LOUISIANA DEPARTMENT OF INSURANCE
J. ROBERT WOOLEY, COMMISSIONER

P.O. BOX 94214
BATON ROUGE, LOUISIANA 70804-9214
PHONE (225) 342-5900
FAX (225) 342-3078
http://www.ldi.state.la.us

DIRECTIVE 191

December 22, 2005

NOTICE TO ALL LOUISIANA CITIZENS PROPERTY INSURANCE CORPORATION ASSESSABLE INSURERS

RE: LOUISIANA CITIZENS PROPERTY INSURANCE CORPORATION REGULAR ASSESSMENT RECOUPMENT AND REMITTANCE AND EMERGENCY ASSESSMENT COLLECTION AND REMITTANCE

Due to the devastation inflicted upon Louisiana by Hurricane Katrina and Hurricane Rita, and following the issuance of Emergency Rule 15 on September 20, 2005 and Emergency Rule 19 on October 26, 2005, the Louisiana Citizens Property Insurance Corporation (Citizens) levied a Regular Assessment against both the Coastal Plan and the FAIR Plan against assessable insurers. Citizens is authorized to levy Regular Assessments against assessable insurers in both the Coastal Plan and the FAIR Plan. Citizens is authorized to levy Emergency Assessments against assessable insureds in both the Coastal Plan and the FAIR Plan. Citizens was established and incorporated pursuant to the authority of Subpart B, Part XXX, Chapter 1 of the Louisiana Insurance Code, LSA R.S. 22:1430, et seq.

There have been numerous requests from assessable insurers and other interested persons regarding the need for the Commissioner of Insurance ("Commissioner") of the Louisiana Department of Insurance ("Department") to provide guidance and interpretation as to how assessable insurers, assessable insureds, and any and all other entities doing business in Louisiana and regulated by the Commissioner should conduct their affairs with regard to any Regular Assessments and any Emergency Assessments in both the Coastal Plan and the FAIR Plan made by Louisiana Citizens Property Insurance Corporation ("Citizens") pursuant to LSA R.S. 22:1430.16.

This Directive 191 is issued pursuant to the requests by assessable insurers, assessable insureds, and any and all other entities doing business in Louisiana and regulated by the Commissioner. All assessable insurers, assessable insureds, and affected persons are to conduct themselves in accordance with the purpose and intent of any Regular Assessments and any Emergency Assessments made by Citizens in both the Coastal Plan and the FAIR Plan pursuant to LSA R.S. 22:1430.16 and in compliance with guidance and interpretation provided herein by Directive 191.

Accordingly, I hereby issue Directive 191:

1. All insurers authorized to write one or more subject lines of business in Louisiana are directed that Regular Assessments and Emergency Assessments levied by the Louisiana Citizens Property Insurance Corporation in both the Coastal Plan and the FAIR Plan pursuant to LSA R.S. 22:1430, et seq., are to be applied in compliance with statutory law and in compliance with the guidance and interpretation set forth in Directive 191.

2. In accordance with LSA R.S. 22:1430.16, the Louisiana Citizens Property Insurance Corporation ("Citizens") has the authority to levy Regular Assessments and Emergency Assessments in both the Coastal Plan and the FAIR Plan.

3. It is mandatory that all assessable insurers remit the full amount of any Regular Assessment levied by Citizens.

4. Citizens may levy more than one Regular Assessment in a calendar year for either the Coastal Plan or the FAIR Plan, up to the aggregate maximum amount authorized pursuant to LSA R.S. 22:1430.16.B.

5. It is mandatory that all assessable insurers participate in the collection and remittance of any Emergency Assessments levied by Citizens.

6. Emergency Assessments may be levied by Citizens and collected by the assessable insurers on behalf of both the Coastal Plan and the FAIR Plan to cover losses in excess of all profits, excess reserves, reinsurance proceeds, and Regular Assessments. Emergency Assessments shall be levied directly upon all policyholders in the subject lines of business. Assessable insurers shall collect the full monetary amount of Emergency Assessments and remit all monetary sums collected pursuant to Emergency Assessments to Citizens in accordance with the procedures outlined below.

7. Citizens may levy only one Emergency Assessment in a calendar year for the Coastal Plan. Citizens may levy only one Emergency Assessment in a calendar year for the FAIR Plan.

