

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 164

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Clemente Sanchez

AN ACT

RELATING TO INSURANCE; ALLOWING INSURANCE AGENTS TO GIVE  
PROSPECTIVE CUSTOMERS LIMITED GIFTS AND PRIZES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-16-17 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 283, as amended) is amended to read:

"59A-16-17. UNFAIR DISCRIMINATION, REBATES PROHIBITED--  
OTHER COVERAGES.--

A. No property, casualty or title insurer, or  
nonprofit health care or prepaid dental plan or other  
insurance-type organization, or any employee or representative  
thereof, and no insurance producer or other representative  
shall pay, allow or give, or offer to pay, allow or give,  
directly or indirectly, as an inducement to insurance or  
coverage, or after insurance or coverage has been effected, any

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 rebate, discount, abatement, credit or reduction of the premium  
2 named in a policy, or any special favor or advantage in the  
3 dividends or other benefits to accrue thereon, or any valuable  
4 consideration or inducement whatever, not specified or provided  
5 for in the policy, except to the extent provided for in an  
6 applicable filing with the superintendent as provided by law or  
7 as allowed by this section.

8 B. No title insurer or title insurance producer  
9 shall:

10 (1) pay, directly or indirectly, to the  
11 insured or any person acting as agent, representative, attorney  
12 or employee of the owner, lessee, mortgagee, existing or  
13 prospective, of the real property, or interest therein, that is  
14 the subject matter of title insurance or as to which a service  
15 is to be performed any commission or part of its fee or charges  
16 or other consideration as inducement or compensation for the  
17 placing of any order for a title insurance policy or for  
18 performance of any escrow or other service by the insurer with  
19 respect thereto;

20 (2) issue any policy or perform any service in  
21 connection with which it or any insurance producer or other  
22 person has paid or contemplates paying any commission, rebate  
23 or inducement in violation of this section;

24 (3) give or receive, directly or indirectly,  
25 any consideration or thing of value for the referral of title

.212092.1

underscored material = new  
[bracketed material] = delete

1 insurance business or escrow or other service provided by a  
2 title insurer or title insurance producer unless otherwise  
3 permitted by regulation of the superintendent; or

4 (4) enter into a reinsurance agreement with an  
5 affiliate of a real estate developer, real estate agency,  
6 mortgage lender or referrer of title business without the prior  
7 written approval of the superintendent.

8 C. No insured named in a policy or any employee of  
9 such insured shall knowingly receive or accept, directly or  
10 indirectly, any [~~such~~] rebate, discount, abatement, credit or  
11 reduction of premium, or any [~~such~~] special favor or advantage  
12 or valuable consideration or inducement, except as allowed by  
13 this section.

14 D. No [~~such~~] insurer or organization shall make or  
15 permit any unfair discrimination between insureds or property  
16 having like insuring or risk characteristics, in the premium or  
17 rates charged for insurance or coverage, or in the dividends or  
18 other benefits payable thereon or in any other of the terms and  
19 conditions of the insurance or coverage.

20 E. Nothing in this section shall be construed as  
21 prohibiting the payment of commissions or other compensation to  
22 licensed insurance producers or other representatives; or as  
23 prohibiting the extension of credit to an insured for the  
24 payment of any premium and for which credit a reasonable rate  
25 of interest is charged and collected; or as prohibiting any

.212092.1

underscoring material = new  
[bracketed material] = delete

1 insurer or insurance producer from allowing or returning to its  
2 participating policyholders, members or subscribers, dividends,  
3 savings or unabsorbed premium deposits. As to title insurance,  
4 nothing in this section shall prohibit bulk rates or special  
5 rates for customers of prescribed classes if such bulk or  
6 special rates are provided for in the currently effective  
7 schedule of fees and charges of the title insurer as filed with  
8 the superintendent.

9 F. The provisions of this section shall not  
10 prohibit a property or casualty insurer, or any employee or  
11 representative thereof, or a property or casualty insurance  
12 producer or other representative thereof from providing to  
13 customers or prospective customers prizes and gifts, including  
14 goods, gift cards, gift certificates, charitable donations,  
15 raffle entries, meals, event tickets and other items not  
16 exceeding one hundred dollars (\$100) in the aggregate in value  
17 per customer or prospective customer in any one calendar year."

18 SECTION 2. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2019.