STATE OF NEW YORK

7222

2025-2026 Regular Sessions

IN SENATE

April 4, 2025

Introduced by Sen. BAILEY -- 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 indexing fixed amounts and clarifying compliance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subsection (b) of section 4228 of the insurance law is amended by adding three new paragraphs 30, 31 and 32 to read as follows:

(30) "CPI" means the Consumer Price Index for All Urban Consumers for the United States as reported by the Bureau of Labor Statistics of the United States Department of Labor, or its successor index.

(31) "CPI for the preceding calendar year" means the average of the CPI as of the close of the twelve-month period ending on August thirty-first of such calendar year.

(32) "Percent increase in inflation" means the percentage, if any, by which the CPI for the preceding calendar year exceeds the CPI for the year beginning September first, two thousand twenty-four and ending August thirty-first, two thousand twenty-five.

§ 2. Paragraph 2 of subsection (c) of section 4228 of the insurance law, as added by chapter 616 of the laws of 1997, subparagraphs (E) and (G) as amended by chapter 13 of the laws of 2002, is amended to read as follows:

(2) Total selling expenses shall include the following expenses incurred directly or indirectly by the company, without regard to whether they are incurred in the company's home office or in a field or regional office:

(A) commissions;

(B) the increase during the year in the amount of outstanding advances and loans to agents, including any accrued and unpaid interest thereon, and including amounts charged off by the company, however, if such

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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amount is negative, it shall be treated as a reduction of the amount of total selling expenses;

(C) the [~~expense of direct solicitation advertising that either includes an application or solicits a response to obtain an application for a policy or contract regulated under this section;~~

~~(D)~~] following distribution, marketing and sales support expenses directly related to the procurement of new business[~~, which includes but is not limited to~~]:

(i) recruiting and training of agents, including related recordkeeping;

(ii) sales management and supervision; and

(iii) clerical functions in sales offices[~~; and~~

~~(iv) sales support functions, including but not limited to advanced underwriting support, proposals, illustrations, competition aids and related systems and equipment, including personal computers, owned by the company and used in the sales process~~];

[~~(E)~~] (D) any expense allowance paid to the agent or broker by the company or any expenses of the agent, agency or broker, assumed or reimbursed by the company;

[~~(F) the~~] (E) travel expenses [~~of sales conferences, training meetings and awards~~], meals and entertainment paid for by the company; and

[~~(G)~~] (F) all other compensation paid to or expense incurred on behalf of active and retired agents and brokers, including the cost of any security benefits, but excluding any annual marketing or distribution fee on a mutual fund or any portion thereof received by the company pursuant to Rule 12b-1 under the Investment Company Act of 1940, 17 C.F.R. 270.12b-1, which is then paid by the company to the agent or broker.

§ 3. Subparagraph (F) of paragraph 2 of subsection (e) of section 4228 of the insurance law, as amended by chapter 13 of the laws of 2002, is amended to read as follows:

(F) If a company employs one or more salaried employees whose principal function is [~~other than~~] not the sale of new policies or contracts and [~~other than~~] not the supervision of agents or agencies, and if no more than twenty-five percent of the total compensation of such employees is related to [~~sales results~~] business personally produced by such employees, [~~the compensation of such employees is not subject to~~] the provisions of this subsection or subsection (d) of this section shall not apply to such employees' total compensation, notwithstanding that they may be licensed as life insurance agents.

§ 4. Paragraph 3 of subsection (e) of section 4228 of the insurance law, as added by chapter 616 of the laws of 1997, is amended to read as follows:

(3)(A) A company may pay reasonable training allowance subsidies to agents pursuant to a plan of agent compensation, provided that such agents are full-time agents of the company and the principal business activity of such agents is the solicitation of policies and contracts primarily but not necessarily exclusively for the company, and its affiliates, and such agents are not simultaneously receiving training allowance from any other life insurance company.

(B) Agents receiving training allowance subsidies may also receive expense allowance payments.

(C) An agent is eligible to receive such a training allowance subsidy, provided (i) such agent has earned less than twenty thousand dollars from the sale of policies and contracts cumulatively during the three years prior to such agent's appointment, [~~or~~] (ii) less than twenty-five

percent of such agent's earned income has been received from the sale of policies and contracts during each of the three years prior to appointment, or (iii) less than twenty-five percent of such agent's worktime during each of the three years prior to appointment was allocated to individual life and annuity sales. The company may establish that an agent is eligible to receive a training allowance subsidy by requiring the agent to attest that such agent meets one of the criteria set forth in this subparagraph prior to appointment. Such attestation shall be sufficient to establish eligibility, provided the company does not have actual knowledge to reject the attestation based on the agent's credentials and background.

(D) An agent receiving such training allowance subsidies may not receive, on a cumulative basis, for an agent in the first year of such subsidies, the greater of [~~twenty-eight~~] fifty-four thousand dollars and sixty percent of the first year commission limit, and for an agent in the second year of such subsidies, the greater of [~~forty-four~~] eighty-five thousand dollars and sixty percent of the first year commission limit in the first year and forty percent of the first year commission limit in the second year, and for an agent in the third year of such subsidies, the greater of [~~fifty-four~~] one hundred five thousand dollars and sixty percent of the first year commission limit in the first year and forty percent of the first year commission limit in the second year, and twenty percent of the first year commission limit for the third year, and for an agent in the fourth year of such subsidies, the greater of [~~sixty~~] one hundred sixteen thousand dollars and sixty percent of the first year commission limit in the first year and forty percent of the first year commission limit in the second year, twenty percent of the first year commission limit in the third year, and ten percent of the first year commission limit in the fourth year.

