

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 931

Short Title: Workers' Comp Self-Insureds Safeguards.

(Public)

Sponsors: Senator Kincaid.

Referred to: Appropriations

May 1, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE SAFEGUARDS TO REDUCE THE CHANCES AND LESSEN
THE EFFECTS OF WORKERS' COMPENSATION SELF-INSURANCE
INSOLVENCIES AND APPROPRIATE FUNDS TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-93 reads as rewritten:

"§ 97-93. Employers required to carry insurance or prove financial ability to pay for benefits; employers required to post notice; self-insured employers regulated by Commissioner of Insurance.

(a) Every employer subject to the provisions of this Article relative to the payment of compensation shall either:

(1) Insure and keep insured his liability under this Article in any authorized corporation, association, organization, or in any mutual insurance association formed by a group of employers so authorized; or

(2) Furnish to the Commissioner of Insurance satisfactory proof of the employer's financial ability, either alone or through membership in a group ~~comprising~~ of two or more employers who are members of the same trade or professional association and who agree to pool their liabilities under this Article, to directly pay the compensation in the amount and manner and when due as provided for in this Article. The

1 trade or professional association must have been in existence at least
2 five years prior to the date of application to the Commissioner of
3 Insurance to form a self-insurer's fund and shall submit a written
4 determination from the Internal Revenue Service that it is exempt from
5 taxation under 26 U.S.C. § 501(c).

6 A group organized and approved under this subdivision prior to July
7 1, 1995, is not required to consist of employers of the same trade or
8 professional association, have existed for five years, or furnish the
9 determination of tax-exempt status under 26 U.S.C. § 501(c).

10 (b) In the case of subdivision (a)(2) of this section, the Commissioner of Insurance
11 may require the deposit of an acceptable security, indemnity, or bond to secure the
12 payment of compensation liabilities as they are incurred. Any individual employer or
13 group of employers who furnish proof of financial ability under subdivision (a)(2) of this
14 section shall be governed in all respects by this Article and by rules adopted by the
15 Commissioner of Insurance.

16 (c) Payment of dividends to the members of any group of employers who agree to
17 pool their liabilities under subdivision (a)(2) of this section shall not be contingent upon
18 the maintenance or continuance of membership in such pools.

19 (d) ~~Groups comprising of~~ two or more employers who agree to pool their liabilities
20 under subdivision (a)(2) of this section are subject to G.S. 58-2-131, 58-2-132, 58-2-
21 133(a), (b), and (d), 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-
22 200, 58-3-81, ~~58-3-80, 58-6-25,~~ 58-7-50, 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-
23 163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-177, 58-7-179,
24 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, ~~58-7-190,~~ 58-7-192, 58-7-193, 58-7-
25 195, 58-7-197, 58-7-200, and Articles 13, 19, 30, and 34 of Chapter 58 of the General
26 Statutes.

27 (e) Every employer who is in compliance with the provisions of subsection (a) of
28 this section shall post in a conspicuous place in places of employment a notice stating
29 that employment by this employer is subject to the North Carolina Workers'
30 Compensation Act and stating whether the employer has a policy of insurance against
31 liability or qualifies as a self-insured employer. In the event the employer allows its
32 insurance to lapse or ceases to qualify as a self-insured employer, the employer shall,
33 within five working days of this occurrence, remove any notices indicating otherwise."

34 Sec. 2. G.S. 58-2-145 reads as rewritten:

35 "**§ 58-2-145. Examination, ~~financial statement, and records~~ licensing of claims**
36 **adjusters, calculation of rates, and deviation from rates of employers self-**
37 **insuring for workers' compensation.**

38 (a) The provisions of G.S. ~~58-2-131 through G.S. 58-2-133,~~ 58-2-150, 58-2-155, 58-
39 ~~2-165,~~ 58-2-180, 58-2-185, 58-2-190, 58-2-200, ~~and 58-6-5~~ and 58-6-25 apply to
40 employers that furnish proof of financial responsibility to the Commissioner under G.S.
41 97-93(a)(2) and to persons that administer workers' compensation self-insurance for those
42 employers.

