

§ 2304 Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* — No person shall make, issue, circulate or cause to be made, issued or circulated any estimate, circular, statement, sales presentation, omission or comparison which:

- a. Misrepresents the benefits, advantages, conditions or terms of any insurance policy;
- b. Misrepresents the dividends or share of the surplus to be received on any insurance policy;
- c. Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;
- d. Is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;
- e. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;
- f. Is a misrepresentation for the purpose of inducing or tending to induce to the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;
- g. Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or
- h. Misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* — No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement,

announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.

(3) *Defamation.* — No person shall make, publish, disseminate or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is circulated to injure any person engaged or proposing to engage in the business of insurance.

(4) *Boycott, coercion and intimidation.* — No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of or any monopoly in any business of insurance.

(5) *Interlocking ownership, management.* —

a. Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this title, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create any monopoly therein.

b. Any person otherwise qualified may be a director of 2 or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally or tends materially to create any monopoly.

(6) *Prohibited political contributions; penalty.* —

a. No insurer or bank acting as an insurer pursuant to § 761(a)(14) of Title 5 shall directly or indirectly pay or use, or offer, consent or agree to pay or use, any money or property for or in aid of any candidate for the office of Insurance Commissioner of the

State, or for nomination for such office, or for the reimbursement or indemnification of any person for money or property so used.

b. Any officer, director, stockholder or agent of any insurer which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violation, or any person who solicits or knowingly receives any money or property in violation of this section, shall, in addition to any other penalties imposed by law, be punished by imprisonment for not more than 1 year and a fine of not more than \$1,000; and any officer or director abetting in any contribution made in violation of this section shall be liable to the insurer for the amount so contributed.

(7) *Illegal dealing in premiums; excess charges for insurance.* —

a. No person shall wilfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this title.

b. No person shall wilfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner; or, in cases where classifications, premiums or rates are not required to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection by surplus lines brokers licensed under Chapter 19 of this title of the amount of applicable state and federal taxes and nominal service charge to cover communication expenses, in addition to the premium required by the insurer, nor shall it be deemed to prohibit the charging and collection by a life insurer of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

(8) *Insurance as inducement to purchase.* — No person shall directly or indirectly participate in any plan to offer or effect any kind or kinds of life or health insurance or annuities as an inducement to or in connection with the purchase by the public of any goods, securities, commodities, services or subscriptions to periodicals. This section shall

not apply as to insurance written in connection with an indebtedness if the purpose of such insurance is to pay the indebtedness in case of death or disability of the insured.

(9) *Insurer name; deceptive use prohibited.* — No person who is not an insurer shall assume or use any name which deceptively implies or suggests that it is an insurer. This section shall not preclude a corporation heretofore or hereafter formed under the laws of this State from using such a name between the date it is incorporated and the date it begins to engage in any business, if during such period the corporate activities are limited to its organization or reorganization or to those activities it would be permitted to engage in, if it were an insurer, under § 4904(2) of this title.

(10) *Service and processing charges by mortgagee prohibited.* — No mortgagee or agent of any mortgagee shall accept or receive any monetary charge or fee from a mortgagor for handling, servicing or processing insurance policies or endorsements or for the issuances or cancellation of such policies, or property located within this State; provided that this provision shall not apply to charges or fees of an insurance department or division of a corporation established under Chapter 7 or regulated under Chapter 9 of Title 5.

(11) *False statements and entries.* —

a. No person shall knowingly file with any supervisory or other public official, or knowingly make, publish, disseminate, circulate or deliver to any person, or place before the public, or knowingly cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false, material statement of fact as to the financial condition of an insurer.

b. No person shall knowingly make any false entry of a material fact in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of the affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

c. No person shall advertise the capital or assets of any insurer without in the same advertisement setting forth the amount of the insurer's liabilities.

(12) *Stock operations and advisory board contracts.* —

a. No person shall offer, issue or deliver or permit its agents, officers or employees to offer, issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts of any kind promising returns and profits as an inducement to insurance.

b. No insurer authorized or proposing to be authorized to transact insurance in this State shall offer, issue or deliver, or permit its agents, officers or employees to offer, issue or deliver in any other state any such agency company stock, certificates, shares or contracts as inducement to insurance.

(13) *Unfair discrimination; life insurance, annuities, and health insurance.* —

a. No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

b. No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(14) *Rebates; life, health and annuity contracts.* — Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon, or pay or allow, or give or offer to pay, allow or give directly or indirectly, or knowingly accept, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or

any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract, or directly or indirectly give, or sell, or purchase or offer or agree to give, sell or purchase, or allow as an inducement to such insurance contract or annuity or, in connection therewith and whether or not specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds or other securities, or interest present or contingent therein or as measured thereby, or any insurer or any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or to accrue thereon, or anything of value whatsoever not specified in the contract.

