

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Patterson offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 935 and 936, insert:

5 Section 6. Subsection (3) of section 626.753, Florida
6 Statutes, is amended to read:

7 626.753 Sharing commissions; penalty.--

8 (3) (a) A general lines agent may share commissions derived
9 from the sale of crop hail or multiple-peril crop insurance with
10 a production credit association organized under 12 U.S.C. ss.
11 2071-2077 ~~12 U.S.C.A. ss. 2071-2077~~ or a federal land bank
12 association organized under 12 U.S.C. ss. 2091-2098 ~~U.S.C.A. ss.~~
13 ~~2091-2098~~ if the association has specifically approved the
14 insurance activity by its employees. The amount of commission to
15 be shared shall be determined by the general lines agent and the
16 company paying the commission.

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17 (b) This subsection does not allow such shared commissions
18 to be used, directly or indirectly, for the purpose of providing
19 any patronage dividend or other payment, discount, or credit to
20 a member of a production credit association or federal land bank
21 association if the dividend, payment, discount, or credit is
22 directly or indirectly calculated on the basis of the premium
23 charged to that member for crop hail or multiple-peril crop
24 insurance.

25 (c) Any patronage dividend or other payment, discount, or
26 credit provided to a member of a production credit association
27 or federal land bank association, which dividend, payment,
28 discount, or credit is directly or indirectly calculated on the
29 basis of the premium charged to that member for crop hail or
30 multiple-peril crop insurance, is an unlawful rebate that
31 violates ss. 626.572 and 626.9541(1)(h).

32 (d) An agent violates this section if he or she knowingly
33 engages in commission sharing with a production credit
34 association or federal land bank association that provides
35 patronage dividends or other payments, discounts, or credits
36 which are unlawful rebates under paragraph (c).

37 Section 7. Paragraph (h) of subsection (1) of section
38 626.9541, Florida Statutes, is amended to read:

39 626.9541 Unfair methods of competition and unfair or
40 deceptive acts or practices defined.--

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

44 (h) Unlawful rebates.--

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

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

50 b. Paying, allowing, or giving, or offering to pay, allow,
51 or give, directly or indirectly, as inducement to such insurance
52 contract, any unlawful rebate of premiums payable on the
53 contract, any special favor or advantage in the dividends or
54 other benefits thereon, or any valuable consideration or
55 inducement whatever not specified in the contract;

56 c. Giving, selling, or purchasing, or offering to give,
57 sell, or purchase, as inducement to such insurance contract or
58 in connection therewith, any stocks, bonds, or other securities
59 of any insurance company or other corporation, association, or
60 partnership, or any dividends or profits accrued thereon, or
61 anything of value whatsoever not specified in the insurance
62 contract.

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

66 a. In the case of any contract of life insurance or life
67 annuity, paying bonuses to all policyholders or otherwise
68 abating their premiums in whole or in part out of surplus
69 accumulated from nonparticipating insurance; provided that any
70 such bonuses or abatement of premiums is fair and equitable to
71 all policyholders and for the best interests of the company and
72 its policyholders.

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

78 c. Readjustment of the rate of premium for a group
79 insurance policy based on the loss or expense thereunder, at the
80 end of the first or any subsequent policy year of insurance
81 thereunder, which may be made retroactive only for such policy
82 year.

83 d. Issuance of life insurance policies or annuity
84 contracts at rates less than the usual rates of premiums for
85 such policies or contracts, as group insurance or employee
86 insurance as defined in this code.

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

91 3.a. No title insurer, or any member, employee, attorney,
92 agent, or agency thereof, shall pay, allow, or give, or offer to
93 pay, allow, or give, directly or indirectly, as inducement to
94 title insurance, or after such insurance has been effected, any
95 rebate or abatement of the premium or any other charge or fee,
96 or provide any special favor or advantage, or any monetary
97 consideration or inducement whatever.

98 b. Nothing in this subparagraph shall be construed as
99 prohibiting the payment of fees to attorneys at law duly
100 licensed to practice law in the courts of this state, for
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101 professional services, or as prohibiting the payment of earned
102 portions of the premium to duly appointed agents or agencies who
103 actually perform services for the title insurer. Nothing in this
104 subparagraph shall be construed as prohibiting a rebate or
105 abatement of an attorney's fee charged for professional
106 services, or that portion of the premium that is not required to
107 be retained by the insurer pursuant to s. 627.782(1), or any
108 other agent charge or fee to the person responsible for paying
109 the premium, charge, or fee.

110 c. No insured named in a policy, or any other person
111 directly or indirectly connected with the transaction involving
112 the issuance of such policy, including, but not limited to, any
113 mortgage broker, real estate broker, builder, or attorney, any
114 employee, agent, agency, or representative thereof, or any other
115 person whatsoever, shall knowingly receive or accept, directly
116 or indirectly, any rebate or abatement of any portion of the
117 title insurance premium or of any other charge or fee or any
118 monetary consideration or inducement whatsoever, except as set
119 forth in sub-subparagraph b.; provided, in no event shall any
120 portion of the attorney's fee, any portion of the premium that
121 is not required to be retained by the insurer pursuant to s.
122 627.782(1), any agent charge or fee, or any other monetary
123 consideration or inducement be paid directly or indirectly for
124 the referral of title insurance business.

125 4. Providing a patronage dividend or other payment,
126 discount, or credit to a member of a production credit
127 association organized under 12 U.S.C. ss. 2071-2077 or a federal
128 land bank association organized under 12 U.S.C. ss. 2091-2098 is
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129 an unlawful rebate if the dividend or other payment, discount,
130 or credit is directly or indirectly calculated on the basis of
131 the premium charged to that member for crop hail or multiple-
132 peril crop insurance.

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

Between lines 49 and 50, insert:

137 626.753, F.S.; prohibiting certain uses of commissions derived
138 from the sale of crop hail or multiple-peril crop insurance
139 which are shared between certain agents and certain production
140 credit associations or federal land bank associations; providing
141 penalties; providing that patronage dividends and other payments
142 to members of production credit associations or federal land
143 bank associations are unlawful rebates under certain
144 circumstances; providing penalties for an agent who shares
145 commissions with a production credit association or federal land
146 bank association under certain circumstances; amending s.
147 626.9541, F.S.; specifying that certain patronage dividends and
148 other payments are unfair methods of competition and unfair or
149 deceptive acts; providing penalties; amending s.