

1 ENGROSSED SENATE
2 BILL NO. 1152

By: Brown of the Senate

3 and

4 Mulready of the House

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6
7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1204, which relates to unfair methods of
9 competition or deceptive acts; modifying limit on
10 value of certain property used as an inducement; and
11 providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1204, is
14 amended to read as follows:

15 Section 1204. The following are hereby defined as unfair
16 methods of competition and unfair and deceptive acts or practices in
17 the business of insurance:

18 1. Misrepresentations and false advertising of policy
19 contracts. Making, issuing, circulating, or causing to be made,
20 issued or circulated, any estimate, illustration, circular or
21 statement misrepresenting the terms of any policy issued or to be
22 issued or the benefits or advantages promised thereby or the
23 dividends or share of the surplus to be received thereon, or making
24 any false or misleading statement as to the dividends or share of

1 surplus previously paid on similar policies, or making any
2 misleading representation or any misrepresentation as to the
3 financial condition of any insurer, or as to the legal reserve
4 system upon which any life insurer operates, or using any name or
5 title of any policy or class of policies misrepresenting the true
6 nature thereof, or making any misrepresentation to any policyholder
7 insured in any company for the purpose of inducing or tending to
8 induce such policyholder to lapse, forfeit, or surrender his or her
9 insurance.

10 2. False information and advertising generally. Making,
11 publishing, disseminating, circulating, or placing before the
12 public, or causing, directly or indirectly, to be made, published,
13 disseminated, circulated, or placed before the public, in a
14 newspaper, magazine, or other publication, or in the form of a
15 notice, circular, pamphlet, letter or poster, or over any radio or
16 television station, or in any other way an advertisement,
17 announcement or statement containing any assertion, representation
18 or statement with respect to the business of insurance or with
19 respect to any person in the conduct of his or her insurance
20 business which is untrue, deceptive or misleading. No insurance
21 company shall issue, or cause to be issued, any policy of insurance
22 of any type or description upon life, or property, real or personal,
23 whenever such policy of insurance is to be furnished or delivered to
24 the purchaser or bailee of any property, real or personal, as an

1 inducement to purchase or bail said property, real or personal, and
2 no other person shall advertise, offer or give free insurance,
3 insurance without cost or for less than the approved or customary
4 rate, in connection with the sale or bailment of real or personal
5 property, except as provided in ~~subsection B,~~ Section 4101 of
6 ~~Article 41 (Group Life Insurance and Group Annuity Contracts)~~ this
7 title. No person that is not an insurer shall assume or use any
8 name which deceptively infers or suggests that it is an insurer.

9 3. Defamation. Making, publishing, disseminating, or
10 circulating, directly or indirectly, or aiding, abetting or
11 encouraging the making, publishing, disseminating or circulating of
12 any oral or written statement or any pamphlet, circular, article or
13 literature which is false, or maliciously critical of or derogatory
14 to the financial condition of an insurer, and which is calculated to
15 injure any person engaged in the business of insurance.

16 4. Boycott, coercion and intimidation. Entering into any
17 agreement to commit, or by any concerted action committing, any act
18 of boycott, coercion or intimidation resulting in or tending to
19 result in unreasonable restraint of, or monopoly in, the business of
20 insurance.

21 5. False financial statements. Filing with any supervisory or
22 other public official, or making, publishing, disseminating,
23 circulating or delivering to any person, or placing before the
24 public or causing directly or indirectly, to be made, published,

1 disseminated, circulated, delivered to any person or placed before
2 the public, any false statement of financial condition of an insurer
3 with intent to deceive.

4 Making any false entry in any book, report or statement of any
5 insurer with intent to deceive any agent or examiner lawfully
6 appointed to examine into its condition or into any of its affairs,
7 or any public official to whom such insurer is required by law to
8 report, or who has authority by law to examine into its condition or
9 into any of its affairs, or, with like intent, willfully omitting to
10 make a true entry of any material fact pertaining to the business of
11 such insurer in any book, report or statement of such insurer.

