

HOUSE MESSAGE SUMMARY

BILL: CS/SB 312, 2nd Eng. [S0312.HMS]
SPONSOR: Banking and Insurance Committee and Senator Lee
SUBJECT: Health Insurance
PREPARED BY: Senate Committee on Banking and Insurance
DATE: April 29, 1999

I. Amendments Contained in Message

House Amendment 1 - 661825 (body with title)
House Amendment 2 - 172029 (body with title)
House Amendment 3 - 661355 (body with title)
House Amendment 4 - 524683 (body with title)
House Amendment 5 - 120815 (body with title)

II. Summary of Amendments Contained in Message

House Amendment 1 amends s. 284.33, F.S., to authorize the Department of Insurance to directly purchase annuities by using a structured settlement insurance consulting firm, to assist in the settlement of claims handled by the Division of Risk Management. The consulting firm will be an agent of record for the department in procuring annuity products for the structured settlement of claims. The consulting firm will be chosen by the competitive sealed bid and proposal process; however, once the consulting firm is selected, the annuity products will not be subject to the competitive bid process, as required under current law.

The amendment also amends s. 626.99, F.S., to change the edition of the buyer's guide to be used for solicitation of life insurance in Florida. An insurer soliciting life insurance in Florida would now use the edition adopted by the National Association of Insurance Commissioners on October 1, 1996. The previous version was adopted in 1976, and since that time, new products and language are used in the life insurance arena. The new edition addresses these changes.

The amendment creates s. 627.4785, F.S., to allow the Department of Insurance to adopt, by rule, the valuation of life insurance policies model regulation as approved by the National Association of Insurance Commissioners in March 1999. The model regulation also includes tables of select mortality factors.

(This amendment is part of CS/SB 900 by Banking & Insurance Committee and Sen. Rossin, currently in the Commerce and Economic Opportunities Committee.)

House Amendment 2 amends s. 627.410, F.S., to exempt from the rate filing requirements group health insurance policies if the policy forms to which the rate applies are of unique character which are designed for and used with relation to insurance upon a particular subject or to benefits under group health insurance policies insuring 100 or more persons and are used at the request of the individual policyholder, contract holder, or certificate holder. This provision would appear to

exempt from rate filing requirements what are commonly referred to as “single case” filings, where the premiums and benefits are negotiated between the insurer and the employer, in this case an employer with 100 or more employees. However, the distinction between a policy form that has a “unique character” and a policy form that is similar to a standard policy form may not be clear. (This amendment is similar to a provision in CS/SB 1576 by Banking & Insurance Committee and Senator Meek, currently in the Fiscal Policy Committee.)

This amendment also creates s. 627.6474, F.S., to authorize point of service policies pursuant to agreements between health maintenance organizations (HMOs) and health insurers, by which the insured is provided an option of accessing benefits from health care providers within the network of an HMO or from health care providers outside the network, covered by a health insurer. (These provisions are similar to the provisions in SB 2230 in the Banking and Insurance Committee.) In a separate bill, HB 2071 (companion to SB 2472), as passed by the Senate, HMOs that meet certain financial criteria are authorized to issue point of service products without any affiliation with a health insurer. The House Amendment to this bill (CS/SB 2522) would provide an alternative method for an HMO to provide a point of service product pursuant to an agreement with a health insurer, similar to point of service products that the Department of Insurance has approved under current law, despite lack of clear legislative direction. However, certain requirements would be specified that are not addressed in the current department-approved process.

The amendment would allow an HMO to offer out-of-network benefits on one policy form with the out-of-network benefits being provided by a health insurer through a rider; or allow the HMO and the health insurer to offer the coverage through two separate policies. The amendment would specify the requirements for the filing of rates and forms, require 60 days’ notice if the point-of-service arrangement ceases to exist, and require both the HMO and the insurer to offer the insured a similar policy if the point of service arrangement ceases to exist. If the HMO offers the point of service contract under one contract, the agent must only be appointed by the HMO and not the insurer. The Department of Insurance would be authorized to adopt rules to ensure that the policies are offered and provided in a fair and equitable fashion.

