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1 A bill to be entitled
2 An act relating to insurance; amending s. 627.4301,
3 F.S.; revising restrictions on the use of genetic
4 information for insurance purposes by life insurers
5 and long-term care insurers; specifying a restriction
6 on and an authorized use of genetic information for
7 insurance purposes by disability income insurers;
8 deleting a provision construing certain actions by
9 life insurers and long-term care insurers; amending s.
10 626.9541, F.S.; providing that certain restrictions
11 against unfair discrimination or unlawful rebates do
12 not include value-added products or services offered
13 or provided by insurers or their agents if certain
14 conditions are met; providing requirements for and
15 restrictions on insurers or agents offering or
16 providing such products or services; authorizing
17 insurers or agents to provide such products or
18 services as part of a pilot or testing program under
19 certain circumstances; specifying authorized value-
20 added products and services; authorizing the Financial
21 Services Commission to adopt rules; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Subsection (2) of section 627.4301, Florida
 27 Statutes, is amended to read:

28 627.4301 Genetic information for insurance purposes.—

29 (2) USE OF GENETIC INFORMATION.—

30 (a) In the absence of a diagnosis of a condition related
 31 to genetic information, health insurers, ~~life insurers, and~~
 32 ~~long-term care insurers~~ authorized to transact insurance in this
 33 state may not cancel, limit, or deny coverage, or establish
 34 differentials in premium rates, based on such information.

35 (b) Health insurers, ~~life insurers, and long-term care~~
 36 ~~insurers~~ may not require or solicit genetic information, use
 37 genetic test results, or consider a person's decisions or
 38 actions relating to genetic testing in any manner for any
 39 insurance purpose.

40 (c) A life insurer, long-term care insurer, or disability
 41 income insurer authorized to transact insurance in this state:

42 1. May not cancel coverage based on genetic information;
 43 require an applicant to take a genetic test as a condition of
 44 insurability; or obtain, request, or otherwise require the
 45 complete genome sequence of an applicant's DNA.

46 2. May use genetic information for underwriting purposes
 47 only if the genetic information is contained in the applicant's
 48 medical record.

49 (d) This section does not apply to the underwriting or
 50 issuance of an accident-only policy, hospital indemnity or fixed

51 indemnity policy, dental policy, or vision policy or any other
 52 actions of an insurer directly related to an accident-only
 53 policy, hospital indemnity or fixed indemnity policy, dental
 54 policy, or vision policy.

55 ~~(d) Nothing in this section shall be construed as~~
 56 ~~preventing a life insurer or long-term care insurer from~~
 57 ~~accessing an individual's medical record as part of an~~
 58 ~~application exam. Nothing in this section prohibits a life~~
 59 ~~insurer or long-term care insurer from considering a medical~~
 60 ~~diagnosis included in an individual's medical record, even if a~~
 61 ~~diagnosis was made based on the results of a genetic test.~~

62 Section 2. Paragraph (h) of subsection (1) of section
 63 626.9541, Florida Statutes, is amended to read:

64 626.9541 Unfair methods of competition and unfair or
 65 deceptive acts or practices defined.—

66 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 67 ACTS.—The following are defined as unfair methods of competition
 68 and unfair or deceptive acts or practices:

69 (h) Unlawful rebates.—

70 1. Except as otherwise expressly provided by law, or in an
 71 applicable filing with the office, knowingly:

72 a. Permitting, or offering to make, or making, any
 73 contract or agreement as to such contract other than as plainly
 74 expressed in the insurance contract issued thereon;

75 b. Paying, allowing, or giving, or offering to pay, allow,

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76 or give, directly or indirectly, as inducement to such insurance
77 contract, any unlawful rebate of premiums payable on the
78 contract, any special favor or advantage in the dividends or
79 other benefits thereon, or any valuable consideration or
80 inducement whatever not specified in the contract;

81 c. Giving, selling, or purchasing, or offering to give,
82 sell, or purchase, as inducement to such insurance contract or
83 in connection therewith, any stocks, bonds, or other securities
84 of any insurance company or other corporation, association, or
85 partnership, or any dividends or profits accrued thereon, or
86 anything of value whatsoever not specified in the insurance
87 contract.

