



To: All Florida Policy Issuing Agents
From: WFG Underwriting Department
Date: January 28, 2022
Bulletin No.: FL 2022-04
Subject: Anti-Coercion Statute

WFG recently received an inquiry as to whether Florida’s Anti-Coercion statute, F.S. 626.9551, applies to title insurance to prohibit a lender from requiring the use of a particular closing agent or title insurer. F.S. 626.9551(1)(a) provides that no person may require as a condition of lending money or extending credit that the borrower obtain a policy of insurance through a particular insurer. While that statute does not provide an exception for title insurance, Rules and Forms promulgated by the Department of Financial Services under the Florida Administrative Code make it clear that Florida’s Anti-Coercion statute does not apply to Title insurance.

Rule 69B-124.002 provides that the lender shall notify the borrower of his rights to place insurance in accordance with Rule 69B-124.013. Rule 69B-124.013 provides as follows:

The following statement is required under rule 69B-124.002, F.A.C., of the rules and regulations promulgated by the Chief Financial Officer relative to anti-coercion:

The Insurance Laws of this state provide that the lender may not require the borrower to take insurance through any particular insurance agent or company **to protect the mortgaged property**. [emphasis added].

Rule 69B-124.013 does not state that the insurance is to protect the title to the mortgaged property but that the insurance is “to protect the mortgaged property”. Finally, Rule 69B-124.016 expressly states that the Anti-Coercion Rules and Regulations do not apply to title insurance:

69B-124.016 Title Insurance.

These rules and regulations do not apply as to title insurance. [emphasis added].

Rulemaking Authority 624.308, 626.9611 FS. Law Implemented 624.307(1), 626.9551(1) FS. History—New 5-20-64, Repromulgated 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.

12-24-74, Formerly 4-3.16, 4-3.016, 4-124.016. [emphasis added].

It is worth noting that F.S. 626.9611 appears to permit the Department to narrow the scope of a blanket statutory prohibition as they did with Rule 69B-124.016, they just cannot enlarge it. F.S. 626.9611 provides:

626.9611 Rules.—

(1) The department or commission may, in accordance with chapter 120, adopt reasonable rules as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by s. 626.9541 or s. 626.9551, but the rules shall not enlarge upon or extend the provisions of ss. 626.9541 and 626.9551. [emphasis added].

Based on the foregoing, Florida's Anti-Coercion Statute does not apply to title insurance.

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