

By Senator Atwater

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1 A bill to be entitled

2 An act relating to insurance; amending s. 624.4211, F.S.;

3 increasing the maximum amounts of administrative fines

4 that may be imposed upon an insurer by the Office of

5 Insurance Regulation for nonwillful and willful violations

6 of an order or rule of the office or any provision of the

7 Florida Insurance Code; authorizing the office to impose a

8 fine for each day of noncompliance up to a maximum amount;

9 providing factors to consider when determining the amount

10 of the fine; amending s. 626.9521, F.S.; increasing that

11 maximum amounts of fines that may be imposed by the office

12 for nonwillful and willful violations of state law

13 regarding unfair methods of competition and unfair or

14 deceptive acts or practices related to insurance;

15 providing an effective date.

16

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

18

19 Section 1. Subsections (2) and (3) of section 624.4211,

20 Florida Statutes, are amended, and subsections (5) and (6) are

21 added to that section, to read:

22 624.4211 Administrative fine in lieu of suspension or

23 revocation.--

24 (2) With respect to any nonwillful violation, such fine may

25 ~~shall~~ not exceed \$25,000 ~~\$2,500~~ per violation. ~~In no event shall~~

26 ~~such fine exceed an aggregate amount of \$10,000 for all~~

27 ~~nonwillful violations arising out of the same action. If~~ When an

28 insurer discovers a nonwillful violation, the insurer shall

29 correct the violation and, if restitution is due, make

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30 restitution to all affected persons. Such restitution shall
31 include interest at 12 percent per year from either the date of
32 the violation or the date of inception of the affected person's
33 policy, at the insurer's option. The restitution may be a credit
34 against future premiums due provided that ~~the~~ interest
35 accumulates ~~shall accumulate~~ until the premiums are due. If the
36 amount of restitution due to any person is \$50 or more and the
37 insurer wishes to credit it against future premiums, it shall
38 notify such person that she or he may receive a check instead of
39 a credit. If the credit is on a policy which is not renewed, the
40 insurer shall pay the restitution to the person to whom it is
41 due.

42 (3) With respect to any knowing and willful violation of a
43 lawful order or rule of the office or commission or a provision
44 of this code, the office may impose a fine upon the insurer in an
45 amount not to exceed \$100,000 ~~\$20,000~~ for each such violation. ~~In~~
46 ~~no event shall such fine exceed an aggregate amount of \$100,000~~
47 ~~for all knowing and willful violations arising out of the same~~
48 ~~action.~~ In addition to such fines, the ~~such~~ insurer shall make
49 restitution when due in accordance with ~~the provisions of~~
50 subsection (2).

51 (5) The office may impose an administrative fine for each
52 day the insurer is not in compliance with the Florida Insurance
53 Code up to a maximum of \$25,000 per violation per day.

54 (6) In determining the amount of the fine, the office shall
55 consider:

56 (a) The degree of consumer harm caused or potentially
57 caused by the violation;

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58 (b) Whether the violation constitutes an immediate danger
59 to the public;

60 (c) Whether the violation is a repeat violation or similar
61 to past violations by the insurer;

62 (d) The impact on the solvency of the insurer;

63 (e) The premium volume of the company; and

64 (f) The affect fining the company will have on the
65 insurer's compliance with the Florida Insurance Code.

66 Section 2. Subsection (2) of section 626.9521, Florida
67 Statutes, is amended to read:

68 626.9521 Unfair methods of competition and unfair or
69 deceptive acts or practices prohibited; penalties.--

70 (2) Any person who violates any provision of this part
71 shall be subject to a fine in an amount not greater than \$25,000
72 ~~\$2,500~~ for each nonwillful violation and not greater than
73 \$100,000 ~~\$20,000~~ for each willful violation. ~~Fines under this~~
74 ~~subsection may not exceed an aggregate amount of \$10,000 for all~~
75 ~~nonwillful violations arising out of the same action or an~~
76 ~~aggregate amount of \$100,000 for all willful violations arising~~
77 ~~out of the same action.~~ The fines authorized by this subsection
78 may be imposed in addition to any other applicable penalty.

79 Section 3. This act shall take effect July 1, 2008.