



# South Carolina Department of Insurance

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## BULLETIN NUMBER 2007-05

TO: All Insurers and Producers Transacting Property and Casualty Insurance  
Business Within the State of South Carolina

FROM: Scott H. Richardson  
Director 

SUBJECT: *Omnibus Coastal Property Insurance Reform Act of 2007*

DATE: June 11, 2007

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### I. PURPOSE OF THE BULLETIN

Today, Governor Mark Sanford signed into law, the *Omnibus Coastal Property Insurance Reform Act of 2007*. Over the course of the next few weeks, the Department will issue a series of bulletins to provide guidance on the implementation of the provisions of this legislation. This is the first bulletin in that series. A complete copy of the legislation and pertinent bulletins will be available on the Department's website at <http://www.doi.sc.gov>.

The purpose of this bulletin is to highlight some of the more significant changes effected by this legislation. A section-by-section summary follows.

### II. SECTION-BY-SECTION SUMMARY

#### A. Section 1. Name of the Act

Section 1 sets forth the name of the Act as the *Omnibus Coastal Property Insurance Reform Act of 2007*.

#### B. Section 2. Catastrophe Savings Account

Section 2 adds Article 11 to Title 12. This section creates and sets forth the guidelines governing catastrophe savings accounts. The monies contributed to a catastrophe savings account can be treated as a deduction from South Carolina state income tax. This account

may be used by the taxpayer to finance an insurance policy deductible or to self-insure. The total amount that may be contributed for an individual whose qualified deductible is \$1,000 or less is \$2,000; if the qualified deductible is more than \$1,000, an amount equal to the lesser of \$15,000 or twice the amount of the qualified deductible. A person who self-insures may contribute up to \$250,000 to the catastrophe savings account not to exceed the value of the individual taxpayer's legal residence. If the taxpayer contributes more than the amount allowed, the excess must be withdrawn and treated as income in the year of withdrawal.

The funds can only be deposited into either a regular savings or money market account. An individual taxpayer can establish only one account and the account must be designated as a catastrophe savings account at the time it is opened. For example, a catastrophe savings account opened by Jane Doe would be established and maintained as the "catastrophe savings account for the benefit of Jane Doe," or by a similar name clearly indicating the name of the taxpayer and the special purpose of the account.

Distributions from the catastrophe savings account must be treated as income unless the funds are withdrawn to cover qualified catastrophe expenses. If expenses do not qualify as a qualified catastrophe expense, the sum will be treated as income and subject to a 2.5% tax penalty. The penalty will not apply if the taxpayer no longer owns the residence, or the distribution is from a qualified account and the distribution is made on or after the taxpayer reaches age 70. If the account-holder dies, the distributions to heirs or devisees will be considered as income to the person who inherits the account, unless the distribution is to the surviving spouse. Upon the death of the surviving spouse, any distribution or withdrawal will be considered income to the person who inherits the account.

This Department will be working with the South Carolina Department of Revenue on the implementation of this and other individual income tax incentives. A brochure explaining the tax credits in more detail will be posted on the Department's website in July 2007.

### **C. Section 3. Individual State Income Tax Credits**

Section 12-6-3660 addresses the state income tax credit available to consumers who retrofit their properties to make them more resistant to hurricane loss. Individual taxpayers can receive credit of 25% of the cost incurred for the amount of the purchase price for qualified materials or \$1000.

Section 12-6-3665 provides an income tax credit up to \$1,500 for consumers who purchase supplies to retrofit their properties in accordance with the requirements set forth in the statute.

Additionally, §12-6-3670 provides an income tax credit for excess premiums paid during the applicable tax year for property and casualty insurance on the taxpayer's legal residence. Excess premium is the amount by which the premium exceeds five percent of

the individual's adjusted gross income. Taxpayers must be able to demonstrate to the Department of Revenue that they are eligible for the tax credit. Unused credits may be carried forward for the five succeeding taxable years.

