

**PROGRAM DIVISION
BULLETIN**

2005-62

October 28, 2005

**Florida Emergency Order on Cancellation of Policies
Admitted and Surplus Lines**

Florida has issued an **Emergency Order** (Case No: 83768-05-EO) in the wake of Hurricane Wilma. A copy of the order, the news release and notice of cancellation, non-renewal or renewal premium statute 627.4133 are attached for your reference.

The Emergency Order states: An insurer may not cancel or non-renew a personal residential or commercial residential property insurance policy covering a dwelling or residential property 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 has been damaged as the result of hurricane or wind loss resulting from Hurricane Wilma, 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.

As noted in this section of the statute 627.4133(2)(d) - However, an insurer or agent may cancel or non-renew such a policy prior to the repair of the dwelling or residential property: a. Upon 10 days' notice for nonpayment of premium; or b. Upon 45 days' notice: (1) For a material misstatement or fraud related to the claim; (11) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or (111) If the insurer has paid policy limits.

If you have any questions please contact your Program Manager.

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**LEXINGTON INSURANCE COMPANY
PROGRAM DIVISION**

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FILED

OCT 25 2005

OFFICE OF INSURANCE REGULATION

OFFICE OF
INSURANCE REGULATION

Docketed by: KT

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

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

CASE NO.: 83768-05-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 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, specifically 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. This Emergency Order is being issued pursuant to Section 627.4133(2)(d), Florida Statutes, which authorizes the Commissioner of Insurance Regulation to issue an Order invoking the provisions of this subsection upon the declaration of an emergency pursuant to Section 252.36, Florida Statutes.

4. On October 19, 2005, Florida Governor Jeb Bush, issued Executive Order 2005-219, declaring a state of emergency and activated the State Comprehensive Emergency Management Plan. Executive Order 2005-219 is attached as **Exhibit 1**.

5. As a result of Hurricane Wilma, Florida Governor, Jeb Bush, declared 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 and requested individual assistance for 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. Governor Bush’s letter dated October 23, 2005 is attached as **Exhibit 2**.

6. Due to the severe and continuing impacts of the 2004 Hurricane Season, there continues to be a lack of availability of contractors to expeditiously repair damaged properties.

7. The head of the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced on October 24, 2005, that President Bush has ordered the release of federal disaster funds and emergency resources for Florida to aid people battered by Hurricane Wilma. Acting Director of the Federal Emergency Management Agency (FEMA), David Paulison, 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. FEMA's Release is attached as **Exhibit 3**.

8. The issuance of this Emergency Order and the procedural safeguards set forth herein are fair under the circumstances due to the state of emergency that exists. As indicated in the Notice of Rights herein, Respondents are afforded an opportunity for a review of this Order.

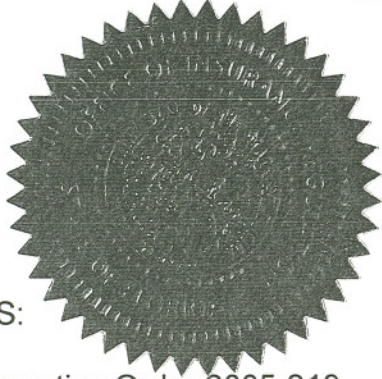
WHEREFORE, the Commissioner of the Office of Insurance Regulation finds that as a result of the direct effects of the impact of Hurricane Wilma the issuance of an Order implementing the provisions of Section 627.4133(2)(d), Florida Statutes, is required in order to protect the public health, safety and welfare.

Accordingly, IT IS HEREBY ORDERED:

An insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property 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 has been damaged as the result of hurricane or wind

loss resulting from Hurricane Wilma, 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.

DONE and **ORDERED** this 25th day of October, 2005.





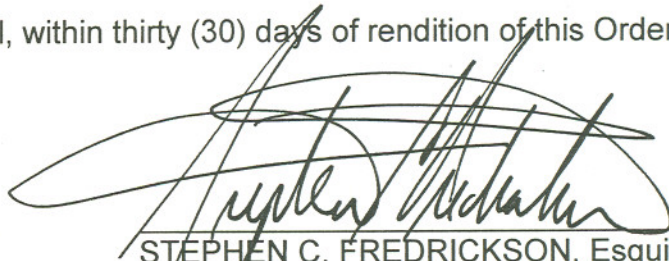
Kevin M. McCarty
Commissioner
Office of Insurance Regulation

EXHIBITS:

1. Executive Order 2005-219.
2. Governor Jeb Bush's letter to President George W. Bush, dated October 23, 2005.
3. FEMA Release 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, Esquire

FBN: 0350478

Office of Insurance Regulation

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Copies Furnished:

All Property and Casualty Insurers
and Surplus Lines Insurers

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 05-219

WHEREAS, on July 7, 2005, Executive Order 05-139 declared a state of emergency because of Hurricane Dennis, which passed near the Keys and West Coast of the State of Florida, made landfall on the Panhandle of the State of Florida as a Category Three Hurricane on July 10, 2005, and caused millions of dollars worth of damage to property and rendered homes and other buildings unsuitable for use and habitation; and

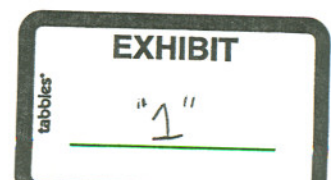
WHEREAS on August 24, 2005, Executive Order 05-176 declared a state of emergency because of Hurricane Katrina, which made landfall in South Florida on August 25, 2005, as a Category One Hurricane, causing hundreds of thousands of dollars worth of damage to property in Monroe County, and later devastated the Gulf Coast, causing additional property damage in the Panhandle of Florida; and

WHEREAS, on September 18, 2005, Executive Order 05-183 declared a state of emergency because of Tropical Depression 18, which became Hurricane Rita and grazed the Florida Keys as a Category Two Hurricane on September 20, 2005, causing hundreds of thousands of dollars worth of damage to property in Monroe County; and

WHEREAS, the State of Florida is now trying to recover from the cumulative impact of Hurricane Rita, Hurricane Katrina, Hurricane Dennis and the 2004 hurricanes, and to provide assistance to evacuees from Gulf Coast areas devastated by Hurricane Katrina; and

WHEREAS, on October 18, 2005, the National Hurricane Center advised that Hurricane Wilma formed in the northwestern Caribbean Sea, or about 500 miles to the south of Key West, Florida, with sustained surface winds of 80 miles per hour; and

WHEREAS, on October 19, 2005, the National Hurricane Center has advised that Hurricane Wilma has strengthened further to Category 5 hurricane status (175 mph), and has



the potential to make landfall as a Category 4 (135 mph) in or near the Florida Keys or southwest Florida by Saturday, October 22, 2005.

WHEREAS, the National Hurricane Center has also advised that Hurricane Wilma could produce in excess of 6 inches of rainfall across portions of the Florida peninsula; and

WHEREAS, Hurricane Wilma threatens a number of communities in the State of Florida with extreme weather conditions that pose an immediate danger to the lives and property of the residents of those communities; and

WHEREAS, it is likely that Hurricane Wilma will strike those communities, so that the immediate evacuation of persons from those communities is vital to the safety of the residents; and

WHEREAS, special equipment, personnel and other resources may be needed in order to ensure the timely evacuation of persons from the threatened communities and the safe movement of the evacuees to other communities in the State acting as destinations for the evacuees; and

WHEREAS, central coordination and direction of the use of such resources for the local evacuation measures are needed to ensure the timely evacuation of the threatened communities; and

WHEREAS, additional emergency measures may be needed to protect the lives and property of the people in the threatened communities and the general welfare of the State of Florida;

NOW, THEREFORE, I, JEB BUSH, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I hereby find that Hurricane Wilma, alone and in combination with the destruction caused by Hurricane Rita, Hurricane

Katrina, Hurricane Dennis and the 2004 hurricanes, threatens the State of Florida with a major disaster. I, therefore, declare that a state of emergency exists in the State of Florida, and that the evacuation of multiple counties in the State may be necessary because of Hurricane Wilma. I further find that central authority over the evacuation of these counties is needed to coordinate these evacuations, that these evacuations exceed the capability of the local governments in these communities, and that shelters in other counties are needed to accommodate the evacuees. I therefore declare that a state of emergency also exists in all destination counties that open shelters to accommodate evacuees from the communities threatened by Hurricane Wilma.

