

By Representative Pickens

1 A bill to be entitled
2 An act relating to title insurance; providing
3 legislative intent; amending s. 626.9541, F.S.;
4 clarifying a prohibition against unlawful
5 rebates as an unfair method of competition and
6 an unfair or deceptive act; amending s.
7 627.7711, F.S.; revising a definition;
8 specifying allowable rebatable portions of
9 premium; amending ss. 627.776 and 627.780,
10 F.S., to conform; creating s. 627.7805, F.S.;
11 providing for rebating portions of certain
12 premiums under certain circumstances;
13 specifying criteria and limitations; reenacting
14 ss. 627.777, 627.7773, 627.7776, 627.778,
15 627.782, 627.783, 627.7831, 627.784, 627.7841,
16 627.7842, 627.7843, 627.7845, 627.785, 627.786,
17 627.7865, 627.791, 627.792, 627.793, 627.796,
18 627.797, and 627.798, F.S.; providing an
19 effective date.

20
21 WHEREAS, the Legislature finds that regulation of
22 insurance is in the public interest; that it promotes the
23 public health, safety, and welfare by ensuring the solvency
24 and soundness of insurers; that determination of insurability
25 of title to real property prior to insuring such property is
26 essential to the maintenance of the solvency and soundness of
27 title insurers; and that because title agents or title
28 agencies determine insurability on behalf of title insurers,
29 there is a direct relationship between the determination of
30 insurability performed by title agents or title agencies and
31 the public interest, and

1 WHEREAS, the Florida Supreme Court, based on judicial
2 precedents concerning other types of insurance, determined in
3 the case of Chicago Title Insurance Co. v. Butler, 770 So.2d
4 1210 (Fla. 2000) that certain title insurance statutes of this
5 state are unconstitutional to the extent that they prohibit
6 the negotiation of rebates of portions of title insurance
7 premiums from title agents and title agencies, and

8 WHEREAS, the Legislature finds that the regulation of
9 title insurance rebates by title insurers, title agents, and
10 title agencies is nevertheless as essential to the public
11 interest as the regulation of rebates for other types of
12 insurance in order to prevent discriminatory rebating
13 practices and to prevent unregulated rebating from threatening
14 the solvency and soundness of title insurers, title agents,
15 and title agencies, NOW, THEREFORE,

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. It is the intent of the Legislature that a
20 portion of title insurance premium be rebatable and that the
21 rebating of portions of title insurance premium be regulated
22 as provided in this act.

23 Section 2. Paragraph (h) of subsection (1) of section
24 626.9541, Florida Statutes, is amended to read:

25 626.9541 Unfair methods of competition and unfair or
26 deceptive acts or practices defined.--

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

30 (h) Unlawful rebates.--

31

- 1 1. Except as otherwise expressly provided by law, or
2 in an applicable filing with the department, knowingly:
- 3 a. Permitting, or offering to make, or making, any
4 contract or agreement as to such contract other than as
5 plainly expressed in the insurance contract issued thereon;
- 6 b. Paying, allowing, or giving, or offering to pay,
7 allow, or give, directly or indirectly, as inducement to such
8 insurance contract, any unlawful rebate of premiums payable on
9 the contract, any special favor or advantage in the dividends
10 or other benefits thereon, or any valuable consideration or
11 inducement whatever not specified in the contract; or
- 12 c. Giving, selling, or purchasing, or offering to
13 give, sell, or purchase, as inducement to such insurance
14 contract or in connection therewith, any stocks, bonds, or
15 other securities of any insurance company or other
16 corporation, association, or partnership, or any dividends or
17 profits accrued thereon, or anything of value whatsoever not
18 specified in the insurance contract.
- 19 2. Nothing in paragraph (g) or subparagraph 1. of this
20 paragraph shall be construed as including within the
21 definition of discrimination or unlawful rebates:
- 22 a. In the case of any contract of life insurance or
23 life annuity, paying bonuses to all policyholders or otherwise
24 abating their premiums in whole or in part out of surplus
25 accumulated from nonparticipating insurance; provided that any
26 such bonuses or abatement of premiums is fair and equitable to
27 all policyholders and for the best interests of the company
28 and its policyholders.
- 29 b. In the case of life insurance policies issued on
30 the industrial debit plan, making allowance to policyholders
31 who have continuously for a specified period made premium

1 payments directly to an office of the insurer in an amount
2 which fairly represents the saving in collection expenses.

