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TECHNICAL ADVISORY

TA 337

October 2, 2018

SUBJECT: Registration of Controlling Persons

BACKGROUND: Louisiana Revised Statute 22:1546.B. requires that controlling persons associated with an insurance agency must be registered with the Louisiana Department of Insurance as part of the agency license. A copy of R.S. 22:1546 can be found [HERE](#).

Act 11 (HB 363) of the 2018 Regular Session of the Louisiana Legislature clarified R.S. 22:1546 related to controlling persons of insurance agencies which must be registered with the Louisiana Department of Insurance (LDI). A copy of Act 11 can be found [HERE](#).

MAIN POINTS: Any person affiliated with an insurance agency that has "control" must be registered with LDI on the agency license. Control is defined in R.S. 22:691.2:

(3) "Control", including the terms "controlling", "controlled by", and "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by R.S. 22:691.4(E) and 691.6(K) that control does not

exist in fact. The commissioner may determine that control exists in fact, notwithstanding the absence of a presumption to that effect.

Following is the text of Act 11 showing the changes to R.S. 22:1546.B.(1)(a)(i):

(i) Every member, partner, officer, and director, ~~and person who controls directly or indirectly ten percent or more of a resident business entity shall be registered~~ register with the Department of Insurance under ~~such~~ the business entity's license. In addition, any person who controls directly or indirectly ten percent or more of a producer business entity shall also register with the Department of Insurance under the business entity's license.

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

The language has been clarified to require every person who holds a position of control (member, partner, officer, and director) must be registered with LDI on the agency license. AND IN ADDITION, any person who controls directly or indirectly ten percent or more of the ownership of the agency must be registered with LDI on the agency license.

The registration requirement applies regardless of whether or not the person holds an insurance license or is actively engaged in the agency business...if they hold the position of control or have the 10%+ ownership interest...they must be registered on the agency license.

NECESSARY ACTION:

Agencies should check to make sure that they have properly registered all persons who hold a position of control (member, partner, officer, and director) or have a 10%+ ownership interest on the agency license with LDI.

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