



LOUISIANA DEPARTMENT OF INSURANCE
TIMOTHY J. TEMPLE
COMMISSIONER

July 10, 2024

The Honorable Cameron Henry
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

Via email
apa.senatepresident@legis.la.gov

The Honorable Phillip DeVillier
Speaker, Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

Via email
apa.housespeaker@legis.la.gov

The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
P.O. Box 94183
Baton Rouge, LA 70804

Via email
apa.s-ins@legis.la.gov

The Honorable Michael “Gabe” Firment
Chairman of the House Insurance Committee
P.O. Box 94062
Baton Rouge, LA 70804

Via email
apa.h-ins@legis.la.gov

RE: Notice of Intent to Amend Regulation 126—Louisiana Fortify Homes Program

Dear President Henry, Speaker Devillier, Senator Talbot, and Representative Firment:

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, [R.S. 22:1 et seq.](#), and in accordance with the Administrative Procedure Act, [R.S. 49:950 et seq.](#), hereby gives notice of its intent to amend **Regulation 126—Louisiana Fortify Homes Program**. The purpose of the amendment is to provide additional clarification with respect to the administration of the Louisiana Fortify Homes Program in accordance with Act No. 554 of the 2022 Regular Legislative Session.

Enclosure: Notice of Intent to Amend Regulation 126—Louisiana Fortify Homes Program

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 126—Louisiana Fortify Homes Program (LAC 37:XIII.Chapter 182)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend Regulation 126 to provide clarification with respect to the administration of the Louisiana Fortify Homes Program (LFHP) in accordance with Act No. 554 of the 2022 Regular Session.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 182. Regulation Number 126—Louisiana Fortify Homes Program

§18201. Purpose

A. ...

B. The purpose of the amendment to Regulation 126 is to provide additional clarification with respect to the administration of the LFHP in accordance with Act No. 554 of the 2022 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18202. Definitions

A. As used in Regulation 126, the following terms shall have the meanings herein specified.

1. *Commissioner*—the Louisiana Commissioner of Insurance.

2. *FORTIFIED*—a program of IBHS.

3. *FORTIFIED Home Evaluator*—an independent, third party who has completed the FORTIFIED training requirements and is certified by the Insurance Institute for Business and Home Safety (IBHS) as a home evaluator who can verify that a home meets the FORTIFIED roof standard. Homeowners can find a list of certified home evaluators at www.ldi.la.gov/fortifyhomes.

4. *Good Cause*—sufficient and verifiable grounds for waiving a requirement in the grant application process.

5. *Insurance Institute for Business and Home Safety (IBHS)*—a non-profit research and communications organization of the property and casualty insurance industry that defines the FORTIFIED roof standard for homes, information for which can be found at www.fortifiedhome.org.

6. *Lottery Process*—the random process by which an applicant is selected for the LFHP.

7. *Louisiana Fortify Homes Program (LFHP)*—a program, enacted by Act No. 554 of the 2022 Regular Session, administered by the commissioner, to make financial grants to retrofit roofs of insured property, as defined in R.S. 22:1483(C)(9), with a homestead exemption utilizing construction techniques demonstrated to reduce losses caused by a hurricane, tornado, or other catastrophic windstorm event and that meet or exceed the IBHS

FORTIFIED roof standard, information for which can be found at www.ldi.la.gov/fortifyhomes.

8. *National Flood Insurance Program (NFIP)*—a federal program enacted by the National Flood Insurance Act of 1968 (Title XIII of P.L. 90-448, as amended, 42 U.S.C. §§4001, et seq.) to provide greater access to primary flood insurance, mitigate flood risks, and reduce federal expenditures pertaining to flood-related disaster assistance. As part of its efforts to minimize flood damage and reduce repair costs, the NFIP designates flood zones and flood maps, which illustrate a community's flood risks. Additional information regarding the NFIP or flood zones and maps can be found at www.floodsmart.gov.

9. *Special Flood Hazard Area (SFHA)*—an area having special flood, mudflow, or flood-related erosion hazards on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as shown on the Federal Emergency Management Agency's website. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18203. Contractor Eligibility Requirements and Conflicts of Interest

A. Contractor Eligibility Requirements. To be eligible to work as a LFHP contractor (LFHP-approved contractor), the contractor must meet all of the following program requirements:

1. submit and maintain a current copy of all certificates, licenses, and proof of insurance coverages with the LFHP;

2. - 5. ...