(15) *Unfair discrimination, rebates prohibited; property, casualty, surety insurance.* —

- a. No property, casualty or surety insurer or any employee or representative thereof, and no broker, agent or solicitor shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the Commissioner as provided by law.
- b. No insured named in a policy, nor any employee of such insured, shall knowingly receive or accept directly or indirectly any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.
- c. No such insurer shall make or permit any unfair discrimination between insureds or property having life insuring or risk characteristics, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.
- d. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to licensed agents, brokers or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers dividends, savings or unabsorbed premium deposits. In this

section "insurance" includes suretyship, and "policy" includes bond. This section does not apply to wet marine and transportation insurance.

e. Nothing in paragraph (13) or paragraph (14) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

1. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement or premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;
2. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses;
3. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;
4. Reduction of premium rates for policies of large amounts, but not exceeding savings in issuance and administration expenses reasonably attributable to such policies as compared with policies of similar plans issued in smaller amounts;
5. Reduction in premium rates for life or health insurance policies on annuity contracts on salary savings, payroll deductions, preauthorized checks, bank drafts or similar plans in amounts reasonably commensurate with the savings made by the use of such plans.

f. Nothing in this chapter shall be construed as including within the definition of securities as inducement to purchase insurance, the selling or offering for sale, contemporaneously with life insurance or mutual fund shares or face amount certificates of regulated investment companies under offerings registered with the Securities and Exchange Commission where such shares or such face amount

certificates or such insurance may be purchased independently of and not contingent upon purchase of the other, at the same price and upon similar terms and conditions as where purchased independently.

(16) *Unfair claim settlement practices.* — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:

- a. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- b. Failing to acknowledge and act reasonably promptly upon communication with respect to claims arising under insurance policies;
- c. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- d. Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- e. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- f. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- g. Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- h. Attempting to settle a claim for less than the amount to which a reasonable person would have believed that person's own self was entitled by reference to written or printed advertising material accompanying or made part of an application;
- i. Attempting to settle claims on the basis of an application which was altered without notice to or knowledge or consent of the insured;

- j. Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- k. Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- l. Delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- m. Failing to promptly settle claims, where liability has become reasonably clear under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- n. Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(17) *Failure to maintain complaint handling procedures.* — Failure of any person to maintain a complete record of all the complaints which it has received since the date of its last examination as otherwise required in this title. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this subsection, "complaint" shall mean any written communication primarily expressing a grievance.

(18) *Misrepresentation in insurance applications.* —

- a. Making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money or other benefit from any insurers, agent, broker or individual.
- b. No agent, broker, solicitor, examining physician, applicant or other person shall knowingly or wilfully make any false or fraudulent statement or representation in or

with reference to any application for insurance or, for the purpose of obtaining any money or benefit, knowingly or wilfully present or cause to be presented a false or fraudulent claim or any proof in support of such a claim for the payment of the loss upon a contract of insurance or prepare, make or subscribe a false or fraudulent account, certificate, affidavit or proof of loss or other document or writing with intent that the same may be presented or used in support of such a claim.

(19) *Fictitious groups.* —

a. No insurer, whether an authorized insurer or an unauthorized insurer, shall make available through any rating plan or form property, casualty or surety insurance to any firm, corporation or association of individuals or make any preferred rate or premium based upon any fictitious grouping of such firm, corporation or association.

b. No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside this State to cover persons or risks in this State at any preferred rate or on any form other than as offered to persons not in such group or combination and to the public generally, unless such form, plan of insurance and the rates or premium to be charged therefor have been submitted to and approved by the Commissioner as being not unfairly discriminatory and as not otherwise being in conflict with subdivision a. above or with any provision of Chapter 25 of this title (Rates and Rating Organizations) to the extent that such Chapter 25 is, by its terms, applicable thereto.

c. This section does not apply to life insurance, health insurance, annuity contracts or wet marine and transportation insurance.

(20) *"Twisting" prohibited.* — No person shall make or issue or cause to be made or issued any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, surrender, retain, exchange or convert any insurance policy.

