

**§11911. Separability**

A. If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:466 (March 2007).

**§11913. Effective Date**

A. This regulation shall become effective on the date of its final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:466 (March 2007).

## **Chapter 121. Regulation 87— Louisiana Citizens Property Insurance Corporation Producer Binding Requirements**

**§12101. Purpose**

A. The purpose of Regulation 87 is to establish standards, guidelines, and requirements for licensed and qualified insurance producers to have binding authority to write applications of property and casualty insurance for the FAIR Plan and the Coastal Plan issued by the Louisiana Citizens Property Insurance Corporation. Regulation 87 also sets forth standards and procedures regarding the application process for use by such insurance producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007).

**§12103. Authority**

A. Regulation 87 is promulgated by the Board of Directors of the Louisiana Citizens Property Insurance Corporation, pursuant to the authority granted under the Louisiana Insurance Code, Title 22, R.S. 22:1430.22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007).

**§12105. Applicability and Scope**

A. Regulation 87 applies to all insurance producers who are duly licensed by the Louisiana Department of Insurance to sell property and casualty insurance, are engaged in and transact the business of insurance in the state of Louisiana,

have applied to the Louisiana Citizens Property Insurance Corporation and have met the qualifications for binding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007).

**§12107. Definitions**

A. For the purposes of Regulation 87, the following terms shall have the meaning or definition as indicated herein.

*Binding Authority*—the ability of a duly licensed insurance producer, who has adequate errors and omission insurance, and has completed a training course offered by Citizens, to issue a policy of property and casualty insurance in the FAIR Plan and Coastal Plan that imposes liability upon Citizens. A licensed producer must meet all requirements for binding authority set forth in Regulation 87 and must have applied to and have been authorized by Citizens to qualify for binding authority.

*Citizens* (when capitalized)—the Louisiana Citizens Property Insurance Corporation, and includes the residual market insurance programs known as the "Coastal Plan" and the "FAIR Plan."

*Coastal Plan*—the successor to that program established by Act 35 of the 1970 Regular Session to provide a residual market for adequate insurance on property in the coastal areas of the state, now available as a program of Citizens.

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

*Department*—the Louisiana Department of Insurance.

*FAIR Plan*—the successor to that program established by Act 424 of the 1992 Regular Session, and designated as the "Fair Access to Insurance Requirements Plan" to provide a residual market for adequate insurance on property in the state, now available as a program of Citizens.

*Insurance Producer*—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to in the Louisiana Insurance Code as "insurance agent" or "agent," or "insurance broker" or "broker," or "insurance solicitor" or "solicitor," or "surplus lines broker."

*Louisiana Policy Management System (LPMS)*—the Citizens policy management computer system or its successor.

*Procedural Error*—an error in an insurance application to bind property and casualty coverage with Citizens that does not materially affect the underwriting risk or rise to the level of a material misrepresentation that does not rise to the level of a substantive error.

*Producer Subscriber Agreement*—a contractual agreement delineating the terms, provisions and conditions permitting insurance producers and/or producer agencies to

bind coverage and write property and casualty insurance issued by Citizens through the FAIR Plan and the Coastal Plan.

*Substantive Error*—an error in an application to bind property and casualty insurance coverage with Citizens that materially affects the underwriting risk or rises to the level of a material misrepresentation.

*Unlicensed Employee*—a person hired by an insurance producer who performs administrative or clerical duties authorized by such insurance producer relative to an insurance application, but does not possess an insurance producer license and is not authorized to sell, solicit, or negotiate a contract of insurance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

**§12109. Licensing**

A. Pursuant to R.S. 22:3, no person shall be authorized to transact or shall transact the business of insurance in the state of Louisiana without complying with the provisions of the Louisiana Insurance Code.

B. Except as otherwise provided in R.S. 22:1134(B) and 22:1148(C)(1), no person shall act as or hold himself out to be an insurance producer unless licensed by the department as required by R.S. 22:1133.

C. In accordance with R.S. 22:1133(B), an insurance producer is not authorized to sell, solicit, make an application for, procure, or place for others any policies for any lines of insurance as to which the insurance producer is not qualified and duly licensed in the state of Louisiana.

