

1 AN ACT in relation to 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 Sections 500-77 and 500-80 as follows:

6 (215 ILCS 5/500-77)

7 Sec. 500-77. Policyholder information and exclusive
8 ownership of expirations.

9 (a) As used in this Section, "expirations" means all
10 information relative to an insurance policy including, but
11 not limited to, the name and address of the insured, the
12 location and description of the property insured, the value
13 of the insurance policy, the inception date, the renewal
14 date, and the expiration date of the insurance policy, the
15 premiums, the limits and a description of the terms and
16 coverage of the insurance policy, and any other personal and
17 privileged information, as defined by Section 1003 of this
18 Code, compiled by a business entity ~~registered--firm~~ or
19 furnished by the insured to the insurer or any agent,
20 contractor, or representative of the insurer.

21 For purposes of this Section only, a business entity
22 ~~registered-firm~~ also includes a sole proprietorship that
23 transacts the business of insurance as an insurance agency.

24 (b) All "expirations" as defined in subsection (a) of
25 this Section shall be mutually and exclusively owned by the
26 insured and the business entity ~~registered--firm~~. The
27 limitations on the use of expirations as provided in
28 subsections (c) and (d) of this Section shall be for mutual
29 benefit of the insured and the business entity ~~registered~~
30 ~~firm~~.

31 (c) Except as otherwise provided in this Section, for

1 purposes of soliciting, selling, or negotiating the renewal
2 or sale of insurance coverage, insurance products, or
3 insurance services or for any other marketing purpose, a
4 business entity registered-firm shall own and have the
5 exclusive use of expirations, records, and other written or
6 electronically stored information directly related to an
7 insurance application submitted by, or an insurance policy
8 written through, the business entity registered-firm. No
9 insurance company, managing general agent, surplus lines
10 insurance broker, wholesale broker, group self-insurance
11 fund, third-party administrator, or any other entity, other
12 than a financial institution as defined in Section 1402 of
13 this Code, shall use such expirations, records, or other
14 written or electronically stored information to solicit,
15 sell, or negotiate the renewal or sale of insurance coverage,
16 insurance products, or insurance services to the insured or
17 for any other marketing purposes, either directly or by
18 providing such information to others, without, separate from
19 the general agency contract, the written consent of the
20 business entity registered-firm. However, such expirations,
21 records, or other written or electronically stored
22 information may be used for any purpose necessary for placing
23 such business through the insurance producer including
24 reviewing an application and issuing or renewing a policy and
25 for loss control services.

26 (d) With respect to a business entity registered-firm,
27 this Section shall not apply:

28 (1) when the insured requests either orally or in
29 writing that another business entity registered-firm
30 obtain quotes for insurance from another insurance
31 company or when the insured requests in writing
32 individually or through another business entity
33 registered-firm, that the insurance company renew the
34 policy;

1 (2) to policies in the Illinois Fair Plan, the
2 Illinois Automobile Insurance Plan, or the Illinois
3 Assigned Risk Plan for coverage under the Workers'
4 Compensation Act and the Workers' Occupational Diseases
5 Act;

6 (3) when the insurance producer is employed by or
7 has agreed to act exclusively or primarily for one
8 company or group of affiliated insurance companies or to
9 a producer who submits to the company or group of
10 affiliated companies that are organized to transact
11 business in this State as a reciprocal company, as
12 defined in Article IV of this Code, every request or
13 application for insurance for the classes and lines
14 underwritten by the company or group of affiliated
15 companies;

16 (4) to policies providing life and accident and
17 health insurance;

18 (5) when the business entity registered-firm is in
19 default for nonpayment of premiums under the contract
20 with the insurer or is guilty of conversion of the
21 insured's or insurer's premiums or its license is revoked
22 by or surrendered to the Department;

23 (6) to any insurance company's obligations under
24 Sections 143.17 and 143.17a of this Code; or

25 (7) to any insurer that, separate from a producer
26 or business entity registered--firm, creates, develops,
27 compiles, and assembles its own, identifiable expirations
28 as defined in subsection (a).

29 For purposes of this Section, an insurance producer shall
30 be deemed to have agreed to act primarily for one company or
31 a group of affiliated insurance companies if the producer (i)
32 receives 75% or more of his or her insurance related
33 commissions from one company or a group of affiliated
34 companies or (ii) places 75% or more of his or her policies

1 with one company or a group of affiliated companies.

