DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Emergency Rule 29—Homeowner and Fire/Commercial Insurance Policy Disclosure Forms
(LAC 37:XIII.Chapter 53)

The Department of Insurance (Department) hereby exercises the emergency provisions of the Administrative Procedure Act, LSA-R.S. 49:953(B) and, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., adopts Emergency Rule 29 which is necessary to create and promulgate the Homeowner and Fire/Commercial Insurance Policy Disclosure Forms. Emergency Rule 29 establishes the forms developed by the Commissioner of Insurance for use by all property and casualty insurers issuing, delivering or renewing homeowner or fire commercial insurance policies that provide coverage for damage to property in Louisiana. Emergency Rule 29 shall be effective upon adoption in the Louisiana Register and unless extended, shall remain in effect for a period of 120 days or until adoption of the final Regulation 107 through the normal rulemaking process, whichever occurs first.

Emergency action is necessary to provide the forms to be used by all property and casualty insurers issuing homeowners and fire/commercial insurance policies that provide coverage for damage to property in Louisiana to notify all homeowner and fire/commercial policyholders of specific provisions of their policies.

Act 274 of the 2016 Regular Session enacted LSA R.S. 22:1332 (B) (7) which requires the Homeowner Disclosure form mandated by that section to include an additional notice to policyholders if their insurer intends to use claims that do not exceed the policy deductible and that do not result in a payment to the insured or on behalf of the insured as a basis to increase the cost of the policy’s premium in the future or as part of the basis for cancellation of the policy. The Commissioner believes emergency action is necessary because Act 274 of the 2016 Regular Session became effective August 1, 2016 mandating the promulgation of the Homeowner Disclosure form by November 30, 2016 as well as the fact that many policyholders may report potential minor claims without knowing such a claim will be used against them even if the value of the claim does not exceed the policy deductible and the insurance company does not make any payments to the insured or on behalf of the insured. Failure to adopt this rule on an emergency basis will result in a delay in promulgation of the rule and the implementation of the disclosure form requirements.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 153. Homeowner and Fire/Commercial Insurance Policy Disclosure Forms

§15301. Purpose
A. The purpose of Emergency Rule 29 is to adopt the Homeowners and Fire/Commercial Insurance Policy Disclosure Forms developed by the Commissioner of Insurance for use by all property and casualty insurers issuing, delivering or renewing homeowners and fire/commercial insurance policies that provide coverage for damages to property in Louisiana.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15303. Applicability and Scope
A. Emergency Rule 29 shall be applicable to all property and casualty insurers for all new homeowner policies and all renewals of existing homeowner policies.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15305. Disclosure Forms
A. Every property and casualty insurer issuing, delivering or renewing homeowners or fire/commercial insurance policies that provide coverage for damage to property in Louisiana shall present to the insured as an insert in the front of the policy upon issuance, delivery or renewal the appropriate disclosure form.

B. Formatting Instructions. The text of the disclosure form should be formatted as shown in the applicable appendix in bold type of not less than a fourteen-point font.

C. Appendix A contains the form that sets forth the disclosures required by R.S. 22:1319 for use by all property and casualty insurers issuing fire/commercial policies covering property in Louisiana.

D. Appendix B contains the form that sets forth the disclosures required by R.S. 22:1332 (B)(1-6) for use by all property and casualty insurers issuing homeowner policies covering property in Louisiana.

E. Appendix C contains the form that sets forth the disclosures required by R.S. 22:1332 (B)(1-7) for use by all property and casualty insurers issuing homeowner policies for damage to property in Louisiana that use claims that do not exceed the policy deductible and that do not result in a payment either to the insured or on behalf of the insured to increase the cost of the policy premium in the future or as part of the basis for cancellation of a policy.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15307. Rule Amendment
A. The Commissioner of Insurance reserves the right to amend, modify, alter or rescind all or any portion of Emergency Rule 29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15309. Severability Clause
A. If any provision of this emergency rule, or the application thereof to any circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this emergency rule are severable.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:
§1531. Effective Date
A. The forms provided in Appendix A and Appendix B of Emergency Rule 29 shall become effective immediately upon adoption and the form provided in Appendix C shall become effective 6 months after adoption. All forms shall continue in full force and effect until amended, modified, altered or rescinded by the Commissioner of Insurance.


HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15313. Appendices
Appendix A

Important Information Required by the Louisiana Department of Insurance

Fire Insurance Policy Coverage Disclosure Summary (other than Homeowners)
Or Commercial Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1319

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

**READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND CONDITIONS**

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PROPERTY COVERAGES]

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible

Examples—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1319 B(3) by selecting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss for each coverage included in the policy for which a premium has been paid. The total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible(s) so that the example demonstrates a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

The following assumes no co-insurance penalty and a 2% hurricane, wind, or named storm deductible. The amounts of loss to the damaged property are $50,000 (building) and $20,000 (business personal property).

Limits of insurance on building $100,000
Total amount of building loss $50,000
Less 2% deductible ($100,000 X .02) $2,000
Net payment to insured for building loss $48,000

Limits of insurance on the business personal property $50,000
Total amount of business personal property loss $20,000
Less 2% deductible ($50,000 X .02) $1,000
Net payment to insured for business personal property loss $19,000

Total net payment to insured for building and business personal property loss ($48,000 + $19,000) $67,000

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling or building and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy, from this or another insurer, if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

**FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS**

Appendix B

Important Information Required by the Louisiana Department of Insurance

Homeowners Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1332 (B)(1-6)

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

**READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND CONDITIONS**

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PERSONAL PROPERTY COVERAGES]

Example:
Coverage A.......................................................... Dwelling
Coverage B ....................................................... Other Structures
Coverage C ........................................................ Personal Property
Coverage D ........................................................ Loss of Use
Coverage E ........................................................ Personal Liability
Coverage F ........................................................ Medical Payments
Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) for details.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible Example—Hurricane, Wind or Named Storm Damage

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1332 B(6) by selecting and inserting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss under each of Coverage A, B, C and D and the total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible so that there shall be a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

If the total insured value of the dwelling or Coverage A is $200,000 and you have a 2% hurricane, wind, or named storm deductible, then your hurricane, wind or named storm deductible would be $200,000.00 X .02 = $4,000.00.

Losses:
Coverage A – Dwelling ................................................. $15,000
Coverage B – Other Structures ...................................... $ 2,500
Coverage C – Personal Property ..................................... $ 3,000
Coverage D – Loss of Use ................................................ $ 2,000
Total amount of all losses .............................................. $22,500
Less 2% hurricane, wind or named storm deductible .............................................. $ 4,000
Net payment to insured .................................................................................. $18,500

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes but is not limited to storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

**FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS**

Claim Filing Process

There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost for the insured loss of your property, if applicable.

Payment of Claims

Depending on the terms of the insurance policy, some losses may be based on actual cash value (ACV) and other losses based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

**Refer to your policy for the terms and conditions describing how a particular loss is to be paid.

Payment and Adjustment of Claims

Pursuant to LSA-R.S. 22:1892 and 22:1973, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and/or a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant unless the Commissioner of Insurance promulgates a rule to extend the time period for initiating a loss adjustment for damages arising from a residentially declared emergency or disaster or a gubernatorially declared emergency or disaster for up to an additional thirty (30) days. Thereafter, one additional extension of the period of time for initiating a loss adjustment may be allowed by the Commissioner of Insurance if approved by the Senate Committee on Insurance and the House Committee on Insurance.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand thereof or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after receipt of a satisfactory proof of loss of that claim may result in a late penalty against the insurer in addition to the payment of the claim.

If the insurer is found to be arbitrary, capricious, or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand dollars ($1,000.00), whichever is greater, as well as attorney fees and costs, if applicable.

Appendix C

Important Information Required by the Louisiana Department of Insurance

Homeowners Insurance Policy Coverage Disclosure Summary

This form is promulgated pursuant to LSA-R.S. 22:1332 (B)(1-7)

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Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

**FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS**

Claim Filing Process
There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost for the insured loss of your property, if applicable.

Payment of Claims
Depending on the terms of the insurance policy, some losses may be based on actual cash value (ACV) and other losses based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

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If the insurer is found to be arbitrary, capricious, or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the limited to storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.
amount found to be due from the insurer to the insured, or one thousand dollars ($1,000.00), whichever is greater, as well as attorney fees and costs, if applicable.


HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

James J. Donelon
Commissioner

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