

2019

**HOUSE
INSURANCE**

MINUTES

HOUSE COMMITTEE

ON

INSURANCE

2019-20

CHAIRS:

Representative Dana Bumgardner

Representative Kevin Corbin

Representative Mitchell Setzer

COMMITTEE CLERKS:

Margaret Herring

Cindy Hobbs

Margie Penven

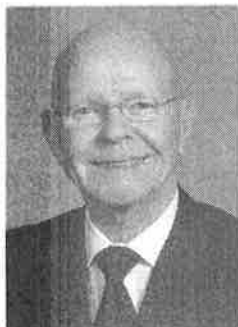
HOUSE COMMITTEE ON INSURANCE 2019-20
(7/31/19)

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Amgardner, Dana, Chair	Margie Penven	733-5809	1206 LB	40
Corbin, Kevin, Chair	Cindy Hobbs	733-5859	2215 LB	90
Setzer, Mitchell, Chair	Margaret Herring	733-4948	2204 LB	2
Lucas, Marvin, Vice-Chair	Thelma Utley	733-5775	402 LOB	11
Beasley, Chaz	Michael Wilson	733-5654	403 LOB	60
Cleveland, George	Pam Ahlin	715-6707	417A LOB	8
Floyd, Elmer	Mildred Alston	733-5827	1221 LB	36
Garrison, Terry	Anita Bennett	733-5824	610 LOB	45
Gill, Rosa	Lisa Ray	733-5880	1303 LB	44
Goodwin, Edward	Richard Blackwelder	733-0010	2217 LB	112
Graham, Charles	Linda Laton	715-0875	1309 LB	35
Hall, Kyle	Jeffrey Biggs	733-5609	529 LOB	78
Henson, Cody	Megan Kluttz	715-4466	537 LOB	101
Holley, Yvonne	Lee Lewis	733-5758	1219 LB	71
Howard, Julia	Cody Huneycutt	733-5904	302 LOB	1
Humphrey, Chris	Wanda Benson	733-5995	632 LOB	97
Iler, Frank	Carla Langdon	301-1450	639 LOB	14
McElraft, Pat	Nancy Fox	733-6275	634 LOB	9
Montgomery, Derwin	Carol Brooks	733-5829	1006 LB	81
Murphy, Greg	Anne Harvey Smith	733-5757	307B LOB	73
Perce, Garland	Janice Fenner	733-5803	1204 LB	22
Potts, Larry	Caroline Craig	715-0873	306B1 LOB	77
Ross, Stephen	Tammy Ross	733-5820	1229 LOB	50
Sasser, Wayne	Anita Spence	733-5908	418A LOB	89
Warren, Harry	Cristy Yates	733-5784	611 LOB	16
Willingham, Shelly	Johnna Smith	715-3024	513 LOB	46
Wray, Michael	Susan Burleson	733-5662	2123 LB	20
Ex-Officio Voting Members				
Stevens, Sarah, Speaker Pro Tempore	Lisa Brown	715-1883	419 LOB	7
Lewis, David, Rules Chair	Grace Rogers	715-3015	2301 LB	6
Bell, John, House Majority Leader	Susan Horne	715-3017	301F LOB	5
Jones, Brenden, Deputy House Majority Leader	Andrew Bailey	733-5821	1227 LOB	88
Staff:				
Kristen Harris, Coordinator , Legislative Analysis Division (LAD)		733-2578	545 LOB	
Jeremy Ray, Staff Attorney , LAD		733-2578	545 LOB	
Bill Patterson, Staff Attorney , LAD		733-2578	545 LOB	
Margaret Herring, Committee Assistant		733-4948	2204 LB	
Cindy Hobbs, Committee Assistant		733-5859	2215 LB	
Margie Penven, Committee Assistant		733-5809	1206 LB	

INSURANCE

House Standing Committee

Chairs



Rep. Bumgardner



Rep. Corbin



Rep. Setzer

Vice Chair



Rep. Lucas

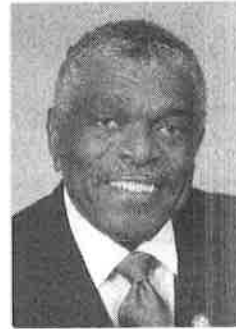
Members



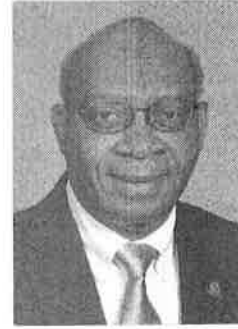
Rep. Beasley



Rep. Cleveland



Rep. Floyd



Rep. Garrison



Rep. Gill



Rep. Goodwin



Rep. Graham



Rep. K. Hall



Rep. Holley



Rep. Howard



Rep. Humphrey



Rep. Iler



Rep. McElraft



Rep. Montgomery



Rep. Murphy



Rep. Pierce



Rep. Potts



Rep. Ross



Rep. Sasser



Rep. Warren



Rep. Willingham



Rep. Wray

Pursuant to House Rules 26(e) and 26(f), the Chair of the Committee on Rules, Calendar and Operations of the House, the Speaker Pro Tempore, the Majority Leader, and the Deputy Majority Leader are ex officio members of each standing committee and permanent subcommittee with the right to vote. The previous sentence does not apply to the Standing Committee on Ethics. For the purposes of determining a quorum, when serving only as ex officio members, these members shall be counted among the membership of the committee or subcommittee only when present.

House Committee on Insurance

[illegible]

[illegible]

Margie Penven (Rep. Dana Bumgardner)

From: Margaret Herring (Rep. Mitchell Setzer)
Sent: Tuesday, March 19, 2019 02:34 PM
To: Rep. Julia Howard; Rep. Donny Lambeth; Rep. John Szoka; Rep. Debra Conrad; Rep. Garland Pierce; Rep. John Torbett; Rep. Jon Hardister; Rep. Kevin Corbin; Rep. Mitchell Setzer; Rep. Pat McElraft; Rep. William Richardson
Cc: Cody Huneycutt (Rep. Julia Howard); Pan Briles (Rep. Donny Lambeth); Beverly Slagle (Rep. John Szoka); Ginny Taylor (Rep. Debra Conrad); Janice Fenner (Rep. Garland Pierce); Viddia Torbett (Rep. John Torbett); Jayne Nelson (Rep. Jon Hardister); Cindy Hobbs (Rep. Kevin Corbin); Margaret Herring (Rep. Mitchell Setzer); Nancy Fox (Rep. Pat McElraft); Leigh Lawrence (Rep. William Richardson)
Subject: <NCGA> House Insurance Committee Meeting Notice for Thursday, March 21, 2019 at 8:30 AM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, March 21, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 120</u>	Clarify Fire District Funding Eligibility.	Representative Conrad Representative Howard Representative Lambeth Representative Szoka
<u>HB 144</u>	Hands Free NC.	Representative Corbin Representative Torbett Representative Hardister Representative Pierce
<u>HB 310</u>	Clarify Insurance Prod'r Crim. Bckgrd Check.	Representative McElraft Representative Setzer Representative Richardson Representative Pierce

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:31 PM on Tuesday, March 19, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

