

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 24—Suspension of Certain Statutes and Regulations Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav (LAC 37:XI.Chapter 44)

Emergency Rule 24 is issued to address Hurricane Gustav which made landfall in Louisiana on September 1, 2008. Emergency Rule 24 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 51 BJ 2008 issued on August 27, 2008 by Governor Bobby Jindal declaring a State of Emergency extending from August 27, 2008 through September 26, 2008; Executive Order No. BJ 08-93 issued September 9, 2008 by Governor Bobby Jindal transferring authority over any and all insurance matters to Commissioner of Insurance James J. Donelon (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 27, 2008, Governor Bobby Jindal declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Gustav. As a result of the hurricane's landfall, Hurricane Gustav caused extensive power outages and flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana. This State of Emergency extends from Wednesday, August 27, 2008 through Friday, September 26, 2008.

An estimated 3.1 million Louisiana citizens, which is approximately 73 percent of the population of Louisiana, may have suffered damage due to Hurricane Gustav. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation. The damage caused by Hurricane Gustav has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, the temporary displacement of persons from their homes, loss of personal belongings and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Gustav has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, Emergency Rule 24 is issued and shall apply to all insurers, health maintenance organizations

(HMOs), health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner, including any entity enumerated in Emergency Rule 25, regarding any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the NFIP), homeowners insurance, life insurance, group and individual health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

Emergency Rule 24 is applicable to insureds, as defined in Section 4401, from the following 36 parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. The zip codes applicable to these 36 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.lidi.state.la.us. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

In the ordinary course of business, insurers, HMOs, group and individual health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Hurricane Gustav and its aftermath have produced a disruption in the notification process because of the inability of insureds to receive mail due to mandatory and/or voluntary evacuations and/or the destruction or damage of their homes. Thus, many of Hurricane Gustav's victims are currently unable to timely act or respond to such notices or to timely pay insurance premiums and need additional time within which to act or respond. Some insurers, HMOs, group and individual health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner may attempt to cancel, nonrenew or not reinstate such insurance policies. Additionally, some insureds with policies in force as of 12:01 a.m. on August 30, 2008, who wish to make timely payment, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 24 provides emergency relief to the

insureds of Louisiana affected by Hurricane Gustav and its aftermath so that they will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 30, 2008.

Title 37
INSURANCE
Part XI. Rules

Chapter 44. Emergency Rule 24—Suspension of Certain Statutes and Regulations Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav

§4401. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 24 shall be applicable to insureds who, as of 12:01 a.m. on August 30, 2008 had a policy or insurance contract for any of the types of insurance enumerated in §4403 and reside in one of the following parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. The zip codes applicable to these 36 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.lidi.state.la.us.

B. The benefits, entitlements, and protections of Emergency Rule 24 shall be applicable to insureds who reside in a parish enumerated in §4401.A and obtain written documentation from either the chief executive officer of the applicable parish or municipality or other appropriate parish authority regarding the interruption of U.S. mail service; or insureds who provide written notice that said insured was impacted by Hurricane Gustav in a manner including, but not limited to, evacuation, displacement, temporary relocation, or loss of power.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4403. Applicability

A. Emergency Rule 24 shall apply to any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the NFIP), homeowners insurance, life insurance, group and individual health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance

funds, disability insurance, reciprocal insurance, long term care insurance, short term health insurance, stop loss insurance, excess loss insurance, Medicare supplement insurance, preferred provider organizations (PPOs), managed care organizations (MCOs) and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4405. Suspension of Statutory or Regulatory Provisions

A. Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in §4403 above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in §4403 above, which act or transmittal was to have been performed on or after 12:01 a.m. on August 30, 2008. The time limit for any such performance, act or transmittal shall be suspended until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4407. Suspension of Notice of Cancellation, Notice of Nonrenewal, Nonreinstatement

