

Amendment No.

CHAMBER ACTION

Senate

House

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Representatives Long and Bogdanoff offered the following:

Amendment (with title amendment)

Between lines 2634 and 2635, insert:

Section 22. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is 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

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17 insurer, by an insurance policy issued by an insurer as
18 permitted by this code.

19 2. Knowingly collecting as a premium or charge for
20 insurance any sum in excess of or less than the premium or
21 charge applicable to such insurance, in accordance with the
22 applicable classifications and rates as filed with and approved
23 by the office, and as specified in the policy; or, in cases when
24 classifications, premiums, or rates are not required by this
25 code to be so filed and approved, premiums and charges collected
26 from a Florida resident in excess of or less than those
27 specified in the policy and as fixed by the insurer. This
28 provision shall not be deemed to prohibit the charging and
29 collection, by surplus lines agents licensed under part VIII of
30 this chapter, of the amount of applicable state and federal
31 taxes, or fees as authorized by s. 626.916(4), in addition to
32 the premium required by the insurer or the charging and
33 collection, by licensed agents, of the exact amount of any
34 discount or other such fee charged by a credit card facility in
35 connection with the use of a credit card, as authorized by
36 subparagraph (q)3., in addition to the premium required by the
37 insurer. This subparagraph shall not be construed to prohibit
38 collection of a premium for a universal life or a variable or
39 indeterminate value insurance policy made in accordance with the
40 terms of the contract.

41 3.a. Imposing or requesting an additional premium for a
42 policy of motor vehicle liability, personal injury protection,
43 medical payment, or collision insurance or any combination
44 thereof or refusing to renew the policy solely because the
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45 insured was involved in a motor vehicle accident unless the
46 insurer's file contains information from which the insurer in
47 good faith determines that the insured was substantially at
48 fault in the accident.

49 b. An insurer which imposes and collects such a surcharge
50 or which refuses to renew such policy shall, in conjunction with
51 the notice of premium due or notice of nonrenewal, notify the
52 named insured that he or she is entitled to reimbursement of
53 such amount or renewal of the policy under the conditions listed
54 below and will subsequently reimburse him or her or renew the
55 policy, if the named insured demonstrates that the operator
56 involved in the accident was:

57 (I) Lawfully parked;

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

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

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

66 (V) Not convicted of a moving traffic violation in
67 connection with the accident, but the operator of the other
68 automobile involved in such accident was convicted of a moving
69 traffic violation;

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

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

74 (VIII) Not at fault as evidenced by a written statement
75 from the insured establishing facts demonstrating lack of fault
76 which are not rebutted by information in the insurer's file from
77 which the insurer in good faith determines that the insured was
78 substantially at fault.

79 c. In addition to the other provisions of this
80 subparagraph, an insurer may not fail to renew a policy if the
81 insured has had only one accident in which he or she was at
82 fault within the current 3-year period. However, an insurer may
83 nonrenew a policy for reasons other than accidents in accordance
84 with s. 627.728. This subparagraph does not prohibit nonrenewal
85 of a policy under which the insured has had three or more
86 accidents, regardless of fault, during the most recent 3-year
87 period.

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

92 a. A second infraction committed within an 18-month
93 period, or a third or subsequent infraction committed within a
94 36-month period.

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

98 5. Upon the request of the insured, the insurer and
99 licensed agent shall supply to the insured the complete proof of
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100 fault or other criteria which justifies the additional charge or
101 cancellation.

102 6. No insurer shall impose or request an additional
103 premium for motor vehicle insurance, cancel or refuse to issue a
104 policy, or refuse to renew a policy because the insured or the
105 applicant is a handicapped or physically disabled person, so
106 long as such handicap or physical disability does not
107 substantially impair such person's mechanically assisted driving
108 ability.

109 7. No insurer may cancel or otherwise terminate any
110 insurance contract or coverage, or require execution of a
111 consent to rate endorsement, during the stated policy term for
112 the purpose of offering to issue, or issuing, a similar or
113 identical contract or coverage to the same insured with the same
114 exposure at a higher premium rate or continuing an existing
115 contract or coverage with the same exposure at an increased
116 premium.

117 8. No insurer may issue a nonrenewal notice on any
118 insurance contract or coverage, or require execution of a
119 consent to rate endorsement, for the purpose of offering to
120 issue, or issuing, a similar or identical contract or coverage
121 to the same insured at a higher premium rate or continuing an
122 existing contract or coverage at an increased premium without
123 meeting any applicable notice requirements.

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

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127 10. Imposing or requesting an additional premium for motor
128 vehicle comprehensive or uninsured motorist coverage solely
129 because the insured was involved in a motor vehicle accident or
130 was convicted of a moving traffic violation.

131 11. No insurer shall cancel or issue a nonrenewal notice
132 on any insurance policy or contract without complying with any
133 applicable cancellation or nonrenewal provision required under
134 the Florida Insurance Code.

135 12. No insurer shall impose or request an additional
136 premium, cancel a policy, or issue a nonrenewal notice on any
137 insurance policy or contract because of any traffic infraction
138 when adjudication has been withheld and no points have been
139 assessed pursuant to s. 318.14(9) and (10). However, this
140 subparagraph does not apply to traffic infractions involving
141 accidents in which the insurer has incurred a loss due to the
142 fault of the insured.

143 13. Notwithstanding this paragraph, a licensed general
144 lines agent may also collect a reasonable service charge, not to
145 exceed \$5, from the insured when the licensed general lines
146 agent processes, as a convenience and accommodation to the
147 insured, an installment payment from the insured to the
148 insurance company or premium finance company when such payments
149 can be made directly to the insurance company or premium finance
150 company by the insured. In no case may an agent collect more
151 than one service charge for any single payment, and a schedule
152 of any such service charge must be prominently posted in the
153 public area of the agency and also on the agency's website if a
154 service charge is to be collected.

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

Between lines 148 and 149, insert:

amending s. 626.9541, F.S.; authorizing licensed general lines
agents to collect a service charge for processing certain
installment payments under certain circumstances; providing a
limitation; providing requirements;