

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Insurance
Licensing Functions

March 2000



Performance Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Department of Insurance Licensing Functions

March 2000



**Performance Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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March 29, 2000

The Honorable John J. Hainkel, Jr.,
President of the Senate
The Honorable Charles W. DeWitt, Jr.,
Speaker of the House of Representatives

Dear Senator Hainkel and Representative DeWitt:

This report gives the results of our performance audit of Louisiana Department of Insurance Licensing Functions. This audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

This performance audit report contains our findings, conclusions, and recommendations. Appendix L contains the response of the Department of Insurance. Appendix M contains my office's additional comments based on the department's response. The report also identifies matters for legislative consideration. I hope this report will benefit you in your legislative decision-making process.

Sincerely,

A handwritten signature in black ink that reads "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

DGK/ss

[INSURANC]



Office of Legislative Auditor

Executive Summary

Department of Insurance Licensing Functions

The Department of Insurance (DOI) is a regulatory agency designed to protect the public through regulation of the insurance industry. In this audit, we analyzed licensing functions related to protection of the public. We examined Louisiana's licensing and complaint processes, including how the department prevents unqualified and untrustworthy individuals from receiving and/or retaining insurance licenses. We also examined DOI's assessment and collection of various fees related to licensing. We found that:

- Although Louisiana's insurance laws provide for the protection of the public, DOI may not be sufficiently protecting the public from potentially unscrupulous agents. This is because DOI does not verify the answers to some background questions on applications for insurance licenses before licensing agents. We found that some agents who had criminal histories and bankruptcies had lied on their applications about these issues.
- We estimated that anywhere from 831 to 919 new license files for 1998 and anywhere from 311 to 343 renewal files for 1999 did not contain all information required by state law and DOI policy. Therefore, we could not determine whether these agents were truly qualified to receive insurance licenses in those years. A possible reason for the lack of documentation is that DOI's filing system was very disorganized. We could not locate approximately 450 licensing files needed for this audit.
- DOI did not always collect or assess correct fees and penalties. We estimated that DOI overcharged nonresident applicants from 15 states \$13,642 and undercharged them \$4,449 for new licenses in 1998. We also estimated that DOI undercharged nonresident agents from four states \$25,000 to renew their Louisiana licenses in 1998. Because our estimates are only for a sample of states, the total amounts overcharged and undercharged for nonresidents in all states may be much greater.
- DOI consistently and appropriately suspended and revoked agent licenses in 1998 and 1999. In addition, DOI appropriately used complaints to suspend and revoke agent licenses in 1998.
- DOI took an average of 158 days to resolve complaints against agents and 63 days to issue new agent licenses in 1998.

Audit Initiation and Objectives

This performance audit of the Department of Insurance (DOI) Agent Licensing Division was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. The Legislative Audit Advisory Council originally approved this audit on March 12, 1998. However, because of other legislative demands, the audit was not completed at that time, and the council re-approved it on August 26, 1999. We conducted the audit in accordance with generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

Within the Department of Insurance, we focused on licensing functions related to protection of the public. We concentrated our work primarily on the department's issuance of new agent licenses and renewal of agent licenses. We also conducted work on the department's system of responding to complaints filed against licensed insurance agents and on fee assessment and collection. The objectives of the audit were to:

- Determine if DOI's agent licensing and renewal process ensured that unqualified individuals did not obtain or renew insurance licenses
- Determine if DOI's criteria for suspending and revoking agent licenses were consistent with established criteria and if DOI applied the criteria consistently
- Determine if DOI prevented unlicensed and unappointed agents from selling insurance in Louisiana
- Determine if DOI's complaint handling procedures related to suspending, revoking, and renewing agents' licenses ensured maximum protection of the public
- Determine if DOI properly assessed and collected the following fees:
 - Late fees for renewal of agent, broker, and solicitor licenses
 - Reciprocal fees for nonresident agent and broker licenses
 - Invalid address fees of agents, brokers, and solicitors

Louisiana License and Renewal System Similar to Other States and Model Law

Louisiana's system of licensing insurance agents and renewing their licenses is similar to 15 other states we surveyed. In addition, Louisiana's licensing law is similar to the NAIC model act. We noted only minor differences between Louisiana's system and that of these other states and NAIC model act. Thus, Louisiana's system, if properly executed and managed, should provide a level of protection to the public that is similar to that of other model states and the NAIC model. In addition, DOI stated that it will adopt provisions of a new NAIC model act titled the Producer Licensing Model Act once it is approved by the NAIC. Adopting this law will increase uniformity in licensing processes among states.

(See pages 20-25 of this report.)

Recommendations

- 2.1 DOI may want to consider changing the expiration date of insurance licenses. Changing the expiration date to two years from the date of issue would alleviate the high workloads experienced during peak periods in the current renewal cycle. This change may increase efficiency since DOI would process renewals all year long.**
- 2.2 DOI should continue to stay abreast of the Producer Licensing Model Act and determine if it would be in the state's best interest to adopt it.**

Required Documentation Missing From Some Licensing Files; Many Files Unlocated

We found that 9.6% of the applicant files we reviewed for 1998 new licenses and 2.6% of 1999 renewal files we reviewed did not contain all documentation required by state law and DOI policy. Projected to the entire population of files, this would mean that anywhere from 831 to 919 new license files for 1998 and anywhere from 311 to 343 renewal files for 1999 did not contain all required documentation. Missing documentation included unanswered background questions or insufficient documentation for answers to background questions, no evidence of prelicensing or continuing education, no evidence of continuing education exemptions, and unsigned applications. The missing documentation could be attributed to clerical errors or the disorganization of the files at the time of our review. DOI's

licensing files were very disorganized, and we could not find over 450 files needed for this audit. Missing documentation makes it difficult to prove that these applicants were qualified to receive their licenses.

(See pages 25-34 and page 37 of this report.)

Recommendations

- 2.3** DOI should require that both new license applicants and renewal applicants use current application forms. Outdated forms do not contain the same information as current forms.
- 2.4** DOI should ensure that all required documentation is included in each agent's file. This would include the files for initial licenses as well as the renewal files. This documentation serves as proof that the department did not license or renew the licenses of unqualified individuals. Therefore, it is imperative that DOI staff maintain all required documentation in its licensing files.
- 2.5** For renewal applications, all previously submitted documentation related to background questions should be photocopied and placed in the agents' current renewal files. This is important because this documentation provides the support necessary to determine whether applicants are qualified to renew their licenses.
- 2.6** DOI may want to consider scanning all applications and supporting documents into an electronic file on each agent. This would reduce paperwork and decrease the possibility of misplaced documents. DOI may want to ensure that the new computer system, which is currently being designed, will allow this.
- 2.7** If scanning documents is not feasible, DOI should organize all agent applications and supporting documentation into single files. Under this filing system, DOI would have one file for each person who has applied for a Louisiana license. The files should contain all relevant documentation for each agent

including a copy of the agent's company appointment. Older sections of the files could be moved to the warehouse or to State Archives periodically to control the volume of documents maintained at DOI. This system would make maintaining, retrieving, and updating information about each applicant easier. It would also help ensure that pertinent records are not lost, misplaced, or misfiled.

- 2.8 DOI should continue its efforts toward electronic filing of applications to minimize processing times. DOI should determine whether the new computer system could be designed to accomplish this.**
- 2.9 DOI may want to consider revising the initial license application form to include a detailed checklist of what each applicant should submit. This may reduce the amount of time DOI spends requesting additional documentation from applicants.**
- 2.10 DOI should evaluate innovative practices used by other state insurance departments for processing applications.**

**DOI Could Do
More to Protect
Public**

DOI did not verify the answers to some background questions on new license applications and renewal applications we reviewed for 1998 and 1999 before licensing these applicants. However, in 1999, State Police began conducting background checks on some currently licensed agents. According to the DOI Executive Counsel, the department did not verify this information before licensing the individuals because it lacked the necessary resources. In addition, she stated that DOI has other safeguards in place to assure the accuracy of answers to background questions. However, we found that several agents lied on their applications about whether they had criminal histories and bankruptcies. Because DOI does not conduct background investigations on all applicants for licenses, there is a risk that it may license individuals who are dishonest and unscrupulous.

(See pages 37-48 of this report.)

Recommendations

- 2.11** DOI should rewrite the criminal history background question to ensure that it is clear and consistently interpreted. This is important because applicants may not understand the question and therefore not answer it completely or correctly.
- 2.12** The department should complete the process begun by the June 1999 memo to identify and address agents affected by the Federal Violent Crime Control Law Enforcement Act.
- 2.13** DOI should take a more proactive stance in preventing convicted felons and other unqualified individuals from soliciting insurance in Louisiana. This practice would provide a higher level of protection for the public, which is the primary function of the department. DOI should evaluate the most efficient and effective way of investigating the criminal backgrounds of applicants. Some options are to:
- **Require that applicants submit criminal history reports with their license applications.**
 - **Request that the legislature increase the license fee to cover the cost of criminal background investigations.**
 - **Apply for access to the National Crime Information Clearinghouse (NCIC) database from the Office of State Police.**
 - **Require that sponsoring companies submit criminal history reports with applications or that sponsoring companies conduct background investigations.**
 - **Require that applicants for new or renewal licenses submit fingerprint cards to DOI.**
 - **Implement a policy of requiring criminal history background checks on applicants who apply for new licenses.**
 - **Require that applicants renewing their licenses report to DOI all changes regarding any background question since the issue date of their**

original licenses. In addition, DOI could conduct spot-check investigations on renewal applications.

Matters for Legislative Consideration

- 2.1 The legislature may wish to amend R.S. 22:1078 to increase the amount DOI charges for licenses to cover the cost of criminal background investigations.**
- 2.2 The legislature may wish to consider providing the resources and means necessary for the department to conduct background checks on all persons applying for insurance licenses.**

Some Unauthorized Individuals Obtained Licenses, Obtained Appointments, and May Have Sold Insurance

DOI issued new licenses to six agents who did not have company appointments. In addition, the department reinstated 47 licenses of 46 agents¹ who did not have company appointments. DOI's erroneous issuance and reinstatement of these licenses may be attributable to the fact that the department's computer system does not flag these types of cases. Issuing and reinstating these licenses without company appointments means that these agents were not authorized to sell insurance.

We also found 25 cases where DOI approved company appointments for unlicensed agents. DOI may have approved these appointments because the computer edit check that notifies technicians when an agent does not have a current license is easily overridden. This situation leads to the possibility that appointed individuals could be selling insurance under the guise that they have current licenses.

In addition, some unlicensed and unappointed agents may have sold insurance. DOI relies on others to notify the department if unlicensed or unappointed agents are selling insurance. However, if no one notifies the department of such cases, the cases go unchecked, and these agents can continue to sell insurance. Having unlicensed and unappointed agents selling insurance in the state can cause significant harm to the public.

(See pages 48-54 of this report.)

¹ One agent had two reinstatements.

Recommendations

- 2.14** DOI should determine whether the new computer system will have the capacity to implement an edit check that notifies the licensing technicians whenever an agent being considered for licensure or reinstatement does not have a company appointment. Any such edit check should be secure so as not to allow overrides easily. If the new system will not have this capability, the department should devise an alternative control to prevent unappointed agents from obtaining licenses.
- 2.15** DOI should also determine whether the new computer system will be capable of implementing an edit check that would flag all cases where agents with appointments do not have current licenses. This edit check should also be secure so as not to allow overrides easily. Implementing this control would decrease the risk of agents with appointments but no current licenses transacting business in the state.
- 2.16** DOI should investigate the 20 agents who responded to us that they sold insurance during periods when they were not properly authorized to do so. If DOI finds that these agents' responses are accurate, the department should take appropriate action against the agents.
- 2.17** DOI should implement computer edits or other controls that would prevent unlicensed individuals from receiving appointments and unappointed individuals from receiving licenses.

DOI Suspended and Revoked Agent Licenses in Accordance With State Law

DOI suspended two insurance licenses in 1998 and revoked 18 insurance licenses in 1998 and 1999. We reviewed all 20 suspension and revocation cases in 1998 and 1999 and compared the reasons for the suspensions and revocations to criteria outlined in state law. We found that DOI suspended and revoked these licenses in accordance with state law in all 20 cases. In this regard, DOI appears to have adequately protected the public against these agents who were in violation of insurance laws.

However, DOI no longer requires agents who have had their licenses suspended or revoked to submit their licenses to the

Commissioner, as required by law. According to DOI officials, the reason why the department no longer collects suspended and revoked licenses is because it no longer has jurisdiction over agents after their licenses are suspended or revoked. However, if the licenses are not collected, it is possible for these agents to continue to represent themselves as fully licensed agents to the public.

(See pages 56-59 of this report.)

Recommendation

- 3.1 DOI should implement policies and procedures that prevent agents who have had their licenses suspended or revoked from continuing to solicit insurance. Some options are as follows:**
- **In the letter notifying agents of suspension or revocation, DOI could remind the agents that R.S. 22:1116C requires them to send their licenses to the Commissioner.**
 - **DOI could propose legislation that would add fines or other penalties to R.S. 22:1116C for licensees who do not comply with the statute's requirement to send suspended or revoked licenses to the Commissioner.**

Matter for Legislative Consideration

- 3.1 The legislature may wish to consider amending R.S. 22:1116C to include penalties for agents who do not comply with the requirements of this statute. Doing so would help deter agents who have had their licenses suspended or revoked from continuing to represent themselves as fully licensed agents.**

DOI Suspended and Revoked Agent Licenses Consistently and Appropriately

We reviewed the 20 suspension and revocation cases from 1998 and 1999 to determine if DOI handled the cases consistently. We did not find any instances where DOI should have suspended a license rather than revoking it. We also did not find any instances where DOI should have revoked a license rather than suspending it. As a result, DOI appears to have suspended and revoked these 20 licenses in a consistent manner. In addition, DOI appears to have correctly resolved 1998 and 1999 complaints in regard to whether the complaints should have resulted in suspension or revocation of agent licenses.

(See pages 59-63 of this report.)

Timeframes for Average Complaint Resolution, Prioritization of Complaints

The average processing time for complaints against agents opened and closed from January 1, 1998, through May 24, 1999, was 158 days (over five months). Although DOI has no performance standard for agent complaint processing time, this timeframe exceeds the department's performance standard for processing "average" complaints² by 68 days. A lengthy processing time increases the risk that agents who should not be allowed to solicit insurance may continue to do so while the investigation continues.

In addition, DOI does not prioritize complaints based on the severity of the complaint or the potential risk to consumers. Currently, DOI assigns complaints based on the complexity of the case and the workload and experience of staff. As a result, serious cases may not be resolved quickly enough to prevent further harm to consumers.

(See pages 63-66 of this report.)

Recommendations

- 3.2 DOI should consider developing a performance standard for non-average complaints. The only current performance standard the department has is for average complaints. The new standard should be**

² DOI does not consider complaints against agents to be average complaints because they are more complex, according to the director of the Property and Casualty Division.

designed to target the quickest turnaround time possible.

3.3 DOI should implement a system of prioritizing complaints based on severity and investigate the most serious complaints first.

Complaint examiners should use additional means to contact agents who do not respond to departmental inquiries regarding complaints filed against them. Currently, examiners send letters requesting responses to agents against whom complaints have been filed. If the agents do not respond, the examiners flag these agents' licenses on the licensing database. The examiners do not make additional efforts to contact these agents before or after flagging their licenses. However, we were able to locate some of the same agents that DOI flagged using the Internet.

(See pages 66-67 of this report.)

**Complaints Staff
Should Use
Aggressive
Means to Contact
Unresponsive
Agents**

Recommendation

3.4 DOI should implement a policy requiring the complaints examiners to use the Internet, telephone directories, and other available means to locate agents with complaints filed against them who have not responded to the department's inquiries. Using more aggressive techniques provides added assurance that agents who may pose potential harm to the public are more closely monitored.

R.S. 22:1113(E)(2) requires DOI to assess a \$25 fee when renewal applications are late. However, DOI staff did not always assess this fee when they should have in 1998 and 1999. As a result, the department did not collect all revenue it was due in 1998 and 1999.

DOI policy says that the fee for late renewals is to be assessed if the renewal application envelope is postmarked after the filing date. We reviewed all renewal applications received from January 12 through February 1, 1998, and from January 12 through February 1, 1999. For 1998, we found eight out of 282 cases

**Fines for Late
Renewal
Applications
Often Not
Assessed in 1998
and 1999**

(2.8%) where the postmark dates were after the filing dates, but DOI did not assess any late fees. For 1999, we found 36 out of 126 cases (28.6%) where the postmark dates were after the filing dates, but DOI did not assess any late fees. The monetary impact for 1998 was \$200, and the monetary impact for 1999 was \$900.

(See pages 70-71 of this report.)

Statistics Division Recorded Incorrect Postmark Dates on Some Applications

The Statistics Division is responsible for recording the postmark dates stamped on mailing envelopes in which applicants submit renewal applications onto the renewal applications. We found that the division recorded incorrect dates on 15.6% of the 1998 renewal applications we reviewed and on 13.5% of the 1999 renewal applications we reviewed. Since the Agent Licensing Division staff uses these handwritten dates to determine if they should assess late fees, it is imperative that the Statistics staff record the dates correctly. If the Statistics Division records the dates incorrectly, it could cause the Licensing Division staff to not assess late fees when they should.

(See pages 71-74 of this report.)

Recommendations

- 4.1 The Statistics Division should use supervisory reviews to ensure that its staff correctly records postmark dates from the envelopes onto the renewal applications. This is important because the Licensing Division uses these dates to determine whether or not to assess late fees. An alternate solution to this problem would be for the Statistics Division to forward the renewal application envelopes to the Agent Licensing Division. Licensing staff could then use the dates on the envelopes instead of the dates the Statistics staff write on the applications to determine whether late fees should be assessed.**
- 4.2 DOI should develop a written policy on how to record postmark dates on applications that are received via express or next day mail. Developing a policy in this area will help ensure that all agents who submit renewal applications late receive equal treatment regarding late fee assessment.**

DOI Needs Policy on Waivers

We found that DOI waived late fees 13 times for the time periods we reviewed in 1998 and 1999. However, DOI does not have a formal, written policy on when to waive late fees. Since DOI does not have a policy specifying the conditions under which late fees may be waived, we were unable to determine if these waivers were appropriate. Without such a policy, there is no assurance that all applicants receive equal treatment when being considered for waivers.

(See pages 74-77 of this report.)

Recommendation

- 4.3 DOI should develop a formal, written policy that outlines acceptable instances in which late fees stipulated in R.S. 22:1113(E)(2) can be waived. This policy should be applied consistently to all cases considered for waivers.**

DOI Often Collected Incorrect Reciprocal Fees in 1997, 1998, and 1999

DOI often collected the incorrect amounts of reciprocal fees for nonresident licenses in 1997, 1998, and 1999. DOI collected erroneous amounts because of several reasons. First, DOI often accepted a different license fee than what was on its reciprocal fee lists. Second, DOI calculated some amounts on the fee list incorrectly. Third, DOI did not update the reciprocal fee list in a timely manner. As a result, DOI overcollected reciprocal fees in some periods and undercollected reciprocal fees in others.

DOI uses a reciprocal fee list to determine the correct license fees for nonresidents who apply for Louisiana licenses. DOI calculates the amounts on this fee list from the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements. The NAIC Guide contains a compilation of agent licensing fees from all states and territories that have reciprocal agreements with Louisiana, but we found some errors in the guide and other errors in DOI's interpretation of the guide.

We approximated the dollar impact of DOI's inaccurate and untimely calculation of reciprocal fees for new licences issued to residents of 15 other states in 1998. For these 15 states, we estimated that DOI overcharged applicants \$13,642 and undercharged applicants \$4,449. Since these figures are only for

15 states, it is possible that the total impact for all states may be much greater.

(See pages 77-85 of this report.)

Recommendations

- 4.4 DOI should only collect reciprocal fees that are in accordance with the reciprocal fee list. Assuming that the amounts on the fee lists are accurately calculated, this will ensure that DOI collects proper amounts.**
- 4.5 DOI should amend its reciprocal fee list, which is sent to companies and agents, to clearly show that Louisiana's initial license fee includes one company appointment fee. Doing this will help ensure that nonresident applicants do not unknowingly pay the initial appointment fee twice.**
- 4.6 DOI should ensure that its new computer system will allow all payments to be traced to individual agents. The current system does not provide a method for tracing payments back to individual agents if the fees are not written on the applications.**
- 4.7 DOI should stop accepting new license forms from agents wishing to reinstate their licenses and require all such agents to use the reinstatement form instead. Accepting the wrong form can result in incorrect data being collected on these applicants as well as incorrect fees being collected.**
- 4.8 DOI should supplement its review of the NAIC Guide with direct communication with other states and territories when calculating the reciprocal fees to place on its reciprocal fee list. DOI should do this for all states and territories on the fee list, not just the 15 states we reviewed. The states and territories should only have to be contacted initially in order to learn how to correctly interpret the NAIC Guide for each state and territory.**
- 4.9 DOI should encourage the NAIC to develop a template to collect fee data from all states and territories for the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements.**

- 4.10 DOI should implement a policy to update its reciprocal fee list as soon as the department receives the NAIC Guide each year. Timely updates of the reciprocal fee list will help ensure that nonresidents who apply for new or renewal Louisiana licenses will be charged the correct amounts.**
- 4.11 DOI should contact Iowa and New York, as well as other states that have incorrect reciprocal fees on their fee lists for Louisiana, and get the errors corrected. Doing this will ensure that Louisiana residents are not overcharged for reciprocal fees in other states.**

**Agent Licensing
Division Lacked
Policy on
Refunding
Overpayments**

R.S. 22:1114(A)(1)(a) says that all license applications should be accompanied with the proper fees and that no refunds will be given. However, the Agent Licensing Division does not have a formal written policy on how to handle refunds. As a result, there is a risk that DOI may not issue refunds consistently for all agents who make overpayments. In addition, if amounts paid mistakenly to the department are not refunded, it may mean that DOI is collecting money that is not due to the department. Had a policy been in effect, DOI should have refunded \$3,407 in 1998 and 1999 for the samples we reviewed in those years. When brought to her attention, the Director of Licensing sent an e-mail message to licensing staff advising them to refund all overpayments.

(See pages 85-87 of this report.)

Recommendation

- 4.12 The department should ensure that the policy contained in the Director of Licensing's e-mail message is implemented and made a part of the division's formal policy manual.**

**Revenues
Not Always
Classified
Correctly**

The Statistics Division is responsible for classifying certain revenue received by the department into the proper accounting classifications. Staff in this division classify licensing revenue into two categories: (1) license fees and (2) other fees and penalties. We found 49 instances in 1998 and eight instances in 1999 where other fees and penalties were classified as renewal fees. When Statistics staff do not correctly classify fees, it results in incorrect totals for the various types of revenue collected.

(See pages 87-89 of this report.)

Recommendations

- 4.13 The Statistics Division should develop controls to ensure that the classifications its staff makes are correct before forwarding licensing documentation to the Licensing Division for processing. This can be accomplished through increased training and supervisory reviews. Classification errors result in inaccurate totals of the various fees collected.**
- 4.14 DOI should consider implementing computer controls to assist Statistics personnel in determining the proper fee classification and in using the reciprocal fee list. One such control is where the employee would enter the type of fee, the resident state, and the date. The computer would then generate the correct fee amount. The employee would enter the amount paid, and the computer would indicate whether the amount was correct or not. This control would help ensure accuracy in the classification of fees and would provide guidance for the Statistics employees on additional steps to be taken.**

**Invalid Address
Fees Assessed
Correctly**

R.S. 22:1118 states that any licensed agent, broker, or solicitor who fails to notify DOI of an address change within 10 days of the alteration must pay a \$50 penalty fee. We found that DOI correctly assessed invalid address fees from January 1, 1998, to May 6, 1999. Therefore, the department was successful in collecting invalid address fees from agents, brokers, and solicitors when it should have.

(See page 89 of this report.)

Chapter 1: Introduction

Audit Initiation and Objectives

This performance audit of the Department of Insurance Agent Licensing Division was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. The Legislative Audit Advisory Council originally approved this audit on March 12, 1998. However, because of other legislative demands, the audit was not completed at that time, and the council re-approved it on August 26, 1999. We conducted the audit in accordance with generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

Within the Department of Insurance (DOI), we focused on licensing functions related to protection of the public. We concentrated our work primarily on the department's issuance of new agent licenses and renewal of agent licenses. We also conducted work on the department's system of responding to complaints filed against licensed insurance agents and on fee assessment and collection. The objectives of the audit were to:

- Determine if DOI's agent licensing and renewal process ensured that unqualified individuals did not obtain or renew insurance licenses
- Determine if DOI's criteria for suspending and revoking agent licenses were consistent with established criteria and if DOI applied the criteria consistently
- Determine if DOI prevented unlicensed and unappointed agents from selling insurance in Louisiana
- Determine if DOI's complaint handling procedures related to suspending, revoking, and renewing agents' licenses ensured maximum protection of the public
- Determine if DOI properly assessed and collected the following fees:
 - Late fees for renewal of agent, broker, and solicitor licenses
 - Reciprocal fees for nonresident agent and broker licenses

- Invalid address fees of agents, brokers, and solicitors

Report Conclusions

Louisiana's insurance laws provide for the protection of the public. Louisiana law is similar to the NAIC licensing model law. In addition, Louisiana's process for granting new insurance licenses and renewing existing licenses is similar to other states. As a result, Louisiana's laws and DOI's licensing processes provide some level of protection to the public.

While the laws and processes provide for protection of the public, DOI may not be providing as much protection as it could. One reason is that DOI does not verify answers to some background questions on license applications before issuing licenses. Instead, DOI relies on outside entities and individuals to inform the department of problems with agents. We found some cases where DOI licensed individuals who had felonies and bankruptcies on their records and lied about them on their license applications. If DOI would conduct some type of pre-licensing background investigation to verify whether applicants for licenses are qualified and trustworthy, these types of problems could be brought to light before licenses are issued. We also identified some unqualified individuals who said they were selling insurance when they should not have been.

Licensing files we reviewed did not always contain all documentation required by state law and DOI policy. Several new license and renewal license files were missing important information or documentation. As a result, we could not determine whether some individuals DOI licensed were actually qualified. In addition, DOI's filing system was very disorganized and we could not locate approximately 450 files that we needed for the audit.

DOI processed most applications for new licenses in 1998 in a timely manner. DOI met the 1999-2003 Strategic Plan target of processing resident license applications within 60 days. However, DOI exceeded this target by about two weeks for nonresident applications.

DOI handled all suspensions and revocations of agent licenses appropriately in 1998 and 1999. The department handled all cases in accordance with criteria established in state law. Also, the Commissioner did not suspend any licenses that should have been revoked or revoke any licenses that

should have been suspended. As a result, the department provided an acceptable level of protection to the public against these particular agents. In addition, DOI used complaints appropriately to recommend suspensions and revocations during these two years.

However, DOI should take steps to prevent agents who have had their licenses suspended or revoked from continuing to represent themselves as fully licensed agents. R.S. 22:1116C requires such agents to send their licenses to the Commissioner, but this is not being done. In addition to steps taken by the department, the legislature may wish to amend R.S. 22:1116C to include penalties for noncompliance.

In addition, the department needs to develop a standard for processing agent complaints. DOI's average time to process agent complaints was over five months, which exceeds the department's standard for processing average complaints by over two months. However, since the department does not have a performance standard for agent complaints, we could not determine whether this timeframe is acceptable.

DOI also needs to prioritize complaints based on the severity of the allegations or the potential risk of harm to the public. Currently, DOI assigns complaints to examiners based on the complexity of the cases and the experience level of the complaint examiners. As a result, serious cases may not be resolved quickly enough to prevent further harm to consumers.

DOI should pursue more aggressive means of contacting agents who do not respond to the department's inquiries about complaints filed against them. Currently, DOI only sends letters to these agents, and the agents sometimes do not respond to the letters. However, we were able to locate some of these agents by using the Internet. If aggressive tactics are not used, some agents may continue to engage in prohibited activity.

We also found that DOI did not always assess and collect the correct license and penalty fees in 1998 and 1999. State law and DOI policy outline proper fees. However, DOI did not assess late fees when it should have for about one fourth of renewal applications we reviewed in 1999. In addition, DOI collected the wrong reciprocal fees for nonresident licenses over 20% of the time in 1998 and 1999.

As a result, DOI did not collect all revenue it should have collected in these two years.

Staff in the Statistics Division did not always classify licensing revenue correctly. In addition, they often wrote the incorrect postmark dates on renewal applications. Writing the correct postmark dates on the applications is important because licensing staff use these dates to determine whether to assess late fees.

DOI's reciprocal fee list, which is used to determine license and renewal fees for nonresidents, is not completely accurate. We found inaccurate fees on this list for several states. As a result, DOI may have overcharged and/or undercharged license applicants from these states. In addition, DOI did not update the fee list timely. For example, DOI used the 1997 fee list until September 1998.

DOI does not have a policy on when to waive late fees. We found that DOI waived several late fees in 1998 and 1999. However, we were unable to determine if these waivers were appropriate because of the lack of a policy in this area. In addition, DOI does not have a refund policy. As a result, DOI did not issue any refunds for overpayments in the samples we reviewed.

Department Background

Article IV, Section 11 of the Louisiana Constitution of 1974 creates the Department of Insurance (DOI) under a Commissioner. The Commissioner is to administer the Insurance Code (Title 22), which regulates the business of insurance in the state.

DOI is a regulatory agency designed to protect the public through regulation of the insurance industry. R.S. 22:2 states that insurance is a business affected with the public interest. Various other statutes give the Commissioner the authority to carry out duties related to protection of the public.

Title 36 of the Louisiana Revised Statutes establishes various offices and divisions within the Department of Insurance. They are as follows:

- R.S. 36:689 creates a Division of Legal Services.
- R.S. 36:690 creates a Division of Public Affairs.
- R.S. 36:691 creates an Office of Receiverships.
- R.S. 36:692 creates an Office of Licensing and Compliance.
- R.S. 36:693 creates an Office of Financial Solvency.
- R.S. 36:694 creates a Division of Health Insurance Policy, Research, and Development.

According to the Fiscal Year 1999-2000 Executive Budget Request, the mission of the department is to enforce the insurance laws and regulations of the state impartially, honestly and expeditiously. In addition, the department has the following goals related to protecting the public:

- Enforce the existing laws and propose new laws that promote the protection of the public related to matters involving insurance
- Better meet the needs of the public and improve customer services by increasing efficiency, fairness, consistency, and timeliness in the enforcement of applicable laws and regulations
- Maintain and expand the knowledge of staff and the technological infrastructure to respond to current and future consumer and industry needs
- Promote a healthy insurance market in the State of Louisiana
- Work with other states and the National Association of Insurance Commissioners (NAIC) to standardize insurance regulatory efforts

In the 1999-2000 Executive Budget Request, DOI is shown as a single budget unit with two programs. One program is composed of three offices, and the other is composed of three offices and one division. The department's budgetary structure is summarized as follows:

Budget Unit # 04-165 Department of Insurance**Program A: Administration/Fiscal**

- Office of the Commissioner
- Office of Management and Finance
- Office of Receiverships

Program B: Market Compliance

- Office of Financial Solvency
- Office of Licensing and Insurance Compliance
- Office of Insurance Rating Commission
- Division of Health

The Executive Budget Request shows \$23,628,698 in recommended expenditures for Fiscal Year 1998-1999 and \$25,798,147 in recommended expenditures for Fiscal Year 1999-2000. The legislature appropriated those amounts to the department for those two years, respectively, according to the Appropriations Act. The majority of the department's budget is derived from self-generated revenues and various fees collected from individuals and entities that transact insurance business in the state.

**Overview of
Licensing and
Renewal
Processes****Licensing Process for New Licenses**

DOI's Agent Licensing Division within the Office of Licensing and Compliance licenses resident and nonresident agents, agencies, brokers, and solicitors who wish to solicit insurance in Louisiana. According to the Fiscal Year 1999-2000 Executive Budget Request, the Agent Licensing Division issued 11,780 new agent, agencies, broker, and solicitor licenses in Fiscal Year 1998-1999.

Appendix B shows the state's licensing requirements. Louisiana law and DOI policy require that applicants for certain types of insurance licenses take examinations. DOI contracts with Experior Assessments, LLC to oversee the examination process. Experior also ultimately issues the licenses after obtaining DOI's approval. The Agent Licensing Division at DOI processes

applications for licenses that do not require an examination. However, DOI also processes applications for surplus lines brokers who do require an examination. Appendix B also shows the lines of insurance that Experior processes and the lines that the Agent Licensing Division processes.

Regardless of who processes the applications, the Assistant Director of Licensing must review supporting documentation if an applicant answers ‘yes’ to any of the background questions on the application. If the Assistant Commissioner of Licensing and Market Compliance or the Executive Counsel makes a recommendation to deny issuance of the license, the Assistant Director sends a letter to the applicant notifying him or her of the decision and informing the applicant of his or her right to a hearing.

