

BILL ANALYSIS

Senate Research Center
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S.B. 840
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Decisions to purchase insurance, or obtain information about insurance products and services, should be based on factors other than the consumer being offered or receiving anything of value.

Under current law, items of nominal value that are promotional, such as pens, calendars, and notepads, are not permitted and are viewed as rebating or inducements. These nominal items are not meaningful rebates of premium, nor do they genuinely induce purchasing decisions.

To date, 47 states have enacted anti-rebating statutes, and of the states that set a particular dollar limit, thirteen states set the limit at \$25.

S.B. 840 will allow insurers and insurance agents to offer items of nominal value that are promotional in nature, educational, or are traditional courtesies commonly extended to consumers, the value of which does not exceed \$25.

As proposed, S.B. 840 amends current law relating to certain promotional practices not considered to be prohibited discrimination, rebates, or inducements in insurance.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 541.058(b), Insurance Code, to provide that it is not a rebate or discrimination prohibited under Section 541.056(a) (relating to provision that it is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance to knowingly permit certain actions) or 541.057 (Unfair Discrimination in Life Insurance and Annuity Contracts), in connection with an offer or sale of a life insurance policy or contract, accident and health insurance policy or contract, or annuity contract, to give, provide, or allow, or offer to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

SECTION 2. Amends Section 1806.053, Insurance Code, to reference this subchapter rather than Section 1806.056 (Profit Sharing Based on Combat Duty Authorized).

SECTION 3. Amends Subchapter B, Chapter 1806, Insurance Code, by adding Section 1806.059, as follows:

Sec. 1806.059. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED. Provides that Section 1806.053 does not prohibit an insurer or an insurer's agent or other representative from, in connection with an offer or sale of an insurance policy subject to this subchapter, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

SECTION 4. Amends Subchapter C, Chapter 1806, Insurance Code, by adding Section 1806.1041, as follows:

Sec. 1806.1041. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED. Provides that Section 1806.104 (Prohibited Acts) does not prohibit an insurer, an insurer's employee, or a broker or agent from, in connection with an offer or sale of an insurance policy subject to this subchapter, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

SECTION 5. Amends Subchapter D, Chapter 1806, Insurance Code, by adding Section 1806.1541, as follows:

Sec. 1806.1541. CERTAIN PROMOTIONAL PRACTICES AUTHORIZED. Provides that Section 1806.153 (Unjust Discrimination; Rebates) does not prohibit an insurer from, in connection with an offer or sale of an insurance policy or contract subject to this subchapter, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

SECTION 6. Amends Section 4005.053, Insurance Code, by adding Subsection (d), as follows:

(d) Provides that Subsection (c) (relating to prohibiting an agent from paying, permitting, or giving or offering to pay, permit, or give, directly or indirectly, to a person who does not hold a license as an agent certain rebates and fees) does not prohibit an agent from, in connection with an offer or sale of an insurance policy or contract, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2013.