



# House of Representatives

**File No. 806**

General Assembly

January Session, 2005

**(Reprint of File No. 94)**

Substitute House Bill No. 6072  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 27, 2005

**AN ACT PROTECTING THE COMMISSIONS OF SALES  
REPRESENTATIVES.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 4,  
2 inclusive, of this act:

3 (1) "Commission" means compensation that accrues to a sales  
4 representative, for payment by a principal, at a rate expressed as a  
5 percentage of the dollar amount of sales, orders or profits or any other  
6 method of compensation agreed to between a sales representative and  
7 principal including, but not limited to, fees for services and retainers;

8 (2) "Person" means an individual, corporation, limited liability  
9 company, partnership, unincorporated association, trust or estate;

10 (3) "Principal" means a person who: (A) Manufactures, produces,  
11 imports, sells or distributes a product or service, (B) establishes a  
12 business relationship with a sales representative to solicit orders for a  
13 product or service, and (C) compensates a sale representative, in

14 whole, or in part, by commission;

15 (4) "Sales representative" means a person who: (A) Establishes a  
16 business relationship with a principal to solicit orders for products or  
17 services, and (B) is compensated in whole, or in part, by commission.  
18 "Sales representative" does not include an employee or a person who  
19 places orders or purchases on the person's own account or for resale or  
20 a seller, as defined in subsection (c) of section 42-134a of the general  
21 statutes; and

22 (5) "Termination" means the end of the business relationship  
23 between a sales representative and a principal, whether by the  
24 principal or the sales representative, or by operation of the terms of a  
25 contract.

26 Sec. 2. (NEW) (*Effective from passage*) (a) In the event a contract  
27 between a principal and a sales representative is terminated, the  
28 principal shall pay to the sales representative all commissions (1) that  
29 are due on or before the effective date of such termination, by the date  
30 specified in the contract or thirty days after the effective date of  
31 termination, whichever is later, and (2) that are due after the effective  
32 day of such termination, by the date specified in the contract but not  
33 later than thirty days after such commission becomes due under the  
34 terms of such contract.

35 (b) Any principal who wilfully, wantonly, recklessly or in bad faith  
36 fails to pay any commissions due in accordance with the provisions of  
37 subsection (a) of this section shall be liable in a civil action brought by  
38 a sales representative for twice the full amount of the commission  
39 owed to such sales representative.

40 (c) The failure of a principal to respond to the written demand by a  
41 sales representative for commissions owed to the sales representative  
42 not later than thirty days after such principal receives such written  
43 demand shall create a rebuttable presumption that such principal  
44 acted wilfully and in bad faith provided such written demand is sent  
45 to such principal by certified mail.

46 (d) The prevailing party in any action brought pursuant to  
47 subsection (b) of this section shall be entitled to reasonable attorney's  
48 fees and court costs.

49 (e) Any principal who establishes a business relationship with a  
50 sales representative to solicit orders for products or services in this  
51 state shall be deemed to be doing business in this state for purposes of  
52 establishing jurisdiction over such principal in an action brought  
53 pursuant to subsection (b) of this section.

54 Sec. 3. (NEW) (*Effective from passage*) The acceptance by a sales  
55 representative of a partial commission payment from a principal shall  
56 not constitute a release by such sales representative of any other  
57 commissions which such sales representative claims are due except if  
58 such payment is made pursuant to a binding and final written  
59 settlement agreement and release. Any full release of all commissions  
60 claimed to be owed by a sales representative as a condition to a partial  
61 commission payment shall be null and void.

62 Sec. 4. (NEW) (*Effective from passage*) (a) Any provision in a contract  
63 between a sales representative and a principal that provides for the  
64 waiver of any provision of sections 2 and 3 of this act shall be void.

65 (b) Nothing in sections 2 and 3 of this act shall be construed to  
66 invalidate or restrict any right or remedy available to a sales  
67 representative or preclude a sales representative from seeking to  
68 recover in one action all claims against such principal.

69 (c) Nothing in sections 2 and 3 of this act shall be construed to apply  
70 to an insurance producer or producer, as defined in section 38a-702a of  
71 the general statutes, or to an insurer, as defined in section 38a-1 of the  
72 general statutes.

73 (d) Nothing in sections 2 and 3 of this act and this section shall be  
74 construed to apply to any person who holds a real estate salesperson's  
75 license and who has a claim for payment of a real estate commission or  
76 compensation against the real estate broker with whom such real

77 estate salesperson is affiliated.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill as amended changes laws regarding contracts between principals and sales representatives. It has no fiscal impact.

