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Subsection 13D of the Producer Licensing Model Act sets forth the following: "An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate [insert appropriate reference to state law, i.e. citation to anti-rebating statute, if applicable]."

Has your state adopted this provision and, if so, does your state interpret this provision to permit an individual, who is not licensed in your state, to receive an override commission if the individual does not sell, solicit or negotiate insurance in your state, as long as the person who does actually sell, solicit or negotiate insurance in your state is a licensed producer?

STATE	YES	NO	RESPONSE	RESPONDENT
AK	X		Alaska has adopted Subsection 13D of the Producer Licensing Model Act. Our state interprets this provision to permit an individual, who is not licensed in your state, to receive an override commission if the individual does not sell, solicit or negotiate insurance in your state, as long as the person who does actually sell, solicit or negotiate insurance in our state is a licensed producer.	Linda Brunette
AZ	X		Yes, adopted [A.R.S. § 20-298(D)], and yes, override commissions may be paid to an unlicensed person who does not sell, solicit or negotiate.	Scott Greenberg
AR	X		Arkansas has adopted and revised the provision as to fees or commissions under Ark. Code Ann. §23-64-513 (Supp. 2003).	Fred Stiffler
CA		X	California has not adopted this provision of the PLMA. An insurance license is required to "transact" insurance business in California. Section 35 of the California Insurance Code (CIC) defines "transact" as solicitation; negotiations preliminary to execution; execution of a contract of insurance; and transaction of matters subsequent to execution of the contract and arising out of it. Therefore, an individual unlicensed in California cannot receive an override commission if the individual's activities fall into the definition of "transact." However, if	Keith Kuzmich

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			the individual is not involved with the transaction as "transact" is defined in the CIC, they may receive override commissions without being licensed.	
CO	X		Colorado has adopted this.	JT Thompson
CT	X		Connecticut did pass this provision of the PLMA and your interpretation is correct. There are currently two bills before our legislature to repeal or amend this provision.	George Hummelman
DE	X		We adopted the provision and interpret this provision to permit an individual, who is not licensed in our state, to receive an override commission if the individual does not sell, solicit or negotiate insurance in our state, as long as the person who does actually sell, solicit or negotiate insurance in our state is a licensed producer.	Gene Reed
FL		X	Florida Statutes provide for sharing commissions only with other agents licensed and appointed to write the same kind or kinds of insurance and a corporation that is an insurance agency.	Audrey Huggins Karen Chandler
GA		X	GA is same as VA.	Tammy Clemens
GU		X	Guam has not adopted the Producer Licensing Model Act in its entirety, including subsection 13D. Guam prohibits payment of any commissions to any person who is not licensed as an agent or broker. (22 GCA Section 15706).	John Carlos
HI	X		Yes, section 431:9A-113(d). If the non-licensed individual does not sell, solicit or negotiate the Hawaii Insurance contract, that non-licensed individual may receive an override commission pursuant to 431:91-113, HRS.	Charlene Ono
ID	X		Idaho adopted the Model language regarding the sharing of commissions. We also interpret the code to include agencies or companies, if they are doing business in the name of the agency or selling, soliciting or negotiating in the name of the agency they need to be licensed.	Jim Genetti
IL	X		Illinois has adopted this section and we would allow someone to receive an override as long as	Kelly S. Kruger

