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CHAMBER ACTION

Senate

House

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Floor: 1/AD/MR
5/2/2008 2:35 PM

1 Senator Bennett moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause
5 and insert:

6 Section 1. This act may be cited as the "John and Patricia
7 Seibel Act."

8 Section 2. Paragraph (a) of subsection (2) of section
9 626.171, Florida Statutes, is amended to read:

10 626.171 Application for license as an agent, customer
11 representative, adjuster, service representative, managing
12 general agent, or reinsurance intermediary.--

13 (2) In the application, the applicant shall set forth:

14 (a) His or her full name, age, social security number,
15 residence address, business address, ~~and~~ mailing address, contact
16 telephone numbers, including a business telephone number, and e-
17 mail address.



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18
19 However, the application must contain a statement that an
20 applicant is not required to disclose his or her race or
21 ethnicity, gender, or native language, that he or she will not be
22 penalized for not doing so, and that the department will use this
23 information exclusively for research and statistical purposes and
24 to improve the quality and fairness of the examinations.

25 Section 3. Paragraph (k) is added to subsection (3) of
26 section 626.2815, Florida Statutes, to read:

27 626.2815 Continuing education required; application;
28 exceptions; requirements; penalties.--

29 (3)

30 (k) Any person who holds a license to solicit or sell life
31 insurance in this state must complete a minimum of 3 hours in
32 continuing education, approved by the department, on the subject
33 of suitability in annuity and life insurance transactions. A
34 licensee may use the hours obtained under this paragraph to
35 satisfy the requirement for continuing education in ethics under
36 paragraph (a).

37 Section 4. Section 626.551, Florida Statutes, is amended to
38 read:

39 626.551 Notice of change of address, name.--Every licensee
40 shall notify the department in writing within 60 days after a
41 change of name, residence address, principal business street
42 address, ~~or~~ mailing address, contact telephone numbers, including
43 a business telephone number, or e-mail address. A ~~Any~~ licensed
44 agent who has moved his or her residence from this state shall
45 have his or her license and all appointments immediately
46 terminated by the department. Failure to notify the department
47 within the required time period shall result in a fine not to



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48 exceed \$250 for the first offense and, for subsequent offenses, a
49 fine of at least ~~not less than~~ \$500 or suspension or revocation
50 of the license pursuant to s. 626.611 or s. 626.621.

51 Section 5. Section 626.9521, Florida Statutes, is amended
52 to read:

53 626.9521 Unfair methods of competition and unfair or
54 deceptive acts or practices prohibited; penalties.--

55 (1) No person shall engage in this state in any trade
56 practice which is defined in this part as, or determined pursuant
57 to s. 626.951 or s. 626.9561 to be, an unfair method of
58 competition or an unfair or deceptive act or practice involving
59 the business of insurance.

60 (2) Except as provided in subsection (3), any person who
61 violates any provision of this part is ~~shall be~~ subject to a fine
62 in an amount not greater than \$2,500 for each nonwillful
63 violation and not greater than \$20,000 for each willful
64 violation. Fines under this subsection may not exceed an
65 aggregate amount of \$10,000 for all nonwillful violations arising
66 out of the same action or an aggregate amount of \$100,000 for all
67 willful violations arising out of the same action. The fines
68 ~~authorized by this subsection~~ may be imposed in addition to any
69 other applicable penalty.

70 (3) (a) If a person violates s. 626.9541(1)(1), the offense
71 known as "twisting," or violates s. 626.9541(1)(aa), the offense
72 known as "churning," the person commits a misdemeanor of the
73 first degree, punishable as provided in s. 775.082, and an
74 administrative fine not greater than \$5,000 shall be imposed for
75 each nonwillful violation or an administrative fine not greater
76 than \$30,000 shall be imposed for each willful violation. To



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77 impose criminal penalties under this paragraph, the practice of
78 "churning" or "twisting" must involve fraudulent conduct.

79 (b) If a person violates s. 626.9541(1)(ee) by willfully
80 submitting fraudulent signatures on an application or policy-
81 related document, the person commits a misdemeanor of the first
82 degree, punishable as provided in s. 775.082, and an
83 administrative fine not greater than \$5,000 shall be imposed for
84 each nonwillful violation or an administrative fine not greater
85 than \$30,000 shall be imposed for each willful violation.

