

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 126—Louisiana Fortify Homes Program (LAC 37:XIII.Chapter 182)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to promulgate Regulation 126 to set forth rules and requirements governing the administration of the Louisiana Fortify Homes Program (LFHP) and eligibility criteria for LFHP grants as set forth in Act No. 554 of the 2022 Regular Session.

Title 37 INSURANCE Part XIII. Regulations

Chapter 182. Regulation Number 126—Louisiana Fortify Homes Program

§18201. Purpose

A. The purpose of Regulation 126 is to set forth rules and requirements governing the administration of the Louisiana Fortify Homes Program (LFHP) and eligibility criteria for LFHP grants in accordance with Act No. 554 of the 2022 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

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

§18202. Definitions

A. As used in Regulation 126, the following terms shall have the meanings herein specified.

1. *Evaluator*—an independent third party certified by the Insurance Institute for Business and Home Safety (IBHS) as a fortified evaluator for hurricane and high wind and hail who can verify that a home meets the fortified roofing construction standard. Homeowners can find a list of certified evaluators at www.ldi.la.gov/fortifyhomes.

2. *Insurance Institute for Business and Home Safety (IBHS)*—a non-profit research and communications organization of the property and casualty insurance industry that defines the fortified roofing construction standard for homes, information for which can be found at www.fortifiedhome.org.

3. *Louisiana Fortify Homes Program (LFHP)*—a program, enacted by Act No. 554 of the 2022 Regular Session, to be administered by the Louisiana Department of Insurance through its Office of Policy, Innovation and Research, to make financial grants to retrofit roofs of insurable property, as defined in R.S. 22:1483(C)(9), with a homestead exemption, to resist loss due to hurricane, tornado, or other catastrophic windstorm events and to meet or exceed the fortified roof standard of the Insurance Institute for Business and Home Safety, information for which can be found at www.ldi.la.gov/fortifyhomes.

4. *National Flood Insurance Program (NFIP)*—a program enacted by the National Flood Insurance Act of 1968 (P.L. 90-448), which the Federal Emergency Management Agency (FEMA) administers, through its Federal

Insurance and Mitigation Administration (FIMA) division, to provide an insurance alternative to disaster assistance to meet the escalating costs of repair damage to buildings and their contents caused by floods. The NFIP designates flood zones and flood maps, which illustrate a community's flood risk, information for which can be found at www.floodsmart.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

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

§18203. Contractor Eligibility Requirements and Conflicts of Interest

A. Contractor Eligibility Requirements. To be eligible to work as a Louisiana Fortify Homes Program contractor (LFHP-approved contractor), the contractor must meet all of the following program requirements:

1. submit and maintain a current copy of all certificates, licenses and proof of insurance coverages with the LFHP;
2. hold a valid residential license or home improvement registration issued by the Louisiana State Licensing Board for Contractors (LSLBC) and must be in good standing with the LSLBC;
3. hold any other valid state or jurisdictional business licenses or work permits required by law in Louisiana;
4. maintain a general liability policy with \$1,000,000 in liability coverage;
5. maintain a workers' compensation policy in compliance with Louisiana law;
6. provide a certificate of successful completion of the fortified roof for high wind and hail and hurricane training issued by the Insurance Institute for Business and Home Safety (IBHS) or its successor. The training may be offered as separate courses, and the contractor is responsible for paying all fees associated with the training;
7. be in compliance with all regulatory and tax laws regulating businesses in the state of Louisiana;
8. maintain internet access and have a valid, active email address on file with the LFHP for communication with the LFHP;
9. avoid conflicts of interest in any work performed on projects funded by LFHP grants;
10. agree to follow the LFHP procedures and rules as established by the Commissioner of the Department of Insurance.

B. Contractor Conflicts of Interest

1. LFHP-approved contractors may not possess a financial interest in any project for which they perform work toward a fortified designation other than for payment on behalf of the homeowner by the LFHP.
2. LFHP-approved contractors cannot be the evaluator for a fortified designation on any project funded by LFHP grants.
3. The LFHP-approved contractor is responsible for reporting to the LFHP any potential conflicts of interest before work commences on any job funded by LFHP grants.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

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

§18204. Evaluator Eligibility Requirements and Conflicts of Interest

A. Evaluator Eligibility Requirements. To be eligible to work on the Louisiana Fortify Homes Program (LFHP), an evaluator must meet all of the following program requirements:

1. submit and maintain a copy of all current certificates and licenses with the LFHP;

2. be in good standing with the Insurance Institute for Business and Home Safety (IBHS) and maintain an active certification as a fortified home evaluator for hurricane and high wind and hail, issued by the IBHS or its successor;

3. possess all necessary business licenses to perform the work required;

4. be in compliance with all regulatory and tax laws regulating businesses in the state of Louisiana;

5. avoid conflicts of interest in any work performed on projects funded by LFHP grants.

B. Evaluator Conflicts of Interest

1. Evaluators may not possess a financial interest in any project for which they inspect for fortified designation purposes in connection with the LFHP.

2. Evaluators cannot be a contractor or supplier of any materials, products or systems installed in any home they inspect for fortified designation purposes for the LFHP.

3. Evaluators cannot be a sales agent for any home being designated for the LFHP program.

4. Evaluators have a duty to inform the LFHP of any potential conflicts of interest before commencing inspections on any job funded by LFHP grants.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

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

§18205. Louisiana Fortify Homes Program Grants

A. Grant Eligibility. To be eligible for a Louisiana Fortify Homes Program (LFHP) grant, an applicant must meet the following requirements.