Updated #1: Remove H534 and H562

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, April 11, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Rep. Bumgardner will preside.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 205</u>	Veh. Property Dmg./Determining Amt. of Loss.	Representative Torbett
<u>HB 219</u>	NAIC Accreditation Amendments.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 221</u>	Rate-Making Amendments.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 222</u>	Insurance Technical Changes.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 464</u>	Small Business Health Care Act.	Representative K. Hall Representative Grange Representative Dobson Representative B. Turner
<u>HB 466</u>	Firefighters' Line of Duty Diseases/Funds.	Representative Riddell Representative Saine Representative Wray
<u>HB 553</u>	Licensing Certain Fire Safety Equip. Work.	Representative Barnes Representative Strickland Representative Barnes Representative Corbin Representative Hardister

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8:22 AM on Monday, April 08, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margie Penven (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, April 11, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Rep. Bumgardner will preside.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 205</u>	Veh. Property Dmg./Determining Amt. of Loss.	Representative Torbett
<u>HB 219</u>	NAIC Accreditation Amendments.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 221</u>	Rate-Making Amendments.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 222</u>	Insurance Technical Changes.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 464</u>	Small Business Health Care Act.	Representative K. Hall Representative Grange Representative Dobson Representative B. Turner
<u>HB 466</u>	Firefighters' Line of Duty Diseases/Funds.	Representative Riddell Representative Saine Representative Wray Representative Barnes
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis Representative Bell
<u>HB 553</u>	Licensing Certain Fire Safety Equip. Work.	Representative Strickland Representative Barnes Representative Corbin Representative Hardister
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad

Representative Grange
Representative Black

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:40 PM on Friday, April 05, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Margie Penven (Committee Assistant)

Margie Penven (Rep. Dana Bumgardner)

From: Cindy Hobbs (Rep. Kevin Corbin)
Sent: Thursday, April 25, 2019 11:29 AM
To: Rep. Mitchell Setzer; Rep. Dana Bumgardner; Rep. Kevin Corbin; Rep. John Torbett; Rep. Debra Conrad; Rep. Holly Grange; Rep. MaryAnn Black; Rep. Jason Saine; Rep. Larry Strickland
Cc: Margaret Herring (Rep. Mitchell Setzer); Margie Penven (Rep. Dana Bumgardner); Cindy Hobbs (Rep. Kevin Corbin); Viddia Torbett (Rep. John Torbett); Ginny Taylor (Rep. Debra Conrad); Joanna Almquist (Rep. Holly G. Grange); Mimi Wilson (Rep. MaryAnn Black); Elise Yost (Rep. Jason Saine); Kermit Stancil (Rep. Larry Strickland)
Subject: <NCGA> House Insurance Committee Meeting Notice for Friday, April 26, 2019 at 12:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Friday, April 26, 2019
TIME: 12:00 PM
LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 220</u>	Insurance Technical Changes.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
<u>HB 806</u>	HOA/Condo Crime & Fidelity Insurance Policies.	Representative Saine Representative Strickland

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:28 AM on Thursday, April 25, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Cindy Hobbs (Committee Assistant)

Margie Penven (Rep. Dana Bumgardner)

From: Cindy Hobbs (Rep. Kevin Corbin)
Sent: Friday, April 26, 2019 10:06 AM
To: Rep. Mitchell Setzer; Rep. Dana Bumgardner; Rep. Kevin Corbin; Rep. Jason Saine; Rep. Larry Strickland
Cc: Margaret Herring (Rep. Mitchell Setzer); Margie Penven (Rep. Dana Bumgardner); Cindy Hobbs (Rep. Kevin Corbin); Elise Yost (Rep. Jason Saine); Kermit Stancil (Rep. Larry Strickland); Rep. John Torbett; deborah.conrad@ncleg.net; Rep. MaryAnn Black; Rep. Holly Grange
Subject: <NCGA> House Insurance Committee Meeting Notice for Friday, April 26, 2019 at 12:00 PM - UPDATED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Updated #1: Remove House Bill 562

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Friday, April 26, 2019
TIME: 12:00 PM
LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 220</u>	Insurance Technical Changes.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 806</u>	HOA/Condo Crime & Fidelity Insurance Policies.	Representative Saine Representative Strickland

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:01 AM on Friday, April 26, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Cindy Hobbs (Committee Assistant)

Margie Penven (Rep. Dana Bumgardner)

From: Cindy Hobbs (Rep. Kevin Corbin)
Sent: Wednesday, May 01, 2019 12:36 PM
To: Rep. Jon Hardister; Rep. Howard Hunter III; Rep. Kevin Corbin; Rep. John Torbett; Rep. Debra Conrad; Rep. Holly Grange; Rep. MaryAnn Black; Rep. David Lewis; Rep. John Bell; Rep. Gregory Murphy; Rep. Wayne Sasser
Cc: Jayne Nelson (Rep. Jon Hardister); Brenda Bennett (Rep. Howard Hunter III); Cindy Hobbs (Rep. Kevin Corbin); Viddia Torbett (Rep. John Torbett); Ginny Taylor (Rep. Debra Conrad); Joanna Almquist (Rep. Holly G. Grange); Mimi Wilson (Rep. MaryAnn Black); Grace Rogers (Rep. David Lewis); Chandra C. Reed (Rep. David Lewis); Susan West Horne (Rep. John Bell); Anne Harvey Smith (Rep. Gregory Murphy); Anita Spence (Rep. Wayne Sasser)
Subject: <NCGA> House Insurance Committee Meeting Notice for Thursday, May 02, 2019 at 10:00 AM - UPDATED #1
Attachments: Add Meeting to Calendar_LINC_ics

Updated #1: Location and time change

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 10:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis

Representative Bell

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:35 PM on Wednesday, May 01, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Cindy Hobbs (Committee Assistant)

Margie Penven (Rep. Dana Bumgardner)

From: Margaret Herring (Rep. Mitchell Setzer)
Sent: Monday, April 29, 2019 05:38 PM
To: Rep. Jon Hardister; Rep. Howard Hunter III; Rep. Kevin Corbin; Rep. John Torbett; Rep. Debra Conrad; Rep. Holly Grange; Rep. MaryAnn Black; Rep. David Lewis; Rep. John Bell; Rep. Gregory Murphy; Rep. Wayne Sasser
Cc: Jayne Nelson (Rep. Jon Hardister); Brenda Bennett (Rep. Howard Hunter III); Cindy Hobbs (Rep. Kevin Corbin); Viddia Torbett (Rep. John Torbett); Ginny Taylor (Rep. Debra Conrad); Joanna Almquist (Rep. Holly G. Grange); Mimi Wilson (Rep. MaryAnn Black); Grace Rogers (Rep. David Lewis); Chandra C. Reed (Rep. David Lewis); Susan West Horne (Rep. John Bell); Anne Harvey Smith (Rep. Gregory Murphy); Anita Spence (Rep. Wayne Sasser)
Subject: <NCGA> House Insurance Committee Meeting Notice for Thursday, May 02, 2019 at 8:30 AM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis Representative Bell

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:37 PM on Monday, April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

Margie Penven (Rep. Dana Bumgardner)

To: Margaret Herring (Rep. Mitchell Setzer)
Subject: RE: <NCGA> House Insurance Committee Meeting Notice for Thursday, May 02, 2019 at 8:30 AM - CANCELLED

