

FROM: Director, Worldwide Markets EXTN: 5998
DATE: 10 January 2005 REF: Y3480
SUBJECT: **Florida: FINAL Rule concerning the Multiple Hurricane Deductible Reimbursement Program**
SUBJECT AREA(S): Contracts insuring residential property in Florida against hurricanes
ATTACHMENTS: Appendix – SUMMARY OF FLORIDA RULE 69JER05-01 MULTIPLE HURRICANE DEDUCTIBLE REIMBURSEMENT PROGRAM

ACTION POINTS: **Managing agents to note actual requirements and to inform coverholders appropriately**
DEADLINE(S): **Required notices and application forms to be mailed to policyholders by Friday 21 January, 2005**
Within 5 calendar days of this mailing, specified information about the claims concerned must be provided to the Florida Office of Insurance Regulation.

Purpose of bulletin

To tell the market that Rule 69JER05-01 "Multiple Hurricane Deductible Reimbursement Program" came into force on 6 January 2005.

This bulletin follows bulletin Y3479, issued 6 January 2005 on the same subject. The final Rule passed is changed in some respects from the draft on which that Bulletin was based. A summary of the final Rule as put into force is attached (appendix 1). This replaces appendix 1 to bulletin Y3479. However, with the exception pointed out below, the summary of the Program set out on page 2 of bulletin Y3479 remains valid.

As noted in bulletin Y3479, Rule 69JER05-01 requires insurers to mail notices to their policyholders. The date by which they must do so has been put back from 20 January to 21 January, 2005.

The Florida Office of Insurance Regulation has set up a web page with details of the Program, including links to the final Rule in full and to copies of the standard notices that insurers must send. The address is: <http://www.fldfs.com/deductible/>.

Further information

If you have any queries about this bulletin please contact:

Lloyd's Worldwide Market Services
Gallery 1, Box 190b
Tel: 020 7327 6677
Email: market.services@lloyds.com

This bulletin has been sent to active underwriters and the compliance officers of managing agents and Lloyd's brokers.

Julian James
Director, Worldwide Markets

Appendix

FLORIDA RULE 69JER05-01 MULTIPLE HURRICANE DEDUCTIBLE REIMBURSEMENT PROGRAM: SUMMARY OF PROVISIONS

The Rule consists of ten subsections, which are summarised below.

(1) *Purpose and Scope*: “The purpose of this rule is to establish procedures and adopt forms for the implementation of the program for reimbursement of multiple hurricane deductibles on residential property claims...”

(2) *Definitions*. This includes the following definition of “Insurer”:

“(c) Insurer: The term “insurer” as used in this rule includes surplus lines insurance carriers as well as authorized insurance carriers. Actions mandated by this rule to be performed by insurers may at the insurers’ discretion, be performed by representatives acting on the insurers’ behalf.”

It is clear that this Rule is intended to apply to surplus lines insurers, such as Lloyd’s underwriters.

(3) *Specifies the forms to be used by insurers*: These forms are available on the DFS website. For sending to residential policyholders:

Form DFS-I1-1611 – Notice of Multiple Deductible Reimbursement Program – Residential

<http://www.fldfs.com/deductible/forms/DFS-I1-1611.pdf>

Form DFS-I1-1612 – Multiple Deductible Reimbursement Application.

<http://www.fldfs.com/deductible/forms/DFS-I1-1612.pdf>

For sending to policyholders who are condominium associations:

Form DFS-I1-1613 – Notice of Multiple Deductible Reimbursement Program – Condo

<http://www.fldfs.com/deductible/forms/DFS-I1-1613.pdf>

Form DFS-I1-1614 – Multiple Deductible Reimbursement Application.

<http://www.fldfs.com/deductible/forms/DFS-I1-1614.pdf>

The web addresses provided are the sites at which the forms can be found.

(4) *Acquiring Forms*.

Insurers can obtain the forms from their DFS, Division of Consumer Services disaster contact or from its website (see above).

Policyholders should get the forms from their insurer, although a policyholder who does not receive an application form from their insurer by 27 January 2005 may get it from the DFS.

(5) *The notice process*.

