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SENATE BILL 79

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Clemente Sanchez

AN ACT

RELATING TO INSURANCE; ENACTING PROVISIONS ALLOWING INSURANCE AGENTS TO GIVE PROSPECTIVE CUSTOMERS LIMITED GIFTS AND PRIZES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-16-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 283, as amended) is amended to read:

"59A-16-17. UNFAIR DISCRIMINATION, REBATES PROHIBITED-- OTHER COVERAGES.--

A. No property, casualty or title insurer, or nonprofit health care or prepaid dental plan or other insurance-type organization, or any employee or representative thereof, and no insurance producer or other representative shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or coverage, or after insurance or coverage has been effected, any

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1 rebate, discount, abatement, credit or reduction of the premium
2 named in a policy, or any special favor or advantage in the
3 dividends or other benefits to accrue thereon, or any valuable
4 consideration or inducement whatever, not specified or provided
5 for in the policy, except to the extent provided for in an
6 applicable filing with the superintendent as provided by law or
7 as allowed by this section.

8 B. No title insurer or title insurance producer
9 shall:

10 (1) pay, directly or indirectly, to the
11 insured or any person acting as agent, representative, attorney
12 or employee of the owner, lessee, mortgagee, existing or
13 prospective, of the real property, or interest therein, that is
14 the subject matter of title insurance or as to which a service
15 is to be performed any commission or part of its fee or charges
16 or other consideration as inducement or compensation for the
17 placing of any order for a title insurance policy or for
18 performance of any escrow or other service by the insurer with
19 respect thereto;

20 (2) issue any policy or perform any service in
21 connection with which it or any insurance producer or other
22 person has paid or contemplates paying any commission, rebate
23 or inducement in violation of this section;

24 (3) give or receive, directly or indirectly,
25 any consideration or thing of value for the referral of title

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1 insurance business or escrow or other service provided by a
2 title insurer or title insurance producer unless otherwise
3 permitted by regulation of the superintendent; or

4 (4) enter into a reinsurance agreement with an
5 affiliate of a real estate developer, real estate agency,
6 mortgage lender or referrer of title business without the prior
7 written approval of the superintendent.

8 C. No insured named in a policy or any employee of
9 such insured shall knowingly receive or accept, directly or
10 indirectly, any [~~such~~] rebate, discount, abatement, credit or
11 reduction of premium, or any [~~such~~] special favor or advantage
12 or valuable consideration or inducement, except as allowed by
13 this section.

14 D. No [~~such~~] insurer or organization shall make or
15 permit any unfair discrimination between insureds or property
16 having like insuring or risk characteristics, in the premium or
17 rates charged for insurance or coverage, or in the dividends or
18 other benefits payable thereon or in any other of the terms and
19 conditions of the insurance or coverage.

20 E. Nothing in this section shall be construed as
21 prohibiting the payment of commissions or other compensation to
22 licensed insurance producers or other representatives; or as
23 prohibiting the extension of credit to an insured for the
24 payment of any premium and for which credit a reasonable rate
25 of interest is charged and collected; or as prohibiting any

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1 insurer or insurance producer from allowing or returning to its
2 participating policyholders, members or subscribers, dividends,
3 savings or unabsorbed premium deposits. As to title insurance,
4 nothing in this section shall prohibit bulk rates or special
5 rates for customers of prescribed classes if such bulk or
6 special rates are provided for in the currently effective
7 schedule of fees and charges of the title insurer as filed with
8 the superintendent.

9 F. The provisions of this section shall not
10 prohibit a property, casualty or title insurer, or a nonprofit
11 health care or prepaid dental plan or other insurance-type
12 organization, or any employee or representative thereof, or an
13 insurance producer or other representative from providing to
14 customers or prospective customers prizes and gifts, including
15 goods, gift cards, gift certificates, charitable donations,
16 raffle entries, meals, event tickets and other items not
17 exceeding one hundred dollars (\$100) in the aggregate in value
18 per customer or prospective customer in any one calendar year."

19 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 1, 2017.

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