

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-114
HOUSE BILL 165

AN ACT TO REENACT THE 1986 LAW PROVIDING FOR RISK-SHARING PLANS, TO AMEND THE IMMUNITY STATUTES FOR THE FAIR AND BEACH PLANS, TO EXTEND THE BEACH PLAN RATE CAP ON WIND POLICIES ISSUED IN THE COASTAL AREA FOR TWO YEARS, AND TO MAKE A TECHNICAL AMENDMENT IN THE BEACH PLAN LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 42 of Chapter 58 of the General Statutes, which expired July 1, 1997, is reenacted.

Section 2. G.S. 58-42-1, as reenacted in Section 1 of this act, reads as rewritten:

"§ 58-42-1. Establishment of plans.

(a) If the Commissioner finds, after a hearing held in accordance with ~~G.S. 58-2-50, Article 3A of Chapter 150B of the General Statutes,~~ that in all or any part of this State, any amount or kind of insurance authorized by G.S. 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the voluntary market and that the public interest requires the availability of that insurance, he may either:

- (1) Promulgate plans to provide insurance coverage for any risks in this State that are, based on reasonable underwriting standards, entitled to obtain but are otherwise unable to obtain coverage; or
- (2) Call upon insurers to prepare plans for his approval.

(b) Consistent with G.S. 58-42-5(a)(2), the Commissioner shall at least annually reevaluate a plan promulgated pursuant to this section and shall terminate the plan upon determining that the insurance coverage is readily available in the voluntary market or that the public interest no longer requires the operation of the plan."

Section 2.1. G.S. 58-42-20, as reenacted by Section 1 of this act, reads as rewritten:

"§ 58-42-20. Classification and rates.

Each plan shall provide for:

- (1) The method of classifying risks;
- (2) The making and filing of rates ~~which—that~~ are not excessive, inadequate, or unfairly discriminatory and that are calculated on an actuarially sound basis and policy forms applicable to the various risks insured by the plan;
- (3) The adjusting and processing of claims;

- (4) The commission rates to be paid to agents or brokers for coverages written by the plan; and
- (5) Any other insurance or investment functions that are necessary for the purpose of providing adequate and readily accessible coverage."

Section 3. G.S. 58-42-45, as reenacted by Section 1 of this act, reads as rewritten:

"§ 58-42-45. Article ~~not~~ subject to Administrative Procedure Act. Act; legislative oversight of plans.

(a) The provisions of Chapter 150B of the General Statutes shall ~~not~~ apply to this Article, ~~except that G.S. 150B-39 and G.S. 150B-41 apply to hearings conducted under G.S. 58-42-1. Article.~~

(b) At the same time the Commissioner issues a notice of hearing under G.S. 150B-38, the Commissioner shall provide copies of the notice to the Joint Legislative Administrative Procedure Oversight Committee and to the Joint Legislative Commission on Governmental Operations. The Commissioner shall provide the Committee and Commission with copies of any plan promulgated by or approved by the Commissioner under G.S. 58-42-1(1) or (2)."

Section 4. G.S. 58-42-55, as reenacted in Section 1 of this act, reads as rewritten:

"§ 58-42-55. Expiration.

This Article shall expire on July 1, ~~1997.~~2001."

Section 5. G.S. 58-45-60 reads as rewritten:

"§ 58-45-60. Association and Commissioner immune from liability.

~~There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or any of his staff, the Association or its agents or employees, or against any participating insurer, for any inspections made hereunder or any statements made in good faith by them in any reports or communications concerning risks submitted to the Association, or at any administrative hearings conducted in connection therewith under the provisions of this Article. any member insurer, the Association or its agents or employees, the board of directors, or the Commissioner or his representatives for any action taken by them in good faith in the performance of their powers and duties under this Article.~~"

Section 6. G.S. 58-46-35 reads as rewritten:

"§ 58-46-35. Reports of inspection made available; immunity from liability.

All reports of inspection performed by or on behalf of the association shall be made available to the members of the association, applicants and the Commissioner. ~~There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner, any of his staff, the association or any of its agents or employees, or against any participating insurer for any inspections made hereunder or any statements made in good faith by them in any reports or communications concerning risks submitted to the association, or at any administrative hearing conducted in connection therewith under the provisions of this Article. any member insurer, the Association or its agents or employees, the board of directors, or the Commissioner or his~~

representatives for any action taken by them in good faith in the performance of their powers and duties under this Article."

Section 7. G.S. 58-45-15 reads as rewritten:

"§ 58-45-15. Powers and duties of Association.

The Association shall, pursuant to the provisions of this Article and the plan of operation, and with respect to ~~essential property insurance on insurable property,~~ the insurance coverages authorized in this Article, have the power on behalf of its members:

- (1) To cause to be issued policies of insurance to applicants;
- (2) To assume reinsurance from its members;
- (3) To cede reinsurance to its members and to purchase reinsurance in behalf of its members."

Section 7.1. The prefatory language of Section 8 of Chapter 498 of the 1997 Session Laws reads as rewritten:

"Section 8. Effective January 1, ~~2000,~~ 2002, G.S. 58-45-45(b), as amended by Section 7 of this act, reads as rewritten:".

Section 8. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:09 p.m. this 28th day of May, 1999