

**LOUISIANA**

**DEPARTMENT OF INSURANCE**



**OFFICE OF PROPERTY AND CASUALTY**

**Policy Form Filing Handbook**

April 2022 Edition

This handbook has been developed as a guide to assist insurers in preparing and submitting filings. This handbook is not a rule or regulation that has been promulgated by the Louisiana Department of Insurance. Every effort has been made to ensure the accuracy of the information contained in this handbook. However, it should not be relied upon as an alternative or supplement to the Louisiana Insurance Code and the rules and regulations promulgated thereunder, or other applicable laws, by which all dealings with the Louisiana Department of Insurance are governed.

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**The Policy Forms division reviews property and casualty contract forms submitted by insurers for compliance with applicable statutes, rules, and regulations. Additionally, the division provides information and assistance to consumers and industry representatives by responding to inquiries, and making public presentations.**

The following instructions apply to filings made by an insurer, a group of affiliated insurers, an underwriting organization, or a rating organization.

- Insurers must make sure they are properly licensed in Louisiana for the line of business stated in filings prior to submission.
- Insurers must carefully examine the provisions of Title 22, LDI Regulation 78, Title 23, Title 32, and all other Bulletins, Regulations, Directives, and Advisories developed by the Department to ensure compliance, prior to submission. These provisions can be found in the Product Filing Matrix through the Reference Search.
- A Department filing number will be assigned to each filing upon receipt in the Office of Property and Casualty, Policy Forms Division. The Department filing number is the number used for tracking.
- Submissions for rates and rules must be made separately from forms.
- If rate, rule, and form filings are made at the same or similar times and are interdependent, this fact must be noted in the filing description or transmittal document for each related filing to facilitate cross-referencing. As different divisions within the Office of Property and Casualty handle the filings, this cross-reference will allow for a quicker review and approval process.
- Filings should be made separately for each program. A filing may reference more than one company only if all the forms contained apply to all companies listed.
- Form filings may be filed electronically through SERFF (System for Electronic Rates & Forms Filing) or by U.S. Mail.

- Form filings are to be addressed to:

Office of Property and Casualty  
Attention: Policy Forms Division  
Louisiana Department of Insurance  
1702 North Third Street  
Post Office Box 94214  
Baton Rouge, LA 70804-9214

**Note:** If the filer is responding to a specific examiner of the Division, the response should be addressed to that person.

Please note the following:

- Retro-active effective dates are not allowed. The earliest effective date for a filing is the filing's approval date.
- When a company is adopting, delay adopting, or non-adopting a rating organization's filing, the company must be a member and/or subscriber of the particular rating organization and have the necessary authority for the coverage line stated in the filing. **The filing must specifically state the rating organization's designation or item number(s) that have been approved for use in Louisiana and will be utilized with your company's filing.**

## REGULATION 78 – POLICY FORM FILINGS / PRODUCT FILING MATRIX

Adopted effective January 1, 2003, [Regulation 78](#) provides for the uniform and practicable administration of policy forms. The provisions of this law will assist all insurers in complying with the form filing, review and approval requirements of the Louisiana Insurance Code, and allows for expedited review and approval processes. Regulation 78 is printed at the end of this handbook.

In addition, the Department of Insurance has created a Product Filing Matrix (PFM) (<http://ia.lds.state.la.us/ProductMatrix/>) to provide insurers the ability to search for the filing and legal requirements applicable to specific product types. The PFM will also generate the Statements of Compliance required by Regulation 78 to be submitted with most filings.

## SUMMARY OF REGULATION 78

### FILING REQUIRED

Pursuant to La. R.S. 22:861.A, all basic insurance policy forms, riders and endorsements must be approved by the Commissioner of Insurance, prior to being issued or delivered in this state.

- A **Property and Casualty Transmittal Document** must accompany every **paper** filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. (§10113.B.2) **Electronic** filings submitted through SERFF (System for Electronic Rates & Forms Filing) do not require a Property and Casualty Transmittal Document as it is incorporated into the build of the system.
- There are just over 100 defined Property and Casualty **Insurance Product Codes** for the various types of Property and Casualty Products.

### STATEMENT OF COMPLIANCE

A **Statement of Compliance** form must be generated from the [Product Filing Matrix \(PFM\)](#), and accompany every filing, other than those listed under Exceptions in §10113.D. The PFM links all defined insurance product codes to each provision of state law applicable to the content and administration of an insurance product.

Insurers must review the requirements for regulatory compliance in conjunction with the policy forms to be filed and identify the section / page number of the forms where compliance is demonstrated. This information must be entered on the **Statement of Compliance** for each insurance product included with a submission.

- The PFM includes all legal requirements applicable to both content and administration of an insurance product.
- Related laws, rules, regulations, bulletins, directives, and helpful comments are included, where appropriate.
- The PFM will be updated as laws change, allowing for immediate changes to affected Statements of Compliance.
- A new **Statement of Compliance** form should be printed or downloaded with each policy form filing.
- The **Statement of Compliance** form includes only those legal requirements applicable to the product filing.