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			they do not sell, solicit or negotiate.	
IA	X		Yes, Iowa adopted the provision. Furthermore, we have an administrative regulation that states that a person who is not engaged in any activities in Iowa that require an insurance producer license in Iowa is not required to maintain an active insurance producer license in order to receive override or hierarchy commissions.	Angela Burke Boston
KS	X		In Kansas we have for decades allowed the override commission because that individual was not trans acting the business. However, should any of the people getting the override get involved with the agents in training and help the agent in the field then a license is necessary. With PLMA, we are using the sell, solicit and negotiate terminology now. No license is necessary for the override if the individual did not sell, solicit, and negotiate.	Leroy Brungardt
KY		X	KRS 304.9-421 and KRS 304.9-425 prohibit the sharing of commission per se. However, a referral fee may be paid under the restrictions of KRS 304.9-425(4) and (5). Historically, the Department has applied the prohibition against sharing commission very strictly to create a bright line for licensing. If you allow unlicensed persons to receive commission, you lose a reliable way to identify unlicensed persons who are selling insurance; and, in turn, you lose an effective consumer protection.	Treva Wright- Donnell
LA		X	Louisiana did NOT adopt Section 13D of the PLMA and requires that persons receiving override commissions to be licensed	Teri Taylor
ME	X		We in Maine have also adopted the provision (http://janus.state.me.us/legis/statutes/24-A/title24-Asec1420-L.html), and our interpretation has been the same as Delaware's, as stated below.	Arthur Hosford
MD	X		MD did adopt this provision under Section 10-130 (c) of the Md Insurance Code. Our position is as stated that an individual who is not licensed in	Jean Bieneman

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			the state may receive an override commission, if the individual does not sell, solicit, or negotiate insurance in the state, as long as the person who actually does sell, solicit, or negotiate insurance in the state is a licensed producer.	
MA		X	Massachusetts did not adopt this section of the model law. The statute that deals with paying commissions (or any compensation) to unlicensed individuals is c. 175, Section 177 (as amended by c. 106 of the Acts of 2002).	Diane Silverman Black
MI	X		Michigan has adopted this provision. A license is not required in Michigan to receive an override commission if the person does not sell, solicit or negotiate insurance in this state.	Mark Weigold
MN	X		MN does. However, what I tell persons making this inquiry is that they need to carefully review the definitions for “sell, solicit or negotiate” and remember that a business entity is a person by definition. Nonresident business entities that arrange to have other producers sell the insurance products the business entity has arranged for them to sell would still need a license. Business entities that arrange for natural persons to negotiate, sell or solicit insurance, except as otherwise exempt, would need a license.	Paul Hanson
MO	X		Yes, Yes	Mike Duffeck
MS	??	??	Mississippi adopted the wording of subsection 13D of PLMA. However, it violates another provision of the MS code that prohibits the payment of any commissions, directly or indirectly, to any person, agent, firm or corporation not duly licensed as an insurance agent in this state.	Bea Smith
MT		X	Montana’s existing statute reads: (1) “An insurer or insurance producer may not pay, directly or indirectly, a commission, service fee, brokerage fee, or other valuable consideration to a person for services as an insurance producer unless the person performing the service holds a valid license with regard to the kind or kinds of	Dave Drynan

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			<p>insurance for which the service was rendered at the time the service was performed. A person not properly licensed in accordance with this chapter at the time the person performs the service as an insurance producer may not accept a commission, service fee, brokerage fee or other valuable consideration for the service. This section does not prevent payment or receipt of renewal or other deferred commissions to or by a person entitled to receive the payment under this section.”</p> <p>(2) “An insurance producer may not directly or indirectly share the insurance producer’s commissions or other compensation received or to be received by the insurance producer on account of a transaction under the insurance producer’s license with any person not also licensed under this chapter as to the same kind or kinds of insurance involved in the transactions. This provision does not affect payment of the regular salaries due employees of the licensee, the distribution in regular course of business of compensation and profits among members or stockholders if the licensee is a partnership or corporation, or use of funds for family or personal purposes.”</p> <p>If a person will be receiving an override, they must be licensed in Montana.</p>	
NC	X		Same as DE	Shirley Jones
ND		X	We have been taking the position that in order to receive an override of commission a license is required. One of the main reasons for us taking that position is that ND does require the business entity to be licensed and since the payment of an override generally is paid to the entity that the individual is affiliated with we’ve required a license to receive the override. This would include a payment of an override to an individual as well.	Laurie Wolf

