

RULE

Department of Insurance Office of the Commissioner

Regulation 94—Premium Adjustments for Compliance with Building Codes and Damage Mitigation (LAC 37:XIII.Chapter 127)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under R.S. 22:1 et seq., and R.S. 22:1426, that the Commissioner of Insurance has adopted Regulation 94 to implement the provisions of Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature, which 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.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 127. Regulation Number 94—Premium Adjustments for Compliance with Building Codes and Damage Mitigation

§12701. Authority

A. Regulation 94 is issued pursuant to the authority vested in the commissioner pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3 and R.S. 22:1426.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12703. Purpose

A. The purpose of Regulation 94 is to implement the provisions of Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature, which mandates that insurers provide an actuarially justified 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12705. Scope and Applicability

A. Regulation 94 applies to authorized property and casualty insurers required to submit rates and rating plans for residential property insurance to the Louisiana Department of Insurance.

B. Regulation 94 does apply to modular homes.

C. Regulation 94 does not apply to commercial properties or commercial residential properties with three or more units.

D. Regulation 94 does not apply to approved unauthorized insurers, i.e., surplus lines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12707. Definitions

A. As used in Regulation 94, these terms shall have the following meaning ascribed herein unless the context clearly indicates otherwise.

Certification Form—a form prepared by an insurer, approved by the department, and subsequently completed and signed by the insured, wherein the insured attests to the implementation of specific mitigation items which the insurer recognizes in its rating plan for providing an actuarially justified premium discount under R.S. 22:1426.

Department—Louisiana Department of Insurance.

Discount Plan—the criteria and items utilized by an insurer to determine or otherwise compute an actuarially justified discount, credit, rate differential, adjustment in deductible, or any other adjustment to reduce the insurance premium for an eligible insured under R.S. 22:1426.

Qualified Professional—a building code enforcement officer, registered architect, registered engineer, or a registered third-party provider authorized by the Louisiana State Uniform Construction Code Council to perform building inspections.

Residential Property Insurance—fire and extended coverage insurance or homeowners insurance for a one- or two-family owner-occupied premises, but does not include insurance policies written to cover manufactured homes or mobile homes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12709. Rate Filings

A. All residential property insurers shall include their plan for actuarially justified discounts in their first rate filing made with the department after March 31, 2008. Every residential property insurer shall make a new rate filing with the department in accordance with R.S. 22:1426 on or before January 1, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12711. Discount Plan Standards

A. A discount plan submitted to the department should consider wind mitigation studies conducted by other states and may consider other alternative studies found acceptable by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12713. Mitigation Improvements and Construction Considered for Actuarially Justified Discounts

A. In determining actuarially justified discounts, an insurer shall consider the following mitigation improvements and/or construction techniques that have been demonstrated to reduce the amount of loss from windstorm or hurricane:

1. building design code;
2. roof bracing;
3. secondary water barriers;
4. opening protection;

5. roof to wall strength;
6. roof deck attachment;
7. roof covering and roof covering performance;
8. wall-to-floor-to-foundation strength;
9. window, door, and skylight strength; and
10. other mitigation improvements and/or construction techniques that the insurer has determined can reduce the risk of loss due to wind.

B. Discounts displayed in the insurer's rate and rule manual should reflect the interdependence of mitigation improvements and/or construction techniques required by the insurer to qualify for an actuarially justified discount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12715. Form Filing; Notice to Insureds

A. The Model Certification Form in §12721, Appendix A provides the minimum mitigation items and construction techniques that must be considered for actuarially justified discounts.

B. Any insurer that intends to supplement the Model Certification Form with additional mitigation items and construction techniques for actuarially justified discounts shall submit the supplemented certification form to the department for approval prior to use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12717. Proof of Eligibility

A. The insured has the obligation to provide the insurer with the appropriate documentation to verify eligibility for an actuarially justified discount under the provisions of R.S. 22:1426 and Regulation 94. The insurer may require that the insured provide the insurer with the following:

1. a properly completed certification form that is executed by a qualified professional and that meets the minimum standards of the Model Certification Form in §12721, Appendix A to Regulation 94; and
2. appropriate documentation demonstrating compliance with the State Uniform Construction Code; and/or
3. appropriate documentation attesting to the mitigation improvements made by the insured that reduce the amount of loss from a windstorm or hurricane.

B. An insurer may require the following or other documentation to satisfy the requirements of Paragraphs A.2 and A.3:

1. permits;
2. certificates of occupancy;
3. inspection reports; or
4. receipts.

