

TECHNICAL ADVISORY

TA 169

December 14, 2000

SUBJECT: Prescription Period Limitation on Hail Claims, January 23, 2000 - 2001

BACKGROUND: The one-year anniversary of the January 23, 2000, hailstorm in the greater New Orleans area is rapidly approaching. A unique claims problem is arising as a result of the unusual combination of massive hail damage, combined with an extended drought. Many property owners are not discovering hail damage until a rain storm exposes leaks in the roof caused by hail damage. In light of the drought, these discoveries are coming many months after the January 23, 2000, hail damage.

Many insurance policies contain clauses which bar suits on claims filed more than one year after the date of loss. These provisions are in recognition and accordance with the Louisiana one-year prescription period.

Questions about prescription of coverage under an insurance policy and prescription barring legal action may arise on claims not settled before January 23, 2001.

MAIN POINTS: Several coverage and legal issues may arise as a result of the one-year prescription period. First, it is important to establish the property claim and agree on a final claim settlement in advance of the January 23, 2001, prescription date. Second, payment of "hold back" settlements contingent upon actual repairs to the property may be in question after the January 23, 2001, prescription date. Third, legal claims on problem settlements must be initiated before the January 23, 2001, prescription date.

Agencies with hail claims from the January 23, 2000, hailstorm, which have not reached final settlement, will want to manage those claims to protect their policyholders' interests. Every effort should be made to reach final settlement before January 23, 2001. Claims which cannot reach final settlement before that date should receive special attention to preserve the right for final settlement after the prescription date.

Agents may want to discuss this issue with insurance company claims adjusters. It may be prudent to get a commitment from companies in writing to extend the settlement beyond January 23, 2001, if final settlement will not be reached before this potential prescription date. If a serious settlement dispute

has not been resolved, agents may want to advise their policyholder to get legal counsel to protect their legal rights on the claims settlement.

Please keep in mind that this one-year claims settlement prescription period problem can apply to any type of claim. Hail claims in North Louisiana during the past year may face the same issues. The January 23, 2000, hailstorm has created some unique problems because of the magnitude of the storm and the extended drought which delayed the discovery of claims.

**NECESSARY
ACTION:**

Distribute this Technical Advisory to appropriate staff members who may be involved in property claims settlements. Contact insurance carriers to determine the claims settlement language in their policies, claims procedures of the company, and their position on the one-year Louisiana statutory prescription period. Review claim files to determine if there are outstanding claims which will not reach final settlement by the potential one-year prescription date. Work with your policyholder and the insurance carrier to protect policyholder rights to settlement.