

year cost. A basic illustration that meets the requirements of the department's Regulation 55, "Life Insurance Illustrations" shall be deemed sufficient to meet this requirement for a written disclosure.

F. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

1. excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable;

2. offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance:

a. "insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents;

b. "other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits;

3. excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

a. unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

b. unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one to 10 and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

c. which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due;

4. excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endorsement, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:1211, 22:1214; and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2459 (November 2007).

§12515. Severability

A. If any provision of these Sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these Sections which can be given effect without the invalid provisions or application. To this end all provisions of these Sections are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:1211, 22:1214; and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2460 (November 2007).

§12517. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to acts or practices committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:1211, 22:1214; and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2460 (November 2007).

Chapter 127. Regulation Number 94—Premium Adjustments for Compliance with Building Codes and Damage Mitigation

§12701. Authority

A. Regulation 94 is issued pursuant to the authority vested in the commissioner pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3 and R.S. 22:1426.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12703. Purpose

A. The purpose of Regulation 94 is to implement the provisions of Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature, which mandates that insurers

provide an actuarially justified premium discount for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12705. Scope and Applicability

A. Regulation 94 applies to authorized property and casualty insurers required to submit rates and rating plans for residential property insurance to the Louisiana Department of Insurance.

B. Regulation 94 does apply to modular homes.

C. Regulation 94 does not apply to commercial properties or commercial residential properties with three or more units.

D. Regulation 94 does not apply to approved unauthorized insurers, i.e., surplus lines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12707. Definitions

A. As used in Regulation 94, these terms shall have the following meaning ascribed herein unless the context clearly indicates otherwise.

Certification Form—a form prepared by an insurer, approved by the department, and subsequently completed and signed by the insured, wherein the insured attests to the implementation of specific mitigation items which the insurer recognizes in its rating plan for providing an actuarially justified premium discount under R.S. 22:1426.

Department—Louisiana Department of Insurance.

Discount Plan—the criteria and items utilized by an insurer to determine or otherwise compute an actuarially justified discount, credit, rate differential, adjustment in deductible, or any other adjustment to reduce the insurance premium for an eligible insured under R.S. 22:1426.

Qualified Professional—a building code enforcement officer, registered architect, registered engineer, or a registered third-party provider authorized by the Louisiana State Uniform Construction Code Council to perform building inspections.

Residential Property Insurance—fire and extended coverage insurance or homeowners insurance for a one- or two-family owner-occupied premises, but does not include insurance policies written to cover manufactured homes or mobile homes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12709. Rate Filings

A. All residential property insurers shall include their plan for actuarially justified discounts in their first rate filing made with the department after March 31, 2008. Every residential property insurer shall make a new rate filing with the department in accordance with R.S. 22:1426 on or before January 1, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12711. Discount Plan Standards

A. A discount plan submitted to the department should consider wind mitigation studies conducted by other states and may consider other alternative studies found acceptable by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12713. Mitigation Improvements and Construction Considered for Actuarially Justified Discounts

A. In determining actuarially justified discounts, an insurer shall consider the following mitigation improvements and/or construction techniques that have been demonstrated to reduce the amount of loss from windstorm or hurricane:

1. building design code;
2. roof bracing;
3. secondary water barriers;
4. opening protection;
5. roof to wall strength;
6. roof deck attachment;
7. roof covering and roof covering performance;
8. wall-to-floor-to-foundation strength;
9. window, door, and skylight strength; and
10. other mitigation improvements and/or construction techniques that the insurer has determined can reduce the risk of loss due to wind.

B. Discounts displayed in the insurer's rate and rule manual should reflect the interdependence of mitigation improvements and/or construction techniques required by the insurer to qualify for an actuarially justified discount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12715. Form Filing; Notice to Insureds

A. The Model Certification Form in §12721, Appendix A provides the minimum mitigation items and construction techniques that must be considered for actuarially justified discounts.

