

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 31—Privacy of Consumer (LAC 37:XIII.Chapter 99)

The Department of Insurance (department) hereby exercises the emergency provisions of the Administrative Procedures Act (LSA-R.S.49:953(B) and, pursuant to the authority of the Louisiana Insurance Code, LSA-22:1 et seq., adopts Emergency Rule 31.

Emergency Rule 31 amends Regulation 76 to bring it into compliance with the Fixing America's Surface Transportation ("FAST") Act, which was passed by the United States Congress and signed into law (Public Law 114-94; December 4, 2015). The FAST Act amended the Gramm-Leach-Bliley Act to provide an exemption from the annual privacy notice requirements required under Gramm-Leach-Bliley. As Regulation 76 mirrors the duties and responsibilities of those in the business of insurance with regards to the privacy of insurance consumer's information, any amendments to Gramm-Leach-Bliley that were passed into law also affect the privacy notice requirements in Regulation 76. The FAST Act amendment serves the purpose, in both federal law and the amendment to Regulation 76, to relieve those in the business of insurance to whom it applies from duplicative privacy notice requirements, while at the same time continuing to preserve the privacy rights of insurance consumers.

The commissioner believes emergency action is necessary to promptly relieve those in the business of insurance from burdensome and costly mailings of the annual privacy notices, which, under the FAST Act, and amendment to Regulation 76, are no longer required if certain conditions are met. Most entities in the business of insurance mail these annual privacy notices to its customers at all times during the year, to coincide with the yearly anniversary of sending out the initial privacy notice. Therefore, by relieving those entities in the business of insurance of this burdensome and costly mailing as quickly as possible, those in the business of insurance may devote these resources to consumer service. Also, with the passage of the FAST Act, the current regulation is inconsistent with federal law. The department must bring Regulation 76 into compliance with federal law so as to maintain its regulatory authority.

Emergency Rule 31 shall be effective upon adoption and unless extended, shall remain in effect for a period of 120 days or until adoption of the final Regulation 76 through normal rulemaking process, whichever occurs first.

Title 37 INSURANCE Part XIII. Regulations

Chapter 99. Regulation 76—Privacy of Consumer

§9901. Authority

A. This regulation is adopted pursuant to R.S. 49:953(B) and R.S. 22:2 which charges the Commissioner of Insurance with the duty to enforce and administer all of the provisions of the Insurance Code, the purpose of which is to regulate the business of insurance in all of its phases in the public interest. Sections 501(b) and 505(a)(6) of the Gramm-Leach-Bliley Act specifically designate the Department of Insurance as the agency to establish the appropriate standards covering any person engaged in providing insurance under state law and the Fixing America's Surface Transportation Act, which provides for certain annual privacy reporting exemptions. R.S. 22:11 and R.S. 22:1595 grants the Commissioner of Insurance authority to promulgate rules and regulations as are necessary for the implementation of the provisions of Title R.S. 22:1604 specifically refers to the protection of the interests of insurance policyholders in this state with respect to financial institution insurance sales, and R.S. 22:1595 grants the commissioner of Insurance authority to promulgate rules and regulations as may be necessary to effectuate the provisions of Chapter 5, Financial Institution Sales in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102–Nov. 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 42:

Subchapter B. Privacy and Opt Out Notices for Financial Information

§9913. Annual Privacy Notice to Customers Required

A.1. - C. ...

D. Exemption from Annual Privacy Notice. A licensee that:

1. provides nonpublic personal information to nonaffiliated third parties only in accordance with this Emergency Rule 31, Regulation 76 and R.S.22:1591-R.S.22:1605; and

2. has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section, shall not be required to provide an annual disclosure under this section until such time as the licensee fails to comply with any criteria described in Paragraphs 1 and 2 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102–Nov. 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:552 (April 2001), amended LR 42:

Subchapter D. Exceptions to Limits on Disclosures of Financial Information

§9951. Severability

A. If any provision or item of Regulation 79 or the Emergency Rule 31, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items or applications of Regulation 79 or Emergency Rule 31 which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102–Nov. 12, 1999, and Fixing America’s Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 42:

§9953. Effective Date

A. Emergency Rule 31 shall be effective upon adoption and unless extended, shall remain in effect for a period of 120 days or until adoption of the final Regulation 76 through normal rulemaking process, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102–Nov. 12, 1999, and Fixing America’s Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 42:

James J. Donelon
Commissioner