



South Carolina Department of Insurance

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BULLETIN 2007-15

TO: Insurers Writing Property Insurance in South Carolina

FROM: Scott H. Richardson, CPCU *SAR*
Director

SUBJECT: Implementation Requirements for Mitigation Discounts and Credits

DATE: September 27, 2007

I. PURPOSE

The Omnibus Coastal Property Insurance Reform Act of 2007 amended S.C. Code Ann. Section 38-73-1095(C) to require that rating plans for essential property insurance in the coastal and seacoast areas include discounts and credits or surcharges and debits for certain rating factors including, but not limited to, the use of storm shutters, use of roof tie downs, flood insurance and elevation. The statute also provides that the Department of Insurance *may* promulgate a regulation to define how the implementation of these rating factors qualify for credits and discounts and what evidence the policyholder must present to obtain the credit or discount.

The Department has opted to take a two-pronged approach to this issue. It has opted to publish this bulletin which contains the implementation requirements while it simultaneously pursues the administrative regulatory process. Accordingly, this bulletin defines how the mitigation factors listed in §38-73-1095 qualify for premium discounts and credits. This bulletin and the proposed regulation incorporate many of the comments and requests for clarification the Department received in response to the Notice of Drafting that was published in the State Register on June 22, 2007 and the subsequent request for comments issued by the Department on August 7, 2007.

II. APPLICABILITY

The Department has received many requests asking that it clarify the applicability of § 38-73-1095, i.e., whether it applies solely to the coastal regions of the state or the entire state. The South Carolina General Assembly did not intend to limit the credits and discounts solely to the coastal regions of the state. Notwithstanding, § 38-73-1095 mandates credits and discounts and specifically refers to the *coastal and seacoast areas*.

Specifically, §38-73-1095(C) provides that:

...rating plans for essential property insurance *in the coastal or in the seacoast area*, shall include discounts and credits or surcharges and debits calculated upon the following factors:

- (1) use of storm shutters;
- (2) use of roof tie downs;
- (3) construction standards;
- (4) building codes;
- (5) distance from water;
- (6) elevation;
- (7) flood insurance;
- (8) policy deductibles;
- (9) other applicable factors requested by the insurer or rating organization or selected by order of the director involving the risk or hazard.

The plain language of the statute indicates that rating plans for property coverage in the *seacoast and coastal areas* of the state must contain discounts and credits.¹ Nothing precludes insurers writing in other parts of the state from including credits and discounts based upon the factors set forth in this section.²

Accordingly, this bulletin applies to all residential property and commercial insurance policies issued or renewed on or after January 1, 2008. **INSURERS ARE NOT REQUIRED TO PROVIDE DISCOUNTS, CREDITS OR OTHER RATING DIFFERENTIALS FOR RATING FACTORS THAT ARE NOT REASONABLY EXPECTED TO AFFECT THE EXPOSURE, E.G., THE ABSENCE OR PRESENCE OF FLOOD INSURANCE FOR HOMEOWNERS COVERAGE THAT EXCLUDES FLOOD.**

III. IMPLEMENTATION REQUIREMENTS

Set forth below are the implementation requirements. These requirements will be published via a proposed regulation in the *State Register* on September 28, 2007.

Section 1: Definitions

¹ In reviewing the applicability of this section, the Department also considered whether a statute that limited discounts or credits only to the coastal area or seacoast area raised equal protection issues under the Equal Protection Clauses of the South Carolina or United States Constitution. S. C. Code § 38-73-1095(C) does not involve a suspect or quasi-suspect class or a fundamental right and thus is subject to a rational basis analysis. Under this analysis, the statute must bear a reasonable relation to the legislative purpose, members of the class must be treated alike under similar circumstances and the classification must rest upon some rational basis. Section 38-73-1095(C) appears to meet all three elements of the analysis and so would pass an Equal Protection Clause challenge.

² It is anticipated that legislation will be introduced during the 2008 Legislative Session to extend mitigation credits and discounts to the entire state.