## COMPLIANCE REVIEW

- A complete filing must be submitted to the Department in accordance with the requirements in §10113.C.2, no less than 45 days in advance of planned issuance, delivery or use.
- If a filing is incomplete, a notice of disapproval in accordance with La. R.S. 22:862(6) will be issued for failure to comply with the requirements in §10113.C.

## CERTIFICATION OF COMPLIANCE

[LDI Directive Number 174](#) designates those insurance products which must be filed pursuant to the requirements for **Certified Approval** and also those insurance products which may, at the discretion of the insurer, be filed either pursuant to said requirements for **Certified Approval**, or as ordinary filings subject to the requirements for compliance review.

A policy form filing submitted for **Certified Approval** must include a **Statement of Compliance** applicable to the insurance product being submitted, a signed, dated and notarized **Certification of Compliance** and all other items required to constitute a Complete Filing.

No insurer, or officer, employee or representative of an insurer, shall file a **Certification of Compliance** containing false attestations, or a certification form from which material facts or information have been omitted. In the event that the Department subsequently learns that the **Certification of Compliance** contained any inaccuracies, false attestations, or material omissions, the approval of the subject forms may be withdrawn and the insurer may be subjected to corrective action as set forth in §10113.I.

## REQUIRED FILING FEES

- La. R.S. 22:821 outlines the filing fees and instructions.
- Effective July 1, 2020, the filing fee for filing property and casualty insurance policy forms with the Department of Insurance is \$50 per filing, per company.
- During the 2020 Regular Session of the Louisiana Legislature, the LDI sought and obtained legislative and gubernatorial approval for a single filing fee of \$50.00 per filing, regardless of what is contained in the filing, e.g. product, endorsement, adoption, informational, withdrawal. The new \$50.00 single filing fee must accompany each filing and is charged on a per company basis.

## IMPORTANT FEE NOTES:

For assistance in determining the proper filing fee amount, please use the [Fee Wizard](#) on the PFM home page. There are other help documents available in the Property and Casualty section of the PFM [Help Center](#).

- Filing fees are for Form filings only. Rate and/or rule filings do not require fees.
- Fees are \$50 per filing, per company. Fees are calculated on a per filing basis, not a per form basis.
- There are no exceptions to form filing fees.
- Pursuant to statute, filing fees for Vehicle Mechanical Breakdown Insurers and Property Residual Value Insurers are \$25 per filing.

## COMPLETE FILING

Other than as specified in §10113.D, as an EXCEPTION, only complete filings will be accepted. In order for the Department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. **A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.**

All filings of an **insurance product** must include, in final printed form, the following items, in the listed order.

1. Required Filing Fee, per insurance company, per filing;
2. Completed Property and Casualty Transmittal Document, unless filed electronically through SERFF (System for Electronic Rates & Forms Filing);
3. Statement of Compliance for said product;
4. Policy forms filed for approval, in duplicate (duplicate is not required for filings submitted electronically through SERFF);
5. Explanation of any rate/rule impact, with a copy of any rate/rule approval letters issued by the department; if none, so state; and
6. Stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically through SERFF.
7. Explanation or statement of variability for substantive variables of form text or language.

All filings of an **adoption** (with or without filing authority), **delayed adoption**, or **non-adoption** should include the following items, in the listed order.

1. Required Filing Fee, per insurance company, per filing;
2. Completed Property and Casualty Transmittal Document, unless filed electronically through SERFF;
3. Reference to the filing organization's identification/code number (designation or item number);

4. Line of business;
5. Name of the program(s); and
6. Stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically through SERFF.

\*An initial adoption for an initial program must provide all designation or item numbers to be used.

\*Company adoptions **with filing authority** - regular adoptions in which the company uses the same effective date as the rating organization and there are no changes to the forms, are not required. This does not apply to initial/new programs, delay of adoptions, non-adoptions, or any independent forms.

## EXCEPTIONS

Exceptions to the requirements for a complete filing may be allowed, at the discretion of the Department, subject to the conditions stated herein, for the policy forms outlined in §10113.D. (Informational filings must state in the filing description that the filing is informational.)

## RESUBMISSION OF REVISED FORMS

When submitting revised forms in response to an order of disapproval, or withdrawal of approval, **the revised forms will constitute a new filing**. Such resubmission must comply with all requirements §10113.G. Reference of the previous filing should be noted in the Filing Description.

## COMPLIANCE AND AUDITS

➤ Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the Department for approval as required to maintain continuous compliance with the current requirements of law, as outlined in §10113.H. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise determined by the Louisiana Legislature.

➤ A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance Audits may be conducted by random selection, prompted by complaints filed with the Department or requests for information made by the Department, or performed during the course of examinations conducted by the Department, as outlined in §10113.H.

