

Bill No. SB 594

Amendment No. \_\_\_\_ Barcode 064052

CHAMBER ACTION

Senate

House

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Senator Peaden moved the following amendment:

**Senate Amendment (with title amendment)**

On page 1, line 10,

insert:

Section 1. Paragraphs (o) and (x) of subsection (1) of section 626.9541, Florida Statutes, are amended to read:

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

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

(o) Illegal dealings in premiums; excess or reduced charges for insurance.--

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for

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1 insurance any sum in excess of or less than the premium or  
2 charge applicable to such insurance, in accordance with the  
3 applicable classifications and rates as filed with and  
4 approved by the department, and as specified in the policy;  
5 or, in cases when classifications, premiums, or rates are not  
6 required by this code to be so filed and approved, premiums  
7 and charges collected from a Florida resident in excess of or  
8 less than those specified in the policy and as fixed by the  
9 insurer. This provision shall not be deemed to prohibit the  
10 charging and collection, by surplus lines agents licensed  
11 under part VIII of this chapter, of the amount of applicable  
12 state and federal taxes, or fees as authorized by s.  
13 626.916(4), in addition to the premium required by the insurer  
14 or the charging and collection, by licensed agents, of the  
15 exact amount of any discount or other such fee charged by a  
16 credit card facility in connection with the use of a credit  
17 card, as authorized by subparagraph (q)3., in addition to the  
18 premium required by the insurer. This subparagraph shall not  
19 be construed to prohibit collection of a premium for a  
20 universal life or a variable or indeterminate value insurance  
21 policy made in accordance with the terms of the contract.

22 3.a. Imposing or requesting an additional premium for  
23 a policy of motor vehicle liability, personal injury  
24 protection, medical payment, or collision insurance or any  
25 combination thereof or refusing to renew the policy solely  
26 because the insured was involved in a motor vehicle accident  
27 unless the insurer's file contains information from which the  
28 insurer in good faith determines that the insured was  
29 substantially at fault in the accident.

30 b. An insurer which imposes and collects such a  
31 surcharge or which refuses to renew such policy shall, in

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1 conjunction with the notice of premium due or notice of  
2 nonrenewal, notify the named insured that he or she is  
3 entitled to reimbursement of such amount or renewal of the  
4 policy under the conditions listed below and will subsequently  
5 reimburse him or her or renew the policy, if the named insured  
6 demonstrates that the operator involved in the accident was:

7 (I) Lawfully parked;

8 (II) Reimbursed by, or on behalf of, a person  
9 responsible for the accident or has a judgment against such  
10 person;

11 (III) Struck in the rear by another vehicle headed in  
12 the same direction and was not convicted of a moving traffic  
13 violation in connection with the accident;

14 (IV) Hit by a "hit-and-run" driver, if the accident  
15 was reported to the proper authorities within 24 hours after  
16 discovering the accident;

17 (V) Not convicted of a moving traffic violation in  
18 connection with the accident, but the operator of the other  
19 automobile involved in such accident was convicted of a moving  
20 traffic violation;

21 (VI) Finally adjudicated not to be liable by a court  
22 of competent jurisdiction;

23 (VII) In receipt of a traffic citation which was  
24 dismissed or nolle prossed; or

25 (VIII) Not at fault as evidenced by a written  
26 statement from the insured establishing facts demonstrating  
27 lack of fault which are not rebutted by information in the  
28 insurer's file from which the insurer in good faith determines  
29 that the insured was substantially at fault.

30 c. In addition to the other provisions of this  
31 subparagraph, an insurer may not fail to renew a policy if the

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1 insured has had only one accident in which he or she was at  
2 fault within the current 3-year period. However, an insurer  
3 may nonrenew a policy for reasons other than accidents in  
4 accordance with s. 627.728. This subparagraph does not  
5 prohibit nonrenewal of a policy under which the insured has  
6 had three or more accidents, regardless of fault, during the  
7 most recent 3-year period.

