



# Catastrophe Planning

Warren Byrd

Deputy Commissioner  
Office of Property & Casualty

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# Historical Overview

1. Grant of Authority is transfer from the Governor to the Commissioner.
2. Looked at Florida following their 2004 hurricane disasters (3).
3. Have steadily developed from Katrina/Rita to August 2016 Flood event.





# Hurricane Katrina & Hurricane Rita

## **ER-15 Cancellation, Non Renewals, Reinstatements, Premium Payments, Claim Filings, and Related Provisions**

2701 - The benefits, entitlements, and protections of Emergency Rule 15 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005, had a policy or contract for any of the types of insurance enumerated in 2703.A.

2703 - Applies to any and all types of insurance.

2705 - Suspended ability of insurer to cancel, non renew or non-reinstate.

Notices that had not take effect by effective date of ER15 were null and void.

2713 - Allowed for premium offset.

2715 - Allowed insured to cancel policy at his sole discretion.

2717- Insured obligated to pay premium-no free insurance.

2719 - Did not suspend fraud or material misrepresentation.





# Hurricane Katrina & Hurricane Rita

2721 - Insured obligated to provide information and cooperate in claim adjustment process.

2723 - No interest, penalty, fee or other charge.

2725 - Exemption from ER 15 due to undue hardship, impairment or insolvency (LaFBMIC).

2727 - Intended for consumer protection

ER 15 - Amended and extended.





# Hurricane Katrina & Hurricane Rita

## **ER 16- Registration of Public Insurance Adjusters**

2901 - Applicable to all public adjusters.

2903 - Allowed for electronic registration.

2905 - Recited applicability of R.S. 22:1476.b.

2909 - Right to amend or extend.





# Hurricane Katrina & Hurricane Rita

## **ER 17- Suspension of Certain Health Statutes**

3101 - Limited to insureds in affected parishes.

3103 - Out of network restrictions were suspended as well as recoupment or offset for non elective health care services.

3105 - Obligation of HII to pay claim, up to billed charges, and insureds only obligation was applicable co-pay, deductible or co- insurance.

3109 - Suspended cancellation, non renewal and non reinstatement.

3111 - Required renewal of policy.

3117 - Provided for scale on the payment of claims.

3119 - Physician credentialing suspended.





# Hurricane Katrina & Hurricane Rita

3125 - Insured still obligated to provide information and cooperation.

3131 - Exception for HII for undue hardship, impairment or financial solvency.

3135 - Insured retains the right to cancel or terminate .

3141 - Reserves the right to amend or extend.





# Hurricane Katrina & Hurricane Rita

## ER 18- Suspension of Continuing Education Requirements

3301 – Applied to Louisiana resident life, health and accident producers.





# Hurricane Katrina & Hurricane Rita

## ER 19- Suspension of Certain Statutes

See ER 15





# Hurricane Katrina & Hurricane Rita

## ER 20-Suspension of Statutes Regarding Health Insurance

See ER 17





# Hurricane Katrina & Hurricane Rita

## ER 21- Tax Reporting Under Emergency Rules

N/A





# Hurricane Katrina & Hurricane Rita

## ER 22- Alternative Procedures For Dispute Resolution

General discussion of benefit to insurers and insureds of an ADR program





# Hurricane Katrina & Hurricane Rita

## **ER 23- Suspension of Right to Cancel or Non-renew Residential, Commercial Residential or Commercial Property Insurance**

4305 - Protects insured who is attempting to complete repairs and/or reconstruction of property.

4329 - Terminates on earlier of 60 days after substantial completion on December 31, 2006.





# Hurricane Gustav

## **ER 24- Suspension of Certain Statutes**

- 4401 - Limited to insureds who reside in 43 effective parishes.
- 4403 - Applies to any and all types of insurance.
- 4405 - Suspends statutory or regulatory revisions.
- 4407 - Suspends notice of cancellation, non renewal.
- 4411 - No cancellation or non renewal for property damaged by Hurricane Gustav.
- 4413 - Suspends cancellation or non renewal that was not in effect before 12:01 a.m. on August 30, 2008.
- 4419 - Premium offset.
- 4421 - Policy can be cancelled at request of insured.
- 4423 - Obligation to pay premiums.
- 4425 - Cancellation for fraud or material misrepresentation.