### **PERMANENT WITHDRAWAL OF APPROVED FORMS**

Insurers shall notify the Department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall be sent at a minimum 60 days prior to the market end date and shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

### **APPEALS/HEARINGS**

Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the Department pursuant to §10113, may request an administrative hearing in accordance with the provisions of Chapter 12 of Title 22 of the Louisiana Revised Statutes. Pursuant to La. R.S. 22:2191, such demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

### **MAINTENANCE OF RECORDS; ALTERATION OF FORMS PROHIBITED**

Every insurer or other person filing policy forms, or related forms, for approval by the Department shall maintain in their files the original set of any and all forms as returned by the Department, along with all related correspondence and transmittal documents from the Department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the Department upon request, and must be maintained until the forms have been withdrawn from the market and no coverage issued on risks in this state utilizing such forms remains in force.

The alteration of, or any change to, any such form approved by the Department is prohibited. Any such altered or changed form shall be submitted to the Department as a new filing, and shall comply with all provisions in §10113 applicable to a new filing. This requirement does not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the insurance product.

A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the Department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer. Insurers should submit an informational filing for tracking purposes.

## CONTACT INFORMATION

The Office of Property and Casualty, Policy Forms Division may be contacted at:

Telephone: (225) 342-5203 or (800) 259-5300

Facsimile: (225) 342-6057

[www.ldi.la.gov](http://www.ldi.la.gov)

## INSTRUCTIONS AND HELP MANUAL

A Help Manual/User Guide can be found on PFM by clicking **HELP**, then clicking on the **Help Manual** link at the very top of the page.  
<http://ia.ldi.state.la.us/ProductMatrix/documents/PFMHelpManual-Industry.pdf>

A list of products, including definitions, product codes, and requirements, can be found in PFM in the HELP area by clicking Get Instructions, then Property and Casualty.

[http://ia.ldi.state.la.us/ProductMatrix/documents/P&C\\_LDOI\\_CurrentMatrixPFM.pdf](http://ia.ldi.state.la.us/ProductMatrix/documents/P&C_LDOI_CurrentMatrixPFM.pdf)

A list of certified products, including definitions and product codes, can be found in PFM in the HELP area by clicking Get Instructions.

<http://ia.ldi.state.la.us/ProductMatrix/documents/R78Web6A-PCCertdProds.pdf>

A list of PFM products matched to SERFF products can be found in PFM in the HELP area by clicking Get Instructions, then Property and Casualty.

[http://ia.ldi.state.la.us/ProductMatrix/documents/SERFF\\_PCM-to-LDI\\_PFM-Oct2010.pdf](http://ia.ldi.state.la.us/ProductMatrix/documents/SERFF_PCM-to-LDI_PFM-Oct2010.pdf)

<http://ia.ldi.state.la.us/ProductMatrix/Help>

**SIGNIFICANT STATUTORY REFERENCES**  
**Office of Property and Casualty**  
[Title 22 - Insurance Code](#)

R.S. 22:1 et seq.	Title, Definitions, Classifications, and Other Regulatory Matters
R.S. 22:41 et seq.	Insurance in General – Policyholder Bill of Rights, General Definitions, Kinds of Insurance
R.S. 22:361 et seq.	Vehicle Mechanical Breakdown Insurers
R.S. 22:381 et seq.	Property Residual Value Insurers
R.S. 22:431 et seq.	Surplus Lines
R.S. 22:481 et seq.	Risk Retention Groups – Risk Purchasing Groups
R.S. 22:511 et seq.	Title Insurance
R.S. 22:550.1 et seq.	Captive Insurers
R.S. 22:821	Fees
R.S. 22:851 et seq.	Insurance Contract – Insurance and Policy Requirements in General
R.S. 22:1261 et seq.	Property and Casualty - Insurance and Contract Requirements in General
R.S. 22:1281 et seq.	Vehicle
R.S. 22:1300.1 et seq.	Peer-to-Peer Car Sharing Program Act
R.S. 22:1311 et seq.	Fire and Extended Coverage (Standard Fire Policy)
R.S. 22:1331 et seq.	Homeowners’ Insurance
R.S. 22:1341 et seq.	Residential Flood Insurance
R.S. 22:1351 et seq.	Travel Insurance
R.S. 22:1431 et seq.	Portable Electronics Insurance Policies
R.S. 22:1441 et seq.	Fidelity and Surety Insurance
R.S. 22:1451 et seq.	Insurance Rating - Rate Making Procedures and Organizations
R.S. 22:1501 et seq.	Use of Credit Information
R.S. 22:1521 et seq.	Collision Damage Waiver Law
R.S. 22:1621 et seq.	Managing General Agents Law – Definitions
R.S. 22:1761 et seq.	Motor Vehicle Rental Insurers - Definitions; form filing requirements
R.S. 22:1891 et seq.	Property and Casualty Insurance Claims Payments
R.S. 22:1961 et seq.	Unfair Trade Practices
R.S. 22:1981 et seq.	Examination and Investigations
R.S. 22:2051 et seq.	Louisiana Insurance Guaranty Association Law
R.S. 22:2131 et seq.	Louisiana Automobile Theft and Insurance Fraud Prevention Authority
R.S. 22:2171 et seq.	Louisiana Property and Casualty Insurance Commission
R.S. 22:2221 et seq.	Pilot Programs and Databases
R.S. 22:2291 et seq.	Louisiana Citizens Property Insurance Corporation
R.S. 22:2361 et seq.	Insure Louisiana Incentive Program
R.S. 22:2461 et seq.	Electronic Delivery of Insurance Documents and Notices
R.S. 22:2501 et seq.	Insurance Data Security