Applicants for licenses must submit the proper fees as outlined in R.S. 22:1078 along with their applications. R.S. 22:1078 specifies the amounts of fees for newly issued licenses that must be paid by residents and nonresidents who wish to become licensed in Louisiana. DOI charges nonresidents new license fees on a reciprocal³ basis. In these cases, DOI charges the greater of Louisiana’s licensing fee or the nonresident’s state’s fee.

Applicants for new licenses must also obtain company appointments in order to become licensed. A company appointment means that a company has appointed a licensed agent to sell insurance on the company’s behalf. Agents cannot solicit insurance before DOI approval of their company appointments. According to DOI, the issue date of the license and the issue date of the appointment should be the same. R.S. 22:1078 specifies company appointment fees.

The flowchart in Appendix C shows the specific steps in the initial licensing process for licenses processed by Experior. As mentioned, licenses that do not require an examination are processed by DOI. The steps in DOI’s process, therefore, vary somewhat from Experior’s.

Renewal Process for Existing Licenses

The Agent Licensing Division renews licenses every two years. The two main lines for which individuals become licensed are Property and Casualty (P/C) and Life and Health (L/H). P/C agents, brokers, agencies, and solicitors must renew their licenses

³ See the glossary in Appendix A for the definition of reciprocal fee.

in odd-numbered years. L/H agents and agencies⁴ must renew their licenses in even-numbered years. Surplus lines brokers renew their licenses every year. According to DOI, 17,809 P/C agents renewed their licenses in 1999, and 21,978 L/H agents renewed their licenses in 1998.

The Agent Licensing Division processes all renewals. DOI contracts with a vendor to print the renewal applications and mail them to agents, brokers, solicitors, and agencies scheduled to renew their licenses each year. The renewal applicants fill out the applications and return them to DOI. All renewal applications must be accompanied with the proper renewal fees, which are specified in R.S. 22:1078. As with fees for initial licenses, DOI charges nonresident applicants renewal fees on a reciprocal basis.

If a renewal application is postmarked after the filing date printed on the application, DOI should assess a \$25.00 late fee in accordance with R.S. 22:1113(E)(2). In addition, licensees are required to notify DOI of all address changes. If renewal applications are returned to DOI because of invalid addresses, DOI is supposed to assess a \$50.00 invalid address fee in accordance with R.S. 22:1118(C)(1)(a).

The flowchart in Appendix D shows the specific steps in the agent license renewal process.

Overview of Complaints Process

Receipt and Assignment of Complaints

The Office of Licensing and Compliance has three divisions that handle complaint resolution. The Property and Casualty Division receives and resolves complaints regarding property and casualty insurance. The Life and Annuity Division receives and resolves complaints regarding life and annuity insurance. The Quality Management Division of the Office of Health handles complaints dealing with health insurance. According to the Director of the Property and Casualty Division, the primary goal of these three divisions is to protect consumers while regulating the insurance industry.

Various means are available for consumers to file complaints with the department against licensed insurance

⁴ DOI licenses life and health agents and agencies; it does not have the statutory authority to license life and health brokers or solicitors.

individuals and entities. In this audit, we focused on complaints against agents. Consumers can file complaints by calling a toll free telephone number. However, complaints received via telephone must be put into writing. Consumers may also file complaints by mail, by e-mail, or in person. In addition, consumers may download the department's complaint form using the Internet.

Supervisors in each of the three complaints divisions assign incoming complaints to complaints examiners daily. The examiners assign a reason code to each complaint based on the allegations contained in the complaint. DOI does not prioritize complaints based on the complaint reason codes or the potential risk to consumers. The examiners enter the complaint reason codes on the complaint database. The examiners then notify the agents against whom the complaints have been filed and request responses to the complainants' allegations. If the agents do not respond to the first letter, the examiners send at least two additional letters requesting information relative to the complaints. If the agents do not respond to the examiners' third request, the examiners notify the Assistant Director of Licensing, and she flags the agents' licenses with a "DNR" (do not renew) code on the department's licensing database. The flags remain on the licenses until the agents address the complaints.

Sometimes the complainant and the agent are able to resolve the matter themselves. In these cases, DOI may receive the complaint and notify the parties involved but allow the resolution to be handled between the two parties. The parties must notify DOI of the resolution, and the complainant must be satisfied with the resolution.

DOI also often mediates between the parties to resolve complaints. If an agent is not able to satisfactorily resolve a complaint and the complaint constitutes a violation of Louisiana statutes, DOI may hold a hearing through the Division of Administrative Law. At these hearings, DOI may recommend a variety of administrative actions, including license suspension, license revocation, or administrative fines.

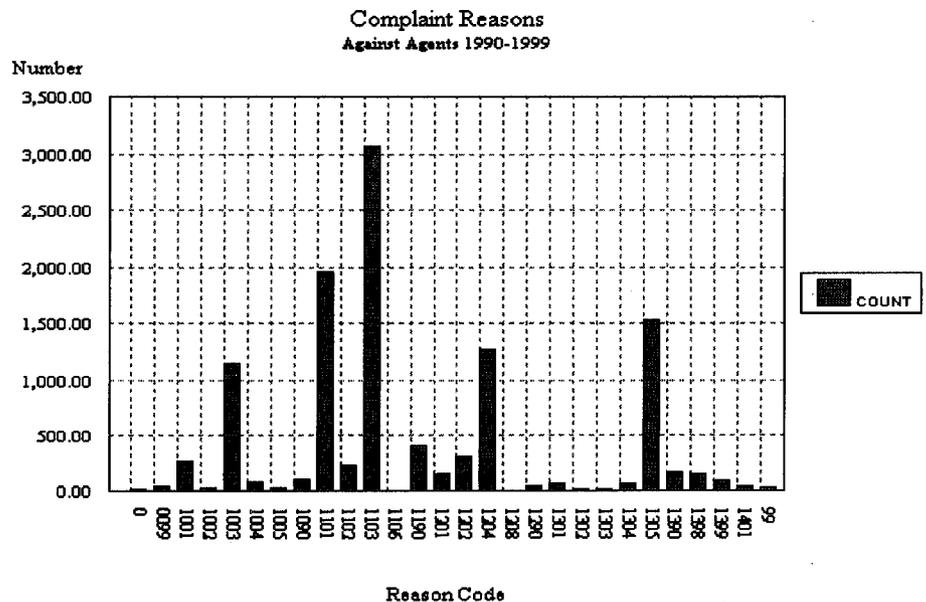
Complaint Reason Codes

As previously mentioned, the complaints examiners assign a reason code to each complaint they receive. DOI has several complaint reason codes that define the nature of complaints the examiners record on the complaint database. The most common codes are as follows:

1. **1103 - Misappropriation of Funds:** Retaining payments for personal use
2. **1101 - Agent Handling:** An agent does not perform necessary or appropriate duties
3. **1305 - Refund:** Delays or disputed denials of demands for refund
4. **1204 - Delay:** Claims are filed and benefits are not paid within 30 days
5. **1003 - Cancel/Non-Renew:** Termination of coverage

Exhibit 1-1 below shows the numbers and types of agent complaints DOI has logged since the creation of the complaint database in 1990. Appendix E gives a description of each reason code.

Exhibit 1-1
Complaint Reasons (1990-1999)
Department of Insurance



Source: Prepared by legislative auditor's staff using complaint information obtained from DOI.

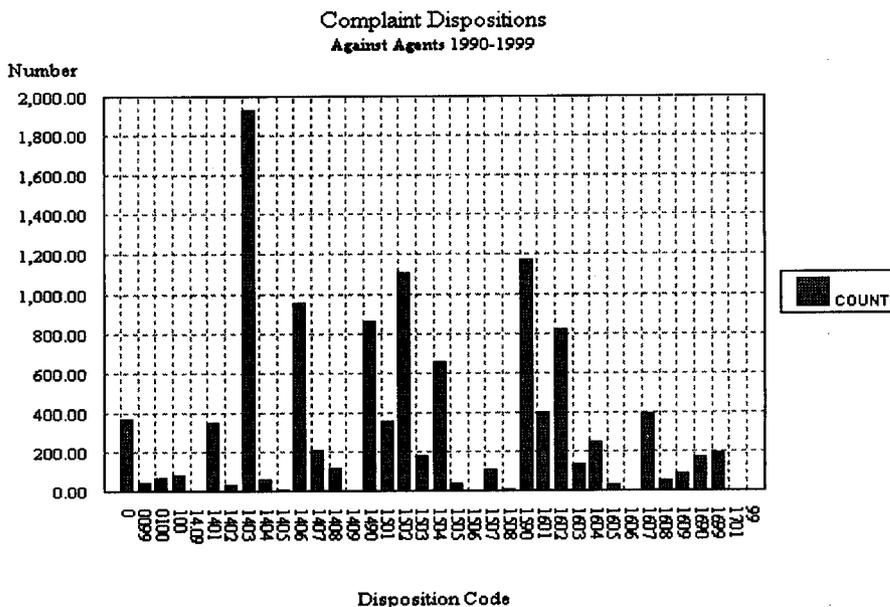
Disposition Codes

Once a complaint has been resolved, the examiner assigns a disposition code to the complaint on the complaint database. The six most common disposition codes are as follows:

1. **1403 - Refund:** The insured received a refund of premium
2. **1590 - Other-Not Resolved:** Used when no other disposition fits
3. **1502 - Company/Agent Position Upheld**
4. **1406 - Claim Settled**
5. **1490 - Other-Resolved:** Used when no other disposition fits
6. **1602 - Revocation:** Agent license revoked

Exhibit 1-2 shows the numbers and types of dispositions that have been assigned to complaints since the creation of the complaint database in 1990. Appendix E provides a description of each disposition code.

Exhibit 1-2
Complaint Dispositions (1990-1999)
Department of Insurance



Source: Prepared by legislative auditor's staff using information from DOI.

Scope and Methodology

We focused our work on the Office of Licensing and Market Compliance. We based our decision to focus on this office on previous audit work done by our financial and compliance auditors and on our own research. In addition, the insurance industry often receives media attention regarding unlicensed and unqualified agents. Therefore, we decided to assess how this office protects the public through its various functions and activities.

We also chose to focus on the licensing of insurance agents rather than insurance companies, brokers, or solicitors. We made this decision because DOI processes and approves more agent licenses than company, agency, broker, or solicitor licenses. DOI processed 11,471 new licenses for agents in Fiscal Year 1998-1999 and 7,730 in Fiscal Year 1999-2000. DOI only processed 25 company licenses, 754 agency licenses, 369 broker licenses, and 424 solicitor licenses in the same time period. In addition, companies may comply with statutory requirements more so than agents because they have higher financial stakes.

Our planning work began in August 1998. Because our work was interrupted intermittently to respond to other legislative demands, we did not begin our fieldwork until May 1999. We completed the fieldwork in December 1999. Our fieldwork covered periods in calendar years 1997 through 1999. The general types of methodologies we used are discussed in the following paragraphs.

In the planning and fieldwork stages of the audit, we used a computer assisted audit program called Audit Command Language (ACL). We used this program to analyze and manipulate computer data obtained from the Agent Licensing Division, the Complaints Divisions, and the Statistics Division databases. Because we relied on a significant amount of computer data for this audit, we also tested the completeness and reliability of the data.

We conducted a Management Information Systems survey related to DOI's internal and external computer controls. We found that DOI has some system controls in place but that others were lacking. DOI is in the process of developing a new computer system. We have noted problems we encountered with DOI's current computer system, as well as possible recommendations for the new system, throughout this audit report.

We developed and mailed a survey to 22 other states' insurance departments. This survey was designed to obtain information on the licensing and renewal process, the complaint handling procedures, and any innovative practices in the other states. We received responses from 15 states. We used the results of this survey to compare DOI's practices to these other states' practices and generate recommendations. We included results of the survey in relevant sections of this report. A copy of the survey instrument and a compilation of the responses is in Appendix F.

We used a random sample sampling plan when we needed to test statistically significant samples of files or other records. Based on this sampling plan, we are either 90% or 95% confident, depending on the particular test, that our results can be projected to the entire populations of files and records we reviewed. Our error rate was +/- 5% or +/- 6%, depending on the particular test. In some cases, we also used ACL to generate random samples.

The paragraphs that follow provide more detailed information on the methodologies we used to address each specific audit objective.

Objective 1: To Determine if DOI's Agent Licensing and Renewal Process Ensured That Unqualified Individuals Did Not Obtain or Renew Insurance Licenses

To address the first audit objective, we observed the licensing and renewal processes within the Agent Licensing Division. We also interviewed DOI staff and reviewed state laws, DOI policy and procedure manuals, and agent licensing files. We compared Louisiana's licensing and renewal process to processes in the 15 states that responded to our survey. In addition, we compared Louisiana's licensing statutes to the National Association of Insurance Commissioners (NAIC) model laws for licensing.

We reviewed statistically valid samples of new agent license files from calendar year 1998 and agent renewal files from calendar year 1999 to determine if all required documentation was included in the files. This documentation provides evidence that the agents were qualified to either obtain or renew their insurance licenses. We also used the calendar year 1998 new agent license sample to determine how long it took DOI to issue new licenses.

Using the same samples, we conducted a verification of the answers to background questions included on the initial and renewal applications. We conducted this verification by reviewing

various databases to determine whether agents provided correct information related to criminal activity and bankruptcy filings.

Objective 2: To Determine if DOI's Criteria for Suspending and Revoking Agent Licenses Was Consistent With Established Criteria and if DOI Applied the Criteria Consistently

To address the second audit objective, we used ACL to generate a list of all agents whose licenses had been suspended or revoked in 1998 and 1999. We reviewed these agents' files at DOI and compared the reasons for the suspensions and revocations documented in the files to the reasons outlined in state law and DOI policy. We also compared all cases to determine if DOI handled the suspensions and revocations consistently.

Objective 3: Determine if DOI Prevented Unlicensed and Unappointed Agents From Selling Insurance in Louisiana

To address the third audit objective, we used ACL to match 1998 licensing data with 1998 company appointment data from DOI's electronic databases. We also reviewed hardcopy documentation of licenses and appointments. Through these means, we were able to determine whether DOI licensed or reinstated the licenses of any agents who did not have company appointments. We were also able to determine whether DOI approved any company appointments for agents who did not have current licenses.

We also sent confirmation letters to all agents mentioned above and to a sample of agents who did not renew their licenses in 1998 and 1999. The letter instructed the agents to sign their names and attest as to whether they had sold insurance during periods when they were not supposed to have been selling.

Objective 4: Determine if DOI's Complaint Handling Procedures Related to Suspending, Revoking, and Renewing Agents' Licenses Ensured Maximum Protection of the Public

To determine if complaints resulted in suspension and revocation when they should have, we matched all relevant complaint codes to statutes that provide criteria for suspension and revocation. We then reviewed a sample of complaint cases closed during 1998 to determine whether they should have resulted in suspension or revocation.

We also used ACL to generate a list of agents who renewed their licenses in 1998 and who also had complaints filed against them. We generated another list of agents who were not allowed

to renew their licenses in 1998 and who also had complaints filed against them. We compared these two lists to determine how DOI used the complaint information in the license renewal process. We also generated a list of agents with complaints filed against them in 1988 and 1999 and calculated how long it took DOI to resolve those complaints.

Objective 5: Determine if DOI Properly Assessed and Collected the Following Fees:

- ***Late fees for renewal of agent, broker, and solicitor licenses***
- ***Reciprocal fees for nonresident agent and broker licenses***
- ***Invalid address fees of agents, brokers, and solicitors***

To address the final audit objective, we researched state laws and DOI policy and procedures manuals to understand the various fee requirements. We also interviewed DOI staff to clarify how the fees are assessed and processed. In addition, we did the following for each specific type of fee:

Late Fees

To determine if DOI correctly assessed late fees, we reviewed the postmark dates on the envelopes for all renewal applications DOI received from January 12 to February 1, 1998 and 1999. We compared these dates to the filing deadline dates printed on the applications. We then reviewed electronic database information to determine if the department had assessed late fees in the cases where it should have.

To determine if DOI actually collected late fees that it assessed, we generated a sample of all agents who renewed their licenses in 1998 and 1999 whom DOI had noted as paid in its database. We verified whether each agent had actually paid the fees by reviewing deposit slips and Integrated Statewide Information Systems (ISIS) reports.

Reciprocal Fees

We used ACL to generate a sample and then reviewed files for newly issued agent and broker licenses to determine if DOI collected the correct amounts for reciprocal license fees in 1998. We also used ACL to determine if DOI collected the correct amounts of reciprocal fees for agents and brokers who renewed

their licenses in 1999. Because DOI determines the amount of reciprocal fees to charge nonresidents from fee lists it develops using the NAIC reciprocal fee guide, we also evaluated the accuracy of the NAIC guide. To do this, we selected 15 states, called the insurance department in each state, and made inquiries on how to compute their fees. We also reviewed information posted on the Internet for each state. Using these sources, we were able to calculate the reciprocal fees for each of these 15 states. We then compared our calculations to the NAIC guide and to DOI's fee list.

Invalid Address Fees

We used ACL to generate a list of all agents, brokers, and solicitors from 1998 that had address codes on their licenses in DOI's licensing database. We then reviewed a statistically valid random sample of 40 of these files and determined whether DOI assessed invalid address fees when it should have.

Areas for Further Study

The Fraud Section within DOI is responsible for investigating incidences of potential fraud, performing background checks on some insurers, and referring fraud cases to law enforcement agencies. According to the Fiscal Year 1999-2000 Executive Budget Request, the Fraud Section received and reviewed 13 agent/company fraud investigations in Fiscal Year 1998-1999. During this same time period, the section referred seven fraud cases to law enforcement agencies. These figures are relatively low compared to the 1,700 complaints filed against agents and companies in Fiscal Year 1998-99. Therefore, further study may be warranted to evaluate whether other DOI offices and divisions are referring potential fraud cases to the Fraud Section appropriately. It may be also be beneficial to evaluate whether the Fraud Section efficiently and effectively handles potential fraud cases.

The Fraud Section consists of six full-time employees. Act 1312 of the 1999 Regular Legislative Session created the Insurance Fraud Investigation Unit within the Office of State Police. This unit is funded with fees charged on insurer premiums. According to the act, State Police is to receive 75%, the Fraud Section is to receive 10%, and the Department of Justice is to receive 15% of the total fees collected. According to the Director of the Fraud Section, these funds will be used to create five new positions

within the Fraud Section. Once the Insurance Fraud Investigation Unit becomes fully operable, the Unit should be evaluated to determine how effectively the unit prosecutes and controls individuals engaged in insurance fraud. It may also be beneficial to evaluate whether each recipient spends fees generated from Act 1312 in the most cost-effective manner.

Report Organization

The remainder of this report is divided into the following chapters and appendices:

- **Chapter 2** describes our findings related to the agent licensing and renewal processes.
- **Chapter 3** describes our findings on DOI's complaint process and its process for suspending and revoking agent licenses.
- **Chapter 4** describes our findings related to the assessment and collection of various fees.
- **Appendix A** contains a glossary of terms.
- **Appendix B** contains DOI's licensing requirements and shows the types of licenses processed by the contractor and the types of licenses processed by DOI.
- **Appendix C** contains a flowchart for initial agent licenses processed by Experior Assessments, LLC.
- **Appendix D** contains a flowchart of DOI's license renewal process.
- **Appendix E** contains a list of complaint reason codes and complaint disposition codes used by DOI.
- **Appendix F** contains a copy of our survey on the agent licensing process and the results of that survey.
- **Appendix G** contains a summary of state procedures for background investigations.
- **Appendix H** contains a copy of the confirmation letter we sent to agents to determine if they were selling insurance during periods when they should not have been.

- **Appendix I** contains a chart that summarizes the state's license suspension and revocation statutes.
- **Appendix J** contains an example of DOI's reciprocal fee list.
- **Appendix K** contains a spreadsheet showing our calculations of reciprocal fees as compared to DOI's calculations of reciprocal fees for a three-year time period for 15 selected states.
- **Appendix L** contains the response of the Department of Insurance.
- **Appendix M** contains the Legislative Auditor's additional comments based on DOI's response.

Chapter 2: License and Renewal Processes

Chapter Conclusions

Louisiana's insurance laws provide for the protection of the public. Louisiana law is similar to the NAIC licensing model law. In addition, Louisiana's process for granting new insurance licenses and renewing existing licenses is similar to other states. As a result, Louisiana's laws and DOI's licensing processes provide some level of protection to the public.

While the laws and processes provide for protection of the public, DOI may not be providing as much protection as it could. One of the reasons is that DOI does not verify answers to some background questions on license applications before issuing licenses. Instead, DOI relies on outside entities and individuals to inform the department of problems with agents. We found some cases where DOI licensed individuals who had felonies and bankruptcies on their records and lied about them on their license applications. If DOI would conduct some type of background investigation to verify whether applicants for licenses are qualified and trustworthy, these types of problems could be brought to light before licenses are issued. We also identified some unqualified individuals who said they were selling insurance when they should not have been.

Licensing files we reviewed did not always contain all documentation required by state law and DOI policy. Several new license and renewal license files were missing important information or documentation. As a result, we could not determine whether some individuals DOI licensed were actually qualified. In addition, DOI's filing system was very disorganized and we could not locate approximately 450 files that we needed for the audit.

DOI processed most applications for new licenses in 1998 in a timely manner. DOI met the 1999-2003 Strategic Plan target of processing resident license applications within 60 days. However, DOI exceeded this target by about two weeks for nonresident applications.

**Louisiana's
Licensing and
Renewal System
Compares
Favorably to
Other States****DOI's Licensing and Renewal System Is Similar to
15 Surveyed States**

Louisiana's system of licensing insurance agents and renewing their licenses is similar to 15 other states we surveyed. We noted only minor differences between Louisiana's system and that of these other states. Thus, Louisiana's system, if properly executed and managed, should provide a level of protection to the public that is similar to that of other model states.

We conducted the survey to determine how Louisiana's licensing and renewal system compares to those of various other states. We selected these states because the head of the NAIC Licensing Working Group recommended 15 of these states as being leaders in the area of insurance regulation. We also included seven additional southern states. (See Appendix F for a copy of our survey.) Based on their responses, there are few substantial differences between Louisiana's licensing and renewal system and those in these other states. The following sections provide further information on how Louisiana compares to the respondent states in various regards. Appendix F summarizes the results of our survey.

Issuance of New Licenses

Louisiana requires that applicants for new licenses take prelicensing education courses (if required), obtain company appointments, and pass an examination (if required). As previously mentioned, Louisiana contracts with Experior Assessments, LLC to give the examinations.

Similar to other states, Louisiana requires 32 hours of prelicensing education for P/C licenses. Before September 1998, Louisiana required 16 hours of prelicensing education for L/H licenses. In September 1998, the department began requiring 32 hours of prelicensing education for L/H licenses. Only three of the states that responded to our survey (Arizona, Iowa, and South Dakota) do not require agents to take prelicensing education courses. The other 12 states require anywhere from 15 to 90 hours of prelicensing education.

All 15 of the states responding to our survey also require prospective agents to take examinations. All but one state contract with a testing service to give the exams.

Renewal of Licenses

As previously stated, DOI renews agent licenses biennially, with P/C licenses being renewed by May 1 in odd-numbered years and L/H licenses being renewed by May 1 in even-numbered years. Renewals must be postmarked by the filing date on the application to avoid late fees. DOI requires renewal applicants to submit to DOI completed renewal applications, proof of continuing education, and proof of any continuing education exemptions (if applicable).

According to the results of our survey, the majority of respondents renew licenses biennially, as does Louisiana. Two exceptions are Mississippi and Iowa. Mississippi renews licenses every year, and Iowa renews licenses every three years.

Five states that responded to our survey issue perpetual licenses. These states are Florida, Maine, North Dakota, Virginia, and Wisconsin. Perpetual licenses do not require renewal applications. Instead, they remain active as long as agents obtain company appointments annually and complete the necessary continuing education hours.

Louisiana requires P/C agents to complete 24 hours of continuing education every two years. L/H agents must complete 16 hours of continuing education every two years. All of the states that responded to our survey require anywhere from 10 to 36 hours of continuing education as part of their license renewal process.

In addition to the survey, we conducted an Internet search of all surveyed states (including those that did not respond) to determine their licensing and renewal practices. According to the information posted on these sites, the majority of these states have licensing and renewal processes that are similar to Louisiana's. Exhibit 2-1 on the following page summarizes notably different practices in other states.

Exhibit 2-1
Notably Different Practices in Other States
Department of Insurance

State(s)	Notably Different Practice(s)
Florida, Maine, North Dakota, Virginia, Wisconsin	These states issue perpetual licenses. Licenses remain active as long as continuing education requirements are met and agents receive company appointments.
California	California renews licenses two years from the issue date of the original license.
Mississippi	Mississippi law requires insurance companies to verify that everyone selling policies on their behalf is properly licensed.
Virginia, Wisconsin	These states use a “lockbox” process. This process allows agents to send their appointment and renewal fees directly to the department’s bank.

Source: Prepared by legislative auditor’s staff using information obtained from state surveys and state Internet sites.

Louisiana’s renewal cycle results in a high workload for five months out of the year. According to the Director of Licensing, DOI is currently considering whether a different renewal cycle would be more efficient. The director has specifically expressed an interest in receiving renewals all year long or issuing perpetual licenses. For example, California renews licenses two years from the issue date of the original license. This results in a year-long renewal process rather than high volumes during certain months. According to officials in California, changing their renewal cycle to two years from the issue date has reduced workload during peak periods and allows California’s DOI to use license fee revenue all year long.

Recommendation

- 2.1 DOI may want to consider changing the expiration date of insurance licenses. Changing the expiration date to two years from the date of issue would alleviate the high workloads experienced during peak periods in the current renewal cycle. This change may increase efficiency since DOI would process renewals all year long.**

**Louisiana's
Insurance Law
Provides for the
Protection of the
Public****Louisiana's Insurance Licensing Law Similar to
NAIC Agents and Brokers Model Licensing Act**

Louisiana's insurance licensing law is similar to the NAIC Agents and Brokers Model Licensing Act in many aspects that affect the protection of the public. The NAIC model act contains many provisions regarding protection of the public, including similar requirements concerning licensing; renewal and appointment qualifications; and grounds for denial, suspension, or revocation of insurance licenses. Since Louisiana's law is as strong as or stronger than the NAIC model act, Louisiana's laws are in accordance with model standards. In addition, basing the state's licensing laws on this NAIC model helps create a more consistent and uniform insurance regulation environment.

We compared Louisiana's agent licensing statutes (R.S. 22:1111 through 22:1118.2) to the NAIC model act. As previously stated, Louisiana law is similar to the model law in many regards. The areas in which Louisiana law mirrors the NAIC model act are as follows:

- Both the NAIC model law and Louisiana law require that license applicants pass an examination for certain lines of insurance.
- Both the NAIC model law and Louisiana law require continuing education as a prerequisite for license renewals.
- Louisiana law requires agents to have company appointments, and the NAIC model law also addresses appointments but makes them optional.
- Both the NAIC model law and Louisiana law have similar reasons to suspend or revoke insurance licenses.
- Both the NAIC model law and Louisiana law require companies to notify DOI if an agent's appointment is terminated.

We noted one area where Louisiana law is stronger than the NAIC model act. This area involves the requirement of preclicensing education. The current NAIC model act does not require preclicensing education. However, Louisiana law requires

that applicants for insurance licenses complete registered⁵ prelicensing education courses for certain lines. This requirement provides additional protection to the public by ensuring that licensed agents have received training in the field in which they will be working.

We also noted some additional differences between Louisiana law and the NAIC model act. For example, the NAIC model act allows brokers and surplus lines brokers to apply for the same lines of insurance as agents. Louisiana law allows brokers to obtain a license for only a limited number of lines. In addition, the NAIC model act requires that appointment fees be refunded if the appointment is denied. Louisiana law does not require these refunds. These differences do not affect the level of protection afforded the public.

The primary difference between NAIC model law and Louisiana law concerns penalties for licenses that have been revoked. Louisiana law permits an agent whose license has been revoked to reapply for a license after one year and in the case of a second revocation, five years. The NAIC model act does not allow this reapplication.

The NAIC is currently working on a new model law titled the Producer Licensing Model Act. The NAIC developed this act in response to U.S. Senate Bill 900 of 1998. This bill was passed by Congress and became effective as law on November 12, 1999. One of the purposes of this bill is to encourage states to adopt uniform licensing requirements or to grant nonresident producers (agents) full reciprocity. If the states fail to satisfy these requirements within three years, the law authorizes the creation of the National Association of Registered Agents and Brokers (NARAB). NARAB would be a self-regulatory national licensing authority created to devise uniform licensing requirements. NARAB would provide a mechanism through which agents and brokers could obtain a license for each state where they want to do business.

To conform to the requirements of this act, NAIC is developing the Producer Licensing Model Act. The purpose of this model act is to increase uniformity in licensing process requirements among states. If the majority of states adopt this model act, then NARAB would not be created.

⁵ Registered means that the educational provider has been approved by DOI.

According to the Director of Licensing, DOI intends to adopt provisions of the Producer Licensing Model Act once it is approved by the NAIC. Adopting this law would ensure uniformity or reciprocity among licensing processes in states.

Recommendation

2.2 DOI should continue to stay abreast of the Producer Licensing Model Act and determine if it would be in the state's best interest to adopt it.

Required Documentation Missing From Some Licensing Files

9.6 Percent of Files for Licenses Issued in 1998 Did Not Contain All Required Documentation

We found that 9.6% of the applicant files we reviewed for 1998 new licenses did not contain all documentation required by R.S. 22:1114 and DOI policy. Missing documentation included unanswered background questions, no evidence of prelicensing education, and unsigned applications. The missing documentation could be attributed to clerical errors or the disorganization of the files at the time of our review. Without this documentation, it is difficult to prove that these applicants were qualified to receive their licenses. It might also mean that DOI issued licenses to unqualified individuals in these cases.

R.S. 22:1114 and DOI policy require that:

- Applicants complete uniform application forms that are signed and notarized.
- Applicants obtain company appointments.
- Applicants provide evidence of prelicensing education.
- Applicants provide sworn answers to background questions.
- Applicants provide evidence that they passed an examination (if required).

To conduct this review, we selected a statistically valid random sample of 384 files from the population of all new agent applications processed in 1998. We reviewed these 384 files to determine if they contained completed applications. A completed application means, among other things, the following:

- All background questions have been answered.
- Supporting documentation required for positive answers to background questions has been supplied.
- Evidence of prelicensing certification has been supplied.
- Proof the applicant passed the exam (if required) or a certification letter (for nonresidents) has been supplied.

We found that 37 of the 384 files we reviewed had missing documentation (9.6%). One of these files had two pieces of missing documentation. The discrepancies in these 37 files are as follows:

- Twenty-one files did not contain the required prelicensing certification documents. Resident applicants are required to obtain prelicensing certification for certain types of licenses.
- Four files⁶ had unanswered background questions on the applications. All applicants are required to answer all background questions.
- Three files contained applications that were not signed or notarized. All applications must be signed and notarized.
- Five files contained insufficient bankruptcy documentation. If applicants answer 'yes' to the background question on bankruptcy, they must provide complete legal documentation.
- Two files contained insufficient documentation concerning criminal activity. If applicants answer

⁶ One of these files is also included in the previous bullet.

- ‘yes’ to the background question on criminal activity, they must provide complete legal documentation.
- One file for a nonresident applicant did not contain a certification letter. Nonresidents are required to submit certification letters from their resident states.
- Two files contained no proof of the required precicensing examination. Residents are required to pass an examination for certain types of licenses.

In addition, we noted that one file contained documentation stating that the license had not been issued. However, DOI records indicated that it had.

Exhibit 2-2 below shows an example of an application with unanswered background questions.

Exhibit 2-2
Processed Application With Unanswered Background Questions
Department of Insurance

TABLE B - All Applicants **BACKGROUND INFORMATION**

1. Have you or any member of your firm ever held an insurance license in another state or province of Canada? Give date, year, state, and name or province of Canada. Nonresident applicants provide a current letter of certification from issuing state's Insurance Department. Nonresident applicants provide a current letter of clearance from previous domiciliary state's Insurance Department. YES NO

2. Have you or any member of your firm had an insurance license cancelled, refused, suspended, revoked, or subject to any other disciplinary action? If yes, provide full details on a separate sheet. YES NO

3. Have you or any member of your firm ever voluntarily surrendered an insurance license pending disciplinary action? If yes, provide full details on separate sheet. YES NO

4. Have you or any member of your firm ever been convicted of or pled guilty to any felony, or been arrested, pled guilty, or been involved in a criminal proceeding where you were given the opportunity to plead and complete a pre-sentencing probation period whereupon the plea was waived, been or convicted of any misdemeanor involving moral turpitude or public corruption (not including minor traffic violations)? If yes, attach certified copies of the final adjudication and/or complete legal documentation giving a full explanation. YES NO

5. Have you or any entity in which you have or had a financial interest ever been subject to a bankruptcy proceeding? If yes, provide a signed, signed explanation including date, type of bankruptcy, and location. YES NO

6. Have you or any entity with which you are affiliated been a defendant or subject to any legal or regulatory action other than one arising out of policy claims or economic litigation? If yes, provide a separate written and signed explanation. YES NO

TABLE C - Insurance Applicants Only **EMPLOYMENT HISTORY**

Did your employment, occupation, schooling, and unemployment record for the last five years preceding the date of this application. Account for all time during the last five years. Attach additional sheets if needed.