Section 2. I hereby incorporate Executive Order 05-183 by reference into this Executive Order. All mission assignments and orders issued by the State Coordinating Officer and Deputy State Coordinating Officers in connection with Hurricane Rita under the authority of Executive Order 05-183, are hereby ratified and extended as if issued on this date. Executive Order 05-183 is also hereby extended, so that its date of expiration will coincide with the expiration of this Executive Order.

Section 3. I hereby designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and as my Authorized Representative. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. In accordance with Sections 252.36(1)(a) and 252.36(5), Florida Statutes, I hereby delegate to the State Coordinating Officer the following powers, which he shall exercise subject to the limitations of Section 252.33, Florida Statutes, as needed to meet this emergency:

- A. The authority to activate the Comprehensive Emergency Management Plan;
- B. The authority to invoke and administer the Statewide Mutual Aid Agreement, and the further authority to coordinate the allocation of resources under that Agreement so as best to meet this emergency;

C. The authority to invoke and administer the Emergency Management Assistance Compact and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources to and from such other states that are made available under such compacts and agreements so as best to meet this emergency;

D. The authority to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency;

E. The authority to distribute any and all supplies stockpiled to meet the emergency;

F. In accordance with sections 252.36(5)(a) and 252.46(2), Florida Statutes, the authority to suspend existing statutes, rules, ordinances, and orders for the duration of this emergency to the extent that literal compliance with such statutes, rules, ordinances, and orders may be inconsistent with the timely performance of disaster response functions;

G. The authority to direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command of the State Coordinating Officer to meet this emergency;

H. The authority to activate the Continuity of Operations Plans of all state, regional and local governmental agencies;

I. The authority to seize and utilize any and all real or personal property as needed to meet this emergency, subject always to the duty of the State to compensate the owner;

J. The authority to order the evacuation of all persons from any portions of the State threatened by the disaster, the authority to direct the sequence in which such evacuations shall be carried-out, and the further authority to regulate the movement of persons and traffic to, from, or within any location in the State to the extent needed to cope

with this emergency;

K. The authority to reverse the flow of traffic on any and all highways or portions of highways of the State Highway System as needed to facilitate the evacuation of the affected communities;

L. The authority to regulate the return of the evacuees to their home communities;

M. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency; and

N. The authority to enter such orders as may be needed to implement any or all of the foregoing powers.

Section 4. I hereby order the Adjutant General to activate the Florida National Guard for the duration of this emergency, and I hereby place the National Guard under the authority of the State Coordinating Officer for the duration of this emergency.

Section 5. I hereby direct each county in the State of Florida, at the discretion of the State Coordinating Officer, to activate its Emergency Operations Center and its County Emergency Management Plan, as needed, to ensure an immediate state of operational readiness, and I further direct each county in the State, at the discretion of the State Coordinating Officer, to open and activate all shelters to accommodate all evacuees.

Section 6. I hereby direct all state, regional and local agencies to place any and all available resources under the authority of the State Coordinating Officer as needed to meet this emergency.

Section 7. I hereby designate all state, regional and local governmental facilities including, without limiting the generality of the foregoing, all public elementary and secondary schools, all community colleges, and all state universities, for use as shelters to ensure the proper reception and care of all evacuees.

Section 8. I find that the special duties and responsibilities resting upon some

state, regional and local agencies and other governmental bodies in responding to the disaster may require them to deviate from the statutes, rules, ordinances, and orders they administer, and I hereby give such agencies and other governmental bodies the authority to take formal action by emergency rule or order in accordance with sections 120.54(4) and 252.46(2), Florida Statutes, **to the extent that such actions are needed to cope with this emergency.**

Without limiting the generality of the foregoing, I hereby order the following:

A. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to suspend the effect of any statute, rule, ordinance, or order of any state, regional, or local governmental entity, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, and the conditions of employment and the compensation of employees, but any such statute, rule, ordinance, or order shall be suspended **only to the extent necessary to ensure the timely performance of disaster response functions as directed by the State Coordinating Officer.**

B. I hereby give all agencies of the State with employees certified by the American Red Cross as disaster service volunteers within the meaning of section 110.120(3), Florida Statutes, the authority to release any such employees for such service as requested by the American Red Cross as needed to meet the emergency.