D. Citizens acknowledges that the granting of an insurance producer license is within the sole province of the department and nothing in Regulation 87 shall be construed or intended to confer upon Citizens any right to the licensure of any insurance producer.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

**§12111. Qualifications for Binding Authority**

A. In order to bind coverage for the FAIR Plan and the Coastal Plan through Citizens, each duly licensed insurance producer must meet the following requirements:

1. maintain errors and omission insurance in the minimum amount of \$1 million per occurrence and \$1 million annual aggregate;

2. complete the initial training course and the annual training course approved and offered by Citizens, except that an insurance producer authorized by and conducting business with Citizens on the date Regulation 87 becomes final shall have until December 31, 2008 to complete the educational requirements;

3. demonstrate experience writing property and casualty insurance in Louisiana and maintain an in-force book of residential and/or commercial property insurance business in the lines of insurance offered by Citizens;

4. have a valid insurance producer license issued by the department;

5. submit to Citizens a completed application warranting compliance with applicable requirements established by Citizens;

6. submit to Citizens a properly executed producer subscriber agreement; and

7. demonstrate compliance with all terms and conditions set forth in the producer subscriber agreement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

**§12113. Procedures to Implement Binding Authority**

A. The insurance producer shall list all unlicensed employees that shall have access to the Louisiana Policy Management System (LPMS) in order for the insurance producer to bind property and casualty insurance coverage for their clients with Citizens.

B. If the insurance producer is an insurance agency, it shall list each unlicensed employee or insurance producer that shall have access to the Louisiana Policy Management System (LPMS) in order for the insurance producer to bind property and casualty insurance coverage for their clients with Citizens.

C. Each insurance producer, whether an individual or an agency, shall assign an administrator who shall have the responsibility and authority to add and/or delete unlicensed employees, including insurance producers, who have been authorized to access the LPMS. The administrator shall provide each unlicensed employee, including insurance producers, an LPMS access code, and the administrator and insurance producer shall select a secure password to access the LPMS. The administrator shall be responsible for managing the LPMS Interface with the insurance producer, whether an individual or an agency, and maintaining up-to-date information in the LPMS.

D. Citizens will publish and maintain technical computer system requirements for the LPMS. Instructions for using the LPMS will be available on a web site created and maintained by Citizens. Insurance producers are responsible for ensuring that their computer systems and internal resources meet the technical computer system requirements and that their unlicensed employees, including insurance producers if an insurance agency, are properly trained on the use of the LPMS.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

#### **§12115. Procedures for Application to Bind Coverage**

A. The insurance producer shall complete and submit the on-line application for property and casualty insurance coverage to Citizens and shall comply with all requirements of the application process that have been established by Citizens.

B. The insurance producer authorized to bind coverage with Citizens on the LPMS shall provide a valid Louisiana property and casualty insurance producer license number issued by the department in each application for property and casualty coverage with Citizens utilizing the LPMS. The administrator shall be responsible for maintaining an up-to-date list of insurance producers with the current insurance producer license number issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

#### **§12117. Education and Training**

A. Each authorized insurance producer and each authorized employee of an insurance producer shall, within each calendar year, attend at least one certified continuing education seminar that has been previously approved by Citizens in order to maintain their binding authority. Continuing education seminars will be provided by Citizens at least twice during each calendar year in order to facilitate the fulfillment of this requirement.

B. Each new insurance producer and each employee of a new insurance producer shall attend a previously approved Citizens education seminar as a prerequisite for authorization to bind coverage.

C. Any insurance producer who is authorized by and conducting business with Citizens on the date Regulation 87 becomes final shall have until December 31, 2008 to complete the educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

#### **§12119. Errors and Omission Insurance**

A. Each insurance producer, including the insurance agency if applicable, must provide documentary proof to Citizens that it has met and is carrying a required minimum of \$1 million per occurrence and \$1 million annual aggregate of professional liability coverage at the time of application for binding authority. Proof of professional liability coverage shall include, at a minimum, documentation that verifies the liability insurer, the amount of coverage and the duration of coverage. The administrator of the insurance producer shall update this proof of professional liability coverage in the LPMS each year in advance of the expiration date of the coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

#### **§12121. Underwriting Requirements**

A. Each insurance producer, including a producer who is an insurance agency, who has authority to bind coverage with Citizens is responsible to ensure that each producer and unlicensed employee properly follows all of the underwriting procedures established by Citizens. Any insurance producer who attempts to bind coverage with Citizens and fails to follow the underwriting procedures that have been established by Citizens shall be subject to the action that Citizens is authorized to take, including the suspension and termination of binding authority privileges, as prescribed in Section 12125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

#### **§12123. Premium Payments Requirements**

A. An insurance producer shall submit the entirety of the premium payment with the application within five calendar days after receipt of the premium. In order to expedite the payment of the premium, any premium money collected from a policyholder by the insurance producer may be electronically drafted from the insurance producer's trust account. The insurance producer shall complete and submit to Citizens the necessary draft forms, including the trust account information, in order to utilize this electronic process. Use of this electronic process is not required. However, each insurance producer is encouraged to utilize the electronic process as a preferred method to guarantee that payment of the premium is remitted timely to Citizens.

