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Emergency Rules

DECLARATION OF EMERGENCY

State Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education at its meeting on June 25, 1981, exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953B, and adopted the following as an emergency rule:

The Board approved Revised Act 754 Regulations (1981) with amendments and directed that these Regulations be advertised as an Emergency Rule to be effective July 1, 1981.

These Revised Act 754 Regulations (1981) are presently being advertised as Notice of Intent to adopt; however, if the normal rule-making procedure is followed, implementation of the Regulations will not be effective until August 20, 1981. This emergency adoption is requested in order for the school systems to know what to expect and how to conduct their special education programs for the coming school year.

James V. Soileau
Executive Director

DECLARATION OF EMERGENCY

Board of River Port Pilots Commissioners

This Board of River Port Pilot Commissioners for the Port of New Orleans has modified its rules as set forth hereinafter, which change in rules takes effect on June 15, 1981.

The rules modified read as follows:

SECTION 1. All applications for admission to the Crescent River Port Pilot apprenticeship program must be in writing, signed by the applicant and presented to the Secretary of this Board. All applications must be accompanied by satisfactory evidence of compliance by the applicant with the following requirements prior to the examination of the application by the Board:

a) Applicants for the apprenticeship program must be of good moral character. Evidence of a clear police record will be considered, but the Board reserves the right to examine other sources of information as to the applicant's character.

b) Applicants for the apprenticeship program must have been registered voters of the State of Louisiana continuously for at least one year prior to submission of the application.

c) The applicant must possess a high school diploma or a General Equivalency Degree prior to submission of an application to the apprenticeship program.

d) The applicant must not have reached his fortieth birthday prior to the inception of balloting of the Pilot Association on his application for admission to its apprenticeship program.

e) The applicant to the apprenticeship program must submit with his application proof that he holds an unlimited license as Master of River, Steam or Motor Vessels, or a license as a third mate of ocean, steam, or motor vessels of any gross tons upon any oceans issued by the United States Coast Guard, or a Bachelor's Degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools.

Each applicant must hold a first class pilot license on the Mississippi River from Southport to the Head of the Passes, and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain. Each applicant must have held such first class pilot license for a period of at least six months,

and have worked in a licensed position as master, mate or pilot aboard a vessel or vessels for a period of at least six months of documented time prior to commencement of his apprenticeship.

f) The applicant for the apprenticeship program must be examined by a physician, clinic or group of physicians of the Board's choosing in respect of the applicant's physical condition prior to being certified as a candidate for the apprenticeship program. The examination report must reflect that the applicant's physical condition is satisfactory to the Board commensurate with the work and responsibilities attendant to pilotage.

The Board shall have no expense or responsibility for the examinations or their results. The applicant submitting to such examinations will hold the Board harmless from any responsibility for any injury or loss incurred as a result of the examination or the reliance by the Board or any others on the results of such examination.

SECTION 2. a) Before receiving a commission, each apprentice must have served a minimum of nine months of apprenticeship in his proposed calling, handling deepwater vessels over the operating territory of the River Port Pilots under the tutelage of not less than 20 commissioned River Port Pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising commissioned River Port Pilots. No petitioner shall be permitted to be examined for licensing who has not made at least 18 trips on the operating territory of the River Port Pilots between Pilottown and the City of New Orleans during each of the nine months of his apprenticeship and served at least one week of each month of the apprenticeship engaged in harbor shifting, docking work and pilotage on the Mississippi River Gulf Outlet. The apprenticeship work must be certified to by the Pilot Association conducting the apprenticeship program during the program. This Board reserves the right to review apprenticeship programs in progress and to make recommendations as to assignments which should be undertaken by the apprentice. This Board reserves the right to reject any apprenticeship program as to any apprentice or to require satisfactory completion of additional or extended apprenticeship.

b) Before completion of the apprenticeship, the apprentice must have endorsements on his United States Coast Guard Licenses as a first class pilot on the Intracoastal Waterway from the Inner Harbor Navigation Canal to and including Michoud, Louisiana, and the Mississippi River Gulf Outlet from its junction with the Intracoastal Waterway to Light 78. Also, prior to completion of the apprenticeship program, the apprentice holding a Bachelors Degree and First Class Pilots License must obtain a license as a Master of Rivers, Steam, or Motor Vessels issued by the U.S. Coast Guard.

