

By: Eiland

H.B. No. 2941

A BILL TO BE ENTITLED

AN ACT

relating to the compensation of insurance agents.

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

SECTION 1. Chapter 4005, Insurance Code, as effective April 1, 2005, is amended by adding Section 4005.004 to read as follows:

Section 4005.004. Compensation Disclosure.

(a) When an agent, or any affiliate of such agent, receives any compensation from the customer for the placement or renewal of insurance or services the agent agrees to perform in connection with the placement, renewal or servicing of insurance, including a fee described by Section 550.001, neither that agent nor the affiliate shall accept or receive any compensation from an insurer or other third party for that placement, renewal or servicing of insurance unless the agent has, prior to the customer's purchase of insurance:

(1) Obtained the customer's documented acknowledgement that such compensation will be received by the agent or affiliate; and

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

(b) This section shall not apply to:

(1) The placement or servicing of reinsurance; or

(2) An agent whose sole compensation for the placement

1 or servicing of insurance is derived from commissions, salaries,
2 and other remuneration from the insurer.

3 (c) For purposes of this section:

4 (1) "Affiliate" means a person that controls, is
5 controlled by, or is under common control with the agent.

6 (2) "Agent" means a person licensed under Chapter 981,
7 4051, 4053, 4054, or 4056.

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

13 (4) "Compensation from the customer" shall not include
14 any fee as provided under Section 4005.003, or any fee or amount
15 collected by or paid to the agent that has been established by the
16 commissioner and does not exceed the amount established by the
17 commissioner.

18 (5) "Customer" means the person signing the
19 application for insurance or the authorized representative of the
20 insured actually negotiating the placement of insurance with the
21 agent. A person shall not be considered a "customer" for purposes
22 of this section if the person is a participant or beneficiary:

23 (A) of an employee benefit plan; or

24 (B) of, or otherwise covered by, a group or
25 blanket insurance policy or group annuity contract sold, solicited
26 or negotiated by the agent or affiliate.

27 (6) "Documented acknowledgement" means the customer's

1 dated acknowledgement obtained prior to the customer's purchase of
2 insurance as demonstrated by the customer's written or electronic
3 signature, recorded voice, or other additional methods that the
4 commissioner may authorize by rule.

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

7 (e) The commissioner may adopt rules to implement this
8 section, including authorizing additional methods of demonstrating
9 documented acknowledgement.

10 SECTION 2. Chapter 4005, Insurance Code, as effective April
11 1, 2005, is amended by amending Section 4005.054 to read as follows:

12 Sec. 4005.054. RECEIVING ADDITIONAL FEE PROHIBITED. A
13 person who holds a license under this code and receives a commission
14 or other consideration for services as an agent may not receive an
15 additional fee for those services provided to the same client
16 except for a fee described by Section 550.001 or 4005.003 and for
17 which disclosure is made as required under Section 4005.003 or
18 4005.004.

19 SECTION 3. This Act takes effect September 1, 2005.