

March 3, 2005

S 319. WORKERS' COMP. SELF-INSURANCE SECURITY. ESTABLISHING THE NORTH CAROLINA SELF-INSURANCE SECURITY SYSTEM AND MAKING CONFORMING CHANGES TO THE WORKERS' COMPENSATION LAWS. Amends GS Ch. 97 to replace current system for calculating assessments that must be paid by employers that self-insure for workers' compensation, with an Association Aggregate Security System (System). System is administered through the NC Self-Insurance Security Association (Association), which is the NC Self-Insurance Guaranty Association renamed with somewhat different powers. In addition to current powers, the Association is to fund the System and to capitalize the NC Self-Insurance Security Fund (Fund) to insure the availability of financial resources to pay covered claims and to fund the activities of the Association. Association is to continue to assist the Comm'r of Insurance (Comm'r) in the detection of self-insurer insolvencies. Costs of administering the Association and the System are to be borne by the Fund. Specifies that Board of Directors of Association (Board) may serve an unlimited number of three-year terms.

Association is to prepare and submit annually to the Comm'r a written plan to provide for the System. Specifies types of assets that may be used for the System. Comm'r has 30 days to approve plan or it is deemed approved. Comm'r must also determine the total undiscounted claims liability of each self-insurer that will participate in the System, as well as the aggregate total undiscounted outstanding claims liabilities of all the self-insurers that are to participate in the plan, and is to notify the Association.

Once plan is approved, Association is to assess member self-insurers. Assessments and special assessments are to be based on Association's consideration of factors specified in bill (was, specific rates with proration if Fund exceeded \$5 million).

Employers applying to become self-insured must file a copy of the application with the Association at least 120 days before the proposed licensing date. Such employers must obtain a letter of approval from the Association as specified in bill.

Requires all employers that self-insure to participate in System unless excluded by the Board. Board is to exclude all self-insurers whose licenses have previously been revoked by the Comm'r; those with a debt rating below the minimum established in the System's written plan and approved by the Comm'r; and all self-insurers that have defaulted on payment of their self-insured workers' compensation liabilities. Board is to notify Comm'r of all excluded self-insurers. Excluded self-insurers, included those granted a license to self insure after the Association annually implements the System, must deposit a specified amount with the Comm'r upon the granting of a license to the applicant.

Allows Comm'r to consider failure to pay Association assessments and failure to participate in the System or provide and maintain the deposit required for excluded self-insurers, in determining whether to summarily revoke a self-insurance license. Effective January 1, 2006.

Intro. by Clodfelter.

Ref. to Judiciary I

GS 97

May 23, 2005

S 319. WORKERS' COMP. SELF-INSURANCE SECURITY. Intro. 3/3/05. Senate committee substitute makes the following changes to 1st edition. Modifies certain deadlines and makes technical changes.

May 25, 2005

S 319. WORKERS' COMP. SELF-INSURANCE SECURITY. Intro. 3/3/05. Senate amendment makes the following changes to 2nd edition. Enacts new GS 97-133(a)(2a)e. to require that every self-insurer deposit the amount required by GS 97-185(b3) in any year in which the NC Comm'r of Insurance disapproves the Association's plan to provide an Aggregate Security System. Reinstates and makes conforming change to GS 97-185(b1). Enacts new GS 97-185(b3) to require that in any period of time that no Association Alternative Security System is in effect, every self-insurer must deposit with the Comm'r at least 100% of the self-insurer's total undiscounted outstanding claims liability but not less than \$500,000, or a greater amount as determined by the Comm'r according to the self-insurer's financial condition and risk retained.

August 23, 2005

S 319. WORKERS' COMP. SELF-INSURANCE SECURITY. Intro. 3/3/05. House committee substitute makes the following changes to 3rd edition.

(1) In GS 97-133, specifies that the NC Self-Insurance Security Fund is to receive the assets of the NC Self-Insurance Guaranty Fund and that the NC Self-Insurance Security Association is to invest Fund assets pursuant to an investment policy adopted by the Association board and reviewed and approved annually by the State Treasurer.

