



Republic of the Philippines  
Department of Finance  
**INSURANCE COMMISSION**  
1071 United Nations Avenue  
Manila



Legal Opinion (LO) No.:	2022-08
Date:	21 March 2022

**MS. LAWREANNE E. SANICO**  
[weanne.sanico@gmail.com](mailto:weanne.sanico@gmail.com)

Subject:      **Payment of Service Fee**

Dear **Ms. Sanico:**

This refers to your email last 14 January 2022 seeking the Insurance Commission's legal opinion with respect to the payment of service fee. More specifically, you seek clarification as to whether an insurance agent is allowed to pay for the reasonable collection fee that may be collected by political subdivisions and instrumentalities, and government-owned or controlled corporations under Section 78 of the Insurance Code, as amended, to wit:

**"Section 78.** Employees of the Republic of the Philippines, including its political subdivisions and instrumentalities, and government-owned or -controlled corporations, may pay their insurance premiums and loan obligations through salary deduction: *Provided*, That the treasurer, cashier, paymaster or official of the entity employing the government employee is authorized, notwithstanding the provisions of any existing law, rules and regulations to the contrary, to make deductions from the salary, wage or income of the latter pursuant to the agreement between the insurer and the government employee and to remit such deductions to the insurer concerned, and collect such reasonable fee for its services."

Per your email, the relevant facts are as follows:

"-Employees of a government agency would like to avail of insurance policies from an insurance company (INSURER) with premiums payable through salary deduction

-Government agency and INSURER are willing to enter into contract for Automatic Payroll Deduction of said Insurance Premiums

-Government agency is requiring 3% reasonable service fee for the administration of the salary deduction of premium payment and remittance to INSURER

x x x

-However, as per INSURER's internal policy, the INSURER only pays for SERVICE FEE for TRADITIONAL POLICIES, not for VUL policies due to the nature of investments in VUL

-Insurance AGENT of INSURER, who is the servicing advisor of the employees, is willing to pay for the 3% SERVICE FEE for said VUL policies as part of Insurance AGENT's business expenses to be remitted to the Government Agency

-INSURER is willing to accept AGENT's proposal that the AGENT will shoulder the collection SERVICE FEE for VUL policies that will be paid to the government agency who deducts the premium from the salaries of the insured employees."

Upon careful consideration of your query, the Insurance Commission finds the subject arrangement as akin to rebating, which is prohibited under Section 370 of the Insurance Code, as amended. Section 370 provides as follows:

**"Section 370. No insurance company doing business in the Philippines or any agent thereof, no insurance broker, and no employee or other representative of any such insurance company, agent, or broker, shall make, procure or negotiate any contract of insurance or agreement as to policy contract, other than is plainly expressed in the policy or other written contract issued or to be issued as evidence thereof, or shall directly or indirectly, by giving or sharing a commission or in any manner whatsoever, pay or allow or offer to pay or allow to the insured or to any employee of such insured, either as an inducement to the making of such insurance or after such insurance has been effected, any rebate from the premium which is specified in the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or shall give or offer to give any valuable consideration or inducement of any kind, directly or indirectly, which is not specified in such policy or contract of insurance; nor shall any such company, or any agent thereof, as to any policy or contract of insurance issued, make any discrimination against any Filipino in the sense that he is given less advantageous**



rates, dividends or other policy conditions or privileges than are accorded to other nationals because of his race.”

Section 370 of the Insurance Code, as amended, specifically prohibits any rebate from the premium specified in the policy by directly or indirectly giving or sharing the agent’s commission or in any manner whatsoever, either as an inducement to the making of such insurance or after such insurance has been effected. The proposed arrangement where the insurance agent will pay the service fee required by the government agency as part of the agent’s business expense effectively operates as rebating. It must be noted that rebates are incentives that can be in the form of payment of premiums, gifts or other consideration which are not included in the insurance policy.

In the present case, by offering to pay the service fee, the insurance agent essentially proposes to offer benefits not included in the insurance policy to potential customers to induce the latter to enter into an insurance contract. It may also be viewed as indirectly sharing the insurance agent’s commission to potential customers either as an inducement to the making of an insurance contract or after such contract has been effected. Hence, the proposed arrangement cannot be allowed for being in violation of Section 370 of the Insurance Code, as amended.

Please note that the above opinion rendered by this Commission is based solely on the particular facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases whether for similar or dissimilar circumstances.

For your information and guidance.

Very truly yours,

**DENNIS B. FUNA**  
Insurance Commissioner

