



CHAMBER ACTION

The Committee on Insurance recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to health insurance; amending s. 627.410, F.S.; amending form filing requirements; providing exemptions; amending s. 627.6515, F.S.; revising conditions that must be met for exemption from provisions regulating group, blanket, and franchise health insurance policies for a group health insurance policy issued or delivered outside this state under which a resident of this state is provided coverage; providing limitations on premium increases, reduction of benefits, and contractual modifications; authorizing rulemaking; providing definitions; restricting eligibility for insurance; modifying applicability of exemptions and requiring compliance with Insurance Code under certain circumstances; providing an effective date.

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



HB 0999

2003
CS

28 Section 1. Subsection (6) of section 627.410, Florida
29 Statutes, is amended to read:

30 627.410 Filing, approval of forms.--

31 (6)(a) An insurer shall not deliver or issue for delivery
32 or renew in this state any health insurance policy form until it
33 has filed with the department a copy of every applicable rating
34 manual, rating schedule, change in rating manual, and change in
35 rating schedule; if rating manuals and rating schedules are not
36 applicable, the insurer must file with the department applicable
37 premium rates and any change in applicable premium rates.

38 (b) This ~~subsection~~ ~~paragraph~~ does not apply to group
39 health insurance policies:7

40 1. Effectuated and delivered in this state, insuring
41 groups of 51 or more persons, except for Medicare supplement
42 insurance, long-term care insurance, and any coverage under
43 which the increase in claim costs over the lifetime of the
44 contract due to advancing age or duration is prefunded in the
45 premium.

46 2. Effectuated and delivered outside this state, but
47 covering residents of this state, except for policies issued to
48 provide coverage to groups of persons all of whom are in the
49 same or functionally related licensed professions and provide
50 coverage only to such licensed professionals, their employees,
51 or their dependents, if the insurer meets the requirements of s.
52 627.6515, files its rates with the Office of Insurance
53 Regulation for information purposes only, and the filing of
54 rates is accompanied by an actuarial certification that the loss
55 ratios for the certificates delivered or issued for delivery in



HB 0999

2003
CS

56 this state meet or exceed the loss-ratio standards provided by
57 this subsection. For purposes of this subsection, group health
58 insurance policy means any hospital or medical policy, hospital
59 or medical service plan contract, or health maintenance
60 organization subscriber contract. The term does not include
61 accidental death, accidental death and dismemberment, accident-
62 only, vision-only, dental-only, hospital indemnity, hospital
63 accident, cancer, specified disease, limited-benefit, disability
64 income insurance, or similar supplemental plans provided under a
65 separate policy, certificate, or contract of insurance, which
66 cannot duplicate coverage under an underlying health plan, and
67 are specifically designed to fill gaps in the underlying health
68 plan, coinsurance, or deductibles; coverage issued as a
69 supplement to liability insurance; workers' compensation, or
70 similar insurance; or automobile medical-payment insurance.

71 3. Effectuated and delivered to a bona fide association,
72 which means with respect to health insurance coverage offered in
73 a state, an association which:

74 a. Has been actively in existence for at least 5 years;

75 b. Has been formed and maintained in good faith for
76 purposes other than obtaining insurance;

77 c. Does not condition membership in the association on any
78 health status-related factor relating to an individual,
79 including an employee of an employer or a dependent of an
80 employee;

81 d. Makes health insurance coverage offered through the
82 association available to all members regardless of any health



HB 0999

2003
CS

83 status-related factor relating to such members, or individuals
84 eligible for coverage through a member; and

85 e. Does not make health coverage offered through the
86 association available other than in connection with a member of
87 the association.

88 (c)(b) The department may establish by rule, for each type
89 of health insurance form, procedures to be used in ascertaining
90 the reasonableness of benefits in relation to premium rates and
91 may, by rule, exempt from any requirement of paragraph (a) any
92 health insurance policy form or type thereof (as specified in
93 such rule) to which form or type such requirements may not be
94 practically applied or to which form or type the application of
95 such requirements is not desirable or necessary for the
96 protection of the public. With respect to any health insurance
97 policy form or type thereof which is exempted by rule from any
98 requirement of paragraph (a), premium rates filed pursuant to
99 ss. 627.640 and 627.662 shall be for informational purposes.

