

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 657*
Committee Substitute Favorable 5/25/05

Short Title: Broker Comp. Transparency.-AB

(Public)

Sponsors:

Referred to:

March 16, 2005

A BILL TO BE ENTITLED

AN ACT TO REQUIRE INSURANCE BROKERS TO DISCLOSE COMPENSATION
ARRANGEMENTS TO CUSTOMERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 33 of Chapter 58 of the General Statutes is amended by
adding a new section to read:

"§ 58-33-86. Broker compensation consent and disclosure.

(a) No broker that receives compensation directly from the customer shall also
accept or receive any compensation from an insurer or other third party for the initial
placement of insurance for a customer unless the broker has, prior to the customer's
purchase of insurance, complied with all of the following:

(1) Disclosed to the customer the amount of compensation the broker will
receive from the insurer or other third party for the placement. If the
amount of compensation is not known and cannot be determined at the
time of disclosure, the broker shall disclose the specific method for
calculating the compensation and, if possible, a reasonable estimate of
the amount that will be received.

(2) Obtained the customer's written consent that the compensation will be
received by the broker. In the case of a purchase over the telephone or
by electronic means for which written consent cannot reasonably be
obtained, the broker shall document the customer's consent.

(b) This section does not apply to any of the following:

(1) A person licensed as an insurance producer who acts only as an
intermediary between an insurer and the customer's producer,
including a managing general agent, a sales manager, or a wholesale
broker.

(2) A reinsurance intermediary.

- 1 (3) An agent of a company which is a member of the North Carolina
2 Insurance Underwriting Association placing or binding coverage with
3 the Association for a customer.
- 4 (4) An agent of a company which is a member of the North Carolina Joint
5 Underwriting Association placing or binding coverage with the
6 Association for a customer.
- 7 (5) The placement of insurance in excess or surplus lines.
- 8 (c) For purposes of this section:
- 9 (1) "Affiliate" has the same meaning as in G.S. 58-19-5(1).
- 10 (2) "Broker" has the same meaning as in G.S. 58-33-10(3) and includes an
11 affiliate of a broker.
- 12 (3) "Compensation from an insurer or other third party" means payments,
13 commissions, fees, awards, overrides, bonuses, contingent
14 commissions, loans, stock options, gifts, prizes, or any other form of
15 valuable consideration, whether or not payable pursuant to a written
16 agreement.
- 17 (4) "Customer" shall not include a person who is merely either a
18 participant or beneficiary of an employee benefit plan, or covered by a
19 group or blanket insurance policy or group annuity contract sold,
20 solicited, or negotiated by the broker."

21 **SECTION 2.** This act becomes effective January 1, 2006.