

September 2, 2011

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: North Carolina Declaration of Disaster Following Hurricane Irene
Residential Property Insurance

President Obama has issued a Declaration of Disaster for the following counties in eastern North Carolina as a result of Hurricane Irene: Beaufort, Carteret, Craven, Dare, Halifax, Hyde, Lenoir, Pamlico and Tyrrell.

Please be aware of the provisions for insurers and their policyholders to mediate emergency or disaster-related property insurance claims as provided in North Carolina General Statutes 58-44-70 through 58-44-120.

The North Carolina Department of Insurance issued its Bulletin 11-B-09 and 11-B-10 concerning the counties declared disaster areas, and specifically referred to North Carolina General Statute 58-2-46 concerning extended time periods for filing proofs of loss under property insurance policies and deferred payment periods for premium remittances for insureds in the designated counties. We have attached both of the DOI's Bulletin's and a copy of North Carolina General Statute 58-2-46 for your ready reference.

Please refer this circular to the attention of all interested personnel in your company, and let us know if we may assist you in your response to Hurricane Irene.

Sincerely,

F. Timothy Lucas

Personal Lines Manager

FTL:dsg

Attachments

P-11-3

North Carolina Department of Insurance
Wayne Goodwin, Commissioner

BULLETIN

Number 11-B-09

To: All Insurance Companies and other Entities Licensed under Chapter 58
Of the North Carolina General Statutes

From: Wayne Goodwin, Commissioner of Insurance

Date: **August 31, 2011**

Subject: North Carolina Disaster and Emergency Operations

**FEMA Major Disaster Declared August 31, 2011 # DR-4019
Incident Period Beginning August 25, 2011 and Continuing**

Pursuant to North Carolina General Statute 58-2-46, this bulletin pertains to all insurance companies and includes a service corporation, HMO, MEWA, surplus lines insurer, and the underwriting associations defined in NCGS 58-45-5(1) and NCGS 58-46-5.

North Carolina coastal region residents and personal property have been severely damaged as a result of **Hurricane Irene**. The following counties have been declared a disaster and the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq., as amended. Those counties include:

Beaufort, Carteret, Craven, Dare, Hyde, Pamlico, Tyrrell

The following internet link [NCGS 58-2-46](#) provides the specifics pertaining to extensions, deferrals, and other extra requirements applicable to the entities as referenced therein. Such entities are required to provide their customers adversely affected in the disaster area specific relief of the insureds payment, submission of claims and other responsibilities. You are encouraged to review the statutory requirements for proper implementation.

Please refer any questions regarding:

Life & Health to Ted Hamby at LHInbox@ncdoi.gov

Property & Casualty to Bob Mack at pandcinbox@ncdoi.gov

External Review go to: <http://www.ncdoi.com/Smart/>

**North Carolina Department of Insurance
Wayne Goodwin, Commissioner**

BULLETIN

NUMBER 11-B-10

To: All Property Insurance Companies Licensed in North Carolina

Date: September 2, 2011

Subject: Activation of NCDOI Disaster Mediation Program

Federal Major Disaster Declaration DR-4019 and NCDOI Disaster Mediation Program Activation Resulting from Hurricane Irene.

<http://www.fema.gov/news/newsrelease.fema?id=57536>

Insurance Commissioner Wayne Goodwin has ordered activation of NCDOI's Disaster Mediation Program, following the President's declaration of disaster for North Carolina in Beaufort, Carteret, Craven, Dare, Halifax, Hyde, Lenoir, Pamlico, and Tyrrell Counties. The declaration could be expanded to include additional counties.

North Carolina General Statutes §58-44-70 thru §58-44-120 established a non-adversarial mediation program ("Program") to facilitate the effective, fair, and timely resolution of insurance claims arising out of damages to residential property as the result of a disaster. The Program becomes available to first party claimants only if 1) a state of disaster has been proclaimed (by the Governor or the President) for all or part of North Carolina, within 60 days following the event, and 2) the Commissioner of Insurance subsequently orders Program activation. NCDOI has contracted with the American Arbitration Association (<http://www.adr.org/sp.asp?id=29630%20>) to serve as Program administrator. Please immediately review these statutes in their entirety to ensure your company's full compliance.

"Right to Mediate" Notice Required for Certain Disaster-Related Claim Disputes

North Carolina General Statute §58-44-80 requires insurers to notify all first-party disaster claimants in identified counties of their right to mediate "disputed claims" (as defined in §58-44-75). In order for a disputed claim to be eligible for the Program, the claimant and insurance company must be at least \$1,500 apart in their settlement negotiation.

A "Right to Mediate" notice template is attached. To access Program information online, please visit the NCDOI website's Disaster Mediation page at

http://www.ncdoi.com/Consumer/Consumer_Disaster_Mediation.aspx

Questions about this Bulletin can be directed to Bob Lisson, Deputy Commissioner of NCDOI's Consumer Services Division, at (919) 807-6751 or bob.lisson@ncdoi.gov.