From: Margaret Herring (Rep. Mitchell Setzer) <Setzerla@ncleg.net>

Sent: Monday, April 29, 2019 4:34 PM

To: Rep. Jon Hardister <Jon.Hardister@ncleg.net>; Rep. Howard Hunter III <Howard.Hunter@ncleg.net>; Rep. Kevin Corbin <Kevin.Corbin@ncleg.net>; Rep. John Torbett <John.Torbett@ncleg.net>; Rep. Debra Conrad <Debra.Conrad@ncleg.net>; Rep. Holly Grange <Holly.Grange@ncleg.net>; Rep. MaryAnn Black <MaryAnn.Black@ncleg.net>; Rep. David Lewis <David.Lewis@ncleg.net>; Rep. John Bell <John.Bell@ncleg.net>; Rep. Gregory Murphy <Gregory.Murphy@ncleg.net>; Rep. Wayne Sasser <Wayne.Sasser@ncleg.net>

Cc: Jayne Nelson (Rep. Jon Hardister) <Hardisterla@ncleg.net>; Brenda Bennett (Rep. Howard Hunter III) <Hunterla@ncleg.net>; Cindy Hobbs (Rep. Kevin Corbin) <Corbinla@ncleg.net>; Viddia Torbett (Rep. John Torbett) <Torbettla@ncleg.net>; Ginny Taylor (Rep. Debra Conrad) <Conradla@ncleg.net>; Joanna Almquist (Rep. Holly G. Grange) <Grangela@ncleg.net>; Mimi Wilson (Rep. MaryAnn Black) <Blackla@ncleg.net>; Grace Rogers (Rep. David Lewis) <Lewisl@ncleg.net>; Chandra C. Reed (Rep. David Lewis) <Lewisca@ncleg.net>; Susan West Horne (Rep. John Bell) <Belljla@ncleg.net>; Anne Harvey Smith (Rep. Gregory Murphy) <murphyla@ncleg.net>; Anita Spence (Rep. Wayne Sasser) <Sasserla@ncleg.net>

Subject: <NCGA> House Insurance Committee Meeting Notice for Thursday, May 02, 2019 at 8:30 AM - CANCELLED

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2019-2020 SESSION

You are hereby notified that the **House Committee on Insurance** will **NOT** meet as follows:

DAY & DATE: Thursday, May 2, 2019

TIME: 8:30 AM

LOCATION: 544 LOB

COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
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HB 755	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
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HB 562

Health Care Reimbursement
Contracts/AOBs.

Representative Torbett
Representative Conrad
Representative Grange
Representative Black
Representative Sasser
Representative Murphy
Representative Lewis
Representative Bell

HB 534

NC Pharmacy Benefits Manager
Licensure Act.

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:33 PM on Monday,
April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

Margie Penven (Rep. Dana Bumgardner)

From: Margaret Herring (Rep. Mitchell Setzer)
Sent: Monday, April 29, 2019 04:09 PM
To: Rep. Jon Hardister; Rep. Howard Hunter III; Rep. Kevin Corbin; Rep. John Torbett; Rep. Debra Conrad; Rep. Holly Grange; Rep. MaryAnn Black; Rep. David Lewis; Rep. John Bell; Rep. Gregory Murphy; Rep. Wayne Sasser
Cc: Jayne Nelson (Rep. Jon Hardister); Brenda Bennett (Rep. Howard Hunter III); Cindy Hobbs (Rep. Kevin Corbin); Viddia Torbett (Rep. John Torbett); Ginny Taylor (Rep. Debra Conrad); Joanna Almquist (Rep. Holly G. Grange); Mimi Wilson (Rep. MaryAnn Black); Grace Rogers (Rep. David Lewis); Chandra C. Reed (Rep. David Lewis); Susan West Horne (Rep. John Bell); Anne Harvey Smith (Rep. Gregory Murphy); Anita Spence (Rep. Wayne Sasser)
Subject: <NCGA> House Insurance Committee Meeting Notice for Thursday, May 02, 2019 at 8:30 AM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis Representative Bell

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:08 PM on Monday, April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Tuesday, July 16, 2019
TIME: 9:00 AM
LOCATION: 1228/1327 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 922</u>	Enhance Insurance Coverage/Educ. Buildings.	Representative D. Hall Representative Lewis Representative Arp

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:12 PM on Friday, July 12, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margie Penven (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Tuesday, July 16, 2019
TIME: 9:00 AM
LOCATION: 1228/1327 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 922</u>	Enhance Insurance Coverage/Educ. Buildings.	Representative D. Hall Representative Lewis Representative Arp

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:05 PM on Tuesday, September 03, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margie Penven (Committee Assistant)

House Committee on Insurance
Thursday, March 21, 2019 at 8:30 AM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Insurance met at 8:33 AM on March 21, 2019 in Room 544 of the Legislative Office Building. Representatives Bumgardner, Corbin, Setzer—Co-Chairs; Representative Lucas—Vice-Chair; and Representatives Beasley, Cleveland, Garrison, Gill, Goodwin, Hall, Henson, Holly, Humphrey, McElraft, Montgomery, Potts, Ross, Willingham, and Warren attended.

Chairman Mitchell S. Setzer called the meeting to order thanking the Pages and the Sergeant At Arms for their assistance with the Committee. He welcomed the visitors. (Attachments 1-7)

The following bills were considered:

HB 120 Clarify Fire District Funding Eligibility. (Representatives Conrad, Howard, Lambeth, Szoka)

Representative Conrad explained the bill. Representative Cleveland was recognized and moved that HB 120 receive a favorable report to the PCS, unfavorable to the original bill with referral to Finance. The motion carried. (Attachments 8-10)

HB 310 Clarify Insurance Prod'r Crim. Bckgrd Check. (Representatives McElraft, Setzer, Richardson, Pierce)

Representative McElraft explained the bill. Representative Holly was recognized and moved that HB 310 receive a favorable report with referral to Judiciary. The motion carried. (Attachments 11-13)

The meeting adjourned at 8:38 AM.


Chairman Mitchell S. Setzer


Margaret Herring, Committee Assistant

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, March 21, 2019

TIME: 8:30 AM

LOCATION: 544 LOB

COMMENTS: Chairman Mitchell S. Setzer presiding

The following bills will be considered:

BILL NO. SHORT TITLE

HB 120 Clarify Fire District Funding
Eligibility.

HB 144 Hands Free NC.

HB 310 Clarify Insurance Prod'r Crim. Bckgrd
Check.