(2) In GS 97-133(a)(2a), adds specifications regarding financial elements of the required written plan for the Association Aggregate Security System, provides that the Commissioner must act to disapprove the initial plan within 90 (was, 60) days or it is deemed approved, and specifies that group self-insurers are not to participate in the Security System. In GS 97-133(a)(3a), provides that group self-insurers are to pay an initial assessment to the Association in an amount to be determined by the board.

(3) In GS 97-133(b)(1), specifies that employees of the Association may include adjusters, brokers, accountants, attorneys, financial advisors, investment bankers, placement agents, and consultants.

(4) In GS 97-133(b)(6), provides that the Association may reimburse the Department of Insurance up to \$20,000 for consultants retained by the Department to review the initial plan. In GS 97-133(c1) specifies that the plan is to provide that the functions of administration and adjusting claims are not to be performed by the same entity that provides legal representation to the Association for claims.

(5) In GS 97-135, specifies that a self-insurer that is a member of the Security System is deemed to be insolvent, bankrupt, or in default as defined by the terms of any security instrument created pursuant to the System.

(6) In GS 97-136, adds as a duty of the Commissioner the responsibility to approve or disapprove the plan for the Security System.

(7) In Article 5 ("Individual Employers") of GS Chapter 97, adds numerous definitional provisions, including definitions of "affiliate," "control," "under common control with," "guarantor," "holding company," and "subsidiary," and in GS 97-170 expands the elements to be included in an application by an individual employer for a self-insurer license to include information regarding controlling entities, subsidiaries, and affiliates. Adds new GS 97-177 authorizing the Commission to issue a license to an individual employer or a subsidiary if the employer or a guarantor executes a guaranty agreement for the payment of all workers' compensation liabilities. Includes special requirements if the guarantor is a corporate entity. If a controlling relationship or guaranty agreement terminates, the self-insurer retains all liabilities incurred during the period of self-insurance. Termination of a guaranty agreement does not affect the guarantor's liability for payment of liabilities arising prior to the termination.

(8) In GS 97-180, requires yearly submission of financial statements of the guarantor and prompt reporting of any change in financial condition of guarantor or affiliate or change in the business organizational structure. Amends GS 97-180 to remove requirement that the actuary whose report a self-insurer must submit must also submit a report, within 90 days of the close of the self-insurer's fiscal year, to the self-insurer itself.

(9) In GS 97-185, specifies that all individual self-insurers are to participate in the System, unless excluded by the Board. Specifies grounds for exclusion. Deletes GS 97-185(b1), which called for a deposit of a certain proportion of actuary-certified outstanding claim liability and adds GS 97-185(b2) calling for deposit by excluded self-insurers and GS 97-185(b3) concerning any period of time in which the System is not in effect.

(10) Amends GS 97-185(h) to specify that any self-insurer that ceases to self-insure, whether by voluntary termination or by revocation of license, must continue to secure and be liable for its obligations under the Act.

(11) Amends GS 97-195 to restate the grounds for revocation, suspension, or restriction of a self-insurance license.

(12) Adds new GS 97-196 regarding civil penalties, authorizing the Commissioner to suspend or revoke a license after notice and a hearing and to impose monetary penalties.

September 21, 2005

SL 2005-400 (S 319). WORKERS' COMP. SELF-INSURANCE SECURITY. AN ACT ESTABLISHING THE NORTH CAROLINA SELF-INSURANCE SECURITY SYSTEM AND CLARIFYING THE PROCEDURES BY WHICH SUBSIDIARY AND AFFILIATE COMPANIES MAY BE LICENSED AS SELF-INSURERS FOR WORKERS COMPENSATION AND TO MAKE OTHER CONFORMING AND TECHNICAL CHANGES TO THE WORKERS COMPENSATION LAWS RESPECTING INDIVIDUAL SELF-INSURERS IN ARTICLE 5 OF CHAPTER 97 OF THE GENERAL STATUTES. Summarized in *Daily Bulletin* 3/3/05, 5/23/05, 5/25/05, and 8/23/05. Enacted September 14, 2005. Effective January 1, 2006.