

CS/HB 1111

2023

1                               A bill to be entitled  
2           An act relating to value-added insurance products;  
3           amending s. 626.9541, F.S.; providing that certain  
4           restrictions against unfair discrimination and  
5           unlawful rebates do not include value-added products  
6           and services offered and provided by insurers and  
7           their agents if certain conditions are met; providing  
8           requirements for and restrictions on insurers and  
9           agents offering and providing such products and  
10          services; authorizing insurers and agents to provide  
11          such products and services as part of a pilot and  
12          testing program under certain circumstances;  
13          authorizing the Financial Services Commission to adopt  
14          rules; providing an effective date.

15  
16   Be It Enacted by the Legislature of the State of Florida:  
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18           Section 1. Paragraph (h) of subsection (1) of section  
19   626.9541, Florida Statutes, is amended, and paragraph (g) of  
20   that subsection is republished, to read:

21           626.9541 Unfair methods of competition and unfair or  
22   deceptive acts or practices defined.—

23           (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
24   ACTS.—The following are defined as unfair methods of competition  
25   and unfair or deceptive acts or practices:

26 (g) Unfair discrimination.—

27 1. Knowingly making or permitting unfair discrimination  
28 between individuals of the same actuarially supportable class  
29 and equal expectation of life, in the rates charged for a life  
30 insurance or annuity contract, in the dividends or other  
31 benefits payable thereon, or in any other term or condition of  
32 such contract.

33 2. Knowingly making or permitting unfair discrimination  
34 between individuals of the same actuarially supportable class,  
35 as determined at the time of initial issuance of the coverage,  
36 and essentially the same hazard, in the amount of premium,  
37 policy fees, or rates charged for a policy or contract of  
38 accident, disability, or health insurance, in the benefits  
39 payable thereunder, in the terms or conditions of such contract,  
40 or in any other manner.

41 3. For a health insurer, life insurer, disability insurer,  
42 property and casualty insurer, automobile insurer, or managed  
43 care provider to underwrite a policy, or refuse to issue,  
44 reissue, or renew a policy, refuse to pay a claim, cancel or  
45 otherwise terminate a policy, or increase rates based upon the  
46 fact that an insured or applicant who is also the proposed  
47 insured has made a claim or sought or should have sought medical  
48 or psychological treatment in the past for abuse, protection  
49 from abuse, or shelter from abuse, or that a claim was caused in  
50 the past by, or might occur as a result of, any future assault,

CS/HB 1111

2023

51 battery, or sexual assault by a family or household member upon  
52 another family or household member as defined in s. 741.28. A  
53 health insurer, life insurer, disability insurer, or managed  
54 care provider may refuse to underwrite, issue, or renew a policy  
55 based on the applicant's medical condition, but may not consider  
56 whether such condition was caused by an act of abuse. For  
57 purposes of this section, the term "abuse" means the occurrence  
58 of one or more of the following acts:

- 59 a. Attempting or committing assault, battery, sexual  
60 assault, or sexual battery;
- 61 b. Placing another in fear of imminent serious bodily  
62 injury by physical menace;
- 63 c. False imprisonment;
- 64 d. Physically or sexually abusing a minor child; or
- 65 e. An act of domestic violence as defined in s. 741.28.

66  
67 This subparagraph does not prohibit a property and casualty  
68 insurer or an automobile insurer from excluding coverage for  
69 intentional acts by the insured if such exclusion is not an act  
70 of unfair discrimination as defined in this paragraph.

71 4. For a personal lines property or personal lines  
72 automobile insurer to:

- 73 a. Refuse to issue, reissue, or renew a policy; cancel or  
74 otherwise terminate a policy; or charge an unfairly  
75 discriminatory rate in this state based on the lawful use,

76 possession, or ownership of a firearm or ammunition by the  
77 insurance applicant, insured, or a household member of the  
78 applicant or insured. This sub-subparagraph does not prevent an  
79 insurer from charging a supplemental premium that is not  
80 unfairly discriminatory for a separate rider voluntarily  
81 requested by the insurance applicant to insure a firearm or a  
82 firearm collection whose value exceeds the standard policy  
83 coverage.

