

## **Amendments to Unfair Trade Practices Law and Uniform Insurance Agents Licensing Act—Unfair Discrimination and Rebates; SB 448**

**SB 448** amends the state Unfair Trade Practice Law to exempt additional practices from those practices considered to be unfair or deceptive acts or practices in the business of insurance that relate to unfair discrimination and rebates. The bill amends the Uniform Insurance Agents Licensing Act to clarify that allowed rebating practices are not grounds for disciplinary action against an applicant or license holder seeking or issued a license under such act. The bill also amends law relating to fire and casualty insurance rates to replace the term “agent” with “producer.”

[*Note:* “Rebating” is the term used to encompass the offering or providing of any rebate, discount, abatement, credit, or reduction of premium named in an insurance policy, any special favor or advantage in the dividends or benefits to accrue, or other valuable consideration not specified in the policy, as an inducement to the sale of a policy.]

### ***Practices Exempted from Definition of Discrimination or Rebating***

The bill amends state Unfair Trade Practices Law with language from the National Association of Insurance Commissioners (NAIC) Unfair Trade Practices Model Law to exempt the following from practices considered as unfair and deceptive acts or practices pertaining to unfair discrimination and rebates:

- Engaging in an arrangement that violates Section 106 of the Bank Holding Company Act Amendments of 1972, as interpreted by the Board of Governors of the Federal Reserve System or Section 5(q) of the Home Owners’ Loan Act [*Note:* these acts generally prohibit a bank from conditioning the availability or price of one product on the requirement that the customer also obtain another product from the bank or an affiliate of the bank];
- The offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:
  - Relates to the insurance coverage; and
  - Is primarily designed to satisfy one or more of nine conditions listed in the bill;
  - The cost to the insurer or producer offering the product or service to any given customer is reasonable in comparison to such customer’s premiums or insurance coverage for the policy class;
  - If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the customer is provided with contact information, upon request, to assist the customer with questions regarding the product or service;

- The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory;
- If the insurer or producer does not have sufficient evidence but has a good-faith belief that the product or service is primarily designed to satisfy one or more of the nine listed conditions, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for not more than one year. Notice of such a pilot or testing program must be provided to the Commissioner and an insurer or producer may proceed unless the Commissioner objects within 21 days of the notice; and
- The Commissioner of Insurance (Commissioner) is authorized to adopt rules and regulations when implementing the permitted practices to ensure consumer protection; and
- An insurer or producer may:
  - Offer or give non-cash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with, or to commercial or institutional customers in connection with, the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost is determined reasonable; and
  - Conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the Commissioner, and the drawing or raffle is open to the public. All of these options must be offered in a manner that is not unfairly discriminatory and must not require the customer purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service; and
  - An insurer, producer, or representative of an insurer or producer cannot offer or provide insurance as an inducement to the purchase of another policy.

### ***Disciplinary Action on License***

The bill amends the Uniform Insurance Agents License Act to clarify that rebating practices permitted by law are not grounds for the Commissioner to deny, suspend, revoke, or refuse to renew any license issued under the Uniform Insurance Agents Licensing Act.