The following noted documents may be viewed in the PFM through the Reference Search at <http://ia.lda.state.la.us/ProductMatrix/Search> . Documents may also be found through the Department's website at [www.lda.la.gov](http://www.lda.la.gov) .

## NOTED ACTIVE ADVISORY LETTERS

Advisory Letter No. 2021-04	<a href="#">Advisory Letter 2021-04 Act 225 of the 2021 Regular Session of the Louisiana Legislature</a>
Advisory Letter No. 2021-03	<a href="#">Advisory Letter 2021-03 Renewal of Commercial Insurance Policies in Accordance with the Statutory Obligations in La. R.S. 22:1267</a>
Advisory Letter No. 2021-01	<a href="#">Advisory Letter 2021-01 ACT 310 of the 2020 Regular Session of the Louisiana Legislature</a>
Advisory Letter No. 2020-03	<a href="#">Advisory Letter 2020-03 Use of Standard Pollution Exclusions</a>
Advisory Letter No. 2020-01	<a href="#">Advisory Letter 2020-01 LA. R.S. 22:1460(I)(1)(C)</a>
Advisory Letter No. 2019-01	<a href="#">Advisory Letter 2019-01 Notice Requirement for Non-Renewal or Cancellation of Surplus Lines Property and Casualty Insurance Policies</a>
Advisory Letter No. 2018-05	<a href="#">Advisory Letter 2018-05 Notice for Surplus Lines Practices and Revision of Form for Acknowledgment of Applicant for Personal Lines Insurance Coverage in the Surplus Lines Market</a>
Advisory Letter No. 2018-01	<a href="#">Interpretation and Application of the Separate Named Storm Deductible Pursuant to LA. R.S. 22:1337</a>
Advisory Letter No. 2017-02	<a href="#">Statutory Requirements for Granting Defensive Driver Discounts on Automobile Insurance Policy Premiums</a>
Advisory Letter No. 2014-02	<a href="#">Eligibility For Certification as a Reinsurer - Qualified Jurisdictions</a>
Advisory Letter No. 2012-03	<a href="#">Producer Compensation; Placement of Commercial Property and Casualty Insurance</a>

<b>Advisory Letter No. 09-03</b>	<a href="#"><u>New Financial Responsibility Limits For Automobile Insurance - Effective on UM/UIM Motorist Bodily Injury Coverage Form</u></a>
<b>Advisory Letter No. 09-02</b>	<a href="#"><u>"Wrap-Up" Insurance</u></a>
<b>Advisory Letter No. 09-01</b>	<a href="#"><u>Waiver of Subrogation Charges</u></a>
<b>Advisory Letter No. 07-01</b>	<a href="#"><u>Repair of Motor Vehicles - Statement of Principles</u></a>
<b>Advisory Letter No. 04-02</b>	<a href="#"><u>Adjustment of Automobile Insurance Claims Payment for Paint and Materials</u></a>
<b>Advisory Letter No. 02-01</b>	<a href="#"><u>Notice of Cancellation; Notice of Nonrenewal</u></a>
<b>Advisory Letter No. 01-02</b>	<a href="#"><u>Use of Mold Exclusions in Insurance Policy Forms</u></a>
<b>Advisory Letter No. 01-01</b>	<a href="#"><u>Use of Pollution Exclusions in Commercial Lines Forms</u></a>
<b>Advisory Letter No. 97-01</b>	<a href="#"><u>Use of Standard Pollution Exclusions</u></a>

## **NOTED ACTIVE BULLETINS**

<b>Bulletin 2022-02</b>	<a href="#"><u>Bulletin 2022-02 Funding Mechanisms For Louisiana Citizens Property Insurance</u></a>
<b>Bulletin 2021-01</b>	<a href="#"><u>Bulletin 2021-01 Filing Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2019</u></a>
<b>Bulletin 2021-02</b>	<a href="#"><u>Bulletin 2021-02 Time Periods for Proof of Loss Submission and for Completion of Repairs Under Replacement Cost Coverage for Damages Related to Catastrophic Events</u></a>
<b>Bulletin 2021-03</b>	<a href="#"><u>Bulletin 2021-03 Good Faith Claim Settlement Practices and Policyholder Service Obligations</u></a>
<b>Bulletin 2021-07</b>	<a href="#"><u>Bulletin 2021-07 Hurricane Ida Civil Authority Orders and Loss of Use Coverage</u></a>
<b>Bulletin 2021-08</b>	<a href="#"><u>Bulletin 2021-08 Hurricane Ida Voluntary Mediation Program</u></a>

