

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6677)
Date	10 February 2006
Reference	Y3744
Subject	Florida Department of Financial Services – Emergency Rule 69JER06-01 “Mediation Procedures for Resolution of Disputed Personal Lines Insurance Claims Arising from the 2004 and 2005 Hurricanes and Tropical Storms”
Subject areas	Personal lines claims for damage to residential property caused by hurricanes and tropical storms during the 2004 and 2005 hurricane seasons in Florida.
Attachments	Appendix 1: A summary of Emergency Rule 69JER06-01 Appendix 2: Notice of Right to Mediate
Action points	Managing agents and Lloyd’s brokers to note and comply with the provision of the Emergency Rule
Deadlines	The Rule takes effect upon being filed with the Florida Department of State.

1 Purpose of bulletin

To inform the market of mediation procedures in Florida for personal lines residential insurance claims arising during the 2004 and 2005 hurricane seasons.

2 Emergency Rule 69JER06-01

The Florida Department of Financial Services (“the Department”) has issued Emergency Rule 69JER06-01 (“the Rule”). The Rule applies to Florida personal lines insurance claims arising out of damages to residential property caused by the hurricanes and tropical storms during both the 2004 and 2005 hurricane seasons (June 1 to November 30 of each year). The Rule is not yet available on the Department’s website, but a version is available in ["Florida Administrative Weekly"](#). A summary of the Rule is set out in Appendix 1.

The Rule puts in place a property mediation programme under Florida Statutes 627.7015(4). It requires insurers to notify personal lines residential property policyholders of their right to request mediation of their disputed claims. It also creates procedures for a

notice of the right to mediation, requesting mediation, assignment of mediators, payment for mediation, scheduling mediation conferences, and the conduct of the mediation conference.

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

3 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
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Appendix 1

A Summary of Emergency Rule 69JER06-01**Applicability**

- The Rule applies to all personal lines claims arising out of damages to residential property 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 personal lines residential insurance policy. The procedure established by this rule is available to those first party claimants who have personal lines claims resulting from damage to residential property located in the state of Florida.
- The Rule does not apply to private passenger motor vehicle insurance or to liability coverage contained in property insurance policies. This Rule does not apply to commercial insurance – refer to market bulletin Y3685 dated 8 December 2005, for details of mediation procedures for the resolution of disputed commercial lines residential insurance claims.
- As per similar previous mediation procedures it is intended that the Rule applies to surplus lines insurers.
- The Rule defines a disputed claim (a “claim” – (2)(b)). “Claims” 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 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 is attached at Appendix 2. The notice must be printed in at least 12-point type.
- The notice may be mailed along with the Department’s consumer brochure on mediation but no other materials, forms or documents should be included.
- 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

- Either an insured or an insurer can request mediation.
- The insured can request mediation 21 days after the date of the notice of the right to mediate by contacting the insurer or by calling, faxing or writing to the Department. If the insurer receives a request for mediation directly then the insurer must fax the request to the Mediation Section within 48hours of the request.
- An Insurer can request mediation by faxing a written request to the Department at 001 (850) 488 6372. The insurer must provide a copy of its written mediation request to the insured at the same time as it submits the request to the Department. The Rule states that the request should contain the information laid out in subsection (4)(a).

Costs

- The insurer must bear all of the cost of conducting mediation conferences.
- Within 5 days of receipt of the request for mediation or receipt of notice of the request from the Department or immediately after receipt of notice from the Administrator, whichever occurs first, the insurer must pay a non-refundable administrative fee of \$350 to the Administrator to defer the expenses of the Department. This includes the mediator's fee.
- Initial payments of mediation administration fees will be paid via Lloyd's Complaints Department. These amounts will then be recovered from the appropriate Underwriters.

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.
- The representative of the insurer attending the mediation conference must:
 - Bring a copy of the policy and the entire claims file.
 - Know the facts and circumstances of the claim and be knowledgeable of the policy provisions

- Have authority to settle the full amount of the claims or to 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 69JER06-01

*Insert date***Notification of Right to Mediate**

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

An independent mediator, who has no connection with your insurer, will be in charge of the mediation conference. You can start the mediation process 21 days after the date of this notice by calling the Department of Financial Services at 1(800)227-8676 (1(800)22-STORM). The mediator will be selected by the Department of Financial Services or by the Administrator.

You may also request mediation by contacting the Department of Financial Services in the following ways:

By writing to: Department of Financial Services
Mediation Section
Bureau of Education, Advocacy, and Research,
Tallahassee
Florida 32399-4212.

Or by fax: (850) 488-6372

Both parties have 21 days from the date of the notice within which to settle the claims before you can request mediation.

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, e-mail address and daytime telephone number of the insured and location of the property if different from the address given;
- b) The claim and policy number for the insured;
- c) A brief description of the nature of the dispute;
- d) The name of the insurer and the name, address, e-mail address and phone number of the contact person for scheduling the mediation; and
- e) 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.