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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO INSURANCE - WEATHER RELATED LOSSES

Introduced By: Senator Roger Picard

Date Introduced: January 13, 2016

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-76-1, 27-76-2, 27-76-3, 27-76-4, 27-76-5, 27-76-6, 27-76-7 and
2 27-76-8 of the General Laws in Chapter 27-76 entitled "Weather Related Losses" are hereby
3 amended to read as follows:

4 **27-76-1. Applicability.** -- Except for the provisions of § 27-76-6, the provisions of this
5 chapter shall be applicable only to personal lines residential property insurance on dwelling
6 houses and commercial property insurance; provided, however, that this chapter shall not apply to
7 "commercial special risks" insurance policies as defined in §27-65-1.

8 **27-76-2. Hurricane deductibles, triggers and policyholder notice.** -- (a) The
9 provisions of this section shall be applicable to policies issuing or renewing on or after July 1,
10 2008, for personal lines residential property insurance on dwelling houses, and effective January
11 1, 2017, for commercial property insurance.

12 (b) In all instances where an insurance company licensed to do business in this state
13 offers or includes any deductible and/or mitigation measure related to such deductible for any
14 type of personal lines residential property insurance on dwelling houses, or on commercial
15 property insurance, the insurance company shall provide prominent and clear notice to insureds
16 that shall be included in the policy issuance or renewal package and shall fully disclose all details
17 pertaining to any such deductible and/or mitigation measure. The notice provision for commercial
18 property insurance shall be effective January 1, 2017.

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

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

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

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

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

20 (5) For the application of the hurricane deductible on Block Island, losses are due to a
21 hurricane when a hurricane results in hurricane force sustained winds as reported by the national
22 weather service for Block Island. For the application of the hurricane deductible in the remainder
23 of the state, losses are due to a hurricane when a hurricane results in hurricane force sustained
24 winds as reported by the national weather service for any other location in the state. All terms are
25 as defined by the national weather service.

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

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

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

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

34 (4) An insurer shall write the requested coverage at the premium rate that includes the

1 premium credit to be realized with the completion of the mitigation efforts;

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

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

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

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

13 ~~**27-76-3. Residential property insurance hurricane deductible application**~~
14 **Residential and commercial property insurance hurricane deduction application.** -- (a) For
15 all deductibles as provided for in § 27-76-2, [and in accordance with the effective dates established](#)
16 [under §27-76-2](#), such deductible may only be applied once to all hurricane losses that are subject
17 to the hurricane deductible during the calendar year.

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

24 **27-76-4. Notice of property loss.** -- No insurance policy or contract covering damages to
25 personal lines residential, [or beginning January 1, 2017, to commercial](#) property may be cancelled
26 or nonrenewed, nor may the premium for such a policy be increased solely as a result of inquiries
27 or claims made under the policy which resulted in no loss payout or resulted in a loss payout of
28 less than five hundred dollars (\$500). The provisions of this section shall not apply where more
29 than one non-catastrophic claim is made under the policy in a three (3) year period which resulted
30 in any loss payout.

31 **27-76-5. Hurricane mediation.** -- The department of business regulation is hereby
32 authorized to establish by regulation a non-adversarial non-binding alternative dispute resolution
33 procedure for the effective, fair, and timely handling of personal lines insurance claims [and](#)
34 [commercial property insurance claims](#) arising out of damages to residential [or commercial](#)

1 property caused by hurricanes. The provisions of this section shall not apply to disputes of
2 coverage under the insurance policy.

3 **27-76-6. State of emergency; effect upon insurance policies; rules.** -- (a) The
4 department of business regulation may promulgate regulations to take effect upon the declaration
5 of a catastrophe, as declared by a nationally recognized catastrophe loss index provider, that
6 address any of the following or other matters related to the catastrophe for insurance policies
7 issued in this state:

- 8 (1) Reporting requirements for claims related to the emergency;
9 (2) Grace periods for payment of insurance premiums and performance of other duties
10 by insureds (other than the duty to mitigate); and/or
11 (3) Temporary postponement of cancellations and nonrenewals of insurance policies.

12 (b) Subdivisions (a)(2) and (3) above apply to all insurance policies, regardless of the
13 line of insurance, issued to residents [and commercial property insurance policyholders](#) of this
14 state displaced as a result of the catastrophe. The regulations shall require the insurer to make
15 reasonable efforts to contact the policyholder and provide the accommodations requested by the
16 policyholder, within the limits of accommodations detailed in the regulation, upon confirmation
17 that the policyholder has been displaced by the catastrophe.

18 **27-76-7. Use of prior claim experience of insured property.** -- No insurer may refuse
19 to insure, cancel, nonrenew or surcharge an insurance policy covering damages to personal lines
20 residential [or beginning January 1, 2017, to commercial](#) property based solely upon prior claim
21 experience for property damage claims at the insured property while under the ownership of
22 someone other than the current insured unless the risk from which the claim originated has not
23 been mitigated.

24 **27-76-8. Use of claim experience resulting from catastrophic events.** -- No insurer
25 may refuse to insure, cancel, nonrenew or surcharge a policy or contract covering damages to
26 personal lines residential property solely as a result of damages sustained in a catastrophic event;
27 [provided, further, that on or after January 1, 2017, no insurer may refuse to insure, cancel,](#)
28 [nonrenew or surcharge a policy or contract covering damages to commercial property solely as a](#)
29 [result of damages sustained in a catastrophic event.](#)

30 SECTION 2. This act shall take effect on January 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO INSURANCE - WEATHER RELATED LOSSES

1 This act would limit large windstorm insurance deductibles on commercial property
2 insurance policies, and would also prohibit insurers from terminating commercial policies solely
3 due to damages sustained from a catastrophic event.

4 This act would take effect on January 1, 2017.

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