



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

CEASE AND DESIST ORDER
AND NOTICE OF PROPOSED REGULATORY ACTION

LDI #1296
NAIC #25143

August 20, 2019

State Farm Fire and Casualty Company
Attn: Mr. Mike Lane
One State Farm Plaza
Bloomington, IL 61710

Article No.: 7018 1830 0000 7633 6254

Via Email: mike.lane.c7ao@statefarm.com

WHEREAS, IT HAS COME TO MY ATTENTION, as Commissioner of Insurance (Commissioner) of the Louisiana Department of Insurance (LDI), that State Farm Fire and Casualty Company ("State Farm"), an insurer licensed to do business in Louisiana, has violated certain provisions of the Louisiana Insurance Code, Title 22, La. R.S. 22:1 et seq. As used hereinafter, "you" and "your" refer to State Farm. Accordingly, pursuant to the authority vested in me as Commissioner, I issue this Cease and Desist Order and Notice of Proposed Regulatory Action based on the following, to wit:

State Farm Fire and Casualty Company is an insurer (LDI #1296 and NAIC #25143) with a Certificate of Authority issued August 1, 1952, and is currently active.

On July 17, 2019, the LDI received notification via a complaint (#756934) that State Farm is imposing a Hurricane Duration Deductible on claims made by Louisiana State Farm homeowners insurance policyholders for losses attributed to Hurricane Barry that occurred prior to the Hurricane Duration Period.

The State Farm FE-3387 Hurricane Duration Deductible Endorsement applies the Hurricane Duration Deductible to certain losses that:

1. are caused by wind, wind gusts, hail, rain, tornadoes, lightning (except covered fire losses caused by lightning), cyclones, civil authority, or power outage; and
2. occur within the **Hurricane Duration** and result from the storm system that triggered the **Hurricane Duration**;

provided this storm system has hurricane status, as classified by the National Hurricane Center of the National Weather Service:

1. sometime within the 48 hour period prior to first causing damage to property within this state; or

2. anytime after first causing damage to property within this state, so long as this hurricane classification occurs while a hurricane watch or warning is still in effect for this state.

Under State Farm's Hurricane Duration Deductible Endorsement, the Hurricane duration Period begins when a hurricane watch or warning is issued for any part of the State of Louisiana because of a storm system that has been declared to be a hurricane by the NWS National Hurricane Center. According to the relevant National Weather Service(NWS) Bulletins, the watches and warnings issued prior to July 13, 2019 at 10:00 a.m CDT were issued to advise there was a possibility of a hurricane developing. A summary of those bulletins is attached as Exhibit "A". The storm system was declared as having hurricane status, i.e., Hurricane Barry, on July 13, 2019 at 10:00 a.m. CDT and continued through the same day until being weakened to a Tropical Storm at 1:00 p.m. CDT. Therefore, the Hurricane Duration Period did not commence until July 13, 2019 at 10:00 a.m. CDT, and summarily, the Hurricane Duration Deductible cannot be applicable to the claims of Louisiana policyholders for losses sustained before 10:00 a.m. CDT.

AUTHORITY OF THE COMMISSIONER:

The Louisiana Insurance Code, Title 22, R.S. 22:1 et seq. maintains:

Title 22§2 Insurance regulated in the public interest

- A. (1) Insurance is an industry affected with the public interest and it is the purpose of this Code to regulate the industry in all its phases. [...] It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

La. R.S. 22:18 maintains in pertinent part:

§ 18. Suspension or revocation of insurers' licenses; fines; orders

- A. The commissioner of insurance may, as a penalty, in accordance with R.S. 49:961, refuse to renew, or may suspend, or revoke the certificate of authority or license of any insurer, person, or entity violating any of the provisions of this Code, or in lieu of suspension or revocation of a certificate or license duly issued, the commissioner may levy a fine not to exceed one thousand dollars for each violation per insurer, person, or entity, up to one hundred thousand dollars aggregate for all violations in a calendar year per insurer, person, or entity, when such violations warrant the refusal, suspension, or revocation of such certificate or license, or the imposition of the fine. The commissioner is also authorized to order any insurer, person, or entity to cease and desist any such action that violates any provision of this Code.

La. R.S. 22:1892 maintains in pertinent part:

§ 1892. Payment and adjustment of claims, policies other than life and health and accident; personal vehicle damage claims; extension of time to respond to claims during emergency or disaster; penalties; arson-related claims suspension.

- A. (1) All insurers issuing any type of contract other than those specified in R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, shall pay the amount of any claim due any insured within thirty days after receipt of satisfactory proofs of loss from the insured or any party in interest.
- B. (1) Failure to make such payment within thirty days after receipt of such satisfactory written proofs and demand therefor or failure to make a written offer to settle any property damage claim including a third-party claim, within thirty days after receipt of satisfactory proofs of loss of that claim..., or failure to make such payment within thirty days after written agreement or settlement...when such failure is found to be arbitrary, capricious, or without probable cause, shall be subject the insurer to a penalty, in addition to the amount of loss, of fifty percent damages on the amount found to be due from the insurer to the insured, or one thousand dollars, whichever is greater, payable to the insured....

La. R.S.22:1964 maintains in pertinent part:

§ 1964. Methods, acts and practices which are defined as unfair or deceptive

The following are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) **Misrepresentations and false advertising of insurance policies.** Making, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular or statement, sales presentation, omission, or comparison that does any of the following:

(a) Misrepresents the benefits, advantages, conditions, or terms of any policy issued.

(14) **Unfair claims settlement practices.** Committing or performing with such frequency as to indicate a general business practice of the following:

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.

