

## WFG Informational Bulletin

To: All Florida Agents of WFG National Title Insurance Company  
From: WFG Florida Underwriting Department  
Date: July 2, 2018  
Bulletin No.: FL 2018-10  
Subject: Revisions to Carve-out Contained in Unlawful Inducement Statute

---

On April 6, 2018, Governor Scott signed CS/CS/HB 483 (committee substitute to committee substitute for HB 483) that revised F.S. 626.9541(1)(m) relating to a carve-out to activities that constitute unfair methods of competition, unfair or deceptive acts or practices, or unlawful rebates. The revised statute became effective on July 1, 2018.

F.S. 626.9541 prohibits title insurance companies, title insurance agents, and non-title insurance underwriters and their agents from engaging in unfair methods of competition and unfair or deceptive practices. F.S. 626.9541(1) contains a list of the activities that constitute unfair methods of competition, and unfair or deceptive acts or practices.

With respect to title insurers and title insurance agents, F.S. 626.9541(1)(h)(3)(a) prohibits “unlawful rebates” as follows:

*“No title insurer, or any member, employee, attorney, agent, or agency thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the premium or any other charge or fee, or provide any special favor or advantage, or any monetary consideration or inducement whatever.”*

And, F.S. 626.9541(1)(h)(3)(c) provides as follows:

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

However, F.S. 626.9541(1)(m) contains a carve-out from the list of prohibited activities that does not constitute an unfair method of competition, an unfair or deceptive act or practice, or an unlawful rebate. Prior to the current revisions, F.S. 626.9541(1)(m) provided, as follows:

*“(m) Advertising gifts permitted.—No provision of paragraph (f), paragraph (g), or paragraph (h) shall be deemed to prohibit a licensed insurer or its agent from giving to insureds, prospective insureds, and others, for the purpose of advertising, any article of merchandise having a value of not more than \$25.”*

Therefore, under F.S. 626.9541(1)(m), giving an article of merchandise having a value of \$25 or less to an insured, a prospective insured, or others for advertising purposes was not an unfair method of competition, an unfair or deceptive practice, or an unlawful rebate. Under CS/CS/HB 483, F.S. 626.9541(1)(m) was revised, to the following:

*“(m) Advertising and promotional gifts and charitable contributions permitted.—*

*1. The provisions of paragraph (f), paragraph (g), or paragraph (h) do not prohibit a licensed insurer or its agent from:*

*a. Giving to insureds, prospective insureds, or others any article of merchandise, goods, wares, store gift cards, gift certificates, event tickets, anti-fraud or loss mitigation services, or other items having a total value of \$100 or less per insured or prospective insured in any calendar year.*

*b. Making charitable contributions, as defined in s. 170(c) of the Internal Revenue Code, on behalf of insureds or prospective insureds, of up to \$100 per insured or prospective insured in any calendar year.*

*2. The provisions of paragraph (f), paragraph (g), or paragraph (h) do not prohibit a title insurance agent or title insurance agency, as those terms are defined in s. 626.841, or a title insurer, as defined in s. 627.7711, from giving to insureds, prospective insureds, or others, for the purpose of advertising, any article of merchandise having a value of not more than \$25. A person or entity governed by this subparagraph is not subject to subparagraph 1.”*

CS/CS/HB 483 created two subparagraphs to F.S. 626.9541(1)(m) as subparagraphs (1)(a) and (1)(b), and created subparagraph (2). Subparagraphs (1)(a) and (1)(b) apply to non-title insurers and their agents to increase the carve-out to \$100. F.S. 626.9541(1)(m)(1)(a) and (b) do not apply to title insurers and their agents.

F.S. 626.9541(1)(m)(2) applies title insurers and their agents. The revisions to the statute did not change anything for the title industry. Title insurers and title insurance agents can still give an article of merchandise having a value of not more than \$25 to their insureds, prospective insureds, or others for the purpose of advertising, and they will not be in violation of F.S. 626.9541(1).

Click [HERE](#) for a copy of the CS/CS/HB 483.

Click [HERE](#) for a copy of F.S. 626.9541

*Information Bulletins are designed to provide our agents with information we think will help in managing their business or just being better title professionals, but which does not rise to the level of being an underwriting mandate and are not within the scope of the agency agreement.*