SECTION 3. Those applicants who have satisfactorily complied with all of the provisions of Sections 1 and 2, shall be examined by the Board as to their knowledge of pilotage and their proficiency and capability to serve as commissioned River Port Pilots. This examination shall be given in such manner and shall take such form as the Board may, in its discretion, from time-to-time elect.

SECTION 4. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the Governor for his consideration in appointments to commissions as River Port Pilots.

Pursuant to R.S. 49:953 B, this Board of Commissioners has determined that this rule making is emergency in nature, requiring an adoption of the rule changes without prior notice or hearing. The basis for this Board's determination of emergency is the congruence of Louisiana Public Service Commission Order T-14274 mandating the commissioning of 20 Crescent River Port Pilots, together with the determination of the Crescent River Port Pilots Association to open its apprenticeship program for the com-

missioning of new Crescent River Port Pilots in satisfaction of that said Public Service Commission Order. That apprenticeship program would commence prior to the effective date of these proposed rules, should this Board of Commissioners not act on this emergency. The Board of Commissioners has determined that it is to the manifest interest of the people of the State of Louisiana and the shipping industry that entry level qualifications for Crescent River Port Pilots be changed as reflected in these rules to assure that such apprentices will possess those higher standards of qualification and experience which this Board of Commissioners has determined to be necessary to the safe and efficient operation of the Port of New Orleans. Should these modified rules not have been adopted prior to the commencement of that apprenticeship program aforesaid, those proposed pilot apprentices could be accepted for commissioning with lower entry level qualifications or the apprentice program might itself be delayed in derogation of the order of the Public Service Commission.

Captain Gerald L. Jeane
President

Rules

RULE

Department of Commerce Office of Financial Institutions

Under authority granted by R.S. 6:902 B, the Commissioner of Financial Institutions has adopted the following rule for the purpose of providing a means by which State Chartered Savings and Loan Associations may have authority consistent with that granted Federal Associations by Federal Home Loan Bank Board Rules and Regulation 545.6-4a, which was published on page 24148, Volume 46 of the Federal Register dated April 30, 1981.

Rule

Notwithstanding any limitations imposed by Chapter 9, Title 6, Louisiana Revised Statutes, State Chartered Savings and Loan Associations are hereby authorized to make, purchase and participate in adjustable mortgage loan instruments authorized Federal Associations by Federal Home Loan Bank Regulation 545.6-4a. For the information and guidance of State Chartered Associations, the Federal Home Loan Bank Board Regulation is outlined below:

I. Adjustable Mortgage Loan Instruments

(a) **Authorization.** (1) Associations making, purchasing, participating or otherwise dealing in loans pursuant to § 545.6-2(a) of this Part may use adjustable mortgage loan instruments as described in this Section. (2) This regulation is promulgated pursuant to the plenary and exclusive authority of the Board to regulate all aspects of the operations of Federal associations, as set forth in § 5(a) of the Home Owners' Loan Act of 1933, as amended. This exercise of the Board's authority is preemptive of any state law purporting to address the subject of a Federal association's ability or right to make, purchase, participate, or otherwise deal in adjustable mortgage loans, or to directly or indirectly restrict such ability or right.

(b) **Description.** (1) An adjustable mortgage loan is a loan that permits adjustment of the interest rate. Adjustments to the interest rate may be implemented through changes in the payment amount and/or through adjustments to the outstanding principal loan balance or the loan term, provided that the total loan term

may not exceed 40 years, and shall reflect the movement of one of the indices authorized by paragraph (c) of this Section. (2) Adjustments to the principal loan balance are permissible only if the initial payment amount is sufficient to fully amortize the loan and if the payment amount is adjusted at least every five years to a level sufficient to amortize the loan at the then-existing interest rate and principal loan balance over the remaining term of the loan. (3) For purposes of determining compliance with the loan-to-value limitations set out in § 545.6-2(a) of this Part, the Board will assume continued compliance where the original loan-to-value ratio met the requirements of § 545.6-2(a). (4) Prepayment in full or in part of the outstanding principal loan balance may be made without penalty at any time.

(c) **Index.** (1) Adjustments to the interest rate of an adjustable mortgage loan shall correspond directly to the movement of an index authorized by subparagraph (2) of this paragraph, subject to such rate-adjustment limitations, if any, as an association may provide. The amount of a rate adjustment shall reflect the difference between the initial index value and either the index value most recently available as of the date of rate adjustment, if the payment is not simultaneously adjusted, or the index value most recently available as of the date of notification of a payment adjustment. Where the movement of the index permits an interest-rate increase, the association may decline to increase the interest rate by the indicated amount, and the association may decrease the interest rate at any time.

(2) For the purpose of adjusting the interest rate, an association may use any interest-rate index that is readily verifiable by the borrower and is beyond the control of the association. An association may use:

(i) The national average mortgage contract rate for major lenders on the purchase of previously-occupied homes, as computed monthly by the Board, published in the Board's *Journal*, and made available in news releases;

(ii) The average cost of funds to FSLIC-insured savings and loan associations, either for all Federal Home Loan Bank Districts or for a particular District or Districts, as computed semi-annually by the Board, published in the Board's *Journal*, and made available in news releases;

(iii) The monthly average of weekly auction rates on United States Treasury bills with a maturity of three months or six months, as published in the *Federal Reserve Bulletin* and made available by the Federal Reserve Board in Statistical Release G.13(415) during the first week of each month;

(iv) The monthly average yield on United States Treasury Securities adjusted to a constant maturity of one, two, three, or five years, as published in the *Federal Reserve Bulletin* and made available by the Federal Reserve Board in Statistical Release B.13(415) during the first week of each month; or

(v) Any other interest-rate index that meets the requirements of this subparagraph (c) (2).

(d) **Costs or fees.** The borrower may not be charged any costs or fees in connection with regularly-scheduled adjustments to the interest rate, the payment, the outstanding principal loan balance, or the loan term.

(e) **Notice to borrower of payment adjustment.** At least 30 but not more than 45 days before adjustment of the payment, the association shall send written notification to the borrower containing the following information:

(1) The fact that the payment on the loan with the association, secured by a mortgage or deed of trust on property located at the appropriate address, is scheduled to be adjusted on a particular date;

(2) The outstanding balance of the loan on the adjustment date, assuming timely payment of the remaining payments due by that date;

(3) The interest rate on the loan as of the adjustment date, the index value on which that rate is based, the period of time for which that interest rate will be in effect, the next following payment adjustment date, and the rate adjustment dates, if any, between the upcoming payment adjustment date and the next following payment adjustment date;

(4) The payment amount as of the payment adjustment date;

(5) The date(s), if any, on which the rate was adjusted since the last payment adjustment, the rates on each such rate adjustment date, and the index values corresponding to each such date;

(6) The dates, if any, on which the outstanding principal loan balance was adjusted since the last payment adjustment, and the net change in the outstanding principal loan balance since the last payment adjustment;

(7) The fact that the borrower may pay off the entire loan or a part of it without penalty at any time; and

(8) The title and telephone number of an association employee who can answer questions about the notice.

(f) **Disclosure.** An applicant must be given, at the time of receipt of an application, or upon request, a disclosure notice in the following form:

IMPORTANT INFORMATION ABOUT THE ADJUSTABLE MORTGAGE LOAN - PLEASE READ CAREFULLY

You have received an application form for an adjustable mortgage loan ("AML"). The AML may differ from other mortgages with which you are familiar.

GENERAL DESCRIPTION OF ADJUSTABLE MORTGAGE LOAN

The adjustable mortgage loan is a flexible loan instrument. Its interest rate may be adjusted by the lender from time to time. Such adjustments will result in increases or decreases in your payment amount, in the outstanding principal loan balance, in the loan term, or in all three (see discussion below relating to these types of adjustments). Federal regulations place no limit on the amount by which the interest rate may be adjusted either at any one time or over the life of the loan, or on the frequency with which it may be adjusted. Adjustments to the interest rate must reflect the movement of a single, specified index (see discussion below). This does not mean that the particular loan agreement you sign must, by law, permit unlimited interest rate changes. It merely means that, if you desire to have certain rate adjustment limitations placed in your loan agreement, that is a matter you should negotiate with the lender. You may also want to make inquiries concerning the loan terms offered by other lenders on AMLs to compare the terms and conditions.