NAME OF EMPLOYER OR SCHOOL	LOCATION (CITY AND STATE)	DURATION	
		FROM	TO
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: DOI licensing files.

Because our sample was a statistically valid random sample, we can project the results to the entire population of 1998 new license applicants' files. Thus, we can state that we are 95% confident that, within an error rate of +/- 5%, 9.6% of all new license application files processed in 1998 (9,118) did not contain all required documentation. This would mean that anywhere from

831 to 919 new license files processed in 1998 did not contain all required documentation.

The most serious cases of missing documentation are the files with no proof of examination, no certification letter, and unanswered background questions. These are all indications that unqualified individuals may have received licenses.

We also found the following problems during our file review. These findings are not included in the overall 9.6% discrepancy rate, but they should be addressed by the department.

- Seventy-four applications were submitted on forms predating 1996. Applicants are required to submit applications on forms created within the previous two years. The background questions on the older forms are different from the background questions on the current form. Therefore, the use of older forms increases the risk that pertinent background information will not be collected. According to the Director of Licensing, all staff have since been instructed to no longer accept outdated application forms. Exhibit 2-3 below shows an example of the background questions on an outdated application and on the current application.

Exhibit 2-3
Background Questions on Outdated and Current Applications
Department of Insurance

Outdated Application From 1995 Used in 1998 to Apply for a License

TABLE B - All Applicants	BACKGROUND INFORMATION
1. Have you or any member of your firm ever held an insurance license in another state or province of Canada? Give license no., date, and state or province of Canada. <i>Nonresident applicants provide a current letter of certification from domiciliary state's Insurance Department. New resident applicants provide a current letter of clearance from previous domiciliary state's Insurance Department.</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
2. Have you or any member of your firm had an insurance license cancelled, refused, suspended, revoked, or subject to any other disciplinary action? If yes, provide full details on a separate sheet.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
3. Have you or any member of your firm ever voluntarily surrendered an insurance license pending disciplinary action? If yes, provide full details on separate sheet.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
4. Have you or any member of your firm ever been convicted of or pled not guilty to any felony or been accused, pled guilty or been involved in a criminal proceeding where you were given the opportunity to plead and complete a pre-sentence probation period whenever the plea was waived, or convicted of any misdemeanor involving moral turpitude or public morals (not including minor traffic violations)? If yes, attach certified copies of the final adjudication and/or complete legal documentation giving a full explanation.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
TABLE C - (Individual Applicants Only)	EMPLOYMENT HISTORY
List your employment, occupational, schooling, and unemployment record for the full five years preceding the date of this application. Account for all time during the last five years. Attach additional sheets if needed.	

Current Application in 1998

PART B - ALL APPLICANTS BACKGROUND INFORMATION
ALL QUESTIONS MUST BE ANSWERED

1. Have you ever held an insurance license in another state or province of Canada? If yes, on line below, give last year, date, and state or province of Canada. Nonresident applicants must provide a current letter of certification from domiciliary state's Insurance Department. New resident applicants must provide a current letter of clearance from previous domiciliary state's Insurance Department. YES NO

2. Have you had an insurance license cancelled, refused, suspended, revoked, or subject to any other disciplinary action? If yes, provide full details on a separate sheet and include complete legal documentation. YES NO

3. Have you ever voluntarily surrendered an insurance license pending disciplinary action? If yes, provide full details on a separate sheet and include complete legal documentation. YES NO

4. Have you ever been convicted of or pled nolo contendere to any felony, or been arrested, pled guilty, or been involved in a criminal proceeding where you were given the opportunity to plead and complete a probation or parole period whatsoever the plea was waived, or been convicted of any misdemeanor involving moral turpitude or public corruption (not including minor traffic violations)? If yes, attach certified copies of the final adjudication and/or complete legal documentation giving a full explanation. YES NO

5. Have you ever been subject to a bankruptcy proceeding? If yes, provide a separate, signed explanation including dates, type of bankruptcy, and location and include complete legal documentation. YES NO

6. Have you been a defendant or subject to any legal or regulatory action other than one arising out of policy claims or domestic litigation? If yes, provide a separate written and signed explanation and include complete legal documentation. YES NO

PART C - ALL APPLICANTS EMPLOYMENT HISTORY
LIST YOUR EMPLOYMENT, OCCUPATIONAL, SCHOOLING, AND UNEMPLOYMENT RECORD FOR THE FULL FIVE YEARS PRECEDING THE DATE OF THIS APPLICATION. ACCOUNT FOR ALL TIME DURING THE LAST FIVE YEARS. ATTACH ADDITIONAL SHEETS IF NEEDED.

NAME OF EMPLOYER OR SCHOOL	LOCATION (CITY AND STATE)	YEAR(S)	
		FROM	TO

Source: DOI licensing files.

- Twenty-three applicants answered 'no' to the background question regarding other licenses held. However, all of these agents were nonresidents and were licensed in their resident states. This problem may be an indication of how carefully the background questions are read and understood by applicants. It is also further evidence that the department should not accept answers to background questions at face value.

Finally, we were unable to locate 67 files (17.4%) from our original sample. We selected 67 additional files to review in lieu of the files we could not locate. According to DOI officials, files are constantly being transferred to their warehouse and the State Archives building to create storage space within the department for incoming applications. This may be one reason that files become lost or incorrectly filed. However, it is incumbent upon DOI to ensure that all files are accounted for and contain all required documentation.

2.6 Percent of Files Did Not Contain All Required Documentation for 1999 Renewals

We found that 2.6% of the applicant files we reviewed for licenses renewed in 1999 did not contain all documentation required by R.S. 22:1113 and DOI policy. In these cases, missing

documentation included insufficient documentation for background questions and incomplete proof of continuing education exemptions. As in the previous finding, this documentation could have been missing because of clerical errors or the general state of disorganization of the files at the time of our review. Without complete documentation in the files, it is difficult to determine whether these agents were qualified to renew their licenses.

R.S. 22:1113 requires that renewal applications be on forms provided by the Commissioner and that each applicant comply with continuing education requirements. According to DOI policy, each renewal file should contain a completed renewal application, proof of continuing education or proof of exemption from continuing education, and any documentation that clarifies the agent's position on answers to the background questions. Nonresident agents must submit letters of certification from their resident states showing that they are in good standing in those states.

To conduct our review, we selected a statistically valid random sample of 387 files from the population of agents who renewed their licenses in 1999. We found that 10 of these files (2.6%) did not contain all documentation required by state law and DOI policy. We found the following discrepancies in these 10 files:

- Two files did not include the agents' dates of birth on the applications. Agents are required to fill out all parts of the application.
- One file contained insufficient documentation related to the background question concerning criminal activity. Agents are required to provide complete legal documentation for any positive answer to the background question regarding criminal activity.
- One file contained an application with a 'yes' answer to the background question concerning criminal activity, and the agent had indicated on the application that he had previously submitted the supporting documentation. However, there was no

such documentation in the file or any other files established for the agent.⁷

- Three files did not contain proof of continuing education exemptions.
- One file contained an application with a ‘yes’ answer to the background question concerning prior disciplinary action, and the agent had indicated on the application that he had previously submitted the supporting documentation. However, there was no such documentation in the file or any other files established for the agent.⁸
- One file did not contain a letter of certification.
- One file did not contain proof of continuing education.

Based on our sampling plan, we can state that we are 95% confident within an error rate of +/- 5% that 2.6% of all 1999 license renewal files (12,573) did not contain all required documentation. This would mean that anywhere from 311 to 343 of 1999 renewal files did not contain all required documentation. If the files do not contain the proper documentation, it could mean that DOI renewed licenses for unqualified agents.

Finally, we were unable to locate 37 of the files in our sample (9.6%). Although we pulled 37 additional files to replace these unlocated files, missing files were a consistent problem throughout the audit.

Recommendations

2.3 DOI should require that both new license applicants and renewal applicants use current application forms. Outdated forms do not contain the same information as current forms.

2.4 DOI should ensure that all required documentation is included in each agent’s file. This would include the files for initial licenses as well as the renewal files. This

⁷ According to the Director of Licensing, all licensing staff have since been instructed to photocopy such documentation and place it in the current file.

⁸ Ibid.

documentation serves as proof that the department did not license or renew the licenses of unqualified individuals. Therefore, it is imperative that DOI staff maintain all required documentation in its licensing files.

- 2.5 For renewal applications, all previously submitted documentation related to background questions should be photocopied and placed in the agents' current renewal files. This is important because this documentation provides the support necessary to determine whether applicants are qualified to renew their licenses.**

DOI Filing System Needs Improvement

Numerous Files Could Not Be Located

Throughout the various stages of our fieldwork, we had trouble locating files at DOI. In total, we could not locate approximately 450 files. For each of these files, we searched in numerous places and asked DOI staff to help us locate them. However, no one could locate these files. The filing system that DOI maintains may have contributed to the inability to locate files. If files cannot be located, DOI has no proof that agents were properly qualified to be licensed.

At the beginning of our file review, the Agent Licensing Division had a filing backlog. As a result, many of the processed applications for 1998 and 1999 new licenses were stacked in bins waiting to be filed. Approximately 320 of the files we could not locate were supposed to be in these bins. However, we could not locate them there. The division subsequently hired temporary employees to file the applications. After they completed their filing, it was easier for us to locate files. However, we still could not locate approximately 120 additional files.

DOI is required to keep each agent's file for at least three years. DOI keeps a separate file for each agent on each type of license the agent holds and for each renewal period. For example, if John Doe obtained both a P/C license and an L/H license in 1997, DOI would have the following files established for him as of today:

- One file for the new P/C license
- One file for the new L/H license

- One file for the 1999 P/C renewal
- One file for the 1998 L/H renewal
- One file for the 2000 L/H renewal

In all, John Doe would have a total of five different files established at DOI. These files would be located in various places, such as in the department itself, at the DOI warehouse, or at State Archives. Having numerous files in different locations increases the risk of misplaced documents. It also means that more time is spent searching for information in the files. In addition, it means that complete historical information on licensees is not readily available.

The Agent Licensing Division requires and receives a significant amount of supporting documentation from applicants for both new licenses and license renewals. The applicants are supposed to attach the documentation to their applications when they are submitted. However, sometimes applicants do not submit all required documentation with their applications. In these cases, DOI must request the documentation separately, and the applicants must submit it subsequent to the submission of their applications. This occurrence increases the risk that documentation may be filed incorrectly or misplaced. Because of these problems, DOI may benefit from redesigning its filing system.

During our fieldwork, we also observed the following problems with the filing system:

- The files were not in alphabetical order.
- Loose pages from many applications were piled in mail bins.
- Several files were found in previous employees' filing cabinets.
- Company appointments are only filed in the company files, not the agent files. This means that to find a company appointment document for a particular agent, one must first determine by which company the agent was appointed and then search that company's files.
- According to DOI staff, the licensing staff was approximately 10 months behind in filing.

Recommendations

- 2.6** DOI may want to consider scanning all applications and supporting documents into an electronic file on each agent. This would reduce paperwork and decrease the possibility of misplaced documents. DOI may want to ensure that the new computer system, which is currently being designed, will allow this.
- 2.7** If scanning documents is not feasible, DOI should organize all agent applications and supporting documentation into single files. Under this filing system, DOI would have one file for each person who has applied for a Louisiana license. The files should contain all relevant documentation for each agent including a copy of the agent's company appointment. Older sections of the files could be moved to the warehouse or to State Archives periodically to control the volume of documents maintained at DOI. This system would make maintaining, retrieving, and updating information about each applicant easier. It would also help ensure that pertinent records are not lost, misplaced, or misfiled.

Average Processing Time of Nonresident Applications for New Licenses Exceeded Two Months

Average Processing Time for 1998 Nonresident New License Applications Was 76 Days

The average processing time for applications for nonresident new licenses was 76 days in 1998. DOI's 1999-2003 Strategic Plan calls for new insurance agent applications to be processed within 60 days by June 30, 2003.⁹ Thus, DOI should be striving to reduce the processing time. Many of the processing delays occurred because applicants submitted incomplete applications to DOI. When this happens, DOI must contact the applicant and request the needed information, increasing the processing time. A lengthy processing time may increase the risk of unlicensed individuals selling insurance.

⁹ DOI did not have a performance standard for processing times in 1998, so we used the performance standard from the 1999-2003 Strategic Plan.

To compute average processing times, we used the same statistically valid sample of 384 files from our review of 1998 new issue licensing files. We separated these files into three categories:

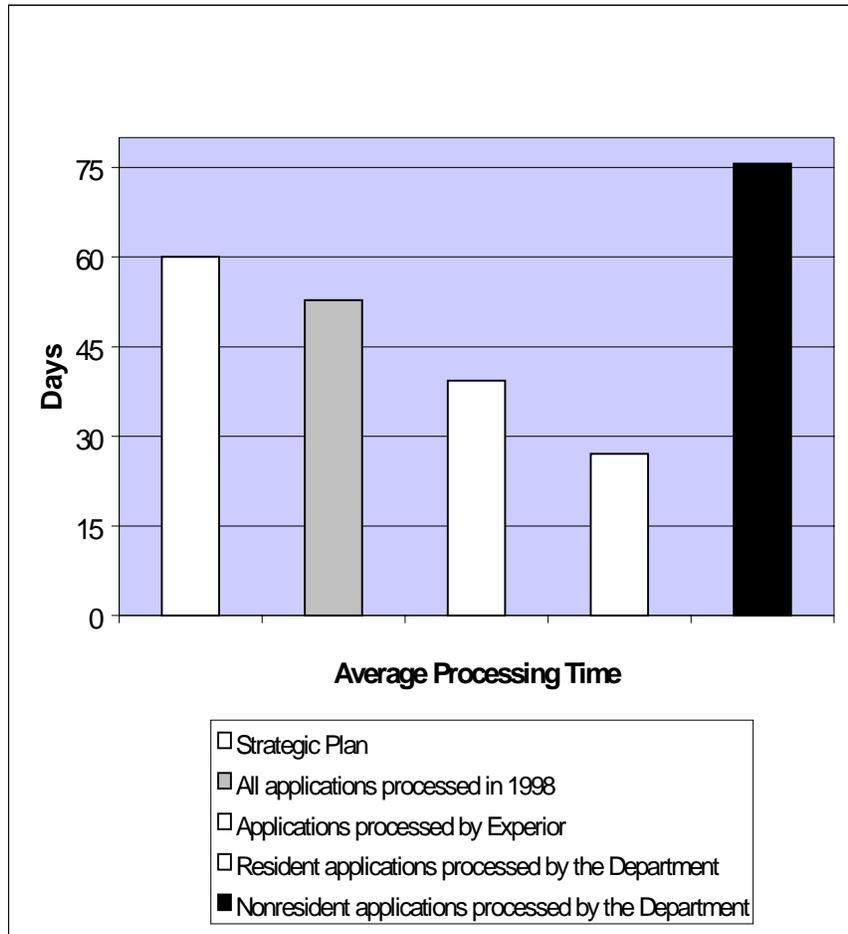
- Files processed by Experior (As discussed in Chapter 1, DOI contracts with this company to process applications for new agent licenses that require an examination.)
- Resident applications processed by DOI
- Nonresident applications processed by DOI

For each file in each category, we calculated the time elapsed between the date received stamped on each application and the issue date of the license. Our calculations show that the average processing times for the first two groups were better than the performance standard of 60 days.

We also calculated the overall average processing time for all sample applications, regardless of who processed them or whether the applicants were residents or nonresidents. Our calculations show that the overall average processing time was 53 days. Based on our sampling plan, we can state that we are 95% confident that, within an error rate +/- of 5%, the average processing time for all new licenses processed in 1998 was 53 days, which is better than the target in the Strategic Plan.

Exhibit 2-4 on the following page shows a graphic representation of the different average processing times compared to the Strategic Plan target.

**Exhibit 2-4
Average Processing Time for 1998 New Licenses
Department of Insurance**



Source: Prepared by legislative auditor’s staff using information obtained from DOI licensing files.

The chart shows that DOI met the 1999-2003 Strategic Plan target of processing new applications within 60 days for all categories except nonresident applications.

According to DOI, the Commissioner signed the Uniform Treatment Declaration effective July 30, 1999. This agreement is designed to help achieve greater uniformity and reciprocity in the nonresident licensing process. As part of the agreement, all states will use uniform applications in the nonresident licensing process. This uniformity may help to eliminate some of time delays in the nonresident licensing process.

In our survey of other states, we requested information about the states' timeframes for processing new licenses. Twelve states said that their actual processing time for new applications is within 15 days of receipt. Arizona stated that it uses "On-the-Spot" processing whereby applicants with complete and correct information and documentation receive their licenses on the same day as they apply. Some states reported that they process applications electronically, a technique that can speed processing times. However, some states stated that they only process applications that are complete and correct. If any applications are incomplete or incorrect, they reject them. In contrast, Louisiana keeps incomplete and incorrect applications open and sends correspondence to the applicant requesting all needed information. Comparisons of Louisiana's timeframes to these other states should be viewed with this in mind.

Recommendations

- 2.8 DOI should continue its efforts toward electronic filing of applications to minimize processing times. DOI should determine whether the new computer system could be designed to accomplish this.**
- 2.9 DOI may want to consider revising the initial license application form to include a detailed checklist of what each applicant should submit. This may reduce the amount of time DOI spends requesting additional documentation from applicants.**
- 2.10 DOI should evaluate innovative practices used by other state insurance departments for processing applications.**

No Verification of Answers to Some Background Questions Before Licensing Applicants

DOI Did Not Verify Whether Applicants Answered Criminal History Background Questions Honestly Before Issuing Licenses

DOI did not verify the answers to some of the background questions on new license applications and renewal applications we reviewed for 1998 and 1999 before licensing these applicants. However, in 1999, State Police began conducting background checks on some currently licensed agents. According to the DOI Executive Counsel, the department did not verify this information

before licensing the individuals because it lacked the necessary resources. The Executive Counsel also stated that they have other safeguards in place to assure the accuracy of answers to background questions. However, we found several agents who had lied on their applications. If DOI does not verify the answers applicants provide to background questions on their applications, there is a risk that dishonest and unscrupulous individuals will be licensed.

In addition, DOI does not have access through the Office of State Police to the National Crime Identification Center (NCIC) database. R.S. 22:1241.1(A) gives DOI direct access to this database for the purposes of licensing and other actions on licenses. DOI must obtain approval from the Office of State Police to acquire access. However, according to a State Police official, access to the database is generally reserved for law enforcement agencies. Access to this database would help the department conduct background checks before licensing prospective applicants. The database contains criminal history information on a nationwide basis.

While it may not be feasible for DOI to verify the answers to all background questions on all applications, we believe the department should verify the answers to the background questions on criminal history and regulatory action taken against insurance licenses. Without verification procedures in place, there is a risk that applicants might not answer these questions truthfully yet still receive licenses from DOI.

To verify prior regulatory action, DOI is currently using the NAIC's Regulatory Information Retrieval System (RIRS) to verify whether residents have regulatory actions against them in other states. This verification results in added protection of the public. However, RIRS is a voluntary database, so information obtained from it is not conclusive.

Also, while DOI does not verify applicants' answers to the criminal history background question before licensing them, DOI, through State Police, is in the process of verifying whether all Property and Casualty agents licensed as of October 1998 had criminal backgrounds. State Police found that 1,200 of these agents had rap sheets. Rap sheets indicate that individuals have been arrested. However, they do not indicate whether individuals have been convicted. Therefore, State Police then randomly selected 400 of these agents to review further and determine if they had any convictions on their records.

Currently, State Police is in the process of reviewing each of these 400 agent's applications to determine how the agents answered the criminal history background question. State Police stated that they plan to eventually review all 1,200 agents. They will then seek criminal or civil charges on all agents who have been convicted of felonies or misdemeanors involving moral turpitude and who provided false information on their license applications. In addition, State Police will conduct the same background investigation procedure on all L/H agents who renew their licenses in 2000. If DOI and State Police uncover cases where applicants lied on their applications regarding criminal backgrounds, it would indicate that DOI has not fully addressed its responsibility to protect the public.

The background questions on the applications are used to provide information about the criminal history, character, and trustworthiness of applicants. If DOI does not verify the answers supplied by applicants in these areas, there is a risk that the department may license applicants who are dishonest, have criminal backgrounds, and/or who have been subject to bankruptcy proceedings. All of these issues may pose a risk to consumers.

The 1998 application form for initial licenses includes the following background questions:

1. Have you ever held an insurance license in another state or province of Canada?
2. Have you ever had an insurance license cancelled, refused, suspended, revoked, or subjected to any other disciplinary actions?
3. Have you ever voluntarily surrendered an insurance license pending disciplinary action?
4. Have you ever been convicted of or pled nolo contendere to any felony, or been arrested, pled guilty, or been involved in a criminal proceeding where you were given the opportunity to plead and complete a presentence probation period whereupon the pleas were waived, or been convicted of any misdemeanor involving moral turpitude or public corruption (not including minor traffic violations)?
5. Have you ever been subject to a bankruptcy proceeding?

6. Have you been a defendant or subject in any legal or regulatory action other than one arising out of policy claims or domestic litigation?

The 1999 renewal application only contains background questions 2, 3, and 4.

While DOI does not conduct background checks on prospective licensees, DOI officials stated that in lieu of verification there are other safeguards built into the system. These safeguards include the following:

- Applicants are required to attest to their truthfulness on the license applications. There are civil and criminal penalties for those that lie on their applications and are caught.
- The initial application includes a section for the appointing company to sign attesting that the applicant's character and background are satisfactory and the applicant is of good reputation, trustworthy, and qualified to act on the company's behalf.

While these safeguards do provide some protection, verifying answers to the background questions on criminal history before license issuance would result in a higher level of protection to the public. This is because potentially undesirable individuals could be prevented from becoming licensed in the first place.

States Use Various Means of Conducting Background Checks

The majority (8) of the 15 states that responded to our survey stated that they do conduct some sort of background check on agents applying for insurance licenses (see Appendix F). DOI only conducts background checks on the officers and directors of companies, bail bond agents, and surplus lines brokers. DOI does not conduct background checks on other agents, brokers, or solicitors before issuing licenses. As previously stated, background checks are important for determining whether license applicants have criminal histories.

States use various means of conducting background checks. Some require that the sponsoring or appointing companies conduct the background checks. Others require that each applicant submit either a fingerprint card or a criminal history report with their first-time application.

We also reviewed the Society of Insurance Licensing Administrators (SILA) Licensing Digest to determine which states perform background checks. According to this source, some state insurance departments conduct background investigations themselves, while other states place this responsibility on the companies/insurers. The table in Appendix G summarizes the procedures in each state according to the SILA Digest.

The figures in Appendix G indicate that the majority of states may or do conduct some type of background investigation on applicants for licenses. Texas DOI has direct access to the Texas Department of Public Safety database. This enables the department to check every applicant before issuing a license. According to a Texas DOI official, this check takes only a few minutes. Also, according to this official, last year, approximately 14% of all applicants had a hit on this database. Virginia requires that applicants obtain criminal history reports from state police and submit the reports with their applications.

Louisiana does not perform background investigations on agents before licensing them but does hold companies accountable for the actions of their licensed agents. However, companies in Louisiana are not required to perform background investigations on agents they employ. Therefore, Louisiana's system is not as effective in protecting the public as it could be.

Interpretation of Criminal History Background Question on 1998 Application

The criminal history background question on the 1998 new license application can be interpreted in different ways. According to DOI, this question refers to all persons who have ever been arrested for any offense other than minor traffic violations. This question may also be interpreted as anyone who:

- (1) has been convicted of or pled nolo contendere to any felony;
- (2) has been arrested, pled guilty, or been involved in a criminal proceeding where they were given the opportunity to plead and complete a presentence probation period whereupon the pleas were waived;
or

- (3) has been convicted of any misdemeanor involving moral turpitude or public corruption (not including minor traffic violations).

This question may be interpreted differently based on the legal definition of ‘or.’ According to Black’s Law Dictionary, “in some usages, the word ‘or’ creates a multiple rather than an alternative obligation . . . ‘or’ may be construed to mean ‘and.’” Based on this definition, either interpretation may be correct.

Recommendation

- 2.11 DOI should rewrite the criminal history background question to ensure that it is clear and consistently interpreted. This is important because applicants may not understand the question and therefore not answer it completely or correctly.**

DOI Licensed Some Agents Who Gave False Information on Their Applications

Depending on which interpretation is used for the criminal history background question, we found that DOI licensed anywhere from eight to 22 applicants who gave false information on their applications for 1998 and 1999 new and renewal licenses. These agents answered ‘no’ to either the criminal history background question or the bankruptcy background question. However, our work showed that they did actually have records of criminal activity or bankruptcy. The reason this occurred is that DOI does not routinely verify applicants’ answers to the background questions, as previously discussed, before issuing licenses. Because DOI licensed these individuals, the public may have been put at risk in transacting insurance business with them.

All applicants for Louisiana licenses are required to answer each background question on the application. According to the NAIC, background questions are the most important means of determining whether an agent is qualified and dependable. This is why we believe the department should conduct some sort of criminal background check before licensing agents. An official with the State Police Bureau of Investigation said that he also believes that DOI should conduct criminal background checks.

The criminal history background question requires applicants to submit supporting documentation if they have been convicted of a felony or a misdemeanor involving moral turpitude. The background question on bankruptcies requires that applicants provide documentation if they have ever been involved in bankruptcy proceedings. Our specific findings in each area are discussed in the following paragraphs.

Agents With Criminal Histories

We reviewed a sample of 278 resident new agent applications and 282 resident renewal agent applications for 1998 and 1999 to determine how the applicants responded to the criminal history background question. In total, we reviewed 560 applications. We verified the applicants' responses to the criminal history background question by reviewing records at city and district courts. Using DOI's interpretation of this background question, we found that 16 applicants (2.9%) had been arrested and had lied on their applications about the arrests. Using the other interpretation of the background question, we found that two of the 560 applicants (0.4%) lied on their applications regarding whether they had been convicted of a felony. Exhibit 2-5 on the following page shows a picture of the court record for one of these individuals.

Exhibit 2-5
Court Record of Applicant Who Answered 'No'
to Criminal History Background Question
Department of Insurance

STATE OF LOUISIANA • PARISH OF OUACHITA • FOURTH JUDICIAL DISTRICT ^{PROBATION}

STATE OF LOUISIANA
 VERSUS NO. [REDACTED]

FILED: SEP 14 1988
John M. Gilliam
 DEPUTY CLERK OF COURT

J U D G M E N T
 - - - - -

THE DEFENDANT [REDACTED] HAVING BEEN REGULARLY CHARGED BY A BILL OF INFORMATION, REGULARLY FILED WITH THE CRIME OF INCITING A FELD, THE DEFENDANT HAVING ENTERED A PLEA OF NOT GUILTY AND PRIOR TO TRIAL HAVING WITHDRAWN HER PREVIOUSLY ENTERED PLEA AND PLEAD GUILTY AS CHARGED, THE LAW AND THE EVIDENCE BEING IN FAVOR THEREOF, IT IS THEREFORE:

ORDERED, ADJUDGED AND DECREED THAT THE DEFENDANT BE AND SHE IS HEREBY SENTENCED TO SERVE A TERM OF IMPRISONMENT OF TWO (2) YEARS AT HARD LABOR WITH CREDIT FOR TIME SERVED.

FURTHER ORDERED, ADJUDGED AND DECREED THAT THE EXECUTION OF THE HARD LABOR SENTENCE HEREINABOVE IMPOSED BE AND THE SAME IS HEREBY SUSPENDED AND THE DEFENDANT HEREBY IS PLACED ON PROBATION FOR A PERIOD OF THREE (3) YEARS, UNDER THE SUPERVISION OF THE LA. DEPT. OF CORRECTIONS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS HEREIN IMPOSED AND CONSENTED AND AGREED TO BY THE DEFENDANT, TO-WIT:

R.S. 14:2 (2) defines a felony as any crime for which an offender may be sentenced to death or imprisonment at hard labor.

Source: Fourth Judicial District Court, Parish of Ouachita, Clerk of Court.

Bankruptcies

We also reviewed the sample of 278 resident new agent applications for 1998 to determine how the applicants responded to the bankruptcy background question. The bankruptcy question was not on the renewal application in 1999.¹⁰ We then verified whether these applicants answered the bankruptcy background question honestly by checking U.S. Bankruptcy Court computer records.

¹⁰ Currently DOI is using a new renewal form based on a form developed by the NAIC. This new form does contain the bankruptcy question.

We found that six of the 278 applicants (2.2%) lied on their applications regarding whether they had been involved in bankruptcy proceedings. We also found that 47 agents (16.9%) submitted outdated application forms that did not contain the bankruptcy question. Of these 47, we found that two had actually declared bankruptcy.

Once again, these cases point to the need for DOI to implement procedures to verify certain background information provided on applications for licenses before issuing licenses. DOI's acceptance of outdated application forms poses an added risk. These risks need to be addressed by the department so that the public is afforded maximum protection.

Federal Law Prohibits Felons From Selling Insurance

In 1994, the U.S. Congress passed the Violent Crime Control Law Enforcement Act. The act prohibits individuals convicted of certain felonies from engaging in the insurance business without obtaining written consent from the regulatory authorities in their resident states. The act also provides criminal penalties for individuals who willfully permit prohibited persons to engage in the insurance business. The felonies covered by this law include criminal felonies involving dishonesty or breach of trust.

The NAIC and SILA have interpreted this law as putting the burden of identifying persons who are prohibited from selling insurance by this federal law on the insurance companies. In addition, DOI officials told us that they do not believe that this law increases the department's responsibility in preventing felons from obtaining insurance licenses. DOI responded to the law by sending out a bulletin in June 1999 asking all convicted felons affected by this law with insurance licenses to notify DOI and apply for written consent to continue selling insurance.

The Executive Counsel for DOI stated that the department has received 19 applications for written consent. However, as of January 5, 2000, the department had not reviewed or acted upon any of these applications. The Executive Counsel stated that the department requested a legal opinion from the Attorney General's office regarding DOI's authority to deny, renew, or revoke a license under the federal law. The Attorney General issued this opinion on February 18, 2000. The opinion states that the federal law clearly bestows upon the Commissioner the power to grant or deny waivers. The opinion also states that the federal law does not relieve the Commissioner of any statutory responsibility involved in the issuance, non-issuance, suspension, or revocation of

licenses. This means that the Commissioner may begin to review and act upon the 19 applications received thus far.

DOI Should Use More Aggressive Tactics to Protect the Public

We believe that, overall, the department has not taken as strong of an approach as it could in preventing undesirable individuals from transacting insurance business in the state. Contracting with State Police to conduct background checks on currently licensed agents is a first step. However, we believe the department should also take steps that would prevent felons and other undesirables from transacting insurance in the first place. Therefore, we believe that DOI should evaluate the most cost effective and efficient means of investigating the criminal backgrounds of applicants for insurance licenses. We base this statement on the following facts, all of which have been discussed in this report:

- Many of the statutory provisions governing the department are aimed at protection of the public.
- The department's mission and goals deal with protection of the public.
- The federal Violent Crime Control Law Enforcement Act is aimed at protection of the public by prohibiting certain convicted felons from selling insurance.
- DOI does not verify whether prospective applicants answer criminal history background questions on the applications honestly.
- Most states require some sort of background check.
- DOI licensed some agents who gave false information on their applications in 1998 and 1999.

Based on these facts, we believe that it is incumbent upon the department to take a stronger approach in preventing convicted felons and other undesirable individuals from transacting insurance business in the state. Conducting criminal background checks before licensing individuals is a critical step in providing a higher level of protection.

