

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 507  
SENATE BILL 287

AN ACT TO PROHIBIT THE WILLFUL NONPAYMENT OF GROUP HEALTH  
AND LIFE INSURANCE PREMIUMS BY FIDUCIARIES UNLESS WRITTEN  
NOTICE IS PROVIDED TO THE PERSONS INSURED.

The General Assembly of North Carolina enacts:

Section 1. Article 27 of General Statutes Chapter 58 is amended by adding the following sections:

**"§ 58-260.3. Willful failure to pay group insurance premiums; notice to persons insured; penalty; restitution; examination of insurance transactions.**—(a) As used in this section and in G.S. 58-260.4, the term 'group health insurance' means: (1) Any policy described in G.S. 58-254.3, 58-254.4, or 58-254.6; (2) any group insurance certificate or group subscriber contract issued by a hospital service corporation pursuant to General Statutes Chapter 57; or (3) any health care plan provided or arranged by a health maintenance organization pursuant to General Statutes Chapter 57B. As used in this section and in G.S. 58-260.4, the term 'insurance fiduciary' means any person, employer, principal, agent, trustee, or third party administrator, who is responsible for the payment of group health or group life insurance premiums.

(b) No insurance fiduciary shall:

- (1) Cause the cancellation or nonrenewal of group health or group life insurance and the consequential loss of the coverages of the persons insured by willfully failing to pay such premiums in accordance with the terms of a group health or group life insurance contract; and
- (2) Willfully fail to deliver, at least 30 days prior to the termination of such insurance, to each named insured a written notice of the insurance fiduciary's intention to stop payment of premiums.

(c) Any insurance fiduciary who violates subsection (b) of this section shall be guilty of a Class J felony if the group health or life insurance was, in whole or in part, paid for out of wages withheld or other funds collected from the persons insured.

(d) Any insurance fiduciary who violates subsection (b) of this section shall be subject only to the court order for restitution provided for in subsection (e) of this section if the group health or life insurance covered 15 or more persons and was fully paid for by the insurance fiduciary.

(e) Upon conviction under subsection (c) or a finding under subsection (d) of this section of a violation of subsection (b) of this section the court shall order the insurance fiduciary to make full restitution to persons insured who incurred expenses that would have been covered by the group health insurance or full restitution to beneficiaries of

the group life insurance for death benefits that would have been paid if the coverage had not been terminated.

(f) Insurance fiduciaries subject to this section shall be subject to the provisions of G.S. 58-27 with respect only to transactions involving group health or life insurance.

(g) In the notice required by subsection (b) of this section, the insurance fiduciary shall also notify the persons insured of their rights to health insurance conversion policies under Article 26C of General Statutes Chapter 58.

**"§ 58-260.4. Group health or life insurers to notify insurance fiduciaries of obligations.**—(a) On and after January 1, 1986, upon the issuance or renewal of any policy, contract, certificate, or evidence of coverage of group health or life insurance, the insurer, corporation, or health maintenance organization shall give written notice to the insurance fiduciary of the provisions of G.S. 58-260.3.

(b) The notice required by subsection (a) of this section shall be printed in 10 point type and shall read as follows:

'UNDER NORTH CAROLINA GENERAL STATUTE SECTION 58-260.3, NO PERSON, EMPLOYER, PRINCIPAL, AGENT, TRUSTEE, OR THIRD PARTY ADMINISTRATOR, WHO IS RESPONSIBLE FOR THE PAYMENT OF GROUP HEALTH OR LIFE INSURANCE OR HEALTH CARE PLAN PREMIUMS, FOR WHICH PAYMENT WAGES OR OTHER FUNDS ARE WITHHELD FROM THE PERSONS INSURED, SHALL: (1) CAUSE THE CANCELLATION OR NONRENEWAL OF GROUP HEALTH OR LIFE INSURANCE, HOSPITAL, MEDICAL, OR DENTAL SERVICE PLAN, OR HEALTH CARE PLAN COVERAGES AND THE CONSEQUENTIAL LOSS OF THE COVERAGES OF THE PERSONS INSURED, BY WILLFULLY FAILING TO PAY SUCH PREMIUMS IN ACCORDANCE WITH THE TERMS OF THE INSURANCE OR PLAN CONTRACT, AND (2) WILLFULLY FAIL TO DELIVER, AT LEAST 30 DAYS PRIOR TO THE TERMINATION OF SUCH COVERAGES, TO EACH NAMED INSURED A WRITTEN NOTICE OF THE PERSON'S INTENTION TO STOP PAYMENT OF PREMIUMS. THIS WRITTEN NOTICE MUST ALSO CONTAIN A NOTICE TO THE NAMED INSUREDS OF THEIR RIGHTS TO HEALTH INSURANCE CONVERSION POLICIES UNDER ARTICLE 26C OF GENERAL STATUTES CHAPTER 58. VIOLATION OF THIS LAW IS A FELONY IF THE INSURANCE IS, IN WHOLE OR IN PART, PAID FOR OUT OF WAGES WITHHELD OR OTHER FUNDS COLLECTED FROM THE PERSONS INSURED. ANY PERSON VIOLATING THIS LAW IS ALSO SUBJECT TO A COURT ORDER REQUIRING THE PERSON TO COMPENSATE PERSONS INSURED FOR EXPENSES OR LOSSES INCURRED AS A RESULT OF THE TERMINATION OF THE INSURANCE.'

Sec. 2. This act shall become effective January 1, 1986.

In the General Assembly read three times and ratified, this the 1st day of July, 1985.