**South Carolina General Assembly**

120th Session, 2013-2014

**A191, R215, S569**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Davis, Turner, Campsen, Young, O'Dell, Cromer, Cleary, Hembree, Pinckney and Sheheen

Document Path: l:\s-res\td\003insu.hm.td.docx

Companion/Similar bill(s): 3903

Introduced in the Senate on March 21, 2013

Introduced in the House on April 29, 2014

Last Amended on May 21, 2014

Passed by the General Assembly on May 28, 2014

Governor's Action: June 2, 2014, Signed

Summary: Competitive Insurance Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/21/2013 Senate Introduced and read first time ([Senate Journal‑page 10](file:///H:\SJ%20Archive\2013\03-21-13.docx))

3/21/2013 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 10](file:///H:\SJ%20Archive\2013\03-21-13.docx))

2/27/2014 Senate Committee report: Favorable with amendment **Banking and Insurance** ([Senate Journal‑page 8](file:///H:\SJ%20Archive\2014\02-27-14.docx))

2/28/2014 Scrivener's error corrected

3/4/2014 Senate Committed to Committee on **Finance** ([Senate Journal‑page 32](file:///H:\SJ%20Archive\2014\03-04-14.docx))

4/9/2014 Senate Committee report: Favorable with amendment **Finance** ([Senate Journal‑page 17](file:///H:\SJ%20Archive\2014\04-09-14.docx))

4/10/2014 Scrivener's error corrected

4/15/2014 Senate Committee Amendment Adopted ([Senate Journal‑page 37](file:///H:\SJ%20Archive\2014\04-15-14.docx))

4/15/2014 Senate Amended ([Senate Journal‑page 37](file:///H:\SJ%20Archive\2014\04-15-14.docx))

4/15/2014 Senate Read second time ([Senate Journal‑page 37](file:///H:\SJ%20Archive\2014\04-15-14.docx))

4/15/2014 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 37](file:///H:\SJ%20Archive\2014\04-15-14.docx))

4/16/2014 Scrivener's error corrected

4/16/2014 Senate Read third time and sent to House ([Senate Journal‑page 25](file:///H:\SJ%20Archive\2014\04-16-14.docx))

4/29/2014 House Introduced and read first time ([House Journal‑page 21](file:///H:\HJ%20Archive\2014\04-29-14.docx))

4/29/2014 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 21](file:///H:\HJ%20Archive\2014\04-29-14.docx))

5/15/2014 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 7](file:///H:\HJ%20Archive\2014\05-15-14.docx))

5/21/2014 House Amended ([House Journal‑page 167](file:///H:\HJ%20Archive\2014\05-21-14.docx))

5/21/2014 House Read second time ([House Journal‑page 167](file:///H:\HJ%20Archive\2014\05-21-14.docx))

5/21/2014 House Roll call Yeas‑98 Nays‑3 ([House Journal‑page 170](file:///H:\HJ%20Archive\2014\05-21-14.docx))

5/22/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 8](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/28/2014 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 104](file:///H:\SJ%20Archive\2014\05-28-14.docx))

5/28/2014 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 104](file:///H:\SJ%20Archive\2014\05-28-14.docx))

5/29/2014 Ratified R 215

6/2/2014 Signed By Governor

6/6/2014 Effective date See Act for Effective Date

6/10/2014 Act No. 191

**VERSIONS OF THIS BILL**

[3/21/2013](file:///p:\pprever\2013-14\569_20130321.docx)

[2/27/2014](file:///p:\pprever\2013-14\569_20140227.docx)

[2/28/2014](file:///p:\pprever\2013-14\569_20140228.docx)

[4/9/2014](file:///p:\pprever\2013-14\569_20140409.docx)

[4/10/2014](file:///p:\pprever\2013-14\569_20140410.docx)

[4/15/2014](file:///p:\pprever\2013-14\569_20140415.docx)

[4/16/2014](file:///p:\pprever\2013-14\569_20140416.docx)

[5/15/2014](file:///p:\pprever\2013-14\569_20140515.docx)

[5/21/2014](file:///p:\pprever\2013-14\569_20140521.docx)

