

1 H.764

2 Introduced by Committee on Health Care

3 Date:

4 Subject: Health; health insurance; brokers; agents; commissions

5 Statement of purpose: This bill proposes to require disclosure of brokers' and
6 agents' fees in connection with sales of health insurance policies and to
7 prohibit such fees for individual and small group policies sold on or after
8 January 1, 2014.

9 An act relating to health insurance brokers' fees

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 8 V.S.A. § 4085 is amended to read:

12 § 4085. REBATES AND COMMISSIONS PROHIBITED FOR NONGROUP
13 AND SMALL GROUP POLICIES

14 (a) No insurer doing business in this state and no insurance agent or broker
15 shall offer, promise, allow, give, set off, or pay, directly or indirectly, any
16 rebate of or part of the premium payable on ~~the~~ a nongroup or small group
17 policy, or on any nongroup or small group policy or agent's commission
18 ~~thereon~~ or earnings, profits, dividends, or other benefits founded, arising,
19 accruing or to accrue thereon or therefrom, or any special advantage in date of
20 policy or age of issue, or any paid employment or contract for services of any

1 kind or any other valuable consideration or inducement to or for insurance on
2 any risk in this state, now or hereafter to be written, or for or upon any renewal
3 of any such insurance, which is not specified in the policy contract of
4 insurance, or offer, promise, give, option, sell, purchase any stocks, bonds,
5 securities, or property or any dividends or profits accruing or to accrue thereon,
6 or other thing of value whatsoever as inducement to insurance or in connection
7 therewith, or any renewal thereof, which is not specified in the policy.

8 (b) No insured person under a nongroup or small group policy or party or
9 applicant for nongroup or small group insurance shall directly or indirectly
10 receive or accept, or agree to receive or accept any rebate of premium or of any
11 part thereof ~~or all or any part of any agent's or broker's commission thereon~~, or
12 any favor or advantage, or share in any benefit to accrue under any nongroup
13 or small group policy of insurance, or any valuable consideration or
14 inducement, other than such as is specified in the policy.

15 (c) Nothing in this section shall be construed as prohibiting ~~the payment of~~
16 ~~commission or other compensation to any duly licensed agent or broker; or as~~
17 ~~prohibiting~~ any insurer from allowing or returning to its participating
18 policyholders dividends, savings, or unused premium deposits; or as
19 prohibiting any insurer from returning or otherwise abating, in full or in part,
20 the premiums of its policyholders out of surplus accumulated from
21 nonparticipating insurance, or as prohibiting the taking of a bona fide

1 obligation, with interest ~~at~~ not exceeding six percent per annum, in payment of
2 any premium.

3 (d) No insurer shall pay any commission, fee, or other compensation,
4 directly or indirectly, to a licensed or unlicensed agent, broker, or other
5 individual other than a bona fide employee of the insurer in connection with
6 the sale of a nongroup or small group health insurance policy, nor shall an
7 insurer include in a nongroup or small group health insurance rate any sums
8 related to services provided by an agent, broker, or other individual other than
9 a bona fide employee of the insurer.

10 Sec. 2. 8 V.S.A. § 4085a is added to read:

11 § 4085a. REBATES PROHIBITED FOR GROUP INSURANCE POLICIES

12 (a) As used in this section, “group insurance” means any policy described
13 in section 4079 of this title, except that it shall not include any small group
14 policy issued pursuant to section 4080a of this title or to 33 V.S.A. § 1811.

15 (b) No insurer doing business in this state and no insurance agent or broker
16 shall offer, promise, allow, give, set off, or pay, directly or indirectly, any
17 rebate of or part of the premium payable on a group insurance policy, or on
18 any group insurance policy or agent’s commission thereon or earnings, profits,
19 dividends, or other benefits founded, arising, accruing or to accrue thereon or
20 therefrom, or any special advantage in date of policy or age of issue, or any
21 paid employment or contract for services of any kind or any other valuable

1 consideration or inducement to or for insurance on any risk in this state, now or
2 hereafter to be written, or for or upon any renewal of any such insurance,
3 which is not specified in the policy contract of insurance, or offer, promise,
4 give, option, sell, purchase any stocks, bonds, securities, or property or any
5 dividends or profits accruing or to accrue thereon, or other thing of value
6 whatsoever as inducement to insurance or in connection therewith, or any
7 renewal thereof, which is not specified in the policy.

8 (c) No insured person under a group insurance policy or party or applicant
9 for group insurance shall directly or indirectly receive or accept or agree to
10 receive or accept any rebate of premium or of any part thereof or all or any part
11 of any agent's or broker's commission thereon, or any favor or advantage, or
12 share in any benefit to accrue under any policy of insurance, or any valuable
13 consideration or inducement, other than such as is specified in the policy.

14 (d) Nothing in this section shall be construed as prohibiting the payment of
15 commission or other compensation to any duly licensed agent or broker; or as
16 prohibiting any insurer from allowing or returning to its participating
17 policyholders dividends, savings, or unused premium deposits; or as
18 prohibiting any insurer from returning or otherwise abating, in full or in part,
19 the premiums of its policyholders out of surplus accumulated from
20 nonparticipating insurance, or as prohibiting the taking of a bona fide

1 obligation, with interest not exceeding six percent per annum, in payment of
2 any premium.

3 (e) An insurer that pays a commission, fee, or other compensation, directly
4 or indirectly, to a licensed or unlicensed agent, broker, or other individual other
5 than a bona fide employee of the insurer in connection with the sale of a group
6 insurance policy shall clearly disclose to the purchaser of such group policy the
7 amount of any such commission, fee, or compensation paid or to be paid.

8 Sec. 3. DISCLOSURE OF COMMISSIONS FOR NONGROUP AND
9 SMALL GROUP POLICIES

10 (a) An insurer that pays any commissions, fees, or other compensation,
11 directly or indirectly, to licensed or unlicensed agents, brokers, or other
12 individuals other than bona fide employees of the insurer in connection with
13 the sale of nongroup or small group insurance policies, or both, shall clearly
14 disclose to the purchaser of any nongroup or small group policy the amount of
15 the premium for the policy attributable to the insurer's payment of
16 commissions, fees, and other compensation.

17 (b) The disclosure requirement in subsection (a) of this section shall apply
18 to all health insurers offering nongroup or small group insurance policies, or
19 both, beginning July 1, 2012, until the insurer no longer pays any commission,
20 fee, or other compensation in connection with the sale of a nongroup or small
21 group insurance policy in compliance with the provisions of 8 V.S.A. § 4085.

1 Sec. 4. EFFECTIVE DATES

2 (a) Sec. 1 of this act shall take effect on January 1, 2014 and shall apply to
3 all health insurers on and after January 1, 2014 on such date as a health insurer
4 issues, offers, or renews a health insurance policy, but in no event later than
5 January 1, 2015.

6 (b) Secs. 2 and 3 of this act and this section shall take effect on July 1,
7 2012.