

STATE OF MISSISSIPPI
DEPARTMENT OF INSURANCE

IN THE MATTER OF:

AVAILABILITY OF HURRICANE KATRINA
SPECIAL MEDIATION PROGRAM TO PARTIES IN LITIGATION

NO. 06-5446

EMERGENCY REGULATION NO. 2006-4

ORDER

This matter is before the Commissioner of Insurance ("Commissioner") to consider the adoption of Emergency Regulation No. 2006-4, entitled "Availability of Hurricane Katrina Special Mediation Program to Parties in Litigation," and the Commissioner, being fully advised in the premises, and in view of the public health, safety and welfare of the citizens of the State of Mississippi, finds as follows:

1.

That the 2005 hurricane season was extremely destructive for Mississippi; that extensive and devastating damage was caused by Hurricane Katrina, which hit the Mississippi Gulf Coast on August 29, 2005 as a category 4 hurricane; and that Hurricane Katrina continued northward, blanketing the State and causing widespread major damage to homes, loss of personal belongings and corresponding loss of employment.

2.

That as a result of the tremendous number of unresolved residential property insurance claims from Hurricane Katrina, the Mississippi Department of Insurance ("Department") determined that there was a critical need for a non-adversarial, non-binding alternative dispute resolution procedure to facilitate the resolution of Hurricane Katrina claims as quickly and fairly as possible.

3.

That by the Governor's Proclamations dated August 26, 2005, and September 2, 2005, Governor Barbour declared a state of emergency invoking his emergency powers under Miss. Code Ann. §33-15-11, and directed State agencies to discharge their emergency responsibilities as deemed necessary as set forth in the State of Mississippi Emergency Operations Plan and Executive Order No. 653, dated November 16, 1990; and that in accordance with the Proclamations and Executive Order, and Miss. Code Ann. §33-15-11(b)(9) and (c)(4), there was a delegation of those emergency powers to the Commissioner which allows him, in his discretion, to promulgate emergency regulations and guidelines to promote and secure the safety and protection of the citizens of the State of Mississippi. Further, pursuant to Senate Bill 2381, 2006 Regular Legislative Session, the Commissioner is expressly authorized to establish a non-binding, non-adversarial alternative dispute resolution procedure for the effective, fair and timely handling of personal lines insurance claims.

4.

That pursuant to the aforesaid authority, the Commissioner promulgated Emergency Regulation 2005-2, entitled "Temporary Special Mediation Program for Personal Lines Residential Insurance Claims Resulting from Hurricane Katrina", which implemented a dispute resolution procedure designed to facilitate the disposition of unresolved residential property claims.

5.

That the Special Mediation Program (the "Program") has been highly successful in bringing about the resolution of disputed claims for persons utilizing the Program; however, the Program has not heretofore been available to persons in litigation over disputed Hurricane Katrina claims.

6.

That it would be in the public interest for parties to litigation arising from a disputed

Hurricane Katrina claim to have access to the Program when ordered into mediation by a court of competent jurisdiction.

7.

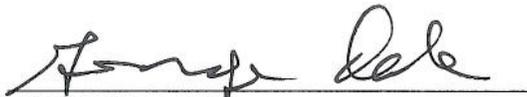
That in order to expand the scope of the Program without undue delay, the Department must follow the emergency procedures set forth under Miss. Code Ann. 25-43-3.108, which allows a regulation to be adopted by the Department without following the notice periods prescribed by section 25-43-3.103; and it would clearly constitute an imminent peril to the public health, safety and welfare not to immediately implement a regulation permitting parties to litigation arising from a disputed Hurricane Katrina claim to have access to the Program when ordered into mediation by a court of competent jurisdiction.

8.

That the Commissioner is of the opinion that it would be in the public interest to adopt Emergency Regulation No. 2006-4, entitled "Availability of Hurricane Katrina Special Mediation Program to Parties in Litigation"; and that a copy of Emergency Regulation No. 2006-4 is attached hereto as Exhibit "A" and incorporated herein by reference.

IT IS, THEREFORE ORDERED that Mississippi Department of Insurance Emergency Regulation No. 2006-4 shall be and hereby is adopted in its entirety, to become effective immediately upon filing with the Mississippi Secretary of State.

SO ORDERED, this the 25th day of August, 2006.



