

By Senators Childers, Holzendorf, Turner, Silver, Forman, Meadows and Grant

37-1170-98

See HB

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A bill to be entitled
An act relating to insurance; creating s.
624.4351, F.S.; prohibiting certain insurers
from terminating certain contracts between
insurers and agents unless just cause exists;
providing definitions; providing a cause of
action; providing an effective date.

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

Section 1. Section 624.4351, Florida Statutes, is
created to read:

624.4351 Agent redlining prohibited.--

(1) PURPOSE.--The purpose of this section is to
prevent indirect "redlining" by insurers relating to age,
location, or nationality, by the method of intimidating or
terminating insurance agents.

(2) DEFINITIONS.--As used in this section, the term:

(a) "Insurer" means an insurer, association, or
exchange that is authorized to transact and is transacting the
business of property or casualty insurance in this state and
that maintains a captive agency sales force.

(b) "Agent" means any individual employed as an agent
by an insurer who places at least 80 percent of the risks
placed by the agent with one insurer or its subsidiaries,
whose exclusive activity in transacting insurance is on behalf
of that insurer, who is authorized by that insurer to solicit
insurance or to negotiate insurance on its behalf, and who is
authorized by the insurer to effectuate and countersign
insurance contracts on its behalf.

1 (c) "Loss ratio experience" means the ratio of claims
2 paid divided by the premiums paid.

3 (3) INSURER RESTRICTED FROM CANCELING AGREEMENT.--

4 (a) An insurer may not cancel a written agreement with
5 its agent or reduce or restrict the agent's underwriting
6 authority with respect to property or casualty insurance based
7 on the loss ratio experience or on the mix of the agent's
8 entire book of business, if the insurer:

9 1. Required the agent to submit an application for
10 underwriting approval;

11 2. Held and maintained the application for review at
12 any time by the insurer's underwriter or portfolio manager for
13 final approval; or

14 3. Rejected or canceled a policy even though all
15 material information on the application was fully completed
16 and the agent did not omit or alter any information provided
17 by the applicant.

18 (b) An insurer may not cancel, refuse to renew, or
19 otherwise terminate a written agreement with an agent who has
20 been appointed pursuant to one or more written agreements
21 between the agent and the insurer for a period of more than 4
22 years, except for just cause as prescribed in this section.

23 (c) If an insurer intends to cancel, fail to renew, or
24 otherwise terminate a written agreement with an agent, the
25 insurer must notify the agent by certified mail at least 90
26 days before the date upon which the insurer proposes to
27 cancel, fail to renew, or terminate the written agreement. The
28 notice must include a statement of the grounds upon which the
29 insurer based its decision to cancel, refuse to renew, or
30 terminate the written agreement.

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1 (d) The following matters are considered just cause
2 for an insurer to terminate a written agreement with its
3 agent:

4 1. Criminal misconduct or gross negligence relating to
5 the business of the insurer or of the agent's agency;

6 2. Fraud;

7 3. Abandonment or nonattendance of the business of the
8 insurer or the agent's agency for a period of time that
9 unreasonably interferes with the transacting of business;

10 4. Failure by the agent to pay money over to the
11 insurer in a timely manner with respect to insurance contracts
12 sold by the agent;

13 5. The death or total disability of the agent; or

14 6. The insolvency of the insurer.

15 (e) If, upon receipt by the agent of the notice of
16 proposed cancellation, the agent prior to the established
17 cancellation date as stated in the notice rectifies or
18 eliminates the stated ground constituting just cause for
19 cancellation of the contract, the notice is void.

20 (f) If any insurer cancels, refuses to renew, or
21 otherwise terminates the contractual relationship with any
22 agent in violation of this section, the agent who has been
23 damaged has a cause of action against the insurer for specific
24 performance, injunctive relief, or damages sustained by the
25 agent as a result of the termination of the relationship,
26 including ascertainable loss of goodwill as a result of the
27 termination of the relationship. Any action brought by an
28 agent against an insurer for wrongful termination of the
29 contractual relationship must be commenced within 2 years
30 after the wrongful termination.

31 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Prohibits property and casualty insurers that maintain a captive agency sales force from terminating employment contracts with their agents under prescribed conditions. Authorizes termination of employment contracts for just cause as specified in the act. Provides a cause of action for agents who are damaged as a result of an insurer's termination of their employment contract in violation of the act.