

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 923

Short Title: Windstorm Deductibles.

(Public)

Sponsors: Representatives Wainwright, Nichols; and Smith.

Referred to: Insurance.

April 10, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE INSURERS WRITING HOMEOWNERS' INSURANCE TO
OFFER COVERAGE WITHOUT SEPARATE DEDUCTIBLES FOR
WINDSTORM AND HAIL.

The General Assembly of North Carolina enacts:

Section 1. Article 36 of Chapter 58 of the General Statutes is amended by
adding the following new section to read:

"§ 58-36-105. Windstorm and hail deductibles in homeowners' insurance.

(a) An insurer that writes coverage against loss to residential real property under this Article shall offer coverage without separate deductibles (from the all perils deductibles) for losses arising from windstorm and hail. An insurer may not refuse to issue or renew coverage against loss to residential real property under this Article solely on grounds that the insured or prospective insured declines to accept coverage with a separate deductible for windstorm and hail.

(b) This section does not prohibit an insurer from doing the following:

(1) Offering coverage with separate windstorm and hail deductibles if the insured or prospective insured is informed of the right to select:

a. Any windstorm and hail deductible generally offered by the insurer for that product, and

b. Coverage without the separate windstorm and hail deductibles.

- 1 (2) Offering or using lower premiums for separate windstorm and hail
2 deductibles.
3 (3) Offering or using different levels of deductibles for all perils or offering
4 or using separate deductibles for other named perils.
5 (4) Offering to write or writing coverage that excludes the perils of
6 windstorm and hail."

7 Section 2. G.S. 58-45-35 reads as rewritten:

8 **"§ 58-45-35. Persons eligible to apply to Association for coverage; contents of**
9 **application.**

10 (a) Any person having an insurable interest in insurable property, may, on or after
11 the effective date of the plan of operation, be entitled to apply to the Association for such
12 coverage and for an inspection of the property. A broker or agent authorized by the
13 applicant may apply on the applicant's behalf. Each application shall contain a statement
14 as to whether or not there are any unpaid premiums due from the applicant for essential
15 property insurance on the property.

16 The term 'insurable interest' as used in this subsection shall include any lawful and
17 substantial economic interest in the safety or preservation of property from loss,
18 destruction or pecuniary damage.

19 (b) If the Association determines that the property is insurable and that there is no
20 unpaid premium due from the applicant for prior insurance on the property, the
21 Association, upon receipt of the premium, or part of the premium, as is prescribed in the
22 plan of operation, shall cause to be issued a policy of essential property insurance and
23 shall offer additional extended coverage, optional perils endorsements, business income
24 coverage, crime insurance, separate policies of windstorm and hail insurance, or their
25 successor forms of coverage, for a term of one year or three years. Any policy issued
26 under this section shall be renewed, upon application, as long as the property is insurable
27 property.

28 (c) If the Association, for any reason, denies an application and refuses to cause to
29 be issued an insurance policy on insurable property to any applicant or takes no action on
30 an application within the time prescribed in the plan of operation, the applicant may
31 appeal to the Commissioner and the Commissioner, or the Commissioner's designee from
32 the Commissioner's staff, after reviewing the facts, may direct the Association to issue or
33 cause to be issued an insurance policy to the applicant. In carrying out the
34 Commissioner's duties under this section, the Commissioner may request, and the
35 Association shall provide, any information the Commissioner deems necessary to a
36 determination concerning the reason for the denial or delay of the application.

37 (d) An agent who is licensed under Article 33 of this Chapter as an agent of a
38 company which is a member of the Association established under this Article shall not be
39 deemed an agent of the Association.

40 (e) Policies of windstorm and hail insurance provided for in subsection (b) of this
41 section are available only for risks for which essential property insurance has been
42 written by licensed insurers. Whenever such other essential property insurance written by
43 licensed insurers includes replacement cost coverage, the Association shall also offer

1 replacement cost coverage. In order to be eligible for a policy of windstorm and hail
2 insurance, the applicant shall provide the Association, along with the premium payment
3 for the windstorm and hail insurance, a certificate that the essential property insurance is
4 in force. The policy forms for windstorm and hail insurance shall be filed by the
5 Association with the Commissioner for his approval before they may be used.

6 (f) Policies other than those providing only windstorm and hail insurance under
7 subsection (b) of this section must comply with the provisions of G.S. 58-36-105."

8 Section 3. This act becomes effective September 1, 1997, and applies to
9 policies issued or renewed on or after that date.