For purposes of this bulletin, the following terms shall have the meanings set forth below:

building standards – means nationally recognized methods for design and construction of buildings, and programs which may exceed the codes, for example, the International Codes, *ASCE-07* or IBHS's *Fortified for Safer Living Program*, which exceeds the standards of the building codes.

construction standards – means nationally recognized methods or techniques which are considered acceptable construction practices.

disaster mitigation – means any action or measure that either prevents the occurrence of a disaster or reduces the severity of its effects.

distance from the water – means the distance measured from mean high water level.

elevation -- means elevation to or above the Base Flood Elevation (BFE) which allows a substantially damaged or substantially improved house to be brought into compliance with your community's floodplain management ordinance or law. (The Base Flood is a flood having a 1% chance of being equaled or exceeded in any given year.)

flood elevation (usually defined as the 100 year elevation – 100 year flood elevation) --means the flood elevation that has a 1- percent chance of being equaled or exceeded each year. The 100-year flood, which is the standard used by most Federal and state agencies, is used by the National Flood Insurance Program as the standard for floodplain management and to determine the need for flood insurance.

hazard mitigation planning – an important aspect of a successful mitigation program. Hazard mitigation planning is a collaborative process whereby hazards affecting the community are identified, vulnerability to the hazards is assessed, and consensus reached on how to minimize or eliminate the effects of these hazards.

hurricane – means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service.

retrofit – means the voluntary process of strengthening or improving buildings or structures, or individual components of buildings or structures, with the purpose of making existing conditions better serve the purpose for which they were originally intended or the purpose that current building codes intend.

retrofitting technique – means the method used to retrofit (strengthen or improve) a structure.

windstorm – means wind, wind gusts, hail, rain, tornadoes or cyclones caused by or resulting from a hurricane that results in direct physical loss or damage to property.

Section 2: Credits and Discounts

- (A) Policies effective on or after January 1, 2008 for residential or commercial property shall include discounts, credits or other rate differentials for any fixtures and/or construction techniques that comply with any of the following: the minimum requirements of the SC Safe Home Program, IBHS's Fortified Homes for Safer Living, International Building or the International Residential Code. The insurer may also rely on the ISO Building Code Enforcement Effectiveness Grading Schedule developed for South Carolina in developing its credit or discount program. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques that enhance:
- roof strength,
 - roof covering performance,
 - roof-to-wall strength,
 - wall-to-floor foundation strength,
 - opening protection and
 - wind, door and skylight strength.
- (B) In order to provide an appropriate transition period, an insurer may implement an approved rating plan over a period of years subject to the approval of the Department. An insurer electing to phase in its rating plan must provide an informational notice to the Department setting out its schedule for implementation of the phased-in rating plan.
- (C) A rating plan for residential or commercial property insurance made more than one hundred fifty (150) days after approval by the Department of a building code rating factor plan submitted by a statewide rating organization shall include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses the risk of wind damage. The rating plan shall include variations from standard rate factors on an individual basis based on inspection of a particular structure by a licensed building inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.
- (D) Policies effective on or after January 1, 2008 for mobile homeowners' insurance must include discounts, credits or other rate differentials for mobile homes constructed to comply with the American Society of Civil Engineers Standard ANSI/ASCE 7-88, adopted by the United States Department of Housing and Urban Development, and that also comply with all appropriate tie-down requirements provided by South Carolina law.

By January 1, 2010, the Department shall evaluate the discounts, credits or other rate differentials for fixtures and construction techniques that meet the minimum requirements of the Fortified Homes for Safer Living Program, SC Safe Home Program, International Residential Building Code or the International Residential Code, based upon actual experience or any other loss relativity studies available to the Department. The Department shall determine whether the discounts offered accurately reflect the reduction in risk associated with the mitigation or retrofitting measure or technique.

