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P.L. 2007, CHAPTER 289, *approved January 13, 2008*
Senate, No. 2733 (*First Reprint*)

1 AN ACT concerning sales representatives and amending ¹and
2 supplementing¹ P.L.1990, c.93.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1990, c.93 (C.2A:61A-1) is amended to read
8 as follows:

9 1. As used in this act:

10 a. "Commission" means compensation accruing to a sales
11 representative for payment by a principal, earned through the last
12 day on which services were performed by the sales representative,
13 the rate of which is expressed as a percentage of the dollar amount
14 of orders or sales or as a specified amount per order or per sale.

15 b. "Principal" means a person, including a person who does not
16 have a permanent or fixed place of business in this State, who
17 manufactures, produces, imports or distributes a product **[for**
18 **wholesale]** or offers a service; contracts with an independent sales
19 company or other person to solicit orders for the product or service;
20 and compensates those companies or other persons who solicit
21 **[wholesale]** orders, in whole or in part, by commission.

22 c. "Sales representative" means **[a]** an independent sales
23 company or other person, other than an employee, who contracts
24 with a principal to solicit **[wholesale]** orders and who is
25 compensated, in whole or in part, by commission but shall not
26 include one who places orders or purchases exclusively for his own
27 account for resale **[and shall not include one who sells or takes**
28 **orders for the sale of products to the ultimate consumer]**.

29 d. "Day" means a calendar day including Saturdays, Sundays and
30 legal holidays.

31 e. "Termination" means the end of services performed by the
32 sales representative for the principal by any means **[other than a**
33 **discharge]**.

34 f. **[**"Discharge" means the removal of a sales representative by
35 the principal and shall include any action taken by the principal
36 against the sales representative that concludes the relationship of
37 the parties.**]** (Deleted by amendment, P.L. _____, c. ____.)

38 (cf: P.L.1990, c.93, s.1)

39

40 2. Section 2 of P.L.1990, c.93 (C.2A:61A-2) is amended to read
41 as follows:

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹**Senate SLA committee amendments adopted November 29, 2007.**

1 2. When a contract between a principal and a sales
2 representative to solicit **【wholesale】** orders is terminated, the
3 commissions and other compensation earned as a result of the
4 representative relationship and unpaid **【through the last day of the**
5 **contract】** shall become due and payable within 30 days of the date
6 the contract is terminated or within 30 days of the date commissions
7 are due, whichever is later. **【When a sales representative is**
8 discharged the commissions and other compensation earned and
9 unpaid through the last day of the contract shall become due and
10 payable within seven days. **】**

11 A sales representative shall receive commissions on goods
12 ordered up to and including the last day of the contract even if
13 accepted by the principal, delivered, and paid for after the end of
14 the agreement. The commissions shall become due and payable
15 within 30 days after payment would have been due under the
16 contract if the contract had not been terminated.

17 (cf: P.L.1990, c.93, s.2)

18

19 3. Section 3 of P.L.1990, c.93 (C.2A:61A-3) is amended to read
20 as follows:

21 3. a. A principal who violates or fails to comply with the
22 provisions of section 2 of this act shall be liable to the sales
23 representative for all amounts due the sales representative,
24 exemplary damages in an amount of three times the amount of
25 commissions owed to the sales representative and all attorney's fees
26 actually and reasonably incurred by the sales representative in the
27 action and court costs.

28 b. Where the court determines that an action brought by a sales
29 representative against a principal pursuant to this section is
30 frivolous, pursuant to P.L.1988, c.46 (C.2A:15-59.1), the sales
31 representative shall be liable to the principal for attorney's fees
32 actually and reasonably incurred by the principal in defending the
33 action and court costs.

34 (cf: P.L.1990, c.93, s.3)

35

36 ¹4. (New section) The provisions of P.L.1990, c.93 (C.2A:61A-1
37 et seq.) shall not apply to:

38 a. any real estate sales person licensed or regulated pursuant to
39 chapter 15 of Title 45 of the Revised Statutes;

40 b. any person licensed or regulated pursuant to subtitle 3 of Title
41 17 of the Revised Statutes, Title 17B of the New Jersey Statutes or
42 P.L.1973, c.337 (C.26:2J-1 et seq.); or

43 c. any person registered or regulated by the New Jersey Bureau
44 of Securities pursuant to the “Uniform Securities Law (1997),”
45 P.L.1967, c.93 (C.49:3-47 et seq.), or registered or regulated by the
46 Securities and Exchange Commission pursuant to the provisions of
47 the Securities Act of 1933, 15 U.S.C. s.77a et seq., the Securities

1 Exchange Act of 1934, 15 U.S.C. s.78a et seq., Investment
2 Company Act of 1940, 15 U.S.C. s.80a-1 et seq., or the Investment
3 Advisers Act of 1940, 15 U.S.C. s.80b-1 et seq.¹

4

5 ¹[4.] 5.¹ This act shall take effect immediately.

6

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8

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10 Revises law concerning sales representatives to permit treble
11 damages when a principal fails to pay earned commissions within
12 30 days of termination.

SENATE, No. 2733

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED MAY 21, 2007

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Revises law concerning sales representatives to permit treble damages when a principal fails to pay earned commissions within 30 days of termination.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sales representatives and amending P.L.1990,
2 c.93.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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8 as follows:

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11 representative for payment by a principal, earned through the last
12 day on which services were performed by the sales representative,
13 the rate of which is expressed as a percentage of the dollar amount
14 of orders or sales or as a specified amount per order or per sale.