SPONSOR

Representative Conrad
Representative Howard
Representative Lambeth
Representative Szoka
Representative Corbin
Representative Torbett
Representative Hardister
Representative Pierce
Representative McElraft
Representative Setzer
Representative Richardson
Representative Pierce

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:31 PM on Tuesday, March 19, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

Updated #1: Remove HB144

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, March 21, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 120</u>	Clarify Fire District Funding Eligibility.	Representative Conrad Representative Howard Representative Lambeth Representative Szoka
<u>HB 310</u>	Clarify Insurance Prod'r Crim. Bckgrd Check.	Representative McElraft Representative Setzer Representative Richardson Representative Pierce

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8:54 AM on Wednesday, March 20, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

[Type text]

ATTENDANCE
HOUSE COMMITTEE ON INSURANCE
2019 SESSION (2/28/19)

[illegible]

[illegible]

**House Committee on Insurance
Thursday, March 21, 2019, 8:30 AM
544 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 120	Clarify Fire District Funding Eligibility.	Representative Conrad Representative Howard Representative Lambeth Representative Szoka
HB 310	Clarify Insurance Prod'r Crim. Bckgrd Check.	Representative McElraft Representative Setzer Representative Richardson Representative Pierce

Presentations

Other Business

Adjournment

Committee Sergeants at ArmsNAME OF COMMITTEE House Committee on InsuranceDATE: 3-21-19 Room: 544 LOBHouse Sgt-At Arms:

1. Name: Reggie Sills
2. Name: Marvin Lee
- Name: Glen Wall
4. Name: Doug Harris
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
- Name: _____

**House Pages
Assignments
Wednesday, March 20, 2019
Session: 11:00 AM**

Committee	Room	Time	Staff	Comments	Member
Appropriations, Agriculture and Natural and Economic Resources	421	8:30 AM	Taylor Fulk		Rep. Tim Moore
			Katherine Hampton		Rep. Kyle Hall
			Timothy White		Rep. Kyle Hall
Appropriations, Education	422	8:30 AM	Mary Watkins		Rep. Jean Farmer- Butterfield
			Olivia White		Rep. Stephen M. Ross
Appropriations, Health and Human Services	643	8:30 AM	LeKel Silver		Rep. Carolyn Logan
Appropriations, Justice and Public Safety	415	8:30 AM	Kaitlyn Gomez		Rep. Stephen Ross
Appropriations, Transportation	1228/1327	8:30 AM	Martin Hamilton		Rep. Allison Dahle
			Timothy White		Rep. Kyle Hall
Insurance	544	8:30 AM	Ansleigh Adams		Rep. David R. Lewis
			Leland Larson, III		Rep. Kevin Corbin

VISITOR REGISTRATION SHEET

House Insurance Committee

Name of Committee

Date _____

3/21/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Ed Brinson

~~NCSFA~~

Tim BRADY

NCSFA

Claudia Schneider

governor's office

Joe Stewart

11 ANC

VISITOR REGISTRATION SHEET

House Insurance Committee

Name of Committee

Date _____

3/21/19

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

McNeil Chestnut CCIA

George Robinson

NA DOI

Fred Bone

Born: 1850,

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

D

**HOUSE BILL 120
PROPOSED COMMITTEE SUBSTITUTE H120-CSTUf-3 [v.2]**

03/19/2019 06:08:52 PM

Short Title: Clarify Fire District Funding Eligibility.

(Public)

Sponsors:

Referred to:

February 21, 2019

A BILL TO BE ENTITLED
AN ACT TO CLARIFY ELIGIBLE USES OF FIRE PROTECTION TAX REVENUES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 69-25.5 reads as rewritten:

"§ 69-25.5. Methods of providing fire protection.

(a) Upon the levy of such tax, the board of county commissioners shall, to the extent of the taxes collected hereunder, provide fire protection for the ~~district~~ district by doing one of the following:

- (1) ~~By contracting~~ Contracting with any incorporated city or town, with any incorporated nonprofit volunteer or community fire department, or with the Department of Agriculture and Consumer Services to furnish fire ~~protection;~~ protection.
- (2) ~~By furnishing~~ Furnishing fire protection itself if the county maintains an organized fire ~~department, or~~ department.
- (3) ~~By establishing~~ Establishing a fire ~~department~~ department within the ~~district,~~ or district.
- (4) ~~By utilizing~~ Utilizing any two or more of the above listed methods of furnishing fire protection.

(b) A fire department must meet the minimum public protection requirements established by the Office of State Fire Marshall of the Department of Insurance in order to receive any portion of the tax levied and collected under G.S. 69-25.4."

SECTION 2. This act becomes effective July 1, 2019, and applies to taxes collected on or after that date.



* H 1 2 0 - C S T U F - 3 *



HOUSE BILL 120: Clarify Fire District Funding Eligibility.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 21, 2019
Introduced by:	Reps. Conrad, Howard, Lambeth, Szoka	Prepared by:	Kristen L. Harris
Analysis of:	PCS to First Edition H120-CSTUF-3		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 120 would require a fire department receiving taxpayer money for fire protection to meet minimum public protection requirements established by the Office of State Fire Marshall (OSFM).*

CURRENT LAW: Under G.S. 69-25.4, a majority of qualified voters voting in a district may vote in favor of levying and collecting a tax from year to year for the board of county commissioners to keep as a special and separate fund to be used only for furnishing fire protection in that district. Currently, there are no eligibility requirements imposed on fire departments to receive the money.

The Ratings and Inspections Division of the Office of State Fire Marshall (OSFM) of the Department of Insurance (DOI) inspects fire districts to ensure compliance with certain requirements to receive a public protection classification rating for fire protection. Specifically, the districts are rated on their ability to provide fire prevention and fire suppression services.

BILL ANALYSIS:

Section 1 would require a fire department to meet the minimum public protection requirements established by the OSFM in order to receive taxpayer money collected for fire protection.

EFFECTIVE DATE: This act becomes effective July 1, 2019, and applies to taxes collected on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 120

Short Title: Clarify Fire District Funding Eligibility. (Public)

Sponsors: Representatives Conrad, Howard, Lambeth, and Szoka (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

February 21, 2019

A BILL TO BE ENTITLED
AN ACT TO CLARIFY ELIGIBLE USES OF FIRE PROTECTION TAX REVENUES.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 69-25.5 reads as rewritten:
"§ 69-25.5. Methods of providing fire protection.

Upon the levy of such tax, the board of county commissioners shall, to the extent of the taxes collected hereunder, provide fire protection for the ~~district~~ district by doing one of the following:

- (1) ~~By contracting~~ Contracting with any incorporated city or town, with any incorporated nonprofit volunteer or community fire department, or with the Department of Agriculture and Consumer Services to furnish fire ~~protection;~~ or protection.
- (2) ~~By furnishing~~ Furnishing fire protection itself if the county maintains an organized fire ~~department, or~~ department.
- (3) ~~By establishing~~ Establishing a fire ~~department~~ department within the ~~district,~~ or district.
- (4) ~~By utilizing~~ Utilizing any two or more of the above listed methods of furnishing fire protection.

A fire department must meet the minimum public protection requirements established by the Office of State Fire Marshall of the Department of Insurance in order to receive any portion of the tax levied and collected under G.S. 69-25.4."

SECTION 2. G.S. 153A-301(a) reads as rewritten:
"(a) The board of commissioners of any county may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire county:

- (1) Beach erosion control and flood and hurricane protection works.
- (2) Fire ~~protection~~ protection by one or more fire departments that meet the minimum public protection requirements established by the Office of State Fire Marshall of the Department of Insurance.

...."

SECTION 3. This act becomes effective July 1, 2019.





HOUSE BILL 310: Clarify Insurance Prod'r Crim. Bckgrd Check.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 21, 2019
Introduced by:	Reps. McElraft, Setzer, Richardson, Pierce	Prepared by:	Jeremy Ray
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 310 would exempt applicants for a limited line credit insurance producer license from the requirement to submit to a criminal history record check.*

CURRENT LAW: Currently, only applicants applying for a renewal or continuation of a home state insurance producer license or a nonresident insurance producer licenser are exempt from the requirement to submit to a criminal history record check.

