be the licensed agent of the
8 insurer. No individual while so licensed shall hold a license
9 as an agent or solicitor as to any other or additional kind or
10 class of life or health insurance coverage. An entity other
11 than a lending or financial institution defined in s. 626.988
12 holding a limited license under this paragraph shall also be
13 authorized to sell credit property insurance. An entity
14 applying for a license under this section:

15 1. Is required to submit only one application for a
16 license under s. 626.171.

17 2. Is required to obtain a license for each office,
18 branch office, or place of business making use of the entity's
19 business name by applying to the department for the license on
20 a simplified form developed by rule of the department for this
21 purpose.

22 3. Is not required to pay any additional application
23 fees for a license issued to the offices or places of business
24 referenced in subsection (2), but is required to pay the
25 license fee as prescribed in s. 624.501, be appointed under s.
26 626.112, and pay the prescribed appointment fee under s.
27 624.501. The license obtained under this paragraph shall be
28 posted at the business location for which it was issued so as
29 to be readily visible to prospective purchasers of such
30 coverage.

31 (f) Credit insurance.--License covering only credit

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1 insurance, as such insurance is defined in s. 624.605(1)(i),
2 and no individual or entity so licensed shall, during the same
3 period, hold a license as an agent or solicitor as to any
4 other or additional kind of life or health insurance with the
5 exception of credit life or disability insurance as defined in
6 paragraph (e). The same licensing provisions as outlined in
7 paragraph (e) apply to entities licensed as credit insurance
8 agents under this paragraph.

9 Section 5. Subsection (1) of section 626.989, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 626.989 Division of Insurance Fraud; definition;
12 investigative, subpoena powers; protection from civil
13 liability; reports to division; division investigator's power
14 to execute warrants and make arrests.--

15 (1) For the purposes of this section, a person commits
16 a "fraudulent insurance act" if the person knowingly and with
17 intent to defraud presents, causes to be presented, or
18 prepares with knowledge or belief that it will be presented,
19 to or by an insurer, self-insurer, self-insurance fund,
20 servicing corporation, purported insurer, broker, or any agent
21 thereof, any written statement as part of, or in support of,
22 an application for the issuance of, or the rating of, any
23 insurance policy, or a claim for payment or other benefit
24 pursuant to any insurance policy, which the person knows to
25 contain materially false information concerning any fact
26 material thereto or if the person conceals, for the purpose of
27 misleading another, information concerning any fact material
28 thereto. For the purposes of this section, the term "insurer"
29 also includes any health maintenance organization and the term
30 "insurance policy" also includes a health maintenance
31 organization subscriber contract.

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1 Section 6. Section 626.9892, Florida Statutes, is
2 created to read:

3 626.9892 Anti-Fraud Reward Program; reporting of
4 insurance fraud.--

5 (1) The Anti-Fraud Reward Program is hereby
6 established within the department, to be funded from the
7 Insurance Commissioner's Regulatory Trust Fund.

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

14 (3) Only a single reward amount may be paid by the
15 department for claims arising out of the same transaction or
16 occurrence, regardless of the number of persons arrested and
17 convicted and the number of persons submitting claims for the
18 reward. The reward may be disbursed among more than one
19 person in amounts determined by the department.

20 (4) The department shall adopt rules which set forth
21 the application and approval process, including the criteria
22 against which claims shall be evaluated, the basis for
23 determining specific reward amounts, and the manner in which
24 rewards shall be disbursed. Applications for rewards
25 authorized by this section must be made pursuant to rules
26 established by the department.

27 (5) Determinations by the department to grant or deny
28 a reward under this section shall not be considered agency
29 action subject to review under s. 120.569 or s. 120.57.

30 Section 7. Section 641.3915, Florida Statutes, is
31 created to read:

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1 641.3915 Health maintenance organization anti-fraud
 2 plans and investigative units.--Each authorized health
 3 maintenance organization and applicant for a certificate of
 4 authority shall comply with the provisions of ss. 626.989 and
 5 626.9891 as though such organization or applicant were an
 6 authorized insurer. For purposes of this section, the
 7 reference to the year 1996 in s. 626.9891 means the year 2000
 8 and the reference to the year 1995 means the year 1999.

