

DECLARATION OF EMERGENCY

Department of Insurance Regulation 82 - Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 123)

The Department of Insurance (Department) hereby exercises the emergency provisions of the Administrative Procedure Act, LSA-R.S. 49:953(B) and, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., adopts Emergency Rule 82 which is necessary to create standards, guidelines, and procedures pertaining to property insurers' participation in the Insure Louisiana Incentive Program. Emergency Rule 82 establishes, among other provisions, the eligibility, application, award, disbursement and reporting process under the Insure Louisiana Incentive Program. Emergency Rule 82 shall be effective October 1, 2007, and unless extended, it shall remain in effect for a period of 120 days or until adoption of the final Regulation 82 through the normal rulemaking process, whichever occurs first.

Emergency action is necessary due the demand for affordable and available property insurance caused by Hurricane Katrina and Hurricane Rita. The state of Louisiana experienced catastrophic effects from these hurricanes. As a result, the state of Louisiana is currently experiencing a crisis in the availability and affordability of property insurance. Many insurers have reduced their participation in the voluntary market for residential and commercial property insurance thereby placing property insurance at risk for being unaffordable and unavailable in this state. Such reduction has led to a decline in competitive insurance rates among insurance companies, higher premiums for property owners, and assessments for both insurers and property owners. Property owners who cannot afford the increased premiums and assessments may be forced to seek coverage from the Louisiana Citizens Property Insurance Corporation (Citizens) for their insurance needs which may expose Citizens to additional financial deficits and assessments.

Acts 2007, No. 447 establishes the Insure Louisiana Incentive Program and directs the Commissioner of Insurance (Commissioner) to adopt provisions relative to its implementation. It further creates the Insure Louisiana Incentive Program Fund and authorizes the Commissioner to grant matching capital funds to qualified insurers participating in the Insure Louisiana Incentive Program. In compliance with the directives of Acts 2007, No. 447, the Department now proposes to implement the application and grant process to gather information needed in order to expedite the award and allocation of grants. Since funds have been appropriated by the Legislature for the Insure Louisiana Incentive Program and are available to begin disbursements to qualified property insurers on or after January 1, 2008, it is necessary that this rule is adopted on an emergency basis in order to begin accepting and processing grant applications without further delay. Failure to adopt this rule on an emergency basis would result in a delay in the implementation process which further delays the availability and affordability of insurance to property owners of this state. Moreover, rapid implementation of Acts 2007, No. 447 will allow the Insure Louisiana Incentive Program to begin immediately thereby enhancing economic growth and allowing qualified property insurers to act more quickly in response to the market demands and conditions.

The Department has an interest in protecting the citizens of this state. Due to the lack of affordable and available property insurance and in order to maintain and strengthen the viability of this state's insurance market, there is an emergent need to have standards and procedures in place as soon as possible for insurers to utilize in the application and grant process so that these insurers may provide Louisiana citizens with the property coverage they need in order to avoid the imminent peril that would result from a property loss due to a hurricane or other natural disaster. Therefore, the immediate implementation of Emergency Rule 82 is being taken to avoid the imminent threat to, as well as to promote the health, safety, and welfare of the citizens of the state of Louisiana prior to adoption of the final Regulation 82 through the regular rulemaking process.

Emergency Rule 82 is available on the Internet at www.ldi.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802.

Family Impact Statement

The proposed amendments to LAC 37:XIII.Chapter 87 regarding Year 2000 Exclusions should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed regulation.

A public hearing on the proposed repeal of Regulation 69 will be held on Friday, October 26, 2007, at 1:30 p.m., in the Poydras Hearing Room of the Louisiana Department of Insurance (Poydras Building), 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Carol Fowler-Guidry, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., October 26, 2007. No preamble concerning the proposed regulation is available.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 69—Year 2000 Exclusions

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

DOI does not expect any implementation costs as a result of the adoption of this regulation. DOI seeks to repeal existing Regulation 69.

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

There will be no increase or decrease in revenue as a result of repealing Regulation 69.