86 (c) Administrative fines under this subsection may not
87 exceed an aggregate amount of \$50,000 for all nonwillful
88 violations arising out of the same action or an aggregate amount
89 of \$250,000 for all willful violations arising out of the same
90 action.

91 Section 6. Any increase in the fines imposed under s.
92 626.9521, Florida Statutes, which exceeds the increase provided
93 by this act shall supersede the amendments made to that section
94 by this act if such increase is enacted during the 2008
95 legislative session and becomes law, and the amendments to s.
96 626.9521, Florida Statutes, made by this act shall not take
97 effect.

98 Section 7. Paragraph (aa) of subsection (1) of section
99 626.9541, Florida Statutes, is amended, and paragraphs (ee) and
100 (ff) are added to that subsection, to read:

101 626.9541 Unfair methods of competition and unfair or
102 deceptive acts or practices defined.--

103 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
104 ACTS.--The following are defined as unfair methods of competition
105 and unfair or deceptive acts or practices:

106 (aa) Churning.--



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107 | 1. Churning is the practice whereby policy values in an
108 | existing life insurance policy or annuity contract, including,
109 | but not limited to, cash, loan values, or dividend values, and in
110 | any riders to that policy or contract, are directly or indirectly
111 | used ~~utilized~~ to purchase another insurance policy or annuity
112 | contract with that same insurer for the purpose of earning
113 | additional premiums, fees, commissions, or other compensation:

114 | a. Without an objectively reasonable basis for believing
115 | that the replacement or extraction will result in an actual and
116 | demonstrable benefit to the policyholder;

117 | b. In a fashion that is fraudulent, deceptive, or otherwise
118 | misleading or that involves a deceptive omission;

119 | c. When the applicant is not informed that the policy
120 | values including cash values, dividends, and other assets of the
121 | existing policy or contract will be reduced, forfeited, or used
122 | ~~utilized~~ in the purchase of the replacing or additional policy or
123 | contract, if this is the case; or

124 | d. Without informing the applicant that the replacing or
125 | additional policy or contract will not be a paid-up policy or
126 | that additional premiums will be due, if this is the case.

127 |
128 | Churning by an insurer or an agent is an unfair method of
129 | competition and an unfair or deceptive act or practice.

130 | 2. Each insurer shall comply with sub-subparagraphs 1.c.
131 | and 1.d. by disclosing to the applicant at the time of the offer
132 | on a form designed and adopted by rule by the commission if, how,
133 | and the extent to which the policy or contract values (including
134 | cash value, dividends, and other assets) of a previously issued
135 | policy or contract will be used to purchase a replacing or
136 | additional policy or contract with the same insurer. The form



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137 must ~~shall~~ include disclosure of the premium, the death benefit
138 of the proposed replacing or additional policy, and the date when
139 the policy values of the existing policy or contract will be
140 insufficient to pay the premiums of the replacing or additional
141 policy or contract.

142 3. Each insurer shall adopt written procedures to
143 reasonably avoid churning of policies or contracts that it has
144 issued, and failure to adopt written procedures sufficient to
145 reasonably avoid churning shall be an unfair method of
146 competition and an unfair or deceptive act or practice.

147 (ee) Fraudulent signatures on an application or policy-
148 related document.--Willfully submitting to an insurer on behalf
149 of a consumer an insurance application or policy-related document
150 bearing a false or fraudulent signature.

151 (ff) Unlawful use of designations; misrepresentation of
152 agent qualifications.--

153 1. A licensee may not, in any sales presentation or
154 solicitation for insurance, use a designation or title in such a
155 way as to falsely imply that the licensee:

156 a. Possesses special financial knowledge or has obtained
157 specialized financial training; or

158 b. Is certified or qualified to provide specialized
159 financial advice to senior citizens.

160 2. A licensee may not use terms such as "financial advisor"
161 in such a way as to falsely imply that the licensee is licensed
162 or qualified to discuss, sell, or recommend financial products
163 other than insurance products.

