

## **N.C. Gen. Stat. Section 58-2-46**

Current through Session Laws 2020-1 of the 2019 Regular Session of the General Assembly, but not including corrections and changes made to Session Laws 2019-228 through 2019-251 and 2020-1 by the Revisor of Statutes.

*NC - General Statutes of North Carolina Annotated > CHAPTER 58. INSURANCE > ARTICLE 2. COMMISSIONER OF INSURANCE*

### **Section 58-2-46. State of disaster automatic stay of proof of loss requirements; premium and debt deferrals; loss adjustments for separate windstorm policies**

Whenever (i) a state of disaster is proclaimed for the State or for an area within the State under G.S. 166A-19.21 or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. Section 5121, et seq., as amended and (ii) if the Commissioner has issued an order declaring subdivisions (1) through (4) of this section effective for the specific disaster:

(1) The application of any provision in an insurance policy insuring real property and its contents that are located within the geographic area designated in the proclamation or declaration, which provision requires an insured to file a proof of loss within a certain period of time after the occurrence of the loss, shall be stayed for the time period not exceeding the earlier of (i) the expiration of the disaster proclamation or declaration and all renewals of the proclamation or (ii) the expiration of the Commissioner's order declaring subdivisions (1) through (4) of this section effective for the specific disaster, as determined by the Commissioner.

(2) As used in this subdivision, "insurance company" includes a service corporation, HMO, MEWA, surplus lines insurer, and the underwriting associations under Articles 45 and 46 of this Chapter. All insurance companies, premium finance companies, collection agencies, and other persons subject to this Chapter shall give their customers who reside within the geographic area designated in the proclamation or declaration the option of deferring premium or debt payments that are due during the earlier of (i) [the time period covered by the proclamation or declaration or (ii)] the time period prior to the expiration of the Commissioner's order declaring subdivisions (1) through (4) of this section effective for the specific disaster, as determined by the Commissioner. This deferral period shall be 30 days from the last day the premium or debt payment may be made under the terms of the policy or contract. This deferral period shall also apply to any statute, rule, or other policy or contract provision that imposes a time limit on an insurer, insured, claimant, or customer to perform any act during the time period covered by the proclamation or declaration, including the transmittal of information, with respect to insurance policies or contracts, premium finance agreements, or debt instruments when the insurer, insured, claimant, or customer resides or is located in the geographic area designated in the proclamation or declaration. Likewise, the

deferral period shall apply to any time limitations imposed on insurers under the terms of a policy or contract or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration. Likewise, the deferral period shall apply to any time limitations imposed on insurers under the terms of a policy or contract or provisions of law related to individuals who reside within the geographic area designated in the proclamation or declaration. The Commissioner may extend any deferral period in this subdivision, depending on the nature and severity of the proclaimed or declared disaster. No additional rate or contract filing shall be necessary to effect any deferral period.

(3) With respect to health benefit plans, after a deferral period has expired, all premiums in arrears shall be payable to the insurer. If premiums in arrears are not paid, coverage shall lapse as of the date premiums were paid up, and preexisting conditions shall apply as permitted under this Chapter; and the insured shall be responsible for all medical expenses incurred since the effective date of the lapse in coverage.

(4) Repealed by Session Laws 2014-115, s. 39.2, effective August 11, 2014.

## History

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2006-145, s. 3; 2012-12, s. 2(i); 2013-199, s. 22(a); 2014-115, s. 39.2.

Annotations

## Notes

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### EDITOR'S NOTE. --

Session Laws 2013-199, s. 22(a), amended this section in the coded bill drafting format provided in G.S. 120-20.1. In subdivision (2), the phrase "the time period covered by the proclamation or declaration" was stricken out and the words "declaration or (ii)" were both stricken out and underlined. The bracketed language in subdivision (2) has been inserted at the direction of the Revisor of Statutes.

### EFFECT OF AMENDMENTS. --

Session Laws 2012-12, s. 2(i), effective October 1, 2012, substituted "emergency" for "disaster" in the section heading and in the introductory paragraph; and substituted "G.S. 166A-19.20" for "G.S. 166A-6" in the introductory paragraph.

Session Laws 2013-199, s. 22(a), effective June 26, 2013, substituted "disaster" for "emergency" in the section heading and in the introductory paragraph; in the introductory paragraph, inserted "(i)," substituted "G.S. 166A-19.21" for "G.S. 166A-19.20," and added "and (ii) if the Commissioner has issued an order declaring subdivisions (1) through (4) of this section effective for the specific disaster"; in subdivision (1), inserted "the earlier of (i)" and substituted "or (ii) the expiration of the Commissioner's order declaring subdivisions (1) through (4) of this section effective for the specific disaster, as determined by the

Commissioner" for "proclamation or 45 days, whichever is later"; and rewrote the second sentence of subdivision (2).

Session Laws 2014-115, s. 39.2, effective August 11, 2014, repealed subdivision (4), which read "In addition to the requirements of G.S. 58-45-35(e), for separate windstorm policies that are written by an insurer other than the Underwriting Association, losses shall be adjusted by the insurer that issued the property insurance and not by the insurer that issued the windstorm policy. The insurer that issued the windstorm policy shall reimburse the insurer that issued the property insurance for reasonable expenses incurred by that insurer in adjusting the windstorm losses."

## **Research References & Practice Aids**

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### **CROSS REFERENCES. --**

As to emergency management efforts, generally, see G.S. 166A-19 et seq. As to gubernatorial or legislative declaration of state of emergency, see G.S. 166A-19.20.

General Statutes of North Carolina

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