

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 710
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Short Title: Self-Insurance Guaranty Fund.

(Public)

Sponsors: Senator Kincaid.

Referred to: Pensions and Retirement/Insurance/State Personnel

April 13, 1995

A BILL TO BE ENTITLED

**AN ACT TO INCREASE THE NORTH CAROLINA SELF-INSURANCE
GUARANTY FUND AND TO ALLOW A CREDIT AGAINST THE GROSS
PREMIUMS TAX FOR ASSESSMENTS PAID BY SELF-INSURERS TO THE
GUARANTY FUND.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-133(a) reads as rewritten:

"(a) The Association shall:

- (1) Obtain from each member self-insurer and file with the Commissioner individual reports specifying the aggregate benefits each member paid during the previous calendar year, and the annual standard premium that would have been paid by the individual member self-insurer during the previous calendar year, pursuant to manual rates established by the North Carolina Rate Bureau and using the experience rating procedure approved by the Commissioner for that member self-insurer or the annual premium collected by each group member self-insurer during the prior calendar year. These reports shall be due on or before July 15 following the close of that calendar year, except that this deadline may

1 be extended by the Commissioner for up to three additional months for
2 good cause shown.

3 (2) Assess each member of the Association as follows:

4 a. Each individual member self-insurer shall be annually assessed
5 an amount equal to ~~one-half of one percent (0.5%)~~ one-quarter of
6 one percent (0.25%) of the annual standard premium that would
7 have been paid by that member self-insurer for workers'
8 compensation insurance during the prior calendar year; and
9 payment to the Association shall be made no later than
10 September 15 following the close of that calendar year. Where
11 any such assessment is paid based in whole or in part upon
12 estimates of annual standard premium for the prior calendar year,
13 there shall be made in the next year's assessment an adjustment
14 of the assessment of such prior year based on actual audited
15 annual standard premium. Each group member self-insurer shall
16 be annually assessed an amount equal to ~~one-half of one percent~~
17 ~~(0.5%)~~ one-quarter of one percent (0.25%) of the annual premium
18 collected by the group member self-insurer during the prior
19 calendar year; and payment to the Association shall be made no
20 later than September 15 following the close of that calendar year.
21 Regardless of the size of the Fund, during its first 12 months of
22 membership, no member self-insurer may discount or reduce this
23 ~~one-half of one percent (0.5%)~~ one-quarter of one percent (0.25%)
24 assessment. Assessments paid by members pursuant to this
25 subdivision shall be credited toward the tax paid by self-insurers
26 under G.S. 105-228.5 and G.S. 97-100.

27 b. Each member self-insurer shall be notified of the assessment no
28 later than 30 days before it is due.

29 c. If a self-insurer is a member of the Association for less than a full
30 calendar year, the annual standard premium shall be adjusted by
31 that portion of the year the self-insurer is not a member of the
32 Association.

33 d. If application of the contribution rates referenced in sub-
34 subdivisions a. and b. of this subdivision would produce an
35 amount in excess of the ~~one-five million dollar (\$1,000,000)~~
36 (\$5,000,000) limits of the fund, an equitable proration may be
37 made; provided that every self-insurer that becomes a member of
38 the Association shall pay an initial assessment, in an amount
39 established by the Board, regardless of the size of the fund at the
40 time the member joins the Association.

41 (3) Administer a fund, to be known as the North Carolina Self-Insurance
42 Guaranty Fund, which shall receive the assessments required in
43 subdivision (2) of this subsection. Once the Fund reaches ~~one-five~~

