

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 48

Introduced by Scheer, 19.

Read first time January 08, 2015

Committee:

- 1 A BILL FOR AN ACT relating to insurance; to amend section 44-1525,
- 2 Reissue Revised Statutes of Nebraska; to designate certain acts by
- 3 insurers as unfair trade practices; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-1525, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-1525 Any of the following acts or practices, if committed in
4 violation of section 44-1524, shall be unfair trade practices in the
5 business of insurance:

6 (1) Making, issuing, circulating, or causing to be made, issued, or
7 circulated any estimate, illustration, circular, statement, sales
8 presentation, omission, or comparison which:

9 (a) Misrepresents the benefits, advantages, conditions, or terms of
10 any policy;

11 (b) Misrepresents the dividends or share of the surplus to be
12 received on any policy;

13 (c) Makes any false or misleading statements as to the dividends or
14 share of surplus previously paid on any policy;

15 (d) Misleads as to or misrepresents the financial condition of any
16 insurer or the legal reserve system upon which any life insurer operates;

17 (e) Uses any name or title of any policy or class of policies which
18 misrepresents the true nature thereof;

19 (f) Misrepresents for the purpose of inducing or tending to induce
20 the purchase, lapse, forfeiture, exchange, conversion, or surrender of
21 any policy, including intentionally misquoting any premium rate;

22 (g) Misrepresents for the purpose of effecting a pledge or
23 assignment of or effecting a loan against any policy; or

24 (h) Misrepresents any policy as being shares of stock;

25 (2) Making, publishing, disseminating, circulating, or placing
26 before the public, or causing, directly or indirectly, to be made,
27 published, disseminated, circulated, or placed before the public, in a
28 newspaper, magazine, or other publication, or in the form of a notice,
29 circular, pamphlet, letter, or poster, or over any radio or television
30 station, or in any other way, an advertisement, announcement, or
31 statement containing any assertion, representation, or statement with

1 respect to the business of insurance or with respect to any insurer in
2 the conduct of his or her insurance business which is untrue, deceptive,
3 or misleading;

4 (3) Making, publishing, disseminating, or circulating, directly or
5 indirectly, or aiding, abetting, or encouraging the making, publishing,
6 disseminating, or circulating of any oral or written statement or any
7 pamphlet, circular, article, or literature which is false or maliciously
8 critical of or derogatory to the financial condition of any insurer and
9 which is calculated to injure such insurer;

10 (4) Entering into any agreement to commit or by any concerted action
11 committing any act of boycott, coercion, or intimidation resulting in or
12 tending to result in unreasonable restraint of or monopoly in the
13 business of insurance;

14 (5)(a) Knowingly filing with any supervisory or other public
15 official, or knowingly making, publishing, disseminating, circulating, or
16 delivering to any person, or placing before the public, or knowingly
17 causing, directly or indirectly, to be made, published, disseminated,
18 circulated, delivered to any person, or placed before the public, any
19 false material statement of fact as to the financial condition of an
20 insurer; or

21 (b) Knowingly making any false entry of a material fact in any book,
22 report, or statement of any insurer or knowingly omitting to make a true
23 entry of any material fact pertaining to the business of such insurer in
24 any book, report, or statement of such insurer;

25 (6) Issuing or delivering or permitting agents, officers, or
26 employees to issue or deliver agency company stock or other capital
27 stock, or benefit certificates or shares in any common-law corporation,
28 or securities or any special or advisory board contracts or other
29 contracts of any kind promising returns and profits as an inducement to
30 insurance;

31 (7)(a) Making or permitting any unfair discrimination between

1 individuals of the same class and equal expectation of life in the rates
2 charged for any life insurance policy or annuity or in the dividends or
3 other benefits payable thereon or in any other of the terms and
4 conditions of such policy or annuity;

5 (b) Making or permitting any unfair discrimination between
6 individuals of the same class involving essentially the same hazards in
7 the amount of premium, policy fees, or rates charged for any sickness and
8 accident insurance policy or in the benefits payable thereunder, in any
9 of the terms or conditions of such policy, or in any other manner, except
10 that this subdivision shall not limit the negotiation of preferred
11 provider policies and contracts under sections 44-4101 to 44-4113;

12 (c) Making or permitting any unfair discrimination between
13 individuals or risks of the same class and of essentially the same
14 hazards by refusing to issue, refusing to renew, canceling, or limiting
15 the amount of insurance coverage on a property or casualty risk because
16 of the geographic location of the risk unless:

17 (i) The refusal, cancellation, or limitation is for a business
18 purpose which is not a pretext for unfair discrimination; or

19 (ii) The refusal, cancellation, or limitation is required by law,
20 rule, or regulation;

21 (d) Making or permitting any unfair discrimination between
22 individuals or risks of the same class and of essentially the same
23 hazards by refusing to issue, refusing to renew, canceling, or limiting
24 the amount of insurance coverage on a residential property risk, or the
25 personal property contained therein, because of the age of the
26 residential property unless:

27 (i) The refusal, cancellation, or limitation is for a business
28 purpose which is not a pretext for unfair discrimination; or

