

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 287
PROPOSED COMMITTEE SUBSTITUTE H287-PCS30303-RG-2

Short Title: Amend Insurance Laws.-AB

(Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE CONFORMING AND CLARIFYING CHANGES TO THE LAWS GOVERNING PROFESSIONAL EMPLOYER ORGANIZATIONS, INSURANCE COMPANY DEPOSITS, CONTINUING CARE RETIREMENT COMMUNITIES, HEALTH INSURANCE EXTERNAL REVIEW, HEALTH INSURANCE FIDUCIARIES, MOTOR VEHICLE FINANCIAL RESPONSIBILITY, INSURANCE COMPANY NAMES, AND AUTO AND HOMEOWNERS' INSURANCE OPTIONAL PROGRAM ENHANCEMENTS; AND TO PROVIDE FOR A STUDY OF THE HEALTH INSURANCE PREMIUM RATE REVIEW PROCESS AND MONEYS FROM THE INSURANCE REGULATORY FUND TO IMPLEMENT THAT STUDY, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

CONFORMING AND CLARIFYING CHANGES

SECTION 1. G.S. 58-89A-60(d) reads as rewritten:

"(d) Every applicant shall furnish the Commissioner a complete set of fingerprints ~~and a recent photograph of each officer, director, and controlling person~~ in a form prescribed by the ~~Commissioner of each officer, director, and controlling person.~~ Commissioner. Each set of fingerprints shall be certified by an authorized law enforcement officer.

Upon request by the Department, the Department of Public Safety shall provide to the Department from the State and National Repositories of Criminal Histories the criminal history of any applicant and the officer, director, and controlling person of any applicant. Along with the request, the Department shall provide to the Department of Public Safety the fingerprints of the person that is the subject of the request, a form signed by the person that is the subject of the request consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department shall keep all information obtained pursuant to this subsection confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have



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1 completed a criminal background investigation within 12 months of this application, a certified
2 copy of the report from the appropriate authority of that state may satisfy the requirement of
3 this subsection. This subsection also applies to a change in a controlling party of a professional
4 employer organization. For purposes of investigation under this subsection, the Commissioner
5 shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this
6 Chapter."

7 **SECTION 2.** G.S. 58-5-55(a) reads as rewritten:

8 "(a) In addition to other requirements of Articles 1 through 64 of this Chapter, all
9 domestic stock insurance companies shall deposit their required statutory capital with the
10 ~~Commissioner~~ Commissioner, and all domestic nonstock insurance companies shall deposit
11 their required statutory surplus with the Commissioner. Such deposits shall be under the
12 exclusive control of the Commissioner for the protection of policyholders."

13 **SECTION 3.** G.S. 58-64-80 reads as rewritten:

14 **"§ 58-64-80. Advisory Committee.**

15 There shall be a nine member Continuing Care Advisory Committee appointed by the
16 Commissioner. The Committee shall consist of at least two residents of facilities, two
17 representatives of ~~the North Carolina Association of Nonprofit Homes for the~~
18 ~~Aging, LeadingAge North Carolina~~, one individual who is a certified public accountant and is
19 licensed to practice in this State, one individual skilled in the field of architecture or
20 engineering, and one individual who is a health care professional."

21 **SECTION 4.** G.S. 58-50-82(b)(1) reads as rewritten:

22 **"§ 58-50-82. Expedited external review.**

23 "(1) Notify the insurer that made the noncertification, noncertification appeal
24 decision, or second-level grievance review decision which is the subject of
25 the request that the request has been received and provide a copy of the
26 request. The Commissioner shall also request any information from the
27 insurer necessary to make the preliminary review set forth in
28 G.S. 58-50-80(b)(2) and require the insurer to deliver the information not
29 later than one ~~business~~ day after the request was made."

30 **SECTION 5.** G.S. 58-50-40(c) reads as rewritten:

31 "(c) Any insurance fiduciary who violates subsection (b) of this section shall be guilty of
32 ~~a Class H felony~~ the following felony offense:

33 (1) If the total value of losses suffered as a result of an insurance fiduciary's
34 violation of subsection (b) of this section is one hundred thousand dollars
35 (\$100,000) or more, the violation is a Class C felony.

36 (2) If the total value of losses suffered as a result of an insurance fiduciary's
37 violation of subsection (b) of this section is less than one hundred thousand
38 dollars (\$100,000), the violation is a Class H felony."

39 **SECTION 6.** G.S. 20-309(a) is amended by adding a new subsection to read:

40 "(c1) The proof of insurance required to demonstrate financial responsibility under
41 subsection (c) of this section may be satisfied by producing records of insurance in either
42 physical or electronic format. Acceptable electronic formats include display of electronic
43 images on a mobile phone or other portable electronic device produced through an application
44 or Web site of the insurer."