A. Emergency Rule 24 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4403 that was in force and effect as of 12:01 a.m. on August 30, 2008. Accordingly, any such notices that had not resulted in the actual cancellation, nonrenewal or nonreinstatement of the types of insurance enumerated in §4403 prior to 12:01 a.m. on August 30, 2008 shall be null and void. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements and any such notice shall not be issued to the insured until October 1, 2008 or thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4409. Suspension of Louisiana Insurance Code Provisions

A. Any and all provisions in the Louisiana Insurance Code relative to providing for a premium finance company to act on behalf of and/or as agent for an insurance company are hereby suspended. In furtherance thereof, the right, entitlement, legal provision or any other form of legal authority, including any policy provision, of any and all insurers to send a notice of cancellation is suspended effective 12:01 a.m. on August 30, 2008 and shall remain suspended until October 1, 2008. The right of any insurer to utilize the services of a premium finance company to issue any such notice is suspended during the pendency of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4411. Cancellation and Nonrenewal

A. As set forth in R.S. 22:1471, no policy shall be cancelled or nonrenewed because of a claim resulting from Hurricane Gustav or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4413. Suspension of Cancellation, Nonrenewal or Nonreinstatement

A. Except as provided for in §4421, the cancellation, nonrenewal or nonreinstatement of any and all insurance enumerated in §4403 herein and in Emergency Rule 25 that was in effect as of 12:01 a.m. on August 30, 2008 is hereby suspended and shall be deferred until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4415. Policy Copy Request

A. If an insured requests from his insurer a copy of his policy, the insurer shall provide a copy of the requested policy to the insured without any charge or fee.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4417. New Policies

A. The provisions of Emergency Rule 24 shall not apply to any new policy of insurance for the types of insurance enumerated in §4403 and Emergency Rule 25 if said insurance policy was issued on or after 12:01 a.m. August 30, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4419. Premium Offset

A. All insurers regulated by Emergency Rule 24, including, but not limited to, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner and other similar or related entities receiving a claim from an insured owing a premium may offset the premium that is owed by the insured from any claim payment made to the insured under the insurance policy. Section 4419 is not applicable to health insurance issuers, HMOs, PPOs, MCOs, third party administrators (TPAs) or any other health insurance entities doing business in Louisiana and/or regulated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4421. Policy Cancellation upon Request

A. Nothing shall prevent an insurer from cancelling a policy upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4423. Insured's Obligation to Pay Premiums

A. Unless otherwise cancelled pursuant to the provisions of §4421 herein, nothing in Emergency Rule 24 shall be construed to exempt or excuse an insured from the

obligation to pay the premiums otherwise due for actual insurance coverage provided.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4425. Cancellation for Fraud or Material Representation

A. Emergency Rule 24 shall not prevent an insurer from canceling or terminating a policy of insurance for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4427. Insured's Obligation to Provide Information and Cooperation

A. Emergency Rule 24 shall not relieve an insured who has a claim caused by Hurricane Gustav or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4429. Interest, Penalties, Fees and Other Charges

A. The right of an insurer to impose or levy any additional interest, penalty, fee or other charge is hereby suspended until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4431. Petition for Exemption

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 24 upon the insurer filing with the commissioner a written "Petition for Exemption from Emergency Rule 24" which unequivocally demonstrates that compliance with Emergency Rule 24 will result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4433. Intent and Purpose

A. The provisions of Emergency Rule 24 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4435. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 24. Accordingly, any insurer enumerated in Emergency Rule 24 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 24 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., R.S. 22:1211, et seq., and specifically including, but not limited

to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in LSA-R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000 for each separate act, or \$25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 24, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 24. Finally, the commissioner may impose any other applicable civil and criminal sanctions for violations of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4437. Applying Provisions outside of Affected Parishes

A. Nothing in Emergency Rule 24 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 24 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in Section 4401.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4439. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 24. Additionally, the commissioner reserves the right to extend Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4441. Severability Clause

A. If any section or provision of Emergency Rule 24 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 24, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4443. Effective Date

A. Emergency Rule 24 shall become effective at 12:01 a.m. on August 30, 2008 and shall continue in full force and effect until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

James J. Donelon
Commissioner