



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

BULLETIN 2021-09

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

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: INSURER OBLIGATIONS TO POLICYHOLDERS FOLLOWING HURRICANE IDA

DATE: OCTOBER 27, 2021

Bulletin 2021-09 is hereby issued to remind all authorized property and casualty insurers and surplus lines insurers (collectively "insurers") who write policies of insurance for property and casualty coverage in Louisiana of their obligations to their policyholders following Hurricane Ida.

Section 4705 of Emergency Rule 47 (hereinafter "ER 47") states that any policy of insurance in effect as of 12:01 a.m. on August 26, 2021, can only be cancelled or non-renewed after the issuance of a notice of cancellation or notice of non-renewal. The notice of cancellation or notice of non-renewal shall be issued *de novo* after the expiration of ER 47. ER 47 expired at 11:59 p.m. on Sunday, October 24, 2021. Accordingly, for any notice of cancellation or notice of non-renewal of a policy in effect as of August 26, 2021, to be valid, it must be dated on or after October 25, 2021, and all legal time periods must begin anew upon the issuance of the *de novo* notice of cancellation or notice of non-renewal. Insurers who cancel or non-renew policies in contravention of ER 47 will be subject to regulatory sanctions, and any such notice is deemed invalid and must be re-issued.

As always, insurers are charged with the obligation to comply with all applicable provisions of Title 22. Additionally, insurers are advised to review Title 22 regarding the following enumerated list pertaining to the claims handling process and ensure compliance.


1. **Policyholder Bill of Rights** - La. R.S. 22:41 sets forth the standards that insurers must adhere to in the treatment of their policyholders. Insurers are instructed to review this statute and ensure compliance with all applicable provisions.
2. **Insurers shall provide the adjuster report to the policyholder** - Pursuant to La. R. S. 22:41(14), relative to first party property damage claims, policyholders shall have the right to request and receive from the insurer any estimates, bids, plans, measurements, drawings, engineer reports, contractor reports, statements or documents that are not legally privileged that the insurer prepared, had prepared, or used during its adjustment of the policyholder's claim.
3. **Initiating the claims process** - La. R.S. 22:1892(A)(3) provides that in the case of a catastrophic loss event, the insurer must initiate loss adjustment of a property damage claim within 30 days after notification of loss by the policyholder. Pursuant to § 4743 of ER 47, due to the severity of the devastation caused by Hurricane Ida, insurers had an additional 30 days to initiate loss adjustment of a property claim after notification of loss by the policyholder. Therefore, insurers had a total of 60 days to initiate loss adjustment of a property damage claim after notification of loss by the policyholder.
4. **Communication with policyholders**-- Insurers should communicate promptly with their policyholders during the entire claim adjustment process, continuing through the initial claim payment and any supplemental claims processing. In fact, insurers are obligated to respond to all inquiries or requests from the insured within 14 days of the inquiry or request pursuant to La. R.S. 22:1896. Insurers should also communicate promptly with appointed producers who are assisting the policyholders in the claim process.
5. **Proof of loss process** - Insurers are reminded that they must attempt, in good faith, to effectuate prompt, fair, and equitable settlement of claims and that they owe their policyholders a duty of good faith and fair dealing in accordance with La. R.S. 22:1964(14)(f) and La. R.S. 22:1973(A) and as further discussed in Bulletin 2021-02 and Bulletin 2021-03.
6. **Insurers shall not utilize Hurricane Ida as a basis for cancellation or non-renewal** - Pursuant to La. R.S. 22:1336, no insurer shall cancel, fail to renew, or increase the amount of the premium, except upon an areawide rating basis at the beginning of a new policy period, on a homeowner's policy of insurance

based solely upon a loss caused by an "Act of God."

7. **Material Change in the Risk** - As discussed in Bulletin 2021-02 relative to Hurricane Laura, while claims from Hurricane Ida 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 La. R.S. 22:1333, any attempt by an insurer to classify damage caused by Hurricane Ida as a "material change in the risk" for purposes of cancellation or non-renewal is not allowed.
8. **Insurers may deduct unpaid premium from first party claim payments** - As set forth in § 4715 of ER 47, the insurer is entitled to offset any claim payment by the amount of any premium that is owed but has not been paid by the policyholder.
9. **Insurers must pay undisputed claims within 30 days** - Pursuant to La. R.S. 22:41(13), the insurer shall pay to the policyholder the amount of any undisputed claim within 30 days after satisfactory proof of loss. Any undisputed portion of a claim not paid within 30 days of submission of satisfactory proof of loss by the insurer may be deemed in violation of La. R.S. 22:1892 and La. R.S. 22:1973.

Any questions or concerns regarding Bulletin 2021-09 should be directed to the Louisiana Department of Insurance, Office of Property and Casualty, at public@ldi.la.gov.

Baton Rouge, Louisiana, the 27th day of October 2021.



JAMES J. DONELON
COMMISSIONER OF INSURANCE