

AMENDED
DECLARATION OF EMERGENCY
Department of Insurance
Office of the Commissioner
Emergency Rule 27--Suspension of Certain Statutes Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana caused by the State of Emergency Declared by the Governor on August 12, 2016, on account of Historic Flooding
(LAC 37:XI.Chapter 49)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, La. R.S. 49:953(B) and pursuant to the authority granted by Louisiana Revised Statutes 22:1, *et seq.*, amends Emergency Rule 27. Emergency Rule 27 shall be effective upon promulgation and shall remain effective to Monday, September 12, 2016, unless terminated sooner by the Commissioner or by the Governor.

Emergency Rule 27 is issued to address the historic flooding in Louisiana. Emergency Rule 27 is issued pursuant to the transfer of authority to suspend provisions of regulatory statutes and implementing regulations from the Governor to the Commissioner of Insurance in Executive Order JBE 2016-58, issued by Governor John Bel Edwards on August 18, 2016. The transfer of authority in Executive Order JBE 2016-58 is authorized in the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, and rules promulgated by the Commissioner relative to the Louisiana Insurance Code is authorized in La. R.S. 22:11, and are promulgated through the aforementioned Administrative Procedure Act.

On August 12, 2016, Governor John Bel Edwards declared a State of Emergency within the state of Louisiana in response to historic flooding in Louisiana. This State of Emergency, declared pursuant to Proclamation No. 111 JBE 2016, extends from Friday, August 12, 2016, to Monday, September 12, 2016. Louisiana citizens have suffered damage due to this historic flooding. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by this historic flooding has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, interruption of communication services, the temporary displacement of persons from their homes, loss of personal belongings, and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. This historic flooding has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The Commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement,

premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

Therefore, Emergency Rule 27 is issued and shall apply to all insurers, health maintenance organizations (HMOs), surplus lines, and any and all other entities doing business in Louisiana or regulated by the Commissioner, including any entity enumerated in Emergency Rule 27, regarding any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the National Flood Insurance Program), homeowners insurance, life insurance, group and individual health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.

Emergency Rule 27 is applicable to insureds from the following parishes: **Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, and West Feliciana**, and any such parishes that have or may hereafter receive a Major Disaster Declaration by the President of the United States or such officer acting under his authority for this historic flood event.

Emergency Rule 27 is available on the Internet at www.ldi.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802.

Title 37
INSURANCE
Part XI. Rules

Chapter 49. Emergency Rule 27--Suspension of Certain Statutes Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana caused by the State of Emergency Declared by the Governor on August 12, 2016, on account of Historic Flooding

§4901. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 27 shall be applicable to insureds who, as of 12:01 a.m. on August 12, 2016 had a policy or insurance contract for any of the types of insurance enumerated in Section 4903, and meet one of the following criteria:

1. Any person, as defined in La. R.S. 22:46, who, as of August 12, 2016, resided in one of the following parishes: Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

2. Nothing in Emergency Rule 27 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 27 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in Section 4901.A.1.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4903. Applicability

A. Emergency Rule 27 shall apply to any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self-insurance funds, disability insurance, reciprocal insurance, long term care insurance, short term health insurance, stop loss insurance, excess loss insurance, Medicare supplement insurance, preferred provider organizations, managed care organizations and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4905. Suspension of Louisiana Insurance Code Provisions

A. All cancellation, termination, nonrenewal, and nonreinstatement provisions in Title 22, including, but not limited to, La. R.S. 22:272, 22:887, 22:977, 22:978, 22:1068, 22:1074, 22:1266, 22:1267; 22:1311, and 22:1335 are hereby suspended. Any such notice shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements, and any such notice shall not be issued to the insured prior to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4907. Suspension of Cancellations or Nonrenewals

A. The Commissioner hereby suspends any and all cancellations occasioned by the inability of an insured, or his representative, from complying with any policy provisions. In furtherance of this suspension, a cancellation or nonrenewal shall not occur prior to September 12, 2016, unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4909. Insured's Obligation to Provide Information Relative to Claims

A. Emergency Rule 27 shall not relieve an insured who has a claim caused by this historic flooding, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4911. Suspension of Interest, Penalties, Fees, and other Charges

A. The Commissioner hereby suspends the imposition of any additional interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered herein.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4913. Cancellation for Fraud or Material Representation

A. The provisions of Emergency Rule 27 shall not prevent insurers, HMOs, or any other entity doing business in Louisiana or regulated by the Commissioner from cancelling or

terminating an insured based solely on fraud or material misrepresentation on the part of the insured as authorized by law or in the policy or certificate of insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4915. Suspension of Statutory, Regulatory, or Policy Provisions

A. Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in Section 4903 above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in Section 4903 above, which act or transmittal was to have been performed on or after 12:01 a.m. on August 12, 2016. The time limit for any such performance, act or transmittal shall be suspended to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4917. Suspension of Cancellation, Nonrenewal, or Nonreinstatement

A. Emergency Rule 27 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in Section 4903 that was in force and effect as of 12:01 a.m. on August 12, 2016, and any such action shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements and any such notice shall not be issued to the insured until September 12, 2016 or thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4919. Authority

A. The Commissioner reserves the right to amend, modify, alter, or rescind all or any portion of Emergency Rule 27. Additionally, the Commissioner reserves the right to extend Emergency Rule 27.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4921. Severability

A. If any section or provision of Emergency Rule 27 is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 27 to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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

§4923. Effective Date

A. Emergency Rule 27 shall become effective at 12:01 a.m. on August 12, 2016 and shall continue in full force and effect to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

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