



LOUISIANA DEPARTMENT OF INSURANCE

TIMOTHY J. TEMPLE

COMMISSIONER

August 28, 2024

The Honorable Cameron Henry  
President, Louisiana State Senate  
P.O. Box 94183  
Baton Rouge, LA 70804

**ELECTRONIC TRANSMISSION**

[apa.senatepresident@legis.la.gov](mailto:apa.senatepresident@legis.la.gov)

The Honorable Phillip DeVillier  
Speaker, Louisiana House of Representatives  
P.O. Box 94062  
Baton Rouge, LA 70804

**ELECTRONIC TRANSMISSION**

[apa.housespeaker@legis.la.gov](mailto:apa.housespeaker@legis.la.gov)

The Honorable Kirk Talbot  
Chairman of the Senate Insurance Committee  
P.O. Box 94183  
Baton Rouge, LA 70804

**ELECTRONIC TRANSMISSION**

[apa.s-ins@legis.la.gov](mailto:apa.s-ins@legis.la.gov)

The Honorable Michael "Gabe" Firment  
Chairman of the House Insurance Committee  
P.O. Box 94062  
Baton Rouge, LA 70804

**ELECTRONIC TRANSMISSION**

[apa.h-ins@legis.la.gov](mailto:apa.h-ins@legis.la.gov)

RE: Summary Report - Notice of Intent to Amend Regulation 43 - Companies in Hazardous Financial Condition

Dear President Henry, Speaker DeVillier, Senator Talbot, and Representative Firment:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by [La. R.S. 49:966\(D\)\(1\)\(b\)](#) and announces its intention to proceed to finalize Regulation 43, which was published as a Notice of Intent in the July 2024 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments by the expiration of the comment period.

Subject to legislative oversight, the LDI intends to submit the proposed amendment to Regulation 43 to the Office of the State Register for final publication in the October 2024 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with [La. R.S. 49:966\(D\)\(1\)\(c\)](#).

Enclosure: Notice of Intent to Amend Regulation 43 – Companies in Hazardous Financial Condition

proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

**Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

**Public Comments**

Interested persons who wish to make comments may do so by writing to Evelyn Danielle Linkford, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., August 10, 2024.

Timothy J. Temple  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 39—Statement of Actuarial  
Opinion**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed regulation change will not result in additional costs or savings for state and local government units. The proposed regulation change is to repeal Regulation 39 as the guidance it provides is included in the NAIC Annual Statement Instructions, which La. R.S. 22:771 directs insurers to follow.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no impact on state or local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR  
NONGOVERNMENTAL GROUPS (Summary)**

The proposed regulation change will not result in any costs and/or economic benefits to directly affected persons or nongovernmental groups. The proposed regulation change promulgates Regulation 39 due to the NAIC Annual Statement Instructions, which La. R.S. 22:771 directs insurers to follow.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule will have no impact upon competition and employment in the state.

Chris Cerniauskas  
Chief of Staff  
2407#050

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Insurance  
Office of the Commissioner**

Regulation 43—Companies in Hazardous  
Financial Condition  
(LAC 37:XIII.Chapter 13)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 43.

The purpose of the amendment to Regulation 43 is to update the standards which the commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors or the general public in accordance with the model regulation adopted by the National Association of Insurance Commissioners (NAIC).

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 13. Regulation Number 43—Companies in  
Hazardous Financial Condition**

**§1305. Standards**

A. ...

1. - 4. ...

5. whether the insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

6. - 20. ...

21. whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:220 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:1408 (December 1992), amended LR 39:3303 (December 2013), amended by the Department of Insurance, Office of the Commissioner, LR 50:

**Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation

should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the

Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

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#### **Public Comments**

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Timothy J. Temple  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

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