

## NOTICE OF INTENT

### Department of Insurance Office of the Commissioner

#### REGULATION 72—Commercial Lines Insurance Policy Form Deregulation (LAC 37:XIII.Chapter 90)

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 72— Commercial Lines Insurance Policy Form Deregulation.

The purposes of the amendments to Regulation 72 are to update cross-references to redesignated sections of Title 22 of the Louisiana Revised Statutes that were redesignated pursuant to Act 415 of the 2008 Regular Session, to update the purpose of the regulation to make clear that the exemption implemented under this regulation is not experimental, to update acronyms used throughout the regulation, to change the definition of “person” to the same definition used in Title 22, to delete definitions for terms not used in the regulation, to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance, and to update provisions relative to the right to demand a hearing.

### Title 37

### INSURANCE

### PART XIII. Regulations

#### Chapter 90. Regulation 72—Commercial Lines Insurance Policy Form Deregulation

##### §9001. Authority

A. This regulation is adopted pursuant to R.S. 22:861.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:

##### §9003. Purpose

A. The purpose of this regulation is to allow for more flexibility in the placement of insurance with large commercial risks within the parameters of the admitted market by establishing an exemption from the form filing, review and approval requirements of the Louisiana Insurance Code, and to adopt the initial definition of an "exempt commercial policyholder". The exemption implemented under this regulation is predicated upon the continued existence of an open and competitive market and the good faith of insurers in carrying out the fiduciary obligations owed to their insureds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:

##### §9009. Definitions

A. ...

\* \* \*

*Authorized Insurer*—shall have the meaning found in R.S. 22:46(3).

*Commissioner*—the commissioner of insurance for the state of Louisiana.

\* \* \*

*Competitive Market*—a market in which a reasonable degree of competition exists or which has not been found to be in violation of R.S. 22:1961 et seq. In determining whether a reasonable degree of competition exists within a line of insurance, the commissioner shall consider the following factors:

a. – f. ...

*Insurer*—shall have the meaning found in R.S. 22:46(10).

*Person*—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:

#### **§9011. Types of Coverage Exempt from Form Filing and Approval**

A. All kinds of commercial property and casualty insurance, including but not limited to Commercial Property, Boiler and Machinery, Commercial Auto, General Liability, Directors and Officers, Business Owners and Inland Marine insurance, written on commercial risks are exempt from the form filing and approval provisions of R.S. 22:861 if the policy is issued to an exempt commercial policyholder as defined in §9013 of this regulation, except for the following kinds:

A.1. – A.2. ...

B. The exemption provided for in this Section only applies to policy forms. Rate and rule filings must be made with the commissioner as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:861.F, and R.S. 22:1456.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:

#### **§9013. Special Commercial Entities**

A. - B.3. ...

C. Beginning January 1, 2001, the criteria in Subsection B of this Section must be reviewed on an annual basis by the commissioner for the purposes of determining whether the criteria should be modified. The review must be completed on or before the thirty-first day of March.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, and R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:

#### **§9015. Disclosure Requirements and Certification Form**

A. - C. ...

D. A copy of the certification form shall be maintained by the insurer and by the producing agent or broker in the policyholder's record for a period of five years from the date of issuance of the insurance policy or renewal policy if at renewal a new certification form is executed. The insurer or producing agent or broker shall make such certification forms available for examination by the commissioner or any person acting on behalf of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:861.F, R.S. 22:1961 et seq., and R.S. 22:1981.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:

#### **§9017. Requirements for Maintaining Records**

A. - A.4. ...

B. The record required by this Section may be kept in electronic or written form and shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy or renewal policy if a new certification form is required pursuant to §9015.C. Upon request, the insurer shall produce such record for examination by the commissioner or any person acting on behalf of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:1961 et seq., and R.S. 22:1981.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:

#### **§9019. Exempt Policy Forms**

A. Commercial risk property and casualty policy forms which would otherwise have to be filed with and approved by the commissioner are exempt from this requirement if issued to an exempt commercial policyholder. The exemption of the policy form from the requirement that it be filed with and approved by the commissioner is not to be taken by an insurer to mean that an insurance

contract confected by the use of such a policy form, or policy forms, may in any manner be inconsistent with the statutory law of this state or public policy as expressed by the courts of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:861, and R.S. 22:1961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:

**§9021. Penalties for Failure to Comply**

A. The exemption created by this regulation is a limited one and insurers must strictly comply with the conditions creating the exemption. Failure to comply with the regulation by any person subject to its provisions, after proper notice, may result in the imposition of such penalties as are authorized by law. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:18, R.S. 22:861, R.S. 22:1961 et seq., and R.S. 22:1554.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:

## **FAMILY IMPACT STATEMENT**

### **Attachment to Regulation 72**

#### **COMMERICAL LINES INSURANCE POLICY FORM DEREGULATION**

**I. Describe the effect of the proposed regulation on the stability of the family.**

The proposed regulation should have no measurable impact upon the stability of the family.

**II. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children**

The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

**III. Describe the effect of the proposed regulation on the functioning of the family.**

The proposed regulation should have no direct impact upon the functioning of the family.

**IV. Describe the effect of the proposed regulation on family earnings and budget.**

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

**V. Describe the effect of the proposed regulation on the behavior and personal responsibility of children.**

The proposed regulation should have no impact upon the behavior and personal responsibility of children.

**VI. 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 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**

### **Attachment to Regulation 72**

#### **COMMERCIAL LINES INSURANCE POLICY FORM DEREGULATION**

**I. Describe the effect on household income, assets, and financial security.**

The proposed regulation should have no effect on household income assets and financial security.

**II. Describe the effect on early childhood development and preschool through postsecondary education development.**

The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

**III. Describe the effect on employment and workforce development.**

The proposed regulation should have no effect on employment and workforce development.

**IV. Describe the effect on taxes and tax credits.**

The proposed regulation should have no effect on taxes and tax credits.

**V. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.**

The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

## SMALL BUSINESS STATEMENT

### Attachment to Regulation 72

#### COMMERCIAL LINES INSURANCE POLICY FORM DEREGULATION

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.

**I. Identification and estimate of the number of the small businesses subject to the proposed rule.**

The proposed regulation should have no measurable impact upon small businesses.

**II. 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 regulation should have no measurable impact upon small businesses.

**III. A statement of the probable effect on impacted small businesses.**

The proposed regulation should have no measurable impact upon small businesses.

**IV. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.**

The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

## **PROVIDER IMPACT STATEMENT**

### **Attachment to Regulation 72**

#### **COMMERCIAL LINES INSURANCE POLICY FORM DEREGULATION**

**I. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service.**

The proposed regulation will have no effect.

**II. The total direct and indirect effect on the cost to the provider to provide the same level of service.**

The proposed regulation will have no effect.

**III. The overall effect on the ability of the provider to provide the same level of service.**

The proposed regulation will have no effect.

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	Anita R. Robert	Department:	Louisiana Department of Insurance
Phone:	(225) 219-0609	Office:	Management & Finance
Return Address:	P. O. Box 94214	Rule Title:	Commercial Lines Insurance Policy Form Deregulation
	Baton Rouge, LA 70804-9214	Effective Date:	Upon Publication

SUMMARY  
(Use Complete Sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed revisions to Regulation 72 are to update the administrative rules pursuant to Act 415 of 2008. These updates clarify that the exemption from form filing, review, and approval for large commercial insurers implemented under this regulation is no longer experimental. Other updates include revisions to acronyms and the definition of “person;” to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance; and to update provisions relative to the right to demand a hearing to align with present practice.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule changes will not result in economic costs or benefits to directly affected persons or non-governmental groups, as it aligns the administrative rules with present practice and statute.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rule changes will not affect competition or employment.

Nicholas J. Lorusso, Chief Deputy Commissioner  
La. Department of Insurance

Legislative Fiscal Officer or Designee

Date of Signature

Date of Signature



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriated legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the Notice of Intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of the current and proposed rules with amended portions indicated).**

The proposed amended regulation will not result in additional costs or savings for state or local governmental units. The proposed amendments to Regulation 72 are to update the sections pursuant to Act 415 of the 2008 Regular Legislative Session. These updates clarify the exemption implemented under this regulation is not experimental. Other updates include acronyms used, definition of “person”, to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance, and to update provisions relative to the right to demand a hearing.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.**

The Department of Insurance is tasked with administering the Insurance Code, which regulates the business of insurance in all of its phases. The proposed amended regulation updates sections that were redesignated pursuant to Act 415 of the 2008 Regular Session and other changes for clarity.

**Compliance with Act 11 of the 1986 First Extraordinary Session:**

- (1) Will the proposed rule change result in any increase in expenditure of funds? If so, specify the amount and the source.**

No increase in expenditure of funds is anticipated as a result of the proposed amended regulation.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?**

\_\_\_\_\_ Yes. If yes, provide documentation.

\_\_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM ACTION PROPOSED.**

**1. What is the anticipated increase (decrease) in costs to implement the proposed action?**

LDI does not anticipate any implementation costs (savings) as a result of the proposed amended regulation.

COSTS	FY 19/20	FY 20/21	FY 21/22
OPERATING EXPENSES	0	0	0
PROFESSIONAL SERVICES	0	0	0
OTHER CHARGES	0	0	0
EQUIPMENT	0	0	0
TOTAL	0	0	0
MAJOR REPAIR/CONSTR	0	0	0
POSITIONS (Number)	0	0	0

**2. Provide a narrative explanation of the costs or savings shown in “A.1” above, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.**

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed revisions to Regulation 72 are to update the administrative rules pursuant to Act 415 of the 2008. These updates clarify that the exemption from form filing, review, and approval for large commercial insurers implemented under this regulation is no longer experimental. Other updates include revisions to acronyms and the definition of “person;” to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance; and to update provisions relative to the right to demand a hearing to align with present practice.

**3. Sources of funding for implementing the proposed rule or rule change.**

SOURCE	FY 19/20	FY 20/21	FY 21/22
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

**4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?**

No additional funding is necessary to implement the proposed amended regulation.

**B. COSTS OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

**1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.**

The proposed amended regulation will have no impact on local governmental revenues.

**2. Indicate the sources of funding of local governmental unit(s) which will be affected by these cost or savings.**

No source of funding is necessary; there is no impact on local governmental units as a result of the proposed amended regulation.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET  
(Continued)**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

**A. What increase (decrease) in revenues can be anticipated from the proposed action?**

The proposed rule changes will not affect revenue collections for state or local governmental units.

SOURCE	FY 19/20	FY 20/21	FY 21/22
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

**B. Provide a narrative explanation of each increase or decrease in revenues shown in “A”. Describe all data, assumptions and other methods used in calculating these increases or decreases.**

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS.**

**A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.) they may have to incur as a result of the proposed action.**

The proposed rule changes will not result in economic costs or benefits to directly affected persons or non-governmental groups, as it aligns the administrative rules with present practice and statute.

**B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.**

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT.**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule changes will not affect competition or employment.

### **Public Comments**

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 20, 2019.

James J. Donelon  
Commissioner