C. I hereby direct the Department of Transportation to waive the collection of tolls and other fees and charges for the use of the Turnpike and all other transportation facilities, regardless of whether such facilities are components of the State Highway System, to the extent such waiver may be needed to facilitate the evacuation of the affected communities; to reverse the flow of traffic on any and all highways or portions of highways of the State Highway System as may be needed to facilitate the evacuation of the affected communities; to close any and all highways or portions of highways as may be needed for the

safe and efficient transportation of evacuees to those counties the State Coordinating Officer may designate as destination counties for evacuees in this emergency; to suspend enforcement of Florida registration, weight limits, and fuel tax requirements for apportioned vehicles and the hours of service requirements for such vehicles and any vehicles transporting emergency equipment, services and supplies; by special permit to designate alternate size and weight restrictions for all such vehicles for the duration of the emergency; and to waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services, to the extent such waivers are needed to meet this emergency.

D. At the request of the Director of Emergency Management of any county, I hereby direct the Department of Health to take over the operation of all shelters in that county that are intended for use by those evacuees with special personal, medical or psychological needs, and to station licensed medical professional and paraprofessional personnel at those shelters as needed to provide appropriate reception and care for such evacuees.

E. I hereby give all agencies of the State the authority to allow overnight stays by employees of the State who travel a distance of less than fifty (50) miles for the performance of official duties in connection with this emergency, and the authority to allow employees of the State reimbursement for the cost of meals during Class C travel incurred in connection with this emergency.

F. I hereby give all agencies of the State responsible for the use of state buildings and facilities the authority to close such buildings and facilities in those portions of the State affected by the emergency, to the extent needed to meet this emergency.

G. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to abrogate the time requirements, notice requirements, and

deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such applications are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are hereby suspended and tolled to the extent needed to meet this emergency.

Section 9. I hereby find that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies may be inadequate to pay the costs of this disaster. In accordance with Section 252.37(2), Florida Statutes, to the extent that funds appropriated to the agencies of the State and to local agencies may be inadequate to defray the costs of this disaster, I hereby direct the transfer of sufficient funds from any unappropriated surplus or from the Budget Stabilization Fund. As directed by the State Coordinating Officer, agencies of the State of Florida and local agencies receiving these funds shall timely seek reimbursement for the State of Florida as provided under Section 252.929, Florida Statutes, the Emergency Management Assistance Compact, and other compacts, agreements, and laws.

Section 10. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by States other than the State of Florida shall be allowed to render such services in the State of Florida during this emergency for persons affected by the disaster, with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Section 11. In accordance with sections 501.160(2) and 501.160(3), Florida Statutes, I hereby place all persons on notice that it is unlawful for any person in the State of Florida to rent or sell, or offer to rent or sell at an unconscionable price, any essential equipment, services, or supplies, the consumption or use of which is necessary because of the emergency. Such services shall include, without limiting the generality of the foregoing, any

rental of hotel, motel, or other transient lodging facilities, and any rental of storage facilities. In accordance with section 501.160(1)(b), Florida Statutes, any price exceeding the average price for such essential equipment, services, or supplies for the thirty (30) days immediately preceding the date of this Executive Order shall create a presumption that the price is unconscionable unless such increase is caused by actual costs incurred in connection with such essential equipment, services, or supplies, or is caused by national or international economic trends.

Section 12. All state agencies that enter emergency final orders or rules, or take other final actions based on the existence of this emergency shall advise the State Coordinating Officer in writing of the action taken as soon as practicable, but in no event later than the expiration of sixty (60) days from the date of this Executive Order.

Section 13. This Executive Order shall be deemed to have taken effect on October 19, 2005, and all actions taken by the Director of the Division of Emergency Management with respect to Hurricane Wilma before the issuance of this Executive Order are hereby ratified. This Executive Order shall expire sixty (60) days from the date hereof unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 19th day of October, 2005.