B. Any insurer that intends to supplement the Model Certification Form with additional mitigation items and construction techniques for actuarially justified discounts shall submit the supplemented certification form to the department for approval prior to use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12717. Proof of Eligibility

A. The insured has the obligation to provide the insurer with the appropriate documentation to verify eligibility for an actuarially justified discount under the provisions of R.S. 22:1426 and Regulation 94. The insurer may require that the insured provide the insurer with the following:

1. a properly completed certification form that is executed by a qualified professional and that meets the minimum standards of the Model Certification Form in §12721, Appendix A to Regulation 94; and

2. appropriate documentation demonstrating compliance with the State Uniform Construction Code; and/or

3. appropriate documentation attesting to the mitigation improvements made by the insured that reduce the amount of loss from a windstorm or hurricane.

B. An insurer may require the following or other documentation to satisfy the requirements of Paragraphs A.2 and A.3:

1. permits;
2. certificates of occupancy;
3. inspection reports; or
4. receipts.

C. The insurer may request additional documentation or proof from an insured, or an inspection of the property, if the insurer has a justifiable basis to question the authenticity or accuracy of any of the information or documentation provided by the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12719. Notice to Producers; Information for Insureds

A. In furtherance of Regulation 94, each insurer shall be responsible to ensure that its producers and authorized representatives are knowledgeable and prepared to properly inform insureds about the actuarially justified discounts available for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12721. Appendix A—Louisiana Hurricane Loss Mitigation Survey Form

Louisiana Hurricane Loss Mitigation Survey Form

Instructions: The homeowner/policyholder shall complete Section I. A qualified inspector shall complete Section II and sign Section III.

Section I: Insured Information

Applicant's/Insured's Name

Location Address*

Applicant's / Insured's phone number
() _____

Home or Business Phone Indicator – H or B

The inspection shall be conducted on each occupiable dwelling on the policy. This survey form does not pertain to accessory structures such as detached garages, storage sheds, barns, etc. Please circle the appropriate answer to each question.

Section II: Inspection Survey

1) **BUILDING CODE: To what building or residential code was the dwelling constructed?**

- A) Louisiana State Uniform Construction Code
- B) Certified by IBHS as a Fortified for Safer Living structure and built above the requirements of the Louisiana State Uniform Construction Code
- C) Neither of the above; built to another code (specify) _____

D) Unknown, unidentified, or no code

2) **BASIC DESIGN WIND SPEED: What was the Basic Design Wind Speed used to design and construct the dwelling?**

(if in fastest mile speed, convert to 3-second gust)

- A) Less than or equal to 90-mph (3-second gust)
- B) Greater than 90-mph and less than or equal to 100-mph (3-second gust)
- C) Greater than 100-mph and less than or equal to 110-mph (3-second gust)
- D) Greater than 110-mph and less than or equal to 120-mph (3-second gust)
- E) Greater than 120-mph and less than or equal to 130-mph (3-second gust)
- F) Greater than 130-mph and less than or equal to 140-mph (3-second gust)
- G) Greater than 140-mph and less than or equal to 150-mph (3-second gust)
- H) Greater than or equal to 150-mph (3-second gust)
- I) Unknown, unidentified, or no Basic Wind Speed

3) **EXPOSURE CATEGORY: What Exposure Category was used to design and construct the dwelling? (as defined by ASCE 7)**

- A
- B
- C
- D
- Unknown, unidentified, or no Exposure Category

4) **SECONDARY ROOF WATER INTRUSION SYSTEM: Is there a complete secondary roof water intrusion system installed over all dwelling roof areas?**

- Y) Yes, on all roof areas
- N) No
- U) Unknown or Unidentified

5) **EXTENT OF WIND BORNE DEBRIS PROTECTION: To what extent do the building envelope openings have wind borne debris protection - either protected with external protection devices or deemed impact-resistant through building code approved impact testing?**

(Building envelope openings include, but are not limited to: windows, swinging doors, sliding doors, garage doors, skylights, and door sidelights.)