BILL ANALYSIS: The bill would exempt applicants for a limited line credit insurance producer license from the requirement to submit to a criminal history record check.

EFFECTIVE DATE: The act would become effective October 1, 2019, and apply to applications for a new limited line credit insurance producer or a renewal or continuation of a limited line credit insurance producer license received by the Commissioner of Insurance on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 310

Short Title: Clarify Insurance Prod'r Crim. Bckgrd Check. (Public)

Sponsors: Representatives McElraft, Setzer, Richardson, and Pierce (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Judiciary, if favorable, Rules, Calendar, and Operations of the House

March 11, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT LIMITED LINE CREDIT INSURANCE PRODUCERS FROM
3 CRIMINAL BACKGROUND CHECK REQUIREMENTS.
4 The General Assembly of North Carolina enacts:
5 SECTION 1. G.S. 58-33-48 reads as rewritten:
6 "§ 58-33-48. Criminal history record checks.
7 (a) An applicant for an insurance producer license under this Article shall furnish the
8 Commissioner with a complete set of the applicant's fingerprints in a manner prescribed by the
9 Commissioner. The applicant's fingerprints shall be certified by an authorized law enforcement
10 officer. The fingerprints of every applicant shall be forwarded to the State Bureau of Investigation
11 for a search of the applicant's criminal history record file, if any. If warranted, the State Bureau
12 of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for
13 a national criminal history record check. An applicant shall pay the cost of the State and any
14 national criminal history record check of the applicant.
15 ...
16 (c) This section does not apply to any of the following:
17 (1) ~~a~~ A person applying for renewal or continuation of a home state insurance
18 producer license or a nonresident insurance producer license.
19 (2) A person applying for a limited line credit insurance producer license."
20 SECTION 2. This act is effective October 1, 2019, and applies to applications for a
21 new limited line credit insurance producer license or a renewal or continuation of a limited line
22 credit insurance producer license received by the Commissioner of Insurance on or after that
23 date.



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair**

FAVORABLE AND RE-REFERRED

HB 310 Clarify Insurance Prod'r Crim. Bckgrd Check.
Draft Number: None
Serial Referral: JUDICIARY
Recommended Referral: None
Long Title Amended: No
Floor Manager: McElraft

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 120 Clarify Fire District Funding Eligibility.
Draft Number: H120-PCS40200-TUf-3
Serial Referral: FINANCE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Conrad

TOTAL REPORTED: 2



★ C M R 1 4 2 - V - 1 ★

**House Committee on Insurance
Thursday, April 11, 2019 at 8:30 AM
Room 544 of the Legislative Office Building**

MINUTES

The House Committee on Insurance met at 8:30 AM on April 11, 2019, in Room 544 of the Legislative Office Building. Representatives Beasley, Bumgardner, Cleveland, Floyd, Garrison, Gill, Goodwin, Graham, K. Hall, Henson, Holley, Howard, Humphrey, Iler, Lucas, McElraft, Montgomery, Murphy, Pierce, Ross, Sasser, Setzer, Warren, and Willingham attended. (The Visitor Registration Sheets are attached as Exhibit A, and the Agenda is attached as Exhibit B.)

Representative Dana Bumgardner, Co-Chair, presided and called the meeting to order at 8:34. Representative Bumgardner recognized the Pages and Assistant Sergeants-at-Arms serving the committee. Pages were Fabian Horton sponsored by Representative Elmer Floyd and Dalton Snipes sponsored by Representative John A. Torbett. A list of the Assistant Sergeants-at-Arms serving the committee is attached as Exhibit C.

The following bills were considered:

HB 205 Veh. Property Dmg./Determining Amt. of Loss. (Representative Torbett)

Chairman Bumgardner recognized Representative Torbett to explain House Bill 205, A BILL TO AMEND THE LAW GOVERNING THE PROCEDURES FOR DETERMINING THE AMOUNT OF PROPERTY DAMAGE TO A MOTOR VEHICLE WHEN LIABILITY FOR COVERAGE FOR THE CLAIM IS NOT IN DISPUTE. (HB 205 is attached as Exhibit D, and the Staff Analysis of HB 205 is attached as Exhibit E.) Representative Torbett said there was an amendment, which was offered by Edward Goodwin (attached as Exhibit F), and Representative Warren moved to adopt the amendment. The motion carried.

After questions and discussion, Representative Floyd moved that the amendment be rolled into a Committee Substitute and be given a favorable report with a serial referral to the Committee on Rules, Calendar, and Operations of the House. The motion carried.

HB 219 NAIC Accreditation Amendments.-AB (Representatives Setzer, Bumgardner, Corbin)

Chairman Bumgardner recognized Representative Setzer to explain House Bill 219, A BILL TO BE ENTITLED AN ACT TO REVISE VARIOUS INSURANCE LAWS IN ORDER TO MAINTAIN NAIC ACCREDITATION, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE. (HB 219 is attached as Exhibit G.) Representative Setzer moved that a Proposed Committee Substitute (PCS) be before the committee for consideration and the motion carried. (A copy of the PCS is attached as Exhibit H, and a Staff Analysis of the bill is attached as Exhibit I.)

Representative Cleveland moved that the Committee Substitute for HB 219 be given a favorable report, unfavorable as to the original bill, with a serial referral to referral to the Committee on Rules, Calendar, and Operations of the House. The motion carried.

HB 221 Rate-Making Amendments.-AB (Representatives Setzer, Bumgardner, Corbin)

Chairman Bumgardner recognized Representative Setzer to explain House Bill 221, A BILL TO BE ENTITLED AN ACT TO AMEND THE INSURANCE RATE-MAKING LAWS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE. (HB 221 is attached as Exhibit J.) Representative Setzer moved that a PCS for HB 221 be before the committee for discussion, and the motion carried. (Copy of PCS for HB221 is attached as Exhibit K, and the Staff Analysis is attached as Exhibit L.) Following Representative Setzer's explanation, Representative Lucas moved that the PCS for 221 be given a favorable report, unfavorable as to the committee substitute bill, with a serial referral to the Committee on Transportation. The motion carried.

HB 222 Modify Crim Penalties/NAIC Fraud Act- AB. (Representatives Setzer, Bumgardner, Corbin)

Chairman Bumgardner recognized Representative Setzer to explain House Bill 222, A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE INSURANCE LAWS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE. (A copy of HB 222 is attached as Exhibit M.) Representative Setzer moved that a PCS for HB 222 be before the committee for discussion, and the motion carried. (PCS for HB222 is attached as Exhibit N, and the Staff Analysis is attached as Exhibit O.) Following Representative Setzer's explanation, Representative Cleveland moved that the original HB 222 be given an unfavorable report and the committee substitute for HB 222 be given a favorable report, with a serial referral to the Committee on Rules, Calendar, and Operations of the House. The motion carried.

