



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

ADVISORY LETTER NO. 2018-01

TO: ALL PROPERTY & CASUALTY INSURERS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: INTERPRETATION AND APPLICATION OF THE SEPARATE NAMED STORM OR HURRICANE DEDUCTIBLE PURSUANT TO LA. R.S. 22:1337

DATE: JUNE 20, 2018

Advisory Letter No. 2018-01 is issued to inform all property and casualty insurers, both admitted and surplus lines, how the separate named storm deductibles or hurricane deductibles are to be interpreted and applied to claims resulting from a subtropical storm which has been named by the National Hurricane Center of the National Weather Service.

It has come to the attention of the Louisiana Department of Insurance (LDI) that there is some confusion as to whether a named storm deductible or hurricane deductible should be applied to claims for damages resulting from a named subtropical storm. This confusion is cause for the LDI to issue Advisory Letter No. 2018-01 to provide guidance to all property and casualty insurers, admitted and surplus lines, as to how they should interpret and apply separate deductibles when damage to an insured property results from a named subtropical storm.

The interpretation and application begins with the understanding of La. R.S. 22:1337. In pertinent part, this law states that all insurers issuing homeowners insurance, or insurance on a one or two-family owner occupied premise, that use a separate deductible that is to be applied in place of any other deductible to loss or damage resulting from a named storm or hurricane shall apply that separate deductible on an annual basis to all named storm or hurricane losses that occur during the calendar year.

Further, if an insured incurs more than one named storm or hurricane loss during a calendar year, the insurer may only apply the balance of any unused separate deductible up to the amount of the separate deductible such that the insured will only incur one separate deductible each calendar year for all losses caused by a named storm or a hurricane.

Given that the insurance policy is a “contract” between the insurer and the insured, both parties are governed by the terms, conditions and definitions set forth in the policy. Each insurer is allowed to use the policy to determine the event that will “trigger” when a separate deductible is to be applied to a claim under the policy and the amount of that separate deductible. Some insurers allow the naming of the storm system by the National Hurricane Center of the National Weather Service to be the trigger for this separate deductible. Other insurers use their own policy form to define when this separate deductible is to be applied.

La. R.S. 22:1337(A) (2) specifically defines a named storm as “a storm system that has been declared a named storm by the National Hurricane Center of the National Weather Service.” Thus, for those policies which provide that a separate “named storm deductible” applies, the operative trigger is whether the storm system is assigned a “name” by the National Hurricane Center of the National Weather Service, regardless of whether it is classified as a subtropical storm, a tropical storm, or a hurricane.

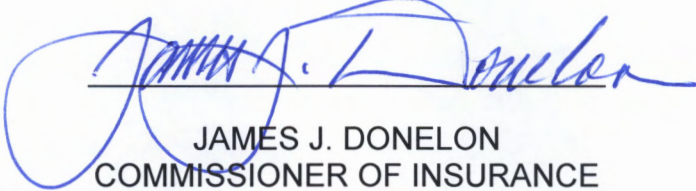
On the other hand, if the policy states that a separate deductible applies to a storm system declared by the National Hurricane Center of the National Weather Service to be a tropical storm or a hurricane, then the separate deductible only applies if the storm system is classified as a tropical storm or a hurricane by the National Hurricane Center of the National Weather Service. In that case, if the storm system is classified as a subtropical storm, the separate deductible would not be triggered, regardless of the fact that the National Hurricane Center of the National Weather Service assigns a “name” to the subtropical storm.

The importance of this, to both the insurer and the insured, is that the specific terms and conditions in the policy will be determinative of whether a separate named storm deductible is to be applied in each given situation.

All property and casualty insurers, both admitted and surplus lines, are hereby advised to interpret and apply the separate named storm deductible or hurricane deductible provided for in their specific policies in the manner compliant with La. R.S. 22:1337 and pursuant to the terms, conditions and definitions set forth in the underlying policy when they are adjusting any claim by an insured that is subject to a separate deductible.

Any questions regarding the interpretation and application of the named storm deductible should be directed to the LDI, by contacting the Deputy Commissioner, Office of Property and Casualty, either by telephone at (225) 342-5203 or by electronic mail at public@ldi.la.gov ..

Baton Rouge, Louisiana this 20th day of June 2018.



JAMES J. DONELON
COMMISSIONER OF INSURANCE