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FEB 2 2007

OFFICE OF INSURANCE REGULATION

**OFFICE OF
INSURANCE REGULATION**

KEVIN M. McCARTY
COMMISSIONER

Docketed by: KT

IN THE MATTER OF:

**February Tornadoes;
Emergency Order; Prohibition on Cancellation
or Nonrenewal of Residential Property
Insurance Covering Property Damaged
by February Tornadoes in Specified Counties**

CASE NO.: 89152-07-EO

EMERGENCY ORDER

TO: All Property and Casualty Insurers and Surplus Lines Insurers

THIS CAUSE having come before the Commissioner of the Office of Insurance Regulation as a result of the State of Emergency created by the February Tornadoes, 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, henceforth, the "Code"). The Office shall have the powers and authority expressly conferred upon it by, or reasonably implied from, the provisions of the Code, specifically Section 624.307, Florida Statutes, and as further authorized by Section 252.46, Florida Statutes.

2. Section 252.63, Florida Statutes, provides that, "When 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."

3. On February 2, 2007, Florida Governor Charlie Crist issued Executive Order 07-21, declaring a state of emergency to exist in Lake, Seminole, Sumter, and Volusia Counties because of the wind damage resulting from the severe thunder storms and tornadoes (collectively referred to herein as the "February Tornadoes") which had ravished these four counties. Executive Order 07-21 is attached as Exhibit 1.

4. Section 627.4133(2)(d)1., Florida Statutes, provides that, "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."

5. Damage sustained in the four counties as a result of the Florida Tornadoes is "wind loss" within the purview of Section 627.4133(2)(d)1., Florida Statutes.

WHEREFORE, the Commissioner of the Office of Insurance Regulation finds that as a result of the direct effects of the Florida Tornadoes the issuance of an Order pursuant to Sections 252.63 and 624.307, Florida Statutes, is required in order to protect the public health, safety and welfare.

Accordingly, IT IS HEREBY ORDERED:

The following applies to the listed insurance set forth below in paragraph (2), for all persons who suffered wind damage in Lake, Seminole, Sumter, and Volusia Counties as a result of the Florida Tornadoes:

(1) An insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering property damaged as a result of the Florida Tornadoes located in Lake, Seminole, Sumter, and Volusia Counties, for a period of 90 days after the dwelling has been repaired, except as provided in Section 627.4133(2)(d), Florida Statutes, and in accordance with all other applicable statutes and rules of the commission.

(2) In addition, this order applies to all contracts of insurance and other contracts that are subject to regulation under the Florida Insurance Code including, but not limited to:

(a) All policies referenced in Chapters 440, 624, 626, and 627, Florida Statutes;

(b) All policies or contracts issued pursuant to Chapters 641 and 651, Florida Statutes;

(c) Contracts issued by Multiple Employer Welfare Arrangements and Commercial Self-Insurance Trusts; and

(d) Premium Finance Company contracts insuring persons who sustained property damage in the February Tornadoes shall be subject to the provisions of this Emergency Order.

References herein to "policy" or "contract of insurance" include all agreements regulated under the Insurance Code.

(3) 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, which act was to have been performed on or after February 2, 2007, the time limit shall be extended to April 15, 2007. This extension of time shall not relieve a policyholder who has a claim resulting from the February Tornadoes from compliance with his or her obligations to provide information and cooperate in the claim adjustment process relative to his property damage claim. This extension of time shall also not apply to new policies issued on or after February 3, 2007. 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.

(4) Between February 2, 2007 and April 15, 2007, no insurer or 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 damaged as a result of the February Tornadoes unless requested by the insured. Furthermore, no such policy may be

cancelled or nonrenewed solely because of claims resulting from the February Tornadoes.

(5) All notices of cancellation issued or mailed the week preceding February 2, 2007, affecting an insured who sustained damage in the February Tornadoes, shall be withdrawn and reissued to insureds on or after April 15, 2007.

(6) Any insurer who receives a claim from an insured owing premium may offset the premium due from any claim payment made under the policy.

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

DONE and ORDERED this 2nd day of February, 2007.



A handwritten signature in black ink, reading "Kevin M. McCarty", is written over a horizontal line.

Kevin M. McCarty
Commissioner
Office of Insurance Regulation

EXHIBITS:

1. Executive Order 07-21

NOTICE OF RIGHTS

Any party to these proceedings 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 32399-0333, and a copy of the same with the appropriate district court of appeal, within thirty (30) days of rendition of this Order.



Bob Prentiss, Esquire
Office of Insurance Regulation
Legal Services
200 East Gaines Street, 6th Floor
Tallahassee, Florida 32399-4206
Telephone: 850-413-4183
Facsimile: 850-922-2543

Copies Furnished:

All Property and Casualty Insurers
and Surplus Lines Insurers

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 07-21

(Emergency Management - Hazardous Weather)

WHEREAS, on February 1, 2007, the National Weather Service issued a hazardous weather outlook for the Florida panhandle indicating a broad area of showers with embedded strong thunderstorms producing very heavy rainfall across the area; and

WHEREAS, the Storm Prediction Center in Norman, Oklahoma issued a Tornado Watch until 1 a.m. eastern standard time for Alachua, Baker, Bradford, Clay, Columbia, Duval, Flagler, Gilchrist, Hamilton, Marion, Nassau, Putnam, St. John, Suwannee and Union Counties; and

WHEREAS, as this hazardous weather system moved across the State during the early morning hours of February 2, 2007, the National Weather Service issued a secondary hazardous weather advisory for portions of southwest Florida and West Central Florida; and

WHEREAS, a severe line of thunderstorms (and reported tornadoes) slammed through Lake and Volusia Counties during the early morning hours, leaving destruction in its path; and

WHEREAS, various national news agencies have reported unconfirmed fatalities due to this hazardous weather system; and

WHEREAS, this hazardous weather system has caused substantial damage to hundreds of residential dwellings and commercial properties, power outages

EXHIBIT

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to more than 20,000 homes and businesses, and the closure of I-4 in both directions due to two semi-trailers turning on their sides from extreme winds; and

WHEREAS, the extent of the damage caused by this hazardous weather system has exceeded the capability of the local governments in Lake, Seminole, Sumter, and Volusia Counties to meet it with the resources available to them; and

NOW, THEREFORE, I, CHARLIE CRIST as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

Section 1. Based on the foregoing, I hereby declare that a state of emergency exists in Lake, Seminole, Sumter, and Volusia Counties because of this hazardous weather system (and possible tornadic activity).

Section 2. I hereby designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. In accordance with Sections 252.36(1)(a) and 252.36(5), Florida Statutes (2006), I hereby delegate to the State Coordinating Officer the following powers, which he shall exercise subject to the limitations of Section 252.33, Florida Statutes (2006), as needed to meet this emergency:

A. The authority to activate the Comprehensive Emergency Management Plan;

B. The authority to invoke and administer the Statewide Mutual Aid Agreement, and the further authority to coordinate the allocation of resources under that Agreement so as best to meet this emergency;

C. The authority to invoke and administer the Emergency Management Assistance Compact ("EMAC") and other compacts and agreements existing between the State of Florida and other States, and the further authority to coordinate the allocation of resources from such other states that are made available to the State of Florida under such compacts and agreements so as best to meet this emergency;

D. The authority to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency;

E. The authority to distribute any and all supplies stockpiled to meet the emergency;

F. The authority to suspend existing statutes, rules, ordinances, and orders for the duration of this emergency to the extent that literal compliance with such statutes, rules, ordinances, and orders may be inconsistent with the timely performance of disaster response functions;

G. The authority to suspend the effect of any statute or rule governing the conduct of state business, and the further authority to suspend the effect of any order or rule of any governmental entity, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, procurement, and the conditions of employment and the compensation of employees; provided, however, that the State Coordinating Officer shall have authority to

suspend the effect of any statute, rule or order only to the extent necessary to ensure the timely performance of vital emergency response functions;

H. The authority to relieve any and all state agencies responsible for processing applications or petitions for any order, rule, or other final action subject to the Administrative Procedure Act, as amended, from the deadlines specified in that Act and in other applicable laws for the duration of this emergency, if the State Coordinating Officer finds that such deadlines cannot be met because of this emergency;

I. The authority to direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command of the State Coordinating Officer to meet this emergency;

J. The authority to seize and utilize any and all real or personal property as needed to meet this emergency, subject always to the duty of the State to compensate the owner;

K. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency; and

L. The authority to enter such orders as may be needed to implement any or all of the foregoing powers.

Section 3. I hereby order the Adjutant General to activate the Florida National Guard for the duration of this emergency, and I hereby place the National Guard under the direction of the State Coordinating Officer for the duration of this emergency.

Section 4. I hereby direct all state, regional and local agencies to place any and all available resources under the direction of the State Coordinating Officer as needed to meet this emergency.

Section 5. I also find that the special duties and responsibilities resting upon some state, regional and local agencies and other governmental bodies in responding to the emergency may require them to deviate from the statutes, rules, ordinances, and orders they administer, and I hereby give such agencies and other governmental bodies the authority to take formal action by emergency rule or order in accordance with section(s) 120.54(4) and 252.46(2), Florida Statutes (2006), to the extent that such actions are needed to cope with this emergency. Without limiting the generality of the foregoing, I hereby order the following:

A. I hereby give all agencies whose employees are certified by the American Red Cross, as disaster service volunteers within the meaning of Section 110.120(3), Florida Statutes, the authority to release any such employees for such service as requested by the American Red Cross as needed to meet the emergency;

B. At the request of the Director of Emergency Management of any county, I hereby direct the Department of Health to take over the operation of all shelters in that county that are intended for use by displaced persons with special personal, medical or psychological needs, and to station licensed medical professional and paraprofessional personnel at those shelters as needed to provide appropriate reception and care for such evacuees;

C. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to suspend the effect of any statute, rule, ordinance,

or order of any state, regional, or local government entity, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, to include, without limiting the generality of the foregoing, any and all statutes, rules, ordinances, or orders which affect budgeting, leasing, printing, purchasing, travel and the condition of employment and the compensation of employees, but any statute, rule, ordinance, or order *shall be suspended only to the extent necessary to ensure the timely performance of disaster response functions as prescribed in the State Comprehensive Emergency Plan (CEMP), or as directed by the State Coordinating Officer; however, any waiver of statutes, rules, or ordinances governing travel shall expire in fourteen (14) days from the date of this Executive Order unless extended (in increments of no more than fourteen days) by the agency;*

D. I hereby give all agencies of the State responsible for the use of state buildings and facilities the authority to close such buildings and facilities in those portions of the State affected by this emergency, to the extent to meet this emergency; and

E. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are hereby suspended and tolled to the extent needed to meet this emergency.

Section 6. I hereby find that the demands placed upon funds appropriated to the agencies of the State of Florida and to local agencies may be inadequate to pay the costs of this disaster. In accordance with section 252.37(2), Florida Statutes (2006), to the extent that funds appropriated to the agencies of the State and to local agencies may be inadequate to defray the costs of this disaster, I hereby direct the transfer of sufficient funds from any unappropriated surplus or from the Budget Stabilization Fund. As directed by the State Coordinating Officer, agencies of the State and local agencies receiving these funds shall timely seek reimbursement for the State as provided under Section 252.929, Florida Statutes (2006), the EMAC, and other compacts, agreements, and laws.

Section 7. All state agencies that enter emergency final orders or take other final actions based on the existence of this emergency shall advise the State Coordinating Officer in writing of the action taken as soon as practicable, but in no event later than the expiration of sixty (60) days from the date of this Executive Order.

Section 8. This Executive Order shall be deemed to have taken effect on February 2, 2007, and all actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order

are hereby ratified. This Executive Order shall expire sixty (60) days from the date hereof unless extended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 2nd day of February 2007.

GOVERNOR

ATTEST:

SECRETARY OF STATE