

Florida Insurance Commissioner Issues Hurricane Michael Emergency Order

October 17, 2018

On October 15, 2018, Florida Insurance Commissioner David Altmaier issued an Emergency Order (the "Order") affecting insurers writing insurance in Bay, Calhoun, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla, and Washington Counties (the "Counties"), which were impacted by Hurricane Michael. Among other things, the Order prohibits insurers from cancelling or non-renewing policies, extends grace periods, tolls the time period for which filings would be deemed approved, and suspends "use and file" filings until January 7, 2019.

The Order's requirements relating to rates and forms do not apply to surplus lines carriers. Nevertheless, the Office of Insurance Regulation ("OIR") prefers that surplus lines carriers adhere to the Order's requirements.

Extension of Grace Periods

The Order extends all time limits imposed upon insureds to perform any act or transmit information or funds to January 7, 2019, if the prior time limit would have expired on or after October 7, 2018, and related to a covered risk in one of the Counties. The extension does not relieve a policyholder who has a claim resulting from Hurricane Michael from compliance with his or her obligations to provide information and cooperate in the claim adjustment process. The extension does not apply to new policies issued on or after October 7, 2018.

Insurers may not assess interest, penalties, or other charges as a result of the extension.

Temporary Prohibition of Cancellations and Non-Renewals

The Order prohibits insurers from cancelling or non-renewing a policy or issuing a notice of cancellation or non-renewal for a policy covering a risk in one of the Counties between October 7, 2018, and January 7, 2019. In addition, all notices of cancellation issued or mailed on or after September 27, 2018, affecting a policyholder in the Counties must be withdrawn and reissued to the policyholder on or after January 7, 2019.

If a policyholder requests or concurs in writing, an insurer may cancel or non-renew a policy prior to January 7, 2019.

Other than those described above, notices of cancellation or non-renewal that would have taken effect between October 7, 2018, and January 7, 2019, are not made invalid by the Order but the insurer is required to extend coverage to January 7, 2019, or later, and the premium for the extended coverage shall be the appropriate pro rata portion of the premium for the entire term of the policy.

Premium Finance Companies

Premium finance companies may issue advisory 10-day notices of intent to cancel and cancellation notices in accordance with the terms of the relevant premium finance agreement. The advisory must include a prominent notice stating that insureds displaced or temporarily unemployed due to Hurricane Michael will receive an automatic extension of time to January 7, 2019, to bring their accounts up to date, and no late charges will be applied to any late payments received which were due on accounts between October 7, 2018, and January 7, 2019.

If a premium finance loan is in default at the end of the grace period, a premium finance company shall give proper notice by issuing a 10-day notice of intent to cancel to the insured, and, if the insured does not bring the loan current, mailing a request for cancellation to the insurer. Any insurer unable to cancel because it has received a claim under a policy for which it receives a notice of cancellation must offset the balance owed to the premium finance company, as disclosed in the notice of cancellation, from the first claim payments made under the policy. No late charges may be assessed against any insured who qualifies for protection under the Order.

90-day Prohibition on Cancellation or Nonrenewal After Repair of Residential Property

An insurer may not cancel or non-renew a personal residential or commercial residential property insurance policy covering property in one of the Counties and damaged by Hurricane Michael for a period of 90 days after the dwelling has been repaired, except as provided in section 627.4133(2)(d), Florida Statutes.

Tolling of “Deemers”

The Order tolls the time period in which any application, filing or other document required to be filed with the OIR would be deemed approved if not approved or denied within a specific time period. The tolling period commences on October 7, 2018, and ends 90 days thereafter.

Tolling for Required Actions of the Office of Insurance Regulation

Any time period provided by the Florida Insurance Code for any action that the OIR is required to take is tolled for 90 days commencing on October 7, 2018.

“Use and File” Filings

“Use and file” filings are suspended until January 7, 2019. Rate changes directed or approved by order of the OIR are exempt from the Order.

All rate changes filed with the OIR having an effective date for new business or renewal business on or after October 7, 2018, shall be filed and subject to the approval of the OIR prior to implementation until January 7, 2019.

Any “use and file” rate change implementing new rates without an official filing to the OIR must be withdrawn from use and the previous rate must be reinstated immediately.

Waiver of Requirement for Prior Written Authorization for Payment of Claims by Debit Card

The requirement of written authorization for an insurer to pay claims by debit card or any other form of electronic transfer is waived, provided the insurer verifies the identity of the insured or the insured’s recipient and does not charge a fee for the transaction. If the funds are misdirected, the insurer remains liable for the payment of the claim.

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