**D. Section 4. Emergency Powers of the Director of Insurance**

Upon declaration of a state of emergency by the Governor, article 3 confers upon the Director of Insurance certain emergency powers during the aftermath of a hurricane. Specifically, the Director has the ability to issue emergency regulations applicable to insurers, producers and other entities engaged in the business of insurance. Emergency regulations issued pursuant to § 38-3-410 are not subject to the 90-day limitation set forth in the South Carolina Administrative Procedures Act. The director may extend emergency regulations issued under this section for 120 days at a time for as long as the conditions that gave rise to the emergency still exist. The text of every emergency regulation and any extension issued by the Director must be published in the State Register together with an explanation of how the emergency regulation helps facilitate recovery from the emergency. The Director is specifically empowered to adopt any procedure that will facilitate recovery from the emergency provided the procedure complies with the individual protections required by statutes and by the South Carolina and U.S. Constitutions. Emergency regulations must be predicated upon the finding that there is an immediate threat to the health, welfare and safety of the general public. These findings are judicially reviewable under § 38-3-210.

**E. Section 5. Premium Tax Credit**

This section establishes a credit on premium taxes paid by licensed insurers that write full property and casualty insurance coverage within the coastal areas of the state. The credit applies to all new business written after December 31, 2007. Surplus lines carriers are not eligible for the tax credit as it is the intent of the General Assembly that the tax credit apply only to new policies written by licensed insurers. Accordingly, renewal business shall not be eligible for the credit. The Department is in the process of drafting the guidelines for this program.

Insurers shall report quarterly the premium and number of new policies written in the territory covered by the Wind Pool. Revised premium tax reporting forms and instructions for licensed insurers are also being drafted. The revised forms and general guidelines for applying for the tax credit will be available on or after October 1, 2007 via bulletin.

**F. Section 6. Insurance Premium Discounts and Credits**

Section 38-75-755 requires all insurers upon the issuance of a new residential policy or a renewal to clearly notify the applicant or insured of the availability and range of each premium discount, credit, other rate differential, or reduction in deductibles for properties that have been retrofitted or constructed to be more resistant to loss due to hurricane. The notice must also state what measures the policyholder can take to reduce their windstorm premium. For commercial insurance policies, the insurer shall include a notice that advises the policyholder that a reduction in premium may be available if the policyholder has taken steps to prevent or mitigate losses due to damage from windstorms. Policyholders may obtain additional information about the credits or discounts from their insurance agents. This section applies to all policies issued or renewed after December 31, 2007. The Department will promulgate a notice form that complies with the provisions of this section.

**G. Section 7. Annual Public Hearing**

Section 38-3-110 has been amended to require the Director to hold an annual public hearing on rates and coverage provided by the South Carolina Wind and Hail Underwriting Association (Wind Pool) in the seacoast area annually. At this hearing, the Director must provide information and an opportunity for the public to address issues and offer input related to rates, territory and other issues concerning the Wind Pool. The Director must submit annually a report to the Speaker of the House and the President Pro Tempore of the Senate by January 31<sup>st</sup> about the status of the Wind Pool. The report must also include recommendations for change to regulatory or statutory law governing the Wind Pool. The first public hearing shall be conducted following the expiration of hurricane season in December 2007/January 2008. Notice of the hearing and its location will be posted on the Department's website and published in newspapers of general statewide circulation.

**H. Section 8. Rates**

Subsection (F) has been added to § 38-73-260. Section 38-73-260(F) provides that the Director or his designee may consider the impact of a rate increase request on individual territories or insureds when determining whether a rate increase is excessive, inadequate or unfairly discriminatory. It also clarifies that rate requests falling within the plus or minus seven percent limitation must comply with general requirements that the rate request not be excessive, inadequate or unfairly discriminatory.

This section also requires the Department to review property insurance filings that exclude wind coverage after June 1, 2007 to ensure that the rates for such policies reflect a discount commensurate with the surcharge previously filed for wind. The requirements of this section are not applicable to motor vehicle insurance. Attached as Exhibit A to this bulletin are the instructions for calculating this discount.