Section 3: Calculation Methodology

Discounts must be reasonable and demonstrate appropriate reductions in rates and deductibles for residential or commercial property insurance for fixtures or construction techniques, including implementation of the applicable South Carolina Building Code Standards, that have been demonstrated to reduce windstorm loss. South Carolina statutory law does not specify the discounts or credits insurers must offer. However, when calculating the discount or credit the insurer must be able to demonstrate a correlation between the reduction in premium and the reduction in risk associated with the mitigation measures. The insurer may consider the structure's age, location, construction method and materials used in calculating the discount or credit. The amount of the discount or credit must reflect reasonable assumptions regarding the reduction of risk associated with the mitigation measure. The Department will use available studies providing data and information on estimated loss reduction for wind resistant building features to evaluate the discounts offered by insurers.

Section 4: Premium Credits

Insurers shall provide prospective mid-term pro-rated premium refunds, premium credits or other rate adjustments if the mitigation measures are added during the policy year, at the time in which the measure is accepted by the company.

Section 5: Filing Requirements

Insurers are asked to submit filings 60 days in advance of the anticipated effective date. Please submit filings in accordance with the instructions outlined in the spreadsheet attached as Exhibit A.

Section 6: Documentation/Evidence

To qualify for the discounts, the property owner must provide evidence that the construction or retrofitting measures have been implemented. The acceptable forms of evidence include either:

- A written certification or a report (with certification) from a licensed professional with expertise in construction techniques, building design or property inspection or appraisal including, but not limited to an: architect; appraiser; building

inspector; or contractor that the retrofitting technique or mitigation measure has been implemented in accordance with applicable standards; or

- Affidavit from a property owner certifying that the mitigation or construction techniques have been implemented. Certified copies of the applicable receipts must accompany the affidavit.

Insurers may verify through physical inspection that the work described in the certification from a licensed professional or expert or the affidavit from the property owner has been performed. A sample verification affidavit is attached as Exhibit B.

IV. QUESTIONS

Please direct any questions you may have regarding the content of this bulletin or the filing requirements to Carla Griffin, Manager, Office of Product Regulation at cgriffin@doi.sc.gov or (803) 737-6230.

The Department requests information on the changes in factors proposed by the filing related to wind mitigation measures. This Form is intended to provide a sample format and can be modified and supplemented. The factors are presented here as an example only and are not given as recommended factors.

For each rating structure associated with wind mitigation measures, please provide:

- The proposed rating factors expressed as a percentage of base premium.
 - The current rating factors for existing rating structures, expressed as a percentage of base premium.
 - The estimated distribution of exposures by rating structure in terms of policy counts and premium.
- This information may not be available for proposed rating structures but is required for existing rating structures.
- Provide the total average current and proposed factors using the % re-balanced unweighted premium distribution, if available.
 - Provide the minimum and maximum current and proposed factors given.
 - Provide the change in factors by rating value and for the rating structure on average (e.g., comparing total proposed and current factors, if available).

