

Bill No. CS for CS for SB 1436

Amendment No.      Barcode 915270

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Futch moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 100, line 7, through

15 page 102, line 27, delete those lines

17 and insert:

18 Section 64. Paragraphs (h), (n), and (u) of subsection

19 (1) of section 626.9541, Florida Statutes, are amended to

20 read:

21 626.9541 Unfair methods of competition and unfair or

22 deceptive acts or practices defined.--

23 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR

24 DECEPTIVE ACTS.--The following are defined as unfair methods

25 of competition and unfair or deceptive acts or practices:

26 (h) Unlawful rebates.--

27 1. Except as otherwise expressly provided by law, or

28 in an applicable filing with the department, knowingly:

29 a. Permitting, or offering to make, or making, any

30 contract or agreement as to such contract other than as

31 plainly expressed in the insurance contract issued thereon;

Bill No. CS for CS for SB 1436

Amendment No. \_\_\_\_ Barcode 915270

1           b. Paying, allowing, or giving, or offering to pay,  
2 allow, or give, directly or indirectly, as inducement to such  
3 insurance contract, any unlawful rebate of premiums payable on  
4 the contract, any special favor or advantage in the dividends  
5 or other benefits thereon, or any valuable consideration or  
6 inducement whatever not specified in the contract;

7           c. Giving, selling, or purchasing, or offering to  
8 give, sell, or purchase, as inducement to such insurance  
9 contract or in connection therewith, any stocks, bonds, or  
10 other securities of any insurance company or other  
11 corporation, association, or partnership, or any dividends or  
12 profits accrued thereon, or anything of value whatsoever not  
13 specified in the insurance contract.

14           2. Nothing in paragraph (g) or subparagraph 1. of this  
15 paragraph shall be construed as including within the  
16 definition of discrimination or unlawful rebates:

17           a. In the case of any contract of life insurance or  
18 life annuity, paying bonuses to all policyholders or otherwise  
19 abating their premiums in whole or in part out of surplus  
20 accumulated from nonparticipating insurance; provided that any  
21 such bonuses or abatement of premiums is fair and equitable to  
22 all policyholders and for the best interests of the company  
23 and its policyholders.

24           b. In the case of life insurance policies issued on  
25 the industrial debit plan, making allowance to policyholders  
26 who have continuously for a specified period made premium  
27 payments directly to an office of the insurer in an amount  
28 which fairly represents the saving in collection expenses.

29           c. Readjustment of the rate of premium for a group  
30 insurance policy based on the loss or expense thereunder, at  
31 the end of the first or any subsequent policy year of

Bill No. CS for CS for SB 1436

Amendment No. \_\_\_\_ Barcode 915270

1 insurance thereunder, which may be made retroactive only for  
2 such policy year.

3 d. Issuance of life insurance policies or annuity  
4 contracts at rates less than the usual rates of premiums for  
5 such policies or contracts, as group insurance or employee  
6 insurance as defined in this code.

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

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

22 b. Nothing in this subparagraph shall be construed as  
23 prohibiting the payment of fees to attorneys at law duly  
24 licensed to practice law in the courts of this state, for  
25 professional services, or as prohibiting the payment of earned  
26 portions of the premium to duly appointed agents or agencies  
27 who actually perform services for the title insurer.

28 c. No insured named in a policy, or any other person  
29 directly or indirectly connected with the transaction  
30 involving the issuance of such policy, including, but not  
31 limited to, any mortgage broker, real estate broker, builder,

Bill No. CS for CS for SB 1436

Amendment No. \_\_\_\_ Barcode 915270

1 or attorney, any employee, agent, agency, or representative,  
2 ~~or solicitor~~ thereof, or any other person whatsoever, shall  
3 knowingly receive or accept, directly or indirectly, any  
4 rebate or abatement of said charge, or any monetary  
5 consideration or inducement, other than as set forth in  
6 sub-subparagraph b.

7 (n) Free insurance prohibited.--

8 1. Advertising, offering, or providing free insurance  
9 as an inducement to the purchase or sale of real or personal  
10 property or of services directly or indirectly connected with  
11 such real or personal property.

12 2. For the purposes of this paragraph, "free"  
13 insurance is:

14 a. Insurance for which no identifiable and additional  
15 charge is made to the purchaser of such real property,  
16 personal property, or services.

17 b. Insurance for which an identifiable or additional  
18 charge is made in an amount less than the cost of such  
19 insurance as to the seller or other person, other than the  
20 insurer, providing the same.

21 3. Subparagraphs 1. and 2. do not apply to:

22 a. Insurance of, loss of, or damage to the real or  
23 personal property involved in any such sale or services, under  
24 a policy covering the interests therein of the seller or  
25 vendor.

26 b. Blanket disability insurance as defined in s.  
27 627.659.

28 c. Credit life insurance or credit disability  
29 insurance.

30 d. Any individual, isolated, nonrecurring unadvertised  
31 transaction not in the regular course of business.

Bill No. CS for CS for SB 1436

Amendment No. \_\_\_\_ Barcode 915270

- 1 e. Title insurance.
- 2 f. Any purchase agreement involving the purchase of a
- 3 cemetery lot or lots in which, under stated conditions, any
- 4 balance due is forgiven upon the death of the purchaser.
- 5 g. Life insurance, trip cancellation insurance, or
- 6 lost baggage insurance offered by a travel agency as part of a
- 7 travel package offered by and booked through the agency.
- 8 h. Private passenger auto insurance provided and paid
- 9 for by an entity licensed under s. 320.61, which is approved
- 10 by the department and determined by the department to be in
- 11 the public interest.

12 4. Using the word "free" or words which imply the

13 provision of insurance without a cost to describe life or

14 disability insurance, in connection with the advertising or

15 offering for sale of any kind of goods, merchandise, or

16 services.

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

20 And the title is amended as follows:

21 On page 4, line 2, after the semicolon,

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23 insert:

24 providing an exception to the prohibition on

25 providing free insurance as an unfair method of

26 competition;

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