9 Section 8. Paragraph (h) of subsection (2) of section
 10 775.15, Florida Statutes, 1998 Supplement, is amended to read:

11 775.15 Time limitations.--

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

15 (h) A prosecution for a felony violation of s. 440.105
 16 and s. 817.234 must be commenced within 5 years after the
 17 violation is committed.

18 Section 9. Subsections (1), (2), (3), (4), and (10) of
 19 section 817.234, Florida Statutes, 1998 Supplement, are
 20 amended, and subsections (11) and (12) are added to said
 21 section, to read:

22 817.234 False and fraudulent insurance claims.--

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

26 1. Presents or causes to be presented any written or
 27 oral statement as part of, or in support of, a claim for
 28 payment or other benefit pursuant to an insurance policy or a
 29 health maintenance organization subscriber or provider
 30 contract, knowing that such statement contains any false,
 31 incomplete, or misleading information concerning any fact or

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1 thing material to such claim;

2 2. Prepares or makes any written or oral statement
 3 that is intended to be presented to any insurer in connection
 4 with, or in support of, any claim for payment or other benefit
 5 pursuant to an insurance policy or a health maintenance
 6 organization subscriber or provider contract, knowing that
 7 such statement contains any false, incomplete, or misleading
 8 information concerning any fact or thing material to such
 9 claim; or

10 3.a. Knowingly presents, causes to be presented, or
 11 prepares or makes with knowledge or belief that it will be
 12 presented to any insurer, purported insurer, servicing
 13 corporation, insurance broker, or insurance agent, or any
 14 employee or agent thereof, any false, incomplete, or
 15 misleading information or written or oral statement as part
 16 of, or in support of, an application for the issuance of, or
 17 the rating of, any insurance policy, or a health maintenance
 18 organization subscriber or provider contract; or

19 b. Who knowingly conceals information concerning any
 20 fact material to such application,

21
 22 ~~commits a felony of the third degree, punishable as provided~~
 23 ~~in s. 775.082, s. 775.083, or s. 775.084.~~

24 (b) All claims and application forms shall contain a
 25 statement that is approved by the Department of Insurance that
 26 clearly states in substance the following: "Any person who
 27 knowingly and with intent to injure, defraud, or deceive any
 28 insurer files a statement of claim or an application
 29 containing any false, incomplete, or misleading information is
 30 guilty of a felony of the third degree." This paragraph shall
 31 not apply to reinsurance contracts, reinsurance agreements, or

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1 reinsurance claims transactions.~~The changes in this paragraph~~
2 ~~relating to applications shall take effect on March 1, 1996.~~

3 (2) Any physician licensed under chapter 458,
4 osteopathic physician licensed under chapter 459, chiropractic
5 physician licensed under chapter 460, or other practitioner
6 licensed under the laws of this state who knowingly and
7 willfully assists, conspires with, or urges any insured party
8 to fraudulently violate any of the provisions of this section
9 or part XI of chapter 627, or any person who, due to such
10 assistance, conspiracy, or urging by said physician,
11 osteopathic physician, chiropractic physician, or
12 practitioner, knowingly and willfully benefits from the
13 proceeds derived from the use of such fraud, commits insurance
14 fraud ~~is guilty of a felony of the third degree,~~ punishable as
15 provided in subsection (11)~~s. 775.082, s. 775.083, or s.~~
16 ~~775.084.~~ In the event that a physician, osteopathic physician,
17 chiropractic physician, or practitioner is adjudicated guilty
18 of a violation of this section, the Board of Medicine as set
19 forth in chapter 458, the Board of Osteopathic Medicine as set
20 forth in chapter 459, the Board of Chiropractic Medicine as
21 set forth in chapter 460, or other appropriate licensing
22 authority shall hold an administrative hearing to consider the
23 imposition of administrative sanctions as provided by law
24 against said physician, osteopathic physician, chiropractic
25 physician, or practitioner.

