

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2984

By: Mulready

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1204, which relates to defining unfair
9 practices and frauds; modifying what constitutes
10 prohibited inducement; and providing an effective
11 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
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 insurance business which
20 is untrue, deceptive or misleading. No insurance company shall
21 issue, or cause to be issued, any policy of insurance of any type or
22 description upon life, or property, real or personal, whenever such
23 policy of insurance is to be furnished or delivered to the purchaser
24 or bailee of any property, real or personal, as an inducement to

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

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

1 to pay, allow or give, directly or indirectly, as
2 inducement to any contract of insurance, any rebate of
3 premiums payable on the contract, or any special favor
4 or advantage in the dividends or other benefits
5 thereon, or any valuable consideration or inducement
6 whatever not specified in the contract; except in
7 accordance with an applicable rate filing, rating plan
8 or rating system filed with and approved by the
9 Insurance Commissioner; or giving or selling or
10 purchasing or offering to give, sell, or purchase as
11 inducement to such insurance, or in connection
12 therewith, any stocks, bonds or other securities of
13 any company, or any dividends or profits accrued
14 thereon, or anything of value whatsoever not specified
15 in the contract or receiving or accepting as
16 inducement to contracts of insurance, any rebate of
17 premium payable on the contract, or any special favor
18 or advantage in the dividends or other benefit to
19 accrue thereon, or any valuable consideration or
20 inducement not specified in the contract.

21 ~~(b)~~ b. Nothing in ~~subsection~~ paragraph 7 of this section or
22 subparagraph a of this paragraph ~~(a) of this~~
23 ~~subsection~~ shall be construed as including within the
24

1 definition of discrimination or rebates any of the
2 following practices:

3 (1) ~~In~~ in the case of any contract of life insurance
4 or life annuity, paying bonuses to policyholders
5 or otherwise abating their premiums in whole or
6 in part out of surplus accumulated from
7 nonparticipating insurance, provided, that any
8 such bonuses or abatement of premiums shall be
9 fair and equitable to policyholders and for the
10 best interest of the company and its
11 policyholders~~+,~~

12 (2) ~~In~~ in the case of life or accident and health
13 insurance policies issued on the industrial debit
14 or weekly premium plan, making allowance to
15 policyholders who have continuously for a
16 specified period made premium payments directly
17 to an office of the insurer in an amount which
18 fairly represents the saving in collection
19 expense~~+,~~

20 (3) ~~Making~~ making a readjustment of the rate of
21 premium for a policy based on the loss or expense
22 experience thereunder, at the end of the first or
23 any subsequent policy year of insurance
24

1 thereunder, which may be made retroactive only
2 for such policy year~~+~~l

3 (4) ~~In~~ in the case of life insurance companies,
4 allowing its bona fide employees to receive a
5 commission on the premiums paid by them on
6 policies on their own lives~~+~~l

7 (5) ~~Issuing~~ issuing life or accident and health
8 policies on a salary saving or payroll deduction
9 plan at a reduced rate commensurate with the
10 savings made by the use of such plan~~+~~l and

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

16 ~~(e)~~ c. As used in this section, the word "insurance" includes
17 suretyship and the word "policy" includes bond~~+~~;

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

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

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

13 ~~(a) Any~~

14 a. any employment~~;~~;

15 ~~(b) Any~~

16 b. any shares of stock or other securities issued or at
17 any time to be issued or any interest therein or
18 rights thereto~~;~~;

19 ~~(c) Any~~

20 c. any advisory board contract, or any similar contract,
21 agreement or understanding, offering, providing for,
22 or promising any special profits~~;~~;

23 ~~(d) Any~~

24

1 d. any prizes, goods, wares, merchandise, or tangible
2 property of an aggregate value in excess of
3 ~~Twenty-five Dollars (\$25.00).~~ One Hundred Dollars
4 (\$100.00), and

5 ~~(e) Any~~

6 e. any special favor, advantage or other benefit in the
7 payment, method of payment or credit for payment of
8 the premium through the use of credit cards, credit
9 card facilities, credit card lists, or wholesale or
10 retail credit accounts of another person. The
11 provisions of this ~~paragraph~~ subparagraph shall not
12 apply to individual policies insuring against loss
13 resulting from bodily injury or death by accident as
14 defined by Article 44 of the Oklahoma Insurance Code;i

15 11. Premature disposal of premium notes prohibited. No insurer
16 or agent thereof shall hypothecate, sell, or dispose of a promissory
17 note received in payment of any part of a premium on a policy of
18 insurance applied for prior to the delivery of the policy;i

19 12. Fraudulent statement in application; penalty. Any
20 insurance agent, examining physician, or other person who knowingly
21 or willfully makes a false or fraudulent statement or representation
22 in or relative to an application for insurance, or who makes any
23 such statement to obtain a fee, commission, money, or benefit shall
24 be guilty of a misdemeanor;i and

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

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

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

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

11 ~~(d)~~ d. thereby creates an impression or implication,
12 including by omission, that the financial institution
13 or a financial-institution-authorized entity is or may
14 be the one making the notification or solicitation.

15 Nothing in this paragraph shall be interpreted to prohibit the
16 reference to or use of the name of a financial institution made
17 pursuant to a contractual agreement between the insurer and the
18 financial institution.

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