

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6677)
Date	2 November 2005
Reference	Y3660
Subject	Florida: Hurricane Wilma. Emergency Order issued by the Florida Office of Insurance Regulation
Subject areas	The Emergency Order applies to all contracts of insurance and other contracts that are subject to regulation under the Florida Insurance Code in specified counties covering property damaged by Hurricane Wilma.
Attachments	Florida Office of Insurance Regulation Emergency Order 83836-05-EO
Action points	Managing agents and Lloyd's brokers to note and comply with the provisions of the Emergency Order
Deadlines	These requirements apply immediately

Purpose of bulletin

The purpose of this bulletin is to inform the market of the provisions of the Florida Office of Insurance Regulation ("OIR") Emergency Order 83836-05-EO which is now in force. This Emergency Order is intended to provide temporary and emergency relief to persons and risks located in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Osceola, Palm Beach, Polk, St. Lucie and Sarasota Counties (hereinafter referred to as "the specified counties").

Emergency Order 83836-05-EO ("the Order")

[The Emergency Order can be found via this link.](#) Emergency Order 83836-05-EO was issued by the Florida Office of Insurance Regulation on 27 October, 2005. A copy is attached.

The Order is addressed to:

“All insurers, HMOs, Premium Finance Companies, Surplus Lines and other entities regulated by the Office of Insurance Regulation.”

The Order applies to all contracts of insurance and other contracts that are subject to regulation under the Florida Insurance Code issued, delivered or covering a risk in the specified counties. Reinsurance contracts are not subject to the Order. However, ceding insurers must notify the OIR in writing within 10 days of the cancellation or non-renewal of a reinsurance contract reinsuring property risks located in the state.

The Order provides an extension to any time limit imposed upon an insured to perform any act with respect to a contract of insurance and prohibits the cancellation or non-renewal of a policy in specified circumstances. We recommend that any Lloyd's underwriter or Lloyd's broker involved in the transaction of business from Florida familiarises themselves fully with the Order's provisions.

Extension of Time

The Order states that “as to any policy provision, notice, correspondence, or law which imposes a time limit upon an insured to perform any act or transmit information or funds with respect to a contract of insurance, which act was to have been performed on or after October 19, 2005, the time limit shall be extended to November 19, 2005”. The extension of time does not relieve an insured, who has a claim resulting from Hurricane Wilma, from complying with their obligations to provide information and cooperate in the claim adjustment process relative to their property damage claim. The extension of time does not apply to new policies issued on or after 19 October, 2005. The Order states that no interest, penalties or other charges shall accrue or be assessed as the result of the extension of time (although interest owed pursuant to premium financing plans may be assessed).

Cancellations and non-renewal

The Order states that “between October 19, 2005 and November 19, 2005, no insurer or regulated entity shall cancel or non-renew a policy or contract of insurance or issue a notice of cancellation or non-renewal, covering a person, property or risk in the referenced areas unless requested by the insured”.

Furthermore, the Order states that any notice of cancellation issued or mailed the week preceding 19 October, 2005, affecting an insured located in the specified counties, should be withdrawn and reissued to insureds on or after 19 November, 2005.

Additionally, no such policy may be cancelled or non-renewed solely because of claims resulting from Hurricane Wilma.

A cancellation or non-renewal may occur prior to 19 November, 2005 at the written request or written concurrence of the insured.

The Order also states that if a policy was subject to a cancellation or non-renewal notice that would have taken effect from 19 October, 2005 to and including 19 November, 2005, except as outlined above, such notice is not made invalid by the Order, but the insurer must extend the term of the policy through 19 November, 2005, and the premium for the extension will be the appropriate pro rata portion of the premium for the full term of the policy.

The Order states that an insurer unable to cancel or non-renew a policy due to the operation of the Order, may upon proper notice, cancel or non-renew such policy, effective on the date the policy would otherwise been cancelled or non-renewed, in the event the insured has not filed a claim under the policy or paid outstanding premium due.

Other Provisions

An insurer's offer of replacement coverage, which is voluntarily accepted in an affiliated company, does not constitute a non-renewal or cancellation for purposes of the Order.

Any insurer who receives a claim from an insured owing premium may offset the premium due from any claim payment made under the policy.

The Order does not apply to new policies issued on or after 24 October, 2005.

The provisions of the Order do not excuse an insured from the duty to pay premiums for coverage actually provided.

