

1 A bill to be entitled
 2 An act relating to value-added insurance products;
 3 amending s. 626.9541, F.S.; providing that certain
 4 restrictions against unfair discrimination or unlawful
 5 rebates do not include value-added products or
 6 services offered or provided by insurers or their
 7 agents if certain conditions are met; providing
 8 requirements for and restrictions on insurers or
 9 agents offering or providing such products or
 10 services; authorizing insurers or agents to provide
 11 such products or services as part of a pilot or
 12 testing program under certain circumstances;
 13 authorizing the Financial Services Commission to adopt
 14 rules; providing an effective date.

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

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 18 Section 1. Paragraph (h) of subsection (1) of section
 19 626.9541, Florida Statutes, is amended to read:

20 626.9541 Unfair methods of competition and unfair or
 21 deceptive acts or practices defined.—

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

25 (h) Unlawful rebates.—

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

28 | a. Permitting, or offering to make, or making, any
 29 | contract or agreement as to such contract other than as plainly
 30 | expressed in the insurance contract issued thereon;

31 | b. Paying, allowing, or giving, or offering to pay, allow,
 32 | or give, directly or indirectly, as inducement to such insurance
 33 | contract, any unlawful rebate of premiums payable on the
 34 | contract, any special favor or advantage in the dividends or
 35 | other benefits thereon, or any valuable consideration or
 36 | inducement whatever not specified in the contract;

37 | c. Giving, selling, or purchasing, or offering to give,
 38 | sell, or purchase, as inducement to such insurance contract or
 39 | in connection therewith, any stocks, bonds, or other securities
 40 | of any insurance company or other corporation, association, or
 41 | partnership, or any dividends or profits accrued thereon, or
 42 | anything of value whatsoever not specified in the insurance
 43 | contract.

44 | 2. Nothing in paragraph (g) or subparagraph 1. of this
 45 | paragraph shall be construed as including within the definition
 46 | of discrimination or unlawful rebates:

47 | a. In the case of any contract of life insurance or life
 48 | annuity, paying bonuses to all policyholders or otherwise
 49 | abating their premiums in whole or in part out of surplus
 50 | accumulated from nonparticipating insurance; provided that any

51 such bonuses or abatement of premiums is fair and equitable to
52 all policyholders and for the best interests of the company and
53 its policyholders.

54 b. In the case of life insurance policies issued on the
55 industrial debit plan, making allowance to policyholders who
56 have continuously for a specified period made premium payments
57 directly to an office of the insurer in an amount which fairly
58 represents the saving in collection expenses.

59 c. Readjustment of the rate of premium for a group
60 insurance policy based on the loss or expense thereunder, at the
61 end of the first or any subsequent policy year of insurance
62 thereunder, which may be made retroactive only for such policy
63 year.

64 d. Issuance of life insurance policies or annuity
65 contracts at rates less than the usual rates of premiums for
66 such policies or contracts, as group insurance or employee
67 insurance as defined in this code.

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

72 3.a. No title insurer, or any member, employee, attorney,
73 agent, or agency thereof, shall pay, allow, or give, or offer to
74 pay, allow, or give, directly or indirectly, as inducement to
75 title insurance, or after such insurance has been effected, any

76 rebate or abatement of the premium or any other charge or fee,
77 or provide any special favor or advantage, or any monetary
78 consideration or inducement whatever.

79 b. Nothing in this subparagraph shall be construed as
80 prohibiting the payment of fees to attorneys at law duly
81 licensed to practice law in the courts of this state, for
82 professional services, or as prohibiting the payment of earned
83 portions of the premium to duly appointed agents or agencies who
84 actually perform services for the title insurer. Nothing in this
85 subparagraph shall be construed as prohibiting a rebate or
86 abatement of an attorney fee charged for professional services,
87 or that portion of the premium that is not required to be
88 retained by the insurer pursuant to s. 627.782(1), or any other
89 agent charge or fee to the person responsible for paying the
90 premium, charge, or fee.

