



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2016

Introduced 2/25/2005, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

215 ILCS 5/500-147 new

815 ILCS 505/2Z

815 ILCS 505/10b

from Ch. 121 1/2, par. 262Z

from Ch. 121 1/2, par. 270b

Amends the Illinois Insurance Code. Requires certain insurance producers to disclose to the customer any compensation the producer receives from an insurer or third party. Grants customers the right to request additional information. Makes a violation a violation of the Consumer Fraud and Deceptive Business Practices Act. Amends the Consumer Fraud and Deceptive Business Practices Act to include the violations and to delete a provision exempting certain acts of insurance producers, registered firms, and limited insurance representatives from the Act. Effective immediately.

LRB094 11224 LJB 42237 b

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 adding
5 Section 500-147 as follows:

6 (215 ILCS 5/500-147 new)

7 Sec. 500-147. Compensation disclosure; unfair trade
8 practices.

9 (a) Where any insurance producer or any affiliate of a
10 producer receives any compensation from a customer for the
11 placement of insurance or represents a customer with respect to
12 the placement of insurance, neither the producer nor the
13 affiliate shall accept or receive any compensation from an
14 insurer or other third party for that placement of insurance
15 unless the producer or affiliate has, prior to the customer's
16 purchase, obtained the customer's documented acknowledgement
17 that compensation will be received by the producer or
18 affiliate. The disclosure required by this subsection (a) shall
19 be in a form prescribed by the Secretary and signed by the
20 customer and shall disclose all of the following:

21 (1) The producer or affiliate may receive compensation
22 from an insurer or other third party in connection with the
23 placement of insurance coverage. The compensation received
24 by the producer or affiliate may differ depending upon the
25 product and the insurer or other third party. The producer
26 or affiliate may receive additional compensation from the
27 insurer or other third party based upon other factors, such
28 as premium volume placed with a particular insurer and loss
29 or claims experience. Some insurers or other third parties
30 may offer a producer or affiliate more compensation than
31 others for the same customer's business.

32 (2) The customer may request additional information

1 regarding the formula for determining producer or
2 affiliate compensation by submitting a written request
3 within 30 days of signing the initial disclosure. The
4 producer or affiliate shall provide the requested
5 information within 10 business days.

6 In the case of a purchase over the telephone or by electronic
7 means for which written consent cannot reasonably be obtained,
8 consent documented by the producer or affiliate shall be
9 acceptable.

10 (b) A customer has the right to request additional
11 information within 30 days of signing the disclosure. The
12 producer or affiliate has 10 business days to provide a
13 customer with the requested information. Upon written request
14 from a customer, the producer or affiliate is required to
15 disclose the formula for calculating the commission from the
16 insurer or other third party for the placement of insurance.

17 (c) Subsection (a) of this Section shall not apply to any
18 of the following:

19 (1) An insurance producer or affiliate who is obligated
20 by contract to sell, solicit, or negotiate insurance on
21 behalf of only one insurer.

22 (2) A person licensed as an insurance producer who acts
23 only as an intermediary between an insurer and the
24 customer's producer, for example a managing general agent,
25 a sales manager, or wholesale broker.

26 (3) A reinsurance intermediary.

27 (d) A person shall not be considered a customer for
28 purposes of this Section if the person is merely (i) a
29 participant or beneficiary of an employee benefit plan or (ii)
30 covered by a group or blanket insurance policy or group annuity
31 contract sold, solicited, or negotiated by the insurance
32 producer or affiliate.

33 (e) For purposes of this Section:

34 "Affiliate" means a person that controls or is controlled
35 by an insurance producer or is under the common control of
36 another person or entity.

1 "Compensation from an insurer or other third party" means
2 payments, commissions, fees, awards, overrides, bonuses,
3 contingent commissions, loans, stock options, gifts, prizes,
4 or any other form of valuable consideration, whether or not
5 payable pursuant to a written agreement.

6 (f) A violation of this Section shall be considered an
7 unfair trade practice under the Consumer Fraud and Deceptive
8 Business Practices Act and shall be subject to the penalties
9 contained in that Act in an action brought by the Attorney
10 General.

11 Section 10. The Consumer Fraud and Deceptive Business
12 Practices Act is amended by changing Sections 2Z and 10b as
13 follows:

14 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

15 Sec. 2Z. Violations of other Acts. Any person who knowingly
16 violates the Automotive Repair Act, the Home Repair and
17 Remodeling Act, the Dance Studio Act, the Physical Fitness
18 Services Act, the Hearing Instrument Consumer Protection Act,
19 the Illinois Union Label Act, the Job Referral and Job Listing
20 Services Consumer Protection Act, the Travel Promotion
21 Consumer Protection Act, the Credit Services Organizations
22 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
23 Services Consumer Protection Act, the Telephone Solicitations
24 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
25 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
26 Sales Act, the High Risk Home Loan Act, subsection (a) or (b)
27 of Section 3-10 of the Cigarette Tax Act, subsection (a) or (b)
28 of Section 3-10 of the Cigarette Use Tax Act, the Electronic
29 Mail Act, paragraph (6) of subsection (k) of Section 6-305 of
30 the Illinois Vehicle Code, Section 500-147 of the Illinois
31 Insurance Code, or the Automatic Contract Renewal Act commits
32 an unlawful practice within the meaning of this Act.