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

There will be no costs and/or economic benefits to directly affected persons or non-government groups as a result of the repeal of this regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The repeal of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown
Deputy Commissioner
0709#002

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 82—Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 123)

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 promulgate Regulation 82 regarding the Insure Louisiana Incentive Program.

Due to the catastrophic losses caused by Hurricane Katrina and Hurricane Rita, many insurers have reduced their participation in the voluntary market for residential and commercial property insurance. This reduction has led to competitive pressure on insurance rates, and unaffordable and unavailable insurance for property owners. As a result, many property owners may be forced to seek coverage through the Louisiana Citizens Property Insurance Corporation for their property insurance needs thereby increasing Citizens exposure to increased deficits and assessments.

In an effort to attract new insurers to this state and to provide adequate and affordable insurance to property owners of this state, the Insure Louisiana Incentive Program was enacted through the passage of Act 447 of the 2007 Regular Session of the Louisiana Legislature. The purpose of the Insure Louisiana Incentive Program is to encourage insurers to participate in the voluntary property insurance market for the purposes of increasing the availability of property insurance and competitive pressure on insurance rates, and reducing the volume of business written by the Louisiana Citizens Property Insurance Corporation. Regulation 82 sets forth standards and procedures relative to a property insurer's participation in the Insure Louisiana Incentive Program. Through cooperative endeavor agreements, insurers participating in the program may be awarded matching grant funds in order to achieve the requirements of Act 447. Regulation 82 further specifies these requirements and conditions thereof by qualified property insurers.

As a result of the impact of Hurricane Katrina and Hurricane Rita, it is critical that property owners have affordable and adequate insurance coverage in order to maintain the viability of this state's insurance market and to avoid any future perils that may arise from the upcoming hurricane season. Regulation 82, therefore, is being promulgated to accomplish this purpose.

Title 37

INSURANCE

PART XIII. Regulations

Chapter 123. Regulation 82—Insure Louisiana Incentive Program

§12301. Purpose

A. The purpose and intent of Regulation 82 is to exercise the authority and carry out the duties and responsibilities of

the Commissioner of Insurance for implementation and regulation of the Insure Louisiana Incentive Program, hereinafter referred to as the "Incentive Program." Regulation 82 sets forth rules and procedural requirements which the Commissioner of Insurance deems necessary for participation in the Incentive Program by qualified property insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12303. Authority

A. Regulation 82 is promulgated pursuant to the authority and responsibility delegated to the Commissioner of Insurance under R.S. 22:3301 through 3311 and pursuant to the general powers granted by law to the commissioner and the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12305. Applicability and Scope

A. Regulation 82 applies to all property insurers with respect to their qualification and participation in the Incentive Program.

B. Regulation 82 governs all aspects of the Incentive Program including, but not limited to, the application process for grants, the qualifications of grantees, the award of grants, the use of grant funds, the reporting requirements for grantees, the requirements for matching capital funds, the requirements for minimum capital and surplus, the requirements for earned capital and other regulation and administration of the Incentive Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12307. Definitions

A. For the purposes of Regulation 82, the following terms shall have the meaning or definition as indicated herein.

Approved Unauthorized Insurer—an insurer without a certificate of authority, or otherwise qualified under the provisions of Title 22, and which is on the list of approved unauthorized insurers under the provisions of R.S. 22:1262.1, and from which a licensed surplus lines broker may procure insurance under the provisions of R.S. 22:1257.

Commissioner—the Commissioner of Insurance of the state of Louisiana.

Department—the Department of Insurance of the state of Louisiana.

Domestic Insurer—an insurer formed under the laws of the state of Louisiana that has been authorized by the department to sell insurance products in the state of Louisiana.

Grantee—a property insurer to whom a grant is made from the Incentive Program Fund.

Incentive Program (where capitalized)—the Insure Louisiana Incentive Program as created, authorized and administered pursuant to R.S. 22:3301 et seq., and Regulation 82.

Incentive Program Fund (where capitalized)—the Insure Louisiana Incentive Program Fund established and created pursuant to R.S. 22:3311 and Regulation 82.