- Bulletin 2021-09** [Bulletin 2021-09 Insurer Obligations to Policyholders Following Hurricane Ida](#)
- Bulletin 2021-10** [Bulletin 2021-10 Data Call Relating to Hurricane Ida Insurance Claims](#)
- Bulletin 2020-07** [Bulletin 2020-07 Timely Payments of Property and Casualty Claims and Bad Faith Damages](#)
- Bulletin 2019-01** [Policyholders Affected by the Federal Government Shutdown](#)
- Bulletin 2018-01** [Rescission of Bulletin No 2011-04 and Bulletin No 2012-02](#)
- Bulletin 2017-07** [Certificates of Destruction for Water-Damaged Vehicles](#)
- Bulletin 2017-05** [Effect of Act 63 of the 2017 Regular Legislative Session on Producer Agency Fees](#)
- Bulletin 2016-03** [Schedule Rating Plans for Commercial property and Casualty Insurers](#)
- Bulletin 2015-01** [Filing Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015](#)
- Bulletin 2013-08** [Wind Mitigation Credits, Wind Exclusion Credits, and Deductible Credits for Residential Property Insurance](#)
- Bulletin 2013-04** [Catastrophe Model Interrogatories](#)
- Bulletin 2011-01** [Implementation of the Nonadmitted and Reinsurance Reform Act with Respect to Surplus Lines Insurance in Louisiana](#)
- Bulletin 09-09** [Consent-To-Rate Filings, A-Rated Filings and Individual Risk Rated Filings](#)
- Bulletin 09-05** [Title Insurance Policies Written on Property Located in Louisiana Must Comply with the Provisions of the Louisiana Title Insurance Act, LSA-R.S. 22:511 et seq.](#)
- Bulletin 09-04** [Installment Plan Guidelines for Commercial Property and Casualty Insurers](#)
- Bulletin 09-02** [Certificates of Insurance Civil and Criminal Penalties](#)
- Bulletin 09-01** [The Certification Clause on the Louisiana Hurricane Loss Mitigation Survey Form in Regulation 94](#)

- Bulletin 08-09** [Filing Procedure for Workers' Compensation Group Self-Insurance Funds](#)
- Bulletin 08-08** [Revision of Compulsory Liability Minimum Limits for Vehicles in Excess of 20,000 lbs.](#)
- Bulletin 08-07** [Filing Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2007](#)
- Bulletin 08-06** [Pleasure Boat Filing Guidelines](#)
- Bulletin 08-04** [Rescission of Selected Louisiana Insurance Rating Commission \(LIRC\) Bulletins](#)
- Bulletin 08-03** [Use of Loss Experience to Deviate from the Fire Rate Classification Plans, Schedules, and Fire Rates Promulgated by the Property Insurance Association of Louisiana \(PIAL\)](#)
- Bulletin 08-02** [Uninsured/Underinsured Motorist Bodily Injury coverage Form](#)
- Bulletin 07-07** [New Rating Example Worksheets \(Exhibits D and E\): New Rating Illustration Worksheets \(Exhibits D1 and E1\)](#)
- Bulletin 07-06** [New Loss Cost Multiplier Worksheets \(Exhibits C and C-WC\)](#)

## NOTED ACTIVE DIRECTIVES

- Directive 219** [Directive 219 Anti-Public Adjuster Clauses in Policy Provisions or Endorsements](#)
- Directive 218** [Directive 218 Mandatory Payment of Expenses Incurred by Policyholders Who Evacuated and/or Were Prohibited From Using Their Premises Due to Hurricane Ida](#)
- Directive 214** [Directive 214 Bail Bond Premium Rate](#)
- Directive 204** [Mandatory Quarterly and Retroactive Reporting of Property and Casualty Insurance Residential Property and Private Passenger Automobile Insurance Through the Periodic Online Insurance Data Reporting System \(POIDRS\)](#)
- Directive 201-R** [Rescission of Directive 201](#)

- Directive 198** [Louisiana Citizens Property Insurance Corporation Regular Assessment Recoupment and Remittance and Emergency Assessment Collection and Remittance](#)
- Directive 194** [Revised Supplemental Filing Exhibit Forms](#)
- Directive 186** [Proper Use of Cost of Airbag in Determining “Total Loss” of Vehicle](#)
- Directive 181** [Directive 181 Credit Information Reporting Requirement - Personal lines Only](#)
- Directive 183** [Automobile Insurer Responsible for All Towing and Storage Service Charges](#)
- Directive 175** [Policy Forms - Subrogation Provisions](#)
- Directive 174** [Regulation 78 - Certified Products and Procedure](#)
- Directive 173** [Policy Forms - Binding Arbitration and/or Appraisal Provisions](#)
- Directive 152** [Statutorily Imposed Vicarious Parental Liability](#)
- Directive 143** [Aftermarket Crash Parts Disclosure Requirement](#)
- Directive 137** [Withdrawal of Absolute/Total Pollution Exclusion](#)
- Directive 135** [Use of Discounts and Credits by Group Self-Insurance Funds for Workers’ Compensation](#)
- Directive 129** [Participating Policies](#)
- Directive 67** [Stated Premium Must Include All Charges](#)
- Directive 34** [Salvage on Paid Losses](#)
- Directive 18-R** [Directive 18-R - Automobile Total Loss Settlements \(Rescission of Directive 18\)](#)

