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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2 Insurance Policies and Reserves" is hereby repealed.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. Hurricane deductibles, triggers and policyholder notice.** -- (a) The  
11 provisions of this section shall be applicable to policies issuing or renewing on or after July 1,  
12 2008.

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

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

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

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

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

31 (4) The deductible set forth above shall not be applied to any insured, if the insured has  
32 installed approved mitigation measures to protect against windstorm damage and the insurer has  
33 either inspected the property or the insured has submitted satisfactory proof of installation of the  
34 approved mitigation measures. The insurance commissioner, in consultation with the state

1 building code commissioner, shall adopt and may amend or revise a list of mitigation measures,  
2 based so far as reasonably feasible on national standards for such measures and practices in other  
3 comparable states. The list of mitigation measures adopted by the insurance commissioner shall  
4 be considered approved mitigation measures for purposes of this subdivision.

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

11 (d) Premium credits shall be applied to policies with deductibles as set forth in subsection  
12 27-76-1(c).

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

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

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

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

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

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

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

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

32 **27-76-2. Residential property insurance hurricane deductible application.--**

33 (a) For all deductibles as provided in section 27-76-1, such deductible may only be  
34 applied once to all hurricane losses that are subject to the hurricane deductible during the calendar

1 year.

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

8 **27-76-3. Hurricane Mediation.--** The department of business regulation is hereby  
9 authorized to establish by regulation a non-adversarial alternative dispute resolution procedure for  
10 the effective, fair, and timely handling of personal lines insurance claims arising out of damages to  
11 residential property caused by hurricanes.

12 **27-76-4. State of emergency; effect upon insurance policies; rules.--**

13 (a) The department of business regulation may promulgate regulations to take effect upon  
14 the declaration of a catastrophe, as declared by a nationally recognized catastrophe loss index  
15 provider, that address any of the following or other matters related to the catastrophe for  
16 insurance policies issued in this state:

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

18 (2) Grace periods for payment of insurance premiums and performance of other duties by  
19 insureds; and/or

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

21 **27-76-5. Notice of Property Loss.--** No insurance policy or contract covering damages  
22 to personal lines residential property may be cancelled or nonrenewed, nor may the premium for  
23 such a policy be increased solely as a result of inquiries or claims made under the policy which  
24 resulted in no loss payout or resulted in a loss payout of less than five hundred dollars (\$500).

25 **27-76-6. Use of Prior Claim Experience of Insured Property.--** No insurer may refuse  
26 to insure, cancel, nonrenew or surcharge an insurance policy covering damages to personal lines  
27 residential property based solely upon prior claim experience of the insured property while under  
28 the ownership of someone other than the current insured unless the risk from which the claim  
29 originated has not been mitigated.

30 **27-76-7. Use of Claim Experience resulting from Catastrophic Events.--** No insurer  
31 may refuse to insure, cancel, nonrenew or surcharge a policy or contract covering damages to  
32 personal lines residential property resulting solely from a catastrophic event.

33 **27-76-8. Severability.--** If a court holds any section or portion of a section of this chapter  
34 or the applicability thereof to any person or circumstance invalid, the remainder of the chapter shall

1 [not be affected thereby.](#)

2 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO INSURANCE - FIRE INSURANCE POLICIES AND RESERVES

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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.

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