John Bush

GOVERNOR

ATTEST:

Gleada E. Hood

SECRETARY OF STATE

FILED
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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

The Honorable George W. Bush
October 23, 2005
Page 2

Longboat Key (Sarasota County) southward, and hurricane warnings are also posted from Titusville (Brevard County) southward along the east coast. Hurricane warnings are also in effect for Lake Okeechobee. Tropical storm warnings and watches are also now posted along the rest of the east coast and the peninsular west coast. Flood watches have also been posted for most of the peninsula. The current forecast has landfall occurring just south of Marco Island (Collier County). If this were to verify, the 9-14 feet of surge would be focused on the mainland Monroe County coast. Any deviation from this track to the north would bring these surge values into the populated locales of Collier County. Equally, if Wilma's eventual track deviates to the south, surge in the lower Keys are expected to be between 5-8 feet. The track and those counties expected to receive hurricane and tropical storm winds can be found in Attachment 1.

In response to the situation, I have taken appropriate action under State law and directed the execution of the State Comprehensive Emergency Management Plan by Executive Order 05-219 (Attachment 2) in accordance with Section 501 (a) of the Stafford Act. The State Emergency Operations Center (SEOC) is currently at a Level 1 activation. FEMA has deployed an ERT-A to the SEOC, and together with the State Emergency Response Team (SERT), have unified under the incident command system to become "Wilma Command".

The projected path of Hurricane Wilma will take it over the same area impacted by Hurricanes Charley, Frances, Ivan and Jeanne in 2004, and Hurricanes Dennis, Katrina and Rita in 2005. Although partially recovered from these devastating events, the impact of yet another hurricane over the same area will exacerbate the overall recovery for these communities and their residents. The HAZUS model has estimated that Wilma will cause damages to over 89,000 homes, and generate 3.8 million tons of debris in its path. (Attachment 3)

According to Florida's hurricane evacuation studies, the expected area of impact has a vulnerable population of 2.6 million, which includes coastal residents in low-lying areas; those living in sub-standard housing; and, those who reside in mobile homes. The expected area of impact has a significant elderly population, many of whom have special needs, and require special handling during evacuations and sheltering. Monroe County has ordered the evacuation of all tourists, residents, and has closed the state parks, courts and schools. The non-ambulatory patients in the Lower Florida Keys Medical Center have been medivaced using the North Carolina air assets under the Emergency Management Assistance Compact. Most of the counties expected to receive hurricane force winds have ordered evacuations of their vulnerable populations. (Attachment 4) The Florida Department of Transportation has staged over 100 "Road Rangers", which are vehicles that have the capability to assist stranded motorists on evacuation routes.

In anticipation of the impacts of Hurricane Wilma on Florida, the SERT has identified resources and has three Logistical Staging Areas readied at Homestead AFB, Lakeland, and in West Palm Beach. Food, water and ice have been staged and are ready for immediate deployment to the impacted area. A mobilization center has been opened at White Springs,

The Honorable George W. Bush
October 23, 2005
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Florida. Over 8,000 tarps have been identified and are being made ready for immediate use. Seven base camps are in ready reserve, and local Points of Distribution (PODs) have been identified and sourced to manage the distribution of commodities and supplies. The Florida Urban Search and Rescue Command and Coordination Team has been activated, along with four Task Forces, with an additional four put on standby. ESF-8, Health and Medical, has staged seven regional emergency response advisors, two Disaster Medical Assistance Teams, and put an additional six on alert. The Florida National Guard has called 430 soldiers and airmen onto state active duty in support of SERT activities, and has made available a host of response assets. ESF-16, Law Enforcement, has identified an additional 1,600 personnel and put them on standby for deployment into the impacted area.

Already, shelters are beginning to receive evacuees from the impacted areas. Eight shelters are currently open hosting 1,305 evacuees, and an additional 132 shelters are on standby. By virtue of Executive Order 05-219, I have designated all state, regional and local governmental facilities, including all public elementary and secondary schools, all community colleges, and all state universities, for use as shelters to ensure the proper reception and care of all expected evacuees. Two special needs shelters have been opened, and currently are hosting 114 patients and caregivers. Three hospitals and 11 intermediate care facilities in South and Southwest Florida have been evacuated. The American Red Cross, Salvation Army, and a host of other voluntary agencies have begun to stage resources in order to service the victims of Hurricane Wilma.

Pursuant to 44 CFR § 206.35, I have determined that this incident is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments, and that supplementary Federal assistance is necessary to save lives, protect property, public health, and safety, or to lessen or avert the threat of a disaster. I certify that for this emergency, the State and local government will assume all applicable non-Federal share of costs required by the Stafford Act.

