

**Independent Insurance Agents & Brokers of Louisiana**  
**9818 Bluebonnet Boulevard**  
**Baton Rouge, Louisiana 70810**  
**www.IIABL.com**  
**(225) 819-8007**

TA 294

December 29, 2010

**SUBJECT:** Affidavit for public contracts - disclosure of disposition of commission

**BACKGROUND:**

The Louisiana Legislature passed Act 868 in the 2010 Regular Session which became effective on July 1, 2010. This new law requires any person or other entity which enters into any contract awarded without bidding with a state or local entity, or any contract with a local entity exceeding ten thousand dollars awarded with bidding, in which a commission, fee, or other consideration is paid to the contractor for the contractor to sell to or provide to the state entity or local entity any commodity, goods, brokerage service or other service of any kind, insurance, or anything of value, then the full disposition, splitting, or sharing of such commission, fee, or other consideration shall be disclosed to the state entity or local entity by the contractor in writing by an affidavit of notice of fee disposition in the manner provided for in this Section.

**MAIN POINTS:**

Following is the applicable statute:

§2196.1. Public contracts; disclosure of disposition of commission, fee, or other consideration; penalties

A.(1)(a) Notwithstanding any other provision of law to the contrary or any limitation of the applicability of any of this Part or Chapter in any other provision of law, when any person or other entity enters into any contract awarded without bidding with a state entity or local entity, or any contract with a local entity exceeding ten thousand dollars awarded with bidding, in which a commission, fee, or other consideration is paid to the contractor for the contractor to sell to or provide to the state entity or local entity any commodity, goods, brokerage service or other service of any kind, insurance, or anything of value, then the full disposition, splitting, or sharing of such commission, fee, or other consideration shall be disclosed to the state entity or local entity by the contractor in writing by an affidavit of notice of fee disposition in the manner provided for in this Section.

(b) For purposes of this Section, the following terms shall have the following meanings:

(i) "State entity" means the state, or any agency, department, office, or other instrumentality of the state.

(ii) "Local entity" means any political subdivision of the state, including those entities with home rule charters which were existing or adopted when the Constitution of Louisiana of 1974 was adopted, or any agency, department, office, or other instrumentality of such political subdivision.

(2) The affidavit of notice of fee disposition shall be on a form which shall be prescribed by the Board of Ethics and shall be notarized as to its authenticity. The affidavit of notice of fee disposition shall include the full value of the commission, fee, or other consideration to be paid, the names of all parties to receive dispositions, splits, or shares of the commission, fee, or other consideration, and the signature of the party authorized to commit the entity receiving the commission, fee, or other consideration to the contract, who shall attest to the truth of the facts set forth in the affidavit. The affidavit of notice of fee disposition shall be attached to and made a part of the contract for which the commission, fee, or other consideration is paid and shall be recorded in the public record.

B. If at any time the disposition, splitting, or sharing of the commission, fee, or other consideration changes, or the amount of the commission, fee, or other consideration changes, then a new affidavit reflecting the changes from the first affidavit shall be prepared, executed, notarized, and recorded by the contractor in the public record.

C.(1) If for any reason the information on the recorded affidavit shall be found to be incorrect, then the contract shall become null and void and all payments of the commission, fee, or other consideration shall be rebated to the state entity or local entity which entered into the contract.

(2) In addition, intentional misrepresentation of the facts on an affidavit shall subject the party attesting to the facts to the penalties provided for filing or maintaining false public records provided for in R.S. 14:133.

Acts 2010, No. 868, §1, eff. July 1, 2010.

Attached is a copy of the affidavit which must be completed and signed by the insurance producer for insurance policies subject to this law, and provided to the state or local political entity.

#### **NECESSARY ACTION:**

Distribute this Technical Advisory to any agency personnel who do business with state or local political entities. Establish appropriate agency procedures to insure that the attached Affidavit is completed, signed and submitted to any state or local political entity which purchases insurance subject to this law.