100 (d)(e) Every filing made pursuant to this subsection shall
101 be made within the same time period provided in, and shall be
102 deemed to be approved under the same conditions as those
103 provided in, subsection (2).

104 (e)(d) Every filing made pursuant to this subsection,
105 except disability income policies and accidental death policies,
106 shall be prohibited from applying the following rating
107 practices:

- 108 1. Select and ultimate premium schedules.
- 109 2. Premium class definitions which classify insured based
110 on year of issue or duration since issue.



HB 0999

2003
CS

111 3. Attained age premium structures on policy forms under
112 which more than 50 percent of the policies are issued to persons
113 age 65 or over.

114 ~~(f)(e)~~ Except as provided in subparagraph 1., an insurer
115 shall continue to make available for purchase any individual
116 policy form issued on or after October 1, 1993. A policy form
117 shall not be considered to be available for purchase unless the
118 insurer has actively offered it for sale in the previous 12
119 months.

120 1. An insurer may discontinue the availability of a policy
121 form if the insurer provides to the department in writing its
122 decision at least 30 days prior to discontinuing the
123 availability of the form of the policy or certificate. After
124 receipt of the notice by the department, the insurer shall no
125 longer offer for sale the policy form or certificate form in
126 this state.

127 2. An insurer that discontinues the availability of a
128 policy form pursuant to subparagraph 1. shall not file for
129 approval a new policy form providing similar benefits as the
130 discontinued form for a period of 5 years after the insurer
131 provides notice to the department of the discontinuance. The
132 period of discontinuance may be reduced if the department
133 determines that a shorter period is appropriate.

134 3. The experience of all policy forms providing similar
135 benefits shall be combined for all rating purposes.

136 Section 2. Subsections (2) and (5) of section 627.6515,
137 Florida Statutes, are amended, and subsections (9), (10), (11),
138 and (12) are added to said section, to read:



HB 0999

2003
CS

139 | 627.6515 Out-of-state groups.--

140 | (2) This part does not apply to a group health insurance
141 | policy issued or delivered outside this state under which a
142 | resident of this state is provided coverage if the master policy
143 | has met the filing requirements of the state of policy situs and
144 | is available for sale in the state of policy situs and:

145 | (a) The policy is issued to an employee group the
146 | composition of which is substantially as described in s.
147 | 627.653; a labor union group or association group the
148 | composition of which is substantially as described in s.
149 | 627.654; an additional group the composition of which is
150 | substantially as described in s. 627.656; a group insured under
151 | a blanket health policy when the composition of the group is
152 | substantially in compliance with s. 627.659; a group insured
153 | under a franchise health policy when the composition of the
154 | group is substantially in compliance with s. 627.663; an
155 | association group to cover persons associated in any other
156 | common group, which common group is formed primarily for
157 | purposes other than providing insurance; a group that is
158 | established primarily for the purpose of providing group
159 | insurance, provided the benefits are reasonable in relation to
160 | the premiums charged thereunder and the issuance of the group
161 | policy has resulted, or will result, in economies of
162 | administration; or a group of insurance agents of an insurer,
163 | which insurer is the policyholder;

164 | (b) Certificates evidencing coverage under the policy are
165 | issued to residents of this state and contain in contrasting
166 | color and not less than 10-point type the following statement:



HB 0999

2003
CS

167 "The benefits of the policy providing your coverage are governed
168 primarily by the law of a state other than Florida"; ~~and~~

169 (c) The policy provides the benefits specified in ss.
170 627.419, 627.6574, 627.6575, 627.6579, 627.6612, 627.66121,
171 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and 627.66911;
172 and

