



AN ACT PROVIDING AN EXCEPTION FOR MEMBERS OF THE MILITARY AND CERTAIN FAMILY MEMBERS TO THE PROHIBITION ON PROPERTY OR CASUALTY INSURERS PROVIDING DISCOUNTS OR REBATES; AMENDING SECTION 33-18-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Military discount exception to rebate and discount prohibition for property or casualty insurance. (1) The prohibition against rebates or discounts provided for in 33-18-210 does not apply with respect to property or casualty insurance sales to:

(a) an active, retired, or honorably separated member of the United States armed forces, including a member of a reserve component as defined in 37-1-138; or

(b) a spouse, surviving spouse, dependent, or heir of a United States armed forces member referred to in subsection (1)(a).

(2) This section does not permit unfair discrimination based on rank or pay grade.

Section 2. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited -- for title, property, casualty, and or surety insurances insurance -- exceptions -- limitations. (1) ~~Except as provided in subsection (4), a~~ title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) ~~An~~ Except as provided in subsection (4), an insured named in a policy or an employee of the insured

may not knowingly receive or accept, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of premium;
- (b) special favor or advantage; or
- (c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably separated member of the United States armed forces as described in [section 1(1)(a)] or to a spouse, surviving spouse, dependent, or heir of a United States armed forces member as provided in [section 1].

~~(4)(5)~~ This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

~~(5)(6)~~ An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

- (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or
- (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

~~(6)(7)~~ An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

- (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or
- (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

~~(7)(8)~~ An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage

available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

~~(9)~~(9) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

~~(9)~~(10) (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual under a private passenger automobile policy based solely on adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's claims history that is 3 years old or older.

(b) An insurer may not use more than the most recent 5 years of loss experience that is available when determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or older.

(c) As used in subsection ~~(9)~~(a) (10)(a), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

~~(10)~~(11) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 18, part 2, and the provisions of Title 33, chapter 18, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0053, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2015.

President of the Senate

Signed this _____ day
of _____, 2015.

HOUSE BILL NO. 53
INTRODUCED BY A. PERSON
BY REQUEST OF THE STATE AUDITOR

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