

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1151*

Short Title: Insurance Company Investments.

(Public)

Sponsors: Senators Soles and Conder.

Referred to: Pensions and Retirement/Insurance/State Personnel.

May 15, 1996

A BILL TO BE ENTITLED

1 AN ACT TO LESSEN THE REQUIREMENT OF INSURANCE COMPANIES TO
2 MAINTAIN TRUST ACCOUNTS OR OBTAIN LETTERS OF CREDIT OR
3 GUARANTY BONDS AS RECOMMENDED BY THE LEGISLATIVE
4 RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND
5 INSURANCE-RELATED ISSUES.
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7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 58-7-162(6) reads as rewritten:

9 "(6) All premiums in the course of collection not more than 90 days past
10 due, excluding commissions payable thereon, due from any person that
11 solely or in combination with the person's affiliates owes the insurer an
12 amount that equals or exceeds five percent (5%) of the insurer's ~~total~~
13 ~~premiums in course of collection,~~ surplus as regards policyholders, but
14 only if:

- 15 a. The premiums collected by the person or affiliates and not
16 remitted to the insurer are held in a trust account with a bank or
17 other depository approved by the Commissioner. The funds shall
18 be held as trust funds and may not be commingled with any other
19 funds of the person or affiliates. Disbursements from the trust
20 account may be made only to the insurer, the insured, or, for the

1 purpose of returning premiums, a person that is entitled to
2 returned premiums on behalf of the insured. A written copy of
3 the trust agreement shall be filed with and approved by the
4 Commissioner before becoming effective. The Commissioner
5 shall disapprove any trust agreement filed under this sub-
6 subdivision that does not assure the safety of the premiums
7 collected. The investment income derived from the trust may be
8 allocated as the parties consider to be proper. The person or
9 affiliates shall deposit premiums collected into the trust account
10 within 15 business days after collection; or

11 b. The person or affiliates shall provide to the insurer, and the
12 insurer shall maintain in its possession, an unexpired, clean,
13 irrevocable letter of credit, payable to the insurer, issued for a
14 term of no less than one year and in conformity with the
15 requirements set forth in this sub-subdivision, the amount of
16 which equals or exceeds the liability of the person or affiliates to
17 the insurer, at all times during the period that the letter of credit
18 is in effect, for premiums collected by the person or affiliates.
19 The letter of credit shall be issued under arrangements
20 satisfactory to the Commissioner and the letter shall be issued by
21 a banking institution that is a member of the Federal Reserve
22 System and that has a financial standing satisfactory to the
23 Commissioner; or

24 c. The person or affiliates shall provide to the insurer, and the
25 insurer shall maintain in its possession, evidence that the person
26 or affiliates have purchased and have currently in effect a
27 financial guaranty bond, payable to the insurer, issued for a term
28 of not less than one year and that is in conformity with the
29 requirements set forth in this sub-subdivision, the amount of
30 which equals or exceeds the liability of the person or affiliates to
31 the insurer, at all times during which the financial guaranty bond
32 is in effect, for the premiums collected by the person or persons.
33 The financial guaranty bond shall be issued under an
34 arrangement satisfactory to the Commissioner and the financial
35 guaranty bond shall be issued by an insurer that is authorized to
36 transact that business in this State, that has a financial standing
37 satisfactory to the Commissioner, and that is neither controlled
38 nor controlling in relation to either the insurer or the person or
39 affiliates for whom the bond is purchased.

40 Premiums receivable under this subdivision will not be allowed as an
41 admitted asset if a financial evaluation by the Commissioner indicates
42 that the person or affiliates are unlikely to be able to pay the premiums

1 as they become due. The financial evaluation shall be based on a
2 review of the books and records of the controlling or controlled person."
3 Sec. 2. This act becomes effective October 1, 1996.