8. **General Provisions Applicable to Both the Recoupment of Regular Assessments and the Collection of Emergency Assessments**:

A. The surcharge percentages for recoupment of Regular Assessments and the collection percentages of Emergency Assessments shall be applied to the insured's policy premium for the following subject lines of business:

- Fire and allied lines (including mobile homes)
- Homeowners multi-peril
- The property insurance portion of the commercial multi-peril policy

B. To the extent that an assessable insurer requires guidance as to whether an insurance program is to be included as a subject line of business, the assessable insurer is directed to be guided by the instructions for allocating the program's premium to the lines of business delineated on Statutory Page 14 of the Annual Statement. Specifically, the following insurance programs, as delineated on the Statutory Page 14, shall be considered assessable as subject lines of business:

- Line 1 (Fire)
- Line 2.1 (Allied Lines)
- Line 4 (Homeowners)
- Line 5.1 (Commercial Multi-Peril – Non-Liability Portion)
- All mobile home programs regardless of which line the mobile home business is allocated on Statutory Page 14

C. If a subject line of business is part of an inseparable package premium (e.g., a commercial multi-peril policy or business owners policy), the insurer shall make a reasonable estimate as to the portion of the package premium that should be allocated to the subject lines of business and then apply the appropriate surcharge percentages and collection percentages of the respective Regular Assessment and Emergency Assessment.

D. Each Regular Assessment recoupment surcharge and Emergency Assessment collection amount must be calculated separately and should be listed individually as a segregated item on the declarations page. The wording for the notice on the declarations page should be similar to that presented in the following example:

EXAMPLE 1:

Total Policy Premium		$950.00
2005 LA FAIR Plan Regular Assessment	$95.00	
2005 LA Coastal Plan Regular Assessment	$47.50	
2005 LA FAIR Plan Emergency Assessment	$47.50	
2005 LA Coastal Plan Emergency Assessment	$25.00	
Total Amount Due		$1,165.00

If space in the declarations page is not sufficient to allow the listing of all applicable Regular Assessment recoupment surcharges and Emergency Assessment collection percentages, a supplemental schedule shall be attached. For example, the declarations page may reflect the following:

EXAMPLE 2.1:

Total Policy Premium		$950.00
2005 LA Citizens Regular/Emergency Assessments	$215.00	
Total Amount Due		$1,165.00

The supplemental schedule must display each Regular Assessment recoupment surcharge and Emergency Assessment collection amount individually and in a manner similar to those listed in Example #1, above. For example, the supplemental page would reflect the following:

EXAMPLE 2.2:

Total Policy Premium		$950.00
2005 LA FAIR Plan Regular Assessment	$95.00	
2005 LA Coastal Plan Regular Assessment	$47.50	
2005 LA FAIR Plan Emergency Assessment	$47.50	
2005 LA Coastal Plan Emergency Assessment	$25.00	
Total Amount Due		$1,165.00

On a case by case basis, the Department will consider alternative mechanisms for assessable insurers to provide notice to policyholders of all Regular Assessments and Emergency Assessments.

E. Recoupment surcharges applicable to Regular Assessments and collection amounts applicable to Emergency Assessments are not to be considered premium and are not subject to premium taxes, commissions, service fees, or other charges.

F. Failure to pay either the Regular Assessment recoupment surcharge or the Emergency Assessment collection amount shall be treated as a non-payment of premium by the insured and shall be sufficient cause to cancel the policy.

G. All questions regarding the financial accounting of Regular Assessments, the financial accounting of Emergency Assessments, the payment and recoupment of Regular Assessments, and the collection and remittance of Emergency Assessments should be directed to the Department's Financial Solvency Division.

9. **Regular Assessments Recoupment and Remittance**:

A. Citizens will determine if a Regular Assessment is warranted and will notify assessable insurers as to the insurer's assessed amount and the percentage of the subject premium used to calculate these amounts. These amounts and percentages will also be filed with the Louisiana Insurance Rating Commission. If Citizens does not declare a Regular Assessment in a given year, there will be no such notification.

B. Assessable insurers shall remit the Regular Assessment to Citizens within 30 days of the date of notification of the Regular Assessment.