8           4. Imposing or requesting an additional premium for,  
9 or refusing to renew, a policy for motor vehicle insurance  
10 solely because the insured committed a noncriminal traffic  
11 infraction as described in s. 318.14 unless the infraction is:

12           a. A second infraction committed within an 18-month  
13 period, or a third or subsequent infraction committed within a  
14 36-month period.

15           b. A violation of s. 316.183, when such violation is a  
16 result of exceeding the lawful speed limit by more than 15  
17 miles per hour.

18           5. Upon the request of the insured, the insurer and  
19 licensed agent shall supply to the insured the complete proof  
20 of fault or other criteria which justifies the additional  
21 charge or cancellation.

22           6. No insurer shall impose or request an additional  
23 premium for motor vehicle insurance, cancel or refuse to issue  
24 a policy, or refuse to renew a policy because the insured or  
25 the applicant is a handicapped or physically disabled person,  
26 so long as such handicap or physical disability does not  
27 substantially impair such person's mechanically assisted  
28 driving ability.

29           7. No insurer may cancel or otherwise terminate any  
30 insurance contract or coverage, or require execution of a  
31 consent to rate endorsement, during the stated policy term for

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1 the purpose of offering to issue, or issuing, a similar or  
2 identical contract or coverage to the same insured with the  
3 same exposure at a higher premium rate or continuing an  
4 existing contract or coverage with the same exposure at an  
5 increased premium.

6           8. No insurer may issue a nonrenewal notice on any  
7 insurance contract or coverage, or require execution of a  
8 consent to rate endorsement, for the purpose of offering to  
9 issue, or issuing, a similar or identical contract or coverage  
10 to the same insured at a higher premium rate or continuing an  
11 existing contract or coverage at an increased premium without  
12 meeting any applicable notice requirements.

13           9. No insurer shall, with respect to premiums charged  
14 for motor vehicle insurance, unfairly discriminate solely on  
15 the basis of age, sex, marital status, or scholastic  
16 achievement.

17           10. Imposing or requesting an additional premium for  
18 motor vehicle comprehensive or uninsured motorist coverage  
19 solely because the insured was involved in a motor vehicle  
20 accident or was convicted of a moving traffic violation.

21           11. No insurer shall cancel or issue a nonrenewal  
22 notice on any insurance policy or contract without complying  
23 with any applicable cancellation or nonrenewal provision  
24 required under the Florida Insurance Code.

25           12. No insurer shall impose or request an additional  
26 premium, cancel a policy, or issue a nonrenewal notice on any  
27 insurance policy or contract because of any traffic infraction  
28 when adjudication has been withheld and no points have been  
29 assessed pursuant to s. 318.14(9) and (10). However, this  
30 subparagraph does not apply to traffic infractions involving  
31 accidents in which the insurer has incurred a loss due to the

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1 | fault of the insured.

2 |       (x) Refusal to insure.--In addition to other  
3 | provisions of this code, the refusal to insure, or continue to  
4 | insure, any individual or risk solely because of:

5 |       1. Race, color, creed, marital status, sex, or  
6 | national origin;

7 |       2. The residence, age, or lawful occupation of the  
8 | individual or the location of the risk, unless there is a  
9 | reasonable relationship between the residence, age, or lawful  
10 | occupation of the individual or the location of the risk and  
11 | the coverage issued or to be issued;

12 |       3. The insured's or applicant's failure to agree to  
13 | place collateral business with any insurer, unless the  
14 | coverage applied for would provide liability coverage which is  
15 | excess over that provided in policies maintained on property  
16 | or motor vehicles;

17 |       4. The insured's or applicant's failure to purchase  
18 | noninsurance services or commodities, including automobile  
19 | services as defined in s. 624.124; ~~or~~

20 |       5. The fact that the insured or applicant is a public  
21 | official; or

22 |       ~~6.5.~~ The fact that the insured or applicant had been  
23 | previously refused insurance coverage by any insurer, when  
24 | such refusal to insure or continue to insure for this reason  
25 | occurs with such frequency as to indicate a general business  
26 | practice.

