

Testimony - SB 2374

Senator Barta and members of the Senate Industry and Business Committee my name is Steve Becher, Executive Director of the Professional Insurance Agents of North Dakota. PIA of ND is an association of well over 1,000 main street insurance agents from about 300 agencies across the entire state of North Dakota. I am providing testimony today in opposition of **SB 2374** in its present form which is a hard thing for me considering the bill sponsors. In truth we don't have any issues with the vast majority of the bill, but have some concerns with a definition and a large concern with one section that in essence makes rebating totally legal for large commercial accounts.

To give you some background on anti-rebating statutes, forty-eight states and the District of Columbia all prohibit insurers and agents from giving an insured or prospective insured anything of value not specified in the policy as an inducement to the purchase of insurance. There are two important public policy reasons for the anti-rebating statutes: (1) to prevent the creation of a competitive disadvantage or non-level playing field for other agents, brokers and agencies in the market and (2) to protect consumers and others from unfair and deceptive trade practices, discriminatory rates, etc. These statutes ensure that a policy's written terms are applied consistently to all policy holders who have been issued similar or identical policies and that some policy holders are not given preferential treatment. The basic premise of insurance is that the premium amount that an insured pays is based on actuarially sound rates for the exposures that they have covered. When rebates are given to certain clients in order to get or keep their business that insured is no longer paying their fair share of premiums while those that don't get the rebate pay the full amount. Agents don't have the

financial ability to give rebates to everyone if they would be allowed so in reality the large accounts would get a rebate and the smaller account would not. Anti-rebating statutes in insurance are a consumer protection to make sure that everyone pays the appropriate premium for the risks that they have.

SB 2374 on page 13, lines 5 and 6 make it so that subsections 1 & 2 of the current rebating statutes would not apply to large commercial risks. Subsection 1 says that an insurance producer may not give an insured a rebate, discount, credit, etc or anything of valuable consideration in any amount that is not specified in the insurance policy. Subsection 2 was added a few sessions ago as an exception to the rebating statute to give agents the ability to promote their business through promotional items, gifts, meals, or entertainment activity as long as it wasn't cash and the amount could be no more than \$100 annually per insured. This allowed agents to build a relationship with their clients, but not have the dollar amount be such that it would be an inducement to write or keep a policy with them. This bill strikes those 2 subsections of law for any large commercial risk and basically allows rebating in any amount to these clients. This is totally against the reasons why we have anti-rebating statutes and consumer protections in place to make sure all consumers are getting fair treatment. We would no longer oppose the bill if lines 5 and 6 on page 13 were removed from the bill as well as some fee language dealing with rebating.

The definition that we have concerns about is the definition of "large commercial risk" found on page 8. The bill defines large commercial risk as \$5 million in total property value OR \$10 million in gross revenue OR \$25,000 in property premium or liability

premium OR \$50,000 for multiline policies. These values or premiums would not be considered a large commercial risk for most agents and would be just looked at as a nice commercial account. I talked to my board President and asked him how many clients he currently has that would be considered a large commercial risk under this bill and he stated probably 50-60 and that was just his own clients not clients that were handled by the other agents that work in his office. That is just one agent in one agency so the number of clients that would be carved out as large commercial risks under this bill would be a large number. The other issue we have with the definition is whether or not it is meant to include farm accounts and/or crop insurance. If it does, most every decent size farm would probably be considered a large commercial risk and would be carved out as well. We would definitely not want farm and crop insurance considered a large commercial risk as crop insurance is the number one problem area for rebating even with the laws that are currently written. You may have seen where the Insurance Department recently issued their largest agent fine ever against a farm/crop agent that was giving rebates to some of his customers. We have heard of crop agents giving insurance clients trips to Las Vegas, giving farmers a large check to "buy" an old 3 wheeler that doesn't even run anymore, and even giving their clients lake lots as an inducement to write or keep their crop insurance. This bill as written would make all of those practices legal as long as the rebates were given to large commercial clients.

For these reasons we would oppose **SB 2374** as written and would recommend a Do Not Pass recommendation from this committee. As I stated earlier in my testimony, we

would no longer oppose the bill if lines 5 and 6 on page 13 and some fee language were removed from the bill and if the definition of large commercial risk was clarified and the values raised. I have two amendments that I would like to propose that would take care of the issues we have with this bill. Amendment #1 would raise the values of a large commercial risk to be more in line with the current insurance market and would clarify that farm and ranch (which would include crop insurance) are not considered a large commercial risk. Amendment #2 is the more crucial of the amendments to us as it would remove the bill language that exempts large commercial risks from the rebating statutes as well as the section regarding rebating of fees. Thank you for your consideration and I would be happy to answer any questions that you may have.