164 3. A licensee may not, in any sales presentation or
165 solicitation for insurance, falsely imply that he or she is



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166 qualified to discuss, recommend, or sell securities or other
167 investment products in addition to insurance products.

168 4. A licensee who also holds a designation as a certified
169 financial planner (CFP), chartered life underwriter (CLU),
170 chartered financial consultant (ChFC), life underwriter training
171 council fellow (LUTC), or the appropriate license to sell
172 securities from the Financial Industry Regulatory Authority
173 (FINRA) may inform the customer of those licenses or designations
174 and make recommendations in accordance with those licenses or
175 designations, and in so doing does not violate this paragraph.

176 Section 8. Paragraph (a) of subsection (4) of section
177 626.99, Florida Statutes, is amended to read:

178 626.99 Life insurance solicitation.--

179 (4) DISCLOSURE REQUIREMENTS.--

180 (a) The insurer shall provide to each prospective purchaser
181 a buyer's guide and a policy summary prior to accepting the any
182 applicant's initial premium or premium deposit, unless the policy
183 for which application is made provides ~~contains a provision for~~
184 an unconditional refund for a period of at least 14 ~~10~~ days, or
185 unless the policy summary contains an offer of such an
186 unconditional refund, in which event the buyer's guide and policy
187 summary must be delivered with the policy or prior to delivery of
188 the policy. With respect to ~~fixed~~ annuities, the insurer shall
189 provide to each prospective purchaser a buyer's guide to
190 annuities and a contract summary as provided in the National
191 Association of Insurance Commissioners (NAIC) Model Annuity and
192 Deposit Fund Regulation and the policy must provide ~~shall contain~~
193 ~~a provision for~~ an unconditional refund for a period of at least
194 14 ~~10~~ days.



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195 Section 9. Section 627.4554, Florida Statutes, is amended
196 to read:

197 627.4554 Annuity investments by seniors.--

198 (1) PURPOSE; CONSTRUCTION.--

199 (a) The purpose of this section is to set forth standards
200 and procedures for making recommendations to senior consumers
201 which result in a transaction involving annuity products to
202 appropriately address the insurance needs and financial
203 objectives of senior consumers at the time of the transaction.

204 (b) A violation of ~~Nothing in this section does not shall~~
205 ~~be construed to create or imply a private cause of action for a~~
206 ~~violation of this section.~~

207 (c) Nothing in this section shall subject an insurer to
208 criminal or civil liability for the acts of independent
209 individuals not affiliated with that insurer for selling its
210 products, when such sales are made in a way not authorized by the
211 insurer.

212 (2) APPLICATION.--This section applies to any
213 recommendation to purchase or exchange an annuity made to a
214 senior consumer by an insurance agent, or an insurer where no
215 agent is involved, and which, that results in the purchase or
216 exchange recommended.

217 (3) DEFINITIONS.--For purposes of this section, the term:

218 (a) "Annuity contract" means a fixed annuity, equity
219 indexed annuity, fixed equity indexed annuity, or variable
220 annuity that is individually solicited, whether the product is
221 classified as an individual annuity or a group annuity.

222 (b) "Recommendation" means advice provided by an insurance
223 agent, or an insurer if no insurance agent is involved, to an



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224 individual senior consumer which results in a purchase or
225 exchange of an annuity in accordance with that advice.

226 (c) "Senior consumer" means a person 65 years of age or
227 older. In the event of a joint purchase by more than one party, a
228 purchaser is considered to be a senior consumer if any of the
229 parties is age 65 or older.

230 (4) DUTIES OF INSURERS AND INSURANCE AGENTS.--

231 (a) In recommending to a senior consumer the purchase or
232 exchange of an annuity that ~~or the exchange of an annuity that~~
233 results in another insurance transaction or series of insurance
234 transactions, an insurance agent, or an insurer if no insurance
235 agent is involved, must ~~shall~~ have an objectively reasonable
236 basis ~~grounds~~ for believing that the recommendation is suitable
237 for the senior consumer based on ~~the basis of~~ the facts disclosed
238 by the senior consumer as to his or her investments and other
239 insurance products and as to his or her financial situation and
240 needs.

