

# TECHNICAL ADVISORY

## INDEPENDENT INSURANCE AGENTS OF LOUISIANA

TA 156

April 26, 2000

**SUBJECT:** AGENT OF RECORD LAW

**BACKGROUND:** The Agent of Record law has been a part of Louisiana statutes for many years. The law was amended in 1997, and again in 1999, to fine tune and clarify some of the operational aspects of just how the law was to be applied in certain situations.

**MAIN POINTS:** There are several key issues that arise in implementing the Agent of Record procedure. Here is summary of the most frequently asked questions IIAL has received on just how the Agent of Record law works:

***When may the insured request a change of agent through the Agent of Record procedure?***

At any time.

***How much notice is the current agent supposed to receive before the change of agent becomes effective?***

The 1999 law requires the insurer to provide the current agent a 15-day written notice.

***What if there are less than fifteen days left on the expiring policy?***

The current agent is still entitled to the full 15-day notice. With less than 15 days left in the expiring policy, the balance of the 15-day notification period goes into the new policy term. (However, the inception date of the policy does not change.) For example, if an Agent of Record request is signed by the insured one day prior to expiration, the change would not be effective until the current agent has received the 15-day written notice from the insurer. That way, the current agent has an opportunity to talk to the insured, and perhaps get a rescinding letter. The renewal policy must be issued with whichever agent of record the policyholder ultimately chooses.

***Which agent gets the commission after an Agent of Record change is made?***

The law specifies that the “*original agent shall retain the right to commissions for term of the existing policy.*” [22:1118.F.(1)(b) – see below.]

**SITUATION #1.** An Agent of Record request takes place mid-term in the policy. The original agent gets the commission for the entire policy term, even though a new agent took over at some point during the policy year. The new agent gets no commission for the balance of that policy term.

**SITUATION #2.** An Agent of Record is requested by the insured less than 15 days prior to renewal. Although part of the notification period afforded the current agent extends into the new policy (see above), the agent that eventually ends up with the renewal will receive the entire commission for the renewal. The rationale is that the agent who “wins” the renewal is the agent who “*retains the commission for the term of the existing policy,*” i.e., the renewal.

The statute provides that “*If the insurer receives a request to change an agent within the last fifteen days of the policy period, the insurer shall provide the required fifteen day notice; however, any required change of agent shall be effective on the inception date of the renewal policy.*” [22:1118.F.(1)(b)]

**SITUATION #3.** A Change of Agent request is signed by the insured just after the policy renews. The current agent gets the required 15-day written notice from the insurer. Regardless of whether the current agent gets a rescinding agent of record or not, the current agent retains the commission for the entire renewal because the policy renewed on the inception date **before** the policyholder request to change agent of record. The new agent gets no commission for the balance of that renewal.

***Did IIAL support the new legislation?***

Yes, IIAL had this legislation introduced after extensive consultation within the leadership of IIAL, and members. In fact, IIAL sent a survey to members, while the strategy was being formulated on whether to introduce this legislation. Over 70% of the responding IIAL members stated that they felt the agent who originally wrote the account should keep the commission for the entire year. Realizing that at any given time, an agent might be on either side of the Agent of Record situation, it was felt that a clear, understandable statute was in the best interest of all concerned.

**Here is the Agent of Record Statute:**

*[22:1118.F.(1)(a)] Any insurance company authorized to transact property or casualty insurance 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. The insured shall select the new agent of record.*

*(b) If a change or removal of an agent is requested by an insured, the insurer shall give the agent written notice fifteen days in advance of the change or removal as to the particular insured's contract. If the insurer receives a request to change an agent within the last fifteen days of the policy period, the insurer shall provide the required fifteen day notice; however, any required change of agent shall be effective on the inception date of the renewal policy. The original agent shall retain the right to commissions for the term of the existing policy. It shall be the duty of the insurer to assure that the insured's policy is serviced by an agent after the removal.*

*(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.*

*(3) This Subsection shall not apply to any agent who is an employee of an insurer or represents, by contractual agreement, only one insurer or a group of affiliated insurers under R.S. 22:1001 et seq.*

*(4) The commissioner of insurance may promulgate rules to enforce the provisions of this subsection."*

**NECESSARY  
ACTION:**

Circulate this Technical Advisory to all appropriate agency and company personnel.