Net Written Premiums—the total premiums, exclusive of assessments and other charges, paid by policyholders to an insurer for policies that comply with Regulation 82, minus any return premiums or other premium credits due policyholders, as defined in R.S. 22:3309(A).

Non-Admitted Insurer—an insurer that has not been licensed by the department to sell insurance products in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12309. Matching Capital Grants

A. From funds appropriated by the legislature for the Incentive Program Fund established and created in the state treasury under R.S. 22:3311, the commissioner may grant matching capital funds to qualified property insurers in accordance with the requirements of R.S. 22:3301 through 3311 and Regulation 82.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12311. Public Invitation for Grant Applications

A. Pursuant to R.S. 22:3301 et seq., and Regulation 82, the commissioner shall issue an initial public invitation to property insurers to submit applications for grants under the Incentive Program.

B. The invitation shall be published for at least a 30-day period on the department's web site and in state and national insurance journals and publications as the commissioner deems appropriate.

C. The invitation shall describe the Incentive Program and provide general information about the grant application process.

D. The invitation shall set a deadline for receipt of grant applications. All grant applications should be submitted to the department either by certified mail, return receipt requested, or actual delivery by a commercial interstate courier. Failure to timely submit a grant application may render the insurer ineligible to participate in the Incentive Program. However, for good cause shown, the commissioner may extend the deadline and consider applications received after the deadline or give an insurer the opportunity to cure a non-substantive deficiency in the application.

E. In the event that all monies in the Incentive Program Fund are not allocated in response to the first invitation, the commissioner shall issue a second invitation for grant applications in the form and pursuant to the procedures utilized for the first invitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12313. Applications

A. The department shall prepare an application form to be fully completed by grant applicants. The application form may be revised by the department as it deems appropriate.

B. The grant application shall require the property insurer to designate a point of contact with a telephone number and physical address to represent the property insurer on all matters pertaining to the grant process and the Incentive Program.

C. The grant application shall be filed contemporaneously with the application for licensure with the department by a non-admitted insurer. The application for licensure expresses the applicant's intent to become licensed in this state and, if specifically requested in writing by the grant applicant in the application for licensure, will be processed contingent upon approval of the allocation of a grant award.

D. Only fully completed grant applications or those deemed acceptable by the commissioner shall be considered for a grant award.

E. The grant application, whether completed by an admitted or non-admitted insurer, shall be submitted to the department's Office of Financial Solvency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12315. Qualifications for Applying for Grant Funds

A. Minimum Solvency Requirements. Grants shall be made only to property insurers who initially satisfy and thereafter maintain the following minimum solvency requirements:

1. capital and surplus in an amount not less than \$25 million;
2. A.M. Best rating of B++ or better or an equivalent rating by a nationally recognized rating service;
3. risk-based capital ratio of 500 percent; and
4. sufficient reinsurance to demonstrate that its reinsurance program is sufficient for the amount of business to be written pursuant to the Incentive Program.

B. Certificate of Authority.

1. A property insurer must have an existing certificate of authority in Louisiana for the line or lines of insurance which the insurer applicant will write pursuant to the Incentive Program or documentation that an application for such licensure has been filed with the Company Licensing Division of the department contemporaneous with the filing of the grant application.

C. Satisfactory Prior Experience.

1. Grants shall be made only to property insurers with satisfactory prior experience in writing property insurance or to new property insurers whose management has satisfactory experience in property insurance. The grant application shall accurately disclose the prior experience of property insurers and their management. The commissioner may request additional information from the applicant insurer and conduct such investigation of prior experience as the commissioner deems appropriate.

2. The commissioner shall determine whether an applicant insurer has adequate or satisfactory prior experience.

D. Other Requirements

1. Applicant shall maintain premium to surplus ratio no greater than 4 to 1 pursuant to R.S. 22:891.1.A.

2. Applicant shall not insure more than 10 percent of its surplus in any one risk pursuant to R.S. 22:1470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12317. Award and Allocation of Grants

A. Subject to the requirements of this Section, the commissioner shall award and allocate grants among qualified property insurers who have applied for grants as the commissioner deems appropriate to carry out the purpose and intent of the Incentive Program. The commissioner has the discretion to create an advisory committee to assist in the analysis of grant applications. If created, the advisory committee will be composed of up to seven members, designated to serve thereon by the commissioner.

