

2700.3200 UNFAIR AND DECEPTIVE PRACTICES.

Subpart 1. **Definition.** Acts or practices in subparts 2 to 10 are hereby specifically defined as "unfair and deceptive acts or practices in the business of insurance."

Subp. 2. **Automatic enrollment.** It is unfair and deceptive:

A. for a person to render a billing statement to or otherwise attempt to collect premiums from a resident of Minnesota, for any insurance coverage that is in addition to or greater than that already in force, until and unless the resident has expressly given affirmative consent, oral or written, to such insurance coverage. This applies to any person whether or not the person has had, or presently has, any insurance in force for the resident from whom an attempt is made to collect premiums. This item shall not apply to:

(1) credit life and credit accident and health insurance as defined by Minnesota Statutes, section 62B.02, subdivisions 2 and 3;

(2) insurance coverage written under a master policy or individual policies issued to employees of a common employer or to members of an association pursuant to an agreement with such employer or association; or

(3) coverage that may either be required by law or is expressly permitted by law to be placed into effect without the prior affirmative consent of the insured;

B. for a person to render a billing statement to or otherwise attempt to collect premiums from a resident of Minnesota for any credit life insurance or credit accident and health insurance (as those terms are defined by Minnesota Statutes, section 62B.02, subdivisions 2 and 3 as amended) until and unless the debtor (as that term is defined in Minnesota Statutes, section 62B.02, subdivision 5, as amended) has expressly given affirmative consent, oral or written, to such insurance coverage. Once a debtor becomes protected either by credit life or credit accident and health insurance, or both, the premium to be paid by that debtor shall not be altered until and unless the debtor, subsequent to becoming protected by that insurance, has given prior written approval to continuing to be insured at the altered premium, unless the extent of the coverage remains unchanged. A reduction in coverage without a reduction in the premium rate will be deemed an altered premium.

Subp. 3. **Premium financing.** It is unfair and deceptive for a premium financing plan to be used unless the purchaser is furnished with a copy of a clear statement of the relevant details of the credit transaction on or before the later of the date on which said premium financing plan is to become operative; or the date the policy is delivered, unless such statement is dated and contains the following:

A. the name and address of the agent and the company proposing to issue the life insurance policy, annuity, or endowment contract and the type of said policy or contract;

- B. the annual premium (or total or periodic premiums per year) for said policy or contract;
- C. the amount of said premiums to be financed for each year of premium financing plan;
- D. the amount of charges other than principal and interest, each such charge to be labeled and stated separately;
- E. the amounts and due dates of payments;
- F. the name and address of the person or firm to which such payments are to be made; and
- G. the signatures of the purchaser and of the insurance agent or other representative of the insurer.

The provisions of this subpart do not apply to any financing of the premium for decreasing or level credit life insurance or credit accident and health insurance.

Subp. 4. **Policy name or title.** It is unfair and deceptive for any insurance company, insurance agent, or company representative to deliver within this state, or issue for delivery within this state, any individual policy of life insurance without the use of the words "life insurance" on its name or title or the use of other language clearly indicating that the policy is a policy of life insurance, annuity, or an endowment contract.

Subp. 5. **Certain terms.** It is unfair and deceptive to use the terms "investment," "investment plan," "expansion plan," "profit," "profit-sharing," and other similar terms in connection with life insurance policies, annuities, or endowment contracts in a context or under such circumstances or conditions as to have a capacity or tendency to mislead a purchaser or prospective purchaser of such policy or contract to believe that the purchaser or prospective purchaser will receive, or that it is possible that he or she will receive, something other than a life insurance policy, an annuity, or an endowment contract or some benefits not provided in the policy or contract or some benefit not available to other persons of the same class and equal expectation of life.

Subp. 6. **Sales practices.** It is unfair and deceptive for any person within this state to:

- A. make any statement or reference relating to the growth of the life insurance industry or to the tax status of life insurance companies in connection with any solicitation for life insurance, annuities, or endowment contracts in a context that could reasonably be understood to interest a prospect in the purchase of shares of stock in an insurance company rather than in the purchase of a life insurance policy, an annuity, or an endowment contract;
- B. make any statement that reasonably gives rise to the inference that an insured or a prospective insured will enjoy a status common to a stockholder in the insurance company or will acquire a stock ownership interest in the insurance company;

C. make any reference to or statement concerning an insurance company's "investment department," "insured investment department," or similar terminology in such a manner as to imply that the life insurance policy, annuity, or endowment contract was sold or issued by the investment department of the life insurance company;

D. make any statement or reference that would reasonably tend to imply that by purchasing a life insurance policy, annuity, or endowment contract the purchaser or prospective purchaser will become a member of a limited group of persons who may receive special advantages from the company or favored treatment in the payment of dividends, unless such benefits are specifically provided in the policy or contract (this item has no relation or applicability to policies or contracts under which insured persons of one class of risk may receive dividends at a higher rate than persons of another class of risk);

E. state or imply that only a limited number of persons, or a limited class of persons, will be eligible to buy a particular kind of life insurance policy, annuity, or endowment contract, unless such limitation can be verified by the underwriting practices of the insurance company;