91 c. No insured named in a policy, or any other person
92 directly or indirectly connected with the transaction involving
93 the issuance of such policy, including, but not limited to, any
94 mortgage broker, real estate broker, builder, or attorney, any
95 employee, agent, agency, or representative thereof, or any other
96 person whatsoever, shall knowingly receive or accept, directly
97 or indirectly, any rebate or abatement of any portion of the
98 title insurance premium or of any other charge or fee or any
99 monetary consideration or inducement whatsoever, except as set
100 forth in sub-subparagraph b.; provided, in no event shall any

101 | portion of the attorney fee, any portion of the premium that is
 102 | not required to be retained by the insurer pursuant to s.
 103 | 627.782(1), any agent charge or fee, or any other monetary
 104 | consideration or inducement be paid directly or indirectly for
 105 | the referral of title insurance business.

106 | 4.a. Paragraph (g) or subparagraph 1. may not be construed
 107 | as including within the definition of discrimination or unlawful
 108 | rebates the offer or provision by an insurer or an agent of the
 109 | insurer, including by or through employees, affiliates, or
 110 | third-party representatives, of value-added products or services
 111 | at no or reduced cost when such products or services are not
 112 | specified in the insurance policy, if the product or service
 113 | relates to the insurance coverage and is primarily designed to
 114 | do one or more of the following:

- 115 | (I) Provide loss mitigation or loss control;
- 116 | (II) Reduce claim costs or claim settlement costs;
- 117 | (III) Provide education about liability risks or risk of
 118 | loss to persons or property;
- 119 | (IV) Monitor or assess risk, identify sources of risk, or
 120 | develop strategies for eliminating or reducing risk;
- 121 | (V) Enhance health;
- 122 | (VI) Enhance financial wellness through items such as
 123 | education or financial planning services;
- 124 | (VII) Provide post-loss services;
- 125 | (VIII) Incentivize behavioral changes to improve the

126 health or reduce the risk of death or disability of a
127 policyholder, potential policyholder, certificateholder,
128 potential certificateholder, insured, potential insured, or
129 applicant; or

130 (IX) Assist in the administration of employee or retiree
131 benefit insurance coverage.

132 b. The cost to the insurer or agent offering the product
133 or service to a customer must be reasonable in comparison to the
134 customer's premiums or insurance coverage for the policy class.

135 c. If the insurer or agent is providing the product or
136 service, the insurer or agent must ensure that the customer is
137 provided with contact information to assist the customer with
138 questions regarding the product or service.

139 d. The availability of the product or service must be
140 based on documented objective evidence, and the product or
141 service must be offered in a manner that is not unfairly
142 discriminatory. The documented evidence must be maintained by
143 the insurer or agent and produced upon request by the office or
144 the department.

145 e. If an insurer or agent has a good faith belief, but
146 does not have sufficient evidence to demonstrate, that the
147 product or service meets any of the criteria in sub-sub-
148 subparagraphs a.(I)-(IX), the insurer or agent may provide the
149 product or service in a manner that is not unfairly
150 discriminatory as part of a pilot or testing program for up to 1

151 year. An insurer or agent must notify the office or department,
 152 as applicable, of such pilot or testing program offered to
 153 consumers in this state before commencing the program. The
 154 insurer or agent may commence the program unless the office or
 155 department, as applicable, objects to the program within 21 days
 156 after receiving the notice.

157 f. An insurer, agent, or representative thereof may not
 158 offer or provide insurance as an inducement to the purchase of
 159 another policy or otherwise use the words "free," "no cost," or
 160 similar words in an advertisement.

161 g. The commission may adopt rules to administer this
 162 subparagraph to ensure consumer protection. Such rules,
 163 consistent with applicable law, may address, among other issues,
 164 consumer data protections and privacy, consumer disclosure, and
 165 unfair discrimination.

166 Section 2. This act shall take effect July 1, 2023.