

By Representative Fuller

1                                   A bill to be entitled  
2           An act relating to insurance; creating s.  
3           624.4351, F.S.; prohibiting certain insurers  
4           from terminating certain contracts between  
5           insurers and agents unless just cause exists;  
6           providing definitions; providing a cause of  
7           action; providing an effective date.

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

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

13           624.4351 Agent redlining prohibited.--

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

18           (2) DEFINITIONS.--As used in this act:

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

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

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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) No insurer may cancel a written agreement with its  
5 agent or reduce or restrict the agent's underwriting authority  
6 with respect to property or casualty insurance, based on the  
7 loss ratio experience or on the mix of the agent's entire book  
8 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) No insurer may 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 shall notify the agent by certified mail at least 90  
26 days prior to 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.

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1 Section 2. This act shall take effect July 1 of the  
2 year in which enacted.

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5 SENATE SUMMARY

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

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