

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6863)
Date	26 June 2006
Reference	Y3838
Subject	Louisiana and Mississippi: insurance contract issues.
Subject areas	Insurance contracts issued in the states of Louisiana and Mississippi
Attachments	Appendix 1 – New law, guidance and requests applicable to insurance contracts in the states of Louisiana and Mississippi
Action points	Managing agents and Lloyd's brokers to note new legislative and regulatory provisions in Louisiana and Mississippi and to ensure coverholders acting on their behalf are advised accordingly.
Deadlines	The provisions come into force at dates as detailed. Some provisions are already in force.

Purpose of bulletin

The Louisiana and Mississippi Insurance Commissioners have issued advisory letters and bulletins covering a number of provisions affecting the conduct of insurance in Louisiana and Mississippi. This bulletin summarises those provisions.

The new provisions

The new provisions are:

Louisiana

Advisory Letter 06-03 *Premium/rate increases contrary to Emergency Rule 23 and the Louisiana Insurance Code.* [Link to document](#)

Advisory Letter 06-04 *Procedures to provide for a 24 month prescription period for policyholders with Hurricane Katrina and Rita claims to file suit.* [Link to document](#)

Mississippi

Bulletin 2006-5 *Senate Bill 2006, Notification of cancellation/ non-renewal to named creditor loss payee.* [Link to document](#)

Bulletin 2006-8 *Statute of Limitations on insurance contracts* [Link to document](#)

The links are to documents on the websites of State Insurance Departments. Please note: [Lloyd's accepts no responsibility for the content of external sites](#)

The appendix to this Market Bulletin summaries and discusses these provisions.

Further Information

In you have any queries about this market bulletin, please contact Lloyd's Worldwide Market Services:

Lloyd's Worldwide Market Services
Tel: 020 7327 6677
Email: market.services@lloyds.com
Box 190b, Gallery 1.

This market bulletin has been sent to active underwriters and to the compliance officers of managing agents and Lloyd's brokers.

Julian James,
Director
Worldwide Markets

New provisions in Louisiana and Mississippi

Louisiana

Both the Advisory Letters summarised below were issued by the Louisiana Department of Insurance to “All authorised and approved unauthorised property and casualty insurers (surplus lines insurers)”. This includes Lloyd’s underwriters carrying on business in Louisiana on a surplus lines basis.

Advisory Letter 06-03 – further interpretation of Emergency Rule 23

Letter 06-03 provides guidance on a particular aspect of Louisiana Emergency Rule 23 (“Rule 23”) (see Lloyd’s market bulletins Y3721 and Y3805), which suspends the right of insurers to cancel or nonrenew insurance contracts covering property in Louisiana damaged by Hurricanes Katrina and Rita in 2005.

Letter 06-03 is concerned with circumstances in which an insurer chooses to continue, extend or renew insurance coverage in order to comply with Rule 23. The Letter says that such continuation, extension, or renewal of coverage must maintain a policyholder at the previous premium/rate and with the same terms and conditions as previously written, subject only to a change to the premium/rate structure “...that is based on objective criteria.”

The “objective criteria” is limited to pre-Katrina and pre-Rita rating and underwriting criteria. Further clarification received from the Louisiana Department of Insurance is that any rating increase must be actuarially supported. A surplus lines insurer may be required to justify to the Department of Insurance that an increase is in direct correlation with objective criteria. Any increase in a premium/rate that is not based on objective criteria (i.e. is not actuarially supported) will create a rebuttable presumption that the insurer’s motivation is to circumvent Rule 23.

Letter 06-03 also reiterates that insurers are required to comply with Rule 23 only until 60 days following substantial completion of the repairs or until 31 December 2006, whichever comes first.

Advisory Letter 06-04 – procedures to extend the prescriptive period on homeowners’ policies from one to two years

Letter 06-04 notes that most homeowners policies issued in Louisiana limit an insured’s right to file suit on a claim to a period of 12 months. It views strict adherence to this 12 month prescriptive period as impractical in view of the large number of claims generated by Hurricanes Katrina and Rita. It therefore urges and requests insurers to file an endorsement or stipulation on or before 1 August 2006 applicable to any insured who filed a homeowner’s claim due to damage caused by Hurricanes Katrina or Rita, granting the insured the right to file suit within two years of the date of the inception of the loss.

It is clearly the wish of the Louisiana Commissioner of Insurance that insurers extend the prescription period on homeowners policies from one year to two years. Nevertheless, the action set out in the Advisory Letter is not mandatory and an insurer may still insist on a one-year prescription period. In view of the Department's instructions, we would suggest that underwriters of homeowners policies insuring policyholders in Louisiana do not enforce strict adherence to a one-year prescription period.

Mississippi

Bulletin 2006-5 - Senate Bill 2006, Notification of cancellation/ non-renewal to named creditor loss payee.

Bulletin 2006-5, dated 2 May, 2006, was issued by the Mississippi Insurance Department and is addressed to "All property and casualty companies and producers". It gives guidance on Senate Bill 2006, which takes effect from 1 July 2006.

Senate Bill 2006 requires insurers writing liability, fire insurance, single premium multi-peril or automobile liability insurance coverage to provide notice of the intent to cancel or nonrenew the coverage to any and all "named creditor loss payees". They must also provide notice if the insured cancels the coverage.

"Named creditor loss payee" is defined to include "any lienholder, creditor, or lessor who has an interest in the insured property and whose existence is made known in writing to the insurer who has written coverage for the said insured property."

The notification should be made in the same manner as that made to the insured and at the same time as notice is given to the insured. The notification shall be given regardless of the reason for the action.

Bulletin 2006-8 – Statute of Limitations on insurance contracts

Bulletin 2006-8, dated 8 June, 2006, refers to the Mississippi Statute of Limitations, Miss. Code Ann § 15-1-49. This statute prescribes a general limitations period of three years after the cause of an action has accrued. Case law has held that the statute applies to insurance contracts.

The Bulletin therefore directs that any provision in an insurance policy that limits the Statute of Limitations for filing a legal action to any period less than three years is null and void. It goes on to say that:

"All Mississippi policyholders have the three year statute of limitations period prescribed by Miss. Code Ann. § 15-1-49 in which to file a legal action, notwithstanding any provision in their policy that states otherwise."

Although this Bulletin is not explicitly addressed to surplus lines insurers, underwriters should assume that its provisions are intended to apply to surplus lines insurance contracts.