Catastrophic Event/Emergency Measures Regulatory Guidelines

Section A. Emergency Powers during a Catastrophic Event/State of Emergency; effect upon insurance policies; rules.

(1). 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:

(a) 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 expire (unless re-issued);

(b) Grace periods for payment of insurance premiums and performance of other duties by policyholders (other than the duty to mitigate); and/or

(c) Temporary postponement of cancellations and nonrenewals of insurance policies (unless requested by policyholders).

(2). Subdivisions 1(a), (b) and (c) above apply to all insurance policies, regardless of the line of insurance, issued by insurers licensed in this state, and non-admitted surplus lines insurers if the state deems necessary, non-admitted surplus lines insurers, to all policyholders displaced or inaccessible as a result of the catastrophe or state of 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”.

Section B. Emergency Measures

(1). The ________ (insert: Insurance Commissioner/Director/Superintendent) will-may 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)

(2). 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, non-admitted surplus lines insurers to take any of the following actions:

(a) 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;

(i) The Department will-may establish the time period indicated above by considering the severity of the emergency and the number and severity of claims.

1 Your governor may already have broad statutory authority as part of his/her emergency powers. For consistency purposes, you may want to review your existing statutes to make use of the definitions already included in your statutes.
(ii) The Department shall may 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.

(iii) 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.

(iv) 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.

(b) Suspending performance of other duties under the policy for policyholders displaced or inaccessible by the catastrophic event or emergency.

(i) The policyholders’ duty under the policy to mitigate damages shall may not be excused. Policyholders shall may 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.

(ii) The policyholders’ duty to provide information and cooperate with the insurers’ investigation of the claim shall may not be excused.

(iii) The Department will may determine what duties will be suspended by consideration of the severity of the emergency and the number and severity of claims in (state name).

(iv) The Department will may notify insurers of the exact duties for a specific emergency by issuance of a bulletin or industry alert. (Sample alert or bulletin attached)

(v) 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.

(c) 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

(i) The Department will may establish the time period by taking into consideration the severity of the emergency and the number and severity of claims.

(ii) The Department shall may order a maximum period of 90 days by bulletin.

(iii) This requirement does not prevent the Department from moving to amend this regulation to establish a longer grace period.

(iv) 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.

(d) Waive any time restrictions on prescription medication refills and authorize payment to pharmacies for at least a 30-day supply, unless limited by a physician, 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.

(e) The Department may establish additional emergency measures depending upon the circumstances of the event.
To be referred to Adjuster WG/Task Force

Section C. Emergency Adjuster and Appraiser Licenses/Registration

A. Emergency Adjuster Licenses (or Registration)

(1) 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.

(2) 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):

   (a) Name of the individual;
   (b) Social security number of individual;
   (c) Name of insurer the company or independent adjuster will represent;
   (d) Effective date of the contract between the insurer and company or independent adjuster, if applicable;
   (e) Catastrophe or loss control number;
   (f) Catastrophe event name; and
   (g) Other information the department deems necessary.

(3) 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.

(4) 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.

(5) 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.

(6) Public adjusters are not eligible for licensing under this section.

B. Emergency Motor Vehicle Damage Appraiser licenses (or Registration)

(1) 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:

   (a) 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;
(b) 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)

(2) 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.

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

(3) 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.