

AN ACT

relating to compensation of insurance agents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 4005, Insurance Code, is amended by adding Section 4005.004 to read as follows:

Sec. 4005.004. DISCLOSURE OF COMPENSATION. (a) In this section:

(1) "Affiliate" has the meaning described by Section 823.003(a).

(2) "Agent" means a person licensed under Chapter 4051, 4053, 4054, or 4056.

(3) "Compensation from an insurer or other third party" includes payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration, whether or not payable under a written contract or agreement.

(4) "Compensation from a customer" does not include a fee described by Section 4005.003, an application fee, or an inspection fee.

(5) "Customer" means the person signing the application for insurance or the authorized representative of the insured actually negotiating the placement of an insurance product with the agent. A person is not to be considered a "customer" of an agent for purposes of this section solely because the person is a

1 participant or beneficiary:

2 (A) of an employee benefit plan; or

3 (B) of, or otherwise covered by, a group or  
4 blanket insurance policy or group annuity contract sold, solicited,  
5 or negotiated by an agent or the agent's affiliate.

6 (6) "Documented acknowledgment" means a customer's  
7 dated acknowledgment, obtained before the customer's purchase of an  
8 insurance product, as demonstrated by the customer's written or  
9 electronic signature or recorded voice, or by other additional  
10 methods that the commissioner may authorize by rule.

11 (b) If an agent, or any affiliate of an agent, receives  
12 compensation from a customer for the placement or renewal of an  
13 insurance product, other than a service fee described under Section  
14 4005.003, an application fee, or an inspection fee, the agent or the  
15 affiliate may not accept or receive any compensation from an  
16 insurer or other third party for that placement or renewal unless  
17 the agent has, before the customer's purchase of insurance:

18 (1) obtained the customer's documented acknowledgment  
19 that the compensation will be received by the agent or affiliate;  
20 and

21 (2) provided a description of the method and factors  
22 used to compute the compensation to be received from the insurer or  
23 other third party for that placement.

24 (c) This section does not apply to:

25 (1) a licensed agent who acts only as an intermediary  
26 between an insurer and the customer's agent, including a managing  
27 general agent;

1           (2) a reinsurance intermediary or surplus lines agent  
2 placing reinsurance or surplus lines insurance; or

3           (3) an agent whose sole compensation for the placement  
4 or servicing of an insurance product is derived from commissions,  
5 salaries, and other remuneration paid by the insurer.

6           (d) An agent may satisfy any requirements imposed by this  
7 section through an affiliate.

8           (e) The commissioner may adopt rules as necessary to  
9 implement the disclosure and acknowledgment of disclosure  
10 requirements under this section.

11           SECTION 2. Section 4005.054, Insurance Code, is amended to  
12 read as follows:

13           Sec. 4005.054. RECEIVING ADDITIONAL FEE PROHIBITED. A  
14 person who holds a license under this code and receives a commission  
15 or other consideration for services as an agent may not receive an  
16 additional fee for those services provided to the same client  
17 except for a fee:

18           (1) described by Section 550.001 or 4005.003; and

19           (2) for which disclosure is made as required under  
20 Section 4005.003 or Section 4005.004.

21           SECTION 3. (a) The Texas Department of Insurance shall  
22 conduct a study regarding whether the commissions paid to insurance  
23 agents for sales of insurance policies for coverage under the Texas  
24 Health Insurance Risk Pool established under Chapter 1506,  
25 Insurance Code, are sufficient to ensure that consumers who are  
26 eligible for coverage under that pool are made aware of the  
27 existence of the pool and the benefits of purchasing insurance

1 policies issued by the pool.

2 (b) The Texas Department of Insurance shall report the  
3 results of the study to the legislature not later than December 1,  
4 2006.

5 SECTION 4. This Act takes effect September 1, 2005.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2941 was passed by the House on May 12, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2941 on May 27, 2005, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 2941 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor