

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 Banking and Insurance

BILL: SB 762

INTRODUCER: Senator Mayfield

SUBJECT: Permissible Insurance Acts

DATE: January 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Pre-meeting
2.			CM	
3.			RC	

I. Summary:

SB 762 amends the Unfair Insurance Trade Practices Act to allow insurers and their agents to give gifts, certain services, donations and other items in an amount no more than \$100 in value and no more than one time per 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 is effective July 1, 2018.

II. Present Situation:

The Unfair Insurance Trade Practices Act¹ (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 \$25.² Such gifts are deemed to not violate prohibitions under the Act against issuing

¹ Section 626.9541, F.S.

² Section 626.9541(1)(m), F.S.

specified stock, benefit certificates, shares, securities, or contracts as an inducement to insurance;³ engaging in specified acts of unfair discrimination;⁴ 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 1989.⁵

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, and other items to insureds, prospective insureds and others. The total value of such gifts may not exceed \$100 in a calendar year.

Additionally, the bill allows charitable contributions in the name of insureds or prospective insureds up to \$100 within 1 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), 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.

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.

³ Section 626.9541(1)(f), F.S.

⁴ Section 626.9541(1)(g), F.S.

⁵ Chapter 89-360 L.O.F.

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 as an appreciation for doing business.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill is ambiguous regarding whether an insurer or its agent may give both gifts and charitable contributions in a person's name of up to \$100 each in a calendar year, thus providing \$200 in inducements, or whether the insurer or its agent may give either gifts or make a charitable contribution in a person's name in a calendar, thus providing only \$100 in total inducements.

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.)

None.

B. Amendments:

None.