3 c. Readjustment of the rate of premium for a group
4 insurance policy based on the loss or expense thereunder, at
5 the end of the first or any subsequent policy year of
6 insurance thereunder, which may be made retroactive only for
7 such policy year.

8 d. Issuance of life insurance policies or annuity
9 contracts at rates less than the usual rates of premiums for
10 such policies or contracts, as group insurance or employee
11 insurance as defined in this code.

12 e. Issuing life or disability insurance policies on a
13 salary savings, bank draft, preauthorized check, payroll
14 deduction, or other similar plan at a reduced rate reasonably
15 related to the savings made by the use of such plan.

16 3.a. No title insurer, or any member, employee,
17 attorney, agent, agency, or solicitor thereof, shall pay,
18 allow, or give, or offer to pay, allow, or give, directly or
19 indirectly, as inducement to title insurance, or after such
20 insurance has been effected, any unlawful rebate or abatement
21 of the agent's, agency's, or title insurer's share of the
22 premium, or any unlawful rebate or abatement of any charge for
23 related title services below the cost for providing such
24 services, or provide any special favor or advantage, or any
25 monetary consideration or inducement whatever. Nothing herein
26 contained shall preclude an abatement in an attorney's fee
27 charged for legal services.

28 b. Nothing in this subparagraph shall be construed as
29 prohibiting the payment of fees to attorneys at law duly
30 licensed to practice law in the courts of this state, for
31 professional services, or as prohibiting the payment of earned

1 portions of the premium to duly appointed agents or agencies
2 who actually perform services for the title insurer.

3 c. No insured named in a policy, or any other person
4 directly or indirectly connected with the transaction
5 involving the issuance of such policy, including, but not
6 limited to, any mortgage broker, real estate broker, builder,
7 or attorney, any employee, agent, agency, representative, or
8 solicitor thereof, or any other person whatsoever, shall
9 knowingly receive or accept, directly or indirectly, any
10 unlawful rebate or abatement of said charge, or any monetary
11 consideration or inducement, other than as set forth in
12 sub-subparagraph b.

13 Section 3. Section 627.7711, Florida Statutes, is
14 amended to read:

15 627.7711 Definitions.--As used in this part, the term:

16 (1)(a) "Related title services" means services
17 performed by a title insurer or title insurance agent or
18 agency, in the agent's or agency's capacity as such,
19 including, but not limited to, preparing or obtaining a title
20 search, examining title, preparing documents necessary to
21 close the transaction, conducting the closing, or handling the
22 disbursing of funds related to the closing in a real estate
23 closing transaction in which a title insurance commitment or
24 policy is to be issued. The premium, together with the charge
25 for related title services, constitutes the regular title
26 insurance premium.

27 (b) "Primary title services" means determining
28 insurability in accordance with sound underwriting practices
29 based upon evaluation of a reasonable search and examination
30 of the title, determination and clearance of underwriting
31 objections and requirements to eliminate risk, preparation and

1 issuance of a title insurance commitment setting forth the
2 requirements to insure, and preparation and issuance of the
3 policy.

