

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2446 Session of
2006

INTRODUCED BY J. EVANS, SONNEY, BEBKO-JONES, HARPER, BEYER,
CRAHALLA, CREIGHTON, McILHATTAN, MUNDY, PHILLIPS, RUBLEY AND
YOUNGBLOOD, FEBRUARY 8, 2006

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 8, 2006

AN ACT

1 Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as
2 amended, "An act relating to insurance; establishing an
3 insurance department; and amending, revising, and
4 consolidating the law relating to the licensing,
5 qualification, regulation, examination, suspension, and
6 dissolution of insurance companies, Lloyds associations,
7 reciprocal and inter-insurance exchanges, and certain
8 societies and orders, the examination and regulation of fire
9 insurance rating bureaus, and the licensing and regulation of
10 insurance agents and brokers; the service of legal process
11 upon foreign insurance companies, associations or exchanges;
12 providing penalties, and repealing existing laws," requiring
13 insurance producers to disclose compensation to customers
14 under certain circumstances.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The act of May 17, 1921 (P.L.789, No.285), known
18 as The Insurance Department Act of 1921, is amended by adding a
19 section to read:

20 Section 677.2-A. Compensation disclosure.

21 (a) Disclosure required.--Except as otherwise provided under
22 subsection (b), no insurance producer or affiliate of an
23 insurance producer who receives any compensation from a customer

1 for the initial placement of insurance may accept or receive any
2 compensation from an insurer or other third party for placement
3 of the insurance unless the insurance producer has, prior to the
4 customer's purchase of the insurance:

5 (1) Obtained the customer's documented acknowledgment
6 that such compensation will be received by the producer or
7 affiliate.

8 (2) Provided a description of the method and factors
9 utilized for calculating the compensation to be received from
10 the insurer or other third party for that placement.

11 (b) Exceptions.--The disclosure requirements set forth in
12 this section shall not apply to any of the following:

13 (1) A person licensed as an insurance producer who acts
14 only as an intermediary between an insurer and a customer's
15 producer, including, but not limited to, a managing general
16 agent, sales manager or wholesale broker.

17 (2) The placement of insurance in secondary or residual
18 markets.

19 (3) A producer whose sole compensation for the placement
20 of insurance is derived from commissions, salaries and other
21 remuneration from an insurer.

22 (c) Compliance.--An insurance producer may satisfy any
23 requirement set forth in this section directly or through an
24 affiliate.

25 (d) Definitions.--The following words and phrases when used
26 in this section shall have the meanings given to them in this
27 subsection unless the context clearly indicates otherwise:

28 "Affiliate." A person who controls, is controlled by or is
29 under common control with a producer.

30 "Compensation from an insurer or other third party."

1 Payments, commissions, fees, awards, overrides, bonuses,
2 contingent commissions, loans, stock options, gifts, prizes or
3 any other form of valuable consideration, whether or not payable
4 pursuant to a written agreement.

5 "Customer." A person who signs an application or submission
6 for insurance or the authorized representative of such person
7 who negotiates the placement of insurance with a producer. This
8 term does not include a person who:

9 (1) is a participant or beneficiary of an employee
10 benefit plan; or

11 (2) is covered by a group or blanket insurance policy or
12 group annuity contract sold, solicited or negotiated by an
13 insurance producer or affiliate.

14 "Documented acknowledgment." A customer's acknowledgment
15 obtained prior to the customer's purchase of insurance.

16 Section 2. This act shall take effect in 180 days.