Recommendations

- 2.12 The department should complete the process begun by the June 1999 memo to identify and address agents affected by the Federal Violent Crime Control Law Enforcement Act.**
- 2.13 DOI should take a more proactive stance in preventing convicted felons and other unqualified individuals from soliciting insurance in Louisiana. This practice would provide a higher level of protection for the public, which is the primary function of the department. DOI should evaluate the most efficient and effective way of investigating the criminal backgrounds of applicants. Some options are to:**
- Require that applicants submit criminal history reports with their license applications.**
 - Request that the legislature increase the license fee to cover the cost of criminal background investigations.**
 - Apply for access to the National Crime Information Clearinghouse (NCIC) database from the Office of State Police.**
 - Require that sponsoring companies submit criminal history reports with applications or that sponsoring companies conduct background investigations.**
 - Require that applicants for new or renewal licenses submit fingerprint cards to DOI.**
 - Implement a policy of requiring criminal history background checks on applicants who apply for new licenses.**
 - Require that applicants renewing their licenses report to DOI all changes regarding any background question since the issue date of their original licenses. In addition, DOI could conduct spot-check background investigations on renewal applications.**

Matters for Legislative Consideration

- 2.1 The legislature may wish to amend R.S. 22:1078 to increase the amount DOI charges for licenses to cover the cost of criminal background investigations.**
- 2.2 The legislature may wish to consider providing the resources and means necessary for the department to conduct background checks on all persons applying for insurance licenses.**

Some Unauthorized Individuals Obtained Licenses and Appointments

DOI Issued 53 New or Reinstated Licenses to Agents Who Did Not Have Company Appointments

DOI issued new licenses to six agents who did not have company appointments. In addition, the department reinstated 47 licenses of 46 agents¹¹ who did not have company appointments. R.S. 22:1114(B)(1) requires that applications for new licenses must have company appointments. In addition, department policy requires all reinstatements to be accompanied by company appointments. DOI's erroneous issuance and reinstatement of these licenses may be attributable to the fact that the department's computer system does not flag these types of cases. Issuing and reinstating these licenses without company appointments means that these agents were not authorized to sell insurance.

As discussed in Chapter 1, a company appointment means that a company has designated a particular agent to sell insurance policies on its behalf. We identified the six agents (1.6%) who did not have appointments at the time their licenses were issued in 1998 by reviewing the same statistically valid sample of 384 applicants used in our review of 1998 initial license files. We used DOI's licensing database to check the agents' records to determine if they had company appointments on the license issue dates. Exhibit 2-6 shows an example of an agent who did not have a company appointment on the date he received his license.

¹¹ One agent had two reinstatements.

Exhibit 2-6
Example of Agent Receiving License
Without Company Appointment

Run Date: 11-09-00
 Run Time: 11:00 pm
 License Database License Database
 License Agency Name List
 Page: 1
 Run By: Justice P

License #	Agency	License	Class	Exp. Date	Iss. Date
[REDACTED]	[REDACTED]	[REDACTED]	Life & Health Property & Cas: 10 Auto Club..... Professional..... Var Annuity.....	03/31/99	03/09/98

--- License History ---
 Date
 --- Other References ---
 Date
 --- Appointments ---
 Date

Source: DOI licensing database.

To identify the 47 cases where DOI reinstated agents' licenses even though the agents did not have appointments at the time of reinstatement, we selected all files with a reinstatement code from DOI's licensing database for the period January 1, 1998 - May 6, 1999. We then used the database to check each agent's record to determine if he or she had a company appointment on the reinstatement date. Exhibit 2-7 shows an example of an agent who did not have a company appointment on the date he reinstated his license.

Exhibit 2-7 Example of Agent Reinstating License Without Company Appointment

Print Date: 11-Dec-97
Print Time: 11:41 pm
Page 1
Page By: Rodrick

INSURANCE LICENSING DIVISION
LICENSE ARCHIVE MASTER LIST

License No.	Agent	Non-Resident	Code	Exp. Date	Exp. Date
[REDACTED]	[REDACTED]	[REDACTED]	Life & Health	01/05/98	01/05/98
[REDACTED]	[REDACTED]	[REDACTED]	Property & Cas.	01/05/98	01/05/98
[REDACTED]	[REDACTED]	[REDACTED]	Auto-Clsh	01/05/98	01/05/98
[REDACTED]	[REDACTED]	[REDACTED]	Fire	01/05/98	01/05/98
[REDACTED]	[REDACTED]	[REDACTED]	Mar Agency	01/05/98	01/05/98

--- License Comments ---

11/20/97 [REDACTED] L21: SAC LICENSE ARCHIVE WAS REINSTATED FOR PROTECTIVE OF GENERAL.

01/05/98 [REDACTED] R27: PROPERTY & CASUALTY LICENSE REINSTATED

02/18/98 [REDACTED] L21: SAC LICENSE ARCHIVE WAS REINSTATED FOR PROTECTIVE OF GENERAL.

01/05/98 [REDACTED] R19: AGENT FOR SERVICE OF PROCESS FROM NAME "COMMISSIONER" AS AG

--- License Expiration ---

None

--- Bond Copy --- Bond ID --- Bond Amount --- Effective --- Cancelled

None

--- Appointments --- License --- Format --- Cancelled --- Exp

None

Source: DOI licensing database.

DOI's computer system does not include a flag that alerts the technicians when an agent does not have a current company appointment. In other words, there is no computer edit check that would prevent a license from being issued or reinstated without a company appointment. Therefore, some cases tend to slip through, creating a situation where some unqualified agents have been newly licensed or had their licenses reinstated.

DOI Approved Company Appointments for 25 Unlicensed Agents

We also found 25 cases where DOI approved company appointments for unlicensed agents. R.S. 22:1114(B)(2)(a) states that companies can only issue appointments for agents who have current licenses. DOI's approval of these company appointments may have occurred because the computer edit check that notifies technicians when an agent does not have a current license is easily overridden. This situation leads to the possibility that appointed individuals could be selling insurance under the guise that they have current licenses.

To find these 25 cases, we used specialized audit software to match agents from DOI's licensing database who received

company appointments in 1998 and 1999 with agents who did not have current licenses at that time. While 25 is not a large number in comparison to the total number of appointments for 1998 and 1999 (370,293), it does indicate the need for a computer edit check that is not easily overridden. Such a check would be beneficial because it would automatically notify the technicians entering appointments whenever a current license does not exist. Exhibit 2-8 shows an example of an agent who received a company appointment without a current license.

Exhibit 2-8 Example of Agent Who Received a Company Appointment Without a Current License

The screenshot shows a report titled "License" with columns for "Codes", "Cur Thru", and "Issue Date". The "Cur Thru" date is 05/01/1997. A box with an arrow points to this date with the text "Agent's license expired on 5/1/1997." The report lists various insurance categories: Life & Health, Property & Casualty, Auto Club, Fraternal, and Variable Annuity.

The screenshot shows a table with columns: Appointments, Entered, Issued, Checked, and Expires. A box with an arrow points to the "Entered" date of 11/13/98 with the text "Agent received a company appointment on 11/13/98." The table lists five entries for "CONNECTICUT INSURANCE CO" with various "Entered" and "Expires" dates.

Source: DOI licensing database.

We discussed this situation with the Director of Licensing. She stated that she had requested an edit check that would flag unlicensed agents with appointments, but that the request had not been granted. As a result, such cases continue to go unchecked.

Recommendations

- 2.14** DOI should determine whether the new computer system will have the capacity to implement an edit check that notifies the licensing technicians whenever an agent being considered for licensure or reinstatement does not have a company appointment.

Any such edit check should be secure so as not to allow overrides easily. If the new system will not have this capability, the department should devise an alternative control to prevent unappointed agents from obtaining licenses.

- 2.15 DOI should also determine whether the new computer system will be capable of implementing an edit check that would flag all cases where agents with appointments do not have current licenses. This edit check should also be secure so as not to allow overrides easily. Implementing this control would decrease the risk of agents with appointments but no current licenses transacting business in the state.**

Some Unlicensed and Unappointed Agents May Have Sold Insurance

Some Unlicensed and Unappointed Agents Appear to Have Sold Insurance in Louisiana

Some unlicensed and unappointed agents may have sold insurance. R.S. 1113(A)(1), 1113(A)(2), and 1114(B)(2)(a) say that unlicensed or unappointed agents may not sell insurance. Along with market conduct exams, DOI also relies on others to notify the department if unlicensed or unappointed agents are selling insurance. However, if no one notifies the department of such cases, the cases go unchecked and these agents can continue to sell insurance. Having unlicensed and unappointed agents selling insurance in the state can cause significant harm to the public.

To determine whether any such cases were in existence, we sent inquiries to five different groups of agents:

1. A sample of agents who did not renew their licenses in 1998 (sample size - 60)
2. A sample of agents who did not renew their licenses in 1999 (sample size - 60)
3. Agents who reinstated their licenses between 1/1/98 and 5/6/99 and did not have company appointments (total - 44)
4. Agents who received their initial licenses in 1998 without company appointments (total - 7)

5. Agents who received company appointments in 1998 and 1999 without current licenses (total - 25)

In total, we sent 196 inquiries.

The inquiries asked whether or not the agents had sold insurance during the time period when their licenses were invalid (see Appendix H for a sample of the letter we sent to agents). A license is considered invalid if an agent does not have a current company appointment because the law does not allow agents without appointments to sell insurance. A license is also considered invalid if it is not renewed.

Of the 68 responses we received, 20 or 29.4% said they had sold insurance during the time period in question. If the responses are accurate, these agents are in direct violation of Louisiana statutes, and their activities pose a direct risk to the public. Exhibit 2-9 shows an example of a response received from an agent stating that he sold insurance during a period when he was not authorized to sell.

Exhibit 2-9
Example of Agent Response Indicating He Sold Insurance Without Authorization

Source: Confirmation letters prepared by legislative auditor's staff.

Our work shows that DOI needs to implement more controls in this area. Increased computer edit checks that prevent DOI employees from issuing licenses or appointments without the proper qualifications may remedy some of these problems.

Recommendations

- 2.16 DOI should investigate the 20 agents who responded to us that they sold insurance during periods when they were not properly authorized to do so. If DOI finds that these agents' responses are accurate, the department should take appropriate action against the agents.**
- 2.17 DOI should implement computer edits or other controls that would prevent unlicensed individuals from receiving appointments and unappointed individuals from receiving licenses.**

Chapter 3: Suspensions, Revocations, and Complaints

Chapter Conclusions

DOI handled all suspensions and revocations of agent licenses appropriately in 1998 and 1999. The department handled all cases in accordance with criteria established in state law. Also, the Commissioner did not suspend any licenses that should have been revoked or revoke any licenses that should have been suspended. As a result, the department provided an acceptable level of protection to the public against these particular agents. In addition, DOI used complaints appropriately to recommend suspensions and revocations during these two years.

However, DOI should take steps to prevent agents who have had their licenses suspended or revoked from continuing to represent themselves as fully licensed agents. R.S. 22:1116C requires such agents to send their licenses to the Commissioner, but this is not being done. In addition to steps taken by the department, the legislature may wish to amend R.S. 22:1116C to include penalties for noncompliance.

In addition, the department needs to develop a standard for processing agent complaints. DOI's average time to process agent complaints was over five months, which exceeds the department's standard for processing average complaints by over two months. However, since the department does not have a performance standard for agent complaints, we could not determine whether this timeframe is acceptable.

DOI also needs to prioritize complaints based on the severity of the allegations or the potential risk of harm to the public. Currently, DOI assigns complaints to examiners based on the complexity of the cases and the experience level of the complaint examiners. As a result, serious cases may not be resolved quickly enough to prevent further harm to consumers.

Finally, DOI should pursue more aggressive means of contacting agents who do not respond to the department's inquiries about complaints filed against them. Currently, DOI only sends letters to these agents, and the agents sometimes do not respond to the letters. However, we were able to locate some of these agents by using the Internet. If aggressive tactics

are not used, some agents may continue to engage in prohibited activity.

DOI Suspended and Revoked Agent Licenses in Accordance With State Law

All Suspensions and Revocations in 1998 and 1999 Were in Accordance With Louisiana Statutes

DOI suspended two insurance licenses in 1998 and revoked 18 insurance licenses in 1998 and 1999. We reviewed all 20 suspension and revocation cases in 1998 and 1999 and compared the reasons for the suspensions and revocations to criteria outlined in state law. We found that DOI suspended and revoked these licenses in accordance with state law in all 20 cases. In this regard, DOI appears to have adequately protected the public against these agents who were in violation of insurance laws.

The Louisiana Revised Statutes outline instances where DOI *must* suspend or revoke a license. Appendix I summarizes these statutes. These statutes, referred to as mandatory statutes, are as follows:

- R.S. 22:1113(C)(1)(a) and (b)
- R.S. 22:1113(D)(1) and (2)
- R.S. 22:1114(A) and (F)(1)
- R.S. 22:1115(A)(3)(b)
- R.S. 22:1117(A) and (B)(2)

The Louisiana Revised Statutes also specify instances where DOI *may* suspend or revoke a license. Appendix I also summarizes these statutes. These statutes, referred to as discretionary statutes, are as follows:

- R.S. 22:1115(A)(1)(a) through (m)
- R.S. 22:3007(A) and (C)
- R.S. 22:632

We used both the mandatory and discretionary statutes and compared the reasons in these laws to the reasons DOI suspended and revoked the 20 licenses in 1998 and 1999. All but three cases involved misappropriation of funds. Misappropriation of funds means that an agent or company allocated funds improperly. Most of these cases involved agents who stole money from policyholders that was intended for insurance companies. The other cases involved agents lying on the background questions on the applications for their insurance licenses.

As can be seen, state law gives DOI discretion to suspend or revoke an agent's insurance license if the agent misappropriates funds or lies on his or her insurance application. Because DOI correctly suspended and revoked the 20 insurance licenses in 1998 and 1999, the department was effective in removing these potentially harmful agents from insurance solicitation in the state.

DOI No Longer Requires Agents to Submit Suspended and Revoked Licenses

Law Requires Licensees to Send Suspended or Revoked Licenses to Commissioner

DOI no longer requires agents who have had their licenses suspended or revoked to submit their licenses to the Commissioner. R.S. 22:1116C requires licensees to deliver their licenses to the Commissioner by personal delivery or mail upon suspension, revocation, or termination of their licenses. According to DOI officials, the reason why they no longer collect suspended and revoked licenses is because the department no longer has jurisdiction over agents after their licenses are suspended or revoked. However, if the licenses are not collected, it is possible for these agents to continue to represent themselves as fully licensed agents to the public.

We reviewed the 20 suspension and revocation cases from 1998 and 1999 to determine if various statutorily-required actions required upon suspension or revocation were completed. These actions, put into question format, are as follows:

1. Did DOI notify all appointing insurers that the appointed agent's license had been suspended or revoked, pursuant to R.S. 22:1116A?
2. Did DOI notify the NAIC that the agent's license had been suspended or revoked, pursuant to R.S. 22:1116B?

3. Did the agents send their suspended or revoked licenses to the Commissioner via mail or in person, pursuant to R.S. 22:1116C?

We found that DOI was in compliance with the first two legal requirements. However, department officials said that they no longer collect the licenses of agents who have received suspensions or revocations. According to a DOI official, several years ago before there was an administrative hearing process in place, the department required agents to submit suspended or revoked licenses. However, according to this official, the current philosophy is that once the department's administrative law judge suspends or revokes an agent's license, the department no longer has jurisdiction over the agent. Therefore, DOI cannot require the agent to mail or bring the license to the department.

Although this philosophy may have some merit, it poses a risk that agents may continue to represent themselves as fully licensed agents even though their licenses have been suspended or revoked. This risk is heightened because the licenses do not have expiration dates printed on them. Since a major role of the department is protection of the public, it is important for the department to implement safeguards to prevent this occurrence from happening.

R.S. 22:1115A(2)(a) says that if the Commissioner suspends or revokes a license, he shall *notify the licensee in writing* of the determination. One way to address the issue of licensees not sending in their suspended and revoked licenses would be for the Commissioner to remind them in this written notification that R.S. 22:1116C requires them to send their licenses to him. It may also be helpful for the Commissioner if penalties were inserted into R.S. 22:1116C for licensees who do not comply. This would give him more power to enforce the requirement.

Recommendation

- 3.1 **DOI should implement policies and procedures that prevent agents who have had their licenses suspended or revoked from continuing to solicit insurance. Some options are as follows:**
 - **In the letter notifying agents of suspension or revocation, DOI could remind the agents that R.S.**

22:1116C requires them to send their licenses to the Commissioner.

- **DOI could propose legislation that would add fines or other penalties to R.S. 22:1116C for licensees who do not comply with the statute's requirement to send suspended or revoked licenses to the Commissioner.**

Matter for Legislative Consideration

- 3.1 The legislature may wish to consider amending R.S. 22:1116C to include penalties for agents who do not comply with the requirements of this statute. Doing so would help deter agents who have had their licenses suspended or revoked from continuing to represent themselves as fully licensed agents.**

DOI Suspended and Revoked Agent Licenses Consistently

DOI Handled All 1998 and 1999 Suspensions and Revocations Consistently

We reviewed the 20 suspension and revocation cases from 1998 and 1999 to determine if DOI handled the cases consistently. We did not find any instances where DOI should have suspended a license rather than revoking it. We also did not find any instances where DOI should have revoked a license rather than suspending it. As a result, DOI appears to have suspended and revoked these 20 licenses in a consistent manner.

As previously stated, two of the 20 cases we reviewed involved suspension, and 18 involved revocation. We used the suspension cases as criteria to determine whether the revocation cases should have been suspensions rather than revocations. Conversely, we used the revocation cases as criteria to determine whether the suspension cases should have been revocations rather than suspensions.

In addition, according to the Director of the Quality Management Division of the Office of Health, DOI uses its own criteria for determining whether to suspend or revoke insurance licenses. These criteria are as follows:

- (1) the seriousness and/or number of violations;

- (2) the number of victims;
- (3) whether the violations were intentional or the result of incompetence;
- (4) the number of prior complaints or regulatory actions; and
- (5) whether the individuals charged are cooperative or defiant.

All revocations we reviewed involved either misappropriation of funds or lying on renewal applications. One suspension case involved an agent on probation. The other suspension case was virtually identical to the revocations that involved lying on license applications. However, according to DOI, the agent in this case is scheduled to go to hearing where DOI will request revocation. Therefore, it appears that DOI applied its criteria consistently when deciding whether to suspend or revoke these 20 agent licenses.

Complaints Resulted in Suspension and Revocation When Appropriate

Complaints Closed in 1998 and 1999 Resulted in Suspension or Revocation When Appropriate

DOI appears to have correctly resolved 1998 and 1999 complaints in regard to whether the complaints should have resulted in suspension or revocation of agent licenses. We compared the complaint reason codes that DOI assigned for a sample of complaints to the mandatory and discretionary suspension and revocation statutes. We did not find any instances where a complaint matched a suspension or revocation statute, but DOI had not suspended or revoked the agent's license. Therefore, it appears that DOI handled 1998 and 1999 complaints consistently in regard to whether the department should have suspended or revoked the licenses in question.

We selected a sample of 60 complaints against agents that corresponded to mandatory statutes and 60 complaints against agents that corresponded to discretionary statutes. We reviewed all 120 complaints and eliminated those that were unsubstantiated. Unsubstantiated complaints include those where the complainant provided insufficient information or those where the agent's position was upheld upon investigation by DOI. This left a total of 13 substantiated complaints in the mandatory category and 27 substantiated complaints in the discretionary category. Our

specific findings for each category of complaints are detailed in the following two sections.

Complaints Corresponding to Mandatory Statutes

As stated previously, there were 13 substantiated complaints in the mandatory category. DOI did not suspend or revoke any of these licenses. “Agent Handling” was the reason code that DOI assigned to each of these 13 complaints. Agent handling generally means that an agent is not performing his duties correctly. However, the mandatory statute corresponding to agent handling specifies that when agents sell insurance before obtaining company appointments, their licenses must be suspended or revoked.

The documentation we reviewed showed that these 13 cases did not involve agents selling insurance before obtaining company appointments. Instead, they involved issues such as the following:

- One agent issued a refund to a policyholder with a personal rather than a company check.
- One agent allegedly did not return documents to the insurance company after her employment terminated.
- One company cancelled a policy and did not notify the policyholder.
- One agent was accused of improperly replacing policies.
- One agent closed his business and failed to issue a refund to one policyholder.
- Two agents misrepresented the terms of a policy.

Since none of the cases involved selling insurance without a company appointment, DOI was correct in not suspending or revoking these agents’ licenses.

Complaints Corresponding to Discretionary Statutes

As stated previously, there were 27 substantiated complaints in the discretionary category. DOI did not suspend or revoke any of these licenses. DOI coded these 27 complaints with the following complaint codes:

- Twenty-two complaints were coded as “Misappropriation of Funds.”
- Two complaints were coded as “Departmental Investigations.”
- One complaint was coded as “Premium Misquote.”
- Two complaints were coded as “Other.”

According to DOI officials, most suspension and revocation cases involve misappropriation of funds. However, none of the 22 complaints in our sample that involved misappropriation of funds resulted in suspension or revocation. Because of this potential inconsistency, we questioned DOI as to why these 22 cases did not result in suspension or revocation. The Director of the Quality Management Division of the Office of Health told us that each complaint case is unique and subjective. She stated that, in addition to state law, DOI considers the following mitigating circumstances separately in deciding whether to recommend a suspension or revocation of a license:

- Whether the misappropriation involved \$500.00 or more
- Whether the agent paid restitution
- When the agent paid restitution (before a hearing or because of a hearing)
- Whether the violation was against a company or a policyholder (violations against policyholders are more severe) and the number of victims
- Whether the agent had prior complaints or regulatory actions
- Whether the agent cooperated or was defiant

DOI policy does not include these mitigating factors. DOI's only written policy comes from state law. Since DOI is using these factors to determine whether to suspend or revoke licenses, DOI should formalize these factors into a written policy.

We used these additional criteria to determine whether DOI should have suspended or revoked the licenses of the agents against whom complaints involving misappropriation of funds had

been filed. We found that all 22 cases met at least one of these criteria. Therefore, DOI appears to have correctly used its criteria and those in state law in determining whether these complaints should have resulted in suspension or revocation.

The remaining five cases, which did not involve misappropriation of funds, resulted in the following dispositions:

- One case was dismissed because the agent’s license had expired.
- One agent refunded the complainant.
- Two cases involved no violation of law.
- One case was referred to the Fraud Section. However, the Fraud Section could not locate this file for us.

**Average
Complaint
Processing Time
Over Five
Months**

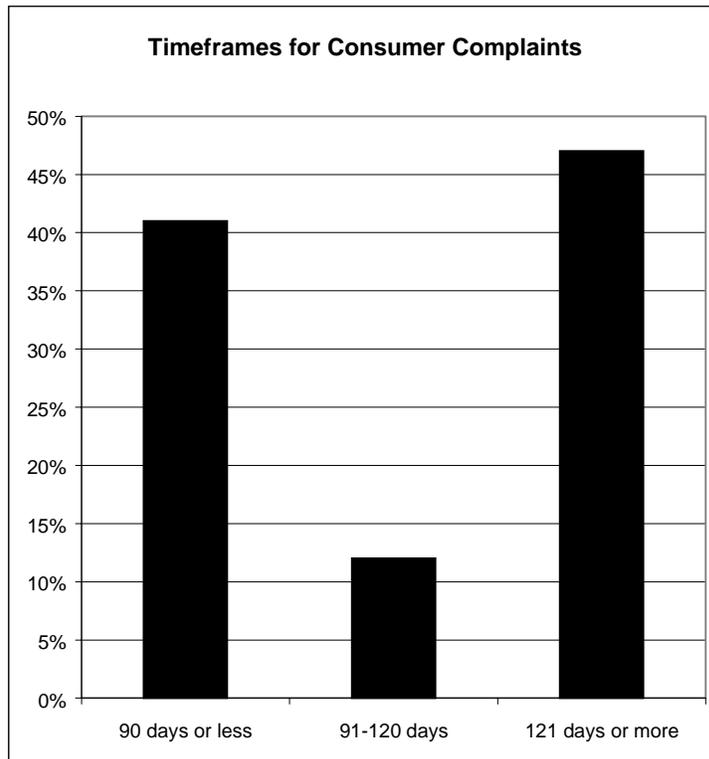
Average Time to Process Complaints Filed Against Insurance Agents Exceeded Five Months

The average processing time for complaints against agents opened and closed from January 1, 1998, through May 24, 1999, was 158 days. Although DOI has no performance standard for agent complaint processing time, this timeframe exceeds the department’s performance standard for processing “average” complaints¹² by 68 days. There are many factors that can lengthen the complaint investigation and processing time. A lengthy processing time increases the risk that agents who should not be allowed to solicit insurance may continue to do so while the investigation continues, thus putting the public at risk.

We calculated the average processing time for all complaints filed against agents that were opened and closed from January 1, 1998, through May 24, 1999. In total, DOI opened 579 cases and closed 372 of the 579 cases during this 17-month time period. Exhibit 3-1 shows the number of agent complaints closed within specific timeframes.

¹² DOI does not consider complaints against agents to be average complaints because they are more complex, according to the director of the Property and Casualty Division.

Exhibit 3-1
Average Processing Time for Complaints Filed Against
Insurance Agents
January 1, 1998 Through May 24, 1999
Department of Insurance



Source: Prepared by legislative auditor's staff using information from DOI's complaints database and ACL.

The department's 1999-2003 Strategic Plan calls for the investigation of average complaints to be completed within 90 days by 2001. As can be seen from Exhibit 3-1, the majority of agent complaints were not processed within this timeframe. Although the 90-day performance standard was not in effect during the time period we tested, we used it in our analysis because DOI had not established a standard for the time period we tested. In addition, the director of the Property and Casualty Division stated that agent complaints are not considered average complaints because complaints against agents are more complex than complaints against companies. However, the department has not established a performance standard for complaints against agents.

In our survey of model states, three states responded that they have established timeframes for complaint resolution. These

states are Iowa, Florida, and Virginia. The timeframes range from 30 days to 90 days in these three states.

Although DOI does not have a standard timeframe for resolving complaints, the policy and procedures manual for the Property and Casualty Division has established guidelines for when agents are required to respond to departmental inquiries concerning complaints. For example, in a typical complaint case against an agent, DOI sends a letter to the agent. The agent has 25 days to respond. If the agent does not respond, DOI sends another letter. The agent has 15 days to respond to this second letter. If the agent does not respond, DOI sends a third letter, via certified mail, stating that a \$250.00 fine has been levied against him/her.¹³ The agent has 10 days to respond to this letter. If the agent does not respond, then DOI flags the license to prevent the agent from renewing his or her license.

DOI personnel also stated that there are many other factors that could increase complaint-processing time. Some of these factors are the number of parties involved, the responsiveness of the involved parties, and the nature of the complaint. Another factor is the fact that DOI considers agent complaints to be more complex and multifaceted. In addition, the promptness with which agents respond to the department's inquiries regarding the complaints also affects the overall processing time. According to DOI, another problem is that the complaint divisions have several vacancies that they have not been able to keep filled.

As mentioned in Chapter 1, the three complaint divisions do not prioritize complaints based on severity or potential risk to the public. According to the Director of the Property and Casualty Division, supervisors assign complaints to examiners based on the complexity of the case and the experience level of the examiners. As a result, the most potentially harmful cases may not be resolved quickly enough to prevent further harm to consumers.

Recommendations

- 3.2 DOI should consider developing a performance standard for non-average complaints. The only current performance standard the department has is for average complaints. The new standard should be**

¹³ Both the first and second letters warn the agent of this fine.

designed to target the quickest turnaround time possible.

- 3.3 DOI should implement a system of prioritizing complaints based on severity and investigate the most serious complaints first.**

**Complaints Staff
Need Aggressive
Means to Contact
Unresponsive
Agents**

Complaints Examiners Should Use Additional Resources to Locate Agents Not Responding to Department's Complaints Inquiries

As mentioned in Chapter 1, the complaints examiners send letters requesting responses to agents against whom complaints have been filed. If the agents do not respond, the examiners flag these agents' licenses on the licensing database. The examiners do not make additional efforts to contact these agents before or after flagging their licenses. Part of the mission of DOI is to protect the public. However, the department does not use all available resources when attempting to contact these agents. As a result, agents who have participated in prohibited activity may continue to do so because DOI is not aggressively pursuing them.

We examined 14 complaint files for agents whom DOI had flagged on the licensing database in 1998. We spent 30 minutes using the Internet to try to locate these individuals. Of the 14 agents, we were able to locate two by telephone and verified that they were, indeed, the agents for whom we were searching. Our efforts show that it is possible to locate at least some of the individuals who do not respond to DOI's letters of inquiry. DOI would benefit from using more aggressive techniques, as well.

Because DOI is not using all available means to locate these agents, not all complaints are being resolved. Consequently, DOI is not doing all it can to protect the public against potential fraudulent activity.

Recommendation

- 3.4 DOI should implement a policy requiring the complaints examiners to use the Internet, telephone directories, and other available means to locate agents**

with complaints filed against them who have not responded to the department's inquiries. Using more aggressive techniques provides added assurance that agents who may pose potential harm to the public are more closely monitored.

Chapter 4: Assessment and Collection of Fees

Chapter Conclusions

DOI did not always assess and collect the correct license and penalty fees in 1998 and 1999. State law and DOI policy outline proper fees. We found that DOI did not assess late fees when it should have for about one fourth of renewal applications we reviewed in 1999. In addition, DOI collected the wrong reciprocal fees for nonresident licenses over 20% of the time. As a result, DOI did not collect all revenue it should have collected in 1998 and 1999.

Staff in the Statistics Division did not always classify licensing revenue correctly. In addition, staff in the Division often wrote incorrect postmark dates on renewal applications. Writing correct postmark dates on the applications is important because licensing staff use these dates to determine whether to assess late fees.

DOI's reciprocal fee list, which is used to determine license and renewal fees for nonresidents, is not completely accurate. We found inaccurate fees on this list for several states. As a result, DOI may have overcharged and/or undercharged applicants for licenses from these states. In addition, DOI did not update the fee list timely. For example, DOI used the 1997 fee list until September 1998.

DOI waived several late fees in 1998 and 1999. However, we were unable to determine if these waivers were appropriate because DOI lacks a policy in this area. In addition, DOI does not have a refund policy. As a result, DOI did not issue any refunds for overpayments in the samples we reviewed.

Overview of DOI's Assessment and Collection Function

DOI Collects Various Fees Related to Licensing of Insurance Agents

DOI assesses and collects a variety of fees related to the agent licensing function. These include licensing fees, renewal fees, reciprocal fees (i.e., licensing fees for nonresidents who apply for Louisiana licenses), late fees, and invalid address fees. These fees are defined in state law. The ones we addressed in this audit

are reciprocal fees, late fees, and invalid address fees. The Agent Licensing Division is responsible for assessing these fees in accordance with state law. Specific statutes are discussed in the relevant sections of this chapter.

When applicants remit payment checks to the department, the checks arrive with all related documentation in the DOI mailroom. The mailroom then sends all checks and supporting documentation to the Statistics Division. The Statistics Division is responsible for receipting and batching all revenue. This division is also responsible for classifying the revenue into the proper accounting classifications for certain divisions including the Agent Licensing Division. After classifying the revenue, the Statistics Division sends the revenue to the Fiscal Affairs Division to be deposited and the supporting documentation related to licensing to the Agent Licensing Division to be processed.

**Fines for Late
Renewal
Applications
Often Not
Assessed in 1998
and 1999**

DOI Did Not Assess Fees for 28.6% of Late Renewal Applications Reviewed in 1999

R.S. 22:1113(E)(2) requires DOI to assess a \$25 fee when renewal applications are late. However, DOI staff did not always assess this fee when they should have in 1998 and 1999. As a result, the department did not collect all revenue it was due in 1998 and 1999.

DOI policy says that the fee for late renewals is to be assessed if the renewal application envelope is postmarked after the filing date. The filing date is printed on the applications. The way DOI determines if a late fee should be assessed is as follows. When DOI receives an application, staff in the Statistics Division reviews the postmark date stamped on the envelope, writes this date on the application, and sends the application to the Agent Licensing Division. Licensing staff are responsible for reviewing the date that the Statistics Division has written on the application and determining whether a late fee should be assessed.

We reviewed all renewal applications received from January 12 through February 1, 1998, and from January 12 through February 1, 1999. We selected this period because most applications received during these dates should be late. We compared the postmark dates stamped on the envelopes to the filing dates printed on the applications. For 1998, we found eight out of 282 cases (2.8%) where the postmark dates were after the

filing dates, but DOI did not assess any late fees. For 1999, we found 36 out of 126 (28.6%) cases where the postmark dates were after the filing dates, but DOI did not assess any late fees.

The total monetary impact of the errors we detected was \$200 in 1998 and \$900 in 1999. Thus, DOI did not collect a total of \$1,100 in late fees that it should have collected during these two time periods. In addition, by not collecting this fee from all agents who should have had to pay it, the department has not afforded equitable treatment to all agents, brokers, and solicitors.