Template for “Right to Mediate” Notice

[Date]

[Policyholder Name and Address]

{Policy number and/or Claim Number}

NOTIFICATION OF THE RIGHT TO MEDIATE RESIDENTIAL PROPERTY DISASTER INSURANCE CLAIM

The General Assembly of North Carolina has enacted a law to facilitate fair and timely handling of residential property insurance claims arising out of disasters. The law 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.

The mediator does not decide the dispute, but will facilitate discussion/negotiation between the parties. There is no cost to you for this service.

“Disputed Claim”

For the purpose of this mediation program, a “disputed claim” does not mean a claim denied because of exclusions, terms or conditions in the policy, or because the policy was not in force at the time of loss. “Disputed claim” also does not mean a claim that the insurer has reported to the Department of Insurance’s Investigations Division due to suspected insurance fraud.

Eligibility

To be eligible for a mediation conference:

- You must have a disputed claim arising from a declared state of disaster in which the insurer has denied payment in whole or in part.
- The dispute must be over the insurer’s findings on the cause of loss, or the amount of the loss.
- The disputed amount (difference in position between you and your insurer), must be at least \$1,500 unless both parties agree to mediate a smaller dispute.

Requesting a Mediation Session

- You must request mediation within 60 days of your claim being denied, or your right to mediation is lost. Failure to request mediation does not prejudice any other legal right or remedy that you may have to pursue your claim. **To request mediation, you may contact the Mediation Administrator at:**

American Arbitration Association
Central Case Management Center
13455 Noel Road, Suite 1750
Dallas, TX 75240-6620
(800) 426-8792

<http://www.adr.org/sp.asp?id=29630%20>

- Your request must include the following information, if known:
 - Your claim number and policy number.
 - Your name, mailing address, and (if different) property location.
 - A daytime telephone number where you can be reached.
 - A brief description of the nature of the dispute.
 - The name of your insurance company and the name, address and phone number of a contact person (if other than you) for scheduling mediation.
 - Information on any other policies of insurance that may provide coverage of the insured property for named perils such as flood, earthquake or windstorm.
- Once your request for mediation is received, the Administrator will contact you to schedule your mediation conference, and to provide further information such as the location of the mediation session, how to prepare, etc. The Administrator will select the mediator.

If you need further information

If you have any questions or need additional information concerning this notification, you may contact:

< insert name and address of insurer, contact person/division and phone number >

§ 58-2-46. State of disaster; automatic stay of proof of loss requirements; premium and debt deferrals; loss adjustments for separate windstorm policies.

Whenever a state of disaster is proclaimed for the State or for an area within the State under G.S. 166A-6 or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq., as amended:

- (1) The application of any provision in an insurance policy insuring real property and its contents that are located within the geographic area designated in the proclamation or declaration, which provision requires an insured to file a proof of loss within a certain period of time after the occurrence of the loss, shall be stayed for the time period not exceeding the expiration of the disaster proclamation or declaration and all renewals of the proclamation or 45 days, whichever is later.
- (2) As used in this subdivision, "insurance company" includes a service corporation, HMO, MEWA, surplus lines insurer, and the underwriting associations under Articles 45 and 46 of this Chapter. All insurance companies, premium finance companies, collection agencies, and other persons subject to this Chapter shall give their customers who reside within the geographic area designated in the proclamation or declaration the option of deferring premium or debt payments that are due during the time period covered by the proclamation or declaration. This deferral period shall be 30 days from the last day the premium or debt payment may be made under the terms of the policy or contract. This deferral period shall also apply to any statute, rule, or other policy or contract provision that imposes a time limit on an insurer, insured, claimant, or customer to perform any act during the time period covered by the proclamation or declaration, including the transmittal of information, with respect to insurance policies or contracts, premium finance agreements, or debt instruments when the insurer, insured, claimant, or customer resides or is located in the geographic area designated in the proclamation or declaration. Likewise, the deferral period shall apply to any time limitations imposed on insurers under the terms of a policy or contract or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration. Likewise, the deferral period shall apply to any time limitations imposed on insurers under the terms of a policy or contract or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration. The Commissioner may extend any deferral period in this subdivision, depending on the nature and severity of the proclaimed or declared disaster. No additional rate or contract filing shall be necessary to effect any deferral period.
- (3) With respect to health benefit plans, after a deferral period has expired, all premiums in arrears shall be payable to the insurer. If premiums in arrears are not paid, coverage shall lapse as of the date premiums were paid up, and preexisting conditions shall apply as permitted under this Chapter; and the insured shall be responsible for all medical expenses incurred since the effective date of the lapse in coverage.
- (4) In addition to the requirements of G.S. 58-45-35(e), for separate windstorm policies that are written by an insurer other than the Underwriting Association, losses shall be adjusted by the insurer that issued the property insurance and not by the insurer that issued the windstorm policy. The insurer that issued the windstorm policy shall reimburse the insurer that issued the property insurance for reasonable expenses incurred by that insurer in adjusting the windstorm losses. (2006-145, s. 3.)