

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 319
PROPOSED HOUSE COMMITTEE SUBSTITUTE S319-PCS45471-TGf-48

Short Title: Captive Insurance Revisions/Online Auctions.

(Public)

Sponsors:

Referred to:

March 20, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE STATUTES RELATED TO CAPTIVE INSURANCE, TO ESTABLISH
3 A PROCEDURE FOR REMOTE BIDDING AT A FORECLOSURE SALE, AND TO
4 PERMIT HEALTH BENEFIT PLAN SPONSORS TO OBTAIN CONSENT TO
5 ELECTRONIC MAILING OF REQUIRED COMMUNICATIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-22-15 is amended by adding a new subsection to read:

8 "(c1) Examination Regarding Financial Condition. – The Commissioner may examine any
9 risk retention group whenever the Commissioner deems it prudent and reasonable. The
10 examination shall be (i) coordinated with other examining bodies in a manner that avoids
11 unnecessarily repetitious examinations, (ii) conducted in an expeditious manner, and (iii)
12 conducted in accordance with the Examiner Handbook of the NAIC. The costs associated with
13 an examination pursuant to this subsection shall be the responsibility of the examined risk
14 retention group."

15 **SECTION 2.** G.S. 58-22-20 reads as rewritten:

16 "**§ 58-22-20. Risk retention groups not chartered in this State.**

17 Risk retention groups that have been chartered in states other than this State and that seek to
18 do business as risk retention groups in this state must observe and abide by the laws of this State
19 as follows:

20 ...

21 (3) Taxation. –

22 a. All premiums paid for coverages within this State to risk retention
23 groups shall be subject to taxation at the ~~same~~ rate of one and
24 eighty-five hundredths percent (1.85%) and subject to the same
25 payment procedures and to the same interest, fines, and penalties for
26 nonpayment as those applicable to surplus lines insurance under
27 Article 21 of this Chapter. Premiums paid by purchasing groups are,
28 however, taxed as provided in G.S. 58-22-35(b).

29"

30 **SECTION 3.(a)** G.S. 105-228.4A(g) reads as rewritten:

31 "(g) A captive insurance company formed and licensed under the laws of a jurisdiction
32 other than North Carolina that (i) obtains the approval of the North Carolina Commissioner of
33 Insurance to redomesticate to North Carolina pursuant to G.S. 58-10-380(g) to operate as a North
34 Carolina-domiciled captive insurance company and (ii) redomesticates to North Carolina ~~on or~~
35 ~~before December 31, 2022,~~ is exempted from premium taxes imposed by this section for the year
36 in which the redomestication occurs and the premium taxes imposed by this section for the



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1 calendar year following the redomestication. This subsection expires for taxable years beginning
2 on or after January 1, ~~2024~~, 2026."

3 **SECTION 3.(b)** This section is effective when it becomes law.

4 **SECTION 4.(a)** G.S. 45-21.4 reads as rewritten:

5 **"§ 45-21.4. Place of sale of real property.**

6 (a) Every sale of real property shall be held in the county where the property is situated
7 unless the property consists of a single tract situated in two or more counties.

8 (b) A sale of a single tract of real property situated in two or more counties may be held
9 in any one of the counties in which any part of the tract is situated. As used in this section, a
10 "single tract" means any tract which has a continuous boundary, regardless of whether parts
11 thereof may have been acquired at different times or from different persons, or whether it may
12 have been subdivided into other units or lots, or whether it is sold as a whole or in parts.

13 (c) When a mortgage or deed of trust with power of sale of real property designates the
14 place of sale within the county, the sale shall be held at the place so designated.

15 (d) When a mortgage or deed of trust with power of sale of real property confers upon
16 the mortgagee or trustee the right to designate the place of sale, the sale shall be held at the place
17 designated by the notice of sale, which place shall be either on the premises to be sold or as
18 follows:

19 (1) Property situated wholly within a single county shall be sold at the courthouse
20 door of the county in which the land is ~~situated~~, situated or at another public
21 location within the county where the land is situated as designated by the
22 mortgagee or trustee.

23 (2) A single tract of property situated in two or more counties may be sold at the
24 courthouse door of any one of the counties in which some part of the real
25 property is ~~situated~~, situated or at another public location within any one of the
26 counties in which some part of the real property is situated as designated by
27 the mortgagee or trustee.

28 (e) When a mortgage or deed of trust with power of sale of real property does not
29 designate, or confer upon the mortgagee or trustee the right to designate, the place of sale, or
30 when it designates as the place of sale some county in which no part of the property is situated,
31 such real property shall be sold as follows:

32 (1) Property situated wholly within a single county shall be sold at the courthouse
33 door of the county in which the land is ~~situated~~, situated or at another public
34 location within the county where the land is situated as designated by the clerk
35 of the superior court of the county where the land is situated.

36 (2) A single tract of property situated in two or more counties may be sold at the
37 courthouse door of any one of the counties in which some part of the real
38 property is ~~situated~~, situated or another public location within one of the
39 counties in which some part of the real property is situated as designated by
40 the clerk of the superior court of one of the counties in which some part of the
41 real property is situated."

42 **SECTION 4.(b)** G.S. 45-21.23 reads as rewritten:

43 **"§ 45-21.23. Time of sale.**

44 A sale shall begin at the time designated in the notice of sale or as soon thereafter as
45 practicable, but not later than ~~one hour~~ three hours after the time fixed therefor unless it is delayed
46 by other sales held at the same place. The sale shall be held between the hours of 10:00 A.M. and
47 4:00 P.M. on any day when the clerk's office is normally open for transactions."

