

TECHNICAL ADVISORY

TA 115

February 16, 1998

SUBJECT: LDOI DIRECTIVE #144 - AGENCY FEES

BACKGROUND: RS 22:627 authorizes agents to charge certain agency fees and/or reimbursement of expenses in addition to normal premiums and commissions. However, this statute is somewhat ambiguous. IIAL has worked with LDOI to clarify how agents charge fees. LDOI has done a terrific job of protecting consumers' interests while making agency fee procedures reasonable for agents.

MAIN POINTS: Attached is a copy of LDOI Directive #144. The Directive is self-explanatory with regard to LDOI interpretation of procedures for agency fees authorized by statute. Please refer to the directive for these details.

IIAL would like to provide the following suggestions in addition to the LDOI directive:

1. The directive indicates that fees shall be referred to as "agency fees." Agents would be well-served to use this standard term and avoid deviations such as "administration fee, claims and administration expense, policy fee" or other similar language. When charging for reimbursement of expenses, agents should clearly state on the invoice what expenses are being reimbursed. (MVR expense, for example)
2. The LDOI directive requires that agency fees and/or reimbursement of expenses be clearly and separately shown on an invoice. The most common complaint to LDOI by consumers against agents on agency fees is that the agent did not properly disclose the fees or expenses to the customer. Agents may want to provide additional documentation in the form of disclosure on proposals or cover letters, particularly when agency fees are relatively large.
3. The statute requires that agency fees or reimbursement of expenses must be "reasonable." The reasonableness of agency fees will be decided on a case-by-case basis. Factors which will most likely be considered in determining whether or not a fee is reasonable include:
 - A. Normal commissions for the line of business;
 - B. Amount of premium and loss funds;
 - C. Amount of service or expense provided by the agent;
 - D. The unique nature of circumstances surrounding the account.

Agents need to be careful that all agency fees fall within some "reasonable" amount to avoid potential legal problems.

These suggestions are not part of the LDOI regulation, but are suggestions from IIAL to help agents avoid problems. Directive #144 states the official position of LDOI on agency fees.

**NECESSARY
ACTION:**

Please circulate this Technical Advisory to all agency staff which may be involved in agency fees and/or reimbursement of expenses. Each agency should establish clear policies and procedures to meet the guidelines outlined in Directive #144.

**LOUISIANA DEPARTMENT OF INSURANCE
DIRECTIVE 144**

GUIDELINES FOR CHARGES PURSUANT TO LSA-R.S. 22:627

January 16, 1998

This directive shall apply to all agents, brokers, and solicitors licensed to transact business in Louisiana. Further, this directive shall apply to all policies of insurance except life, accident, health and reinsurance. LSA-R.S.22:627 governs the procedures to be followed by insurance agents, brokers, solicitors, and other representatives of the insurer when charging fees and/or when requesting reimbursement of expenses in the procurement of insurance coverage.

When procuring coverage, insurance agents, brokers, and solicitors are allowed to charge, in addition to the premiums, a reasonable fee which is referred to as an agency fee. Additionally, and if agreed upon by the insured, they may receive reimbursement for expenses incurred. The agency fees and reimbursement expenses provided for herein are not included in the premium quoted and may not be specified in the policy delivered to the insured. Nor, are agency fees subject to premium taxes or surplus line premium taxes.

The agency fees and expenses charged shall be separately stated and collected through an invoice statement. A single invoice may be used for each policy to make known all charges (premiums, fees, reimbursement expenses, or other consideration). Each such charge must be prominently disclosed and itemized separately on the invoice. The same invoice shall be used to collect therefrom.

Agency fees for homeowners or personal automobile insurance shall not exceed \$25.00, provided they are normal and are insurable at standard rates. This cap does not apply to surplus line insurance and to

risks which are not normal and are not insurable at normal rates.
An insurance agent, broker, or solicitor who has received monies in excess of the quoted premium, which were not disclosed on a separate invoice, may be subject to disciplinary action.

James H. Brown
COMMISSIONER OF INSURANCE