173 (d) Applications for certificates of coverage offered to
174 residents of this state contain, in contrasting color and not
175 less than 12-point type, the following statement on the same
176 page as the applicant signature: "This policy is primarily
177 governed by the laws of [insert state where the master policy is
178 filed]. As a result, all of the rating laws applicable to
179 policies filed in Florida do not apply to this coverage, which
180 may result in increases in your premium at renewal that would
181 not be permissible under a Florida-approved policy. Any purchase
182 of individual health insurance should be considered carefully,
183 as future medical conditions may make it impossible to qualify
184 for another individual health policy. For information concerning
185 individual health coverage that fully complies with Florida's
186 rating laws, consult your agent or the Florida Department of
187 Financial Services." The provisions of this paragraph only apply
188 to group certificates for health insurance coverage, as
189 described in s. 627.6561(5)(a)2., which require individual
190 underwriting to determine coverage eligibility for an individual
191 or premium rates to be charged to an individual.

192 (5) Prior to solicitation in this state, an officer of the
193 insurer shall truthfully certify to the department that the
194 policy and certificates evidencing coverage have been reviewed



HB 0999

2003
CS

195 and approved by the state in which the group policy is issued
196 and a certification from an actuary that the premium structure
197 for such policy complies with subsections (9) and (10).

198 (9) For purposes of this section, any insurer that issues
199 any group health benefit plan, as defined in s. 627.6699(3)(k),
200 except for policies issued to provide coverage to groups of
201 persons all of whom are in the same or functionally related
202 licensed professions and provide coverage only to such licensed
203 professionals, their employees, or their dependents, to a
204 resident of this state requiring individual underwriting to
205 determine eligibility for coverage or initial premium rates to
206 be charged, shall not take into account the individual claims
207 experience or any change in the personal health status of a
208 covered person that occurs after the initial issuance of the
209 health benefit plan to determine his or her renewal premium
210 rates. No premium increase, including a reduced premium increase
211 in the form of a discount, may be implemented for an insured
212 individual under existing group health plan coverage subsequent
213 to the initial effective date of coverage under such policy or
214 certificate to the extent that such premium increase is
215 determined based upon a change in a health-status related factor
216 of the individual insured or the past or prospective claim
217 experience of the individual insured. No reduction in benefits
218 may be implemented for an insured individual under existing
219 group health plan coverage subsequent to the initial effective
220 date of coverage under such policy or certificate to the extent
221 that such reduction in benefits is determined based upon a
222 change in a health-status related factor of the individual



HB 0999

2003
CS

223 insured or the past or prospective claim experience of the
224 individual insured. No modifications to contractual terms and
225 conditions may be implemented for an insured individual under
226 existing group health coverage subsequent to the initial
227 effective date of coverage under such policy or certificate to
228 the extent that such modifications to contractual terms and
229 conditions are determined based upon a change in a health-status
230 related factor of the individual insured or the past or
231 prospective claim experience of the individual insured. Nothing
232 in this section shall be construed to require uniform premium
233 rates, restrict the use of any rating factors, or restrict
234 experience-based renewal premium rating practices that are
235 applied to all individuals insured by a particular health
236 benefit plan or group of health benefit plans. The stated intent
237 and purpose of this subsection is to prohibit renewal premium
238 rating practices that are based exclusively upon a covered
239 person's individual claims experience or a change in a covered
240 person's personal health status. If an insurer has ever used the
241 renewal premium adjustments prohibited in this subsection, the
242 insurer shall file new renewal premium rates with the department
243 for informational purposes only. The new rates must eliminate
244 the effects of the prohibited renewal premium adjustments on a
245 revenue neutral basis. This new renewal premium rate filing must
246 be accompanied by a certification by a member of the American
247 Academy of Actuaries that the filing complies with the
248 requirements of this act. The filing must be made within 90 days
249 after the effective day of this act. The new renewal premium
250 rates must be implemented within 90 days after the filing. This



