

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 500

Short Title: Consultant Costs/Filing Reqt's.

(Public)

Sponsors: Senator Johnson of Wake.

Referred to: Insurance.

March 20, 1989

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR REIMBURSEMENT TO THE STATE FOR COSTS OF
2 CONSULTANTS RETAINED FOR REVIEWING INSURANCE RATE FILINGS
3 AND CERTAIN CLASSIFICATION PLANS AND TO PROVIDE FOR THE
4 RETURN OF CERTAIN FILINGS THAT DO NOT MEET STATUTORY
5 REQUIREMENTS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 58-124.31(c) reads as rewritten:

9 "(c) The classifications and Plan filed by the Bureau shall be subject to the filing,
10 hearing, modification, approval, disapproval, review, and appeal procedures provided
11 by law; provided that the 105-day disapproval period in G.S. 58-124.21(a) and the 50-
12 day deemer period in G.S. 58-124.21(b) do not apply to filings or modifications made
13 under this section. The classifications or Plan filed by the Bureau and promulgated by
14 the Commissioner shall of itself not be designed to bring about any increase or decrease
15 in the overall rate level. Subject to the approval of the Attorney General, the Bureau
16 shall reimburse the Department for all reasonable costs incurred by the Department in
17 retaining outside actuarial, economic, and legal consultants or counsel, and court
18 reporting services, for analysis and review of the classification plan and Safe Driver
19 Incentive Plan, in conducting hearings, and through final adjudication, if any."

20 Sec. 2. G.S. 58-124.20 is amended by adding a new subsection to read:

21 "(j) Subject to the approval of the Attorney General, the Bureau shall reimburse
22 the Department for all reasonable costs incurred by the Department in retaining outside
23 actuarial, economic, and legal consultants or counsel, and court reporting services, for

1 analysis and review of the classification plan and Safe Driver Incentive Plan, in
2 conducting hearings, and through final adjudication, if any."

3 Sec. 3. G.S. 58-248.33(l) reads as rewritten:

4 "(l) The classifications, rules, rates, rating plans and policy forms used on motor
5 vehicle insurance policies reinsured by the Facility may be made by the Facility or by
6 any licensed or statutory rating organization or bureau on its behalf and shall be filed
7 with the Commissioner. With respect to rate filings made by or on behalf of the Facility,
8 subject to the approval of the Attorney General, the filer shall reimburse the Department
9 for all reasonable costs incurred by the Department in retaining outside actuarial,
10 economic, and legal consultants or counsel, and court reporting services, for analysis
11 and review of rate filings, in conducting hearings, and through final adjudication, if any.

12 The Board of Governors shall establish a separate subclassification within the Facility
13 for 'clean risks' as herein defined. For the purpose of this Article, a 'clean risk' shall be
14 any owner of a motor vehicle classified as a private passenger non-fleet motor vehicle
15 as defined under Article 13C of this Chapter if the owner and the principal operator and
16 each licensed operator in the owner's household have two years' driving experience and
17 if neither the owner nor any member of his household nor the principal operator had had
18 any chargeable accident or any conviction for a moving traffic violation pursuant to the
19 subclassification plan established by the provisions of G.S. 58-30.4, during the three-
20 year period immediately preceding the date of application for motor vehicle insurance
21 or the date of preparation for a renewal motor vehicle insurance policy. Such filings
22 may incorporate by reference any other material on file with the Commissioner. Rates
23 shall be neither excessive, inadequate nor unfairly discriminatory. If the Commissioner
24 finds, after a hearing, that a rate is either excessive, inadequate or unfairly
25 discriminatory, he shall issue an order specifying in what respect it is deficient and
26 stating when, within a reasonable period thereafter, such rate shall be deemed no longer
27 effective. Said order is subject to judicial review as set out in Article 2 of this Chapter.
28 Pending judicial review of said order, the filed classification plan and the filed rates
29 may be used, charged and collected in the same manner as set out in G.S. 58-131.42 of
30 this Chapter. Said order shall not affect any contract or policy made or issued prior to
31 the expiration of the period set forth in the order. All rates shall be on an actuarially
32 sound basis and shall be calculated, insofar as is possible, to produce neither a profit nor
33 a loss. However, the rates made by or on behalf of the Facility with respect to 'clean
34 risks', as defined above, shall not exceed the rates charged 'clean risks' who are not
35 reinsured in the Facility. The difference between the actual rate charged and the
36 actuarially sound and self-supporting rates for 'clean risks' reinsured in the Facility may
37 be recouped in similar manner as assessments pursuant to G.S. 58-248.34(f) or allocated
38 pursuant to G.S. 58-248.41. Rates shall not include any factor for underwriting profit
39 on Facility business, but shall provide an allowance for contingencies. There shall be a
40 strong presumption that the rates and premiums for the business of the Facility are
41 neither unreasonable nor excessive."