C. The insurer may request additional documentation or proof from an insured, or an inspection of the property, if the insurer has a justifiable basis to question the authenticity or accuracy of any of the information or documentation provided by the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12719. Notice to Producers; Information for Insureds

A. In furtherance of Regulation 94, each insurer shall be responsible to ensure that its producers and authorized representatives are knowledgeable and prepared to properly inform insureds about the actuarially justified discounts available 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12721. Appendix A—Louisiana Hurricane Loss Mitigation Survey Form

Louisiana Hurricane Loss Mitigation Survey Form

Instructions: The homeowner/policyholder shall complete Section I. A qualified inspector shall complete Section II and sign Section III.

Section I: Insured Information

Applicant's/Insured's Name _____

Location Address* _____

Applicant's / Insured's phone number _____

() _____

Home or Business Phone Indicator – H or B

The inspection shall be conducted on each occupiable dwelling on the policy. This survey form does not pertain to accessory structures such as detached garages, storage sheds, barns, etc. Please circle the appropriate answer to each question.

Section II: Inspection Survey

1) **BUILDING CODE:** To what building or residential code was the dwelling constructed?

- A) Louisiana State Uniform Construction Code
- B) Certified by IBHS as a Fortified for Safer Living structure and built above the requirements of the Louisiana State Uniform Construction Code
- C) Neither of the above; built to another code (specify) _____
- D) Unknown, unidentified, or no code

2) **BASIC DESIGN WIND SPEED:** What was the Basic Design Wind Speed used to design and construct the dwelling?

(if in fastest mile speed, convert to 3-second gust)

- A) Less than or equal to 90-mph (3-second gust)
- B) Greater than 90-mph and less than or equal to 100-mph (3-second gust)
- C) Greater than 100-mph and less than or equal to 110-mph (3-second gust)
- D) Greater than 110-mph and less than or equal to 120-mph (3-second gust)
- E) Greater than 120-mph and less than or equal to 130-mph (3-second gust)
- F) Greater than 130-mph and less than or equal to 140-mph (3-second gust)
- G) Greater than 140-mph and less than or equal to 150-mph (3-second gust)
- H) Greater than or equal to 150-mph (3-second gust)
- I) Unknown, unidentified, or no Basic Wind Speed

3) **EXPOSURE CATEGORY:** What Exposure Category was used to design and construct the dwelling? (as defined by ASCE 7)

- A
- B
- C
- D
- Unknown, unidentified, or no Exposure Category

To be completed by Insurer: Insurer: _____ Policy Number: _____ Policy type: _____ Agent: _____

- 4) **SECONDARY ROOF WATER INTRUSION SYSTEM: Is there a complete secondary roof water intrusion system installed over all dwelling roof areas?**
 Y) Yes, on all roof areas
 N) No
 U) Unknown or Unidentified
- 5) **EXTENT OF WIND BORNE DEBRIS PROTECTION: To what extent do the building envelope openings have wind borne debris protection - either protected with external protection devices or deemed impact-resistant through building code approved impact testing?**
(Building envelope openings include, but are not limited to: windows, swinging doors, sliding doors, garage doors, skylights, and door sidelights.)
 A) All Openings—All building envelope openings with and without glass/glazing, including garage doors (if garage doors exist on dwelling or if no garage door exists on dwelling), have wind borne debris protection.
 B) All Openings (except garage doors)—All building envelope openings with and without glass / glazing, excluding garage doors (if garage doors exist on dwelling), have wind borne debris protection.
 C) All Glass/Glazed Openings and Some Openings without Glazing—All building envelope openings with glass/glazing and some building openings without glass/glazing, excluding garage doors, have wind borne debris protection.
 D) Only Glass/Glazed Openings—All building envelope openings with glass / glazing have wind borne debris protection.
 E) Some Glass/Glazed Openings—Some building envelope openings with glass / glazing have wind borne debris protection, but not all.
 F) No wind borne debris protection is provided on any glass/glazed building envelope openings.
 U) Unknown or unidentified
- 6) **TYPE OF WIND BORNE DEBRIS PROTECTION: What is the weakest form of wind borne debris protection used on the structure? (listed in descending order from strongest to weakest)**
 A) Building envelope opening products:
 Have passed the following cyclic loading and windborne debris impact tests – [ASTM E 1886 and ASTM E 1996 (Missiles D or E)] or [Miami-Dade TAS 201 and TAS 203] or [ANSI/DASMA 115 for garage doors only]; and are approved by and included in the State of Florida Product Approval System or the Miami-Dade Code Compliance Office Product Approval System; or
 Are protected with an external protection device that has passed the following cyclic loading and windborne debris impact tests – [ASTM E 1886 and ASTM E 1996 (Missiles D or E)] or [Miami-Dade TAS 201 and TAS 203]; and are approved by and included in the State of Florida Product Approval System or the Miami-Dade Code Compliance Office Product Approval System.
 B) External protection devices that cannot be identified as meeting the requirements in Answer A.
 C) Wood structural panels (plywood or OSB)
 U) Unknown or unidentified
 X) Not applicable because there is no wind borne debris protection.
- 7) **ROOF GEOMETRY: What is the roof shape(s)? (Porches or carports that are not structurally connected to the main roof system are not considered in the roof geometry determination)**
 A) Total Hip Roof Hip roof covering entire structure
 B) Partial Hip Roof Hip roof with no other roof shapes greater than 50% of any major wall length
 O) Other Any other roof shape or combination of roof shapes including hip, gable, flat, gambrel, mansard, and other roof shapes
- 8) **ROOF COVERING SYSTEM: If predominant roof covering on the dwelling is asphalt shingles, have the asphalt shingles passed either ASTM D3161 (Class F) or ASTM D7158 (Class G or H)?**
 Y) Yes
 N) No
 U) Unknown or unidentified
 X) Not applicable because predominant roof covering is not asphalt shingles

