

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION**

IN THE MATTER OF:

The Severe Winter Storm of December 2007)	
)	
Suspension of Certain Rules and Statutes)	
Based on State of Emergency – Natural Disaster;)	Case Number: INS 2007-12-002
)	
Extension of Grace Period, Reinstatement)	
and Miscellaneous Periods; Limitation on)	
Cancellations and Nonrenewals;)	
)	
Claims Payment Provision.)	

EMERGENCY ORDER

TO: All Insurers, HMOs, Premium Finance companies, Surplus Lines and other entities regulated by the Oregon Insurance Division

THIS CAUSE having come before the Director of the Department of Consumer and Business Services as a result of the State of Emergency created by a severe winter storm, and being fully informed in the premises,

NOW THEREFORE, the Director hereby **FINDS** as follows:

JURISDICTION AND FINDINGS OF FACT

1. The purpose of the Insurance Code is to protect the insurance-buying public. ORS 731.008. The Director of the Department of Consumer and Business

Services (the Director) has the duty, pursuant to ORS 731.016, to administer the provisions of the Insurance Code (ORS 731, 732, 733, 734, 735, 737, 742, 743, 744, 746, 748, and 750 and the rules adopted thereunder.)

2. On December 3, 2007, Oregon Governor Theodore R. Kulongoski, issued Executive Order 07-24, determining a state of emergency exists in Oregon, finding a threat to life, safety and property and activating the State's Emergency Operation Plan.

3. This Emergency Order is being issued pursuant to the authority delegated by the Governor to the Director or Director's Designee in the Delegation Order and the Director's authority under the Insurance Code, because of an immediate threat to the public health and welfare, as a result of the direct effects of the impact of a severe winter storm of December 2007.

5. The Director finds that the severe winter storm of December 2007 has produced significant damages associated with coastal storm surges, high winds, torrential rainfalls, and flooding. Further, the catastrophic extent of the damage associated with the storm has virtually eliminated the benefits of the Insurance Code that allows insureds specific periods of time to act or respond to notices from insurers and has greatly increased the time necessary to make repairs to dwellings, all properties, vehicles, machinery, appliances, equipment, and vessels, in the areas affected in the counties of Lincoln, Tillamook, Clatsop, Columbia, and Yamhill (affected counties).

6. In the ordinary course of business, insurance companies send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Because of the storm damage, lack of electricity, disruption of mail and inability of many of the insureds to

stay in their homes, the storm victims are currently unable to timely act or respond and need additional time within which to act in response to these notices. Some insurers may cancel or nonrenew insurance policies including homeowners' insurance policies on homes that have suffered losses. This action could leave the insured without coverage and potentially uninsurable until the dwelling is rebuilt or otherwise repaired. Other types of coverage such as auto insurance may also be in peril because of the disruption in mail and inability of the insureds to receive and respond to mail in a timely manner. This Order provides temporary emergency relief to the insureds so that they are not left uninsured during the remainder of this crisis.

7. The nature of the destruction caused by the severe winter storm requires an immediate and massive response from insurers and other regulated entities.

8. Given the Director's responsibility to protect the consumer and given the immediate, potentially irreparable harm that would result if a policy is cancelled or nonrenewed because of disruption occasioned by the severe winter storm, particularly in the event of a claim, this Emergency Order is necessary. The issuance of this Emergency Order and the procedural safeguards set forth herein are fair under the circumstances.

WHEREFORE, pursuant to the authority delegated to the Director or Director's designee, and the authority provided under the Insurance Code, the Director finds that the issuance of this Emergency Order is necessary to protect the consumers in the affected counties.

Accordingly, IT IS HEREBY ORDERED:

(1) All contracts of insurance and other contracts that are subject to regulation under the Oregon Insurance Code, issued, delivered, or covering a risk located in the

areas within Lincoln, Tillamook, Clatsop, Columbia and Yamhill Counties that have been affected by the severe winter storm, shall be subject to the provisions of this Emergency Order.

References herein to “policy” or “contract of insurance” includes all agreements regulated under the Insurance Code.

(2) Reinsurance contracts are not subject to this Order, however, ceding insurers shall, within ten (10) days, notify the Office, in writing, of the cancellation or nonrenewal of any reinsurance contract reinsuring property risks located in the State. This notice should be directed to the Financial Regulation Section of the Insurance Division of the Department of Consumer and Business Services.

(3) Any free look period in a variable life policy or variable annuity contract is not extended by this Order.

(4) The primary purpose of this Emergency Order is to provide temporary and emergency relief to persons located in Lincoln, Tillamook, Clatsop, Columbia and Yamhill Counties who have been impacted by the results of the storm.

(5) As to any policy provision, notice, correspondence, or law that imposed a time limit upon an insured to perform any act or to transmit information or funds with respect to a contract of insurance, which act was to have been performed on or after December 3, 2007, the time limit shall be extended to January 3, 2008. This extension of time shall not relieve a policyholder who has a claim resulting from the severe winter storm from compliance with his 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 December 3, 2007. No interest,

penalties, or other charges, shall accrue or be assessed, as the result of the extension required herein.

(6) Beginning on December 3, 2007, and continuing through January 3, 2008, 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 in the areas of the affected counties unless requested by the insured.