F. state or imply that policyholders or contract holders who are said to act as centers of influence for an insurance company will share, because of so acting, in the company's surplus earnings in some manner not available to other policyholders or contract holders who are otherwise in the same class;

G. describe or refer to premium payments in language that states that the payment is a "deposit" unless:

(1) the payment establishes a debtor-creditor relationship between the life insurance company and the policyholder or contract holder and a showing is made as to when and how the deposit may be withdrawn;

(2) the term is used in conjunction with the word "premium" in such a manner as to indicate clearly the true character of the payment; or

(3) the term is used in conjunction with a deposit administration plan;

H. provide any illustrations or projection of future dividends on any policy or contract unless:

(1) the illustration or projection is based upon the experience currently used by the insurance company for dividends or upon a scale adopted by the company, which is based upon the experience currently used by the company; and

(2) the illustration or projection clearly indicates that the dividends shown are not guaranteed;

I. use the words "dividends," "cash dividends," "surplus," or similar phrases in such a manner as to state or imply that the payment of dividends is guaranteed or certain to occur;

J. state or imply that a purchaser of a life insurance policy, an annuity other than a contract on a variable basis, or an endowment contract will share in a stated percentage or portion of the earnings of the insurance company (nothing in this item is intended to prohibit a representation that a holder of a participating policy or contract will participate in the share of the divisible surplus, if any, apportioned to the policy or contract by the insurance company);

K. make any statement or imply that projected dividends under a participating policy or contract will be or can be sufficient at any time to assure the receipt of benefits, such as a paid up policy or contract, without the further payment of premiums, unless the statement is accompanied by an adequate explanation as to what benefits or coverage would be provided or discontinued at such time, and the conditions under which this would occur;

L. state that the insured is guaranteed certain benefits if the policy or contract is allowed to lapse without making an explanation of the nonforfeiture benefits;

M. describe or advertise a life insurance policy, an annuity, an endowment contract or premium payments therefor, except contracts on a variable basis, in terms of "units of participation," unless accompanied by other language clearly indicating the reference to a policy or contract or to premium payments, as the case may be;

N. include in sales kits and prepared sales presentations proposed answers to be used in response to a prospect's questions as to whether a life insurance policy, an annuity, or an endowment contract is being sold, which are designed to avoid a clear and unequivocal statement that life insurance, an annuity, or endowment contract is the subject matter of the solicitation;

O. display in any manner to a prospective policyholder any material that includes illustrations, using dollar amounts, in connection with the proposed sale of a life insurance policy, an annuity, or endowment contract, unless the material clearly identifies the source of the dollar amounts and the subject to which such amount pertains;

P. make any general statement that insurance companies make a profit as a result of policy lapses or surrenders;

Q. make unfair or misleading comparisons to the past experience of other life insurance companies as a means of projecting possible experience of the soliciting company;

R. represent pure annual endowment benefits as earnings on premiums invested, or represent that a pure annual endowment benefit in a policy is other than a guaranteed benefit for which a premium is being paid by the policyholder;

S. state that a policy or contract contains features which are not found in other life insurance policies, annuities, or endowment contracts, unless that be true;

T. represent an option to purchase life insurance in the future in such a manner that the policyholder might reasonably infer that instead of merely acquiring an option, the policyholder is purchasing present benefits that would result in a payment to the beneficiary in the event of the death of the policyholder;

U. make reference to a policy of life insurance, an annuity, or an endowment contract in such a manner as to materially misrepresent the true nature of the policy or contract; or

V. as a competitive or twisting device, inform any policyholder or prospective policyholder that any insurance company was required to change a policy or contract form or related material to comply with the provisions of this rule.

Subp. 7. **Guaranteed annual endowments.** It is unfair and misleading to issue a guaranteed annual endowment policy or any other policy that is essentially a coupon policy.

Subp. 8. **Charter policies.** It is unfair and misleading to issue any form of a charter policy, whether heretofore approved or not.

Subp. 9. **Profit-sharing policies.** It is unfair and misleading to issue any form of a profit-sharing policy, annuity, or endowment contract whether heretofore approved or not. Provided, however, nothing in this subpart is intended to apply to contracts on a variable basis to the extent that they are permitted under the laws of this state.

Subp. 10. **Disapproval of insurer or policy.** It is unfair and misleading for a lending institution to disapprove an insurer or policy of insurance, insuring or covering property, real or personal, which serves as security for loan, or the purpose of which is the object of the institution's financing loan, where such disapproval:

A. has the effect of encouraging the insured to carry insurance with an insurer of the institution's choice;

B. is based on standards unrelated to insurer's ability to assume the risk or authorization to write the risk; or

C. is based on a rating requirement disproportionate to the size of the risk.

Subp. 11. **Discrimination because of blindness or partial blindness.** It is unfair and deceptive to discriminate between individuals of the same class by refusing to insure, or refusing to continue to insure, or limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of blindness or partial blindness.

With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind are subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons.

Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses his or her eyesight.

However, an insurer may exclude from coverage disabilities, consisting solely of blindness or partial blindness when the condition existed at the time the policy was issued.

Statutory Authority: *MS s 45.023; 72A.19*

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