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NE	X		We did adopt that language and do allow individuals to receive override commissions without obtaining a license in Nebraska.	Bev Creager
NJ	X		New Jersey has adopted this provision in our licensing statute and we do interpret it in the way stated in the question.	Anne Marie Narcini
NM		X	New Mexico has not adopted this provision nor does it plan to. Current law prohibits sharing of commission overrides to unlicensed entities or unlicensed and appointed individuals.	Nap Sanchez
NV	X		Nevada adopted the wording from the PLMA and interprets this provision to permit a person (individual or business entity), who is not licensed in our state, to receive an override commission if that person does not sell, solicit or negotiate insurance in our state and the payment does not violate our rebating laws.	Debbie Thurner
OH	X		Ohio has adopted Subsection 13D of the Producer Licensing Model Act. The interpretation of the law will depend upon the relationship between the licensed agent and the unlicensed individual. If the unlicensed individual is doing business through the licensed agent, then the unlicensed individual may need to be licensed in Ohio.	Karen Vourvopoulos
OK	X		Oklahoma repealed the statute, Section 1435.38 of Title 36, requiring a license to receive override commissions effective July 1, 2004.	Phil Marsh
OR	X		Oregon has adopted this provision and does not require a license to receive an override commission if the person does not sell, solicit or negotiate insurance in this state.	Margarita Nunez
PA		X	Section 672-A of our law does not permit an insurance entity to pay a commission, fee or other compensation to a person that is not licensed for any activities related to the sale, solicitation or negotiation of a contract of insurance. To receive the override, the person must be licensed. To quote the lyrics in a song by Dire Straits, "money for nothing, checks for free" but not in PA.	Jack Yanosky
SC	X		We adopted this language in Section 38-43-	Jim Byrd

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			200(I). The responsibility of compliance by the producer or insurer is based on their understanding of Chapter 57 (Trade Practices).	
SD		X	South Dakota's answer is "No" per SDCL 58-30-171 thru 58-3-174.	Wendell Malsam
TX	X		<p>If a person is not performing services performed by that person as an insurance agent in this state" then Tex. Ins. Code Ann. art. 21.01-2(2A)(b) does not prohibit the payment of an override commission to the person.</p> <p>Please refer to the following provision of the Texas Insurance Code:</p> <p>"An insurer or licensed insurance agent engaged in the business of insurance in this state may not pay, directly or indirectly, and may not accept, any commission or other valuable consideration to or from any person for services performed by that person as an insurance agent in this state unless the person holds a license to act as an insurance agent as required by the laws of this state... " Tex. Ins. Code Ann. art. 21.01-2(2A)(b).</p>	Matt Ray
UT		X	Utah did not adopt this subsection of the PLMA. We felt it was redundant as we were already expanding the allowable compensation to producers to include the items in question except for the issue of over-ride commissions. Paying any commission amount conflicts with 31A-23-404 Sharing commissions. We prohibit the sharing of commissions with unlicensed producers and feel strongly this prohibition is justified. We do not require appointments or make other restrictions on the sharing of commissions.	Tom Brasher
VA		X	Virginia maintains that any entity that receives a commission from an insurer, directly or indirectly (whether characterized as an "override," "fee," or otherwise), arising from the sale of a contract of	Vicki Ayers

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			insurance or annuity, even if there was no active "selling, soliciting, or negotiating" by that entity, must be licensed and appointed in Virginia.	
WA	X		Washington allows the sharing of commission with another an agent, solicitor, general agent, or broker licensed in this or any other state or province for the kinds of insurance placed.	Georgia Cooper
WV		X	A producer may share a commission only with another licensed producer and that producer and all licensed producers involved in the commission sharing must be appointed by the insurer with whom the insurance was placed. A producer who accepts any commission or compensation from the sale of a policy issued by an insurer with whom he/she is not appointed is subject to the penalties prescribed by West Virginia Code Section 33-12-24.	Jane Strother
WI		X	Section 628.61 requires licensing of all "natural persons" who are accepting compensation based on the sale of insurance.	Laurna J. Landphier
WY	X		We have most of the wording adopted but we did not include "service fees" since Wyoming does not recognize fees other than commissions. And yes, with the wording, the person may receive an override and not be licensed as long as he/she is not selling, soliciting or negotiating insurance in this state.	Geri Nalder
TOTAL				