

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6677)
Date	8 December 2005
Reference	Y3695
Subject	Florida Department of Financial Services – Emergency Rule 69JER05-13 <i>“Alternative Procedures for Resolution of Disputed Commercial Lines Residential Insurance Claims Arising from Hurricane and Tropical Storm Damage”.</i>
Subject areas	Mediation procedures for claims arising out of damages caused by hurricanes and tropical storms during the 2004 and 2005 hurricane seasons in Florida
Attachments	None
Action points	Managing agents and Lloyd's brokers to note and comply with the provisions of the Emergency Rule
Deadlines	These requirements apply immediately

Purpose of bulletin

The purpose of this bulletin is to inform the market of the provisions of the Florida Department of Financial Services (“the Department”) Emergency Rule 69JER05-13 (“the Rule”) which is now in force. The Rule applies in Florida to claims for damage caused by hurricanes and tropical storms during the 2004 and 2005 hurricane seasons (1 June to 30 November), to property insured by a commercial residential insurance policy¹.

Emergency Rule 69JER05-13

[The Rule can be found via this link](#). It puts in place a property mediation programme under Florida Statutes 627.7015(4). As well as setting out the processes for mediation under the

¹ Commercial lines residential coverage is defined in Florida Statutes 627.4025 as “the type of coverage provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners’ association.”

programme, it requires insurers to notify commercial residential policyholders of their right to request mediation of their disputed claims. The key points to note are set out in appendix 1.

Managing Agents are required to advise all coverholders writing risks covered by the Rule of its requirements and to provide the Notice at Appendix 2 for issuance where necessary. In respect of open market placements Managing Agents should advise their surplus lines brokers accordingly.

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

Appendix 1

A Summary of Emergency Rule 69JER05 -13**Applicability**

- The Rule applies to all commercial lines residential insurance claims arising out of damages caused by hurricanes and tropical storms during the 2004 and 2005 hurricane seasons (June 1 to November 30 of each year), to property insured by a commercial residential insurance policy. The procedure established by this rule is available to those first party claimants who have commercial residential claims resulting from damage to property located in the state of Florida.
- The rule does not apply to commercial insurance, private passenger motor vehicle insurance or to liability coverage contained in property insurance policies. Personal lines residential insurance claims can be mediated pursuant to a separate rule (see Market Bulletin Y3429, dated 18 November, 2004).
- The Assistant Director of Consumer Services at the Florida Office of Insurance Regulation has advised us that this rule is intended to apply to surplus lines insurers (it does not apply to reinsurers).
- The Rule defines a disputed claim (a “claim” - see (2)(c)). “Claim” means any matter on which there is a dispute or for which the insurer has denied payment. A claim is not subject to mediation unless the amount of difference between the positions of the parties is \$500 or more notwithstanding any applicable deductible. A claim is not subject to mediation when the insurer has reported allegations of fraud involving that claim to the Department’s Division of Insurance Fraud.

Notification

- The insurer is required to mail a notice of the right to mediate disputed claims to the insured within 5 days of the time the insured or the Department notifies an insurer of a dispute regarding the insured’s claim.

The Notice

- Lloyd’s has drafted a Notice in the format required by the Rule to be issued to insureds. The Notice has been approved by Lloyd’s local counsel and by Lloyd’s America. The Notice is attached at Appendix 2.
- The Florida Department sends a listing to Lloyd’s Complaints Department of all of those claims where they have been notified by the insured that there is a dispute.
 - For the purposes of the Rule, claims reported in this way are considered in dispute and Lloyd’s Complaints Department will issue the Notice to the insured.

- All other claims notified by insureds to the insurer will require the surplus lines brokers or coverholders to issue the Notice.

Request for Mediation

The insured begins the mediation process by completing a Commercial Residential Mediation Request Form (available from the Department). Once the Department receives the completed form, the insurer is immediately notified and has 21 days to settle the claim before the request for mediation is further processed.

- The Department will provide Lloyd's Complaints Department with details of those insureds who have requested mediation.
- If the insurer receives a request for mediation directly from the insured they must instruct the insured to call the Department at 1(800) 227-8676 to obtain a Commercial Residential Mediation Request Form.

Mediation

- Lloyd's Complaints Department has established procedures to deal with cases where mediation has been requested and notified to them by the insured directly or via the Department.
- Initial payments of mediation administration fees will be via Lloyd's local counsel. These amounts will then be recovered from the appropriate Underwriters.
- The representative of the insurer attending the mediation conference must be able to do the following:
 - Bring a copy of the policy and entire claims file
 - Know the facts and circumstances of the claim and be knowledgeable of the policy provisions
 - Disburse the settlement amount at the conclusion of the conference.
- For further details of the mediation process and requirements, including the mediation conference statement, please refer to the full text of the Rule.

Appendix 2

Rule No:69JER05-13

*Insert Date***Notification of Right to Mediate**

Tom Gallagher, Chief Financial Officer for the State of Florida, has adopted an emergency rule to facilitate fair and timely handling of commercial residential property insurance claims arising out of the hurricanes that have devastated so many residences in Florida. The emergency rule gives you the right to attend a mediation conference with the insurer in order to settle any dispute about your claim.

An independent mediator, who has no connection with the insurer, will be in charge of the mediation conference. You may begin the mediation process by completing a Commercial Residential Mediation Request Form and returning it to the Department of Financial Services. Forms are available by calling the Department at 1(800) 227-8676 (1-800-22-STORM), by faxing the Department at (850) 488-6372, or by logging onto the Department's website at <http://www.flds.com>.

Once the Department receives your completed Commercial Residential Mediation Request Form, your insurance company will be notified, and will have 21 days to settle your claim before your request for mediation is further processed.

As a Lloyd's policyholder you also have the right to request that your dispute be reviewed by the Lloyd's Complaints Department without prejudicing your right to mediation. Should you wish to take advantage of this facility please feel free to contact the Lloyd's Complaints Department whose details appear below.

The insurer's address and number for additional information is:

Tom George
The Complaints Department
Lloyd's of London
One Lime Street
London EC3M 7HA
England
Telephone: 011 44 20 7327 6390
FreeFax: 1 800 481 3121
E-mail: complaints@lloyds.com

When contacting either the Department of Financial Services or Lloyd's Complaints Department you should provide the following information if known:

- a) Name, address, and daytime telephone number of the insured and location of the property if different from the address given;
- b) The claims and policy number for the insured;
- c) A brief description of the nature of the dispute; and

- d) The name of the insurer and the name, address and phone number of the contact person for scheduling the mediation.

Information with respect to any other policies of insurance that may provide coverage of the insured property for named perils such as flood or windstorm.