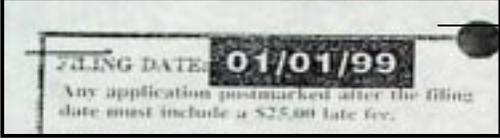
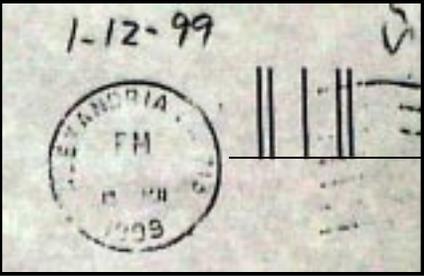
**Statistics Division
Recorded
Incorrect
Postmark Dates
on Some
Applications**

**Statistics Division Wrote Wrong Postmark Dates on
15.6% of 1998 Renewal Applications Reviewed**

As previously explained, the Statistics Division is responsible for recording the postmark dates stamped on the envelopes onto the renewal applications. We found that staff in the Division recorded incorrect dates on 15.6% of the 1998 renewal applications we reviewed and on 13.5% of the 1999 renewal applications we reviewed. Since the Agent Licensing Division staff uses these handwritten dates to determine if they should assess late fees, it is imperative that the Statistics staff record the dates correctly. If the Statistics Division records the dates incorrectly, it could cause the Licensing Division to not assess late fees when they should.

Using the same two samples discussed in the previous finding, we compared the postmark dates stamped on the envelopes to those that the Statistics Division had written on the renewal applications. We found that the Statistics Division wrote incorrect postmark dates on 44 of the 282 renewal applications (15.6%) in 1998 and on 17 of the 126 renewal applications (13.5%) in 1999. Exhibit 4-1 shows an example of a case where the Statistics Division wrote an incorrect postmark date on a renewal application, and DOI did not assess a late fee even though the application was postmarked after the filing date.

Exhibit 4-1
Example of Incorrectly Written Postmark for Application
Received After Filing Date
Department of Insurance

	<p>→ This is the filing date of the application. The application must be postmarked by the filing date to avoid penalty.</p>
	<p>→ This is the actual postmark from the application envelope. The envelope was postmarked 1/12/1999.</p>
	<p>→ This is the postmark date written by the Statistics Division.</p>

Source: DOI licensing files.

Another problem we noted is that DOI does not have a policy on how to record postmark dates for applications sent to DOI by express or next day mail. According to the Director of Licensing, in these cases, the dates to be used to determine whether penalties should be assessed are the dates the applications were sent. However, for cases such as these in our samples, we noted that the Statistics Division wrote either 'N/A' or 'none' or did not write anything on the applications. In these cases, DOI did not consider whether late fees should have been assessed or not. As a result, applicants who submitted their payments via express or next day mail may have avoided paying late fees when they actually should have paid them. Exhibit 4-2 on the following page shows an example of a case where the Statistics Division wrote "none" on the application, and the application was received after the filing date.

Exhibit 4-2
Example of Application Received After Filing Date
and No Postmark Date Was Recorded
Department of Insurance



This is the filing date of the application. The application must be postmarked by the filing date to avoid a penalty.



The application was sent by next day air. It was received on 1/22/98 in DOI's mailroom.

FOR DEPARTMENT OF INSURANCE USE ONLY	
Classification Number	949300
Postmark Date	None
Date Processed	1-23-98
Initials	

The Statistics Division wrote that there was not a postmark date on the application. Therefore, a late fee was not assessed.

Source: DOI licensing files.

We found two cases in 1998 where the Statistics Division's errors resulted in failure to assess late fees when they should have. Writing incorrect dates on the applications or not writing dates at all poses a risk that DOI will not assess late fees when they should be assessed. Therefore, Statistics Division staff should ensure that they write the correct postmark dates on the applications or else forward the mailing envelopes containing the actual dates to the Agent Licensing Division.

Recommendations

- 4.1 The Statistics Division should use supervisory reviews to ensure that its staff correctly records postmark dates from the envelopes onto the renewal applications. This is important because the Licensing Division uses these dates to determine whether or not to assess late fees. An alternate solution to this problem would be for the Statistics Division to forward the renewal application envelopes to the Agent Licensing Division. Licensing staff could then use the dates on the envelopes instead of the dates the Statistics staff write on the applications to determine whether late fees should be assessed.**
- 4.2 DOI should develop a written policy on how to record postmark dates on applications that are received via express or next day mail. Developing a policy in this area will help ensure that all agents who submit renewal applications late receive equal treatment regarding late fee assessment.**

DOI Needs Policy on Waivers

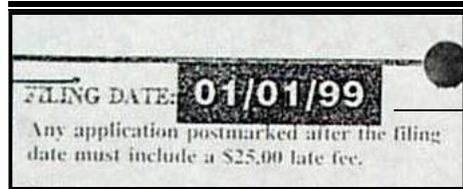
DOI Waived Some Agents' Late Fees in 1998 and 1999

We found that DOI waived the fees assessed for late applications 13 times for the time periods we reviewed in 1998 and 1999. However, DOI does not have a formal, written policy on when to waive late fees. Since DOI does not have a policy specifying the conditions under which late fees may be waived, we were unable to determine if these waivers were appropriate. Without such a policy, there is no assurance that all applicants receive equal treatment when being considered for waivers.

Neither state law nor DOI policy outlines circumstances under which DOI may waive the late fees defined in R.S. 22:1113(E)(2). However, DOI waived these late fees five times from January 12 through February 1, 1998, and eight times from January 12 through February 1, 1999. In six cases, we were not able to determine the reason why DOI waived the late fees. Exhibit 4-3 on the following page shows an example of a case where DOI waived a late fee for undeterminable reasons. In the other seven cases, DOI waived the late fees because of the following reasons:

- Three late fees were waived because of postal service delays.
- One late fee was waived because DOI used the wrong zip code, which caused the applicant to receive his application late.
- One late fee was waived because the applicant received his letter of certification after the filing date.
- One late fee was waived because the applicant sent in an application with the wrong filing date on it.
- One late fee was waived by the licensing technician after the applicant threatened to complain to the Commissioner.

**Exhibit 4-3
Example of Late Fee Waived
for Undeterminable Reasons
Department of Insurance**

	<p>This is the filing date of the application. The application must be postmarked by the filing date to avoid a penalty.</p>
--	--

	<p>This is the actual postmark from the application envelope. The envelope was postmarked 1/8/99.</p>
--	---

<p align="center">FOR DEPARTMENT OF INSURANCE USE ONLY</p>	
<p>Classification Number</p>	<p align="center">951725</p>
<p>Postmark Date</p>	<p align="center">1-8-99</p>
<p>Date Processed</p>	<p align="center">1-25-99</p>
<p>Initials</p>	<p align="center">[Redacted]</p>

<p>This is the postmark date written by the Statistics Division (1/3/99).</p>

<p>March 3, 1999</p> <p align="center">****PERSONAL & CONFIDENTIAL****</p> <p>[Redacted]</p> <p>Office of Licensing & Market Compliance PO Box 94214 Baton Rouge, LA 70821</p> <p>Re: License Renewals</p> <p>Dear [Redacted]:</p> <p>I am enclosing herewith license renewal applications for [Redacted] and licensed employees.</p> <p>As per our telephone conversation, please process these renewals without the \$25.00 late fees.</p> <p>Thank you for your assistance in this matter. If you need additional information, please contact me.</p> <p>Sincerely, [Redacted]</p>	<p>DOI records show that this late application was not charged a late fee. This letter is the only documentation we found for the waived late fee. The letter does not provide any explanation of why the late fee was waived.</p>
---	--

Source: DOI licensing files.

As can be seen, there is little consistency in the reasons why DOI chose to waive the late fees in these 13 cases. Thus, there is no way to tell if all agents were treated fairly in regard to these waivers. This situation illustrates the need for DOI to develop a policy governing this issue.

Recommendation

- 4.3 DOI should develop a formal, written policy that outlines acceptable instances in which late fees stipulated in R.S. 22:1113(E)(2) can be waived. This policy should be applied consistently to all cases considered for waivers.**

DOI Often Collected Incorrect Reciprocal Fees

DOI often collected the incorrect amounts of reciprocal fees for nonresident licenses in 1997, 1998, and 1999. DOI collected erroneous amounts because of several reasons. First, DOI often accepted a different license fee than what was on its reciprocal fee list. Second, DOI calculated many amounts on the fee list incorrectly. Third, DOI did not update the reciprocal fee list in a timely manner. As a result, DOI overcollected reciprocal fees in some periods and undercollected reciprocal fees in others.

DOI uses a reciprocal fee list to determine the correct license fees for nonresidents. DOI calculates the amounts on this fee list from the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements. The NAIC Guide includes a compilation of agent licensing fees for all states and territories.

DOI Accepted New License Fees That Were Different From Fees on Reciprocal Fee List in 1998 and 1999

DOI collected reciprocal fees that differed from the amounts on its reciprocal fee list for new nonresident licenses 24.8% of the time in 1998 and 21.3% of the time in 1999. R.S. 22:1113 states that nonresident agent license fees are reciprocal. Under this law, DOI is supposed to charge nonresidents who apply for Louisiana insurance licenses the higher of Louisiana's licensing fee or their resident state's fee.

We conducted work to determine if DOI correctly used the reciprocal fee list that the Agent Licensing Division had developed. To conduct our work in this area, we selected statistically valid random samples of 363 files for 1998 and 225 files for 1999 of nonresident agents who were issued new Louisiana licenses. We compared the fees collected for these licenses to the amounts on the DOI reciprocal fee list in use at the time the applications were received. (See Appendix J for an example of DOI's reciprocal fee list). DOI calculated the amounts on these reciprocal fee lists by using the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements. We found numerous errors. The majority of errors resulted in DOI accepting more money than was called for on the reciprocal fee lists. However, we did find some cases where DOI did not collect as much as the amounts on the reciprocal fee lists. Exhibit 4-4 summarizes the results of our review. The paragraphs that follow the exhibit provide further details about the problems summarized in the exhibit.

Exhibit 4-4			
Reciprocal Fee List Discrepancies (1998 and 1999)			
Department of Insurance			
Problem Found	1998	1999	Totals
Additional Company Appointment Fees DOI Collected Unnecessarily	27 (7.4%)	11 (4.9%)	38
Additional Company Appointment Fees DOI Did Not Collect but Should Have	7 (1.9%)	2 (0.9%)	9
DOI Collected More Than the Amounts on the Reciprocal Fee List	45 (12.4%)	30 (13.3%)	75
DOI Collected Less Than the Amounts on the Reciprocal Fee List	11 (3.0%)	5 (2.2%)	16
Possible Multiple Agent Payments (not included in the overall discrepancy rate)	3 (0.8%)	7 (3.1%)	10
DOI Did Not Record Fees on Applications (not included in the overall discrepancy rate)	24 (6.6%)	5 (2.2%)	29
TOTAL FILES IN SAMPLE	363 (100%)	225 (100%)	588

Source: Created by legislative auditor's staff using data calculated from information in DOI licensing files and on DOI reciprocal fee lists.

Louisiana's initial license fee includes the initial company appointment fee. As can be seen from Exhibit 4-4, 38 applicants in 1998 and 1999 remitted additional company appointment fees unnecessarily. The reciprocal fee lists used by DOI and sent to companies and agents did not state that the initial company appointment fee is included in Louisiana's initial license fee. Therefore, the agents in other states may not have realized they did not need to pay an additional amount for their company appointments. This may be the reason these 38 applicants paid additional company appointment fees unnecessarily.

Also, if an applicant has more than one company appointment at the time he or she applies for a license, the applicant must pay an additional company appointment fee for each extra appointment. This is because Louisiana's initial license fee only includes one company appointment fee. However, we found nine instances in 1998 and 1999 where applicants did not pay for additional company appointments when they should have.

In addition, we found 75 applicants who paid more than the amounts on the reciprocal fee lists in 1998 and 1999. The Agent Licensing Division did not issue refunds for these applicants because DOI does not generally refund overpayments. The lack of a refund policy is discussed later in this chapter.

We also found that 16 nonresident applicants did not pay the full amounts on the reciprocal fee lists for their Louisiana licenses in 1998 and 1999. These cases may have been caused by clerical errors that resulted in the applications being processed without the proper fees.

In addition, we noted two problems with the way the Statistics Division recorded amounts paid on the faces of the applications. These problems did not affect the amount of reciprocal fees collected, but they did cause problems in tracking individual agents' payments.

The first problem is that on 10 applications, Statistics Division staff recorded very large payments. DOI personnel told us that this occurred because when a company sends in one check for several applicants, the Statistics Division staff writes the total amount of the check on the top application and leaves the others blank. This practice creates the appearance that the other applicants have not remitted their license fees. In addition, since Statistics staff classify the total amount paid under the company number instead of the individual applicants' numbers, there is no way to determine if the individual applicants have paid their license fees.

Reviewing the individual applications will not help in this situation because Statistics staff only write an amount on the first application and not on the others.

The second problem we noted is that there were 29 applications in 1998 and 1999 where the Statistics Division had not recorded the amount of reciprocal license fees paid, as required. DOI staff stated that these were probably applications that came in with a lump-sum payment and were underneath the top application on which they wrote the full dollar amount paid.

Finally, as was the case in other areas of this audit, we were unable to locate several files for this aspect of our work. In total, we could not find 65 of the 1998 sample files (17.9%) and 39 files of the 1999 sample files (17.3%). We replaced these unlocated files with other files so that we could complete our work. However, the inability to locate files was a problem consistent throughout the audit. As previously discussed, file maintenance is an area that needs to be addressed by the department.

Recommendations

- 4.4 DOI should only collect reciprocal fees that are in accordance with the reciprocal fee list. Assuming that the amounts on the fee lists are accurately calculated, this will ensure that DOI collects proper amounts.**
- 4.5 DOI should amend its reciprocal fee list, which is sent to companies and agents, to clearly show that Louisiana's initial license fee includes one company appointment fee. Doing this will help ensure that nonresident applicants do not unknowingly pay the initial appointment fee twice.**
- 4.6 DOI should ensure that its new computer system will allow all payments to be traced to individual agents. The current system does not provide a method for tracing payments back to individual agents if the fees are not written on the applications.**

DOI Seldom Accepted Renewal Fees That Were Different From Fees on Reciprocal Fee Lists in 1998 and 1999

DOI collected reciprocal fees other than those on the reciprocal fee lists only 0.4% of the time for nonresident agents renewing their licenses in 1998 and only 0.6% of the time for nonresident agents and brokers renewing their licenses in 1999. DOI uses the reciprocal fee lists to preprint renewal applications that show the fees to be collected. This may be why we did not find significant discrepancies with DOI collecting amounts other than those on its reciprocal fee lists for renewal fees of nonresident agents and brokers.

However, we did find several cases where DOI allowed nonresidents to reinstate their expired licenses using an incorrect form. Agents reinstating their licenses must submit reinstatement forms and pay the renewal fee, company appointment fee, and late fee. We found that 12 nonresidents reinstated their licenses using new license application forms rather than the reinstatement forms. Accepting the wrong application forms causes the following problems:

1. The new license application form does not include a section to record a license number. Therefore, when the Statistics Division receives a payment from an agent or broker, the associated fee is not classified under the agent or broker's license number. Instead, it is classified under the company appointment. Therefore, it appears that there is no license fee associated with this agent or broker.
2. Reinstating agents who use the new license application form may remit the new license fee instead of the reinstatement fee. The new license fee is less than the reinstatement fee. Therefore, this could result in DOI not collecting all revenue it is due. We found that DOI accepted the new license fee for seven agents who reinstated their licenses during the time period we reviewed.

Recommendation

- 4.7 DOI should stop accepting new license forms from agents wishing to reinstate their licenses and require all such agents to use the reinstatement form instead. Accepting the wrong form can result in incorrect data being collected on these applicants as well as incorrect fees being collected.**

DOI Calculated Some Amounts on Reciprocal Fee Lists Incorrectly

We also found that some of DOI's calculations on its reciprocal fee lists were inaccurate. To test the accuracy of DOI's calculations, we calculated the amounts that DOI should have charged residents of 15 other states applying for Louisiana licenses in 1997, 1998, and 1999. Our calculations differed from the fees on DOI's reciprocal fee lists for several of these states in each of the three years. Ensuring that the correct amounts are on the reciprocal fee list is important because DOI uses the fee list to determine how much to assess nonresident applicants who wish to obtain Louisiana licenses. If DOI's fee lists are incorrect, it means that nonresidents will be assessed the wrong amounts for their Louisiana licenses.

We selected the 15 states that had the highest number of residents licensed in Louisiana. We used the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements, the Internet, and direct contact with each state to determine what the correct amount of reciprocal fees should be for 1997, 1998, and 1999. We found that the 1997 fee list contained errors for 13 of the 15 states (86.7%). The 1998 fee list contained errors for eight of the 15 states (53.3%). The 1999 fee list contained errors for eight of the 15 states (53.3%), as well. Therefore, we concluded that DOI's reciprocal fee lists contained many errors. Exhibit 4-5 shows our calculations as compared to the department's for Illinois' reciprocal fees for 1997.

Exhibit 4-5
OLA Calculations of 1997 Reciprocal Fees for Illinois
Compared to DOI's Calculations

Type of License	OLA Calculations	DOI Fee List	Difference Over (Under)
L/H New	\$160.00	\$35.00	\$125.00
P/C New	\$160.00	\$35.00	\$125.00
L/H Renewal	\$150.00	\$125.00	\$25.00
P/C Renewal	\$150.00	\$125.00	\$25.00
Appointment	\$10.00	\$10.00	—

Source: Created by legislative auditor's staff using data received from DOI, the NAIC, the Internet, and the Illinois Insurance Department.

Appendix K shows our calculations of reciprocal fees as compared to DOI's calculations for the three-year time period for all 15 states we tested.

In doing our work, we found that the NAIC Guide was difficult to understand and, in many cases, contained incorrect information. This may be why DOI incorrectly calculated the amounts of reciprocal fees that it placed on its reciprocal fee lists.

Recommendations

- 4.8** DOI should supplement its review of the NAIC Guide with direct communication with other states and territories when calculating the reciprocal fees to place on its reciprocal fee list. DOI should do this for all states and territories on the fee list, not just the 15 states we reviewed. The states and territories should only have to be contacted initially in order to learn how to correctly interpret the NAIC Guide for each state and territory.
- 4.9** DOI should encourage the NAIC to develop a template to collect fee data from all states and territories for the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements.

DOI Did Not Update Reciprocal Fee Lists Timely

We also found that DOI did not update the reciprocal fee lists in a timely manner. For instance, for over eight months in 1998, DOI used the amounts from the 1997 fee list because the department did not update the fee list until September 21, 1998. For four months in 1999, DOI used amounts from the 1998 fee list because the department did not update the fee list until May 1, 1999.

We approximated the impact of DOI's inaccurate and untimely calculations of reciprocal fees for new licenses issued to nonresidents in 1998. For the 15 states we tested, our best estimate is that DOI overcharged applicants from these states \$13,642 and undercharged applicants \$4,449. Since these figures are only for 15 states, the total impact for all reciprocal states may be much greater. We made the following assumptions in generating these estimates:

- DOI used one fee list from January 1, 1998, through December 31, 1998 (the list generated on 9/21/98 from the 1998 NAIC Guide).
- Applicants paid the amounts stated on the fee lists (however, our previous work shows that applicants did not pay the amounts on the fee lists over 20% of the time).

We also approximated the fiscal impact for nonresident licenses renewed in 1998. We calculated the difference that using accurate and timely updated fee lists would have had on fees collected from agents in four states: Alabama, Arkansas, California, and Mississippi. For example, 131 agents from Alabama renewed their Louisiana licenses in 1998. DOI charged each of these agents except one a \$20 reciprocal renewal fee; for the other agent, DOI charged \$25. However, DOI should have charged each agent \$40. Therefore, DOI did not collect \$2,615 that was due from agents in Alabama in 1998. Our best estimate is that DOI undercharged renewing agents from these four states almost \$25,000 in 1998. Because we only estimated the impact for four states, it is possible that the impact for all states may be much greater than this figure.

During our Internet research, we also noticed that two other states, Iowa and New York, were incorrectly charging Louisiana residents for agent licenses in their states. Both of these states were overcharging Louisiana residents. The fact that this occurred

may mean that other states also have difficulty in interpreting the NAIC Guide.

Recommendations

- 4.10** DOI should implement a policy to update its reciprocal fee list as soon as the department receives the NAIC Guide each year. Timely updates of the reciprocal fee list will help ensure that nonresidents who apply for new or renewal Louisiana licenses will be charged the correct amounts.
- 4.11** DOI should contact Iowa and New York, as well as other states that have incorrect reciprocal fees on their fee lists for Louisiana, and get the errors corrected. Doing this will ensure that Louisiana residents are not overcharged for reciprocal fees in other states.

Agent Licensing Division Lacks Policy on Refunding Overpayments

Agent Licensing Division Has No Formal Refund Policy

R.S. 22:1114(A)(1)(a) says that all license applications should be accompanied with the proper fees and that no refunds will be given. However, the Agent Licensing Division does not have a formal, written policy on how to handle refunds. As a result, there is a risk that DOI may not issue refunds consistently for all agents who make overpayments. In addition, if amounts paid mistakenly to the department are not refunded, it may mean that DOI is collecting money that is not due to the department.

The DOI Policy and Procedures Manual does not contain any information regarding a refund policy. Since DOI has no written policy on this issue, we asked DOI staff members how they handle refunds of overpayments. Some staff told us that refunds are only issued if the company or agent requests a refund. Others said that all overpayments should be refunded. DOI's Executive Counsel said that DOI interprets R.S. 22:1114(A)(1)(a) as meaning that *proper* fees, as listed in R.S. 22:1078, will not be refunded. However, this interpretation does not address how to handle improper fees, such as overpayments. After we brought this issue to the attention of department officials, the Director of Licensing

sent an e-mail message to all licensing staff handling refunds advising that the current policy is to refund all overpayments.

Exhibit 4-6 shows how much money DOI should have refunded in 1998 and 1999 for the samples we reviewed if the e-mail directive had been in effect at those times. These figures relate to the new and renewal samples we reviewed for our work on reciprocal fees. During our review, we did not find any evidence that these overpayments had been refunded.

Exhibit 4-6
Overpayments Not Refunded
1998 and 1999 New Issues and Renewals
Department of Insurance

Year	Sample	Amount That Should Have Been Refunded
1998	Nonresident reciprocal fees for new issues (363 applications)	\$1,955*
1999	Nonresident reciprocal fees for new issues (225 applications)	\$1,167*
1998 and 1999	Nonresident reciprocal fees for renewals (whole population)	\$285*
TOTALS		\$3,407*

*These figures are based solely on the samples we reviewed. The amounts could be significantly larger if calculated for the entire population of applications processed.

Source: Prepared by legislative auditor's staff using information collected during our fieldwork on reciprocal fees from DOI files.

The amounts for 1998 and 1999 new issues cannot be statistically applied to the entire population of new licenses issued. These amounts only apply to the files we reviewed in our samples (588 total files in the two years). The amount for renewals is for all renewals received in 1998 and 1999. Therefore, there is no need to project our calculations to the entire population of renewals. The reason that the refund amount for renewals (\$285) is less than the refund amounts for the new issues (\$1,955 and \$1,167) may be because the fee amount is preprinted on the renewal application forms.

Recommendation

- 4.12 The department should ensure that the policy contained in the Director of Licensing’s e-mail message is implemented and made a part of the division’s formal policy manual.**

Revenues Not Always Classified Correctly

Statistics Division Misclassified Several Revenues in 1998 and 1999

The Statistics Division is responsible for classifying certain revenue received by the department into the proper accounting classifications. Staff in this division classify licensing revenue into two categories: (1) license fees and (2) other fees and penalties. We found 49 instances in 1998 and eight instances in 1999 where other fees and penalties were classified as renewal fees. One reason that Statistics personnel may have misclassified these revenues is that they may not have known the itemization when they classified the revenues. When Statistics staff do not correctly classify fees, it results in incorrect totals for the various types of revenue collected.

For example, assume that an agent remitted a \$50 check with his renewal application and that the check was intended to cover the \$20 renewal fee (which is printed on the application submitted with the check), as well as a \$25 late penalty, and a \$5 duplicate license fee. Staff in the Statistics Division would be able to tell that \$20 of the \$50 was for the renewal fee, but they would not know what the additional \$30 was for. Therefore, they would classify the entire \$50 as a license fee, even though the late penalty and duplicate license fee should have been classified as “other fees and penalties.”

We discussed this situation with the director of the Statistics Division. She stated that the Agent Licensing Division is responsible for verifying the accuracy of the classified revenue and notifying the Statistics Division if the revenue is classified wrong. However, when we spoke with Agent Licensing personnel, they stated that they are not responsible for verifying whether Statistics classified revenue correctly. Since no one is verifying that classifications are correct, the situation goes unchecked.

Another problem stems from the Statistics personnel's inability to record revenue for new licenses under individual license numbers. This limitation is inherent in the current computer system because the applicants do not have license numbers when the Statistics staff classifies the revenue. Therefore, the Statistics staff must classify the revenue under the company who appoints the new licensee instead. Also, when Statistics personnel classify payments, they write the payment amounts and classification numbers on the applications. It is not possible to trace the payments back to the individual applicants without pulling the files and checking the actual applications.

As previously mentioned, according to the policy and procedures manual, the Statistics Division is responsible for classifying certain revenue, including licensing revenue. This responsibility implies that the Statistics Division should classify revenues correctly. We did not find any documentation in DOI's policy and procedures manual that says that the Agent Licensing Division is responsible for verifying the accuracy of the Statistics Divisions' classifications. Therefore, supervisors in the Statistics Division should verify the classifications before forwarding licensing documentation to the Licensing Division.

The classification problems we noted appear to result from an inadequate computer system, clerical errors, and insufficient training and supervision. The current computer system is the cause of many of the classification problems we noted. These problems range from the impossibility of tracing payments of license fees to individual applications to errors made because the proper input controls have not been implemented in the computer system. In addition, we noted many clerical errors on the part of the Statistics Division staff. These errors may point to a need for additional training and on how to classify revenues and increased supervisory reviews of the staff's classification work.

Recommendations

- 4.13 The Statistics Division should develop controls to ensure that the classifications its staff makes are correct before forwarding licensing documentation to the Licensing Division for processing. This can be accomplished through increased training and supervisory reviews. Classification errors result in inaccurate totals of the various fees collected.**

- 4.14 DOI should consider implementing computer controls to assist Statistics personnel in determining the proper fee classifications and in using the reciprocal fee list. One such control is where the employee would enter the type of fee, the resident state, and the date. The computer would then generate the correct fee amount. The employee would enter the amount paid, and the computer would indicate whether the amount was correct or not. This control would help ensure accuracy in the classification of fees and would provide guidance for the Statistics employees on additional steps to be taken.**

Invalid Address Fees Assessed Correctly

DOI Correctly Assessed Fees for Invalid Addresses in 1998 and 1999

R.S. 22:1118 states that any licensed agent, broker, or solicitor who fails to notify DOI of an address change within 10 days of the alteration must pay a \$50 penalty fee. We found that DOI correctly assessed invalid address fees from January 1, 1998, to May 6, 1999. Therefore, the department was successful in collecting invalid address fees from agents, brokers, and solicitors when it should have.

We examined a statistically valid random sample of 40 files of agents, brokers, and solicitors for situations where invalid address fees should have been charged but were not. We also checked for situations in which agents, brokers, and solicitors were allowed to renew their licenses without paying outstanding invalid address fees. We found that invalid address fees were properly charged in all of the cases we reviewed. We also found that all agents, brokers, and solicitors in our sample with outstanding invalid address fees paid these outstanding balances before being allowed to renew their licenses. Since our sample was statistically valid and random, we can say that we are 90% confident that within an error rate of +/-6%, DOI correctly handled the assessment of invalid address penalty fees for all cases in 1998 and 1999.

Appendix A
Glossary of Terms

Appendix A: Glossary of Terms

Agent - A person appointed by an insurer to solicit applications for an insurance policy or to negotiate a policy of insurance on the insurer's behalf

Broker - An individual, partnership, or corporation that, for compensation, acts or aids in any manner in negotiating contracts for insurance, or placing risks or effecting insurance for a party other than himself or itself

Certification Letter - A letter from an applicant's resident state insurance department that is required for nonresident applicants. This letter attests that the nonresident is currently licensed and in good standing in that state.

Company Appointment - Licensed individuals must be appointed by companies before they can transact insurance on behalf of the companies

Continuing Education Exemption - Renewal applicants may be exempt from fulfilling continuing education requirements if they meet any of the following criteria:

1. The applicant is a person 65 years and older with 15 years of insurance experience and who either:
 - Is no longer actively engaged in the insurance business and who is receiving social security benefits or
 - Is actively engaged in the insurance business and who represents or operates through a Louisiana insurer
2. The applicant is a legislator who is currently serving in the legislature
3. The applicant is a nonresident and has complied with the continuing education requirements of his resident state
4. The applicant is licensed in any of the following insurance lines:
 - Industrial Fire
 - Industrial Fire and Health
 - Credit Life
 - Credit Health and Accident
 - Credit Property
 - Title
 - Travel
 - Baggage
 - Auto Club
 - Service or Burial

National Association of Insurance Commissioners (NAIC) - An organization consisting of insurance regulators from each state. Insurance regulators created the NAIC in 1871 to address the need to coordinate regulation of multi-state insurers. The NAIC develops model laws for states to use as a blueprint for creating uniform insurance laws.

NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements - A guide produced by the NAIC that includes, among other things, licensing and renewal fees for all states and territories

Reciprocal Fee - License fee charged to nonresidents that consist of either the fee from the applicants' resident states or Louisiana's fee, whichever is higher. DOI compiles reciprocal fees on a reciprocal fee list using the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements.

Reinstatement - If a license has expired, the applicant must apply to reinstate the license. Applicants must submit a reinstatement form and include the proper fees (renewal fee, company appointment fee, and late fee).

RIRS Database - NAIC's voluntary national database where states report regulatory actions on licensed individuals and companies

Solicitor - An individual authorized by a licensed insurance agent or broker to solicit contracts of property and casualty insurance solely on behalf of the agent or broker

Surplus Lines Broker - A person who solicits, negotiates, or procures insurance policies from insurers who are not licensed to do business in this state because the policy in question cannot be procured from insurers who are licensed to do business in this state

Appendix B

Department of Insurance Licensing Requirements

Appendix B: Department of Insurance Licensing Requirements

General Requirements

- Applicant must be at least 18 years of age.
- Applicant must reside in Louisiana or maintain a principal place of business in Louisiana.
- Applicant must complete Form 1114A.
- Applicant must successfully complete a pre-licensing education program (when required).
 - L/H applicants are required to take 32 hours of prelicensing courses.
 - P/C applicants are required to take 32 hours of prelicensing courses.
- Applicant must mail application and fees to contractor for licenses that require examination.
- Applicant must mail application and fees to DOI for licenses that do not require examination.
- Applicant must submit the appropriate forms and fees for the desired license.
- Applicant must pass an examination for certain lines of insurance (see below).

Examination Requirements for Resident Licenses

(Applicants must pass an examination to become licensed in the following lines of insurance. The examinations are administered by a contractor.)

- Life
- Health and Accident
- Life, Health, and Accident
- Fidelity and Surety
- Title
- Property and Casualty
- Property
- Casualty
- Vehicle Physical Damage
- Industrial Fire
- Bail Bond

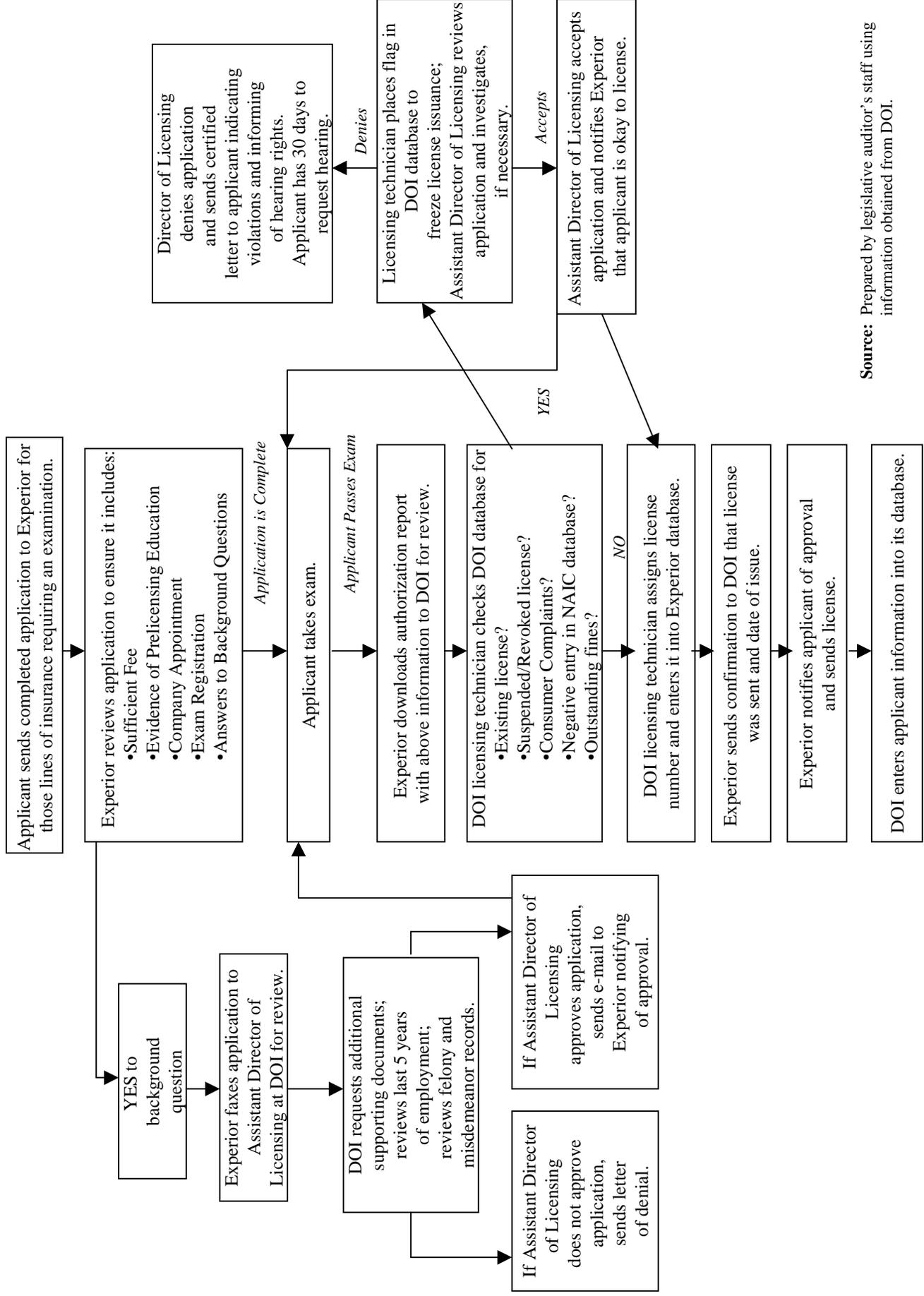
Licenses Not Requiring an Examination (DOI processes these applications.)

