**South Carolina General Assembly**

125th Session, 2023-2024

**A29, R36, S500**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Cromer, Campsen and Rankin

Companion/Similar bill(s): 3746

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Introduced in the Senate on February 8, 2023

Introduced in the House on March 2, 2023

Last Amended on February 28, 2023

Currently residing in the Senate

Governor's Action: May 16, 2023, Signed

Summary: Department of Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/8/2023 Senate Introduced and read first time (Senate Journal‑page 38)

 2/8/2023 Senate Referred to Committee on **Banking and Insurance** (Senate Journal‑page 38)

 2/22/2023 Senate Committee report: Favorable with amendment **Banking and Insurance** (Senate Journal‑page 18)

 2/27/2023 Scrivener's error corrected

 2/28/2023 Senate Committee Amendment Adopted (Senate Journal‑page 46)

 2/28/2023 Senate Read second time (Senate Journal‑page 46)

 2/28/2023 Senate Roll call Ayes-41 Nays-0 (Senate Journal‑page 46)

 3/1/2023 Senate Read third time and sent to House (Senate Journal‑page 15)

 3/2/2023 House Introduced and read first time (House Journal‑page 8)

 3/2/2023 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 8)

 5/3/2023 House Committee report: Favorable **Labor, Commerce and Industry** (House Journal‑page 6)

 5/4/2023 House Read second time (House Journal‑page 36)

 5/4/2023 House Roll call Yeas-91 Nays-0 (House Journal‑page 37)

 5/4/2023 House Unanimous consent for third reading on next legislative day (House Journal‑page 38)

 5/5/2023 House Read third time and enrolled (House Journal‑page 7)

 5/11/2023 Ratified R 36

 5/16/2023 Signed By Governor

 5/25/2023 Effective date 05/16/23

 5/25/2023 Act No. 29

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**VERSIONS OF THIS BILL**

[02/08/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/500_20230208.docx)

[02/22/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/500_20230222.docx)

[02/27/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/500_20230227.docx)

[02/28/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/500_20230228.docx)

[05/04/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/500_20230504.docx)

(A29, R36, S500)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38‑75‑485, RELATING TO THE SOUTH CAROLINA HURRICANE DAMAGE MITIGATION PROGRAM, SO AS TO ESTABLISH GRANT CRITERIA, ESTABLISH A NONMATCHING GRANT FORMULA, AND TO REMOVE A CAP ON THE AMOUNT OF THE GRANT; BY AMENDING SECTION 38-3-110, RELATING TO DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, SO AS TO ALLOW THE DIRECTOR TO PROVIDE INFORMATION REGARDING FACTORS THAT MAY AFFECT PREMIUM RATES; BY AMENDING SECTION 38-73-1085, RELATING TO THE PUBLICATION OF REPRESENTATIVE SAMPLE PREMIUMS, SO AS TO ALLOW THE DIRECTOR OR HIS DESIGNEE TO MAKE AVAILABLE INFORMATION THAT AFFECTS PRIVATE PASSENGER PREMIUM RATES; BY AMENDING SECTION 38-61-80, RELATING TO WITHDRAWING FROM THE MARKET, SO AS TO REQUIRE NOTICE TO THE DIRECTOR BY THE INSURER; AND BY AMENDING SECTION 38-1-20, RELATING TO THE DEFINITION OF “SURPLUS LINES INSURANCE”, SO AS TO INCLUDE A REFERENCE TO COMMERCIAL MOTOR VEHICLE LIABILITY.

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

South Carolina Hurricane Damage Mitigation Program

SECTION 1. Section 38‑75‑485 of the S.C. Code is amended to read:

 Section 38‑75‑485. (A) There is established within the Department of Insurance, the South Carolina Hurricane Damage Mitigation Program. The advisory committee, established pursuant to Section 38‑75‑470, shall provide advice and assistance to the program administrator with regard to his administration of the program.

 (B) This section does not create an entitlement for property owners or obligate the State in any way to fund the inspection or retrofitting of residential property in this State. Implementation of this program is subject to annual legislative appropriations.

 (C) The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that includes the following:

 (1) The program may award matching or nonmatching grants based upon the availability of funds. The program administrator also shall apply for financial grants to be used to assist single‑family, site‑built or manufactured or modular, owner‑occupied, residential property owners to retrofit their primary legal residence to make them less vulnerable to hurricane damage.