42 Sec. 4. G.S. 58-124.32(c) reads as rewritten:

43 "(c) Once begun, hearings must proceed without undue delay. At the hearing the
44 burden of proving that the proposed rates are not excessive, inadequate, or unfairly

1 discriminatory is on the Bureau. The Commissioner may disregard at the hearing any
2 exhibits, judgments, or conclusions offered as evidence by the Bureau that were
3 developed by or available to or could reasonably have been obtained or developed by
4 the Bureau at or before the time the Bureau made its proper filing and which exhibits,
5 judgments, or conclusions were not included and supported in the filing; unless the
6 evidence is offered in response to inquiries made at the hearing by the Department, the
7 notice of hearing, or as rebuttal to the Department's evidence. If relevant data becomes
8 available after the filing has been properly made, the Commissioner may consider such
9 data as evidence in the hearing. The order of presenting evidence shall be (1) by the
10 Bureau; (2) by the Department; (3) any rebuttal evidence by the Bureau regarding the
11 Department's evidence; and (4) any rebuttal evidence by the Department regarding the
12 Bureau's rebuttal evidence. Neither the Bureau nor the Department shall present
13 repetitious testimony or evidence relating to the same issues. The Bureau shall
14 reimburse the Department for all reasonable costs incurred by the Department in
15 retaining outside actuarial, economic, and legal consultants or counsel, and court
16 reporting services, for the review of rate filings, in conducting hearings, and ~~up to the~~
17 ~~time the Commissioner issues an order approving or disapproving the filing through final~~
18 adjudication, if any."

19 Sec. 5. G.S. 58-131.39(a) reads as rewritten:

20 "(a) With the exception of inland marine insurance that is not written according
21 to manual rates and rating plans, every admitted insurer and every licensed rating
22 organization, which has been designated by any insurer for the filing of rates under G.S.
23 58-131.41, shall file with the Commissioner all rates and all changes and amendments
24 thereto made by it for use in this State prior to the time they become effective. With
25 respect to rate filings made under this Article, subject to the approval of the Attorney
26 General, the filer shall reimburse the Department for all reasonable costs incurred by the
27 Department in retaining outside actuarial, economic, and legal consultants or counsel,
28 and court reporting services, for analysis and review of rate filings, in conducting
29 hearings, and through final adjudication, if any."

30 Sec. 6. G.S. 58-480(b) reads as rewritten:

31 "(b) With the exception of inland marine insurance that is not written according to
32 manual rates and rating plans, all rates by licensed fire and casualty companies or their
33 designated rating organizations must be filed with the Commissioner at least 60 days
34 before they may be used in this State. Any filing may become effective on a date earlier
35 than that specified in this subsection upon agreement between the Commissioner and
36 the filer. With respect to rate filings made under this Article, subject to the approval of
37 the Attorney General, the filer shall reimburse the Department for all reasonable costs
38 incurred by the Department in retaining outside actuarial, economic, and legal
39 consultants or counsel, and court reporting services, for analysis and review of rate
40 filings, in conducting hearings, and through final adjudication, if any."

