

AN ACT

relating to certain promotional practices not considered to be prohibited discrimination, rebates, or inducements in insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 541.058, Insurance Code, is amended to read as follows:

(b) It is not a rebate or discrimination prohibited by Section 541.056(a) or 541.057:

(1) for a life insurance or life annuity contract, to pay a bonus to a policyholder or otherwise abate the policyholder's premiums in whole or in part out of surplus accumulated from nonparticipating insurance policies if the bonus or abatement:

(A) is fair and equitable to policyholders; and

(B) is in the best interests of the insurer and its policyholders;

(2) for a life insurance policy issued on the industrial debit plan, to make to a policyholder who has continuously for a specified period made premium payments directly to the insurer's office an allowance in an amount that fairly represents the saving in collection expenses;

(3) for a group insurance policy, to readjust the rate of premium based on the loss or expense experience under the policy at the end of a policy year if the adjustment is retroactive for only that policy year;

1 (4) for a life annuity contract, to waive surrender
2 charges under the contract when the contract holder exchanges that
3 contract for another annuity contract issued by the same insurer or
4 an affiliate of the same insurer that is part of the same holding
5 company group if:

6 (A) the waiver and the exchange are fully,
7 fairly, and accurately explained to the contract holder in a manner
8 that is not deceptive or misleading; and

9 (B) the contract holder is given credit for the
10 time that the previous contract was held when determining any
11 surrender charges under the new contract;

12 (5) in connection with an accident and health
13 insurance policy, to provide to policy or certificate holders, in
14 addition to benefits under the terms of the insurance contract,
15 health-related services or health-related information, or to
16 disclose the availability of those additional services and
17 information to prospective policy or certificate holders; ~~or~~

18 (6) in connection with a health maintenance
19 organization evidence of coverage, to provide to enrollees, in
20 addition to benefits under the evidence of coverage, health-related
21 services or health-related information, or to disclose the
22 availability of those additional services and information to
23 prospective enrollees or contract holders; or

24 (7) in connection with an offer or sale of a life
25 insurance policy or contract, accident and health insurance policy
26 or contract, or annuity contract, to give, provide, or allow or
27 offer to give, provide, or allow an item that is a promotional

1 advertising item, educational item, or traditional courtesy
2 commonly extended to consumers and that is valued at \$25 or less.

3 SECTION 2. Section 1806.053, Insurance Code, is amended to
4 read as follows:

5 Sec. 1806.053. DISCRIMINATIONS OR DISTINCTIONS. Except as
6 provided by this subchapter [~~Section 1806.056~~], with respect to
7 business written in this state:

8 (1) an insurer may not discriminate or make a
9 distinction, or permit discrimination or a distinction to be made,
10 among insureds having like hazards with respect to premiums charged
11 for, or dividends or other benefits payable under, an insurance
12 policy;

13 (2) an insurer or an insurer's agent may not make an
14 insurance contract or an agreement relating to that insurance,
15 other than as expressed in the policy; and

16 (3) an insurer or an insurer's agent or other
17 representative may not directly or indirectly pay, allow, or give,
18 or offer to pay, allow, or give, as an inducement to the insured, a
19 rebate payable on the policy or a special favor or advantage in the
20 dividends or other benefits to accrue, or anything of value, not
21 specified in the policy.

22 SECTION 3. Subchapter B, Chapter 1806, Insurance Code, is
23 amended by adding Section 1806.059 to read as follows:

24 Sec. 1806.059. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED.
25 Section 1806.053 does not prohibit an insurer or an insurer's agent
26 or other representative from, in connection with an offer or sale of
27 an insurance policy subject to this subchapter, giving, providing,

1 or allowing or offering to give, provide, or allow an item that is a
2 promotional advertising item, educational item, or traditional
3 courtesy commonly extended to consumers and that is valued at \$25 or
4 less.

5 SECTION 4. Subchapter C, Chapter 1806, Insurance Code, is
6 amended by adding Section 1806.1041 to read as follows:

7 Sec. 1806.1041. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED.
8 Section 1806.104 does not prohibit an insurer, an insurer's
9 employee, or a broker or agent from, in connection with an offer or
10 sale of an insurance policy subject to this subchapter, giving,
11 providing, or allowing or offering to give, provide, or allow an
12 item that is a promotional advertising item, educational item, or
13 traditional courtesy commonly extended to consumers and that is
14 valued at \$25 or less.

15 SECTION 5. Subchapter D, Chapter 1806, Insurance Code, is
16 amended by adding Section 1806.1541 to read as follows:

17 Sec. 1806.1541. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED.
18 Section 1806.153 does not prohibit an insurer from, in connection
19 with an offer or sale of an insurance policy or contract subject to
20 this subchapter, giving, providing, or allowing or offering to
21 give, provide, or allow an item that is a promotional advertising
22 item, educational item, or traditional courtesy commonly extended
23 to consumers and that is valued at \$25 or less.

24 SECTION 6. Section 4005.053, Insurance Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) Subsection (c) does not prohibit an agent from, in
27 connection with an offer or sale of an insurance policy or contract,

1 giving, providing, or allowing or offering to give, provide, or
2 allow an item that is a promotional advertising item, educational
3 item, or traditional courtesy commonly extended to consumers and
4 that is valued at \$25 or less.

5 SECTION 7. The change in law made by this Act applies only
6 to conduct that occurs on or after the effective date of this Act.
7 Conduct that occurs before the effective date of this Act is
8 governed by the law applicable to the conduct immediately before
9 the effective date of this Act, and that law is continued in effect
10 for that purpose.

11 SECTION 8. This Act takes effect September 1, 2013.

S.B. No. 840

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 840 passed the Senate on March 21, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 840 passed the House on April 25, 2013, by the following vote: Yeas 135, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor