

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 a 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 3 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) The compensation or fee shall be returned to  
17 the consumer or contracting party within 30 days after  
18 the properly documented receipt of a notice to the  
19 producer or business entity that the corresponding  
20 contract or policy has been cancelled. The amount to be  
21 returned shall be calculated on a pro-rated basis for the  
22 remaining time the policy will not be in force, not to  
23 exceed 90 days. Compensation or fees returned shall not  
24 include or offset for any processing or cancellation  
25 charges attributable to effecting the return.

26 (4) If the consumer or contracting party's policy  
27 file contains documentation that the producer performed a  
28 service corresponding to the applicable coverage or  
29 policy and the written disclosure stated that the fees  
30 were fully earned, then those fees shall be fully earned  
31 at inception of the disclosure statement's execution.

32 Except-as-to--commissions--deductible--from--premiums--on  
33 insurance---policies---or--contracts--for--insurance,--an  
34 insurance-producer-or-business-entity-does-not--have--any

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

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

28 (Source: P.A. 92-386, eff. 1-1-02.)

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