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TA 289

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**SUBJECT: Questions & Answers on Producer Compensation,
Value Added Services, and Rebating**

BACKGROUND:

On August 9, 2010, the Louisiana Department of Insurance (LDI) issued [LDI Advisory Letter 2010-01 Producer Compensation](#) and [LDI Bulletin 2010-5 Rebating & Value Added Services](#). On August 10, 2010, IIABL issued [TA 286 - LDI Bulletins on Producer Compensations & Valued Added Services](#) advising members of these LDI publications. Since that time IIABL and LDI have received many questions about the application of Louisiana law to specific situations. IIABL has discussed many of these issues with LDI to address various concerns of our members. Following is a list of frequently asked questions on producer compensation, value added services, and rebating.

MAIN POINTS:

Q: What lines of insurance are subject to these LDI publications and the cited statutes?

A: **The cited statutes and both of these LDI publications apply to all life, health and accident, property and casualty lines of insurance. This includes both admitted and nonadmitted or surplus lines insurance.** Excess or stop-loss insurance policies are subject to these statutes, but reinsurance is exempt. Marine and transportation (inland marine) insurance on vessels of 5 tons or less are subject to these state statutes. Marine insurance coverage for vessels greater than 5 tons is exempt from these Louisiana statutes.

Q: Do these statutes apply to insurance companies as well as insurance producers?

A: Yes. Insurance companies play a significant role in insurance producer compensation, and must comply with the Louisiana statutes highlighted in these LDI publications. **Insurance companies may pay producers a flat percentage commission, a graduated percentage commission, or compensation based on a fee schedule instead of a percentage commission, as long as the compensation plan is consistently applied to all similar insurance producers and policyholders based on premium volume, program, line of business, or other appropriate criteria.** Insurers may provide different compensation to different classes of insurance producers based on appropriate criteria. Insurers may not reduce producer compensation or quote net of producer compensation in order to reduce the resulting

policy premium for individual producers or individual policyholders because it results in rebating and/or unfair discrimination in violation of Louisiana law.

Q: Are insurance producers prohibited from charging fees?

A: **Insurance producers may not waive the compensation (commission or fee) normally provided by the insurance company or charge a reduced fee in order to reduce the cost of insurance as an inducement for the consumer to buy insurance, because it violates the rebate statute.** However, an insurance producer may charge a reasonable agency fee as authorized by R.S. 22:855.B. in addition to whatever compensation the insurance company provides in the premium.

Q: Can you clarify what value added services insurance producers may provide as outlined in [LDI Bulletin 2010-5 Rebating & Value Added Services](#)?

A: Insurance producers may provide value added services as long as they are related to insurance sold, are provided to all policyholders on a fair and nondiscriminatory manner, and are not provided to individual policyholders as a unique inducement to purchase insurance. When reading [LDI Bulletin 2010-5 Rebating & Value Added Services](#) it is important to note that several of the guidelines for prohibited acts apply to value added services "unrelated to the insurance purchased. Many of those value added services may be provided by the insurance producer if they are related to the insurance purchased. **Insurance producers are prohibited from providing valuable services not related to insurance purchased as a means to induce the consumer to purchase insurance.**

Q: May an insurance producer pay third party providers to provide value added services to a policyholder?

A: An insurance producer may only pay a third party provider to provide value added services (like COBRA compliance, loss control, risk management, human resources, etc.) if the insurance provider collects the cost of the service from the policyholder in the form of a fee. **An insurance producer may not pay a third party to provide value added services out of the normal producer compensation, because it would violate the rebate statute.**

NECESSARY ACTION:

Review this Technical Advisory along with [LDI Advisory Letter 2010-01 Producer Compensation](#), [LDI Bulletin 2010-5 Rebating & Value Added Services](#) and [TA 286 - LDI Bulletins on Producer Compensations & Valued Added Services](#) to make sure that your agency procedures comply with Louisiana law. If necessary, make changes in agency procedures to bring all of your policies into compliance at renewal.