

# Public Act 92-0587

SB1996 Enrolled

LRB9215940JSpc

AN ACT concerning insurance.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Insurance Code is amended by changing Section 500-80 as follows:

(215 ILCS 5/500-80)

Sec. 500-80. Commissions.

(a) An insurer or insurance producer may not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed at the time of selling, soliciting, or negotiating the insurance.

(b) A person may not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed.

(c) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this State if the person was required to be licensed under this Article at the time of the sale, solicitation, or negotiation and was so licensed at that time.

(d) An insurer or insurance producer may pay or assign commissions, service fees, brokerages, or other valuable consideration to an insurance agency or to persons who do not sell, solicit, or negotiate insurance in this State, unless the payment would violate Section 151 of this Code.

(e) When an insurance producer or business entity charges any fee or compensation separate from commissions deductible from, or directly attributable to, premiums on insurance policies or contracts, it must comply with all of the following:

(1) It must provide written disclosure to the consumer or contracting party that clearly specifies the amount or extent of the compensation or fee prior to the delivery of the corresponding policy. A copy of the written disclosure must be maintained by the producer or business entity that collects the compensation or fee for a period of 7 years.

(2) If the combined compensation or fee exceeds 10% of a directly attributable premium amount of a corresponding contract or policy, the disclosure must also include the signature of the consumer or contracting party acknowledging the compensation or fee.

(3) If an insurance policy or contract is cancelled for any reason within 90 days following the inception date, the producer or business entity shall refund to the consumer a prorated portion of the fee or compensation within 30 days after the producer or business entity receives proper documentation that the corresponding insurance policy or contract has been cancelled. At no

time shall a producer or business entity charge the consumer a fee or compensation for cancellation of any insurance policy or contract.

(4) If the policy file contains documentation that the producer performed a service corresponding to the applicable coverage or policy and the written disclosure stated that the fees were fully earned, then those fees shall be fully earned at inception of the disclosure's execution. Except as to commissions deductible from premiums on insurance policies or contracts for insurance, an insurance producer or business entity does not have any right to compensation from an insured or prospective insured for or on account of the transaction of insurance business unless the right to compensation is stated on a separate written memorandum that clearly specifies the amount or extent of the service fee and that is provided to the applicant or insured before the performance of the service or the issuance of the policy, whichever is first. A copy of the memorandum must be maintained by any producer who collects or receives the service fee or any portion of the service fee. If the compensation or service fee exceeds 10% of the premium amount or potential premium amount of the contract or policy, the memorandum shall include the signature of the insured or prospective insured acknowledging the compensation or service fee.

(f) Any compensation or service fee received on a contract or policy that is later canceled, within the first half of the contract or policy period, for any reason must be returned to the insured by the insurance producer or business entity at a prorated amount. The prorated amount shall be based on the length of the term of the policy or contract compared to the time that contract or policy was in force such that the amount returned reflects the portion of the term of the contract or policy during which the contract was not in force. There shall be no compensation or service fee assessed or received on a contract or policy by the insurance producer or business entity for processing such cancellation. (Source: P.A. 92-386, eff. 1-1-02.)

Section 99. Effective date. This Act takes effect upon becoming law.

Passed in the General Assembly April 23, 2002.

Approved June 26, 2002.