B. The factors considered in awarding grants shall include, but are not limited to, the following:

1. the financial strength and satisfactory prior experience of the applicant;
2. the ability of the applicant to invest new capital and to comply with the other requirements of the grant;
3. the potential of the applicant for providing property insurance as required by the Incentive Program at reasonable and competitive costs, particularly for property owners in the Louisiana parishes included in the federal Gulf Opportunity Zone Act of 2005. The current 37 parishes in the Gulf Opportunity Zone are Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana. These parishes may be subject to change by subsequent legislation;
4. the marketing and claims handling capability and experience of the applicant, and particularly its ability to market property insurance in areas affected by Hurricane Katrina and Hurricane Rita and to handle future claims that may arise;
5. the applicant's longevity in the Incentive Program including a statement or plan of operation by the applicant demonstrating its intent to remain in this state following the completion of the Incentive Program;
6. the current licensure of the applicant where preference and priority will be given to those admitted insurers that are currently licensed to do business in this state for the line or lines of business that are the subject of the grant; and
7. any other factors that the commissioner deems applicable, relevant and appropriate in carrying out the purpose and intent of the Incentive Program.

C. For grant applications in response to the initial invitation, the commissioner shall not allocate individual grants less than \$2 million nor in excess of \$10 million.

D. For the initial allocation of grants only, the commissioner shall allocate at least 20 percent of the total amount available for grants to domestic insurers unless the commissioner has not received sufficient applications from qualified domestic insurers to allocate such sum.

E. If the commissioner issues a second invitation for grant application, the commissioner shall not allocate

individual grants less than \$2 million nor in excess of \$10 million. Insurers who have been allocated a grant in response to the first invitation may apply for and receive an additional grant, provided the total of the grants to an insurer does not exceed \$10 million.

F. In no event shall the total amount of the grant to an insurer exceed 20 percent of that insurer's capital and surplus as reported to and verified by the department.

G. Prior to the award of a grant, such grant shall be subject to the review and approval of the Joint Legislative Committee on the Budget. The commissioner shall provide written notice to the committee of the grant awards that have been approved. Upon written approval by the committee, the commissioner will be authorized to award the grant and deliver the amount of the grant to the grantee from monies in the Incentive Program Fund.

H. In the event that monies remain in the Incentive Program Fund after allocations pursuant to the second invitation, the commissioner shall cause all remaining monies to be returned to the state general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12319. Authorized Insurers

A. A non-admitted insurer, including an approved unauthorized insurer, may apply for a grant, provided that the non-admitted insurer shall, contemporaneously with the grant application, file an application for licensure with the department for the line or lines of insurance for which the non-admitted insurer, including an approved unauthorized insurer, must be authorized and licensed to write for a grant award. If specifically requested in writing by the grant applicant in the application for licensure, such application will be processed contingent upon approval of a grant award.

B. A non-admitted insurer, including an approved unauthorized insurer, must become admitted and licensed to do business in Louisiana before it may actually receive grant funding.

C. If the non-admitted insurer does not apply timely to be admitted or subsequently is not approved as an admitted and licensed insurer, the non-admitted insurer shall not be entitled to receive a grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12321. Matching Capital Requirements

A. To be eligible for a grant, the insurer shall make a commitment of capital at least equal to the amount of the grant to write property insurance in Louisiana that complies with the requirements of R.S. 22:3309 and §12323 of Regulation 82. Grants from the Incentive Program Fund must be matched by such newly allocated insurer capital at a ratio of at least one dollar of allocated insurer capital funds for each dollar of state capital grant funds.

