

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 836
PROPOSED COMMITTEE SUBSTITUTE S836-PCS95235-RG-23

Short Title: Improve Property Insurance Rate Making.

(Public)

Sponsors:

Referred to:

May 22, 2012

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE RATE-MAKING PROCESS BY REQUIRING THE DEPARTMENT OF INSURANCE TO ACCEPT PUBLIC COMMENT ON ALL PROPERTY INSURANCE RATE FILINGS, BY PROVIDING THE COMMISSIONER WITH THE POWER TO SPECIFY THE APPROPRIATE RATE LEVEL OR LEVELS BETWEEN THE CURRENT RATE AND THE FILED RATE UPON A FINDING THAT A RATE FILING DOES NOT COMPLY WITH APPLICABLE LAW, BY PROVIDING THAT THE COST OF REINSURANCE BE INCLUDED AS A FACTOR IN RATE MAKING AND REQUIRING CERTAIN SUPPORTING INFORMATION ON REINSURANCE COSTS IN A FILING, BY REQUIRING THAT THE RATE BUREAU CREATE A RATING PLAN FOR A PROPERTY INSURANCE POLICY THAT EXCLUDES COVERAGE FOR THE PERILS OF WINDSTORM AND HAIL, AND BY REQUIRING THAT THE RATE BUREAU AND THE DEPARTMENT OF INSURANCE STUDY THE FAIRNESS AND EFFICACY OF THE CURRENT PROPERTY INSURANCE GEOGRAPHIC RATE TERRITORIES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON PROPERTY INSURANCE RATE MAKING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-15(b) reads as rewritten:

"(b) A filing by the Rate Bureau shall be open to public inspection immediately upon submission to the Commissioner. All property insurance rate filings shall be open to the public except as provided in this Article where necessary to maintain the confidentiality of certain testimony. At least 30 days before a notice of hearing issues, the Department shall receive comments from the public regarding a property insurance rate filing. The comments may be provided to the Department by e-mail, mail, or in person at a time and place set by the Department. All public comments shall be shared with the Rate Bureau in a timely manner."

SECTION 2. G.S. 58-36-20(a) reads as rewritten:

"(a) At any time within 50 days after the date of any filing, the Commissioner may give written notice to the Bureau specifying in what respect and to what extent the Commissioner contends the filing fails to comply with the requirements of this Article and fixing a date for hearing not less than 30 days from the date of mailing of such notice. Once begun, hearings must proceed without undue delay. At the hearing the burden of proving that the proposed rates are not excessive, inadequate, or unfairly discriminatory is on the Bureau. At the hearing the factors specified in G.S. 58-36-10 shall be considered. If the Commissioner after hearing finds



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1 that the filing does not comply with the provisions of this Article, he may issue his order
2 determining wherein and to what extent such filing is deemed to be improper and fixing a date
3 thereafter, within a reasonable time, after which the filing shall no longer be effective. In the
4 event the Commissioner finds that the proposed rates are excessive, the Commissioner shall
5 specify the overall rates, between the existing rates and the rates proposed by the Bureau
6 filing, that may be used by the members of the Bureau instead of the rates proposed by the
7 Bureau filing. In any such order, the Commissioner shall make findings of fact based on the
8 evidence presented in the filing and at the hearing. Any order issued after a hearing shall be
9 issued within 45 days after the completion of the hearing. If no order is issued within 45 days
10 after the completion of the hearing, the filing shall be deemed to be approved."

11 **SECTION 3.** G.S. 58-36-10 is amended by adding a new subdivision to read:

12 "(7) Property insurance rates established under this Article shall include a
13 provision to reflect the cost of reinsurance to protect against catastrophic
14 exposure within this State. Amounts to be paid to reinsurers, ceding
15 commissions to be paid to insurers by reinsurers, expected reinsurance
16 recoveries, North Carolina exposure to catastrophic events relative to other
17 states' exposure, and any other relevant information may be considered when
18 determining the provision to reflect the cost of reinsurance. Such other
19 relevant information may include the cost of reinsurance for insurers,
20 statutory organizations, associations, pools, or other entities writing property
21 insurance solely within this State. The use of catastrophe models and
22 modeled or hypothetical reinsurance programs shall be permissible in
23 determining the provision to reflect the cost of reinsurance. The
24 Commissioner may adopt rules setting forth the information to be included
25 in support of the provision to reflect the cost of reinsurance."