GEORGE DALB
Commissioner of Insurance
State of Mississippi

State of Mississippi



Jackson

I, **GEORGE DALE**, **COMMISSIONER of INSURANCE**, OF THE STATE OF
MISSISSIPPI, DO HEREBY CERTIFY THAT

attached is a true and correct copy of Emergency Regulation No.
2006-4 entitled, "Availability of Hurricane Katrina Special Mediation
Program to Parties in Litigation".

Given under my hand and seal of office, this the 25th day of
August 2006.

COMMISSIONER of INSURANCE

By Lee Harrell
LEE HARRELL
DEPUTY COMMISSIONER

**MISSISSIPPI DEPARTMENT OF INSURANCE
EMERGENCY REGULATION NO. 2006-4
AVAILABILITY OF HURRICANE KATRINA SPECIAL MEDIATION
PROGRAM TO PARTIES IN LITIGATION**

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Section 1. Authority

This Emergency Regulation is promulgated by the Commissioner of Insurance ("Commissioner") pursuant to the authority granted to him by Miss. Code Ann. §§ 33-15-11(b)(9), 33-15-11(c)(4), and 83-5-1 et seq.; Senate Bill 2381, 2006 Regular Legislative Session; the Governor's Proclamations dated August 26, 2005, and September 2, 2005; and the State of Mississippi Emergency Operations Plan and Executive Order No. 653.

Section 2. Reasons For Finding An Imminent Peril To The Public Health, Safety Or Welfare

The 2005 Hurricane season was extremely destructive for Mississippi. Extensive and devastating damage was caused by Hurricane Katrina, which hit the Mississippi Gulf Coast on August 29, 2005, as a Category 4 Hurricane. Hurricane Katrina continued northward, blanketing the State and causing widespread major damage to homes, loss of personal belongings and corresponding loss of employment.

In an effort to help resolve residential property insurance claims resulting from Katrina so that homeowners could move forward with the repair and rebuilding process, on December 20, 2005, the Commissioner adopted Emergency Regulation No. 2005-2, which established a temporary "Special Mediation Program For Personal Lines Residential Insurance Claims" ("Mediation Program" or "Program"). Subsequently, pursuant to the authority granted in Senate Bill 2381, which was passed by the Mississippi Legislature in the 2006 Regular Legislative Session, the Commissioner adopted Regulation No. 2005-2, as Amended, which established the Mediation Program on a permanent basis.

In Section 2, Regulation No. 2005-2, as Amended, provides that the Mediation Program is "...available to all first party claimants **prior to commencing either litigation** or the appraisal process." (emphasis added) While many Katrina claims have been resolved, some remain unresolved and claimants are pursuing litigation. This pending litigation has resulted in crowded court dockets and a critical need for litigants to have access to an alternative procedure for the



effective, fair and timely handling of residential insurance claims. Consequently, in order to promote and secure the safety and protection of the citizens of the State of Mississippi, this Emergency Regulation is being issued by the Commissioner to expand the Mediation Program for Katrina claims to allow parties in litigation to participate, upon the issuance of an order by a court of competent jurisdiction.

Section 3. Availability Of Mediation Program To Parties In Litigation

Notwithstanding any provisions to the contrary, the Mediation Program established by Regulation No. 2005-2, as Amended, shall be available for any parties ordered to participate in the Program by a court of competent jurisdiction.

In the case of parties participating in the Program by court order, the provisions of Regulation No. 2005-2, as Amended, will be followed unless the respective court directs otherwise with regard to mediation for those parties.

This Emergency Regulation applies only to mediation involving parties to litigation arising from a disputed Hurricane Katrina claim. Otherwise, the provisions of Regulation No. 2005-2, as Amended, shall remain in full force and effect.

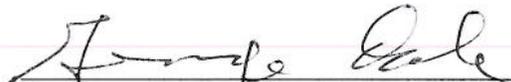
Section 4. Severability

If a court holds any subsection or portion of a subsection of this Emergency Regulation or the applicability thereof to any person or circumstance invalid, the remainder of the Emergency Regulation shall not be affected thereby.

Section 5. Effective Date

This Emergency Regulation shall be effective immediately upon filing with the Office of the Secretary of State of the State of Mississippi.

Adopted this the 25th day of August, 2005.



GEORGE DALE
COMMISSIONER OF INSURANCE