

2012 -- S 2597 SUBSTITUTE A

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LC01531/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO INSURANCE - FIRE INSURANCE POLICIES AND RESERVES

Introduced By: Senator Joshua Miller

Date Introduced: March 01, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-5-3.7 of the General Laws in Chapter 27-5 entitled "Fire
2 Insurance Policies and Reserves" is hereby repealed.

3 ~~27-5-3.7. Hurricane deductibles, triggers and policyholder notice. — (a) The~~
4 ~~provisions of this section shall be applicable to policies issuing or renewing on or after July 1,~~
5 ~~2008.~~

6 ~~(b) In all instances where an insurance company licensed to do business in this state~~
7 ~~offers or includes any deductible and/or mitigation measure related to such deductible for any~~
8 ~~type of personal lines residential property insurance on dwelling houses, the insurance company~~
9 ~~shall provide prominent and clear notice to insureds, that shall be included in the policy issuance~~
10 ~~or renewal package and shall fully disclose all details pertaining to any such deductible and/or~~
11 ~~mitigation measure.~~

12 ~~(c) The insurer may apply a deductible specific to windstorm coverage where:~~

13 ~~(1) The deductible is specifically approved by the director and shall not exceed five~~
14 ~~percent (5%) of the insured value.~~

15 ~~(2) The deductible shall be applicable to losses due to a hurricane during the period~~
16 ~~commencing with the issuance of a hurricane warning bulletin for any part of the state by the~~
17 ~~National Hurricane Center and concluding twenty four (24) hours after the termination of the last~~
18 ~~hurricane warning bulletin for any part of the state.~~

19 ~~(3) The deductible, whether it is a flat dollar deductible or a percentage deductible shall~~

1 ~~be presented by at least two (2) examples that illustrate the application of the deductible to the~~
2 ~~insured. Nothing herein shall prohibit the insurer from providing any additional information to the~~
3 ~~insured to assist in the insured's understanding of the deductible to be applied to the insured's~~
4 ~~policy.~~

5 ~~(4) The deductible set forth above shall not be applied to any insured, if the insured has~~
6 ~~installed approved mitigation measures to protect against windstorm damage and the insurer has~~
7 ~~either inspected the property or the insured has submitted satisfactory proof of installation of the~~
8 ~~approved mitigation measures. The insurance commissioner, in consultation with the state~~
9 ~~building code commissioner, shall adopt and may amend or revise a list of mitigation measures,~~
10 ~~based so far as reasonably feasible on national standards for such measures and practices in other~~
11 ~~comparable states. The list of mitigation measures adopted by the insurance commissioner shall~~
12 ~~be considered approved mitigation measures for purposes of this subdivision.~~

13 ~~(5) For the application of the hurricane deductible in Block Island, losses are due to a~~
14 ~~hurricane when a hurricane results in hurricane force sustained winds as reported by the national~~
15 ~~weather service for Block Island. For the application of the hurricane deductible in the remainder~~
16 ~~of the state, losses are due to a hurricane when a hurricane results in hurricane force sustained~~
17 ~~winds as reported by the national weather service for any other location in the state. All terms are~~
18 ~~as defined by the national weather service.~~

19 ~~(d) Premium credits shall be applied to policies with deductibles as set forth in~~
20 ~~subsection 27-5-3.7(c).~~

21 ~~(e) (1) An insurer may require mitigation measures to protect against windstorm damage~~
22 ~~only after specific approval of the substance of such mitigation measures by the director;~~

23 ~~(2) Mitigation measures to be taken by an insured are clearly explained, including a~~
24 ~~complete illustration of the dollar impact upon the premiums to be charged to insureds if the~~
25 ~~requested mitigation activities are undertaken;~~

26 ~~(3) No mandatory deductible for windstorm damage shall be included in the policy;~~

27 ~~(4) An insurer shall write the requested coverage at the premium rate that includes the~~
28 ~~premium credit to be realized with the completion of the mitigation efforts;~~

29 ~~(5) The insurer shall affirmatively state the length of time during which discount given~~
30 ~~for the mitigation efforts will apply; and~~

