



1           626.84201 Nonresident title insurance  
2 agents.--Notwithstanding s. 626.8414(2), the department, upon  
3 application and payment of the fees specified in s. 624.501,  
4 may issue a license as a nonresident title insurance agent to  
5 an individual not a resident of this state in the same manner  
6 applicable to the licensure of nonresident general lines  
7 agents under the provisions of s. 626.741, provided the  
8 individual passes the examination for licensure required under  
9 s. 626.221. Nonresident title insurance agents licensed  
10 pursuant to this section must complete the continuing  
11 education requirements of s. 626.2815 in the same manner as  
12 resident title insurance agents. Sections 626.742 and 626.743  
13 apply to nonresident title insurance agents.

14           Section 2. Paragraph (h) of subsection (1) of section  
15 626.9541, Florida Statutes, is amended to read:

16           626.9541 Unfair methods of competition and unfair or  
17 deceptive acts or practices defined.--

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

21           (h) Unlawful rebates.--

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

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

27           b. Paying, allowing, or giving, or offering to pay,  
28 allow, or give, directly or indirectly, as inducement to such  
29 insurance contract, any unlawful rebate of premiums payable on  
30 the contract, any special favor or advantage in the dividends  
31

1 or other benefits thereon, or any valuable consideration or  
2 inducement whatever not specified in the contract;

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

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

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

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

25 c. Readjustment of the rate of premium for a group  
26 insurance policy based on the loss or expense thereunder, at  
27 the end of the first or any subsequent policy year of  
28 insurance thereunder, which may be made retroactive only for  
29 such policy year.

30 d. Issuance of life insurance policies or annuity  
31 contracts at rates less than the usual rates of premiums for

1 such policies or contracts, as group insurance or employee  
2 insurance as defined in this code.

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

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

18 b. Nothing in this subparagraph shall be construed as  
19 prohibiting the payment of fees to attorneys at law duly  
20 licensed to practice law in the courts of this state, for  
21 professional services, or as prohibiting the payment of earned  
22 portions of the premium to duly appointed agents or agencies  
23 who actually perform services for the title insurer. Nothing  
24 in this subparagraph shall prohibit a rebate or abatement of  
25 an attorney's fee charged for professional services, the  
26 portion of the premium that is not required to be retained by  
27 the insurer pursuant to s. 627.782(1), or any other agent  
28 charge or fee, to the person responsible for paying the  
29 premium, charge, or fee.

30 c. No insured named in a policy, or any other person  
31 directly or indirectly connected with the transaction

1 involving the issuance of such policy, including, but not  
2 limited to, any mortgage broker, real estate broker, builder,  
3 or attorney, any employee, agent, agency, or representative  
4 thereof, or any other person whatsoever, shall knowingly  
5 receive or accept, directly or indirectly, any rebate or  
6 abatement of any portion of the title insurance premium or of  
7 any other charge or fee ~~said charge~~, or any monetary  
8 consideration or inducement whatsoever, ~~except other than~~ as  
9 set forth in sub-subparagraph b. However, no portion of the  
10 attorney's fee, the premium that is not required to be  
11 retained by the insurer pursuant to s. 627.782(1), any agent  
12 charge or fee, or any other monetary consideration or  
13 inducement, may be paid directly or indirectly for the  
14 referral of title insurance business.

15 Section 3. Subsection (1) of section 627.7711, Florida  
16 Statutes, is amended, and subsection (4) is added to that  
17 section, to read:

18 627.7711 Definitions.--As used in this part, the term:

19 (1)(a) "Closing Related ~~title~~ services" means services  
20 performed by a licensed title insurer, ~~or~~ title insurance  
21 agent or agency, or attorney agent in the agent's or agency's  
22 capacity as such, including, but not limited to, ~~preparing or~~  
23 ~~obtaining a title search, examining title, examining searches~~  
24 ~~of the records of a Uniform Commercial Code filing office and~~  
25 ~~such other information as may be necessary~~, preparing  
26 documents necessary to close the transaction, conducting the  
27 closing, or handling the disbursing of funds related to the  
28 closing in a real estate closing transaction in which a title  
29 insurance commitment or policy is to be issued. ~~The premium,~~  
30 ~~together with the charge for related title services,~~  
31 ~~constitutes the regular title insurance premium.~~

1           (b) "Primary title services" means determining  
2 insurability in accordance with sound underwriting practices  
3 based upon evaluation of a reasonable title search ~~and~~  
4 ~~examination of the title~~ or a search of the records of a  
5 Uniform Commercial Code filing office and such other  
6 information as may be necessary, determination and clearance  
7 of underwriting objections and requirements to eliminate risk,  
8 preparation and issuance of a title insurance commitment  
9 setting forth the requirements to insure, and preparation and  
10 issuance of the policy. Such services do not include closing  
11 services or title searches, for which a separate charge is or  
12 separate charges are made.

