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Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Brown offered the following:

Substitute Amendment to Amendment (434325) (with title amendment)

On page 8, between lines 4 and 5,

insert:

Section 5. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is 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.

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1 2. Knowingly collecting as a premium or charge for
2 insurance any sum in excess of or less than the premium or
3 charge applicable to such insurance, in accordance with the
4 applicable classifications and rates as filed with and
5 approved by the department, and as specified in the policy;
6 or, in cases when classifications, premiums, or rates are not
7 required by this code to be so filed and approved, premiums
8 and charges in excess of or less than those specified in the
9 policy and as fixed by the insurer. This provision shall not
10 be deemed to prohibit the charging and collection, by surplus
11 lines agents licensed under part VIII of this chapter, of the
12 amount of applicable state and federal taxes, or fees as
13 authorized by s. 626.916(4), in addition to the premium
14 required by the insurer or the charging and collection, by
15 licensed agents, of the exact amount of any discount or other
16 such fee charged by a credit card facility in connection with
17 the use of a credit card, as authorized by subparagraph (q)3.,
18 in addition to the premium required by the insurer. In
19 addition, a licensed insurance agent may charge a new or
20 initial per-policy processing fee not to exceed \$25 for small
21 group health, homeowners', and automobile insurance policies.
22 This subparagraph shall not be construed to prohibit
23 collection of a premium for a universal life or a variable or
24 indeterminate value insurance policy made in accordance with
25 the terms of the contract.

26 3.a. Imposing or requesting an additional premium for
27 a policy of motor vehicle liability, personal injury
28 protection, medical payment, or collision insurance or any
29 combination thereof or refusing to renew the policy solely
30 because the insured was involved in a motor vehicle accident
31 unless the insurer's file contains information from which the

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1 insurer in good faith determines that the insured was
2 substantially at fault in the accident.

3 b. An insurer which imposes and collects such a
4 surcharge or which refuses to renew such policy shall, in
5 conjunction with the notice of premium due or notice of
6 nonrenewal, notify the named insured that he or she is
7 entitled to reimbursement of such amount or renewal of the
8 policy under the conditions listed below and will subsequently
9 reimburse him or her or renew the policy, if the named insured
10 demonstrates that the operator involved in the accident was:

11 (I) Lawfully parked;

12 (II) Reimbursed by, or on behalf of, a person
13 responsible for the accident or has a judgment against such
14 person;

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

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

21 (V) Not convicted of a moving traffic violation in
22 connection with the accident, but the operator of the other
23 automobile involved in such accident was convicted of a moving
24 traffic violation;

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

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

29 (VIII) Not at fault as evidenced by a written
30 statement from the insured establishing facts demonstrating
31 lack of fault which are not rebutted by information in the

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1 insurer's file from which the insurer in good faith determines
2 that the insured was substantially at fault.

3 c. In addition to the other provisions of this
4 subparagraph, an insurer may not fail to renew a policy if the
5 insured has had only one accident in which he or she was at
6 fault within the current 3-year period. However, an insurer
7 may nonrenew a policy for reasons other than accidents in
8 accordance with s. 627.728. This subparagraph does not
9 prohibit nonrenewal of a policy under which the insured has
10 had three or more accidents, regardless of fault, during the
11 most recent 3-year period.

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

16 a. A second infraction committed within an 18-month
17 period, or a third or subsequent infraction committed within a
18 36-month period.

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

22 5. Upon the request of the insured, the insurer and
23 licensed agent shall supply to the insured the complete proof
24 of fault or other criteria which justifies the additional
25 charge or cancellation.

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

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1 driving ability.

2 7. No insurer may cancel or otherwise terminate any
3 insurance contract or coverage, or require execution of a
4 consent to rate endorsement, during the stated policy term for
5 the purpose of offering to issue, or issuing, a similar or
6 identical contract or coverage to the same insured with the
7 same exposure at a higher premium rate or continuing an
8 existing contract or coverage with the same exposure at an
9 increased premium.

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

17 9. No insurer shall, with respect to premiums charged
18 for motor vehicle insurance, unfairly discriminate solely on
19 the basis of age, sex, marital status, or scholastic
20 achievement.

21 10. Imposing or requesting an additional premium for
22 motor vehicle comprehensive or uninsured motorist coverage
23 solely because the insured was involved in a motor vehicle
24 accident or was convicted of a moving traffic violation.

25 11. No insurer shall cancel or issue a nonrenewal
26 notice on any insurance policy or contract without complying
27 with any applicable cancellation or nonrenewal provision
28 required under the Florida Insurance Code.

29 12. No insurer shall impose or request an additional
30 premium, cancel a policy, or issue a nonrenewal notice on any
31 insurance policy or contract because of any traffic infraction

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1 when adjudication has been withheld and no points have been
 2 assessed pursuant to s. 318.14(9) and (10). However, this
 3 subparagraph does not apply to traffic infractions involving
 4 accidents in which the insurer has incurred a loss due to the
 5 fault of the insured.

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

9 And the title is amended as follows:

10 On page 8, line 28, after the semicolon,

11

12 insert:

13 amending s. 626.9541, F.S.; permitting licensed
 14 insurance agents to charge certain processing
 15 fees; limiting the amount of such fees;

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