



1 resident title insurance agents. Sections 626.742 and 626.743  
2 apply to nonresident title insurance agents.

3 Section 2. Paragraph (h) of subsection (1) of section  
4 626.9541, Florida Statutes, is amended to read:

5 626.9541 Unfair methods of competition and unfair or  
6 deceptive acts or practices defined.--

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

10 (h) Unlawful rebates.--

11 1. Except as otherwise expressly provided by law, or  
12 in an applicable filing with the office, knowingly:

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

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

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

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

1           a. In the case of any contract of life insurance or  
2 life annuity, paying bonuses to all policyholders or otherwise  
3 abating their premiums in whole or in part out of surplus  
4 accumulated from nonparticipating insurance; provided that any  
5 such bonuses or abatement of premiums is fair and equitable to  
6 all policyholders and for the best interests of the company  
7 and its policyholders.

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

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

18           d. Issuance of life insurance policies or annuity  
19 contracts at rates less than the usual rates of premiums for  
20 such policies or contracts, as group insurance or employee  
21 insurance as defined in this code.

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

26           3.a. No title insurer, or any member, employee,  
27 attorney, agent, or agency thereof, shall pay, allow, or give,  
28 or offer to pay, allow, or give, directly or indirectly, as  
29 inducement to title insurance, or after such insurance has  
30 been effected, any rebate or abatement of the ~~agent's,~~  
31 ~~agency's, or title insurer's share of the premium or any other~~

1 | ~~charge or fee for related title services below the cost for~~  
2 | ~~providing such services~~, or provide any special favor or  
3 | advantage, or any monetary consideration or inducement  
4 | whatever. ~~Nothing herein contained shall preclude an abatement~~  
5 | ~~in an attorney's fee charged for legal services.~~

6 |         b. Nothing in this subparagraph shall be construed as  
7 | prohibiting the payment of fees to attorneys at law duly  
8 | licensed to practice law in the courts of this state, for  
9 | professional services, or as prohibiting the payment of earned  
10 | portions of the premium to duly appointed agents or agencies  
11 | who actually perform services for the title insurer. Nothing  
12 | in this subparagraph shall be construed as prohibiting a  
13 | rebate or abatement of an attorney's fee charged for  
14 | professional services or the agent's share of the premium or  
15 | any other agent charge or fee to the person responsible for  
16 | paying the premium, charge, or fee.

17 |         c. No insured named in a policy, or any other person  
18 | directly or indirectly connected with the transaction  
19 | involving the issuance of such policy, including, but not  
20 | limited to, any mortgage broker, real estate broker, builder,  
21 | or attorney, any employee, agent, agency, or representative  
22 | thereof, or any other person whatsoever, shall knowingly  
23 | receive or accept, directly or indirectly, any rebate or  
24 | abatement of any portion of the title insurance premium or of  
25 | any other charge or fee ~~said charge~~, or any monetary  
26 | consideration or inducement whatsoever, except other than as  
27 | set forth in sub-subparagraph b.

28 |         Section 3. Subsection (1) of section 627.7711, Florida  
29 | Statutes, is amended, and subsection (4) is added to that  
30 | section, to read:

31 |             627.7711 Definitions.--As used in this part, the term:

1           (1)(a) "~~Closing Related title~~ services" means services  
2 performed by a licensed title insurer, ~~or~~ title insurance  
3 agent or agency, or attorney agent in the agent's or agency's  
4 capacity as such, including, but not limited to, ~~preparing or~~  
5 ~~obtaining a title search, examining title, examining searches~~  
6 ~~of the records of a Uniform Commercial Code filing office and~~  
7 ~~such other information as may be necessary,~~ preparing  
8 documents necessary to close the transaction, conducting the  
9 closing, or handling the disbursing of funds related to the  
10 closing in a real estate closing transaction in which a title  
11 insurance commitment or policy is to be issued. ~~The premium,~~  
12 ~~together with the charge for related title services,~~  
13 ~~constitutes the regular title insurance premium.~~

14           (b) "Primary title services" means determining  
15 insurability in accordance with sound underwriting practices  
16 based upon evaluation of a reasonable title search ~~and~~  
17 ~~examination of the title or a search of~~ the records of a  
18 Uniform Commercial Code filing office and such other  
19 information as may be necessary, determination and clearance  
20 of underwriting objections and requirements to eliminate risk,  
21 preparation and issuance of a title insurance commitment  
22 setting forth the requirements to insure, and preparation and  
23 issuance of the policy. Such services do not include closing  
24 services or title searches, for which a separate charge is or  
25 separate charges are made.

