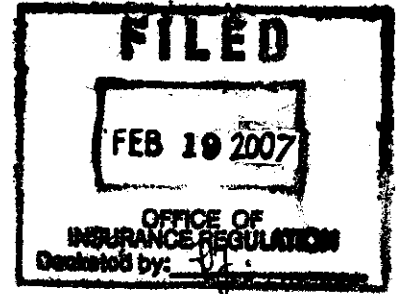




OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER



IN THE MATTER OF:

CASE No.: 89321-07

THE PRESUMED FACTORS  
TO BE USED IN RESIDENTIAL PROPERTY  
INSURANCE RATE FILINGS

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ORDER

**TO: All Residential Property Insurers doing business in this State**

THIS CAUSE came on for consideration as a result of the enactment of House Bill 1A ("HB 1A"). Pursuant to HB 1A, Section 3, subsection 2, this Order specifies the dates upon which the rate filings required by HB 1A, Section 3, subsection 1 and 6, must be made and be effective in order to provide rate relief to policyholders. The Office of Insurance Regulation ("OFFICE") being fully advised in the premises finds:

1. The OFFICE has jurisdiction over the parties and the subject matter of these proceedings.
2. HB 1A, Section 3, subsection 6, requires that each insurer reflect a rate change that takes into account the Presumed Factors determined under Section 3, subsection (3) for any policy written or renewed on or after June 1, 2007.
3. HB 1A, Section 3, subsection 1, requires every residential property insurer to make a rate filing with the OFFICE, pursuant to the "file and use" provisions of Section

627.062(2)(a)1, Florida Statutes, which reflects the savings or reduction in loss exposure to the insurer due to the provisions of Section 2 of HB 1A.

4. The OFFICE anticipates publishing the Presumed Factors by March 1, 2007.

**WHEREFORE**, in consideration of the foregoing and being otherwise duly advised in the premises, it is hereby **ORDERED**:

A. All residential property insurers (hereinafter “insurers” or “insurer”) shall make a filing on or before March 15, 2007, either adopting the Presumed Factors that are determined by the OFFICE, or the insurers shall make a filing using the Presumed Factors and reflecting a rate decrease that takes the Presumed Factors into account. The rate decreases reflected by these filings shall be effective for any policies written or renewed on or after June 1, 2007.

B. A Presumed Factor filing that adopts the Presumed Factors shall be a separate filing using the process established in the I-file system specifically for the Presumed Factor filing, and shall only reflect the effects of the Presumed Factors on the rates currently in effect. Such filing shall not be subject to the requirements of Section 18, subsection (9) of HB 1A. The filing shall be limited to the effects of the Presumed Factors on the rates currently in effect, and the elimination of the 25% rapid cash buildup portion of the insurer’s Florida Hurricane Catastrophe Fund premium.

C. A Presumed Factor filing that uses, but does not adopt, the factors to reflect a rate decrease that takes into account the Presumed Factors shall be a “use and file” filing and shall provide all the information used in preparing the filing including copies of all reinsurance treaties. Such filings are subject to credits or refunds if the rate reductions are determined to be

inadequate. The filing shall be limited to the effects of the Presumed Factors on the rates currently in effect, and the elimination of the 25% rapid cash buildup portion of the insurer's Florida Hurricane Catastrophe Fund premium.

D. A Presumed Factor filing made pursuant to paragraph C shall be accompanied by a sworn statement from the chief executive officer or chief financial officer of the insurer and the chief actuary or actuary preparing the filing that, based on their knowledge after reviewing the filing, the filing contains all the information used to prepare the filing, includes all the reinsurance treaties, reflects all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques. The sworn statement shall further state that the filing does not contain any untrue statement of a material fact nor does it omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading.

E. Either a filing pursuant to paragraph B or paragraph C shall satisfy the requirements of Emergency Rule 69OER07-1 as it relates to the filing required before an insurer may non-renew or cancel or continue the non-renewal or cancellation of personal residential insurance policies, provided that, consistent with s.627.4133(2)(c), Florida Statutes, the policyholder receives at least 100 days written notice that shall not include any time period between the effective date of the Emergency Rule and the date of the insurer's Presumed Factor filing. Approval of the filing is not necessary to comply with the filing requirements of the Emergency Rule.

F. After making the Presumed Factor filing, insurers shall make a "True-Up" filing pursuant to the "file and use" provisions of s. 627.062(2)(a)1. that is a complete rate filing which reflects the savings or reductions in loss exposure to the insurer due to all of the provisions of HB1A and the anticipated 2007 reinsurance program. The "True-Up" filing shall be accompanied by the sworn statement required by HB 1A.

The "True-Up" filing shall contain a complete description of the reinsurance program for each company for the 2007 Hurricane Season, including the following:

- a) A schematic diagram of all reinsurance coverage, including contract retentions and limits, for both CAT fund and private placements.
- b) A listing of all reinsurance contracts, including retentions, limits, estimated ceded premium and rates on line (i.e. premium as a percentage of limits) for each contract.
- c) A copy of confirming documentation for each contract, either in the form of a treaty or if the treaty is not yet available, in the form of a "reinsurance slip."

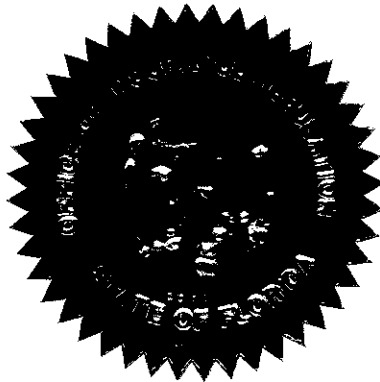
G. The "True-Up" filing may be made at any time after the insurer has submitted its Presumed Factor filing, but shall be made within 90 days from the date of the Presumed Factor filing for insurers with confirmed reinsurance in place for the 2007 Hurricane Season. For all other insurers, the "True-Up" filing shall be made within 90 days from the insurer's receipt of the broker or reinsurer confirmation of new or revised terms of the insurer's reinsurance agreements for the 2007 Hurricane Season, but in no event later than September 30, 2007.


H. For those insurers who have reduced rates since the enactment of HB 1A, an allowance will be made in the Presumed Factor filing for credit for these early rate reductions.

Such insurers shall be required to make a Presumed Factor filing and a "True-Up" filing within the time frames provided in this Order.

I. Failure to comply with this Order shall be cause for the OFFICE to commence proceedings to suspend or revoke the insurer's certificate of authority pursuant to applicable provisions of the Florida Insurance Code including Section 624.418, Florida Statutes, and/or impose administrative fines and penalties as allowed by the Florida Insurance Code.

DONE and ORDERED this 19<sup>th</sup> day of February 2007



  
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KEVIN M. MCCARTY  
COMMISSIONER

## **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.