

By Senator Collins

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1                   A bill to be entitled  
2       An act relating to insurance; amending s. 627.4301,  
3       F.S.; revising restrictions on the use of genetic  
4       information for insurance purposes by life insurers  
5       and long-term care insurers; specifying a restriction  
6       on and an authorized use of genetic information for  
7       insurance purposes by disability income insurers;  
8       deleting a provision construing certain actions by  
9       life insurers and long-term care insurers; amending s.  
10      626.9541, F.S.; providing that certain restrictions  
11      against unfair discrimination or unlawful rebates do  
12      not include value-added products or services offered  
13      or provided by insurers or their agents if certain  
14      conditions are met; providing requirements for and  
15      restrictions on insurers or agents offering or  
16      providing such products or services; authorizing  
17      insurers or agents to provide such products or  
18      services as part of a pilot or testing program under  
19      certain circumstances; specifying authorized value-  
20      added products and services; authorizing the Financial  
21      Services Commission to adopt rules; providing an  
22      effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Subsection (2) of section 627.4301, Florida  
27       Statutes, is amended to read:

28       627.4301 Genetic information for insurance purposes.—

29       (2) USE OF GENETIC INFORMATION.—

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30 (a) In the absence of a diagnosis of a condition related to  
31 genetic information, health insurers, ~~life insurers, and long-~~  
32 ~~term care insurers~~ authorized to transact insurance in this  
33 state may not cancel, limit, or deny coverage, or establish  
34 differentials in premium rates, based on such information.

35 (b) Health insurers, ~~life insurers, and long-term care~~  
36 ~~insurers~~ may not require or solicit genetic information, use  
37 genetic test results, or consider a person's decisions or  
38 actions relating to genetic testing in any manner for any  
39 insurance purpose.

40 (c) A life insurer, long-term care insurer, or disability  
41 income insurer authorized to transact insurance in this state:

42 1. May not cancel coverage based on genetic information;  
43 require an applicant to take a genetic test as a condition of  
44 insurability; or obtain, request, or otherwise require the  
45 complete genome sequence of an applicant's DNA.

46 2. May use genetic information for underwriting purposes  
47 only if the genetic information is contained in the applicant's  
48 medical record.

49 (d) This section does not apply to the underwriting or  
50 issuance of an accident-only policy, hospital indemnity or fixed  
51 indemnity policy, dental policy, or vision policy or any other  
52 actions of an insurer directly related to an accident-only  
53 policy, hospital indemnity or fixed indemnity policy, dental  
54 policy, or vision policy.

55 ~~(d) Nothing in this section shall be construed as~~  
56 ~~preventing a life insurer or long-term care insurer from~~  
57 ~~accessing an individual's medical record as part of an~~  
58 ~~application exam. Nothing in this section prohibits a life~~

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59 ~~insurer or long term care insurer from considering a medical~~  
60 ~~diagnosis included in an individual's medical record, even if a~~  
61 ~~diagnosis was made based on the results of a genetic test.~~

62 Section 2. Paragraph (h) of subsection (1) of section  
63 626.9541, Florida Statutes, is amended to read:

64 626.9541 Unfair methods of competition and unfair or  
65 deceptive acts or practices defined.—

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

69 (h) *Unlawful rebates.*—

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

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

75 b. Paying, allowing, or giving, or offering to pay, allow,  
76 or give, directly or indirectly, as inducement to such insurance  
77 contract, any unlawful rebate of premiums payable on the  
78 contract, any special favor or advantage in the dividends or  
79 other benefits thereon, or any valuable consideration or  
80 inducement whatever not specified in the contract;

81 c. Giving, selling, or purchasing, or offering to give,  
82 sell, or purchase, as inducement to such insurance contract or  
83 in connection therewith, any stocks, bonds, or other securities  
84 of any insurance company or other corporation, association, or  
85 partnership, or any dividends or profits accrued thereon, or  
86 anything of value whatsoever not specified in the insurance  
87 contract.

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

91           a. In the case of any contract of life insurance or life  
92 annuity, paying bonuses to all policyholders or otherwise  
93 abating their premiums in whole or in part out of surplus  
94 accumulated from nonparticipating insurance; provided that any  
95 such bonuses or abatement of premiums is fair and equitable to  
96 all policyholders and for the best interests of the company and  
97 its policyholders.

98           b. In the case of life insurance policies issued on the  
99 industrial debit plan, making allowance to policyholders who  
100 have continuously for a specified period made premium payments  
101 directly to an office of the insurer in an amount which fairly  
102 represents the saving in collection expenses.

103           c. Readjustment of the rate of premium for a group  
104 insurance policy based on the loss or expense thereunder, at the  
105 end of the first or any subsequent policy year of insurance  
106 thereunder, which may be made retroactive only for such policy  
107 year.

108           d. Issuance of life insurance policies or annuity contracts  
109 at rates less than the usual rates of premiums for such policies  
110 or contracts, as group insurance or employee insurance as  
111 defined in this code.

112           e. Issuing life or disability insurance policies on a  
113 salary savings, bank draft, preauthorized check, payroll  
114 deduction, or other similar plan at a reduced rate reasonably  
115 related to the savings made by the use of such plan.

116           3.a. No title insurer, or any member, employee, attorney,

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117 agent, or agency thereof, shall pay, allow, or give, or offer to  
118 pay, allow, or give, directly or indirectly, as inducement to  
119 title insurance, or after such insurance has been effected, any  
120 rebate or abatement of the premium or any other charge or fee,  
121 or provide any special favor or advantage, or any monetary  
122 consideration or inducement whatever.

