

1-1 By: Hancock S.B. No. 840
 1-2 (In the Senate - Filed February 26, 2013; March 5, 2013,
 1-3 read first time and referred to Committee on Business and Commerce;
 1-4 March 13, 2013, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; March 13, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to certain promotional practices not considered to be
 1-20 prohibited discrimination, rebates, or inducements in insurance.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subsection (b), Section 541.058, Insurance Code,
 1-23 is amended to read as follows:

1-24 (b) It is not a rebate or discrimination prohibited by
 1-25 Section 541.056(a) or 541.057:

1-26 (1) for a life insurance or life annuity contract, to
 1-27 pay a bonus to a policyholder or otherwise abate the policyholder's
 1-28 premiums in whole or in part out of surplus accumulated from
 1-29 nonparticipating insurance policies if the bonus or abatement:

1-30 (A) is fair and equitable to policyholders; and

1-31 (B) is in the best interests of the insurer and
 1-32 its policyholders;

1-33 (2) for a life insurance policy issued on the
 1-34 industrial debit plan, to make to a policyholder who has
 1-35 continuously for a specified period made premium payments directly
 1-36 to the insurer's office an allowance in an amount that fairly
 1-37 represents the saving in collection expenses;

1-38 (3) for a group insurance policy, to readjust the rate
 1-39 of premium based on the loss or expense experience under the policy
 1-40 at the end of a policy year if the adjustment is retroactive for
 1-41 only that policy year;

1-42 (4) for a life annuity contract, to waive surrender
 1-43 charges under the contract when the contract holder exchanges that
 1-44 contract for another annuity contract issued by the same insurer or
 1-45 an affiliate of the same insurer that is part of the same holding
 1-46 company group if:

1-47 (A) the waiver and the exchange are fully,
 1-48 fairly, and accurately explained to the contract holder in a manner
 1-49 that is not deceptive or misleading; and

1-50 (B) the contract holder is given credit for the
 1-51 time that the previous contract was held when determining any
 1-52 surrender charges under the new contract;

1-53 (5) in connection with an accident and health
 1-54 insurance policy, to provide to policy or certificate holders, in
 1-55 addition to benefits under the terms of the insurance contract,
 1-56 health-related services or health-related information, or to
 1-57 disclose the availability of those additional services and
 1-58 information to prospective policy or certificate holders; ~~[or]~~

1-59 (6) in connection with a health maintenance
 1-60 organization evidence of coverage, to provide to enrollees, in
 1-61 addition to benefits under the evidence of coverage, health-related

2-1 services or health-related information, or to disclose the
 2-2 availability of those additional services and information to
 2-3 prospective enrollees or contract holders; or

2-4 (7) in connection with an offer or sale of a life
 2-5 insurance policy or contract, accident and health insurance policy
 2-6 or contract, or annuity contract, to give, provide, or allow or
 2-7 offer to give, provide, or allow an item that is a promotional
 2-8 advertising item, educational item, or traditional courtesy
 2-9 commonly extended to consumers and that is valued at \$25 or less.

2-10 SECTION 2. Section 1806.053, Insurance Code, is amended to
 2-11 read as follows:

2-12 Sec. 1806.053. DISCRIMINATIONS OR DISTINCTIONS. Except as
 2-13 provided by this subchapter [~~Section 1806.056~~], with respect to
 2-14 business written in this state:

2-15 (1) an insurer may not discriminate or make a
 2-16 distinction, or permit discrimination or a distinction to be made,
 2-17 among insureds having like hazards with respect to premiums charged
 2-18 for, or dividends or other benefits payable under, an insurance
 2-19 policy;

2-20 (2) an insurer or an insurer's agent may not make an
 2-21 insurance contract or an agreement relating to that insurance,
 2-22 other than as expressed in the policy; and

2-23 (3) an insurer or an insurer's agent or other
 2-24 representative may not directly or indirectly pay, allow, or give,
 2-25 or offer to pay, allow, or give, as an inducement to the insured, a
 2-26 rebate payable on the policy or a special favor or advantage in the
 2-27 dividends or other benefits to accrue, or anything of value, not
 2-28 specified in the policy.

2-29 SECTION 3. Subchapter B, Chapter 1806, Insurance Code, is
 2-30 amended by adding Section 1806.059 to read as follows:

2-31 Sec. 1806.059. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED.
 2-32 Section 1806.053 does not prohibit an insurer or an insurer's agent
 2-33 or other representative from, in connection with an offer or sale of
 2-34 an insurance policy subject to this subchapter, giving, providing,
 2-35 or allowing or offering to give, provide, or allow an item that is a
 2-36 promotional advertising item, educational item, or traditional
 2-37 courtesy commonly extended to consumers and that is valued at \$25 or
 2-38 less.

2-39 SECTION 4. Subchapter C, Chapter 1806, Insurance Code, is
 2-40 amended by adding Section 1806.1041 to read as follows:

2-41 Sec. 1806.1041. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED.
 2-42 Section 1806.104 does not prohibit an insurer, an insurer's
 2-43 employee, or a broker or agent from, in connection with an offer or
 2-44 sale of an insurance policy subject to this subchapter, giving,
 2-45 providing, or allowing or offering to give, provide, or allow an
 2-46 item that is a promotional advertising item, educational item, or
 2-47 traditional courtesy commonly extended to consumers and that is
 2-48 valued at \$25 or less.

2-49 SECTION 5. Subchapter D, Chapter 1806, Insurance Code, is
 2-50 amended by adding Section 1806.1541 to read as follows:

2-51 Sec. 1806.1541. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED.
 2-52 Section 1806.153 does not prohibit an insurer from, in connection
 2-53 with an offer or sale of an insurance policy or contract subject to
 2-54 this subchapter, giving, providing, or allowing or offering to
 2-55 give, provide, or allow an item that is a promotional advertising
 2-56 item, educational item, or traditional courtesy commonly extended
 2-57 to consumers and that is valued at \$25 or less.

2-58 SECTION 6. Section 4005.053, Insurance Code, is amended by
 2-59 adding Subsection (d) to read as follows:

2-60 (d) Subsection (c) does not prohibit an agent from, in
 2-61 connection with an offer or sale of an insurance policy or contract,
 2-62 giving, providing, or allowing or offering to give, provide, or
 2-63 allow an item that is a promotional advertising item, educational
 2-64 item, or traditional courtesy commonly extended to consumers and
 2-65 that is valued at \$25 or less.

2-66 SECTION 7. The change in law made by this Act applies only
 2-67 to conduct that occurs on or after the effective date of this Act.
 2-68 Conduct that occurs before the effective date of this Act is
 2-69 governed by the law applicable to the conduct immediately before

3-1 the effective date of this Act, and that law is continued in effect
3-2 for that purpose.

3-3 SECTION 8. This Act takes effect September 1, 2013.

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