C. The date of notification shall be the date stated on the invoice issued by Citizens to the assessable insurer.

D. Assessable insurers shall not be entitled to recoup a Regular Assessment until the Regular Assessment has been paid, in full, to Citizens.

E. If an assessable insurer objects to all or any portion of a Regular Assessment, the assessable insurer shall, within 30 days of the date of the notification by Citizens, (1) pay the full amount of the Regular Assessment with a full reservation of rights, and (2) file a written appeal with Citizens as per Citizens' Plan of Operation.

F. If the assessable insurer is not able to resolve the dispute with Citizens, the assessable insurer may file a written appeal with the Commissioner setting forth each and every legal basis for the assessable insurer's objection to the payment of the Regular Assessment to Citizens. The Commissioner shall take appropriate action as set forth in the Louisiana Insurance Code.

G. RECOUPMENT IS NOT MANDATORY. Assessable insurers have the option to surcharge or not to surcharge their subject policyholders to recoup the amount of any Regular Assessment. Furthermore, an assessable insurer may recoup all, none, or only a portion of a Regular Assessment levied against it by Citizens.

H. However, once an assessable insurer has determined the uniform recoupment surcharge percentage to be applied to its policyholder base, the uniform recoupment surcharge percentage shall remain in effect for the duration of the 12-month recoupment collection period and cannot be altered by the assessable insurer.

I. Assessable insurers may elect to proceed with the recoupment process as an affiliated group. The affiliated group shall follow the guidance and interpretation of Directive 191. Each action taken by the affiliated group shall be applied uniformly, without exception, to each assessable insurer listed as being a member of the affiliated group.

J. Before proceeding with the recoupment process as an affiliated group, the affiliated group shall give the Department 30-day written notice. The beginning date of the 30-day written notice shall be the date on which the Department received the written notice. The Department shall transmit to the affiliated group a copy of the affiliated group's notification evidencing when the written notification was received by the Department.

K. In this notice the affiliated group shall list each member insurer and provide the notice information delineated in Section 9.N for the affiliated group. Specifically, the affiliated group must demonstrate how the uniform, statewide surcharge percentages are determined given the individual member's Regular Assessment percentages and amounts.

L. Assessable insurers who elect to recoup the Regular Assessment amount remitted to Citizens shall select uniform, statewide surcharge percentages to be applied to all of the assessable insurer's subject written premiums and shall be identical across all subject lines of business. The maximum allowed surcharge percentage is that percentage underlying the Regular Assessment amount for which the assessable insurer was assessed (i.e., billed by Citizens and paid to Citizens). These percentages shall be determined by Citizens and provided by Citizens to all assessable insurers. Citizens shall also file these percentages with the Louisiana Insurance Rating Commission.

M. If an assessable insurer determines that it will not seek to recoup the full amount of the Regular Assessment against one or more subject lines of business but will seek to recoup the Regular Assessment against the remaining subject lines of business, the assessable insurer shall first submit a written Partial Recoupment Plan to the Commissioner for approval prior to implementation. The Partial Recoupment Plan shall include sufficient detailed information to enable the Commissioner to ensure that the assessable insurer has not shifted any of the recoupment burden from the subject line(s) of business that will not be fully assessed to the remaining subject line(s) of business that will be assessed. The Partial Recoupment Plan shall also include all of the information required by Section 9.N.

N. Assessable insurers shall give 30-day written notification to the Department stating the uniform, statewide surcharge percentages, demonstrating how the surcharge percentages were determined, stating the beginning date for the recoupment process, and setting forth how the assessable insurer shall notify its policyholders of the surcharge percentages and amounts. The beginning date of the 30-day period shall be the date on which the Department received the written notification. The Department shall transmit to the assessable insurer a copy of the insurer's notification evidencing when the written notification was received by the Department.

O. The recoupment process for the Regular Assessment levied by Citizens in 2005 shall commence within six (6) months from the date of the issuance of Directive 191. The recoupment process for any subsequent Regular Assessments levied after the issuance of Directive 191 shall commence within six (6) months from the date of notification stated on the invoice issued by Citizens to the assessable insurer. No exception to this six (6) month time period shall be granted unless the assessable insurer obtains the written approval of the Commissioner based upon the filing of a written Recoupment Exception Petition that establishes why the assessable insurer could not comply with the six (6) month period and why the assessable insurer will suffer irreparable harm if an extension is not granted.

