Florida Insurance Report

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DFS Holds Hearing on "Inducement" Rule

By: Bert Combs

The Department of Financial Services (DFS) held a rule hearing in connection with the adoption of proposed rule 69B-210.005, entitled, "Unlawful Inducements, Generally." The purpose of the proposed rule is to define the term "unlawful inducement" and also to provide examples of acts and practices that are unlawful inducements to purchase insurance as prohibited by section 626.9541(1)(h), F.S.

Representatives of both insurer and agent trade associations attended the rule hearing, along with an insurance agent and other insurer representatives. The American Insurance Association (AIA) and the American Council of Life Insurers (ACLI) speaking on behalf of their member insurers opposed the broadly worded proposed rule. Representatives of the Florida Association of Insurance Agents (FAIA) and the Florida Association of Insurance and Financial Advisors (FAIFA) likewise opposed the proposed rule. The consensus is that the rule as drafted does not clarify what actions constitute an unlawful inducement and instead only causes everyday practices to either be a violation of the rule or perceived to be a violation. The industry made clear that the rule as drafted would have unintended consequences, especially because these types of violations would be deemed unfair trade practices.

Various examples of "discounts" and "services" were discussed. Many of the examples are routine types of business transactions and services between insurers, agents, and policyholders such as loss control programs that result in discounts, customer service benefits, website support and portals, risk assessments, and claims adjusting services. DFS suggested that it was not focused on these types of inducements, but stopped short of authorizing these incidental or "value added services." DFS did say that agents could for example order a termite inspection as a service to the insured, but DFS did not specifically elaborate on what other sorts of agent services were permissible.

Cont. on Page 8

OIR Issues Data Call on Sinkhole Claims

By: Travis Miller

The Office of Insurance Regulation has heard reports of increased frequency for sinkhole claims, particularly in areas of Florida that are not usually identified with sinkhole problems. Mounting sinkhole losses for Citizens Property Insurance Corporation and admitted market insurers have prompted the OIR to send a data call to insurers to develop more information from which to study concerns with the frequency and severity of sinkhole claims.

The OIR's data call asks insurers to report various information about their sinkhole claims since 2006. The OIR hopes to obtain information about the types of claims being filed, the testing procedures used to verify sinkholes, the costs of inspections, locations of claims, the costs associated with attorneys and public adjusters, and the amounts of claims attributable to structural damage.

The OIR data call is being conducted as the Senate Banking and Insurance Committee continues to conduct an interim project on sinkhole losses. The combination of the Senate committee's review of sinkhole issues and the OIR's development of claims data undoubtedly will lead to legislative consideration of the sinkhole problem in the 2011 session.

Inside this issue:

GET TO KNOW…

By Karen Asher-Cohen

NANCY ROWELL, Director, Division of Agent & Agency Services, Department of Financial Services (DFS). Nancy Rowell is a native Floridian from Panama City who graduated from the University of West Florida and began her professional career with the Florida House of Representatives as an analyst working with prison, criminal justice, economic development and energy issues. In Sarasota, she served as the Administrative Services Director for the Sarasota County Tax Collector and was the Deputy City Auditor and Clerk for the City of Sarasota. She re-entered state government when she accepted a position with the Florida Department of Revenue in Tallahassee. She served as the Communications Process Manager for 13 years, and came to the Department of Financial Services in February of 2007 as the Director of the Division of Agent and Agency Services. Insurance agent, adjuster and agency licensing and investigation, technology, budget, legislation, human resources and strategic planning issues keep her busy.

How do you view your role as Director of Agent & Agency Services?

I have three roles, really. First, as leader of a team of employees who do the real work. I am responsible for motivating, supporting, encouraging, training and removing administrative barriers for them to do their jobs serving the regulated industry and consumers. I am proud of my team! Second, as the "face" of the division working with insurance industry representatives. As the director, I set the tone for our relationship with the industry. My approach is to regulate fairly and consistently, while constantly listening to those regulated and make changes when necessary. Most of the time, government and industry can be partners in improving and streamlining regulation. Government regulation should be sufficient to ensure compliance with law, no more and no less, and the ability to comply shouldn't be hampered by bureaucracy. Third, my role is to advise Florida's Chief Financial Officer on issues specific to licensing and investigation of insurance agents and agencies, through the Deputy Chief of Staff.

What is the best part of your job?