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

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

17           627.780 Illegal dealings in ~~risk~~ premium.--

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

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

24           627.782 Adoption of rates.--

25           (1) Subject to the rating provisions of this code, the  
26 commission must adopt a rule specifying the premium to be  
27 charged in this state by title insurers for the respective  
28 types of title insurance contracts and, for policies issued  
29 through agents or agencies, the percentage of such premium  
30 required to be retained by the title insurer which shall not  
31 be less than 30 percent. However, in a transaction subject to

1 | the Real Estate Settlement Procedures Act of 1974, 12 U.S.C.  
2 | ss. 2601 et seq., as amended, no portion of the premium  
3 | attributable to providing a primary title service shall be  
4 | paid to or retained by any person who does not actually  
5 | perform or is not liable for the performance of such service.  
6 | ~~The commission may, by rule, establish limitations on related~~  
7 | ~~title services charges made in addition to the premium based~~  
8 | ~~upon the expenses associated with the services rendered and~~  
9 | ~~other relevant factors.~~

10 |         Section 6. Subsection (1) of section 627.783, Florida  
11 | Statutes, is amended to read:

12 |             627.783 Rate deviation.--

13 |             (1) A title insurer may petition the office for an  
14 | order authorizing a specific deviation from the adopted  
15 | premium, ~~and a title insurer or title insurance agent may~~  
16 | ~~petition the office for an order authorizing and permitting a~~  
17 | ~~specific deviation above the reasonable charge for related~~  
18 | ~~title services rendered specified in s. 627.782(1).~~ The  
19 | petition shall be in writing and sworn to and shall set forth  
20 | allegations of fact upon which the petitioner will rely,  
21 | including the petitioner's reasons for requesting the  
22 | deviation. Any authorized title insurer, agent, or agency may  
23 | join in the petition for like authority to deviate or may file  
24 | a separate petition praying for like authority or opposing the  
25 | deviation. The office shall rule on all such petitions  
26 | simultaneously.

27 |         Section 7. Subsections (1), (2), and (3) of section  
28 | 627.7845, Florida Statutes, are amended to read:

29 |             627.7845 Determination of insurability required;  
30 | preservation of evidence of title search and examination.--  
31 |

1           (1) A title insurer may not issue a title insurance  
2 commitment, endorsement, or title insurance policy until the  
3 title insurer has caused to be ~~made~~ ~~conducted~~ a determination  
4 of insurability based upon the evaluation of a reasonable  
5 title search and examination of the title or a search of the  
6 records of a Uniform Commercial Code filing office, as  
7 applicable, has examined such other information as may be  
8 necessary, and has caused to be made a determination of  
9 insurability of title or the existence, attachments,  
10 perfection, and priority of a Uniform Commercial Code security  
11 interest, including endorsement coverages, in accordance with  
12 sound underwriting practices.

13           (2) The title insurer shall cause the evidence of the  
14 determination of insurability and the reasonable title search  
15 ~~and examination of the title or search of~~ the records of a  
16 Uniform Commercial Code filing office to be preserved and  
17 retained in its files or in the files of its title insurance  
18 agent or agency for a period of not less than 7 years after  
19 the title insurance commitment, title insurance policy, or  
20 guarantee of title was issued. The title insurer or agent or  
21 agency must produce the evidence required to be maintained by  
22 this subsection at its offices upon the demand of the office.  
23 Instead of retaining the original evidence, the title insurer  
24 or the title insurance agent or agency may, in the regular  
25 course of business, establish a system under which all or part  
26 of the evidence is recorded, copied, or reproduced by any  
27 photographic, photostatic, microfilm, microcard, miniature  
28 photographic, or other process which accurately reproduces or  
29 forms a durable medium for reproducing the original.