2 Nothing in this Section prohibits an insurance company,
3 with respect to any items herein, from conveying to the
4 insured or the business entity registered-firm any additional
5 benefits or ownership rights including, but not limited to,
6 the ownership of expirations on any policy issued or the
7 imposition of further restrictions on the insurance company's
8 use of the insured's personal information.

9 (e) Nothing in this Section prevents a financial
10 institution, as defined in Section 1402 of this Code, from
11 obtaining from the insured, the insurer, or the business
12 entity registered-firm the expiration dates of an insurance
13 policy placed on collateral or otherwise used as security in
14 connection with a loan made or serviced by the financial
15 institution when the financial institution requires the
16 expiration dates for evidence of insurance.

17 (f) For purposes of this Section, "financial
18 institution" does not include an insurance company, business
19 entity registered-firm, managing general agent, surplus lines
20 broker, wholesale broker, group self-funded insurance fund,
21 or third-party administrator.

22 (g) The Director may adopt rules in accordance with
23 Section 401 of this Code for the enforcement of this Section.

24 (h) This Section applies to the expirations relative to
25 all policies of insurance bound, applied for, sold, renewed,
26 or otherwise taking effect on or after June 1, 2001 the
27 ~~effective-date-of-this-amendatory-Act--of--the--92nd--General~~
28 ~~Assembly.~~

29 (Source: P.A. 92-5, eff. 6-1-01; 92-651, eff. 7-11-02.)

30 (215 ILCS 5/500-80)

31 Sec. 500-80. Commissions.

32 (a) An insurer or insurance producer may not pay a
33 commission, service fee, brokerage, or other valuable

1 consideration to a person for selling, soliciting, or
2 negotiating insurance in this State if that person is
3 required to be licensed under this Article and is not so
4 licensed at the time of selling, soliciting, or negotiating
5 the insurance.

6 (b) A person may not accept a commission, service fee,
7 brokerage, or other valuable consideration for selling,
8 soliciting, or negotiating insurance in this State if that
9 person is required to be licensed under this Article and is
10 not so licensed.

11 (c) Renewal or other deferred commissions may be paid to
12 a person for selling, soliciting, or negotiating insurance in
13 this State if the person was required to be licensed under
14 this Article at the time of the sale, solicitation, or
15 negotiation and was so licensed at that time.

16 (d) An insurer or insurance producer may pay or assign
17 commissions, service fees, brokerages, or other valuable
18 consideration to an insurance agency or to persons who do not
19 sell, solicit, or negotiate insurance in this State, unless
20 the payment would violate Section 151 of this Code.

21 (e) When an insurance producer or business entity
22 charges any fee or compensation separate from commissions
23 deductible from, or directly attributable to, premiums on
24 insurance policies or contracts, it must comply with all of
25 the following:

26 (1) It must provide written disclosure to the
27 consumer or contracting party that clearly specifies the
28 amount or extent of the compensation or fee prior to the
29 delivery of the corresponding policy or the performance
30 of the service. A copy of the written disclosure must be
31 maintained for a period of 7 years by the producer or
32 business entity that collects the compensation or fee ~~for~~
33 ~~a period of 7 years~~.

34 (2) If the combined compensation or fee exceeds 10%

1 of a directly attributable premium amount of a
2 corresponding contract or policy, the disclosure must
3 also include the signature of the consumer or contracting
4 party acknowledging the compensation or fee.

5 (3) If an insurance policy or contract is cancelled
6 for any reason within 90 days following the inception
7 date, the producer or business entity shall refund to the
8 consumer a prorated portion of the fee or compensation
9 within 30 days after the producer or business entity
10 receives proper documentation that the corresponding
11 insurance policy or contract has been cancelled. At no
12 time shall a producer or business entity charge the
13 consumer a fee or compensation for cancellation of any
14 insurance policy or contract.

15 (4) If the policy file contains documentation that
16 the producer performed a service corresponding to the
17 applicable coverage or policy and the written disclosure
18 stated that the fees were fully earned, then those fees
19 shall be fully earned at inception of the disclosure's
20 execution.

21 (Source: P.A. 92-386, eff. 1-1-02; 92-587, eff. 6-26-02.)

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