1 million dollars ~~(\$1,000,000)~~, ~~(\$5,000,000)~~, no further assessments shall
2 be made except initial assessments of new member self-insurers that are
3 required to be made in subdivision (2)d. of this subsection.
4 Assessments may be subsequently made only to maintain the Fund at a
5 level of ~~one~~ five million dollars ~~(\$1,000,000)~~, ~~(\$5,000,000)~~. In its
6 discretion, the Board may determine that the assets of the Fund should
7 be segregated, or, that a separate accounting shall be made, in order to
8 identify that portion of the Fund which represents assessments paid by
9 individual self-insurers and that portion of the Fund which represents
10 assessments paid by group self-insurers. If the Board determines to
11 segregate the Fund in this manner, the Association shall thereafter pay
12 covered claims against individual member self-insurers from that
13 portion of the Fund which represents assessments against individual
14 self-insurers and shall thereafter pay covered claims against group
15 member self-insurers from that portion of the Fund which represents
16 assessments against group self-insurers. The cost of administration
17 incurred by the Association shall be borne by the Fund and the
18 Association is authorized to secure reinsurance and bonds and to
19 otherwise invest the assets of the Fund to effectuate the purpose of the
20 Association, subject to the approval of the Commissioner. All earnings
21 from investment of Fund assets shall be placed in or credited to the
22 Fund.

23 The Association may purchase primary excess insurance from an
24 insurer licensed by the Commissioner for the appropriate lines of
25 authority to defray its exposure to loss occasioned by the default of one
26 of its members. The terms of any excess insurance so purchased shall
27 be limited to providing coverage of liabilities which exceed the Fund's
28 assets after the payment by member self-insurers of the maximum post-
29 insolvency assessment provided in subdivision (c)(1) of this section
30 herein and the Association shall fund any such purchase by levying a
31 special assessment on its members for this purpose or by application of
32 any unencumbered earnings of the Fund or any other available funds.
33 The Association may obtain from each member any information the
34 Association may reasonably require in order to facilitate the securing of
35 this primary excess insurance. The Association shall establish
36 reasonable safeguards designed to insure that information so received is
37 used only for this purpose and is not otherwise disclosed;

- 38 (4) Be obligated to the extent of covered claims occurring prior to the
39 determination of the member self-insurer's insolvency, or occurring
40 after such determination but prior to the obtaining by the self-insurer of
41 workers' compensation insurance as otherwise required under this
42 Chapter. The Association shall pay claims against a self-insurer that are
43 not or have not been paid as a result of a determination of insolvency or

1 the institution of bankruptcy or receivership proceedings that occurred
2 prior to the effective date of this Article; provided that any assessments
3 made to pay such claims may be credited towards the tax paid by the
4 self- insurers under G.S. 97-100;

5 (5) After paying any claim resulting from a self-insurer's insolvency, be
6 subrogated to the rights of the injured employee and dependents and be
7 entitled to enforce liability against the self-insurer by any appropriate
8 action brought in its own name or in the name of the injured employee
9 and dependents;

10 (6) Assess the Fund in an amount necessary to pay only:

11 a. The obligations for the Association under this Article subsequent
12 to an insolvency;

13 b. The expenses of handling covered claims subsequent to an
14 insolvency;

15 c. The cost of examinations under G.S. 97-137; and

16 d. Other expenses authorized by this Article;

17 (7) Investigate claims brought against the Association and adjust,
18 compromise, settle, and pay covered claims to the extent of the
19 Association's obligation; and deny all other claims. The Association
20 may review settlements to which the insolvent self-insurer was a party
21 to determine the extent to which such settlements may be properly
22 contested;

23 (8) Notify such persons as the Commissioner directs under G.S. 97-136;

24 (9) Handle claims through its employees or through one or more self-
25 insurers or other persons designated as servicing facilities. Designation
26 of a servicing facility is subject to the approval of the Commissioner,
27 but designation of a member self-insurer as a servicing facility may be
28 declined by such self-insurer;

29 (10) Reimburse each servicing facility for obligations of the Association paid
30 by the facility and for expenses incurred by the facility while handling
31 claims on behalf of the Association;

32 (11) Pay the other expenses of the Association authorized by this section;
33 and

34 (12) Establish in the Plan a mechanism to calculate the assessments required
35 by subdivisions (1), (2), and (3) of this subsection by a simple and
36 equitable means to convert from policy or fund years that are different
37 from a calendar year."

38 Sec. 2. This act is effective for taxable years beginning on or after January 1,

39 1995.