House Amendment 3 amends s. 627.6699, F.S., (the “Employee Health Care Access Act”) which currently entitles small employers with 1 to 50 employees, including sole proprietors and self-employed individuals, to have access to group health insurance coverage on a guaranteed-issue basis, with rates established without regard to the health status of the small employer or its employees. Currently the law limits the factors that an insurer or HMO (“small group carrier”) may use in setting rates for small employers to age, gender, geographic location, tobacco usage, and family composition (size). The amendment makes the following changes:

- ▶ Eliminates the prohibition that rates not be based on the health status or claims experience of any individual or group and allows limited use of such factors. Small group carriers would be allowed to adjust a small employer’s rate by plus or minus 15 percent, based on health status, claims experience, or duration of coverage. The renewal premium could be adjusted up to 10 percent annually (up to the total 15 percent limit) of the carrier’s approved rate, based on these additional factors or due to dependents, but not to exceed 5 percent annually due to health status alone.

- ▶ Deletes the guaranty-issue requirements for employers with one employee, sole proprietors, and self-employed individuals and, instead, provides for an annual open enrollment period for such persons, for the month of August each year. Coverage would begin on October 1, unless the insurer and the policyholder agree to a different date. Any one-person small employer getting coverage must not be formed primarily for the purposes of buying health insurance and if an individual hires his or her spouse and dependent children as employees, the entire family unit would be considered a one-person group.
- ▶ Prohibits small group carriers from using “composite rating” for employers with fewer than 10 employees, which would prohibit averaging the impact of the rating factors for age and gender.
- ▶ Allows small group carriers to provide a credit to reflect the administrative and acquisition expense savings resulting from the size of the group.
- ▶ Specifies certain family-size categories that a small group carriers may use.
- ▶ Clarifies the applicability of additional rate filing procedure and standards for insurers and HMOs, respectively.

(This amendment is the same as CS/HB 903 (which was substituted for CS/CS/SB 1294) on the Special Order Calendar.)

House Amendment 4 creates s. 624.6085, F.S., to define “collateral protection insurance” as commercial property (insurance) and would expressly not be “residential coverage,” for purposes of ss. 215.555, 627.311, and 627.351, F.S. The effect is to exempt or not apply certain laws that apply to residential property insurance to collateral protection insurance, as defined. The amendment further defines collateral protection insurance as commercial property insurance of which a creditor (such as a bank) is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is triggered by the mortgagor’s failure to maintain insurance coverage as required by the mortgage or other lending document.

The amendment will exclude collateral protection insurance policies, as defined, from: (1) mandatory participation in the Florida Hurricane Catastrophe Fund. Such policies are currently excluded by contract and rules of the State Board of Administration, but the bill’s exemption is somewhat broader; and from (2) the assessment base for the personal lines residential property insurance account of the Residential Property and Casualty Joint Underwriting Association (RPCJUA). However, as commercial property insurance, such coverage would, instead, be included in the assessment base for the commercial residential risk account (for which all commercial property is assessed). The amendment will have no effect on the FWUA assessment base, since commercial property insurance is currently included.

(This amendment is similar to SB 1832 by Senator Casas, reported favorably by the Banking and Insurance Committee with one amendment, but was subsequently withdrawn from consideration.)

House Amendment 5 amends s. 636.003, F.S., relating to the definition of the term “prepaid limited health service organization” to delete the term “exclusive” as it relates to the panel of health care providers. The effect of this amendment allows prepaid limited health organizations to cover the services of non-panel providers. The amendment also requires such organizations to provide each subscriber with a contract, certificate, membership card, or member handbook clearly stating any limitations on services being received from a non-panel provider (s. 636.016, F.S.).