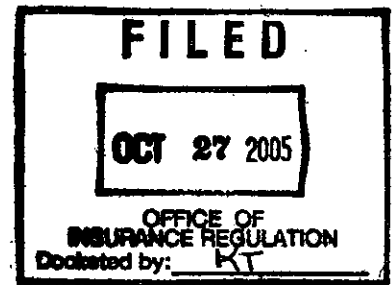
Further information

If 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



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY
COMMISSIONER

IN THE MATTER OF:

Hurricane Wilma;

**Suspension of Certain Rules and Statutes
Based on State of Emergency – Natural Disaster;**

**Extension of Grace Period, Reinstatement,
and Miscellaneous Periods; Limitation on
Cancellations and Nonrenewals;**

Claims Payment Provision.

CASE NO.: 83836-05-EO

EMERGENCY ORDER

**TO: All Insurers, HMOs, Premium Finance Companies, Surplus Lines
and other entities regulated by the Office of Insurance Regulation**

THIS CAUSE having come before the Commissioner of the Office of Insurance
Regulation as a result of the State of Emergency created by Hurricane Wilma, and
being fully informed in the premises,

NOW THEREFORE, the Commissioner hereby **FINDS** as follows:

JURISDICTION AND FINDINGS OF FACT

1. The Office of Insurance Regulation (the "Office") has the duty, pursuant to
Section 624.307(2), Florida Statutes, to enforce the provisions of the Insurance Code

(Chapters 624-632, 634,635, 636, 641, 642, 648, and 651, henceforth, the "Code"). The Office shall have the powers and authority expressly conferred upon it by, or reasonably implied from, the provisions of the Code. Section 624.307(2), Florida Statutes, and as further authorized by Section 252.46, Florida Statutes.

2. Section 120.569(2)(n), Florida Statutes, provides that "if an agency head finds that an immediate danger to the public health, safety or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order..."

3. On October 19, 2005, Florida Governor Jeb Bush, issued Executive Order 05-219, declaring a state of emergency and activated the State Comprehensive Emergency Management Plan. The Florida National Guard activated over 430 soldiers and is planning for the potential need to establish base camps, logistical staging areas, and take other necessary actions. Executive Order 05-219 is attached as **Exhibit 1**.

4. This Emergency Order is being issued pursuant to Section 120.569(2)(n), Florida Statutes, because the facts as stated herein demonstrate that there is an immediate threat to the public health, safety and welfare, as a result of the direct effects of the statewide impact of Hurricane Wilma. As a result of Hurricane Wilma, a Category 3 hurricane, Florida Governor, Jeb Bush, issued a state of emergency and requested, by letter dated October 23, 2005, that the President of the United States, George W. Bush, declare an expedited Major Declaration for the entire State of Florida. Governor Bush's letter dated October 23, 2005 is attached as **Exhibit 2**.

5. On October 26, 2005, the State Coordinating Officer under Executive Order 05-219, issued a Supplemental Order related to Hurricane Wilma, and determined that

the Office will be hindered in the proper performance of its duties and responsibilities in meeting this emergency without the authority to suspend certain statutes in the Florida Insurance Code in order to protect policyholders. The Supplemental Order gives the Office authority to issue emergency rules and orders as outlined specifically in the Order. The Supplemental Order is attached as **Exhibit 3**.

6. The Office has found that Hurricane Wilma has produced significant damages associated with coastal storm surges, high winds, torrential rainfalls, and flooding. Preliminary estimates indicate expected damages between six and 10 billion dollars. The hurricane damage has resulted in the closing of businesses and financial institutions, the suspension of mail service, the displacement of persons from their homes, loss of personal belongings and corresponding temporary loss of employment. There have been six deaths in Florida as the result of Hurricane Wilma and approximately 6 million people are without power and it could be a month before service is restored to all areas. An estimated 10.2 million people, approximately 60% of the state's population, live in the counties affected by Hurricane Wilma. The catastrophic extent of the damage has virtually eliminated the benefit of these statutes which allow insureds specific periods of time to act or respond and has greatly increased the time necessary to make repairs to dwellings, all properties, vehicles, machinery, appliances, equipment, and vessels, in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Osceola, Palm Beach, Polk, St. Lucie and Sarasota Counties. County list derived from FEMA Release, **Exhibit 4** and Governor's October 23, 2005 letter, **Exhibit 3**.