**I. Section 9. Credits and Discounts**

Section 38-73-1095 has been amended to require that rating plans for essential property insurance in the coastal and seacoast areas include discounts and credits or surcharges and debits based upon the factors set forth in the statute. The statute further provides that the Department may define by regulation how these factors qualify for credits or discounts, and the evidence that must be presented by the policyholder or applicant. This provision applies to policies issued or renewed after December 31, 2007. The Department will publish a notice of drafting in the June 2007 edition of the State Register.

**J. Section 10. South Carolina Wind and Hail Underwriting Association**

A number of amendments were made to sections governing the management and operation of the Wind Pool. These changes in the law clarify that the Wind Pool is a residual market mechanism established to provide residential and commercial wind and hail insurance to property owners who are unable to procure this line of insurance in the traditional market. Below is a summary of the amendments relating to the operation of the Wind Pool:

- The definition of “insurable property” has been amended to comply with the most recent standards adopted by the Building Codes Council and those promulgated by the National Manufactured Housing Construction Standards and Safety Act. (*See* S.C. Code Ann. § 38-73-310(4)). These changes are consistent with the Wind Pool’s current underwriting standards. Additionally, the definition of “coastal area” has been changed to conform to the description of the expanded territory outlined in the director’s March 29, 2007 initial order expanding the Wind Pool territory. (*See* §38-75-310(5)).
- The composition of the Wind Pool board has been altered to include four consumer members representing business, single family residential, and multiple family residential (such as apartments or condominiums). Recommendations for these consumer members are to come from members of the legislative delegations from the eight seacoast counties (Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper) (*See* § 38-75-340(A)(1)).
- The Wind Pool may employ a multiple-tier rate structure that more accurately reflects the relative risks of properties located within a particular tier. (*See* § 38-75-340(A)(8)).
- Reinsurance for the Wind Pool shall be obtained through an “open and competitive process.” The new law specifies that the Wind Pool Association is not required to follow the S.C. Procurement Code in establishing this process. (*See* § 38-75-340(A)(10)).
- The Department must review the rate structure for the Wind Pool semi-annually in accordance with the requirements of § 38-75-400.

- The powers of the governing board and management of the Wind Pool have been expanded. The Wind Pool now has the same authority exercised by other residual market mechanisms.
- Any member company seeking participation credit for essential property insurance voluntarily written in the coastal area must submit its requests by March 31<sup>st</sup> of the year preceding the year for which credit is sought.
- The new law reaffirms that the Wind Pool rates are not intended to compete with the admitted market. Rates must be set at a level that permits the association to function as a self-sustaining mechanism. The Association is required to monitor rate adequacy and to notify the Director semi-annually to allow the director to take action to correct the rates. Rates adjusted in this manner are not subject to the limitation set forth in § 38-73-920. Corrective action orders issued by the Director are subject to judicial review by the Administrative Law Court.
- The law now specifies certain criteria the director or his designee must consider before expanding the Wind Pool territory. After considering the factors outlined in the statute, the Director or his designee must specifically find and declare the existence of conditions that threaten to destabilize the market and the continued availability of essential property insurance in the seacoast area. The Director may also use market surveys, data calls, catastrophe models, reinsurance information and other objective sources to support an order of expansion. The area may not be expanded more than is necessary to stabilize the market and the expanded area may not extend farther than the seacoast area. The General Assembly may approve, revise, or vacate an expansion order via the passage of a concurrent resolution. The May 23, 2007 expansion order was ratified by this legislation.

The Department will meet with the management of the Wind Pool board within the next few weeks to establish the procedures for monitoring rate adequacy.

#### **K. Section 11: Mitigation**

Article 8 amends the sections of Chapter 75 that cover mitigation. Additional members have been added to the Advisory Council. In addition to the loss mitigation grant program set forth in § 38-75-480, the General Assembly has established a Hurricane Damage Mitigation Program. This hurricane mitigation grant program shall be known as *SC Safe Home*. The Advisory Council will provide advice and assistance to the Director in the administration of the program. The program is designed to provide grants to homeowners to make their properties more resistant to loss due to hurricane damage. Funds cannot be used for home repairs.