241 (b) Before executing a purchase or exchange of an annuity
242 resulting from a recommendation to a senior consumer, an
243 insurance agent, or an insurer if no insurance agent is involved,
244 shall make reasonable efforts to obtain information concerning
245 the suitability of senior consumer's financial status, tax
246 status, and investment objectives and such other information used
247 or considered to be reasonable by the insurance agent, or the
248 insurer if no agent is involved, in making the recommendation.
249 The information shall include, at a minimum:

- 250 1. Personal information, including the age and sex of the
251 parties to the annuity and the ages and number of any dependents;
252 2. Tax status of the consumer;
253 3. Investment objectives of the consumer;



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- 254 4. The source of the funds to be used to purchase the
255 annuity;
- 256 5. The applicant's annual income;
- 257 6. Intended use of the annuity;
- 258 7. The applicant's existing assets, including investment
259 holdings;
- 260 8. The applicant's liquid net worth and liquidity needs;
- 261 9. The applicant's financial situation and needs;
- 262 10. The applicant's risk tolerance; and
- 263 11. Such other information used or considered to be
264 relevant by the insurance agent or insurer in making
265 recommendations to the consumer regarding the purchase or
266 exchange of an annuity contract.

267

268 This information shall be collected on a form adopted by rule by
269 the department and completed and signed by the applicant and
270 agent. Questions requesting this information must be presented in
271 at least 12-point type and be sufficiently clear so as to be
272 readily understandable by both the agent and the consumer. A true
273 and correct executed copy of the form shall be provided by the
274 agent to the insurer, or the third party that has contracted with
275 such insurer pursuant to subparagraph (f)3., within 10 days after
276 execution of the form, and shall be provided to the consumer no
277 later than the date of delivery of the contract or contracts.

278 (c)1. Except as provided under subparagraph 2., an
279 insurance agent, or an insurer if no insurance agent is involved,
280 ~~has no shall not have any~~ obligation to a senior consumer under
281 paragraph (a) related to any recommendation if the senior
282 consumer:



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283 a. Refuses to provide relevant information requested by the
284 insurer or insurance agent;

285 b. Decides to enter into an insurance transaction that is
286 not based on a recommendation of the insurer or insurance agent;
287 or

288 c. Fails to provide complete or accurate information.

289 2. An insurer or insurance agent's recommendation subject
290 to subparagraph 1. shall be objectively reasonable under all the
291 circumstances actually known to the insurer or insurance agent at
292 the time of the recommendation.

293 3. If the consumer refuses to provide relevant information
294 requested by the insurance agent or insurer, before the execution
295 of the sale the insurance agent or insurer shall obtain a signed
296 verification from the senior consumer on a form adopted by rule
297 by the department that he or she refuses to provide the requested
298 information and may be limiting protections afforded by this
299 section regarding the suitability of the sale.

300 (d) In addition to the information required by paragraph
301 (b), before the execution of a replacement or exchange of an
302 annuity contract resulting from a recommendation, the insurance
303 agent shall also provide, on a form adopted by rule by the
304 department, information concerning differences between each
305 existing annuity contract and the annuity contract being
306 recommended in order to determine the suitability of the
307 recommendation and its benefit to the consumer. A true and
308 correct executed copy of this form shall be provided by the agent
309 to the insurer, or the third party that has contracted with such
310 insurer pursuant to subparagraph (f)3., within 10 days after
311 execution of the form, and shall be provided to the consumer no



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312 later than the date of delivery of the contract or contracts. The
313 information shall include, at a minimum:

314 1. A comparison of the benefits, terms, and limitations
315 between the annuity contracts.

316 2. A comparison of any fees and charges between the annuity
317 contracts.

318 3. A written basis for the recommended exchange, including
319 the overall advantages and disadvantages to the consumer if the
320 recommendation is followed.

321 4. Such other information used or considered to be relevant
322 by the insurance agent or the insurer in making recommendations
323 to the consumer regarding the replacement or exchange of an
324 annuity contract.

325 (e) Prior to the execution of a purchase or exchange of an
326 annuity contract resulting from a recommendation, an agent shall
327 also disclose to the consumer that such purchase or exchange may
328 have tax consequences and that the applicant should contact his
329 or her tax advisor for more information.

