



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON, COMMISSIONER

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

ADVISORY LETTER NO. 06-05

October 27, 2006

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

RE: CANCELLATION OR NONRENEWAL OF RESIDENTIAL, COMMERCIAL RESIDENTIAL OR COMMERCIAL PROPERTY INSURANCE PROTECTED BY EMERGENCY RULE 23

STATUTE AND REGULATION REFERENCES: Emergency Rule 23; LSA R.S. 22:635.3 – 636.6

Emergency Rule 23 suspends the right of any admitted insurer or surplus line 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 or December 31, 2006, subject to the specific exceptions set forth in Section 4307 of Emergency Rule 23.

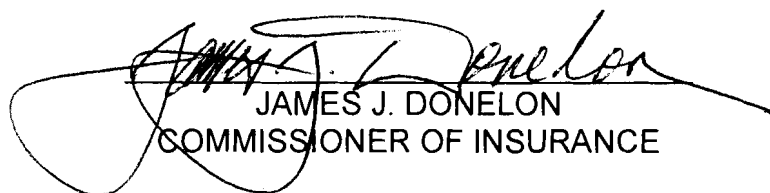
I have received inquiries from both insurers and insureds regarding the mechanism that must be utilized by insurers to properly cancel or nonrenew policies of insurance protected by Emergency Rule 23. Particularly, whether admitted insurers or surplus line insurers may send cancellation or nonrenewal notices prior to the expiration of Emergency Rule 23, thereby using the time period within Emergency Rule 23 to comply with the respective statutory notice time periods of LSA R.S. 22:635.3 – 636.6. I also was asked what actions admitted insurers or surplus lines insurers must take to document that there has been a "material change in the risk being insured" that would permit cancellation or nonrenewal of a policy of insurance under LSA R.S. 22:635.3 or 636.2 and what rights the insureds have acquired under LSA R.S. 22:635.3 or 636 during the existence of Emergency Rule 15, Emergency Rule 19 and Emergency Rule 23.

Therefore, I hereby advise that upon the expiration of Emergency Rule 23, all admitted insurers and surplus line insurers seeking to cancel or nonrenew any insurance policies protected by Emergency Rule 23 shall comply with the following:

1. Admitted insurers and surplus line insurers shall comply with all applicable statutory notice requirements set forth in the Louisiana Insurance Code, including, but not limited to, LSA R.S. 22:635.3 – 636.6. Since Emergency Rule 23 does not terminate until midnight on December 31, 2006, all such statutory notices shall not be issued until on or after January 1, 2007. Any notice of cancellation or nonrenewal affecting a policy of insurance protected by Emergency Rule 23 dated prior to January 1, 2007, shall be null and void and shall have no force or effect.
2. Admitted insurers and surplus line insurers who intend to claim that there has been "a material change in the risk being insured" that would permit cancellation or nonrenewal of a policy of insurance under LSA R.S. 22:635.3 or 636.2 must take the following action:
 - A) Conduct a physical inspection of the subject property thirty (30) days prior to the termination of Emergency Rule 23 or thirty (30) days prior to any action to cancel or nonrenew the policy of insurance after the termination of Emergency Rule 23.
 - B) Send a preliminary written notice to the insured advising that it is the opinion of the insurer that there has been "a material change in the risk being insured" that sets forth, in detail and with specificity, each and every reason why the insurer is of the opinion there has been a "material change in the risk being insured" that would justify cancellation or nonrenewal and provide the insured with at least thirty (30) days to either substantially correct the alleged deficiencies and maintain the insurance policy or provide the insurer with contrary information and/or documentation that the alleged deficiencies have been corrected.
 - C) Any alleged termination by the insurer based on "a material change in the risk being insured" shall be unequivocally negated and rendered a nugatory upon the presentment by the insured to the insurer of a valid and timely Building Permit issued by the appropriate governmental authority.

3. All admitted insurers and surplus line insurers are instructed to operate in such a fashion as to provide the maximum protection and benefit to the insureds and any and all disputes should be evaluated in a light most favorable to the insured such that the insurance policy will remain in full force and effect.
4. Insureds in Louisiana shall have the full right and entitlement to any and all time accrued between the effective dates of Emergency Rule 15, Emergency Rule 19 and Emergency Rule 23 with regard to the prohibition against cancellation and nonrenewal afforded to Louisiana insureds under LSA R.S. 22:635.3 and 636.2 when their policy of insurance has been in force and effect for three years or more.

Any questions regarding Advisory Letter No. 06-05 should be directed to Ms. Kathlee Hennigan, Director of Forms and Compliance, via telephone at (225) 342-0073 or electronically at khennigan@ldi.state.la.us; or Walter Corey, Esq., Staff Attorney, via telephone at (225) 219-0605 or electronically at wcorey@ldi.state.la.us.



JAMES J. DONELON
COMMISSIONER OF INSURANCE