31 ~~(6) No insurer shall subsequently non-renew an insured who has taken the mitigation~~
32 ~~steps requested by the insurer for reasons of the insurers exposure to catastrophe loss, unless for~~
33 ~~non-payment of premium, fraud, breach by the insured of a provision of the policy, reversal or a~~
34 ~~lack of maintenance of the mitigation steps, or insurer solvency concerns or adverse loss history.~~

1 ~~(f) Penalties for failure to comply with the provisions of this section shall be~~
2 ~~administered by the director in accordance with the provisions of section 42-14-16.~~

3 ~~(g) The department of business regulation shall have authority to adopt such rules,~~
4 ~~including emergency rules, as may be necessary or desirable to effectuate the purposes of this~~
5 ~~section.~~

6 SECTION 2. Title 27 of the General Laws entitled "INSURANCE" is hereby amended
7 by adding thereto the following chapter:

8 CHAPTER 76

9 WEATHER RELATED LOSSES

10 27-76-1. Applicability. -- The provisions of this chapter shall be applicable only to
11 personal lines residential property insurance on dwelling houses.

12 27-76-2. Hurricane deductibles, triggers and policyholder notice. -- (a) The
13 provisions of this section shall be applicable to policies issuing or renewing on or after July 1,
14 2008.

15 (b) In all instances where an insurance company licensed to do business in this state
16 offers or includes any deductible and/or mitigation measure related to such deductible for any
17 type of personal lines residential property insurance on dwelling houses, the insurance company
18 shall provide prominent and clear notice to insureds that shall be included in the policy issuance
19 or renewal package and shall fully disclose all details pertaining to any such deductible and/or
20 mitigation measure.

21 (c) The insurer may apply a deductible specific to windstorm coverage where:

22 (1) The deductible is specifically approved by the director and shall not exceed five
23 percent (5%) of the insured value.

24 (2) The deductible shall be applicable to losses due to a hurricane during the period
25 commencing with the issuance of a hurricane-warning bulletin for any part of the state by the
26 National Hurricane Center and concluding twenty-four (24) hours after the termination of the last
27 hurricane warning bulletin for any part of the state.

28 (3) The deductible, whether it is a flat dollar deductible or a percentage deductible shall
29 be presented by at least two (2) examples that illustrate the application of the deductible to the
30 insured. Nothing herein shall prohibit the insurer from providing any additional information to the
31 insured to assist in the insured's understanding of the deductible to be applied to the insured's
32 policy.

33 (4) The deductible set forth above shall not be applied to any insured, if the insured has
34 installed approved mitigation measures to protect against windstorm damage and the insurer has

1 either inspected the property or the insured has submitted satisfactory proof of installation of the
2 approved mitigation measures. The insurance commissioner, in consultation with the state
3 building code commissioner, shall adopt and may amend or revise a list of mitigation measures,
4 based so far as reasonably feasible on national standards for such measures and practices in other
5 comparable states. The list of mitigation measures adopted by the insurance commissioner shall
6 be considered approved mitigation measures for purposes of this subdivision.

7 (5) For the application of the hurricane deductible on Block Island, losses are due to a
8 hurricane when a hurricane results in hurricane force sustained winds as reported by the national
9 weather service for Block Island. For the application of the hurricane deductible in the remainder
10 of the state, losses are due to a hurricane when a hurricane results in hurricane force sustained
11 winds as reported by the national weather service for any other location in the state. All terms are
12 as defined by the national weather service.

13 (d) Premium credits shall be applied to policies with deductibles as set forth in subsection
14 27-76-2(c).

15 (e)(1) An insurer may require mitigation measures to protect against windstorm damage
16 only after specific approval of the substance of such mitigation measures by the director;

17 (2) Mitigation measures to be taken by an insured are clearly explained, including a
18 complete illustration of the dollar impact upon the premiums to be charged to insureds if the
19 requested mitigation activities are undertaken;

20 (3) No mandatory deductible for windstorm damage shall be included in the policy;

21 (4) An insurer shall write the requested coverage at the premium rate that includes the
22 premium credit to be realized with the completion of the mitigation efforts;

23 (5) The insurer shall affirmatively state the length of time during which discount given
24 for the mitigation efforts will apply; and

25 (6) No insurer shall subsequently non-renew an insured who has taken the mitigation
26 steps requested by the insurer for reasons of the insurers exposure to catastrophe loss, unless for
27 non-payment of premium, fraud, breach by the insured of a provision of the policy, reversal or a
28 lack of maintenance of the mitigation steps, or insurer solvency concerns or adverse loss history.