P. If an assessable insurer does not initiate the recoupment process within six (6) months of the date set forth in Section 9.O, the assessable insurer shall have no right to collect, and shall be prohibited from collecting, all or any portion of the Regular Assessment from its applicable policyholders.

Q. If an assessable insurer decides to recoup all or any portion of a Regular Assessment, the recoupment shall be implemented and completed within the uninterrupted 12-month period beginning with the date that the assessable insurer initiates the recoupment process. An assessable insurer that initiates the recoupment process shall not interrupt, suspend or otherwise cease the recoupment process before the expiration of the full 12-month period.

R. If an assessable insurer anticipates that it will not recoup all of the Regular Assessment (levied by Citizens and paid to Citizens) within the allowed 12-month period, the assessable insurer may submit an Extended Recoupment Plan to the Commissioner for approval prior to implementation. The Extended Recoupment Plan shall detail the assessable insurers request to recoup the remaining portion of the Regular Assessment over a second 12-month period. The Extended Recoupment Plan shall be filed 60 days in advance of conclusion of the initial recoupment period. The Commissioner has the right to require an assessable insurer to submit additional information. An assessable insurer shall not implement the Extended Recoupment Plan prior to the written approval of the Commissioner. The Extended Recoupment Plan shall, at a minimum, provide the following:

- The anticipated amount of the Regular Assessment that will not be recouped
- Each and every reason why the assessable insurer failed to recoup the entire Regular Assessment during the initial 12-month period allowed under Directive 191
- A detailed explanation as to how the extended percentage surcharge was calculated in order to recoup the remaining Regular Assessments
- As to each of the subject lines of business set forth in Section 8.A, the assessable insurer shall provide an unequivocal statement to the Commissioner as to whether or not the assessable insurer will continue to write said business in Louisiana over the next twenty-four (24) month period
- The assessable insurer shall include in the Extended Recoupment Plan all of the information required in Section 9.N

S. If an assessable insurer issues a policy with a term greater than 12 months, the assessable insurer shall adjust the recoupment process so that the surcharge only impacts the equivalent of a 12-month premium and is consistent with the initiation date selected by the assessable insurer.

T. The assessable insurer shall select the date to initiate the surcharge on its policyholders. The initiation date of the 12-month recoupment period must be the same date for both new and renewal business. The initiation date shall coincide with the effective date of the insured's policy.

U. An assessable insurer may elect the same or a different date to initiate the surcharge on its policyholders as between the subject lines of business as set forth in Section 8.A. No other distinction shall be made between policy types as to when to initiate the surcharge.

V. All policies issued as new or renewed for the subject lines of business are subject to a uniform, statewide surcharge. There shall be no policyholder exceptions in the application of the recoupment of Regular Assessment surcharges by assessable insurers.

W. In the event an assessable insurer recoups a Regular Assessment and the amount of the recoupment exceeds the amount of money remitted by the assessable insurer to Citizens for the Regular Assessment, the excess amount recouped shall be remitted by the assessable insurer to Citizens to defray future deficits. Citizens shall establish a procedure to collect the excess amount, which shall include appropriate written notification to the assessable insurer of the excess amount due Citizens, and which shall be published by Citizens on its web site at <www.lacitizens.com>.

X. If, in the initial 12-month recoupment period, an assessable insurer recoups a Regular Assessment and the amount of the recoupment is less than the amount of money remitted by the assessable insurer to Citizens for the Regular Assessment, causing a monetary recoupment shortfall, the monetary shortfall may be recoverable by the assessable insurer. To recover the monetary recoupment shortfall the assessable insurer shall first submit an Extended Recoupment Plan to the Commissioner in full compliance with, and subject to the requirements of, Section 9.R.

Y. Each Regular Assessment levied by Citizens shall stand alone with respect to compliance with Directive 191. The recoupment process, as provided in Directive 191, shall apply to each Regular Assessment independently.

