

MARKET BULLETIN

From	Senior Manager, International Market Access (extn 6677)
Date	9 February 2007
Reference	Y3964
Subject	Florida: February Tornadoes. Emergency Order issued by the Florida Office of Insurance Regulation
Subject areas	The Emergency Order applies to all insurance contracts subject to regulation under the Florida Insurance Code, covering risks in specified counties, which suffered wind damage in the February tornadoes.
Attachments	Florida Office of Insurance Regulation Emergency Order 89152-07-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 Florida Office of Insurance Regulation Emergency Order 89152-07-EO, which came into force on 2 February 2007.

The Emergency Order

Emergency Order 89152-07-EO ("the Order") is attached to this market bulletin. The Order is addressed to all Property and Casualty Insurers and Surplus Lines Insurers. Surplus lines insurers doing business in Florida, such as Lloyd's underwriters, are therefore subject to the Order.

The Order contains provisions removing or restricting the ability of insurers to cancel or non-renew insurance contracts covering risks sustaining wind loss in the "February tornadoes". The February tornadoes occurred at the beginning of February 2007 in Lake, Seminole, Sumter and Volusia Counties and have resulted in the declaration of a state of emergency in the four counties. All damage sustained in the four counties as a result of the February tornadoes is treated as "wind loss".

The Order's cancellation and non-renewal provisions are set out below.

1. The first provision applies to personal residential and commercial residential property insurance policies covering property damaged by the Florida tornadoes located in the four counties. An insurer may not cancel or non-renew such a policy for a period of 90 days after the dwelling has been repaired.

The only permitted exceptions are contained in Section 627.4133(2)(d), Florida Statutes (see appendix) and must be exercised in accordance with all other applicable statutes and rules of the commission.

2. Other provisions apply to all insurance contracts (and other contracts subject to regulation under the Florida Insurance Code), affected by the Florida tornadoes.
 - Any policy provision, notice, correspondence, or law imposing 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 be performed on or after 2 February, 2007, the time limit shall be extended to 15 April, 2007.

This extension of time does not apply to new policies issued on or after 3 February, 2007. No interest, penalties, or other charges, shall accrue or be assessed, as the result of the extensions required. Interest that is owed pursuant to premium financing plans with premium financing companies or their affiliates may be assessed.

- Between 2 February, 2007 and 15 April, 2007, no insurer 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 damaged as a result of the February tornadoes unless requested by the insured. No such policy may be cancelled or non-renewed solely because of claims resulting from the February tornadoes.
- All notices of cancellation issued or mailed the week preceding 2 February, 2007, affecting an insured who sustained damage in the February tornadoes, shall be withdrawn and reissued to insureds on or after 15 April, 2007.
- Any insurer who receives a claim from an insured owing premium may offset the premium due from any claim payment made under the policy.

Managing agents should ensure that they, and coverholders acting on their behalf, comply with this requirement.

Further Information

In you have any queries about this market bulletin, please contact Lloyd's International Trading Advice:

Lloyd's International Trading Advice

Tel: 020 7327 6677

Email: LITA@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.

James Walmsley,
Senior Manager,
International Market Access

Appendix

Florida Statutes, section 627.4133(2)(d)

(d)1. Upon a declaration of an emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation, an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state which has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency for a period of 90 days after the dwelling or residential property has been repaired. A structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer that is writing policies in this state.

2. However, an insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property:

a. Upon 10 days' notice for non-payment of premium; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the claim;

(II) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or

(III) If the insurer has paid policy limits.



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OFFICE OF INSURANCE REGULATION

**OFFICE OF
INSURANCE REGULATION**

KEVIN M. McCARTY
COMMISSIONER

Docketed by: KT

IN THE MATTER OF:

**February Tornadoes;
Emergency Order; Prohibition on Cancellation
or Nonrenewal of Residential Property
Insurance Covering Property Damaged
by February Tornadoes in Specified Counties**

CASE NO.: 89152-07-EO

EMERGENCY ORDER

TO: All Property and Casualty Insurers and Surplus Lines Insurers

THIS CAUSE having come before the Commissioner of the Office of Insurance Regulation as a result of the State of Emergency created by the February Tornadoes, 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, 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, specifically Section 624.307, Florida Statutes, and as further authorized by Section 252.46, Florida Statutes.

2. Section 252.63, Florida Statutes, provides that, "When the Governor declares a state of emergency pursuant to s. 252.36, Florida Statutes, the commissioner may issue one or more general orders applicable to all insurance companies, entities, and persons, as defined in s. 624.04, that are subject to the Florida Insurance Code and that serve any portion of the area of the state under the state of emergency."

3. On February 2, 2007, Florida Governor Charlie Crist issued Executive Order 07-21, declaring a state of emergency to exist in Lake, Seminole, Sumter, and Volusia Counties because of the wind damage resulting from the severe thunder storms and tornadoes (collectively referred to herein as the "February Tornadoes") which had ravished these four counties. Executive Order 07-21 is attached as Exhibit 1.

4. Section 627.4133(2)(d)1., Florida Statutes, provides that, "Upon a declaration of an emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation, an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state which has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency for a period of 90 days after the dwelling or residential property has been repaired. A structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer that is writing policies in this state."

5. Damage sustained in the four counties as a result of the Florida Tornadoes is "wind loss" within the purview of Section 627.4133(2)(d)1., Florida Statutes.

WHEREFORE, the Commissioner of the Office of Insurance Regulation finds that as a result of the direct effects of the Florida Tornadoes the issuance of an Order pursuant to Sections 252.63 and 624.307, Florida Statutes, is required in order to protect the public health, safety and welfare.

Accordingly, IT IS HEREBY ORDERED:

The following applies to the listed insurance set forth below in paragraph (2), for all persons who suffered wind damage in Lake, Seminole, Sumter, and Volusia Counties as a result of the Florida Tornadoes:

(1) An insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering property damaged as a result of the Florida Tornadoes located in Lake, Seminole, Sumter, and Volusia Counties, for a period of 90 days after the dwelling has been repaired, except as provided in Section 627.4133(2)(d), Florida Statutes, and in accordance with all other applicable statutes and rules of the commission.

(2) In addition, 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 Chapters 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 insuring persons who sustained property damage in the February Tornadoes shall be subject to the provisions of this Emergency Order.

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

(3) 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 February 2, 2007, the time limit shall be extended to April 15, 2007. This extension of time shall not relieve a policyholder who has a claim resulting from the February Tornadoes from compliance with his or her 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 February 3, 2007. 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.

(4) Between February 2, 2007 and April 15, 2007, 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 damaged as a result of the February Tornadoes unless requested by the insured. Furthermore, no such policy may be

cancelled or nonrenewed solely because of claims resulting from the February Tornadoes.

(5) All notices of cancellation issued or mailed the week preceding February 2, 2007, affecting an insured who sustained damage in the February Tornadoes, shall be withdrawn and reissued to insureds on or after April 15, 2007.

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

(7) The Commissioner of the Office of Insurance Regulation may, by written Order, narrow the scope of this order, based upon a determination that it is necessary.

DONE and ORDERED this 2nd day of February, 2007.



A handwritten signature in black ink, reading "Kevin M. McCarty". The signature is written in a cursive style and is positioned above a horizontal line.

Kevin M. McCarty
Commissioner
Office of Insurance Regulation

EXHIBITS:

1. Executive Order 07-21

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.



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All Property and Casualty Insurers
and Surplus Lines Insurers