 (a) To be eligible for a matching grant, a residential property must:

 (i) be the applicant's primary legal residence;

 (ii) be actually owned and occupied by the applicant;

 (iii) be the owner's legal residence as described in Section 12‑43‑220(c);

 (iv) be a single-family, site‑built, manufactured, or modular, owner‑occupied residential property;

 (v) be a residential property covered by a current homeowners or dwelling insurance policy that:

 (A) is issued by an insurer licensed in this State or a surplus lines insurer, where the policy is lawfully placed by a broker authorized to do business in this State; and

 (B) provides insurance coverage of the residential property equal to or greater than the fair market value of the residential property as defined in Section 12‑37‑3135(a)(2) and reflected in the county records;

 (vi) have undergone an acceptable wind certification and hurricane mitigation inspection in accordance with program requirements.

 (b) All matching grants must be matched on a dollar‑for‑dollar basis up to the maximum allowed depending on the type of retrofit. Grants will be awarded based on the following requirements:

 (i) a Resilient Mitigation Award will be awarded for roof retrofits meeting SC Safe Homes Retrofit Guidelines and Institute for Business and Home Safety Fortified Roof Retrofit Guidelines for a residential property and may not exceed seven thousand five hundred dollars for nonmatching grant awards or six thousand dollars for matching grants; and

 (ii) a Sustainable Mitigation Award will be awarded for roof retrofits meeting SC Safe Home Retrofit Guidelines only or for Window Replacement and Opening Protection Retrofits meeting SC Safe Home Opening Protection Guidelines for residential property and may not exceed five thousand dollars for nonmatching grants awards or four thousand dollars for matching grants. For Hurricane Shuttering and Protective Barrier Systems only meeting SC Safe Home Opening Protection Guidelines, grants may not exceed three thousand dollars for both matching and nonmatching grants.

 (c) The program must create a process in which mitigation contractors agree to participate and seek reimbursement from the State and homeowners selected from a list of participating contractors. All mitigation projects must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection. The program may reinspect up to ten percent of all projects.

 (d) Matching fund grants also must be made available to local governments and nonprofit entities, on a first‑come, first‑served basis, for projects that reduce hurricane damage to single‑family, site‑built or manufactured or modular owner‑occupied, residential property, provided that:

 (i) no matching grant for any one local government or nonprofit entity may exceed fifty thousand dollars in any fiscal year;

 (ii) the total amount of matching grants awarded to all local governments and nonprofit entities combined may not exceed two hundred fifty thousand dollars in any fiscal year; and

 (iii) the difference between two hundred fifty thousand dollars and the total amount of grants awarded to all local governments and nonprofit entities combined in any fiscal year may be applied to grants to individual homeowners who meet the qualifications for a grant described in subitems (a) through (d) or in subitem (g).

 (e) Grants may be used for the following improvements:

 (i) roof deck attachment;

 (ii) secondary water barrier;

 (iii) roof covering;

 (iv) brace gable ends;

 (v) reinforce roof‑to‑wall connections;

 (vi) opening protection;

 (vii) exterior doors, including garage doors;

 (viii) tie downs;

 (ix) problems associated with weakened trusses, studs, and other structural components;

 (x) inspection and repair or replacement of manufactured home piers, anchors, and tiedown straps; and

 (xi) any other mitigation techniques approved by the advisory committee.

 (f) To be eligible for a nonmatching grant, a residential property must comply with the requirements set forth in subsection (C)(1)(a), (c), and (e).

 (i) For nonmatching grants, applicants who otherwise meet the requirements of subitems (a), (c), and (e) may be eligible for a grant of up to seven thousand five hundred dollars for a Resilient Mitigation Grant Award and may not be required to provide a matching amount to receive a Resilient Mitigation Grant Award, up to five thousand dollars for a Sustainable Mitigation Grant Award or up to three thousand dollars for a Sustainable Mitigation Hurricane Shutters and Protective Barrier Systems Award. These grants must be used to retrofit single‑family, site‑built or manufactured or modular, owner‑occupied, residential properties in order to make them less vulnerable to hurricane damage. The grant must be used for the retrofitting measures set forth in Section 38‑75‑485(C)(1)(e).

