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SENATE BILL 5764

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State of Washington

53rd Legislature

1993 Regular Session

By Senator Pelz

Read first time 02/12/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to termination of an insurance agent's contract;  
2 and amending RCW 48.17.591.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.17.591 and 1990 c 121 s 1 are each amended to read  
5 as follows:

6 (1) No insurer authorized to do business in this state may cancel  
7 or refuse to renew any policy because that insurer's contract with the  
8 independent agent through whom such policy is written has been  
9 terminated by the insurer, the agent, or by mutual agreement.

10 (2) If an insurer intends to terminate a written agency contract  
11 with an independent agent, the insurer shall give the agent not less  
12 than one hundred twenty days' advance written notice of the intent,  
13 unless the termination is based upon the agent's abandonment of the  
14 agency, the agent's gross and willful misconduct, the agent's loss of  
15 license by order of the insurance commissioner, the agent's sale of, or  
16 material change of ownership in, the agency, the agent's fraud or  
17 material misrepresentation relative to the business of insurance, or  
18 the agent's default in payments due the insurer under the terms of the

1 agreement. During the notice period the insurer shall not amend the  
2 existing contract without the consent of the agent.

3 (a) Unless the agency contract provides otherwise, during the one  
4 hundred twenty day notice period the independent agent shall not write  
5 or bind any new business on behalf of the terminating insurer without  
6 specific written approval. However, routine adjustments by insureds  
7 are permitted. The terminating insurer shall permit renewal of all its  
8 policies in the agent's book of business for a period of one year  
9 following the effective date of the termination, to the extent the  
10 policies meet the insurer's underwriting standards and the insurer has  
11 no other reason for nonrenewal. The rate of commission for any  
12 policies renewed under this provision shall be the same as the agent  
13 would have received had the agency agreement not been terminated.

14 (b) An independent agent whose agency contract has been terminated  
15 shall have a reasonable opportunity to transfer affected policies to  
16 other insurers with which the agent has an appointment: PROVIDED,  
17 HOWEVER, That prior to the conclusion of the one-year renewal period  
18 following the effective date of the termination, an insurer without a  
19 reason for not renewing an insured's policy and which has not received  
20 notification of the placement of such policy with another insurer shall  
21 provide its insured with appropriate written notice of an offer to  
22 continue the policy. In such cases, except where the terminated agent  
23 has placed the policy with another agent of the insurer, the insurer  
24 shall, where practical, assign the policy to an appointed agent located  
25 reasonably near the insured willing to accept the assignment.

26 (c) An insurer is not required to continue the appointment of a  
27 terminated independent agent during or after the one year renewal  
28 period. However, an agent whose contract has been terminated by the  
29 insurer remains an agent of the terminating insurer as to actions  
30 associated with the policies subject to this section just as if he or  
31 she were appointed by the insurer as its agent.

32 (3) In the absence of receipt of notice from the insured that  
33 coverage will not be continued with the existing insurer, an insurer  
34 whose agency contract has been terminated by an independent agent, or  
35 by the mutual agreement of the insurer and the agent, that elects to  
36 renew or lacks a reason not to renew, shall give the renewal notice  
37 required by chapter 48.18 RCW to affected insureds, and continue  
38 renewed coverage in accordance with the methods specified in subsection  
39 (2)(b) of this section. Agents affected by this subsection may provide

1 the notice to an insurer that an insured does not intend to continue  
2 existing coverage with the insurer, after receiving written authority  
3 to do so from an insured.

4 (4)(a) An insurer shall not terminate an independent agent's  
5 written contract to transact private passenger automobile or  
6 homeowner's insurance solely on the basis of the loss ratio experience  
7 developed by the private passenger automobile or homeowner's insurance  
8 business underwritten through that agent.

9 (b) No insurer may for the purpose of avoiding the prohibition on  
10 loss ratio terminations contained in (a) of this subsection commit any  
11 of the following acts in a manner designed to affect only the  
12 independent agent or agents in question and the business produced by  
13 them:

14 (i) Condition acceptance of private passenger automobile or  
15 homeowner's insurance from the independent agent in question upon the  
16 contemporaneous production of premiums from other lines of personal  
17 insurance from each of that agent's customers;

18 (ii) Reduce policy limits or eliminate policy forms available to  
19 the independent agent in question under the agent contract and prior  
20 practices under it;

21 (iii) Reduce the commission level from that established for the  
22 independent agent in question under the agent contract and any prior  
23 modifications to it.

24 (5) For purposes of this section ((an)):

25 (a) "Independent agent" ((is)) means a licensed insurance agent  
26 representing an insurer on an independent contractor basis and not as  
27 an employee. This term includes only those agents not obligated by  
28 contract to place insurance accounts with a particular insurer or group  
29 of insurers.

30 (b) "Loss ratio experience" means the ratio of net incurred losses,  
31 including those estimated as incurred but not yet reported, and loss  
32 adjustment expenses, to net premiums earned, during the two-year period  
33 before the proposed date of the notice of termination provided under  
34 this section.

35 ((+5+)) (6) This section does not apply to (a) agents or policies  
36 of an insurer or group of insurers if the business is not owned by the  
37 agent and the termination of any such contractual agreement does not  
38 result in the cancellation or nonrenewal of any policies of insurance;  
39 (b) general agents, to the extent that they are acting in that

1 capacity; (c) life, disability, surety, ocean marine and foreign trade,  
2 and title insurance policies; (d) situations where the termination of  
3 the agency contract results from the insolvency or liquidation of the  
4 terminating insurer.

5 ~~((6))~~ (7) No insurer may terminate its agency contract with an  
6 appointed agent unless it complies with this section.

7 ~~((7))~~ (8) Nothing contained in this section excuses an insurer  
8 from giving cancellation and renewal notices that may be required by  
9 chapter 48.18 RCW.

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