



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

October 12, 2021

The Honorable Patrick Page Cortez
President, Louisiana State Senate
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The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
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The Honorable Kirk Talbot
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The Honorable Edmond Jordan
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RE: Summary Report – Regulation 119— Issuance of Consent or a Waiver
Pursuant to R.S. 22:1554

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Jordan:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:968(D)(1)(b), and announces its intention to proceed to finalize Regulation 119, which was published as a Notice of Intent in the September 2021 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments by the expiration of the comment period.

Subject to legislative oversight, the LDI intends to submit Regulation 119 to the Office of the State Register for final publication in the December 2021 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:968(D)(1)(c).

If you have any questions or need any additional information, please contact me at (225) 342-6621, or electronically at jennifer.land@ldi.la.gov.

Jennifer T. Land

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Enclosure: Notice of Intent to Promulgate Regulation 119— Issuance of Consent or a Waiver Pursuant to R.S. 22:1554

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

A. 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 FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 119—Issuance of Consent or a Waiver Pursuant to R.S. 22:1554

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT 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 OR NONGOVERNMENTAL 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.

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Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Louisiana Lottery Corporation

Lottery Sports Wagering
(LAC 42:XV.Chapter 11)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq. and R.S. 47:9000 et seq., as amended by Act 80 of the 2021 Regular Session, hereby gives notice of its intent to submit rules to implement lottery sports wagering.

During the last regular session, the Legislature enacted Act 80 authorizing the Louisiana Lottery Corporation to conduct and administer sports wagering in the State of Louisiana.

As stated in Act 80, the Legislature recognizes that the Louisiana Lottery Corporation is uniquely positioned to participate in the sports wagering industry based upon its business model, infrastructure, and current relationship with retail establishments.

In May of 2018, the Supreme Court issued a decision that allowed all states to authorize sports wagering. Since then, sports wagering has been implemented in 22 jurisdictions. Several lotteries throughout the United States have approved regulations to begin offering sports wagering through their website, on their mobile application or at retail locations. Most of the state lotteries that offer sports wagering are doing so electronically. Montana is one state that does offer sports wagering at licensed retail locations with several other states to follow suit very soon.

In other states, the lotteries are the only licensee for sports wagering or one of a very few. Act 440 of the 2021 Regular Session authorizes 20 sports wagering licenses in addition to the Louisiana Lottery Corporation for both onsite and mobile sports wagering.

The Corporation will look to implement sports wagering in retail establishments in the 55 parishes where sports wagering is authorized. In addition, the corporation will offer sports wagering via a website and a mobile application.

The Corporation will offer sports wagering in keeping with its mission statement as defined by R.S. 47:9000 et seq. to generate maximum revenue for the State of Louisiana while upholding the highest standards of integrity and public trust.

Title 42 GAMING

Part XV. Lottery

Chapter 11. Lottery Sports Wagering

Subchapter A. General Provisions

§1101. Policy Statement

A. The rules and procedures contained herein are promulgated by the corporation in order to assure public