# Hurricane Gustav

4427 - Insured obligated to provide information and cooperation.

4429 - No interest, penalties, fees or other charges.

4431 - Petition for exemption due to undue hardship, impairment or insolvency.

4433 - Maximize consumer protection.

4439 - Reserves right to amend or extend effective 12:01 a.m. on August 30, 2008 through October 01, 2008.





# Hurricane Isaac

## **ER 26 - Suspension of Certain Statutes**

- 4701 - Limited to insureds who reside in 43 effective parishes.
- 4703 - Applies to any and all types of insurance.
- 4705 - Suspends statutory or regulatory revisions.
- 4707 - Suspends notice of cancellation, non renewal.
- 4711 - No cancellation or non renewal for property damaged by Hurricane Isaac.
- 4713 - Suspends cancellation or non renewal that was not in effect before 12:01 a.m. on August 30, 2008.
- 4719 - Premium offset.
- 4721 - Policy can be cancelled at request of insured.
- 4723 - Obligation to pay premiums.
- 4725 - Cancellation for fraud.





# August 2016 Flood

## **ER27 - Suspension of Certain Statutes**

4901 - Insureds who reside in one of the 20 listed parishes.

4903 - Any and all types of insurance.

4905 - Suspension of cancellation and non renewal.

4907 - Suspension of cancellation due to policy provisions.

4909 - Insured obligated to provide information and cooperation.

4913 - Cancellation due to fraud or material misrepresentation.

4915 - Suspension of statutory, regulatory or policy provisions.

4917 - Suspension of cancellation or non renewal.

4923 - Effective date: 1201 a.m. August 12 through September 10, 2016





# August 2016 Flood

## **ER 28 - Suspension of Right to Cancel or Non Renew Residential, Commercial Residential or Commercial Property**

- 5105 - Suspension of cancellation or non renewal based on “material change in the risk.”
- 5107 - Insureds obligated to undertake repairs or reconstruction.
- 5109 - Insurer obligated to extend sufficient time to insured to effectuate repairs or reconstruction.
- 5111 - Exemption from compliance for insurer due to undo hardship impairment or insolvency.
- 5113 - Maximize consumer protection.
- 5119 - Effective through October 12, 2016.





# August 2016 Flood

## **ER 30 - Suspension of Right to Cancel or Non Renew Residential, Commercial Residential or Commercial Property**

5105 - Suspension of cancellation or non renewal based on “material change in the risk.”

5107 - Insureds obligated to undertake repairs or reconstruction.

5109 - Insurer obligated to extend sufficient time to insured to effectuate repairs or reconstruction.

5111 - Exemption from compliance for insurer due to undue hardship impairment or insolvency.

5113 - Maximize consumer protection.

5119 - Effective through February 9, 2017.





# August 2016 Flood

## **ER 32 - Suspension of Right to Cancel or Non Renew Residential, Commercial Residential or Commercial Property**

5105 - Suspension of cancellation or non renewal based on “material change in the risk.”

5107 - Insureds obligated to undertake repairs or reconstruction.

5109 - Insurer obligated to extend sufficient time to insured to effectuate repairs or reconstruction.

5111 - Exemption from compliance for insurer due to undue hardship impairment or insolvency.

5113 - Maximize consumer protection.

5119 - Effective through May 10, 2017.





# August 2016 Flood

## **ER 33-Suspension of Right to Cancel or Non Renew Residential, Commercial Residential or Commercial Property**

5105 - Suspension of cancellation or non renewal based on “material change in the risk.”

5107 - Insureds obligated to undertake repairs or reconstruction.

5109 - Insurer obligated to extend sufficient time to insured to effectuate repairs or reconstruction.

5111 - Exemption from compliance for insurer due to undue hardship impairment or insolvency.

5113 - Maximize consumer protection.

5119 - Effective through Monday, August 14, 2017.





## Common Elements

- Utilizes transfer of authority from Governor to COI.
- Includes all types of insurance-review.
- Includes all insurers admitted, surplus lines, HII, HMO, etc.
- Limited to specific parishes by name.
- Non-Cancellation.
- Non-Renewal.
- Notices voided if not already in effect-explain.
- Extended time to initiate adjustment process.
- Extended time for insured to effectuate repairs.
- Refill prescriptions-coordination between HII, provider and pharmacy.
- Removes requirement to stay in-network.
- Maintains insureds co-payment obligation.
- Authorizes COI to amend and/or reissue.





## NAIC Activities

### Catastrophe Response WG

Establish a standard set of provisions that the state regulator should consider if he decides to issue an emergency rule following a catastrophe/disaster event.





## Catastrophic Event/Emergency Measures Regulatory Guidelines

**Section A. Emergency Powers during a Catastrophic Event/State of Emergency; effect upon insurance policies; rules.** – (a) The \_\_\_\_\_ (insert: Insurance Commissioner/Director/Superintendent or Department/Division of Insurance) may issue rules or promulgate regulations to take effect upon the declaration of a state of emergency, as declared by the President or Governor, that address any of the following or other matters related to the catastrophe or emergency for insurance policies issued in this state:

- (1) Reporting requirements for claims related to the emergency including the effective date such reporting and emergency measures take effect, geographic location(s) impacted, and the specific date/time when the emergency measures expires (unless re-issued) ;
- (2) Grace periods for payment of insurance premiums and performance of other duties by policyholders (other than the duty to mitigate); and/or
- (3) Temporary postponement of cancellations and nonrenewals of insurance policies (unless requested by policyholders).

(b) Subdivisions (a)(1), (2) and (3) above apply to all insurance policies, regardless of the line of insurance, issued by insurers licensed in this state, and non-admitted surplus line insurers if the state deems necessary, to all policyholders displaced or inaccessible as a result of the catastrophe or emergency. The emergency rules or regulations shall require the insurer to make reasonable efforts to contact the policyholder, through methods not limited to traditional contact by telephone and including public outreach through social media and traditional media, and provide the accommodations requested by the policyholder, within the limits of accommodations detailed in the rules or regulation, upon confirmation that the policyholder has been displaced or inaccessible by the catastrophe or state of emergency.

**Drafting note:** States may wish to consider an alternative trigger for declaration of catastrophe as deemed appropriate, such as commissioner discretion if claims exceed a certain trigger i.e., 500 claims. RI’s statutory trigger is “a nationally recognized catastrophe loss index provider”.





# Catastrophic Event/Emergency Measures Regulatory Guidelines

## Section B. Emergency Measures

- A. The \_\_\_\_\_ (insert: Insurance Commissioner/Director/Superintendent)) will utilize the declaration of a state of emergency by the President or Governor for purposes of the declaration of emergency measures pursuant to \_\_\_\_\_ (insert Statutory reference granting DOI emergency powers)
- B. When a state of emergency is declared, the (insert: Insurance Commissioner/Director/Superintendent) may require insurers licensed in this state and non-admitted surplus lines insurers if the state deems necessary to take any of the following actions:

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# Catastrophic Event/Emergency Measures Regulatory Guidelines

1. Allow grace periods for the payment of insurance premiums for policyholders displaced by the state of emergency for a time period established by the Department. For purposes of this section, displaced includes circumstances where a policyholder may be inaccessible as a result of the catastrophe or emergency;
  - a. The Department will establish the time period indicated above by considering the severity of the emergency and the number and severity of claims.
  - b. The Department shall order a maximum grace period of 90 days by bulletin or emergency rule. This requirement does not prevent the Department from amending this regulation during the grace period to establish a longer grace period.
  - c. At the end of the grace period insurers may bill policyholders that have elected to take advantage of the grace period for the premium accumulated during the grace period as long as the insurer has notified the policyholder that premium will accumulate during the grace period. Insurers may not impose additional interest, penalty or other charges during the grace period.
  - d. Insurers may treat nonpayment of accumulated premium in the same manner as nonpayment of premium under the policy as long as the insurer has notified the policyholder that the premium will be due upon expiration of the grace period or at whatever longer interval is established by the insurer.





# Catastrophic Event/Emergency Measures Regulatory Guidelines

2. Suspending performance of other duties under the policy for policyholders displaced or inaccessible by the catastrophic event or emergency.
  - a. The policyholders' duty under the policy to mitigate damages shall not be excused. Policyholders shall be afforded sufficient time to effectuate the repairs or reconstruction to the dwelling or property and to recognize any extraordinary circumstances that may exist such as engaging a contractor or construction workers, obtaining materials, and otherwise undertake to accomplish the necessary repairs or reconstruction. The (insert: Insurance Commissioner/Director/Superintendent) may exempt an insurer from compliance with this provision upon the written request of the insurer if the (insert: Insurance Commissioner/Director/Superintendent) determines that compliance with this provision may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.
  - b. The policyholders' duty to provide information and cooperate with the insurers' investigation of the claim shall not be excused.
  - c. The Department will determine what duties will be suspended by consideration of the severity of the emergency and the number and severity of claims in (state name).
  - d. The Department will notify insurers of the exact duties for a specific emergency by issuance of a bulletin or industry alert. (Sample alert or bulletin attached)





# Catastrophic Event/Emergency Measures Regulatory Guidelines

3. Suspension of cancellations and non-renewals of insurance policies for policyholders displaced or inaccessible by the emergency for a time period established by the Department
  - a. The Department will establish the time period by taking into consideration the severity of the emergency and the number and severity of claims.
  - b. The Department shall order a maximum period of 90 days by bulletin.
  - c. This requirement does not prevent the Department from moving to amend this regulation to establish a longer grace period
  - d. This provision will not apply to non-renewals or cancellations that were sent out prior to the state of emergency but which had not yet become effective on the date of the occurrence, nor shall it apply to documented written requests by the policyholder to non-renew or cancel the policy.
4. Waive any time restrictions on prescription medication refills and authorize payment to pharmacies for at least a 30-day supply of any prescription medication, regardless of the date upon which the prescription medication had most recently been filled by a pharmacist; and waive any restrictions on the time frame for the replacement of durable medical equipment or supplies, eyeglasses, and dentures.
5. The Department may establish additional emergency measures depending upon the circumstances of the event..





# Catastrophic Event/Emergency Measures Regulatory Guidelines

## To be referred to Adjuster WG/Task Force

### Section C. Emergency Adjuster and Appraiser Licenses/Registration

**1. Emergency Adjuster Licenses (or Registration).** – (a) In the event of a state of emergency as declared by the (insert: Insurance Commissioner/Director/Superintendent), an insurer shall notify the department, via an application for temporary emergency licensure (*or registration*), of each individual, not already licensed in this state where the emergency has been declared, who will act as an emergency company (*if required*) or independent adjuster on behalf of the insurer.

(b) A person who is otherwise qualified to adjust claims, but not already licensed in this state where the emergency has been declared, may act as an emergency company or independent adjuster and adjust claims, if, within five (5) days of deployment to adjust claims arising from the declared emergency, the insurer notifies the department by providing the following information in a format prescribed by the (insert: Insurance Commissioner/Director/Superintendent) :

- (1) Name of the individual;
- (2) Social security number of individual;
- (3) Name of insurer the company or independent adjuster will represent;

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# Catastrophic Event/Emergency Measures Regulatory Guidelines