(E) With respect to any agent eligible to receive training allowance subsidy who has earned at least [~~sixty-six~~] one hundred twenty-seven thousand dollars of income during either of the two calendar years immediately preceding commencement of receipt of training allowance subsidies, a company may pay additional training allowance subsidies of [~~one~~] two thousand dollars to such agent during each of the first two years of his receipt of training allowance subsidies for every [~~two~~] four thousand dollars of such earned income in excess of [~~sixty-six~~] one hundred twenty-seven thousand dollars, provided that the cumulative training allowance subsidy does not exceed [~~forty-five~~] eighty-seven thousand dollars in such agent's first year of receipt of training allowance subsidy and provided further that the agent receives not greater than [~~sixty~~] one hundred sixteen thousand dollars in total training allowance subsidies.

(F) For purposes of this paragraph, the period of time that a person worked for a company under a company-sponsored training program and was not acting as an agent for that company shall not be counted as time spent receiving training allowance subsidies, and any salary paid by the company to that person during that time shall not count toward the cumulative maximum training allowance subsidy.

(G) The superintendent shall [~~periodically~~] adjust the cumulative maximum training allowance subsidy limits set forth in this paragraph annually by the percent increase in inflation. The superintendent may also, at any time, approve training allowance subsidies with cumulative maximum amounts that exceed the limits set forth in this paragraph.

(H) A company may, upon approval of the superintendent, establish a plan for training allowance subsidies for which the conditions of eligi-

bility or the amounts or periods of subsidy, of any of these, differ from those set forth in this subsection. The superintendent shall approve such a plan, subject to such conditions as he may prescribe, if he finds that it is likely to meet the objective of developing new agents for the sale of policies or contracts or both in a cost-effective manner.

§ 5. Paragraph 6 of subsection (e) of section 4228 of the insurance law, as amended by chapter 13 of the laws of 2002, is amended to read as follows:

(6) A company, including any person, firm or corporation on its behalf or under any agreement with it, may pay or award, or permit to be paid or awarded, prizes and awards to agents and brokers pursuant to a plan of agent or broker compensation, provided that no single prize or award may exceed a value of [~~two~~] five hundred [~~fifty~~] dollars, and that the total value of such prizes and awards paid or awarded to any agent or broker within a calendar year may not exceed [~~one~~] two thousand dollars. Notwithstanding the foregoing, a company may also pay or award not more frequently than monthly a prize or award valued at not more than [~~twenty-five~~] fifty dollars. The costs of all such prizes and awards shall not be included in applying the limits established in subsection (d) of this section. The superintendent may authorize higher limits on the value of prizes and awards than those set forth herein. On the first day of each year beginning January first, two thousand twenty-six, the limits in this subparagraph shall be adjusted annually by the percent increase in inflation.

§ 6. Subparagraph (E) of paragraph 1 and paragraph 2 of subsection (f) of section 4228 of the insurance law, as added by chapter 616 of the laws of 1997, are amended to read as follows:

(E) All filings and related correspondence shall be proprietary and confidential, and not disclosed by the superintendent. Nothing contained in this section or any other provision of law shall prohibit a company from making changes to any compensation payable on policies or contracts that are in force and subject to an existing plan, provided that the changed compensation meets the applicable requirements of subsections (d) and (e) of this section. A company shall be permitted to make such changes, and changes whose effect is to increase or otherwise change, but not reduce, the compensation shall be set forth pursuant to a compensation plan that is filed in accordance with the same requirements of this paragraph that would apply if such compensation applied only prospectively to new business. Changes whose effect is to reduce or not increase the compensation payable to every individual covered by the arrangement in each and every year, need not be filed with the superintendent, but must be maintained in the company's records for at least six years.

(2) The annual statement schedule for reporting compliance on an aggregate basis with subsection (c) of this section shall be signed by a knowledgeable officer of the company. The signing of the schedule shall be deemed confirmation by the officer that the officer has performed a personal review of the information included and responses provided to the interrogatories. The signature is to be preceded by the following statement: "I have reviewed the sources of total selling expenses and, to the best of my knowledge and belief, on the basis of the projected experience over the next three years based on reasonable assumptions, including changes currently being contemplated, the company's expenses will not exceed the limit imposed thereon by New York Insurance Law Section 4228." If the officer cannot attest to the final clause of this

statement, the officer must disclose the year or years in which expenses are expected to exceed the limit and the amount by which the limit is expected to be exceeded.

§ 7. The opening paragraph of paragraph 5 of subsection (f) of section 4228 of the insurance law, as amended by chapter 13 of the laws of 2002, is amended to read as follows:

Any company making one or more payments that exceed any limit in subsection (d) of this section that is unable to recover such excess payments shall notify the superintendent within [~~thirty~~] **ninety** days of the date that it learns or realizes that it exceeded the limit; however, if the company recovers such excess payments prior to the required notification date, **or, for agents or brokers who are no longer appointed with the company, the company has made reasonable efforts to recover such excess payments,** it need not make such notification. At that time, the company shall report the reason the company exceeded the limit, the number of agents and brokers to whom payments in excess of the limit were made, and the amount of money paid in excess of the limit, and shall describe the actions the company will take promptly to prevent any further instances of it exceeding this limit.

§ 8. This act shall take effect immediately.