# AFFIDAVIT OF NOTICE OF FEE DISPOSITION

---

**PURSUANT TO LA. R.S. 38:2196.1**, any person or other entity that enters into any contract awarded without bidding with a state entity or local entity, or any contract with a local entity exceeding ten thousand dollars awarded with bidding, in which a commission, fee, or other consideration is paid to the contractor for the contractor to sell to or provide to the state entity or local entity any commodity, goods, brokerage service or other service of any kind, insurance, or anything of value, then the full disposition, splitting, or sharing of such commission, fee, or other consideration **shall be disclosed to the state entity or local entity by the contractor in writing** by an **AFFIDAVIT OF NOTICE OF FEE DISPOSITION**.

**ORIGINAL FEE DISPOSITION** (DATE CONTRACT ENTERED: \_\_\_\_/\_\_\_\_/\_\_\_\_)

**AMENDMENT** (DATE FEE DISPOSITION AMENDED: \_\_\_\_/\_\_\_\_/\_\_\_\_)

NAME OF CONTRACTOR: \_\_\_\_\_

NAME OF AUTHORIZED AGENT (PRINT): \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

NAME OF STATE OR LOCAL ENTITY \_\_\_\_\_

STATE CONTRACT WITHOUT BIDDING

LOCAL CONTRACT WITHOUT BIDDING

LOCAL CONTRACT WITH BIDDING (EXCEEDING \$10,000)

VALUE OF COMMISSION, FEE, OR OTHER CONSIDERATION TO THE CONTRACT: \$\_\_\_\_\_

**PARTIES TO RECEIVE DISPOSITIONS, SPLITS, OR SHARES OF THE COMMISSION, FEE, OR OTHER CONSIDERATION**

**SCHEDULE A COMPLETED AND ATTACHED**

## CERTIFICATE OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that this Notice shall be attached to and made a part of the contract for which the commission, fee, or other consideration is paid and shall be recorded in the public record.

\_\_\_\_\_  
Signature (Authorized Agent)

SWORN TO AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Signature (Notary Public)

**SCHEDULE A: PARTIES TO RECEIVE DISPOSITIONS, SPLITS,  
OR SHARES OF THE COMMISSION, FEE, OR OTHER CONSIDERATION**

**FULL NAME OF RECIPIENT (PRINT):** \_\_\_\_\_

SPLITS: \_\_\_\_\_       FEE \$ \_\_\_\_\_       COMMISSION SHARES: \_\_\_\_\_

OTHER CONSIDERATION: \_\_\_\_\_

**FULL NAME OF RECIPIENT (PRINT):** \_\_\_\_\_

SPLITS: \_\_\_\_\_       FEE \$ \_\_\_\_\_       COMMISSION SHARES: \_\_\_\_\_

OTHER CONSIDERATION: \_\_\_\_\_

**FULL NAME OF RECIPIENT (PRINT):** \_\_\_\_\_

SPLITS: \_\_\_\_\_       FEE \$ \_\_\_\_\_       COMMISSION SHARES: \_\_\_\_\_

OTHER CONSIDERATION: \_\_\_\_\_

**FULL NAME OF RECIPIENT (PRINT):** \_\_\_\_\_

SPLITS: \_\_\_\_\_       FEE \$ \_\_\_\_\_       COMMISSION SHARES: \_\_\_\_\_

OTHER CONSIDERATION: \_\_\_\_\_

**FULL NAME OF RECIPIENT (PRINT):** \_\_\_\_\_

SPLITS: \_\_\_\_\_       FEE \$ \_\_\_\_\_       COMMISSION SHARES: \_\_\_\_\_

OTHER CONSIDERATION: \_\_\_\_\_

**FULL NAME OF RECIPIENT (PRINT):** \_\_\_\_\_

SPLITS: \_\_\_\_\_       FEE \$ \_\_\_\_\_       COMMISSION SHARES: \_\_\_\_\_

OTHER CONSIDERATION: \_\_\_\_\_