

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 959**

Introduced by Lathrop, 12; Council, 11.

Read first time January 14, 2010

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend section 44-1525, Reissue  
2 Revised Statutes of Nebraska; to prohibit certain acts or  
3 practices having the effect of discrimination because of  
4 race, creed, national origin, or religion; and to repeal  
5 the original section.  
6 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

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

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

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

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

2 (2) Making, publishing, disseminating, circulating, or  
3 placing before the public, or causing, directly or indirectly,  
4 to be made, published, disseminated, circulated, or placed before  
5 the public, in a newspaper, magazine, or other publication, or in  
6 the form of a notice, circular, pamphlet, letter, or poster, or  
7 over any radio or television station, or in any other way, an  
8 advertisement, announcement, or statement containing any assertion,  
9 representation, or statement with respect to the business of  
10 insurance or with respect to any insurer in the conduct of his or  
11 her insurance business which is untrue, deceptive, or misleading;

12 (3) Making, publishing, disseminating, or circulating,  
13 directly or indirectly, or aiding, abetting, or encouraging the  
14 making, publishing, disseminating, or circulating of any oral or  
15 written statement or any pamphlet, circular, article, or literature  
16 which is false or maliciously critical of or derogatory to the  
17 financial condition of any insurer and which is calculated to  
18 injure such insurer;

19 (4) Entering into any agreement to commit or by any  
20 concerted action committing any act of boycott, coercion, or  
21 intimidation resulting in or tending to result in unreasonable  
22 restraint of or monopoly in the business of insurance;

23 (5)(a) Knowingly filing with any supervisory or other  
24 public official, or knowingly making, publishing, disseminating,  
25 circulating, or delivering to any person, or placing before the

1 public, or knowingly causing, directly or indirectly, to be made,  
2 published, disseminated, circulated, delivered to any person, or  
3 placed before the public, any false material statement of fact as  
4 to the financial condition of an insurer; or

5 (b) Knowingly making any false entry of a material fact  
6 in any book, report, or statement of any insurer or knowingly  
7 omitting to make a true entry of any material fact pertaining to  
8 the business of such insurer in any book, report, or statement of  
9 such insurer;

10 (6) Issuing or delivering or permitting agents, officers,  
11 or employees to issue or deliver agency company stock or other  
12 capital stock, or benefit certificates or shares in any common-law  
13 corporation, or securities or any special or advisory board  
14 contracts or other contracts of any kind promising returns and  
15 profits as an inducement to insurance;

16 (7) (a) Making or permitting any unfair discrimination  
17 between individuals of the same class and equal expectation of life  
18 in the rates charged for any life insurance policy or annuity or in  
19 the dividends or other benefits payable thereon or in any other of  
20 the terms and conditions of such policy or annuity;

21 (b) Making or permitting any unfair discrimination  
22 between individuals of the same class involving essentially the  
23 same hazards in the amount of premium, policy fees, or rates  
24 charged for any sickness and accident insurance policy or in the  
25 benefits payable thereunder, in any of the terms or conditions of

1 such policy, or in any other manner, except that this subdivision  
2 shall not limit the negotiation of preferred provider policies and  
3 contracts under sections 44-4101 to 44-4113;

4 (c) Making or permitting any unfair discrimination  
5 between individuals or risks of the same class and of essentially  
6 the same hazards by refusing to issue, refusing to renew,  
7 canceling, or limiting the amount of insurance coverage on a  
8 property or casualty risk because of the geographic location of the  
9 risk unless:

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

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

15 (d) Making or permitting any unfair discrimination  
16 between individuals or risks of the same class and of essentially  
17 the same hazards by refusing to issue, refusing to renew,  
18 canceling, or limiting the amount of insurance coverage on a  
19 residential property risk, or the personal property contained  
20 therein, because of the age of the residential property unless:

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

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

1           (e) Refusing to insure, refusing to continue to insure,  
2 or limiting the amount of coverage available to an individual  
3 solely because of the sex or marital status of the individual. This  
4 subdivision shall not prohibit an insurer from taking marital  
5 status into account for the purpose of defining individuals  
6 eligible for dependent benefits; ~~or~~

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

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

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

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

20           (g) Engaging in any act or practice in connection  
21 with the issuance, underwriting, rating, renewal, cancellation,  
22 or denial of or any other action related to a property or casualty  
23 insurance policy in a manner that has the effect of discrimination  
24 against any consumer because of his or her race, creed, national  
25 origin, or religion;

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

2           (i) Knowingly permitting or offering to make or making  
3 any life insurance policy, annuity, or sickness and accident  
4 insurance policy, or agreement as to any such policy or annuity,  
5 other than as plainly expressed in the policy or annuity issued  
6 thereon, or paying, allowing, or giving, or offering to pay,  
7 allow, or give, directly or indirectly, as inducement to such  
8 policy or annuity, any rebate of premiums payable on the policy  
9 or annuity, or any special favor or advantage in the dividends or  
10 other benefits thereon, or any valuable consideration or inducement  
11 whatever not specified in the policy or annuity; or

12           (ii) Giving, selling, purchasing, or offering to give,  
13 sell, or purchase as inducement to such policy or annuity or in  
14 connection therewith any stocks, bonds, or other securities of any  
15 insurer or other corporation, association, partnership, or limited  
16 liability company, or any dividends or profits accrued thereon, or  
17 anything of value not specified in the policy or annuity.

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

21           (i) In the case of any life insurance policy or  
22 annuity, paying bonuses to policyholders or otherwise abating  
23 their premiums in whole or in part out of surplus accumulated from  
24 nonparticipating insurance if such bonuses or abatement of premiums  
25 are fair and equitable to policyholders and for the best interests

1 of the insurer and its policyholders;

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

7 (iii) Readjustment of the rate of premium for a group  
8 insurance policy based on the loss or expense thereunder, at  
9 the end of the first or any subsequent policy year of insurance  
10 thereunder, which may be made retroactive only for such policy  
11 year;

12 (9) Failing of any insurer to maintain a complete record  
13 of all the complaints received since the date of its last  
14 examination conducted pursuant to the Insurers Examination Act.  
15 This record shall indicate the total number of complaints, their  
16 classification by line of insurance, the nature of each complaint,  
17 the disposition of each complaint, and the time it took to process  
18 each complaint. For purposes of this subdivision, complaint shall  
19 mean any written communication primarily expressing a grievance;

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

24 (11) Failing of any insurer, upon receipt of a written  
25 inquiry from the department, to respond to such inquiry or request

1 additional reasonable time to respond within fifteen working days;

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

6 (13) Violating any provision of section 44-320, 44-348,  
7 44-360, 44-361, 44-369, 44-393, 44-515 to 44-518, 44-522, 44-523,  
8 44-7,101, 44-2132 to 44-2134, 44-3606, 44-4809, 44-4812, 44-4817,  
9 or 44-5266, the Privacy of Insurance Consumer Information Act, or  
10 the Unfair Discrimination Against Subjects of Abuse in Insurance  
11 Act.

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