6. provide a FORTIFIED certification issued by the IBHS or its successor;

7. be listed on the IBHS Directory as an approved contractor at www.fortifiedproviders.com;

8. comply with all regulatory and tax laws regulating businesses in the state of Louisiana;

9. maintain internet access and have a valid, active email address on file with the LFHP for communication with the LFHP;

10. avoid conflicts of interest in any work performed on projects funded by LFHP grants; and

11. agree to follow the LFHP procedures and rules as established by the commissioner.

B. Contractor Conflicts of Interest

1. LFHP-approved contractors may not possess a financial interest in any project for which they perform work toward a FORTIFIED designation other than for payment on behalf of the homeowner by the LFHP.

2. LFHP-approved contractors cannot be the home evaluator for a FORTIFIED designation on any project funded by LFHP grants.

3. ...

C. The LFHP may remove a contractor from the list of LFHP-approved contractors at any time upon a finding that the contractor failed to meet any of the program requirements listed in Regulation 126.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18204. Home Evaluator Eligibility Requirements and Conflicts of Interest

A. Home Evaluator Eligibility Requirements. To be eligible to work on the LFHP, a home evaluator must meet all of the following program requirements:

1. submit and maintain a copy of all current program certificates with the LFHP;
2. be in good standing with the IBHS and maintain an active certification as a FORTIFIED home evaluator, issued by the IBHS or its successor;
3. ...
4. comply with all regulatory and tax laws regulating businesses in the state of Louisiana; and
5. ...

B. Home Evaluator Conflicts of Interest

1. Home evaluators may not possess a financial interest in any project for which they inspect for FORTIFIED designation purposes in connection with the LFHP.

2. Home evaluators cannot be contractors or suppliers of any materials, products, or systems installed in any home they inspect for FORTIFIED designation purposes for the LFHP.

3. Home evaluators cannot be a sales agent for any home being designated for the LFHP program.

4. Home evaluators have a duty to inform the LFHP of any potential conflicts of interest before commencing inspections on any job funded by LFHP grants.

C. The LFHP may remove a home evaluator from the list of eligible certified evaluators at any time upon a finding that the home evaluator failed to meet any of the program requirements listed in Regulation 126.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18205. LFHP Grants

A. Grant Eligibility. To be eligible for a LFHP grant, an applicant must meet the following requirements:

1. The home must be a residence with a homestead exemption that is not a condominium or mobile home.

2. ...

3. The homeowner, with the assistance of an LFHP-approved contractor and home evaluator, must fortify the home's roof to meet or exceed the IBHS FORTIFIED roof standard.

4. The homeowner must provide the LFHP proof of a wind insurance policy on the home. Additionally, if the home is in a designated SFHA, the homeowner must provide the LFHP proof of a flood insurance policy on the home.

5. - 7. ...

8. Unless granted an extension by the commissioner, the LFHP project must be completed within 90 days from the date of the notification issued by the commissioner that the applicant is eligible to proceed with the grant process.

Notice will be delivered to the applicant through electronic means. Failure to timely complete the LFHP project may result in a forfeiture of the grant.

9. The commissioner may grant a homeowner an extension of time to complete the LFHP project if an extension is timely requested in writing and the homeowner provides sufficient proof that extenuating circumstances caused or will likely cause delays in the completion of the LFHP. Whether to grant or deny a request for an extension of time shall be subject to the commissioner's sole discretion.

B. Grant Application Process

1. To apply for an LFHP grant, a homeowner must complete and submit an online grant application to the LFHP. The online grant application portal will be accessible via www.ldi.la.gov/fortifyhomes.

2. Unless otherwise notified by the commissioner, the homeowner will be responsible for paying for a certified home evaluator of the homeowner's choice to provide an IBHS home review evaluation on the home seeking to be fortified. A list of certified home evaluators can be found at www.ldi.la.gov/fortifyhomes.

3. The home evaluator shall determine whether the home meets a minimum structural standard on a pass-or-fail basis before identifying all improvements required to meet the IBHS FORTIFIED roof standard. Thereafter, the home evaluator shall submit a report to the LFHP for approval.

4. The homeowner must access the LFHP online application portal and obtain bids from not less than three LFHP-approved contractors of their choice to improve the home to meet the IBHS FORTIFIED roof standard. The commissioner may waive the minimum number of bids required for the application to reflect the number of contractors available in the area or for other good cause shown. A list of eligible contractors can be found at www.ldi.la.gov/fortifyhomes.

