

Bill No. CS for SB 2364

Amendment No. ____ Barcode 335116

CHAMBER ACTION

Senate

House

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Senator Peaden moved the following amendment:

Senate Amendment (with title amendment)

On page 5, line 6,

insert:

Section 1. Paragraphs (o) and (x) of subsection (1) of section 626.9541, Florida Statutes, are 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.

2. Knowingly collecting as a premium or charge for

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

22 3.a. Imposing or requesting an additional premium for
23 a policy of motor vehicle liability, personal injury
24 protection, medical payment, or collision insurance or any
25 combination thereof or refusing to renew the policy solely
26 because the insured was involved in a motor vehicle accident
27 unless the insurer's file contains information from which the
28 insurer in good faith determines that the insured was
29 substantially at fault in the accident.

30 b. An insurer which imposes and collects such a
31 surcharge or which refuses to renew such policy shall, in

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1 conjunction with the notice of premium due or notice of
2 nonrenewal, notify the named insured that he or she is
3 entitled to reimbursement of such amount or renewal of the
4 policy under the conditions listed below and will subsequently
5 reimburse him or her or renew the policy, if the named insured
6 demonstrates that the operator involved in the accident was:

7 (I) Lawfully parked;

8 (II) Reimbursed by, or on behalf of, a person
9 responsible for the accident or has a judgment against such
10 person;

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

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

17 (V) Not convicted of a moving traffic violation in
18 connection with the accident, but the operator of the other
19 automobile involved in such accident was convicted of a moving
20 traffic violation;

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

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

25 (VIII) Not at fault as evidenced by a written
26 statement from the insured establishing facts demonstrating
27 lack of fault which are not rebutted by information in the
28 insurer's file from which the insurer in good faith determines
29 that the insured was substantially at fault.

30 c. In addition to the other provisions of this
31 subparagraph, an insurer may not fail to renew a policy if the

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1 insured has had only one accident in which he or she was at
2 fault within the current 3-year period. However, an insurer
3 may nonrenew a policy for reasons other than accidents in
4 accordance with s. 627.728. This subparagraph does not
5 prohibit nonrenewal of a policy under which the insured has
6 had three or more accidents, regardless of fault, during the
7 most recent 3-year period.

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

12 a. A second infraction committed within an 18-month
13 period, or a third or subsequent infraction committed within a
14 36-month period.

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

18 5. Upon the request of the insured, the insurer and
19 licensed agent shall supply to the insured the complete proof
20 of fault or other criteria which justifies the additional
21 charge or cancellation.

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

29 7. No insurer may cancel or otherwise terminate any
30 insurance contract or coverage, or require execution of a
31 consent to rate endorsement, during the stated policy term for

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1 the purpose of offering to issue, or issuing, a similar or
2 identical contract or coverage to the same insured with the
3 same exposure at a higher premium rate or continuing an
4 existing contract or coverage with the same exposure at an
5 increased premium.

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

13 9. No insurer shall, with respect to premiums charged
14 for motor vehicle insurance, unfairly discriminate solely on
15 the basis of age, sex, marital status, or scholastic
16 achievement.

17 10. Imposing or requesting an additional premium for
18 motor vehicle comprehensive or uninsured motorist coverage
19 solely because the insured was involved in a motor vehicle
20 accident or was convicted of a moving traffic violation.

21 11. No insurer shall cancel or issue a nonrenewal
22 notice on any insurance policy or contract without complying
23 with any applicable cancellation or nonrenewal provision
24 required under the Florida Insurance Code.

25 12. No insurer shall impose or request an additional
26 premium, cancel a policy, or issue a nonrenewal notice on any
27 insurance policy or contract because of any traffic infraction
28 when adjudication has been withheld and no points have been
29 assessed pursuant to s. 318.14(9) and (10). However, this
30 subparagraph does not apply to traffic infractions involving
31 accidents in which the insurer has incurred a loss due to the

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1 | fault of the insured.