84 b. Disclose the lawful ownership or possession of firearms  
85 of an insurance applicant, insured, or household member of the  
86 applicant or insured to a third party or an affiliated entity of  
87 the insurer unless the insurer discloses to the applicant or  
88 insured the specific need to disclose the information and the  
89 applicant or insured expressly consents to the disclosure, or  
90 the disclosure is necessary to quote or bind coverage, continue  
91 coverage, or adjust a claim. For purposes of underwriting and  
92 issuing insurance coverage, this sub-subparagraph does not  
93 prevent the sharing of information between an insurance company  
94 and its licensed insurance agent if a separate rider has been  
95 voluntarily requested by the policyholder or prospective  
96 policyholder to insure a firearm or a firearm collection whose  
97 value exceeds the standard policy coverage.

98 (h) Unlawful rebates.—

99 1. Except as otherwise expressly provided by law, or in an  
100 applicable filing with the office, knowingly:

101 a. Permitting, or offering to make, or making, any  
 102 contract or agreement as to such contract other than as plainly  
 103 expressed in the insurance contract issued thereon;

104 b. Paying, allowing, or giving, or offering to pay, allow,  
 105 or give, directly or indirectly, as inducement to such insurance  
 106 contract, any unlawful rebate of premiums payable on the  
 107 contract, any special favor or advantage in the dividends or  
 108 other benefits thereon, or any valuable consideration or  
 109 inducement whatever not specified in the contract;

110 c. Giving, selling, or purchasing, or offering to give,  
 111 sell, or purchase, as inducement to such insurance contract or  
 112 in connection therewith, any stocks, bonds, or other securities  
 113 of any insurance company or other corporation, association, or  
 114 partnership, or any dividends or profits accrued thereon, or  
 115 anything of value whatsoever not specified in the insurance  
 116 contract.

117 2. Nothing in paragraph (g) or subparagraph 1. of this  
 118 paragraph shall be construed as including within the definition  
 119 of discrimination or unlawful rebates:

120 a. In the case of any contract of life insurance or life  
 121 annuity, paying bonuses to all policyholders or otherwise  
 122 abating their premiums in whole or in part out of surplus  
 123 accumulated from nonparticipating insurance; provided that any  
 124 such bonuses or abatement of premiums is fair and equitable to  
 125 all policyholders and for the best interests of the company and

126 | its policyholders.

127 |       b. In the case of life insurance policies issued on the  
 128 | industrial debit plan, making allowance to policyholders who  
 129 | have continuously for a specified period made premium payments  
 130 | directly to an office of the insurer in an amount which fairly  
 131 | represents the saving in collection expenses.

132 |       c. Readjustment of the rate of premium for a group  
 133 | insurance policy based on the loss or expense thereunder, at the  
 134 | end of the first or any subsequent policy year of insurance  
 135 | thereunder, which may be made retroactive only for such policy  
 136 | year.

137 |       d. Issuance of life insurance policies or annuity  
 138 | contracts at rates less than the usual rates of premiums for  
 139 | such policies or contracts, as group insurance or employee  
 140 | insurance as defined in this code.

141 |       e. Issuing life or disability insurance policies on a  
 142 | salary savings, bank draft, preauthorized check, payroll  
 143 | deduction, or other similar plan at a reduced rate reasonably  
 144 | related to the savings made by the use of such plan.

145 |       3.a. No title insurer, or any member, employee, attorney,  
 146 | agent, or agency thereof, shall pay, allow, or give, or offer to  
 147 | pay, allow, or give, directly or indirectly, as inducement to  
 148 | title insurance, or after such insurance has been effected, any  
 149 | rebate or abatement of the premium or any other charge or fee,  
 150 | or provide any special favor or advantage, or any monetary

151 consideration or inducement whatever.