C. Awarding of Grants. The LFHP will award grants through a lottery process, subject to the availability of funding. The LFHP will review all applications for completeness and perform appropriate audits to verify the accuracy of the information in the application and whether the applicant meets the eligibility criteria. Applicants will have 30 days from selection in the lottery process to provide information to verify eligibility. LFHP-approved contractors may not begin work on a home until selected by the applicant and the bid process is complete. The LFHP may extend the time for review and approval of applications as it deems necessary. The LFHP will notify an applicant if the time for review and approval of the application has been extended.

D. Maximum Grant Award. The amount of a grant award shall be equivalent to the actual cost of retrofitting the roof to comply with the IBHS FORTIFIED roof standard, not to exceed \$10,000. The commissioner may periodically update the amount of the grant award.

E. Release of Funds. Grant funds will only be released on behalf of an approved applicant once an IBHS FORTIFIED certificate has been issued for the home. Funds will be paid by the LFHP, on behalf of the homeowner, directly to the contractor who performed the work to fortify the roof.

F. Grant Award Process

1. Once the LFHP approves the grant application, the homeowner may contract with an LFHP-approved contractor to fortify the home. Once the LFHP-approved contractor completes the fortification work on the home, they must submit a copy of the signed contract to the LFHP with a final invoice. The final invoice must include written verification that the work was completed to the FORTIFIED roof standard and that the total invoiced amount does not include any costs or fees incurred by the contractor for those items identified in R.S. 22:1483.1(B).

2. The home evaluator will perform all required evaluations to confirm that the LFHP-approved contractor completed the work according to the IBHS FORTIFIED roof standard. The IBHS will review the evaluation and determine whether to issue a FORTIFIED designation, which is a written certificate that the home meets the FORTIFIED roof standard.

3. ...

4. The LFHP reserves the right to conduct random inspections.

5. To timely manage the processing of grant applications or to meet funding limitations, the LFHP may establish specific periods when it will accept grant applications.

G. The commissioner may create pilot projects as needed to establish a sustainable distribution system of the program in any geographic area within the State of Louisiana.

H. Coordination with Other Funding Sources

1. Applicants shall report any funds received or anticipated from insurance, disaster relief, or other sources to ensure that the grant only covers actual costs.

2. Insurers shall not reduce settlement payments based on the payment or an LFHP grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 49:

§18207. Effective Date

A. Regulation 126, as amended, shall be effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended

regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore,

there is no less intrusive or less costly alternative method of achieving the purpose of the proposed regulation.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Philip Dominique, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., August 12, 2024.

Tim Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 126—Louisiana Fortify Homes Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to provide additional clarification with respect to the administration of the Louisiana Fortify Homes Program (LFHP) in accordance with Act 554 of the 2022 Louisiana Regular Legislative Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule provides clarification with respect to the administration of the LFHP. This may benefit contractors by clarifying requirements for contractor eligibility and conflicts of interest. Also, homeowners who apply for the program may benefit from clarification regarding grant eligibility as well as the application and grant process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule outlines contractor eligibility requirements, evaluator eligibility requirements, and outlines conflicts of interest of the LFHP.

Chris Cerniauskas
Chief of Staff
2407#042

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 130—Insurance Premium Tax Credits for Retaliatory Taxes Paid by Certain Domestic Insurers (LAC 37:XIII.Chapter 199)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate *Regulation 130—Insurance Premium Tax Credits for Retaliatory Taxes Paid by Certain Domestic Insurers*. Regulation 130 implements the provisions of Act No. 428 of the 2023 Regular Session. The law creates an insurance premium tax refundable credit for retaliatory taxes paid by certain domestic insurers.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 199. Regulation Number 130—Insurance Premium Tax Credits for Retaliatory Taxes Paid by Certain Domestic Insurers

§19901. Purpose

A. The purpose of this regulation is to implement the provisions of Act No. 428 of the 2023 Regular Session. The law creates an insurance premium tax refundable credit for retaliatory taxes paid by certain domestic insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§19903. Applicability and Scope

A. This regulation applies to Louisiana domestic insurers that are authorized to write and do write insurance in Louisiana on an admitted basis and in at least one other state on an admitted basis as of July 1, 2023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§19905. Definitions

Commissioner—the commissioner of insurance for the State of Louisiana.

LDI—the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§19907. Calculation of the Refundable Credit; Proof of Credit; Affidavit

A. Domestic admitted insurers who have paid retaliatory tax based on premiums written in the preceding year shall provide evidence of the retaliatory taxes paid to other states along with Form 836. Evidence may consist of tax returns,