

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 287
Committee Substitute Favorable 4/14/15
PROPOSED COMMITTEE SUBSTITUTE H287-PCS30413-SA-87**

Short Title: Amend Insurance Laws.-AB

(Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED

1 AN ACT TO MAKE CONFORMING AND CLARIFYING CHANGES TO THE LAWS
2 GOVERNING PROFESSIONAL EMPLOYER ORGANIZATIONS, INSURANCE
3 COMPANY DEPOSITS, CONTINUING CARE RETIREMENT COMMUNITIES,
4 HEALTH INSURANCE EXTERNAL REVIEW, HEALTH INSURANCE FIDUCIARIES,
5 AND INSURANCE COMPANY NAMES; TO PROVIDE FOR A STUDY OF THE
6 HEALTH INSURANCE PREMIUM RATE REVIEW PROCESS AND MONEYS FROM
7 THE INSURANCE REGULATORY FUND TO IMPLEMENT THAT STUDY, AS
8 RECOMMENDED BY THE DEPARTMENT OF INSURANCE; AND TO ALLOW AN
9 ITEMIZED INDIVIDUAL INCOME TAX DEDUCTION FOR INVESTORS WHO
10 INCUR LOSSES FROM CRIMINALLY FRAUDULENT INVESTMENT
11 ARRANGEMENTS.
12

13 The General Assembly of North Carolina enacts:

14
15 **CONFORMING AND CLARIFYING CHANGES**

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

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

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



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

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

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

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

16 "**§ 58-64-80. Advisory Committee.**

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

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

24 "**§ 58-50-82. Expedited external review.**

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

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

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

35 (1) If the total value of losses suffered as a result of an insurance fiduciary's
36 violation of subsection (b) of this section is one hundred thousand dollars
37 (\$100,000) or more, the violation is a Class F felony.

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

41 **SECTION 6.** G.S. 58-3-50 reads as rewritten:

42 "**§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.**

43 Every insurance company or group of companies must conduct its business in the State in,
44 and the policies and contracts of insurance issued by it shall be headed or entitled only by, its
45 proper or corporate name or names. There shall not appear on the policy anything that would
46 indicate that it is the obligation of any other than the company or companies responsible for the
47 payment of losses under the policy, though it will be permissible to stamp or print on the
48 policy, the name or names of the department or general agency issuing the same, and the group
49 of companies with which the company is financially affiliated. The use of any emblem,
50 insignia, or anything other than the true and proper corporate name of the company or group of
51 companies shall be permitted only with the approval of the ~~Commissioner.~~ Commissioner,

1 provided that, with the exception of policies subject to the provisions of Article 36 of this
2 Chapter, a coverage within a policy may be issued by more than one company, so long as the
3 policy clearly identifies the company responsible for each coverage."
4

5 **HEALTH INSURANCE PREMIUM RATE REVIEW MODERNIZATION STUDY**

6 **SECTION 7.(a)** Authorization. – The Department of Insurance shall study and
7 evaluate the need for and the expected impact of modernization in the Department's regulatory
8 processes and requirements related to health insurance premium rate review.

9 **SECTION 7.(b)** Elements of Study. – As part of the study and evaluation, the
10 Department shall, at a minimum, include the following:

- 11 (1) Consideration and evaluation of other states' health insurance rate review
12 laws, requirements, and processes.
- 13 (2) Consideration and evaluation of the expected impact of modernization on the
14 costs of health insurance for businesses and consumers.
- 15 (3) Consideration and evaluation of the expected impact of modernization on
16 insurers' and the State's operations and costs.
- 17 (4) Consideration and evaluation of federal provisions relating to rate review of
18 health insurance premium rates and the expected impact of modernization in
19 light of the federal requirements.

20 **SECTION 7.(c)** Report. – The Department of Insurance shall submit a report with
21 its findings and recommendations to the 2015 General Assembly when it reconvenes in 2016.
22 The report may include proposed legislation and any other recommendations requiring
23 legislative action.

24 **SECTION 7.(d)** Consultants. – The Commissioner of Insurance may hire
25 consultants to assist the Department in completing its duties under this section.

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

31 **INDIVIDUAL INCOME TAX ITEMIZED DEDUCTION FOR INVESTORS WHO** 32 **INCUR LOSSES FROM CRIMINALLY FRAUDULENT INVESTMENT** 33 **ARRANGEMENTS**

34 **SECTION 8.** G.S. 105-153.5(a) reads as rewritten:

35 "(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
36 deduct from adjusted gross income either the standard deduction amount provided in
37 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
38 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
39 follows:
40

- 41 ...
- 42 (2) Itemized deduction amount. – An amount equal to the sum of the items listed
43 in this subdivision. The amounts allowed under this subdivision are not
44 subject to the overall limitation on itemized deductions under section 68 of
45 the Code:

46 ...
47 c. The amount allowed as a deduction for losses incurred from
48 criminally fraudulent investment arrangements under section
49 165(c)(2) of the Code."
50

51 **EFFECTIVE DATE**

1 **SECTION 9.** Section 4 of this act becomes effective January 1, 2016. Section 8 of
2 this act becomes effective for taxable years beginning on or after January 1, 2014. The
3 remainder of this act is effective when it becomes law.