

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1412  
Insurance Committee Substitute Adopted 6/20/90

Short Title: MEWA Fees, Regulation.

(Public)

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Sponsors:

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Referred to:

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May 30, 1990

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR REGISTRATION OF AND REPORTING BY  
3 MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AND TO AMEND  
4 THE FINANCIAL RESPONSIBILITY REQUIREMENTS FOR HEALTH PLAN  
5 ADMINISTRATORS.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 49 of Chapter 58 of the General Statutes is amended by  
8 adding the following new sections to read:

9 **"§ 58-49-30. Multiple employer welfare arrangements; definition; registration;**  
10 **reports to the Commissioner.**

11 (a) As used in this section, the term, 'multiple employer welfare arrangement' or  
12 'MEWA' means that term as defined in Section 3 of the Employee Retirement Income  
13 Security Act of 1974, 29 U.S.C. § 1002(40)(A), as amended, that meets either or both of  
14 the following criteria:

15 (1) One or more of the employer members of the MEWA is either  
16 domiciled in this State or has its principal headquarters or principal  
17 administrative office in this State.

18 (2) The MEWA solicits an employer that is domiciled in this State or that  
19 has its principal headquarters or principal administrative office in this  
20 State.

21 (b) Every MEWA and every administrator of a MEWA shall, within 60 days  
22 after the effective date of this section, apply for registration with the Commissioner in

1 order to do business in this State. Such registration must be renewed each year  
2 thereafter on the anniversary date of the initial registration.

3 (c) Each insurer licensed to do business in this State that administers a MEWA  
4 shall, in lieu of registration, provide the Commissioner with such information regarding  
5 the insurer's administrative services contract or contracts with such MEWA or MEWAs  
6 that the Commissioner requires. No unlicensed insurer shall administer any MEWA.

7 (d) All MEWAs shall, at the time they file reports with the U.S. Department of  
8 Labor pursuant to 29 U.S.C. §§ 1022 and 1023, file verified copies of such reports with  
9 the Commissioner. The provisions of G.S. 58-2-180 apply to the making of such  
10 reports.

11 (e) The provisions of this section are in addition to all other statutory provisions  
12 of Articles 1 through 64 of this Chapter and do not supersede, amend, or repeal such  
13 provisions."

14 Sec. 2. G.S. 58-50-40(a) reads as rewritten:

15 "(a) As used in this section and in G.S. 58-50-45, the term 'group health  
16 insurance' means: (1) any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; (2)  
17 any group insurance certificate or group subscriber contract issued by a hospital service  
18 corporation pursuant to Articles 65 and 66 of this Chapter; ~~or~~ (3) any health care plan  
19 provided or arranged by a health maintenance organization pursuant to Article 67 of this  
20 Chapter; or (4) any multiple employer welfare arrangement as defined in G.S. 58-49-  
21 30(a). As used in this section and in G.S. 58-50-45, the term 'insurance fiduciary' means  
22 any person, employer, principal, agent, trustee, or third party administrator, who is  
23 responsible for the payment of group health or group life insurance premiums. As used  
24 in this section and in G.S. 58-50-45, 'premiums' includes contributions to a multiple  
25 employer welfare arrangement."

