

AGENT EXCLUSIVE USE OF EXPIRATIONS – INSURANCE CODE

LSA-R.S. 22:1474

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES
TITLE 22. INSURANCE
CHAPTER 1. INSURANCE CODE
PART XXXI. MISCELLANEOUS AND FINAL PROVISIONS

Current through all 1999 Regular Session Acts

§ 1474. Exclusive use of expirations

A. (1) Except as otherwise provided herein, for purposes of soliciting, selling, or negotiating the renewal or sale of insurance coverage, insurance products, or insurance services, an insurance agent or insurance broker shall have the exclusive use of expirations, records, or other written or electronic information directly related to an insurance application submitted by or an insurance policy written through an insurance agent or insurance broker. No insurance company, managing general agent, surplus lines insurance broker, wholesale broker, third party administrator, or residual markets including but not limited to the Louisiana Automobile Insurance Plan, the Louisiana Joint Reinsurance Plan, or the Louisiana Insurance Underwriting Plan, shall use such expirations, records, or other written or electronic information to solicit, sell, or negotiate the renewal or sale of insurance coverage, insurance products, or insurance services to the insured, either directly or by providing such information to others without the express written consent of the insurance agent or insurance broker.

(2) Such expirations, records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the insurance agent or insurance broker. Such expirations, records, or other written or electronic information may also be used for any other purpose which does not involve the soliciting, selling, or negotiating the renewal or sale of insurance coverage, insurance products, or insurance services.

B. This Section shall not apply:

(1) When the insured requests, individually or through another agent, that the insurance company renew the policy or write other insurance business.

(2) When the insurance agent has, by contract, agreed to act exclusively for one company or group of affiliated insurance companies, in which case the rights of the

agent shall be determined by the terms of the agent's contract with that company or affiliated group.

(3) When the insurance agent or insurance broker is in default for nonpayment of premiums or other monies due and owing for which the agent is in default under the insurance agent's or insurance broker's contract or other agreement with the insurer, unless there is a legitimate dispute as to monies owed.

(4) When the agency contract is terminated and the insurance company is required by law to continue coverage for the insured; however, in that event, the insurance company shall continue to pay the insurance agent or insurance broker commissions on such policies that the company is required to renew during the thirty-six month period following the effective date of the termination or three years, whichever is sooner. The commission shall be at the insurer's prevailing commission rates in effect on the date of renewal for that class or line of business in effect on the date of renewal for brokers or agents whose contracts are not terminated.

(5) To policies providing life and health insurance.

C. The insurance agent or insurance broker and insurer may in a written agreement, separate from the agency contract, mutually agree to terms different than the provisions set forth in this Section. The terms of any such agreement shall be negotiated in good faith between the parties.

D. (1) The commissioner of insurance may adopt rules, in accordance with the Administrative Procedure Act, to enforce the provisions of this Section and any violation of this Section or the rules adopted thereunder shall be subject to regulation by the commissioner of insurance under > R.S. 22:1457.

(2) In addition, the insurance agent or insurance broker shall have a right to a claim for lost commissions. Such claim shall be resolved in accordance with the dispute resolution terms in the applicable contract or agreement. In the absence of any dispute resolution term, the parties shall attempt to resolve their dispute through mediation. If the claim is not resolved through mediation, the claim may be resolved through binding arbitration if the parties agree. In the absence of an agreement to resolve the claim through binding arbitration, the agent or broker may maintain an action of lost commissions.

(3) Except as provided in this Section, nothing in this Section shall be interpreted as impairing any rights in law or contract currently enjoyed by any party.

**AGENT EXCLUSIVE USE OF EXPIRATIONS
WORKERS' COMPENSATION STATUTES
RELATIVE TO WC GROUP SELF INSURANCE FUNDS**

LSA-R.S. 23:1200.3

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES
TITLE 23. LABOR AND WORKERS' COMPENSATION
CHAPTER 10. WORKERS' COMPENSATION
PART I. SCOPE AND OPERATIONS
SUBPART J. GROUP SELF-INSURANCE FUNDS FOR WORKERS' COMPENSATION

Current through all 1999 Regular Session Acts

§ 1200.3. Exclusive use of expirations

A. (1) Except as otherwise provided herein, for purposes of soliciting, selling, or negotiating the renewal or sale of insurance coverage, insurance products, or insurance services, an insurance agent or insurance broker shall have the exclusive use of expirations, records, or other written or electronic information directly related to an insurance application submitted by or an insurance policy written through an insurance agent or insurance broker. No group self-insurance fund shall use expirations, records, or other written or electronic information to solicit, sell, or negotiate the renewal or sale of insurance coverage, insurance products, or insurance services to the insured, either directly or by providing such information to others without the express written consent of the insurance agent or insurance broker.

(2) Such expirations, records, or other written or electronic information may be used to review an application, issue a policy, or for any other purpose necessary for placing such business through the insurance agent or insurance broker. Such expirations, records, or other written or electronic information may also be used for any other purpose which does not involve the soliciting, selling, or negotiating the renewal or sale of insurance coverage, insurance products, or insurance services.

B. This Section shall not apply:

(1) When the insured requests, individually or through another agent, that the insurance company renew the policy or write other insurance business.

(2) When the insurance agent has, by contract, agreed to act exclusively for one company or group of affiliated insurance companies, in which case the rights of the agent shall be determined by the terms of the agent's contract with that company or affiliated group.

(3) When the insurance agent or insurance broker is in default for nonpayment of premiums under the insurance agent's or insurance broker's contract or other agreement with the insurer, unless there is a legitimate dispute as to monies owed.

(4) When the agency contract is terminated and the insurance company is required by law to continue coverage for the insured; however, in that event, the insurance company shall continue to pay the insurance agent or the insurance broker commissions on such policies that the company is required to renew during the thirty-six month period following the effective date of the termination or three years, whichever is sooner. The commission shall be at the insurer's prevailing commission rates in effect on the date of renewal for that class or line of business in effect on the date of renewal for brokers or agents whose contracts are not terminated.

(5) To policies providing life and health insurance.

C. The insurance agent or insurance broker and insurer may in a written agreement, separate from the agency contract, mutually agree to terms different from the provisions set forth in this Section. The terms of any such agreement shall be negotiated in good faith between the parties.

D. (1) The commissioner of insurance may adopt rules, in accordance with the Administrative Procedure Act, to enforce the provisions of this Section, and any violation of this Section or the rules adopted thereunder shall be subject to regulation by the commissioner of insurance under > R.S. 23:1197.

(2) In addition the insurance agent or insurance broker shall have a right to a claim for lost commissions. Such claim shall be resolved in accordance with the dispute resolution terms in the applicable contract or agreement. In the absence of any dispute resolution term, the parties shall attempt to resolve their dispute through mediation. If the claim is not resolved through mediation, the claim may be resolved through binding arbitration if the parties agree. In the absence of an agreement to resolve the claim through binding arbitration, the agent or broker may maintain an action of lost commissions.

(3) Except as provided in this Section, nothing in this Section shall be interpreted as impairing any rights in law or contract currently enjoyed by any party.