- All nonresident licenses
- These resident licenses:
 - Credit Property
 - Baggage
 - Credit Life, Health, and Accident
 - Credit Life
 - Credit Health and Accident
 - Variable Annuity Contracts
 - Industrial Life, Health, and Accident
 - Travel (Health and Accident)
 - Auto Service Club

Appendix C

Flowchart for Initial Agent
Licenses Processed by
Experior Assessments, LLC

Appendix C: Flowchart for Initial Agent Licenses Processed by Experior Assessments, LLC

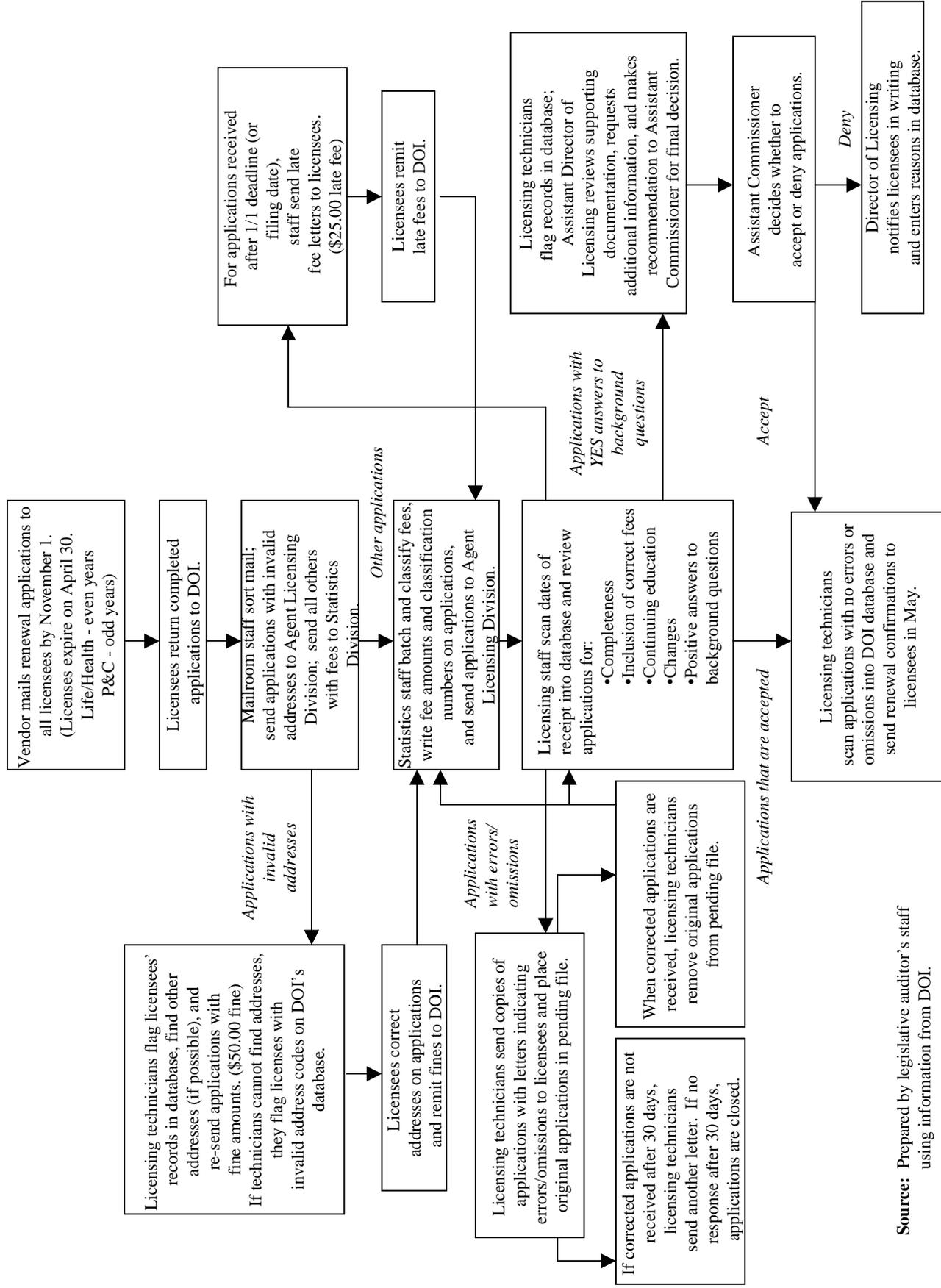


Source: Prepared by legislative auditor's staff using information obtained from DOI.

Appendix D

Flowchart for Agent Licenses Renewed by Department of Insurance

Appendix D: Flowchart for Agent Licenses Renewed by Department of Insurance



Source: Prepared by legislative auditor's staff using information from DOI.

Appendix E

Complaint Reason Codes and Complaint Disposition Codes

Appendix E: Complaint Reason Codes and Complaint Disposition Codes

Reason Codes

0099 - Unknown
1001 - UW/Premium and Rating
1002 - UW/Refuse to Insure
1003 - UW/Cancel/Non-Renew
1004 - UW/Delays
1005 - UW/Endorsement/Rider
1006 - UW/Rescind/Reform
1007 - UW/Unfair Discrimination
1090 - UW/Other
1101 - M/Agent Handling
1102 - M/Premium Misquote
1103 - M/Misappropriation
1104 - M/Bank Sales
1105 - M/Misleading Advertising
1106 - M/Misrepresentation
1107 - M/Not Lied/Unauthorized
1108 - M/Policy Delivery
1109 - M/Twisting
1110 - M/High Pressure Tactics
1111 - M/Cold Lead Advertising
1112 - M/Duplicate Coverage
1113 - M/Rebating
1114 - M/Misstatement on Application
1115 - M/Fraud/Forgery

Reason Codes

1201 - CH/Unsatisfactory Settle/Offer
1202 - CH/Denial of Claim
1203 - CH/Coordination of Benefits
1204 - CH/Delays
1205 - CH/Usual and Customary
1206 - CH/Medical Necessity
1207 - CH/Post Claim Underwriting
1208 - CH/PCP Referral
1209 - CH/Precert/Utilization Review
1210 - CH/Experimental
1212 - CH/Industrial Upgrade Refusal
1290 - CH/Other
1301 - PS/Premium Notice/Bill
1302 - PS/Rate Adjustment
1303 - PS/Cash Surrender Value
1304 - PS/Delays/No Response
1305 - PS/Refunds
1306 - PS/Abusive Service
1307 - PS/Access to Care
1308 - PS/Quality of Care
1390 - PS/Other
1398 - DOI Investigation
1399 - Unfair Trade Practice

UW = Underwriting
M = Marketing

CH = Claims Handling
PS = Policy Services

Disposition Codes

0099 - R/Unknown
 0100 - R/Other
 1401 - R/Policy Issued/Restored
 1402 - R/Additional Payment
 1403 - R/Refund
 1404 - R/Coverage Extended
 1405 - R/Claim Reopened
 1406 - R/Claim Settled
 1407 - R/No Action Requested
 1408 - R/Referred to Proper Agency
 1490 - R/Other
 1501 - NR/Question of Fact or Law
 1502 - NR/Company or Agent Position Upheld
 1503 - NR/No Jurisdiction
 1504 - NR/Insufficient Information
 1505 - NR/Claim Denied
 1506 - NR/Rescind or Reform
 1507 - NR/Refer to Market Conduct
 1508 - NR/Refer to Fraud
 1509 - NR/Refer to SHIIP¹
 1590 - NR/Other

Disposition Codes

1601 - DA/Suspension
 1602 - DA/Revocation
 1603 - DA/Fine
 1604 - DA/Flag
 1605 - DA/Cease and Desist Order
 1606 - DA/Injunction
 1607 - DA/Conservation or Rehabilitation or Liquidation
 1608 - DA/Company or Agent Compliance (with an order or statute)
 1609 - DA/Hearing Request
 1690 - DA/Other
 1699 - DA/Invalid Complaint
 1701 - SH/Referral to Other Authority (Medicare, etc.)
 1702 - SH/Appeal Hearing

R = Resolved
 NR = Not Resolved

DA = Disciplinary Action
 SH = SHIIP

¹ Senior Health Insurance Information Program

Appendix F

Survey on Agent Licensing Process and Summary of Responses

Appendix F: Survey on Agent Licensing Process and Summary of Responses

Please complete this survey by writing your responses in the space provided or circling the appropriate response. If you need more space, feel free to attach additional responses to the survey. **Please enclose copies of policies, procedures, or statutes that are applicable to each question.**

Initial Agent Licensing Process

1. Does your state's agent licensing process require any of the following:
 - a. Prelicensing education? Yes No
If yes, how many hours and in what subject area(s)? _____
 - b. Examination? Yes No
 - i. If yes, what lines? _____
 - ii. If yes, do you contract with a testing service? Yes No N/A
 - iii. If yes, which one? _____
 - c. Background checks? Yes No
 - d. Adherence to an Agent's Code of Ethics? Yes No
2. Do you have a policy or statute that requires that licenses be issued within a certain amount of time after receipt of the application? Yes No
If yes, what is this timeframe? _____
3. In general, how long does it take from receipt of the application in your office to issuance of the license to the agent?

License Renewals

1. How often must agent licenses be renewed? _____
2. How do you ensure that agents renew?
 - a. Send out reminder letters
 - b. Track on database
 - c. Other (please explain) _____
3. What requirements must an agent meet in order to renew a license?
 - a. Continuing Education Yes No
If yes, how many hours and in what subject area(s)? _____
 - b. Other (please specify) _____

Complaints

1. Can validated complaints against agents result in suspension or revocation of their license?
Yes No

If yes, how many and/or what type of validated complaints would cause suspension or revocation?

2. What other types of actions can you initiate against agents for whom you have validated complaints?

a. Disciplinary reprimand _____

b. Requirement for further education courses _____

c. Fines _____

d. Other (please specify) _____

3. Does your office prioritize complaints against agents based on severity and address the most severe ones first? Yes No

If yes, what are the various priority rankings you use? _____

4. Does your office require that complaints against agents be resolved within a certain amount of time after they are received? Yes No

If yes, what is this time frame? _____

5. Do you record complaints against agents in a central log or database when they are received?

a. If yes, do you record the date each complaint was received? Yes No

b. If yes, do you record the date each complaint was resolved? Yes No

c. If yes, do you record the final disposition of each complaint? Yes No

General

1. What controls do you have to prevent unlicensed persons from selling insurance?

2. Do you have any innovative practices that make your licensing and renewal processes more efficient or effective? If yes, please elaborate.

.....
Would you like to receive a complimentary copy of our audit report?

_____ YES _____ NO

DON'T FORGET TO ENCLOSE COPIES OF SUPPORTING DOCUMENTATION FOR EACH QUESTION (POLICIES, PROCEDURES, LAWS, ETC.)

THANK YOU!

Licensing Survey Results							
Licensing Process							
State	Pre-licensing Education Required (Q1a)	Number of Hours	Subject Area	Examination Required (Q1b)	Subject Area	Background Checks Required (Q1c)	Code of Ethics (Q1d)
Arizona	No	N/A	N/A	Yes	L; P/C	Yes	No
California	Yes	40	L; C; Fire	Yes	L; C; Fire	Yes	No
Colorado	Yes	50	L/H; P/C	Yes	L/H; P/C	No	Yes
Florida	Yes	Not given	L/H; P/C	Yes	L/H; P/C	Yes	No answer
Iowa	No	N/A	N/A	Yes	L/H; Personal	No answer	No answer
Maine	Yes	16	L/H; P/C	Yes	L/H; P/C	Yes	No
Mississippi	Yes	40; 24	L/H; P/C	Yes	L/H; P/C	No answer	No answer
Missouri	Yes	15; 20	L/H; P/C	Yes	No answer	No	Yes
Nebraska	Yes	20; 40	L/H; P/C	Yes	L/H; P/C	No answer	Yes
New York	Yes	40; 90	L/A; P/C	Yes	L/H; P/C	Yes	No
North Dakota	Yes	Not Given	Not Given	Yes	All lines	Yes	No
South Dakota	No	N/A	N/A	Yes	All lines	No	No
Texas	Yes	40	L/H/A	Yes	L/H	Yes	Yes
Virginia	Yes	45	L/H; P/C	Yes	L/H; P/C	No	No
Wisconsin	Yes	20	L/H; P/C	Yes	L/H; P/C	Yes	Yes

Licensing Process			
	Policy on License Issuance (Q2)	Timeframe According to Policy	Actual Time of Issuance from Receipt of Application (Q3)
Arizona	Yes	Within 180 days	5 - 20 days
California	Yes	4 - 6 weeks	4 - 6 weeks
Colorado	No	N/A	1 day or less
Florida	Yes	Within 90 days	14 - 90 days
Iowa	No	N/A	1 - 2 days
Maine	No	N/A	10 days
Mississippi	No answer	N/A	7 - 10 days
Missouri	No	N/A	10 - 15 days
Nebraska	No	N/A	1 - 2 days
New York	No	N/A	10 - 14 days
North Dakota	No	N/A	5 - 10 days
South Dakota	Yes	Within 30 days	Issued the same day
Texas	Yes	Within 15 days	10 - 15 days
Virginia	No	N/A	5 - 10 days
Wisconsin	Yes	Within 60 days	5 days - residents; 10 - 20 days non-residents

P/C means property and casualty.

L/H means life and health.

Renewal Process			
	Frequency of Renewal (Q1)	Renewal Verification Method (Q2)	Continuing Education Requirements (Q3a, 3b)
Arizona	Biennial	Send renewal notice and renewal application	20 hrs - single line/30 hrs - multi-line
California	Biennial	Send renewal notice; track on database	30 hours
Colorado	Biennial	Send renewal notice; track on database	Answered "yes," but did not provide number of hours
Florida	Perpetual	Send renewal notice; track on database	20 hrs - if 6 or more yrs. experience/28 hrs if less than 6 yrs.
Iowa	Triennial	Send notification letter	36 hrs
Maine	Perpetual	No answer	30 hrs
Mississippi	Annual	No answer	25 hrs - L/H (1 st 4 yrs)/12 hrs - P/C
Missouri	Biennial	Send notification letter; track on database	10 hrs - L, H, P, C; 16 hrs - for all four
Nebraska	Biennial	Send renewal notice	6 hrs - L/H; 24 hrs- P/C
New York	Biennial	Send renewal application	15 hrs - depending on lines
North Dakota	Perpetual	N/A	15 hrs - L, H, P/C
South Dakota	Annual	Track on database	10 hrs - biennially
Texas	Biennial	Send notification letter; track on database	30 hrs - biennially
Virginia	Perpetual	No answer	16 hrs - single line; 24 hrs - multi-line
Wisconsin	Perpetual	N/A	24 hrs - biennially

Complaints						
	Used to Determine Suspension/Revocation (Q1)	Number/Types of Complaints that Would Cause Suspension/Revocation	Other Possible Actions (Q2)	Ranked/Priority (Q3)	Timeframe (Q4)	Record Dates: Received, Resolved, Disposition (Q5)
Arizona	Yes	Violation of specific statutes	Civil penalties	No; N/A	No	Yes
California	Yes	Depends on nature of complaint	Retake licensing examination	Yes; no answer	No answer	No answer
Colorado	Yes	Theft/market violations	Reprimand; fine	No; N/A	No	Yes
Florida	Yes	Misappropriation of funds/ depends on nature of complaint	Reprimand; fine; restitution; education	Yes; 1, 2, 3, etc.	Yes	Yes
Iowa	Yes	Felony conviction/ embezzlement/ falsifying documents	Fine; education; probation	Yes; no answer	No answer	Yes
Maine	Yes	Depends on violation	Reprimand; fine; education	Yes; greatest harm to public - 1 st	No	Yes
Mississippi	No answer	Violating specific statutes	Reprimand; fine; education	Yes; misappropriation of funds	No answer	No answer
Missouri	Yes	Laws provide grounds for discipline	Reprimand; fine	No; N/A	No	Yes
Nebraska	Yes	Depends on violation	Fine; education; warning	Yes; done informally	No	Yes
New York	Yes	No specific number or action/ untrustworthy	Reprimand; fine	No; N/A	No	Yes
North Dakota	Yes	Depends on nature/ severity	Reprimand; fine; probation, suspension, or revocation	Yes; no answer	Yes	Yes
South Dakota	Yes	Felony convictions/theft of premiums	Reprimand; fine; education	No; N/A	No	Yes
Texas	Yes	No specific number/misappropriation, theft, felony, etc.	Reprimand; fine; deny license	Yes; no specific system	No	Yes
Virginia	Yes	No appointment/ noncompliance	Reprimand; fine; education; deny license	No; N/A	No	Yes
Wisconsin	Yes	Misappropriation/ falsifying applications	Reprimand; fine; suspension	Yes; greatest harm to public - 1 st	No	Yes

General		
	Controls to Prevent Unlicensed Persons from Selling Insurance (Q1)	Innovative Practices (Q2)
Arizona	Statutes	No answer
California	No answer	COSMOS - new application processing system
Colorado	Use complaints to monitor agent activity	Contract testing service
Florida	Verify license status; issue cease and desist orders; code violations	Contract testing service
Iowa	Exam process of companies	Placed bar code on renewal application; agents may renew by telephone
Maine	No answer	No answer
Mississippi	State law requires verification of all agent licenses by companies.	No answer
Missouri	No internal controls; rely on people to provide information	No answer
Nebraska	Statutes	No answer
New York	Statutes; Fraud Unit	Will scan applications
North Dakota	Statutes; education forms	Proactive approach to consumer protection
South Dakota	Insurance companies cannot receive business from unlicensed agents	NAIC Agent Licensing Working Group
Texas	Statutes	Placed bar code on renewal application; appointments are registered by optical scanner
Virginia	Statutes	"Lock box"- direct deposit of renewal fees
Wisconsin	Must be appointed	Scannable coupon for regular fee applications
Source: Compiled by legislative auditor's staff.		

Appendix G

Summary of State Procedures for Background Investigations

Appendix G: Summary of State Procedures for Background Investigations

State	Department Conducts Investigations	Department May/May Not Conduct Investigations; Applicants Must Consent to Undergoing Investigation	Applicants Must Submit Criminal History Reports	Insurance Companies Conduct Investigations	Insurance Companies Do Not Conduct Investigations But Are Held Accountable for Agents' Actions	Insurance Companies Endorse Applicants Without Investigations	No Investigation
Alabama				X			
Alaska		X					
Arizona	X (residents only)						
Arkansas				X			
California	X						
Colorado							X
Connecticut						X	
Delaware				X			
District of Columbia			X (residents only)				
Florida				X			
Georgia		X		X			
Hawaii							X
Idaho				X			
Illinois							X
Indiana							X
Iowa						X	
Kansas	X						
Kentucky				X			
Louisiana					X		
Maine					X		
Maryland				X (residents only)			
Massachusetts				X			
Michigan						X	
Minnesota		X					
Mississippi				X			
Missouri							X
Montana					X		
Nebraska							X
Nevada		X					
New Hampshire			X (residents only)			X (nonresidents only)	
New Jersey	X						
New York						X	
North Carolina						X	
North Dakota				X			
Ohio				X			
Oklahoma				X			
Oregon	X						

State	Department Conducts Investigations	Department May/May Not Conduct Investigations; Applicants Must Consent to Undergoing Investigation	Applicants Must Submit Criminal History Reports	Insurance Companies Conduct Investigations	Insurance Companies Do Not Conduct Investigations But Are Held Accountable for Agents' Actions	Insurance Companies Endorse Applicants Without Investigations	No Investigation
Pennsylvania				X			
Rhode Island	X (residents only)						
South Carolina			X (residents only)				
South Dakota						X	
Tennessee						X	
Texas	X						
Utah	X						
Vermont					X		
Virginia			X				
Washington	X						
West Virginia				X			
Wisconsin			X				
Wyoming				X (residents only)			
TOTALS	9	4	5	16	4	8	6

Source: Prepared by legislative auditor's staff using information provided in the *Society of Licensing Administrator's Insurance Licensing Digest*, September 1999.

Appendix H

Letter Sent to Agents to Determine
if They Were Selling Insurance
Without Licenses or Appointments

Appendix H: Letter Sent to Agents to Determine if They Were Selling Insurance Without Licenses or Appointments

December 17, 1999

Dear _____:

The Office of the Legislative Auditor is conducting a performance audit of the Louisiana Department of Insurance. As a part of our audit, we request that you provide the following information. Please answer the question below and sign where indicated to affirm that you have answered truthfully and to the best of your knowledge.

Did you sell insurance in the State of Louisiana during the following time period?

Check one of the following: Yes No

Please print and sign your name and provide your Louisiana agent license number.

(Print Name)

(Signature)

(Louisiana License Number)

If you have any questions, please call Kerry Fitzgerald, Performance Audit Manager, at (225) 339-3842. Please return this form in the enclosed self-addressed stamped envelope by Wednesday, January 5, 2000. Thank you for your cooperation.

Sincerely,

Daniel G. Kyle, CPA, CFE
Legislative Auditor

Source: Prepared by legislative auditor's staff.

Appendix I

Statutes That Require or Allow Suspension or Revocation of Insurance Licenses

Appendix I: Statutes That Require or Allow Suspension or Revocation of Insurance Licenses

Statutes That Require Suspension or Revocation	Description of Statutes
R.S. 22:1113 (C)(1)(a) and (b)	<p>The Department of Insurance shall not grant, renew or permit to continue any license if the license is being or will be used by the applicant or licensee for the purpose of writing controlled business. "Controlled business" shall mean either of the following:</p> <p>(a) Insurance written on the interests of the licensee or those of his immediate family or of his employer.</p> <p>(b) Insurance covering himself or members of his immediate family or a corporation, association or partnership, or the officers, directors, substantial stockholders, partners, or employees of a corporation, association, or partnership, of which he or a member of his immediate family is an officer, director, substantial stockholder, partner, associate or employee.</p>
R.S. 22:1113(D)(1)	No insurer, insurance agent, insurance broker, surplus lines insurance broker or insurance solicitor shall pay, directly or indirectly, any commission, brokerage or other valuable consideration to any person as an insurance agent . . . within the state unless such person holds a valid license as required by law.
R.S. 22:1113(D)(2)	No member of an insurance advisory committee of any state agency, board, commission or of any political subdivision of this state . . . shall split, pass on, or share with any agent, broker or solicitor, or other person who is not a member of his own firm or corporation and is not a member of said insurance advisory committee, all or any portion of the commission derived by such committee from the purchase of insurance by such state agency, board, commission or political subdivision of the state without express authorization by official action of such state agency, board, commission or political subdivision of the state.
R.S. 22:1114(A)	The commissioner of insurance shall not issue, continue, or permit to continue any license of an insurance agent, insurance broker, surplus lines insurance broker, or insurance solicitor except in compliance with the following: (B)(2)(a) – Any insurer lawfully authorized to transact business in this state shall appoint as its agent any person or persons holding a license issued under the provisions of the Part. No solicitation of insurance may be made by any agent prior to notification of the insurer that its appointment has been recorded by the commissioner of insurance.
R.S. 22:1114(F)(1)	Any license issued pursuant to any such application claiming residency for licensing purposes as defined herein shall constitute an election of residency in the state and shall be void if the licensee, while maintaining a resident license, also maintains or submits an application for a license in, or thereafter, claims to be a resident of any other state or other jurisdiction or ceased to be a resident of this state.
R.S. 22:1115(A)(3)(b)	Any license which has been reissued following revocation shall be revoked for a period not to exceed five years upon a second violation by the licensee of any of the provisions of this Section.
R.S. 22:1117(A) and (B)(2)	(A) No insurer, agent, or broker shall pay any money or commission or brokerage, or give or allow any valuable consideration or compensation to any person, partnership, or corporation, not a duly licensed agent, broker, or solicitor as herein licensed, nor to an insurer not licensed to do business in this state, for or because of service rendered or performed in this state in negotiating or effecting a contract of insurance on any property of risks, or insurable interests, or business activities located within or transacted within this state. (B)(2) Any conviction for violation of this Section shall constitute grounds for the immediate suspension or revocation by the commissioner of insurance of the license of such agent, broker, or solicitor to sell insurance, in addition to those grounds set forth in R.S. 22:1115.

Statutes That Allow Suspension or Revocation	Description of Statutes
R.S. 22:1115(A)(1)	<p>A license may be suspended or revoked by the commissioner of insurance if, after notice of hearing as hereafter provided, the commissioner finds any of the following:</p> <ul style="list-style-type: none"> (a) The licensee knowingly makes a materially false statement or omission of material information in the license or renewal application. (b) Any cause for which issuance of the license could have been refused had such cause been known to the commissioner at the time of issuance. (c) The licensee knowingly violates or fails to comply with any insurance laws, or knowingly violates any lawful rule, regulation, or order of the commissioner or a commissioner of another state. (d) The licensee obtains or attempts to obtain any such license through misrepresentation or fraud. (e) The licensee improperly withholds, misappropriates, fails to timely remit premiums and applications, or converts to one's own use any monies belonging to policyholders, insurers, beneficiaries, claimants, or other possessed in the course of the business of insurance. (f) The licensee misrepresents the terms of any actual or proposed insurance contract, binder, rider, or plan. (g) The conviction of the licensee or a plea of nolo contendere of the licensee to any felony, participation in a pretrial diversion program pursuant to a felony charge, or conviction of any misdemeanor involving moral turpitude or public corruption. (h) The licensee violated any unfair trade practice or committed fraud as defined in the Insurance Code. (i) Fraudulent, coercive, or dishonest practices on the part of the licensee, or the applicant has shown himself to be incompetent, untrustworthy, or financially irresponsible. (j) The licensee's license has been suspended or revoked in any other state, province, district, or territory. (k) The licensee forged another person's name to an application for insurance. (l) The licensee cheated on an examination for any insurance license. (m) An agent or broker has employed or has allowed to associate with his business, in any manner, any person who has been convicted of a felony under the laws of this state, the United States, or any foreign country.
R.S. 22:3007(A) and (C)	<ul style="list-style-type: none"> (A) No natural or juridical person shall, within this state, solicit, procure, receive or forward applications for coverage under any self-insurance plan or issue or deliver policies, certificates, schedules of benefits, or other evidence of such coverage or in any manner secure, assist or aid in the placing of any such coverage for any person other than himself, directly or indirectly with any self-insurer not authorized to do business in this state under this Chapter. (C) The commissioner may revoke, suspend, or refuse to renew an agent's, broker's, or solicitor's license, or may levy a fine not to exceed two thousand five hundred dollars against an agent, broker, or solicitor who, after notice and hearing, has been found by the commissioner to have violated the provisions of this Section.
R.S. 22:632	<p>The commissioner of insurance may suspend or revoke the license of any agent issuing or purporting to issue any binder as to any insurer named therein as to which he is not then authorized so to bind.</p>

Source: Prepared by legislative auditor's staff using the Louisiana Statutes Annotated-Revised Statutes.

Appendix J

Example of DOI Reciprocal Fee List

Appendix J: Example of DOI Reciprocal Fee List

LOUISIANA STATE DEPARTMENT OF INSURANCE

RECIPROCAL FEE LIST FOR PROPERTY & CASUALTY AGENTS AS OF 09/18/98

	-----INDIVIDUAL-----				-----PARTNERSHIP-----				-----CORPORATION-----			
	RECP AGR	NEW LICENSE	RENEWAL LICENSE	COMPANY APPOINT	RECP AGR	NEW LICENSE	RENEWAL LICENSE	COMPANY APPOINT	RECP AGR	NEW LICENSE	RENEWAL LICENSE	COMPANY APPOINT
ALASKA	YES	200.00	200.00	10.00	YES	400.00	400.00	10.00	YES	400.00	400.00	10.00
ALABAMA	YES	35.00	35.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
ARKANSAS	YES	60.00	60.00	60.00	YES	100.00	100.00	30.00	YES	100.00	100.00	30.00
AMERICAN SAMOA	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
ARIZONA	YES	49.50	49.50	10.00	YES	49.50	49.50	10.00	YES	49.50	49.50	10.00
CALIFORNIA	YES	112.00	112.00	19.00	YES	112.00	112.00	19.00	YES	112.00	112.00	19.00
CANADA, N BRUNSWICK	YES	50.00	50.00	10.00	YES	50.00	50.00	10.00	YES	50.00	50.00	10.00
CANADA, ONTARIO	YES	36.00	79.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
COLORADO	YES	48.00	20.00	19.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
CONNECTICUT	YES	35.00	20.00	10.00	YES	35.00	20.00	10.00	YES	35.00	20.00	10.00
DISTRICT OF COLUMBIA	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
DELAWARE	YES	35.00	20.00	15.00	YES	35.00	20.00	15.00	YES	35.00	20.00	15.00
FLORIDA	YES	149.00	20.00	30.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
GEORGIA	YES	65.00	50.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
GUAM	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
HAWAII	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
IOWA	YES	90.00	90.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
IDAHO	YES	90.00	90.00	10.00	YES	90.00	90.00	10.00	YES	90.00	90.00	10.00
ILLINOIS	YES	35.00	125.00	10.00	YES	35.00	125.00	10.00	YES	35.00	125.00	10.00
INDIANA	YES	50.00	20.00	10.00	YES	50.00	20.00	10.00	YES	50.00	20.00	10.00
KANSAS	YES	55.00	65.00	10.00	YES	55.00	65.00	10.00	YES	55.00	65.00	10.00
KENTUCKY	YES	50.00	50.00	25.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
MASSACHUSETTS	YES	125.00	125.00	50.00	YES	125.00	125.00	50.00	YES	125.00	125.00	50.00
MARYLAND	YES	35.00	35.00	25.00	YES	35.00	35.00	25.00	YES	35.00	35.00	25.00
MAINE	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
MICHIGAN	YES	35.00	35.00	10.00	YES	35.00	35.00	10.00	YES	35.00	35.00	10.00
MINNESOTA	YES	60.00	60.00	30.00	YES	100.00	120.00	30.00	YES	100.00	120.00	30.00
MISSOURI	YES	35.00	25.00	10.00	YES	100.00	100.00	10.00	YES	100.00	100.00	10.00
MISSISSIPPI	YES	35.00	35.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
MONTANA	YES	115.00	20.00	15.00	YES	115.00	20.00	15.00	YES	115.00	20.00	15.00
NORTH CAROLINA	YES	35.00	20.00	20.00	YES	50.00	50.00	20.00	YES	50.00	50.00	20.00
NORTH DAKOTA	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
NEBRASKA	YES	40.00	80.00	10.00	YES	50.00	50.00	10.00	YES	50.00	50.00	10.00
NEW HAMPSHIRE	YES	55.00	40.00	55.00	YES	40.00	40.00	55.00	YES	40.00	40.00	55.00
NEW JERSEY	YES	335.00	335.00	20.00	YES	335.00	335.00	20.00	YES	335.00	335.00	20.00
NEW MEXICO	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
NEVADA	YES	92.00	92.00	10.00	YES	92.00	92.00	10.00	YES	92.00	92.00	10.00
NEW YORK	YES	56.00	56.00	10.00	YES	56.00	56.00	10.00	YES	56.00	56.00	10.00
OHIO	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
OKLAHOMA	YES	60.00	30.00	20.00	YES	80.00	30.00	20.00	YES	80.00	30.00	20.00
OREGON	YES	60.00	60.00	10.00	YES	60.00	60.00	10.00	YES	60.00	60.00	10.00
PENNSYLVANIA	YES	36.00	20.00	10.00	YES	36.00	20.00	10.00	YES	36.00	20.00	10.00
PUERTO RICO	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
RHODE ISLAND	YES	110.00	110.00	10.00	YES	110.00	110.00	10.00	YES	110.00	110.00	10.00
SOUTH CAROLINA	YES	40.00	40.00	40.00	YES	40.00	40.00	40.00	YES	40.00	40.00	40.00
SOUTH DAKOTA	YES	50.00	50.00	20.00	YES	50.00	50.00	20.00	YES	50.00	50.00	20.00
TENNESSEE	YES	50.00	25.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
TEXAS	YES	50.00	48.00	10.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
UTAH	YES	57.00	35.00	12.00	YES	57.00	35.00	12.00	YES	57.00	35.00	12.00
VIRGINIA	YES	35.00	20.00	10.00	YES	35.00	20.00	10.00	YES	35.00	20.00	10.00
VIRGIN ISLANDS	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
VERMONT	YES	60.00	60.00	60.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
WASHINGTON	YES	75.00	50.00	20.00	YES	75.00	50.00	20.00	YES	75.00	50.00	20.00
WISCONSIN	YES	85.00	30.00	15.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
WEST VIRGINIA	YES	35.00	20.00	25.00	NO	N/A	N/A	N/A	NO	N/A	N/A	N/A
WYOMING	YES	50.00	20.00	10.00	YES	50.00	20.00	10.00	YES	50.00	20.00	10.00

Source: The Agent Licensing Division of the Department of Insurance.

Appendix K

Comparison of Reciprocal Fees Calculated by Office of the Legislative Auditor and Department of Insurance

Appendix K: Comparison of Reciprocal Fees Calculated by Office of the Legislative Auditor and Department of Insurance

Year	ALABAMA	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$70.00	\$50.00	-\$20.00
	P/C New	\$50.00	\$35.00	-\$15.00
	L/H Renewal	\$40.00	\$20.00	-\$20.00
	P/C Renewal	\$40.00	\$35.00	-\$5.00
	Appointment	\$30.00	\$30.00	\$0.00
	Appointment P/C	\$10.00	\$10.00	\$0.00
1998	L/H New	\$70.00	\$90.00	\$20.00
	P/C New	\$50.00	\$90.00	\$40.00
	L/H Renewal	\$40.00	\$60.00	\$20.00
	P/C Renewal	\$40.00	\$60.00	\$20.00
	Appointment	\$30.00	\$10.00	-\$20.00
	Appointment P/C	\$10.00	\$10.00	\$0.00
1999	L/H New	\$70.00	\$90.00	\$20.00
	P/C New	\$50.00	\$90.00	\$40.00
	L/H Renewal	\$40.00	\$60.00	\$20.00
	P/C Renewal	\$40.00	\$60.00	\$20.00
	Appointment	\$30.00	\$10.00	-\$20.00
	Appointment P/C	\$10.00	\$10.00	\$0.00

Year	ARKANSAS	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$130.00	\$35.00	-\$95.00
	P/C New	\$130.00	\$60.00	-\$70.00
	L/H Renewal	\$70.00	\$20.00	-\$50.00
	P/C Renewal	\$70.00	\$60.00	-\$10.00
	Appointment	\$60.00	\$10.00	-\$50.00
	Appointment P/C	\$60.00	\$60.00	\$0.00
1998	L/H New	\$130.00	\$170.00	\$40.00
	P/C New	\$130.00	\$170.00	\$40.00
	L/H Renewal	\$70.00	\$120.00	\$50.00
	P/C Renewal	\$70.00	\$120.00	\$50.00
	Appointment	\$60.00	\$60.00	\$0.00
	Appointment P/C	\$60.00	\$60.00	\$0.00
1999	L/H New	\$130.00	\$170.00	\$40.00
	P/C New	\$130.00	\$170.00	\$40.00
	L/H Renewal	\$70.00	\$120.00	\$50.00
	P/C Renewal	\$70.00	\$120.00	\$50.00
	Appointment	\$60.00	\$60.00	\$0.00
	Appointment P/C	\$60.00	\$60.00	\$0.00

Note: Areas in boldface type highlight differences between Legislative Auditor's calculations and DOI's calculations.

Year	CALIFORNIA	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$131.00	\$106.00	-\$25.00
	P/C New	\$131.00	\$112.00	-\$19.00
	L/H Renewal	\$112.00	\$106.00	-\$6.00
	P/C Renewal	\$112.00	\$112.00	\$0.00
	Appointment	\$19.00	\$19.00	\$0.00
1998	L/H New	\$131.00	\$111.00	-\$20.00
	P/C New	\$131.00	\$131.00	\$0.00
	L/H Renewal	\$112.00	\$92.00	-\$20.00
	P/C Renewal	\$112.00	\$112.00	\$0.00
	Appointment	\$19.00	\$19.00	\$0.00
1999	L/H New	\$131.00	\$112.00	-\$19.00
	P/C New	\$131.00	\$112.00	-\$19.00
	L/H Renewal	\$112.00	\$112.00	\$0.00
	P/C Renewal	\$112.00	\$112.00	\$0.00
	Appointment	\$19.00	\$19.00	\$0.00

Year	FLORIDA	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$85.00	\$55.00	-\$30.00
	P/C New	\$85.00	\$149.00	\$64.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$30.00	\$30.00	\$0.00
1998	L/H New	\$85.00	\$110.00	\$25.00
	P/C New	\$85.00	\$110.00	\$25.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$30.00	\$60.00	\$30.00
1999	L/H New	\$85.00	\$110.00	\$25.00
	P/C New	\$85.00	\$110.00	\$25.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$30.00	\$60.00	\$30.00

Year	GEORGIA	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$125.00	\$65.00	-\$60.00
	P/C New	\$125.00	\$65.00	-\$60.00
	L/H Renewal	\$100.00	\$50.00	-\$50.00
	P/C Renewal	\$100.00	\$50.00	-\$50.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$125.00	\$125.00	\$0.00
	P/C New	\$125.00	\$125.00	\$0.00
	L/H Renewal	\$100.00	\$100.00	\$0.00
	P/C Renewal	\$100.00	\$100.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$125.00	\$125.00	\$0.00
	P/C New	\$125.00	\$125.00	\$0.00
	L/H Renewal	\$100.00	\$100.00	\$0.00
	P/C Renewal	\$100.00	\$100.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year	ILLINOIS	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$160.00	\$35.00	-\$125.00
	P/C New	\$160.00	\$35.00	-\$125.00
	L/H Renewal	\$150.00	\$125.00	-\$25.00
	P/C Renewal	\$150.00	\$125.00	-\$25.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$160.00	\$160.00	\$0.00
	P/C New	\$160.00	\$160.00	\$0.00
	L/H Renewal	\$150.00	\$150.00	\$0.00
	P/C Renewal	\$150.00	\$150.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$160.00	\$160.00	\$0.00
	P/C New	\$160.00	\$160.00	\$0.00
	L/H Renewal	\$150.00	\$150.00	\$0.00
	P/C Renewal	\$150.00	\$150.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year		OLA Calculations	DOI Fee List	Difference
	INDIANA			
1997	L/H New	\$60.00	\$35.00	-\$25.00
	P/C New	\$60.00	\$50.00	-\$10.00
	L/H Renewal	\$50.00	\$20.00	-\$30.00
	P/C Renewal	\$50.00	\$20.00	-\$30.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$35.00	\$35.00	\$0.00
	P/C New	\$35.00	\$35.00	\$0.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$35.00	\$35.00	\$0.00
	P/C New	\$35.00	\$35.00	\$0.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year		OLA Calculations	DOI Fee List	Difference
	IOWA			
1997	L/H New	\$44.00	\$35.00	-\$9.00
	P/C New	\$44.00	\$90.00	\$46.00
	L/H Renewal	\$34.00	\$20.00	-\$14.00
	P/C Renewal	\$34.00	\$90.00	\$56.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$44.00	\$44.00	\$0.00
	P/C New	\$44.00	\$44.00	\$0.00
	L/H Renewal	\$34.00	\$34.00	\$0.00
	P/C Renewal	\$34.00	\$34.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$44.00	\$44.00	\$0.00
	P/C New	\$44.00	\$44.00	\$0.00
	L/H Renewal	\$34.00	\$34.00	\$0.00
	P/C Renewal	\$34.00	\$34.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year	MISSISSIPPI	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$50.00	\$35.00	-\$15.00
	P/C New	\$60.00	\$35.00	-\$25.00
	L/H Renewal	\$40.00	\$20.00	-\$20.00
	P/C Renewal	\$50.00	\$35.00	-\$15.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$50.00	\$60.00	\$10.00
	P/C New	\$60.00	\$60.00	\$0.00
	L/H Renewal	\$40.00	\$50.00	\$10.00
	P/C Renewal	\$50.00	\$50.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$50.00	\$60.00	\$10.00
	P/C New	\$60.00	\$60.00	\$0.00
	L/H Renewal	\$40.00	\$50.00	\$10.00
	P/C Renewal	\$50.00	\$50.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year	MISSOURI	OLA Calculations	DOI Fee List	Difference
1997	L/H New	\$35.00	\$35.00	\$0.00
	P/C New	\$35.00	\$35.00	\$0.00
	L/H Renewal	\$25.00	\$25.00	\$0.00
	P/C Renewal	\$25.00	\$25.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$35.00	\$35.00	\$0.00
	P/C New	\$35.00	\$35.00	\$0.00
	L/H Renewal	\$25.00	\$25.00	\$0.00
	P/C Renewal	\$25.00	\$25.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$35.00	\$35.00	\$0.00
	P/C New	\$35.00	\$35.00	\$0.00
	L/H Renewal	\$25.00	\$25.00	\$0.00
	P/C Renewal	\$25.00	\$25.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year		OLA Calculations	DOI Fee List	Difference
	New York			
1997	L/H New	\$50.00	\$40.00	-\$10.00
	P/C New	\$50.00	\$56.00	\$6.00
	L/H Renewal	\$40.00	\$40.00	\$0.00
	P/C Renewal	\$40.00	\$56.00	\$16.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$50.00	\$50.00	\$0.00
	P/C New	\$50.00	\$50.00	\$0.00
	L/H Renewal	\$40.00	\$40.00	\$0.00
	P/C Renewal	\$40.00	\$40.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$50.00	\$50.00	\$0.00
	P/C New	\$50.00	\$50.00	\$0.00
	L/H Renewal	\$40.00	\$40.00	\$0.00
	P/C Renewal	\$40.00	\$40.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year		OLA Calculations	DOI Fee List	Difference
	Pennsylvania			
1997	L/H New	\$46.00	\$35.00	-\$11.00
	P/C New	\$46.00	\$36.00	-\$10.00
	L/H Renewal	\$36.00	\$20.00	-\$16.00
	P/C Renewal	\$36.00	\$20.00	-\$16.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$46.00	\$54.00	\$8.00
	P/C New	\$46.00	\$54.00	\$8.00
	L/H Renewal	\$36.00	\$36.00	\$0.00
	P/C Renewal	\$36.00	\$36.00	\$0.00
	Appointment	\$10.00	\$18.00	\$8.00
1999	L/H New	\$46.00	\$54.00	\$8.00
	P/C New	\$46.00	\$54.00	\$8.00
	L/H Renewal	\$36.00	\$36.00	\$0.00
	P/C Renewal	\$36.00	\$36.00	\$0.00
	Appointment	\$10.00	\$18.00	\$8.00

Year		OLA Calculations	DOI Fee List	Difference
	TENNESSEE			
1997	L/H New	\$110.00	\$50.00	-\$60.00
	P/C New	\$110.00	\$50.00	-\$60.00
	L/H Renewal	\$50.00	\$25.00	-\$25.00
	P/C Renewal	\$50.00	\$25.00	-\$25.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$110.00	\$110.00	\$0.00
	P/C New	\$110.00	\$110.00	\$0.00
	L/H Renewal	\$50.00	\$50.00	\$0.00
	P/C Renewal	\$50.00	\$50.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$110.00	\$110.00	\$0.00
	P/C New	\$110.00	\$110.00	\$0.00
	L/H Renewal	\$50.00	\$50.00	\$0.00
	P/C Renewal	\$50.00	\$50.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year		OLA Calculations	DOI Fee List	Difference
	TEXAS			
1997	L/H New	\$50.00	\$50.00	\$0.00
	P/C New	\$50.00	\$50.00	\$0.00
	L/H Renewal	\$48.00	\$48.00	\$0.00
	P/C Renewal	\$48.00	\$48.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1998	L/H New	\$50.00	\$50.00	\$0.00
	P/C New	\$50.00	\$60.00	\$10.00
	L/H Renewal	\$48.00	\$48.00	\$0.00
	P/C Renewal	\$48.00	\$48.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00
1999	L/H New	\$50.00	\$50.00	\$0.00
	P/C New	\$50.00	\$60.00	\$10.00
	L/H Renewal	\$48.00	\$48.00	\$0.00
	P/C Renewal	\$48.00	\$48.00	\$0.00
	Appointment	\$10.00	\$10.00	\$0.00

Year		OLA Calculations	DOI Fee List	DOI Fee Difference
	VIRGINIA			
1997	L/H New	\$42.00	\$35.00	-\$7.00
	P/C New	\$42.00	\$35.00	-\$7.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$12.00	\$10.00	-\$2.00
1998	L/H New	\$42.00	\$35.00	-\$7.00
	P/C New	\$42.00	\$35.00	-\$7.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$12.00	\$12.00	\$0.00
1999	L/H New	\$42.00	\$35.00	-\$7.00
	P/C New	\$42.00	\$35.00	-\$7.00
	L/H Renewal	\$20.00	\$20.00	\$0.00
	P/C Renewal	\$20.00	\$20.00	\$0.00
	Appointment	\$12.00	\$12.00	\$0.00

Source: Prepared by legislative auditor's staff using data collected from DOI, the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements, information collected from other states, and auditors' calculations.

Appendix L

Response of the Department of Insurance



JAMES H. "JIM" BROWN
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

March 15, 2000

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Re: Department of Insurance's Response to Performance Audit Report

Dear Dr. Kyle:

This letter serves as the official written response of the Department of Insurance to the Performance Audit Report of the Office of Legislative Auditor. I read with great interest your staff's interpretation of the functions and performance of the Licensing Division at the Louisiana Department of Insurance.

We are always open to new ideas as is demonstrated in our on-going participation in the National Association of Insurance Commissioners ("NAIC") and pride ourselves as being an insurance department that others in the nation look to for guidance. We are also willing to accept constructive criticism in those areas where we may need improvement. Unfortunately, from the contents of the performance audit report, it appears that your staff has misunderstood the licensing process in some cases.

The Department of Insurance offers the following information to be included in your report to clarify our licensing processes.

Chapter 1 Introduction

Department of Insurance Response:

Although your auditors assured Department of Insurance staff that they had devoted sufficient time to learn our licensing processes, it was evident to us from the pre- and post-exit interviews and from some of the conclusions and recommendations in this report that your staff still did not have a full grasp of the licensing process of not only our department but also of other states' licensing processes.

Comparisons were made to other states' licensing procedures, but no weight was given to whether or not these procedures accomplished the goal of protecting the consuming public any more than what is already in place at the Louisiana Department.

Scope and Methodology, Objective 3

Department of Insurance Response:

The Department of Insurance considers your auditors' actions in sending confirmation letters to unlicensed agents to be disturbing in light of the fact that their actions have compromised an ongoing criminal investigation of one of these agents without our knowledge. We understand that the Office of the Legislative Auditor has the statutory right to take these actions, but still find your decision to take this approach without consulting, or at the very least, alerting the appropriate supervisory Department of Insurance staff of your actions to be very alarming.

The Department of Insurance has worked diligently with the Louisiana State Police in the investigation, arrest and conviction of unlicensed agents who are purportedly selling insurance to the unsuspecting public. Confidentiality of these types of investigations is of the utmost importance. Oftentimes the slightest indication that someone is looking into these persons' activities may cause them to cease their illegal activities temporarily, resulting in our inability to "catch them in the act." We are deeply concerned about these activities of your office, and are upset that your staff does not, but should understand the implications and ramifications of their actions by sending these types of letters without prior approval of or notification to the Department.

Chapter 2: License and Renewal Processes

Louisiana's Licensing and Renewal System Compares Favorably to Other States

Recommendation 2.1 DOI may want to consider changing the expiration date of insurance licenses. Changing the expiration date to two years from the date of issue would alleviate the high workloads experienced during peak periods in the current renewal cycle. This change may increase efficiency since DOI would process renewals all year long.

Department of Insurance Response:

This recommendation is something the Department of Insurance has been reviewing over the past 5 years. We have been evaluating the impact on the Department and licensed agents in changing the expiration date to two years from date of issue, thus spreading the renewal process over a 12 month, instead of a 5-month period. The conclusion we have reached each time has been that changing the expiration date will require the development of a costly computer system to implement the change, to which resources were not available to accomplish our goal. DOI does anticipate such a change within the next 18 to 24 months, and licensing staff has been working with our MIS staff to identify problem areas we may encounter with such a transition.

Some of the changes which we have implemented over the past two years include hiring nine seasonal employees during the renewal period who have institutional knowledge and who did not require training (retired DOI employees); placing a supervisor over the renewal process to reduce confusion; including a bar code on the applications to reduce time in inputting applicant information into the computer database; creating a "frequently asked questions" sheet regarding the renewal process and distributing it to agents in the application packet and posting it on the DOI web page to reduce telephone calls to licensing technicians.

Louisiana's Insurance Law Provides For the Protection of the Public

Recommendation 2.2 DOI should continue to stay abreast of the Producer Licensing Act and determine if it would be in the state's best interest to adopt it.

Department of Insurance Response:

We appreciate the recognition that because of the Department's aggressiveness in proposing and supporting licensing legislation, Louisiana law is more rigid than that of the NAIC model in providing additional protection to the public. The DOI has been and will continue to participate as an active member of the NAIC Uniform Producer Licensing Initiatives Working Group and the Agent Model Laws Working Group, which is charged with modifying the Producer Licensing Act.

The Department of Insurance is currently holding bi-weekly meetings to discuss adopting all or portions of the Producer Model Act. Adoption of the Act will involve, among other things, merging the agent, broker and solicitor definitions into a single "producer" definition, and will cause the entire text of Title 22 to be examined for uniformity. A producer license will eliminate the necessity of holding two separate licenses for agents and brokers, resulting in a less costly and more efficient licensing process for the agent/broker/solicitor and the Department of Insurance.

Recommendation 2.3 DOI should require that both new license applicants and renewal applicants use current application form. Outdated forms do not contain the same information as current forms

Department of Insurance Response:

When it was brought to the attention of supervisory staff, licensing staff was immediately notified that all obsolete forms were to be returned and only current forms were to be accepted.

Required Documentation Missing From Some Licensing Files

Recommendation 2.4 DOI should ensure that all required documentation is included in each agent's file. This would include the files for initial licenses as well as the renewal files. The documentation serves as proof that the department did not

license or renew the licenses of unqualified individuals. Therefore, it is imperative that DOI staff maintains all required documentation in its licensing files.

Recommendation 2.5 For renewal applications, all previously submitted documentation related to background questions should be photocopied and placed in the agent's current renewal file. This is important because this documentation provides the support necessary to determine whether applicants are qualified to renew their licenses.

Department of Insurance Response:

In response to Recommendations 2.4 and 2.5, the Agent Licensing Division licenses approximately 55,000 agents, brokers and solicitors, processing approximately 15,000 new licenses and 40,000 renewal licenses each year. Each new or renewal application contains anywhere from 7 to 25 pages, including supporting documentation of prelicensing and continuing education certifications and explanations of responses to background questions. There are nine staffers to handle new licenses and nine seasonal staff to handle renewal licenses. All staff, seasonal and regular, is instructed that application files must contain all required documentation before the license can be issued. Supervisory staff reviews these files prior to giving their licensing approval.

Additionally, the Agent Licensing Division (nine staff) receives and returns approximately 10,000 telephone calls each month from prospective applicants, licensees and insurers regarding compliance issues and process approximately 200,000 company appointments each year. What this means is that each staff employee in the Licensing Division handles an average of 7 new license applications, over 55 telephone calls, and almost 100 company appointments each day, not counting time spent with persons needing licensing assistance who walk into the Department daily. These nine staff handle roughly 250,000 sheets of paper per year attributed to new licenses alone, not counting an average of 640,000 documents relating to renewed licenses, and the paper attributable to 200,000 company appointments. That amounts to over a million sheets of paper per year to be filed and accounted for by nine staff. All of this does not take into account any time missed by these nine staff for annual or sick leave or turnover in employees.

DOI departmental policy requires all previously submitted documentation relating to an agent's background history to be photocopied from the previous application and attached to the current renewal application. As stated above, prior to the issuance of a license, supervisory personnel review these renewal applications.

My comment to this finding is that my staff is doing a commendable job keeping track of this much paper given the quantity of work they produce. Human error comes into the equation any time a division handles this much paper. Our MIS staff has been researching the possibility of scanning these documents into a database that the technicians may use, and this idea is part of our plan to upgrade the DOI computer system as a whole.

Recommendation 2.6 and 2.7 to scan applications and supporting documents into the computer system and merging agent files.

Department of Insurance Response:

Our MIS staff is currently researching an enhancement to the existing computer system to track persons with positive answers to background history questions. Not only will this be used to record background history information into the computer system, it will also be used to as a checking point to verify whether an agent answers "NO" to a previously submitted "YES" answer, amounting to falsifying a public document. In those cases, administrative and criminal action will be taken against the agent. The scanning of applications and supporting documents is being considered as part of DOI's paperless filing solution, which we anticipate to be implemented over the next 18 to 24 months, given that this solution is feasible and funding is available.

Additionally, procedures for merging of new and renewal LH&A and P&C license applications into one central filing system have been contemplated since last summer, and will be implemented once the current renewal period ends on May 1.

Average Time in Processing of Nonresidents' Applications for New Licenses Exceeded Two Months

Department of Insurance Response:

Although the Licensing Division endeavors to process applications timely, we must weigh that objective with our goal of fairness in the treatment of the persons we service. First of all, the report acknowledges it is comparing 1998 statistics to a performance standard of a 60 day processing time that is scheduled to be met by FY2003, which, by the way, has already been met and beat in 1999. Hiring restricted employees to assist with the clerical duties such as filing, sending out forms and making copies, accomplished this by allowing permanent employees to concentrate on issuing licenses and assisting agents with compliance questions. Second, as your audit admits: "many of the processing delays occurred because applicants submitted incomplete applications to DOI."

Recommendation 2.8 DOI should continue its efforts towards electronic filing of applications to minimize processing times. DOI should determine whether the new computer system could be designed to accomplish this.

Department of Insurance Response:

Electronic filing of applications is being designed into the new computer system to be implemented over the next 18 to 24 months. Also, the Department of Insurance is one of the beta agencies included in a recently funded RFP by the Office of the Data Base Commission. This RFP provides for creation of an E-Mall at which all licenses, taxes, registrations could be processed and collected (via credit cards or electronic funds transfer).

Recommendation 2.9 DOI may want to consider revising the initial license application form to include detailed checklists of what each applicant should submit. This may reduce the amount of time DOI spends requesting additional documentation from applicants.

Department of Insurance Response:

Since March 1, 1993, detailed checklists have been included in new application packets. Our current renewal application contains three pages of detailed instructions, drafted to easily be read and understood by the agent applicant. There are those agents who are always going to take the easy road and let the Department of Insurance do their work for them. We cannot make people read; however, we will research the possibility of transferring the checklist onto the application form itself, instead of providing it in the application packet.

Recommendation 2.10 DOI should evaluate innovative practices used by other state insurance departments.

Department of Insurance Response:

Other states look to the Louisiana Department of Insurance for innovative practices, not only in its licensing processes, but also in other areas of insurance, such as the No Pay, No Play and Impoundment laws. As stated in our response to Recommendation 2.8, our agency was chosen to participate in the creation of an E-Mall in processing licenses. We are accepting Internet continuing education courses, enabling agents to fulfill their continuing education requirements for licensing in the comfort of their home or office. We created a forms request telephone line, dedicated solely to agents making requests for licensing forms. We are, as a whole, operating on the cutting edge of innovative insurance regulatory practices as compared to other states.

The Arizona "On-the-Spot" system referred to in your report sounds like a great idea, in theory, but we do not see how the Arizona program would benefit Louisiana in providing better customer service and help reduce the risk of unlicensed agents selling insurance. The Arizona Licensing Director advised us that his office originally implemented this procedure to accommodate only those persons who missed the renewal deadline and needed to renew their licenses immediately. They average only ten "On-the-Spot" requests per month. Additionally, background checks on all Arizona applicants are performed after the license has been issued.

No Verification of Answers to Some Background Questions Prior to Licensing Applicants

Department of Insurance Response:

The Department of Insurance takes issue with this statement. In addition to requiring applicants to attest to the truthfulness of their answers on the application and requiring companies to attest to the applicant's reputation and worthiness, the following public protection safeguards are also built into the Department of Insurance's licensing process:

- (1) DOI promulgated Rule 12, which requires that new and renewal license applications must be sent through the United States Mail. This is just one more built-in safeguard in our licensing process to deter lying. Sending a fraudulent document through the U.S. Mail is a federal offense (mail fraud);
- (2) Federal law (18 U.S.C. 1033) holds companies accountable for the actions of their licensed agents. The federal law makes it a crime for anyone in the insurance industry who . . . *willfully permits the participation* . . . of a person who has been convicted of certain felonies. The insurance company has the obligation to conduct a reasonable due diligence research into each applicant's background. Companies should include language from 18 U.S.C. 1033 in their application forms and background questionnaires explaining that no one who has ever been convicted of certain felonies may participate in the business of insurance; ask the applicant a yes/no question to as to whether he/she has ever been convicted of any crime and provide an explanation as to the particulars if the answer is 'yes';
- (3) The Fraud Section monitors and flags the licenses of those agents who have been arrested and/or convicted and which are reported to the Department of Insurance through its records, The Department of Insurance market conduct records, media, complaints, law enforcement and prosecutorial agencies;
- (4) Licensing technicians check the Regulatory Information Retrieval System database at the NAIC for any reported regulatory activities that would influence the Licensing Division's decision to issue the license.

Recommendation 2.11 DOI should rewrite the criminal history background question to ensure that it is clear and consistently interpreted. This is important because applicants may not understand the question and therefore not answer it completely or correctly.

Department of Insurance Response:

This recommendation is an example of your auditors not understanding the complexity of what we do as insurance regulators and how progressive Louisiana is in its efforts at being a leading insurance department in the nation. Our department is considered one of the leaders in the country for signing the Declaration of Uniform Treatment for Non-Resident insurance agents last year. Along these same lines, the Department of Insurance is working towards uniformity in

its license application and licensing process, as part of an across the country push towards uniformity in regulation among state insurance departments as mandated by the passage of the Gramm-Leach-Bliley Act (a/k/a S900).

The criminal history background question we use was developed by the National Association of Insurance Commissioners, as part of the Uniform Producer Licensing Initiatives Working Group's effort to create uniformity between the states. State insurance departments around the country, with the assistance of insurance industry representatives met repeatedly over a several month period to draft the language of this question, while considering issues that have arisen historically and prospectively when choosing their words. Once the model language was adopted at the national level, Department of Insurance staff modified the question slightly to comply with the Louisiana Insurance Code.

Applicants are always encouraged to contact the Department of Insurance with any questions they may have regarding the application, to which our staff readily lends assistance. The wording of the criminal history question has been challenged through administrative proceedings, to which the Administrative Law Judge dismissed the agent/applicant's arguments on the interpretation of the wording of the question. A copy of the administrative law judge's written opinion was provided to your auditors. Additionally, the Louisiana State Police has arrested persons lying about their criminal backgrounds on the licensing application. The fact that these arrests have led to convictions is evidence that the wording of the question has held up to judicial scrutiny.

The bottom line is that there are those agents who choose not to disclose their criminal backgrounds and will use whatever argument it takes as a defense to their lying on a license application.

Recommendation 2.12 The department should complete the process begun by the June 1999 memo to identify and address agents affected by the Federal Violent Crime Control Law Enforcement Act.

Although several attempts were made to explain the Violent Crime Control Law Enforcement Act to your auditors (non-lawyers), they did not grasp the purpose or the complexity of the Act. Most states have not taken the first step towards addressing this federal act, unlike Louisiana, who has notified all its licensed agents and insurers. Your auditors were asked to contact other regulators, in particular the Chairman of the NAIC Anti-Fraud Working Group who has worked with other regulators and the U. S. Department of Justice since the inception of the Act to promulgate guidelines and procedures for state insurance departments to use in the furtherance of the Act. Unfortunately, your auditors chose not to call any of the other regulators, as suggested by us, and therefore, did not have the information required to address this issue.

If your auditors would have called the chairman and other states, they would have been informed that Louisiana is one of the leading states in the nation because of the aggressive measures it has taken in implementing procedures to obtain written consent under the federal statute. They would have also been told that other states look to the Louisiana Department of

Insurance for guidance in areas of vagueness in interpreting and carrying out the intent of the statute. During the anti-fraud working group meeting at the National Association of Insurance Commissioners Spring, 2000 conference, over and over again questions were directed at Louisiana on how we are handling specific issues surrounding the federal act. Quite a few of these questions that have recently arisen on a national level involve policy and procedures that our department has already implemented.

To better explain what the Department of Insurance is doing, a brief explanation of the law is in order. In 1994, the U.S. Congress passed the Violent Crime Control Law Enforcement Act ("18 U.S.C. 1033"). The act prohibits individuals convicted of certain felonies from engaging in the insurance business without obtaining written consent from the regulatory authority in their resident state. The act also provides criminal penalties for individuals who willfully permit prohibited persons to engage in the insurance business. The felonies covered by this law include criminal felonies involving dishonesty or breach of trust.

The federal law makes it a felony crime for a person to engage in or participate in the business of insurance if that person has ever been convicted of a state or federal felony involving dishonesty or breach of trust (or a crime under 18 U.S.C. 1033). The purpose of Section 1033(e) of the Act is to protect the insurance industry and the consumers it serves by prohibiting anyone convicted of a felony crime involving trustworthiness from conducting insurance activities unless such individual has obtained the written consent of his insurance commissioner.

Section 1033(e)(1)(b) also makes it a felony crime for a company or person, who is engaged in the business of insurance whose activities affect interstate commerce, to willfully permit the participation of a person who is prohibited under Section 1033(e)(1)(a), unless such individual has obtained the written consent of an insurance regulatory official.

In June, 1999, the Department of Insurance notified all admitted insurance companies, licensees and interested parties of its guidelines and requirements for granting written consent under 18 U.S.C. 1033. At that time, only four other state departments in the country had issued official bulletins on the subject to the insurance industry. To date, only eight states have issued this type of bulletin. LDOI Bulletin 99-01 instructs employers to notify the Department of Insurance of all employees affected by the statute.

The burden of the federal statute is placed on the convicted felon and the felon's employer to comply with the requirements of the law, or otherwise be faced with criminal and civil penalties for failure to do so.

The Department of Insurance has since received 19 applications for written consent and hundreds of telephone calls and letters from agents and employers regarding their duty under the law. Legal questions arose after the issuance of the bulletin concerning the Department of Insurance's authority to deny, renew or revoke a license and a person's right to judicial review in light of the federal statute. Instead of being on unsure legal ground and out of an abundance of caution, the Department of Insurance requested and has recently received a legal opinion from the Attorney General's office on these issues. The Attorney General's opinion was contrary to the initial draft of the Department of Insurance's internal procedures, and so these internal

procedures have to be reviewed and reworked in order to carry out the letter of the law. We anticipate that the review and processing of the pending applications will commence within the month, once staff has been apprised of internal procedures to be implemented.

Additionally, new procedures will be implemented in the licensing division to set forth criteria to be reviewed when processing license applications. Further, the examiner's handbook for market conduct and solvency examinations will contain threshold criteria to use in establishing whether a company has internal procedures in place to comply with the federal law; i.e., written certification from present and prospective employees regarding their criminal history.

In conclusion, your auditors failed to talk to other states' regulators, who would have confirmed that Louisiana is in the forefront on keeping convicted felons out of the insurance business and has been nationally recognized for its efforts.