26           (4) "Title search" means the compiling of title  
27 information from official or public records.

28           Section 4. Subsection (1) of section 627.780, Florida  
29 Statutes, is amended to read:

30           627.780 Illegal dealings in ~~risk~~ premium.--  
31

1           (1) A person may not knowingly quote, charge, accept,  
2 collect, or receive a premium for title insurance other than  
3 the premium adopted by the commission, except as provided in  
4 s. 626.9541(1)(h)3.b.

5           Section 5. Subsection (1) of section 627.782, Florida  
6 Statutes, is amended to read:

7           627.782 Adoption of rates.--

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

24           Section 6. Subsection (1) of section 627.783, Florida  
25 Statutes, is amended to read:

26           627.783 Rate deviation.--

27           (1) A title insurer may petition the office for an  
28 order authorizing a specific deviation from the adopted  
29 premium, ~~and a title insurer or title insurance agent may~~  
30 ~~petition the office for an order authorizing and permitting a~~  
31 ~~specific deviation above the reasonable charge for related~~

1 ~~title services rendered specified in s. 627.782(1)~~. The  
2 petition shall be in writing and sworn to and shall set forth  
3 allegations of fact upon which the petitioner will rely,  
4 including the petitioner's reasons for requesting the  
5 deviation. Any authorized title insurer, agent, or agency may  
6 join in the petition for like authority to deviate or may file  
7 a separate petition praying for like authority or opposing the  
8 deviation. The office shall rule on all such petitions  
9 simultaneously.

10 Section 7. Subsections (1), (2), and (3) of section  
11 627.7845, Florida Statutes, are amended to read:

12 627.7845 Determination of insurability required;  
13 preservation of evidence of title search and examination.--

14 (1) A title insurer may not issue a title insurance  
15 commitment, endorsement, or title insurance policy until the  
16 title insurer has caused to be ~~made~~ ~~conducted~~ a determination  
17 of insurability based upon the evaluation of a reasonable  
18 title search and examination of the title or a search of the  
19 records of a Uniform Commercial Code filing office, as  
20 applicable, has examined such other information as may be  
21 necessary, and has caused to be made a determination of  
22 insurability of title or the existence, attachments,  
23 perfection, and priority of a Uniform Commercial Code security  
24 interest, including endorsement coverages, in accordance with  
25 sound underwriting practices.

26 (2) The title insurer shall cause the evidence of the  
27 determination of insurability and the reasonable title search  
28 ~~and examination of the title or search of the records of a~~  
29 Uniform Commercial Code filing office to be preserved and  
30 retained in its files or in the files of its title insurance  
31 agent or agency for a period of not less than 7 years after

1 | the title insurance commitment, title insurance policy, or  
2 | guarantee of title was issued. The title insurer or agent or  
3 | agency must produce the evidence required to be maintained by  
4 | this subsection at its offices upon the demand of the office.  
5 | Instead of retaining the original evidence, the title insurer  
6 | or the title insurance agent or agency may, in the regular  
7 | course of business, establish a system under which all or part  
8 | of the evidence is recorded, copied, or reproduced by any  
9 | photographic, photostatic, microfilm, microcard, miniature  
10 | photographic, or other process which accurately reproduces or  
11 | forms a durable medium for reproducing the original.

12 |         (3) The title insurer or its agent or agency must  
13 | maintain a record of the actual ~~risk~~ premium charged ~~and~~  
14 | ~~related title service charges made~~ for issuance of the policy  
15 | and any endorsements in its files for a period of not less  
16 | than 7 years. The title insurer, agent, or agency must produce  
17 | the record at its office upon demand of the office.

18 |         Section 8. This act shall take effect October 1, 2007.

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