4 (2) "Premium" means the charge, as specified by rule
5 of the department, that is made by a title insurer for a title
6 insurance policy, including the charge for performance of
7 primary title services by a title insurer or title insurance
8 agent or agency, and incurring the risks incident to such
9 policy, under the several classifications of title insurance
10 contracts and forms, and upon which charge a premium tax is
11 paid under s. 624.509. For purposes of ~~As used in~~ this part or
12 ~~in~~ any other law, the premium,with respect to title
13 insurance, shall include a separate title insurer portion and
14 a title insurance agency portion, with the title insurer
15 portion being that portion of the total premium required to be
16 retained by the title insurer under s. 627.782 and the title
17 insurance agency portion being that portion of the total
18 premium over and above that amount required to be retained by
19 the title insurer under s. 627.782, whether payable to a title
20 insurer, a title insurance agent, or a title insurance agency.
21 In the interest of promoting the solvency and soundness of
22 title insurers, title insurance agents, and title insurance
23 agencies, no more than 30 percent of the title insurance
24 agency's portion of the title insurance premium relating to
25 the portion of the policy liability in excess of \$1 million
26 shall constitute the rebatable portion of the premium. No
27 other portion of the premium shall be rebatable ~~the word~~
28 ~~"premium" does not include a commission.~~

29 (3) "Title insurer" means any domestic company
30 organized and authorized to do business under the provisions
31 of chapter 624, for the purpose of issuing title insurance, or

1 any insurer organized under the laws of another state, the
2 District of Columbia, or a foreign country and holding a
3 certificate of authority to transact business in this state,
4 for the purpose of issuing title insurance.

5 Section 4. Section 627.776, Florida Statutes, is
6 amended to read:

7 627.776 Applicability or inapplicability of Florida
8 Insurance Code provisions to title insurers.--

9 (1) In addition to any other provisions of law
10 applicable to title insurers, title insurers are subject to
11 the following provisions of this code:

12 (a) Section 624.406(3) (title insurer must be a stock
13 insurer).

14 (b) Section 624.407.

15 (c) Section 624.408.

16 (d) Section 624.411.

17 (e) Section 624.608.

18 (f) Section 625.031(4) (nonadmitted assets do not
19 include certain properties of title insurers).

20 (g) Section 625.051(5) (title insurers exempt from
21 usual unearned premium reserve).

22 (h) Section 625.111.

23 (i) Section 625.330.

24 (j) Section 626.9541(1)(h) (unlawful rebates
25 prohibited; title insurance).

26 (k) Section 627.401(4) (limited applicability of part
27 II of chapter 627 as to title insurance).

28 (1) Section 628.151.

29 (2) The following provisions of this code do not apply
30 to title insurance:

31

- 1 (a) Part I of chapter 626 (insurance representatives;
2 licensing procedures and general requirements).
- 3 (b) Part II of chapter 626 (general lines agents and
4 solicitors; qualifications and requirements).
- 5 (c) Part III of chapter 626 (life insurance agents).
- 6 (d) Part IV of chapter 626 (health insurance agents).
- 7 (e) Part VI of chapter 626 (insurance adjusters).
- 8 (f) Part I of chapter 627 (rates and rating
9 organizations).
- 10 (g) Part III of chapter 627 (life insurance policies
11 and annuity contracts).
- 12 (h) Part IV of chapter 627 (industrial life insurance
13 policies).
- 14 (i) Part V of chapter 627 (group life insurance).
- 15 (j) Part VI of chapter 627 (health insurance
16 policies).
- 17 (k) Part VII of chapter 627 (group, blanket, and
18 franchise health insurance).
- 19 (l) Part IX of chapter 627 (credit life and disability
20 insurances).
- 21 (m) Part X of chapter 627 (property insurance
22 contracts).
- 23 (n) Part XI of chapter 627 (casualty insurance
24 contracts).
- 25 (o) Part XII of chapter 627 (surety insurance
26 contracts).
- 27 (p) Chapter 629.
- 28 (q) Chapter 632.
- 29 (r) Section 624.4095.
- 30 Section 5. Section 627.780, Florida Statutes, is
31 amended to read:

1 627.780 Illegal dealings in risk premium.--

2 (1) A person may not knowingly quote, charge, accept,
3 collect, or receive a premium for title insurance other than
4 the premium adopted by the department; however, the rebatable
5 portion of the title insurance premium, as defined in s.
6 627.7711, may be rebated in accordance with s. 627.7805.

