

## **Bulletin 233**

### **Property/casualty rebating -- law: permissible commission reduction**

January 20, 1995

Any reduction in, or offer to reduce, the cost of any type of property/casualty insurance by reducing the commission to an agent or broker, not supported by a filing, is considered rebating and is in violation of Title 24-A M.R.S.A. § 2162(1). However, an insurer may reduce the cost of coverage by reducing the commission to an agent or broker if the insurer has a filing to that effect approved by the Superintendent.

Negotiated commission sharing with the insured is allowed if the insurer has an approved filing with the Superintendent specifically authorizing the agent to select or reduce the commission and reflecting the commission reduction in the premium to the insured. Negotiated commission arrangements may be approved by the Superintendent only for commercial coverages otherwise eligible for schedule rating or individual risk premium modification. Currently approved schedule rating and individual risk premium modification plans which reference the characteristics of the risk and premium discount plans or expense variation adjustments are not considered authorizing negotiated commissions until amended. Insurers wishing to modify currently approved schedule rating or individual risk premium modification plans to include negotiated commissions must file amendments to their plans. The entire rating plan need not be refiled.

Rate credits resulting from negotiated commissions are limited to 10% of the premium. In addition, premiums reduced through negotiated commissions must not be unfairly discriminatory. The agent or broker must apply the filed plan to all risks under the same or substantially similar circumstances or conditions.

Agents wishing to negotiate commissions on commercial lines policies are responsible for verifying with the insurer that the appropriate filing has been made and approved by the Superintendent. Agreements between insurers and agents or brokers which specify overall commission levels and do not adjust insurer-filed rates are considered to be private contractual matters, and as such, are not affected by this Bulletin.

Any reduction in the cost of insurance by reducing commission will be subject to penalties as provided in the Maine Insurance Code if a filing to that effect has not been filed and approved by the Superintendent by March 1, 1995. Agents, brokers, and insurers may be held accountable individually and collectively for violations of Section 2162(1).

Rating plan modifications and questions regarding this Bulletin may be directed to the Property/Casualty Division of the Maine Bureau of Insurance.

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Superintendent of Insurance

NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Insurance if additional information is needed.