(A191, R215, S569)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “COMPETITIVE INSURANCE ACT”; TO AMEND SECTION 38‑3‑110, RELATING TO DUTIES OF THE CHIEF INSURANCE COMMISSIONER, SO AS TO PROVIDE THAT THE DIRECTOR MUST ENGAGE IN CERTAIN EFFORTS TO PROVIDE MARKET ASSISTANCE AND PROMOTE CONSUMER EDUCATION TO COASTAL RESIDENTIAL PROPERTY INSURANCE CONSUMERS, AND TO PROVIDE THE DIRECTOR ANNUALLY MUST SUBMIT A REPORT REGARDING THE STATUS OF THE COASTAL PROPERTY INSURANCE MARKET TO CERTAIN MEMBERS OF THE GENERAL ASSEMBLY AND POST THIS REPORT ON THE INTERNET WEBSITE OF THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38‑7‑200, RELATING TO CREDITS AGAINST A PREMIUM TAX, SO AS TO DELETE A PROVISION APPLYING THE SECTION TO ALL NEW POLICIES ISSUED WITH AN EFFECTIVE DATE AFTER DECEMBER 31, 2007; TO AMEND SECTION 38‑75‑755, RELATING TO NOTIFICATION OF APPLICANTS OR RENEWING POLICYHOLDERS OF AVAILABLE CREDITS, DISCOUNTS, AND DEDUCTIONS, SO AS TO PROVIDE THAT ALL INSURERS SHALL NOTIFY APPLICANTS OR POLICYHOLDERS OF CERTAIN DISCLOSURES AT THE ISSUANCE OF NEW PERSONAL LINES RESIDENTIAL PROPERTY INSURANCE POLICIES AND AT EACH RENEWAL OF THESE POLICIES, TO PROVIDE THE DIRECTOR OR HIS DESIGNEE SHALL PRESCRIBE THE FORM AND MANNER FOR INSURER NOTICES OR DISCLOSURES, TO PROVIDE THESE DISCLOSURES ARE FOR INFORMATIONAL PURPOSES ONLY AND ARE NOT ADMISSIBLE IN RELATED LITIGATION EXCEPT IN CERTAIN CIRCUMSTANCES, AND TO DELETE A PROVISION APPLYING THIS SECTION TO POLICIES ISSUED OR RENEWED AFTER DECEMBER 31, 2007; AND TO PROVIDE THE DEPARTMENT SHALL CONDUCT A STUDY TO ASSESS THE FEASIBILITY OF CREATING A HURRICANE MODEL BY THE STATE WITH EMPHASIS ON THE ASSOCIATED COSTS AND CERTAIN LOGISTICAL REQUIREMENTS, AMONG OTHER THINGS, AND TO REQUIRE THE DEPARTMENT SHALL PROVIDE A SUMMARY OF ITS FINDINGS TO CERTAIN COMMITTEES OF THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2015.**

Be it enacted by the General Assembly of the State of South Carolina:

**Department of Insurance duties, market assistance and consumer education**

SECTION 1.A. Section 38‑3‑110(5) of the 1976 Code, as added by Act 78 of 2007, is amended to read:

“(5)(a) The director must hold a public hearing at least annually at a location within the seacoast area, as defined in Section 38‑75‑310(7), to provide the public with information and an opportunity to discuss and offer input concerning the rates, territory, and other pertinent issues regarding the South Carolina Wind and Hail Underwriting Association. The director must provide publicized notice of the hearing at least thirty days before the date of the public hearing.

(b) The director must engage in efforts to provide market assistance and promote consumer education to South Carolina residential property insurance consumers. These efforts may include, but are not limited to:

(i) posting on its website information to assist consumers in understanding the general provisions of homeowners insurance policies;

(ii) providing information on the mitigation discounts and credits available pursuant to Section 38‑73‑1095(C), including a summary of those offered by the twenty largest homeowners property insurance issuers by premium volume;

(iii) providing premium comparison information;

(iv) providing information to assist consumers in identifying

insurers writing property insurance coverage in their area;

(v) providing a listing of licensed property and casualty producers in their area; and

(vi) providing information on catastrophe savings accounts available pursuant to Article 11, Chapter 6, Title 12.

(c) The director must submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Banking and Insurance Committee, and the Chairman of the House Labor, Commerce and Industry Committee by January thirty‑first of each year regarding the status of the coastal property insurance market. The report shall be posted in an electronic format on the department’s website within five days of its submission. The report shall include, but not be limited to, the following:

(i) status of the South Carolina Wind and Hail Underwriting Association, including any recommended modifications to statutory or regulatory law regarding the operation of the South Carolina Wind and Hail Underwriting Association and its territory;

(ii) status of operations and grants issued under the South Carolina Hurricane Damage Mitigation Program as provided for in Section 38‑75‑485;

(iii) availability and affordability of coverage in the coastal area as defined in Section 38‑75‑310(5), including any portion of the area as it may be expanded pursuant to Section 38‑75‑460;

(iv) consumer outreach and education efforts relating to coastal property insurance issues, including, but not limited to:

(a) summary of the annual meeting as required pursuant to item (5)(a); and

(b) specific projects and efforts undertaken pursuant to item (5)(b).”

