

House Bill 784 (COMMITTEE SUBSTITUTE)

By: Representatives Carson of the 46th, Maxwell of the 17th, and Lumsden of the 12th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide that insurers and insurance producers may advertise or conduct certain promotional
3 programs whereby certain items not to exceed a certain value may be provided and will not
4 be considered an unfair trade practice or an unlawful inducement; to provide for definitions;
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in
9 Code Section 33-6-4, relating to unfair trade practices, by revising subsection (a) and
10 subparagraph (b)(8)(C) as follows:

11 "(a) As used in this Code section, the term '~~policy~~':

12 (1) 'Gift certificate' shall have the same meaning as provided in Code Section 10-1-393.

13 (2) 'Policy' means any insuring bond issued by an insurer.

14 (3) 'Store gift card' shall have the same meaning as provided in Code Section 10-1-393."

15 "(C) Nothing in subparagraphs (A) and (B) of this paragraph shall be construed as
16 including within the definition of discrimination or rebates any of the following
17 practices:

18 (i) In the case of any contract of life insurance or life annuity, paying bonuses to
19 policyholders or otherwise abating their premiums in whole or in part out of surplus
20 accumulated from nonparticipating insurance, provided that any bonuses or abatement
21 of premiums shall be fair and equitable to policyholders and for the best interest of
22 the company and its policyholders;

23 (ii) In the case of life or accident and sickness insurance policies issued on the
24 industrial debit or weekly premium plan, making allowance in an amount which fairly
25 represents the saving in collection expense to policyholders who have continuously
26 for a specified period made premium payments directly to an office of the insurer;

- 27 (iii) Making a readjustment of the rate of premium for a policy based on the loss or
 28 expense experienced at the end of the first or any subsequent policy year of insurance
 29 thereunder, which adjustment may be made retroactive only for the policy year;
- 30 (iv) Issuing life or accident and sickness insurance policies covering bona fide
 31 employees of the insurer at a rate less than the rate charged other persons in the same
 32 class;
- 33 (v) Issuing life or accident and sickness policies on a salary-saving, payroll
 34 deduction, preauthorized, postdated, automatic check, or draft plan at a reduced rate
 35 commensurate with the savings made by the use of such plan;
- 36 (vi) Paying commissions or other compensation to duly licensed agents or brokers
 37 or allowing or returning dividends, savings, or unabsorbed premium deposits to
 38 participating policyholders, members, or subscribers;
- 39 (vii) Paying by an insurance agent of part or all of the commissions on public
 40 insurance to a nonprofit association of insurance agents which is affiliated with a
 41 recognized state or national insurance agents' association, which commissions are to
 42 be used in whole or in part for one or more civic enterprises;
- 43 (viii) Paying for food or refreshments by an insurer or an agent, broker, or employee
 44 of an insurer for current or prospective clients during group sales presentations and
 45 group seminars, provided that no insurance or annuity applications or contracts are
 46 offered or accepted at such presentations or seminars; ~~or~~
- 47 (ix) Paying for business meals and entertainment by an insurer or an agent, broker,
 48 or employee of an insurer, agent, or broker for current or prospective clients; or
- 49 (x) Advertising or conducting promotional programs by insurers or insurance
 50 producers whereby prizes, goods, wares, store gift cards, gift certificates, sporting
 51 event tickets, or merchandise, not exceeding \$50.00 in value per customer in the
 52 aggregate in any one calendar year, are given to current or prospective customers;
 53 provided, however, that the giving of any item or items of value under this subsection
 54 shall not be contingent on the sale or renewal of a policy."

55 SECTION 2.

56 Said title is further amended by revising Code Section 33-9-36, relating to unauthorized
 57 premiums and unlawful inducements, as follows:

58 "33-9-36.

59 "(a) As used in this Code section, the term:

60 (1) 'Gift certificate' shall have the same meaning as provided in Code Section 10-1-393.

61 (2) 'Insurance' includes suretyship.

62 (3) 'Policy' includes bond.

63 (4) 'Store gift card' shall have the same meaning as provided in Code Section 10-1-393.
 64 ~~(a)(b)~~ No broker or agent shall knowingly charge, demand, or receive a premium for any
 65 policy of insurance except in accordance with this chapter.
 66 ~~(b)(c)~~ No insurer or employee of such insurer and no broker or agent shall pay, allow, or
 67 give, or offer to pay, allow, or give, directly or indirectly as an inducement to insurance or
 68 after insurance has been effected, any rebate, discount, abatement, credit, or reduction of
 69 the premium named in a policy of insurance, or any special favor or advantage in the
 70 dividends or other benefits to accrue on such policy of insurance, or any valuable
 71 consideration or inducement whatever, not specified in the policy of insurance, except to
 72 the extent provided for in an applicable filing. No insured named in a policy of insurance
 73 nor any employee of the insured shall knowingly receive or accept, directly or indirectly,
 74 any such rebate, discount, abatement, credit, or reduction of premium, or any special favor
 75 or advantage or valuable consideration or inducement.
 76 ~~(c)(d)~~ Nothing in this Code section shall be construed as prohibiting the payment of
 77 commissions or other compensation to duly licensed agents and brokers, nor as prohibiting
 78 any insurer from allowing or returning to its participating policyholders, members, or
 79 subscribers dividends, savings, or unabsorbed premium deposits.
 80 ~~(d) As used in this Code section the word 'insurance' includes suretyship and the word~~
 81 ~~'policy' includes bond.~~
 82 (e) Nothing in this Code section shall be construed as prohibiting the payment for food or
 83 refreshments by an insurer or an agent, broker, or employee of an insurer for current or
 84 prospective clients during sales presentations and seminars, provided that no insurance or
 85 annuity applications or contracts are offered or accepted at such presentations or seminars.
 86 (f) Nothing in this Code section shall be construed as prohibiting insurers or insurance
 87 producers from advertising or conducting promotional programs by insurers or insurance
 88 producers whereby prizes, goods, wares, store gift cards, gift certificates, sporting event
 89 tickets, or merchandise, not exceeding \$50.00 in value per customer in the aggregate in any
 90 one calendar year, are given to current or prospective customers; provided, however, that
 91 the giving of any item or items of value under this subsection shall not be contingent on the
 92 sale or renewal of a policy."

93 **SECTION 3.**

94 All laws and parts of laws in conflict with this Act are repealed.