(21) *Insurance on public construction contracts.* —

a. No officer or employee of this State or of any public agency, public authority or public corporation (except a public corporation or public authority created pursuant to agreement or compact with another state) and no person acting or purporting to act on behalf of such officer or employee or public agency or public authority or public corporation shall, with respect to any public building or construction contract which is about to be or which has been competitively bid, require the bidder to make application to (or furnish financial data to) or to obtain or procure any of the surety bonds or contracts of insurance specified in connection with such contract or specified by any law, general, special or local from a particular insurer or agent or broker.

b. No such officer or employee or any person acting or purporting to act on behalf of such officer or employee shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance (except contracts of insurance for builder's risk or owner's protective liability) which can be obtained or procured by the bidder, contractor or subcontractor.

c. This section shall not, however, prevent the exercise by such officer or employee on behalf of the State or such public agency, public authority or public corporation of its right to approve the form, sufficiency or manner of execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds or contracts of insurance.

d. Any provisions in any invitation for bids or in any of the contract documents in conflict with this section are declared to be contrary to the public policy of this State.

e. A violation of this section shall be subject to the penalties provided by § 2308(a) of this title.

(22) Unfair discrimination in the value of insurance policies and premiums based on race, color, religion, sexual orientation, gender identity or national origin; penalty. —

a. It shall be an unlawful practice for any insurance company licensed to do business in this State to discriminate in any way because of the insured's race, color, religion, sexual orientation, gender identity or national origin, or to make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper,

magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, to include the writing of any policy or the application therefor, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which discriminates in any way because of the insured's race, color, religion, sexual orientation, gender identity or national origin or to classify or refer to any individual on the basis of race, color, religion, sexual orientation, gender identity or national origin.

b. "Sexual orientation" exclusively means heterosexuality, homosexuality, or bisexuality.

c. "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.

d. The Department of Insurance is empowered, as hereinafter provided, to prevent any licensed or authorized insurance company from engaging in any discriminatory practices as set forth in paragraph (22)a. of this section.

e. Whenever a charge is filed with the Department by or on behalf of a person claiming to have been discriminated against in the purchase of insurance because of race, religion, sexual orientation, gender identity, color or national origin, the Department shall serve a copy of the charge on such insurance company and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Department requires. Such charges shall not be made public by the Department. If the Department determines after such investigation that there is reasonable cause to believe that the charge is not true, it shall dismiss the charge and promptly notify the person claiming to have been discriminated against and the respondent of its action. Such notice shall be in writing and shall set forth the facts upon which the decision is based.

f. If the Department determines, after the investigation referred to in paragraph (22)e. of this section, that there is reasonable cause to believe that the charge is true, the Department shall endeavor to eliminate any such alleged unlawful practice by informal methods of conference, conciliation and persuasion. Nothing said or done during and as a part of such conciliation endeavors may be made public by the Department, its officers or employees or used as evidence in a subsequent proceeding without the written consent of the persons concerned. The Department shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than 120 days from the filing of the charge. A charge under paragraph (22)e. of this section must be filed within 90 days after the alleged unlawful discriminatory practice or 120 days after discovery thereof, whichever is the later.

g. If the Department determines, after attempting to secure voluntary compliance under paragraph (22)f. of this section, that it is unable to secure from the respondent a conciliation agreement acceptable to the Department and to the person aggrieved, which determination shall not be reviewable in any court, the Department shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful discriminatory practice is based together with a notice of hearing before the Commissioner or the Commissioner's agent, at a place therein fixed not less than 5 days after the serving of such complaint. The complaint may be amended at any reasonable time provided that the respondent has sufficient time to respond thereto. Related proceedings may be consolidated for hearing.

h. A respondent shall have the right to file an answer to the complaint against the respondent and may amend the respondent's own answer at any reasonable time. The respondent and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. All testimony shall be taken under oath and shall be reduced to writing.

i. If the Commissioner or the Commissioner's agent finds that the respondent has engaged in an unlawful discriminatory practice, the Commissioner or the Commissioner's agent shall state its findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful discriminatory practice an order requiring the respondent to cease and desist

from such unlawful practice. Such order may further require such respondent to make reports from time to time showing the extent to which the respondent has complied with the order. If the Commissioner or the Commissioner's agent finds that the respondent has not engaged in any unlawful discriminatory practice, the Commissioner or the Commissioner's agent shall state those findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

j.1. Any complainant or aggrieved party, or respondent or intervenor or the Commissioner or the Commissioner's agent may obtain an order of the Court of Chancery for enforcement of the Commissioner's order. The proceeding for enforcement is initiated by filing a petition in the Court of Chancery. Copies of the petition shall be served upon all parties of record. Within 30 days after the service of the petition upon the Commissioner or the Commissioner's agent or its filing by the Commissioner or the Commissioner's agent or within such further time as the Court may allow, the Commissioner or the Commissioner's agent shall transmit to the Court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The Court may reverse or modify the order if substantial rights of the petitioner have been prejudiced or the findings of fact of the Department are clearly erroneous. The Court shall have power to grant such temporary relief or restraining order as it deems just and to enter an order enforcing, as modified, or setting aside in whole or in part the order of the Commissioner or the Commissioner's agent or remand the case to the Department for further proceedings.