Leading employees to see, and make, process improvements that change their workplace and the industry's "playing field" for the better; seeing technology changes, reduction of procedural steps and law changes reduce government burden on the regulated and improve our employees' work environments; and, recognizing employees for their accomplishments. In a nutshell, helping make government work better.

What are the biggest challenges facing DFS, and specifically your Division, these days?

For my division, three areas: 1) Regulating to the level requested by the public and the industry with the resources available. While much of our work is to protect consumers, much of it is also to keep the aforementioned playing field level for insurance agents. At a time that many are saying government should be smaller, we continue to be asked to regulate more. 2) The broad spectrum of different license types and laws challenges our employees to be knowledgeable and sharp at all times. 3) Funding for, and in-house knowledge of, the latest technology. In any organization, this is always a challenge, and more so for government. In order to keep serving the consumers and the industry, we have to have excellent, cutting-edge technology. For DFS, I think the challenge has always been to be responsible for such diverse government functions (accounting, auditing, fire safety, workers' compensation, treasury and insurance agent and adjuster regulation, as examples) and to be able to bring the agency team together under a unified mission.

What would you still like to accomplish at DFS?

Improved communication channels with the insurance agents; a better and more self-service web portal for license applicants and insurance agents; increased e-mail communication options for agents' questions and our answers; clean up and simplification of some insurance statutes, particularly bail bond and title insurance; increased continuing education compliance rates for agents; and, swifter case work and administrative action for insurance code violations.

What is the worst part of your job?

Yearly, or more often, sitting down with my licensing and investigative employees to tell them that their positions had to be offered to meet the legislative demand for budget cuts. Then asking them to do more with less while they anxiously wait to see if the cuts will occur.

How do you get away from it all?

I am fortunate to still have my parents. At 90, they are in their own home in Panama City and I go over frequently to visit and handle their business. While it's non-stop caregiving while I'm there, it certainly takes my mind completely off my work in Tallahassee! I am also an avid reader, gardener, and laundress.

Commissioner McCarty, OIR Move to Implement Healthcare Law

By: Travis Miller

The Office of Insurance Regulation continues to evaluate federal healthcare legislation and make the necessary state regulatory changes. According to a recent OIR release, Florida Insurance Commissioner Kevin McCarty joined regulators from other states who voted unanimously to approve the NAIC's recommended language for the Medical Loss Ratio (MLR) definition under the federal Affordable Care Act. Due to the definition of medical expenses, health insurance agent premiums were not included in the definition of medical losses.

Commissioner McCarty has expressed concern that an immediate adoption of the MLR ratios without accommodating the needs of health insurance agents will negatively impact the selection process for health insurance in the small group and individual markets.

Commissioner McCarty co-sponsored a resolution that was adopted by the NAIC demonstrating the NAIC's commitment to keeping agents as an integral part of the health insurance selection process for small businesses and individuals. In addition, Florida also sponsored a charge adopted by the Health Insurance and Managed Care (B) Committee, instructing the NAIC to continue to work on other methods, possibly through a model law or statute, that will retain the role of health insurance agents within the framework of the federal law, and within the framework of the MLR definition.

In May 2010, the Office, along with the Florida Health Insurance Advisory Board, conducted a public hearing in Orlando on the MLR issue. The OIR has scheduled another hearing on this issue for September 24 in Tallahassee. The OIR intends to use the information gathered at these hearings to develop legislation preserving the role of health insurance agents in Florida.

The OIR points out that the process of implementing the healthcare law is ongoing. Although the NAIC has adopted recommended MLR language, the OIR believes the implementation date is a more pivotal issue than the language itself. The NAIC is in the process of writing a letter to the Secretary of Health and Human Services (HHS) recommending a three-year transition period for implementing the MLR standards under the federal law to minimize disruption in the marketplace. Commissioner McCarty has expressed his support for this transition period. According to the OIR, a transition period may also give the NAIC and HHS (and the state of Florida) time to adequately resolve the health insurance agent issue prior to full implementation of the MLR standards.

Report Card Rule Raises Public Policy Issues

By: Travis Miller

The Office of the Insurance Consumer Advocate held its most recent hearing last week on the insurer report card rule. Most insurers commenting on the rules believe that a "report card" can provide valuable information to insurance consumers as they consider their residential insurance options. However, the industry believes that the rule in its current form is more likely to raise questions in consumers' minds than to resolve them, and unfortunately is likely to suggest that some insurers are not performing adequately when in fact they are meeting regulatory guidelines.