Recommendation 2.13 DOI should take a more proactive stance in preventing convicted felons and other unqualified individuals from soliciting insurance in Louisiana. This practice would provide a higher level of protection for the public, which is the primary function of the department. DOI should always evaluate the most efficient and effective way to investigate the criminal backgrounds of applicants. Some options are to:

- **Require that applicants submit a criminal history report with their insurance applications.**
- **Request that the legislature increase the license fee to cover the cost of criminal background investigations.**
- **Apply for access to the National Crime Information Clearinghouse (NCIC) database from the Office of State Police.**
- **Require that sponsoring companies submit criminal history reports with applications or that sponsoring companies conduct background investigations.**
- **Require that applicants for new or renewal licenses submit fingerprint cards to DOI.**
- **Implement a policy of requiring criminal history background checks on applicants who apply for a new license.**
- **Require that applicants renewing their licenses report to DOI all changes regarding any background question since the issue date of their original licenses. In addition, DOI could conduct spot-check background investigations on renewal applications.**

Department of Insurance Response:

The Department of Insurance has taken great strides to provide as much protection to the public as is feasible given statutory time constraints, the sheer volume of documentation that requires review in each application, the availability of trained manpower to perform the review process, and the technology realistically available to a state agency given budget limitations.

The Department of Insurance has already implemented a procedure to check background responses to criminal and bankruptcy histories. The Department of Insurance, along with other states such as Arizona, Kansas, Oregon and Washington, instituted measures to verify applicant responses to criminal background questions post-licensing. Like most states, the Louisiana Department of Insurance does not have access to the National Crime Identification Center Database to perform criminal background checks on agents, as do law enforcement and prosecutorial agencies. But, instead of doing nothing in comparison to most states, it took a proactive approach by calling upon the State Police to perform criminal background checks on 35,000 p/c agents in 1998 at Department of Insurance expense. The Department of Insurance is also requesting State Police perform background checks on ~40,000 l/h licenses to be renewed this year.

As stated above, the Department of Insurance is currently using the NAIC's Regulatory Information Retrieval System (RIRS) to verify whether applicants have had regulatory action taken against them in other states. From DOI's perspective, it is diligent in reporting regulatory activity to RIRS, and would assume other states are as diligent.

We agree that background checks are important for determining whether license applicants have criminal histories or financial troubles which would create a legal impediment for them to be licensed. However, there are legal circumstances when a person who has been convicted of a crime can still be licensed under Louisiana law. For instance:

- Persons receiving gubernatorial or presidential pardons are restored to all of their civil rights and privileges under the Louisiana and United States Constitutions. In the eyes of the law, the person is innocent as if he had never committed the crime.
- Persons who have had their criminal record expunged by a judge are innocent, because the expungement has the same effect as an acquittal.

Louisiana law also gives the Department of Insurance discretion as to licensing of convicted felons when there has been no pardon or expungement. Weighing the person's age at the time of the crime, the type of crime (i.e., did it involve fraud or dishonest practices), when the crime occurred, and recommendations from prosecutorial authorities allow the licensing supervisors to make decisions when it is clear that the person requesting the license is of no threat to the public.

For example, licenses have been issued to convicted felons whose crimes occurred during their youth a decade or more ago, and who have had a clean record since the occurrence. Typically, these are drug-related offenses. There have also been occasions of issuing licenses when the prosecutor and parole officer have written the Department attesting to the convicted felon's character and lack of risk to the public. The person must have completed his/her probationary period and paid any fines and restitution arising from the criminal conviction.

There are instances when the Department takes action to revoke an existing license or deny a new license to an individual who has a felony conviction. The person has a right to an

administrative hearing before an administrative law judge. The administrative law judge has the authority to rule against the Department and order the Department to license or renew the license of the convicted felon.

The report's finding that less than a half of a percent of agent applicants of the audit sample gave false information on their license applications regarding criminal histories is actually a good indication that DOI is doing its job. Unanswered questions in this finding, however, are whether or not the felony conviction was expunged or whether the person was pardoned. As stated above, in those instances the person would not have to disclose the felony conviction to DOI, and thus would not have been found to give false information on the license application.

In any event, if the Department learns that the applicant did not truthfully answer background questions, administrative action is taken to revoke the person's license, and a criminal referral is made to the Louisiana State Police for falsifying a public document.

Verifying criminal background information is not as easy as it seems. Your auditors used the State Police database to run rap sheets on individuals in their audit sample. Once this information is obtained, a trip to the parish courthouse where the arrest was brought has to be made to determine the status of the arrest. Department of Insurance licensing staff would be traveling all over the state to verify this information on the 55,000 applications they receive annually.

As to the report's finding of 2.2% of applicants not disclosing a bankruptcy on the license application, very rarely does the Department of Insurance deny licensing because of a bankruptcy filing. There is only one instance that comes to mind since 1997, when the Department of Insurance first required this information. In that case, the events that led to the bankruptcy involved a person who was "day-trading" on the Internet and had accumulated a sizeable amount of unsecured debt by using credit cards. The Department of Insurance denied this person's application for a license. Our determination in denying a license because of a bankruptcy is based on the activities of the debtor which caused him/her to file bankruptcy in light of the provisions of LSA-R.S. 22:1114. We require an explanation as to why the bankruptcy was filed, the filing date and a copy of the discharge order or confirmed plan for repayment.

Your auditors stated that they verified these bankruptcy background questions by checking U.S. Bankruptcy Court computer records. That method works if you only have a handful of applications to check. In order for the Agent Licensing Division to verify this question, staff would either have to phone the bankruptcy clerk's office (in either Baton Rouge, New Orleans, or Shreveport), limiting their requests to 5 at a time, or drive to each of these locations and verify the information as the applications come into DOI for processing. Imagine using either one of these methods to verify bankruptcy information on over 1,000 new license applications per month! No one would be here to answer the telephone.

The Department of Insurance has been working with the Louisiana State Police and FBI over the past two years to identify convicted felons in the insurance industry. Presently, the

Louisiana State Police is performing random background checks on those license applications received by the Department in 1998. When a criminal conviction is discovered, steps are taken by the Department to revoke the license, and the case is referred for prosecution.

New legislation passed this year will create a \$3 million assessment on the insurance industry to combat insurance fraud. State Police, the Department of Justice and the Department of Insurance will use the \$3 million to beef up fraud units in their agencies by hiring additional staff for investigation of fraud in the industry.

With the fraud assessment, the Department of Insurance, State Police and The Department of Justice will be able to hire additional staff to further accomplish their goal in verifying criminal backgrounds by verifying on a pre-licensing basis. Companies are already required by federal law to perform background checks on their agents, and as they complete their task, they are notifying the Department of Insurance of their findings pursuant to LDOI Bulletin 99-01.

As to the report's recommendation that the Department of Insurance increase the licensing fee to cover the background investigations, all licensing fees are statutorily set and cannot be changed without approval from the legislature. Fingerprint cards would accomplish no more than what the person's date of birth and social security number already required on the license application provides. While it may appear that other states are doing more by requesting criminal history reports or fingerprint cards in their licensing procedures, they have told us that nothing further is done with the information once it is received.

In summation to this recommendation, The Louisiana Department of Insurance is in the forefront in the nation of taking an aggressive stance in keeping criminals out of the insurance industry, and has been nationally recognized for its endeavors.

Some Unauthorized Individuals Were Able to Obtain Licenses and Appointments

Recommendation 2.14 DOI should determine if the new computer system will have the capacity to implement an edit check that notifies the licensing technicians whenever an agent is being considered for licensure or reinstatement does not have a company appointment. Any such edit check should be secure so as not to allow overrides easily. If the new system will not have this capability; the department should devise an alternative control to prevent unappointed agents from obtaining licenses.

Recommendation 2.15 DOI should also determine if the new computer system will be capable of implementing an edit check that would flag all cases where agents with appointments do not have current licenses. This edit check should also be secure so as not to allow overrides easily. Implementing this control would decrease the risk of agents with appointments but no current licenses transacting business in the state.

Department of Insurance Response:

The design of the new computer system includes these capabilities.

Some Unlicensed and Unappointed Agents May Have Sold Insurance in Louisiana

Recommendation 2.16 DOI should investigate the 21 agents who responded to us that they sold insurance during periods when they were not properly authorized to do so. If DOI finds that these agents' responses are accurate, the department should take appropriate action against the agents.

Department of Insurance Response:

Department of Insurance staff was not aware that these types of letters were sent until the pre-exit interview in February, although these letters were mailed in December. The 21 names were immediately turned over to the Department of Insurance Market Conduct Section for further investigation, who has notified our Fraud Section, but we are still waiting on the actual letters to be used as evidence to the alleged criminal activity. If in fact there is evidence of wrongdoing, a criminal referral will be made by the Department of Insurance Fraud Section, State Police and the Attorney General's Office.

We again re-urge our disappointment in the Office of the Legislative Auditor for acting without regard for possible on-going criminal investigations of the Department of Insurance Fraud Section with the assistance of the State Police.

Recommendation 2.17 DOI should implement computer edits or other controls that would prevent unlicensed individuals from receiving appointments and unappointed individuals from receiving licenses.

Department of Insurance Response:

This procedure has already been implemented to prevent company appointments from being approved for agents with expired licenses.

Chapter 3: Suspension, Revocations, and Complaints

DOI No Longer Requires Agents to Submit Suspended and Revoked Licenses to Department

Recommendation 3.1 DOI should implement policies and practices that prevent licensees who have had their licenses suspended or revoked from continuing to solicit insurance. Some options are as follows:

- ❖ In the letter notifying licensees of suspension or revocation, DOI could remind the licensees who have had their licenses suspended or revoked that R.S. 22:1116C requires them to send their license to the commissioner.
- ❖ DOI could propose legislation that would add fines or other penalties to R.S. 22:1116?C for licensees who do not comply with the statute's requirement to send suspended or revoked licenses to the department.

Department of Insurance Response:

It appears that this is another one of those recommendations that sounds good, but only in theory. Practically speaking, how often do you think you or anyone else asks to see an insurance agent's license before you buy insurance from him/her? We would venture to say almost never. Additionally, we know of no legal requirement that an agent show his license in order to sell insurance. Just as unlicensed people will still drive their cars on Louisiana highways, so will the unlicensed agent sell insurance. The point is that the lack of a piece of paper does not deter people from breaking the law.

Average Complaint Processing Time Over Five Months

Recommendation 3.2 DOI should consider developing a performance standard for non-average complaints. The only current performance standard the department has is for average complaints. The new standard should be designed to target the quickest turnaround time possible.

Department of Insurance Response:

This is another instance where your auditors compared FY 97-98 numbers with a performance standard that is targeted to be met by FY2001. *Complaint* is defined in LSA-R.S.22:1214(17) as "any written communication primarily expressing a grievance". The Department of Insurance prides itself as being accessible to the public, by not only having available staff to assist persons on a walk-in basis, but also manning an 800 number after regular business hours and during emergency situations, such as after hurricanes or after shutting down an insurance company.

Comparing Louisiana to Florida, Virginia and Iowa is like comparing apples to oranges. Florida and Virginia have separate divisions to handle property & casualty agent investigations and life and health agent investigations. Virginia's Department of Insurance is part of a State Corporations Commission headed by three judges with the same power as a circuit court. Florida's Department of Insurance has police powers. Iowa handled only 4000 complaints, including 20,000 telephone calls in 1999, compared to Louisiana's 5000 new complaints and ~75,000 telephone calls in FY 98-99. DOI had three experienced and four in-training examiners to handle this workload. Again, we would commend our staff on a job well done, despite the lack of manpower and the volume of work.

To make the statement that a lengthy processing time creates a risk to the public is unfounded. First of all, Department of Insurance staff must have some evidence of wrongdoing prior to action being taken against an agent or company; otherwise we are not doing our job. Any time the wrongdoing involves any type of obvious criminal misconduct, such as misappropriation of money or selling insurance without a license, a referral is immediately made to the Market Conduct and Fraud Sections for handling.

Because insurance is such a competitive market, oftentimes agents or companies make complaints against their competitors. Department of Insurance staff has to confirm that there is validity to these complaints prior to taking regulatory action. It is not unusual to have several parties to the complaint, and responses of each party must be received prior to acting on the complaint. Sometimes the public makes complaints, just because they do not understand insurance laws, and in those cases, we attempt to educate them on the insurance laws and processes. For these reasons, it is difficult to put a time frame on *non-average* complaints. If we were to assign a number to this performance standard, it would have to be a long time period; otherwise we are setting ourselves up for a failure to perform. In its protection of the public, the Department of Insurance strives to build quality assurance and fairness into the complaint process, which must be balanced with efficiency. To shorten the time could compromise the result.

Recommendation 3.3 DOI should implement a system of prioritizing complaints based on severity and investigate the most serious complaints first.

Department of Insurance Response:

The Department of Insurance does have a system of prioritizing complaints based on severity of the complaint. Initially, all complaints are assigned to an examiner based upon their experience and the type of coverage involved. If clear and convincing evidence is received with the complaint, (i.e., criminal conduct), then a Cease and Desist Order is immediately issued to the agent, and administrative action is taken on the agent's license. The Market Conduct and Fraud Sections are also notified.

Complaints Staff Needs Aggressive Means to Contact Unresponsive Agents

Recommendation 3.4 DOI should implement a policy requiring the complaints examiners to use the Internet, telephone directories, and other available means to locate agents with complaints filed against them who have not responded to their inquiries. Using more aggressive techniques provides added assurance that agents who may pose potential harm to the public are more closely monitored.

Department of Insurance Response:

Your auditors want the Department of Insurance to do something that is not required by law and is just not feasible given that we receive over 5,000 complaints per year. First of all LSA-R.S. 22:1118C(1)(a) requires licensed agents to notify the commissioner of any change of his address within ten days of the change. Department of Insurance staff relies on the accuracy of the representation made by the agent that the address on file is correct. If correspondence from the DOI to the agent is returned, staff notifies the agent of the complaint lodged against him/her at other known addresses that have been disclosed by the agent to the Department of Insurance. At the very least, the agent's license is flagged in the computer system "Do Not Renew," if the complaint is not something that would put the public at immediate risk. In those cases, a referral is made to the Market Conduct and Fraud Sections for handling.

CHAPTER 4: ASSESSMENT AND COLLECTION OF FEES

Recommendation 4.1 The Statistics Division should use supervisory reviews to ensure that its staff correctly records postmark dates from the envelopes onto the renewal applications. This is important because the Licensing Division uses these dates to determine whether or not to assess late fees. An alternate solution to this problem would be for the Statistics Division to forward the renewal application envelopes to the Agent Licensing Division. Licensing staff could then use the dates on the envelopes instead of the dates the Statistics staff have handwritten on the applications to determine whether late fees should be assessed.

Department of Insurance Response:

The Department of Insurance received approximately 25,000 checks within a seven-day period. The DOI Fiscal Office procedures require any checks received at DOI to be deposited within 48 hours. Human error, once again, has to be given consideration when faced with these numbers and time frame. Other errors are attributed to renewals being received with illegible postmarks, postmarks showing the month without a date and/or year (we have no control over the U.S. Post Office), and renewals received via express mail (no postmark date with which to attribute when it was received).

The Department of Insurance has implemented a procedure where the Agent Licensing Division will enter all postmarks and the stamped envelope will be attached to the application form during this and future renewal periods.

Recommendation 4.2 DOI should develop a written policy on how to record postmark dates on applications that are received via express or next day mail. Developing a policy in this area will help ensure that all agents who submit renewal applications late receive equal treatment regarding late fee assessment.

Department of Insurance Response:

The Agent Licensing Division is developing a policy for receiving express mail using the same guidelines as the DOI Tax Division, which uses the postmark date on express mail as the date received by the express mail office.

Recommendation 4.3 DOI should develop a formal, written policy that outlines acceptable instances in which late fees stipulated in LSA-R.S.22:1113(E)(2) can be waived. This policy should be applied consistently to all cases considered for waivers.

Department of Insurance Response:

This recommendation has already been addressed. There are legitimate reasons why the Agent Licensing Division waives late fees and they will be formalized in its policies and procedures manual. Postal service delays, wrong zip codes on the application form, and delays in applicants obtaining letters of certification from other states all are reasons why late fees are waived out of fairness to the applicant. Licensing staff is aware of these reasons and can use discretion in these instances when processing the applications. If it is determined that a staff person went beyond what is set forth in the policies and procedures manual (and without supervisory approval), that person would be subject to disciplinary action.

DOI Often Collected Incorrect Reciprocal Fees

Recommendation 4.4 DOI should only collect reciprocal fees that are in accordance with the reciprocal fee list. Assuming that the amounts on the fee lists are accurately calculated, this will ensure that DOI collects proper amounts.

Department of Insurance Response:

The Department of Insurance collected every dollar it was to have collected and the state of Louisiana received every dollar to which it was entitled according to the Department of Insurance's calculations and the National Association of Insurance Commissioner's Fee Guide used in making these calculations. Your auditors pointed out that they found the NAIC Guide to be difficult to understand and believed the guide contained incorrect information. We will forward this information to the National Association of Insurance Commissioners.

Recommendation 4.5 DOI should amend its reciprocal fee list, which is sent to companies and agents, to clearly show that Louisiana's initial license fee includes one company appointment. Doing this will help ensure that nonresident applicants do not unknowingly pay the initial appointment fee twice.

Department of Insurance Response:

To accomplish this will involve computer capability on the current computer system. Otherwise, it will be addressed in the proposed system.

Recommendation 4.6 DOI should ensure that its new computer system will allow all payments to be traced to individual agents. The current system does not provide a method for tracing payments back to individual agents if the fees are not written onto the applications.

Department of Insurance Response:

This application is being designed into the new computer system.

DOI Calculated Some Amounts on its Reciprocal Fee Lists Incorrectly.

Department of Insurance Response:

We were very surprised at this finding, because the Licensing Director, along with the entire DOI internal audit division (one of whom is CPA), calculated these lists using the National Association of Insurance Commissioner's Fee Guide and believe their calculations are correct.

Recommendation 4.7 DOI should stop accepting new license forms from agents wishing to reinstate their licenses and require all such agents to use the reinstatement form instead. Accepting the wrong form can result in incorrect data being collected on these applicants as well as incorrect fees being collected.

Department of Insurance Response:

DOI instituted a written policy effective 10/1/99 that agents wishing to reinstate an expired license must submit the reinstatement form, along with all applicable fees and other required documentation. We will no longer accept first-time applications in lieu of a reinstatement application.

Recommendation 4.8 DOI should supplement its review of the NAIC Guide with direct communication with other states and territories when calculating the reciprocal fees to place on its reciprocal fee list. DOI should do this for all states and territories on the fee list, not just the 15 states we reviewed. The states and territories should only have to be contacted initially in order to learn how to correctly interpret the NAIC Guide for each state and territory.

Department of Insurance Response:

Department staff will make every attempt to verify reciprocal fees. Having said that, it should be noted that this would require calling every state annually to determine whether or not any legislative changes had occurred in each state that would affect the fees set forth in the NAIC guide. The whole purpose of the NAIC Guide is for states to have easy access to these reciprocal fees, and we will notify the National Association of Insurance Commissioners that we have been told that the guide contains inaccurate information.

Recommendation 4.9 DOI should encourage the NAIC to develop a template to collect fee data from all states and territories for the NAIC Guide to State Retaliatory Taxes, Fees, Deposits and Other Requirements.

Department of Insurance Response:

Our Licensing Director will contact the National Association of Insurance Commissioners' Publications Department and work with them to develop a template.

Recommendation 4.10 DOI should implement a policy to update its reciprocal fee list as soon as the department receives the NAIC Guide each year. Timely updates of the reciprocal fee list will help ensure that nonresidents who apply for new or renewal Louisiana licenses will be charged the correct amounts.

Department of Insurance Response:

The revised NAIC Retaliation Guide is mailed to each state insurance department around the middle of January of each year. Procedures have been implemented to provide for the reciprocal licensing fees being changed effective April 1st of every year.

Recommendation 4.11 DOI should contact Iowa and New York, as well as other states that have incorrect reciprocal fees on their fee lists for Louisiana, and get the errors corrected. Doing this will ensure that Louisiana residents are not overcharged for reciprocal fees in other states.

Department of Insurance Response:

The Department of Insurance will notify the National Association of Insurance Commissioners that we have been told that the guide contains inaccurate information.

Agent Licensing Division Lacked Policy on Refunding Overpayments

Recommendation 4.12 The department should ensure that the policy contained in the Director of Licensing's e-mail message is implemented and made a part of the division's formal policy manual.

Department of Insurance Response:

This has already been accomplished. Immediately after this situation was brought to the attention of the Director of Licensing, notification was sent to all Agent Licensing Division staff on 8/18/99 advising that refunds were to be issued for any and all overpayments of fees. A staff meeting was also held on 8/23/99 to again reiterate the policy. Staff was instructed to add this procedure to the Policy and Procedure Manual for Agent Licensing.

Revenues Not Always Classified Correctly

Recommendation 4.13 The Statistics Division should develop controls to ensure that the classifications its staff makes are correct before forwarding licensing documentation to the Licensing Division for processing.

Department of Insurance Response:

This can be accomplished through increased training and supervisory reviews. Classification errors result inaccurate totals of the various fees collected, and a change has already been implemented.

Recommendation 4.14 DOI should consider implementing computer controls to and in using the reciprocal fee list. One such control is where the employee would enter the type of fee, the resident state, and the date. The computer would then generate the correct fee amount. The employee would enter the amount paid, and the computer would indicate whether the amount was correct or not. This control would help ensure accuracy in the classification of fees and would provide guidance for the Statistics employees on additional steps to be taken.

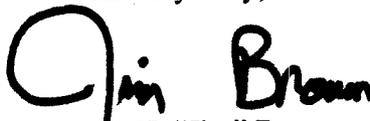
Department of Insurance Response:

We believe that proposed technological upgrades and internal control implementations will help ensure accuracy in the classification of and verification of the fee amount.

Conclusion

I trust that you will weigh these responses in light of the report findings and determine that overall, the Department of Insurance is doing a fine job in carrying out its mission to enforce the insurance laws and regulations of Louisiana impartially, honestly and expeditiously.

Yours very truly,



James H. "Jim" Brown
Commissioner of Insurance\

JHB/BN

Appendix M

Legislative Auditor's Additional Comments Based on DOI's Response

The following pages are the Office of the Legislative Auditor's additional comments based on the Department of Insurance's response to this audit report. We included additional comments because some information in DOI's response was inaccurate or required further clarification.

Appendix M: Legislative Auditor's Additional Comments Based on DOI's Response

Note: Page numbers refer to DOI's response.

Page 1: Knowledge of Licensing

Throughout this audit, several DOI staff members commented on the knowledge of our staff and the usefulness of the findings in the report for improving the agency's licensing process. In addition, during the pre-exit conference held on February 3, 2000, we discussed all report findings in detail and felt that we had come to a consensus that our report, with a few modifications, was accurate. DOI has not offered a reasonable explanation for its change in perception of the report, and we have presented accurate and reliable information within the report.

Page 1: Knowledge of Other States' Processes

We conducted a survey of other states and clarified all vague and unclear responses by contacting the states and researching their Web sites. We did not conduct in-depth audit work on any of the states to determine if their processes result in increased efficiency or effectiveness, as this was not our purpose. Comparisons to other states is a tool used frequently in performance audits to gain a general understanding of the national environment. As stated in the report, we found that DOI compared favorably to the other states we surveyed. The report simply points out certain practices that DOI may want to examine.

Page 2: Letters to Unqualified Agents

We informed DOI licensing staff numerous times of our intent to determine if certain unqualified agents were selling insurance. We also asked licensing staff for suggestions as to the most efficient means of making this determination. We were told that there were no means using DOI resources to determine if unqualified agents were selling insurance. Therefore, we decided to send confirmation letters to a sample of agents, which is a common audit technique.

We also checked DOI's licensing database on most of these agents (we did not check for agents who did not renew their license). We did not find any flags on the database indicating they were under investigation, as DOI's response indicates. If DOI has begun flagging such agents since the audit, this is a positive step, and we encourage the agency to continue to do so.

In addition, it is important to note that we used a simple piece of computer software to identify the agents to whom we sent confirmation letters. The software identified agents who may have been selling insurance without the proper authorizations during specific time spans ranging from 1996 to early 1999. We believe that DOI could have and should

have been making similar efforts on its own to identify and address individuals who may have been selling insurance without proper authorization. We also believe that the department had ample time to initiate investigations and flag the agents in the database so that anyone reviewing it would be aware that one of these agents was part of an “ongoing criminal investigation.”

Finally, the department states to the legislative auditor in its response that it is “upset that your staff does not, but should understand the implications and ramifications of their actions by sending these [*sic*] types of letters without prior approval of or notification to the Department.” The legislative auditor has constitutional and statutory authority to audit all financial and programmatic aspects of the department, including the manner in which the department conducts its criminal investigations. We are not required to obtain prior approval from auditees for any audit procedures we conduct. We are also not required to notify auditees of these activities. In fact, it would not be prudent if auditors informed auditees of exactly how and when they intended to conduct all of their tests.

Page 4: Human Error Explanation

We understand that the department has high volumes of paper to process and a limited number of staff, which may lead to human error. However, our work shows that approximately 900 out of 9,118 new issue application files and approximately 300 out of 12,573 renewal application files did not contain all documentation required by state law and DOI policy. We believe this level of human error warrants improvement. The report offers several recommendations that, if implemented, would address this error rate.

In addition, the fact that we could not locate 22% of the files we needed for the audit, or approximately 450 files, is troublesome and shows that there is need for improvement in DOI’s filing practices.

Page 5: Timeframes for Licensing Processing

We acknowledge in the report that we used a 1999-2003 performance standard for evaluating timeframes for processing 1998 initial licenses. As explained in the report, we used this performance standard because DOI did not have a performance standard for 1998. Thus, we compared DOI’s 1998 actual performance to the standard the department said it was striving to reach in the near future. The comparison shows how much more advancement DOI needs to make to achieve its future target and is a valid comparison in that regard. However, since DOI officials have stated that they cannot control how long it takes to issue a license, we question the validity of their using this as a performance standard at all.

Page 6: Innovative Practices

We understand that DOI has innovative practices such as No Pay No Play and Impoundment laws. However, our audit focus only involved licensing, so we did not point these two practices out in the report.

Before conducting our survey of other states, we contacted the head of the NAIC Licensing Working Group to get his opinion on which states he thought had innovative licensing practices. We sent the surveys to those states and added in some additional southern states because no southern states were included in his opinion.

In addition, the report merely points out some practices used in other states that are different from Louisiana's. It is ultimately DOI's decision as to whether these practices would be feasible or effective. We only make recommendations in the report; we do not make requirements.

Page 7: Verification of Answers to Background Questions

We understand that the department has some safeguards built into the licensing process and have recognized this factor in the report. However, the safeguards listed in the department's response do not prevent convicted felons and other undesirable individuals from obtaining insurance licenses, which is the point of our finding.

- The first safeguard mentioned in the department's response, requiring people to submit applications through the U.S. mail, is designed to make it easier to prosecute people who lied on their applications, not prevent people who lied on their applications from becoming licensed.
- The second safeguard mentioned is designed to provide another avenue, i.e., the federal court system, to prosecute certain felons. In addition, according to Attorney General opinion number 99-330, dated February 18, 2000, this federal law does not substitute for any of the commissioner's responsibilities in state law, e.g., protecting the public from convicted felons.
- The third safeguard the department cites in its response involves the Fraud Section flagging licenses of agents who have been arrested or convicted. This safeguard does not prevent these individuals from obtaining licenses since it only applies to agents who have already been licensed.
- The fourth safeguard of checking the RIRS database will not alert licensing technicians of criminal actions of a non-insurance nature.

Overall, although these safeguards are in effect, they do not address the finding, as the finding relates to the need to conduct criminal background checks before licensing individuals. Also, three of the four safeguards listed by the department in its response are reactive and not proactive in nature.

In summary, much of the department's response talks about how innovative the department is. We recommend that the department take this opportunity to be innovative by implementing procedures to conduct background checks before licensing individuals. We have suggested in the report that the legislature may wish to consider providing funding and other resources to the department to help accomplish this goal.

Page 7: Clarity of Criminal History Background Question

We fully understand the complexity of DOI's functions as insurance regulators. We also understand that the current license application form, which DOI discusses in its response, contains a clearer criminal background question, which is based on the NAIC's version. The department's response to this finding is misleading, however, because it does not point out that this application form was implemented on March 1, 2000--after we completed our fieldwork. Therefore, the response does not address what was in effect at the time of the audit. However, we are pleased to see that DOI has addressed the problem cited in the report.

Also, DOI states in its response that "the bottom line is that there are those agents who choose not to disclose their criminal backgrounds and will use whatever arguments it takes as a defense to their lying on a license application." In this statement, DOI acknowledges that some applicants lie on their applications. This statement reinforces our report conclusions that DOI should conduct background checks on license applicants before licensing them.

Page 8: Interpretation of Federal Violent Crime Control Law Enforcement Act

In its response to this section of the audit report, the department states, "Although several attempts were made to explain the Violent Crime Control Law Enforcement Act to your auditors (non-lawyers), they did not grasp the purpose or the complexity of the act." We consulted with the Legislative Auditor's General Counsel on this issue during the audit. Therefore, there were not just "non-lawyers" reviewing this issue. Our purpose in citing the act in the report was not to take issue with the department on how it has chosen to implement procedures to comply with the law, but rather to illustrate that someone else other than us (i.e., the federal government) believes it is important to consider a person's criminal history as it relates to being licensed to solicit insurance. The discussion in the report about the federal act simply serves to support the recommendation that DOI should do criminal background checks before licensing individuals.

In addition, in response to DOI's comment that we failed to contact other states' regulators, we did not contact them because it was not necessary since the scope of the audit did not include an assessment of DOI's implementation of procedures to comply with this law.

Also, we would like to stress that Attorney General opinion number 99-300, dated February 18, 2000, states that the federal law does not displace the Commissioner's responsibilities under state law. Those responsibilities relate to protection of the public, and conducting criminal background checks before licensing individuals is one way of protecting the public.

Pages 9-13: Response on Audit Recommendations Related to Background Questions on License Applications

Although DOI states in its response that it has already implemented a procedure to check responses to criminal and bankruptcy questions on the applications, this procedure only involves reviewing documentation that applicants submit if they answer “yes” to these questions. DOI has no procedures to verify that applicants who answer “no” to these questions are telling the truth. The “no” group is the higher risk of the two groups.

DOI's response also says that most states do nothing regarding criminal background checks. However, according to the Society for Licensing Administrators Insurance Licensing Digest (Appendix G in the report), most states do use some means of verifying criminal history backgrounds.

Based on DOI's interpretation of the criminal history background question, we found 16 agents who received new licenses in 1998 or renewal licenses in 1999 but lied on their applications regarding their criminal histories. There was no indication in these individuals' court records that these incidents were pardoned or expunged. Also, since we used a statistically valid random sample, we can project that between 150 and 166 residents lied on their applications when answering the criminal history background question in 1998 (new issues) and 1999 (renewals), yet DOI still issued licenses to these individuals. We believe that to truly take an “aggressive stance in keeping criminals out of the insurance industry,” DOI should conduct background checks before licensing individuals.

Finally, DOI concludes this section of its response by stating that the department will eventually be able to accomplish its goal of verifying answers to criminal background questions by conducting background checks on applicants on a pre-licensing basis. Based on this comment, we assume that the department agrees with the report recommendation.

Page 14: Letters to Unqualified Agents

We gave a list of these agents' names to the department on February 3, 2000. On March 9, we also provided the department's Chief of Staff with copies of the letters.

Page 15: Timeframes for Agent Complaints

As explained to DOI officials on various occasions, we used the performance standard for average complaints because DOI did not have a performance standard for agent complaints. In addition, we believe that lengthy complaint resolution times create a risk to the public. For example, consider that DOI employees send out a series of letters requesting that agents respond to complaint allegations. They give the agents up to 60 days to respond to this series of letters. If the agents do not respond, DOI flags their licenses on the database but does not perform additional measures to contact the agents. If the agents would subsequently respond to the allegations say 30 days later,

investigations must begin to determine if the allegations are correct. This means that a total of 90 days have elapsed since receipt of the complaints. During this time, the agents may have been participating in similar activities as the ones that prompted the complaints in the first place.

Page 17: Contacting Unresponsive Agents

DOI states in this section of its response, “Your auditors want the department to do something that is not required by law. . . .” This statement is correct. Although DOI is not statutorily mandated to locate unresponsive agents who have complaints against them, we believe that the department should take an additional and relatively easy step to protect the public from these agents. We do not believe that simply flagging the agents’ licenses in the database is sufficient.

Page 18: Reciprocal Fees

DOI’s statement that it “collected every dollar it was to have collected” is not accurate. The department did not collect the correct amount 28.4% of the time in 1998 and 21.3% of the time in 1999 according to its own calculations of reciprocal fees. The reason DOI states that it has collected every dollar it should have is because the department overcollected fees from some individuals and undercollected fees from others, and the net effect is a positive figure. For example, for the samples we reviewed from 1998 and 1999, DOI overcollected \$3,122 for nonresident new issues and undercollected \$652. DOI did not refund any of the fees that it overcollected. Since we only included fees for a few other states in our test, the overall impact for all nonresidents applying for Louisiana licenses could be much greater.