B. The provisions of this section take effect sixty days after the effective date of this act.

**Credit against premium tax, applicability date revised**

SECTION 2. Section 38‑7‑200 of the 1976 Code, as added by Act 78 of 2007, is amended to read:

“Section 38‑7‑200. (A) A licensed insurer providing full property and casualty coverage, to specifically include wind and hail coverage, to property owners within the area defined in Section 38‑75‑310(5), including any portion of the area as it may be expanded from time to time pursuant to Section 38‑75‑460, may claim as a nonrefundable credit against the premium tax imposed by Sections 38‑7‑20 and 38‑7‑40 in an amount equal to twenty‑five percent of the tax that otherwise is due on the premium written for the property owners for the taxable year.

(B) The credit allowed by this section is available only to an insurer licensed or authorized to do business in this State with respect to a property and casualty insurance policy providing full coverage as defined in subsection (A).

(C) A licensed insurer who claims the credit allowed by this section shall provide information required by the Department of Insurance to demonstrate that the taxpayer is eligible for the credit and that the amount paid for premiums for which the credit is claimed was not excluded from the licensed insurer’s gross income for the taxable year.

(D) The tax credit allowed under this section for a taxable year may be claimed only once for any one structure, regardless of the number of policies written on the structure.

(E) The department shall take the action necessary to monitor and examine the use of the credits claims under this section.”

**Personal lines residential property insurance policy renewals**

SECTION 3.A. Section 38‑75‑755 of the 1976 Code, as added by Act 78 of 2007, is amended to read:

“Section 38‑75‑755. (A) All insurers, at the issuance of a new policy and at each renewal, clearly shall notify the applicant or policyholder of a personal lines residential property insurance policy of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented, including information related to catastrophe savings accounts. The notice must describe generally what measures the policyholders may take to reduce their windstorm premium.

(B)(1) All insurers, at the issuance of a new policy and at each renewal, shall notify the applicant or policyholder of a personal lines residential property insurance policy of the following:

(a) whether or not the insured has coverage for flood or mold. The disclosure also shall state that insurance is available through the National Flood Insurance Program and that excess flood insurance may be available through an additional policy;

(b) a distinction between replacement cost for losses and actual cash value, the use of depreciation in determining payment for losses, and that the policy may contain time limitations for repairs to be completed in order to receive full replacement cost for the losses;

(c) that the policy determines the process for providing the insurer with a notification of a loss and the requirements of Section 38‑59‑10;

(d) that the insured may have the option to increase the deductible and thus lower the potential premium cost paid;

(e) whether a separate deductible is required for hurricane, wind, or named storm damage, as opposed to some other type of loss, and if so, include an example which illustrates how the deductible functions for a policy valued at one hundred thousand dollars and this illustration will include a clear explanation of the event which will trigger the deductible to the requirements of South Carolina Code of Regulations 69‑56.

(2) The director or his designee shall prescribe the form and manner for insurer notices or disclosures issued pursuant to this subsection.

(3) Any disclosure provided pursuant to this section shall be for informational purposes only and shall not amend, extend, or alter coverage provided in a policy. Any notice or disclosure provided shall not be admissible in any action brought concerning a policy except for the sole purpose of showing that the notice was or was not provided pursuant to this section.

(C) All insurers, at the issuance of a new policy and at each renewal of a commercial property insurance policy, 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 reduce damage from windstorm and that the policyholder may contact its agent, broker, or insurer for additional information. ”

B. The provisions of this section apply to policies issued or renewed after December 31, 2014.

**Feasibility study**

SECTION 4. The Department of Insurance shall conduct a study to assess the feasibility of the creation of a hurricane model by the State, with particular emphasis on the associated costs and physical/logistical requirements. The study also must assess the benefits to consumers of a South Carolina‑produced model, including an evaluation of whether it would yield more accurate assessments of risk and better rates. The department shall summarize its findings in a written report that it must provide to the Senate Banking and Insurance Committee and the House Labor, Commerce and Industry Committee before January 1, 2015.

**Time effective**

SECTION 5. Unless otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

\_\_\_\_\_\_\_\_\_\_