2 | (x) Refusal to insure.--In addition to other
3 | provisions of this code, the refusal to insure, or continue to
4 | insure, any individual or risk solely because of:

5 | 1. Race, color, creed, marital status, sex, or
6 | national origin;

7 | 2. The residence, age, or lawful occupation of the
8 | individual or the location of the risk, unless there is a
9 | reasonable relationship between the residence, age, or lawful
10 | occupation of the individual or the location of the risk and
11 | the coverage issued or to be issued;

12 | 3. The insured's or applicant's failure to agree to
13 | place collateral business with any insurer, unless the
14 | coverage applied for would provide liability coverage which is
15 | excess over that provided in policies maintained on property
16 | or motor vehicles;

17 | 4. The insured's or applicant's failure to purchase
18 | noninsurance services or commodities, including automobile
19 | services as defined in s. 624.124; ~~or~~

20 | 5. The fact that the insured or applicant is a public
21 | official; or

22 | ~~6.5.~~ The fact that the insured or applicant had been
23 | previously refused insurance coverage by any insurer, when
24 | such refusal to insure or continue to insure for this reason
25 | occurs with such frequency as to indicate a general business
26 | practice.

27 | Section 2. Subsection (1) of section 631.913, Florida
28 | Statutes, is amended to read:

29 | 631.913 Powers and duties of the corporation.--

30 | (1) The corporation is obligated to the extent of the
31 | full amount of the covered claims:

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1 (a) Existing before the adjudication of insolvency and
2 arising within 30 days after the determination of insolvency;

3 (b) Existing before the policy expiration date if less
4 than 30 days after the determination of insolvency; or

5 (c) Existing before the insured replaces the policy or
6 causes its cancellation, if the insured does so within 30 days
7 after the determination of insolvency.

8
9 Notwithstanding such criteria, the corporation's obligation
10 for a covered claim for the return of unearned premium shall
11 not exceed \$50,000 per policy. In addition, the corporation is
12 not obligated to a policyholder or claimant in an amount in
13 excess of the obligation of the insolvent insurer under the
14 policy from which the claim arises.

15 Section 3. Paragraph (a) of subsection (1) of section
16 631.914, Florida Statutes, is amended to read:

17 631.914 Assessments.--

18 (1)(a) To the extent necessary to secure the funds for
19 the payment of covered claims, and also to pay the reasonable
20 costs to administer the same, the department, upon
21 certification by the board, shall levy assessments on each
22 insurer in the proportion that the insurer's net direct
23 written premiums in this state bears to the total of said net
24 direct written premiums received in this state by all such
25 workers' compensation insurers for the preceding calendar
26 year. Assessments shall be remitted to and administered by
27 the board of directors in the manner specified by the approved
28 plan of operation. The board shall give each insurer so
29 assessed at least 30 days' written notice of the date the
30 assessment is due and payable. Each assessment shall be a
31 uniform percentage applicable to the net direct written

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1 premiums of each insurer writing workers' compensation
 2 insurance.

3 1. Beginning July 1, 1997, assessments levied against
 4 insurers, other than self-insurance funds, shall not exceed in
 5 any calendar year more than 2 percent of that insurer's net
 6 direct written premiums in this state for workers'
 7 compensation insurance during the calendar year next preceding
 8 the date of such assessments.

9 2. Beginning July 1, 1997, assessments levied against
 10 self-insurance funds shall not exceed in any calendar year
 11 more than 1.50 percent of that self-insurance fund's net
 12 direct written premiums in this state for workers'
 13 compensation insurance during the calendar year next preceding
 14 the date of such assessments.

15 3. Beginning July 1, 2003, assessments levied against
 16 insurers and self-insurance funds pursuant to this paragraph
 17 are computed and levied on the basis of the full policy
 18 premium value on the net direct premiums written in the state
 19 for workers' compensation insurance during the calendar year
 20 next preceding the date of the assessment without taking into
 21 account any applicable discount or credit for deductibles.
 22 Insurers and self-insurance funds must report premiums in
 23 compliance with this subparagraph.

24 Section 4. Section 631.924, Florida Statutes, is
 25 amended to read:

26 631.924 Stay of proceedings; reopening of default
 27 judgments.--All proceedings in which the insolvent insurer or
 28 self-insurance fund is a party or is obligated to defend a
 29 party in any court or before any quasi-judicial body or
 30 administrative board in this state must be stayed for 6
 31 months, or such additional period from the date the insolvency

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1 is adjudicated, by a court of competent jurisdiction to allow
2 proper defense by the association of all pending causes of
3 action as to any covered claims. The stay may be extended for
4 a period of time greater than 6 months upon proper application
5 to a court of competent jurisdiction. The association, either
6 on its own behalf or on behalf of the insured, may apply to
7 have any judgment, order, decision, verdict, or finding based
8 on the default of the insolvent insurer or self-insurance fund
9 or its failure to defend an insured set aside by the same
10 court or administrator that made the judgment, order,
11 decision, verdict, or finding and may defend against the claim
12 on the merits. If the association so requests, the stay of
13 proceedings may be shortened or waived.

