

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 962

By: Brown

4
5
6 AS INTRODUCED

7 An Act relating to fees charged by insurance
8 producers; amending 36 O.S. 2001, Section 1435.3,
9 which relates to insurance producers; allowing
10 insurance producers to receive certain fee; requiring
11 disclosure of such fee; specifying content of
12 disclosure form; specifying actions to be taken
13 regarding such disclosure form; and providing an
14 effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 36 O.S. 2001, Section 1435.3, is
17 amended to read as follows:

18 Section 1435.3 A. Every insurance producer, customer service
19 representative, or limited lines producer who solicits or negotiates
20 an application for insurance of any kind shall, in any controversy
21 between the insured or the insured's beneficiary and the insurer, be
22 regarded as representing the insurer and not the insured or the
23 insured's beneficiary. This provision shall not affect the apparent
24 authority of an insurance producer.

1 B. Every surplus lines insurance broker who solicits an
2 application for insurance of any kind shall, in any controversy
3 between the insured or the insured's beneficiary and the insurer
4 issuing any policy upon such application, be regarded as
5 representing the insured or the insured's beneficiary and not the
6 insurer. Any company which directly or through its agents delivers
7 in this state to any insurance broker, a policy of insurance
8 pursuant to the application or request of such broker, acting for an
9 insured other than himself or herself, shall be deemed to have
10 authorized such broker to receive on its behalf, payment of any
11 premium which is due on such policy of insurance at the time of its
12 issuance or delivery.

13 C. Every licensed insurance producer shall be entitled to
14 commissions on all premiums collected for group insurance policies
15 negotiated by the insurance producer on behalf of an insurer and an
16 insurer shall be required to pay such commissions to the insurance
17 producer, except entitlement to commissions shall automatically
18 terminate without notice, effective on the date of the occurrence of
19 any of the following events:

20 1. The insurance producer's license to engage in accident and
21 health insurance business is terminated or revoked by the State of
22 Oklahoma or any other public authority for cause. As used in this
23 paragraph, "cause" shall be defined as perpetration by the insurance
24 producer of fraud or embezzlement;

1 2. Material breach of the insurance producer's contract with
2 the account or insurer, excluding production requirements;

3 3. Termination of the insurance producer's "Agent of Record"
4 relationship with the employer or account; or

5 4. Death of the insurance producer, unless the contract between
6 the insurer states otherwise or the right to the commission has
7 vested.

8 Recovery of such commissions shall be through civil action. In any
9 action brought pursuant to this subsection, the court may award
10 reasonable attorneys fees to the prevailing party.

11 D. 1. Every licensed insurance producer may receive a fee in
12 addition to commissions paid by the insured. The insurance producer
13 shall disclose in writing to the insured the full amount of any such
14 fee paid by the insured either by dollar amount or by commission
15 percentage. The written disclosure required by this paragraph
16 shall:

17 a. be provided by the insurance producer to the insured
18 prior to the sale of the policy,

19 b. be signed by the insurance producer and the insured,
20 and

21 c. be retained by the insurance producer for five (5)
22 years.

23 2. The signature by the client on the written disclosure
24 required by paragraph 1 of this subsection shall represent an

1 agreement by the insured to pay the fee specified in paragraph 1 of
2 this subsection.

3 SECTION 2. This act shall become effective November 1, 2011.

4
5 53-1-1099 ARE 1/20/2011 6:05:48 PM

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24