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