

TITLE 4: ECONOMIC RESOURCES
DIVISION 7: INSURANCE

§ 7302. Prohibited Acts.

(a) *Representation of Unauthorized Insurer.* Except as otherwise authorized, a person is not permitted to:

(1) Represent or assist an unauthorized insurer in procuring, placing, or maintaining any insurance upon or with relation to any subject of insurance resident, located, or to be performed in the Commonwealth;

(2) Represent or assist any person in procuring insurance of an unauthorized insurer upon or with relation to any such subject of insurance;

(3) Inspect or examine any risk or investigate or adjust any loss or collect or receive any premium on behalf of any such insurer or person.

(4) This section does not apply to:

(A) Reinsurance placed or procured;

(B) Lawfully procured surplus line insurance;

(C) Any transaction with respect to insurance delivered in any state where the insurer was legally qualified to transact insurance;

(D) Any transaction with respect to insurance delivered in the Commonwealth at a time when the insurer was authorized to transact insurance in the Commonwealth.

(b) *Advertising Prohibited.*

(1) No publication published in the Commonwealth, or radio or television broadcaster, or any other agency or means for the dissemination of information operated or located in the Commonwealth shall publish, broadcast, or otherwise disseminate within the Commonwealth advertising for or on behalf of any insurer not then authorized to transact insurance in the Commonwealth.

(2) This section does not apply to publications published in the Commonwealth principally for circulation in a state, wherein advertising by or on behalf of an unauthorized insurer is not directed expressly toward residents or subjects of insurance of the Commonwealth.

(c) *Validity of Contracts Illegally Effectuated.* A contract of insurance effectuated by an unauthorized insurer in violation of this division shall be voidable except at the instance of the insured.

(d) *Unfair Methods of Competition and Unfair or Deceptive Acts or Practices.* The following are considered as unfair methods of competition and deceptive acts or practices in the business of insurance and are prohibited.

(1) *Misrepresentation and False Advertising of Policy Contracts.*

(A) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon; or

(B) Making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies; or

(C) Making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or

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(D) Making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce the policyholder to lapse, forfeit, or surrender his or her insurance; or

(E) Publishing or advertising the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of the insurer, both as shown by its last annual statement; or

(F) Publishing or advertising the capital of any insurer without stating specifically the amount of paid-in and subscribed capital.

(2) *False Information and Advertising Generally.* Making, publishing, disseminating, circulating, or placing before the public, or causing 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 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 his or her insurance business, which is untrue, deceptive, or misleading.

(3) *Defamation.* Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging 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, and which is calculated to injure any person engaged in the business of insurance.

(4) *Boycott, Coercion, and Intimidation.*

(A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in reasonable restraint of, or monopoly in, the business of insurance;

(B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer.

(5) *False Financial Statements.*

(A) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivery to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive; or

(B) Making any false entry 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 its affairs, or any public official to whom the 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, willfully omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer.

(6) *Stock Operations and Advisory Board Contracts.* Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency com-

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pany stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits, as an inducement to purchase insurance.

(7) *Unfair Discrimination.*

(A) Making or permitting 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; or

(B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring risks, and exposure factors, or expense elements, in the term or conditions of any insurance contract, or in the rate or amount of premium charge therefore, or in the benefits payable, or in any other rights or privileges accruing thereunder.

(8) *Rebates.* Except as otherwise expressly provided by law:

(A) Knowingly permitting, or offering to make, or making any contract of insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying, or allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or

(B) Giving, or selling, or purchasing, or offering to give, sell, or purchase as inducement to such insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(9) Nothing in the subsections (d)(7) or (d)(8) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) 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 of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance of 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 expense;

(C) Readjustment of the rate of premium for a group insurance policy based on the loss of 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; or

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(D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in the accordance with the division.

(e) *Desist Order for Defined or Prohibited Practices.*

(1) If, after a hearing thereon of which notice of the hearing and of the charges against him were given to the person, the Insurance Commissioner finds that any person has engaged or is engaging in any act or practice defined in, or prohibited under 4 CMC § 7302 in the Commonwealth, or that any person domiciled in or resident of the Commonwealth has engaged, or is engaging in any act or practice defined in or prohibited in any state, province, country, or district, the commissioner shall order the person to desist from the act or practice.

(2) The desist order shall become final upon expiration of the time allowed for appeals from the commissioner's orders, if no appeal is taken, or, in the event of such an appeal, upon final decision of the court, if the court affirms the commissioner's order or dismisses the appeal.

(3) In the event of such an appeal, to the extent that the commissioner's order is affirmed, the court shall issue its own order commanding obedience to the terms of the commissioner's order.

(4) No order of the commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by the order from any other liability, penalty, or forfeiture under law.

(f) *Curtailment of Undefined Practices.*

(1) If the Insurance Commissioner believes that any person domiciled in or resident of the Commonwealth is engaging in any state, province, country, or district, in any method of competition or in any act or practice in the conduct of such business, which is not defined in this division, but that the method of competition is unfair or that the act or practice is unfair or deceptive and that a proceeding by him in that respect would be in the public interest, he shall, after a hearing of which notice of the hearing and of the charges against him are given the person, make a written report of his findings of fact relative to the charges and serve a copy upon the person and any intervenor at the hearing.

(2) If the report charges a violation of 4 CMC § 7302(d), and if the method of competition, act, or practice has not been discontinued, the commissioner may, through the Attorney General, at any time after the service of the report, cause an action to be instituted to enjoin and restrain the person from engaging in such method, act, or practice. In the action the court may grant a restraining order or injunction upon such terms as may be just; but the Commonwealth shall not be required to give security before the issuance of any such order or injunction. If a stenographic record of the proceedings in the hearing before the commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in the action.

(3) If the commissioner's report made pursuant to subsection (f)(1) of this section or order on hearing made pursuant to subsection (e) of this section, does not charge a violation of subsection (d) of this section, then an intervenor

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in the proceedings may appeal therefrom within the time and in the manner provided in this division for appeals from the commissioner generally.

(g) *Unfair Claim Settlement Practices.*

(1) No insurer doing business in the Commonwealth shall engage in unfair claim settlement practices. Any of the following acts by an insurer, if committed without just cause and performed with such frequency as to indicate a general business practice, shall constitute unfair claim settlement practices:

(A) Misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;

(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;

(C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under its policies;

(D) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims submitted in which liability has become reasonably clear; or

(E) Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amount ultimately recovered in suits brought by them.

(2) Evidence as to numbers and types of complaints to the Insurance Commissioner against an insurer, and Insurance Commissioner's complaint experience with other insurers writing similar lines of insurance, shall be admissible in an administrative or judicial proceeding brought under this division; provided, no insurer shall be deemed in violation of this section solely by reason of the number and types of such complaints.

(3) If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of noncompliance may be treated as a separate violation of this section for purpose of 4 CMC § 7509.

Source: PL 3-107, § 16, modified.

Commission Comment: In subsection (d)(5)(a), the Commission inserted "to any person or placing before the public, or causing," correcting a clerical error.