- (4) Effective date of the contract between the insurer and company or independent adjuster, if applicable;
  - (5) Catastrophe or loss control number;
  - (6) Catastrophe event name; and
  - (7) Other information the department deems necessary.
- (c) An emergency company or independent adjuster's license shall remain in force for a period not to exceed (insert number of days here, states vary from ninety (90) to one hundred and eighty (180) days), unless extended by the department.
- (d) Any person licensed (*or registered*) as an emergency company or independent adjuster must comply with all laws of this state in the same manner as if he or she had been issued a company or independent adjuster license and both he or she and the insurer for whom the adjuster is working are responsible in the same manner as they would be if the adjuster was a fully licensed adjuster.
- (e) The fee payable to the state for the licensing (*or registering*) of the emergency adjuster is (state amount of fee if applicable, otherwise note no fee required). In order to assist in the performance of the department's duties, the department may contract with non-governmental entities, including the NAIC, its affiliates, or subsidiaries, to perform any ministerial functions related to licensing that the department may deem appropriate and the applicant is responsible for the fee associated with these services as determined by the department.
- (f) Public adjusters are not eligible for licensing under this section.





# Catastrophic Event/Emergency Measures Regulatory Guidelines

**2. Emergency Motor Vehicle Damage Appraiser licenses (or Registration).** – (a) Notwithstanding any of the provisions of this chapter, the (insert: Insurance Commissioner/Director/Superintendent) may grant emergency licenses to permit an experienced motor vehicle damage appraiser to act as a motor vehicle physical damage appraiser in this state without a (name of state) license if:

(1) The appraiser is either a licensed appraiser in another state which requires a license or regularly appraises motor vehicle damage in another state where such licensing is not required and works for an insurance company authorized to do business in this state;

(2) He or she is engaged in emergency insurance appraisal work during the period of emergency only, as determined by the (insert: Insurance Commissioner/Director/Superintendent or Department/Division of Insurance)

(b) The experienced appraiser may work in this state either for an employer who is an appraiser licensed by this state, or for a regular employer of one or more appraisers licensed by this state, or for an insurance company authorized to do business in this state; provided, that the employer or insurer shall furnish to the (insert: Insurance Commissioner/Director/Superintendent) a notice in writing or electronically promptly after the beginning of any emergency insurance appraisal work. The appraiser may appraise claims within or outside the state.





# Catastrophic Event/Emergency Measures Regulatory Guidelines

Emergency licenses permitted under this section shall not exceed one hundred twenty (120) days, unless extended by the (insert: Insurance Commissioner/Director/Superintendent or Department/Division of Insurance) .

(c) As used in this section, "emergency insurance appraisal work" means and includes, but is not limited to, appraisal of motor vehicle damage during the term of an emergency license following an event or catastrophe as determined by the (insert: Insurance Commissioner/Director/Superintendent) , or a state of disaster declared by the governor of this state or by the president of the United States under applicable federal law.

Drafting Notes: Section C language for emergency adjuster and motor vehicle damage appraiser licensing (or registration) is provided for those states that license adjusters and/or motor vehicle damage appraisers. Some states allow registration of out of state adjusters after deployment.

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# Future ER Provisions

Prepare for These Common Elements in Future Emergency Rules in Louisiana.





# Future ER Provisions

1. Who this “benefits”– insureds
2. Limited to “affected” parishes only (by name)
3. Suspends any previously issued “notice” if the deadline for the “notice” falls within the first effective date of the ER
4. Any such “notice” is “null & void” – must be reissued
5. When can “notice” be reissued – discuss
6. Type of insurance affected – typically “any and all”
7. Suspends requirement to pay
8. No “free” insurance
9. Premium affect
10. Catch all suspension of any statutory provisions
11. Suspends any policy terms that could result in cancellation of policy





# Future ER Provisions

12. Obligates insured to provide information and cooperate in claims process
13. Suspends any interest, penalty, fee or charge from being imposed on an insured
14. Allows for cancellation for fraud or material misrepresentation by insured
15. May or may not address exception for insurer for undue hardship, impairment or insolvency
16. Reserves to the COI the right to amend, modify, alter, rescind or extend the ER
17. Severability
18. Effective date - discuss
19. Other matters - discuss





# Contact Information

***Warren Byrd***

***Deputy Commissioner, OP&C***

***[wbyrd@ldi.la.gov](mailto:wbyrd@ldi.la.gov)***

***225-342-5203 – Phone***

***225-342-6057 - Fax***

