



General Assembly

January Session, 2013

**Amendment**

LCO No. 6001

**\*HB0654906001HDO\***

Offered by:

REP. MEGNA, 97<sup>th</sup> Dist.

SEN. CRISCO, 17<sup>th</sup> Dist.

To: Subst. House Bill No. 6549

File No. 304

Cal. No. 214

**"AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2013*) (a) (1) The Insurance  
4 Department may establish a mediation program for any open claim for  
5 loss or damage to personal or real property that arises under an  
6 insured's (A) personal risk insurance policy, as defined in section 38a-  
7 663 of the general statutes, other than a private passenger nonfleet  
8 automobile insurance policy, (B) condominium association master  
9 policy under section 47-83 of the general statutes, or (C) unit owners'  
10 association property insurance policy under section 47-255 of the  
11 general statutes, as a result of a catastrophic event for which the  
12 Governor has declared a state of emergency. Any company licensed to  
13 write the lines of insurance set forth in subparagraphs (A) to (C),  
14 inclusive, of this subdivision shall participate in the mediation

15 program. For purposes of this section, "claim" means any dispute  
16 between an insured and such insured's insurer arising from such  
17 catastrophic event in which the difference between the position of the  
18 parties for the actual cash value or the amount of loss is five thousand  
19 dollars or more, notwithstanding any applicable deductible, except  
20 that the parties may agree to mediate a dispute involving a lesser  
21 amount.

22 (2) This section shall not apply to any claim (A) made under a flood  
23 insurance policy issued by the National Flood Insurance Program, (B)  
24 for which coverage is in dispute, or (C) with respect to which coverage  
25 has been exhausted.

26 (b) The Insurance Commissioner shall designate an entity as the  
27 commissioner's designee to carry out the mediations pursuant to this  
28 section. The insurer shall pay the mediation fee to the designated  
29 entity not later than ten business days after such insurer receives an  
30 invoice for such mediation from such entity. The insurer shall not be  
31 responsible for any costs incurred by an insured including, but not  
32 limited to, costs incurred for advisors, representatives, attorneys or  
33 public adjusters.

34 (c) The mediation shall be conducted in accordance with procedures  
35 established by the designated entity and approved by the  
36 commissioner. The commissioner shall not designate an entity as the  
37 commissioner's designee unless:

38 (1) Such entity agrees (A) that the commissioner shall oversee the  
39 operational procedures of such entity with respect to the  
40 administration of the mediation program, (B) that the commissioner  
41 shall have access to all systems, databases and records related to the  
42 mediation program, and (C) to make reports to the commissioner in a  
43 form and manner prescribed by the commissioner;

44 (2) Such entity's procedures require that (A) the parties agree, in  
45 writing, prior to the mediation that statements made during the

46 mediation are confidential and will not be admitted into evidence in  
47 any civil action concerning the claim, except with respect to any  
48 proceeding or investigation of insurance fraud, (B) a settlement  
49 agreement reached in a mediation shall be transcribed into a written  
50 agreement, on a form approved by the commissioner, that is signed by  
51 the insured and a representative of the insurer with the authority to do  
52 so, and (C) a settlement agreement prepared during a mediation shall  
53 include a provision affording the insured a right to rescind the  
54 agreement within five business days after the date such agreement is  
55 reached, provided the insured has not cashed or deposited any check  
56 or draft disbursed to the insured for the disputed matters as a result of  
57 such agreement; and

58 (3) Such entity's procedures provide that (A) the mediator may  
59 terminate a mediation session if the mediator determines that either  
60 the insured or the insurer's representative is not participating in the  
61 mediation in good faith, or if even after good faith efforts, a settlement  
62 cannot be reached, (B) the designated entity may schedule additional  
63 mediation sessions if it believes the sessions may result in a settlement,  
64 (C) the designated entity may require the insurer to send a different  
65 representative to a rescheduled mediation session if the first  
66 representative has not participated in the mediation in good faith, and  
67 any fee for such other representative shall be paid by the insurer, and  
68 (D) the designated entity may reschedule a mediation session if the  
69 mediator determines that the insured is not participating in good faith,  
70 but only if the insured pays the entity's fee for the mediation.

71 (d) An insured's right to request mediation pursuant to this section  
72 shall not affect any other right the insured may have to redress the  
73 dispute after the completion of the mediation, including any remedies  
74 specified in the insurance policy or any right provided by law, unless a  
75 settlement agreement for the dispute has been entered into and the  
76 insured did not rescind such agreement as provided under  
77 subparagraph (C) of subdivision (2) of subsection (c) of this section.

78 (e) The commissioner may adopt regulations, in accordance with the

79 provisions of chapter 54 of the general statutes, to implement the  
80 provisions of this section. Such regulations shall include, but not be  
81 limited to, (1) the form and manner of notification by the insurer to an  
82 insured of the right to mediation, (2) the forms and procedures for an  
83 insured or an insurer to request a mediation proceeding, and (3) the  
84 requirements for an insurer's participation at the mediation hearing."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section