Another flexible feature of the AML is that the regular payment amount may be increased or decreased by the lender from time to time to reflect changes in the interest rate. Again, Federal regulations place no limitations on the amount by which the lender may adjust payments at any one time, or on the frequency of payment adjustments. If you wish to have particular provisions in your loan agreement regarding adjustments to the payment amount, you should negotiate such terms with the lender.

A third flexible feature of the AML is that the outstanding principal loan balance (the total amount you owe) may be increased or decreased from time to time when, because of adjustments to the interest rate, the payment amount is either too small to cover interest due on the loan, or larger than is necessary to pay off the loan over the remaining term of the loan.

The final flexible feature of the AML is that the loan term may be lengthened or shortened from time to time, corresponding

to an increase or decrease in the interest rate. When the term is extended in connection with a rate increase, the payment amount does not have to be increased to the same extent as if the term had not been lengthened. In no case may the total term of the loan exceed 40 years.

The combination of these four basic features allows an association to offer a variety of mortgage loans. For example, one type of loan could permit rate adjustments with corresponding changes in the payment amount. Alternatively, a loan could permit rate adjustments to occur more frequently than payment adjustments, limit the amount by which the payment could be adjusted, and/or provide for corresponding adjustments to the principal loan balance.

INDEX

Adjustments to the interest rate of an AML must correspond directly to the movement of an index, subject to such rate-adjustment limitations as may be contained in the loan contract. If the index has moved down, the lender must reduce the interest rate by at least the decrease in the index. If the index has moved up, the lender has the right to increase the interest rate by that amount. Although taking such an increase is optional by the lender, you should be aware that the lender has this right and may become contractually obligated to exercise it.

(Name and description of index to be used for applicant's loan, initial index value (if known) or date of initial index value, a source or sources where the index may be readily obtained by the borrower, and the high and low index rates during the previous calendar year.)

Key terms of _____ Federal Savings and Loan Association's adjustable mortgage loan

Following is a summary of the basic terms on the type of AML to be offered to you. This summary is intended for reference purposes only. Important information relating specifically to your loan will be contained in the loan agreement.

(Provide summary of basic terms of the loan, including the loan term, the frequency of rate changes, the frequency of payment changes, the maximum rate change, if any, at one time, the maximum rate change, if any, over the life of the loan, the maximum payment change, if any, at one time, minimum increments, if any, of rate changes, and whether there will be adjustments to the principal loan balance, in the following format:

- Loan Term
- Frequency of rate changes
- Frequency of payment changes

HOW YOUR ADJUSTABLE MORTGAGE LOAN WOULD WORK

Initial interest rate

The initial interest rate offered by _____ Federal Savings and Loan Association on your AML will be established and disclosed to you on (commitment date, etc.) based on market conditions at the time.

(Insert a short description of each of the key terms of the type of AML to be offered to the borrower, using headings where appropriate.)

Notice of payment adjustments

_____ Federal Savings and Loan Association will send you notice of an adjustment to the payment amount at least 30 but not more than 45 days before it becomes effective. (Describe what information the notice will contain.)

Prepayment penalty

You may prepay an AML in whole or in part *without penalty at any time* during the term of the loan.

Fees

You will be charged fees by _____ Federal Savings and Loan Association and by other persons in connection with the origination of your AML. The association will give you an estimate of these fees after receiving your loan application. However, you will not be charged any costs or fees in connection with any regularly-scheduled adjustment to the interest rate, the payment, the outstanding principal loan balance, or the loan term initiated by the lender.

EXAMPLE OF OPERATION OF YOUR TYPE OF AML

(Set out an example of the operation of the type of AML to be offered to the borrower, including, where appropriate, the use of the table)

(g) Transition period. Until July 31, 1981, associations may continue to make, purchase, participate or otherwise deal in variable-rate mortgage loans pursuant to § 545.6-4(c) of this Part or in renegotiable rate mortgage loans pursuant to § 545.6-4(a) of this Part, as those Sections were constituted prior to April 30, 1981.

