

### LOUISIANA DEPARTMENT OF INSURANCE

J. ROBERT WOOLEY, COMMISSIONER

October 3, 2005

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State of Louisiana Department of Insurance Advisory Letter No. 05-01

retention, records, solvency, audit, fraud, investigation LRS 22 Generally and LRS 22::39, 193.1, 1203, 1205, 1309, 2092.12, 3011

TO: All Entities Regulated by the Department of Insurance

### RE: RECORDS DAMAGED AS A RESULT OF WATER, CONTAMINANTS AND/OR FIRE

The Commissioner of Insurance recognizes that water, contaminants and fire damage records of regulated entities and that the resulting condition of the records poses hazardous conditions that threaten the health, safety and welfare of the public.

THEREFORE, the Commissioner of Insurance advises each regulated entity whose records were damaged as a result of water, contaminants and/or fire to dispose of records that pose hazardous conditions that threaten the health, safety and welfare of the public as a result of that damage.

The regulated entity should have *in its own business records* thereafter an affidavit as described below. The recommended retention period for the affidavit is the same as the retention period for records which are described in the affidavit. The affidavit is not to be filed with the Department of Insurance but should be available if requested by the Commissioner. Louisiana notaries are required to comply with the provisions of LRS 35:12 found at <a href="https://www.legis.state.la.us">www.legis.state.la.us</a> when notarizing documents.

# About the Affidavit That Records Were Damaged as a Result of Water, Contaminants and/or Fire

- Affidavit executed by at least one of the following persons of majority age:
  - o person who actually viewed damaged records and/or site that housed the records and who can attest to the following (see substance of the affidavit below):
  - o representative of regulated entity whose records were damaged and who can attest to the following (see substance of the affidavit below):
- Substance of the affidavit includes an attestation (1) to the damage to the records, (2) that water, contaminants and/or fire damaged the records, (3) that the condition of the records posed hazardous conditions that threatened the health, safety and welfare of the public, (4) that the disposal process protects the privacy interests of the insureds listed in the records, (5) to a description of the records damaged, (6) that the entity that disposed of the records did so as the agent of the regulated entity, and (7) that records which are otherwise available for inspection and/or audit purposes by the Department of Insurance shall be retained for review by the Department of Insurance. See statement hereinbelow about exhibit for affidavit.
- For the limited purpose of documentation for inspection and/or audit of records by the Department of Insurance, see "Attachment A. Affidavit—Records Were Damaged as a Result of Water, Contaminants and/or Fire" which may be used by regulated entities.

Advisory Letter No. 05-01 Records Damaged as a Result of Water, Contaminants and/or Fire October 3, 2005

# About Exhibit for Affidavit that Records Were Damaged as a Result of Water, Contaminants and/or Fire

- Corroborating documentation, if available
- Visual evidence (i.e., pictures of affected records and/or site that housed the records)
- Recovery contractor documentation preferred (see inclusive list for recovery contractors at <a href="http://www.sec.state.la.us/recovery/index.htm">http://www.sec.state.la.us/recovery/index.htm</a>)

### The Commissioner further advises the following:

- Regulated entities should secure certification from the entity that disposes of the records that the records were properly disposed of to ensure the privacy of the insured listed in the records.
- Regulated entities should remember that the entity that disposes of the records is the agent of the regulated entity.
- Records of regulated entities that are otherwise available for inspection and/or audit purposes by the Department of Insurance shall be retained by the regulated entity for review by the Department of Insurance.

J. Robert Wooley Commissioner

### **AFFIDAVIT**

## RECORDS WERE DAMAGED AS A RESULT OF WATER, CONTAMINANTS AND/OR FIRE

STATE OF COUNTY/PARISH OF	Louisiana Department of Insurance. Form Affidavit—PRINT except where signatures required.
PART 1. Entity. Complete all Applicable Information in Part 1.  A. Name of Affiant	B. Title
C. Name of Entity	Mark one with "X" C2. Other Go to E
E. Physical Address (City, State, Zip Code)	
F. Phone Number (AC/Number) ( )	G. E-mail Address  @
H. Description of Records Which Are the Subject of This Affida	
l. (,/%, r.	Describe:  Visual (i.e., pictures of affected site)
Yes orithmer Author	Then continue to Part 2
Corroborating Evidence Attached? (if available) (Mark one with "X")  Yes  Yes  (Wark one with "X")	Recovery Contractor (see inclusive list for recovery contractors at <a href="http://www.sec.state.la.us/recovery/index.htm">http://www.sec.state.la.us/recovery/index.htm</a> )  Then continue to Port 2
No	Then continue to Part 2  Continue to Part 2
THAT I am a person of majority age, and I (place " actually viewed damaged records a am a representative of the regulate  THAT the damage to records occurred; THAT water, contaminants and/or fire damaged re THAT the condition of the records posed hazardo. THAT the disposal process the regulated entity ap THAT the entity that disposed of the records did so THAT records which are otherwise available for in:  PART 3. Signatures and Notary. Complete all information is alone or the full names of the parties and not their initial letter [notaries] under their respective signatures[A] full name or a	Act site that housed the records and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can attest to the following:  Initity whose records were damaged and can atte
D. A.	Representative of Regulated Entity (Same as Part 1A hereinabove)  Date
	Print Name:  Permanent Physical Address:
	· -
	d sworn to before me thisday of, 200
NOTARY SEAL	NOTARY PUBLIC  Bar Roll or Notary Number  ted Name of Notary My Commission Expires  (Rev. 10030

Retain Affidavit in files of regulated entity for the same retention period established for records which are described in this Affidavit.