Z. Each assessable insurer shall submit a written report to Citizens reflecting the monetary amount actually recouped from its policyholders. Reporting instructions shall be published by Citizens on its web site which can be accessed at <www.lacitizens.com>.

10. **Emergency Assessment Collection and Remittance**:

A. Subject to verification by the Department, Citizens shall annually determine whether Emergency Assessments will be levied. Citizens shall notify assessable insurers as to the assessment percentages applicable to any Emergency Assessment. This process will continue for as many years as Citizens determines is necessary to enable Citizens to meet its statutory and financial obligations.

B. Emergency Assessments shall be uniform, statewide percentages to be applied against all insureds in Louisiana for the subject lines of business set forth in Section 8.A of Directive 191.

C. Citizens shall set the assessment implementation date and notify assessable insurers. Citizens shall provide six (6) months written notice to assessable insurers before the implementation date is to become effective.

D. All policies issued as new or renewed for the subject lines of business set forth in Section 8.A of Directive 191 are subject to Emergency Assessments.

E. Citizens shall be paid Emergency Assessments from the first dollars collected by assessable insurers from their policyholders.

F. Emergency Assessment percentages shall be applied for a full 12-month period. If an assessable insurer issues a policy with a term greater than 12 months, the assessable insurer shall adjust the assessment process so that the Emergency Assessment only impacts the equivalent of a 12-month premium that coincides with Citizens' assessment notice.

G. The date that an assessable insurer begins the implementation of the 12-month Emergency Assessment shall be the same date for both new and renewal business. This date shall coincide with the effective date of the policy.

H. Assessable insurers are not required to give prior notification to Citizens or the Department before initiating collection of Emergency Assessments.

I. Assessable insurers shall prepare and provide to Citizens an aggregate quarterly report showing, at a minimum, the premium written and the amount of the Emergency Assessment collected in the quarter. The aggregate quarterly report required herein shall be submitted to Citizens, along with all Emergency Assessments collected, on a calendar quarterly basis. Submission of the aggregate quarterly report and payment of all Emergency Assessments collected are to be made on or before the end of the month following the close of the calendar quarter, i.e., April 30 for the calendar quarter January 1 - March 31, followed by July 31, October 31, and January 31 for the other three respective calendar quarters.

J. Receipt of Emergency Assessment payments during a calendar quarter by the assessable insurer shall trigger the Emergency Assessment to appear on the quarterly report, even if receipt occurs prior to the effective date of the policy.

K. All Emergency Assessments shall be deemed fully earned on the effective date of the policy.

L. If an assessable insurer objects to all or any portion of the Emergency Assessment collection and/or remittance process, the assessable insurer shall, within 30 days of the date of the notification by Citizens, (1) remit the full amount of the Emergency Assessments collected with a full reservation of rights, and (2) file a written appeal with Citizens as per Citizens' Plan of Operation.

M. If the assessable insurer is not able to resolve the dispute with Citizens, the assessable insurer may file a written appeal with the Commissioner setting forth each and every legal basis for the assessable insurer's objection to the collection and/or remittance of the Emergency Assessment levied by Citizens. The Commissioner shall take appropriate action as set forth in the Louisiana Insurance Code.

11. In addition to any other legal rights, Citizens shall have the right to refer any potential violation by an assessable insurer to the Commissioner for applicable and appropriate legal redress. The right to take independent legal action against an assessable insurer and/or to refer any potential violation by an assessable insurer to the Commissioner for the potential violation of Directive 191 and/or the underlying statutory law applicable to Citizens and Regular Assessments and Emergency Assessments, is vested in Citizens by the Louisiana Insurance Code. The Commissioner retains the independent right to take legal action against an assessable insurer for the potential violation of Directive 191 and/or the underlying statutory law applicable to Citizens and Regular Assessments and Emergency Assessments.

12. You are hereby directed to immediately bring your practice into compliance with the unequivocal purpose and intent of the Regular Assessment and Emergency Assessment authority vested in the Louisiana Citizens Property Insurance Corporation pursuant to the Louisiana Insurance Code and the guidance, interpretation and application set forth in Directive 191. Please be governed accordingly.

Baton Rouge, Louisiana this 22nd day of December 2005.

BY: _____

J. ROBERT WOOLEY
COMMISSIONER OF INSURANCE