



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

ADVISORY LETTER NO. 09-02

**TO: ALL COMMERCIAL PROPERTY AND CASUALTY INSURANCE
COMPANIES AND/OR RATING ORGANIZATIONS THAT
SUBMIT RATE FILINGS IN THE STATE OF LOUISIANA**

FROM: JAMES J. DONELON, COMMISSIONER

RE: "WRAP-UP" INSURANCE

DATE: FEBRUARY 6, 2009

Pursuant to Acts 2007, No. 459 of the Regular Session of the Louisiana Legislature, the Louisiana Insurance Rating Commission (LIRC) was abolished and all "powers, duties and functions" of the LIRC were transferred to the Commissioner of Insurance (Commissioner) and the Louisiana Department of Insurance (LDOI). As such, the LDOI issues Advisory Letter No. 09-02, which supersedes LIRC Bulletin 95-03.

Advisory Letter No. 09-02 emphasizes the regulatory authority of the Commissioner and the LDOI over the approval of all rate and form filings used in conjunction with the marketing of "wrap-up" insurance products in the state of Louisiana. "Wrap-up" insurance products are defined as "...primarily for large construction projects in industry; they generally involve the issuance of workers' compensation and liability insurance to the principal of the project which provides coverage for all contractors, subcontractors and their employees working on the construction project."¹

To avoid unnecessary delays in the approval process of submitted wrap-up insurance rate filings, please be aware of the following:

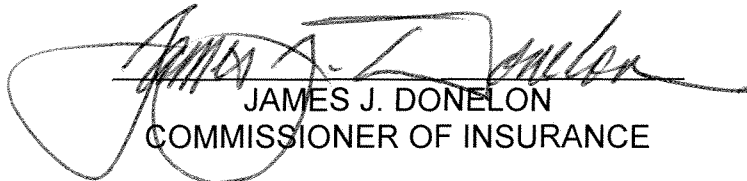
¹ *Liberty Mutual Insurance Company v. Louisiana Insurance Rating Commission et al.*, 696 So.2d 1021, 96-0793 (La.App. 1 Cir. 2/14/97), writ denied, 706 So.2d 451, 97-2069 (La. 12/19/97) and writ denied by 706 So.2d 452, 97-2062 (La. 12/19/97).

1. LSA-R.S. 23:1174.1(A)(1) provides that "No person, partnership, corporation or other entity shall establish any unreasonable criteria, policies, or procedures designed to discriminate against a contractor or subcontractor based upon the contractor's or subcontractor's securing the employer's workers' compensation obligation by any method provided for in R.S. 23:1168 or R.S. 23:1195 et seq." (i.e., wrap-up insurance)
2. A wrap-up insurance program shall neither take away nor reduce the right and ability of the individual contractor to choose the best method to insure the individual contractor's risk.
3. A wrap-up insurance program shall allow for coordination of coverage between the wrap-up policy and the policies of the individual contractor without placing a burden upon the individual contractor or the contractor's chosen insurer. For example, a burden may exist where a wrap-up insurance policy results in duplicate coverage or higher costs to the individual contractor.

Please note that the approval of such rate filing applications will be subject to the rate regulation requirements as set forth in Chapter 4, Part IV, Subpart O of the Louisiana Insurance Code, specifically LSA-R.S. 22:1451, et seq. (redesignated from LSA-R.S. 22:1401 by Acts 2008, No. 415, effective January 1, 2009).

For questions or comments, please contact the Louisiana Department of Insurance, Office of Property and Casualty, Insurance Rating Division, by phone at (225) 342-1258.

Baton Rouge, Louisiana, this 6th day of February, 2009.



JAMES J. DONELON
COMMISSIONER OF INSURANCE