7 (2) A title insurer may not knowingly accept, collect,
8 or receive any sum as premium for title insurance, if the
9 title insurance is not then provided or is not to be provided,
10 subject to acceptance of the risk, in due course, unless the
11 title insurer promptly enters the sum on its books of account
12 as premium collected in advance.

13 Section 6. Section 627.7805, Florida Statutes, is
14 created to read:

15 627.7805 Rebating; when allowed.--

16 (1) No title insurer, title insurance agency, or title
17 insurance agent shall rebate the title insurer portion of the
18 premium required to be retained by the title insurer pursuant
19 to s. 627.782 or regulations adopted by the department under
20 such section. With respect to the agency portion of the
21 premium, only the rebatable portion of the premium, as defined
22 in s. 627.7711, may be rebated, and no title insurer, title
23 insurance agency, or title insurance agent shall rebate any
24 portion of his or her rebatable portion of the premium, as
25 defined in s. 627.7711, except as follows:

26 (a) The age, sex, race, nationality, ethnic origin,
27 marital status, or occupation of the insured or other person
28 paying for the policy shall not be considered in determining
29 the percentage of the rebate or whether a rebate is available.

30 (b) No rebate shall be withheld or limited in amount
31 based on factors that are unfairly discriminatory.

1 Section 7. Sections 627.777, 627.7773, 627.7776,
2 627.778, 627.782, 627.783, 627.7831, 627.784, 627.7841,
3 627.7842, 627.7843, 627.7845, 627.785, 627.786, 627.7865,
4 627.791, 627.792, 627.793, 627.796, 627.797, and 627.798,
5 Florida Statutes, are reenacted to read:

6 627.777 Approval of forms.--A title insurer may not
7 issue or agree to issue any form of title insurance
8 commitment, title insurance policy, other contract of title
9 insurance, or related form until it is filed with and approved
10 by the department. The department may not disapprove a title
11 guarantee or policy form on the ground that it has on it a
12 blank form for an attorney's opinion on the title.

13 627.7773 Accounting and auditing of forms by title
14 insurers.--

15 (1) Each title insurer authorized to do business in
16 this state shall, at least once during each calendar year,
17 require of each of its title insurance agents or agencies
18 accountings of all outstanding forms in the agent's or
19 agency's possession of the types that are specified in s.
20 627.777.

21 (2) If the department has reason to believe that an
22 audit of outstanding forms should be required of any title
23 insurer as to a title insurance agent or agency, the
24 department may require the title insurer to make a special
25 audit of the forms. The title insurer shall complete the
26 audit not later than 60 days after the request is received
27 from the department, and shall report the results of the
28 special audit to the department no later than 90 days after
29 the request is received.

30 627.7776 Furnishing of supplies; civil liability.--
31

1 (1) A title insurer may not furnish to any person any
2 blank forms, applications, stationery, or other supplies to be
3 used in soliciting, negotiating, or effecting contracts of
4 title insurance on its behalf until that person has received
5 from the insurer a contract to act as a title insurance agent
6 or agency and has been licensed by the department, if required
7 by s. 626.8417.

8 (2) A title insurer or title insurance agent or agency
9 that furnishes any supplies to a person not authorized by the
10 title insurer as provided in subsection (1) is subject to
11 civil liability to any insured of the title insurer to the
12 same extent and in the same manner as if the person had been
13 appointed or authorized by the title insurer to act in its
14 behalf.

15 627.778 Limit of risk.--

16 (1)(a) A title insurer may not issue any contract of
17 title insurance, either as a primary insurer or as a coinsurer
18 or reinsurer, upon an estate, lien, or interest in property
19 located in this state unless:

20 1. The contract shows on its face the dollar amount of
21 the risk assumed; and

22 2. The dollar amount of the risk assumed does not
23 exceed one-half of its surplus as to policyholders, unless the
24 excess is simultaneously reinsured in one or more approved
25 insurers.

