

By the Committees on Rules; and Banking and Insurance; and  
Senator Collins

595-04201-23

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1                                   A bill to be entitled  
2       An act relating to insurance; amending s. 626.7851,  
3       F.S.; revising a minimum coursework qualification for  
4       licensure as a life agent; amending s. 626.9541, F.S.;  
5       providing that certain restrictions against unfair  
6       discrimination or unlawful rebates do not include  
7       value-added products or services offered or provided  
8       by life or health insurers or by life or health agents  
9       if certain conditions are met; providing requirements  
10      for and restrictions on such insurers or agents  
11      offering or providing such products or services;  
12      authorizing such insurers or agents to provide such  
13      products or services as part of a pilot or testing  
14      program under certain circumstances; authorizing the  
15      Financial Services Commission to adopt rules;  
16      providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. Section 626.7851, Florida Statutes, is amended  
21      to read:

22       626.7851 Requirement as to knowledge, experience, or  
23      instruction.—An applicant for a license as a life agent, except  
24      for a chartered life underwriter (CLU), shall not be qualified  
25      or licensed unless within the 4 years immediately preceding the  
26      date the application for a license is filed with the department  
27      he or she has:

28       (1) Successfully completed 30 ~~40~~ hours of coursework in  
29      life insurance, annuities, and variable contracts approved by

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30 the department, 3 hours of which shall be on the subject matter  
31 of ethics. Courses must include instruction on the subject  
32 matter of unauthorized entities engaging in the business of  
33 insurance;

34 (2) Successfully completed a minimum of 60 hours of  
35 coursework in multiple areas of insurance, which included life  
36 insurance, annuities, and variable contracts, approved by the  
37 department, 3 hours of which shall be on the subject matter of  
38 ethics. Courses must include instruction on the subject matter  
39 of unauthorized entities engaging in the business of insurance;

40 (3) Earned or maintained an active designation as Chartered  
41 Financial Consultant (ChFC) from the American College of  
42 Financial Services; or Fellow, Life Management Institute (FLMI)  
43 from the Life Management Institute;

44 (4) Held an active license in life insurance in another  
45 state. This provision may not be used unless the other state  
46 grants reciprocal treatment to licensees formerly licensed in  
47 the state; or

48 (5) Been employed by the department or office for at least  
49 1 year, full time in life insurance regulatory matters and who  
50 was not terminated for cause, and application for examination is  
51 made within 4 years after the date of termination of his or her  
52 employment with the department or office.

53  
54 Prelicensure coursework is not required for an applicant who is  
55 a member or veteran of the United States Armed Forces or the  
56 spouse of such a member or veteran. A qualified individual must  
57 provide a copy of a military identification card, military  
58 dependent identification card, military service record, military

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59 personnel file, veteran record, discharge paper, or separation  
60 document that indicates such member is currently in good  
61 standing or such veteran is honorably discharged.

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 unfair discrimination or  
152 unlawful rebates the offer or provision by a life or health  
153 insurer or a life or health agent of the life or health insurer,  
154 including by or through an employee, an affiliate, or a third-  
155 party representative, of a value-added product or service at no  
156 or reduced cost when such product or service is not specified in  
157 the life or health insurance policy, if the product or service  
158 relates to the insurance coverage and is primarily designed to  
159 do one or more of the following:

160 (I) Provide loss mitigation or loss control;

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

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

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

166 (V) Enhance health;

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

169 (VII) Provide post-loss services;

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

173 certificateholder, insured, potential insured, or applicant; or

174 (IX) Assist in the administration of employee or retiree

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175 benefit insurance coverage.

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

180 c. If the life or health insurer or life or health agent is  
181 providing the product or service, the life or health insurer or  
182 life or health agent must ensure that the customer is provided  
183 with contact information to assist the customer with questions  
184 regarding the product or service.

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

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

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204 receiving the notice.

205 f. A life or health insurer, life or health agent, or  
206 representative thereof may not offer or provide life or health  
207 insurance as an inducement to the purchase of another policy or  
208 otherwise use the words "free," "no cost," or similar words in  
209 an advertisement.

210 g. The commission may adopt rules to administer this  
211 subparagraph to ensure consumer protection. Such rules,  
212 consistent with applicable law, may address, among other issues,  
213 consumer data protections and privacy, consumer disclosure, and  
214 unfair discrimination.

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