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AB-2844 Insurance: agents and brokers. (2017-2018)

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Assembly Bill No. 2844

CHAPTER 879

An act to add Section 769.1 to the Insurance Code, relating to insurance.

[Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2844, Cooley. Insurance: agents and brokers.

Existing law generally regulates the conduct of business between insurers and broker-agents. Under existing law, when a broker-agent's contract is terminated, the rights, duties, and obligations set forth in the terminated contract continue solely with respect to policies then in force or renewed, until those policies are canceled, placed by the broker-agent with another insurer, or have expired, as provided. Existing law requires that if the terminated broker-agent is unable to place existing policies with another insurer, the insurer shall, at the broker-agent's request, renew any insurance contract written by the broker-agent for one policy term or a period of one year, whichever is shorter. Existing law requires an insurer issuing an automobile insurance policy by or through an insurance agent, if a commission is paid to that agent, when issuing a policy in the minimum financial responsibility coverage amount, to pay a commission on the same terms and on the same percentage basis to that agent as for any higher amount of policy coverage sold by that agent.

This bill would require that any commission payable to a broker-agent be at the rate and in accordance with the terms agreed to in writing between the insurer and the broker-agent. The bill would establish a rebuttable presumption, as specified, that a commission is lawful if it is paid in accordance with the above-described laws relating to the termination of a broker-agent's contract and minimum commission amounts. The bill would require the written contract to be consistent with specified laws governing contracts. The bill would apply to a written agreement entered into or modified on or after January 1, 2019.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 769.1 is added to the Insurance Code, to read:

769.1. A commission payable to a broker-agent shall be at the rate and in accordance with the terms agreed to in writing between the insurer and the broker-agent. There is a rebuttable presumption that a commission is lawful if it complies with the requirements of subdivisions (c) and (d) of Section 769 and subdivision (a) of Section 1861.16 and if it is paid in accordance with the written agreement. The written agreement shall be consistent with Part 2 (commencing with Section 1549) of Division 3 of the Civil Code. The presumption established by this section is a presumption affecting the burden of producing evidence. This section applies to a written agreement entered into or modified on or after January 1, 2019.