48 **SECTION 4.(c)** Part 2 of Article 2A of Chapter 45 of the General Statutes is
49 amended by adding a new section to read:

50 **"§ 45-21.25A. Bids placed remotely.**

1 (a) The person exercising the power of sale of real property, or that person's agent, may
2 accept remote bids from bidders not physically present at the place of sale, as designated pursuant
3 to G.S. 45-21.4. All bids accepted at the sale must be clearly announced to all participating
4 bidders, whether physically present or not.

5 (b) Prior to accepting a remote bid, the person exercising the power of sale of real
6 property, or that person's agent, shall collect all funds required to be paid by the winning bidder
7 in accordance with G.S. 45-21.10.

8 (c) Any charges incurred by the person exercising the power of sale of real property, or
9 that person's agent, in connection with remote bidding authorized under this section shall not be
10 chargeable to the mortgagor or otherwise recoverable as costs and expenses of the foreclosure."

11 **SECTION 5.** G.S. 58-2-255 reads as rewritten:

12 **"§ 58-2-255. Electronic insurance communications and records.**

13 (a) Definitions. – ~~As used~~ The following definitions apply in this section:

14 (1) ~~"Communications" means notices,~~ Communications. – Notices, offers,
15 disclosures, documents, forms, information, and correspondence
16 correspondence, including an identification card, required or permitted to be
17 provided to a party in writing under the insurance laws of this State or that are
18 otherwise provided by an insurer, including, but not limited to, notices
19 pertaining to the cancellation, termination, or nonrenewal of insurance.

20 (2) ~~"Delivered by electronic means" includes any~~ Delivered by electronic means.
21 – Any of the following:

22 a. Delivery to an electronic mail address or an electronic account at
23 which a party has consented to receive electronic communications.

24 b. Displaying information, or a link to information, as an essential step
25 to completing the transaction to which such information relates.

26 c. Providing notice to a party at the electronic mail address or an
27 electronic account at which the party has consented to receive notice
28 of the posting of a communication on an electronic network or site.

29 (2a) Health benefit plan. – As defined in G.S. 58-3-167.

30 (2b) Health benefit plan sponsor. – A person, other than a regulated entity, who
31 establishes, adopts, or maintains a health benefit plan that covers residents of
32 this State, including a plan established, adopted, or maintained by an employer
33 or jointly by an employer and one or more employee organizations, an
34 association, a committee, a joint board of trustees, or any similar group of
35 representatives who establish, adopt, or maintain a health benefit plan.

36 (3) ~~"Insurer" has the same meaning as~~ Insurer. – As defined in G.S. 58-1-5(3).

37 (4) ~~"Party" means a~~ Party. – A recipient of any communications defined in this
38 section. "Party" includes an applicant, policyholder, insured, claimant,
39 member, provider, or beneficiary.

40 (b) When any insurance law of this State requires a communication to be provided to a
41 party in writing, signed by a party, provided by means of a specific delivery method, or retained
42 by an insurer, those requirements are satisfied if the insurer complies with Article 40 of Chapter
43 66 of the General Statutes.

44 (c) Verification of communications delivered by electronic means shall constitute proof
45 of mailing in civil and administrative proceedings and under the insurance laws of this State.

46 (d) Nothing in this section affects requirements related to the content or timing of any
47 communication required under the insurance laws of this State.

48 (e) A recording of an oral communication between an insurer and a party that is reliably
49 stored and reproduced by an insurer shall constitute an electronic communication or record.
50 When a communication is required under the insurance laws of this State to be provided in
51 writing, the communication provided in accordance with this subsection shall satisfy the

1 requirement that the communication be in writing. When a communication is required under the
2 insurance laws of this State to be signed, a recorded oral communication in which a party agrees
3 to the terms stated in the oral communication shall satisfy the requirement.

4 (f) To the extent permitted by the Employee Retirement and Income Security Act of 1974
5 (ERISA) and its amendments, a health benefit plan sponsor may, on behalf of any individual
6 enrolled in the plan, provide consent for all communications related to the plan to be delivered
7 by electronic means.

8 (g) Before consenting on behalf of an individual covered by a plan, as described in
9 subsection (f) of this section, the health benefit plan sponsor shall confirm that the covered
10 individual routinely uses electronic communications during the normal course of employment.

11 (h) Before delivering communications by electronic means, an insurer must:

12 (1) Give the covered individual the opportunity to opt out of delivery by
13 electronic means.

14 (2) Send the communications by U.S. Mail if the insurer becomes aware the
15 electronic mail address at which the covered individual consented to receive
16 communications is no longer valid.

17 (3) Maintain a record of the communications delivered by electronic means.

18 (4) Comply with all applicable provisions of Article 40 of Chapter 66 of the
19 General Statutes.

20 (i) Covered individuals may withdraw their consent to receive communications by
21 electronic means at any time.

22 (j) No insurer shall cancel, refuse to issue, or refuse to renew any policy because an
23 individual refuses to agree to receive communications delivered by electronic means."

24 **SECTION 6.** Sections 1 and 2 of this act become effective October 1, 2024, and
25 apply to contracts issued, renewed, or amended on or after that date. Section 4 of this act becomes
26 effective October 1, 2024, and applies to notices of foreclosure sale filed with the clerk of
27 superior court on or after that date. Section 5 of this act becomes effective October 1, 2024, and
28 applies to contracts entered into on or after that date. The remainder of this act is effective when
29 it becomes law.