B. Within 10 days of receipt of any Incentive Program Funds, the insurer shall provide to the commissioner written certification signed by two principal officers of the grantee that the Incentive Program Funds have been deposited in an account held in the name of the insurer applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12323. Property Insurance Requirements

A. The grantee shall write new property insurance in Louisiana of the types described in R.S. 22:3309 and this Section of Regulation 82 with net written premiums of at least a ratio of \$2 of premium for each \$1 of the total of newly allocated insurer capital combined with the grant from the Incentive Program Fund. Thus, if the insurer allocates \$2 million in capital and receives a matching state grant of \$2 million, the insurer must write property insurance in Louisiana with net written premiums of at least \$8 million.

B. To comply with the requirements of the grant, the new property insurance written by the grantee shall be residential, commercial, mono-line, or package property insurance policies in Louisiana and must include coverage for wind and hail with limits equal to the limits provided for other perils insured under such policies.

C. The net written premium requirements of this Section will be satisfied only by new property insurance coverages reported on the Annual Statement State Page filed with the department under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4 (Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

D. Grantees shall also comply with the following.

1. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall maintain at least 25 percent of the net written premiums for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation. At least 50 percent of such policyholders insured by the Louisiana Citizens Property Insurance Corporation shall be located in the parishes included in the federal Gulf Opportunity Zone Act of 2005.

2. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall write at least 50 percent of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone Act of 2005.

3. The grantee must comply with the requirements of both §12323.D.1 and 2 by the end of the second year and must continue to comply with all requirements in each of the succeeding years of the grant unless an extension has been granted by the commissioner under R.S. 22:3310.B or §12331.C of Regulation 82.

4. The requirements of §12323.D.1 and 2 apply separately, but net written premiums from policyholders formerly insured by the Louisiana Citizens Property Insurance Corporation with property in the federal Gulf Opportunity Zone used to comply with D.1 may also be used to comply with D.2.

5. The net written premium ratios of §12323.D.1 and 2 apply only to the net minimum premium required under §12323.A. Thus the grantee may write additional Louisiana property coverage without regard to ratios required by §12323.D.1 and 2.

E. The requirements of the grant that must be satisfied by the grantee are illustrated by the following example assuming a grant of \$2 million.

1. Example

a. The applicant is awarded a \$2 million grant. Within 10 days of receipt of the grant of Incentive Program Funds, the applicant must match the grant with newly allocated capital funds of at least \$2 million and provide written certification of compliance to the department. By the end of the second year after receipt of the grant, the grantee must write property insurance in Louisiana with net written premiums of at least \$8 million. At least \$2 million of the \$8 million of net written premiums must be written for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation and at least \$1 million of that premium must be from policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year after receipt of the grant, the grantee must write at least \$4 million of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year and for each of the succeeding years of the grant, the grantee must maintain net written premiums that comply with all of the requirements set forth above. Compliance with the requirements for the second year and each succeeding year must be demonstrated on the grantee's annual reports.

F. Applicants shall also satisfy the requirements for licensing, form filings, rate filings, and any other applicable provisions contained in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12325. Earned Capital

A. An insurer who has received a grant is entitled to earn the grant at the rate of 20 percent per year for each year in which the insurer is in compliance with the requirements of R.S. 22:3301 et seq., and Regulation 82, so that the insurer can earn the entire grant after five years of full compliance with the requirements.

B. The grantee may begin to earn the grant from the reporting period in which the grantee first demonstrates that its net written premiums have reached compliance with all requirements of both §12323.D.1 and 2. The grantee will earn 20 percent of the grant in each 12 month period thereafter in which the grantee demonstrates that it has maintained compliance with all requirements for net written premiums. Thus, if in compliance with §12323.D.1 and 2, the grantee may begin to earn the grant at the end of the first year.

C. Upon receipt of satisfactory documentation of full compliance with the net written premium requirements during the preceding 12 months, the commissioner will issue written declaration that the grantee has earned 20 percent of the grant awarded to the grantee. No funds may be earned by the grantee until it receives official notification from the commissioner certifying that the requirements of the program have been met.