II. Rescission

(a) This rule rescinds rules published in Volume 6, Number 12, *Louisiana Register*, dated December 20, 1980 and Volume 7, Number 4, *Louisiana Register*, dated April 20, 1981, pertaining to Renegotiable Rate Mortgages (RRM's), effective July 31, 1981.

(b) Until July 31, 1981, State Chartered Savings and Loan Associations may continue to make, purchase, participate or otherwise deal in Renegotiable Rate Mortgages as outlined in the rules referred to in Section II (a) above.

Hunter O. Wagner, Jr.
Commissioner of Financial Institutions

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, shall adopt a rule to implement the Low Income Energy Assistance Program to assist low income households with the high cost of energy.

Eligible households are those with liquid assets such as cash on hand, checking and savings accounts, stock, bonds and credit shares, valued at \$1,500 or less for a single person household and \$3,000 for a multi-person household. Additionally, total monthly income shall not be more than \$276 for a single person household and \$451 for a multi-person household. Eligible households shall be paying for a cooling utility or paying rent which includes an unspecified amount for utilities and shall not be a resident of Low Rent Public Housing or Section 8 Public Housing. Finally, persons under the age of 60 who apply for cooling assistance at the local OFS office shall provide a statement from a medical doctor verifying the applicant's need for cooling assistance.

Applications for assistance will be accepted from August 3, 1981 through August 31, 1981. Payments will be made in the month of September, 1981 to automatic eligibles and to eligible households who apply for cooling assistance at the local OFS office. It is estimated that payments in the month of September to eligible recipients will range from \$55 to \$70 depending upon income and household size.

George A. Fischer,
Secretary
Department of Health and Human Resources

RULE

Department of Insurance Division of Property and Casualty

The Department of Insurance, Division of Property and Casualty, has adopted a rule pursuant to the provisions of Louisiana R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

The purposes of the rule are to accomplish a degree of uniformity in maintenance of solvency as respects a vehicle mechanical breakdown insurer and to establish guidelines relative to trade practices of such insurers.

RULE 6

Section 1 - Authority

This rule is adopted by the Commissioner of Insurance pursuant to the authority vested in him by Chapter 1, Title 22, Section 2, Louisiana Revised Statutes of 1950 as amended, and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

Section 2 - Purpose

The purpose of this rule is to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 520 of the 1978 Regular Session of the Louisiana Legislature. It is designed to facilitate and implement the provisions of that Act. It is intended to supplement and not alter in any manner certain provisions of the Act. A further purpose is to establish reasonable guidelines pertaining to reserves and the adequacy of those reserves, to maintain solvency as respects vehicle mechanical breakdown insurers doing business in this state.

Section 3 - Applicability

Those provisions shall be applicable to any and all entities which may be defined as a "vehicle mechanical breakdown insurer" under the provisions of Act 520 of the 1978 Regular Session of the Louisiana Legislature. The term shall include any person or other entity which receives any fee or compensation for administration of a mechanical breakdown program.

Section 4 - Definitions

When used in this rule, the following words or terms have the meaning described in this section.

(1) "Vehicle mechanical breakdown insurer" means any person or organization, whether domestic, foreign or alien that issues or attempts to issue vehicle mechanical breakdown policies as defined herein.

(2) "Vehicle mechanical breakdown insurance policy" means any contract, agreement, or other instrument whereby a person other than the owner, seller, or lessor of a vehicle assumes the risk of and/or the expense portion thereof for the mechanical breakdown or mechanical failure of a motor vehicle and shall include those agreements commonly known as vehicle service agreements or extended warranty agreements.

(3) "Insurer" means any property or casualty insurer duly authorized to transact vehicle physical damage insurance in this state under provisions of the Louisiana Insurance Code other than Sections 1800 through 1810.

(4) "Commissioner" means the Commissioner of Insurance for the State of Louisiana.

Section 5 - Qualifications

1. Evidence must be submitted to the Commissioner of Insurance that the applicant is a solvent corporation, incorporated under the laws of Louisiana, or another state, district, territory or possession of the United States of America. That evidence must be submitted as required by Form VMB-1 furnished by the Commissioner of Insurance and must be to his satisfaction.

2. The applicant shall furnish such proof as necessary to the commissioner that the directors and management of the company are competent and trustworthy and are capable of successfully managing its affairs in compliance with law. That information