

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

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

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

19
20 Section 1. Sections 627.7711, 627.776, 627.777,
21 627.7773, 627.7776, 627.778, 627.780, 627.782, 627.783,
22 627.7831, 627.784, 627.7841, 627.7842, 627.7843, 627.7845,
23 627.785, 627.786, 627.7865, 627.791, 627.792, 627.793,
24 627.796, 627.797, and 627.798, Florida Statutes, are readopted
25 exactly as they appear in Florida Statutes, 2001, together
26 with any amendments set forth in this act, with the express
27 intention that the same are constitutional when considered
28 together with the other provisions of this act regulating
29 permissible rebating of title insurance premium.

30 Section 2. Paragraph (h) of subsection (1) of section
31 626.9541, Florida Statutes, is amended to read:

1 626.9541 Unfair methods of competition and unfair or
2 deceptive acts or practices defined.--

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

6 (h) Unlawful rebates.--

7 1. Except as otherwise expressly provided by law, or
8 in an applicable filing with the department, knowingly:

9 a. Permitting, or offering to make, or making, any
10 contract or agreement as to such contract other than as
11 plainly expressed in the insurance contract issued thereon;

12 b. Paying, allowing, or giving, or offering to pay,
13 allow, or give, directly or indirectly, as inducement to such
14 insurance contract, any unlawful rebate of premiums payable on
15 the contract, any special favor or advantage in the dividends
16 or other benefits thereon, or any valuable consideration or
17 inducement whatever not specified in the contract;

18 c. Giving, selling, or purchasing, or offering to
19 give, sell, or purchase, as inducement to such insurance
20 contract or in connection therewith, any stocks, bonds, or
21 other securities of any insurance company or other
22 corporation, association, or partnership, or any dividends or
23 profits accrued thereon, or anything of value whatsoever not
24 specified in the insurance contract.

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

28 a. In the case of any contract of life insurance or
29 life annuity, paying bonuses to all policyholders or otherwise
30 abating their premiums in whole or in part out of surplus
31 accumulated from nonparticipating insurance; provided that any

1 such bonuses or abatement of premiums is fair and equitable to
2 all policyholders and for the best interests of the company
3 and its policyholders.

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

9 c. Readjustment of the rate of premium for a group
10 insurance policy based on the loss or expense thereunder, at
11 the end of the first or any subsequent policy year of
12 insurance thereunder, which may be made retroactive only for
13 such policy year.

14 d. Issuance of life insurance policies or annuity
15 contracts at rates less than the usual rates of premiums for
16 such policies or contracts, as group insurance or employee
17 insurance as defined in this code.

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

22 3.a. No title insurer, or any member, employee,
23 attorney, agent, agency, or solicitor thereof, shall pay,
24 allow, or give, or offer to pay, allow, or give, directly or
25 indirectly, as inducement to title insurance, or after such
26 insurance has been effected, any unlawful rebate or abatement
27 of the agent's, agency's, or title insurer's share of the
28 premium, or any unlawful rebate or abatement of any charge for
29 related title services below the cost for providing such
30 services, or provide any special favor or advantage, or any
31 monetary consideration or inducement whatever. Nothing herein

1 contained shall preclude an abatement in an attorney's fee
2 charged for legal services.

3 b. Nothing in this subparagraph shall be construed as
4 prohibiting the payment of fees to attorneys at law duly
5 licensed to practice law in the courts of this state, for
6 professional services, or as prohibiting the payment of earned
7 portions of the premium to duly appointed agents or agencies
8 who actually perform services for the title insurer.

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

19 Section 3. Subsection (2) of section 627.7711, Florida
20 Statutes, is amended to read:

21 627.7711 Definitions.--As used in this part, the term:

22 (2) "Premium" means the charge, as specified by rule
23 of the department, that is made by a title insurer for a title
24 insurance policy, including the charge for performance of
25 primary title services by a title insurer or title insurance
26 agent or agency, and incurring the risks incident to such
27 policy, under the several classifications of title insurance
28 contracts and forms, and upon which charge a premium tax is
29 paid under s. 624.509. As used in this part or ~~in~~ any other
30 law, with respect to title insurance, the word "premium"
31 includes separate title insurer and title insurance agency

1 portions, with the title insurer portion being that portion
2 required to be retained by the title insurer under s. 627.782
3 and the title insurance agency portion being that portion in
4 excess of the amount retained by the title insurer, whether
5 payable to a title insurer, a title insurance agent, or a
6 title insurance agency. A maximum of 30 percent of the title
7 insurance agency's portion of the premium relating to the
8 portion of the policy liability in excess of \$1 million is
9 rebatable.~~does not include a commission.~~

10 Section 4. Paragraph (j) of subsection (1) of section
11 627.776, Florida Statutes, is amended to read:

12 627.776 Applicability or inapplicability of Florida
13 Insurance Code provisions to title insurers.--

14 (1) In addition to any other provisions of law
15 applicable to title insurers, title insurers are subject to
16 the following provisions of this code:

17 (j) Section 626.9541(1)(h) (unlawful rebates
18 prohibited; title insurance).

19 Section 5. Subsection (1) of section 627.780, Florida
20 Statutes, is amended to read:

21 627.780 Illegal dealings in risk premium.--

22 (1) A person may not knowingly quote, charge, accept,
23 collect, or receive a premium for title insurance other than
24 the premium adopted by the department. However, a portion of
25 the premium may be rebated pursuant to s. 627.7805.

26 Section 6. Section 627.7805, Florida Statutes, is
27 created to read:

28 627.7805 Premium rebates.--

29 (1) A title insurer, agency, or agent may not rebate
30 the portion of the premium required to be retained by the
31 title insurer under s. 627.782.

