

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1165

Short Title: Update Standard Fire Insurance Policy.-AB (Public)

Sponsors: Representatives Goforth, Wray (Primary Sponsors); and Lucas.

Referred to: Insurance, if favorable, Judiciary III.

April 8, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY THE PROVISIONS SET FORTH IN THE PHOTOGRAPHIC
3 VERSION OF THE STANDARD FIRE INSURANCE POLICY; MAKE CONFORMING
4 AMENDMENTS; AND REPEAL THE STATUTE THAT CONTAINS THE
5 PHOTOGRAPHIC VERSION OF THE STANDARD FIRE INSURANCE POLICY.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 44 of Chapter 58 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 58-44-16. Fire insurance policies; standard fire insurance policy provisions.**

10 (a) The provisions of a fire insurance policy, as set forth in subsection (f) of this
11 section, shall be known and designated as the "standard fire insurance policy."

12 (b) With the exception of policies covering (i) automobile fire, theft, comprehensive,
13 and collision, or (ii) marine and inland marine insurance, no fire insurance policy shall be
14 made, issued, or delivered by any insurer or by any agent or representative of the insurer, on
15 any property in this State, unless it conforms in substance with all of the provisions,
16 stipulations, agreements, and conditions in subsection (f) of this section.

17 (c) There shall be printed at the head of the policy the name of the insurer or insurers
18 issuing the policy; the location of the home office of the insurer or insurers; a statement
19 whether the insurer or insurers are stock or mutual corporations or are reciprocal insurers. This
20 section does not limit an insurer to the use of any particular size or manner of folding the paper
21 upon which the policy is printed; provided, however, that any insurer organized under special
22 charter provisions may so indicate upon its policy and add a statement of the plan under which
23 it operates in this State.

24 (d) The standard fire insurance policy need not be used for effecting reinsurance
25 between insurers.

26 (e) The provisions of the standard fire policy are stated in this section and shall be
27 incorporated in fire insurance policies subject to this section. If any conditions of this section
28 are construed to be more liberal than any other policy conditions relating to the perils of fire,
29 lightning, or removal, the provisions of this section shall apply.

30 (f) The following subdivisions comprise all of the provisions, stipulations, agreements,
31 and conditions of the standard fire insurance policy:

- 32 (1) General provisions. – In consideration of the provisions, stipulations,
33 agreements, and conditions in this policy or added to this policy, and of the
34 premium specified in the declarations or in endorsements made a part of this
35 policy, this insurer, for the term of years specified in the declarations from
36 inception date shown in the declarations at 12:01 a.m. to expiration date
37 shown in the declarations at 12:01 A.M. at the location of the property



1 covered, to an amount not exceeding the limit of liability specified in the
2 declarations, does insure the insured named in the declarations and legal
3 representatives, to the extent of the actual cash value of the property at the
4 time of loss, but not exceeding the amount that it would cost to repair or
5 replace the property with material of like kind and quality within a
6 reasonable time after the loss, without allowance for any increased cost of
7 repair or reconstruction by reason of any ordinance or law regulating
8 construction or repair, and without compensation for loss resulting from
9 interruption of business or manufacture, nor in any event for more than the
10 interest of the insured against all direct loss by fire, lightning, and other
11 perils insured against in this policy including removal from premises
12 endangered by the perils insured against in this policy, except as hereinafter
13 provided, to the property described in the declarations while located or
14 contained as described in this policy, or pro rata for five days at each proper
15 place to which any of the property shall necessarily be removed for
16 preservation from the perils insured against in this policy, but not elsewhere.
17 Assignment of this policy shall not be valid except with the written consent
18 of this insurer. This policy is made and accepted subject to the provisions,
19 stipulations, agreements, and conditions in this section, which are hereby
20 made a part of this policy, together with such other provisions, stipulations,
21 agreements, and conditions that may be added to this policy as provided in
22 this policy.

