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SENATE BILL 25-058

BY SENATOR(S) Snyder, Michaelson Jenet, Mullica;
also REPRESENTATIVE(S) Rydin and Gonzalez R., Bacon, Brown,
Clifford, Duran, Hamrick, Keltie, Marshall.

CONCERNING A MODEL ACT TO PROVIDE A FRAMEWORK THAT ALLOWS
INSURANCE COMPANIES TO GIVE REBATES THAT MEET SPECIFIED
CRITERIA TO MAINTAIN CONSUMER PROTECTIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 10-3-1104, **amend** (1)(g) and (2) introductory portion; and **add** (2)(e), (2.1), (2.2), (2.3), (2.4), (2.5), (2.6), (2.7), and (6) as follows:

10-3-1104. Unfair methods of competition - unfair or deceptive practices - rules - definitions. (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(g) Rebates: Except as OTHERWISE PROVIDED IN THIS SECTION AND AS otherwise expressly provided by law, knowingly permitting, or offering to make, or making any contract of insurance or agreement as to such

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

contract, other than as plainly expressed in the insurance contract issued thereon, or paying, ~~or~~ allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits ~~thereon~~ ON THE CONTRACT OR ANNUITY, or any valuable consideration or inducement whatever not specified in the contract; or giving, ~~or~~ selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance contract or annuity or in connection ~~therewith~~ WITH THE INSURANCE CONTRACT OR ANNUITY, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued ~~thereon~~ ON THE STOCKS, BONDS, OR OTHER SECURITIES, or anything of value whatsoever not specified in the contract;

(2) Nothing in ~~paragraph (f) or (g) of subsection (1)~~ SUBSECTION (1)(f) OR (1)(g) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

(e) OFFERING OR PROVIDING, BY OR THROUGH AN EMPLOYEE, AFFILIATE, OR THIRD-PARTY REPRESENTATIVE OF AN INSURER OR INSURANCE PRODUCER, A VALUE-ADDED PRODUCT OR SERVICE AT NO COST OR REDUCED COST, WHEN THE PRODUCT OR SERVICE IS NOT SPECIFIED IN THE INSURANCE POLICY, IF THE PRODUCT OR SERVICE:

(I) RELATES TO THE INSURANCE COVERAGE; AND

(II) IS PRIMARILY AIMED TO ACHIEVE ONE 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 RISK OR RISK OF LOSS TO INDIVIDUALS OR PROPERTY;

(D) MONITOR OR ASSESS RISK, IDENTIFY SOURCES OF RISK, OR DEVELOP STRATEGIES FOR ELIMINATING OR REDUCING RISK;

(E) ENHANCE HEALTH;

(F) PROMOTE FINANCIAL WELLNESS THROUGH ITEMS SUCH AS EDUCATIONAL OR FINANCIAL PLANNING SERVICES;

(G) PROVIDE POST-LOSS SERVICES;

(H) ENCOURAGE BEHAVIORAL CHANGES TO IMPROVE THE HEALTH OR REDUCE THE RISK OF DEATH OR DISABILITY OF A CUSTOMER; OR

(I) ASSIST IN THE ADMINISTRATION OF EMPLOYEE OR RETIREE BENEFIT INSURANCE COVERAGE.

(2.1) THE COST TO AN INSURER OR INSURANCE PRODUCER OFFERING A PRODUCT OR SERVICE TO A CUSTOMER PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION MUST BE REASONABLE IN COMPARISON TO THAT CUSTOMER'S PREMIUMS OR INSURANCE COVERAGE.

(2.2) IF AN INSURER OR INSURANCE PRODUCER IS OFFERING A PRODUCT OR SERVICE PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION, THE INSURER OR INSURANCE PRODUCER SHALL PROVIDE A CUSTOMER WITH CONTACT INFORMATION TO ASSIST THE CUSTOMER WITH QUESTIONS REGARDING THE PRODUCT OR SERVICE.

(2.3) TO ENSURE CONSUMER PROTECTION WHILE IMPLEMENTING THE PERMITTED PRACTICES SET FORTH IN SUBSECTION (2) OF THIS SECTION, THE COMMISSIONER MAY ADOPT RULES TO IMPLEMENT AND ENFORCE SUBSECTIONS (2) TO (2.7) OF THIS SECTION.