30           (3) The title insurer or its agent or agency must  
31 maintain a record of the actual ~~risk~~ premium charged ~~and~~



1 ~~related title service charges made~~ for issuance of the policy  
2 and any endorsements in its files for a period of not less  
3 than 7 years. The title insurer, agent, or agency must produce  
4 the record at its office upon demand of the office.

5 Section 8. Subsection (1) of section 701.04, Florida  
6 Statutes, is amended to read:

7 701.04 Cancellation of mortgages, liens, and  
8 judgments.--

9 (1) Within 14 days after receipt of the written  
10 request of a mortgagor, the holder of a mortgage shall deliver  
11 to the mortgagor at a place designated in the written request  
12 an estoppel letter setting forth the unpaid balance of the  
13 loan secured by the mortgage, including the principal,  
14 interest, any other charges properly due under and secured by  
15 the mortgage, and interest on a per-day basis for the unpaid  
16 balance ~~principal balance, interest due, and the per diem~~  
17 ~~rate~~. Whenever the amount of money due on any mortgage, lien,  
18 or judgment is to ~~shall~~ be fully paid to the person or party  
19 entitled to the payment thereof, the mortgagee, creditor, or  
20 assignee, or the attorney of record in the case of a judgment,  
21 to whom such payment has ~~shall have~~ been made, shall execute  
22 in writing an instrument acknowledging satisfaction of said  
23 mortgage, lien, or judgment and have the same acknowledged, or  
24 proven, and duly entered of record in the book provided by law  
25 for such purposes in the proper county. Within 60 days after  
26 ~~of~~ the date of receipt of the full payment of the mortgage,  
27 lien, or judgment, the person required to acknowledge  
28 satisfaction of the mortgage, lien, or judgment shall send or  
29 cause to be sent the recorded satisfaction to the person who  
30 has made the full payment. In the case of a civil action

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1 arising out of the provisions of this section, the prevailing  
2 party ~~is shall be~~ entitled to attorney's fees and costs.

3 Section 9. Section 701.041, Florida Statutes, is  
4 amended to read:

5 701.041 Title insurer; mortgage release certificate.--

6 (1) DEFINITIONS.--For purposes of this section, the  
7 term:

8 (a) "Estoppel letter" means a statement of the amount  
9 of:

10 1. The unpaid balance of a loan secured by a mortgage,  
11 including principal, interest, and any other charges properly  
12 due under or secured by the mortgage; and

13 2. The interest on a per-day basis for the unpaid  
14 balance. "Mortgage" means a mortgage or mortgage lien on an  
15 interest in real property in this state, including any  
16 modifications thereof, given to secure a loan in the principal  
17 amount of \$500,000 or less, other than a mortgage securing an  
18 open end or revolving credit agreement.

19 (b) "Mortgagee" means:

20 1. The grantee of a mortgage; or

21 2. If a mortgage has been assigned of record, the last  
22 person to whom the mortgage has been assigned of record.

23 (c) "Mortgage servicer" means the last person to whom  
24 a mortgagor or the mortgagor's successor in interest has been  
25 instructed by a mortgagee to send payments on a loan secured  
26 by a mortgage. The A person transmitting an estoppel letter a  
27 payoff statement is the mortgage servicer for the mortgage  
28 described in the estoppel letter ~~payment statement~~.

29 (d) "Mortgagor" means the grantor of a mortgage.

30 (e) ~~"Payoff statement" means a statement of the amount~~  
31 ~~of:~~

1           ~~1. The unpaid balance of a loan secured by a mortgage,~~  
2 ~~including principal, interest, and any other charges properly~~  
3 ~~due under or secured by the mortgage.~~

4           ~~2. Interest on a per day basis for the unpaid balance.~~

5           ~~(e)(f)~~ "Record" means to record with the clerk of the  
6 circuit court or the comptroller in the county or counties in  
7 which the real property securing the mortgage is located.

8           ~~(f)(g)~~ "Title insurer" means a corporation or other  
9 business entity authorized and licensed under chapter 624 to  
10 insure to transact the business of insuring titles to  
11 interests in real property ~~in this state under chapter 624.~~

12           ~~(2) APPLICATION.--This section applies to a mortgage~~  
13 secured by a loan in the principal amount of \$500,000 or less,  
14 as determined from the recorded mortgage, and which contains  
15 no disclosure of record that the mortgage secures an open-end  
16 or revolving line of credit agreement.

