

Committee Substitute for Senate Bill No. 106

An act relating to insurance policy sales and delivery procedures; amending s. 627.426, F.S.; relating to countersignature of certain insurance policies; creating an exception to the countersignature law; amending s. 626.9541, F.S.; relating to sales of insurance by credit card; amending s. 627.7295, F.S.; relating to insurance policy down payments; providing an effective date.

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

Section 1. Subsection (5) is added to section 624.426, Florida Statutes, to read:

624.426 Exceptions to resident agent and countersignature law.—Section 624.425 does not apply to:

(5) Policies of insurance issued by insurers whose agents represent, as to property, casualty, and surety insurance, only one company or group of companies under common ownership and for which a Florida resident agent is the agent of record and the application has been lawfully submitted to the insurer.

Section 2. Paragraph (q) 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:

(q) Certain insurance transactions through credit card facilities prohibited.—

1. Except as provided in subparagraph 3., no person shall knowingly solicit or negotiate any insurance; seek or accept applications for insurance; issue or deliver any policy; receive, collect, or transmit premiums, to or for any insurer; or otherwise transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, through the arrangement or facilities of a credit card facility or organization, for the purpose of insuring credit card holders or prospective credit card holders. The term “credit card holder” as used in this paragraph means any person who may pay the charge for purchases or other transactions through the credit card facility or organization, whose credit with such facility or organization is evidenced by a credit card identifying such person as being one whose charges the credit card facility or organization will pay, and who is identified as such upon the credit card either by name, account number, symbol, insignia, or any other method or device of identification. This sub-

paragraph does not apply as to health insurance or to credit life, credit disability, or credit property insurance.

2. Whenever any person does or performs in this state any of the acts in violation of subparagraph 1. for or on behalf of any insurer or credit card facility, such insurer or credit card facility shall be held to be doing business in this state and, if an insurer, shall be subject to the same state, county, and municipal taxes as insurers that have been legally qualified and admitted to do business in this state by agents or otherwise are subject, the same to be assessed and collected against such insurers; and such person so doing or performing any of such acts shall be personally liable for all such taxes.

3. A licensed agent or insurer may solicit or negotiate any insurance; seek or accept applications for insurance; issue or deliver any policy; receive, collect, or transmit premiums, to or for any insurer; or otherwise transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, through the arrangement or facilities of a credit card facility or organization, for the purpose of insuring credit card holders or prospective credit card holders if:

a. The insurance or policy which is the subject of the transaction is noncancelable by any person other than the named insured, the policyholder, or the insurer;

b. Any refund of unearned premium is made directly to the credit card holder; and

c. The credit card transaction is authorized by the signature of the credit card holder or other person authorized to sign on the credit card account.

The conditions enumerated in sub-subparagraphs a. through c. do not apply to health insurance or to credit life, credit disability, or credit property insurance; and sub-subparagraph c. does not apply to property and casualty insurance so long as the transaction is authorized by the insured.

4. No person may use or disclose information resulting from the use of a credit card in conjunction with the purchase of insurance, when such information is to the advantage of such credit card facility or an insurance agent, or is to the detriment of the insured or any other insurance agent; except that this provision does not prohibit a credit card facility from using or disclosing such information in any judicial proceeding or consistent with applicable law on credit reporting.

5. No such insurance shall be sold through a credit card facility in conjunction with membership in any automobile club. The term "automobile club" means a legal entity which, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use, or maintenance of a motor vehicle; however, the definition of automobile clubs does not include persons, associations, or corporations which are organized and operated solely for the purpose of conducting, sponsoring, or sanctioning motor vehicle races, exhibitions, or contests upon race tracks, or upon race courses

established and marked as such for the duration of such particular event. The words "motor vehicle" used herein shall be the same as defined in chapter 320.

Section 3. Subsection (8) is added to section 627.7295, Florida Statutes, to read:

627.7295 Motor vehicle insurance contracts.—

(8) Subsection (7) of this section does not apply if an insured or family member has previously purchased and has in effect a policy of private passenger motor vehicle insurance and is purchasing additional coverage or adding coverage for an additional vehicle, with such coverage being written by the same insurer or a member of the same insurer group.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2000.

Filed in Office Secretary of State June 5, 2000.