B. Failure to timely submit a premium to Citizens may result in suspension of binding authority privileges for one year unless reinstated before the expiration of the one year period by Citizens. Additionally, the insurance producer will be referred to the department for further action authorized under the Louisiana Insurance Code. An insurance producer who has been suspended may be authorized to service existing Citizens' business. However, such insurance producer will not be authorized or entitled to bind any new business unless and until reinstated by Citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

#### **§12125. Suspension and Termination of Binding Authority**

A. Citizens has the authority to suspend or terminate the binding authority privileges of an insurance producer if Citizens determines that the insurance producer has failed to adhere to proper underwriting and binding procedures that have been established by Citizens.

B. An insurance producer who demonstrates a consistent practice of submitting multiple procedural errors on applications to bind coverage with Citizens may have his binding authority privileges suspended for a period of not more than 12 months and until such time as Citizens has determined that the subject insurance producer has taken the actions required by Citizens to rectify the procedural errors.

C. An insurance producer who, during a 12 month period, commits a substantive error in five or more applications to bind coverage with Citizens may have his binding authority privileges suspended for a period of not more than 12 months and until such time as Citizens has determined that the subject insurance producer has taken the actions required by Citizens to rectify the substantive errors.

D. An unlicensed employee who demonstrates a consistent pattern of submitting procedural errors or substantive errors on applications to bind coverage with Citizens may be denied the right to access the LPMS on behalf of the insurance producer until such time as Citizens has determined that the subject unlicensed employee has taken the actions required by Citizens to rectify the errors. The insurance producer, and if applicable an insurance agency, who is responsible for the unlicensed employee who has been sanctioned herein shall be subject to suspension or termination of the binding authority privileges as deemed appropriate by Citizens pursuant to the guidelines set forth in Subsections B, C, E and F.

E. An insurance agency, whose producers and/or unlicensed employees, demonstrate a consistent practice of submitting applications to bind coverage with Citizens that contain substantive errors that materially affect the underwriting risk of any contract of property and casualty insurance issued, or to be issued, by Citizens may have all binding authority privileges terminated for a period of not more than 12 months and until such time as Citizens has determined that the subject insurance producer has taken the actions required by Citizens to rectify the substantive errors. After the expiration of the termination period, the insurance producer may apply for reinstatement. Reinstatement shall be at the sole discretion of Citizens and may be subject to any additional training or educational requirements imposed by Citizens.

F. An insurance producer who has been determined by Citizens to have knowingly or intentionally engaged in fraudulent conduct or committed an act of fraud in or relative to an application to bind coverage with Citizens shall have all binding authority privileges terminated and shall not be eligible for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

#### **§12127. Appeals**

A. An insurance producer aggrieved by any action taken by the chief executive officer of Citizens relative to the suspension or termination of their binding authority

privileges shall have the right to file a written appeal to the board of directors of Citizens. The written appeal shall be filed within 30 days of the date of the adverse action taken by the chief executive officer of Citizens against the aggrieved party. The written appeal shall set forth, in detail, each and every reason why the aggrieved party is entitled to the relief requested, including any documents, papers and things tendered in support thereof. The board of directors of Citizens may conduct a hearing or may consider the matter as being submitted on the merits. The board of directors of Citizens shall render a decision within 90 days after the date of the lodging of a timely and complete appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

#### **§12129. Referral for Regulatory Action**

A. Citizens reserves the right to refer any matter involving Regulation 87 to the department for any legal action authorized under the Louisiana Insurance Code, including, but not limited to, fine, probation, suspension or revocation of the insurance producer license issued by the department to the insurance producer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

#### **§12131. Severability**

A. If any provision of Regulation 87 or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of Regulation 87 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 87 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

#### **§12133. Effective Date**

A. Regulation 87 shall become effective on the date of the publication of the final Rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

## **Chapter 123. Regulation 82—Insure Louisiana Incentive Program**

Editor's Note: Title 22 of the Louisiana Revised Statutes was amended and reenacted by Acts 2008, No. 415, §1, effective January 1, 2009. The citations in this Chapter have been renumbered from R.S. 22:3301 et seq. to R.S. 22:2361 et seq. When referring to Title 22 or R.S. 22:3301 et seq., please note the new statute numbers.