

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 HOUSE BILL 2984

 By: Mulready

7 AS INTRODUCED

8 An Act relating to insurance; amending 36 O.S. 2011,
9 Section 1204, which relates to defining unfair
10 practices and frauds; modifying what constitutes
 prohibited inducement; and providing an effective
 date.

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

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

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

19 1. Misrepresentations and false advertising of policy
20 contracts. Making, issuing, circulating, or causing to be made,
21 issued or circulated, any estimate, illustration, circular or
22 statement misrepresenting the terms of any policy issued or to be
23 issued or the benefits or advantages promised thereby or the

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

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

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

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

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

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1 5. False financial statements. Filing with any supervisory or
2 other public official, or making, publishing, disseminating,
3 circulating or delivering to any person, or placing before the
4 public or causing directly or indirectly, to be made, published,
5 disseminated, circulated, delivered to any person or placed before
6 the public, any false statement of financial condition of an insurer
7 with intent to deceive.

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

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

22 7. Unfair discrimination.
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1 premium rate in effect pursuant to Article 9 of the
2 Oklahoma Insurance Code~~;~~;

3 8. Rebates.

4 ~~(a)~~ a. Except as otherwise expressly provided by law,
5 knowingly permitting or offering to make or making any
6 contract of insurance or agreement as to such contract
7 other than as plainly expressed in the contract issued
8 thereon; or paying or allowing, or giving or offering
9 to pay, allow or give, directly or indirectly, as
10 inducement to any contract of insurance, any rebate of
11 premiums payable on the contract, or any special favor
12 or advantage in the dividends or other benefits
13 thereon, or any valuable consideration or inducement
14 whatever not specified in the contract; except in
15 accordance with an applicable rate filing, rating plan
16 or rating system filed with and approved by the
17 Insurance Commissioner; or giving or selling or
18 purchasing or offering to give, sell, or purchase as
19 inducement to such insurance, or in connection
20 therewith, any stocks, bonds or other securities of
21 any company, or any dividends or profits accrued
22 thereon, or anything of value whatsoever not specified
23 in the contract or receiving or accepting as

1 inducement to contracts of insurance, any rebate of
2 premium payable on the contract, or any special favor
3 or advantage in the dividends or other benefit to
4 accrue thereon, or any valuable consideration or
5 inducement not specified in the contract.

6 ~~(b)~~ b. Nothing in ~~subsection~~ paragraph 7 of this section or
7 subparagraph a of this paragraph ~~(a) of this~~
8 ~~subsection~~ shall be construed as including within the
9 definition of discrimination or rebates any of the
10 following practices:

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

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

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

11 (4) ~~In~~ in the case of life insurance companies,
12 allowing its bona fide employees to receive a
13 commission on the premiums paid by them on
14 policies on their own lives~~†~~†

15 (5) ~~Issuing~~ issuing life or accident and health
16 policies on a salary saving or payroll deduction
17 plan at a reduced rate commensurate with the
18 savings made by the use of such plan~~†~~† and

19 (6) ~~Paying~~ paying commissions or other compensation
20 to duly licensed agents or brokers, or allowing
21 or returning to participating policyholders,
22 members or subscribers, dividends, savings or
23 unabsorbed premium deposits.

1 ~~(b) Any~~

2 b. any shares of stock or other securities issued or at
3 any time to be issued or any interest therein or
4 rights thereto~~;~~

5 ~~(c) Any~~

6 c. any advisory board contract, or any similar contract,
7 agreement or understanding, offering, providing for,
8 or promising any special profits~~;~~

9 ~~(d) Any~~

10 d. any prizes, goods, wares, merchandise, or tangible
11 property of an aggregate value in excess of
12 ~~Twenty-five Dollars (\$25.00).~~ One Hundred Dollars
13 (\$100.00), and

14 ~~(e) Any~~

15 e. any special favor, advantage or other benefit in the
16 payment, method of payment or credit for payment of
17 the premium through the use of credit cards, credit
18 card facilities, credit card lists, or wholesale or
19 retail credit accounts of another person. The
20 provisions of this ~~paragraph~~ subparagraph shall not
21 apply to individual policies insuring against loss
22 resulting from bodily injury or death by accident as
23 defined by Article 44 of the Oklahoma Insurance Code~~;~~

1 11. Premature disposal of premium notes prohibited. No insurer
2 or agent thereof shall hypothecate, sell, or dispose of a promissory
3 note received in payment of any part of a premium on a policy of
4 insurance applied for prior to the delivery of the policy~~;~~;

5 12. Fraudulent statement in application; penalty. Any
6 insurance agent, examining physician, or other person who knowingly
7 or willfully makes a false or fraudulent statement or representation
8 in or relative to an application for insurance, or who makes any
9 such statement to obtain a fee, commission, money, or benefit shall
10 be guilty of a misdemeanor~~;~~; and

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

14 ~~(a)~~ a. mentions the name of an unrelated and unaffiliated
15 financial institution,

16 ~~(b)~~ b. mentions an insurance product or the possible lack of
17 insurance coverage,

18 ~~(c)~~ c. does not mention the actual or trade name of the
19 insurance agency or company on whose behalf the
20 notification or solicitation is provided, and

21 ~~(d)~~ d. thereby creates an impression or implication,
22 including by omission, that the financial institution
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1 or a financial-institution-authorized entity is or may
2 be the one making the notification or solicitation.
3 Nothing in this paragraph shall be interpreted to prohibit the
4 reference to or use of the name of a financial institution made
5 pursuant to a contractual agreement between the insurer and the
6 financial institution.

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

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9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
10 02/16/2012 - DO PASS.
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