14 Section 5. Subsection (4) of section 624.406, Florida
15 Statutes, is amended to read:

16 624.406 Combinations of insuring powers, one
17 insurer.--An insurer which otherwise qualifies therefor may be
18 authorized to transact any one kind or combination of kinds of
19 insurance as defined in part V except:

20 (4) A health insurer may also transact excess
21 insurance, specific and aggregate, for self-insurers of a plan
22 of health insurance and multiple-employer welfare arrangements
23 and reinsurance for the medical and lost wages benefits
24 provided under a workers' compensation insurance policy.

25 Section 6. Section 624.603, Florida Statutes, is
26 amended to read:

27 624.603 "Health insurance" defined.--"Health
28 insurance," also known as "disability insurance," is insurance
29 of human beings against bodily injury, disablement, or death
30 by accident or accidental means, or the expense thereof, or
31 against disablement or expense resulting from sickness, and

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1 every insurance appertaining thereto. Health insurance does
 2 not include workers' compensation coverages, except as
 3 provided in s. 624.406(4).

4 Section 7. Subsection (7) of section 631.141, Florida
 5 Statutes, is amended to read:

6 631.141 Conduct of delinquency proceeding; domestic
 7 and alien insurers.--

8 (7)(a) In connection with a delinquency proceeding,
 9 the department may appoint one or more special agents to act
 10 for it, and it may employ such counsel, clerks, and assistants
 11 as it deems necessary. The compensation of the special
 12 agents, counsel, clerks, or assistants and all expenses of
 13 taking possession of the insurer and of conducting the
 14 proceeding shall be fixed by the receiver, subject to the
 15 approval of the court, and shall be paid out of the funds or
 16 assets of the insurer. Within the limits of duties imposed
 17 upon them, special agents shall possess all the powers given
 18 to and, in the exercise of those powers, shall be subject to
 19 all duties imposed upon the receiver with respect to such
 20 proceeding.

21 (b) In the event that initiation of delinquency
 22 proceedings does not result in appointment of the department
 23 as receiver, or in the event that the funds or assets of an
 24 insurer for which the department is appointed as receiver are
 25 insufficient to cover the cost of compensation to special
 26 agents, counsel, clerks, or assistants and all expenses of
 27 taking, or attempting to take, possession of the insurer, and
 28 of conducting the proceeding, there is appropriated, upon
 29 approval of the Chief Financial Officer, from the Insurance
 30 Regulation Trust Fund to the Division of Rehabilitation and
 31 Liquidation a sum that is sufficient to cover the unreimbursed

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1 costs.

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3 (Redesignate subsequent sections.)

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

7 And the title is amended as follows:

8 On page 1, line 2, delete that line,

9

10 and insert:

11 An act relating to insurance; amending s.
12 626.9541, F.S.; clarifying certain activities
13 that constitute illegal dealings in premiums;
14 prohibiting insurers from refusing to insure
15 solely because the insured or applicant is a
16 public official; amending s. 631.913, F.S.;
17 limiting the obligation of the Florida Workers'
18 Compensation Insurance Guaranty Association,
19 Incorporated for a covered claim for return of
20 unearned premium; amending s. 631.914, F.S.;
21 revising requirements for reporting premium for
22 assessment calculations; amending s. 631.924,
23 F.S.; including insolvent insurers under
24 provisions for a stay of proceedings; amending
25 s. 624.406, F.S.; providing for reinsurance
26 under a workers' compensation insurance policy;
27 amending s. 624.603, F.S.; providing an
28 exception to include workers' compensation
29 coverages under health insurance; amending s.
30 631.141, F.S.; providing for trust funds to be
31 transferred to the receiver in delinquency

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1 proceedings to pay for unreimbursed expenses;
2 amending

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