One concern is that the statute authorizing the report card rule requires the Insurance Consumer Advocate to consider the timeliness of insurers' claims handling as one of the factors underlying the grades. After the report card requirement was adopted, however, the Florida legislature passed another law requiring insurers to pay the undisputed portions of property insurance claims within 90 days. Insurers therefore suggest that a report card should not try to distinguish among insurers' timeliness when all insurers must meet a stringent statutory standard for timeliness. Compounding this issue, insurers believe that the Schedule P data considered in evaluating timeliness is not suited for this purpose and therefore is likely to lead to errors when trying to evaluate insurers.

Citizens Property Insurance Corporation expressed concern about whether the report card should even apply to it, and if so whether the report card adequately reflects Citizens' role as a market of last resort with different procedures and underwriting requirements than are found in the admitted market.

The Office of the Insurance Consumer Advocate will continue to receive comments on the current version of the rule through September 24. At that time the Consumer Advocate will decide whether additional changes to the rule are warranted or whether the rulemaking process should continue toward final adoption of the report card.

Industry Appointments

By Travis Miller

Leonard Schulte Joins Cat Fund

The State Board of Administration has announced that Leonard Schulte will join the staff of the Florida Hurricane Catastrophe Fund as its Director of Legal Analysis & Risk Evaluation. He begins his employment with the FHCF on October 1, 2010.

Schulte was a long-time member of the legislature's insurance staff before leaving seven years ago to join the private sector as a consultant. In both capacities, he has been involved in drafting insurance legislation throughout his career, including the legislation that created the FHCF many years ago.

"I'm very excited about having Leonard on the FHCF team and am looking forward to working with him," said FHCF Chief Operating Officer Jack Nicholson. "The State of Florida continues to face significant challenges where problems are becoming more complex and solutions harder to find." Nicholson noted that over the years, the FHCF's operations have become increasingly complex. Its staff administers the Florida Commission on Hurricane Loss Projection Methodology and the SBA's Insurance Capital Build-Up Incentive Program in addition to the FHCF.

Terry Butler Named Interim Consumer Advocate

Florida's Chief Financial Officer Alex Sink has announced that Terry Butler will serve as the Interim Insurance Consumer Advocate. Terry has worked as an attorney in various insurance regulatory capacities throughout his career, including as the Senior Attorney in the Office of the Insurance Consumer Advocate since August 2007.

"Terry's legal experience and expertise in standing up for Florida's insurance consumers is invaluable and he is very well-prepared to take on this new role," said CFO Sink. "The Office of the ICA is a strong, independent voice for Floridians who rely on quality insurance products to protect their homes and property, their health and their financial well being."

Terry replaces Sean Shaw who resigned effective September 2 and is working for Alex Sink's campaign for Governor. The Office of the Insurance Consumer Advocate represents consumers on, or before, various insurance-related boards. In addition, the Consumer Advocate's Office presents testimony in some rate hearings, including the recent Citizens Property Insurance Regulation rate hearing. The Office of the Insurance Consumer Advocate also is currently pursuing rulemaking to implement an insurer report card.

Changes at the Agency for Health Care Administration

Liz Dudek is the interim secretary of Florida's Agency for Health Care Administration (AHCA), which among other things oversees many aspects of Florida's managed care laws. Ms. Dudek replaces former Secretary Tom Arnold, who resigned August 31 and subsequently has taken a job in the private sector.

AHCA also has announced that Sue Conte is the new managed care bureau chief. Ms. Conte replaces Tom Warring, a longtime regulator who worked at the Office of Insurance Regulation before joining AHCA. Ms. Conte joined AHCA in March 2009 as its communications director.

Appellate Updates

By: Tom Crabb

An Insurer which pays a claim after a coverage suit has been initiated is still subject to the insured's attorney's fees if the suit was necessary