330 (f) ~~(d)~~1. An insurer or insurance agent must ~~shall~~ ensure
331 that a system to supervise recommendations, which is reasonably
332 designed to achieve compliance with this section, is established
333 and maintained by complying with subparagraphs 3., 4., and 5., or
334 shall establish and maintain such a system, including, but not
335 limited to:

336 a. Maintaining written procedures.

337 b. Conducting periodic reviews of its records that are
338 reasonably designed to assist in detecting and preventing
339 violations of this section.

340 2. A managing general agent and an insurance agency shall
341 adopt a system established by an insurer to supervise



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342 | recommendations of its insurance agents which is reasonably
343 | designed to achieve compliance with this section or shall
344 | establish and maintain such a system, including, but not limited
345 | to:

346 | a. Maintaining written procedures.

347 | b. Conducting periodic reviews of records that are
348 | reasonably designed to assist in detecting and preventing
349 | violations of this section.

350 | 3. An insurer may contract with a third party, including a
351 | managing general agent or an insurance agency, to establish and
352 | maintain a system of supervision as required by subparagraph 1.
353 | with respect to insurance agents under contract with or employed
354 | by the third party.

355 | 4. An insurer shall make reasonable inquiry to ensure that
356 | such third party contracting under subparagraph 3. is performing
357 | the functions required under subparagraph 1. and shall take such
358 | action as is reasonable under the circumstances to enforce the
359 | contractual obligation to perform the functions. An insurer may
360 | comply with its obligation to make reasonable inquiry by:

361 | a. Annually obtaining a certification from a third party
362 | senior manager who has responsibility for the delegated functions
363 | that the manager has a reasonable basis to represent, and does
364 | represent, that the third party is performing the required
365 | functions.

366 | b. Based on reasonable selection criteria, periodically
367 | selecting third parties contracting under subparagraph 3. for a
368 | review to determine whether the third parties are performing the
369 | required functions. The insurer shall perform any procedures
370 | necessary to conduct the review which are reasonable under the
371 | circumstances.



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372 5. An insurer that contracts with a third party pursuant to
373 subparagraph 3. and complies with the requirements specified in
374 subparagraph 4. is deemed to have fulfilled its responsibilities
375 under subparagraph 1.

376 6. An insurer, managing general agent, or insurance agency
377 is not required by subparagraph 1. or subparagraph 2. to:

378 a. Review or provide for review of all transactions
379 solicited by an insurance agent; or

380 b. Include in its system of supervision an insurance
381 agent's recommendations to senior consumers of products other
382 than the annuities offered by the insurer, managing general
383 agent, or insurance agency.

384 7. A managing general agent or insurance agency contracting
385 with an insurer pursuant to subparagraph 3. shall promptly, when
386 requested by the insurer pursuant to subparagraph 4., provide a
387 certification as described in subparagraph 4. or provide a clear
388 statement that the managing general agent or insurance agency is
389 unable to meet the certification criteria.

390 8. A person may not provide a certification under sub-
391 subparagraph 4.a. unless the person is a senior manager with
392 responsibility for the delegated functions and has a reasonable
393 basis for making the certification.

394 (5) MITIGATION OF RESPONSIBILITY.--

395 (a) The office may order an insurer to take reasonably
396 appropriate corrective action, including rescission of the policy
397 or contract and a full refund of the premiums paid or the
398 accumulation value, whichever is greater, for any senior consumer
399 harmed by a violation of this section by the insurer or the
400 insurer's insurance agent.

401 (b) The department may order:



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402 1. An insurance agent to take reasonably appropriate
403 corrective action for any senior consumer harmed by a violation
404 of this section by the insurance agent.

405 2. A managing general agency or insurance agency that
406 employs or contracts with an insurance agent to sell or solicit
407 the sale of annuities to senior consumers to take reasonably
408 appropriate corrective action for any senior consumer harmed by a
409 violation of this section by the insurance agent.

