

INSURANCE

questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? YES NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
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- 1.
- 2.
- 3.

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name

Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS:

- Are they affordable?
- Could they change?
- You're older—are premiums higher for the proposed new policy?
- How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES:

- New policies usually take longer to build cash values and to pay dividends.
- Acquisition costs for the old policy may have been paid; you will incur costs for the new one.
- What surrender charges do the policies have?
- What expense and sales charges will you pay on the new policy?
- Does the new policy provide more insurance coverage?

INSURABILITY:

- If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
- You may need a medical exam for a new policy.
- Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
- Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

- How are premiums for both policies being paid?
- How will the premiums on your existing policy be affected?
- Will a loan be deducted from death benefits?
- What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

- Will you pay surrender charges on your old contract?
- What are the interest rate guarantees for the new contract?
- Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

- What are the tax consequences of buying the new policy?
- Is this a tax free exchange? (See your tax advisor.)
- Is there a benefit from favorable "grand-fathered" treatment of the old policy under the federal tax code?
- Will the existing insurer be willing to modify the old policy?
- How does the quality and financial stability of the new company compare with your existing company?

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner Insurance, LR 26:1305 (June 2000).

Chapter 90. Regulation 72—Commercial Lines Insurance Policy Form Deregulation

§9001. Authority

- A. This regulation is adopted pursuant to R.S. 22:861.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:1776 (December 2019).

§9003. Purpose

- A. The purpose of this regulation is to allow for more flexibility in the placement of insurance with large

commercial risks within the parameters of the admitted market by establishing an exemption from the form filing, review and approval requirements of the Louisiana Insurance Code, and to adopt the initial definition of an "exempt commercial policyholder". The exemption implemented under this regulation is predicated upon the continued existence of an open and competitive market and the good faith of insurers in carrying out the fiduciary obligations owed to their insureds.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:861.F.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:1776 (December 2019).

§9005. Scope and Applicability

A. This regulation applies to all authorized insurers engaged in the business of writing commercial risk property and casualty insurance in this state.

B. This regulation governs the circumstances under which an insurer may issue an insurance policy to a policyholder without first filing the forms with and obtaining approval of the Commissioner of Insurance.

C. The exemption granted by this regulation is limited in scope to certain commercial risk insurance issued to special commercial entities as provided for in §§9011 and 9013 of this regulation, respectively.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:3., R.S. 22:620.F.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000).

§9007. Severability

A. If any Section or provision of this regulation is held invalid, such invalidity shall not affect other Sections or provisions which can be given effect without the invalid Section or provision, and for this purpose the Sections and provisions of this regulation are severable.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:620.F.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000).

§9009. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein, unless the context clearly indicates otherwise.

Affiliated Group—two or more persons who are owned or controlled directly or indirectly through one or more intermediaries by, or are under common control with, the person specified (i.e., the named insured) and includes a subsidiary.

Authorized Insurer—shall have the meaning found in R.S. 22:46(3).

Commercial Risk—any kind of risk that is not a personal risk.

Commissioner—the commissioner of insurance for the

state of Louisiana.

Competitive Market—a market in which a reasonable degree of competition exists or which has not been found to be in violation of R.S. 22:1961 et seq. In determining whether a reasonable degree of competition exists within a line of insurance, the commissioner shall consider the following factors:

- a. the number of insurers available to write the coverage;
- b. market shares of the leading writers and the changes in market shares over a reasonable period of time;
- c. existence of financial or economic barriers that could prevent new firms from entering the market;
- d. measures of market concentration and changes of market concentration over time;
- e. whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk; and
- f. the relationship of insurers' cost to revenue over a reasonable period of time.

Insurer—shall have the meaning found in R.S. 22:46(10).

Person—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

Personal Risk—homeowners, tenants, private passenger nonfleet automobile, mobile home and other property and casualty insurance for personal, family or household needs.

State—the state of Louisiana.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:861.F.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:1776 (December 2019).

§9011. Types of Coverage Exempt from Form Filing and Approval

A. All kinds of commercial property and casualty insurance, including but not limited to Commercial Property, Boiler and Machinery, Commercial Auto, General Liability, Directors and Officers, Business Owners and Inland Marine insurance, written on commercial risks are exempt from the form filing and approval provisions of R.S. 22:861 if the policy is issued to an exempt commercial policyholder as defined in §9013 of this regulation, except for the following kinds:

1. worker's compensation and employer's liability insurance;
2. professional liability insurance.

B. The exemption provided for in this Section only applies to policy forms. Rate and rule filings must be made with the commissioner as required by law.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:861.F, and R.S. 22:1456.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45: 1776 (December 2019).

§9013. Special Commercial Entities

A. *Special Commercial Entity*—a person who meets the criteria for an *exempt commercial policyholder*.

B. An *Exempt Commercial Policyholder*—any person who applies for or procures commercial risk insurance, of the kinds provided for in §9011, and meets the following criteria:

1. has and maintains aggregate annual commercial insurance premiums, excluding worker's compensation and employer's liability, and professional liability insurance premiums, of more than \$200,000 in the preceding fiscal year. In determining whether this threshold has been met, premiums paid to one or more insurers are to be added together to reach the total aggregate;

2. at the time the policy is issued the policyholder must have:

- a. if a single company not less than 50 employees;
- b. if a member of an affiliated group not less than 100 employees collectively;
- c. if a municipality a population of not less than 50,000; and
- d. if a public entity an operating budget of not less than \$20 million for the most recently completed calendar or fiscal year whichever applies;

3. has signed the certification form as provided for in §9015.B of this regulation.

C. Beginning January 1, 2001, the criteria in Subsection B of this Section must be reviewed on an annual basis by the commissioner for the purposes of determining whether the criteria should be modified. The review must be completed on or before the thirty-first day of March.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, and R.S. 22:861.F.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:1776 (December 2019).

§9015. Disclosure Requirements and Certification Form

A. When soliciting, negotiating or procuring a policy of insurance with an exempt commercial policyholder the agent or broker, or the insurer in cases of direct placement, shall disclose to the policyholder and the policyholder's risk manager, if any, on a form created by the insurer, that a policy form may be used which is exempt from the form filing requirements of the Louisiana Insurance Code.

B. When a policy of insurance is issued or delivered to an exempt commercial policyholder, the insurance agent or broker, or the insurer in cases of direct placement, shall obtain from the policyholder a written certification on the form prescribed below. The certification form must be in not

less than 10-point type, and it must be dated and signed by a senior officer or manager of the policyholder and the policyholder's risk manager, if any.

Louisiana Certification of
Exempt Commercial Policyholder Status

Pursuant to Louisiana Regulation 72

The undersigned _____, (the Insured) certifies to _____ (the Insurer) that the Insured meets the criteria below and is an Exempt Commercial Policyholder under Louisiana law. The Insurer may issue a commercial risk insurance policy to an Exempt Commercial Policyholder without filing the policy form with the Louisiana Department of Insurance and the Insurer by signing below certifies that it has the necessary expertise to negotiate its own policy language. The policy must still comply with Louisiana law, and complaints or questions about compliance may be directed to the Louisiana Department of Insurance (1-800-259-5300).

In order to be an Exempt Commercial Policyholder, the Insured must:

1. Execute this Certification Form and return it to the Insurer.
2. Acquire the insurance policy through an insurance agent licensed in Louisiana.
3. Meet the following requirements:

— Have and maintain aggregate annual commercial risk insurance premiums, excluding workers compensation and employer's liability and professional liability insurance premiums of more than two hundred thousand (\$200,000) dollars in the preceding fiscal year. In determining whether this threshold has been met, premiums paid to one or more insurers are to be added together to reach the total aggregate.

— At the time the policy is issued the policyholder must have (a) if a single company not less than fifty (50) employees; (b) if a member of an affiliated group not less than one hundred (100) employees collectively; (c) if a municipality a population of not less than fifty thousand (50,000); and, (d) if a public entity an operating budget of not less than twenty (\$20,000,000) million dollars for the most recently completed calendar or fiscal year whichever applies.

Signed: _____

Date: _____

Printed: _____

Title: _____

Risk Manager: _____

C. The disclosure notice and certification form required by this Section shall be effective for the life of the policy or policies, including renewals, unless the deductible, or policy limits or coverage is significantly modified, in which case a new certification form must be executed.

D. A copy of the certification form shall be maintained by the insurer and by the producing agent or broker in the policyholder's record for a period of five years from the date of issuance of the insurance policy or renewal policy if at renewal a new certification form is executed. The insurer or producing agent or broker shall make such certification forms available for examination by the commissioner or any person acting on behalf of the commissioner.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:861.F, R.S. 22:1961 et seq., and R.S. 22:1981.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:1776 (December 2019).

§9017. Requirements for Maintaining Records

A. Any insurer who places insurance with an exempt commercial policyholder, pursuant to this regulation, shall maintain a record on the exempt commercial policyholder. The record shall contain, in addition to the certification form, the following information:

1. any data, statistics, rates, rating plans, rating systems and underwriting rules used in underwriting and issuing such policies;
2. a copy of the policy with date of issuance clearly marked;
3. annual experience data on each risk insured, including but not limited to:
 - a. written premiums;
 - b. written premiums at a manual rate;
 - c. paid losses;
 - d. outstanding losses;
 - e. loss adjustment expenses;
 - f. underwriting expenses;
 - g. underwriting profits; and
 - h. profits from contingencies; and
4. a record of all complaints including the date the complaint was made, the name of the complainant, the nature of the complaint and the final resolution.

B. The record required by this Section may be kept in electronic or written form and shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy or renewal policy if a new certification form is required pursuant to §9015.C. Upon request, the insurer shall produce such record for examination by the commissioner or any person acting on behalf of the commissioner.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:1961 et seq., and R.S. 22:1981.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45: 1777 (December 2019).

§9019. Exempt Policy Forms

A. Commercial risk property and casualty policy forms which would otherwise have to be filed with and approved by the commissioner are exempt from this requirement if issued to an exempt commercial policyholder. The exemption of the policy form from the requirement that it be filed with and approved by the commissioner is not to be taken by an insurer to mean that an insurance contract effected by the use of such a policy form, or policy forms, may in any manner be inconsistent with the statutory law of this state or public policy as expressed by the courts of this

state.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:861, and R.S. 22:1961 et seq.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:1777 (December 2019).

§9021. Penalties for Failure to Comply

A. The exemption created by this regulation is a limited one and insurers must strictly comply with the conditions creating the exemption. Failure to comply with the regulation by any person subject to its provisions, after proper notice, may result in the imposition of such penalties as are authorized by law. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:18, R.S. 22:861, R.S. 22:1961 et seq., and R.S. 22:1554.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:1777 (December 2019).

Chapter 91. Regulation 68—Patient Rights under Health Insurance Coverage in Louisiana

§9101. Purpose

A. The purpose of this regulation is to clarify the rights of insureds and requirements for health insurance coverage approved under Title 22 of the Louisiana Revised Statutes of 1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements that health insurance coverage must meet to be issued for delivery in Louisiana. The statutory requirements also establish the intent of the legislature to afford patients with health insurance coverage, basic rights to access covered benefits without undue delays or denials based on arbitrary determinations of medical necessity. The statutory requirements also establish the legislative intent to prohibit the use of a health insurance coverage requirement or procedure that impinges on the ability of the insured patient to receive appropriate medical advice and/or treatment from a health care provider.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the patient rights under health insurance coverage policies or plans issued for delivery in this state.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:2014

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:324 (February 2000).

§9103. Definitions

Emergency Medical Condition—the sudden and, unexpected onset of a health condition that requires immediate medical attention, where failure to provide such medical attention could reasonably be expected to result in