

A bill to be entitled

An act relating to non-coverage-related regulation of insurance; amending s. 626.7851, F.S.; revising a minimum coursework qualification for licensure as a life agent; amending s. 626.9541, F.S.; providing that certain restrictions against unfair discrimination or unlawful rebates do not include value-added products or services offered or provided by life or health insurers or their agents if certain conditions are met; providing requirements for and restrictions on life or health insurers or life or health agents offering or providing such products or services; authorizing life or health insurers or life or health agents to provide such products or services as part of a pilot or testing program under certain circumstances; authorizing the Financial Services Commission to adopt rules; providing an effective date.

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

Section 1. Section 626.7851, Florida Statutes, is amended to read:

626.7851 Requirement as to knowledge, experience, or instruction.—An applicant for a license as a life agent, except for a chartered life underwriter (CLU), shall not be qualified

26 | or licensed unless within the 4 years immediately preceding the  
 27 | date the application for a license is filed with the department  
 28 | he or she has:

29 |       (1) Successfully completed 30 ~~40~~ hours of coursework in  
 30 | life insurance, annuities, and variable contracts approved by  
 31 | the department, 3 hours of which shall be on the subject matter  
 32 | of ethics. Courses must include instruction on the subject  
 33 | matter of unauthorized entities engaging in the business of  
 34 | insurance;

35 |       (2) Successfully completed a minimum of 60 hours of  
 36 | coursework in multiple areas of insurance, which included life  
 37 | insurance, annuities, and variable contracts, approved by the  
 38 | department, 3 hours of which shall be on the subject matter of  
 39 | ethics. Courses must include instruction on the subject matter  
 40 | of unauthorized entities engaging in the business of insurance;

41 |       (3) Earned or maintained an active designation as  
 42 | Chartered Financial Consultant (ChFC) from the American College  
 43 | of Financial Services; or Fellow, Life Management Institute  
 44 | (FLMI) from the Life Management Institute;

45 |       (4) Held an active license in life insurance in another  
 46 | state. This provision may not be used unless the other state  
 47 | grants reciprocal treatment to licensees formerly licensed in  
 48 | the state; or

49 |       (5) Been employed by the department or office for at least  
 50 | 1 year, full time in life insurance regulatory matters and who

51 was not terminated for cause, and application for examination is  
 52 made within 4 years after the date of termination of his or her  
 53 employment with the department or office.

54  
 55 Prelicensure coursework is not required for an applicant who is  
 56 a member or veteran of the United States Armed Forces or the  
 57 spouse of such a member or veteran. A qualified individual must  
 58 provide a copy of a military identification card, military  
 59 dependent identification card, military service record, military  
 60 personnel file, veteran record, discharge paper, or separation  
 61 document that indicates such member is currently in good  
 62 standing or such veteran is honorably discharged.

63 Section 2. Paragraph (h) of subsection (1) of section  
 64 626.9541, Florida Statutes, is amended to read:

65 626.9541 Unfair methods of competition and unfair or  
 66 deceptive acts or practices defined.—

67 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
 68 ACTS.—The following are defined as unfair methods of competition  
 69 and unfair or deceptive acts or practices:

70 (h) Unlawful rebates.—

71 1. Except as otherwise expressly provided by law, or in an  
 72 applicable filing with the office, knowingly:

73 a. Permitting, or offering to make, or making, any  
 74 contract or agreement as to such contract other than as plainly  
 75 expressed in the insurance contract issued thereon;

76           b. Paying, allowing, or giving, or offering to pay, allow,  
 77 or give, directly or indirectly, as inducement to such insurance  
 78 contract, any unlawful rebate of premiums payable on the  
 79 contract, any special favor or advantage in the dividends or  
 80 other benefits thereon, or any valuable consideration or  
 81 inducement whatever not specified in the contract;

82           c. Giving, selling, or purchasing, or offering to give,  
 83 sell, or purchase, as inducement to such insurance contract or  
 84 in connection therewith, any stocks, bonds, or other securities  
 85 of any insurance company or other corporation, association, or  
 86 partnership, or any dividends or profits accrued thereon, or  
 87 anything of value whatsoever not specified in the insurance  
 88 contract.

89           2. Nothing in paragraph (g) or subparagraph 1. of this  
 90 paragraph shall be construed as including within the definition  
 91 of discrimination or unlawful rebates:

92           a. In the case of any contract of life insurance or life  
 93 annuity, paying bonuses to all policyholders or otherwise  
 94 abating their premiums in whole or in part out of surplus  
 95 accumulated from nonparticipating insurance; provided that any  
 96 such bonuses or abatement of premiums is fair and equitable to  
 97 all policyholders and for the best interests of the company and  
 98 its policyholders.

99           b. In the case of life insurance policies issued on the  
 100 industrial debit plan, making allowance to policyholders who

101 have continuously for a specified period made premium payments  
 102 directly to an office of the insurer in an amount which fairly  
 103 represents the saving in collection expenses.

104 c. Readjustment of the rate of premium for a group  
 105 insurance policy based on the loss or expense thereunder, at the  
 106 end of the first or any subsequent policy year of insurance  
 107 thereunder, which may be made retroactive only for such policy  
 108 year.

109 d. Issuance of life insurance policies or annuity  
 110 contracts at rates less than the usual rates of premiums for  
 111 such policies or contracts, as group insurance or employee  
 112 insurance as defined in this code.