12 6. Stock operations and advisory board contracts. Issuing or
13 delivering or permitting agents, officers, or employees to issue or
14 deliver agency company stock or other capital stock, or benefit
15 certificates or shares in any common-law corporation, or securities
16 or any special or advisory board contracts or other contracts of any
17 kind promising returns and profits as an inducement to insurance.

18 7. Unfair discrimination. (a) Making or permitting any unfair
19 discrimination between individuals of the same class and equal
20 expectation of life in the rates charged for any contract of life
21 insurance or of life annuity or in the dividends or other benefits
22 payable thereon, or in any other of the terms and conditions of such
23 contract.

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1 (b) Making or permitting any unfair discrimination between
2 individuals of the same class and of essentially the same hazard in
3 the amount of premium, policy fees, or rates charged for any policy
4 or contract of accident or health insurance or in the benefits
5 payable thereunder, or in any of the terms or conditions of such
6 contract, or in any other manner whatever.

7 (c) As to kinds of insurance other than life and accident and
8 health, no person shall make or permit any unfair discrimination in
9 favor of particular persons, or between insureds or subjects of
10 insurance having substantially like insuring, risk, and exposure
11 factors, or expense elements, in the terms or conditions of any
12 insurance contract, or in the rate or amount of premium charged
13 therefor. This subsection shall not apply as to any premium rate in
14 effect pursuant to Article 9 of the Oklahoma Insurance Code.

15 8. Rebates. (a) Except as otherwise expressly provided by
16 law, knowingly permitting or offering to make or making any contract
17 of insurance or agreement as to such contract other than as plainly
18 expressed in the contract issued thereon; or paying or allowing, or
19 giving or offering to pay, allow or give, directly or indirectly, as
20 inducement to any contract of insurance, any rebate of premiums
21 payable on the contract, or any special favor or advantage in the
22 dividends or other benefits thereon, or any valuable consideration
23 or inducement whatever not specified in the contract; except in
24 accordance with an applicable rate filing, rating plan or rating

1 system filed with and approved by the Insurance Commissioner; or
2 giving or selling or purchasing or offering to give, sell, or
3 purchase as inducement to such insurance, or in connection
4 therewith, any stocks, bonds or other securities of any company, or
5 any dividends or profits accrued thereon, or anything of value
6 whatsoever not specified in the contract or receiving or accepting
7 as inducement to contracts of insurance, any rebate of premium
8 payable on the contract, or any special favor or advantage in the
9 dividends or other benefit to accrue thereon, or any valuable
10 consideration or inducement not specified in the contract.

11 (b) Nothing in subsection 7 or paragraph (a) of this subsection
12 shall be construed as including within the definition of
13 discrimination or rebates any of the following practices:

14 (1) In the case of any contract of life insurance or life
15 annuity, paying bonuses to policyholders or otherwise abating their
16 premiums in whole or in part out of surplus accumulated from
17 nonparticipating insurance, provided, that any such bonuses or
18 abatement of premiums shall be fair and equitable to policyholders
19 and for the best interest of the company and its policyholders;

20 (2) In the case of life or accident and health insurance
21 policies issued on the industrial debit or weekly premium plan,
22 making allowance to policyholders who have continuously for a
23 specified period made premium payments directly to an office of the
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1 insurer in an amount which fairly represents the saving in
2 collection expense;

3 (3) Making a readjustment of the rate of premium for a policy
4 based on the loss or expense experience thereunder, at the end of
5 the first or any subsequent policy year of insurance thereunder,
6 which may be made retroactive only for such policy year;

7 (4) In the case of life insurance companies, allowing its bona
8 fide employees to receive a commission on the premiums paid by them
9 on policies on their own lives;

10 (5) Issuing life or accident and health policies on a salary
11 saving or payroll deduction plan at a reduced rate commensurate with
12 the savings made by the use of such plan; and

13 (6) Paying commissions or other compensation to duly licensed
14 agents or brokers, or allowing or returning to participating
15 policyholders, members or subscribers, dividends, savings or
16 unabsorbed premium deposits.

