NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
THIRD AMENDMENT TO 11 NYCRR 74
(INSURANCE REGULATION 159)

HURRICANE DEDUCTIBLE REQUIREMENTS AND DISCLOSURE INFORMATION AND OTHER NOTICES

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 3425, 3445, 5402 and Articles 23 and 34 of the Insurance Law, do hereby promulgate the following Third Amendment to Part 74 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 159) to take effect 180 days after publication of the Notice of Adoption in the State Register, to read as follows:

(Matter in bracket is deleted; new matter is underlined)

The title of Part 74 is amended to read as follows:

[HOMEOWNERS INSURANCE] HURRICANE DEDUCTIBLE REQUIREMENTS AND DISCLOSURE INFORMATION AND OTHER NOTICES

Section 74.0 is amended to read as follows:

74.0 Introduction, [and purpose] applicability, and definitions.

(a)(1) Chapter 44 of the Laws of 1998 enacted a new Insurance Law section 3445 [of the Insurance Law], requiring the superintendent to establish by regulation disclosure requirements with respect to the operation of any deductible in a homeowners insurance policy or dwelling fire personal lines policy that applies as the result of a windstorm. Further, section 3445 requires such regulation to prescribe the form of a notice to be provided by an insurer to an insured and provides that the notice shall explain in clear and plain language the amount of the deductible, the circumstances under which the deductible applies and any other matters [which] that the superintendent, in [his or her] the superintendent's discretion, shall deem necessary or appropriate.

(2) Chapter 460 of the Laws of 2024 amended Insurance Law section 3445 to require the superintendent, by regulation, to establish standards for hurricane deductibles that create, to the greatest extent possible, uniformity in the operation of such deductibles with respect to the triggering event.

(3) An insurer may apply a hurricane deductible to a homeowners' or dwelling fire personal lines insurance policy, and such deductible varies among insurers. As a result, consumers may have difficulty determining the scope and applicability of the coverage purchased, and evaluating the relative merits of various policies offered by different insurers.

(4) This Part sets standards for the uniform use and display of [windstorm deductibles, which consist of] hurricane and non-hurricane deductibles[,] in the policy declarations[;] and establishes standards for hurricane deductibles that create, to the greatest extent possible, uniformity in the operation of such deductibles. This Part also provides the minimum provisions to be contained in the policyholder disclosure notice, which will explain

the purpose and operation of the hurricane deductible[,] and must accompany new and renewal policies containing such [deductibles] a deductible.

(b)(1) Chapter 162 of the Laws of 2006 amended Insurance Law section 3425(e) [of the Insurance Law] to direct the superintendent to establish by regulation standards for notices of cancellation, nonrenewal, and conditional renewal for certain homeowners policies as defined in Insurance Law section 2351(a) [of the Insurance Law] where the property is located in an area served by a market assistance program established by the superintendent for the purpose of facilitating placement of homeowners insurance. Chapter 162 also added a new section 5403(d), which directs the New York Property Insurance Underwriting Associates (NYPIUA) to notify policyholders that may be eligible for coverage in the market assistance program of the availability of coverage.

(2) This Part establishes the minimum requirements pertaining to the notices required by chapter 162.

(c) For the purposes of this Part:

(1) *Dwelling fire personal lines insurance* means a contract of insurance insuring against the contingencies described in subparagraph (A) or a combination of subparagraphs (A) and (B), (A) and (C), or (A), (B), and (C), of Insurance Law section 3425(a)(2), and which is a "covered policy" of personal lines insurance as defined in such section.

(2) *Homeowners' insurance* has the meaning set forth in Insurance Law section 2351.

(3) *Hurricane* means a tropical cyclone in which the maximum sustained surface wind (using the United States one-minute average) is 74 mph or higher as determined by the meteorological entity.

(4) *Hurricane category* means a one to five rating on the Saffir-Simpson Hurricane Wind Scale as determined by the meteorological entity.

(5) *Hurricane deductible* means the amount of loss for which a policyholder shall be responsible before the insurer will pay, up to the limits of a policy, in the event of a covered loss resulting from a hurricane.

(6) *Hurricane warning* means an announcement issued by the National Hurricane Center that sustained winds of 74 mph or higher are expected somewhere within the specified area in association with a tropical, subtropical, or post-tropical cyclone.

(7) *Hurricane watch* means an announcement issued by the National Hurricane Center that sustained winds of 74 mph or higher are possible within the specified area in association with a tropical, subtropical, or post-tropical cyclone.

(8) *Landfall* means the intersection of the surface center of a tropical cyclone with a coastline.

(9) *Meteorological entity* means the NWS or, if the NWS no longer exists or no longer issues the information needed to effectuate this Part, then an entity designated by the superintendent that performs functions similar to the NWS.

(10) *NWS* means the National Weather Service or its successor.

(11) *Policy* means a dwelling fire personal lines insurance or homeowners' insurance policy.

(12) *Proximity to the coastline* means distance measured from mean high water.

