

---

## BULLETIN

---

### NUMBER 07-B-05

**To:** All Property Insurance Companies Licensed in North Carolina  
**From:** Bob Lisson, Deputy Commissioner, Consumer Services Division  
**Date:** August 20, 2007  
**Subject:** 1) 2007 Legislative Changes to Disaster Mediation Program Legislation  
2) 2007 Change to "Right to Mediate" Notice Template

#### **2007 Legislative Changes to Disaster Mediation Program Legislation**

The North Carolina General Assembly has passed House Bill 730 (Session Law 2007-300), which is effective October 1, 2007, and applies to policies issued or renewed on or after that date. This legislation makes several changes to the mediation program legislation that was first enacted in 2006. The ratified bill can be accessed via the North Carolina General Assembly website (<http://www.ncga.state.nc.us/>). Please review this Bill in its entirety, and make internal changes as necessary. Most notably for insurance companies, there are two new criteria that must both be met in order for the Disaster Mediation Program to be activated following a disaster:

- 1) **The disaster declaration must be issued within 60 days following the date of the disaster,**  
**AND**
- 2) **The Commissioner of Insurance must issue an order activating the Mediation Program for the declared disaster.**

In the event that a disaster occurs and both criteria are then met, thereby activating the Mediation Program, the Department of Insurance will communicate this to insurers and consumers as expeditiously as possible.

#### **Changes to "Right to Mediate" Notice Template**

The notice template issued in 2006 contained the following statement to affected policyholders:

- "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."

In reviewing the existing law, the Department of Insurance has determined that the \$1,500 amount references only the *disputed amount* (the difference between the parties), not the total amount of a claim. If all claims *totaling* \$1,500 or more were eligible for the Program, then disputes of any size (even a few dollars) would technically be eligible. Making such small disputes eligible for the Program was clearly not the intent of the legislation.

Therefore, the applicable provision in the Notice Template has been modified as follows:

- "The difference between you and your insurer must be at least \$1,500 unless both parties agree to mediate a smaller dispute."

A modified template is on the pages that follow.

**Template for “Right to Mediate” Notice**  
(last updated August 1, 2007)

[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, AND
- The disputed amount (difference in position between you and your insurer), must be at least \$1,500 unless both parties agree to mediate a smaller dispute.

### **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 >