17 (c) As used in this section, the word "insurance" includes
18 suretyship and the word "policy" includes bond.

19 9. Coercion prohibited. Requiring as a condition precedent to
20 the purchase of, or the lending of money upon the security of, real
21 or personal property, that any insurance covering such property, or
22 liability arising from the ownership, maintenance or use thereof, be
23 procured by or on behalf of the vendee or by the borrower in
24 connection with such purchase or loan through any particular person

1 or agent or in any particular insurer, or requiring the payment of a
2 reasonable fee as a condition precedent to the replacement of
3 insurance coverage on mortgaged property at the anniversary date of
4 the policy; provided, however, that this provision shall not prevent
5 the exercise by any such vendor or lender of the right to approve or
6 disapprove any insurer selected to underwrite the insurance; but any
7 disapproval of any insurer shall be on reasonable grounds.

8 10. Inducements. No insurer, agent, broker, solicitor, or
9 other person shall, as an inducement to insurance or in connection
10 with any insurance transaction, provide in any policy for or offer,
11 sell, buy, or offer or promise to buy, sell, give, promise, or allow
12 to the insured or prospective insured or to any other person in his
13 or her behalf in any manner whatsoever:

14 (a) Any employment.

15 (b) Any shares of stock or other securities issued or at any
16 time to be issued or any interest therein or rights thereto.

17 (c) Any advisory board contract, or any similar contract,
18 agreement or understanding, offering, providing for, or promising
19 any special profits.

20 (d) Any prizes, goods, wares, merchandise, or tangible property
21 of an aggregate value in excess of ~~Twenty five Dollars (\$25.00)~~ One
22 Hundred Dollars (\$100.00).

23 (e) Any special favor, advantage or other benefit in the
24 payment, method of payment or credit for payment of the premium

1 through the use of credit cards, credit card facilities, credit card
2 lists, or wholesale or retail credit accounts of another person.

3 The provisions of this paragraph shall not apply to individual
4 policies insuring against loss resulting from bodily injury or death
5 by accident as defined by Article 44 of the Oklahoma Insurance Code.

6 11. Premature disposal of premium notes prohibited. No insurer
7 or agent thereof shall hypothecate, sell, or dispose of a promissory
8 note received in payment of any part of a premium on a policy of
9 insurance applied for prior to the delivery of the policy.

10 12. Fraudulent statement in application; penalty. Any
11 insurance agent, examining physician, or other person who knowingly
12 or willfully makes a false or fraudulent statement or representation
13 in or relative to an application for insurance, or who makes any
14 such statement to obtain a fee, commission, money, or benefit shall
15 be guilty of a misdemeanor.

16 13. Deceptive use of financial institution's name in
17 notification or solicitation. Verbally or by any other means
18 notifying or soliciting any person in a manner that:

19 (a) mentions the name of an unrelated and unaffiliated
20 financial institution,

21 (b) mentions an insurance product or the possible lack of
22 insurance coverage,

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1 (c) does not mention the actual or trade name of the
2 insurance agency or company on whose behalf the
3 notification or solicitation is provided, and

4 (d) thereby creates an impression or implication,
5 including by omission, that the financial institution
6 or a financial-institution-authorized entity is or may
7 be the one making the notification or solicitation.

8 Nothing in this paragraph shall be interpreted to prohibit the
9 reference to or use of the name of a financial institution made
10 pursuant to a contractual agreement between the insurer and the
11 financial institution.

12 SECTION 2. This act shall become effective November 1, 2012.

13 Passed the Senate the 29th day of February, 2012.

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16 Presiding Officer of the Senate

17 Passed the House of Representatives the ____ day of _____,
18 2012.

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20 _____
21 Presiding Officer of the House
22 of Representatives
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