

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 920

Introduced by Langemeier, 23.

Read first time January 14, 2008

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend section 44-354, Reissue
2 Revised Statutes of Nebraska; to authorize insurance
3 producers to charge incidental fees as prescribed; and to
4 repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-354, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-354 (1) It shall be unlawful for any insurance
4 company, association, or society, or for any officer, manager,
5 agent, or other representative thereof, to include in the sum
6 charged or designated in any policy as the consideration for
7 insurance, any fee, compensation, charge, or perquisite whatsoever,
8 not specified in the policy. When collected, the same shall be
9 reported as such.

10 (2) (a) Notwithstanding subsection (1) of this section,
11 an insurance producer may charge incidental fees for the following
12 services relating to property and casualty insurance:

13 (i) Processing premium installments;

14 (ii) Processing late payments;

15 (iii) Processing policy reinstatements;

16 (iv) Processing insufficient funds checks;

17 (v) Obtaining or providing records and reports; or

18 (vi) Making regulatory filings for an insured or
19 applicant for insurance.

20 (b) For purposes of this subsection:

21 (i) Director means the Director of Insurance;

22 (ii) Incidental fee means an amount equal to the actual
23 cost of providing a service, subject to the limitations as provided
24 in subdivision (d) of this subsection, that is charged in addition
25 to the receipt of premium from an insured or an applicant for

1 insurance; and

2 (iii) Insurance producer means an insurance producer
3 qualified to solicit property and casualty insurance under the
4 Insurance Producers Licensing Act.

5 (c) In order to charge an incidental fee, an insurance
6 producer shall actually perform a service or incur a cost.

7 (d) An incidental fee charged for a service listed in
8 subdivision (a)(i), (ii), or (iii) of this subsection shall not
9 exceed five dollars. An incidental fee charged for a service listed
10 in subdivision (a)(iv), (v), or (vi) of this subsection shall not
11 exceed twenty-five dollars.

12 (e) All incidental fees charged by an insurance producer
13 shall be disclosed in writing to the insured or the applicant for
14 insurance at or before the time the fee is charged. An insurance
15 producer charging an incidental fee shall provide to the insured or
16 applicant for insurance a written disclosure. The disclosure may be
17 contained in an itemized bill, invoice, or application that sets
18 out the amount of the fee and the service for which it is being
19 charged.

20 (f) The amount of the incidental fees charged by an
21 insurance producer shall be posted conspicuously at any location
22 where the insurance producer markets or negotiates the sale or
23 renewal of insurance policies with insureds or applicants for
24 insurance. If an insurance producer markets or negotiates the
25 sale or renewal of insurance policies with insureds or applicants

1 for insurance on the Internet, the amount of the incidental fees
2 charged by the insurance producer shall be posted conspicuously on
3 the insurance producer's web site.

4 (g) This subsection shall not be interpreted to limit
5 the ability of an insurance company to impose restrictions
6 by contractual agreement on the ability of appointed insurance
7 producers of the insurance company to charge incidental fees
8 pursuant to this subsection.

9 (h) Any violation of this subsection or of any rules
10 and regulations adopted and promulgated thereunder by an insurance
11 producer shall be subject to the Unfair Insurance Trade Practices
12 Act.

13 (i) The director may adopt and promulgate rules and
14 regulations to carry out this subsection.

15 Sec. 2. Original section 44-354, Reissue Revised Statutes
16 of Nebraska, is repealed.