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SENATE BILL DRS25033-MH-72A\* (03/02)

Short Title: Insurance Technical Corrections.-AB (Public)

Sponsors: Senators Meredith, Newton, and Dunn (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE INSURANCE LAWS  
3 OF NORTH CAROLINA, AS RECOMMENDED BY THE DEPARTMENT OF  
4 INSURANCE.

5 The General Assembly of North Carolina enacts:

6  
7 **REVISE LOAN TO VALUE REQUIREMENTS FOR INSURER MORTGAGE**  
8 **INVESTMENTS**

9 **SECTION 1.(a)** G.S. 58-7-179(c) reads as rewritten:

10 "(c) No such mortgage loan or loans made or acquired by an insurer on any one property  
11 shall, at the time of investment by the insurer, exceed the larger of the following amounts, as  
12 applicable:

- 13 (1) ~~Ninety five percent (95%)~~ Ninety-seven percent (97%) of the value of the  
14 real property or leasehold securing the real property in the case of a  
15 mortgage on a dwelling primarily intended for occupancy by not more than  
16 four families if they insure down to ~~seventy five percent (75%)~~ eighty  
17 percent (80%) with a licensed mortgage insurance company, or seventy-five  
18 percent (75%) of the value in the case of other real estate mortgages;
- 19 (2) The amount of any insurance or guaranty of the loan by the United States or  
20 by an agency or instrumentality thereof; or
- 21 (3) The percentage-of-value limit on the amount of the loan applicable under  
22 subdivision (1) of this subsection, plus the amount by which the excess of  
23 the loan over the percentage-of-value limit is insured or guaranteed by the  
24 United States or by any agency or instrumentality thereof."

25 **SECTION 1.(b)** This section becomes effective January 1, 2018.

26  
27 **CAPTIVE INSURANCE TECHNICAL CHANGES**

28 **SECTION 2.(a)** G.S. 58-10-345(g) reads as rewritten:

29 "(g) The Commissioner is authorized to retain legal, financial, and audit services from  
30 outside the Department, the costs of which shall be reimbursed by the business entity.  
31 G.S. 58-2-160 shall apply to ~~audits, investigations, audits~~ and processing conducted under the  
32 authority of this section."

33 **SECTION 2.(b)** G.S. 58-10-355 reads as rewritten:

34 **"§ 58-10-355. Organizational audit.**

35 In addition to the processing of the application, an organizational ~~investigation or~~ audit may  
36 be performed before an applicant business entity is licensed. Such investigation or audit shall



1 consist of a general ~~survey~~ review of the applicant business entity's corporate records, including  
2 charters, bylaws, and minute books; verification of capital and surplus; verification of principal  
3 place of business; determination of assets and liabilities; and a review of such other factors as  
4 the Commissioner deems necessary."

5 **SECTION 2.(c)** G.S. 58-10-385(a) reads as rewritten:

6 "(a) Every captive insurance company shall report to the Commissioner within 30 days  
7 after any change in its executive officers or directors, including in its report a biographical  
8 affidavit for each new officer or director. The change shall be deemed approved unless it is  
9 disapproved within 30 days from the completion of the Commissioner's review of the  
10 biographical affidavit."

## 11 12 **INSURANCE HOLDING COMPANY AFFILIATES**

13 **SECTION 3.** G.S. 58-19-10(b) reads as rewritten:

14 "(b) In addition to investments in common stock, preferred stock, debt obligations, and  
15 other securities permitted under this Chapter, a domestic insurer may also:

16 (1) Invest, in common stock, preferred stock, debt obligations, and other  
17 securities of one or more affiliates or subsidiaries, amounts that do not  
18 exceed the lesser of ten percent (10%) of the insurer's admitted assets or fifty  
19 percent (50%) of the insurer's policyholders' surplus, provided that after  
20 those investments, the insurer's policyholders' surplus will be reasonable in  
21 relation to the insurer's outstanding liabilities and adequate to its financial  
22 needs. In calculating the amount of the investments, investments in domestic  
23 or foreign insurance affiliates or subsidiaries and health maintenance  
24 organizations shall be excluded, and there shall be included: (i) total net  
25 monies or other consideration expended and obligations assumed in the  
26 acquisition or formation of a subsidiary, including all organizational  
27 expenses and contributions to capital and surplus of the subsidiary whether  
28 or not represented by the purchase of capital stock or issuance of other  
29 securities; and (ii) all amounts expended in acquiring additional common  
30 stock, preferred stock, debt obligations, and other securities, and all  
31 contributions to the capital or surplus, of a subsidiary subsequent to its  
32 acquisition or formation;

33 ...

34 (3) With the approval of the Commissioner, invest any greater amount in  
35 common stock, preferred stock, debt obligations, or other securities of one or  
36 more affiliates or subsidiaries; provided that after such investment the  
37 insurer's policyholders' surplus will be reasonable in relation to the insurer's  
38 outstanding liabilities and adequate to its financial needs."

