

SIGNIFICANT ISSUES

Senate Bill 79 as amended expands the provisions of the Insurance Code (Chapter 59A NMSA 1978), outlined under Unfair Discrimination, Rebates Prohibited, Other Coverages, by adding a provision for prizes and gifts in an amount not to exceed one hundred dollars (\$100) per customer, or prospective customer, in any one calendar year. Specifically, the provisions shall not prohibit a property or casualty insurance producer, or any representative thereof, from providing customers prizes and gifts. This includes goods, gift cards and certificates, charitable donations, raffle entries, meals, event tickets and other items in an amount not to exceed one hundred dollars (\$100).

TECHNICAL ISSUES

As recommended by the RLD and OSI on the original bill:

On page 2, line 6, after the word “law” insert “,” (a comma).

OTHER SUBSTANTIVE ISSUES

The AGO noted that terms such as “customer” and “prospective customer” are not defined in the bill, or elsewhere in the existing statutory scheme. Doing so may aid in delineating precisely to whom such inducements will be permitted.

The RLD mentioned the current law prohibits insurers and their agents from giving anything of value to a current or prospective customer, including discounts on their premium or any kind of valuable inducement. The purpose of this current prohibition is to ensure fair and equal treatment to all purchasers of an insurer’s product. If an insurer offers premium reductions or other costly inducements to some of its customers, this increases the insurer’s operating expense and leads, to some extent, to an eventual increase in the price of the product, forcing their non-induced customers to share in the cost by having to pay somewhat higher renewal premiums. The RLD also recommends a clarifying amendment be made on page 2, lines 6 and 7, to ensure that the phrase “or as allowed by this section” does not refer to “an applicable filing”.

The OSI noted that there is no objective criterion valuation provided. Is \$100 the actual purchase price to the person providing the inducement or is it the market price of the item? OSI also noted that the term “customer” is undefined. Furthermore, OSI mentioned that in property and casualty insurance the “customer” receiving the inducement would typically be the actual insured person.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Gifting, offering any inducements to current and prospective clients from insurance companies and their agents, would continue to be prohibited.

JMA/sb/al