In accordance with 44 CFR § 206.208, the State of Florida agrees that it will, with respect to direct Federal assistance:

- 1) Provide without cost to the United States all lands, easement, and rights-of-ways necessary to accomplish the approved work.
- 2) Hold and save the United States free from damages due to requested work, and shall indemnify the Federal Government against any claims arising from such work;
- 3) Provide reimbursement to FEMA for the non-Federal share of the cost of such work in accordance with the provisions of the FEMA-State Agreement; and



President Declares Major Disaster For Florida

Release Date: October 24, 2005

Release Number: HQ-05-354

WASHINGTON, D.C. -- The head of the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced today that federal disaster aid has been made available for Florida to help people and community's recovery efforts in the area struck by Hurricane Wilma beginning on October 23, 2005, and continuing.

Acting Director of FEMA R. David Paulison, said the assistance was authorized under a major disaster declaration issued for the state by President Bush, and designated the following counties eligible for aid to stricken residents and business owners: Collier, Lee and Monroe Counties.

The assistance, to be coordinated by FEMA, can include grants to help pay for temporary housing, home repairs and other serious disaster-related expenses. Low-interest loans from the U.S. Small Business Administration also will be available to cover residential and business losses not fully compensated by insurance.

Additionally, Paulison said federal funds will be provided for the state and affected local governments and certain private non-profit communities to pay 75 percent of the eligible costs for restoring damaged facilities in the counties of 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.

For a period of up to 72 hours, assistance for debris removal and emergency protective measures, including direct Federal assistance, will be provided at 100 percent of the total eligible costs. Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

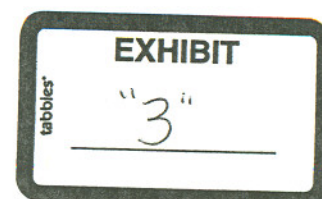
Paulison indicated that more counties and additional forms of assistance may be designated after assessments are fully completed in the affected areas. He named Justin DeMello as the Federal Coordinating Officer for Federal recovery operations in the affected areas.

DeMello said those who sustained losses in the counties designated for aid to affected residents and business owners can begin the disaster application process tomorrow by registering online at <http://www.fema.gov> or by calling **1-800-621-FEMA (3362)**, or **1-800-462-7585 (TTY) for the hearing and speech impaired**. The toll-free telephone numbers will operate 24 hours a day, seven days a week until further notice.

FEMA prepares the nation for all hazards and manages federal response and recovery efforts following any national incident. FEMA also initiates mitigation activities, trains first responders, works with state and local emergency managers, and manages the National Flood Insurance Program and the U.S. Fire Administration. FEMA became part of the U.S. Department of Homeland Security on March 1, 2003.

Last Updated: Monday, 24-Oct-2005 11:16:54

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FINANCIAL SERVICES
COMMISSION

JEB BUSH
GOVERNOR

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

CHARLIE CRIST
ATTORNEY GENERAL

CHARLES BRONSON
COMMISSIONER OF
AGRICULTURE

OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

News from the Florida Office of Insurance Regulation

For Immediate Release

Contact: **Beth Scott**
850/ 413-2515

10/25/05

Emergency Order Prohibits Cancellations, Nonrenewals After Hurricane Wilma

Tallahassee – Insurance Commissioner Kevin McCarty has issued an Emergency Order prohibiting insurers from canceling or nonrenewing policies covering dwellings or residential properties damaged by Hurricane Wilma.

The order is effective for 90 days after the damage has been repaired for properties 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.

As a result of Hurricane Wilma, Gov. Jeb Bush issued a state of emergency and requested by letter that Pres. George W. Bush declare an expedited Major Declaration for the state and requested individual assistance for the counties covered by the Emergency Order. If additional counties are declared major disaster areas, the Office will expand the Emergency Order to cover damaged properties in the affected areas.

The Order, effective Oct. 25, 2005, is similar to action taken in 2004 by the Florida Cabinet and later codified into law by the 2005 Legislature in SB 1486 to assist those impacted by damage from hurricanes during and for 90 days after repairing their properties.

Preliminary damage estimates from a number of hurricane models indicate expected damages ranging from \$4 billion to \$10 billion.