VIOLATIONS:

Your imposition of a Hurricane Duration Deductible on claims made for losses occurring prior to 10:00 a.m. on July 13, 2019, or when the imposition of a hurricane deductible should not be imposed in accordance with the policy language, constitutes a violation of La. R.S. 22:1892, La. R.S. 22:1964 (1)(a) and (14)(a).

BE ADVISED:

COMMISSIONER'S ACTION:

CEASE AND DESIST ORDER:

In accordance with La. R.S. 22:18, La. R.S. 22:1969, and 49:961, **STATE FARM FIRE AND CASUALTY COMPANY** is hereby ordered to **CEASE AND DESIST** from imposing a Hurricane Duration Deductible on claims made by Louisiana State Farm homeowners insurance policyholders for losses incurred during the period when policy language dictates a Hurricane Duration Deductible should not be imposed. Any violation of the cease and desist order or other violations of the Louisiana Insurance Code may result in further regulatory action.

PROPOSED ACTION:

The Commissioner of Insurance, in accordance with La. R.S. 22:18, La. R.S. 22:1969 and 49:961, proposes to **suspend or revoke** Louisiana the Certificate of Authority issued to **State Farm Fire and Casualty Company**.

NOTICE OF APPEAL:

Be advised that the Cease and Desist Order constitutes an administrative action. You may need to report this administrative action to this or other states in which you hold an active license. Contact that state's regulatory department if you are unsure of their requirements.

Pursuant to La. R.S.22:2191(A)(2) any person aggrieved by an act of the Commissioner may request a hearing within thirty days of receipt of notice of such act. You must make a written demand for an appeal within thirty (30) days from the date of this notice. Failure to file a written demand for an appeal within thirty (30) days from the date of this notice will preclude your right to an administrative hearing. Pursuant to La. R.S. 22:2191(B), your written demand for an appeal (1) shall reference the particular sections of the statutes and rules involved; (2) shall provide a short and plain statement of the matters asserted for review; and (3) shall attach a copy of the order or decision that you are appealing. Your written demand for an appeal shall be filed with the Louisiana Department of Insurance at the address below:

File Via Mail:
Louisiana Department of Insurance
Attn: Liz Butler, Executive Counsel
P. O. Box 94214
Baton Rouge, LA 70804-9214

File in Person:
1702 N. Third Street
Baton Rouge, LA 70802
Telephone: (225) 342-4673
Fax: (225) 342-1632

YOUR ACTION:


Prior to the Commissioner instituting the aforementioned suspension or revocation action, La. R.S. 49:961 requires that you be "given an opportunity to show compliance with all lawful requirements for the retention of the license."

To prevent the Commissioner from instituting the proposed action, you must explain how the activities alleged above were lawful and in compliance with the insurance code and show cause as to why the Commissioner should not take the action outlined above. You are ordered to submit your written explanation no later than thirty (30) days from the date of this letter. Following our receipt and review of your submission you will be notified of our position with regard the license issued. Your failure to submit an explanation as ordered will result in the immediate commencement of administrative action against your license.

Signed in Baton Rouge, Louisiana this 20th day of August, 2019.

JAMES J. DONELON
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

BY: _____


Matthew Stewart
Deputy Commissioner
Division of Fraud and Enforcement
Louisiana Department of Insurance
Telephone: (225) 219-5819

CERTIFICATE OF SERVICE
Article # 7018 1830 0000 763 36254

I hereby certify that I have this day served the foregoing document upon State Farm Fire and Casualty Company by mailing a copy thereof properly addressed with postage prepaid, this 20th day of August, 2019.



Nelda Lawrence

EXHIBIT "A"

SUMMARY OF BULLETINS
 NWS National Hurricane Center, Miami, FL
 July 10-13, 2019
 (Storm System: Tropical Storm / Hurricane Harry)

Date	Time	NWS Bulletin Description	Watch and Warnings Issued for LA
July 10, 2019	4:00 p.m. CDT	Potential Tropical Cyclone Two Advisory	--Storm Surge Watch extended to Intracoastal City, LA --Hurricane Watch from Mouth of MS River to Cameron, LA --Tropical Storm Watch for Mouth of MS River to Mouth of Pearl River
July 11, 2019	4:00 p.m. CDT	Tropical Storm Barry Advisory	--Hurricane Warning for portions of LA Coast from Intracoastal City to Grand Isle --Tropical Storm Warning for Lake Pontchartrain and Lake Maurepas, including Metro New Orleans, and Intracoastal City to Cameron --Storm Surge Watch for Lake Pontchartrain and mouth of Atchafalaya River to Shell Beach
July 13, 2019	10:00 a.m. CDT	Hurricane Barry Advisory	--Tropical Storm Warning for LA Coast from Cameron to Sabine Pass --Hurricane Watch for LA Coast east of Grand Isle discontinued --Hurricane Warning for Intracoastal City to Grand Isle --Tropical Storm Warning for Mouth of Pearl River to Grand Isle, Lake Pontchartrain and Lake Maurepas, including Metro New Orleans, and Intracoastal City to Sabine Pass
July 13, 2019	1:00 p.m. CDT	Tropical Storm Barry Intermediate Advisory	--Hurricane Warning for Intracoastal City to Grand Isle --Tropical Storm Warning for Mouth of Pearl River to Grand Isle --Lake Pontchartrain and Lake Maurepas, including Metro New Orleans, and Intracoastal City to Sabine Pass
July 13, 2019	4:00 p.m. CDT	Tropical Storm Barry Advisory	--Tropical Storm Warning for Mouth of MS River to Sabine Pass and Lake Pontchartrain and Lake Maurepas, including Metro New Orleans --Storm Surge Warning in effect for Intracoastal City to Biloxi and Lake Pontchartrain