



LOUISIANA DEPARTMENT OF INSURANCE  
JAMES J. DONELON  
COMMISSIONER

**BULLETIN 2021-03**

**TO:** ALL AUTHORIZED PROPERTY AND CASUALTY INSURERS AND ALL SURPLUS LINES INSURERS

**FROM:** JAMES J. DONELON, COMMISSIONER

**RE:** GOOD FAITH CLAIM SETTLEMENT PRACTICES AND POLICYHOLDER SERVICE OBLIGATIONS

**DATE:** FEBRUARY 26, 2021

The purpose of Bulletin 2021-03 is to remind insurers of their good faith claims settlement and policyholder service obligations as policyholders continue to struggle with securing estimates and other relevant information in the wake of Hurricane Laura and the aftermath of the recent winter storm.

**Policyholder Communications and Access to Information**

It has been brought to my attention that some insurers are resisting requests from policyholders to obtain a complete copy of their policy. Insurers are reminded that La. R.S. 22:41 entitles a policyholder to receive a duplicate or replacement copy of their complete policy. To that end, insurers should make efforts to expeditiously comply with any policyholder requests for copies of their policy.

It has also been brought to my attention that some insurers are refusing to communicate with their policyholders if the policyholder has hired a public adjuster. This is not allowed. Insurers must always maintain an open line of communication with their policyholders, and the presence of a public adjuster is irrelevant to that obligation.

Insurers are reminded that public adjusters are prohibited from rendering legal advice to the insured, including legal advice regarding policy provisions or coverage issues<sup>1</sup>, and otherwise engaging in the unauthorized practice of law.<sup>2</sup>

Insurers should be cognizant that public adjusters are very different from attorneys when retained to assist a policyholder. Their involvement does not import the type of attorney-client relationship that would impede direct communications by an insurer with

<sup>1</sup> La. R.S. 22:1706(H)(7)

<sup>2</sup> La. R.S. 22:1706(H)(8)

their policyholder. Insurers are not relieved of their obligations to communicate with their policyholder because of the involvement of a public adjuster.

In an effort to ensure that claims are timely processed and unfettered by unwarranted delays in communicating with the policyholder, I am encouraging insureds who experience problems obtaining complete copies of their policies or who have been cut off from communication because they have hired a public adjuster to contact our Office of Consumer Services for prompt investigation and follow-up as warranted.

### **Proof of Loss**

Proof of loss deadlines are common in property and casualty insurance policies but vary in their duration. The Louisiana Insurance Code protects consumers impacted by catastrophic events by extending the policy-specific deadline for filing a proof of loss to not less than 180 days from the date of the loss. This time limit does not commence as long as a declaration of emergency is in existence and civil authorities are denying the insured access to the property.<sup>3</sup>

This statutory extension of the proof of loss deadline does not relieve insureds of their obligation to cooperate with their insurer and to continue advancing their claim by providing documentation requested by the insurer. By the same token, the insurer is not relieved of its good faith obligation to continue working with the insured in evaluating claims beyond the proof of loss deadline, particularly in light of the shortage of contractors and the delays experienced by many insureds in obtaining damage estimates for their property.

To accomplish these efforts, insurers are encouraged to work with their policyholders, as I requested in Bulletin 2021-02. Louisiana policyholders have faced, and continue to face, unprecedented challenges in the recovery process. Not only were these policyholders impacted by multiple hurricanes, but they were already dealing with the challenges of COVID-19 and then recently suffered greatly from the recent winter storm.

As a result of those challenges, I would expect insurers to act reasonably in enforcing their proof of loss requirements, and I would expect policyholders to exert their best efforts to comply with those requirements in a timely manner.

Insurers are reminded that they must attempt, in good faith, to effectuate prompt, fair, and equitable settlements of claims<sup>4</sup> and that they owe their insureds a duty of good faith and fair dealing.<sup>5</sup>

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<sup>3</sup> La. R.S. 22:1264(A)

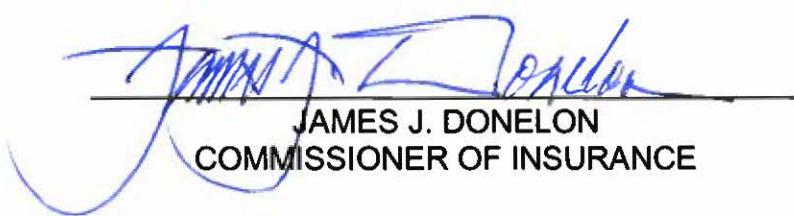
<sup>4</sup> La. R.S. 22:1964(14)(f)

<sup>5</sup> La. R.S. 22:1973(A)

Insurer reasonableness, as outlined above, is necessary not only to protect the general welfare of policyholders, but also to avoid needless future litigation as the parties work together to resolve these claims.

If there are any questions regarding this Bulletin, please contact the Deputy Commissioner for the Office of Property and Casualty, electronically at [public@ldi.la.gov](mailto:public@ldi.la.gov).

Baton Rouge, Louisiana, the 26<sup>th</sup> day of February, 2021.



JAMES J. DONELON  
COMMISSIONER OF INSURANCE