Hurricane damage has resulted in closing of businesses and financial institutions, suspending mail service, displacing people from their homes, loss of personal belongings and temporary loss of employment.

This Order is being issued pursuant to Sec. 627.4133(2)(d), Florida Statutes, which authorizes the Commissioner of Insurance Regulation to issue an Order invoking the provisions of this subsection upon the declaration of an emergency pursuant to Section 252.36, Florida Statutes.

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627.4133 Notice of cancellation, nonrenewal, or renewal premium.--

(1) Except as provided in subsection (2):

(a) An insurer issuing a policy providing coverage for workers' compensation and employer's liability insurance, property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s. [627.728](#), shall give the named insured at least 45 days' advance written notice of nonrenewal or of the renewal premium. If the policy is not to be renewed, the written notice shall state the reason or reasons as to why the policy is not to be renewed. This requirement applies only if the insured has furnished all of the necessary information so as to enable the insurer to develop the renewal premium prior to the expiration date of the policy to be renewed.

(b) An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s. [627.728](#) or s. [627.7281](#), shall give the named insured written notice of cancellation or termination other than nonrenewal at least 45 days prior to the effective date of the cancellation or termination, including in the written notice the reason or reasons for the cancellation or termination, except that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given; and
2. When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. The provisions of this subsection shall not apply to individually rated risks having a policy term of less than 90 days.

(c) If an insurer fails to provide the 45-day or 20-day written notice required under this section, the coverage provided to the named insured shall remain in effect until 45 days after the notice is given or until the effective date of replacement coverage obtained by the named insured, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension of coverage shall be calculated based upon the later rate filing.

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner's, mobile home owner's, farmowner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents:

(a) The insurer shall give the named insured at least 45 days' advance written notice of the renewal premium.

(b) The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 90 days prior to the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given.
2. When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, the policy shall not be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.

(c) If the insurer fails to provide the notice required by this subsection, other than the 10-day notice, the coverage provided to the named insured shall remain in effect until the effective date of replacement coverage or until the expiration of a period of days after the notice is given equal to the required notice period, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension shall be calculated based on the later rate filing.

(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 nonpayment 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.

3. If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer shall provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired. Nothing in this paragraph shall prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations of subparagraph 1. The Financial Services Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this paragraph.

4. This paragraph shall also apply to personal residential and commercial residential policies covering property that was damaged as the result of Tropical Storm Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or Hurricane Jeanne.

(e) If any cancellation or nonrenewal of a policy subject to this subsection is to take effect during the duration of a hurricane as defined in s. [627.4025\(2\)\(c\)](#), the effective date of such cancellation or nonrenewal is extended until the end of the duration of such hurricane. The insurer may collect premium at the prior rates or the rates then in effect for the period of time for which coverage is extended. This paragraph does not apply to any property with respect to which replacement coverage has been obtained and which is in effect for a claim occurring during the duration of the hurricane.

(3) Claims on property insurance policies that are the result of an act of God may not be used as a cause for cancellation or nonrenewal, unless the insurer can demonstrate, by claims frequency or otherwise, that the insured has failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the insured property.

(4) Notwithstanding the provisions of s. [440.42\(3\)](#), if cancellation of a policy providing coverage for workers' compensation and employer's liability insurance is requested by the insured, such cancellation shall be effective on the date the carrier sends the notice of cancellation to the insured.

(5) An insurer that cancels a property insurance policy on property secured by a mortgage due to the failure of the lender to timely pay the premium when due shall reinstate the policy as required by s. [501.137](#).

(6) A single claim on a property insurance policy which is the result of water damage may not be used as the sole cause for cancellation or nonrenewal unless the insurer can demonstrate that the insured has failed to take action reasonably requested by the insurer to prevent a future similar occurrence of damage to the insured property.

History.--s. 16, ch. 86-160; s. 2, ch. 87-50; s. 8, ch. 87-124; s. 12, ch. 90-119; ss. 35, 114, ch. 92-318; s. 15, ch. 93-410; s. 99, ch. 93-415; s. 13, ch. 2004-370; s. 43, ch. 2004-374; ss. 109, 158, ch. 2004-390; s. 10, ch. 2005-111.