41 Sec. 7. G.S. 58-124.20(a) reads as rewritten:

42 "(a) The Bureau shall file with the Commissioner copies of the rates, classification
43 plans, rating plans and rating systems used by its members. Each rate filing shall
44 become effective on the date specified in the filing, but not earlier than 105 days from

1 the date the filing is received by the Commissioner: Provided that (1) rate filings for
2 workers' compensation insurance and employers' liability insurance written in
3 connection therewith shall not become effective earlier than 120 days from the date the
4 filing is received by the Commissioner; and (2) any filing may become effective on a
5 date earlier than that specified in this subsection upon agreement between the
6 Commissioner and the Bureau. Filings shall include, where deemed by the
7 Commissioner to be necessary for proper review, the data specified in subsection (c),
8 (e), (g), and (h) of this section. Any filing that does not contain the date required by this
9 subsection may be returned to the Bureau and not deemed a proper filing. Provided,
10 however, if the Commissioner concludes that a filing does not constitute a proper filing
11 he shall promptly notify the Bureau in writing to that effect, which notification shall
12 state in reasonable detail the basis of the Commissioner's conclusion. The Bureau shall
13 then have a reasonable time to remedy the defects so specified. An otherwise defective
14 filing thus remedied shall be deemed to be a proper and timely filing, except that all
15 periods of time specified in this Article will run from the date the Commissioner
16 receives additional or amended documents necessary to remedy all material defects in
17 the filing."

18 Sec. 8. G.S. 58-248.33(l) reads as rewritten:

19 "(l) The classifications, rules, rates, rating plans and policy forms used on motor
20 vehicle insurance policies reinsured by the Facility may be made by the Facility or by
21 any licensed or statutory rating organization or bureau on its behalf and shall be filed
22 with the Commissioner. The Board of Governors shall establish a separate
23 subclassification within the Facility for 'clean risks' as herein defined. For the purpose
24 of this Article, a 'clean risk' shall be any owner of a motor vehicle classified as a
25 private passenger non-fleet motor vehicle as defined under Article 13C of this Chapter
26 if the owner and the principal operator and each licensed operator in the owner's
27 household have two years' driving experience and if neither the owner nor any member
28 of his household nor the principal operator had had any chargeable accident or any
29 conviction for a moving traffic violation pursuant to the subclassification plan
30 established by the provisions of G.S. 58-124.31, during the three-year period
31 immediately preceding the date of application for motor vehicle insurance or the date of
32 preparation for a renewal motor vehicle insurance policy. Such filings may incorporate
33 by reference any other material on file with the Commissioner. Rates shall be neither
34 excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a
35 hearing, that a rate is either excessive, inadequate or unfairly discriminatory, he shall
36 issue an order specifying in what respect it is deficient and stating when, within a
37 reasonable period thereafter, such rate shall be deemed no longer effective. Said order
38 is subject to judicial review as set out in Article 2 of this Chapter. Pending judicial
39 review of said order, the filed classification plan and the filed rates may be used,
40 charged and collected in the same manner as set out in G.S. 58-131.42 of this Chapter.
41 Said order shall not affect any contract or policy made or issued prior to the expiration
42 of the period set forth in the order. All rates shall be on an actuarially sound basis and
43 shall be calculated, insofar as is possible, to produce neither a profit nor a loss.
44 However, the rates made by or on behalf of the Facility with respect to 'clean risks', as

1 defined above, shall not exceed the rates charged 'clean risks' who are not reinsured in
2 the Facility. The difference between the actual rate charged and the actuarially sound
3 and self-supporting rates for 'clean risks' reinsured in the Facility may be recouped in
4 similar manner as assessments pursuant to G.S. 58-248.34(f) or allocated pursuant to
5 G.S. 58-248.41. Rates shall not include any factor for underwriting profit on Facility
6 business, but shall provide an allowance for contingencies. There shall be a strong
7 presumption that the rates and premiums for the business of the Facility are neither
8 unreasonable nor excessive. Filings shall include, where deemed by the Commissioner
9 to be necessary for proper review, the data specified in G.S. 58-124.20(c), (e), (g), and
10 (h) of this section. Any filing that does not contain the date required by this subsection
11 may be returned to the Bureau and not deemed a proper filing. Provided, however, if
12 the Commissioner concludes that a filing does not constitute a proper filing he shall
13 promptly notify the Bureau in writing to that effect, which notification shall state in
14 reasonable detail the basis of the Commissioner's conclusion. The Bureau shall then
15 have a reasonable time to remedy the defects so specified. An otherwise defective filing
16 thus remedied shall be deemed to be a proper and timely filing, except that all periods of
17 time specified in this Article will run from the date the Commissioner receives
18 additional or amended documents necessary to remedy all material defects in the filing."

19 Sec. 9. This act is effective upon ratification.