23 (2) Concealment or fraud. – This entire policy shall be void if, whether before or
24 after a loss, the insured has willfully concealed or misrepresented any
25 material fact or circumstance concerning this insurance or the subject of this
26 insurance, or the interest of the insured in the subject of this insurance, or in
27 the case of any fraud or false swearing by the insured relating the subject of
28 this insurance.

29 (3) Uninsurable and excepted property. – This policy shall not cover accounts,
30 bills, currency, deeds, evidences of debt, money, or securities; nor, unless
31 specifically named in this policy in writing, bullion ,or manuscripts.

32 (4) Perils not included. – This insurer shall not be liable for loss by fire or other
33 perils insured against in this policy caused, directly or indirectly, by enemy
34 attack by armed forces, including action taken by military, naval, or air
35 forces in resisting an actual or an immediately impending enemy attack;
36 invasion; insurrection; rebellion; revolution; civil war; usurped power; order
37 of any civil authority except acts of destruction at the time of and for the
38 purpose of preventing the spread of fire, provided that the fire did not
39 originate from any of the perils excluded by this policy; neglect of the
40 insured to use all reasonable means to save and preserve the property at and
41 after a loss, or when the property is endangered by fire in neighboring
42 premises; or for loss by theft.

43 (5) Other insurance. – Other insurance may be prohibited or the amount of
44 insurance may be limited by endorsement attached to this policy.

45 (6) Conditions suspending or restricting insurance. – Unless otherwise provided
46 in writing added to this policy, this insurer shall not be liable for loss
47 occurring:

48 a. While the hazard is increased by any means within the control or
49 knowledge of the insured;

- 1 b. While a described building, whether intended for occupancy by
2 owner or tenant, is vacant or unoccupied beyond a period of 60
3 consecutive days; or
4 c. As a result of explosion or riot, unless fire ensues, and in that event
5 for loss by fire only.

6 (7) Other perils or subjects. – Any other peril to be insured against or subject of
7 insurance to be covered in this policy shall be by endorsement in writing on
8 this policy or added to this policy.

9 (8) Added provisions. – The extent of the application of insurance under this
10 policy and of the contribution to be made by this insurer in case of loss, and
11 any other provision or agreement not inconsistent with the provisions of this
12 policy, may be provided for in writing added to this policy; provided,
13 however, no provision may be waived except such as by the terms of this
14 policy is subject to change.

15 (9) Waiver provisions. – No permission affecting this insurance shall exist, or
16 waiver of any provision be valid, unless granted in this policy or expressed
17 in writing added to this policy. No provision, stipulation, or forfeiture shall
18 be held to be waived by any requirement or proceeding on the part of this
19 insurer relating to appraisal or to any examination provided for in this
20 policy.

21 (10) Cancellation of policy. – This policy shall be cancelled at any time at the
22 request of the insured, in which case this insurer shall, upon demand and
23 surrender of this policy, refund the excess of paid premium above any short
24 rates for the expired time. This policy may be cancelled at any time by this
25 insurer by giving to the insured a five days' written notice of cancellation
26 with or without tender of the excess of paid premium above the pro rata
27 premium for the expired time, which excess, if not tendered, shall be
28 refunded on demand. Notice of cancellation shall state that said excess
29 premium (if not tendered) will be refunded on demand.

30 (11) Mortgagee interests and obligations. – If loss is made payable, in whole or in
31 part, to a designated mortgagee not named in this policy as the insured, such
32 interest in this policy may be cancelled by giving to such a mortgagee a ten
33 days' written notice of cancellation. If the insured fails to render proof of
34 loss, the mortgagee, upon notice, shall render proof of loss as specified in
35 this policy within 60 days thereafter and shall be subject to the provisions of
36 this policy relating to appraisal and time of payment and of bringing suit. If
37 this insurer claims that no liability existed as to the mortgagor or owner, it
38 shall, to the extent of payment of loss to the mortgagee, be subrogated to all
39 the mortgagee's rights of recovery, but without impairing the mortgagee's
40 right to sue; or this insurer may pay off the mortgage debt and require an
41 assignment of that debt and of the mortgage. Other provisions relating to the
42 interests and obligations of the mortgagee may be added to this policy by
43 agreement in writing.