## 39 40 **SURPLUS LINES ACT TECHNICAL CHANGES**

41 **SECTION 4.(a)** G.S. 58-21-40 reads as rewritten:

42 "**§ 58-21-40. Surplus lines regulatory support organization.**

43 (a) ~~A surplus lines~~ The North Carolina Surplus Lines Association (NCSLA) shall serve  
44 as the regulatory support organization of surplus lines licensees ~~shall be formed to and shall~~  
45 carry out the following functions:

46 (1) Facilitate and encourage compliance by resident and nonresident surplus  
47 lines licensees with the laws of this State and the rules and regulations of the  
48 Commissioner relative to surplus lines insurance.  
49 (2) Communicate with organizations of admitted insurers with respect to the  
50 proper use of the surplus lines market.

1 (3) Receive and disseminate to surplus lines licensees information about surplus  
 2 lines insurance, including, without limitation, new electronic filing  
 3 procedures approved by the Commissioner, changes in the list of eligible  
 4 surplus lines insurers, and modifications in coverages, procedures, and  
 5 requirements as may be requested by the Commissioner.

6 (4) Establish and operate a stamping office to process all surplus lines insurance  
 7 and remit premium taxes for those coverages under G.S. 58-21-85 by means  
 8 satisfactory to the Commissioner, and charge surplus lines licensees a fee for  
 9 such processing.

10 (b) The ~~regulatory support organization~~ NCSLA shall file with the Commissioner:

11 (1) A copy of its constitution, articles of agreement or association, or certificate  
 12 of incorporation;

13 (2) A copy of its bylaws and rules governing its activities;

14 (3) An annually updated list of ~~resident and nonresident~~ surplus lines licensees;

15 (4) The name and address of a resident of this State upon whom notices or  
 16 orders of the Commissioner or processes issued at his direction may be  
 17 served; and

18 (5) An agreement that the Commissioner may examine the ~~regulatory support~~  
 19 ~~organization~~ NCSLA in accordance with subsection (c) of this section.

20 (c) The Commissioner may, at times deemed appropriate, make or cause to be made an  
 21 examination of ~~each regulatory support organization; the NCSLA~~ in which case the provisions  
 22 of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185,  
 23 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the ~~regulatory support~~  
 24 ~~organization~~ NCSLA or any surplus lines licensee, ~~whether resident or nonresident,~~ licensee  
 25 to be in violation of this Article, the Commissioner may issue an order requiring the  
 26 discontinuance of the violation.

27 (d) Each surplus lines licensee shall maintain active membership in a ~~regulatory support~~  
 28 ~~organization~~ the NCSLA as a condition of continued licensure under this Article."

29 **SECTION 4.(b)** G.S. 58-21-65 reads as rewritten:

30 "**§ 58-21-65. Licensing of surplus lines licensee.**

31 (a) For insureds whose home state is this State, no agent or broker licensed by the  
 32 Commissioner shall directly procure any contract of surplus lines insurance with any  
 33 nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the  
 34 Commissioner.

35 (b) The Commissioner shall issue a surplus lines license to any qualified holder of a  
 36 current ~~property broker's or property and casualty~~ agent's license, but only when the ~~broker or~~  
 37 agent has:

38 (1) Remitted the fifty dollars (\$50.00) annual fee to the Commissioner;

39 (2) Submitted a completed license application on a form supplied by the  
 40 Commissioner, and the application has been approved by the Commissioner;

41 (3) Passed a qualifying examination approved by the Commissioner; except that  
 42 all holders of a license prior to July 11, 1985 shall be deemed to have passed  
 43 such an examination; and

44 (4) Repealed by Session Laws 2004-199, s. 20(c), effective August 17, 2004.

45 ...."

46 **SECTION 4.(c)** G.S. 58-21-75 reads as rewritten:

47 "**§ 58-21-75. Records of surplus lines licensee.**

48 Each surplus lines licensee shall keep in his or her office in this State a full and true record  
 49 of each surplus lines insurance contract placed by or through the licensee, including a copy of  
 50 the policy, certificate, cover note, or other evidence of insurance. The record shall include the  
 51 following items:

- 1 (1) Amount of the insurance and perils insured;
- 2 (2) Brief description of the property insured and its location;
- 3 (3) Gross premium charged;
- 4 (4) Any return premium paid;
- 5 (5) Rate of premium charged upon the several items of property;
- 6 (6) Effective date of the contract, and the terms of the contract;
- 7 (7) Name and address of the insured;
- 8 (8) Name and address of the insurer;
- 9 (9) Amount of tax and other sums to be collected from the insured; and
- 10 (10) Identity of the producing broker, any confirming correspondence from the
- 11 insurer or its representative, and the application.

12 The record of each contract shall be kept open at all reasonable times to examination by the  
 13 Commissioner without notice for a period not less than ~~three~~five years following termination  
 14 of the contract."

