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SENATE BILL NO. 433

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 38.2-2108 and 38.2-2701 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-2108.1, relating to windstorm and windstorm and hail insurance coverage.

Patron—Wagner

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-2108 and 38.2-2701 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 38.2-2108.1 as follows:

§ 38.2-2108. Standards for content of fire insurance policies.

A. The Commission may establish standards for the content of any policy or any rider, endorsement, or other supplemental agreement or provision for use in connection with any policy written to insure owner-occupied dwellings ~~which~~ that is to be issued or delivered in ~~this~~ the Commonwealth.

B. Following adoption of the standards of content and notwithstanding the provisions of §§ 38.2-2104, 38.2-2105, and 38.2-2106, no insurer shall issue or renew any policy or any rider, endorsement, or other supplemental agreement or provision for use in connection with any policy written to insure owner-occupied dwellings unless the policy form has been filed with the Commission. The Commission shall determine whether the policy form meets the standards of content and is in compliance with any other statutory requirements.

C. Nothing in this section prevents an insurer from issuing policies with coverages, terms, and conditions ~~which~~ that are broader and more favorable to the insured than the standards established by the Commission. The language, style, and format of the coverages, terms, and conditions shall be consistent with the language, style, and format of the entire policy form.

D. Notwithstanding the provisions of this section, any insurer that issues or delivers in the Commonwealth a new policy or contract of insurance written to insure an owner-occupied dwelling in Virginia's coastal area may exclude coverage for losses caused by windstorm or for losses caused by windstorm and hail. For the purposes of this section, "Virginia's coastal area" means that part of the Commonwealth lying east of 76 degrees, 30 minutes west longitude.

§ 38.2-2108.1. Exclusion of windstorm and hail coverage.

A. No policy or contract that contains coverage broader than that which is described in § 38.2-2104 and that excludes coverage for losses caused by windstorm or for losses caused by windstorm and hail shall be issued or delivered in the Commonwealth unless (i) an appropriate premium credit is provided and (ii) a disclosure notice is provided at the time coverage is excluded and at each subsequent renewal, and states substantially:

Important Notice

This policy excludes coverage for losses caused by windstorm [or for losses caused by windstorm and hail]. Such coverage may be obtained through the Virginia Property Insurance Association. You may contact the Virginia Property Insurance Association at the following address and telephone number [Insert the appropriate address and telephone number, and toll-free number, if available, for the Virginia Property Insurance Association].

B. No policy written to insure an owner-occupied dwelling that is issued or delivered in the Commonwealth pursuant to § 38.2-2108 shall exclude coverage for losses caused by windstorm or for losses caused by windstorm and hail unless (i) the policy is newly issued and is not a renewal policy, (ii) such exclusion applies to property located in the coastal areas of Virginia as defined in § 38.2-2108, and (iii) the provisions of subsection A of this section have been met.

§ 38.2-2701. Definitions.

As used in this chapter:

"Basic property insurance" means: (i) insurance against direct loss to any property caused by perils defined and limited in the standard fire policy prescribed in §§ 38.2-2101 through 38.2-2112, and in the extended coverage endorsement approved by the Commission pursuant to § 38.2-2117 and such additional lines of insurance and forms of coverage as may be recommended by the governing body of the residual market facility and approved by the Commission and (ii) a separate policy of windstorm or windstorm and hail insurance approved by the Commission.

"Inspection service" means any organization designated or approved by the Commission to determine

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59 the insurability and conditions of the properties for which basic property insurance is sought.

60 "Net direct premiums written" means gross direct premiums written in ~~this~~ *the* Commonwealth on all
61 policies of basic property insurance and the basic property insurance component of multi-peril policies
62 less (i) all return premiums on those policies, (ii) dividends paid or credited to policyholders, and (iii)
63 the unused or unabsorbed portions of premium deposits.

64 "Qualified property" means all real property and all tangible personal property at a fixed location in
65 ~~this~~ *the* Commonwealth, whether or not the property is subject to exposure from an external hazard
66 located on property that is neither owned nor controlled by the prospective insured, and whether or not
67 the property is subject to exposure from riot hazard, where the property:

68 1. Is not used for manufacturing purposes;

69 2. Complies with applicable state laws and regulations and local building codes and ordinances;

70 3. Is not commonly owned or controlled, or combinable for rating purposes, with property insured
71 for similar coverages elsewhere; and

72 4. Has characteristics of ownership, condition, or occupancy that do not violate any public policy.

73 "Residual market facility" means any organization approved by the Commission to equitably
74 distribute the responsibility to provide basic property insurance on qualified property among insurers
75 licensed to write basic property insurance or other insurance containing a basic property insurance
76 component.