113 e. Issuing life or disability insurance policies on a  
 114 salary savings, bank draft, preauthorized check, payroll  
 115 deduction, or other similar plan at a reduced rate reasonably  
 116 related to the savings made by the use of such plan.

117 3.a. No title insurer, or any member, employee, attorney,  
 118 agent, or agency thereof, shall pay, allow, or give, or offer to  
 119 pay, allow, or give, directly or indirectly, as inducement to  
 120 title insurance, or after such insurance has been effected, any  
 121 rebate or abatement of the premium or any other charge or fee,  
 122 or provide any special favor or advantage, or any monetary  
 123 consideration or inducement whatever.

124 b. Nothing in this subparagraph shall be construed as  
 125 prohibiting the payment of fees to attorneys at law duly

126 licensed to practice law in the courts of this state, for  
127 professional services, or as prohibiting the payment of earned  
128 portions of the premium to duly appointed agents or agencies who  
129 actually perform services for the title insurer. Nothing in this  
130 subparagraph shall be construed as prohibiting a rebate or  
131 abatement of an attorney fee charged for professional services,  
132 or that portion of the premium that is not required to be  
133 retained by the insurer pursuant to s. 627.782(1), or any other  
134 agent charge or fee to the person responsible for paying the  
135 premium, charge, or fee.

136 c. No insured named in a policy, or any other person  
137 directly or indirectly connected with the transaction involving  
138 the issuance of such policy, including, but not limited to, any  
139 mortgage broker, real estate broker, builder, or attorney, any  
140 employee, agent, agency, or representative thereof, or any other  
141 person whatsoever, shall knowingly receive or accept, directly  
142 or indirectly, any rebate or abatement of any portion of the  
143 title insurance premium or of any other charge or fee or any  
144 monetary consideration or inducement whatsoever, except as set  
145 forth in sub-subparagraph b.; provided, in no event shall any  
146 portion of the attorney fee, any portion of the premium that is  
147 not required to be retained by the insurer pursuant to s.  
148 627.782(1), any agent charge or fee, or any other monetary  
149 consideration or inducement be paid directly or indirectly for  
150 the referral of title insurance business.

151        4.a. Paragraph (g) or subparagraph 1. may not be construed  
152 as including within the definition of discrimination or unlawful  
153 rebates the offer or provision by a life or health insurer or a  
154 life or health agent of the life or health insurer, including by  
155 or through employees, affiliates, or third-party  
156 representatives, of value-added products or services at no or  
157 reduced cost when such products or services are not specified in  
158 the insurance policy, if the product or service relates to the  
159 insurance coverage and is primarily designed to do one or more  
160 of the following:

161            (I) Provide loss mitigation or loss control;  
162            (II) Reduce claim costs or claim settlement costs;  
163            (III) Provide education about liability risks or risk of  
164 loss to persons or property;

165            (IV) Monitor or assess risk, identify sources of risk, or  
166 develop strategies for eliminating or reducing risk;

167            (V) Enhance health;  
168            (VI) Enhance financial wellness through items such as  
169 education or financial planning services;

170            (VII) Provide post-loss services;  
171            (VIII) Incentivize behavioral changes to improve the  
172 health or reduce the risk of death or disability of a  
173 policyholder, potential policyholder, certificateholder,  
174 potential certificateholder, insured, potential insured, or  
175 applicant; or

176 (IX) Assist in the administration of employee or retiree  
177 benefit insurance coverage.

178 b. The cost to the life or health insurer or life or  
179 health agent offering the product or service to a customer must  
180 be reasonable in comparison to the customer's premiums or  
181 insurance coverage for the policy class.

182 c. If the life or health insurer or life or health agent  
183 is providing the product or service, the life or health insurer  
184 or life or health agent must ensure that the customer is  
185 provided with contact information to assist the customer with  
186 questions regarding the product or service.

187 d. The availability of the product or service must be  
188 based on documented objective evidence, and the product or  
189 service must be offered in a manner that is not unfairly  
190 discriminatory. The documented evidence must be maintained by  
191 the life or health insurer or life or health agent and produced  
192 upon request by the office or the department.

193 e. If a life or health insurer or life or health agent has  
194 a good faith belief, but does not have sufficient evidence to  
195 demonstrate, that the product or service meets any of the  
196 criteria in sub-sub-subparagraphs a.(I)-(IX), the life or health  
197 insurer or life or health agent may provide the product or  
198 service in a manner that is not unfairly discriminatory as part  
199 of a pilot or testing program for up to 1 year. A life or  
200 health insurer or life or health agent must notify the office or



201 department, as applicable, of such pilot or testing program  
202 offered to consumers in this state before commencing the  
203 program. The life or health insurer or life or health agent may  
204 commence the program unless the office or department, as  
205 applicable, objects to the program within 21 days after  
206 receiving the notice.

207 f. A life or health insurer, life or health agent, or  
208 representative thereof may not offer or provide insurance as an  
209 inducement to the purchase of another policy or otherwise use  
210 the words "free," "no cost," or similar words in an  
211 advertisement.

212 g. The commission may adopt rules to administer this  
213 subparagraph to ensure consumer protection. Such rules,  
214 consistent with applicable law, may address, among other issues,  
215 consumer data protections and privacy, consumer disclosure, and  
216 unfair discrimination.

217 Section 3. This act shall take effect July 1, 2023.