	<u>Mitigation Measure</u>	<u>% Policy Counts</u>	<u>% Premium</u>	<u>% Unwtd Prem (a)</u>	<u>% Re-Bal Unwtd Prem (b)</u>	<u>Current Factor</u>	<u>Proposed Factor</u>	<u>Change</u>
Example #1:	Type of Roof-Wall Connection							
Proposed Rating Structure	Single/Double Wraps	N/A	N/A	N/A	N/A	1.000	0.900	N/A
	Clips	N/A	N/A	N/A	N/A	1.000	0.900	N/A
No knowledge of distribution.	Toe Nails	N/A	N/A	N/A	N/A	1.000	1.000	N/A
	Other	N/A	N/A	N/A	N/A	1.000	1.000	N/A
	Total	N/A	N/A	N/A	N/A	1.000	N/A	N/A
	Minimum					1.000	0.900	N/A
	Maximum					1.000	1.000	N/A
Example #2:	Type of Opening Protection							
Proposed Rating Structure	Hurricane	10%	12%	12%	12%	1.000	0.850	-15.0%
	Basic	25%	27%	27%	27%	1.000	0.850	-15.0%
Known distribution.	Ordinary	20%	18%	18%	18%	1.000	0.900	-10.0%
	None	35%	30%	30%	30%	1.000	1.000	0.0%
	Other	10%	13%	13%	13%	1.000	1.000	0.0%
	Total	100%	100%	100%	100%	1.000	0.924	-7.6%
	Minimum					1.000	0.850	-15.0%
	Maximum					1.000	1.000	0.0%
Example #3:	Hurricane Deductible							
Existing Rating Structure	1% Rating Zones 1 & 2	7%	5%	5%	5%	0.93	0.95	2.2%
	1% Rating Zone 3	12%	10%	11%	9%	0.95	0.96	1.1%
	1% Remainder	18%	15%	15%	13%	0.98	0.98	0.0%
	2% Rating Zones 1 & 2	8%	10%	11%	10%	0.9	0.92	2.2%
	2% Rating Zone 3	9%	10%	11%	9%	0.92	0.92	0.0%
	2% Remainder	7%	5%	5%	5%	0.95	0.95	0.0%
	5% Rating Zones 1 & 2	10%	15%	19%	16%	0.8	0.85	6.3%
	5% Rating Zone 3	15%	10%	12%	10%	0.85	0.85	0.0%
	5% Remainder	2%	1%	1%	1%	0.9	0.9	0.0%
	10% Rating Zones 1 & 2	5%	10%	13%	12%	0.75	0.75	0.0%
	10% Rating Zone 3	5%	8%	10%	9%	0.8	0.8	0.0%
	10% Remainder	2%	1%	1%	1%	0.85	0.85	0.0%
	Total	100%	100%	115%	100%	0.873	0.885	1.4%
	Minimum					0.750	0.750	0.0%
	Maximum					0.980	0.980	6.3%
Total Average Change (Determined by Product of Known Total Changes)								-6.4%

Notes:

(a) % Premium divided by current factor.

(b) % Unwtd Premium rebalanced to total 100%.

MITIGATION VERIFICATION AFFIDAVIT

Policy Number: _____
Named Insured _____
Location Address _____

Roof Covering Construction

1. What type roof covering is used (shingles, tiles, metal, etc.) _____
2. Is the roof covering attached in compliance with the current edition of the International Residential Code as adopted by the South Carolina Building Codes Council or the manufacturer's installation requirements for the wind speed for the site on which the home is located?
YES _____ NO _____

Roof Attachment

3. Sheathing attached in compliance with the current edition of the International Residential Code as adopted by the South Carolina Building Codes Council or an engineered design for the wind speed for the site on which the home is located?
YES _____ NO _____

Roof-to-Wall Connection

4. Are there toe nails, clips, single straps and/or double straps that are installed in compliance with the current edition of the International Residential Code as adopted by the South Carolina Building Code Council or an engineered design for the wind speed for the site on which the home is located?
YES _____ NO _____
If yes, identify the method used. _____

Secondary Water Resistance

5. Does this roof have roofing felt or other approved layer of protection between the shingles and the roof sheathing below? All secondary water resistance products must be installed per the manufacturer's instructions
YES _____ NO _____

Opening Protection

6. Have storm shutters been installed on all windows meeting the minimum requirements of the International Residential Code?
YES _____ NO _____
7. Has impact resistant glass meeting the minimum requirements of the International Residential Code been installed?
YES _____ NO _____
8. If there is an attached garage does the door(s), meet or has it been retrofitted to meet ASCE 7/88 wind and debris impact standards, or is the door(s) compliant with SST-D-12 wind pressure and debris impact standards?
YES _____ NO _____

IMPORTANT NOTICE

Insurers have the right to confirm all information contained in this form via a survey of the risk. Any person or insurer who makes a false statement or misrepresentation, and any other person knowingly, with an intent to injure, defraud, or deceive, who assists, abets, solicits, or conspires with such person or insurer to make a false statement or misrepresentation is subject to both criminal and civil penalties pursuant to S.C. Code Ann. 38-55-540 and 38-55-550.

CERTIFICATION

I hereby certify that the above marked mitigation or construction techniques have been implemented (Copies of the applicable receipts must accompany this affidavit.) This affidavit is intended only for the purpose of the named insured's receipt of a property insurance premium discount and for no other purpose.

Homeowner's Signature _____ (Notarize below) Date _____

State of South Carolina)
County of _____)

With respect to the above,
The above named signatory has sworn to and subscribed before me this _____ day of _____, A.D.,
200__, by _____ (name of person making the statement) the information within this document is
accurate and true. The above signatory is personally known to me _____ or
produced _____ (type of identification) for identification.

Signature of Notary

Print, Type of Stamp Name of Notary

MITIGATION VERIFICATION CERTIFICATION
Licensed Building Contractor, Registered Architect, Engineer or Building Code Official

Policy Number: _____
Named Insured _____
Location Address _____

Roof Covering Construction

1. What type roof covering is used (shingles, tiles, metal, etc.) _____
2. Is the roof covering attached in compliance with the current edition of the International Residential Code as adopted by the South Carolina Building Codes Council or the manufacturer's installation requirements for the wind speed for the site on which the home is located?
YES _____ NO _____ NOT VERIFIED _____

Roof Attachment

3. Sheathing attached in compliance with the current edition of the International Residential Code as adopted by the South Carolina Building Codes Council or an engineered design for the wind speed for the site on which the home is located?
YES _____ NO _____ NOT VERIFIED _____

Roof-to-Wall Connection

4. Are there toe nails, clips, single straps and/or double straps that are installed in compliance with the current edition of the International Residential Code as adopted by the South Carolina Building Code Council or an engineered design for the wind speed for the site on which the home is located?
YES _____ NO _____ NOT VERIFIED _____
If yes, identify the method used. _____

Secondary Water Resistance

5. Does this roof have roofing felt or other approved layer of protection between the shingles and the roof sheathing below? All secondary water resistance products must be installed per the manufacturer's instructions
YES _____ NO _____ NOT VERIFIED _____

Opening Protection

6. Have storm shutters been installed on all windows meeting the minimum requirements of the International Residential Code?
YES _____ NO _____ NOT VERIFIED _____
7. Has impact resistant glass meeting the minimum requirements of the International Residential Code been installed?
YES _____ NO _____ NOT VERIFIED _____

8. If there is an attached garage does the door(s), meet or has it been retrofitted to meet ASCE 7/88 wind and debris impact standards, or is the door(s) compliant with SSTD-12 wind pressure and debris impact standards?

YES _____ NO _____ NOT VERIFIED _____

IMPORTANT NOTICE

Insurers have the right to confirm all information contained in this form via a survey of the risk. Any person or insurer who makes a false statement or misrepresentation, and any other person knowingly, with an intent to injure, defraud, or deceive, who assists, abets, solicits, or conspires with such person or insurer to make a false statement or misrepresentation is subject to both criminal and civil penalties pursuant to S.C. Code Ann. 38-55-540 and 38-55-550.

CERTIFICATION

I hereby certify that I am either a Licensed Building Contractor, Registered Architect or an Engineer in the State of South Carolina or a Building Code Official (who is duly authorized by the State of South Carolina or its county's municipalities, to verify building code compliance). In my professional opinion, based on my knowledge, information and belief, I certify that the above statements are true and correct. This certification is intended only for the benefit of the named insured's receipt of a property insurance premium discount and for no other purpose.

By completion of this Affidavit, the undersigned does not make a health or safety certification.

Signature _____ (Notarize below) Date _____

License No _____

State of South Carolina)

County of _____)

With respect to the above,

The above named signatory has sworn to and subscribed before me this _____ day of _____, A.D., 200__, by _____ (name of person making the statement) the information within this document is accurate and true. The above signatory is personally known to me _____ or produced _____ (type of identification) for identification.

Signature of Notary

Print, Type of Stamp Name of Notary