33 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
34 eff. 1-1-05.)

1 (815 ILCS 505/10b) (from Ch. 121 1/2, par. 270b)

2 (Text of Section WITH the changes made by P.A. 89-7, which
3 has been held unconstitutional)

4 Sec. 10b. Nothing in this Act shall apply to any of the
5 following:

6 (1) Actions or transactions specifically authorized by
7 laws administered by any regulatory body or officer acting
8 under statutory authority of this State or the United States.

9 (2) The provisions of "An act to protect trademark owners,
10 distributors, and the public against injurious and uneconomic
11 practices in the distribution of articles of standard quality
12 under a trademark, brand or name," approved July 8, 1935, as
13 amended.

14 (3) Acts done by the publisher, owner, agent, or employee
15 of a newspaper, periodical or radio or television station in
16 the publication or dissemination of an advertisement, when the
17 owner, agent or employee did not have knowledge of the false,
18 misleading or deceptive character of the advertisement, did not
19 prepare the advertisement, or did not have a direct financial
20 interest in the sale or distribution of the advertised product
21 or service.

22 (4) The communication of any false, misleading or deceptive
23 information, provided by the seller of real estate located in
24 Illinois, by a real estate salesman or broker licensed under
25 "The Real Estate Brokers License Act", unless the salesman or
26 broker knows of the false, misleading or deceptive character of
27 such information. This provision shall be effective as to any
28 communication, whenever occurring.

29 (5) Claims seeking damages for conduct that results in
30 bodily injury, death, or damage to property other than the
31 property that is the subject of the practice claimed to be
32 unlawful.

33 This item (5) applies to causes of action filed on or after
34 its effective date.

35 (6) (Blank). ~~The communication of any false, misleading, or~~

~~deceptive information by an insurance producer, registered firm, or limited insurance representative, as those terms are defined in the Illinois Insurance Code, or by an insurance agency or brokerage house concerning the sale, placement, procurement, renewal, binding, cancellation of, or terms of any type of insurance or any policy of insurance unless the insurance producer has actual knowledge of the false, misleading, or deceptive character of the information. This provision shall be effective as to any communications, whenever occurring. This item (6) applies to all causes of action that accrue on or after the effective date of this amendatory Act of 1995.~~

(Source: P.A. 89-7, eff. 3-9-95; 89-152, eff. 1-1-96.)

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)

Sec. 10b. Nothing in this Act shall apply to any of the following:

(1) Actions or transactions specifically authorized by laws administered by any regulatory body or officer acting under statutory authority of this State or the United States.

(2) The provisions of "An act to protect trademark owners, distributors, and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a trademark, brand or name," approved July 8, 1935, as amended.

(3) Acts done by the publisher, owner, agent, or employee of a newspaper, periodical or radio or television station in the publication or dissemination of an advertisement, when the owner, agent or employee did not have knowledge of the false, misleading or deceptive character of the advertisement, did not prepare the advertisement, or did not have a direct financial interest in the sale or distribution of the advertised product or service.

(4) The communication of any false, misleading or deceptive information, provided by the seller of real estate located in

1 Illinois, by a real estate salesman or broker licensed under
2 "The Real Estate Brokers License Act", unless the salesman or
3 broker knows of the false, misleading or deceptive character of
4 such information. This provision shall be effective as to any
5 communication, whenever occurring.

6 (5) (Blank). ~~This item (5)~~

7 (6) (Blank). ~~The communication of any false, misleading, or~~
8 ~~deceptive information by an insurance producer, registered~~
9 ~~firm, or limited insurance representative, as those terms are~~
10 ~~defined in the Illinois Insurance Code, or by an insurance~~
11 ~~agency or brokerage house concerning the sale, placement,~~
12 ~~procurement, renewal, binding, cancellation of, or terms of any~~
13 ~~type of insurance or any policy of insurance unless the~~
14 ~~insurance producer has actual knowledge of the false,~~
15 ~~misleading, or deceptive character of the information. This~~
16 ~~provision shall be effective as to any communications, whenever~~
17 ~~occurring. This item (6) applies to all causes of action that~~
18 ~~accrue on or after the effective date of this amendatory Act of~~
19 ~~1995.~~

20 (Source: P.A. 84-894; 89-152, eff. 1-1-96; revised 1-22-98.)

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