



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

December 6, 2023

The Honorable Patrick Page Cortez
President of the Senate
P.O. Box 94183
Baton Rouge, LA 70804

Via email
apa.senatepresident@legis.la.gov

The Honorable Clay Schexnayder
Speaker of the House
P.O. Box 94062
Baton Rouge, LA 70804

Via email
apa.housespeaker@legis.la.gov

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

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

The Honorable Mike Huval
House Committee on Insurance
P.O. Box 94062
Baton Rouge, LA 70804

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

RE: Notice of Intent to Amend Rule 13 – Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Huval:

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., gives notice of its intent to amend Rule 13 – Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud. The purpose of the amendment to Rule 13 is to implement the provisions of R.S. 40:1428 by assessing a fee on insurers to pay the cost of investigation, enforcement, public education and public awareness, and prosecution of insurance fraud in this state more fully described in R.S. 40:1421-1429 and this rule.

Enclosure: NOI to Amend Rule 13 – Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule 13 — Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud (LAC 37:XI.Chapter 23)

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 Rule 13.

The purpose of the amendment to Rule 13 is to implement the provisions of R.S. 40:1428 by assessing a fee on insurers to pay the cost of investigation, enforcement, public education and public awareness, and prosecution of insurance fraud in this state more fully described in R.S. 40:1421-1429 and this rule.

In accordance with the Administrative Procedure Act, and through the authority granted under R.S. 22:1 and 22:11 et seq., the Department of Insurance has amended Rule 13. Rule 13 was originally promulgated in 2000, in accordance with the authority provided through R.S. 40:1428 and 1429. Since Rule 13 was originally published, R.S. 40:1428 and 1429 have been amended by Act 369 of the 2001 Regular Session; Act 293 of the 2003 Regular Session; Act 1013 of the 2010 Regular Session; Act 193 of the 2016 Regular Session, Act 147 of the 2018 Regular Session, and Act 114 of the 2021 Regular Session. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XI. Rules

Chapter 23. Rule 13 — Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud

§2303. Fee Assessment

A. – C. ...

D. Prior to making the allocations specified in §2307 of this Rule, the Commissioner of Insurance is authorized to withhold the sum of \$30,000 per year from the fees collected to defray the expenses of collection of the fees, enforcement of this Subpart, and operation of the Department of Insurance and shall withhold \$187,000 to fund the Automobile Theft and Insurance Fraud Prevention Authority Dedicated Fund Account pursuant to R.S. 22:2134.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:323 (February 2000), amended LR 45:64 (January 2019), amended LR

§2307. Allocation of the Fee Assessment

A. Except as otherwise provided in §2303.D of this rule, fees shall be allocated as follows.

1. Seventy-five percent of the fees collected shall be allocated to the Insurance Fraud Investigation Unit within the Office of State Police.

2. Fifteen percent of the fees collected shall be allocated to the Department of Justice to be used solely for the Insurance Fraud Support Unit.

3. Ten percent of the fees collected shall be allocated to the Department of Insurance to be used solely for the Office of Insurance Fraud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:323 (February 2000), amended LR 45:64 (January 2019), amended LR

§2309. Payment of the Fee Assessment

A. The fee established in R.S. 40:1428 and in this rule shall be paid to the Commissioner of Insurance as required by R.S. 40:1428(B).

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, an amount equal to that deposited as required by R.S. 40:1428 (C) shall be credited to the Insurance Fraud Investigation Dedication Fund Account in the state treasury. The monies shall be irrevocably dedicated and deposited in the Insurance Fraud Investigation Dedication Fund Account and shall be used solely as provided in R.S. 40:1428(A) and only in the amounts appropriated by the legislature. Monies in the fund shall be appropriated, administered, and used solely and exclusively for the purposes of the fraud unit, fraud support unit, office of insurance fraud, LATIFPA, and as further provided in R.S. 40:1428. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall be refunded to each insurer licensed by the Department of Insurance to conduct business in this state assessed a fee pursuant to R.S. 40:1428 on a pro-rata basis based on each insurer's proportionate share of the total fees collected pursuant to this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:323 (February 2000), amended LR 45:64 (January 2019), amended LR

§2313. Sunset

A. The special assessment for the Automobile Theft and Insurance Fraud Prevention Authority Dedicated Fund Account as well as the Insurance Fraud Investigation Dedication Fund Account shall be null, void, and unenforceable on July 1, 2024, unless legislative authorization for this rule is reenacted, amended, or re-promulgated prior to July 1, 2024.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:323 (February 2000), amended LR 45:65 (January 2019), amended LR

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended and repealed 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 and repealed 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 and repealed 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 and repealed 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 and repealed 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 and repealed 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 and repealed 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 and repealed 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 and repealed regulation should have no effect on employment and workforce development.
4. Describe the Effect on Taxes and Tax Credits. The proposed amended and repealed 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 and repealed 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 amended and repealed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed amended and repealed regulation 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 amended and repealed 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 and repealed 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 and repealed regulation should have no measurable impact upon small businesses.
3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended and repealed 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 and repealed 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 and repealed 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 and repealed 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 and repealed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Danielle Linkford, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, 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., January 9, 2024.

James J. Donelon
Commissioner

Fiscal and Economic Impact Statement

1. 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 rule changes incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance (LDI).

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

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

3. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule changes will benefit persons and entities seeking to identify which handbooks or guidelines are currently being incorporated by reference that serve as professional guidance for entities under the purview of LDI. These handbooks and guidelines will be available for public viewing in hardcopy form at the offices of the LDI and Office of State Register and online at the NAIC website.

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

The proposed rule changes will have no impact upon competition and employment in the state.