26 Sec. 3. G.S. 58-50-45(b) reads as rewritten:

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

29 'UNDER NORTH CAROLINA GENERAL STATUTE SECTION 58-50-40, NO  
30 PERSON, EMPLOYER, PRINCIPAL, AGENT, TRUSTEE, OR THIRD PARTY  
31 ADMINISTRATOR, WHO IS RESPONSIBLE FOR THE PAYMENT OF GROUP  
32 HEALTH OR LIFE INSURANCE OR HEALTH CARE PLAN PREMIUMS, FOR  
33 WHICH PAYMENT WAGES OR OTHER FUNDS ARE WITHHELD FROM THE  
34 PERSONS INSURED, SHALL: (1) CAUSE THE CANCELLATION OR  
35 NONRENEWAL OF GROUP HEALTH OR LIFE INSURANCE, HOSPITAL,  
36 MEDICAL, OR DENTAL SERVICE PLAN, MULTIPLE EMPLOYER WELFARE  
37 ARRANGEMENT, OR HEALTH CARE PLAN COVERAGES AND THE  
38 CONSEQUENTIAL LOSS OF THE COVERAGES OF THE PERSONS INSURED,  
39 BY WILLFULLY FAILING TO PAY SUCH PREMIUMS IN ACCORDANCE WITH  
40 THE TERMS OF THE INSURANCE OR PLAN CONTRACT, AND (2) WILLFULLY  
41 FAIL TO DELIVER, AT LEAST 30 DAYS PRIOR TO THE TERMINATION OF  
42 SUCH COVERAGES, TO EACH NAMED INSURED A WRITTEN NOTICE OF  
43 THE PERSON'S INTENTION TO STOP PAYMENT OF PREMIUMS. THIS  
44 WRITTEN NOTICE MUST ALSO CONTAIN A NOTICE TO THE NAMED

1 INSUREDS OF THEIR RIGHTS TO HEALTH INSURANCE CONVERSION  
2 POLICIES UNDER ARTICLE 53 OF GENERAL STATUTES CHAPTER 58 AND  
3 THEIR RIGHTS UNDER THE FEDERAL CONSOLIDATED OMNIBUS BUDGET  
4 RECONCILIATION (COBRA). VIOLATION OF THIS LAW IS A FELONY IF THE  
5 INSURANCE IS, IN WHOLE OR IN PART, PAID FOR OUT OF WAGES  
6 WITHHELD OR OTHER FUNDS COLLECTED FROM THE PERSONS INSURED.  
7 ANY PERSON VIOLATING THIS LAW IS ALSO SUBJECT TO A COURT ORDER  
8 REQUIRING THE PERSON TO COMPENSATE PERSONS INSURED FOR  
9 EXPENSES OR LOSSES INCURRED AS A RESULT OF THE TERMINATION OF  
10 THE INSURANCE."

11 Sec. 4. G.S. 58-56-60 reads as rewritten:

12 "**§ 58-56-60. Certificate of registration required.**

13 (a) No person shall act as or hold himself out to be an administrator in this State,  
14 other than an adjuster licensed in this State for the kinds of insurance for which he is  
15 acting as an administrator, unless he holds a certificate of registration as an  
16 administrator issued by the Commissioner. Such certificate shall be for a term of one  
17 year and shall be renewable. Failure to hold such certificate shall subject the  
18 administrator to the provisions of G.S. 58-2-70. The certificate shall be issued by the  
19 Commissioner to an administrator unless the Commissioner, after due notice and  
20 hearing, determines that the administrator is not competent, trustworthy, financially  
21 responsible, or of good personal and business reputation; has violated any insurance  
22 statute or administrative rule; or has had a previous application for an insurance license  
23 denied for cause within the preceding five years.

24 (b) Each application for the issuance or renewal of a certificate shall be  
25 accompanied by a filing fee of ~~twenty dollars (\$20.00)~~ one hundred dollars (\$100.00) and  
26 evidence of maintenance of a ~~surety bond,~~ errors and omissions liability insurance, or  
27 both, of a type and in an amount to be determined by rules adopted by the  
28 Commissioner.

29 (c) Any person who violates this Article is subject to the provisions of G.S. 58-2-  
30 70."

31 Sec. 5. The Commissioner of Insurance may appoint a committee in  
32 accordance with G.S. 58-2-30(a) to study the role of state regulation of multiple  
33 employer welfare arrangements and submit its findings and recommendations, including  
34 any recommended legislation, to the 1991 General Assembly on or before February 1,  
35 1991.

36 Sec. 6. In the event any provision of this act is held to be invalid by any court  
37 of competent jurisdiction, the court's holding as to that provision shall not affect the  
38 validity or operation of other provisions of this act; and to that end the provisions of this  
39 act are severable.

40 Sec. 7. This act is effective upon ratification.