2. A proceeding under this section must be initiated within 30 days after a copy of the order of the Commissioner or the Commissioner's agent is received. If no proceeding is so initiated, the Commissioner or the Commissioner's agent may obtain a decree of the Court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the Court.

k. After a charge has been filed and until the record has been filed in the Court of Chancery as herein provided, the proceeding may at any time be ended by agreement between the Commissioner or the Commissioner's agent and the parties for the elimination of the alleged unlawful discriminatory practice, approved by the Commissioner or the Commissioner's agent and the Commissioner or the Commissioner's agent may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it.

l. The Superior Court of the county where the violation is alleged to have occurred shall have jurisdiction to hear an appeal from any decision made by the Commissioner or the Commissioner's agent, except as provided in paragraph (22)j. of this section. Such appeal shall be on the record only.

m. In the event that the Court determines that the respondent has engaged in an unlawful discriminatory practice causing economic loss to the petitioner, the respondent shall reimburse or refund to the petitioner, with reasonable interest added thereto, a sum equal to the amount of the economic loss suffered by the petitioner.

(23) *Tying arrangements; cancellation; disclosure.* —

a. No person who has received the name of any actual or potential borrower from any bank or trust company which engages, directly or indirectly, in any activity authorized by § 761(a)(14) of Title 5 shall, with respect to such borrower:

1. Engage in any of the activities prohibited to such bank or trust company by § 929 of Title 5;
2. Refuse to allow such borrower to exercise any rights of cancellation or refund set forth in § 930 of Title 5, all of which rights shall be applicable to such borrower;
3. Fail to take any action required of a bank or trust company under § 930 of Title 5, all of which shall be required of such person; or
4. In connection with any application for a policy of insurance submitted to such person by such borrower, or in connection with any policy of insurance thereafter issued to such borrower by such person, fail to disclose or cause to be disclosed to

such borrower that such policy, if and when issued, is not a direct liability of such bank or trust company, and that only the assets of the insurer issuing such policy are applicable to the payment and satisfaction of claims made thereunder.

b. The prohibitions set forth in paragraphs (23)a.2. and 3. of this section shall be applicable only with respect to "an individual borrower," as defined in § 930(f) of Title 5.

c. The Commissioner shall by regulation promulgated after consultation with the Bank Commissioner provide for the adequate disclosure of the prohibitions set forth in this paragraph.

(24) *Discriminatory practices against victims of abuse regarding life and health insurance.* — A person or entity engaged in the business of life and/or health insurance in this State may not:

a. Deny, refuse to issue, refuse to renew, refuse to reissue, cancel or otherwise terminate an insurance policy or restrict coverage on any individual because that individual is, has been or may be the subject of abuse or seeks, has sought or should have sought, medical or psychological treatment for abuse, protection from abuse or shelter from abuse;

b. Add any surcharge or rating factor to a premium of an insurance policy because of an individual's history of, status as, or potential to be subject to abuse;

c. Exclude or limit coverage for losses or deny a claim incurred by an insured as a result of abuse or the potential for abuse; or

d. Ask an insured or an applicant for insurance whether that individual is, has been or may be the subject of abuse, or seeks, has sought or should have sought medical or psychological treatment specifically for abuse, protection from abuse or shelter from abuse.

(25) *Discriminatory practices against victims of abuse regarding homeowner's and private passenger motor vehicle insurance.* — A person or entity engaged in the business of homeowner's and/or private passenger motor vehicle insurance in this State may not:

a. Deny, refuse to issue, refuse to renew, refuse to reissue, cancel or otherwise terminate a homeowner's and/or private passenger motor vehicle insurance policy or restrict coverage on any individual solely because that individual or a member of that individual's family or household is, has been or may be the subject of abuse or seeks, has sought or should have sought, medical or psychological treatment for abuse, protection from abuse or shelter from abuse. Nothing in this section shall be construed to prohibit a person from denying, refusing to issue, renew or reissue, cancelling or otherwise terminating an insurance policy based on any existing insurance statute, provided that the insurer routinely underwrites individuals in the same manner without regard to the individual's abuse status, abuse history or abuse-related claim history and that any such action does not have the purpose or effect of treating abuse status as an underwriting criterion, is not based on any actual or perceived correlation between a type of claim or other underwriting information and abuse and is otherwise permissible by law.

