

STATE OF MISSISSIPPI
DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ADOPTION

Mississippi Department of Insurance
c/o Lee Harrell, Deputy Commissioner
501 N. West Street, Suite 1001
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Jackson, MS 39205
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Governor's State of Emergency Proclamation of August 26, 2005;
Governor's State of Emergency Proclamation of September 2, 2005;
State of Mississippi Emergency Operations Plan and Executive Order No. 653
Senate Bill 2381, 2006 Regular Legislative Session

Specific Legal Authority authorizing the promulgation of Rule:
§§ 33-15-11(b)(9); 33-15-11(c)(4); 83-5-1, et seq.

Reference to Rules repealed, amended or suspended by the Temporary Rule:
Emergency Regulation 2006-4

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule: :

This agency issued Emergency Regulation 2006-4 to expand the "Special Mediation Program for Personal Lines Residential Insurance Claims Resulting from Hurricane Katrina" as established in Regulation 2005-2, as amended, in order to allow parties in litigation to participate in the Hurricane Katrina mediation program, upon an order by a court of competent jurisdiction and to set the fees to be collected in said mediations. Emergency Regulation 2006-4 is necessary in order to promote and secure the safety and protection of the citizens of the State of Mississippi by alleviating crowded court dockets and meeting the critical need for litigants to have access to an alternative procedure for the effective, fair and timely handling of residential insurance claims. This agency is filing to make Regulation 2006-4 permanent. Furthermore, pursuant to Miss. Code Ann. § 25-43-3.113(2)(b)(iv), the effective date of this rule shall be a subsequent date earlier than the thirty (30) days allowed by law; the effective date shall be May 25, 2007.

This rule is proposed as a Final Rule, and/or a Temporary Rule (Check one or both boxers as applicable.)

Persons may present their views on the proposed rule by addressing written comments to the agency at the above address. Persons making comments should include their name and address, as well as other contact information, and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

Oral Proceeding: Check one box below:

An oral proceeding is scheduled on this rule on Date: May 2, 2007 Time: 9:30 a.m.
Place: Woolfolk State Office Building, Suite 1001, South Conference Room, 501 N. West Street, Jackson, MS 39201

If you wish to be heard and present evidence at the oral proceeding you must make a written request to the agency at the above address by 4:00 p.m. on April 27, 2007, to be placed on the agenda. The request should include your name, address, telephone number as well as other contact information; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

An oral proceeding is not scheduled on this rule. Where an oral proceeding is not scheduled, an oral proceeding will be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address and telephone number of the person(s) making the request; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

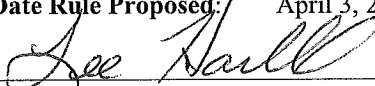
Economic Impact Statement: Check one box below:

The agency has determined that an economic impact statement is not required for this rule, or
 The concise summary of the economic impact statement required is attached.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Date Rule Proposed: April 3, 2007

Proposed Effective Date of Rule: May 25, 2007


Lee Harrell
Deputy Commissioner of Insurance

SOS FORM APA 001
Effective Date 07/29/2005

**MISSISSIPPI DEPARTMENT OF INSURANCE
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., and 83-1-47; 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 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.

This Regulation was originally filed as an Emergency Regulation. This filing is to make this Regulation a final and permanent regulation.

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, or unless otherwise specified herein.

This 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. Fees

With respect to court ordered mediation involving parties to litigation arising from a disputed Hurricane Katrina claim, the applicable fees shall be as follows:

Administrator - \$200.00 per case

Mediator - \$400.00 per case

Section 5. Severability


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

Section 6. Effective Date

This Regulation No. 2006-4, shall be effective on May 25, 2007. Upon final adoption,

Regulation 2006-4 shall supersede Emergency Regulation 2006-4.

Filed this the 3rd day of April, 2007.



GEORGE DALE
COMMISSIONER OF INSURANCE