To be completed by Insurer: Insurer: _____ Policy Number: _____ Policy type: _____ Agent: _____

- A) All Openings—All building envelope openings with and without glass/glazing, including garage doors (if garage doors exist on dwelling or if no garage door exists on dwelling), have wind borne debris protection.
- B) All Openings (except garage doors)—All building envelope openings with and without glass/glazing, excluding garage doors (if garage doors exist on dwelling), have wind borne debris protection.
- C) All Glass/Glazed Openings and Some Openings without Glazing—All building envelope openings with glass/glazing and some building openings without glass/glazing, excluding garage doors, have wind borne debris protection.
- D) Only Glass/Glazed Openings—All building envelope openings with glass/glazing have wind borne debris protection.
- E) Some Glass/Glazed Openings—Some building envelope openings with glass/glazing have wind borne debris protection, but not all.
- F) No wind borne debris protection is provided on any glass/glazed building envelope openings.
- U) Unknown or unidentified

6) TYPE OF WIND BORNE DEBRIS PROTECTION: What is the weakest form of wind borne debris protection used on the structure? (listed in descending order from strongest to weakest)

A) Building envelope opening products:
Have passed the following cyclic loading and windborne debris impact tests – [ASTM E 1886 and ASTM E 1996 (Missiles D or E)] or [Miami-Dade TAS 201 and TAS 203] or [ANSI/DASMA 115 for garage doors only]; and are approved by and included in the State of Florida Product Approval System or the Miami-Dade Code Compliance Office Product Approval System; or

Are protected with an external protection device that has passed the following cyclic loading and windborne debris impact tests – [ASTM E 1886 and ASTM E 1996 (Missiles D or E)] or [Miami-Dade TAS 201 and TAS 203]; and are approved by and included in the State of Florida Product Approval System or the Miami-Dade Code Compliance Office Product Approval System.

- B) External protection devices that cannot be identified as meeting the requirements in Answer A.
- C) Wood structural panels (plywood or OSB)
- U) Unknown or unidentified
- X) Not applicable because there is no wind borne debris protection.

7) ROOF GEOMETRY: What is the roof shape(s)? (Porches or carports that are not structurally connected to the main roof system are not considered in the roof geometry determination)

- A) Total Hip Roof Hip roof covering entire structure
- B) Partial Hip Roof Hip roof with no other roof shapes greater than 50% of any major wall length
- O) Other Any other roof shape or combination of roof shapes including hip, gable, flat, gambrel, mansard, and other roof shapes

8) ROOF COVERING SYSTEM: If predominant roof covering on the dwelling is asphalt shingles, have the asphalt shingles passed either ASTM D3161 (Class F) or ASTM D7158 (Class G or H)?

- Y) Yes
- N) No
- U) Unknown or unidentified
- X) Not applicable because predominant roof covering is not asphalt shingles

9) AGE OF ROOF COVERING: In what year was the roof covering installed?

- A) _____ (YYYY)
- U) Unknown

10) PREDOMINANT ROOF DECK MATERIAL & ATTACHMENT: What are the predominant roof deck material and its attachment to the dwelling structure below?

Type of Roof Deck: _____
Size and Type of Fastener: _____
Spacing of Fasteners: _____

11) ROOF-WALL CONNECTION TYPE: What is the weakest form of Roof-Wall Connector used on the dwelling? (listed in descending order from strongest to weakest)

- A) Double Wraps
- B) Single Wraps
- C) Clips
- D) Toenails
- E) None
- X) Not applicable as roof deck is metal roof deck (pan type), precast concrete panels, or poured-in-place concrete
- U) Unknown or Unidentified

12) GABLE ROOF BRACING: Are the gable roof structure bracing members and system designed and installed in accordance to the Louisiana State Uniform Construction Code?