26 (b) A title insurer may not circumvent the limitations
27 of paragraph (a) by issuing two or more policies upon the same
28 estate, lien, or interest.

29 (c) This subsection does not prohibit:

30 1. The simultaneous issuance of policies insuring
31 different estates, liens, or interests in the same property,

1 if each of the simultaneous policies excepts the paramount
2 estates, liens, or interests to which the insured estate,
3 lien, or interest is subject and if each of the simultaneous
4 policies conforms to this subsection.

5 2. Ceding portions of the total risk to authorized
6 insurers. Insurance ceded, including coinsurance effected, is
7 a retention of risk by the insurer assuming the ceded risk,
8 and not by the insurer ceding the risk.

9 (2) Surplus as to policyholders shall be determined
10 from the last annual statement of the insurer filed under s.
11 624.424.

12 627.782 Adoption of rates.--

13 (1) Subject to the rating provisions of this code, the
14 department must adopt a rule specifying the premium to be
15 charged in this state by title insurers for the respective
16 types of title insurance contracts and, for policies issued
17 through agents or agencies, the percentage of such premium
18 required to be retained by the title insurer which shall not
19 be less than 30 percent. However, in a transaction subject to
20 the Real Estate Settlement Procedures Act of 1974, 12 U.S.C.
21 ss. 2601 et seq., as amended, no portion of the premium
22 attributable to providing a primary title service shall be
23 paid to or retained by any person who does not actually
24 perform or is not liable for the performance of such service.
25 The department may, by rule, establish limitations on related
26 title services charges made in addition to the premium based
27 upon the expenses associated with the services rendered and
28 other relevant factors.

29 (2) In adopting premium rates, the department must
30 give due consideration to the following:

31

- 1 (a) The title insurers' loss experience and
2 prospective loss experience under closing protection letters
3 and policy liabilities.
- 4 (b) A reasonable margin for underwriting profit and
5 contingencies, including contingent liability under s.
6 627.7865, sufficient to allow title insurers, agents, and
7 agencies to earn a rate of return on their capital that will
8 attract and retain adequate capital investment in the title
9 insurance business and maintain an efficient title insurance
10 delivery system.
- 11 (c) Past expenses and prospective expenses for
12 administration and handling of risks.
- 13 (d) Liability for defalcation.
- 14 (e) Other relevant factors.
- 15 (3) Rates may be grouped by classification or schedule
16 and may differ as to class of risk assumed.
- 17 (4) Rates may not be excessive, inadequate, or
18 unfairly discriminatory.
- 19 (5) The premium applies to each \$100 of insurance
20 issued to an insured.
- 21 (6) The premium rates apply throughout this state.
- 22 (7) The department shall, in accordance with the
23 standards provided in subsection (2), review the premium as
24 needed, but not less frequently than once every 3 years, and
25 shall, based upon the review required by this subsection,
26 revise the premium if the results of the review so warrant.
- 27 (8) The department may, by rule, require licensees
28 under this part to annually submit statistical information,
29 including loss and expense data, as the department determines
30 to be necessary to analyze premium rates, retention rates, and
31 the condition of the title insurance industry.

1 627.783 Rate deviation.--

2 (1) A title insurer may petition the department for an
3 order authorizing a specific deviation from the adopted
4 premium, and a title insurer or title insurance agent may
5 petition the department for an order authorizing and
6 permitting a specific deviation above the reasonable charge
7 for related title services rendered specified in s.
8 627.782(1). The petition shall be in writing and sworn to and
9 shall set forth allegations of fact upon which the petitioner
10 will rely, including the petitioner's reasons for requesting
11 the deviation. Any authorized title insurer, agent, or agency
12 may join in the petition for like authority to deviate or may
13 file a separate petition praying for like authority or
14 opposing the deviation. The department shall rule on all such
15 petitions simultaneously.