1. The home must be an owner-occupied, single-family, primary residence with a homestead exemption and cannot be a condominium or mobile home.

2. The home must be in good repair unless damaged by a hurricane, non-hurricane wind, or hail.

3. The homeowner must fortify the home's roof to meet the Insurance Institute for Business and Home Safety (IBHS) fortified roof standard.

4. The homeowner must provide the LFHP proof of a wind insurance policy on the home. Additionally, if the home is in a designated National Flood Insurance Program (NFIP) flood zone, the homeowner must provide the LFHP proof of a flood insurance policy on the home.

5. The homeowner must obtain and pay for all permits required by law or ordinance for the construction.

6. The homeowner must arrange and pay for inspections required by law or ordinance and the terms of the grant, which shall include inspection pursuant to R.S. 22:1483(C)(3).

7. The work must comply with applicable building codes.

8. The LFHP project must be completed within three months of the date of the grant award notification, which will be delivered to the applicant through electronic means. Failure to timely complete the LFHP project may result in a forfeiture of the grant.

B. Grant Application Process

1. In order to apply, a homeowner must complete and submit an online grant application to the LFHP. The online grant application portal will be accessible via www.ldi.la.gov/fortifyhomes.

2. The homeowner will be responsible for paying for a certified evaluator of the homeowner's choice to provide an IBHS home review evaluation on the home seeking to be fortified. A list of certified evaluators can be found at www.lds.la.gov/fortifyhomes. The LFHP may remove an evaluator from the list of certified evaluators at any time upon a finding that the evaluator failed to meet any of the program requirements listed in §18204 of this Regulation.

3. The evaluator shall determine whether or not the home meets a minimum structural standard on a pass or fail basis before identifying all improvements required to meet the IBHS fortified roof standard. Afterward, the evaluator shall submit a report to the IBHS for approval and provide a copy of the submitted report to the LFHP.

4. Via the LFHP online application portal, the homeowner must then upload bids from three LFHP-Approved Contractors of their choice to improve the home to meet the IBHS fortified roof standard. If an LFHP-Approved Contractor is not available in the area where the home is located, the minimum number of bids required for the application will be reduced to reflect the number of contractors that are available in the area. A list of eligible contractors can be found at www.lds.la.gov/fortifyhomes. The LFHP may remove a contractor from the list of eligible contractors at any time upon a finding that the contractor failed to meet any of the program requirements listed in §18203 of this Regulation.

C. Awarding of Grants. The LFHP will review all applications for completeness and will perform appropriate audits to verify the accuracy of the information in the application and whether the applicant meets the eligibility criteria. Verified applicants will then be placed in the order received, and grants will be awarded on a first-come basis, subject to availability of funding. Upon submission of an LFHP grant application, the LFHP will have 30 days to approve or deny the application. However, the LFHP may extend the time for review and approval of applications as it deems necessary. The LFHP will notify an applicant if the time for review and approval of the application has been extended. LFHP-Approved Contractors are not authorized to begin work on a home until the grant for the work is approved.

D. Maximum Grant Award. The amount of a grant award shall be equivalent to the actual cost to upgrade to the IBHS fortified Roof standard not to exceed \$10,000. The Commissioner of the Department of Insurance may periodically update the amount of the grant award.

E. Release of Funds. Grant funds will only be released on behalf of an approved applicant once an IBHS fortified certificate has been issued for the home. Funds will be paid by the LFHP, on behalf of the homeowner, directly to the contractor that performed the work to fortify the roof.

F. Grant Award Process

1. Once the grant application is approved, the homeowner may contract with an LFHP-approved contractor to fortify the home. Once the fortification work on the home is completed, the LFHP-approved contractor will submit a copy of the signed contract to the LFHP, along with an invoice seeking payment and an affidavit verifying that the fortified standard was met by the work done by the LFHP-approved contractor.

2. The evaluator will perform all required evaluations, including the required interim inspection during construction and the final inspection, confirming that the work was completed according to the IBHS fortified roof

specifications. The IBHS will review the evaluation and determine whether to issue a fortified designation, which is a written certificate that the home meets the fortified standard.

3. The LFHP will pay the LFHP-approved contractor's costs covered by the grant, and the homeowner shall pay the remaining costs to the LFHP-approved contractor.

4. The homeowner then must submit the declaration pages of the required insurance coverage to the LFHP within 30 days of receiving the fortified designation.

5. The LFHP may conduct random inspections to detect any fraud or irregularities.

6. To timely manage the processing of grant applications or to meet funding limitations, it may be necessary to establish specific periods when the LFHP will accept grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

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

§18206. Severability

A. If any rule or portion of a rule or its applicability to any person or circumstance is held invalid by any court, the remainder of this Chapter or the applicability of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

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

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended 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 amended 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 amended 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 amended 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 amended 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 amended 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.

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 amended 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 amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended 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 amended regulation should have no measurable impact on small businesses; and, therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended 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 amended 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 amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended 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 amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

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

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

Public Comments

Interested persons who wish to make comments may do so by writing to John Piccione, 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., February 10, 2023.

James J. Donelon
Commissioner

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (SUMMARY)

The proposed rule will not result in implementation costs or savings to state or local governmental units.

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 will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY)

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