

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

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senators Scott and Rossin moved the following amendment to		
12	amendment (661825):		
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14	Senate Amendment (with title amendment)		
15	On page 1, line 17, through		
16	page 3, line 10, delete those lines		
17			
18	insert:		
19	Section 1. Paragraphs (e) and (f) of subsection (1) of		
20	section 626.321, Florida Statutes, 1998 Supplement, are		
21	amended to read:		
22	626.321 Limited licenses.--		
23	(1) The department shall issue to a qualified		
24	individual, or a qualified individual or entity under		
25	paragraphs (c), (d), and (e), a license as agent authorized to		
26	transact a limited class of business in any of the following		
27	categories:		
28	(e) Credit life or disability insurance.--License		
29	covering only credit life or disability insurance. The		
30	license may be issued only to an individual employed by a life		
31	or health insurer as an officer or other salaried or		

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

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

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

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

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

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

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

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

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1 organization subscriber contract.

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

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

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

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

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

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

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

31 Section 4. Section 641.3915, Florida Statutes, is

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1 created to read:

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

10 Section 5. Paragraph (h) of subsection (2) of section
11 775.15, Florida Statutes, 1998 Supplement, is amended to read:

12 775.15 Time limitations.--

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

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

19 Section 6. Subsections (1), (2), (3), (4), and (10) of
20 section 817.234, Florida Statutes, 1998 Supplement, are
21 amended, and subsections (11) and (12) are added to said
22 section, to read:

23 817.234 False and fraudulent insurance claims.--

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

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

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1 incomplete, or misleading information concerning any fact or
2 thing material to such claim;

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

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

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

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

25 (b) All claims and application forms shall contain a
26 statement that is approved by the Department of Insurance that
27 clearly states in substance the following: "Any person who
28 knowingly and with intent to injure, defraud, or deceive any
29 insurer files a statement of claim or an application
30 containing any false, incomplete, or misleading information is
31 guilty of a felony of the third degree." This paragraph shall

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1 not apply to reinsurance contracts, reinsurance agreements, or
2 reinsurance claims transactions.~~The changes in this paragraph~~
3 ~~relating to applications shall take effect on March 1, 1996.~~

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

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

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1 benefits from the proceeds derived from the use of such fraud,
2 commits insurance fraud ~~a felony of the third degree,~~
3 punishable as provided in subsection (11)~~s. 775.082, s.~~
4 ~~775.083, or s. 775.084.~~

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

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

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

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

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1 775.082, s. 775.083, or s. 775.084.

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

5 (c) Is \$100,000 or more, the offender commits a felony
6 of the first degree, punishable as provided in s. 775.082, s.
7 775.083, or s. 775.084.

8 (12) As used in this section:

9 (a) "Property" means property as defined in s.
10 812.012.

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

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

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

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

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

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

28 Section 8. For the purpose of incorporating the
29 amendment to subsection (4) of section 817.505, Florida
30 Statutes, 1998 Supplement, in a reference thereto, subsection
31 (3) of section 455.657, Florida Statutes, is reenacted to

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1 read:

2 455.657 Kickbacks prohibited.--

3 (3) Violations of this section shall be considered
4 patient brokering and shall be punishable as provided in s.
5 817.505.

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

11
12 (Redesignate subsequent sections.)

13
14
15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 3, lines 19-31 delete those lines

18
19 and insert:

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

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1 relating to rewards; creating s. 641.3915,
2 F.S.; requiring certain health maintenance
3 organizations to comply with insurer anti-fraud
4 requirements; providing construction; amending
5 s. 775.15, F.S.; extending the statute of
6 limitations for certain insurance fraud
7 violations; amending s. 817.234, F.S.;
8 specifying a schedule of criminal penalties for
9 committing insurance fraud; providing
10 definitions; providing application to health
11 maintenance organizations and contracts;
12 amending s. 817.505, F.S.; revising a penalty
13 for patient brokering; reenacting s.
14 455.657(3), F.S., relating to kickbacks, to
15 incorporate changes; providing an
16 appropriation; amending

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