29 (f) Penalties for failure to comply with the provisions of this section shall be administered
30 by the director in accordance with the provisions of section 42-14-16.

31 (g) The department of business regulation shall have authority to adopt such rules,
32 including emergency rules, as may be necessary or desirable to effectuate the purposes of this
33 section.

34 **27-76-5. Hurricane Mediation. -- The department of business regulation is hereby**

1 authorized to establish by regulation a non-adversarial non-binding alternative dispute resolution
2 procedure for the effective, fair, and timely handling of personal lines insurance claims arising
3 out of damages to residential property caused by hurricanes. The provisions of this section shall
4 not apply to disputes of coverage under the insurance policy.

5 **27-76-6. State of emergency; effect upon insurance policies; rules.** -- The department
6 of business regulation may promulgate regulations to take effect upon the declaration of a
7 catastrophe, as declared by a nationally recognized catastrophe loss index provider, that address
8 any of the following or other matters related to the catastrophe for insurance policies issued in
9 this state:

10 (1) Reporting requirements for claims related to the emergency;

11 (2) Grace periods for payment of insurance premiums and performance of other duties by
12 insureds (other than the duty to mitigate); and/or

13 (3) Temporary postponement of cancellations and nonrenewals of insurance policies.

14 **27-76-9. Severability.** -- If a court holds any section or portion of a section of this
15 chapter or the applicability thereof to any person or circumstance invalid, the remainder of the
16 chapter shall not be affected thereby.

17 SECTION 3. Chapter 27-76 of the General Laws entitled “Weather-Related Losses” is
18 hereby amended by adding thereto the following sections:

19 **27-76-3. Residential property insurance hurricane deductible application.** -- (a) For
20 all deductibles as provided for in section 27-76-2, such deductible may only be applied once to all
21 hurricane losses that are subject to the hurricane deductible during the calendar year.

22 (b) If an insured incurs a hurricane loss from more than one hurricane during a calendar
23 year that are subject to the separate deductible referred to in subsection (a), the insurer may apply
24 the deductible to the succeeding hurricane that is equal to the remaining amount of the separate
25 deductible or the amount of the deductible that applies to all perils other than a hurricane,
26 whichever is greater. Insurers may require policyholders to produce receipts or other records of
27 such losses in order to apply such losses to subsequent hurricane claims.

28 **27-76-4. Notice of Property Loss.** -- No insurance policy or contract covering damages
29 to personal lines residential property may be cancelled or nonrenewed, nor may the premium for
30 such a policy be increased solely as a result of inquiries or claims made under the policy which
31 resulted in no loss payout or resulted in a loss payout of less than five hundred dollars (\$500).
32 The provisions of this section shall not apply where more than one non-catastrophic claim is
33 made under the policy in a three (3) year period which resulted in any loss payout.

34 **27-76-7. Use of Prior Claim Experience of Insured Property.** -- No insurer may refuse

1 [to insure, cancel, nonrenew or surcharge an insurance policy covering damages to personal lines](#)
2 [residential property based solely upon prior claim experience for property damage claims at the](#)
3 [insured property while under the ownership of someone other than the current insured unless the](#)
4 [risk from which the claim originated has not been mitigated.](#)

5 **27-76-8. Use of Claim Experience resulting from Catastrophic Events. --** [No insurer](#)
6 [may refuse to insure, cancel, nonrenew or surcharge a policy or contract covering damages to](#)
7 [personal lines residential property solely as a result of damages sustained in a catastrophic event.](#)

8 SECTION 4. This act shall take effect upon passage, except for Section 3. Section 3 of
9 this act shall take effect on January 1, 2013, and shall be effective for and applicable to policies
10 issued or renewed on and/or after January 1, 2013.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO INSURANCE - FIRE INSURANCE POLICIES AND RESERVES

1 This act would relocate the existing section of law relative to hurricanes to a new chapter
2 which would also include additional provisions for the processing of insurance claims for
3 hurricane damage.

4 This act would take effect upon passage, except for Section 3. Section 3 of this act would
5 take effect on January 1, 2013, and would be effective for and applicable to policies issued or
6 renewed on and/or after January 1, 2013.

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