

6812

I N S E N A T E

March 23, 2012

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to anti-rebating provisions for insurers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (a) of section 2324 of the insurance law, as
2 amended by chapter 482 of the laws of 2000, is amended to read as
3 follows:
4 (a) No authorized insurer, no licensed insurance agent, no licensed
5 insurance broker, and no employee or other representative of any such
6 insurer, agent or broker shall make, procure or negotiate any contract
7 of insurance other than as plainly expressed in the policy or other
8 written contract issued or to be issued as evidence thereof, or shall
9 directly or indirectly, by giving or sharing a commission or in any
10 manner whatsoever, pay or allow or offer to pay or allow to the insured
11 or to any employee of the insured, either as an inducement to the making
12 of insurance or after insurance has been effected, any rebate from the
13 premium which is specified in the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or shall give
14 or offer to give any valuable consideration or inducement of any kind,
15 directly or indirectly, which is not specified in such policy or
16 contract, other than any [article of] VALUABLE CONSIDERATION, INCLUDING
17 BUT NOT LIMITED TO merchandise OR PERIODICAL SUBSCRIPTIONS, not exceeding [fifteen] TWENTY-FIVE dollars in value [which shall have conspicuously stamped or printed thereon the advertisement of the insurer, agent
18 or broker], or shall give, sell or purchase, or offer to give, sell or
19 purchase, as an inducement to the making of such insurance or in
20 connection therewith, any stock, bond or other securities or any dividends or profits accrued thereon, nor shall the insured, his agent or
21 representative knowingly receive directly or indirectly, any such rebate
22 or special favor or advantage, provided, however, a licensed insurance
23 agent or a licensed insurance broker may retain the usual commission or
24 underwriting fee on insurance placed on his own property or risks, if
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EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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1 the aggregate of such commissions or underwriting fees will not exceed
2 five percent of the total net commissions or underwriting fees received
3 by such licensed insurance agent or insurance broker during the calendar
4 year. THE EXCEPTION PROVIDED HEREIN FOR ITEMS OF VALUE NOT EXCEEDING
5 TWENTY-FIVE DOLLARS SHALL BE ADJUSTED ANNUALLY BY THE SUPERINTENDENT,
6 BASED ON THE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUM-
7 ERS, PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR THE
8 MOST RECENT ONE-YEAR PERIOD ENDING ON DECEMBER THIRTY-FIRST PRECEDING
9 THE ADJUSTMENT BEGINNING ON NOVEMBER FIRST, TWO THOUSAND THIRTEEN.

10 S 2. Section 2324 of the insurance law is amended by adding a new
11 subsection (g) to read as follows:

12 (G) THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION SHALL NOT
13 PRECLUDE AN INSURER FROM OFFERING RECOGNITION AWARDS OR INCENTIVES TO A
14 SAFETY COMMITTEE OF THE INSURED. THE AWARD OR INCENTIVE SHALL BE IN
15 RECOGNITION OF A SAFETY COMMITTEE'S ACHIEVEMENT IN IMPROVING THE
16 INSURED'S SAFETY RECORD AND SHALL NOT EXCEED FIVE HUNDRED DOLLARS IN
17 VALUE. A WRITTEN REPORT OF EVERY SUCH AWARD OR INCENTIVE SHALL BE MADE
18 AVAILABLE TO THE SUPERINTENDENT.

19 S 3. Subsection (c) of section 4224 of the insurance law, as amended
20 by chapter 592 of the laws of 2008, is amended to read as follows:

21 (c) Except as permitted by section three thousand two hundred thirty-
22 nine of this chapter, no such life insurance company and no such savings
23 and insurance bank and no officer, agent, solicitor or representative
24 thereof and no such insurer doing in this state the business of accident
25 and health insurance and no officer, agent, solicitor or representative
26 thereof, and no licensed insurance broker and no employee or other
27 representative of any such insurer, agent or broker, shall pay, allow or
28 give, or offer to pay, allow or give, directly or indirectly, as an
29 inducement to any person to insure, or shall give, sell or purchase, or
30 offer to give, sell or purchase, as such inducement, or interdependent
31 with any policy of life insurance or annuity contract or policy of acci-
32 dent and health insurance, any stocks, bonds, or other securities, or
33 any dividends or profits accruing or to accrue thereon, or any valuable
34 consideration or inducement whatever not specified in such policy or
35 contract OTHER THAN ANY VALUABLE CONSIDERATION, INCLUDING BUT NOT LIMIT-
36 ED TO MERCHANDISE OR PERIODICAL SUBSCRIPTIONS, NOT EXCEEDING TWENTY-FIVE
37 DOLLARS IN VALUE; nor shall any person in this state knowingly receive
38 as such inducement, any rebate of premium or policy fee or any special
39 favor or advantage in the dividends or other benefits to accrue on any
40 such policy or contract, or knowingly receive any paid employment or
41 contract for services of any kind, or any valuable consideration or
42 inducement whatever which is not specified in such policy or contract.
43 THE EXCEPTION PROVIDED HEREIN FOR ITEMS OF VALUE NOT EXCEEDING
44 TWENTY-FIVE DOLLARS SHALL BE ADJUSTED ANNUALLY BY THE SUPERINTENDENT,
45 BASED ON THE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUM-
46 ERS, PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR THE
47 MOST RECENT ONE-YEAR PERIOD ENDING ON DECEMBER THIRTY-FIRST PRECEDING
48 THE ADJUSTMENT BEGINNING ON NOVEMBER FIRST, TWO THOUSAND THIRTEEN.

49 S 4. This act shall take effect immediately.