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OFFICE OF
INSURANCE REGULATION

Docketed by: SAR



OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER
COMMISSIONER

IN THE MATTER OF:

Hurricane Michael
Suspension of Certain Rules and Statutes
Based on State of Emergency – Natural Disaster;

Extension of Grace Periods; Limitations on
Cancellations and Nonrenewals; Deemers
and limitations on "use and file" filings and
Miscellaneous Provisions;

CASE NO.: 234790-18-EO

EMERGENCY ORDER

TO: All Insurers, HMOS, Premium Finance Companies, Surplus Lines and other entities regulated by the Office of Insurance Regulation (hereinafter "Regulated Entities")

THIS CAUSE having come before the Commissioner of the Office of Insurance Regulation as a result of the state of emergency created by Hurricane Michael, 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, hereinafter "Code"). The Office

has the power and authority expressly conferred upon it by, or reasonably implied from, the provisions of the Code, specifically Sections 624.307(2), Florida Statutes and as further authorized by Sections 252.46 and 252.63, Florida Statutes.

2. On October 7, 2018, Florida Governor Rick Scott issued Executive Order Number 18-276, which immediately declared a state of emergency for counties in the panhandle of Florida due to the forecast models and track for Tropical Storm Michael, which was forecast to become a hurricane. Executive Order Number 18-276 is attached as Exhibit 1.

3. On October 8, 2018, Florida Governor Rick Scott issued an Amendment of Executive Order Number 18-276, Executive Order Number 18-277, which immediately extended the state of emergency to additional Florida counties due to the forecast models and track for Tropical Storm Michael, which was forecast to become a hurricane, possibly a major hurricane. Executive Order Number 18-277 is attached as Exhibit 2.

4. Section 252.63(1), Florida Statutes, provides that “[w]hen 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.”

5. Pursuant to Section 627.7019, Florida Statutes, the Financial Services Commission adopted by Rule 69O-142.015, Florida Administrative Code, “standardized requirements that may be applied to insurers as a consequence of a hurricane.” The rule addresses, among other things, claims reporting requirements; grace periods for payment

of premiums and performance of other duties by insureds; and temporary postponement of cancellations and nonrenewals

6. Section 627.4133(2), Florida Statutes, provides that

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

WHEREFORE, the Commissioner of the Office of Insurance Regulation finds that as a result of the direct effects of Hurricane Michael, the issuance of an Emergency Order pursuant to Sections 252.63 and 624.307, Florida Statutes, and the activation of Rule 69O-142.015, Florida Administrative Code, is required in order to protect the public health, safety and welfare of Florida's policyholders in the following counties: Bay, Calhoun, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla, and Washington (hereinafter "Included Counties").

Accordingly, IT IS HEREBY ORDERED:

EXTENSION OF GRACE PERIODS AND TEMPORARY POSTPONEMENTS
OF CANCELLATIONS OR NONRENEWALS

(1) The provisions of Rule 69O-142.015(2), Florida Administrative Code are hereby activated and declared immediately in effect for all Regulated Entities as specifically set forth below. Rule 69O-142.015, F.A.C is attached as Exhibit 3. Cancellations or nonrenewals directed or approved by the Office are exempt from this Order. Specific dates called for in the rule are as follows:

Rule 69O-142.015(2)(d) 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 covering a person, property or risk in the Included Counties, which act was to have been performed on or after October 7, 2018, the time limit shall be extended to January 7, 2019. This extension of time shall not relieve a policyholder who has a claim resulting from Hurricane Michael from compliance with their obligations to provide information and to cooperate in the claim adjustment process relative to the property damage claim. This extension of time shall also not apply to new policies issued on or after October 7, 2018. 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.

Rule 69O-142.015(2) (e) Between October 7, 2018 and January 7, 2019, no 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 in the Included Counties, except at the written request or written concurrence of the policyholder.

Rule 69O-142.015(2) (f) All notices of cancellation issued or mailed ten (10) calendar days preceding October 7, 2018, affecting a policyholder in the Included Counties, shall be withdrawn and reissued to insureds on or after January 7, 2019.

Rule 69O-142.015(2) (g) A cancellation or nonrenewal may occur prior to January 7, 2019, at the written request or written concurrence of the policyholder.

Rule 69O-142.015(2) (h) Except as provided in paragraphs (e) and (f) with respect to a notice of cancellation or nonrenewal which, but for this rule, would have taken effect between October 7, 2018 and January 7, 2019, such notice is not made invalid by this rule; however,

1. The insurer shall extend the coverage to and including January 7, 2019, or a later date specified by the insurer;

2. The premium for the extended term of coverage shall be the appropriate pro rata portion of the premium for the entire term of the policy.

Rule 69O-142.015(2) (n) This rule shall not apply to new policies effective on or after October 7, 2018.

