A bill to be entitled

An act relating to non-coverage-related regulation of insurance; amending s. 626.7851, F.S.; revising a minimum coursework qualification for licensure as a life agent; amending s. 626.9541, F.S.; providing that certain restrictions against unfair discrimination or unlawful rebates do not include value-added products or services offered or provided by life or health insurers or their agents if certain conditions are met; providing requirements for and restrictions on life or health insurers or life or health agents offering or providing such products or services; authorizing life or health insurers or life or health agents to provide such products or services as part of a pilot or testing program under certain circumstances; authorizing the Financial Services Commission to adopt rules; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 626.7851, Florida Statutes, is amended to read:

626.7851 Requirement as to knowledge, experience, or instruction.—An applicant for a license as a life agent, except for a chartered life underwriter (CLU), shall not be qualified

or licensed unless within the 4 years immediately preceding the date the application for a license is filed with the department he or she has:

(1) Successfully completed 30 ~~40~~ hours of coursework in life insurance, annuities, and variable contracts approved by the department, 3 hours of which shall be on the subject matter of ethics. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance;

(2) Successfully completed a minimum of 60 hours of coursework in multiple areas of insurance, which included life insurance, annuities, and variable contracts, approved by the department, 3 hours of which shall be on the subject matter of ethics. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance;

(3) Earned or maintained an active designation as Chartered Financial Consultant (ChFC) from the American College of Financial Services; or Fellow, Life Management Institute (FLMI) from the Life Management Institute;

(4) Held an active license in life insurance in another state. This provision may not be used unless the other state grants reciprocal treatment to licensees formerly licensed in the state; or

(5) Been employed by the department or office for at least 1 year, full time in life insurance regulatory matters and who

was not terminated for cause, and application for examination is made within 4 years after the date of termination of his or her employment with the department or office.

Prelicensure coursework is not required for an applicant who is a member or veteran of the United States Armed Forces or the spouse of such a member or veteran. A qualified individual must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document that indicates such member is currently in good standing or such veteran is honorably discharged.

Section 2. Paragraph (h) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(h) Unlawful rebates.—

1. Except as otherwise expressly provided by law, or in an applicable filing with the office, knowingly:

a. Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon;

b. Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance contract, any unlawful rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract;

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

2. Nothing in paragraph (g) or subparagraph 1. of this paragraph shall be construed as including within the definition of discrimination or unlawful rebates:

a. In the case of any contract of life insurance or life annuity, paying bonuses to all 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 is fair and equitable to all policyholders and for the best interests of the company and its policyholders.

b. 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.

c. Readjustment of the rate of premium for a group insurance policy based on the loss or expense 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.

d. Issuance of life insurance policies or annuity contracts at rates less than the usual rates of premiums for such policies or contracts, as group insurance or employee insurance as defined in this code.

e. Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check, payroll deduction, or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan.

3.a. No title insurer, or any member, employee, attorney, agent, or agency thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the premium or any other charge or fee, or provide any special favor or advantage, or any monetary consideration or inducement whatever.

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly

licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer. Nothing in this subparagraph shall be construed as prohibiting a rebate or abatement of an attorney fee charged for professional services, or that portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), or any other agent charge or fee to the person responsible for paying the premium, charge, or fee.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or attorney, any employee, agent, agency, or representative thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of any portion of the title insurance premium or of any other charge or fee or any monetary consideration or inducement whatsoever, except as set forth in sub-subparagraph b.; provided, in no event shall any portion of the attorney fee, any portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), any agent charge or fee, or any other monetary consideration or inducement be paid directly or indirectly for the referral of title insurance business.

4.a. Paragraph (g) or subparagraph 1. may not be construed as including within the definition of discrimination or unlawful rebates the offer or provision by a life or health insurer or a life or health agent of the life or health insurer, including by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the insurance policy, if the product or service relates to the insurance coverage and is primarily designed to do one or more of the following:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

(III) Provide education about liability risks or risk of loss to persons or property;

(IV) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(V) Enhance health;

(VI) Enhance financial wellness through items such as education or financial planning services;

(VII) Provide post-loss services;

(VIII) Incentivize behavioral changes to improve the health or reduce the risk of death or disability of a policyholder, potential policyholder, certificateholder, potential certificateholder, insured, potential insured, or applicant; or

(IX) Assist in the administration of employee or retiree benefit insurance coverage.

b. The cost to the life or health insurer or life or health agent offering the product or service to a customer must be reasonable in comparison to the customer's premiums or insurance coverage for the policy class.

c. If the life or health insurer or life or health agent is providing the product or service, the life or health insurer or life or health agent must ensure that the customer is provided with contact information to assist the customer with questions regarding the product or service.

d. The availability of the product or service must be based on documented objective evidence, and the product or service must be offered in a manner that is not unfairly discriminatory. The documented evidence must be maintained by the life or health insurer or life or health agent and produced upon request by the office or the department.

e. If a life or health insurer or life or health agent has a good faith belief, but does not have sufficient evidence to demonstrate, that the product or service meets any of the criteria in sub-sub-subparagraphs a.(I)-(IX), the life or health insurer or life or health agent may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for up to 1 year. A life or health insurer or life or health agent must notify the office or

department, as applicable, of such pilot or testing program offered to consumers in this state before commencing the program. The life or health insurer or life or health agent may commence the program unless the office or department, as applicable, objects to the program within 21 days after receiving the notice.

f. A life or health insurer, life or health agent, or representative thereof may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the words "free," "no cost," or similar words in an advertisement.

g. The commission may adopt rules to administer this subparagraph to ensure consumer protection. Such rules, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure, and unfair discrimination.

Section 3. This act shall take effect July 1, 2023.