

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 1055  
SENATE BILL 1412

AN ACT TO PROVIDE FOR REGISTRATION OF AND REPORTING BY MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AND TO AMEND THE FINANCIAL RESPONSIBILITY REQUIREMENTS FOR HEALTH PLAN ADMINISTRATORS.

The General Assembly of North Carolina enacts:

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

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

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

- (1) One or more of the employer members of the MEWA is either domiciled in this State or has its principal headquarters or principal administrative office in this State.
- (2) The MEWA solicits an employer that is domiciled in this State or that has its principal headquarters or principal administrative office in this State.

(b) Every MEWA and every administrator of a MEWA shall register with the Commissioner in order to do business in this State. Such registration must be renewed each year thereafter on the anniversary date of the initial registration.

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

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

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

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

"(a) As used in this section and in G.S. 58-50-45, the term 'group health insurance' means: (1) any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; (2) any group insurance certificate or group subscriber contract issued by a hospital service corporation pursuant to Articles 65 and 66 of this Chapter; ~~or~~ (3) any health care plan provided or arranged by a health maintenance organization pursuant to Article 67 of this Chapter; or (4) any multiple employer welfare arrangement as defined in G.S. 58-49-30(a). As used in this section and in G.S. 58-50-45, 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. As used in this section and in G.S. 58-50-45, 'premiums' includes contributions to a multiple employer welfare arrangement."

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

"(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 58-50-40, 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, MULTIPLE EMPLOYER WELFARE ARRANGEMENT, 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 53 OF GENERAL STATUTES CHAPTER 58 AND THEIR RIGHTS UNDER THE FEDERAL CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA). 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. 3.1. G.S. 58-50-40(g) reads as rewritten:

"(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 53 of this Chapter and their rights under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA)."

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

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

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

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

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

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

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

Sec. 7. This act is effective upon ratification. The registration required by G.S. 58-49-30 shall be made within 60 days after the effective date of this act for those MEWAs and administrators of MEWAs in operation on the effective date.

In the General Assembly read three times and ratified this the 28th day of July, 1990.