HB 0999

2003
CS

251 provision does not prohibit adjustments in an individual's
252 premiums in lieu of a rescission that would be allowed under
253 applicable law due to a fraudulent or material misstatement in
254 an application or based upon changes required by law, benefit
255 changes requested by the insured, or a requested reinstatement
256 of lapsed coverage. For purposes of this subsection, group
257 health insurance policy means any hospital or medical policy,
258 hospital or medical service plan contract, or health maintenance
259 organization subscriber contract. The term does not include
260 accidental death, accidental death and dismemberment, accident-
261 only, vision-only, dental-only, hospital indemnity, hospital
262 accident, cancer, specified disease, Medicare supplement,
263 products that supplement Medicare, long-term care, or disability
264 income insurance, similar supplemental plans provided under a
265 separate policy, certificate, or contract of insurance, which
266 cannot duplicate coverage under an underlying health plan and
267 are specifically designed to fill gaps in the underlying health
268 plan, coinsurance, or deductibles; coverage issued as a
269 supplement to liability insurance; workers' compensation, or
270 similar insurance; or automobile medical-payment insurance.

271 (10) A group health insurance policy issued or delivered
272 outside this state to an association group to cover persons
273 associated in any other common group, which common group is
274 formed primarily for purposes other than providing insurance,
275 except for policies issued to provide coverage to groups of
276 persons all of whom are in the same or functionally related
277 licensed professions and provide coverage only to such licensed
278 professionals, their employees, or their dependents, under which



HB 0999

2003
CS

279 a resident of this state is provided coverage which has been in
280 force for a period of 30 months, and which applies individual
281 underwriting to determine eligibility or premium rates charged,
282 shall not increase premiums charged to a resident of this state
283 by a percentage greater than the percentage increase applied to
284 premiums charged to a resident of this state for coverage that
285 has been in force for a period of 30 months under any
286 association group policy with substantially similar benefits.
287 The commission may adopt rules to establish the meaning of the
288 term "substantially similar benefits." This subsection shall
289 apply to all policies issued or renewed after the effective date
290 of this act. For purposes of this subsection, a group health
291 policy means any hospital or medical policy, hospital or medical
292 service plan contract, or health maintenance organization
293 subscriber contract. The term does not include accidental death,
294 accidental death and dismemberment, accident-only, vision-only,
295 dental-only, hospital indemnity, hospital accident, cancer,
296 specified disease, Medicare Supplement, products that supplement
297 Medicare, long-term care, or disability income insurance,
298 similar supplemental plans provided under a separate policy,
299 certificate, or contract of insurance which cannot duplicate
300 coverage under an underlying health plan and are specifically
301 designed to fill gaps in the underlying health plan,
302 coinsurance, or deductibles; coverage issued as a supplement to
303 liability insurance; workers' compensation or similar insurance;
304 or automobile medical-payment insurance.

305 (11) Any person insured under a certificate issued through
306 an association group health insurance policy who voluntarily



HB 0999

2003
CS

307 terminates such certificate shall not be eligible for coverage
308 under any other group health insurance policy issued by the same
309 insurer to that same association for a period of 6 months after
310 the date such certificate was terminated unless such new policy
311 is available to all other insureds under the existing policy
312 without regard to health status.

313 (12) If the office determines on or after July 1, 2006,
314 through public hearings, that the pooling provided for in this
315 section has failed to adequately prohibit rating practices that
316 disproportionately discriminate against individuals who have
317 filed claims or developed medical conditions, then
318 notwithstanding any other provision of this section or s.
319 627.401(2), any group health insurance policy or group
320 certificate for health insurance, as described in s.
321 627.6561(5)(a)2., which is issued to a resident of this state
322 and requires individual underwriting to determine coverage
323 eligibility for an individual or premium rates to be charged to
324 an individual is considered a policy issued on a individual
325 basis and is subject to and must comply with the Florida
326 Insurance Code in the same manner as individual insurance
327 policies issued in this state.

328 Section 3. This act shall take effect July 1, 2003.