

# TECHNICAL ADVISORY

TA 113

JANUARY 20, 1998

**SUBJECT:** AGENT OF RECORD LAW

**BACKGROUND:** The Louisiana law on agent of record, R.S. 22:1118(F), was amended in the 1997 Legislative Session (SB 8 - Barham), with the changes taking effect January 1, 1998.

**MAIN POINTS:** Here is the wording in the new law:

Section I. R.S. 22:1118(F)(1) and (2) are hereby amended and reenacted and R.S. 22:1118(H) is hereby enacted to read as follows:

§1118. Miscellaneous provisions; examinations; license contents; payments; fidelity bond.

F.(1) Any insurance company authorized to transact business in this state or issuing or delivering property or casualty insurance, or fidelity bonds in the state shall retain information of the agent of record who wrote such policies or bonds for the full term of the contracts, or until the renewal date or termination of the contracts, whichever occurs first. The insurer shall not change or remove such agent by any agent of record letter which may be secured by another agent during the term of such contracts or until the renewal date of the contracts, whichever occurs first unless the change or removal is requested by an insured under a particular contract.

(a) If a change or removal of an agent is requested by an insured, the insurer shall give the agent written notice thirty days in advance of the change or removal as to the particular insured's contract. An insurer shall not be precluded from paying a commission to a removed agent at the level the insurer is paying at the time of the removal in accordance with the contract between the insurer and the agent for the current policy. It shall be the duty of the insurer to assure that the insured's policy is serviced by an agent after the removal.

(b) Each contract entered or renewed between an insurance company and an agent after January 1, 1998 shall contain a clause expressing the right of removal of the agent, and the responsibility to pay and cancel commissions after removal. Likewise each applicable policy of insurance or fidelity bond issued or renewed after January 1, 1998 shall contain a clause concerning the right to remove the agent.

(2) Except as provided in Paragraph (1) of this Subsection, no insurer or agent shall cancel and rewrite any such contracts during the term of such contract or until the renewal date of the contract, whichever occurs first, which would change the agent of record.

Section 2. The provisions of this Act shall apply to policies of insurance, fidelity bonds, and contracts between insurance companies and agents entered, issued, or renewed after January 1, 1998.

Summary of key points:

- A change or removal of an agent can only be done if requested by an insured.
- The removed agent shall receive 30 days' notice.
- Payment of commission to the removed agent or new agent is up to the company. While "not precluded from paying commission to a removed agent," the company is not required to do so. (Circumstances might warrant splitting commission, for example.)
- Policies issued on or after January 1, 1998 shall contain language which incorporates the new law.
- A policy cannot be canceled and rewritten unless requested by the insured.

**NECESSARY  
ACTION:**

Circulate this advisory to key agency personnel.