

MERLIN

LAW GROUP

515 POST OAK BLVD., SUITE 510
HOUSTON, TEXAS 77027
DEBORAH R. TROTTER, ESQUIRE
LICENSED IN TEXAS, LOUISIANA, MISSISSIPPI, AND FLORIDA

TELEPHONE (713) 626-8880
FACSIMILE (713) 626-8881
DTROTTER@MERLINLAWGROUP.COM

February 22, 2021

James J. Donelon, Commissioner of Insurance
Louisiana Department of Insurance
1702 N. Third Street
P.O. Box 94214
Baton Rouge, LA 70802
commissioner@ldi.la.gov
225-342-5423

RE: Request for Advisory Letter and Extension of the Deadline for Proof of Loss
Deadlines in the Event of Catastrophe Pursuant to L.R.S. 22:1264 Presumption of
Coverage

Dear Commissioner Donelon,

Our firm, Merlin Law Group, P.A., is committed to educating and assisting Louisiana policyholders in understanding their potential rights and obligations in the aftermath of Hurricanes Laura and Delta, and the recent Winter Storm. As a result of our assisting Louisiana policyholders, participating in community outreach programs, and communicating with public adjusters serving in Louisiana, it has come to our attention that many Louisiana residential and commercial property and casualty policyholders have been unable to obtain a complete copy of their insurance policies.

Many policyholders have repeatedly requested a copy of their policies, including all forms and endorsements, from their agents and insurers to enable them to know their rights and obligations under their policies. Some insurers will not respond to the request. Some agents advise they cannot speak to the insureds if they are represented by a public adjuster. Most insurers who do respond provide only a Declaration of Insurance or a Policy Renewal jacket. And at least one

insurer has advised the policyholder that a \$79 fee would be charged for a certified copy of the insurance policy, which includes copy charges, a \$25 Administrative Fee, and a \$25 Processing Fee.

Considering the multiple catastrophes in Louisiana in a six-month timeframe; the 30-day extension of the insurers' required initial of adjustment within 30 days after a claim has been reported; the lack of available adjusters, contractors, and loss consultants; and the insurers' non-responsiveness to Louisiana policyholders' requests for a complete copy of their policy, an Advisory Letter and an extension of the statutory proof of loss deadline and are appropriate.

We request that the Louisiana Department of Insurance issue an Advisory Letter to all Louisiana insurers advising them of Louisiana policyholders' rights to obtain a copy of their insurance policy pursuant to L.R.S. § 22:41 (16):

§41. Policyholder bill of rights

(16) Policyholders shall have the right to a readable policy, to receive a complete property insurance policy, and to request a duplicate or replacement policy as needed.

We have found that policies vary regarding the triggering of the Proof of Loss deadline. Some policies require a proof of loss "upon request." However, some of those "upon request" provisions have been changed in the *Louisiana Changes* to a "loss date" trigger. For policies which maintain a date of loss trigger, the statutory extension only adds a commencement delay for the lifting of civil authority. For many policyholders, the proof of loss deadline is fast approaching as we are nearing the 180-day mark since Hurricane Laura and these policyholders may be unaware. Therefore, we also request an extension of the catastrophe statutory proof of loss deadline provided in L.R.S. § 22:1264:

§ 1264. Presumption of coverage

A. For losses that arose due to a catastrophic event for which a state of disaster or emergency was declared pursuant to law by civil officials, for those areas within the declaration, no damages to covered property shall be automatically denied by the inability of the policyholder to provide sufficient proof of loss within the time limits and requirements of the policy. The time limit for the submission of proof of loss shall be not less than one hundred eighty days. The time limit shall not commence as long as a declaration of emergency is in existence and civil authorities are denying the insured access to the property.

B. For losses that arose due to a catastrophic event for which a state of disaster or emergency was declared pursuant to law by civil officials, for those areas within the declaration, any policyholder with replacement cost provisions shall be entitled to complete repairs to the property within one year from the date of the loss or the issuance of applicable insurance proceeds, whichever is later. Adherence to this provision shall entitle the policyholder with a replacement cost provision to receive full value of the covered damage that has been repaired, without reduction due to depreciation.

C. The provisions of this Section shall be applicable to all new policies and renewal policies delivered in the state of Louisiana after April 18, 2006.

Renumbered from R.S. 22:682 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Added by Acts 2006, 1st Ex. Sess., No. 23, § 1.

In order to allow for equitable and fair adjustment of Louisiana policyholders' claims and to fully inform Louisiana policyholders and insurers of their rights and obligations, we respectfully request that pursuant to the authority of the Louisiana Insurance Code, L.R.S. § 22:1 *et seq.*, and in accordance with the Administrative Procedure Act, L.R.S. § 49:950 *et seq.*, or any other applicable authority, the Louisiana Department of Insurance issue an Advisory letter to "ALL PROPERTY AND CASUALTY RESIDENTIAL AND COMMERCIAL INSURERS ADMITTED OR APPROVED TO ISSUE POLICIES INSURING RISKS IN LOUISIANA AND CLAIMS ADJUSTERS" advising them of Louisiana policyholders' rights to obtain a full copy of their policies and request a six-month extension of the statutory extension of the deadlines for Proofs of Loss pursuant to L.R.S. § 22:1264. Presumption of coverage.

We thank you for the work you do to protect Louisiana policyholders and look forward to working with you to ensure Louisiana policyholders are informed of their rights and benefits under their Louisiana policies of insurance.

Sincerely,

s/Deborah R. Trotter, Esq.

MERLIN LAW GROUP, P.A.

William F. "Chip" Merlin, Jr., Esq.

Deborah R. Trotter, Esq.

515 Post Oak Blvd.

Suite 510

Houston, TX 77027

Tel (713) 626-8880

cmerlin@merlinlawgroup.com

dtrotter@merlinlawgroup.com