

Producer Compensation Disclosure

The Producer Licensing Model Act (PLMA) was amended by Section 9 of Act 1697 of 2005, to create more transparency for insurance consumers through better disclosure of insurance producer compensation. These PLMA amendments will ensure consumers are provided the necessary information to understand any potential conflicts of interest a producer may have because of the manner in which the insurance producer is compensated.

On July 25, 2005, the Department issued Bulletin No. 5-2005 to clarify these changes .

- [Bulletin No. 5-2005](#)
- [Frequently Asked Questions](#)
- Section 9 of Act 1697 of 2005:

SECTION 9. Arkansas Code Title 23, Chapter 64, subchapter 5 is amended to add a section to read as follows:

§ 23-64-520. Compensation disclosure.

(a) As used in this section:

(1) "Affiliate" means a person that controls, is controlled by, or is under common control with a producer;

(2)(A) "Compensation from an insurer or other third party" means payments, commissions, fees, overrides, bonuses, contingent commissions, loans, stock options, or any other form of valuable consideration, whether or not payable pursuant to a written agreement.

(B) Awards, gifts, and prizes shall be considered "compensation from an insurer or other third party" if the award, gift, or prize is directly tied to the producer's performance; and

(3) "Compensation from the customer" shall not include any fee or similar expense under § 23-66-310 or any fee or amount collected by or paid to the producer that does not exceed an amount established by the Insurance Commissioner.

(b)(1) Before the placement of insurance business, all insurance producers shall disclose:

(A) Whether the producer or its affiliate represents the customer or the insurer; and

(B) The source or sources of the producer's or affiliate's compensation for the placement.

(2) If the producer represents the insurer, the producer shall disclose to the customer that the producer provides services to the customer on behalf of the insurer.

(3) If the producer receives compensation from the customer for a placement of insurance or acts as a broker as defined by § 23-64-102, the producer shall disclose:

(A) The source or sources of the producer's or affiliate's compensation for the placement; and

(B) Whether the producer or its affiliate will receive compensation for the placement from the insurer or other third party based upon volume, profitability, or other factors, and if the customer requests, the producer shall provide a reasonable estimate of the amount of compensation.

(c) A person shall not be considered a "customer" for purposes of this section if the person is merely:

(1) A participant or beneficiary of an employee benefit plan; or

(2) Covered by a group or blanket insurance policy or group annuity contract sold, solicited or negotiated by the producer or affiliate.

(d) This section shall not apply to:

(1) A person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including, but not limited to, a managing general agent, a sales manager, or wholesale broker when acting only as an intermediary;

(2) A reinsurance intermediary;

(3) Any placement involving a residual market mechanism;

(4) Renewals, unless the information previously disclosed under subsection (b) has substantially changed; or

(5) Any placement of credit life or credit disability insurance.

Should you have any additional questions, please feel free to contact the Legal Division at 501-371-2820 or email us at insurance.Legal@arkansas.gov.