

LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

BULLETIN NO. 09-01

TO: ALL PROPERTY AND CASUALTY INSURANCE COMPANIES

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

**RE: THE CERTIFICATION CLAUSE ON THE
LOUISIANA HURRICANE LOSS MITIGATION SURVEY FORM
IN REGULATION 94**

DATE: FEBRUARY 2, 2009

Regulation 94 was issued by the Louisiana Department of Insurance (LDOI) January 20, 2008 to implement the provisions of Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature. This law, codified at LSA-R.S. 22:1483, (re-designated from LSA-R.S. 22:1426 by Acts 2008, No. 415, effective January 1, 2009), mandates that insurers provide a premium discount for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane.

Regulation 94 requires residential property insurers to make a new rate filing with the LDOI on or before January 1, 2009 that includes the insurer's plan to implement these premium discounts. Regulation 94 also requires that each new rate filing includes a discount plan to demonstrate the criteria and items utilized by an insurer to determine the appropriate discount to reduce the insurance premium for eligible insureds.

Regulation 94 includes the Louisiana Hurricane Loss Mitigation Survey Form (survey form) that must be completed and submitted to the insurer to demonstrate compliance with the eligibility requirements for any actuarially justified premium discount which may be available to the insured. Further, Regulation 94 provides an opportunity for certain third party providers to conduct wind mitigation surveys. The intent behind allowing third party providers to conduct inspections was to expand the pool of professionals qualified to perform these surveys for insureds while at the same time conducting surveys that can be relied upon by insurers.

In an effort to facilitate Regulation 94 the Louisiana State Uniform Construction Code Council (LSUCCC) of the Louisiana Department of Public Safety and Corrections issued an emergency rule on November 24, 2008 defining a class of third party providers who would be considered a "qualified professional" that could complete the survey form. Specifically, the LSUCCC created a classification of third party provider called a Wind Mitigation Surveyor (WMS). A WMS is an individual who possesses a Home Inspector License through the Louisiana State Board of Home Inspectors and a Certificate of Completion for the applicable International Residential Code Hurricane Resistance Residential Construction program or equivalent program approved by the LSUCCC.

The purpose of Bulletin 09-01 is to clarify the relationship between insurers and a WMS registered with the LSUCCC regarding the certification clause in Section III of the survey form. By completing Section III, a qualified professional certifies that he is "registered with the Louisiana State Uniform Construction Code Council and authorized, by that registry, to perform residential building inspections for compliance with the Louisiana State Uniform Construction Code."

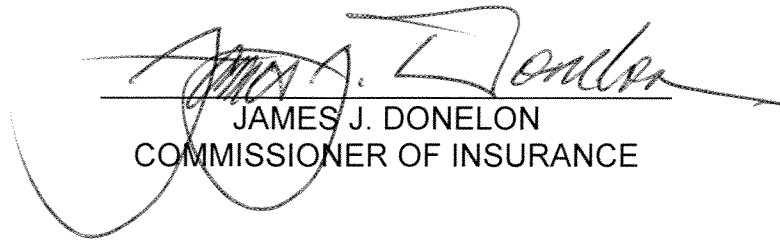
However, while a WMS is authorized to perform a wind mitigation survey for purposes of Regulation 94, a WMS is not authorized to perform residential building inspections for compliance with the Louisiana State Uniform Construction Code. By completing Section III in its current form, a WMS may appear to be attesting to qualifications that he does not possess. Therefore, after consultation with the LSUCCC, the LDOI hereby advises that an insurer may supplement Section III of the survey form with the following language:

"I certify that I am a Building Code Enforcement Officer, registered architect, registered engineer, or registered Third-Party Provider as defined by Louisiana Revised Statute or applicable Administrative Rule. I am registered with the Louisiana State Uniform Construction Code Council and authorized, by that registry, to perform residential building inspections for compliance with the Louisiana State Uniform Construction Code or to perform wind mitigation surveys. I have conducted an inspection of the structure, and reviewed all construction documents and building product specifications necessary to accurately answer the questions in this inspection survey, and certify that, to the best of my knowledge, all questions are answered truthfully and correctly. "

Insurers are authorized to utilize this language on the survey form as an appropriate mechanism to allow a WMS to perform the inspection and certify to the insurer that the insured is entitled to any applicable discounts. Insurers who choose to modify their survey form with the above referenced pre-approved supplemental language need only file the modified survey form with the LDOI and may commence use of the modified survey form upon filing same with the LDOI. Otherwise, Bulletin 09-01 authorizes a WMS to sign the present survey form and attach a copy of his LSUCCC Wind Mitigation Surveyor certificate, place his LSUCCC registration number on the survey form and sign the survey form to properly identify his limited capacity.

Questions regarding Bulletin No. 09-01 should be directed to the Director of Policy Forms, Office of Property and Casualty, at the Louisiana Department of Insurance at (225) 342-5203.

Baton Rouge, Louisiana, this 2nd day of February, 2009.



JAMES J. DONELON
COMMISSIONER OF INSURANCE