26 (3) Any attorney who knowingly and willfully assists,
27 conspires with, or urges any claimant to fraudulently violate
28 any of the provisions of this section or part XI of chapter
29 627, or any person who, due to such assistance, conspiracy, or
30 urging on such attorney's part, knowingly and willfully
31 benefits from the proceeds derived from the use of such fraud,

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1 commits insurance fraud ~~a felony of the third degree,~~
2 punishable as provided in subsection (11)~~s. 775.082, s.~~
3 ~~775.083, or s. 775.084.~~

4 (4) Any ~~No~~ person or governmental unit licensed under
5 chapter 395 to maintain or operate a hospital, and any ~~no~~
6 administrator or employee of any such hospital, who ~~shall~~
7 knowingly and willfully allows ~~allow~~ the use of the facilities
8 of said hospital by an insured party in a scheme or conspiracy
9 to fraudulently violate any of the provisions of this section
10 or part XI of chapter 627. ~~Any hospital administrator or~~
11 ~~employee who violates this subsection~~ commits insurance fraud
12 ~~a felony of the third degree,~~ punishable as provided in
13 subsection (11)~~s. 775.082, s. 775.083, or s. 775.084.~~ Any
14 adjudication of guilt for a violation of this subsection, or
15 the use of business practices demonstrating a pattern
16 indicating that the spirit of the law set forth in this
17 section or part XI of chapter 627 is not being followed, shall
18 be grounds for suspension or revocation of the license to
19 operate the hospital or the imposition of an administrative
20 penalty of up to \$5,000 by the licensing agency, as set forth
21 in chapter 395.

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

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

29 (a) Is less than \$20,000, the offender commits a
30 felony of the third degree, punishable as provided in s.
31 775.082, s. 775.083, or s. 775.084.

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

4 (c) Is \$100,000 or more, the offender commits a felony
5 of the first degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

7 (12) As used in this section:

8 (a) "Property" means property as defined in s.
9 812.012.

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

11 Section 10. Subsection (4) of section 817.505, Florida
12 Statutes, 1998 Supplement, is amended to read:

13 817.505 Patient brokering prohibited; exceptions;
14 penalties.--

15 (4) Any person, including an officer, partner, agent,
16 attorney, or other representative of a firm, joint venture,
17 partnership, business trust, syndicate, corporation, or other
18 business entity, who violates any provision of this section
19 commits+

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

23 ~~(b) a felony of the third degree for a second or~~
24 ~~subsequent violation, punishable as provided in s. 775.082, s.~~
25 ~~775.083, or s. 775.084 or by a fine not to exceed \$10,000, or~~
26 ~~both.~~

27 Section 11. For the purpose of incorporating the
28 amendment to subsection (4) of section 817.505, Florida
29 Statutes, 1998 Supplement, in a reference thereto, subsection
30 (3) of section 455.657, Florida Statutes, is reenacted to
31 read:

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1 455.657 Kickbacks prohibited.--

2 (3) Violations of this section shall be considered
3 patient brokering and shall be punishable as provided in s.
4 817.505.

5 Section 12. The sum of \$250,000 is hereby appropriated
6 from the Insurance Commissioner's Regulatory Trust Fund in a
7 nonoperating category for state fiscal year 1999-2000 for the
8 purpose of implementing the reward program under s. 626.9892,
9 Florida Statutes, as created by this act.

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11

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 3, line 27, after the first semicolon

15

16 insert:

17 amending s. 626.321, F.S.; providing
18 requirements for limited licenses for credit
19 life or disability insurance and credit
20 insurance; amending s. 626.989, F.S.; defining
21 the terms "insurer" and "insurance policy" for
22 purposes of determining insurance fraud;
23 creating s. 626.9892, F.S.; establishing the
24 Anti-Fraud Reward Program in the department;
25 providing for rewards under certain
26 circumstances; requiring the department to
27 adopt rules to implement the program; exempting
28 review of department decisions relating to
29 rewards; creating s. 641.3915, F.S.; requiring
30 certain health maintenance organizations to
31 comply with insurer anti-fraud requirements;

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1 providing construction; amending s. 775.15,
2 F.S.; extending the statute of limitations for
3 certain insurance fraud violations; amending s.
4 817.234, F.S.; specifying a schedule of
5 criminal penalties for committing insurance
6 fraud; providing definitions; providing
7 application to health maintenance organizations
8 and contracts; amending s. 817.505, F.S.;
9 revising a penalty for patient brokering;
10 reenacting s. 455.657(3), F.S., relating to
11 kickbacks, to incorporate changes; providing an
12 appropriation;

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