17           ~~(3)(2)~~ CERTIFICATE OF RELEASE.--An officer or duly  
18 appointed agent of a title insurer may, on behalf of a  
19 mortgagor or a person who acquired from the mortgagor title to  
20 all or a part of the property described in a mortgage, execute  
21 a certificate of release that complies with the requirements  
22 of this section and record the certificate of release in the  
23 real property records of each county in which the mortgage is  
24 recorded if a satisfaction or release of the mortgage has not  
25 been executed and recorded after the date payment in full of  
26 the loan secured by the mortgage was made in accordance with  
27 an estoppel letter ~~a payoff statement~~ furnished by the  
28 mortgagee or the mortgage servicer.

29           ~~(4)(3)~~ CONTENTS.--A certificate of release executed  
30 under this section must contain:  
31

1 (a) The name of the mortgagor, the name of the  
2 original mortgagee, and, if applicable, the mortgage servicer;  
3 the date of the mortgage; the date of recording; and the  
4 volume and page or document number in the real property  
5 records in which the mortgage is recorded, together with  
6 similar information for the last recorded assignment of the  
7 mortgage.

8 (b) A statement that the mortgage being released has  
9 been determined eligible for release under this section,  
10 ~~including any modifications thereof, was in the principal~~  
11 ~~amount of \$500,000 or less.~~

12 (c) The name of the title insurer filing the  
13 certificate of release, a statement that the person executing  
14 the certificate of release is an officer or a duly appointed  
15 agent of the title insurer, a statement that the title insurer  
16 is authorized and licensed to insure ~~transact the business of~~  
17 ~~insuring~~ titles to interests in real property ~~in this state~~  
18 under chapter 624 or chapter 626, and, if executed by a duly  
19 appointed agent, shall further provide the recording  
20 information of the appointment of such agent as required by  
21 subsection ~~(5)~~ (4).

22 (d) A statement that the certificate of release is  
23 made on behalf of the mortgagor or a person who acquired title  
24 from the mortgagor to all or a part of the property described  
25 in the mortgage.

26 (e) A statement that the mortgagee or mortgage  
27 servicer provided an estoppel letter ~~a payoff statement~~ which  
28 was used to make payment in full of the unpaid balance of the  
29 loan secured by the mortgage.

30 (f) A statement that payment in full of the unpaid  
31 balance of the loan secured by the mortgage was made in

1 accordance with an estoppel letter ~~the payoff statement~~ and  
2 that a copy of the certificate of release was sent to the  
3 mortgagee or mortgage servicer that provided the estoppel  
4 letter ~~payoff statement~~.

5 ~~(5)(4)~~ EXECUTION.--

6 (a) A certificate of release authorized by subsection  
7 ~~(3)(2)~~ must be duly executed, sworn to or affirmed under  
8 penalty of perjury before a notary public, and recorded and  
9 may be executed by an officer of a title insurer or by a duly  
10 appointed agent of a title insurer. Such delegation to an  
11 agent by a title insurer does ~~shall~~ not relieve the title  
12 insurer of any liability for damages caused by the agent for  
13 the execution or recordation of a certificate of release.

14 (b) The appointment of an agent must be duly executed,  
15 acknowledged, and recorded by an officer of a title insurer  
16 and must state:

- 17 1. The title insurer as the principal.
- 18 2. The identity of the person, partnership, or  
19 corporation authorized to act as agent to execute and record  
20 certificates of release under ~~provided for in~~ this section on  
21 behalf of the title insurer.
- 22 3. That the agent has the full authority to execute  
23 and record certificates of release under ~~provided for in~~ this  
24 section on behalf of the title insurer.

25 (c) A separate appointment of agent is ~~shall~~ not be  
26 necessary for each certificate of release if ~~provided that~~ at  
27 least one such appointment is recorded in the county in which  
28 the mortgaged property is located. The appointment of agent  
29 must be rerecorded where necessary to establish the authority  
30 of the agent, but such authority shall continue until a  
31 revocation of appointment is recorded in the office of the

1 county recorder in which the appointment of agent was  
2 recorded.