- 9) **AGE OF ROOF COVERING: In what year was the roof covering installed?**
 A) _____ (YYYY)
 U) Unknown
- 10) **PREDOMINANT ROOF DECK MATERIAL & ATTACHMENT: What are the predominant roof deck material and its attachment to the dwelling structure below?**
 Type of Roof Deck: _____
 Size and Type of Fastener: _____
 Spacing of Fasteners: _____
- 11) **ROOF-WALL CONNECTION TYPE: What is the weakest form of Roof-Wall Connector used on the dwelling? (listed in descending order from strongest to weakest)**
 A) Double Wraps
 B) Single Wraps
 C) Clips
 D) Toenails
 E) None
 X) Not applicable as roof deck is metal roof deck (pan type), precast concrete panels, or poured-in-place concrete
 U) Unknown or Unidentified
- 12) **GABLE ROOF BRACING: Are the gable roof structure bracing members and system designed and installed in accordance to the Louisiana State Uniform Construction Code?**
 Y) Yes
 N) No
 X) Does not apply because there are no gable or gambrel roof shapes
 U) Unknown or Unidentified
- 13) **FOUNDATION RESTRAINT: Are the floor-to-foundation connections designed and installed in accordance to the Louisiana State Uniform Construction Code?**
 Y) Yes
 N) No
 U) Unknown or Unidentified

Section III - To be completed by a Qualified Professional as specified below:

I certify that I am a Building Code Enforcement Officer, or a 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. 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.

Name (please print): _____
 Firm name: _____
 Title (vendor, owner, officer, or partner): _____
 State of Louisiana license number: _____
 Signature: _____ Date: _____
 Insureds' Signatures: _____ Date: _____
 _____ Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12723. Severability

A. If any Section or provision of this regulation or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of this regulation to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of this regulation and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:92 (January 2008).

§12725. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register. This regulation shall apply to all newly filed rates filed after March 31, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:93 (January 2008).

James J. Donelon
Commissioner

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RULE

Department of Public Safety and Corrections Office of Management and Finance Uniform Construction Code Council

State Uniform Construction Code
(LAC 55:VI.101, 301, 703 and 905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D), R.S. 40:1730.34(B), R.S. 40:1730.37 and R.S. 40:1730.38 relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby amends Rules under §101.A, to change the mailing address for the Uniform Construction Code Council; under §301.A.3, extends the date of the use of the 2003 windzones; allows local jurisdictions to adopt Appendix J of the Residential Code, under §703.B, amends the definition of third party providers in adding homeowners to the list of those people who can contract with third party providers; under §905, allows architects and engineers to register as third party providers after January 1, 2008.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 1. Preliminary Provisions

§101. Request for Rule Change

A. Anyone petitioning the Undersecretary, Department of Public Safety, for the adoption of, or change of, any rule shall submit in writing to the Council Administrator at 7979 Independence Boulevard, Suite 106, Baton Rouge, LA 70806, an application containing the following basic information organized and captioned:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:290 (February 2007), amended LR 34:93 (January 2008).

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such

standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For purposes of this Part, Section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall remain in effect until the 2009 edition of the International Residential Code is published. Part IV-Energy Conservation of the latest edition of the International Residential Code is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. amendment of R301.2.1.1 (Design Criteria);
- b. Item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;
- c. Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;
- d. Item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008).

Chapter 7. Certificates of Registration

§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

A. - A.1. ...

B. Definitions

Third-Party Provider (TPP)—any individual, entity, or an individual employed by an entity, contracted to act in the capacity of a BCEO by an authority having jurisdiction, a licensed contractor, or a homeowner who is exempted from the contractor licensing law under R.S. 37:2170.

C. - C.2.c.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 34:93 (January 2008).

Chapter 9. Temporary Exemption to Certification Requirement

§905. Third Party Providers

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate of registration without certification by a recognized code organization. This provisional certificate shall expire on December 31, 2007. However, beginning January 1, 2008, upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, a third-party provider who is a Louisiana licensed architect