27 |       Section 2. Subsection (1) of section 631.913, Florida  
28 | Statutes, is amended to read:

29 |       631.913 Powers and duties of the corporation.--

30 |       (1) The corporation is obligated to the extent of the  
31 | full amount of the covered claims:

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1 (a) Existing before the adjudication of insolvency and  
2 arising within 30 days after the determination of insolvency;

3 (b) Existing before the policy expiration date if less  
4 than 30 days after the determination of insolvency; or

5 (c) Existing before the insured replaces the policy or  
6 causes its cancellation, if the insured does so within 30 days  
7 after the determination of insolvency.

8

9 Notwithstanding such criteria, the corporation's obligation  
10 for a covered claim for the return of unearned premium shall  
11 not exceed \$50,000 per policy. In addition, the corporation is  
12 not obligated to a policyholder or claimant in an amount in  
13 excess of the obligation of the insolvent insurer under the  
14 policy from which the claim arises.

15 Section 3. Paragraph (a) of subsection (1) of section  
16 631.914, Florida Statutes, is amended to read:

17 631.914 Assessments.--

18 (1)(a) To the extent necessary to secure the funds for  
19 the payment of covered claims, and also to pay the reasonable  
20 costs to administer the same, the department, upon  
21 certification by the board, shall levy assessments on each  
22 insurer in the proportion that the insurer's net direct  
23 written premiums in this state bears to the total of said net  
24 direct written premiums received in this state by all such  
25 workers' compensation insurers for the preceding calendar  
26 year. Assessments shall be remitted to and administered by  
27 the board of directors in the manner specified by the approved  
28 plan of operation. The board shall give each insurer so  
29 assessed at least 30 days' written notice of the date the  
30 assessment is due and payable. Each assessment shall be a  
31 uniform percentage applicable to the net direct written

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1 premiums of each insurer writing workers' compensation  
2 insurance.

3 1. Beginning July 1, 1997, assessments levied against  
4 insurers, other than self-insurance funds, shall not exceed in  
5 any calendar year more than 2 percent of that insurer's net  
6 direct written premiums in this state for workers'  
7 compensation insurance during the calendar year next preceding  
8 the date of such assessments.

9 2. Beginning July 1, 1997, assessments levied against  
10 self-insurance funds shall not exceed in any calendar year  
11 more than 1.50 percent of that self-insurance fund's net  
12 direct written premiums in this state for workers'  
13 compensation insurance during the calendar year next preceding  
14 the date of such assessments.

15 3. Beginning July 1, 2003, assessments levied against  
16 insurers and self-insurance funds pursuant to this paragraph  
17 are computed and levied on the basis of the full policy  
18 premium value on the net direct premiums written in the state  
19 for workers' compensation insurance during the calendar year  
20 next preceding the date of the assessment without taking into  
21 account any applicable discount or credit for deductibles.  
22 Insurers and self-insurance funds must report premiums in  
23 compliance with this subparagraph.

24 Section 4. Section 631.924, Florida Statutes, is  
25 amended to read:

26 631.924 Stay of proceedings; reopening of default  
27 judgments.--All proceedings in which the insolvent insurer or  
28 self-insurance fund is a party or is obligated to defend a  
29 party in any court or before any quasi-judicial body or  
30 administrative board in this state must be stayed for 6  
31 months, or such additional period from the date the insolvency



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1 is adjudicated, by a court of competent jurisdiction to allow  
2 proper defense by the association of all pending causes of  
3 action as to any covered claims. The stay may be extended for  
4 a period of time greater than 6 months upon proper application  
5 to a court of competent jurisdiction. The association, either  
6 on its own behalf or on behalf of the insured, may apply to  
7 have any judgment, order, decision, verdict, or finding based  
8 on the default of the insolvent insurer or self-insurance fund  
9 or its failure to defend an insured set aside by the same  
10 court or administrator that made the judgment, order,  
11 decision, verdict, or finding and may defend against the claim  
12 on the merits. If the association so requests, the stay of  
13 proceedings may be shortened or waived.

14 Section 5. Subsection (4) of section 624.406, Florida  
15 Statutes, is amended to read:

16 624.406 Combinations of insuring powers, one  
17 insurer.--An insurer which otherwise qualifies therefor may be  
18 authorized to transact any one kind or combination of kinds of  
19 insurance as defined in part V except:

20 (4) A health insurer may also transact excess  
21 insurance, specific and aggregate, for self-insurers of a plan  
22 of health insurance and multiple-employer welfare arrangements  
23 and reinsurance for the medical and lost wages benefits  
24 provided under a workers' compensation insurance policy.

25 Section 6. Section 624.603, Florida Statutes, is  
26 amended to read:

27 624.603 "Health insurance" defined.--"Health  
28 insurance," also known as "disability insurance," is insurance  
29 of human beings against bodily injury, disablement, or death  
30 by accident or accidental means, or the expense thereof, or  
31 against disablement or expense resulting from sickness, and

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1 every insurance appertaining thereto. Health insurance does  
2 not include workers' compensation coverages, except as  
3 provided in s. 624.406(4).

4 Section 7. Subsection (7) of section 631.141, Florida  
5 Statutes, is amended to read:

6 631.141 Conduct of delinquency proceeding; domestic  
7 and alien insurers.--

8 (7)(a) In connection with a delinquency proceeding,  
9 the department may appoint one or more special agents to act  
10 for it, and it may employ such counsel, clerks, and assistants  
11 as it deems necessary. The compensation of the special  
12 agents, counsel, clerks, or assistants and all expenses of  
13 taking possession of the insurer and of conducting the  
14 proceeding shall be fixed by the receiver, subject to the  
15 approval of the court, and shall be paid out of the funds or  
16 assets of the insurer. Within the limits of duties imposed  
17 upon them, special agents shall possess all the powers given  
18 to and, in the exercise of those powers, shall be subject to  
19 all duties imposed upon the receiver with respect to such  
20 proceeding.

21 (b) In the event that initiation of delinquency  
22 proceedings does not result in appointment of the department  
23 as receiver, or in the event that the funds or assets of an  
24 insurer for which the department is appointed as receiver are  
25 insufficient to cover the cost of compensation to special  
26 agents, counsel, clerks, or assistants and all expenses of  
27 taking, or attempting to take, possession of the insurer, and  
28 of conducting the proceeding, there is appropriated, upon  
29 approval of the Chief Financial Officer, from the Insurance  
30 Regulation Trust Fund to the Division of Rehabilitation and  
31 Liquidation a sum that is sufficient to cover the unreimbursed

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1 costs.

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3 (Redesignate subsequent sections.)

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5

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

7 And the title is amended as follows:

8 On page 1, line 2, delete that line,

9

10 and insert:

11 An act relating to insurance; amending s.  
 12 626.9541, F.S.; clarifying certain activities  
 13 that constitute illegal dealings in premiums;  
 14 prohibiting insurers from refusing to insure  
 15 solely because the insured or applicant is a  
 16 public official; amending s. 631.913, F.S.;  
 17 limiting the obligation of the Florida Workers'  
 18 Compensation Insurance Guaranty Association,  
 19 Incorporated for a covered claim for return of  
 20 unearned premium; amending s. 631.914, F.S.;  
 21 revising requirements for reporting premium for  
 22 assessment calculations; amending s. 631.924,  
 23 F.S.; including insolvent insurers under  
 24 provisions for a stay of proceedings; amending  
 25 s. 624.406, F.S.; providing for reinsurance  
 26 under a workers' compensation insurance policy;  
 27 amending s. 624.603, F.S.; providing an  
 28 exception to include workers' compensation  
 29 coverages under health insurance; amending s.  
 30 631.141, F.S.; providing for trust funds to be  
 31 transferred to the receiver in delinquency

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1           proceedings to pay for unreimbursed expenses;

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