- Y) Yes
- N) No
- X) Does not apply because there are no gable or gambrel roof shapes
- U) Unknown or Unidentified

13) FOUNDATION RESTRAINT: Are the floor-to-foundation connections designed and installed in accordance to the Louisiana State Uniform Construction Code?

- Y) Yes
- N) No
- U) Unknown or Unidentified

Section III - To be completed by a Qualified Professional as specified below:

I certify that I am a Building Code Enforcement Officer, or a Third-Party Provider, as defined by Louisiana Revised Statute or applicable Administrative Rule. I am registered with the Louisiana State Uniform Construction Code Council and authorized, by that registry, to perform residential building inspections for compliance with the Louisiana State Uniform Construction Code. I have conducted an inspection of the structure, and reviewed all construction documents and building product specifications necessary to accurately answer the questions in this inspection survey, and certify that, to the best of my knowledge, all questions are answered truthfully and correctly.

Name (please print): _____
Firm name: _____
Title (vendor, owner, officer, or partner): _____
State of Louisiana license number: _____
Signature: _____ Date _____
Insureds' Signatures: _____ Date _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12723. Severability

A. If any Section or provision of this regulation or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of this regulation to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of this regulation and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:92 (January 2008).

§12725. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*. This regulation shall apply to all newly filed rates filed after March 31, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:93 (January 2008).

Chapter 129. Regulation Number 95—Public Fire Protection Grading Board of Review

§12901. Purpose

A. The purpose of Regulation 95 is to implement the provisions of Acts 2006, No. 809, Regular Session of the Louisiana Legislature which mandates that a board of review be established within the Department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12903. Scope

A. Regulation 95 sets forth the procedures for review of a public fire protection grading issued by the Property Insurance Association of Louisiana, R.S. 22:1405.1 through 22:1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12905. Authority

A. Regulation 95 is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3, and specifically 22:1405(J) and 1405.1 through 1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12907. Definitions

A. For the purposes of Regulation 95, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Board—board of review established by the Louisiana Department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana pursuant to R.S. 22:1405.1.A.

Commissioner—Commissioner of Insurance.

Fire Chief—the highest ranking (appointed, elected, or designated) fire fighter in a fire protection district or other recognized fire protection agency. For the purposes of this regulation and other than §12907, Definitions, the term *fire chief* shall be inclusive of the term *fire chief's designee*.

Fire Chief's Designee—that individual who is designated, in writing by the fire chief to the commissioner, as an individual authorized to request a review of a public fire protection grading issued by the PIAL.

Fire Protection District—a municipal fire department or a state recognized fire service organization graded by the PIAL.

PIAL—Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12909. Eligibility to Request Review

A. A fire chief shall have authority to request a review of a public fire protection grading issued by the PIAL if the following requirements of R.S. 22:1405.2 have been satisfied:

1. the fire chief has attended the Professional Grading Assistance Program class, or has attended a class on fire suppression grading schedule sponsored by the Louisiana Fire Chief's Association or the Louisiana State Fireman's Association, or has attended a training seminar related to fire suppression grading that has been approved by either the Property Insurance Association of Louisiana or the Louisiana State University Fire and Emergency Training Institute; and

2. the fire chief sent a dispute letter to PIAL within 60 days of receipt of PIAL's public fire protection grading that specifically identified the fire chief's reasons for disagreement with PIAL's grading.

B. Upon receipt of the fire chief's dispute letter of a public fire protection grading, PIAL has 60 days to respond in writing to the fire chief. The PIAL response to the dispute letter shall specifically address each reason for a fire chief's disagreement with the public fire protection grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12911. Request for Hearing

A. The fire chief shall make a written request for board review of the public fire protection grading to the commissioner within 60 days of PIAL's written response to the fire chief's dispute letter.

B. If PIAL fails to provide a written response to the fire chief's dispute letter of a public fire protection grading within 60 days of receipt of the dispute letter, the fire chief shall make a written request to the commissioner within 10