



General Assembly

January Session, 2005

Amendment

LCO No. 6684

HB0607206684HDO

Offered by:
REP. STONE, 9th Dist.

To: Subst. House Bill No. 6072 File No. 94 Cal. No. 118

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

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

12 (3) "Principal" means a person who: (A) Manufactures, produces,
13 imports, sells or distributes a product or service, (B) establishes a

14 business relationship with a sales representative to solicit orders for a
15 product or service, and (C) compensates a sale representative, in
16 whole, or in part, by commission;

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

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

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

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

42 (c) The failure of a principal to respond to the written demand by a
43 sales representative for commissions owed to the sales representative
44 not later than thirty days after such principal receives such written
45 demand shall create a rebuttable presumption that such principal

46 acted wilfully and in bad faith provided such written demand is sent
47 to such principal by certified mail.

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

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

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

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

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

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

75 (d) Nothing in sections 2 and 3 of this act and this section shall be

76 construed to apply to any person who holds a real estate salesperson's
77 license and who has a claim for payment of a real estate commission or
78 compensation against the real estate broker with whom such real
79 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