The Department is in the process of establishing *SC Safe Home*. You may access information about this program by visiting its website at [www.scsafehome.com](http://www.scsafehome.com) effective June 13, 2007. The Department anticipates that it will be able to accept its first application for grant funding on August 15, 2007. The funds available through this program must be used solely for retrofitting, not for repairs. Over the course of the next few weeks, the Department will promulgate an order specifying the retrofitting measures that may be eligible for grants under this program. Limited

funds are available for this program. When the program is ready to accept applications late this summer, they will be considered on a first come, first serve basis. The application and grant guidelines will be posted on the [www.scsafhome.com](http://www.scsafhome.com) website when available.

The Department is also required pursuant to the provisions of § 38-75-490 to evaluate the feasibility of developing a wind resistance rating scale for South Carolina and to report its findings to the legislature. The Department's report is due to the General Assembly on March 5, 2008.

**L. Section 12: Catastrophe Models**

Section 38-75-1140 has been amended to require modeling organizations to submit supplemental reports to the Department following a material revision to their models. The supplemental report must specify the changes to the model, including the list of variables that are subject to insurer input.

**M. Section 13: Fees for Use of Catastrophe Models**

Section 38-75-1140 has been amended by adding subsection (G). This section allows the Director to recover the costs associated with the review and evaluation of catastrophe models by imposing a filing fee on all insurers who use catastrophe or computer simulation models and on modelers or modeling organizations that submit the model to the department for its review, evaluation or approval. The Director will issue an order setting the applicable fees within the next two weeks.

**N. Section 14: Notice of Cancellation and Nonrenewal**

The notice requirements for cancellation and nonrenewal of insurance policies have changed as follows:

- A policy written for a term of one year or less may be nonrenewed by the insurer at its expiration date by giving or mailing written notice of nonrenewal to the insured and the agent of record, if any, not less than 60 days prior to the expiration date of the policy for any nonrenewal that would be effective between November 1<sup>st</sup> and May 31<sup>st</sup>; however, for any nonrenewal effective between June 1<sup>st</sup> and October 31<sup>st</sup> notice must be given in the manner described above not less than 90 days prior to the expiration date of the policy.
- Any insurance policy which has been in effect for less than 120 days and is not a renewal of a previously existing policy must provide a 30-day written notice of cancellation. An exception is made for nonpayment of premium, in which case, not less than ten days written notice must be furnished. The 30-day notice requirement applies to: (1) material misrepresentation of fact which, if known to the company, would have caused the company not to issue the policy; (2) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the

policy; (3) substantial breaches of contractual duties, conditions, or warranties; or (4) loss of the insurer's reinsurance covering all or a significant portion of the particular policy insured or when continuation of the policy would imperil the insurer's solvency. Cancellation based on changes in climatic conditions must be based on statistical data relative to South Carolina that has been approved by the Department as a basis for substantial change in the risk assumed.

- The insurer must inform the consumer of his or her right to request, in writing, a review by the Director of the action of the insurer. The notice of cancellation or refusal to renew must contain the following statement in bold print to inform the insured of this right:

**IMPORTANT NOTICE:** Within 30 days of receiving this notice, you or your attorney may request in writing that the Director review this action to determine whether the insurer has complied with South Carolina laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the director may require that your policy be reinstated. However, the Director is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the director does not have the authority to overturn this action.

- Except for pre-term cancellation falling within the provisions of § 38-75-730, insurers must give 60 days' notice of any cancellation or refusal to renew that is effective between November 1<sup>st</sup> and May 31<sup>st</sup> and 90 days' notice of cancellation or nonrenewal that falls between June 1<sup>st</sup> and October 31<sup>st</sup>.

The absence of a specific effective date in Sections 14 and 15 of the legislation has prompted a number of questions about the effectiveness and application of these provisions to existing insurance policies. What follows is a summary of the Department's review and analysis of the law applicable to this issue.

#### ***Effective Date of the Cancellation/Nonrenewal Provisions***

The language in §§ 14 and 15 do not specify an effective date. Therefore, these provisions are effective upon signature of the Governor. Inasmuch as the bill was signed by the Governor today, the effective date for purposes of these sections is June 11, 2007.