(d) The amendments made by the second amendment to this Part shall apply to all policies issued or renewed on or after the 180th day after the publication in the State Register of the notice of adoption, provided, however, that pursuant to Insurance Law section 3445(b), an insurer may apply the changes required by Insurance Law section 3445(b) and the third amendment to this Part to a policy at the policy's next annual renewal date and shall not be required to wait until the end of the policy's required policy period, as defined in Insurance Law section 3425(a)(7).

Section 74.1 is amended to read as follows:

(a) Every [homeowner's and dwelling fire personal lines] policy containing a hurricane deductible shall display the applicable percentage amount and corresponding dollar amount of the hurricane deductible in the policy declarations. The non-hurricane deductible, as well as any deductible applicable to all other covered perils, may be shown as a dollar amount only. The hurricane deductible provisions shall be shown in close proximity to the non-hurricane deductible provisions and shall be given equal or greater prominence as the non-hurricane deductible provisions applicable to the policy.

(b) Every [homeowner's and dwelling fire personal lines] policy containing a hurricane deductible shall be accompanied by a policyholder notice at policy issuance and renewal, [which has been] to be filed with the [Department of Financial Services] department, and which shall contain the following minimum information:

(1) a prominent announcement that the accompanying policy is subject to a hurricane deductible;

(2) a clear explanation that a *hurricane deductible* means the amount of loss for which [the] a policyholder [is] shall be responsible before the insurer will pay, up to the limits of the policy, in the event of a covered loss [caused by] resulting from a hurricane;

(3) the definitions of "hurricane", "hurricane warning", "hurricane watch", "landfall", and "proximity to the coastline", as set forth in subdivision (c) of section 74.0 of this Part;

(4) a plain-language explanation of the coverage part or parts subject to the hurricane deductible and [of whether the hurricane deductible applies separately to each coverage part or] a statement that the hurricane deductible applies in the aggregate to total losses under all affected coverage parts;

[(4)] (5) a statement that a clear display of the actual dollar amount as well as a description of the hurricane deductible as a percentage of the insured value can be found on the declarations page;

[(5)] (6) generic examples of how sample deductible amounts would apply to some theoretical loss scenarios, including losses smaller than and greater than the deductible amount;

[(6)] (7) a clear explanation of the [event which] hurricane category that shall trigger the hurricane deductible;

[(7)] (8) a clear explanation [of the time period during which] that the hurricane deductible [will be triggered] will apply only to loss resulting from damage caused by winds within the period beginning 12 hours before a specific hurricane makes landfall in this State and ending 12 hours after the meteorological entity cancels the last hurricane watch or hurricane warning it issued for this State, with respect to the specific hurricane; and

[(8)] (9) a clear explanation that, if a coverage part limit of liability or policy limit of liability is changed (for example, due to contractual inflation protection provisions, adjustments reflecting changes in replacement cost or a request by the insured), then the dollar amount of the deductible will be changed based on the amount of the new limit of liability.

[(c) This policyholder notice shall accompany all new homeowner's and dwelling fire personal lines policies subject to a hurricane deductible and first written to become effective on or after January 1, 1999; and all renewal homeowners and dwelling fire policies subject to a hurricane deductible renewed effective on or after January 1, 1999.

(d) This policyholder notice shall accompany all renewals of affected homeowner's and dwelling fire personal lines policies annually thereafter.

(e)] (c) At its option, an insurer may combine the flood insurance notice required by Insurance Law section 3444 [of the Insurance Law] with the policyholder notice required by this section.

New Section 74.4 is added to read as follows:

Section 74.4 Minimum standards for the use of hurricane deductibles in a policy.

(a) A policy issued or delivered in this State covering property located in this State may include a hurricane deductible if the insurer demonstrates to the superintendent that there is sufficient exposure to a hurricane risk to warrant the application of a hurricane deductible.

(b) A policy that contains a hurricane deductible shall comply with the following:

(1) a hurricane deductible shall be triggered only when the meteorological entity determines that the hurricane made landfall in this State;

(2) a hurricane deductible shall apply only to loss resulting from damage caused by winds within the period beginning 12 hours before a specific hurricane makes landfall in this State and ending 12 hours after the meteorological entity cancels the last hurricane watch or hurricane warning it issued for this State, with respect to the specific hurricane;

(3) a hurricane deductible may vary by county, the insured property's proximity to the coastline, or both;

(4) an insurer shall aggregate all covered losses caused by the hurricane when determining whether the hurricane deductible has been reached;

(5) a hurricane deductible shall not apply to loss-of-use coverage (also referred to as “additional living expense” or “loss of rental income” insurance coverage); and

(6) if there are multiple deductibles on a policy that apply to a specific loss, then the insurer shall apply only one deductible, which may be the higher applicable deductible.

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the foregoing is the Third Amendment to Part 74 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Insurance Regulation 159), signed by me on July 22, 2025 pursuant to the authority granted by Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 3425, 3445, 5402 and Articles 23 and 34, to take effect 180 days after publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on May 7, 2025. No other publication or prior notice is required by statute.

Signed copy filed with Department of State
Adrienne A. Harris
Superintendent of Financial Services

Date: July 22, 2025