HB 464 Small Business Health Care Act. (Representatives K. Hall, Grange, Dobson, B. Turner)

Chairman Bumgardner recognized Representative K. Hall to explain House Bill 464, A BILL TO BE ENTITLED AN ACT TO ESTABLISH STANDARDS FOR ASSOCIATION HEALTH PLANS. (A copy of HB 464 is attached as Exhibit P.) Representative Ross moved a PCS for HB 464 be before the Committee for discussion, and the motion carried. (A copy of the PCS for HB 464 is attached as Exhibit Q, and a Staff Analysis of the PCS for HB 464 is attached as Exhibit R.) Representative Hall offered a clarifying amendment to the PCS (Exhibit S), and Representative Setzer moved the amendment be adopted. The motion carried. Representative Holley offered an amendment (Exhibit T), and Representative Hall said he supported it. Representative Warren moved the Holley amendment be adopted, and the motion carried. Legislative Council, Jason Moran Bates, answered questions from the committee, and Chairman Bumgardner allowed comments from the public. Speaking in opposition was Kenneth J. Lewis, NC Association of Health Plans. Those speaking in favor were: Wendy L. Harris, NC Realtors; Christine Weason, American Cancer Society, Cancer Action Network; Isabell Villa Garcia, NC

Restaurant and Lodging Association; Andy Ellen, NC Retail Association; Chris Evans, Blue Cross/Blue Shield of North Carolina; Steve Griffin, Insurance People NC.

The Chair recognized Representative Setzer and he moved that the amended PCS be rolled into a new committee substitute and be given a favorable report, unfavorable as to the original bill, with a serial referral to the Committee on Health. The motion carried.

HB 466 Firefighters' Line of Duty Diseases/Funds. (Representatives Riddell, Saine, Wray, Barnes)


Chairman Bumgardner recognized Representatives Saine and Riddell to explain House Bill 466, A BILL TO BE ENTITLED AN ACT EXPANDING THE LIST OF CANCERS COVERED AS OCCUPATIONAL DISEASES FOR FIREFIGHTERS' DEATH BENEFITS AND APPROPRIATING FUNDS TO COVER THE ADDITIONAL DEATH BENEFITS. (A copy of HB 466 is attached as Exhibit U, and a copy of the Staff Analysis of HB 466 is attached as Exhibit V.) Speaking in favor of the bill were Scott Mullins, Professional Firefighters and Paramedics of NC; and Tim Bradley, NC State Fireman's Association. There was committee discussion with Jeremy Ray, Staff Counsel answering questions. Representative Floyd moved that HB 466 be given a favorable report with a serial referral to the Committee on Appropriations, General Government. The motion carried.

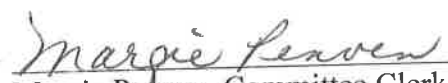
HB 553 Licensing Certain Fire Safety Equip. Work. (Representatives Strickland, Barnes, Corbin, Hardister)

Chairman Bumgardner recognized Representative Strickland to explain House Bill 553, A BILL TO BE ENTITLED AN ACT TO REQUIRE LICENSING AND PERMITTING FOR INDIVIDUALS AND FIRMS THAT INSTALL AND SERVICE PORTABLE FIRE EXTINGUISHERS AND FIRE SUPPRESSION SYSTEMS. (A copy of HB 553 is attached as Exhibit W, and a copy of the Staff Analysis is attached as Exhibit X.) Representative K. Hall sent forth an amendment, explained it, and moved for its adoption. (The amendment is attached as Exhibit Y.) The motion carried and the amendment was adopted. Representative Setzer moved that HB 553 as amended be rolled into a committee substitute and be given a favorable report with a serial referral to the Committee on Finance. The motion carried.

The meeting adjourned at 9:45 a.m.

A copy of the committee reports sent to the House floor are attached as Exhibit Z.


Representative Dana Bumgardner, Chair
Presiding


Margie Penven, Committee Clerk

Attachments:

House Insurance Committee Minutes
April 11, 2019

- A. Visitor Registration Sheets
- B. Agenda
- C. Assistant Sergeants-at-Arms serving committee
- D. House Bill 205
- E. Staff Analysis of HB 205
- F. Goodwin Amendment to House Bill 205
- G. House Bill 205
- H. Proposed Committee Substitute for House Bill 219
- I. Staff Analysis of PCS to HB 219
- J. House Bill 221
- K. Proposed Committee Substitute for House Bill 221
- L. Staff Analysis of PCS for HB 221
- M. House Bill 222
- N. Proposed Committee Substitute for House Bill 222
- O. Staff Analysis of PCS for HB 222
- P. House Bill 464
- Q. Proposed Committee Substitute for House Bill 464
- R. Staff Analysis of PCS for HB 464
- S. K. Hall Amendment to PCS for House Bill 464
- T. Holley Amendment to PCS for House Bill 464
- U. House Bill 466
- V. Staff Analysis of HB 466
- W. House Bill 553
- X. K. Hall Amendment to HB 553
- Y. Staff Analysis of House Bill 553
- Z. Insurance Committee Reports to House of Representatives, 4/11/19

VISITOR REGISTRATION SHEET

House Committee on Insurance ✓

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Nelson Barber	SFA Fire Protection Inc / NCA FED
Eddie Parrish	Parrish Fire and Safety / NCA FED
Tim Stamp	FIRE DEFENSE LLC / NCA FED
Tom Logan	NMRS
Robt Paschal	Paschal Law
Erwin Robinson	NCRMA
Chris Whitehead	BFPE International / NCA FED
MIKE MOODY	JOHNSON CONTROLS / NCA FED
Susan Kiley	ProServe Fire Protection
Derrick Johnson	ProServe Fire Protection
Phil Daines	United Fire & Safety Equipment Co

VISITOR REGISTRATION SHEET

House Committee on Insurance

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

ADY Thomas	FPA
Scott Mullins	PFFDnc
Jason Gormer	newframe
Skye David	newframe
Dana Sings	SA
Kara Westcott	SA
David Crawford	AIA NC
Christine Weason	ACS CAN
M/James	RCP
Marissa Turner	TSS
Hatha Balruh	PPAP

VISITOR REGISTRATION SHEET

House Committee on Insurance

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

STEVE GRIFIN	INSURANCE PEOPLE OF NC.
Ken Lewis	NCAHP
DANIEL BAUM	TRUTH IN SALES
Jackie O'busek	NCDOT
JAN ANDREWS	NCDOT
Wendy Kelly	EPA
Richard Bostic	NCSBA
Chipp Baggett	NCHS
Mark Ewing	BOBS NC
BILL SCOBGIN	TS
Therrell	CLGA

VISITOR REGISTRATION SHEET

House Committee on Insurance

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Andy Ellen	NCRMA
Rhudegan Jackson	FPA
John Villa-Gomez	NCLLA
Margo Metzger	NCLLA
Ar	
Amburn Harris	NCAcc
April Neumann	PAUC
Fred Bon	Bon: Asso
Kong Kong	NCRMA
Resha Fortson	SCIANL
Liberty	CSS

VISITOR REGISTRATION SHEET

House Committee on Insurance

Name of Committee

April 11, 2019

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Harry Kyle

h w C

Henry Jones

Jordan Price

David Ferrell

NP

Michelle Frazier

NP

VISITOR REGISTRATION SHEET

House Committee on Insurance

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

David Henson	NC Nonprofits
Art Lyon	NATIONAL GENERAL INSURANCE
Susan Volante	Nationwide
RAY EVANS	NCRB
Joanna Biliouris	NC Rate Bureau
Rebecca Williams	NCRB
JAN Peter LASKOW	OUTER BANKS FIRE PROTECTION ALONG WITH NC ASSOC OF FIRE EQUIPMENT DISTRIBUTION NCAFE
Charles Sanford	Pyro-BARK FIRE SAFETY AND NORTH CAROLINA ASSOC OF FIRE EQUIPMENT (NCAFE)