A radiologist covered by an occupational disability policy was diagnosed with a disease that allegedly kept him from working. He sought total disability benefits and the insurer denied the claim. A year after his claim was denied, the radiologist filed suit seeking both coverage and attorney's fees, which are awarded under the Florida Insurance Code (s. 627.428) when an insured prevails in a coverage dispute. While the lawsuit was pending, the insurer reversed its earlier denial and agreed to pay total disability benefits. The radiologist continued, however, to seek attorney's fees. The insurer argued to the trial court that its earlier denial of coverage had to be "wrongful" (i.e., unreasonable or in bad faith) in order for it to be subject to attorney's fees. The federal Eleventh Circuit Court of Appeals disagreed, holding that the payment of the claim was the "functional equivalent of a confession of judgment" by the insurer and that the fees provision is triggered when the insurer denies a claim it should have paid, regardless of whether the decision was made unreasonably or in bad faith. The insured, however, does not in this situation simply become entitled to attorney's fees just because he or she has filed suit and then the insurer paid the claim. Instead, the insured must also show that the legal services were necessary to the resolution of the previously denied claim. The appeals court remanded the case back to the trial court for a determination of whether the lawsuit was necessary to the payment of the claim. *Miles v. Provident Life and Accident Ins. Co.*, Case No. 09-15726 (11th Cir. Aug. 17, 2010).

Insurer's refusal to pay ACV does not prevent an insured from complying with policy requiring repair before RCV is paid

A condo in South Florida was insured under a policy that paid Replacement Cost Value ("RCV") only if the insured first repaired the damage to its property. There was no provision in the policy for the advance of repair costs. If the insured did not so repair its property, it was still entitled to Actual Cash Value ("ACV") damages. The building was damaged heavily by Hurricane Wilma and the building was not repaired at the time the insured sought coverage. The condo's public adjuster submitted a proof of loss that sought "advance payment" for the "full cost of repair or replacement." The insurer construed this request as one for RCV damages (as it was seeking the "full cost of . . . replacement") and therefore decided the proceeds were not due until the condo made the needed repairs to the building. The condo then sued for coverage, arguing that the insurer prevented it from repairing the building (which would have triggered the RCV damages) by failing to pay its ACV damages first. That is, the condo argued that the insurer should have paid it the ACV first, which would have funded the repairs, which would have then entitled the condo to RCV under the policy. The trial court agreed and because of this "prevention of performance" argument, awarded the condo its full RCV damages of $18.7 million. The federal Eleventh Circuit Court of Appeals reversed, holding that the policy clearly required the condo to repair the building before becoming entitled to RCV damages and that the policy did not provide for any kind of advance of these repair costs. Had the insurer been required to pay ACV first, it would have essentially been giving the insured an advance against its RCV damages. The policy terms simply did not bear this out. The Court held that the policy's terms did not prevent the condo from repairing its property (i.e., prevent it from performing the precondition to receiving RCV damages). The policy instead just made it more costly and inconvenient for the condo to do so. That is, the insurer did not put some obstacle in the way of the condo repairing its building by requiring the insured to comply with the terms of the policy requiring repair before RCV was paid. The Circuit Court held that this "prevention of performance" argument "may not be wielded as a sword in a case like this one where the insured is required first to meet its obligations to repair under the policy provision." The condo was thus entitled only to its ACV damages of $11.4 million. *Buckley Towers Condominium, Inc. v. QBE Insurance Corporation*, Case No. 09-13247 (11th Cir. Sept. 14, 2010).

Insurer's offer to settle within one month when its liability is clear does not constitute bad faith

It is settled Florida law that when an insurer's liability is clear and the injuries sustained in an accident are so serious that a judgment in excess of the policy limits is likely, the insurer has an affirmative duty to initiate settlement negotiations. Failure to do so constitutes bad faith on the part of the insurer. The question to be resolved then on a case-by-case basis is whether the insurer initiated those settlement negotiations in a timely manner. In this case, an insured was injured in a car accident and was airlifted to a hospital with symptoms of paralysis but was discharged the next day. The insurer immediately sent the insured an authorization form to review his medical records so that it could verify his injuries, but the insured continually refused to provide such authorization. Six months later the insured became aware that he would need neck surgery as a result of the accident and the $50,000 expense far exceeded the $15,000 policy limit. Within a month after verifying the insured's injuries through the insured's attorney (and not through review of his medical records), the insurer offered to pay the policy limits. The insured refused and filed a bad faith claim against the insurer, arguing to the trial court that the insurer breached its duty by failing to promptly initiate settlement negotiations. The insured argued that the insurer's knowledge of his initial diagnosis and air transport to the hospital put it on notice that his damages would far exceed the policy limits. Both the trial court and appellate courts disagreed. Because the insured failed to authorize the insurer to review his medical records at anytime and because the insured himself did not realize the extent of his injuries until it became apparent that surgery was required, the insurer's duty to initiate negotiations was not triggered before then. *Aboy v. State Farm Mutual Automobile Company*, Case No. 10-10417 (11th Cir. Aug. 30, 2010).

