

Technical Advisory

TA 330

July 19, 2017

SUBJECT: Act 64 2017 LA Legislature – Producers of Record

BACKGROUND: Louisiana Revised Statute 22:1564 establishes statutory requirements for producers of record on insurance policies. During the 2017 Regular Session, the Louisiana Legislature passed HB 408, sponsored by Representative Mike Huval. HB 408 became Act 64, which is effective August 1, 2017. This new law includes three important changes to the producer of record statute that IIABL members need to understand.

MAIN POINTS: Act 64 of the Regular Session of the Louisiana Legislature can be found by clicking **HERE**. This legislation made three important changes to the producer of record statute.

- 1) R.S. 22: 1564.B(1)(b) was amended with the following language. Underlined language is new to the statute.

*(b) If the insurer receives a producer of record letter for an application, the insurer shall provide the **new** producer of record with a quotation or proposal **based on new applications submitted by the new producer of record** regardless of any other outstanding quotations or proposals.*

This additional language clarifies that a producer who provides an insurer with a producer of record letter is entitled to receive a quotation or proposal from the insurer as soon as the producer of record letter is provided; however the new producer of record must provide the insurer with new applications. The new producer of record may not receive quotations or proposals based on applications submitted by the previous producer of record.

- 2) R.S. 22: 1564.B(1)(b) and (c) were amended with the following language. Underlined language is new to the statute. ~~Strikethrough~~ language has been deleted from the statute.

*If the insurer receives a written request by the insured to change the producer of record on an application, the insurer shall give the initial producer of record written notice **fifteen ten calendar** days in advance of the change or removal. If the insurer receives a request to*

*change a producer of record on an application within **fifteen ten calendar** days of the policy inception, the insurer shall provide the required ~~fifteen-day~~ **ten-calendar day** notice; however, any required change of producer shall be effective on the inception date of the policy*

*(c) If a change or removal of a producer is requested by an insured during a policy period, the insurer shall give the producer written notice **fifteen ten calendar** days in advance of the change or removal. If the insurer receives a request to change a producer within the last **fifteen ten calendar** days of the policy period, the insurer shall provide the required ~~fifteen-day~~ **ten-calendar day** notice; however, any required change of producer shall be effective on the inception date of the renewal policy*

These changes simply reduce the waiting period for a change in the producer of record from 15 calendar days to 10 calendar days.

- 3) R.S. 22: 1564.B(1)(d) was also amended with the following language. ~~Strikethrough~~ language has been deleted from the statute.

(d) Property, casualty, and bond commissions shall be paid to the **original** producer of record at the policy inception for the full term of the policy, unless such policy is written for more than one year or is continuous until canceled, in which case commissions shall be paid to the new producer of record starting on the anniversary rating date when new rates take effect.

This additional language clarifies that property, casualty and bond commissions shall be paid to the producer of record at inception for the full term of the policy up to one year. If the insurer receives a producer of record letter changing the producer of record, and there is no subsequent rescinding letter, then the new producer of record receives commission for the term of the policy. However, if there is a subsequent rescinding letter within the 10-day waiting period, then the original producer of record shall receive the commissions for the term of the policy. Please note that under the provisions of R.S. 22: 1564.B.(1)(c) the ten-day waiting period may extend past the inception date, but the ultimate determination of the producer of record at the end of the ten-day waiting period is effective back to the inception of the policy.

Below is the entire text of 22:1564, with the 2017 changes discussed above.
22:1564. Producers of record

A.(1) Any insurer which issues or delivers a policy or contract of insurance pursuant to the application or request of a producer who is not authorized to represent said insurer as a producer shall be deemed to have authorized such producer as producer of record to act on the insurer's behalf. The payment to such a producer shall be payment to the insurer with all resultant obligations and duties.

(2) This Subsection establishes an agency relationship only for the matter of collection of premiums specifically referred to in this Section.

B.(1)(a) Any insurer issuing or delivering property, casualty, accident, or health insurance, or bonds in this state shall recognize a producer of record when selected by the owner of the policy or the first-named insured if there are multiple-named insureds in writing. The insurer shall recognize the producer of record for purposes of providing quotations or proposals or writing such policies or bonds. The insurer shall retain the producer 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 producer by any producer of record letter which may be secured by another producer for purposes of providing a quotation or proposal or for writing such policies or bonds during the term of such contracts until the renewal date of the contracts, unless the change or removal is requested by the owner of the policy or the first-named insured if there are multiple-named insureds under a particular contract. In such case, such owner or insured shall select the new producer of record.

(b) If the insurer receives a producer of record letter for an application, the insurer shall provide the new producer of record with a quotation or proposal based on new applications submitted by the new producer of record regardless of any other outstanding quotations or proposals. If the quotation or proposal is accepted by the insured, the insurer shall issue the policy with the designated producer of record. If the insurer receives a written request by the insured to change the producer of record on an application, the insurer shall give the initial producer of record written notice ~~fifteen~~ ten calendar days in advance of the change or removal. If the insurer receives a request to change a producer of record on an application within ~~fifteen~~ ten calendar days of the policy inception, the insurer shall provide the required ~~fifteen~~ ten calendar-day notice; however, any required change of producer shall be effective on the inception date of the policy.

(c) If a change or removal of a producer is requested by an insured during a policy period, the insurer shall give the producer written notice ~~fifteen~~ ten calendar days in advance of the change or removal. If the insurer receives a request to change a producer within the last ~~fifteen~~ ten calendar days of the policy period, the insurer shall provide the required ~~fifteen-day~~

ten-calendar day notice; however, any required change of producer shall be effective on the inception date of the renewal policy.

(d) Property, casualty, and bond commissions shall be paid to the ~~original~~ producer of record at the policy inception for the full term of the policy, unless such policy is written for more than one year or is continuous until canceled, in which case commissions shall be paid to the new producer of record starting on the anniversary rating date when new rates take effect. Accident, health, or benefits commissions shall be paid to the current producer of record and shall change when the producer of record changes.

(2) Except as provided in Paragraph (1) of this Subsection, no insurer or producer 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 producer of record.

(3) This Subsection shall not apply to any producer who is an employee of an insurer or represents, by contractual agreement, only one insurer or a group of affiliated insurers under R.S. 22:691 et seq.

(4) Upon the written request of the owner of the policy or the first-named insured if there are multiple-named insureds, an insurer shall permit such owner or insured to select another appointed insurance producer due to the termination, death, or retirement of a producer of record or for any other reason deemed appropriate by such owner or insured. Any renewal commission owed to the former producer of record shall be paid to the new producer of record upon the next renewal of the policy.

(5) Nothing in this Subsection shall require an insurer to conduct business with a producer who is not appointed or otherwise not qualified by the insurer to conduct business with the insurer. However, if the producer is appointed or otherwise qualified by the insurer to conduct business with the insurer, the insurer shall recognize the producer as producer of record under the provisions of this Subsection and shall accord the producer all of the normal rights and privileges of a producer for the insurer.

(6) The commissioner of insurance may promulgate rules to enforce the provisions of this Subsection.

C. The provisions of this Section shall not apply to limited benefit health insurance policies or contracts authorized to be issued in this state.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

NECESSARY ACTION: Review and revise your agency producer of record procedures as required by Act 64 of the 2017 Regular Session of the Louisiana Legislature. Review revised agency producer of record procedures with appropriate agency staff.

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