

ENROLLED ACT NO. 17, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2023 GENERAL SESSION

AN ACT relating to the insurance code; authorizing specified insurance rebates; clarifying language in the unfair insurance discrimination and insurance rebate statutes; authorizing rulemaking; and providing for an effective date.

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

Section 1. W.S. 26-9-212(d), 26-13-109(a)(intro), (ii)(intro), (A) and (B) and 26-13-110(a)(i), (ii)(intro), (A), (iii) and by creating new paragraphs (iv) and (v), by creating a new subsections (b) through (f) are amended to read:

26-9-212. Commissions.

(d) An insurer or insurance producer may pay or assign commissions, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate W.S. 26-13-109 or 26-13-110. ~~or 26-13-112.~~

26-13-109. Unfair discrimination prohibited.

(a) No person shall make or permit any unfair discrimination between ~~individuals~~ current or prospective insureds or insured risks:

(ii) Of the same class, having similar insuring or risk characteristics and of essentially the same hazard in:

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(A) The amount of premium, policy fees or rates charged for any policy or contract of disability insurance;

(B) The dividends or benefits payable thereunder;

26-13-110. Rebates.

(a) Except as otherwise provided by law, no person shall:

(i) ~~Knowingly permit or~~ Authorize, offer to make or make any contract of ~~life insurance, life annuity or disability~~ insurance, or agreement as to that contract other than as expressed in the contract issued thereon;

(ii) Pay, allow or give or offer to pay, allow, ~~or give, receive or accept~~ in any manner as inducement to the purchase of insurance ~~or annuity or renewal of~~ insurance;

(A) Any rebate, discount, credit or reduction of premiums payable on the contract;

(iii) In any manner give, sell or purchase or offer or agree to give, sell, purchase or allow as inducement to the insurance ~~or annuity~~ or in connection therewith, and whether or not to be specified in the policy or contract, any agreement of any form or nature promising:

(iv) Offer or provide insurance as an inducement to the purchase of another policy or use the words "free", "no cost" or similar wording in an advertisement;

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(v) Unfairly discriminate against a customer when offering or declining to offer any of the items authorized by subsection (c) of this section.

(b) Nothing in W.S. 26-13-109 or subsection (a) of this section shall prohibit any of the following practices:

(i) Paying bonuses to customers or abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonuses or abatement of premiums are fair and equitable to customers and are in the insurer and its customers' best interests;

(ii) Making allowances to customers who have continuously made premium payments directly to the office of an insurer in an amount which fairly represents the saving in collection expense;

(iii) Readjustment of the premium rate for a group insurance policy based on the loss or expense experienced by the insurer, which may be made retroactive only for that policy year;

(iv) Reduction of premium rates for policies of large amount, but not exceeding savings in issuance and administration expenses reasonably attributable to those policies as compared with policies of a similar plan issued in smaller amounts;

(v) Reduction in premium rates for life or disability insurance policies on annuity contracts on salary savings, payroll deduction, preauthorized check, bank draft or similar plans in amounts reasonably

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commensurate with the savings made by the use of those plans;

(vi) Allowing or returning to an insurer's participating customers, members or subscribers dividends, savings or unabsorbed premium deposits;

(vii) The payment of commissions or other compensation to licensed producers;

(viii) The selling or offering for sale, contemporaneously with life insurance, of mutual fund shares or face amount certificates of regulated investment companies under offerings with the securities and exchange commission if the shares or face amount certificates and the life insurance may be purchased independently, at the same price as and upon the same terms and conditions as if purchased contemporaneously;

(ix) The offer or provision by insurers, producers or their affiliates of a product or service at no cost or a reduced cost when the product or service is not specified in the policy of insurance and the product or service:

(A) Relates to the insurance coverage;

(B) Is primarily designed to satisfy one (1) or more of the following:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

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(III) Provide education about liability risks or risk of loss to persons or property;

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

(V) Enhance health;

(VI) Enhance financial wellness through items such as education or financial planning services;

(VII) Provide post-loss services;

(VIII) Incentivize behavioral changes to improve the health or reduce the risk of death or disability of a customer; or

(IX) Assist in the administration of retirement benefit insurance coverage.

(C) The cost to the insurer or producer offering the product or service to any given customer is reasonable in comparison to that customer's premiums or insurance coverage for the policy class;

(D) The insurer or producer ensures that the customer is provided with contact information to assist the customer with questions regarding the product or service;

(E) The availability of offered products or services shall be based on documented objective criteria,

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which shall be maintained by the insurer or producer and produced upon request by the department. If the insurer or producer does not have sufficient evidence, but has a good-faith belief that the offered products or services meet the criteria, the insurer or producer may provide the products or services as part of a pilot or testing program for no more than one (1) year. The department shall be notified of any pilot or testing program prior to launching. The program may proceed unless the department objects within thirty (30) days of notice.

(c) Unless prohibited by paragraphs (a)(ii) and (iii) of this section, an insurer or producer may:

(i) Offer or give non-cash gifts, items or services to customers in connection with the marketing, sale, purchase or retention of contracts of insurance, provided that the cost of the gifts, items or services are not included in any amounts charged to another person or entity. The customer shall not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service. The total value of the gift, item or service per customer per calendar year shall not exceed:

(A) One hundred dollars (\$100.00) or five percent (5%), but not to exceed one thousand dollars (\$1,000.00), of the written premium for current customers; or

(B) One hundred dollars (\$100.00) or five percent (5%), but not to exceed one thousand dollars (\$1,000.00), of the quoted premium for prospective customers.

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(ii) Conduct raffles or drawings for prizes to the extent permitted by state law at no cost to entrants. The drawing or raffle shall not obligate participants to purchase insurance and shall be open to the public. The customer shall not be required to purchase or renew a policy in exchange for entrance into the raffle or drawing. The total value of each raffle or drawing shall not exceed one hundred dollars (\$100.00).

(d) Any person who provides any gift, item, service or prize under subsection (c) of this section shall retain records which shall be considered records of transactions under W.S. 26-9-228 and which shall be provided for inspection upon request of the commissioner. These records shall include but are not limited to receipts of purchase, dates of transaction and names of customers.

(e) The commissioner may adopt rules and regulations when implementing the permitted practices set forth in this section to ensure consumer protection.

(f) As used in this section:

(i) "Insurance" means as defined by W.S. 26-1-102(a)(xv) and also includes suretyship;

(ii) "Policy" means as defined by W.S. 26-1-102(a)(xxi) and also includes bond;

(iii) "Customer" means a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured or applicant.

Section 2. W.S. 26-13-109(a)(i) and (b), 26-13-111 and 26-13-112 are repealed.

ORIGINAL SENATE
FILE NO. SF0006

ENGROSSED

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Section 3. This act is effective July 1, 2023.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk