

FINANCIAL SERVICES COMMISSION (6-11-07 @ 1:45PM)

Office of Insurance Regulation

RULE TITLE:

RULE NO.:

Transition Provisions for the use of the Uniform Mitigation

69OER07-3

Verification Inspection Form by the "My Safe Florida Home" Program

#### NOTICE

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:

The Financial Services Commission and the Office of Insurance Regulation ("Office") hereby state that the following circumstances constitute an immediate danger to the public health, safety, or welfare:

In its January 2007 Special Session, the Florida Legislature found that the homeowner property insurance market is in crisis. See Preamble to Ch. 2007-1, Laws of Florida:

WHEREAS, homeowners in the State of Florida are struggling under increased insurance costs and increased housing prices as a result of damage caused by hurricanes and tropical storms, and

WHEREAS, this increase in the cost of property insurance for the state's residents demands immediate attention, and

WHEREAS, the affordability of property insurance creates financial burdens for Florida's residents and financial crises for some property owners, and

The Financial Services Commission has previously found, in emergency rule No. 69OER07-1 (January 30, 2007), and here reaffirms, that:

The residential property insurance market in Florida is in crisis. Property insurance rates are at the highest levels in Florida history. The multiple hurricanes and tropical storms of the past several years (which resulted

collectively in more than an estimated \$36 billion in insured losses) coupled with the actions and reactions of certain private insurers have created and fueled this crisis ... The turmoil in the residential property insurance market has affected not only homeowners, but also the real estate and construction market .... Thousands of Florida citizens voiced to the Governor, members of the Cabinet, and the Legislature the hardships faced as a result of the current insurance crisis ... Considering all of the foregoing, resolution of the current crisis is essential to the adequate protection of the public health, safety and welfare.

In its 2006 regular session, the Florida Legislature enacted Section 215.5586, Florida Statutes. Section 215.5586 created a program in which, as pertinent here, the Department of Financial Services (hereinafter the "Department") was required to contract with and pay private home inspection firms to conduct inspections of single family homes throughout the state, free of charge to the homeowner. The inspection data is relayed to the Department, which produces a written report to the homeowner with recommendations as to steps the homeowner might take to strengthen the home against hurricane wind damage, thereby reducing homeowner insurance costs. Actual inspections under the Section 215.5586 program commenced in October 2006 and are continuing currently. In excess of 50,000 homes have been inspected.

In its January 2007 Special Session the Florida Legislature enacted s. 31, Ch. 2007-1, Laws of Florida, reading as follows:

(2) By July 1, 2007, the Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid.

The Florida Office of Insurance Regulation (OIR) has been proceeding diligently to develop the uniform mitigation verification inspection form contemplated by s. 31, Ch. 2007-1, Laws of Florida. The OIR is, in June 2007, presenting to the Financial Services

Commission a proposed permanent uniform mitigation verification inspection form, which requires the signature of a qualified inspector attesting to the inspection results reported on the form.

However, because the Department had to contract with inspection firms and commence the inspections under s. 215.2286 long before the uniform mitigation verification inspection form was finalized, the Department's contracts with its inspection vendors do not require the vendor to provide the Department or the homeowner with a uniform mitigation verification inspection form in reference to each inspection conducted.

However, the inspections conducted by inspectors in the s. 215.5586 program have, since the inception of the 215.2286 program, captured all data required to properly complete the uniform mitigation verification inspection form contemplated under s. 31, ch. 2007-1, Laws of Florida, referenced above. The inspection data from the Department's s. 215.2286 inspection program is reliable, having been obtained by inspectors approved by the Department after special training. The only item preventing the accomplishment of a uniform mitigation verification inspection form is the requirement of an inspector's signature.

Every additional day that passes evidences more homeowners having to drop their homeowner property insurance because of unaffordability, with untoward consequences. The relief provided by the premium discounts and credits resulting from use of the temporary form will prevent some of those homeowners from having to drop their coverage. In view of the urgent need of Florida's homeowners for any prompt

financial relief possible from present high homeowners insurance rates, it is determined to be essential that a temporary alternative mitigation verification inspection form be promulgated by emergency rule, permitting the Department to forthwith populate the mitigation verification inspection form using data from the s. 215.2286 inspection, and permitting the Department to certify the form in lieu of a signature by an inspector, for use by homeowners whose homes have been inspected.

#### REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

The Office of Insurance Regulation believes that adopting an emergency rule is the fairest method to establish a timely transitional procedure to benefit the members of the public which have participated in the “My Safe Florida Home” Program. The substance of Form OIR-B1-1802 (7/07) has been the subject of a public workshop and a public rule hearing. The insurance industry, persons involved in the inspection industry, and building code experts have been involved in the development of the form. This rule is fair under the circumstances as it preserves the integrity of the proposed permanent form, and provides an expedited process to verify the results of inspections by qualified inspectors. An Office of Insurance Regulation bulletin addressed to all insurers would reach all insurers but would not be legally binding. Office of Insurance Regulation responses to individual requests for information would not make the information generally available. Thus, immediate implementation is needed to utilize the data gathered by the “My Safe Florida Home” Program, and permit homeowners to utilize the temporary form to timely receive the premium discounts and credits to which they are entitled.

#### SUMMARY OF THE RULE:

This rule provides, on a temporary basis, for the use of a modified format of Form OIR-B1-1802 (7/07) and requires insurers to accept the modified form from the “My Safe Florida Home” Program. The form will allow the Department of Financial Services to certify the contents of the form as true and correct based on an inspection conducted by a qualified inspector.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:

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THE FULL TEXT OF THE EMERGENCY RULE IS:

69OER07-03 Transition Provisions for the Use of the Uniform Mitigation and Verification Inspection Form by the “My Safe Florida Home” Program. Effective July 1, 2007, insurers shall accept form OIR-B1-1802(7/07) Uniform Mitigation Verification Inspection Form as revised by this rule. Specifically the form is revised to allow the Department of Financial Services to certify that the contents of the form are true and correct as the result of an inspection conducted by a qualified inspector under section 215.5586(1), Florida Statutes. Form OIR-B1-1804 “Uniform Mitigation Verification Inspection Form (Emergency)”(7/07) is hereby incorporated herein by reference and is available at [www.floir.com](http://www.floir.com).

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.