



## NOTICE OF INTENT

### Department of Insurance Office of the Commissioner

#### Regulation 119— Issuance of Consent or a Waiver Pursuant to R.S. 22:1554 (LAC 37:XIII.Chapter 177)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 119 — Issuance of Consent or a Waiver Pursuant to R.S. 22:1554. Regulation 119 (1) establishes the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18); (2) prescribes the duration and transferability of consent or a waiver issued to an insurance producer; (3) provides for the applicability of 18 U.S.C. §1033(e)(B)(2); and (4) provides for the penalties imposed for failure to comply with this regulation in accordance with R.S. 22:1554A.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 177. Regulation Number 119—Issuance of Consent or a Waiver Pursuant to R.S. 22:1554

##### §17701. Purpose

The purpose of this regulation is to establish a procedure by which an insurance producer may request consent or a waiver to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18), prescribe the duration and transferability of consent or a waiver issued to an insurance producer; provide for the applicability of 18 U.S.C. §1033(e)(B)(2); and provide for the penalties imposed for failure to comply with this regulation in accordance with R.S. 22:1554A.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

##### §17703. Applicability and Scope

A. Regulation 119 shall apply to all insurance producers licensed in Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

##### §17705. Definitions

A. Strictly for the purposes of Regulation 119, the following terms are defined as follows:

*Business of Insurance*—the writing of insurance or the reinsuring of risks by an insurance producer, including all acts necessary or incidental to such writing or reinsuring, and the activities of persons who act as, or are, officers, directors, agents, or employees of producers, or who are other persons authorized to act on behalf of such persons.

*Commissioner*—the Louisiana Commissioner of Insurance.

*Convicted*—having been found guilty of a felony by a judge or jury, having entered a felony plea of guilty or nolo

contendere or no contest, or having been given felony probation, a suspended sentence, or a fine, regardless of whether the record is expunged.

*Employee*—an individual who has established an employment relationship as a W-2 employee or as a 1099 independent contractor.

*Insurance License*—a document issued by the commissioner authorizing a person to act as an insurance producer issued pursuant to Title 22.

*Insurance Producer*—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to as "insurance agent" or "agent," or "insurance broker" or "broker," or "insurance solicitor" or "solicitor," or "surplus lines broker" pursuant to R.S. 22:1542(6).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

**§17707. Procedure to Request Consent or a Waiver Pursuant to R.S. 22:1554**

A. The commissioner may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate an insurance producer license, or may levy a fine not to exceed five hundred dollars if an insurance producer, without the consent of or a waiver from the commissioner, has employed or has allowed to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this state or any other state or territory, the District of Columbia, the United States, or any foreign country.

B. In order to ensure compliance with R.S. 22:1554(A)(18), insurance producers should screen potential employees by performing a background check.

C. An insurance producer requesting consent or a waiver pursuant to R.S. 22:1554(A)(18) shall do so in writing in a form approved by the commissioner. Such request shall include:

1. the employee's name, job title and date of birth;
2. the employee's date of employment;
3. a detailed description of the employee's job duties;
4. a statement from the employee explaining the facts and circumstances of the conviction;
5. a bill of information or other charging documents, court minutes, sentencing documents, and proof of successful completion of sentence for the felony conviction(s);
6. any other information deemed necessary by the commissioner.

D. The decision to grant or deny a request for consent or a waiver shall be issued in writing to the requesting employer.

E. The commissioner may deny consent or a waiver if he finds:

1. the competence, experience or integrity of the employee are such that it would not be in the best interest of clients of the employer or the public to allow the individual to be employed in the business of insurance;
2. the employing insurance producer or the employee knowingly makes a materially false statement or omission of material information in the request; or
3. any other reason, now or hereinafter, as provided for in applicable statutes and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

**§17709. Duration and Transferability**

A. Consent or a waiver issued pursuant to R.S. 22:1554(A)(18) shall be issued solely to the employing insurance producer and shall remain in effect during the employment of the individual with the insurance producer. However, such consent or waiver may be rescinded if the employee is found to have subsequently committed an act pursuant to R.S. 22:1554(A)(7), or it is found that the request for consent or a waiver contained materially false information or omitted material information.

B. Consent or a waiver shall not be transferred to another employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

**§17711. Applicability of 18 U.S.C. §1033**

A. An individual who has been convicted of a felony involving dishonesty or breach of trust shall be required to request written consent from the commissioner to engage in the business of insurance or participate in such business pursuant to 18 U.S.C. §1033(e)(B)(2).

