

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 594
Insurance Committee Substitute Adopted 4/22/99

Short Title: Miscellaneous Ins. Changes.

(Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAWS ON TITLE INSURANCE RATE MAKING, COMMERCIAL GENERAL LIABILITY POLICY EXTENDED REPORTING, AND INSURANCE FRAUD; TO MAKE A TECHNICAL CORRECTION IN THE LITTERING LAW; TO PROVIDE FOR UNIFORM APPLICATION OF NEW LAWS TO HEALTH BENEFIT PLANS; TO AMEND THE LAW GOVERNING CEASE AND DESIST ORDERS FOR UNAUTHORIZED INSURERS, TO ALLOW LICENSING OF A FOREIGN OR ALIEN INSURER TO BE DELAYED UNDER CERTAIN CIRCUMSTANCES, TO AMEND THE LAW GOVERNING AN INSURER'S ACKNOWLEDGEMENT OF A CLAIM, AND TO PROVIDE THAT POLICIES WRITTEN BY SURETY BONDSMEN ARE SUBJECT TO THE LAW GOVERNING THE USE OF DEPOSITS FOR UNPAID LIABILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-41-10(a) reads as rewritten:

"(a) Except as otherwise provided, this Article applies to all kinds of insurance authorized by G.S. 58-7-15(4) through (14) and G.S. 58-7-15(18) through (22), and to all insurance companies licensed by the Commissioner to write those kinds of insurance. This Article does not apply to insurance written under Articles 21, 26, 36, 37, 45 or 46 of this Chapter; insurance written for residential risks in conjunction with insurance written

1 under Article 36 of this Chapter; to marine insurance as defined in G.S. 58-40-15(3); to
2 personal inland marine insurance; to aviation insurance; to policies issued in this State
3 covering risks with multistate locations, except with respect to coverages applicable to
4 locations within this State; to any town or county farmers mutual fire insurance
5 association restricting its operations to not more than six adjacent counties in this State;
6 nor to domestic insurance companies, associations, orders, or fraternal benefit societies
7 doing business in this State on the assessment plan."

8 Section 2. G.S. 58-40-140(a) reads as rewritten:

9 "(a) Any policy for commercial general liability coverage or professional liability
10 insurance wherein the insurer offers, and the insured elects to purchase, an extended
11 reporting period for claims arising during the expiring policy period must provide:

12 (1) That in the event of a cancellation permitted by G.S. 58-41-15 or
13 nonrenewal effective under G.S. 58-41-20, there shall be a 30-day
14 period after the effective date of the cancellation or nonrenewal during
15 which the insured may elect to purchase coverage for the extended
16 reporting period.

17 (2) That the limit of liability in the policy aggregate for the extended
18 reporting period shall be one hundred percent (100%) of the expiring
19 policy ~~aggregate~~. aggregate that was in effect at the inception of the
20 policy.

21 (3) Within 45 days after the mailing or delivery of the written request of the
22 insured, the insurer shall mail or deliver the following loss information
23 covering a three-year period:

24 a. Aggregate information on total closed claims, including date and
25 description of occurrence, and any paid losses;

26 b. Aggregate information on total open claims, including date and
27 description of occurrence, and amounts of any payments;

28 c. Information on notice of any occurrence, including date and
29 description of occurrence."

30 Section 3. G.S. 58-2-161(a) reads as rewritten:

31 "(a) For the purposes of this section:

32 (1) ~~'Insurer' includes an entity under Articles 49 and 65 through 67 of this~~
33 ~~Chapter, the Teachers' and State Employees' Comprehensive Major~~
34 ~~Medical Plan under Chapter 135 of the General Statutes, and an~~
35 ~~employer or group of employers that insure its workers' compensation~~
36 ~~liability under Chapter 97 of the General Statutes. 'Insurer' has the same~~
37 meaning as in G.S. 58-1-5(3) and also includes:

38 a. Any hull insurance and protection and indemnity club operating
39 under Article 20 of this Chapter.

40 b. Any surplus lines insurer operating under Article 21 of this
41 Chapter.

42 c. Any risk retention group or purchasing group operating under
43 Article 22 of this Chapter.