16 (2) If, in the judgment of the department, the
17 requested deviation is not justified, the department may enter
18 an order denying the petition. An order granting a petition
19 constitutes an amendment to the adopted premium as to the
20 petitioners named in the order, and is subject to s. 627.782.

21 627.7831 Commitments; charges; collection.--

22 (1) When a title insurance commitment to insure a
23 title or risk is issued at the request of the insured or the
24 insured's representative, agent, or agency, a portion of the
25 premium must be charged for the commitment when issued. The
26 portion of the premium charged for the commitment must be
27 credited to the premium due upon issuance of the title
28 insurance policy.

29 (2) The amount charged under subsection (1) must be
30 collected no later than the date of the closing or 12 months
31 after the date of the commitment, whichever occurs earlier, or

1 another date agreed to in writing at the time of issuance of
2 the commitment.

3 (3) This section does not apply to a transaction
4 involving a residential property.

5 627.784 Casualty title insurance prohibited.--A title
6 insurance policy or guarantee of title may not be issued
7 without regard to the possible existence of adverse matters or
8 defects of title.

9 627.7841 Insurance against adverse matters or defects
10 in the title.--If a title insurer issuing a commitment or
11 policy of title insurance upon an estate, lien, or interest in
12 property located in this state through its officers,
13 employees, agents, or agencies disburses settlement or closing
14 funds, the title insurer shall insure against the possible
15 existence of adverse matters or defects in the title which are
16 recorded during the period of time between the effective date
17 of the commitment and the date of recording of the document
18 creating the estate or interest to be insured, except as to
19 matters of which the insured has knowledge.

20 627.7842 Policy exceptions.--

21 (1)(a) If a survey meeting the minimum technical
22 standards for surveying required by the Department of Business
23 and Professional Regulation and certified to the title insurer
24 by a registered Florida surveyor has been completed on the
25 property within 90 days before the date of closing, the title
26 policy may only except from coverage the encroachments,
27 overlays, boundary line disputes, and other matters which are
28 actually shown on the survey.

29 (b) If at closing the seller signs an affidavit
30 swearing that there is no person in possession of the property
31 or with a claim of possession to the property except the

1 seller, the title policy may not exclude from coverage rights
2 or claims of parties in possession not shown by the public
3 records.

4 (c) If at closing the seller signs an affidavit
5 swearing that no improvements have been made to the property
6 within the past 90 days for which payment has not been made in
7 full, the title policy may not except from coverage any lien
8 or right to a lien for services, labor, or material furnished
9 which is imposed by law and not shown by the public record.

10 (2) The title insurer, agent, or agency issuing the
11 title policy may except from coverage the items specified in
12 subsection (1) if the title insurer, agent, or agency has
13 knowledge of facts requiring the exceptions, notwithstanding
14 the survey or affidavits, if the insurer, agent, or agency
15 discloses such facts to the proposed insured.

16 627.7843 Ownership and encumbrance reports.--

17 (1) As used in this section, the term "ownership and
18 encumbrance report" means a report that discloses certain
19 defined documents imparting constructive notice and appearing
20 in the official records relating to specified real property.

21 (2) An ownership and encumbrance report may not
22 directly or indirectly set forth or imply any opinion,
23 warranty, guarantee, insurance, or other similar assurance as
24 to the status of title to real property.

25 (3) Any ownership and encumbrance report or similar
26 report that is relied on or intended to be relied on by a
27 consumer must be on forms approved by the department, and must
28 provide for a maximum liability for incorrect information of
29 not more than \$1,000.

30 627.7845 Determination of insurability required;
31 preservation of evidence of title search and examination.--

1 (1) A title insurer may not issue a title insurance
2 commitment, endorsement, or title insurance policy until the
3 title insurer has caused to be conducted a reasonable search
4 and examination of the title and of such other information as
5 may be necessary, and has caused to be made a determination of
6 insurability of title, including endorsement coverages, in
7 accordance with sound underwriting practices.

