

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 756

INTRODUCER: Rules Committee and Senator Grimsley

SUBJECT: Unfair Insurance Trade Practices

DATE: March 1, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	<u>Knudson</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 756 creates an exemption from the Unfair Insurance Trade Practices Act. Under the bill, an insurer may refuse to insure a person for failure to purchase motor vehicle services from a membership organization that, as of January 1, 2018, is affiliated with an admitted property and casualty insurer.

II. Present Situation:

The Unfair Insurance Trade Practices Act¹ (Act) regulates trade practices relating to insurance by prohibiting all practices, which constitute unfair methods of competition, or unfair or deceptive acts or practices.² The prohibited practices are set forth primarily³ in s. 626.9541, F.S., examples of which include false advertising, unfair discrimination in issuing coverage or calculating rates, unfair claim settlement practices, and unlawful inducement to purchase insurance by providing securities or unlawful rebates.

¹ Sections 626.951–626.99, F.S.

² Section 626.951, F.S.

³ Examples of other practices prohibited by the Act include but are not limited to coercing a person to use a particular insurer as a condition of lending money or credit (s. 626.9551, F.S.), failing to allow Holocaust victims to make insurance claims irrespective of a statute of limitations under a reasonable standard of proof and failing to diligently and expeditiously investigate all such claims (s. 626.9543, F.S.), increasing motor vehicle insurance rates or refusing to issue such coverage because of certain minor traffic violations (s. 626.9702, F.S.), refusing to issue a life insurance or disability insurance policy or issuing such policy at a rate higher than permitted by statute because the policyholder has a severe disability or sickle-cell trait. (ss. 626.9705, 626.9706, and 626.9707, F.S.).

Current law prohibits an insurer from refusing to insure an individual or risk solely because the insured or applicant fails to purchase noninsurance services or commodities, including automobile services.⁴ Motor vehicle services are described in s. 624.124, F.S., which allows any person to sell the following motor vehicle related services without being deemed an insurer and without being subject to the Florida Insurance Code:

- Towing service.
- Procuring from an insurer group coverage for bail and arrest bonds or for accidental death and dismemberment.
- Emergency service.
- Procuring prepaid legal services, or providing reimbursement for legal services, except that this is not an exemption from the legal expense insurance requirements of ch. 642, F.S.
- Offering assistance in locating or recovering stolen or missing motor vehicles.
- Paying emergency living and transportation expenses of the owner of a damaged motor vehicle.

The Act is enforced by the Department of Financial Services (DFS) and Office of Insurance Regulation (OIR), which, within their respective regulatory jurisdictions, have authority to examine and investigate every person involved in the business of insurance to determine compliance.⁵ Each non-willful violation of the act is subject to a fine of \$5,000, up to an aggregate of \$20,000. Each willful violation is subject to a fine of \$40,000, up to an aggregate of \$200,000.⁶ Certain prohibited actions are subject to higher fines.⁷

The OIR and DFS each have authority to conduct a hearing in accordance with ch. 120, F.S., when there is reason to believe that a person has engaged, or is engaging in, an unfair or deceptive trade practice prohibited by s. 626.9541, F.S., or s. 626.9551, F.S., or is engaging in the business of insurance without a license.⁸ Upon a final order that a person has engaged in an unfair or deceptive act, or that a person is unlawfully transacting insurance, the OIR or DFS must enter a cease and desist order.⁹ The OIR and DFS may also suspend or revoke a certificate of authority, license, or eligibility for a certificate of authority or license if the violator knew, or reasonably should have known, he or she violated the Act.¹⁰

III. Effect of Proposed Changes:

The bill creates an exemption from the Unfair Insurance Trade Practices Act that will allow an insurer to refuse to insure a person who fails to purchase motor vehicle services from a membership organization that, as of January 1, 2018, is affiliated with an admitted property and casualty insurer.

The bill takes effect on July 1, 2018.

⁴ Section 626.9541(1)(x)4., F.S.

⁵ Section 626.9561, F.S.

⁶ Section 626.9521(2), F.S.

⁷ See s. 626.9521(3), F.S.

⁸ Section 626.9571, F.S.

⁹ Section 626.9581, F.S.

¹⁰ Section 626.9601, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill allows insurers to sell motor vehicle insurance only to persons who purchase motor vehicle services from a membership organization that, as of January 1, 2018, is affiliated with an admitted property and casualty insurer. This may result in more motor vehicle insurance companies that require policyholders to purchase motor vehicle services from an affiliated membership organization.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.9541 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Rules Committee on March 1, 2018:

- The CS deletes the requirement in the previous version of the bill that applies the exemption created by the bill to motor vehicle services purchased from a membership organization that, since January 1, 2018, has more than 1 million members in this state since January 1, 2018.
- The CS also revises the requirement that the membership organization be affiliated with an admitted insurer to require affiliation with an admitted property and casualty insurer.

- B. **Amendments:**

None.