



LOUISIANA DEPARTMENT OF INSURANCE
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ADVISORY LETTER NUMBER 06-03

May 31, 2006

**TO: ALL AUTHORIZED AND APPROVED UNAUTHORIZED PROPERTY
AND CASUALTY INSURERS (SURPLUS LINES INSURERS)**

**RE: PREMIUM/RATE INCREASES CONTRARY TO EMERGENCY RULE 23
AND THE LOUISIANA INSURANCE CODE**

STATUTE AND REGULATION REFERENCES: Emergency Rule 23:
LSA-R.S. 22:611 *et seq.*, 22:652, 22:1214(7), 22:1262.1.D(2), and 22:1401

It has come to my attention that authorized property and casualty insurers (hereinafter "admitted insurer") and approved unauthorized property and casualty insurers (hereinafter "surplus lines insurer") may be taking actions that do not comply with the purpose and intent of Emergency Rule 23, as well as LRS §§22:652, 22:1214(7), and 22:1262.1.D(2).

Emergency Rule 23 suspends the right of any admitted insurer or surplus lines insurer to cancel or nonrenew any personal residential, commercial residential, or commercial property insurance policy insuring a dwelling, residential property or commercial property located in Louisiana that sustained damage as a result of Hurricane Katrina and its aftermath, or Hurricane Rita and its aftermath, until 60 days after substantial completion of the repair and/or reconstruction of said property, except for the specific exceptions set forth in Section 4307 of Emergency Rule 23.

Many admitted insurers and surplus lines insurers are choosing to continue, extend or renew insurance coverage in order to appear to comply with Emergency Rule 23. However, under Emergency Rule 23 the continuation, extension, or renewal of coverage must maintain a policyholder at the previous premium/rate and with the same terms and conditions as previously written, subject only to a change to the premium/rate structure that is based on objective criteria. Such objective criteria is limited to pre-Katrina and pre-Rita defined underwriting guidelines, actual reinsurance costs, and other objective rating and underwriting criteria. While the objective criteria is applicable to both admitted insurers and surplus lines insurers, the method used to establish the rate and calculate the premium to be paid by the insured depends on whether the insurer is an admitted insurer or a surplus lines insurer.


Admitted insurers that issued property and casualty insurance policies on any personal residential, commercial residential or commercial property subject to Emergency Rule 23 that do not comply with LSA-R.S 22:652 and 22:1401 *et seq.*, may be subject to fines, suspension, revocation, and any other appropriate action available to the Commissioner. Any increase in the premium/rate that is not based on objective criteria will create a rebuttable presumption against the admitted insurer that the motivation for the increase was to circumvent the purpose and intent of Emergency Rule 23.

Surplus lines insurers that issued property and casualty insurance policies on any personal residential, commercial residential or commercial property subject to Emergency Rule 23 may be required to justify that such increase is in direct correlation with said objective criteria upon request by the Department of Insurance. Any increase in the premium/rate that is not based on objective criteria will create a rebuttable presumption against the surplus lines insurer that the motivation for the increase was to circumvent the purpose and intent of Emergency Rule 23. Such action by a surplus lines insurer shall be considered contrary to the best interests of the policyholders and citizens of Louisiana and may be deemed to be a violation of Emergency Rule 23 and LSA-R.S 22:652.

Admitted insurers and surplus lines insurers are hereby advised that they are expected to renew any applicable Louisiana policyholder at the previous premium/rate and with the same terms and conditions as previously written, subject only to a change to the premium/rate structure that is based on objective criteria. Failure to treat policyholders in a manner consistent with applicable provisions of Emergency Rule 23, the Louisiana Insurance Code and/or Advisory Letter 06-03 shall be deemed justification for the Commissioner to take appropriate action.

Additionally, I want to reiterate that admitted insurers and surplus lines insurers are only required to comply with Emergency Rule 23 until 60 days following substantial completion of the repairs to the damaged property or December 31, 2006, whichever occurs first.

Any questions regarding Advisory Letter 06-03 should be directed to Warren Byrd, Esq., Executive Counsel for the Department of Insurance, at wbyrd@ldi.state.la.us or by telephone at (225) 342-7276; or Walter Corey, Esq., at wcorey@ldi.state.la.us or by telephone at (225) 219-0605.


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