15 **SECTION 4.(d)** G.S. 58-21-85(a) reads as rewritten:

16 "**§ 58-21-85. Surplus lines tax.**

17 (a) Gross premiums charged, less any return premiums, for surplus lines insurance on  
 18 insureds for whom North Carolina is the home state are subject to a premium receipts tax of  
 19 five percent (5%), which shall be collected in a manner approved by the Commissioner, in  
 20 addition to the full amount of the gross premium charged by the insurer for the insurance. The  
 21 tax on any portion of the premium unearned at termination of insurance having been credited  
 22 by the State to the licensee shall be returned by the licensee directly to the ~~policyholder~~  
 23 ~~directly-policyholder~~. The surplus lines licensee is prohibited from absorbing such tax and from  
 24 rebating for any reason, any part of such tax. To the extent that other states in which portions of  
 25 the properties, risks, or exposures reside have failed to enter into a compact or reciprocal  
 26 allocation procedure with this State, the premium tax collected shall be retained by this State."  
 27

## 28 CREDIT INSURANCE REGULATORY AMENDMENTS

29 **SECTION 5.(a)** G.S. 58-57-90(a) reads as rewritten:

30 "(a) As used in this Article, the term "single interest credit property" insurance means  
 31 insurance of the personal ~~household~~-property of the debtor against loss, with the creditor as sole  
 32 beneficiary; and the term "dual credit property" insurance means insurance of personal  
 33 household property of the debtor, with the creditor as primary beneficiary and the debtor as  
 34 beneficiary of proceeds not paid to the creditor. For the purpose of this Article, "personal  
 35 ~~household~~-property" means household furniture, furnishings and appliances designed for  
 36 household use and other property of the debtor, exclusive of an automobile, not used by the  
 37 debtor in a business trade or profession."

38 **SECTION 5.(b)** G.S. 58-57-110(a) reads as rewritten:

39 "(a) ~~Each year Beginning September 1, 2018, and every third year thereafter,~~ the  
 40 Commissioner shall prescribe a minimum incurred loss ratio standard requirement to develop a  
 41 premium rate reasonable in relation to the benefits provided by credit unemployment insurance  
 42 coverage. This requirement shall be effective on January 1 of the year following the year the  
 43 Commissioner prescribes it and shall remain in effect until the next minimum incurred loss  
 44 ratio standard requirement prescribed by the Commissioner takes effect. The following  
 45 requirements must be met:

46 ...."

47

## 48 STATE MANUFACTURED HOUSING BOARD CONFORMING CHANGE

49 **SECTION 6.** G.S. 143-143.10(a) reads as rewritten:

50 "(a) There is created the North Carolina Manufactured Housing Board within the  
 51 Department. The Board shall be composed of 11 members as follows:

- 1 (1) The Commissioner of Insurance or the Commissioner's designee.
- 2 (2) A manufactured home manufacturer.
- 3 (3) A manufactured home dealer.
- 4 (4) A representative of the banking and finance industry.
- 5 (5) A representative of the insurance industry.
- 6 (6) A manufactured home supplier.
- 7 (7) A set-up contractor.
- 8 (8) Two representatives of the general public.
- 9 (9) A person who is employed with a HUD-approved housing counseling
- 10 agency in the State.
- 11 (10) An accountant.

12 The Commissioner or the Commissioner's designee shall chair the Board. The Governor  
13 shall appoint to the Board the manufactured home manufacturer and the manufactured home  
14 dealer. The General Assembly upon the recommendation of the Speaker of the House of  
15 Representatives in accordance with G.S. 120-121 shall appoint to the Board the representative  
16 of the banking and finance industry, the employee of a HUD-approved housing counseling  
17 agency, and the representative of the insurance industry. The General Assembly upon the  
18 recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121  
19 shall appoint to the Board the manufactured home supplier, the accountant, and the set-up  
20 contractor. The Commissioner shall appoint two representatives of the general public. Except  
21 for the representatives from the general public and the persons appointed by the General  
22 Assembly, each member of the Board shall be appointed by the appropriate appointing  
23 authority from a list of nominees submitted to the appropriate appointing authority by the  
24 Board of Directors of the North Carolina ~~Manufactured Housing Institute~~. Manufactured and  
25 Modular Homebuilders Association. At least three nominations shall be submitted for each  
26 position on the Board. The members of the Board shall be residents of the State.

27 The members of the Board shall serve for terms of three years. In the event of any vacancy  
28 of a position appointed by the Governor or Commissioner, the appropriate appointing authority  
29 shall appoint a replacement in the same manner as provided for the original appointment to  
30 serve the remainder of the unexpired term. Vacancies in appointments made by the General  
31 Assembly shall be filled in accordance with G.S. 120-122. In the event of any vacancy, the  
32 appropriate appointing authority shall appoint a replacement to serve the remainder of the  
33 unexpired term. Such appointment shall be made in the same manner as provided for the  
34 original appointment. No member of the Board shall serve more than two consecutive,  
35 three-year terms.

36 The members of the Board designated in subdivisions (8), (9), and (10) of this subsection  
37 shall have no current or previous financial interest connected with the manufactured housing  
38 industry. No member of the Board shall participate in any proceeding before the Board  
39 involving that member's own business.

40 Each member of the Board, except the Commissioner and any other State employee, shall  
41 receive per diem and allowances as provided with respect to occupational licensing boards by  
42 G.S. 93B-5. Fees collected by the Board under this Article shall be credited to the Insurance  
43 Regulatory Fund created under G.S. 58-6-25."

44 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes  
45 law.