123 b. Nothing in this subparagraph shall be construed as  
124 prohibiting the payment of fees to attorneys at law duly  
125 licensed to practice law in the courts of this state, for  
126 professional services, or as prohibiting the payment of earned  
127 portions of the premium to duly appointed agents or agencies who  
128 actually perform services for the title insurer. Nothing in this  
129 subparagraph shall be construed as prohibiting a rebate or  
130 abatement of an attorney fee charged for professional services,  
131 or that portion of the premium that is not required to be  
132 retained by the insurer pursuant to s. 627.782(1), or any other  
133 agent charge or fee to the person responsible for paying the  
134 premium, charge, or fee.

135 c. No insured named in a policy, or any other person  
136 directly or indirectly connected with the transaction involving  
137 the issuance of such policy, including, but not limited to, any  
138 mortgage broker, real estate broker, builder, or attorney, any  
139 employee, agent, agency, or representative thereof, or any other  
140 person whatsoever, shall knowingly receive or accept, directly  
141 or indirectly, any rebate or abatement of any portion of the  
142 title insurance premium or of any other charge or fee or any  
143 monetary consideration or inducement whatsoever, except as set  
144 forth in sub-subparagraph b.; provided, in no event shall any  
145 portion of the attorney fee, any portion of the premium that is

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146 not required to be retained by the insurer pursuant to s.  
147 627.782(1), any agent charge or fee, or any other monetary  
148 consideration or inducement be paid directly or indirectly for  
149 the referral of title insurance business.

150 4.a. Paragraph (g) or subparagraph 1. may not be construed  
151 as including within the definition of discrimination or unlawful  
152 rebates the offer or provision by an insurer or an agent of the  
153 insurer, including by or through employees, affiliates, or  
154 third-party representatives, of value-added products or services  
155 at no or reduced cost when such products or services are not  
156 specified in the insurance policy, if the product or service  
157 relates to the insurance coverage and is primarily designed to  
158 do one or more of the following:

159 (I) Provide loss mitigation or loss control;

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

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

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

165 (V) Enhance health;

166 (VI) Enhance financial wellness through items such as  
167 education or financial planning services;

168 (VII) Provide post-loss services;

169 (VIII) Incentivize behavioral changes to improve the health  
170 or reduce the risk of death or disability of a policyholder,  
171 potential policyholder, certificateholder, potential  
172 certificateholder, insured, potential insured, or applicant; or

173 (IX) Assist in the administration of employee or retiree  
174 benefit insurance coverage.

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

178 c. If the insurer or agent is providing the product or  
179 service, the insurer or agent must ensure that the customer is  
180 provided with contact information to assist the customer with  
181 questions regarding the product or service.

182 d. The availability of the product or service must be based  
183 on documented objective evidence, and the product or service  
184 must be offered in a manner that is not unfairly discriminatory.  
185 The documented evidence must be maintained by the insurer or  
186 agent and produced upon request by the office or the department.

187 e. If an insurer or agent has a good faith belief, but does  
188 not have sufficient evidence to demonstrate, that the product or  
189 service meets any of the criteria in sub-sub-paragraphs  
190 a.(I)-(IX), the insurer or agent may provide the product or  
191 service in a manner that is not unfairly discriminatory as part  
192 of a pilot or testing program for up to 1 year. An insurer or  
193 agent must notify the office or department, as applicable, of  
194 such pilot or testing program offered to consumers in this state  
195 before commencing the program. The insurer or agent may commence  
196 the program unless the office or department, as applicable,  
197 objects to the program within 21 days after receiving the  
198 notice.

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

203 g. For purposes of this subparagraph, value-added products

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204 and services may include:

205 (I) Offering or giving noncash gifts, items, or services,  
206 including meals to or charitable donations on behalf of a  
207 customer, in connection with the marketing, sale, purchase, or  
208 retention of contracts of insurance, provided the cost does not  
209 exceed an amount determined to be reasonable by commission rule  
210 per policy year per term. The offer must be made in a manner  
211 that is not unfairly discriminatory. The customer may not be  
212 required to purchase, continue to purchase, or renew a policy in  
213 exchange for the gift, item, or service.

214 (II) Offering or giving noncash gifts, items, or services,  
215 including meals to or charitable donations on behalf of a  
216 customer, to commercial or institutional customers in connection  
217 with the marketing, sale, purchase, or retention of contracts of  
218 insurance, provided the cost is reasonable in comparison to the  
219 premium or proposed premium and the cost of the gift or service  
220 is not included in any amounts charged to another person or  
221 entity. The offer must be made in a manner that is not unfairly  
222 discriminatory. The customer may not be required to purchase,  
223 continue to purchase, or renew a policy in exchange for the  
224 gift, item, or service.

225 (III) Conducting raffles or drawings permitted by state  
226 law, provided there is no financial cost to entrants for  
227 participating, the raffle or drawing does not obligate entrants  
228 to purchase insurance, the prizes are not valued in excess of a  
229 reasonable amount as determined by commission rule, and the  
230 raffle or drawing is open to the public. The raffle or drawing  
231 must be offered in a manner that is not unfairly discriminatory.  
232 The entrant may not be required to purchase, continue to



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233 purchase, or renew a policy in exchange for the gift, item, or  
234 service.

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

240 Section 3. This act shall take effect July 1, 2023.