#### ***Application of New Cancellation/Nonrenewal Provisions***

These new provisions are effective June 11, 2007 for all policies issued or renewed on or after this date.<sup>1</sup> Generally, changes to statutes that occur between insurance policy

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<sup>1</sup> "A statute that becomes effective after the date of issuance of an insurance policy does not apply to that policy absent legislative intent that the statute be applied retroactively. *Pulliam v. Doe*, 246 S.C. 106, 142

renewals cannot be incorporated into an insurance policy without unconstitutionally impairing the obligations of the parties under the contract. *See e.g.*, U.S.C.A. Art. I, §10;<sup>2</sup> S.C. Const. Art. § 4<sup>3</sup>; *G-H Ins. Agency, Inc. v. Continental Insurance Co.*, 278 S.C. 241, 294 S.E.2d 336 (1982); *also American National Fire Ins. Co. v. Smith Grading and Paving, Inc.*, 317 S.C. 445, 454 S.E.2d 897 (1995).

Also, absent legislative intent to the contrary, there is a presumption under South Carolina law that statutory enactments are to be prospective rather than retroactive in effect. A statute that becomes effective after the date of issuance of an insurance policy does not apply to that policy absent legislative intent that the statute be applied retroactively. *See Pulliam v. Doe*, 246 S.C. 106, 142 S.E.2d 861 (1965); *see also Mutual Aid Loan & Investment Co. v. Logan*, 55 S.C. 295, 33 S.E. 372 (1899) (statute does not apply to existing mortgage contract absent legislative intent to apply retroactively). There is no indication in the language in the statute that these sections are to be applied retroactively. Accordingly, these sections do not apply to policies issued prior to, or in existence prior to, the effective date of these provisions.

The revised cancellation and notice provisions apply to all property insurance and casualty insurance, as defined in § 38-1-20, except for automobile insurance and any other type of property or casualty insurance as to which there are specific statutory provisions of law governing cancellation, nonrenewal, or renewal of policies. The provisions apply to policies issued by licensed and eligible surplus lines insurers.

#### EXPEDITED FILING PROCESS—PERSONAL LINES COVERAGE

To comply with the provisions of this legislation, insurers may make this change by filing for approval of an endorsement which contains the notice set forth in the statute. To expedite the approval of these filings, the Department has established the process set forth below.

Attached as Exhibit B to this bulletin is a filing transmittal form for the expedited review of cancellation and nonrenewal notice forms. Insurers wishing to receive expedited

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S.E.2d 861 (1965); *see also Mutual Aid Loan & Investment Co. v. Logan*, 55 S.C. 295, 33 S.E. 372 (1899) (statute does not apply to existing mortgage contract absent legislative intent to apply retroactively). “A statute is not to be applied retroactively unless that result is so clearly compelled as to leave no room for doubt. *South Carolina Nat'l Bank v. South Carolina Tax Comm'n*, 297 S.C. 279, 376 S.E.2d 512 (1989); *Hyder v. Jones*, 271 S.C. 85, 245 S.E.2d 123 (1978). The statute must contain express words evincing an intent that it be retroactive or words necessarily implying such an intent. *Pulliam v. Doe, supra*. The only exception to this rule is a statutory enactment that effects a change in remedy or procedure, *Jenkins v. Meares*, 302 S.C. 142, 394 S.E.2d 317 (1990); *Hyder v. Jones, supra*.”

<sup>2</sup> No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility....

<sup>3</sup> No bill of attainder, ex post facto law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emolument, shall be passed and no conviction shall work corruption of blood or forfeiture of estate.

treatment of its filing for approval must complete the EXPEDITED CANCELLATION AND NONRENEWAL ENDORSEMENT FILING TRANSMITTAL FORM as directed. In addition, the insurer(s) submitting this filing must certify that the endorsement complies with the notice requirements of South Carolina law. The certification must be signed by an officer of the insurer. Certification is made by the officer signing the appropriate blank on the transmittal form.