b. Add any surcharge or rating factor to a premium of a homeowner's insurance policy solely because of a history of, status as or potential to be a subject of abuse of the applicant or insured or of a member of the family or household of the insured. Nothing in this section shall be construed to prohibit a person from rating or surcharging a policy in accordance with any existing insurance statute provided that the insurer routinely rates or surcharges individuals in the same manner without regard to the individual's abuse status, abuse history or abuse-related claims history, and any such action does not have the purpose or effect of treating abuse status as an underwriting criterion, is not based on any actual or perceived correlation between a type of claim or other underwriting information and abuse and is otherwise permissible by law.

c. Deny coverage for property damage claims or medical payment coverage for an insured, if such coverage is available and purchased under the policy, as a result of abuse, even if such losses are caused by the intentional act, the fraudulent or criminal act or the failure to act of a co-insured and would otherwise have come under a policy's intentional act, criminal act, family, household or similar exclusion, unless:

1. The claim or coverage is ordinarily denied in the same manner to an insured or claimant who is not a victim of abuse;

2. There is collusion or fraudulent acts by the party seeking the insurance coverage or benefits; or
3. The innocent co-insured refuses to cooperate with any law enforcement investigation, the results of which would be made available to the insurer to verify that the claim for loss resulted from a co-insured's wrongful act or omission.

The innocent co-insured shall, at a minimum, be entitled to recover a pro-rata share of the loss of real or personal property and the entire amount of additional living expenses, as the policy may so provide.

Nothing in this subsection shall be construed to prohibit a person from refusing to defend or indemnify the perpetrator of the wrongful act or omission against any claim for liability arising from such individual's wrongful act or omission. The insurer shall retain the right to subrogate against the wrongdoer for any losses incurred by the injured party, including a wrongdoer who was a co-insured with the victim.

d. Ask an insured or an applicant for homeowner's and/or private passenger motor vehicle insurance whether that individual is, has been or may be the subject of abuse or seeks, has sought or should have sought medical or psychological treatment specifically for abuse, protection from abuse or shelter from abuse.

e. A person shall not be held civilly or criminally liable for any cause of action which may be brought because of compliance with this section. Nothing herein shall preclude any action or investigation against an insurer to enforce this paragraph. Nothing in this section shall preclude a person's obligations to report suspected fraudulent activities to the Insurance Department Fraud Prevention Bureau pursuant to Chapter 24 of this title.

(26) *Failure to respond to regulatory inquiries.* — No person shall, with such frequency as to indicate a general business practice, fail to provide preliminary substantive responses to inquiries from the Department of Insurance regarding the denial of claims, cancellation, nonrenewal, or refusal of benefits, refusal to pre-authorize benefits, or violations of this title, within 21 calendar days of such inquiry. A response in compliance with this paragraph shall not preclude the provision of additional information responsive to the inquiry.

(27) *Use of credit scoring.* — No person may use consumer reports or credit scores in any manner prohibited by Chapter 83 of this title.

(28) *Volunteer firefighters and ambulance personnel.* — No insurance carrier shall take any negative underwriting action against a policyholder, including, but not limited, to adjustment of rates or termination of a policy, based solely on the membership of a person covered by the policy in a volunteer fire company certified by the Delaware State Fire Prevention Commission or its successor or in a nonprofit organization that provides ambulance and/or rescue services within this State, including, but not limited to, organizations such as volunteer fire companies, the Veterans of Foreign Wars and the American Legion. This paragraph shall not prevent a carrier from taking underwriting action that is permitted by contract and applicable law, provided that the stated basis for such underwriting action is not a pretense for violating this paragraph.

Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is or has been the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy. Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition had been caused by abuse, provided that:

The person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse;

No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of a physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles;

The fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental condition; and

Such underwriting or rating is not used to evade the intent of this law or any other provision of law. A person shall not be held civilly or criminally liable for any cause of action which may be brought because of compliance with this section.

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18 Del. C. 1953, § 2304; [56 Del. Laws, c. 380, § 1](#); [59 Del. Laws, c. 200, § 1](#); [65 Del. Laws, c. 195, § 1](#); [66 Del. Laws, c. 297, § 1](#); [67 Del. Laws, c. 223, §§ 25, 26, 40](#); [70 Del. Laws, c. 186, § 1](#); [70 Del. Laws, c. 250, § 1](#); [70 Del. Laws, c. 510, §§ 1, 2](#); [75 Del. Laws, c. 55, § 2](#); [76 Del. Laws, c. 175, § 2](#); [76 Del. Laws, c. 395, § 1](#); [77 Del. Laws, c. 90, §§ 13, 14](#); [79 Del. Laws, c. 47, § 16](#);