Future Financial Services Commission Picture Taking Shape

By: Travis Miller

With the primary races now behind us, the potential makeup of the Financial Services Commission for next year has become a little clearer. However, early guesses suggest that some of the general elections will be close and polls have had a tendency to shift this fall, so Floridians will continue to watch these races closely over the next couple of months.

The Financial Services Commission in Florida consists of the Governor, the Chief Financial Officer, the Attorney General and the Commissioner of Agriculture. This collegial body has authority to hire and retain the commissioners of insurance regulation and financial regulation and also is responsible for insurance-related rulemaking. Of the four current Financial Services Commission members, only Chief Financial Officer Alex Sink remains in contention for a future position on the commission. She is the Democrat nominee in the Governor's race. (Governor Charlie Crist is looking for a U.S. Senate seat, Attorney General Bill McCollum lost a primary bid in the Republican race for Governor, and Commissioner of Agriculture Charles Bronson is term-limited).

CFO Sink will face political newcomer Rick Scott, who secured the Republican nomination in a tough primary race against Attorney General Bill McCollum. Scott was able to rely on his personal resources to fund a formidable campaign, going from an unknown in political circles to the Republican choice as a pro business, smaller government candidate. Polls released before the primaries suggested that CFO Sink holds a small lead over Scott-- but of course, some polls had Scott falling in the primary. In any year, and especially in this year, there are enough undecided voters to sway the final numbers, and the dynamics change when hypothetical matchups become real ones.

The race to replace Alex Sink as Chief Financial Officer is between Republican Jeff Atwater and Democrat Loranne Ausley. Atwater is coming to end of his tenure as president of the Florida Senate, while Ausley is a former state representative. Both candidates are running statewide for the first time.

The races to succeed Bill McCollum as Attorney General were thought to be wide open in the primaries. Tampa-area prosecutor Pam Bondi won the Republican nomination over Lt. Governor Jeff Kottkamp and Holly Benson. In a matchup of popular Democrats, Dan Gelber won over Dave Aronberg. Bondi and Gelber now square off in the first statewide campaign for each of them.

For Commissioner of Agriculture, former U.S. Representative Adam Putnam is the Republican candidate and will face former Tallahassee mayor Scott Maddox.

At least three members of the Financial Services Commission will change next year, and no current officeholder will return in his or her current capacity. This promises to change the landscape in Florida not just at the broad Cabinet level, but also in the regulatory oversight functions currently reserved to the Financial Services Commission. It will be an interesting couple of months...

OIR Proposes to Revise Mitigation Discount Form

By: Travis Miller

The Office of Insurance Regulation has initiated rulemaking to consider possible changes to the mitigation discount verification form OIR-B1-1802. The OIR held a workshop on September 22, 2010, to allow interested parties to comment on the proposed changes. The OIR will continue to collect information to determine if additional changes would be appropriate as the rule moves forward.

Earlier this year, the OIR adopted the first revisions to the 1802 form since its initial adoption. These revisions were intended to reduce fraud and errors in the verification forms such as by requiring inspectors to provide photographs of most discount features.

The current round of changes was prompted by a law change allowing licensed home inspectors to conduct mitigation inspections. The form is being revised to accommodate the home inspectors. In addition, the proposed changes would clarify that only licensed contractors and engineers may delegate field work to employees. Other categories of inspectors must personally inspect the properties.

The current changes do not alter the underlying mitigation discount criteria or standards. However, even after the improvements in the version adopted earlier this year, some insurers continue to believe that additional changes would help improve the accuracy of mitigation data.

Anti-Fraud Reporting For Workers' Comp Insurers

By: David Yon

The Department of Financial Services sent out a reminder of insurers' obligation to comply with the Workers' Compensation Annual Anti-Fraud Report Filing. Insurers writing workers' compensation insurance in Florida are required to report to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud its experience in implementing and maintaining an anti-fraud special investigative unit (SIU) or an anti-fraud plan. The report must include the following items for the reporting period July 1, 2009 through June 30, 2010:

1. The dollar amount of recoveries and losses delineated by type of WC fraud.

2. The number of referrals submitted to the Bureau of Workers' Compensation Fraud delineated by type of WC fraud.

3. A description of the organization of the SIU or anti-fraud unit including position titles and descriptions of staffing.

