

By Senator Atwater

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1 A bill to be entitled

2 An act relating to insurance; amending s. 501.204, F.S.;

3 specifying that acts or practices that violate s.

4 626.9541(1), F.S., relating to unfair insurance trade

5 practices, are unlawful under the Florida Deceptive and

6 Unfair Trade Practice Act; amending s. 501.212, F.S.;

7 deleting an exemption from the scope of the act which is

8 provided to persons or activities regulated by the Office

9 of Insurance Regulation or the Department of Financial

10 Services; amending s. 626.9541, F.S.; prohibiting an

11 insurer or person from considering certain factors when

12 evaluating or adjusting a property insurance claim;

13 providing an effective date.

14

15 Be It Enacted by the Legislature of the State of Florida:

16

17 Section 1. Section 501.204, Florida Statutes, is amended to

18 read:

19 501.204 Unlawful acts and practices.--

20 (1) Unfair methods of competition, unconscionable acts or

21 practices, and unfair or deceptive acts or practices in the

22 conduct of any trade or commerce are ~~hereby declared~~ unlawful.

23 (2) It is the intent of the Legislature that, in construing

24 subsection (1), due consideration and great weight shall be given

25 to the interpretations of the Federal Trade Commission and the

26 federal courts relating to s. 5(a)(1) of the Federal Trade

27 Commission Act, 15 U.S.C. s. 45(a)(1) as of July 1, 2006.

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28        (3) Acts or practices that violate s. 626.9541(1) are  
29 deceptive and unfair trade practices for the purpose of this  
30 section.

31        Section 2. Subsection (4) of section 501.212, Florida  
32 Statutes, is amended to read:

33        501.212 Application.--This part does not apply to:

34        ~~(4) Any person or activity regulated under laws~~  
35 ~~administered by:~~

36        ~~(a) The Office of Insurance Regulation of the Financial~~  
37 ~~Services Commission;~~

38        ~~(b) Banks and savings and loan associations regulated by~~  
39 ~~the Office of Financial Regulation of the Financial Services~~  
40 ~~Commission or;~~

41        ~~(c) Banks or savings and loan associations regulated by~~  
42 ~~federal agencies. ; ~~or~~~~

43        ~~(d) Any person or activity regulated under the laws~~  
44 ~~administered by the former Department of Insurance which are now~~  
45 ~~administered by the Department of Financial Services.~~

46        Section 3. Paragraph (i) of subsection (1) of section  
47 626.9541, Florida Statutes, is amended to read:

48        626.9541 Unfair methods of competition and unfair or  
49 deceptive acts or practices defined.--

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

53        (i) Unfair claim settlement practices.--

54        1. Attempting to settle claims on the basis of an  
55 application, ~~when~~ serving as a binder or intended to become a  
56 part of the policy, or any other material document that is ~~which~~

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57 ~~was~~ altered without notice to, or knowledge or consent of, the  
58 insured;

59 2. A material misrepresentation made to an insured or any  
60 other person having an interest in the proceeds payable under a  
61 ~~such~~ contract or policy, for the purpose and with the intent of  
62 effecting settlement of such claims, loss, or damage under such  
63 contract or policy on less favorable terms than those provided  
64 in, and contemplated by, the ~~such~~ contract or policy; ~~or~~

65 3. Committing or performing with such frequency as to  
66 indicate a general business practice any of the following:

67 a. Failing to adopt and implement standards for the proper  
68 investigation of claims.†

69 b. Misrepresenting pertinent facts or insurance policy  
70 provisions relating to coverages at issue.†

71 c. Failing to acknowledge and act promptly upon  
72 communications with respect to claims.†

73 d. Denying claims without conducting reasonable  
74 investigations based upon available information.†

75 e. Failing to affirm or deny full or partial coverage of  
76 claims, and, as to partial coverage, the dollar amount or extent  
77 of coverage, or failing to provide a written statement that the  
78 claim is being investigated, upon the written request of the  
79 insured within 30 days after proof-of-loss statements have been  
80 completed.†

81 f. Failing to promptly provide a reasonable explanation in  
82 writing to the insured of the basis in the insurance policy, in  
83 relation to the facts or applicable law, for denial of a claim or  
84 for the offer of a compromise settlement.†

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85 g. Failing to promptly notify the insured of any additional  
86 information necessary for the processing of a claim.~~;~~~~or~~

87 h. Failing to clearly explain the nature of the requested  
88 information and the reasons why such information is necessary;  
89 or

90 4. Giving consideration to the age, race, income level,  
91 education, credit score, or any other personal characteristic of  
92 a policyholder when evaluating, adjusting, settling, or  
93 attempting to settle a property insurance claim.

94 Section 4. This act shall take effect July 1, 2008.