

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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SENATE

NO. 231

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*In Senate, Feb. 6, 1913.*

*Presented by Senator Wing of Franklin and on motion by same senator laid on the table for printing, pending reference to a committee.*

*W. E. LAIVRY, Secretary.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTEEN.

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AN ACT prohibiting rebating, discrimination, twisting and  
embezzlement by agents of insurance companies.

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*Be it enacted by the People of the State of Maine as follows:*

Section 1. No insurance company, association or society,  
2 by itself or any other party, and no insurance agent, so-  
3 licitor or broker personally, or by any other party, shall  
4 offer, promise, allow, give, set off or pay, directly or in-  
5 directly, any rebate of, or part of, the premium payable  
6 on the policy, or on any policy, or agent's commission  
7 thereon, or earnings, profit, dividends or other benefit  
8 founded, arising, accruing or to accrue thereon, or there-

9 from, or any other valuable consideration or inducement to  
10 or for insurance, on any risk in this State now or hereafter  
11 to be written, which is not specified in the policy contract  
12 of insurance; nor shall any such company, association or  
13 society, agent, collector or broker, personally or other-  
14 wise, offer, promise, give, sell or purchase any stocks,  
15 bonds, securities or property, or any dividends or profits  
16 accruing or to accrue thereon, or other thing of value  
17 whatsoever as inducement to insurance, or in connection  
18 therewith which is not specified in the policy. Upon  
19 satisfactory evidence of the violation of the provisions of  
20 this section, by any insurance company, association or  
21 society, its officers, solicitors or agents, or any insurance  
22 broker, the Commissioner of Insurance shall forthwith  
23 revoke the certificate of authority of such company, asso-  
24 ciation or society, its officers, solicitors or agents, or any  
25 insurance broker; and no license shall be issued to such  
26 company, association or society, officers, agents, solicitors  
27 or brokers, within one year from the date of the revoca-  
28 tion of such license; provided, however, that the viola-  
29 tion of this law by an agent, solicitor or broker shall only  
30 be considered prima facie evidence of a violation by the  
31 company that such agent, solicitor or broker represents.  
32 And any insurance company, association or society, its  
33 officers, solicitors or agents, or any insurance broker  
34 violating the provisions of this section of this Act, shall  
35 be guilty of a misdemeanor, and upon conviction thereof,

36 the offender or offenders shall be sentenced to pay a fine  
37 of \$100.00 for each and every violation, or in the discre-  
38 tion of the court, to imprisonment in the county jail of  
39 the county in which the offense is committed, for a period  
40 of not less than ninety days nor more than six months.

No insured person or party shall receive or accept  
42 directly or indirectly, any rebate of premium or part  
43 thereof or agent's, solicitor's or broker's commission there-  
44 on, payable on the policy, or on any policy of insurance,  
45 or any favor or advantage or share in the dividend or  
46 other benefit to accrue thereon, or any valuable consid-  
47 eration or inducement, not specified in the policy con-  
48 tract of insurance. The amount of the insurance where-  
49 on the insured has received or accepted, either directly or  
50 indirectly, any rebate of the premium or agent's, solici-  
51 tor's or broker's commission thereon, shall be reduced in  
52 such proportion as the amount or value of such rebate,  
53 commission, dividend, or other consideration so received  
54 by the insured, bears to the total premium on such policy,  
55 and any person insured, in addition to having the insur-  
56 ance reduced, shall be guilty of a misdemeanor, and upon  
57 conviction thereof, shall be sentenced to pay a fine of not  
58 more than \$100.00.

Sect. 2. No insurance company, association or society,  
2 or any officer, director, agent, broker or solicitor thereof  
3 shall issue, circulate or use or cause or permit to be is-  
4 sued, circulated or used, any written or oral statement, or

5 circular misrepresenting the terms of any policy issued or  
6 to be issued by such company, or misrepresenting the  
7 benefits or privileges promised under any such policy, or  
8 estimating the future dividends payable under any such  
9 policy. No insurance company, association or society,  
10 officer, director, agent, solicitor or broker, or any person,  
11 firm, association or corporation shall make any misrepre-  
12 sentation or incomplete comparison of policies, oral, writ-  
13 ten or otherwise, to any person insured in any company  
14 for the purpose of inducing or tending to induce such per-  
15 son to take out a policy of insurance, or for the purpose  
16 of inducing or tending to induce a policyholder in any  
17 company to lapse, forfeit or surrender his insurance there-  
18 in, and to take out a policy of insurance in another like  
19 company.

Upon satisfactory evidence of the violation of the pro-  
21 visions of this section, by any insurance company, asso-  
22 ciation or society, its officers, solicitors or agents, or any  
23 insurance broker, the Insurance Commissioner shall forth-  
24 with revoke the certificate of authority of such company,  
25 association or society, its officers, solicitors or agents or  
26 any insurance broker, and no license shall be issued to such  
27 company, association or society, officers, agents, solicitors  
28 or brokers, within one year from the date of the revoca-  
29 tion of such license; provided, however, that the viola-  
30 tion of this law by an agent, solicitor or broker shall only  
31 be considered prima facie evidence of a violation by the

32 company that such agent, solicitor or broker represents.  
33 Any insurance Company, association or society, agent,  
34 solicitor or broker, or any person, firm, association or  
35 corporation, violating the provisions of this section of  
36 this Act shall be guilty of a misdemeanor and upon con-  
37 viction thereof, the offender or offenders shall be sen-  
38 tenced to pay a fine of \$100.00 for each and every viola-  
39 tion, or in the discretion of the court, to imprisonment in  
40 the county jail of the county in which the offense is com-  
41 mitted.

Sect. 3. No person shall be excused from testifying  
2 or from producing any books, papers, contracts, agree-  
3 ments or documents at the trial or hearing of any person  
4 or company, association or society charged with violating  
5 any provision of Sections 1 and 2 of this Act, on the  
6 ground that such testimony or evidence may tend to in-  
7 criminate himself, but no person shall be prosecuted for  
8 any act concerning which he shall be compelled so to tes-  
9 tify or produce evidence, documentary or otherwise, ex-  
10 cept for perjury committed in so testifying.

Sect. 4. Any money, substitute for money or thing of  
2 value whatsoever, received by any agent, solicitor or  
3 broker, as premium or return premium, on or under any  
4 policy of insurance or application therefor, shall be re-  
5 ceived by such agent, solicitor or broker in his fiduciary  
6 capacity, and any agent, solicitor or broker, who embezzles  
7 or fraudulently converts or appropriates to his own use,

8 or, with intent to embezzle, takes, secretes or otherwise dis-  
9 poses of, or fraudulently withholds, appropriates, lends, in-  
10 vests or otherwise uses or applies any money, substitute  
11 for money or thing of value received by him as premium or  
12 return premium on or under any policy of insurance or ap-  
13 plication therefor, contrary to the instructions or without  
14 the consent of the company, association or society, for or on  
15 account of which the same was received by him, shall be  
16 deemed guilty of larceny by embezzlement, and shall be  
17 punished as provided in the criminal statutes of this State,  
18 irrespective of whether or not such agent, solicitor or  
19 broker, has, or claims to have, any commission or other in-  
20 terest in such money, substitute for money or thing of  
21 value.