

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 124—Catastrophe Claims Process Disclosure Form-Guide (LAC 37:XIII.Chapter 191)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq, hereby gives notice of its intent to promulgate Regulation 124—Catastrophe Claims Process Disclosure Form-Guide. Regulation 124 is necessary to implement the provisions of Acts 2022, No. 80 of the Regular Session of the Louisiana Legislature, which require the Commissioner of Insurance to create rules and regulations related to the issuance of a catastrophe claims process disclosure form-guide pursuant to the particulars set forth in R.S. 22:1897.

Regulation 124 addresses the disclosure form-guide that property and casualty insurers shall provide to its policyholders who have asserted a property insurance claim arising out of an event declared by the governor to be a state of emergency. Regulation 124 also identifies the deadline for, the permissible methods of, and the type and quality of documentary evidence needed to prove, delivery of the disclosure form-guide to a policyholder in accordance with R.S. 22:1897.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 191. Regulation 124—Catastrophe Claims Process Disclosure Form-Guide

§19101. Authority

A. Regulation 124 is promulgated on behalf of the Department by the Commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, and as specifically required in accordance with R.S. 22:1897.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19103. Purpose

A. The purpose of Regulation 124 is to implement the provisions of Acts 2022, No. 80 of the Regular Session of the Louisiana Legislature, which mandate that the Department promulgate rules and regulations for a catastrophe claims process disclosure form-guide that includes, but is not limited to, the particulars specified in R.S. 22:1897(A)(1) – (12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19105. Scope and applicability

A. Regulation 124 applies to all property and casualty insurers settling a property insurance claim arising out of a state of emergency declared by the governor pursuant to R.S. 29:724.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19107. Definitions

A. These terms when used in this Chapter shall have the following meanings:

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Governor—the governor of the state of Louisiana.

Disclosure form-guide—the catastrophe claims process disclosure form referenced in R.S. 22:1897.

Insurer(s)—property and casualty insurer(s) licensed to conduct business in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19109. Disclosure form-guide

A. Whenever a state of emergency is declared by the governor in accordance with R.S. 29:724, an insurer must provide a disclosure form-guide to all policyholders asserting a claim for damages occasioned by the disaster or catastrophic event made the subject of the governor's emergency declaration.

B. The disclosure form-guide was created by the Department in accordance with the particulars set forth in R.S. 22:1897(A)(1)-(12) and thereafter issued by bulletin to all property and casualty insurers licensed in this state.

C. The disclosure form-guide has been uploaded to the Department's website, at www.lidi.la.gov, and insurers are authorized to access and download it as needed to comply with Regulation 124 and with the statutory requirements set forth in R.S. 22:1897.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19111. Date and method of delivery

A. The insurer shall send the disclosure form-guide to the policyholder on the date that the adjuster commences an initial investigation of the claim.

B. The insurer may deliver the disclosure form-guide to the policyholder by United States mail, electronic delivery, or hand-delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19113. Proof of timely delivery

A. **Delivery by mail.** If the disclosure form-guide is sent to a policyholder via United States mail, proof of such mailing shall be sufficient evidence to establish delivery of the disclosure form-guide, provided it reflects the date of the mailing and the policyholder.

B. **Electronic delivery.** If the disclosure form-guide is sent to a policyholder via email, the email delivery receipt or, if none, a copy of the as-sent email, shall be sufficient evidence to establish delivery of the disclosure form-guide, provided the delivery receipt or email reflects the date of the electronic mailing and the policyholder.

C. Hand-delivery. If the disclosure form-guide is hand-delivered to a policyholder, the representative of the insurer perfecting delivery must complete and sign a “Certificate of Hand-Delivery,” verifying pertinent details related to the delivery of the disclosure form-guide, including the date and location of the delivery, the name of the person accepting the delivery, and the name of the policyholder. Appendix A sets forth the “Certificate of Hand-Delivery” form insurers must use when opting to hand-deliver the disclosure form-guide to a policyholder.

§19115. Severability clause

A. The provisions of this Subpart are severable. If any provision or item of this Subpart, or application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of this Subpart, which are to be given effect without the invalid provision, item, or application of the Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19117. Effective date

A. Regulation 124 shall become effective upon publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

§19119. Appendix A

**Certificate of Hand-Delivery
Catastrophe Claims Process Disclosure Form-Guide**

I hereby certify, under penalty of perjury, that on the ____ day of _____, 20____, I appeared at:

(Physical address): _____

_____.

and personally hand-delivered a true and complete copy of the Catastrophe Claims Process Disclosure Form-Guide to:

(Name of recipient): _____.

Delivery of this disclosure form-guide was made in connection with the following policy of insurance:

(Policy number): _____

(Policyholder): _____

(Printed Name): _____

(Signature): _____ (Date signed): _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR _____ (Month Year).

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.
2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.
3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.
4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.
5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.
6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.
2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.
3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.
4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.
5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.
2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with

the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, there is no less intrusive or less costly alternative method of achieving the purpose of the proposed regulation.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Philip Dominique, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., November 10, 2022.

James J. Donelon
Commissioner

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is promulgated to implement the passage of Act 80 of the 2022 Regular Session of the Louisiana Legislature, which requires the Commissioner of Insurance to create rules and regulations related to the issuance of a catastrophe claim process disclosure form-guide. All property and casualty insurers shall provide a catastrophe claims process disclosure form-guide to its policyholders who have filed a property insurance claim arising out of an event declared by the governor as a state of emergency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule may affect property and casualty insurers licensed in Louisiana. The proposed rule requires

property and casualty insurers to provide a disclosure form-guide to all policyholders filing a claim for property damages as a result of an event declared by the governor as a state of emergency. The catastrophe claims process disclosure form-guide is being created by the Commissioner of Insurance and will be uploaded to the LDI website for insurers to access and download as needed. The insurer shall send the disclosure form-guide to the policyholder by United States mail, electronic delivery, or hand delivery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rule will have no impact upon competition and employment in the state.