

---

## BULLETIN

---

### NUMBER 06-B-06

**To:** All Property Insurance Companies Licensed in North Carolina

**Date:** October 23, 2006

**Subject:** 1) Disaster Mediation Program  
2) Disaster Declaration in Jones and Duplin Counties

#### **Residential Property Mediation Program**

Section 1 of Session Law 2006-145 (codified as North Carolina General Statutes 58-44-70 thru 58-44-120) created a non-adversarial mediation program (“Program”) to facilitate the effective, fair, and timely resolution of insurance claims arising out of damages to residential property as the result of a disaster. The program becomes available to first party claimants only if a state of disaster has been proclaimed for North Carolina or for an area within the state. The disaster must be proclaimed by the Governor of North Carolina or the President of the United States.

The North Carolina Department of Insurance (“NCDOI”) is responsible for implementation and oversight of the Program. Consequently, NCDOI will be issuing a Request for Proposals (“RFP”) from potential Program administrators.

A disaster declaration prior to the completion of the RFP and selection processes would nonetheless require availability of the Program. Therefore, NCDOI has contracted with the American Arbitration Association ([www.adr.org](http://www.adr.org)) to serve as interim Program administrator.

North Carolina General Statute 58-44-80 (a) and (b) requires insurers to, under specific circumstances, send first party claimants a “right to mediate” notice (see attached template) that includes the administrator’s contact information. The contact information for American Arbitration Association is as follows:

American Arbitration Association  
Central Case Management Center  
13455 Noel Road, Suite 1750  
Dallas, TX 75240-6620  
(800) 426-8792

#### **Disaster Proclamation for Jones and Duplin Counties**

The Governor has issued Executive Order 109, effective October 10, 2006, proclaiming a state of disaster in Jones and Duplin Counties as a result of Tropical Storm Ernesto. Therefore, as required by North Carolina General Statute 58-44-80(a) and (b), insurers must send a “right to mediate” notice to all Jones and Duplin County claimants who dispute settlement offers for residential property damage that resulted from Tropical Storm Ernesto.

## Template for “Right to Mediate” Notice

[Date]

[Policyholder Name and Address]

{Policy number and/or Claim Number}

### **NOTIFICATION OF THE RIGHT TO MEDIATE RESIDENTIAL PROPERTY DISASTER INSURANCE CLAIM**

The General Assembly of North Carolina has enacted a law to facilitate fair and timely handling of residential property insurance claims arising out of disasters. The law gives you the right to attend a mediation conference with your insurer in order to settle any dispute you have with your insurer about your claim. An independent mediator, who has no connection with your insurer, will be in charge of the mediation conference.

The mediator does not decide the dispute, but will facilitate discussion/negotiation between the parties. There is no cost to you for this service.

#### **“Disputed Claim”**

For the purpose of this mediation program, a “disputed claim” does not mean a claim denied because of exclusions, terms or conditions in the policy, or because the policy was not in force at the time of loss. “Disputed claim” also does not mean a claim that the insurer has reported to the Department of Insurance’s Investigations Division due to suspected insurance fraud.

#### **Eligibility**

To be eligible for a mediation conference:

- You must have a disputed claim arising from a declared state of disaster in which the insurer has denied payment in whole or in part.
- The dispute must be over the insurer’s findings on the cause of loss, or the amount of the loss.
- The total amount of the claim, or the difference in position between you and your insurer, must be at least \$1,500 unless both parties agree to mediate a smaller claim.

### **Requesting a Mediation Session**

- You must request mediation within 60 days of your claim being denied, or your right to mediation is lost. Failure to request mediation does not prejudice any other legal right or remedy that you may have to pursue your claim. **To request mediation, you may contact the Mediation Administrator at:**

American Arbitration Association  
Central Case Management Center  
13455 Noel Road, Suite 1750  
Dallas, TX 75240-6620  
(800) 426-8792

- Your request must include the following information, if known:
  - Your claim number and policy number.
  - Your name, mailing address, and (if different) property location.
  - A daytime telephone number where you can be reached.
  - A brief description of the nature of the dispute.
  - The name of your insurance company and the name, address and phone number of a contact person (if other than you) for scheduling mediation.
  - Information on any other policies of insurance that may provide coverage of the insured property for named perils such as flood, earthquake or windstorm.
- Once your request for mediation is received, the Administrator will contact you to schedule your mediation conference, and to provide further information such as the location of the mediation session, how to prepare, etc. The Administrator will select the mediator.

### **If you need further information**

If you have any questions or need additional information concerning this notification, you may contact:

< insert name and address of insurer, contact person/division and phone number >