410 (c) Any applicable penalty under the Florida Insurance Code
411 for a violation of paragraph (4) (a), paragraph (4) (b), or
412 subparagraph (4) (c) 2. may be reduced or eliminated, according to
413 a schedule adopted by the office or the department, as
414 appropriate, if corrective action for the senior consumer was
415 taken promptly after a violation was discovered.

416 (6) RECORDKEEPING.--

417 (a) Insurers, managing general agents, insurance agencies,
418 and insurance agents shall maintain or ~~be able to~~ make available
419 from the entity or entities responsible for maintaining the
420 records pursuant to paragraph (4) (f), to the department or
421 office, as appropriate, records of the information collected from
422 the senior consumer and other information used in making the
423 recommendations that were the basis for insurance transactions
424 for 5 years after the insurance transaction is completed by the
425 insurer. An insurer is permitted, but shall not be required, to
426 maintain documentation on behalf of an insurance agent.

427 (b) Records required to be maintained by this subsection
428 ~~regulation~~ may be maintained in paper, photographic,
429 microprocess, magnetic, mechanical, or electronic media, or by
430 any process that accurately reproduces the actual document.



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431 (7) EXEMPTIONS.--Unless otherwise specifically included,
432 this section does not apply to recommendations involving:

433 (a) Direct-response solicitations where there is no
434 recommendation based on information collected from the senior
435 consumer pursuant to this section.

436 (b) Contracts used to fund:

437 1. An employee pension or welfare benefit plan that is
438 covered by the Employee Retirement and Income Security Act;

439 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
440 408(k), or s. 408(p) of the Internal Revenue Code of 1986, as
441 amended, if established or maintained by an employer;

442 3. A government or church plan defined in s. 414 of the
443 Internal Revenue Code of 1986, as amended, a government or church
444 welfare benefit plan, or a deferred compensation plan of a state
445 or local government or tax-exempt organization under s. 457 of
446 the Internal Revenue Code of 1986, as amended;

447 4. A nonqualified deferred compensation arrangement
448 established or maintained by an employer or plan sponsor;

449 5. Settlements of or assumptions of liabilities associated
450 with personal injury litigation or any dispute or claim
451 resolution process; or

452 6. Prepaid funeral contracts.

453 (8) APPLICATION TO ~~VARIABLE~~ ANNUITIES.--Any person who is
454 registered with a member of the Financial Industry Regulatory
455 Authority, who is required to make a suitability determination,
456 and who makes and documents such determination is deemed to
457 ~~Compliance with the National Association of Securities Dealers~~
458 ~~Conduct Rules in effect on January 1, 2004, shall satisfy the~~
459 requirements under this section for the recommendation of
460 ~~variable~~ annuities. This section does not limit the department's



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461 ability to enforce the provisions of this section with respect to
462 insurance agents, insurance agencies, and managing general
463 agents, or the office's ability to enforce the provisions of this
464 section with respect to insurers.

465 (9) RULES.--The department and commission may adopt rules
466 to administer this section.

467 Section 10. Effective only if Senate Bill 648, adopted
468 during the 2008 Regular Session of the Legislature, becomes a
469 law, paragraph (d) is added to subsection (2) of section 627.551,
470 Florida Statutes, to read:

471 627.551 Group contracts and plans of self-insurance must
472 meet group requirements.--

473 (2) Subsection (1) does not apply to life insurance
474 policies or plans of self-insurance:

475 (a) Insuring or providing benefits only to individuals
476 related by blood, marriage, or legal adoption.

477 (b) Insuring or providing benefits only to individuals who
478 have a common interest through ownership of a business
479 enterprise, or a substantial legal interest or equity therein,
480 and who are actively engaged in the management of the business
481 enterprise.

482 (c) Insuring or providing benefits only to individuals
483 otherwise having an insurable interest in each other's lives.

484 (d) Insuring or providing benefits pursuant to s.
485 627.404(2)(b)8. or 9.