D. If the grantee does not meet the grant requirements during any year but shows promise of future compliance based on good cause having been demonstrated, the commissioner may extend the period of time from five years in order for the grantor to earn the entire grant. The

extension may be granted for up to one year. Such grantee shall not be entitled to earn the Incentive Program Funds (i.e., 20 percent of the grant award) for that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12327. Funding Schedule

A. Unless requested by the grantee and authorized by the commissioner, a grant that has been fully approved shall be funded on the next regular quarterly period thereafter, i.e., January 1, April 1, July 1, or October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12329. Reporting Requirements

A. Grantee shall segregate and report any grants received on the line titled "Aggregate Write-In for Special Surplus Funds" in the NAIC Annual and Quarterly Statement Blanks.

B. Grantee shall report annually by March 1 of each year on a form acceptable to the commissioner the following information:

1. the amount of premium written under the program;
2. the amount of premium associated with policies for which the Louisiana Citizens Property Insurance Corporation was the immediate previous insurer;
3. the amount of premium associated with properties located in the Federal Gulf Opportunity Zone Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12331. Compliance

A. The commissioner shall conduct an examination and/or investigation annually, or more often as the commissioner deems necessary to determine the grantee's compliance with the requirements of the grant, as per R.S. 22:3301 et seq., and Regulation 82. Any examination or investigation shall be performed pursuant to R.S. 22:1301 et seq. In addition to the requirements of R.S. 22:1301 et seq., the department may require such reports and/or conduct such examinations or investigations as the commissioner deems necessary to verify compliance with the property insurance requirements set forth in the Incentive Program and Regulation 82.

B. If the commissioner determines that a grantee has complied with the terms of the grant, the commissioner shall notify the grantee in writing that the grantee has earned the 20 percent portion of the grant pursuant to R.S. 22:3310.

C. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee insurer who has failed to satisfy all requirements of the grant. Such grantee shall not be entitled to receipt of Incentive Program Funds for that year, until full compliance is achieved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12333. Declaration of Default

A. The commissioner may declare an insurer in default of the requirements for a grant should he find any of the following exists.

1. The insurer fails at any time to meet the specific minimum requirements of §12315.A.1-4.
2. The insurer fails to maintain a certificate of authority for the line or lines of insurance written pursuant to the grant program.
3. The insurer fails to meet the specific requirements of §12323.
4. The insurer fails to comply with any other applicable provisions of R.S. 22:3301 et seq., or Regulation 82.

B. If the commissioner determines that a grantee has failed to satisfy one or more of the requirements of the grant and that an extension will not be granted, the commissioner may declare the grantee in default. The commissioner shall notify the grantee in writing that the grantee is in default. Any grantee declared in default by the commissioner shall have 30 days from the date of the declaration of default to request reconsideration by the commissioner. The written request for reconsideration shall set forth, in detail, each and every reason why the grantee is entitled to the relief requested, including any documents tendered in support thereof. The commissioner shall have 30 days from the mailing of the request for reconsideration to review it and render a decision. The commissioner's decision upon reconsideration is final. Unless modified on reconsideration, the default is effective from the date of the original declaration.

C. The grantee in default is liable for and shall repay all grant funds that have not been earned by the grantee, plus legal interest from date of the commissioner's default declaration. If a request for reconsideration is not timely made, repayment is due upon the expiration of 30 days from the declaration of default. If a request for reconsideration is timely made and denied, repayment is due within 10 days of the denial of the reconsideration request.

D. The commissioner may institute legal action to recover all sums due by the grantee in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12335. Cooperative Endeavor Agreements

A. In furtherance of R.S. 22:3301 et seq., and in accordance with R.S. 22:3303.A, the grantee shall execute a cooperative endeavor agreement with and in a form prescribed by the commissioner subject to approval by the Office of Contractual Review of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12337. Severability

A. If any provision of Regulation 82 or its application to any person or circumstance is held invalid, such invalidity

shall not affect other provisions or applications of Regulation 82 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 82 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§12339. Effective Date

A. Regulation 82 shall become effective on the date of the publication of the final rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

Family Impact Statement

The proposed Regulation 82 LAC 37:XIII, Chapter 123 titled Insure Louisiana Incentive Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed regulation.