To be complete, a form filing must include the following:

1. A completed, certified Form Filing Transmittal form for each insurer and line to which it is applicable.
2. One copy of each endorsement.
3. A postage-paid, self-addressed envelope **large enough to accommodate the return.**

If this filing is for multiple companies, please provide a copy of the transmittal form for each company and an extra copy for return to the company. (i.e., 7 companies = 8 copies). **PLEASE DO NOT SUBMIT THESE FILINGS VIA THE SERFF SYSTEM.** To expedite delivery to the appropriate area, conspicuously mark the envelope submitted to the Department **“OMNIBUS NOTICE.”**

To address new policies or renewals that may fall within the next 60 days, the Department will deploy the resources necessary to complete the review of complete, properly submitted filings within 72 hours' receipt. The Department will accept filings via regular United States mail or overnight delivery.

#### COMMERCIAL FILINGS—USE AND FILE

Commercial insurance forms are not subject to prior approval under South Carolina law. *See S.C. Code Ann. Regs. § 69-64 (2005).*<sup>4</sup> Forms that comply with South Carolina law are use and file. Companies should file a copy of the revised notice forms with the Department within 30 days of use.

The law requires that an insurer provide a minimum 60 days' notice during non-hurricane months and 90 days' notice during hurricane season. Nothing in the law precludes an insurer from providing more notice than required by statute.

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<sup>4</sup> Exempt Commercial Policy Forms: In connection with an exempt commercial policy, an insurer may use any commercial insurance policy, contract, certificate or endorsement, including any form or endorsement developed by an advisory organization. If the form or endorsement has not been previously filed with the Department by an advisory organization or by the insurer, the insurer utilizing the form or endorsement must notify the Department of its use by mailing a copy of the form or endorsement to the Department as soon as practicable after the insurer begins using it. An insurer is required to maintain a desk file of all forms or endorsements used in connection with exempt commercial policies written in this State and to exhibit the desk file to the Department upon its request.

## **O. South Carolina Coastal Captive Insurance Companies**

Section 16 establishes the “South Carolina Coastal Captive Insurance Act” which provides for the formation and licensing of a South Carolina coastal captive company (“coastal captive”) authorized to write primary and excess wind and storm surge insurance coverage for property in South Carolina. A coastal captive shall not underwrite any risk outside of South Carolina. The law:

- Provides for the formation of a South Carolina coastal captive company (“coastal captive”), which can provide primary and excess wind and storm surge insurance coverage for property in South Carolina.
- Exempts coastal captives from some of the requirements to which traditional captives are subject, the most significant of which is the partial lifting of the total prohibition on writing homeowners insurance, permitting coastal captives to provide excess coverage for the perils of wind and storm surge.
- Gives the Director discretionary authority to approve or disapprove a coastal captive, and expressly forbids him from issuing a license without making certain findings as to adequate capitalization and/or reinsurance, soundness of business plan and potential for financial hazard to policy holders, compliance with the statutorily prescribed minimum requirements for licensure and consistency of the business plan with the legislative purpose.
- Gives the Director discretion, on a case-by-case basis, to waive other provisions of the chapter determined to be inappropriate in light of the “nature of the risks insured” and the intent of the article.
- Gives the Director discretion to restrict the form of the captive and to deny a license based a finding that its corporate form or type of organization is not feasible.
- Exempts a coastal captive insurance company formed as an association captive from the following requirements:
  - the one-year seasoning requirement; and
  - the requirement to use a fronting company for personal lines coverage.

The legislation includes certain certain consumer safe-guards, such as:

- 1) Substantially heightened capital and surplus requirements, particularly for non-fronted coastal captives, and other captives that may sell directly to the public (personal lines).
- 2) Greater transparency; certain confidentiality provisions normally afforded captives under Chapter 90 are not applicable. Final reports of coastal captives’ financial condition prepared by both the captive and the Department of Insurance are available for public inspection.

- 3) Coastal captive must include a notice and acceptance in 14-point bold type on every application and declaration page of every policy advising the consumer that the coastal captive is not subject to all of the insurance laws and regulations of the state and that insurance guaranty funds are not available.