44 (12) Pro rata liability. – This insurer shall not be liable for a greater proportion of
45 any loss than the amount insured by this policy bears to all insurance
46 covering the property against the peril involved, whether collectible or not.

47 (13) Requirements in case loss occurs. – The insured shall give immediate written
48 notice to this insurer of any loss, protect the property from further damage,
49 forthwith separate the damaged and undamaged personal property, put it in
50 the best possible order, furnish a complete inventory of the destroyed,
51 damaged, and undamaged property, showing in detail quantities, costs,

1 actual cash value, and amount of loss claimed. Within 60 days after the loss,
2 unless that time is extended in writing by this insurer, the insured shall
3 render to this insurer a proof of loss, signed and sworn to by the insured,
4 stating the knowledge and belief of the insured as to the following: the time
5 and origin of the loss, the interest of the insured and of all others in the
6 property, the actual cash value of each item of the property and the amount
7 of loss to the property, all encumbrances on the property, all other contracts
8 of insurance, whether valid or not, covering any of the property, any changes
9 in the title, use, occupation, location, possession, or exposures of the
10 property since the issuing of this policy, by whom and for what purpose any
11 building described in this policy and the several parts of the building were
12 occupied at the time of loss and whether or not it then stood on leased
13 ground, and shall furnish a copy of all the descriptions and schedules in all
14 policies and, if required, verified plans and specifications of any building,
15 fixtures, or machinery destroyed or damaged. The insured, as often as may
16 be reasonably required, shall exhibit to any person designated by this insurer
17 all that remains of any property described in this policy, and submit to
18 examinations under oath by any person named by this insurer, and subscribe
19 the same; and, as often as may be reasonably required, shall produce for
20 examination all books of account, bills, invoices, and other vouchers, or
21 certified copies of them if originals are lost, at such reasonable time and
22 place as may be designated by this insurer or its representative, and shall
23 permit extracts and copies of them to be made.

24 (14) Appraisal. – If the insured and this insurer fail to agree as to the actual cash
25 value or the amount of loss, then, on the written demand of either, each shall
26 select a competent and disinterested appraiser and notify the other of the
27 appraiser selected within 20 days after the demand. The appraisers shall first
28 select a competent and disinterested umpire; and failing for 15 days to agree
29 upon a competent and disinterested umpire, on the request of the insured or
30 this insurer, a competent and disinterested umpire shall be selected by a
31 judge of a court of record in the state in which the property covered is
32 located. The appraisers shall then appraise the loss, stating separately actual
33 cash value and loss to each item; and, failing to agree, shall submit only their
34 differences to the umpire. An award in writing, so itemized, of any two when
35 filed with this insurer shall determine the amount of actual cash value and
36 loss. Each appraiser shall be paid by the party selecting him and the
37 expenses of appraisal and umpire shall be paid by the parties equally.

38 (15) Company's options. – It shall be optional with this insurer to take all, or any
39 part, of the property at the agreed or appraised value, and also to repair,
40 rebuild, or replace the property destroyed or damaged with other of like kind
41 and quality within a reasonable time, on giving notice of its intention so to
42 do within 30 days after the receipt of the proof of loss required in this policy.

43 (16) Abandonment. – There can be no abandonment to this insurer of any
44 property.

45 (17) When loss payable. – The amount of loss for which this insurer may be
46 liable shall be payable 60 days after proof of loss, as provided in this policy,
47 is received by this insurer and ascertainment of the loss is made either by
48 written agreement between the insured and this insurer or by the filing with
49 this insurer of an award as provided in this policy.

