

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 836  
Insurance Committee Substitute Adopted 6/6/12

Short Title: Improve Property Insurance Rate Making.

(Public)

Sponsors:

Referred to:

May 22, 2012

A BILL TO BE ENTITLED

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

17 The General Assembly of North Carolina enacts:

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

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

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

27 "(a) At any time within 50 days after the date of any filing, the Commissioner may give  
28 written notice to the Bureau specifying in what respect and to what extent the Commissioner  
29 contends the filing fails to comply with the requirements of this Article and fixing a date for  
30 hearing not less than 30 days from the date of mailing of such notice. Once begun, hearings  
31 must proceed without undue delay. At the hearing the burden of proving that the proposed rates  
32 are not excessive, inadequate, or unfairly discriminatory is on the Bureau. At the hearing the  
33 factors specified in G.S. 58-36-10 shall be considered. If the Commissioner after hearing finds  
34 that the filing does not comply with the provisions of this Article, he may issue his order  
35 determining wherein and to what extent such filing is deemed to be improper and fixing a date  
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1 thereafter, within a reasonable time, after which the filing shall no longer be effective. In the  
2 event the Commissioner finds that the proposed rates are excessive, the Commissioner shall  
3 specify the overall rates, between the existing rates and the rates proposed by the Bureau  
4 filing, that may be used by the members of the Bureau instead of the rates proposed by the  
5 Bureau filing. In any such order, the Commissioner shall make findings of fact based on the  
6 evidence presented in the filing and at the hearing. Any order issued after a hearing shall be  
7 issued within 45 days after the completion of the hearing. If no order is issued within 45 days  
8 after the completion of the hearing, the filing shall be deemed to be approved."

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

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

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

26 **"§ 58-36-42. Development of policy form or endorsement for residential property**  
27 **insurance that does not include coverage for perils of windstorm or hail.**

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

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

36 **"§ 58-44-60. Notice to property insurance policyholder about flood, earthquake,**  
37 **mudslide, mudflow, and ~~landslide~~ landslide, and windstorm or hail insurance**  
38 **coverage.**

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

46 "WARNING: THIS PROPERTY INSURANCE POLICY DOES NOT PROTECT YOU  
47 AGAINST LOSSES FROM [FLOODS], [EARTHQUAKES], [MUDSLIDES],  
48 [MUDFLOWS], [~~LANDSLIDES~~].—[LANDSLIDES], [WINDSTORM OR HAIL]. YOU  
49 SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT TO DISCUSS YOUR  
50 OPTIONS FOR OBTAINING COVERAGE FOR THESE LOSSES. THIS IS NOT A  
51 COMPLETE LISTING OF ALL OF THE CAUSES OF LOSSES NOT COVERED UNDER

1 YOUR POLICY. YOU SHOULD READ YOUR ENTIRE POLICY TO UNDERSTAND  
2 WHAT IS COVERED AND WHAT IS NOT COVERED."

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

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

8 (1) Whether risks of the same class and essentially the same hazard are charged  
9 premiums that are commensurate with the risk of loss, actuarially correct,  
10 and not unfairly discriminatory.

11 (2) Whether geographic territories in the beach and coastal areas (as defined in  
12 G.S. 58-45-5) currently meet the standards and mandates set forth in  
13 G.S. 58-36-10(6).

14 (3) Whether current technology and statistical data sources make possible any  
15 practical and cost-effective alternative to the geographic territory system for  
16 property insurance rate setting.

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

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