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SUBJECT: CHANGES IN CANCELLATION/NONRENEWAL LAW

BACKGROUND: In the 2001 Legislative Session, IIAL introduced legislation that amended several sections of Louisiana's statutes on cancellation/nonrenewal. Enacted as **HB 801**, which will become effective August 15, 2001, provisions were added which require additional days notification to insureds when certain policies are being cancelled or nonrenewed. In addition, a section was added that gives agents an exemption from sending separate notices of cancellation or nonrenewal, if the insurer has already done so. Lastly, certain Commercial Lines nonrenewal notices must now also include loss runs.

MAIN POINTS: **Here is a summary of the key changes. Full text of HB 801 follows.**

22:636.A.(1)(a) – Notice of cancellation increased from 20 days to 30 days, for the lines of insurance covered by the general cancellation statute. Certain lines of insurance have their own separate cancellation provisions – see below.

22:636.G. – Nonrenewal notice of 30 days added. The current cancellation/nonrenewal statute under 22:636 did not have a nonrenewal provision. However, certain lines of insurance have their own nonrenewal provisions – see below.

22:636.H. – Agents are given an exemption from having to send their own notice of cancellation/nonrenewal, in situations where the insurer also has sent a notice. This provision was added because of a number of court cases in Louisiana which held that agents had a separate duty to send their own notices of cancellation/nonrenewal, even though the insurer had sent a notice. This new statutory language should provide agents with significant new E&O protection.

22:636.4.A. – The cancellation/nonrenewal provisions for Commercial Insurance under 22:636.4 will now apply to Workers Compensation. Previously, that line was exempted under 22:636.4, leaving Workers Compensation subject to 22:636, which had a 20-day cancellation requirement,

but no nonrenewal provision. In effect, prior to HB 801, insurers were not legally required to provide any notice of nonrenewal on a Workers Compensation policy.

22:636.4.C.(2)(a) – For Commercial Lines policies in effect for more than 60 days, the required notification period for cancellation is increased from 20 days to 30 days. Permissible reasons for cancellation remain limited – see below.

22:636.4.D.(1) – For Commercial Lines nonrenewals, insurers must now include with the 60-day notice a copy of the insured’s loss runs for up to the three previous years.

(Note: Below is the full text of HB 801; underlined text is new language added to current statute, strikethrough is deleted language from current statute.)

22:636. Cancellation by insurer.

A. Cancellation by the insurer of any policy which by its terms is cancelable at the option of the insurer, or of any binder based on such policy, may be effected as to any interest only upon compliance with either or both of the following:

(1)(a) Written notice of such cancellation must be actually delivered or mailed to the insured or to his representative in charge of the subject of the insurance not less than [~~twenty~~] thirty days prior to the effective date of the cancellation except [~~where~~] when termination of coverage is for nonpayment of premium.

G. No insurer shall fail to renew a policy providing property or casualty insurance unless a notice of intention to not renew is mailed or delivered to the named insured at the address shown on the policy at least thirty days prior to the effective date of nonrenewal. This Subsection shall not apply:

(1) To policies regulated by R.S. 22:636.1 and 636.4.

(2) If the insurer has manifested its willingness to renew the policy either through the same company or a company in the same group of companies.

(3) In the case of nonpayment of the premium.

(4) If the named insured has provided written notification to the insurer of the insured's intention to not renew the policy.

(5) In cases of fraud by the insured.

H. Notice of cancellation or nonrenewal given by the insurer in accordance with this Chapter shall be deemed sufficient. The insurance producer, insurance agent, or insurance broker shall not be required to give any separate or additional notice of cancellation or nonrenewal.

22:636.4. Commercial insurance; cancellation and renewal

A. This Section shall apply to commercial property insurance policies and commercial multi-peril insurance policies; workers' compensation insurance, professional errors and omissions policies, commercial liability insurance policies, other than aviation and employers' liability insurance policies. It shall

not apply to reinsurance, excess and surplus lines insurance, residual market risks, [~~worker's compensation insurance,~~] multistate location risks, policies subject to retrospective rating plans, excess or umbrella policies, and such other policies that are exempted by the commissioner of insurance.

C. (2)(a) A notice of cancellation of insurance coverage by an insurer shall be in writing and shall be mailed or delivered to the first-named insured at the mailing address as shown on the policy. Notices of cancellation based on R.S. 22:636.4(C)(1)(b) through (g) shall be mailed or delivered at least [~~twenty~~] thirty days prior to the effective date of the cancellation; notices of cancellations based upon R.S. 22:636.4(C)(1)(a) shall be mailed or delivered at least ten days prior to the effective date of cancellation. The notice shall state the effective date of the cancellation.

D.(1) An insurer may decide not to renew a policy if it delivers or mails to the first-named insured at the address shown on the policy written notice it will not renew the policy. Such notice of nonrenewal shall be mailed or delivered at least sixty days before the expiration date. Such notice to the insured shall include the insured's loss run information for the period the policy has been in force within, but not to exceed, the last three years of coverage. If the notice is mailed less than sixty days before expiration, coverage shall remain in effect under the same terms and conditions until sixty days after notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date shall be considered pro rata based upon the previous year's rate. For purposes of this Section, the transfer of a policyholder between companies within the same insurance group shall not be a refusal to renew. In addition, changes in the deductible, changes in rate, changes in the amount of insurance, or reductions in policy limits or coverage shall not be refusals to renew.

