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**TA 278**

**December 7, 2009**

**Subject:** Wind Mitigation **Credit for Homeowners**

**Background:** *“An ounce of prevention is worth a pound of cure.”* Ben Franklin’s famous quip is apropos in so many areas, including insurance. In fact, many of the principles of modern loss prevention reflect this philosophy. Interestingly, Franklin’s original statement was used in the context of risk management. With the severe fire risks that were present in 18<sup>th</sup> century Philadelphia, he organized the Philadelphia Union Fire Company in 1736. This was a mutual-assistance group whose members agreed to work cooperatively to fight fires and minimize property losses – a precursor to a volunteer fighting unit. Several years later, he helped found the Philadelphia Contributorship for Insurance Against Loss by Fire in 1752 – which is still in business today. The Contributorship developed guidelines for assessing the risk potential of buildings – what today we would call underwriting. One of their most noteworthy developments was the creation of fire marks to be placed on buildings. Franklin also used his newly-invented lightning rod as a device for reducing fires due to lightning strikes.

From a broader perspective, the insurance industry has historically played a key leadership role in loss prevention measures, including construction materials and methods, safety equipment and procedures, as well as stronger building codes. For more background information on the role the insurance industry has played in the development of stronger building codes, see Technical Advisory #259 – “New Building Codes – No Pain, No Gain” which is posted on the IIABL web site: [Click here for TA 259.](#)

**Main Points:** Catastrophic losses of all types almost always result in safety reviews which produce improved measures and methods to minimize future losses. In the aftermath of Hurricanes Katrina and Rita in 2005, there was a concerted effort by a number of interest group, including insurance, to strengthen the Louisiana building code. In December 2005, Gov. Blanco signed Act 12 (SB 44) into law, creating the first

uniform, statewide building code. The code became effective statewide on January 1, 2007.

The enactment of the new statewide Louisiana building code created two key actions. First, Louisiana moved to adopt the International Building Codes statewide, although some requirements are more stringent in coastal parishes (such as wind resistance of 130-150 mph).

Second, a 19-member Louisiana State Uniform Construction Code Council was created, with the primary task being to educate and certify building officials who will be inspecting and enforcing the new code. In addition, the Council will review the code every three years.

Another provision of Act 12 amends the Louisiana insurance code with the addition of 22:1407(J), which stipulates: *“Any insurer who makes application to the Louisiana Rating Commission for a rate filing shall provide in their application details as to what discount or reduced rate will be given to insureds who comply with the State Uniform Construction Code.”*

In the 2007 Louisiana Legislative Session, Act 323 was passed, which, among other things, took further steps to implement the rate discount incentives provided in Act 12 from 2005, as provided in 22:1407(J) (see above). Act 323 enacted specific guidelines to incentivize windstorm mitigation efforts by homeowners. Two of the most significant provisions were: (1) to provide a mechanism for insurers to file their own wind mitigation credits, and (2) to establish a certification program for wind mitigation inspectors.

**These two provisions are probably of the most interest to insurance agencies. Therefore, these two steps are recommended:**

**First, agencies need to contact each of their homeowners markets, to see what procedures they have developed to implement the wind mitigation credit for policyholders.**

**Second, agencies need to have a general understanding of who is qualified to conduct the inspection to certify the wind mitigation work once it has been completed, and how a homeowner can locate a certified inspector. The inspection and certification process is handled by the Louisiana State Uniform Construction Code Council. Under rule 12717 of Chapter 127 in the**

**Administrative Code (discussed in more detail further in this article), the form must be signed by a “qualified professional.” Rule 12707 defines this as follows:**

*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.

**The web site for the Louisiana State Uniform Construction Council has a search function to help locate approved inspectors throughout the state. [Click here for their web site.](#)**

Act 323 (referenced above) formalized the wind mitigation credit program through a new section in the insurance code: 22:1426. In 2009, the Legislature redesignated the number of the statute (with no changes in the language of the statute itself) from 22:1426 to 22:1483. Here is the statute:

§1483. Premium discounts, credits, rate differentials, adjustments in deductibles, and other adjustments for compliance with building codes and for damage mitigation

A. Any insurer required to submit rates and rating plans to the commissioner of insurance shall provide an actuarially justified discount, credit, rate differential, adjustment in deductible, or any other adjustment to reduce the insurance premium to insureds who build or retrofit a structure to comply with the requirements of the State Uniform Construction Code.

B. Any insurer required to submit rates and rating plans to the commissioner of insurance shall provide an actuarially justified discount, credit, rate differential, adjustment in deductible, or any other adjustment to reduce the insurance premium to insureds who install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane. Such mitigation improvements or construction techniques shall include but not be limited to roof deck attachments; secondary water barriers; roof coverings; brace gable ends; construction techniques which enhance or reinforce roof strength; roof-covering performance; roof-to-wall strength, wall-to-floor-to-foundation strength; opening protection; and window, door, and skylight strength.

C. The commissioner of insurance, in consultation with the State Uniform Construction Code Council, shall, no later than January 1, 2008, promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section. The rules and regulations may include but not be limited to the following:

(1) Provisions defining and delineating the criteria for discounts, credits, rate differentials, adjustments in deductibles, or any other adjustments to reduce the insurance premium and how such discounts, credits, rate differentials, adjustments in deductibles, or any other adjustments are computed in determining their application in each premium quoted.