VISITOR REGISTRATION SHEET

House Committee on Insurance

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tiffany Gladney	NC Rural Center
Sue Ann Jones	NKMS
Demetrius Deloatch	NCLM
Zuri Arthur	ECNC
Will Morgan	MFS
John Harsanyi	MFS
Tin Bradney	NC SFA
Ed Brinson	NC SFA
Paul Sherrin	NKFA
Gordon Hley	NCOC
Nick Fountain	Young Mooty

VISITOR REGISTRATION SHEET

House Committee on Insurance

April 11, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Walter Jones	Jordan Pore
Bill Barnett	Smith Anderson
Rob Roegner	OS FM / DOT
Preim Taylor	OS FM / DOI
TED HAMBY	NC DOI
Bob Mays	NC DOI
Math Gross	DHHS
Stewart	INAC
Curran	NCRR
Rhonda Clodfelter	Fire-Ade Inc. / NCAFEF
GARY CLODFELTER	FIRE-ADE, INC / NCAFEF

**House Committee on Insurance
Thursday, April 11, 2019, 8:30 AM
544 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 205	Veh. Property Dmg./Determining Amt. of Loss.	Representative Torbett
HB 219	NAIC Accreditation Amendments.-AB	Representative Setzer Representative Bumgardner Representative Corbin
HB 221	Rate-Making Amendments.-AB	Representative Setzer Representative Bumgardner Representative Corbin
HB 222	Insurance Technical Changes.-AB	Representative Setzer Representative Bumgardner Representative Corbin
HB 464	Small Business Health Care Act.	Representative K. Hall Representative Grange Representative Dobson Representative B. Turner
HB 466	Firefighters' Line of Duty Diseases/Funds.	Representative Riddell Representative Saine Representative Wray
HB 553	Licensing Certain Fire Safety Equip. Work.	Representative Barnes Representative Strickland Representative Barnes Representative Corbin Representative Hardister

Presentations

Other Business

Adjournment

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Insurance

DATE: 4-11-19 Room: 544 LOB

House Sgt-At Arms:

1. Name: Reggie Sills
2. Name: Marvin Lee
3. Name: John Gilbert
4. Name: Warren Hawkins
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

2

HOUSE BILL 205
Committee Substitute Favorable 3/26/19

Short Title: Veh. Property Dmg./Determining Amt. of Loss.

(Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING THE PROCEDURES FOR DETERMINING
THE AMOUNT OF PROPERTY DAMAGE TO A MOTOR VEHICLE WHEN LIABILITY
FOR COVERAGE FOR THE CLAIM IS NOT IN DISPUTE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-279.21(d1) reads as rewritten:

"(d1) Such motor vehicle liability policy shall provide an alternative method of determining the amount of property damage to a motor vehicle when liability for coverage for the claim is not in dispute. For a claim for property damage to a motor vehicle against an insurer, the policy shall provide that if:

- (1) The claimant and the insurer fail to agree as to the difference in fair market value of the vehicle immediately before the accident and immediately after the accident; and
- (2) The difference in the claimant's and the insurer's estimate of the diminution in fair market value is greater than ~~two thousand dollars (\$2,000) or twenty-five percent (25%)~~ five hundred dollars (\$500.00) of the fair market retail value of the vehicle prior to the accident as determined by the latest edition of the National Automobile Dealers Association Pricing Guide ~~Book or other publications approved by the Commissioner of Insurance, whichever is less, Book;~~ then on the written demand of either the claimant or the insurer, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days after the demand. The appraisers shall then appraise the ~~loss. loss and exchange appraisals~~ within 15 days for review by the opposing appraiser. Any appraiser who refuses to appraise the loss or exchange an appraisal with an opposing appraiser as required pursuant to this subdivision is subject to a civil penalty under G.S. 58-2-70. Should the appraisers fail to agree, they shall then select a competent and disinterested appraiser to serve as an umpire. If the appraisers cannot agree upon an umpire within 15 days, either the claimant or the insurer may request that a magistrate resident in the county where the insured motor vehicle is registered or the county where the accident occurred select the umpire. The appraisers shall then submit their differences to the umpire. The umpire then shall prepare a report determining the amount of the loss and shall file the report with the insurer and the claimant. The agreement of the two appraisers or the report of the umpire, when filed with the insurer and the claimant, shall determine the amount of the damages. In preparing the report, the umpire shall not award



1 damages that are higher or lower than the determinations of the appraisers. In
2 no event shall appraisers or the umpire make any determination as to liability
3 for damages or as to whether the policy provides coverage for claims asserted.
4 ~~The claimant or the insurer shall have 15 days from the filing of the report to~~
5 ~~reject the report and notify the other party of such rejection. If the report is not~~
6 ~~rejected within 15 days from the filing of the report, the report shall be binding~~
7 ~~upon~~ The report of the umpire is binding on both the claimant and the insurer.
8 Each appraiser shall be paid by the party selecting the appraiser, and the
9 expenses of appraisal and umpire shall be paid by the parties equally. For
10 purposes of this section, "appraiser" and "umpire" shall mean a person
11 licensed as a motor vehicle damage appraiser under G.S. 58-33-26 and
12 G.S. 58-33-30 and who as a part of his or her regular employment is in the
13 business of advising relative to the nature and amount of motor vehicle
14 damage and the fair market value of damaged and undamaged motor
15 vehicles."

16 **SECTION 2.** This act becomes effective October 1, 2019, and applies to policies
17 issued, renewed, or amended on or after that date.



HOUSE BILL 205: Veh. Property Dmg./Determining Amt. of Loss.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 4, 2019
Introduced by:	Rep. Torbett	Prepared by:	Bill Patterson*
Analysis of:	Second Edition		Committee Co-Counsel

OVERVIEW: *House Bill 205 would modify the required method for determining the amount of vehicle damage in a claim under a motor vehicle liability policy when liability for coverage for the claim is not in dispute.*

CURRENT LAW: Each motor vehicle liability policy must provide the following procedure for determining the amount of vehicle damage when liability for coverage is not in dispute, a claimant and insurer fail to agree on the difference in fair market value before and after an accident, and the difference in their respective diminished value amounts exceeds the lesser of \$2,000 or 25% of the fair market retail value of the vehicle prior to the accident:

- Upon the demand of either party, the claimant and insurer shall each select a competent and disinterested appraiser within 20 days after the demand.
- The appraisers shall then appraise the loss.
- Should the appraisers fail to agree, they shall then select a competent and disinterested appraiser to serve as an umpire, or if they cannot agree on one, a magistrate judge may select the umpire.
- The appraisers shall then submit their differences to the umpire, and the umpire then shall prepare a report determining the amount of the loss and report to the insurer and the claimant.
- The agreement of the two appraisers or the report of the umpire, when filed with the insurer and the claimant, shall determine the amount of the damages.
- The claimant or the insurer shall have 15 days from the filing of the report to reject the report and notify the other party of such rejection. If the report is not rejected within 15 days from the filing of the report, the report shall be binding upon both the claimant and the insurer.