15 b. "Principal" means a person, including a person who does not
16 have a permanent or fixed place of business in this State, who
17 manufactures, produces, imports or distributes a product **[for**
18 **wholesale]** or offers a service; contracts with an independent sales
19 company or other person to solicit orders for the product or service;
20 and compensates those companies or other persons who solicit
21 **[wholesale]** orders, in whole or in part, by commission.

22 c. "Sales representative" means **[a]** an independent sales
23 company or other person, other than an employee, who contracts
24 with a principal to solicit **[wholesale]** orders and who is
25 compensated, in whole or in part, by commission but shall not
26 include one who places orders or purchases exclusively for his own
27 account for resale **[and shall not include one who sells or takes**
28 **orders for the sale of products to the ultimate consumer]**.

29 d. "Day" means a calendar day including Saturdays, Sundays and
30 legal holidays.

31 e. "Termination" means the end of services performed by the
32 sales representative for the principal by any means **[other than a**
33 **discharge]**.

34 f. **[**"Discharge" means the removal of a sales representative by
35 the principal and shall include any action taken by the principal
36 against the sales representative that concludes the relationship of
37 the parties.**]** (Deleted by amendment, P.L. ____, c. __.)

38 (cf: P.L.1990, c.93, s.1)

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40 2. Section 2 of P.L.1990, c.93 (C.2A:61A-2) is amended to read
41 as follows:

42 2. When a contract between a principal and a sales
43 representative to solicit **[wholesale]** orders is terminated, the
44 commissions and other compensation earned as a result of the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 representative relationship and unpaid **【**through the last day of the
2 contract**】** shall become due and payable within 30 days of the date
3 the contract is terminated or within 30 days of the date commissions
4 are due, whichever is later. **【**When a sales representative is
5 discharged the commissions and other compensation earned and
6 unpaid through the last day of the contract shall become due and
7 payable within seven days.**】**

8 A sales representative shall receive commissions on goods
9 ordered up to and including the last day of the contract even if
10 accepted by the principal, delivered, and paid for after the end of
11 the agreement. The commissions shall become due and payable
12 within 30 days after payment would have been due under the
13 contract if the contract had not been terminated.
14 (cf: P.L.1990, c.93, s.2)

15
16 3. Section 3 of P.L.1990, c.93 (C.2A:61A-3) is amended to read
17 as follows:

18 3. a. A principal who violates or fails to comply with the
19 provisions of section 2 of this act shall be liable to the sales
20 representative for all amounts due the sales representative,
21 exemplary damages in an amount of three times the amount of
22 commissions owed to the sales representative and all attorney's fees
23 actually and reasonably incurred by the sales representative in the
24 action and court costs.

25 b. Where the court determines that an action brought by a sales
26 representative against a principal pursuant to this section is
27 frivolous, pursuant to P.L.1988, c.46 (C.2A:15-59.1), the sales
28 representative shall be liable to the principal for attorney's fees
29 actually and reasonably incurred by the principal in defending the
30 action and court costs.
31 (cf: P.L.1990, c.93, s.3)

32
33 4. This act shall take effect immediately.

34
35

36 STATEMENT

37
38 This bill revises the law concerning sales representatives to
39 provide that treble damages may be awarded to sales representatives
40 in the event a principal fails to pay any earned commissions within
41 30 days of terminating the sales representatives or within 30 days of
42 the date when commissions are due, whichever is later. In addition,
43 this bill eliminates the term “wholesale” in order to provide
44 protection for a sales representative regardless of the type of order
45 obtained, wholesale or retail, and expands the definition of
46 “termination” so that, regardless of the type of termination, all
47 commissions earned and owed are payable within 30 days, or within
48 30 days of the date when commissions are due, whichever is later.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2733

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 2007

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 2733.

This bill revises the law concerning sales representatives to provide that treble damages may be awarded to sales representatives in the event a principal fails to pay any earned commissions within 30 days of terminating the sales representatives or within 30 days of the date when commissions are due, whichever is later. In addition, this bill eliminates the term “wholesale” in order to provide protection for a sales representative regardless of the type of order obtained, wholesale or retail, and expands the definition of “termination” so that, regardless of the type of termination, all commissions earned and owed are payable within 30 days, or within 30 days of the date when commissions are due, whichever is later.

The committee amended the bill to exclude real estate salespersons, insurance carriers and agents, and securities brokers and advisers from the provisions of the bill and the law concerning sales repres

ASSEMBLY, No. 4278

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 17, 2007

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Revises law concerning sales representatives to permit treble damages when a principal fails to pay earned commissions within 30 days of termination.

CURRENT VERSION OF TEXT

As introduced.



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47 commissions earned and owed are payable within 30 days, or within
48 30 days of the date when commissions are due, whichever is later.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4278

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4278.

This bill revises the law concerning sales representatives to provide that treble damages may be awarded to sales representatives in the event a principal fails to pay any earned commissions within 30 days of terminating the sales representatives or within 30 days of the date when commissions are due, whichever is later. In addition, this bill eliminates the term “wholesale” in order to provide protection for a sales representative regardless of the type of order obtained, wholesale or retail, and expands the definition of “termination” so that, regardless of the type of termination, all commissions earned and owed are payable within 30 days, or within 30 days of the date when commissions are due, whichever is later.

The committee amended the bill to specifically exclude real estate salespersons, insurance carriers and agents, and securities brokers and advisers from the provisions of the bill and the law concerning sales representatives.

These amendments make this bill identical to Senate Bill No. 2733(1R).

COMMITTEE AMENDMENTS:

1. Amend the title to reflect the new supplemental language.
2. Add a new section 4 which would specifically exclude real estate salespersons, insurance carriers and agents, and securities brokers and advisers from the provisions of the bill and the law concerning sales representatives.