45 **SECTION 7.** G.S. 58-3-50 reads as rewritten:

46 **"§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.**

47 Every insurance company or group of companies must conduct its business in the State in,
48 and the policies and contracts of insurance issued by it shall be headed or entitled only by, its
49 proper or corporate name or names. There shall not appear on the policy anything that would
50 indicate that it is the obligation of any other than the company or companies responsible for the
51 payment of losses under the policy, though it will be permissible to stamp or print on the

1 policy, the name or names of the department or general agency issuing the same, and the group
2 of companies with which the company is financially affiliated. The use of any emblem,
3 insignia, or anything other than the true and proper corporate name of the company or group of
4 companies shall be permitted only with the approval of the ~~Commissioner~~.Commissioner,
5 provided that, with the exception of policies subject to the provisions of Article 36 of this
6 Chapter, a coverage within a policy may be issued by more than one company, so long as the
7 policy clearly identifies the company responsible for each coverage."

8 **SECTION 8.** Article 36 of Chapter 58 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 58-36-43. Optional program enhancements authorized not altering coverage under**
11 **Rate Bureau jurisdiction.**

12 (a) Member companies writing private passenger automobile or homeowners' insurance
13 under this Article may incorporate optional enhancements to their automobile and homeowners'
14 programs as an endorsement to an automobile or homeowners' policy issued under this Article
15 if the insurer has filed the proposed enhancement with the Commissioner and if the proposed
16 enhancement is approved by the Commissioner. Any approved optional enhancements shall be
17 considered outside the authority of the Rate Bureau. If the proposed enhancement will include
18 an additional premium charge, the proposed premium charge shall be included with the
19 proposed program enhancements filed with the Commissioner. The Commissioner shall review
20 the proposed premium charges and approve them if the Commissioner finds that they are based
21 on sound actuarial principles. Amendments to private passenger automobile or homeowners'
22 program enhancements are subject to the same requirements as initial filings. Neither the
23 acceptance, renewal of a policy, nor any underwriting rating criteria shall be conditioned by a
24 company upon the acceptance by the policyholder of any optional automobile or homeowners'
25 enhancements. A rate amendment authorized by this section is not a rate deviation and is not
26 subject to the requirements for rate deviations set forth in G.S. 58-36-30(a).

27 (b) Insurers shall utilize statistical codes outlined by their statistical organization in
28 reporting premiums and losses resulting from program enhancements filed under this section.
29 Those statistical codes shall be substantially different than the codes utilized for data collected
30 for rate-making purposes in order to avoid commingling of the data."

31
32 **HEALTH INSURANCE PREMIUM RATE REVIEW MODERNIZATION STUDY**

33 **SECTION 9.(a)** Authorization. – The Department of Insurance shall study and
34 evaluate the need for and the expected impact of modernization in the Department's regulatory
35 processes and requirements related to health insurance premium rate review.

36 **SECTION 9.(b)** Elements of Study. – As part of the study and evaluation, the
37 Department shall, at a minimum, include the following:

- 38 (1) Consideration and evaluation of other states' health insurance rate review
39 laws, requirements, and processes.
- 40 (2) Consideration and evaluation of the expected impact of modernization on the
41 costs of health insurance for businesses and consumers.
- 42 (3) Consideration and evaluation of the expected impact of modernization on
43 insurers' and the State's operations and costs.
- 44 (4) Consideration and evaluation of federal provisions relating to rate review of
45 health insurance premium rates and the expected impact of modernization in
46 light of the federal requirements.

47 **SECTION 9.(c)** Report. – The Department of Insurance shall submit a report with
48 its findings and recommendations to the 2015 General Assembly when it reconvenes in 2016.
49 The report may include proposed legislation and any other recommendations requiring
50 legislative action.

1 **SECTION 9.(d)** Consultants. – The Commissioner of Insurance may hire
2 consultants to assist the Department in completing its duties under this section.

3 **SECTION 9.(e)** Funding. – There is appropriated from the Insurance Regulatory
4 Fund created under G.S. 58-6-25 to the Department of Insurance the sum of one hundred fifty
5 thousand dollars (\$150,000) for the 2015-2016 fiscal year for the purposes of conducting the
6 study described by this section. Unspent and unencumbered funds remaining on June 30, 2017,
7 shall revert to the Fund.

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9 **EFFECTIVE DATE**

10 **SECTION 10.** Section 4 of this act becomes effective January 1, 2016. Section 8 of
11 this act becomes effective July 1, 2015, and applies to optional enhancements, as described in
12 that section, filed and approved on or after that date. The remainder of this act is effective when
13 it becomes law.