

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1042

Introduced by Bostar, 29; Aguilar, 35; Flood, 19; Lindstrom, 18; Pahls,
31; Slama, 1.

Read first time January 13, 2022

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to amend section 44-361, Reissue
2 Revised Statutes of Nebraska; to change provisions regarding
3 rebates; to add provisions regarding value-added products and
4 services; to provide criteria; to define a term; and to repeal the
5 original section.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-361, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-361 (1) No insurance company, by itself or any other party, and
4 no insurance agent or broker, personally or by any other party, shall
5 offer, promise, allow, give, set off, or pay, directly or indirectly, any
6 rebate of, or part of, the premium payable on the policy, or of any
7 policy, or agent's commission thereon, or earnings, profits, dividends,
8 or other benefits founded, arising, accruing or to accrue thereon or
9 therefrom, or any paid employment or contract for service, or for advice
10 of any kind, or any other valuable consideration or inducement to, or for
11 insurance, on any risk authorized to be taken under section 44-201 now or
12 hereafter to be written, which is not specified in the policy contract of
13 insurance. ~~No ; nor shall~~ any such company, agent, or broker, personally
14 or otherwise, shall offer, promise, give, sell or purchase any stock,
15 bonds, securities or property, or any dividends or profits accruing or to
16 accrue thereon, or other things of value whatsoever, as inducement to
17 insurance or in connection therewith, which is not specified in the
18 policy. No insured person or party shall receive or accept, directly or
19 indirectly, any rebate of premium, or part thereof, or agent's or
20 broker's commission thereon, payable on the policy, or on any policy of
21 insurance, or any favor or advantage or share in the dividends or other
22 benefits to accrue on, or any valuable consideration or inducement not
23 specified in the policy contract of insurance.

24 (2) Extending of interest-free credit on life and liability
25 insurance premiums or interest-free credit on crop hail insurance
26 premiums shall not be considered a rebate of the premium for purposes of
27 this section.

28 (3) Payments made pursuant to the Nebraska Right to Shop Act shall
29 not be considered a rebate of the premium for purposes of this section.

30 (4)(a) The offer or provision by an insurance company or an agent or
31 broker, by or through employees, affiliates, or third-party

1 representatives, of value-added products or services at no or reduced
2 cost when such products or services are not specified in the policy of
3 insurance shall not be prohibited by this section if the product or
4 service:

5 (i) Relates to the insurance coverage; and

6 (ii) Is primarily designed to satisfy one or more of the following:

7 (A) Provide loss mitigation or loss control;

8 (B) Reduce claim costs or claim settlement costs;

9 (C) Provide education about liability risks or risk of loss to
10 persons or property;

11 (D) Monitor or assess risk, identify sources of risk, or develop
12 strategies for eliminating or reducing risk;

13 (E) Enhance health;

14 (F) Enhance financial wellness through items such as education or
15 financial planning services;

16 (G) Provide post-loss services;

17 (H) Incent behavioral changes to improve the health or reduce the
18 risk of death or disability of a customer; or

19 (I) Assist in the administration of the employee or retiree benefit
20 insurance coverage.

21 (b) The cost to the insurance company or agent or broker offering
22 the product or service to any given customer shall be reasonable in
23 comparison to that customer's premiums or insurance coverage for the
24 policy class.

25 (c) If the insurance company or agent or broker is providing the
26 product or service offered, the insurance company or agent or broker
27 shall ensure that the customer is provided with contact information to
28 assist the customer with questions regarding the product or service.

29 (d) The Director of Insurance may adopt and promulgate rules and
30 regulations when implementing the permitted practices set forth in this
31 subsection to ensure consumer protection. Such rules and regulations,

1 consistent with applicable law, may address, among other issues, consumer
2 data protections and privacy, consumer disclosure, and unfair
3 discrimination.

4 (e) The availability of the value-added product or service shall be
5 based on documented objective criteria and offered in a manner that is
6 not unfairly discriminatory. The documented criteria shall be maintained
7 by the insurance company or agent or broker and produced upon request by
8 the Department of Insurance.

9 (f) If an insurance company or agent or broker does not have
10 sufficient evidence, but has a good-faith belief that the product or
11 service will achieve the purpose for which such product or service was
12 primarily designed under subdivision (4)(a)(ii) of this section, the
13 insurance company or agent or broker may provide the product or service
14 in a manner that is not unfairly discriminatory as part of a pilot or
15 testing program for no more than one year. An insurance company or agent
16 or broker shall notify the Department of Insurance of any such pilot or
17 testing program offered to consumers in this state prior to launching
18 such pilot or testing program and may proceed with the program unless the
19 department objects within twenty-one days of such notice.

20 (5) Notwithstanding the other provisions of this section, an
21 insurance company or an agent or broker may:

22 (a) Offer or give noncash gifts, items, or services, including meals
23 to or charitable donations on behalf of a customer, in connection with
24 the marketing, sale, purchase, or retention of contracts of insurance, as
25 long as the cost does not exceed an amount determined to be reasonable by
26 the Director of Insurance, per policy year per term. The offer shall be
27 made in a manner that is not unfairly discriminatory. The customer shall
28 not be required to purchase, continue to purchase, or renew a policy in
29 exchange for the gift, item, or service; and

30 (b) Conduct drawings or raffles to the extent permitted by state
31 law, as long as there is no financial cost to entrants to participate,

1 the drawing or raffle does not obligate participants to purchase
2 insurance, the prizes are not valued in excess of a reasonable amount
3 determined by the Director of Insurance, and the drawing or raffle is
4 open to the public. The drawing or raffle must be offered in a manner
5 that is not unfairly discriminatory. The customer shall not be required
6 to purchase, continue to purchase, or renew a policy in order to
7 participate in the drawing or raffle or in exchange for the drawing or
8 raffle prize.

9 (6) For purposes of subsections (4) and (5) of this section,
10 customer means a policyholder, potential policyholder, certificate
11 holder, potential certificate holder, insured, potential insured, or
12 applicant.

13 Sec. 2. Original section 44-361, Reissue Revised Statutes of
14 Nebraska, is repealed.