## **NOTED ACTIVE REGULATIONS**

**Regulation 115** [Regulation 115 Title Insurance Record Retention](#)

**Regulation 113** [Regulation 113 Registration of Catastrophe Claims Adjusters](#)

- Regulation 111** [Regulation 111 Consent to Rate](#)
- Regulation 108** [Investigation of Discrimination Complaints](#)
- Regulation 107** [Homeowner and Fire - Commercial Insurance Policy Disclosure Forms](#)
- Regulation 99** [Certificates of Insurance](#)
- Regulation 97** [Vehicle Tracking Systems](#)
- Regulation 95** [Public Fire Protection Grading Board of Review](#)
- Regulation 94** [Premium Adjustments for Compliance with Building Codes and Damage Mitigation](#)
- Regulation 93** [Named Storm and Hurricane Deductibles](#)
- Regulation 82** [Insure Louisiana Incentive Program](#)
- Regulation 81** [Military Personnel Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program](#)
- Regulation 80** [Commercial Lines Insurance Rate Deregulation](#)
- Regulation 79** [Limited Licensing for Motor Vehicle Rental Companies](#)
- Regulation 78** [Policy Forms Filing Requirements](#)
- Regulation 72** [Commercial Lines Insurance Policy Form Deregulation](#)
- Regulation 64** [Cancellation provisions for Vehicle Mechanical Breakdown Insurers](#)
- Regulation 42** [Group Self-Insurance Funds](#)
- Regulation 39** [Statement of Actuarial Opinion](#)
- Regulation 32** [Coordination of Benefits](#)
- Regulation 30** [Certificate of Insurance Coverage](#)
- Regulation 9** [Deferred Payment of Fire Premiums in Connection with the Term Rule](#)

## NOTED ACTIVE RULES

- Rule 29**      [Emergency Rule 29 Homeowner and Fire/Commercial Insurance Policy Disclosure Forms](#)
- Rule 14**      [Records Management](#)
- Rule 12**      [Transmission of Forms and Documents](#)
- Rule 5**        [Unfair Trade Practices](#)
- Rule 1**        [Rules of Practice and Procedure before the Commissioner of Insurance](#)

The following noted Acts may be found through the Legislative website at [www.legis.state.la.us](http://www.legis.state.la.us).

## 2021 LOUISIANA REGULAR LEGISLATIVE SESSION NOTED ACTS

<b>HB 15</b>	<b>ACT 248</b>	MACK	CRIME: Provides for the crime of staging of a motor vehicle collision. EFFECTIVE 8/1/2021
<b>HB 65</b>	<b>ACT 8</b>	ECHOLS	INSURANCE: Provides relative to mandatory audits of title insurance producers by title insurers. EFFECTIVE 8/1/2021
<b>HB 74</b>	<b>ACT 255</b>	FRIEMAN	INSURERS: Provides relative to the workers' compensation claims office requirement for insurers issuing such policies in Louisiana. EFFECTIVE 8/1/2021
<b>HB 283</b>	<b>ACT 21</b>	HOLLIS	INSURANCE/AUTOMOBILE: Repeals reporting requirements related to commercial motor vehicle policies. EFFECTIVE 6/1/2021
<b>HB 381</b>	<b>ACT 317</b>	MOORE	MOTOR VEHICLES: Provides relative to motor vehicle accident reports. EFFECTIVE 8/1/2021
<b>HB 386</b>	<b>ACT 318</b>	FARNUM	COURTS: Provides relative to appointment of special masters in certain civil actions arising within a parish included in a major disaster declaration; to provide for mediation. EFFECTIVE 8/1/2021
<b>HB 437</b>	<b>ACT 338</b>	GADBERRY	BUILDING CODES: Provides relative to enforcement of the state uniform construction code. EFFECTIVE 8/1/2021
<b>HB 451</b>	<b>ACT 30</b>	DAVIS	INSURANCE/RATES: Provides for discounts and insurance rate reductions for residential and commercial buildings built to, or retrofitted to, reduce the threat of loss due to windstorm events. EFFECTIVE 8/1/2021
<b>HB 457</b>	<b>ACT 402</b>	FIRMENT	INSURANCE CLAIMS-ADJUSTER: Provides for claims adjusters. EFFECTIVE 8/1/2021
<b>HB 576</b>	<b>ACT 370</b>	FRIEMAN	INSURANCE: Provides relative to reserves for insurers. EFFECTIVE 8/1/2021
<b>HB 577</b>	<b>ACT 77</b>	MCKNIGHT	INSURANCE/FLOOD: Provides relative to residential flood coverage. EFFECTIVE 1/1/2022
<b>HB 585</b>	<b>ACT 344</b>	GEYMANN	INSURANCE/HOMEOWNERS: Provides relative to homeowner's insurance claims settlement practices. EFFECTIVE 8/1/2021