Persons interested in forming a coastal captive insurance company should follow the guidelines for licensure as a captive set forth on the Department's website at <http://www.doi.sc.gov/Eng/Public/Captive/AppForms.aspx>.

### **III. QUESTIONS AND ANSWERS**

The Department's preliminary responses to questions that have been raised about the implementation of this legislation will be posted on the Department's website by June 15, 2007. Additional questions may be forwarded in writing to James Byrd, Deputy Director for Market Services, at [OmnibusQ&A@doi.sc.gov](mailto:OmnibusQ&A@doi.sc.gov). Questions will be answered and posted on the Department's website as soon as possible.

## EXHIBIT A

### Wind Exclusion Credit

Section 38-73-260 of the 1976 Code as last amended by Act 332 of 2006, is further amended by adding at the end:

“(F) (2) With respect to fire, allied lines, and homeowner’s rates, the director or his designee shall specifically review all filings made on or after June 1, 2007, to ensure that each insurer’s rates for policies that exclude wind coverage reflect a discount commensurate with that insurer’s previously filed surcharge for policies that include wind coverage.”

When a company is giving a credit for excluding wind and hail, they should be consistent with the hurricane provision/surcharge loaded into the rates; taking into consideration that the provision usually includes expenses.

There are a number of ways a company can calculate the credit.

1. If a company uses peril rating and therefore calculates a wind premium and a non-wind premium, they can simply charge the non-wind premium. No credit is needed.
2. If a company does not calculate a separate wind premium, they need to calculate the portion of the total loss ratio associated with wind that is loaded into the rates, and therefore, varies by rating territory.

Example: If the loss ratio = 120%, wind is 110% and non-wind = 10%, the wind portion = 92% (110/120).

The base rate is adjusted by the portion of the total loss ratio associated with wind. (\$1,000 base rate - \$920 = \$80 non-wind)

3. The company may assume 100% of the hurricane catastrophe ratio is wind, and none of the non-hurricane catastrophe and non-catastrophe ratios are wind. In that case, if the hurricane ratio is 106.8% and the non-hurricane ratio is 13.2%, the base rate is adjusted by 89% (106.8/120).

The above examples provide ways to calculate the credit. The Department understands there may be a number of other methods employed.

Regardless of the method used, the insurer must comply with South Carolina law. Additionally, the insurer must also meet the following requirements:

1. If a model is used in developing the losses, the same model must be used in calculating the credit. Note that the higher the modeled losses, the more generous the credit
2. The credits must be consistent with the hurricane provision/surcharge loaded into the rates; taking into consideration the provision usually includes expenses.
3. The credits must be developed to the zone they apply
4. The total loss ratio must include the appropriate loss adjustment and fixed expenses.

If you have any questions on the credit calculations please contact Carla Griffin at [cgriffin@doi.sc.gov](mailto:cgriffin@doi.sc.gov) or 803-737-6781.

EXHIBIT B  
EXPEDITED CANCELLATION AND NONRENEWAL ENDORSEMENT  
FILING TRANSMITTAL FORM

Department Use only

Company Name(s)	Domicile	NAIC #	FEIN #

Contact Info for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-mail

Filing information

<b>Line of Insurance</b> (see attachment)	
<b>Company Program Title</b> (Marketing title) (if applicable)	
<b>Filing Type ** see note below</b>	
<b>This application is used with</b>	
<b>Effective Date Requested</b>	
<b>Filing date</b>	
<b>Company Tracking Number</b>	

To be complete, a form filing must include the following:

- A completed Form Filing Transmittal form for each insurer.
- One copy of each endorsement.
- A postage-paid, self-addressed envelope **large enough to accommodate the return.**

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CERTIFICATION OF AUTHORIZED COMPANY OFFICER

I, \_\_\_\_\_, a duly authorized officer of \_\_\_\_\_ Insurance Company, am authorized to certify on behalf of the company making this filing that the attached form filing complies with the notice and cancellation requirements of South Carolina law for the lines to which they pertain.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