7. The head of the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced on October 23, 2005 that President Bush has ordered the release of federal disaster funds and emergency resources for Florida to aid people battered by Hurricane Wilma. David Paulison, Acting Director of the Federal Emergency Management Agency (FEMA), said the President took the action under a major disaster declaration issued this afternoon immediately after receiving FEMA's analysis of the state's expedited request for federal assistance. The declaration covers damage to private property from the hurricane beginning on October 23, 2005.

8. In the ordinary course of business, insurance companies and premium finance companies send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premium or otherwise respond. Because of the storm damage, lack of electricity, disruption of mail and inability of many of the insureds to stay in their homes, the storm victims are currently unable to timely act or respond and need additional time within which to act in response to these notices. Some insurers and premium finance companies may cancel or nonrenew insurance policies including homeowners' insurance policies on homes which have suffered partial losses. This action leaves the insured uncovered and potentially uninsurable until the dwelling is rebuilt. Other types of coverage such as auto insurance may also be in peril because of the disruption in mail and inability of the insured to receive and respond to mail in a timely manner. This Order provides temporary emergency relief to the insureds so that they are not left uninsured during the remainder of this crisis. Given the Offices' responsibility to protect the consumer and given the immediate,

potentially irreparable harm that would result if a policy is cancelled or nonrenewed because of disruption occasioned by Hurricane Wilma, particularly in the event of another claim, this emergency order is necessary.

9. The nature of the destruction caused by Hurricane Wilma requires an immediate and massive response from insurers and other regulated entities. An Office bulletin addressed to all insurers would reach all insurers but would not be legally binding. Office responses to individual requests for information would not make the information generally available. Also immediate protection is needed to prevent further devastation to innocent insureds.

10. The issuance of this Emergency Order and the procedural safeguards set forth herein are fair under the circumstances due to the potential grave harm described above. As indicated in the Notice of Rights herein, Respondents are afforded an opportunity for a review of this Order.

WHEREFORE, pursuant to the Florida Insurance Code and other applicable statutes, including, Section 120.569(2)(n), Florida Statutes, the OFFICE finds that as a result of the direct effects of the statewide impact of Hurricane Wilma an immediate danger to the public health, safety and welfare exists so as to require the issuance of this Emergency Order.

Accordingly, IT IS HEREBY ORDERED:

(1) This Order applies to all contracts of insurance and other contracts that are subject to regulation under the Florida Insurance Code including, but not limited to:

(a) All policies referenced in Chapter 440, 624, 626, and 627, Florida Statutes;

(b) All policies or contracts issued pursuant to Chapters 641 and 651, Florida Statutes;

(c) Contracts issued by Multiple Employer Welfare Arrangements and Commercial Self-Insurance Trusts; and

(d) Premium Finance Company contracts; issued, delivered, or covering a risk located in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Osceola, Palm Beach, Polk, St. Lucie and Sarasota Counties, which are subject to a state of emergency due to Hurricane Wilma, shall be subject to the provisions of this Emergency Order.

References herein to "policy" or "contract of insurance" includes all agreements regulated under the Insurance Code.

(2) Reinsurance contracts are not subject to this Order, however, ceding insurers shall, within ten (10) days, notify the Office, in writing, of the cancellation or nonrenewal of any reinsurance contract reinsuring property risks located in the State. The notice should be directed to the Bureau of Property and Casualty Financial Oversight.

(3) Any free look period in a variable life policy or variable annuity contract is not extended by this Order.

(4) The primary purpose of this Emergency Order is to provide temporary and emergency relief to persons located in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Osceola, Palm Beach, Polk, St. Lucie and Sarasota Counties.

(5) As to any policy provision, notice, correspondence, or law which imposes a time limit upon an insured to perform any act or transmit information or funds with respect to a contract of insurance, which act was to have been performed on or after October 19, 2005, the time limit shall be extended to November 19, 2005. This extension of time shall not relieve a policyholder who has a claim resulting from Hurricane Wilma from compliance with his obligations to provide information and cooperate in the claim adjustment process relative to his property damage claim. This extension of time shall also not apply to new policies issued on or after October 19, 2005. No interest, penalties, or other charges, shall accrue or be assessed, as the result of the extensions required herein. Interest that is owed pursuant to premium financing plans with premium finance companies or insurers or their affiliates may be assessed.

(6) Between October 19, 2005 and November 19, 2005, no insurer or regulated entity shall cancel or nonrenew a policy or contract of insurance or issue a notice of cancellation or nonrenewal, covering a person, property or risk in the referenced areas unless requested by the insured.