<b>HB 591</b>	<b>ACT 345</b>	FIRMENT	INSURANCE CLAIMS: Provides for certain claims settlement practices. Provides required adjustment dispute resolution language for residential property policies on or after January 1, 2022. EFFECTIVE 8/1/2021
<b>SB 42</b>	<b>ACT 160</b>	BERNARD	FIRE/CASUALTY INSURANCE: Requires notices of reinstatement of a casualty policy to go to all relevant parties. EFFECTIVE 1/1/2022
<b>SB 70</b>	<b>ACT 164</b>	ABRAHAM	INSURANCE POLICIES: Provides relative to named storm deductibles for commercial properties. EFFECTIVE 8/1/2021
<b>SB 131</b>	<b>ACT 225</b>	MILLS	LIABILITY: Prohibits insurance companies from including defense costs within the limits of liability except under certain circumstances. EFFECTIVE 8/1/2021
<b>SB 179</b>	<b>ACT 300</b>	CONNICK	INSURANCE POLICIES: Provides for automobile insurance coverage for transportation network drivers. (Requires TNC to disclose to its drivers any liability coverages rejected by the company.) EFFECTIVE 8/1/2021

## **REGULATION 78**

Regulation 78 is printed on the following pages. Sections §10107 and §10109 are not included as they are specific to the Health and Life Divisions. If you need to view the complete document, please refer to the Department's website at [www.lidi.la.gov](http://www.lidi.la.gov) .

## Chapter 101. Regulation 78—Policy Form Filing Requirements

### §10101. Purpose

A. The purpose of this regulation is:

1. to provide for the uniform and practicable administration of the form filing, review and approval requirements of the *Louisiana Insurance Code*;
2. to clarify the provisions of R.S. 22:861(B);
3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and
4. to assist all insurers doing business in the state of Louisiana in complying with the form filing, review and approval requirements of the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

### §10103. Authority

A. This regulation is adopted pursuant to R.S. 22:11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and Directive 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 42:1940 (November 2016).

### §10105. Applicability and Scope

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

### §10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

*Affirmative Approval*—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

*Basic Insurance Policy Form*—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

*Certification of Compliance*—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

*Certified Approval*—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

*Commissioner*—the commissioner of insurance of the Louisiana Department of Insurance.

*Complete Filing*—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

*Compliance Audit*—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

*Compliance Review*—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

*Deemed Approval*—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

*Department*—the Louisiana Department of Insurance.

*Endorsement*—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

*Filing Organization*—an entity authorized by the Commissioner to act as an advisory or rating organization on behalf of its members and subscribers.

*Insurance Product*—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract, or a basic insurance policy form which combines more than one line of business within one policy form at a single premium.

*Insurer*—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10).

*Method of Marketing*—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

*Rate/Rule Approval*—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

*Required Filing Fee*—the fee assessed per product or filing pursuant to state insurance law.

*Rider*—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

*Statement of Compliance*—a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

## B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. For non-electronic paper filings, this description must be satisfied by the submission of a completed transmittal document.

## C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings," and those insurance products which may, at the discretion of the insurer, be filed pursuant to said requirements. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Policy Form Filings." Filing organizations are excepted from the mandatory provisions relative to certified approval and may, at their option, make filings pursuant to Subsection E hereof.

2. Only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing of a basic insurance policy form will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

- i. required filing fee, per product, per insurance company; or required filing fee per endorsement filing; per insurance company;
- ii. forms filed for approval;
- iii. statement of compliance for said product;
- iv. explanation of any rate/rule impact, with a copy of any rate/rule approval letters issued by the department; if none, so state;
- v. duplicate set of the policy forms filing, as filed for approval, unless filed electronically;
- vi. self-addressed, stamped envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Any insurer choosing to include variable provisions in any policy form must set forth prospective options of the proposed variable text in the submitted policy form. Each section of a policy form that is variable must be identified as variable and should be enclosed in brackets. The variable text or provisions must be described as clearly as possible and include all specific possible alternatives.

c. If it is necessary to provide an explanation of or any additional information regarding the range of variability contained in the form, then a separate statement of variability must be submitted. A statement of variability must provide an explanation of all permissible variations of text or provision that could be used in a policy form offered to policyholders or certificate holders. A statement of variability must also describe in detail all variations of text or provisions that could be placed in a policy form. The variable text or language must be described as clearly as

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possible and include all specific possible alternatives.

d. Use of any text or language that does not reflect the variable text or provision submitted and approved by the department constitutes use of an unapproved policy form. Any changes to a statement of variability must be submitted to the department as a new filing along with the policy form(s) being amended.

