

**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.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: CS/SB 762

INTRODUCER: Banking and Insurance Committee and Senator Mayfield

SUBJECT: Permissible Insurance Acts

DATE: January 23, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Fav/CS
2.			CM	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 762 amends the Unfair Insurance Trade Practices Act to allow insurers and their agents to give gifts, certain services, donations and other items not exceeding \$100 in value within 1 calendar year to insureds, prospective insureds and others.

Current law limits the gifting of promotional merchandise up to \$25 per gift to an insured, prospective insured, or any person, for the purpose of advertising. The \$25 limit has been in place since 1989 but there is no limit on the frequency of giving or the aggregate value of advertising merchandise given over any period of time.

In relation to advertising gifts by title insurance agents, agencies, and insurers, the bill limits them to an aggregate \$25 gift value per calendar year, rather than a \$25 per gift value limit with no annual aggregate limitation.

The bill also creates an exception to the prohibitions of the Unfair Insurance Trade Practices Act to allow the offering of complimentary grief counseling or funeral planning services and discounted rates on funeral services as part of a group life or health insurance policy.

The bill is effective July 1, 2018.

## II. Present Situation:

The Unfair Insurance Trade Practices Act<sup>1</sup> (Act) prohibits unfair methods of competition and unfair or deceptive acts in the business of insurance. The Act prohibits certain inducements to the purchase of insurance; however, there are also exceptions provided by law.

The Act specifies that a licensed insurer or its agent may provide advertising gifts to insureds, prospective insureds, and others in the form of any article of merchandise having a value of not more than \$25.<sup>2</sup> Such gifts are deemed to not violate prohibitions under the Act against issuing specified stock, benefit certificates, shares, securities, or contracts as an inducement to insurance;<sup>3</sup> engaging in specified acts of unfair discrimination;<sup>4</sup> and providing unlawful rebates. This exception restricts the value of the advertising gift, but it does not limit the frequency of giving or the aggregate value of gifts given over any period of time. The \$25 limit has been in place since 1989.<sup>5</sup>

## III. Effect of Proposed Changes:

**Section 1** amends s. 626.9541(1)(m), F.S., regarding advertising gifts permitted under the Unfair Insurance Trade Practices Act. The bill allows insurers and their agents to give goods, wares, store gift cards, gift certificates, event tickets, anti-fraud or loss mitigation services, or other items to insureds, prospective insureds and others. Alternatively, insurers and agents may make charitable contributions in the name of insureds or prospective insureds. The bill prohibits the giving of both merchandise and charitable contributions to a policyholder or prospective policyholder in the same year. The total value of such gifts or charitable contributions may not exceed \$100 in a calendar year.

The bill exempts such gifts and charitable contributions from the prohibitions in paragraphs (f), (g), and (h) of s. 626.9541(1), F.S. Generally, rebates are unlawful under the Act. For example, it is an unfair method of competition and unfair act or practice to pay any valuable consideration or inducement not specified in the insurance contract as an inducement to insurance under s. 626.9541(1)(h)1.b., F.S. Current law has an exception for gifts for the purpose of advertising. The bill eliminates the requirement that gifts be for the purpose of advertising, thus converting the provision allowing advertising gifts to a provision allowing certain inducements to purchase insurance.

In relation to advertising gifts by title insurance agents, agencies, and insurers, the bill limits them to an aggregate \$25 gift value per calendar year, rather than a \$25 per gift value limit with no annual aggregate limitation.

The bill also creates an exception to the prohibitions of the Unfair Insurance Trade Practices Act to allow insurers and agents to offer complimentary grief counseling or funeral planning services and discounted rates on funeral services as part of a group life or health insurance policy. Funeral

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<sup>1</sup> Section 626.9541, F.S.

<sup>2</sup> Section 626.9541(1)(m), F.S.

<sup>3</sup> Section 626.9541(1)(f), F.S.

<sup>4</sup> Section 626.9541(1)(g), F.S.

<sup>5</sup> Chapter 89-360 L.O.F.

planning services or funeral services must be rendered by persons licensed under ch. 497, F.S., or licensed under the applicable laws in another jurisdiction in which the funeral provider is located. The contact to such funeral providers must be initiated by the beneficiaries or family members of the group policy insured and not by the funeral provider. The bill provides all such offerings are not an advertisement, designation, direction, rebate, or inducement.

**Section 2** provides an effective date of July 1, 2018.

**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:

Insurers and agents will be allowed to provide insureds, prospective insureds, and others with a limited amount of gifts, gift cards and services, or provide a charitable donation, as an appreciation for doing business.

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.

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

**CS by Banking and Insurance on January 23, 2018:**

The CS:

- Changes the term customer to insured.
- Clarifies that merchandise and a charitable contribution cannot both be provided to insureds or prospective insureds in the same year.
- Allows group life and health insurers to offer policyholders, at no additional cost, funeral planning services and grief counseling provided by the proper license holders. Such added benefits are not considered an advertisement, designation, direction, inducement or rebate under the Unfair Insurance Trade Practices Act.

- B. **Amendments:**

None.