(7) All notices of cancellation issued or mailed the week preceding October 19, 2005, affecting an insured located in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Osceola, Palm Beach, Polk, St. Lucie and Sarasota Counties, shall be withdrawn and reissued to insureds on or after November 19, 2005.

(8) Any insurer who receives a claim from an insured owing premium may offset the premium due from any claim payment made under the policy.

(9) A cancellation or nonrenewal may occur prior to November 19, 2005, at the written request or written concurrence of the policyholder.

(10) Except as provided in paragraphs (6) and (7) with respect to a notice of cancellation or nonrenewal which, but for this Order, would have taken effect from October 19, 2005, to and including November 19, 2005, such notice is not made invalid by this Order; however,

a. The insurer shall extend the coverage to and including November 19, 2005, or a later date specified by the insurer;

b. The premium for the extended term of coverage shall be the appropriate pro rata portion of the premium for the entire term of the policy.

(11) An insurer that was unable to cancel or nonrenew a policy due to the operation of this Order, may upon proper notice, cancel or nonrenew such policy, effective on the date the policy would have otherwise been cancelled or nonrenewed, in the event the insured has not filed a claim under the policy or not paid outstanding premium due.

(12) No policy shall be cancelled or nonrenewed solely because of a claim resulting from Hurricane Wilma.

(13) An insurer's offer of replacement coverage, which is voluntarily accepted in an affiliated company, or made pursuant to a depopulation program, assumption or other arrangement approved by the Office does not constitute a nonrenewal or cancellation for purposes of this Order.

(14) Any insurer who receives a claim from an insured owing premium may offset the premium due to the insurer or a premium finance company from any claim payment made under the policy.

(15) Nothing in this Order shall be construed to exempt or excuse an insured from liability for premiums otherwise due for actual coverage provided.

(16) Replacement of a policy in a subplan of the Florida Workers' Compensation Joint Underwriting Association with a policy in the tier structure of the association as created pursuant to Ch. 2004-266, Laws of Florida, or any other action required to implement Ch. 2004-266, is not subject to this Order.

(17) This Emergency Order shall not apply to new policies issued on or after October 24, 2005.

(18) If the contract of insurance was financed by a premium finance company, the following provisions apply:

(a) Premium finance companies will issue 10-day notices of intent to cancel and cancellation notices in accordance with the terms of the premium finance agreement signed by the insured. In addition, the premium finance company shall be responsible to obtain proof of receipt of each such notice by the insured, which may be accomplished through mailing by certified mail, return receipt requested, or through any other legally admissible method in a court of law. In addition, each such notice shall prominently contain the following statement:

"If you have been displaced through the loss of your home or damage to your home which has caused you to reside elsewhere on a temporary basis, or if

you have temporarily become unemployed due to the destruction caused by Hurricane Wilma, please contact this office at once.

Victims of Hurricane Wilma will receive an automatic extension of time to and including November 19, 2005, to bring their accounts up to date and no late charges will be applied to any late payments received which were due on their accounts during the period of October 19, 2005, to and including November 19, 2005.

Therefore, if you are a victim of Hurricane Wilma, please contact us at once at the number provided at the bottom of this notice so that we may advise you of the status of your account.

If you decide that you no longer need or desire to keep the coverage provided by the insurance policy financed by your contract with us, please contact us at once so that we may instruct you on how to effect cancellation with your insurer."

(b) Upon receipt of a notice of cancellation from the premium finance company, the insurer will process the cancellation requests in accordance with current law, and in accordance with the notice provisions contained in this Order.

(c) The insurer will hold all refunds until November 19, 2005, and proceed as follows:

1. If the insurer receives notice of a claim that occurred on or before November 19, 2005, on the cancelled policy, the coverage that would have been available had the policy not been cancelled shall be extended for that claim.
2. If the premium finance company receives payment from the insured or the insured's agent on behalf of the insured to bring the account up-to-date on or before

November 19, 2005, the premium finance company will send a request for reinstatement to the insurer. Upon receipt of same, the insurer will immediately reinstate the policy with no lapse in coverage.

3. No late charges shall be assessed for any insured who qualifies for protection under this Emergency Order.

4. If the insurer does not receive a claim of loss on a policy for which it has received a notice of cancellation under subparagraph 1. above, nor a request for reinstatement from the premium finance company pursuant to subparagraph 2. above, the insurer will issue the return premium checks to the premium finance company no later than November 27, 2005, based upon the requested cancellation date. This paragraph also applies to any insurer who finances its' own premiums.