- 1 d. Any local government risk pool operating under Article 23 of
2 this Chapter.
- 3 e. Any risk-sharing plan operating under Article 42 of this Chapter.
- 4 f. The North Carolina Insurance Underwriting Association
5 operating under Article 45 of this Chapter.
- 6 g. The North Carolina Joint Insurance Underwriting Association
7 operating under Article 46 of this Chapter.
- 8 h. The North Carolina Insurance Guaranty Association operating
9 under Article 48 of this Chapter.
- 10 i. Any multiple employer welfare arrangement operating under
11 Article 49 of this Chapter.
- 12 j. The North Carolina Life and Health Insurance Guaranty
13 Association operating under Article 62 of this Chapter.
- 14 k. Any service corporation operating under Article 65 of this
15 Chapter.
- 16 l. Any health maintenance organization operating under Article 67
17 of this Chapter.
- 18 m. The Teachers' and State Employees' Comprehensive Major
19 Medical Plan operating under Chapter 135 of the General
20 Statutes.
- 21 n. A group of employers self-insuring their workers' compensation
22 liabilities under Article 47 of this Chapter.
- 23 o. An employer self-insuring its workers' compensation liabilities
24 under Article 5 of Chapter 97 of the General Statutes.
- 25 p. The North Carolina Self-Insurance Guaranty Association under
26 Article 4 of Chapter 97 of the General Statutes.
- 27 q. Any reinsurer licensed or accredited under this Chapter.
- 28 (2) 'Statement' includes any application, notice, statement, proof of loss, bill
29 of lading, receipt for payment, invoice, account, estimate of property
30 damages, bill for services, diagnosis, prescription, hospital or doctor
31 records, X rays, test result, or other evidence of loss, injury, or
32 expense."

33 Section 4. G.S. 14-399(f1) reads as rewritten:

34 "(f1) If a violation of this section involves the operation of a motor vehicle, upon a
35 finding of guilt, the court shall forward a record of the finding to the Department of
36 Transportation, Division of Motor Vehicles, which shall record a penalty of one point on
37 the violator's drivers license pursuant to the point system established by G.S. 20-16.
38 There shall be no insurance premium surcharge or assessment of points under the
39 classification plan adopted pursuant to ~~G.S. 58-30.4~~ under G.S. 58-36-65 for a finding of
40 guilt under this section."

41 Section 5. Article 3 of Chapter 58 of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 58-3-167. Applicability of acts of the General Assembly to health benefit plans.**

1 (a) As used in this section:

2 (1) 'Health benefit plan' means an accident and health insurance policy or
3 certificate; a nonprofit hospital or medical service corporation contract;
4 a health maintenance organization subscriber contract; a plan provided
5 by a multiple employer welfare arrangement; or a plan provided by
6 another benefit arrangement, to the extent permitted by the Employee
7 Retirement Income Security Act of 1974, as amended, or by any waiver
8 of or other exception to that act provided under federal law or
9 regulation. 'Health benefit plan' does not mean any plan implemented or
10 administered by the North Carolina or United States Department of
11 Health and Human Services, or any successor agency, or its
12 representatives. 'Health benefit plan' does not mean any of the
13 following kinds of insurance:

14 a. Accident.

15 b. Credit.

16 c. Disability income.

17 d. Long-term or nursing home care.

18 e. Medicare supplement.

19 f. Specified disease.

20 g. Dental or vision.

21 h. Coverage issued as a supplement to liability insurance.

22 i. Workers' compensation.

23 j. Medical payments under automobile or homeowners.

24 k. Hospital income or indemnity.

25 l. Insurance under which benefits are payable with or without
26 regard to fault and that is statutorily required to be contained in
27 any liability policy or equivalent self-insurance.

28 (2) 'Insurer' includes an insurance company subject to this Chapter, a
29 service corporation organized under Article 65 of this Chapter, a health
30 maintenance organization organized under Article 67 of this Chapter,
31 and a multiple employer welfare arrangement subject to Article 49 of
32 this Chapter.

