



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

BULLETIN 2021-02

TO: ALL AUTHORIZED PROPERTY AND CASUALTY INSURERS AND ALL SURPLUS LINES INSURERS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: TIME PERIODS FOR PROOF OF LOSS SUBMISSION AND FOR COMPLETION OF REPAIRS UNDER REPLACEMENT COST COVERAGE FOR DAMAGES RELATED TO CATASTROPHIC EVENTS

DATE: FEBRUARY 11, 2021

The purpose of Bulletin 2021-02 is to provide notification and guidance to all authorized property and casualty insurers and all surplus lines insurers (hereinafter jointly referred to as "insurers") of the statutory requirements placed upon them relative to the submission of proof of loss documentation by their policyholders for claims caused by any of the multiple hurricanes that struck Louisiana in 2020. The ancillary purpose of Bulletin 2021-02 is to urge and request that all insurers recognize the monumental impact that these multiple hurricanes have had upon their insureds and to act responsibly in granting extensions of time to their policyholders who, despite their best efforts, are struggling to make the necessary repairs to their property and justifiably need additional time to complete repairs.

TIME PERIODS FOR PROOF OF LOSS SUBMISSION

La. R.S. 22:1264(A) provides:

For losses that arose as a result of a catastrophic event for which a state of disaster or emergency was declared pursuant to law by civil officials, for those areas within the declaration, no damages to covered property shall be automatically denied by the inability of the policyholder to provide sufficient proof of loss within the time limits and requirements of the policy. The time limit for the submission of proof of loss shall not be less than one hundred

eighty days. The time limit shall not commence as long as a declaration of emergency is in existence and civil authorities are denying the insured access to the property.

One hundred eighty days is the minimum time period which insurers must allow for the filing of the proof of loss for damages sustained as a result of a qualifying catastrophe. In determining the appropriate time period to allow for submission of proof of loss for specific claims, insurers should take into account the negative impact that multiple hurricanes within a short period of time have had on the policyholder's ability to engage contractors to oversee the repairs, the shortage of materials and equipment to accomplish the repairs, and the dearth of qualified labor to effectuate the repairs.

Accordingly, insurers are urged to work with their policyholders to provide the appropriate amount of time beyond the minimum 180 day time period that may be needed to file the proof of loss for hurricane damaged property. Insurers should also allow policyholders to supplement a previously submitted proof of loss as more information becomes available. Insurers may require that policyholders provide periodic and timely updates, to include reports from contractors, photographs that demonstrate how the repair work is progressing, and interim inspections.

TIME PERIOD TO COMPLETE REPAIRS FOR REPLACEMENT COST COVERAGE

La. R.S. 22:1264(B) provides:

For losses that arose due to a catastrophic event for which a state of disaster or emergency was declared pursuant to law by civil officials, for those areas within the declaration, any policyholder with replacement cost provisions shall be entitled to complete repairs to the property within one year from the date of the loss or the issuance of applicable insurance proceeds, whichever is later. Adherence to this provision shall entitle the policyholder with a replacement cost provision to receive full value of the covered damage that has been repaired, without reduction due to depreciation.

The statute clearly indicates that the one year time period within which the insured must complete repairs to his property damaged as a result of a qualified catastrophe to receive full replacement cost coverage does not begin to run until payment by the insurer of the applicable insurance proceeds. Additionally, Louisiana policyholders in the areas affected by multiple hurricanes within a short period of time face serious challenges in attempting to complete repairs to storm damaged property

within one year due to the extent of the devastation and the limited availability of contractors available to perform the repairs. Insurers are urged to work with policyholders and to grant reasonable extensions of time when warranted for the completion of repairs under the replacement cost coverage of their policies.

The insurer and the insured must work together on both the proof of loss documentation and the disbursement of the insurance proceeds that the insured must have before the insured can begin the repair process by retaining contractors, etc. The minimum 180 day proof of loss timeframe and the one year completion of repairs timeframe are both time frames that must be considered within the backdrop of the catastrophic events and the harsh reality that there will be a negative impact on the availability of contractors, equipment, labor and materials to conduct the necessary repairs within any rigid time frame. Cooperation and fair dealing between the insurer and the policyholder is tantamount to a proper property claims adjustment following a catastrophic event.

Lastly, I remind insurers that in the aftermath of Hurricanes Katrina and Rita, a few insurers attempted to use the damage caused by those 2005 catastrophic events to cancel or non-renew homeowners policies that were protected by the three-year rule set forth in La. R.S. 22:1265 and 1333. Those insurers that attempted to improperly cancel or non-renew in that manner were sanctioned. For the most part, insurers exercised good faith and fair dealing following Hurricane's Katrina and Rita. Nonetheless, I caution insurers that while claims from the 2020 catastrophic events are being adjusted and paid, and while the policyholder is actively working to effectuate repairs to the damaged property covered by La. R.S. 22:1265 and 1333, any attempt by an insurer to classify damage caused by any of the 2020 hurricane events as a "material change in the risk" for purposes of cancellation or non-renewal is not proper. I will exercise the full extent of my regulatory enforcement authority to protect Louisiana homeowners.

Any questions or concerns regarding Bulletin 2021-02 should be directed to the Louisiana Department of Insurance, Office of Property and Casualty, at public@ldi.la.gov.

Baton Rouge, Louisiana, the 11th day of February 2021.



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COMMISSIONER OF INSURANCE