

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 887
Finance

(Senator Feldman)

Homeowner's Insurance - Underwriting Standards - Deductibles

This bill makes various changes to the process by which insurers of homeowner's insurance in the State may adopt a percentage-based deductible in the case of a hurricane or other storm and the circumstances under which a percentage-based deductible may be applied.

The bill applies to all homeowner's insurance policies issued, delivered, or renewed in the State on or after October 1, 2014.

Fiscal Summary

State Effect: Minimal increase in Maryland Insurance Administration (MIA) special fund revenues in FY 2015 due to \$125 rate and form filings. Review of the filings can be handled with existing resources.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: None.

Analysis

Bill Summary:

Percentage-based Deductibles During Hurricanes: An insurer that issues a policy of homeowner's insurance may not adopt an underwriting standard that requires a deductible that exceeds 5% of the "Coverage A – Dwelling Limit" of the policy in the case of a hurricane unless the insurer has filed the standard with the Insurance

Commissioner. The insurer must file the underwriting standard *only* to inform the Commissioner, and the standard does not require approval by the Commissioner before it can be implemented. The filing must be made at least 60 days before the insurer intends to implement the underwriting standard in the State, and the filing must include a copy of the underwriting standard as well as the date that the insurer intends to implement the underwriting standard. This provision does not apply to underwriting standards for other storms.

Applicability of the Underwriting Standard: An insurer may only adopt an underwriting standard that requires a percentage-based deductible of the “Coverage A – Dwelling Limit” for direct physical loss caused by the peril of a windstorm or hail during the period of a hurricane warning if the deductible applies only beginning at the time the National Hurricane Center of the National Weather Service issues a hurricane warning for any part of the State and ending 24 hours after the termination of the last hurricane warning issued for any part of the State, regardless of where the insured’s home is located in the State. This provision does not apply to underwriting standards for other storms.

Notice to Policyholders: An insurer that has adopted an underwriting standard that requires a percentage-based deductible of the “Coverage A – Dwelling Limit” in the case of a hurricane must provide a policyholder with an annual statement explaining the manner in which the deductible is applied. Prior to its use, the insurer must send a copy of the form to be used *only* to inform the Commissioner. This provision does not apply to other storms.

Current Law:

Adoption of Underwriting Standards: An insurer that issues a policy of homeowner’s insurance may not adopt an underwriting standard that requires a deductible that exceeds 5% of the “Coverage A – Dwelling Limit” of the policy in the case of a hurricane or other storm unless the insurer has filed the standard with the Commissioner and the Commissioner has approved the standard. The filing must be made at least 60 days before the insurer proposes to implement the standard. The filing must include (1) a copy of the underwriting standard the insurer proposes to use; (2) the data relied on by the insurer in developing the underwriting standard; (3) the date the insurer proposes to implement the underwriting standard; and (4) any other information required by the Commissioner.

The underwriting standard may not take effect until 60 days after it is filed. During this 60-day waiting period, the Commissioner may extend the waiting period for an additional 60 days by written notice to the insurer. A filing is approved unless disapproved by the Commissioner at the end of the waiting period. The Commissioner may, under specified circumstances, allow an insurer to implement the underwriting standard before the end of the 60-day waiting period.

Applicability of the Underwriting Standard: If an insurer has adopted an underwriting standard that requires a percentage-based deductible of the “Coverage A – Dwelling Limit” of the policy in case of a hurricane or other storm, then the deductible may only apply beginning at the time the National Hurricane Center of the National Weather Service issues a hurricane warning for the part of the State where the insured’s home is located and ending 24 hours after the termination of the last hurricane warning issued for that part of the State.

Notice to Policyholders: An insurer that has adopted an underwriting standard that requires a percentage-based deductible in the case of a hurricane or other storm must provide a policyholder with an annual statement explaining the manner in which the deductible is applied. Prior to its use, the insurer must send a copy of the form to be used to the Commissioner.

Required Rate Filings: Each insurer in the State must file with the Commissioner all rates, supplementary rate information, policy forms, and endorsements as well as all modifications of rates, supplementary rate information, policy forms, and endorsements that the insurer proposes to use. An insurer may include in a filing any additional relevant supporting information. The Commissioner may also require a filer to provide this supporting information. A filing and any supporting information is open to public inspection as soon as it is filed. A filing may not take effect until 30 working days after it is filed. Any filing is considered approved unless disapproved by the Commissioner in the 30-day waiting period. MIA charges a fee of \$125 per filing.

Refusal of Coverage: Generally, an insurer is prohibited from canceling or refusing to underwrite or renew an insurance risk except by the application of standards that are reasonably related to the insurer’s economic and business purposes.

An insurer may not refuse to issue or renew a property and casualty insurance policy solely because the subject of risk is located in a specified geographic area, unless (1) the insurer has filed, at least 60 days before the refusal, with the Commissioner a written statement designating the geographic area and (2) the designation has an objective basis and is not arbitrary or unreasonable. The information contained in the filings is a public record.

An insurer may cancel or refuse to renew coverage based on (1) three or more weather-related claims made within the preceding three-year period or (2) one or more weather-related claims made within the preceding three-year period if the insurer provided a written notice to the insured for reasonable or customary repairs or replacements to the premises or dwelling that the insured failed to make and would have prevented the loss for which a claim was made.

Background: In relation to homeowner’s insurance, a “Coverage A – Dwelling Limit” is the replacement cost for an entire home, and this is generally the limit of coverage for the policy. While a standard homeowner’s deductible is commonly a flat rate amount, certain insurers charge a percentage-based deductible based on the “Coverage A – Dwelling Limit” in certain circumstances. For example, if a home is insured for \$300,000, a flat deductible may charge an insured \$500 in the event of damage or loss, where a 5% deductible would be \$15,000.

Many states have specified provisions of law that regulate the circumstances in which an insurer may charge a percentage-based deductible for wind and hurricane damage; as noted above, Maryland allows a percentage-based deductible for hurricane and storm damage only when the National Weather Service issues a hurricane warning for the part of the State where the property loss takes place. This specification has disallowed insurers from charging a percentage-based deductible during some recent major storms. With the most recent storm, “Sandy,” the National Weather Service downgraded the storm from a hurricane to a post-tropical cyclone just before it made landfall and it never issued a hurricane warning for any part of Maryland; thus, insurers in the State were not allowed to charge a percentage-based deductible for damages caused by the storm.

Additional Comments: Based on the removal of language regarding “other storms” by the bill in relation to the adoption and use of a percentage-based deductible, MIA advises that it is unclear whether insurers in the State are authorized to adopt percentage-based deductibles for storms that are not hurricanes, regardless of whether a hurricane warning is in effect.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, National Weather Service, Department of Legislative Services

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