33 (b) Whenever a law is enacted by the General Assembly that applies to health
34 benefit plans that are delivered, issued for delivery, or renewed on and after a certain
35 date, the renewal of a health benefit plan is presumed to occur on each anniversary of the
36 date on which coverage was first effective on the person or persons covered by the health
37 benefit plan."

38 Section 6. G.S. 58-28-20 reads as rewritten:

39 "**§ 58-28-20. Cease and desist orders.**

40 (a) Whenever the Commissioner, from evidence satisfactory to him, has
41 reasonable grounds to believe that any person is violating or is about to violate G.S. 58-
42 28-5, he may, after notice and opportunity for hearing, reduce his findings to writing and

1 issue and cause to be served upon such person an order to cease and desist from violating
2 G.S. 58-28-5.

3 (b) Until the expiration of the time allowed under G.S. 58-28-25(a) for filing a
4 petition for review, if no such petition has been duly filed within such time; or if a
5 petition for review has been filed within such time, then until the transcript of the record
6 in the proceeding has been filed in the Court, the Commissioner may at any time, upon
7 such notice and in such manner as he considers proper, modify or set aside in whole or in
8 part any order issued by him under this section.

9 (c) After the expiration of the time allowed for filing a petition for review, if no
10 such petition has been duly filed within such time, the Commissioner may at any time,
11 after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole
12 or in part, any order issued by him under this section, whenever in his opinion conditions
13 of fact or of law have so changed as to require such action or if the public interest
14 requires.

15 (d) Whenever the Commissioner has articulate evidence that any person has or is
16 violating G.S. 58-28-5, or has or is violating any order or requirement of the
17 Commissioner issued or promulgated by the Commissioner under this Article, and that
18 the interests of policyholders, creditors, or the public may be irreparably harmed by
19 delay, the Commissioner may issue a cease and desist order. Notice of the cease and
20 desist order and notice of hearing shall be delivered by first-class mail."

21 Section 7. Article 16 of Chapter 58 of the General Statutes is amended by
22 adding a new section to read:

23 "**§ 58-16-6. Interests of prospective policyholders.**

24 Notwithstanding G.S. 58-16-5, the Commissioner may delay the licensing of a foreign
25 or alien insurance company if, in the Commissioner's opinion, the operation of the
26 company in this State would be hazardous to prospective policyholders, creditors, or the
27 general public. The Commissioner may license the company after the grounds for
28 delaying the license have been corrected, eliminated, or remedied."

29 Section 8. G.S. 58-5-63 reads as rewritten:

30 "**§ 58-5-63. Interest; liquidation of deposits for liabilities.**

31 (a) All insurance companies making deposits under this Article are entitled to
32 interest on those deposits, which shall remain in the deposit accounts. The right to interest
33 is subject to a company paying its insurance policy liabilities. If any company fails to pay
34 those liabilities, interest accruing after the failure is payable to the Commissioner for the
35 payment of those liabilities under subsection (b) of this section.

36 (b) If any company fails to pay its insurance policy liabilities after those liabilities
37 have been established by settlement or final adjudication, the Commissioner may
38 liquidate the amount of the company's deposit and accrued interest specified in
39 subsection (a) of this section that will satisfy the company's policy liabilities and make
40 payment to the person to whom the liability is owed. After payment has been made, the
41 Commissioner may require the company to deposit the amount paid out under this
42 subsection. As used in this section, 'insurance policy' includes a policy written by a
43 surety bondsman under Article 71 of this Chapter."

1 Section 8.1. G.S. 58-3-100(c) reads as rewritten:
2 "(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an HMO,
3 service corporation, MEWA, or insurer fails to acknowledge a claim within 30 days after
4 receiving written notice of the claim, but only if the notice contains sufficient information
5 for the insurer to identify the specific coverage involved. Acknowledgement of the claim
6 shall be made to the claimant or his legal representative advising that the claim is being
7 investigated; or shall be a payment of the claim; or shall be a bona fide written offer of
8 settlement; or shall be a written denial of the claim. A claimant includes an insured, a
9 health care provider, or a health care facility that is responsible for directly making the
10 claim with an insurer."
11 Section 9. This act becomes effective October 1, 1999.