8 (2) The title insurer shall cause the evidence of the
9 reasonable search and examination of the title to be preserved
10 and retained in its files or in the files of its title
11 insurance agent or agency for a period of not less than 7
12 years after the title insurance commitment, title insurance
13 policy, or guarantee of title was issued. The title insurer
14 or agent or agency must produce the evidence required to be
15 maintained by this subsection at its offices upon the demand
16 of the department. Instead of retaining the original evidence,
17 the title insurer or the title insurance agent or agency may,
18 in the regular course of business, establish a system under
19 which all or part of the evidence is recorded, copied, or
20 reproduced by any photographic, photostatic, microfilm,
21 microcard, miniature photographic, or other process which
22 accurately reproduces or forms a durable medium for
23 reproducing the original.

24 (3) The title insurer or its agent or agency must
25 maintain a record of the actual risk premium and related title
26 service charges made for issuance of the policy and any
27 endorsements in its files for a period of not less than 7
28 years. The title insurer, agent, or agency must produce the
29 record at its office upon demand of the department.

30 (4) This section does not apply to an insurer assuming
31 no primary liability in a contract of reinsurance or to an

1 insurer acting as a coinsurer if any other coinsuring insurer
2 has complied with this section.

3 627.785 Preemption by state.--The regulation of title
4 insurers and title insurance is preempted to the state.

5 627.786 Transaction of title insurance and any other
6 kind of insurance prohibited.--

7 (1) An insurer may not transact title insurance and
8 any other kind of insurance in this state.

9 (2) Subsection (1) does not apply to any insurer
10 actively transacting title insurance and any other kind of
11 insurance in this state on January 1, 1965.

12 (3) Subsection (1) does not preclude a title insurer
13 from providing instruments to any prospective insured, in the
14 form and content approved by the department, under which the
15 title insurer assumes liability for loss due to the fraud of,
16 dishonesty of, misappropriation of funds by, or failure to
17 comply with written closing instructions by, its contract
18 agents, agencies, or approved attorneys in connection with a
19 real property transaction for which the title insurer is to
20 issue a title insurance policy.

21 627.7865 Title insurer assessments.--As a condition of
22 doing business in this state, each title insurer shall be
23 liable for an assessment to pay all unpaid title insurance
24 claims on real property in this state for any title insurer
25 which is liquidated with unpaid outstanding claims. The
26 department shall assess all title insurers on a pro rata basis
27 determined by their writings in this state for amounts
28 necessary to pay the claims. A title insurer is not required
29 to pay an amount in excess of one-tenth of its surplus as to
30 policyholders.

31

1 627.791 Penalties against title insurers for
2 violations by persons or entities not licensed.--A title
3 insurer is subject to the penalties in ss. 624.418(2) and
4 624.4211 for any violation of a lawful order or rule of the
5 department, or for any violation of this code, committed by:

6 (1) A person, firm, association, corporation,
7 cooperative, joint-stock company, or other legal entity not
8 licensed under this part when issuing and countersigning
9 commitments or policies of title insurance on behalf of the
10 title insurer.

11 (2) An attorney when issuing and countersigning
12 commitments or policies of title insurance on behalf of the
13 title insurer.

14 627.792 Liability of title insurers for defalcation by
15 title insurance agents or agencies.--A title insurer is liable
16 for the defalcation, conversion, or misappropriation by a
17 licensed title insurance agent or agency of funds held in
18 trust by the agent or agency pursuant to s. 626.8473. If the
19 agent or agency is an agent or agency for two or more title
20 insurers, any liability shall be borne by the title insurer
21 upon which a title insurance commitment or policy was issued
22 prior to the illegal act. If no commitment or policy was
23 issued, each title insurer represented by the agent or agency
24 at the time of the illegal act shares in the liability in the
25 same proportion that the premium remitted to it by the agent
26 or agency during the 1-year period before the illegal act
27 bears to the total premium remitted to all title insurers by
28 the agent or agency during the same time period.

29 627.793 Rulemaking authority.--The department is
30 authorized to adopt rules implementing the provisions of this
31 part.