(7) All notices of cancellation issued or mailed the week preceding December 3, 2007, affecting an insured residing in or owning property in the affected counties, shall be withdrawn and reissued to insureds after January 3, 2007.

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

(9) A cancellation or nonrenewal may occur prior to January 3, 2008, at the written request or written concurrence of the policyholder.

(10) Except as provided in paragraphs (6) and (7), cancellations or nonrenewals that, but for this Order, would have taken effect on December 3, 2007, to and including January 3, 2008, are not made invalid by this Order; however,

a) The insurer shall extend such coverage to 12:00 a.m. P.S.T January 3, 2008, or a later date specified by the insurer;

b) The premium for the extended term of coverage shall be the appropriate pro rata portion of the premium for the entire term of the policy.

(11) An insurer that was unable to cancel or nonrenew a policy due to the operation of this Order, may upon proper notice, cancel or nonrenew such policy, effective on the date the policy would have otherwise been cancelled or renewed, in the

event the insured has not filed a claim under the policy or not paid any outstanding premium due.

(12) No policy shall be cancelled or nonrenewed solely because of a claim resulting from the severe winter storm.

(13) An insurer's offer of replacement coverage, which is voluntarily accepted in an affiliated company, or made pursuant to a depopulation program, assumption or other arrangement approved by the Director does not constitute a nonrenewal or cancellation for purposes of this Order.

(14) Any insurer who receives a claim from an insured owing premium may offset the premium due to the insurer or a premium finance company from any claim payment made under the policy.

(15) This Emergency Order shall not apply to new policies issued on or after December, 3, 2007.

(16) If the contract of insurance was financed by a premium finance company, the following provisions apply:

(a) Premium finance companies will issue 10-day notices of intent to cancel and cancellation notices in accordance with the terms of the premium finance agreement signed by the insured. In addition, the premium finance company shall be responsible to obtain proof of receipt of each such notice by the insured, which may be accomplished through mailing by certified mail, return receipt requested, or through any other legally admissible method in a court of law. In addition, each such notice shall prominently contain the following statement:

“If you have been displaced through the loss of your home or damage to your home which has caused you to reside elsewhere on a temporary basis, or if you have temporarily become unemployed due to the destruction caused by the severe winter storm, please contact this office at once.

Victims of the severe winter storm will receive an automatic extension of time to 12:00 a.m. P.S.T. January 3, 2008, to bring their accounts up to date and no late charges will be applied to any late payments received which were due on their accounts during the period of December 3, 2007, to and including January 3, 2008.

Therefore, if you are a victim of the severe winter storm, please contact us at once at the number provided at the bottom of this notice so that we may advise you of the status of your account.

If you decide that you no longer need or desire to keep the coverage provided by the insurance policy financed by your contract with us, please contact us at once so that we may instruct you on how to effect cancellation with your insurer.”

(b) Upon receipt of a notice of cancellation from the premium finance company, the insurer will process the cancellation requests in accordance with current law, and in accordance with the notice provisions contained in this Order.

(c) The insurer will hold all refunds until January 3, 2008, and proceed as follows:

1. If the insurer receives notice of a claim that occurred on or before January 3, 2008, on the cancelled policy, the coverage that would have been available had the policy not been cancelled shall be extended for that claim.

2. If the premium finance company receives payment from the insured or the insured's agent on behalf of the insured to bring the account up-to-date on or before January 3, 2008, the premium finance company will send a request for reinstatement to the insurer. Upon receipt of same, the insurer will immediately reinstate the policy with no lapse in coverage.

3. No late charges shall be assessed for any insured who qualifies for protection under this Emergency Order.

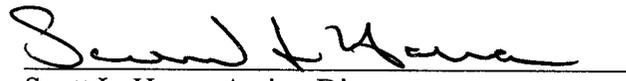
4. If the insurer does not receive a claim of loss on a policy for which it has received a notice of cancellation under subparagraph 1 above, not a request for reinstatement from the premium finance company pursuant to subparagraph 2 above, the insurer will issue the return premium checks to the premium finance company no later than January 3, 2008, based upon the requested cancellation date. This paragraph also applies to any insurer who finances its' own premiums.

(17) This Emergency Order shall not apply to policies for the following kinds of insurance issued by authorized insurers that cover a business that is domiciled or maintains its primary place of business outside the State of Oregon: Surety insurance as defined in ORS 731.186; Marine insurance and transportation insurance as defined in ORS 731.194 and inland marine insurance as defined in ORS 731.174, and wet marine as defined in 731.194. Title insurance as defined in ORS 731.190; Workers' Compensation insurance as defined in ORS 731.158; Casualty insurance as defined in ORS 731.158, but limited to coverage of commercial risks other than residential or personal property; and personal property insurance as defined in ORS 731.182, but limited to coverage of commercial risks other than residential or personal property. Additionally, this Order

shall not apply to life insurance policies or annuity contracts that are owned by a person other than the insured or the annuitant or where the premium payer under such policy is a person other than the insured or annuitant and such owner or premium payer does not reside in the referenced counties.

(18) The provisions of this Emergency Order shall be liberally construed to effectuate the intent and purposes expressed therein and to afford maximum consumer protection.

ORDERED EFFECTIVE this 7th day of December 2007.



Scott L. Harra, Acting Director