152       b. Nothing in this subparagraph shall be construed as  
153 prohibiting the payment of fees to attorneys at law duly  
154 licensed to practice law in the courts of this state, for  
155 professional services, or as prohibiting the payment of earned  
156 portions of the premium to duly appointed agents or agencies who  
157 actually perform services for the title insurer. Nothing in this  
158 subparagraph shall be construed as prohibiting a rebate or  
159 abatement of an attorney fee charged for professional services,  
160 or that portion of the premium that is not required to be  
161 retained by the insurer pursuant to s. 627.782(1), or any other  
162 agent charge or fee to the person responsible for paying the  
163 premium, charge, or fee.

164       c. No insured named in a policy, or any other person  
165 directly or indirectly connected with the transaction involving  
166 the issuance of such policy, including, but not limited to, any  
167 mortgage broker, real estate broker, builder, or attorney, any  
168 employee, agent, agency, or representative thereof, or any other  
169 person whatsoever, shall knowingly receive or accept, directly  
170 or indirectly, any rebate or abatement of any portion of the  
171 title insurance premium or of any other charge or fee or any  
172 monetary consideration or inducement whatsoever, except as set  
173 forth in sub-subparagraph b.; provided, in no event shall any  
174 portion of the attorney fee, any portion of the premium that is  
175 not required to be retained by the insurer pursuant to s.

176 627.782(1), any agent charge or fee, or any other monetary  
177 consideration or inducement be paid directly or indirectly for  
178 the referral of title insurance business.

179 4.a. Paragraph (g) or subparagraph 1. may not be construed  
180 as including within the definition of unfair discrimination or  
181 unlawful rebates the offer or provision by an insurer or an  
182 agent of the insurer, including by or through an employee, an  
183 affiliate, or a third-party representative, of a value-added  
184 product or service at no or reduced cost when such product or  
185 service is not specified in the insurance policy, if the product  
186 or service relates to the insurance coverage and is primarily  
187 designed to do one or more of the following:

188 (I) Provide loss mitigation or loss control;

189 (II) Reduce claim costs or claim settlement costs;

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

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

194 (V) Enhance health;

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

197 (VII) Provide post-loss services;

198 (VIII) Incentivize behavioral changes to improve the  
199 health or reduce the risk of death or disability of a  
200 policyholder, potential policyholder, certificateholder,



CS/HB 1111

2023

201 potential certificateholder, insured, potential insured, or  
202 applicant; or

203 (IX) Assist in the administration of employee or retiree  
204 benefit insurance coverage.

205 b. The cost to the insurer or agent offering the product  
206 or service to a customer must be reasonable in comparison to the  
207 customer's premiums or insurance coverage for the policy class.

208 c. If the insurer or agent is providing the product or  
209 service, the insurer or agent must ensure that the customer is  
210 provided with contact information to assist the customer with  
211 questions regarding the product or service.

212 d. The availability of the product or service must be  
213 based on documented objective evidence, and the product or  
214 service must be offered in a manner that is not unfairly  
215 discriminatory. The documented evidence must be maintained by  
216 the insurer or agent and produced upon request by the office or  
217 the department.

218 e. If an insurer or agent has a good faith belief, but  
219 does not have sufficient evidence to demonstrate, that the  
220 product or service meets any of the criteria in sub-sub-  
221 subparagraphs a.(I)-(IX), the insurer or agent may provide the  
222 product or service in a manner that is not unfairly  
223 discriminatory as part of a pilot or testing program for up to 1  
224 year. The insurer or agent must notify the office or department,  
225 as applicable, of such pilot or testing program offered to

CS/HB 1111

2023

226 consumers in this state before commencing the program. The  
227 insurer or agent may commence the program unless the office or  
228 department, as applicable, objects to the program within 21 days  
229 after receiving the notice.

230 f. An insurer, agent, or representative thereof may not  
231 offer or provide insurance as an inducement to the purchase of  
232 another policy or otherwise use the words "free," "no cost," or  
233 similar words in an advertisement.

234 g. The commission may adopt rules to administer this  
235 subparagraph to ensure consumer protection. Such rules,  
236 consistent with applicable law, may address, among other issues,  
237 consumer data protections and privacy, consumer disclosure, and  
238 unfair discrimination.

239 Section 2. This act shall take effect July 1, 2023.