A public hearing on this proposed regulation will be held on October 29, 2007, at 9 a.m., in the Poydras Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Warren Byrd, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., October 29, 2007. No preamble concerning the proposed regulation is available.

James J. Donelon
Commissioner

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

**RULE TITLE: Regulation 82—Insure Louisiana
Incentive Program**

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

DOI anticipates implementation costs of \$230,355 related to Regulation 82 and the total cost of the Insure Louisiana Incentive Program of approximately \$100.2 million. The implementation costs consist of one Compliance Examiner and approximately 1,450 hours of computer programming which will cost \$230,355. Exactly \$100 million has been deposited within the Insure Louisiana Incentive Program Fund in order for the DOI to grant these monies to approved property insurance companies as outlined within Act 447 of the 2007 Regular Legislative Session.

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

There will be no increase or decrease in revenue as a result of Regulation 82.

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

Regulation 82 should provide more insurers writing property insurance in the state, and would have the positive impact to eventually lower the cost of that insurance. However, DOI is unable to quantify the benefits to Louisiana policyholders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of Regulation 82 should bring more property insurers to the state and thereby improve competition within the insurance marketplace.

Chad M. Brown
Deputy Commissioner
0709#023

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Unemployment Insurance Administration**

**Lost Wage Benefits for Domestic Violence Victims
(LAC 40:IV.Chapter 5)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Employment Security Law, R.S. 23:1471 et seq., the Office of Unemployment Insurance Administration of the Department of Labor, hereby issues notice of its intent to adopt Chapter 5 and promulgate rules of the Department of Labor. The proposed Chapter and Rules enable and apply to the provisions of the "Lost Wage Benefits for Domestic Violence Victims Act" (R.S. 23:1700-75), which was enacted by the 2007 Regular Session. The Rule promotes the public interest by ensuring that victims of domestic violence, if otherwise qualified and eligible, can receive unemployment insurance benefits even though the victims do not meet the requirements under R.S. 23:1601(1) and (2).

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Subpart 1. Board of Review

Chapter 5. Lost Wage Benefits for Domestic Violence Victims

§501. Terminology pertaining to Lost Wages for Domestic Violence Victims

A. Definitions

Domestic Abuse—includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. Minors are not excluded. *Domestic abuse* also includes abuse of persons 60 years of age or older and any disabled person 18 years of age or older when committed by an adult child or adult grandchild.

Family Members—spouses, former spouses, parents and children stepparents, stepchildren, foster parents and foster children.

Household Members—any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse whether married or not, who is seeking protection under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§503. Administration of Funds

A. Benefits under the Lost Wage Benefits for Domestic Violence Victims Act are provided to individuals who have lost their employment due to domestic violence and who, otherwise, would not be eligible for unemployment insurance benefits. Towards this end, it shall be the agency's intent to apply all rules, regulations, and laws of the unemployment insurance program with the exception of those clearly excluded by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§505. Manner of Distribution

A. The application for and the distribution of benefits under this program shall be in the same manner and using the same methods as those of regular unemployment insurance benefits.

B. The records shall be maintained in a manner that allows for the monitoring and auditing of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§507. Maximum Benefit Amount

A. The total benefit amount payable under the domestic violence victims program will be reduced by any amount paid from regular unemployment benefits and shall not exceed the maximum benefit amount established in the monetary determination of the unemployment insurance claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§509. Filing Period

A. A claimant shall be eligible to file one new claim per calendar year. The term "new claim" is the first initial claim filed to request a determination of entitlement to and eligibility for compensation which results in an agency generated document of an appealable monetary determination provided to the potential claimant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§511. Deductions

A. The following shall not be deducted from benefits of domestic violence victims:

1. severance pay;
2. vacation pay;
3. holiday pay;
4. bonus pay;
5. WARN Act pay;
6. wages in lieu of notice;