

1 AN ACT concerning insurance.

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

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

6 (215 ILCS 5/500-80)

7 Sec. 500-80. Commissions.

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

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

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

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

30 (e) When an insurance producer or business entity
31 charges any fee or compensation separate from commissions

1 deductible from, or directly attributable to, premiums on
2 insurance policies or contracts, it must comply with all of
3 the following:

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

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

16 (3) If an insurance policy or contract is cancelled
17 for any reason within 90 days following the inception
18 date, the producer or business entity shall refund to the
19 consumer a prorated portion of the fee or compensation
20 within 30 days after the producer or business entity
21 receives proper documentation that the corresponding
22 insurance policy or contract has been cancelled. At no
23 time shall a producer or business entity charge the
24 consumer a fee or compensation for cancellation of any
25 insurance policy or contract.

26 (4) If the policy file contains documentation that
27 the producer performed a service corresponding to the
28 applicable coverage or policy and the written disclosure
29 stated that the fees were fully earned, then those fees
30 shall be fully earned at inception of the disclosure's
31 execution. Except--as--to--commissions--deductible--from
32 premiums---on---insurance---policies---or---contracts--for
33 insurance, an insurance producer or business entity does
34 not--have--any--right--to--compensation--from--an--insured--or

1 prospective-insured-for-or-on-account-of-the--transaction
 2 of-insurance-business-unless-the-right-to-compensation-is
 3 stated--on--a--separate--written--memorandum-that-clearly
 4 specifies-the-amount-or-extent-of--the--service--fee--and
 5 that--is--provided-to-the-applicant-or-insured-before-the
 6 performance-of-the-service-or-the-issuance-of-the-policy,
 7 whichever-is-first.--A-copy-of--the--memorandum--must--be
 8 maintained--by--any-producer-who-collects-or-receives-the
 9 service-fee-or-any-portion-of-the-service--fee.--If--the
 10 compensation--or--service--fee-exceeds-10%-of-the-premium
 11 amount-or-potential-premium-amount--of--the--contract--or
 12 policy,--the-memorandum-shall-include-the-signature-of-the
 13 insured---or---prospective---insured---acknowledging--the
 14 compensation-or-service-fee.

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

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