

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/16/11
A Bill

SENATE BILL 768

5 By: Senator J. Hutchinson
6

7 **For An Act To Be Entitled**

8 AN ACT TO REGULATE INSURANCE CONSULTANT FEES; AND FOR
9 OTHER PURPOSES.

10
11
12 **Subtitle**

13 TO REGULATE INSURANCE CONSULTANT FEES.
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code § 23-66-206(10)(B), concerning the definition
19 of "rebates", is amended to read as follows:

20 (B) ~~Nothing in subdivision~~ Subdivision (10)(A) or subdivision
21 (14) of this section shall not be construed as including within ~~the~~
22 ~~definitions of discrimination or rebates~~ "rebates" or "unfair discrimination"
23 any of the following practices:

24 (i) In the case of any contract of life insurance or
25 life annuity, the paying of bonuses to policyholders or otherwise abating
26 their premiums in whole or in part out of surplus accumulated from
27 nonparticipating insurance, provided that those bonuses or abatement of
28 premiums shall be fair and equitable for policyholders and for the best
29 interests of the company and its policyholders;

30 (ii) In the case of life insurance policies issued
31 on the industrial debit plan, making allowance to policyholders who have
32 continuously for a specified period made premium payments directly to an
33 office of the insurer in an amount that fairly represents the saving in
34 collection expenses;

35 (iii) Readjustment of the rate of premium for a
36 group insurance policy based on the loss or expense under the policy at the



1 end of the first or any subsequent policy year of insurance under the policy,
2 which may be made retroactive only for the policy year; ~~or~~

3 (iv) Engaging in an arrangement that does not
4 violate section 106 of the Bank Holding Company Act Amendments of ~~1972~~ 1970,
5 12 U.S.C. § 1972, as interpreted by the Board of Governors of the Federal
6 Reserve System, or section 1464(q) of the Home ~~Owners~~ Owners' Loan Act, 12
7 U.S.C. § 1461 et seq.; or

8 (v) Under a prior written agreement with a client
9 paying total annual premiums, for all lines of business, of one hundred
10 thousand dollars (\$100,000) or more, adjusting or refunding a part of a
11 consulting fee charged by a licensed insurance consultant based on
12 commissions received by the consultant from insurance carriers;

13
14 SECTION 2. Arkansas Code § 23-66-308(c), concerning rebates, is
15 amended to read as follows:

16 (c) ~~Nothing in this~~ This section shall not be construed as
17 prohibiting:

18 (1) ~~the~~ The payment of commissions or other compensation to
19 licensed agents, brokers, or solicitors, ~~nor shall it be construed as~~
20 ~~prohibiting any;~~

21 (2) An insurer from allowing or returning to its participating
22 policyholders, members, or subscribers any dividends, savings, or unabsorbed
23 premium deposits; or

24 (3) A licensed insurance consultant who is also a licensed
25 producer from adjusting or refunding to his or her clients any part of a
26 consulting fee under a prior written agreement with a client paying total
27 annual premiums, for all lines of business, of one hundred thousand dollars
28 (\$100,000) or more based on commissions received by the consultant from
29 insurers.

30
31 SECTION 3. Arkansas Code § 23-66-308 is amended to add a new
32 subsection to read as follows:

33 (e) The Insurance Commissioner may promulgate rules to implement this
34 section.

35
36 /s/J. Hutchinson