(2) Those items necessary for an insurer to compute or otherwise determine the actuarially justified amount of any premium rate reduction, discount, credit, rate differential, reduction in deductible, or other adjustment available to an insured.

(3) Provisions establishing the inspection and certification requirements for insureds who comply with the provisions of this Section.

(4) Recordkeeping requirements for insurers.

Acts 2007, No. 323, §1, eff. July 9, 2007; Redesignated from R.S. 22:1426 by Acts 2008, No. 415, §1, eff. Jan. 1, 2009.

NOTE: Former R.S. 22:1483 redesignated as R.S. 22:1503 by Acts 2008, No. 415, §1, eff. Jan. 1, 2009.

Following these actions by the Legislature, the Louisiana Department of Insurance promulgated Regulation 94, which was later added to the Louisiana Administrative Code, in Title 37, Part XIII, Chapter 127. This spells out the specific details on the windstorm mitigation credit program.

## **Louisiana Administrative Code**

### **Title 37 – Insurance**

#### **Part XIII**

**November 2009 edition**

### **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**

To be completed by Insurer: Insurer: _____ Policy Number:
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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.

Policy type: \_\_\_\_\_

Agent: \_\_\_\_\_

## **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
- 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 \_\_\_\_\_

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).

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The Louisiana Administrative Code is published by the Division of Administration, Office of the State Registrar. [Click here for their online publications of the Administrative Code, which includes Title 37 referenced above.](#)

In February 2009, the Louisiana Department of Insurance issued Bulletin 09-01, which updated some information on Regulation 94.

**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.

**-----end of Bulletin 09-01-----**

One of the key issues addressed in Bulletin 09-01 was the potential misstatement in the certification language specified in one section of Louisiana Hurricane Loss Mitigation Survey Form (see section §12721., above). In Section III of the certification form, which provides for the signature of the certified inspector, the following statement is made:

**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

As Bulletin 09-01 points out, “...*while a WMS [Wind Mitigation Surveyor] 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.*”

Here is the suggested revision from Bulletin 09-01 – emphasis added:

**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 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

Therefore, the Department offers two alternatives. (1) Insurers may amend the language in their wind mitigation forms that incorporates the suggested revised language (above);, or (2) the Wind Mitigation Surveyor may sign a form which has the original language in Section III, but attach 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.

In a statement released following the implementation of the new wind mitigation discount program, Commissioner Donelon commented, “This is another step forward in our efforts to reduce homeowners insurance rates in Louisiana and is a great incentive for home owners to secure their homes against severe hurricane, tornado or windstorm damage.”

The Department has published a brochure on the wind mitigation discount program, titled “*Residential Property Storm Mitigation Incentives*.” [Click here for the brochure.](#)

The Louisiana State Uniform Construction Code Council (LSUCC), which is referenced in Louisiana statute 22:1483, as well as in Chapter 127 of the Administrative Code and in LDI Bulletin 09-01, all cited above, was created by the provisions of Act 12, which was signed in December 2005. Their web site provides much useful information about the procedures for the implementation of the inspections required to certify the discount. It also includes a search feature which can help locate approved inspectors throughout the state. [Click here for their web site.](#)

### **Frequently Asked Questions**

**Q.1. What, if anything, should agencies be doing about the wind mitigation program?**

A. Agencies need to contact each of their homeowners markets, to see what procedures they have developed to implement the wind mitigation credit for policyholders.

**Q.2. Who can certify the wind mitigation form, and how does a homeowner find an approved inspector?**

A. Under rule 12717 of Chapter 127 in the Administrative Code (see above), the form must be signed by a “*qualified professional*.” Rule 12707 defines this as follows:

*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.

The web site for the Louisiana State Uniform Construction Council (LSUCC) has a search function to help locate approved inspectors throughout the state. [Click here for their web site.](#)

**Q.3. What types of buildings are eligible for a wind mitigation credit on their insurance?**

A. See section 12705 of the Administrative Code (above). The wind mitigation credit is available for “residential property insurance.”

**Q.4. What type of work (new or retrofit) qualifies for the wind mitigation credit?**

A. In the Administrative Code, see 12713 (above). The rule lists a number of general categories of upgrades, plus an omnibus catchall category in item #10, which gives insurers the option to develop other criteria which would qualify.

**Q.5. Must the work be done by a contractor, or can a homeowner do the work himself?**

A. Nothing in the statute or Administrative Code address this question. However, the work must be done in compliance with the State Uniform Construction Code, and must be inspected and approved by a certified professional.

**Q.6. How much discount or premium credit will an insurer give for each upgrade towards wind mitigation?**

A. There is no set amount in the statute or Administrative Code. Each insurer must file a schedule of wind mitigation credits with the Department of Insurance.

**Q.7. When is the wind mitigation credit available?**

A. According to LDI Bulletin 90-01 (see above), *“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.”*

**Q.8. Is there a standard form all insurers must use, or can insurers develop their own?**

A. Each insurer may develop their own form, or they may use the form developed by the Department of Insurance, which is found in the Administrative Code – see above, rule 12721: “Louisiana Hurricane Loss Mitigation Survey Form.”

**Q.9. Where can an homeowner obtain a copy of the wind mitigation form?**

A. The form is provided by the insurer of the home.

**Q.10. Who pays for the inspection once the work has been completed?**

A. The homeowner.

**Q.11. Do other states have a wind mitigation discount program?**

A. Yes. Southeastern coastal states including Florida, South Carolina, and Alabama have or are developing similar programs.