HB 801 will become effective August 15, 2001.

CANCELLATION/NONRENEWAL SUMMARY OF LOUISIANA LAW

The following summary describes the various cancellation and nonrenewal statutes in Louisiana, and incorporates the provisions of HB 801.

Line of insurance: [22:636.] **All lines not otherwise specified below.**

Note: Unless a line of coverage has a more specific statutory citation, or is specifically exempted from any cancellation/nonrenewal requirements, these notification requirements apply to all lines of property and casualty insurance in Louisiana.

Cancellation: 30 days [22:636.A.(1)(a)]

Nonpayment: 10 days [22:636.A.(4)]

Nonrenewal: 30 days [22:636.G.]

Line of insurance: Automobile [22:636.1.]

Note: Under this section, a “policy” means one issued to an individual or husband and wife [22:636.1.A.(1)].

Cancellation: 30 days [22:636.1.D.(1)]

Note: Permissible reasons: #1: nonpayment [22:636.1.B.(1)(a)]; #2: Suspension/revocation of license [22:636.1.B.(1)(b)]; #3: Fraud, etc. [636.1.B.(1)(c)]; #4: Nonreceipt of application after binder issued [22:636.1.B.(1)(d)].

Nonpayment: 10 days [22:636.1.D.(1)]

Nonrenewal: 20 days [22:636.1.E.(1)]

Note #1: Cannot cancel or nonrenew purely because of age [22:636.1.C.].

Note #2: Cannot cancel if insured over 65, capable of driving, who holds valid Louisiana license [22:636.1.K.]. Note #3: Cannot refuse to issue or renew, increase premium, or cancel solely because insured is deaf or hard of hearing, provided the person is capable of driving and holds a valid Louisiana license [22:652.2]. Note #4: Cannot charge a higher premium, increase or add a surcharge, cancel or fail to renew, solely because insured is a paid or volunteer fireman [22:1472.]. Note #5: Cannot terminate or modify coverage, refuse to issue or refuse to renew, solely because insured filed for bankruptcy [22:1214.(7)(i)]. Note #6: Cannot increase the rate, increase or add a surcharge, cancel, or fail to renew when based on consideration of one or more nonfault incidents. [22:1466.].

Line of insurance: Commercial [22:636.4]

Note 1: Applies to commercial property, commercial multi-peril, workers compensation, professional errors and omissions, commercial liability, other than aviation and employers liability policies.

Note 2: Does not apply to reinsurance, excess and surplus lines, residual market risks, multi-state location risks, policies subject to retrospective rating, excess or umbrella policies, and such other policies that are exempted by the commissioner of insurance.

Cancellation: 60 days – if policy in effect less than sixty days [22:636.4.C.(1)]; **30 days** – if policy in effect more than sixty days, but cancellation only permitted for: fraud, increase in hazard, failure to comply with loss control, increase in risk, company solvency, violation of policy terms by insured, or other reasons approved by commissioner of insurance [22:636.4.C.(2)(a)].
Nonpayment: 10 days [22:636.4.C.(1)] & [22:636.4.C.(2)(a)].
Nonrenewal: 60 days. Note: Insurer’s nonrenewal notice must also include insured’s loss run information for the period the policy has been in force within, but not to exceed, the last three years of coverage. [22:636.4.D.(1)].

Line of insurance: Homeowners [22:636.6]

Cancellation: *(no provision - refer to 22:636 above)*

Nonpayment: *(no provision - refer to 22:636 above)*

Nonrenewal: 30 days [22:636.6.A.]

Note #1: Cannot cancel or nonrenew solely on basis that insured owns or possesses an all-terrain vehicle (ATV) [22:636.2.C.]. Note #2: Cannot cancel or nonrenew, or increase policy deductible, if coverage has been in effect for more than three years, unless based on nonpayment of premium, fraud, material change, two or more claims within period of three years, or solvency of insurer is endangered; exception for insurer who ceases to write homeowner insurance, or policy deductibles increased for all homeowners policies in the state [22:636.2.D] & [22:1405.1.C.]. Note #3: Cannot cancel or nonrenew, or increase premium except upon an area-wide basis, based solely upon a loss caused by an “Act of God,” which means “an incident due directly to natural causes and exclusively without human intervention.” [22:1471]. Note #4: An insurer who nonrenews a policy without cause cannot utilize such nonrenewal as a reason for an increase in the insured’s rate for equivalent coverage to that which was nonrenewed. [22:1405.1.A.].

Line of insurance: Not specified – Failure to maintain membership in required organization [22:636.3]

Cancellation: 20 days [22:636.3.b.(1)(a)].

Note: Applies to insurance in which membership in an organization is a condition precedent to insurance coverage.

**NECESSARY
ACTION:**

Circulate this Technical Advisory to all appropriate agency staff.