3 (d) After recording ~~recordation~~ of a title insurer's  
4 revocation of appointment in the office of the county recorder  
5 in which the appointment was recorded, the agent whose  
6 appointment is revoked ~~in such county~~ shall have no further  
7 authority to execute or record certificates of release ~~as~~  
8 ~~provided in this section~~ on behalf of that title insurer with  
9 respect to any mortgages recorded in that county, and no such  
10 certificate of release ~~thereafter~~ executed or recorded by that  
11 agent on behalf of that title insurer ~~is shall be~~ effective to  
12 release any mortgage recorded in that county.

13 ~~(6)(5)~~ EFFECT.--For purposes of releasing the  
14 mortgage, a certificate of release containing the information  
15 and statements provided for in subsection~~(4)(3)~~ and executed  
16 as provided in subsection~~(5)~~ ~~may(4) is entitled to be~~  
17 recorded with the county recorder and operates as a release of  
18 the mortgage described in the certificate of release. The  
19 county recorder shall rely upon the certificate to release the  
20 mortgage. Recording of a certificate of release by a title  
21 insurer or its agent shall not relieve the mortgagor, or the  
22 mortgagor's successors or assigns, from any personal liability  
23 on the loan or other obligations secured by the mortgage. A  
24 certificate of release recorded pursuant to this section  
25 fulfills any other obligation of the mortgagee or mortgage  
26 servicer to file a satisfaction or release of the mortgage.

27 ~~(7)(6)~~ LIABILITY OF TITLE INSURER.--

28 (a) In addition to any other remedy provided by law, a  
29 title insurer and a title insurance agent recording a  
30 certificate of release under this section shall be liable to  
31 the holder of the obligation secured by the mortgage for

1 actual damage sustained due to the recording of the  
2 certificate of release. Reasonable costs and attorneys' fees  
3 shall be awarded to the prevailing party.

4 (b) The title insurer named in a certificate of  
5 release filed by a duly appointed agent shall be liable  
6 pursuant to this subsection without regard to whether the  
7 title insurer authorized the specific certificate of release  
8 recorded by the agent.

9 (c) The title insurer and the title insurance agent  
10 shall have no liability under this subsection if the title  
11 insurer or title insurance agent shows that payment in full of  
12 the unpaid balance of the loan secured by the mortgage was  
13 made in accordance with the estoppel letter ~~payoff statement~~  
14 furnished by the mortgagee or the mortgage servicer.

15 (d) Liability of a title insurer under ~~pursuant to~~  
16 this section ~~is shall be~~ considered to be a title insurance  
17 claim on real property in this state pursuant to s. 627.7865.

18 ~~(8)(7)~~ RECORDING.--If a mortgage is recorded in more  
19 than one county and a certificate of release is recorded in  
20 one of such counties, a certified copy of the certificate of  
21 release may be recorded in another of such counties with the  
22 same effect as the original. In all cases, the certificate of  
23 release must ~~shall~~ be entered and indexed as satisfactions of  
24 mortgage are entered and indexed.

25 ~~(8) APPLICATION. This section applies only to a~~  
26 ~~mortgage, including any modifications of such mortgage, in the~~  
27 ~~principal amount of \$500,000 or less.~~

28 ~~(9) PREMIUM. The Financial Services Commission shall~~  
29 ~~adopt rules establishing an actuarially sound premium charge~~  
30 ~~to be made for each certificate of release recorded pursuant~~  
31 ~~to this section.~~

1           Section 10. This act shall take effect October 1,  
2 2007.

3  
4                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                   COMMITTEE SUBSTITUTE FOR  
6                   Senate Bill 636

7 The committee substitute provides the following changes:

- 8 1. Revises the provision that allows title insurance agents  
9 to reduce or rebate to customers the agent's commission  
10 or other agent fees and charges.  
11  
12 2. Specifies that no rebate can be paid to a third party for  
13 referring title insurance business to a particular agent  
14 or insurer.  
15  
16 3. Amends the definition of an "estoppel letter" relating to  
17 mortgage certificates of release.  
18  
19 4. Revises the provision to clear liens that have been  
20 satisfied from the public records.  
21  
22 5. Deletes the requirement that the Financial Services  
23 Commission adopt rules to establish a premium charged by  
24 a title agent for preparing and recording of an affidavit  
25 of release of a mortgage.  
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