

SENATE BILL No. 23

By Committee on Financial Institutions and Insurance

1-16

AN ACT concerning insurance; relating to unfair and deceptive acts or practices; requiring agents and insurers to respond to inquiries from the commissioner of insurance within 14 calendar days; authorizing certain rebate pilot programs to exceed one year in duration; amending K.S.A. 2024 Supp. 40-2404 and 40-4909 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2024 Supp. 40-2404 is hereby amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison that:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the

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For Senator Francisco
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Office of Revisor of Statutes
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1 policyholder, certificate holder, potential certificate holder, insured,
2 potential insured or applicant; or

3 (9) assist in the administration of the employee or retiree benefit
4 insurance coverage.

5 (C) The cost to the insurer or producer offering the product or service
6 to any given customer shall be reasonable in comparison to such
7 customer's premiums or insurance coverage for the policy class.

8 (D) If the insurer or producer is providing the product or service
9 offered, the insurer or producer shall ensure that the customer is provided
10 with contact information, upon request, to assist the customer with
11 questions regarding the product or service.

12 (E) The commissioner may adopt rules and regulations when
13 implementing the permitted practices set forth in this section to ensure
14 consumer protection. Such rules and regulations, consistent with
15 applicable law, may address, among other issues, consumer data
16 protections and privacy, consumer disclosure and unfair discrimination.

17 (F) The availability of the value-added product or service shall be
18 based on documented objective criteria and offered in a manner that is not
19 unfairly discriminatory. The documented criteria shall be maintained by
20 the insurer or producer and produced upon request by the commissioner.

21 (G) (1) If an insurer or producer does not have sufficient evidence but
22 has a good-faith belief that the product or service meets the criteria in
23 subsection (8)(b)(v)(B), the insurer or producer may provide the product or
24 service in a manner that is not unfairly discriminatory as part of a pilot or
25 testing program for not more than one year. An insurer or producer shall
26 notify the commissioner of such a pilot or testing program offered to
27 consumers in this state prior to launching and may proceed with the
28 program unless the commissioner objects within 21 days of notice.

29 (2) *If the insurer or producer is unable to determine sufficient*
30 *evidence within the one-year pilot or testing period, the insurer or*
31 *producer may request that such pilot or testing period be extended for*
32 *such additional time as necessary to determine if the product or service*
33 *meets the criteria described in subsection (8)(b)(v)(B).*

34 (vi) An insurer or a producer may:

35 (A) Offer or give non-cash gifts, items or services, including meals to
36 or charitable donations on behalf of a customer, in connection with the
37 marketing, sale, purchase or retention of contracts of insurance, as long as
38 the cost does not exceed an amount determined to be reasonable by the
39 commissioner per policy year per term. The offer shall be made in a
40 manner that is not unfairly discriminatory. The customer shall not be
41 required to purchase, continue to purchase or renew a policy in exchange
42 for the gift, item or service.

43 (B) Conduct raffles or drawings to the extent permitted by state law,

Upon such a request, the commissioner may grant
an extension of a specified time.