29 (ii) The refusal, cancellation, or limitation is required by law,
30 rule, or regulation;

31 (e) Refusing to insure, refusing to continue to insure, or limiting

1 the amount of coverage available to an individual solely because of the
2 sex or marital status of the individual. This subdivision shall not
3 prohibit an insurer from taking marital status into account for the
4 purpose of defining individuals eligible for dependent benefits; or

5 (f) Terminating or modifying coverage or refusing to issue or
6 refusing to renew any property or casualty insurance policy solely
7 because the applicant or insured or any employee of the applicant or
8 insured is mentally or physically impaired unless:

9 (i) The termination, modification, or refusal is for a business
10 purpose which is not a pretext for unfair discrimination; or

11 (ii) The termination, modification, or refusal is required by law,
12 rule, or regulation.

13 This subdivision (f) shall not apply to any sickness and accident
14 insurance policy sold by a casualty insurer and shall not be interpreted
15 to modify any other provision of law relating to the termination,
16 modification, issuance, or renewal of any policy;

17 (8)(a) Except as otherwise expressly provided by law:

18 (i) Knowingly permitting or offering to make or making any life
19 insurance policy, annuity, or sickness and accident insurance policy, or
20 agreement as to any such policy or annuity, other than as plainly
21 expressed in the policy or annuity issued thereon, or paying, allowing,
22 or giving, or offering to pay, allow, or give, directly or indirectly, as
23 inducement to such policy or annuity, any rebate of premiums payable on
24 the policy or annuity, or any special favor or advantage in the dividends
25 or other benefits thereon, or any valuable consideration or inducement
26 whatever not specified in the policy or annuity; or

27 (ii) Giving, selling, purchasing, or offering to give, sell, or
28 purchase as inducement to such policy or annuity or in connection
29 therewith any stocks, bonds, or other securities of any insurer or other
30 corporation, association, partnership, or limited liability company, or
31 any dividends or profits accrued thereon, or anything of value not

1 specified in the policy or annuity.

2 (b) Nothing in subdivision (7) or (8)(a) of this section shall be
3 construed as including within the definition of discrimination or rebates
4 any of the following acts or practices:

5 (i) In the case of any life insurance policy or annuity, paying
6 bonuses to policyholders or otherwise abating their premiums in whole or
7 in part out of surplus accumulated from nonparticipating insurance if
8 such bonuses or abatement of premiums are fair and equitable to
9 policyholders and for the best interests of the insurer and its
10 policyholders;

11 (ii) In the case of life insurance policies issued on the industrial
12 debit plan, making allowance to policyholders who have continuously for a
13 specified period made premium payments directly to an office of the
14 insurer in an amount which fairly represents the saving in collection
15 expenses; or

16 (iii) Readjustment of the rate of premium for a group insurance
17 policy based on the loss or expense thereunder, at the end of the first
18 or any subsequent policy year of insurance thereunder, which may be made
19 retroactive only for such policy year;

20 (9) Failing of any insurer to maintain a complete record of all the
21 complaints received since the date of its last examination conducted
22 pursuant to the Insurers Examination Act. This record shall indicate the
23 total number of complaints, their classification by line of insurance,
24 the nature of each complaint, the disposition of each complaint, and the
25 time it took to process each complaint. For purposes of this subdivision,
26 complaint shall mean any written communication primarily expressing a
27 grievance;

28 (10) Making false or fraudulent statements or representations on or
29 relative to an application for a policy for the purpose of obtaining a
30 fee, commission, money, or other benefit from any insurer, agent, broker,
31 or individual person;

1 (11) Failing of any insurer, upon receipt of a written inquiry from
2 the department, to respond to such inquiry or request additional
3 reasonable time to respond within fifteen working days;

4 (12) Accepting applications for or writing any policy of insurance
5 sold, negotiated, or solicited by an insurance producer or business
6 entity not licensed or appointed as required by the Insurance Producers
7 Licensing Act; ~~and~~

8 (13) Refusing to issue, refusing to renew, canceling, or limiting
9 the amount of coverage on a property and casualty risk due to a weather-
10 related casualty to the risk under a homeowner's policy unless the
11 policyholder failed to make repairs for a prior weather-related casualty
12 to the risk within a reasonable period of time or the period of time
13 specified in the policy;

14 (14) Surcharging by an insurer of a policyholder for a property and
15 casualty loss under a homeowner's policy on which the insurer did not pay
16 a claim;

17 (15) Surcharging by an insurer of a policyholder for a property and
18 casualty loss under a homeowner's policy due to a weather-related
19 casualty to a previously occupied or noncovered property; and

20 (16) Violating any provision of section 44-320, 44-348, 44-360,
21 44-361, 44-369, 44-393, 44-515 to 44-518, 44-522, 44-523, 44-7,101,
22 44-2132 to 44-2134, 44-3606, 44-4809, 44-4812, 44-4817, or 44-5266, the
23 Privacy of Insurance Consumer Information Act, or the Unfair
24 Discrimination Against Subjects of Abuse in Insurance Act.

25 Sec. 2. Original section 44-1525, Reissue Revised Statutes of
26 Nebraska, is repealed.