1 (b) The Commissioner may examine an individual employer that has furnished
2 proof of financial responsibility under G.S. 97-93(a)(2) pursuant to G.S. 58-2-131, 58-2-
3 132, and 58-2-133(a), (b), and (c).

4 (c) A person adjusting workers' compensation claims for a self-insured employer
5 or self-insured employer group must have an adjuster's license under Article 33 of this
6 Chapter.

7 (d) Each self-insured employer group must determine its individual member
8 employers' premiums or contributions using the current rates and classifications filed by
9 the North Carolina Rate Bureau and approved by the Commissioner under Article 36 of
10 this Chapter. Deviations from these rates or classifications after December 31, 1995, are
11 permitted only in accordance with Article 36 of this Chapter, except that no deviation is
12 required to be filed with the Rate Bureau.

13 (e) Each self-insured employer group shall collect from each of its member
14 employers an initial security deposit in an amount equal to twenty-five percent (25%) of
15 the annual manual premium calculated for the member employer. The amount of the
16 required deposit shall be adjusted annually in accordance with the member employer's
17 premium. The group shall hold the funds in trust for the payment of premiums, group
18 contribution in lieu of premiums, and the payment of claim assessments due from a group
19 member. The member employer's deposit may consist of cash, a surety bond, or a letter
20 of credit. The Commissioner shall adopt rules to implement this section.

21 (f) For purposes of this section, 'self-insured employer group' means a group that
22 meets the requirements of G.S. 97-93(a)(2)."

23 Sec. 3. G.S. 58-30-5 reads as rewritten:

24 **"§ 58-30-5. Persons covered.**

25 The proceedings authorized by this Article may be applied to:

26 (1) All insurers who are doing, or have done, an insurance business in this
27 State, and against whom claims arising from that business may exist
28 now or in the future.

29 (2) All insurers who purport to do an insurance business in this State.

30 (3) All insurers who have insureds resident in this State.

31 (4) All persons organized or in the process of organizing with the intent to
32 do an insurance business in this State.

33 (5) All persons subject to Articles 65 through 67 of this Chapter; except to
34 the extent there is a conflict between the provisions of this Article and
35 the provisions of those Articles, in which case those Articles will
36 govern.

37 (6) Self-insured group workers' compensation funds organized under G.S.
38 97-93(a)(2)."

39 Sec. 4. G.S. 58-30-10(7) reads as rewritten:

40 "(7) 'Domestic guaranty association' means the Postassessment Insurance
41 Guaranty Association in Article 48 of this Chapter, as amended; the
42 ~~Workers' Compensation Security Funds in Article 3 of Chapter 97 of the~~
43 ~~General Statutes, as amended;~~ the North Carolina Self-Insurance Guaranty

1 Association in Article 4 of Chapter 97 of the General Statutes; the Life
2 and Accident and Health Insurance Guaranty Association in Article 62
3 of this Chapter, as amended; or any other similar entity hereafter created
4 by the General Assembly for the payment of claims of insolvent
5 insurers."

6 Sec. 5. G.S. 58-30-10(14) reads as rewritten:

7 "(14) 'Insurer' means any entity licensed under Articles 7, 16, ~~or 26 of this~~
8 ~~Chapter and under Articles 65 through 67~~ 26, 65, or 67 of this Chapter and
9 any employer that has furnished to the Commissioner satisfactory proof
10 of its financial responsibility under G.S. 97-93(a)(2)."

11 Sec. 6. There is appropriated from the Department of Insurance Fund
12 established in G.S. 58-6-25 the sum of nine hundred seventy-six thousand four hundred
13 thirty dollars (\$976,430) for fiscal year 1995-96 and the sum of nine hundred seventy-six
14 thousand four hundred thirty dollars (\$976,430) for fiscal year 1996-97 for the expenses
15 of administering the Department's self-insured workers' compensation program.

16 Sec. 7. This act becomes effective July 1, 1995.