House "A" strikes the original bill and replaces it with new language regarding the commissions of sales representatives. It has no fiscal impact.

---

**OLR Bill Analysis**

sHB 6072 (as amended by House "A")\*

**AN ACT PROTECTING THE COMMISSIONS OF SALES REPRESENTATIVES****SUMMARY:**

This bill requires a principal, when a contract with a sales representative terminates, to pay the sales representative (1) all commissions due under the contract as of the termination's effective date by the later of the due date in the contract or 30 days after the termination date and (2) all commissions that become due after the termination date by the date specified in the contract but not later than 30 days after they become due under the contract. The bill defines "commission" as the compensation that accrues to a sales representative at a percentage of the amount of sales, orders, or profits or any other agreed-upon compensation method, including fees for services and retainers. A business relationship between a sales representative and a principal may terminate by the action of either party or by operation of the contract's terms.

The bill gives sales representatives the right to sue for certain violations and specifies that its provisions are in addition to other legal remedies available to a sales representative.

The bill includes provisions on suits between principals and sales representatives, voided contract provisions, and the legal implication of accepting a partial commissions. It exempts certain insurance and real estate professionals and insurance businesses from its provisions.

\*House Amendment "A" replaces the original bill and differs from it by (1) eliminating a provision relating to revocable commission offers, (2) revising the definitions of "person" and "termination," and (3) changing the provisions relating to commission payment after contract termination. It also makes other minor changes.

EFFECTIVE DATE: Upon passage

## **PRINCIPALS AND SALES REPRESENTATIVES**

Under the bill, a “principal” (1) manufactures, produces, imports, sells, or distributes a product or service; (2) establishes a business relationship with a sales representative to solicit orders for the product or service; and (3) compensates the sales representative in whole or part by commission. A “sales representative” establishes a business relationship with a principal to solicit orders for products or services and receives compensation in whole or part by commission. A sales representative is not an employee or someone who (1) places orders or buys on his own account or for resale, or (2) is a seller subject to regulation by the Home Solicitations Sales Act (see BACKGROUND). An individual, corporation, limited liability company, partnership, unincorporated association, trust, or estate can be a principal or sales representative.

## **CIVIL ACTION**

The bill makes a principal who willfully, wantonly, recklessly, or in bad faith fails to pay a commission when due liable for twice the amount of commission owed. The bill creates a rebuttable presumption that the principal acted willfully and in bad faith if he does not pay a commission or respond within 30 days of receiving a written demand by certified mail from the sales representative. It also entitles the prevailing party in a lawsuit to court costs and reasonable attorney’s fees. Under the bill, a principal who establishes a business relationship with a sales representative to solicit orders for products or services in Connecticut is considered to be transacting business in the state for purposes of court jurisdiction.

The bill provides that it must not be construed to invalidate or restrict any right or remedy available to a sales representative or preclude him from seeking to recover all claims in a single suit.

## **ACCEPTING A PARTIAL COMMISSION**

The bill states that a sales representative’s acceptance of a partial commission from a principal does not constitute a release by the representative of any other commissions due unless the payment is made according to a binding and final written settlement agreement and release. It makes a full release of all commissions claimed to be owned by a sales representative as a condition of a partial commission

payment void.

### **VOIDED CONTRACT PROVISION**

The bill voids provisions in contracts between a sales representative and principal that waive any of the bill's provisions.

### **EXCLUSIONS**

The bill states that it does not apply to (1) an insurance producer (a person required to be registered in Connecticut to sell, solicit, or negotiate insurance), (2) an insurer (any corporation, association, partnership, or combination of persons doing any kind of insurance business other than a fraternal benefit society), or (3) a licensed real estate salesperson who has a claim for payment of a real estate commission or compensation against a real estate broker with whom the salesperson is affiliated.

### **BACKGROUND**

#### ***Home Solicitation Sales Act***

The Home Solicitation Sales Act gives a consumer three days to cancel a home solicitation sale. A "home solicitation sale" is a transaction involving consumer goods or services that occurs anywhere other than the seller's own place of business. The act establishes minimum contract requirements for the sales contracts. For example, they must be signed and dated by the buyer. Further, sellers may not include provisions in contracts that waive a consumer's rights or misrepresent the right to cancel.

#### ***Legislative History***

On April 5, the House referred the original bill (File 94) to the Judiciary Committee, which reported the bill favorably without change on April 15.

### **COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 15    Nay 0

Judiciary Committee

Joint Favorable Report  
Yea 40    Nay 0