



# LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

ARCHIVE

## ADVISORY LETTER NO. 08 – 01

September 29, 2008

TO: ALL AUTHORIZED AND APPROVED UNAUTHORIZED PROPERTY AND CASUALTY INSURERS DOING BUSINESS IN THE STATE OF LOUISIANA

RE: PAYMENTS PURSUANT TO COVERAGE D, ADDITIONAL LIVING EXPENSES

In the aftermath of the devastating effects of Hurricanes Katrina and Rita, insurers were quick to advance their insureds payments pursuant to Coverage D, Additional Living Expenses, provided the insured's policy included that particular coverage. In many instances, this advance was made or offered even though the cause of loss was later determined to be the result of a non-covered peril, i.e. flood waters. In some instances the advance, if in fact due to a non-covered peril, was later recouped from payments of those damages attributable to covered perils such as wind. The advance payment allowed those who were forced from their homes an opportunity to secure housing and much needed items for themselves and family members.

The lingering effects of Hurricanes Katrina and Rita were recently felt as Hurricanes Gustav and Ike entered the Gulf and strengthened. On August 27, 2008, Governor Jindal, in response to the imminent threat posed by Hurricane Gustav as it approached Louisiana, signed *Proclamation No. 51 BJ 2008* which declared a State of Emergency for the coastal parishes of Louisiana further indicating that life and property would be placed in jeopardy. In addition, Governor Jindal signed *Executive Order BJ 08-84* (Emergency Closure of Schools) and therein named thirty (30) parishes which were directed to suspend classes for two days in order "to protect the public health and safety of the citizens of Louisiana."

Similarly, on September 7, 2008, Governor Jindal signed *Proclamation No. 52 BJ 2008*, which likewise proclaimed a State of Emergency with regard to the coastal parishes in advance of Hurricane Ike's landfall.

During his August 30, 2008, 5:00 p.m. update, Governor Jindal announced mandatory evacuations for the following parishes: Acadia, Allen, Assumption, Plaquemines, St. Martin, St. Charles, Lafourche, Terrebonne, St. Mary, St. Bernard, St. John the Baptist, Calcasieu, Cameron, Iberia, Orleans, and a voluntary evacuation of lower Jefferson Parish.

It is the position of the Louisiana Department of Insurance ("LDOI") that Coverage D, Additional Living Expenses, is outside of and is separate and apart from any coverage part that is subject to the recent increase in or the supplemental named storm deductible implemented by various insurers doing business in the state. It is the position of LDOI that those increased

deductibles, or the standard deductible for those companies who did not implement a named storm deductible, apply only to the structural components found in Coverage A (home), Coverage B (garage or appurtenant private structures), and Coverage C (contents or personal property).

While Coverage D applies so long as the home is damaged or destroyed and the insured must seek temporary lodging, in order to facilitate future evacuations in advance of dangerous storms (whether mandatory and/or voluntary in the specified areas) and to protect the public health and safety of the citizens of Louisiana, it is imperative that property insurers, whose policies provide for the payment of additional living expenses, make every effort to provide timely reimbursement of those expenses actually incurred by their insureds when following government evacuation orders.

This advisory letter is directed to all authorized and approved unauthorized property and casualty insurers doing business in the state of Louisiana relative to all their policyholders and named insureds in the wake of Hurricanes Gustav and Ike who meet all of the following criteria:

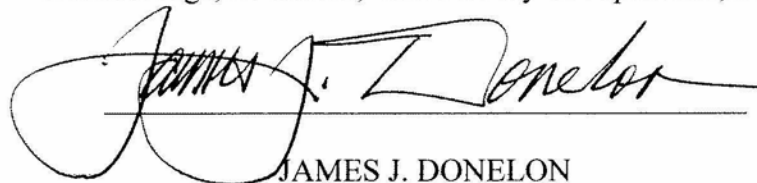
- (a) live in an area subject to an evacuation order (mandatory or voluntary) issued by the governor or local officials, and
- (b) actually evacuated, and
- (c) incurred expenses associated with their evacuation.

This is to urge and request that:

1. All policies be liberally construed by insurers to give effect to any provision that provides additional living expenses,
2. Separate calculations of additional living expenses used by insurers for Hurricanes Gustav and Ike to result in additional living expenses paid for each of the two hurricanes, should the insured live in an area affected by both storms,
3. One deductible be used by insurers for multiples losses incurred as a result of both Hurricanes Gustav and Ike, and that
4. Insurers utilize a broad application of deductibles for most favorable treatment to policyholders.

Please direct any questions regarding Advisory Letter No. 08-01 and payments pursuant to coverage D, Additional Living Expenses, to Ms. Clarissa A. Preston, Deputy Commissioner of Consumer Advocacy, Louisiana Department of Insurance, via e-mail at [cpreston@ldi.state.la.us](mailto:cpreston@ldi.state.la.us) or by telephone at (225) 219-0596 or facsimile at (225) 219-0615.

Baton Rouge, Louisiana, this 29th day of September, 2008.



JAMES J. DONELON  
COMMISSIONER OF INSURANCE