Rule 69O-142.015(2) (o) If the contract of insurance was financed by a premium finance company for risks located in the Included Counties, the following provisions apply:

1. Premium finance companies may issue advisory 10-day notices of intent to cancel and cancellation notices in accordance with the terms of the premium finance agreement signed by the insured. In addition, each such advisory notice shall prominently contain the following statement:

“If you have been displaced through the loss of your home or damage to your home which has caused you to reside elsewhere on a temporary basis, or if you have

temporarily become unemployed due to the destruction caused by Hurricane Michael, please contact this office at once.

Victims of Hurricane Michael will receive an automatic extension of time to and including 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 their accounts between October 7, 2018 and January 7, 2019.

Therefore, if you are a victim of Hurricane Michael, please contact us at once at the number provided at the bottom of this notice so that we may advise you of the status of your account.

If you decide that you no longer need or desire to keep the coverage provided by the insurance policy financed by your contract with us, please contact us at once so that we may instruct you on how to effect cancellation with your insurer.”

2. If a premium finance loan is in default at the end of the grace period, a premium finance company shall give proper notice by:

a. Issuing a 10 day notice of intent to cancel to the insured by the means provided under Section 627.848(1)(a)1., F.S., and applicable regulations, and

b. If the insured does not bring their loan current within the time provided in the notice of intent, a premium finance company may mail the insurer a request for cancellation as provided in Section 627.848(1)(a)2., F.S.

3. Upon receipt of a request for cancellation from a premium finance company after January 7, 2019, the insurer will process the cancellation in accordance with paragraph Rule 69O-142.015(2)(i), F.A.C.

4. Any insurer who is unable to cancel because it has received a claim under a policy for which it receives a notice of cancellation from a premium finance company will offset the balance owed the premium finance company, as disclosed in the notice of cancellation, from the first claim payments made under the policy.

5. No late charges shall be assessed for any insured who qualifies for protection under this order.

(2) In addition to the provisions of paragraph (1) of this Emergency Order, an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering property damaged as a result of Hurricane Michael located in the Included Counties for a period of 90 days after the dwelling has been repaired, except as provided in Section 627.4133(2)(d)1., Florida Statutes.

**DEEMERS; PRIOR APPROVAL OF RATE CHANGES;
SUSPENSION OF USE AND FILE RATE FILINGS**

(3) The time period in which any application, filing, or document, required to be filed with the Office of Insurance Regulation, pursuant to the Florida Insurance Code, which by statutes would be deemed approved if not approved or denied within a specific time period, shall be tolled for a period commencing on October 7, 2018, the date the Governor declared the State of Emergency, and ending 90 days thereafter. Further, any time period within the Florida Insurance Code in which the Office is required to take action is also tolled for a period commencing on October 7, 2018, the date the Governor declared the State of Emergency, and ending 90 days thereafter.

(4) The Office will continue to accept “file and use filings” with an effective date for new or renewal business on or after January 7, 2019, but in the interest of the public welfare, “use and file filings” are suspended until January 7, 2019. Rate changes directed or approved by order of the Office are exempt from this Order.

(5) Notwithstanding the “use and file” provisions contained in sections 627.0651 and 627.062, Florida Statutes, all rate changes filed with the Office 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 Office prior to implementation until January 7, 2019.

(6) Any “use and file” rate change implementing new rates without an official filing to the Office shall be withdrawn from use and the previous rate shall be reinstated immediately.

MISCELLANEOUS PROVISIONS

(7) Given the strength and size of Hurricane Michael, its expected catastrophic effect on the panhandle of Florida, and its potential impact on hundreds of thousands of policyholders, the Office expects all Regulated Entities to implement processes and procedures to facilitate the efficient payment of claims. This includes critically analyzing current procedures and streamlining claim payment processes as well as using the latest technological advances to provide prompt and efficient claims service to policyholders.

(8) Section 627.4035(3(b), Florida Statutes, permits insurers to pay claims by debit card or any other form of electronic transfer upon written authorization of the recipient or the recipient's representative. Due to the severe and catastrophic impacts expected from Hurricane Michael, many insureds will be unable to receive or send mail. For the duration of this State of Emergency, the requirement of written authorization 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.

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

(10) The provisions of this Emergency Order shall be liberally construed to effectuate the intent and purposes expressed therein and to afford maximum consumer protection.

DONE and ORDERED this 15th day of October, 2018.




David Altmaier, Commissioner
Office of Insurance Regulation

EXHIBITS:

1. Executive Order Number 18-276, October 7, 2018
2. Executive Order Number 18-277, October 8, 2018
3. Rule 69O-142.015, Florida Administrative Code

NOTICE OF RIGHTS

Any party 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 32399-4206, and a copy of the same with the appropriate district court of appeal, within thirty (30) days of rendition of this Order.

**COPIES FURNISHED:
ALL REGULATED ENTITIES**