 (ii) Nonmatching grant award amounts will be determined based on the cost of the mitigation project and a percentage of the total adjusted household income of the applicant according to the most recent federal income tax return. Those applicants with a total annual adjusted gross household income of which does not exceed eighty percent of the median annual adjusted gross income for households within the county in which the person or family resides may be eligible for the maximum grant award amount. Applicants with a higher total annual adjusted household income may be awarded a lower amount. The director or his designee shall issue a bulletin annually that sets forth the maximum grant award amounts based on the total annual adjusted gross household income of the applicant adjusted for family size relative to the county area median income or the state median family income, whichever is higher, as published annually by the United States Department of Housing and Urban Development. If the cost of the mitigation project exceeds the amount of the grant award, the remaining cost is the applicant's responsibility.

 (2) The department shall define by regulation the details of the mitigation measures necessary to qualify for the grants described in this section.

 (3) Multimedia public education, awareness, and advertising efforts designed to specifically address mitigation techniques must be employed, as well as a component to support ongoing consumer resources and referral services.

 (4) The department shall use its best efforts to obtain grants or funds from the federal government to supplement the financial resources of the program. In addition to state appropriations, if any, this program must be implemented by the department through the use of the premium taxes due to this State by the South Carolina Wind and Hail Underwriting Association, and one percent of the premium taxes collected annually and remitted to the Department of Insurance.

 (5) The director or his designee may promulgate regulations necessary to implement the provisions of this article.

Duties of the Director of the Department of Insurance

SECTION 2. Section 38‑3‑110(5)(b)(iii) of the S.C. Code is amended to read:

 (iii) providing information regarding the factors that can affect premium rates;

Publication of representative sample of premiums

SECTION 3. Section 38‑73‑1085 of the S.C. Code is amended to read:

 Section 38‑73‑1085. The director or his designee shall make available information regarding the factors that can affect private-passenger premium rates.

Withdrawing from the market

SECTION 4. Section 38-61-80 of the S.C. Code is amended to read:

 Section 38-61-80. (A) An insurer must not cancel, nonrenew, or otherwise terminate all or substantially all of an entire line or class of business for the purpose of withdrawing from the market in this State unless:

 (1) the insurer notified the director, in writing, of the action, including the reasons for such action, and plans for the orderly cessation of business at least one year before the completion of the withdrawal. This item must not be construed to prevent an insurer from canceling, nonrenewing, or terminating policies in the ordinary course of business that are not part of a plan to withdraw from an entire line or class of business or where the insurer, by contract, statute, or otherwise, has the right to take such action; or

 (2) the insurer filed a plan of action for the orderly cessation of the insurer's business within a period of time shorter than one year and the plan of action is approved by the director or his designee.

 (B) An insurer's rates, rules, and forms filed with the department are considered no longer on file for use with any new business in the market affected by the insurer's withdrawal plan on and after the date the withdrawal plan goes into effect.

 (C) This section does not apply to health insurance issuers offering health insurance coverage as defined in Article 3 or Article 5, Chapter 71, Title 38. Health insurance issuers must comply with other applicable provisions of Chapter 71, Title 38 regarding the discontinuance of all or a significant block of business or withdrawal from the market in this State.

 (D) An insurer must not cancel, nonrenew, or otherwise terminate all or substantially all of an entire line or class of business in this State unless the insurer notified the director, in writing, of the action, including the reasons for such action, and plans for the orderly cessation of business at least thirty (30) days before the insurer begins the process of notifying insureds of the decision to nonrenew, cancel, or otherwise terminate the policy. This provision does not apply to action relating to the transfer of risks within a group of insurers with common ownership. This item must not be construed to prevent an insurer from canceling, nonrenewing, or terminating policies provided that the insurer complies with the processes required under Sections 38-75-730, 38-75-740, or 38‑77‑120.

Definition

SECTION 5. Section 38-1-20(56) of the S.C. Code is amended to read:

 (56) “Surplus lines insurance” means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker, or a licensed broker as provided in Section 38‑45‑10(8)(b)(ii), with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop-loss insurance coverage upon group life, accident, and health insurance or upon a self-insured's life, accident, and health benefits program, disability insurance in excess of any benefit limit available from an admitted insurer, commercial motor vehicle liability, and international major medical insurance may be approved as surplus lines insurance.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 11th day of May, 2023.

Approved the 16th day of May, 2023.

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