88 2. Nothing in paragraph (g) or subparagraph 1. of this
89 paragraph shall be construed as including within the definition
90 of discrimination or unlawful rebates:

91 a. In the case of any contract of life insurance or life
92 annuity, paying bonuses to all policyholders or otherwise
93 abating their premiums in whole or in part out of surplus
94 accumulated from nonparticipating insurance; provided that any
95 such bonuses or abatement of premiums is fair and equitable to
96 all policyholders and for the best interests of the company and
97 its policyholders.

98 b. In the case of life insurance policies issued on the
99 industrial debit plan, making allowance to policyholders who
100 have continuously for a specified period made premium payments

101 directly to an office of the insurer in an amount which fairly
 102 represents the saving in collection expenses.

103 c. Readjustment of the rate of premium for a group
 104 insurance policy based on the loss or expense thereunder, at the
 105 end of the first or any subsequent policy year of insurance
 106 thereunder, which may be made retroactive only for such policy
 107 year.

108 d. Issuance of life insurance policies or annuity
 109 contracts at rates less than the usual rates of premiums for
 110 such policies or contracts, as group insurance or employee
 111 insurance as defined in this code.

112 e. Issuing life or disability insurance policies on a
 113 salary savings, bank draft, preauthorized check, payroll
 114 deduction, or other similar plan at a reduced rate reasonably
 115 related to the savings made by the use of such plan.

116 3.a. No title insurer, or any member, employee, attorney,
 117 agent, or agency thereof, shall pay, allow, or give, or offer to
 118 pay, allow, or give, directly or indirectly, as inducement to
 119 title insurance, or after such insurance has been effected, any
 120 rebate or abatement of the premium or any other charge or fee,
 121 or provide any special favor or advantage, or any monetary
 122 consideration or inducement whatever.

123 b. Nothing in this subparagraph shall be construed as
 124 prohibiting the payment of fees to attorneys at law duly
 125 licensed to practice law in the courts of this state, for

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126 professional services, or as prohibiting the payment of earned
127 portions of the premium to duly appointed agents or agencies who
128 actually perform services for the title insurer. Nothing in this
129 subparagraph shall be construed as prohibiting a rebate or
130 abatement of an attorney fee charged for professional services,
131 or that portion of the premium that is not required to be
132 retained by the insurer pursuant to s. 627.782(1), or any other
133 agent charge or fee to the person responsible for paying the
134 premium, charge, or fee.

135 c. No insured named in a policy, or any other person
136 directly or indirectly connected with the transaction involving
137 the issuance of such policy, including, but not limited to, any
138 mortgage broker, real estate broker, builder, or attorney, any
139 employee, agent, agency, or representative thereof, or any other
140 person whatsoever, shall knowingly receive or accept, directly
141 or indirectly, any rebate or abatement of any portion of the
142 title insurance premium or of any other charge or fee or any
143 monetary consideration or inducement whatsoever, except as set
144 forth in sub-subparagraph b.; provided, in no event shall any
145 portion of the attorney fee, any portion of the premium that is
146 not required to be retained by the insurer pursuant to s.
147 627.782(1), any agent charge or fee, or any other monetary
148 consideration or inducement be paid directly or indirectly for
149 the referral of title insurance business.

150 4.a. Paragraph (g) or subparagraph 1. may not be construed

151 as including within the definition of discrimination or unlawful
 152 rebates the offer or provision by an insurer or an agent of the
 153 insurer, including by or through employees, affiliates, or
 154 third-party representatives, of value-added products or services
 155 at no or reduced cost when such products or services are not
 156 specified in the insurance policy, if the product or service
 157 relates to the insurance coverage and is primarily designed to
 158 do one or more of the following:

- 159 (I) Provide loss mitigation or loss control;
- 160 (II) Reduce claim costs or claim settlement costs;
- 161 (III) Provide education about liability risks or risk of
 162 loss to persons or property;
- 163 (IV) Monitor or assess risk, identify sources of risk, or
 164 develop strategies for eliminating or reducing risk;
- 165 (V) Enhance health;
- 166 (VI) Enhance financial wellness through items such as
 167 education or financial planning services;
- 168 (VII) Provide post-loss services;
- 169 (VIII) Incentivize behavioral changes to improve the
 170 health or reduce the risk of death or disability of a
 171 policyholder, potential policyholder, certificateholder,
 172 potential certificateholder, insured, potential insured, or
 173 applicant; or
- 174 (IX) Assist in the administration of employee or retiree
 175 benefit insurance coverage.

176 b. The cost to the insurer or agent offering the product
177 or service to a customer must be reasonable in comparison to the
178 customer's premiums or insurance coverage for the policy class.

179 c. If the insurer or agent is providing the product or
180 service, the insurer or agent must ensure that the customer is
181 provided with contact information to assist the customer with
182 questions regarding the product or service.

183 d. The availability of the product or service must be
184 based on documented objective evidence, and the product or
185 service must be offered in a manner that is not unfairly
186 discriminatory. The documented evidence must be maintained by
187 the insurer or agent and produced upon request by the office or
188 the department.

189 e. If an insurer or agent has a good faith belief, but
190 does not have sufficient evidence to demonstrate, that the
191 product or service meets any of the criteria in sub-sub-
192 subparagraphs a.(I)-(IX), the insurer or agent may provide the
193 product or service in a manner that is not unfairly
194 discriminatory as part of a pilot or testing program for up to 1
195 year. An insurer or agent must notify the office or department,
196 as applicable, of such pilot or testing program offered to
197 consumers in this state before commencing the program. The
198 insurer or agent may commence the program unless the office or
199 department, as applicable, objects to the program within 21 days
200 after receiving the notice.

201 f. An insurer, agent, or representative thereof may not
202 offer or provide insurance as an inducement to the purchase of
203 another policy or otherwise use the words "free," "no cost," or
204 similar words in an advertisement.

205 g. For purposes of this subparagraph, value-added products
206 and services may include:

207 (I) Offering or giving noncash gifts, items, or services,
208 including meals to or charitable donations on behalf of a
209 customer, in connection with the marketing, sale, purchase, or
210 retention of contracts of insurance, provided the cost does not
211 exceed an amount determined to be reasonable by commission rule
212 per policy year per term. The offer must be made in a manner
213 that is not unfairly discriminatory. The customer may not be
214 required to purchase, continue to purchase, or renew a policy in
215 exchange for the gift, item, or service.

216 (II) Offering or giving noncash gifts, items, or services,
217 including meals to or charitable donations on behalf of a
218 customer, to commercial or institutional customers in connection
219 with the marketing, sale, purchase, or retention of contracts of
220 insurance, provided the cost is reasonable in comparison to the
221 premium or proposed premium and the cost of the gift, item, or
222 service is not included in any amounts charged to another person
223 or entity. The offer must be made in a manner that is not
224 unfairly discriminatory. The customer may not be required to
225 purchase, continue to purchase, or renew a policy in exchange

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226 | for the gift, item, or service.

227 | (III) Conducting raffles or drawings permitted by state
228 | law, provided there is no financial cost to entrants for
229 | participating, the raffle or drawing does not obligate entrants
230 | to purchase insurance, the prizes are not valued in excess of a
231 | reasonable amount as determined by commission rule, and the
232 | raffle or drawing is open to the public. The raffle or drawing
233 | must be offered in a manner that is not unfairly discriminatory.
234 | The entrant may not be required to purchase, continue to
235 | purchase, or renew a policy in exchange for the gift, item, or
236 | service.

237 | h. The commission may adopt rules to administer this
238 | subparagraph to ensure consumer protection. Such rules,
239 | consistent with applicable law, may address, among other issues,
240 | consumer data protections and privacy, consumer disclosure, and
241 | unfair discrimination.

242 | Section 3. This act shall take effect July 1, 2023.