486 Section 11. Section 627.805, Florida Statutes, is amended
487 to read:

488 627.805 Regulation of variable and indeterminate value
489 contracts; rules.--The Department of Financial Services and the
490 Office of Insurance Regulation ~~office, notwithstanding any other~~



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491 ~~provision of law, shall have the sole authority to regulate the~~
492 ~~issuance and sale of variable and indeterminate value contracts~~
493 ~~pursuant to their respective authority as conferred by state law.~~
494 The Office of Financial Regulation shall regulate the sale of
495 variable and indeterminate value contracts pursuant to its
496 authority under chapter 517. The Department of Financial Services
497 and, when applicable, the Financial Services Commission, may, and
498 ~~the commission has authority to~~ adopt rules pursuant to ss.
499 120.536(1) and 120.54 to implement ~~the provisions of~~ this part.

500 Section 12. Effective upon this act becoming a law, the
501 Department of Financial Services may adopt rules to implement
502 this act. Section 9 of this act and such implementing rules shall
503 take effect 60 days after the date on which the final rule is
504 adopted or January 1, 2009, whichever is later.

505 Section 13. Except as otherwise expressly provided in this
506 act and except for this section, which shall take effect upon
507 becoming a law, this act shall take effect January 1, 2009.

508
509 ===== T I T L E A M E N D M E N T =====

510 And the title is amended as follows:

511 Delete everything before the enacting clause
512 and insert:

513 A bill to be entitled

514 An act relating to insurance; providing a short title;
515 amending s. 626.171, F.S.; requiring that an applicant for
516 licensure as an insurance agent, customer representative,
517 adjuster, service representative, managing general agent,
518 or reinsurance intermediary provide to the Department of
519 Financial Services his or her contact and business
520 telephone numbers and e-mail address; amending s.



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521 | 626.2815, F.S.; requiring persons licensed to solicit or
522 | sell life insurance to complete a specified number of
523 | hours in continuing education on the subject of
524 | suitability in annuity and life insurance transactions;
525 | amending s. 626.551, F.S.; requiring that a licensee
526 | notify the department within 60 days after a change in
527 | contact or business telephone numbers or e-mail address;
528 | amending s. 626.9521, F.S.; providing for administrative
529 | fines and criminal penalties for offenses involving
530 | misleading representations or fraudulent comparisons or
531 | omissions, the generation of unlawful fees and
532 | commissions, or the use of fraudulent signatures; limiting
533 | the aggregate amounts of fines; providing for other
534 | administrative fines to supersede the administrative fines
535 | and penalties provided by the act under certain
536 | conditions; amending s. 626.9541, F.S.; revising the
537 | elements of the offense known as "churning" to include
538 | direct or indirect purchases made for the purpose of
539 | earning fees or commissions; providing that the willful
540 | submission of certain fraudulent signatures or the
541 | misrepresentation of a licensee's qualifications
542 | constitute an unfair method of competition and an unfair
543 | or deceptive act or practice; amending s. 626.99, F.S.;
544 | revising requirements for life insurance or annuity
545 | policies to increase the period of time allowed for
546 | obtaining an unconditional refund; requiring insurers for
547 | all types of annuities to provide a buyer's guide and a
548 | policy summary to the buyer; amending s. 627.4554, F.S.;
549 | revising the regulation of recommendations relating to the
550 | sale of annuities to senior consumers; redefining the term



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551 "annuity"; requiring that an agent obtain financial and
552 other information concerning the senior consumer before
553 executing a purchase or exchange of an annuity; requiring
554 that the agent perform a suitability analysis relative to
555 the investment he or she recommends and document the
556 analysis in writing; requiring an agent to provide a
557 comparison of current and recommended products if the
558 transaction involves the replacement or exchange of an
559 annuity; requiring an agent to provide information about
560 any surrender charges and tax consequences; exempting
561 certain persons from compliance with certain separate
562 suitability determinations under certain circumstances;
563 authorizing the department and Financial Services
564 Commission to adopt rules; amending s. 627.551, F.S.;
565 expanding the list of life insurance policies and plans of
566 self-insurance that are exempt from certain provisions of
567 state law; providing for contingent effect; amending s.
568 627.805, F.S.; providing for regulation of the issuance
569 and sale of variable and indeterminate value contracts by
570 the department, the Office of Insurance Regulation, and
571 the Office of Financial Regulation; authorizing the
572 department and the commission to adopt rules; providing an
573 effective date for such rulemaking authority; providing
574 for applicability of such rules; providing effective
575 dates.