

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-162—sHB 5230

Insurance and Real Estate Committee

AN ACT CONCERNING VARIOUS CHANGES TO PROPERTY AND CASUALTY INSURANCE STATUTES

SUMMARY: This act broadens the applicability of standard fire insurance policy provisions regarding the (1) period when a loss is payable after proof of loss, (2) period when a suit or action for the recovery of a claim must be commenced, and (3) definitions of actual cash value and depreciation.

The act specifies when insurers may impose a hurricane deductible, instead of an overall policy deductible, under homeowners and certain other policies issued or renewed on or after July 1, 2012. (PA 12-2, June 12 Special Session, amends this provision to apply to policies issued or renewed on or after October 1, 2012.)

The act requires people who mitigate losses incurred on or after July 1, 2012 that are covered by a personal risk insurance or commercial risk policy to give the insured, before any work begins, written notice of the work to be completed and the estimated total price. If the person performing the mitigation does not do so, any contract for the mitigation between that person and the insured is void. The requirement does not apply to repairs to an automobile covered by insurance or repairs that are covered by the laws governing home improvement contractors. The act does not define “mitigation.” These provisions already apply to repairs and remediation.

By law, insurance adjusters may not charge or collect a fee if, within 30 days of a loss to a structure covered by a fire insurance policy, the insurer offers in writing to pay the full policy limits. The act requires that any fee the adjuster charges the insured be (1) based only on the amount of the insurance settlement proceeds the insured actually receives and (2) collected by the adjuster after the insured has received the proceeds from the insurer.

EFFECTIVE DATE: July 1, 2012, except that the hurricane deductibles provisions are effective October 1, 2012.

EXTENSION OF STANDARD FIRE INSURANCE POLICY REQUIREMENTS

By law, a fire insurance policy must meet various requirements. A policy that covers against fire and other perils generally does not need to meet these requirements with regard to coverage of perils other than fire.

The act extends to the coverage against these other perils the provisions of standard fire policies that specify the following:

1. The amount of loss for which the company is liable is payable 30 days after it receives proof of loss and the loss is ascertained. The company and

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the insured may agree in writing to a partial payment as an advance payment, but this does not affect the requirement for the company to pay the total amount of loss within 30 days after proof of loss.

2. No suit or action on the policy for the recovery of any claim may be sustained in any court unless all the requirements of the policy have been complied with and the suit or action is commenced within 18 months after the loss.
3. The actual cash value at the time of loss for a building is the amount it would cost to repair or replace the building with material of like kind and quality, minus reasonable depreciation. Depreciation means a decrease in the value of real property over a period of time due to wear and tear.

These provisions apply to policies or contracts issued or renewed on or after July 1, 2012.

HURRICANE DEDUCTIBLES

The act allows insurers to impose a hurricane deductible for losses claimed in the policy, in lieu of an overall policy deductible, for homeowners and certain other policies issued or renewed on or after July 1, 2012, which would be invoked if a hurricane results in a maximum sustained surface wind of 74 miles per hour or more for any part of the state. This provision applies to a (1) homeowners', tenants', mobile manufactured home, and other property and casualty insurance policy for personal, family, or household needs other than workers' compensation insurance; (2) condominium association master policy; and (3) unit owners' association property insurance policy.

The deductible applies to any losses occurring from the time the National Hurricane Center issues a hurricane warning for any part of this state and ends 24 hours after the center (1) terminates the last hurricane warning for any part of this state or (2) issues its last downgrade of the hurricane from hurricane status for any part of this state, whichever is earlier.

The act allows the insurance commissioner to adopt regulations to implement this provision and the department's most current guidelines and bulletins dealing with hurricane deductibles.

OLR Tracking: KM:RC:PF:ro:eh