1. Insurers shall mail the notice and application forms (from subsection (3)) to all residential property insurance policyholders who:
 - filed claims with the insurer for two or more of the 2004 hurricanes; and
 - to whom the insurer applied more than one hurricane deductible, whether there was a claim payment or not.

The mailing containing these forms must be postmarked and mailed on or before 21 January, 2005.

- (b) The insurer shall include, as part of its mailing either on the application form or a separate document, information which shall serve as documentation from the insurer that an insurance claim was not paid in full or in part, due to application of a deductible. That data shall consist of the following items:
1. Policyholder name(s);
 2. Policy number;
 3. Address of covered property;
 4. Claim numbers of policy holder's hurricane claims;
 5. Florida Company Code;
 6. Amount of hurricane deductible applied under the policy to the claims, if the insurer has that information;
 7. Amount of the payment made, as of the date of the notice, for each hurricane claim;
 8. Any additional information and documentation that the insurer is reasonably able to provide, without manual review of its claim information, which would show that an insurance claim was not paid in full or in part, due to application of a deductible.
- (c) If an insurer receives, and denies a claim for an amount which falls below the amount of a second or subsequent hurricane deductible, the insurer shall provide documentation to the policyholder that the claim is denied based on application of the deductible, and shall mail the notice and application forms referenced in subsection (3) above to the policyholder **within 10 business days of its determination that a second hurricane deductible is applicable**.
- (d) If an insurer is contacted by a policyholder about a loss which, based on the policyholder's representation, falls below the amount of a policy deductible, the insurer is not required to open a claim or verify the value of the loss. In such cases the documentation provided pursuant to paragraph (c) above may, at the election of the insurer, indicate that no loss or claim was paid based on the policyholder's valuation of the loss and that the insurer has not verified the valuation.
- (e) This subsection does not apply to insurers that did not apply more than one deductible to claims resulting from the 2004 hurricane.
- (6) *Collection of data by the OIR.* Requires the OIR to collect data from residential property insurers regarding claims filed by policyholders for two or more hurricanes for the 2004 hurricane season.

Within 5 calendar days of sending the notices and application forms required under subsection (5), the insurer must submit the following information to the OIR:

1. Insured's full name as it appears on policy;
2. Address of insured property;
3. Policyholder's mailing address;
4. Florida Company Code;
5. Company Name;
6. Policy Number;
7. Number of residential units insured under policy as to which the claim was filed;
8. Number of insured locations under policy;
9. Claim number;
10. Date of Loss;
11. Name of storm;
12. Amount of claim paid, if any, up to the date the information is provided;

13. Deductible amount per insured location;
14. Amount of the claim to which the deductible was applied.

Within 5 calendar days of receiving a request and verification from the DFS of the policyholder's claim for reimbursement and authorization to release information the insurer must give the DFS any information in the insurer's files that would assist the DFS in determining the validity and reasonableness of a claim for reimbursement. .

- (7) *Claims submission process.* Sets out how policyholders must make their applications for reimbursement of deductibles.
 - (a) Eligible policyholders apply on the application forms provided by insurers.
 - (b) Mailed application forms must be postmarked or actually received by 1 March, 2005.
 - (c) Policyholders whose property was damaged by two or more hurricanes in 2004, who would have been entitled to compensation but for a multiple deductible and who did not file a claim because of the deductible shall contact their insurer and submit an application along with documentation from the insurer.
- (8) *Different insurers on the risk for different hurricanes.* If different insurers covered property for different hurricanes, as a result of nonrenewal, cancellation or otherwise, the deductibles applied by the separate insurers shall be aggregated to achieve eligibility for the reimbursement program.
- (9) *Processing of claims.* Claims for reimbursement will be divided into two categories: Priority One and Priority Two. Priority One Claims are those of policyholders who received claims payments from their insurer for two or more hurricanes for which each payment was reduced by the full amount of the deductible. Priority Two Claims are all other claims of policyholders who meet the eligibility criteria. Priority One Claims will be paid before Priority Two Claims.
- (10) *Assignment of rights under the Program.* As the Program is for the benefit of policyholders only, no assignment of rights to reimbursement under the program is permitted. However, the right to reimbursement may be devised or inherited, or may be acquired by a lender under a mortgage agreement secured by the property to which the reimbursement application applies.