B. The employing insurance producer of an individual who obtained written consent pursuant to 18 U.S.C. §1033(e)(B)(2) is required to obtain a waiver pursuant to R.S. 22:1554(A)(18). However, an employer is not required to submit the documents enumerated in §17707 B.5. of Regulation 119 if the employee has an active license in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

**§17713. Violations and Penalties**

A. The commissioner may impose penalties in accordance with R.S. 22:1554A for failure to comply with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

**§17715. Effective Date**

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

**§17717. Severability**

A. The provisions of this Subpart are severable. If any provision or item of this Subpart, or application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of this Subpart which are to be given effect without the invalid provision, item, or application of the Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1554, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

**Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.
2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.
3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.
4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.
5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.
6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

**Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.
2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.
3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.
4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.
5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.
2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.
3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.
4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.
2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.
3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

### **Public Comments**

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., October 10, 2021.

James J. Donelon  
Commissioner

### **Fiscal and Economic Impact Statement**

1. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule is not anticipated to result in implementation cost or savings to the state or local governmental units. The proposed rule is promulgated to establish the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18). The proposed rule prescribes the duration and transferability of consent or a waiver issued to an insurance producer; provides

applicability of 18 U.S.C. §1033(e)(B)(2); and provides for the penalties imposed for failure to comply with this regulation.

2. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule will have no impact on state or local governmental revenues.

3. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule will affect all insurance producers requesting consent or a waiver pursuant to R.S. 22:1554(A)(18). A producer must file a written request of consent or a waiver in writing on a form approved by the commissioner. Penalties may be imposed for failure to comply with this regulation. The number of insurance producers that may be assessed penalties is unknown.

4. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rule will have no impact upon competition and employment in the state.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement: Anita R. Robert Department: Louisiana Department of Insurance  
Phone: (225) 219-0609 Office: Management & Finance  
Return Address: P. O. Box 94214 Rule Title: Issuance of Consent or a Waiver  
Baton Rouge, LA  
70804-9214  
Effective Date: Upon Publication

**SUMMARY**

(Use Complete Sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. **THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rule is not anticipated to result in implementation cost or savings to the state or local governmental units. The proposed rule is promulgated to establish the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18). The proposed rule prescribes the duration and transferability of consent or a waiver issued to an insurance producer; provides applicability of 18 U.S.C. §1033(e)(B)(2); and provides for the penalties imposed for failure to comply with this regulation.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

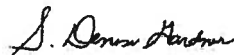
The proposed rule will have no impact on state or local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)**

The proposed rule will affect all insurance producers requesting consent or a waiver pursuant to R.S. 22:1554(A)(18). A producer must file a written request of consent or a waiver in writing on a form approved by the commissioner. Penalties may be imposed for failure to comply with this regulation. The number of insurance producers that may be assessed penalties is unknown.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)**

The proposed rule will have no impact upon competition and employment in the state.



Denise Gardner, Chief of Staff  
La. Department of Insurance

9/9/21

Date of Signature



Legislative Fiscal Officer or Designee

9/10/21

Date of Signature



FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriated legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of the current and proposed rules with amended portions indicated).

The proposed rule is promulgated to establish the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18). It prescribes the duration and transferability of consent or a waiver issued to an insurance producer; provides applicability of 18 U.S.C. §1033(e)(B)(2), and provides for the penalties imposed for failure to comply with this regulation.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The Louisiana Department of Insurance (LDI) is tasked with administering the Insurance Code, which regulates the business of insurance in all of its phases. The proposed rule establishes the procedure for the issuance of consent or a waiver to an insurance producer seeking to employ or to otherwise associate with his business an individual engaged in the business of insurance who has been convicted of a felony in accordance with R.S. 22:1554(A)(18).

- C. Compliance with Act 11 of the 1986 First Extraordinary Session:

- (1) Will the proposed rule change result in any increase in expenditure of funds? If so, specify the amount and source of funding.

No increase in expenditure of funds is anticipated as a result of the proposed rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

\_\_\_\_ Yes. If yes, provide documentation.

\_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM ACTION PROPOSED.

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

LDI does not anticipate any implementation costs (savings) as a result the proposed rule.

COSTS	FY 22	FY 23	FY 24
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	0	0	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
TOTAL	0	0	0
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1" above, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule will have no impact on state or local governmental expenditures.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 22	FY 23	FY 24
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funding is necessary as a result of the proposed rule.

B. COSTS OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no impact on local governmental units as a result of the proposed rule.

2. Indicate the sources of funding of local governmental unit(s) which will be affected by these cost or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET  
(Continued)

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed rule will have no impact on state or local governmental revenues.

REVENUE INCREASE/DECREASE	FY 22	FY 23	FY 24
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions and methods used in calculating these increases or decreases.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS

A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.) they may have to incur as a result of the proposed action.

The proposed rule will affect all insurance producers requesting consent or a waiver pursuant to R.S. 22:1554(A)(18). A producer must file a written request of consent or a waiver in writing on a form approved by the commissioner. Penalties may be imposed for failure to comply with this regulation.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule is not anticipated to impact on receipts or income of directly affected persons, small businesses, or non-governmental groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule will have no impact upon competition and employment in the state.