(19) This Emergency Order shall not apply to policies for the following kinds of insurance issued by authorized insurers which cover a business that is domiciled or maintains its primary place of business outside of the State of Florida: Surety insurance as defined in s. 624.606, F.S.; Fidelity insurance as defined in s. 624.6065, F.S.; Marine insurance, wet marine and transportation insurance and inland marine insurance as defined in s. 624.607, F.S.; Title insurance as defined in s. 624.607, F.S.; Collateral Protection insurance as defined in s. 624.6085, F.S.; Workers' Compensation insurance as defined in s. 624.605, F.S.; Casualty insurance as defined in s. 624.605, F.S., but limited to coverage of commercial risks other than residential or personal property; and property insurance as defined in s. 624.604, F.S., but limited to coverage of commercial risks other than residential or personal property. Additionally, this Order shall not apply to life insurance policies or annuity contracts that are owned by a person other than the

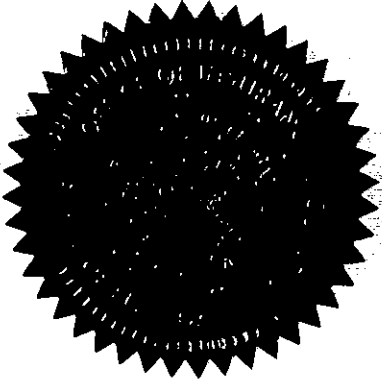
insured or the annuitant or where the premium payer under such policy is a person other than the insured or annuitant and such owner or premium payer does not reside in the referenced counties.

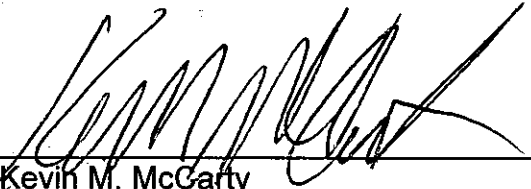
(20) Section 627.4035(3)(b), Florida Statutes, permits insurers to pay claims by debit card or any other form of electronic transfer upon written authorization of the recipient or the recipients representative. Due to the severe and catastrophic impacts of Hurricane Wilma, many insureds are unable to receive or send mail. For the duration of this State of Emergency the requirement of written authorization is waived provided that the insurer verifies the identify of the insured or recipient, does not charge a fee for the transaction, and provided further that in the event the funds are misdirected, the insurer would remain liable for the payment of the claim. This waiver of written authorization applies only to additional living expenses (ALE) and personal property contents claims.

(21) Any insurer that becomes impaired or insolvent due to Hurricane Wilma or the operation of subsequent rules and orders has a duty to report the resulting financial condition to the Office as soon as possible. Notwithstanding any other provisions contained herein, the Office may exempt any insurer from compliance with this Emergency Order if the Office determines that compliance with this Emergency Order may be reasonably expected to result in such insurer being subject to financial regulatory action levels by the Office.

(22) The provisions of this Emergency Order shall be liberally construed to effectuate the intent and purposes expressed therein and to afford maximum consumer protection.

DONE and ORDERED this 27th day of October, 2005.





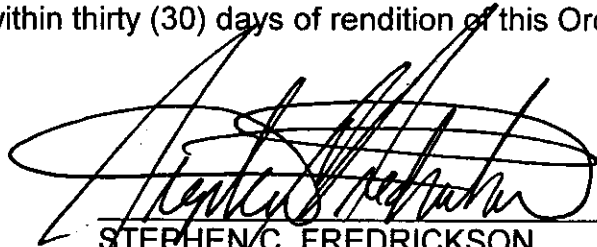
Kevin M. McGarty
Commissioner
Office of Insurance Regulation

EXHIBITS:

1. Executive Order 05-219
2. Governor Jeb Bush's letter to President George W. Bush, October 23, 2005
3. DCA Supplemental Orders
4. FEMA Releases relating to Hurricane Wilma

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to Section 120.68, *Florida Statutes*, and Rule 9.110, *Fla.R.App.P.* Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, acting as the agency clerk, at 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333, and a copy of the same with the appropriate district court of appeal, within thirty (30) days of rendition of this Order.



STEPHEN C. FREDRICKSON

FBN: 350478

Office of Insurance Regulation

Division of Legal Services

200 East Gaines Street, 6th Floor

Tallahassee, Florida 32399

Telephone: 850-413-4144

Facsimile: 850-922-2543