26 **SECTION 4.** Article 36 of Chapter 58 of the General Statutes is amended by
27 adding a new section to read:

28 **"§ 58-36-42. Development of policy form or endorsement for residential property**
29 **insurance that does not include coverage for perils of windstorm or hail.**

30 With respect to residential property insurance under its jurisdiction, the Bureau shall
31 develop an optional policy form or endorsement to be filed with the Commissioner for approval
32 that provides residential property insurance coverage without coverage for the perils of
33 windstorm or hail. Insurers that sell such policies shall comply with the provisions of
34 G.S. 58-44-60 and through such compliance shall be deemed to have given notice to all insured
35 and persons claiming benefits under such policies that such policies do not include coverage for
36 the perils of windstorm or hail."

37 **SECTION 5.** G.S. 58-44-60 reads as rewritten:

38 **"§ 58-44-60. Notice to property insurance policyholder about flood, earthquake,**
39 **mudslide, mudflow, and ~~landslide~~ landslide, and windstorm or hail insurance**
40 **coverage.**

41 (a) Every insurer that sells residential or commercial property insurance policies that do
42 not provide coverage for the perils of flood, earthquake, mudslide, mudflow, ~~or landslide~~
43 landslide, or windstorm or hail shall, upon the issuance and renewal of each policy, identify to
44 the policyholder which of these perils are not covered under the policy. The insurer shall print
45 the following warning, citing which peril is not covered, in Times New Roman 16-point font or
46 other equivalent font and include it in the policy on a separate page immediately before the
47 declarations page:

48 "WARNING: THIS PROPERTY INSURANCE POLICY DOES NOT PROTECT YOU
49 AGAINST LOSSES FROM [FLOODS], [EARTHQUAKES], [MUDSLIDES],
50 [MUDFLOWS], [~~LANDSLIDES~~], [~~LANDSLIDES~~], [WINDSTORM OR HAIL]. YOU
51 SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT TO DISCUSS YOUR

1 OPTIONS FOR OBTAINING COVERAGE FOR THESE LOSSES. THIS IS NOT A
2 COMPLETE LISTING OF ALL OF THE CAUSES OF LOSSES NOT COVERED UNDER
3 YOUR POLICY. YOU SHOULD READ YOUR ENTIRE POLICY TO UNDERSTAND
4 WHAT IS COVERED AND WHAT IS NOT COVERED."

5 (b) As used in this section, "insurer" includes an entity that sells property insurance
6 under Articles 21, 45, or 46 of this Chapter."

7 **SECTION 6.** The North Carolina Rate Bureau, with the assistance of the
8 Department of Insurance, shall study the current geographic territories established by the
9 Bureau for rating purposes. The study shall address the following issues:

- 10 (1) Whether risks of the same class and essentially the same hazard are charged
11 premiums that are commensurate with the risk of loss, actuarially correct,
12 and not unfairly discriminatory.
- 13 (2) Whether geographic territories in the beach and coastal areas (as defined in
14 G.S. 58-45-5) currently meet the standards and mandates set forth in
15 G.S. 58-36-10(6).
- 16 (3) Whether current technology and statistical data sources make possible any
17 practical and cost-effective alternative to the geographic territory system for
18 property insurance rate setting.

19 The Bureau shall submit a final report, including any recommendations for changes
20 to the geographic territories or alternatives to the geographic territory rating system, to the 2013
21 General Assembly.

22 **SECTION 7.** Sections 4 and 5 of this act become effective December 1, 2012.
23 Sections 6 and 7 of this act are effective when this act becomes law. The remainder of this act
24 becomes effective July 1, 2012.