

TECHNICAL ADVISORY

INDEPENDENT INSURANCE AGENTS OF LOUISIANA

TA 117

April 13, 1998

SUBJECT: The Violent Crime Control and Law Enforcement Act of 1994

BACKGROUND: Under the federal Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA), specifically 18 U.S.C 1003 e., it is illegal for any individual who has been convicted of a criminal felony entailing breach of trust or dishonesty to engage in the business of insurance. Any person convicted of such a crime may be eligible to engage in the business of insurance upon receipt of a waiver issued by the authorized state insurance regulator in the state where the individual wishes to transact insurance business.

MAIN POINTS: To comply with VCCLEA, Independent Insurance Agents should:

- Familiarize themselves with the Act. They should also contact the Louisiana Department of Insurance (LDI) to find out whether it plans to issue guidelines interpreting the Act, and when the guidelines will be available.
- Educate themselves about legally defensible employment practices prior to implementing procedures pursuant to this Act (i.e., ADA discrimination).
- Institute procedures to identify individuals who are now, or may in the future, work in the agency and who may be subject to the provisions of the Act. Such procedures may include pre-employment screening and confidential discussion with present employees. For prospective employees, an agency should review its existing hiring practices to determine whether job applications include information concerning prior felony convictions.
- Be forthcoming and truthful in response to any request or demand for information issued by a state insurance regulator and when completing an application to obtain a license to transact the business of insurance.
- Familiarize themselves with the Act's requirements with respect to providing agent or employee criminal records information to third parties.

- Use caution before signing broadly worded authorization forms that permit insurance companies and others, except LDI, to conduct criminal records checks that do not also provide assurance that: (1) such information will be maintained in confidence; (2) will be used solely for the purpose for which it is intended; (3) holds the agency harmless for any misuse of the information obtained; and (4) the information will be disseminated within an organization only on a “need to know” basis.
- Seek legal counsel regarding any and all matters where the Act may be applicable.

**NECESSARY
ACTION:**

IIAA has prepared a Fact Sheet which answers questions you might have on VCCLEA. For a copy of this fact, you should call IIAL’s FAX-ON-DEMAND at 800/299-0646 and request document #1512.