50 (18) Suit. – No suit or action on this policy for the recovery of any claim shall be
51 sustainable in any court of law unless all the requirements of this policy have

1 been complied with, and unless commenced within three years after
 2 inception of the loss.

3 (19) Subrogation. – This insurer may require from the insured an assignment of
 4 all rights of recovery against a party for loss to the extent that payment
 5 therefor is made by this insurer."

6 **SECTION 2.** G.S. 58-44-30 reads as rewritten:

7 "**§ 58-44-30. Notice by insured or agent as to increase of hazard, unoccupancy and other**
 8 **insurance.**

9 If notice in writing signed by the insured, or his agent, is given before loss or damage by
 10 any peril insured against under the standard fire insurance policy to the agent of the company of
 11 any fact or condition stated in paragraphs (a), (b) or with respect to "other insurance" of the
 12 ~~standard form of policy set out in G.S. 58-44-15~~G.S. 58-44-16 it is equivalent to an agreement
 13 in writing added ~~thereto~~to the policy, and has the force of the agreement in writing referred to
 14 in the ~~foregoing form of~~standard fire insurance policy with respect to the liability of the
 15 company and the waiver; but this notice does not affect the right of the company to cancel the
 16 policy as ~~therein stipulated~~stipulated in the policy."

17 **SECTION 3.** G.S. 58-44-25 reads as rewritten:

18 "**§ 58-44-25. Optional provisions as to loss or damage from nuclear reaction, nuclear**
 19 **radiation or radioactive contamination.**

20 Insurers issuing the standard fire insurance policy pursuant to ~~G.S. 58-44-15~~G.S. 58-44-16,
 21 or any permissible variation ~~thereof~~of that policy, and policies issued pursuant to
 22 G.S. 58-44-20 and Article 36 of this Chapter, are ~~hereby~~ authorized to affix ~~thereto~~to the
 23 policy or include ~~therein~~in the policy a written statement that the policy does not cover loss or
 24 damage caused by ~~nuclear reaction or nuclear radiation or radioactive contamination~~nuclear
 25 reaction, nuclear radiation, or radioactive contamination, all whether directly or indirectly
 26 resulting from an insured peril under ~~said~~the policy; provided, however, that nothing ~~herein~~
 27 ~~contained~~in this section shall be construed to prohibit the attachment to any such policy of an
 28 endorsement or endorsements specifically assuming coverage for loss or damage caused by
 29 ~~nuclear reaction or nuclear radiation or radioactive contamination~~nuclear reaction, nuclear
 30 radiation, or radioactive contamination."

31 **SECTION 4.** The preamble of G.S. 58-44-20 reads as rewritten:

32 "**§ 58-44-20. Standard policy; permissible variations.**

33 With the exception of policies covering (i) automobile fire, theft, comprehensive, and
 34 collision, or (ii) marine and inland marine insurance, no~~No~~ fire insurance company shall issue
 35 fire insurance policies, ~~except policies of automobile fire, theft, comprehensive and collision,~~
 36 ~~marine and inland marine insurance,~~ on property in this State other than those of the substance
 37 ~~of the standard form as~~containing the provisions set forth in ~~G.S. 58-44-15~~G.S. 58-44-16
 38 except as follows:

39 "...."

40 **SECTION 5.** G.S. 1-52(12) reads as rewritten:

41 "**§ 1-52. Three years.**

42 Within three years an action –

43 ...

44 (12) Upon a claim for loss covered by an insurance policy ~~which~~that is subject to
 45 the three-year limitation contained in ~~lines 158 through 161 of the Standard~~
 46 ~~Fire Insurance Policy for North Carolina, G.S. 58-44-15(c)~~G.S. 58-44-16."

47 **SECTION 6.** G.S. 58-44-15 is repealed.

48 **SECTION 7.** This act becomes effective October 1, 2009, and applies to fire
 49 insurance policies issued or renewed on and after that date.