(2.4) THE AVAILABILITY OF A PRODUCT OR SERVICE OFFERED PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION MUST BE:

(a) BASED ON DOCUMENTED, OBJECTIVE CRITERIA THAT IS MAINTAINED BY THE INSURER OR INSURANCE PRODUCER AND MUST BE PRODUCED UPON REQUEST BY THE DIVISION; AND

(b) OFFERED IN A MANNER THAT IS NOT UNFAIRLY DISCRIMINATORY.

(2.5) (a) IF AN INSURER OR INSURANCE PRODUCER DOES NOT HAVE SUFFICIENT EVIDENCE BUT HAS A GOOD FAITH BELIEF THAT A PRODUCT OR SERVICE MEETS THE CRITERIA SET FORTH IN SUBSECTIONS (2)(e)(II)(A) TO (2)(e)(II)(I) OF THIS SECTION, THE INSURER OR INSURANCE PRODUCER SHALL

PROVIDE THE PRODUCT OR SERVICE IN A MANNER THAT IS NOT UNFAIRLY DISCRIMINATORY AS PART OF A PILOT OR TESTING PROGRAM FOR NO MORE THAN ONE YEAR.

(b) (I) AN INSURER OR INSURANCE PRODUCER SHALL NOTIFY AND RECEIVE APPROVAL FROM THE DIVISION FOR A PILOT OR TESTING PROGRAM PRIOR TO LAUNCHING THE PROGRAM.

(II) THE DIVISION SHALL APPROVE OR DENY A PILOT OR TESTING PROGRAM NO LATER THAN THIRTY DAYS AFTER RECEIVING NOTIFICATION PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS SECTION.

(2.6) (a) AN INSURER OR INSURANCE PRODUCER MAY:

(I) OFFER OR GIVE A NONCASH GIFT, ITEM, OR SERVICE, INCLUDING A MEAL OR CHARITABLE DONATION, TO OR ON BEHALF OF A CUSTOMER IN CONNECTION WITH THE MARKETING, SALE, PURCHASE, OR RETENTION OF AN INSURANCE CONTRACT IF THE COST DOES NOT EXCEED AN AMOUNT DETERMINED TO BE REASONABLE BY THE COMMISSIONER PER POLICY YEAR PER TERM; OR

(II) OFFER OR GIVE A NONCASH GIFT, ITEM, OR SERVICE, INCLUDING A MEAL OR CHARITABLE DONATION, TO OR ON BEHALF OF A CUSTOMER, INCLUDING A COMMERCIAL OR INSTITUTIONAL CUSTOMER, IN CONNECTION WITH THE MARKETING, SALE, PURCHASE, OR RETENTION OF AN INSURANCE CONTRACT IF:

(A) THE COST IS REASONABLE IN COMPARISON TO THE PREMIUM OR PROPOSED PREMIUM; AND

(B) THE COST OF THE GIFT, ITEM, OR SERVICE IS NOT INCLUDED IN ANY AMOUNT CHARGED TO ANOTHER PERSON OR ENTITY.

(b) (I) ANY OFFER OR GIFT MADE PURSUANT TO THIS SUBSECTION (2.6) MUST BE OFFERED IN A MANNER THAT IS NOT UNFAIRLY DISCRIMINATORY.

(II) AN INSURER OR INSURANCE PRODUCER SHALL NOT REQUIRE A CUSTOMER TO PURCHASE, CONTINUE, OR RENEW AN INSURANCE POLICY IN EXCHANGE FOR A GIFT, ITEM, OR SERVICE RECEIVED PURSUANT TO THIS

SUBSECTION (2.6).

(2.7) EXCEPT AS APPLIED TO AN INSURER OR INSURANCE PRODUCER'S OFFER OF A VALUE-ADDED PRODUCT OR SERVICE, AN INSURER OR INSURANCE PRODUCER SHALL NOT:

(a) OFFER OR PROVIDE INSURANCE AS AN INDUCEMENT TO THE PURCHASE OF ANOTHER POLICY; OR

(b) USE THE WORDS "FREE" OR "NO COST" OR WORDS OF SIMILAR IMPORT IN AN ADVERTISEMENT.

(6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CUSTOMER" INCLUDES A POLICYHOLDER, POTENTIAL POLICYHOLDER, CERTIFICATE HOLDER, POTENTIAL CERTIFICATE HOLDER, INSURED, POTENTIAL INSURED, OR APPLICANT.

(b) "INSURANCE PRODUCER" HAS THE MEANING SET FORTH IN SECTION 10-2-103 (6).

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO