RULE

Department of Insurance
Office of the Commissioner

Regulation 72—Commercial Lines Insurance Policy Form Deregulation (LAC 37:XIII.Chapter 90)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has amended Regulation 72—Commercial Lines Insurance Policy Form Deregulation.

The purposes of the amendments to Regulation 72 are to update cross-references to redesignated sections of Title 22 of the Louisiana Revised Statutes that were redesignated pursuant to Act 415 of the 2008 Regular Session, to update the purpose of the regulation to make clear that the exemption implemented under this regulation is not experimental, to update acronyms used throughout the regulation, to change the definition of “person” to the same definition used in Title 22, to delete definitions for terms not used in the regulation, to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance, and to update provisions relative to the right to demand a hearing. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
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.


§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.

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


§9009. Definitions
A. …

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

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. - f.

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.

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


§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:

A.1. - A.2. …

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.


§9013. Special Commercial Entities
A. - B.3. …

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.


§9015. Disclosure Requirements and Certification Form
A. - C. …

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.
§9017. Requirements for Maintaining Records

A. 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.


§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 conferred 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.


§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.


James J. Donelon
Commissioner
1912#017

RULE

Department of Insurance
Office of the Commissioner

Regulation 80—Commercial Lines Insurance Rate Deregulation (LAC 37:XIII.Chapter 93)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., specifically R.S. 22:11, the Department of Insurance has hereby repealed Regulation 80—Commercial Lines Insurance Rate Deregulation. The Department of Insurance has repealed Regulation 80 to comply with Acts 2007, No. 459, § 3 of the Regular Session of the Louisiana Legislature that repealed R.S. 22:1401.1D, under which authority Regulation 80 was originally promulgated.

The purpose of Regulation 80 was to implement the provisions of Acts 2004, No. 878 of the Louisiana Legislature, Regular Session, which exempted commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 93. Regulation Number 80—Commercial Lines Insurance Rate Deregulation

§9301. Authority
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:1777 (December 2019).

§9303. Purpose
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:1777 (December 2019).

§9305. Scope and Applicability
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:1777 (December 2019).

§9307. Severability
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:1777 (December 2019).