

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1640

5 By: Representative G. Hodges
6 By: Senator J. Boyd
7

For An Act To Be Entitled

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

15 TO AMEND THE DEFINITION OF "REBATES" AS
16 USED IN THE BUSINESS OF INSURANCE; AND TO
17 AMEND THE LAW CONCERNING TOKEN GIFTS IN
18 THE BUSINESS OF INSURANCE.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 23-66-206(9), concerning the definition of
25 "rebates" used in the business of insurance, is amended to read as follows:

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

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

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



1 contract; or

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

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

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

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

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

26 (iv) Engaging in an arrangement that does not
27 violate section 106 of the Bank Holding Company Act Amendments of 1970, 12
28 U.S.C. § 1972, as interpreted by the Board of Governors of the Federal
29 Reserve System, or section 1464(q) of the Home Owners’ Loan Act, 12 U.S.C. §
30 1461 et seq.; ~~or~~

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

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

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

5 (1) Relates to the insurance policy
 6 coverage; and

7 (2) Is primarily designed to satisfy one
 8 (1) or more of the following:

9 (A) Provide loss mitigation or
 10 loss control;

11 (B) Reduce claim costs or claim
 12 settlement costs;

13 (C) Provide education about
 14 liability risks or risk of loss to persons or property;

15 (D) Monitor or assess risk,
 16 identify sources of risk, or develop strategies for eliminating or reducing
 17 risk;

18 (E) Enhance health;

19 (F) Enhance financial wellness
 20 through items, including without limitation education or financial planning
 21 services;

22 (G) Provide post-loss services;

23 (H)(i) Incentivize behavioral
 24 changes to improve the health or reduce the risk of death or disability of a
 25 customer.

26 (ii) As used in this
 27 subdivision (9)(B)(vi)(a)(2)(H), "customer" means a policyholder, potential
 28 policyholder, certificate holder, potential certificate holder, insured,
 29 potential insured, or applicant; or

30 (I) Assist in the administration
 31 of an active employee benefit insurance coverage or retired employee benefit
 32 insurance coverage.

33 (b) The cost to an insurer or producer
 34 offering the valued-based product or service to a customer shall be
 35 reasonable in comparison to the customer's premiums or insurance coverage for
 36 the insurance policy class.

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

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

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

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

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

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

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

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

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

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

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

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