3. An insurer may elect to adopt forms submitted by a filing organization, or have a filing organization file forms on its behalf. An insurer may request an effective date later than the effective date of the filing by the filing organization. Such adoptions, whether delayed or not, must be requested by letter. The Forms and Compliance Division staff of the department will verify that the insurer is a member or subscriber of the filing organization, and that the forms being adopted have been approved by the department.

a. Adoptions, including delayed adoptions, are filed for informational purposes only, but the request will be denied if the forms proposed for adoption are not approved by the department. To receive an acknowledgement of filing, the insurer's request must contain the following items, in order:

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

ii. reference to the filing organization's designation/item number;

iii. line of business;

iv. name of the program; and

v. stamped, self-addressed envelope of sufficient size for use in returning the insurer's cover letter bearing the department's stamp of acknowledgement, or disapproval of an adoption, unless filed electronically.

b. An insurer may elect to non-adopt forms submitted by a filing organization. Non-adoptions are filed for informational purposes only, and must be submitted by the insurer. To receive an acknowledgement of the informational letter, it must contain the following items, in order:

i. reference to the filing organization's identification/code number;

ii. line of business;

iii. name of the program; and

iv. stamped, self-addressed envelope of sufficient size for use in returning the insurer's cover letter bearing the department's stamp of acknowledgement.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for fidelity and surety bond forms as

exempted by R.S. 22:861 A(1), and ocean marine and foreign trade insurances as exempted by R.S. 22:851(A). No filing fees will be required for these filings.

2. filings for certain commercial lines, exempted pursuant to the commercial deregulation laws set by Regulation 72;

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. forms for lines of insurance or insurance products specifically exempted pursuant to statute.

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. Time Periods and Requirements for Compliance Review of Policy Form Filings

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the

commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

#### F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms:

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

#### G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously

approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

#### H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall be sent at a minimum 60 days prior to the market end date and shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

#### I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms

to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

#### J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is

mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

#### K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007), LR 42:1952 (November 2016), amended LR 44:2211 (December 2018), effective January 1, 2019.

#### §10115. Penalties

A. Pursuant to R.S. 22:44, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

2. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than \$5,000, or both.

B. Pursuant to R.S. 22:1964(12), in accordance with all provisions thereof, any violation of a prohibitory provision of this regulation shall constitute an unfair trade practice, and, after proper notice and hearing as specified by statute, may subject the insurer and its officer(s) or representative(s) to:

1. The provisions of R.S. 22:1969, including:

a. payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and

b. suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of applicable law.

2. The provisions of R.S. 22:1970, including:

a. a monetary penalty of not more than \$25,000 for each and every act or violation, not to exceed an aggregate of \$250,000; and

b. suspension or revocation of such person's license or certificate of authority.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:110 (January 2007), LR 42:1957 (November 2016).

**§10117. Severability**

A. If any provision of this regulation, or its application to any person or 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 regulation are severable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016).

**§10119. Effective Date**

**[Formerly Section 10117]**

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective January 1, 2019.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016), LR 44:2211 (December 2018).

**Chapter 103. Regulation 79—Limited Licensing for Motor Vehicle Rental Companies**

**§10301. Purpose**

A. The purpose of this regulation is:

1. to implement the qualifications and procedures for licensing motor vehicle rental or leasing companies to sell or

offer insurance in conjunction with the rental of a vehicle;

2. to govern the transactions of selling travel or automobile related products or coverage in conjunction with and incidental to the rental of vehicles.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:932 (April 2005).

**§10303. Definitions**

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein, unless the context clearly indicates otherwise.

*Commissioner*—the Commissioner of Insurance.

*Department*—the Department of Insurance.

*Detailed Plan of Operation or Plan*—a comprehensive overview of the licensee's rental business pursuant in so far as it is regulated by the Department of Insurance. This information will supplement the restricted license application and will be on forms provided by the department.

*Limited Licensee*—a person or entity authorized to sell certain coverage relating to the rental of vehicles pursuant to the provisions of Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950.

*Part*—Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:2101 through 2112.

*Rental Agreement*—any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental company for rental or lease.

*Rental Company*—any person or entity in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.

*Rental Period*—the term of the rental agreement.

*Renter*—any person or entity obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed 90 days.

*Vehicle or Rental Vehicle*—a motor vehicle of the private passenger type including passenger vans, minivans and sport utility vehicles, and of the cargo type including but not limited to cargo vans, pickup trucks and trucks with a gross vehicle weight of less than 26,000 pounds and which do not require the operator to possess a commercial driver's license.

a. Pursuant to R.S. 32:408B, Classes of licenses, this provision includes as a "vehicle" or "rental vehicle" those motor vehicles which require the operator to possess a Class "D" Chauffeur's License.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of