4. The "rationale" for the level of staffing and resources being provided based on such criteria as the number of policies written for the above referenced report data period, the number of claims received for the report data period, the number of suspected fraudulent claims detected for the report data period, an assessment of optimal case load that can be handled by an SIU investigator for the report data period and other factors that explain the level of staffing and resources.

5. A description of education and training provided to underwriting and claims personnel to assist in identifying and evaluating instances of suspected fraudulent acts in underwriting or claims activities.

6. A description of a public awareness program focused on the costs and frequency of insurance fraud and methods by which the public can prevent it.

The last day for the reports is September 30 and must be filed through the DFS fraud web site: http://www.myfloridacfo.com/fraud/.

Scott Campaign Releases Insurance White Paper

By: Travis Miller

Rick Scott's campaign for Governor has released a paper on insurance and tort reform issues. Candidate Scott vows to restore Citizens Property Insurance Corporation to its initially envisioned role as a market of last resort. He emphasizes the importance of allowing the private market to compete among themselves, with competition serving as the primary determinant of rates. This requires eliminating competition from Citizens as a government run insurer. The paper indicates that Citizens Property Insurance Corporation should charge actuarially sound rates, and the state's reliance on assessment mechanisms should be reduced.

Regarding hurricane mitigation efforts, the Scott campaign's paper stresses the importance of protecting property against storm damage but contends that Florida's program has not been successful as implemented.

The campaign also addresses sinkhole losses, which have received significant attention in recent months from insurers, the Office of Insurance Regulation and other interested parties. The Scott campaign believes the current sinkhole claims process is ineffective and riddled with fraud and abuse. Candidate Scott states that as Governor, he will work to eliminate the fraud and abuse in the process and to define "structural damage" to reduce litigation relating to sinkholes.

The Scott campaign also devotes attention to bad faith reform, contending that tort reform is needed to stimulate Florida's economic development. If elected, Scott says that he will work to limit the right of bad faith actions to policyholders and not third parties. In addition, he looks to establish reasonable timeframes during which insurers may respond before found to have acted in bad faith. He likewise believes that insurers should have a reasonable opportunity to investigate claims before making a decision, without being exposed to bad faith claims during the investigation period. Finally, he believes the state needs to better define what constitutes bad faith for purposes of these claims.

For a copy of the campaign's white paper on insurance and tort reform issues, please see the Blog section of our website at www.radeylaw.com.

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Hold the Date…

By: David Yon

The Florida Office of Insurance Regulation has sent out a "Save the Date" notice announcing a Public Symposium called "Moving the Florida Market Forward." The goal of the symposium is to bring "leaders from the academic community as well as those directly involved in the underwriting and financing of catastrophic risk in Florida together to generate reasonable ideas and solid recommendations for stabilizing, improving and growing the private insurance marketplace." The symposium is scheduled during the fall NAIC meeting for October 21, 2010 from 1-5 at the Gaylord Palms Resort. More specific areas to be explored during the Symposium include:

- Rates, Rating Laws, and the Insurance Contract
- Reinsurance Capacity, Stability and Alternative Risk Transfer techniques
- Role of the Florida Hurricane Catastrophe Fund and Citizens Property Insurance
- The State of and outlook for the Residential and Commercial Property Insurance Markets

Please let us know if you need more information on this.

Inducement - *Cont. from Page 1*

The participants at the rule hearing agreed that there is sometimes a fine line between what does, or does not, constitute an unlawful inducement. DFS urged the industry to provide it with examples of the practices that it believes should or should not be allowed. Some industry representatives responded that this issue should be handled by the Legislature and that including a specific list of examples in the rule would only lead to more unlawful inducements being offered in other areas. DFS said that it receives many calls from agents complaining about competing agent practices that are problematic, and that guidance is needed. DFS also reiterated that the unfair trade practice statutory provision is itself very broad and that the statute directs DFS to adopt rules needed to specify acts that are prohibited.

The hearing ended with the parties agreeing to provide any additional comments to Lorna Noren (Lorna.Noren@MyFloridaCFO.com) by October 1, 2010. DFS will review all comments and republish a new draft of the rule that will be the subject of an additional workshop. The next rule hearing will be conducted in a format more like that of a workshop to facilitate discussion. DFS did not seem receptive to suggestions that no rule is needed, and again urged the industry to provide input. DFS also held a separate rule hearing for proposed rule 69B-210.010. This rule addresses inducements offered by title insurance agents and title insurance agencies.