§ 58-2-46. State of disaster automatic stay of proof of loss requirements; premium and debt deferrals.

(a) 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. § 5121, et seq., as amended and (ii) if the Commissioner has issued an order declaring this section effective for the specific disaster:

(1) Proof of loss stayed. – The application of any provision in an insurance policy insuring real property and its contents that are located within the designated area 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 this section effective for the specific disaster.

(2) Deferral of premium. – 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. Except as provided in subsection (c) of this section, insurance companies, premium finance companies, collection agencies, and other persons subject to this Chapter shall give their customers who reside within the designated area 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 this section effective for the specific disaster. 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 serve to defer any time limits imposed on an insurer, insured, claimant, or customer to perform any act during the time period covered by the proclamation or declaration as may be required by any statute, rule, or other policy or contract provision and does not require a request to defer. Included in the deferral of time limits is the transmittal of information and communications, 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 designated area 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 designated area 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) Health benefit plans. – 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.

(5) Collection agencies. – Except as provided in subsection (c) of this section, collection agencies, as defined in Article 70 of this Chapter, shall discontinue attempts to collect debt against their customers who reside within the designated area in the proclamation or declaration during the deferral period.

(b) In addition to the requirements set forth in subdivisions (a)(1) and (a)(2) of this section, the following shall apply to:

(1) Property and casualty insurance. – With respect to property and casualty insurance companies and insurance policies that insure customers or policyholders who reside in the designated area in the proclamation or declaration described in subsection (a) of this section and who have been displaced from their residences, the following provisions shall apply:

a. After a deferral period has expired, all premium payments in arrears under a property and casualty insurance policy or contract shall be due and payable to the insurance company. If the premium payments in arrears are not paid, the insurance company may cancel the insurance policy or contract on or after the fifteenth day following the expiration of the deferral period. All cancellation notice requirements are still applicable under this section.

b. All property and casualty insurance policies or contracts with a properly noticed cancellation for nonpayment effective on or prior to the date the Commissioner has issued an order under this section may be cancelled and such cancellations shall remain valid and effective. All cancellations for nonpayment of insurance policies or contracts scheduled to be effective after the deferral period has commenced must be deferred until the deferral period has expired. If necessary to comply with statute, a cancellation deferred under this subsection must be properly noticed again with an effective date after the expiration of the deferral period. Cancellations for cause that have been properly noticed, including cancellations for material misrepresentation or ineligible risk, may continue to be processed during the deferral period.

c. All property and casualty insurance policies or contracts with a nonrenewal effective date on or prior to the date the Commissioner has issued an order under this section may be processed. All property and casualty insurance policies or contracts with a properly noticed nonrenewal effective after the commencement of the deferred period shall be deferred until the expiration of the deferral period. A nonrenewal deferred under this subsection shall be properly noticed again with an effective date after the expiration of the deferral period.

d. This subsection shall not apply to property and casualty insurance policies or contracts entered into on or after the date the Commissioner has issued an order declaring this section effective for the specific disaster.

(2) Premium finance companies. – With respect to premium finance companies and premium finance agreements that have financed property and casualty insurance policies for customers or policyholders who reside in the designated area in the proclamation or declaration and who have been displaced from their residences, the following provisions shall apply:

a. After a deferral period has expired, all payments in arrears under a premium finance agreement shall be due and payable to the premium

finance company. If the payments in arrears are not paid, the premium finance company may cancel the premium finance agreement on or after the fifteenth day following the expiration of the deferred period. All cancellation notice requirements are still applicable under this section.

b. All property and casualty insurance policies or contracts that were financed by an insurance premium finance company with a properly noticed cancellation for nonpayment effective on or prior to the date the Commissioner has issued an order under this section may be cancelled and such cancellations shall remain valid and effective.

c. This section shall not apply to premium finance agreements entered into on or after the date the Commissioner has issued an order declaring this section effective for the specific disaster.

(c) If the proclamation or declaration is the result of a public health emergency as determined by the Secretary of the U.S. Department of Health and Human Services pursuant to 42 U.S.C. § 247d, or other situations where the Governor has, by executive order, ordered all individuals in North Carolina to stay at home or at their place of residence, the following provisions shall apply:

(1) Property and casualty insurance companies and premium finance companies. – Property and casualty insurance companies and premium finance companies subject to this Chapter shall give notice to their customers or policyholders who reside within the designated area in the proclamation or declaration of the option of deferring premium payments that are due during the time period covered by the Commissioner's order declaring this section effective for a specific public health emergency or situation that may require the citizens of North Carolina to shelter in place. The 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 or premium finance agreement.

a. When providing notice to customers or policyholders of the option to defer premium payments, property and casualty insurance companies and premium finance companies shall do all of the following:

1. Advise their customers or policyholders of their right to defer their premium and provide the steps required to defer their premium.

2. Allow for deferral requests from customers or policyholders to be communicated verbally or by electronic means. Written requests for deferral shall not be required.

b. After required notification is provided, nonpayment will result in a cancellation to be effective on or after the fifteenth day following the expiration of the deferral period.

c. After a deferral period has expired, all premium payments in arrears under a property and casualty insurance policy or premium finance agreement shall be due and payable to the insurance company or premium finance company. If the premium payments in arrears are not paid, the property and casualty insurance company or premium finance company may cancel the insurance policies or premium finance agreements that were financed on or after the fifteenth day following the expiration of the deferral period. All cancellation notice requirements are still applicable under this section.

d. This section shall not apply to property and casualty insurance policies or contracts entered into on or after the date the Commissioner has issued an order under this section.

(2) Policy nonrenewals and cancellations not prohibited. – Nothing in this subsection prohibits property and casualty insurance companies from not renewing or cancelling a policy during a public health emergency or situation that may require all individuals in North Carolina to stay at home.

(3) Collection agencies. – Collection agencies, as defined in Article 70 of this Chapter, shall discontinue attempts to collect debt against their customers who reside within the designated area in the proclamation or declaration during the deferral period when the customer notifies the collection agency that he or she is experiencing significant financial hardship related to the public health emergency or stay at home order.

(4) Deferral period limited in applicability. – For a public health emergency or situation that may require all individuals in North Carolina to stay at home, the deferral period shall not apply to time limitations imposed by any statute, rule, or other policy or contract provision or to the transmittal of information or communications related to insurance policies, premium finance agreements, or debt instruments, except as specifically provided for in this subsection.

(5) Exclusions. – This subsection shall not apply to situations that involve enemy attack, invasion, insurrection, riot, rebellion, revolution, civil war or commotion, or military or usurped power.

(d) The Commissioner may extend any deferral period in this section, depending on the nature and severity of the proclaimed or declared disaster or event. No additional rate or contract filing shall be necessary to effect any deferral period. (2006-145, s. 3; 2012-12, s. 2(i); 2013-199, s. 22(a); 2014-115, s. 39.2; 2022-46, s. 10.)