

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1640

By: Representative G. Hodges

By: Senator J. Boyd

For An Act To Be Entitled

AN ACT TO AMEND THE DEFINITION OF "REBATES" AS USED
IN THE BUSINESS OF INSURANCE; TO AMEND THE LAW
CONCERNING TOKEN GIFTS IN THE BUSINESS OF INSURANCE;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE DEFINITION OF "REBATES" AS
USED IN THE BUSINESS OF INSURANCE; AND TO
AMEND THE LAW CONCERNING TOKEN GIFTS IN
THE BUSINESS OF INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-66-206(9), concerning the definition of "rebates" used in the business of insurance, is amended to read as follows:

(9)(A) "Rebates", except as otherwise expressly provided by law, means the act of knowingly:

(i) Permitting or offering to make or making any life, health, ~~and annuity, or other~~ insurance contract, or agreement as to the contract, other than as plainly expressed in the insurance contract ~~issued for the life, health, or annuity insurance policy;~~

(ii) Paying, allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance contract any rebate of premiums payable on the contract or any special favor or advantage in the dividends or other benefits under the insurance contract or any valuable consideration or inducement whatever not specified in the



contract; or

(iii) Giving, selling, or purchasing or offering to give, sell, or purchase as inducement to the insurance contract or in connection with the contract any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership or any dividends or profits accrued under the insurance contract or anything of value whatsoever not specified in the insurance contract.

(B) Subdivision (9)(A) or subdivision (13) of this section shall not be construed as including within “rebates” or “unfair discrimination” any of the following practices:

(i) In the case of any contract of life insurance or life annuity, the paying of bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that those bonuses or abatement of premiums shall be fair and equitable for policyholders and for the best interests of the company and its policyholders;

(ii) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

(iii) Readjustment of the rate of premium for a group insurance policy based on the loss or expense under the policy at the end of the first or any subsequent policy year of insurance under the policy, which may be made retroactive only for the policy year;

(iv) Engaging in an arrangement that does not violate section 106 of the Bank Holding Company Act Amendments of 1970, 12 U.S.C. § 1972, as interpreted by the Board of Governors of the Federal Reserve System, or section 1464(q) of the Home Owners’ Loan Act, 12 U.S.C. § 1461 et seq.; ~~or~~

(v) Under a prior written agreement with a client paying total annual premiums, for all lines of business, of one hundred thousand dollars (\$100,000) or more, adjusting or refunding a part of a consulting fee charged by a licensed insurance consultant based on commissions received by the consultant from insurance carriers; or

(vi)(a) Offering or providing by an insurer or

producer, by or through an employee, affiliate, or third party representative, a value-added product or service at no or reduced cost if the value-added product or service is not specified in the insurance policy and the value-added product or service:

(1) Relates to the insurance policy

coverage; and

(2) Is primarily designed to satisfy one

(1) or more of the following:

(A) Provide loss mitigation or

loss control;

(B) Reduce claim costs or claim

settlement costs;

(C) Provide education about

liability risks or risk of loss to persons or property;

(D) Monitor or assess risk,

identify sources of risk, or develop strategies for eliminating or reducing risk;

(E) Enhance health;

(F) Enhance financial wellness

through items, including without limitation education or financial planning services;

(G) Provide post-loss services;

(H)(i) Incentivize behavioral

changes to improve the health or reduce the risk of death or disability of a customer.

(ii) As used in this

subdivision (9)(B)(vi)(a)(2)(H), "customer" means a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant; or

(I) Assist in the administration

of an active employee benefit insurance coverage or retired employee benefit insurance coverage.

(b) The cost to an insurer or producer

offering the valued-based product or service to a customer shall be reasonable in comparison to the customer's premiums or insurance coverage for the insurance policy class.

(c) If an insurer or producer is providing the valued-based product or service offered, then the insurer or producer shall ensure that the customer is provided with contact information, upon request, to assist the customer with questions regarding the valued-based product or service.

(d)(1) The commissioner may promulgate rules to implement this section.

(2) The rules promulgated by the commissioner may include without limitation consumer protection, consumer data protections and privacy, consumer disclosure, and unfair discrimination.

(e) The availability of the value-added product or service shall be:

(1)(A) Based on documented objective criteria.

(B) The documented criteria under subdivision (9)(B)(vi)(e)(1)(A) of this section shall be maintained by the insurer or producer and produced upon request by the commissioner; and

(2) Offered in a manner that is not unfairly discriminatory.

(f)(1) If an insurer or producer does not have sufficient evidence but has a good faith belief that the value-based product or service meets the criteria under subdivision (9)(B)(vi)(a)(2) of this section, the insurer or producer may provide the value-based product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one (1) year as determined by rule by the commissioner.

(2) An insurer or producer shall notify the commissioner of a pilot or testing program offered to consumers in this state before the pilot or testing program is launched and may proceed with the pilot or testing program unless the commissioner objects within twenty-one (21) days of receiving the notice required under this subdivision (9)(B)(vi)(f)(2).

(C) Token gifts of one hundred dollars (\$100) or less in wholesale value that are used for advertising purposes are not prohibited under this subdivision (9), including without limitation pens, calendars, notebooks, and other items.

(D) An insurer, producer, or representative of an insurer or producer shall not offer or provide insurance coverage as an inducement to the purchase of another policy.