BILL ANALYSIS: House Bill 205 would make the following changes to this procedure:

- Trigger the process when the difference between the claimant's and insurer's respective diminished value amounts is more than \$500.
- Require the disinterested appraisers to exchange their appraisals within 15 days.
- An appraiser who fails to appraise the loss or exchange an appraisal with the opposing appraiser as required would be subject to a civil penalty.
- The parties could not reject the umpire's report, which would be binding on them.

EFFECTIVE DATE: This act would become effective October 1, 2019, and would apply to policies issued, renewed, or amended on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 205

Page 2

** Howard Marsilio, counsel to House Transportation Committee, substantially contributed to this summary.*



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 205

H205-ATG-17 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
Second Edition

Date _____, 2019

Representative

1 moves to amend the bill on page 1, line 23, by rewriting the line to read:
2

3 "appraise the ~~loss~~-loss and exchange appraisals within 35 days after the
4 demand, for review by", and
5

6 on page 1, line 26, by rewriting the line to read:
7

8 "subdivision is subject to a civil penalty under G.S. 58-2-70. Should the
9 appraisers agree, they shall put their agreement in writing and shall file the
10 agreement with the insured and the claimant. Should the", and
11

12 on page 2, line 7, by rewriting the line to read:
13

14 "~~upon~~-The agreement of the appraisers or report of the umpire is binding on
15 both the claimant and the insurer."
16
17

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 2 0 5 - A T G - 1 7 - V - 2 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 219*

Short Title: NAIC Accreditation Amendments.-AB

(Public)

Sponsors: Representatives Setzer, Bumgardner, and Corbin (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

February 28, 2019

1 AN ACT TO REVISE VARIOUS INSURANCE LAWS IN ORDER TO MAINTAIN NAIC
2 ACCREDITATION, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.
3 The General Assembly of North Carolina enacts:

PART I. SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS**SECTION 1.(a)** G.S. 58-19-5 is amended by adding a new subdivision to read:

6 "(10a) Group-wide supervisor. – The regulatory official authorized to engage in
7 conducting and coordinating group-wide supervision activities who is
8 determined or acknowledged by the Commissioner under G.S. 58-19-38 to
9 have sufficient significant contacts with the internationally active insurance
10 group."

SECTION 1.(b) G.S. 58-19-5 is amended by adding a new subdivision to read:

11 "(12a) Internationally active insurance group. – An insurance holding company
12 system that includes an insurer registered under G.S. 58-19-25 and that meets
13 all of the following criteria:

- 14 a. The insurance holding company system writes premiums in at least
15 three countries.
16 b. The percentage of gross premiums of the insurance holding company
17 system written outside the United States is at least ten percent (10%)
18 of the insurance holding company system's total gross written
19 premiums.
20 c. Based on a three-year rolling average, the total assets of the insurance
21 holding company system are at least fifty billion dollars
22 (\$50,000,000,000) or the total gross written premiums of the insurance
23 holding company system are at least ten billion dollars
24 (\$10,000,000,000)."
25

26 **SECTION 1.(c)** Article 19 of Chapter 58 of the General Statutes is amended by
27 adding a new section to read as follows:

"§ 58-19-38. Group-wide supervision of internationally active insurance groups.

29 (a) In cooperation with other state, federal, and international regulatory agencies, the
30 Commissioner will identify a single group-wide supervisor for an internationally active insurance
31 group in accordance with the provisions of this section. The Commissioner is authorized to act
32 as the group-wide supervisor for any internationally active insurance group. However, the
33 Commissioner may otherwise acknowledge another regulatory official as the group-wide
34 supervisor where the internationally active insurance group meets any of the following criteria:

- 35 (1) It does not have substantial insurance operations in the United States.



(2) It has substantial insurance operations in the United States, but not in this State.

(3) It has substantial insurance operations in the United States and this State, but the Commissioner has determined pursuant to the factors set forth in subsections (b) and (f) of this section that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the Commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

(b) The Commissioner shall consider all of the following factors when determining that the Commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this State or acknowledges that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group:

(1) The place of domicile of the insurers within the internationally active insurance group that holds the largest share of the group's written premiums, assets, or liabilities.

(2) The place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group.

(3) The location of the executive offices or largest operational offices of the internationally active insurance group.

(4) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the Commissioner determines to have either of the following characteristics:

a. The system is substantially similar to the system of regulation provided under the laws of this State.

b. The system is otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(5) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the Commissioner with reasonably reciprocal recognition and cooperation.

A regulatory official identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made (i) after consideration of the factors listed in subdivisions (1) through (5) of this subsection, (ii) in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and (iii) in consultation with the internationally active insurance group.

(c) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, the Commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection (b) of this section when there is a material change in the internationally active insurance group that results in either of the following:

(1) The internationally active insurance group's insurers domiciled in this State holding the largest share of the group's premiums, assets, or liabilities.

(2) This State being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(d) Pursuant to G.S. 58-19-35, the Commissioner is authorized to collect from any insurer registered pursuant to G.S. 58-19-25 all information necessary to determine whether the Commissioner may act as the group-wide supervisor of an internationally active insurance group or if the Commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the Commissioner, the Commissioner shall notify the insurer registered pursuant to G.S. 58-19-25 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have 30 days to provide the Commissioner with additional information pertinent to the pending determination.

(e) If the Commissioner is the group-wide supervisor for an internationally active insurance group, the Commissioner is authorized to engage in the following group-wide supervision activities:

- (1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:
 - a. That the material financial condition and liquidity risks to the members of the internationally active insurance group, that are engaged in the business of insurance, are identified by management.
 - b. That reasonable and effective mitigation measures are in place.
- (2) Request, from any member of an internationally active insurance group subject to the Commissioner's supervision, information necessary and appropriate to assess enterprise risk. This information includes information about the governance, risk assessment and management, capital adequacy, and material intercompany transactions of the members of the internationally active insurance group.
- (3) Coordinate and, in reliance on the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.
- (4) Communicate with other state, federal, and international regulatory agencies with jurisdiction over members within the internationally active insurance group and share relevant information through supervisory colleges as set forth in G.S. 58-19-37 or otherwise subject to the confidentiality provisions of G.S. 58-19-40.
- (5) Request documents or enter into agreements providing the basis for or otherwise clarifying the Commissioner's role as group-wide supervisor with any insurer registered under G.S. 58-19-25, any member of the internationally active insurance group, and any other state, federal, and international regulatory agencies with jurisdiction over members of the internationally active insurance group. These agreements may include provisions for resolving disputes with other regulatory officials. These agreements or documentation shall not serve as evidence in any proceeding that insurers or other persons within an insurance holding company system, not domiciled or incorporated in this State, are doing business in this State or are otherwise subject to jurisdiction in this State.
- (6) Other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the Commissioner.

(f) If the Commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the Commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that both of the following conditions are met:

- (1) The Commissioner's cooperation is in compliance with the laws of this State.
- (2) The regulatory official acknowledged as the group-wide supervisor recognizes and cooperates with the Commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.

Where recognition and cooperation are not reasonably reciprocal, the Commissioner is authorized to refuse recognition and cooperation.

(g) The Commissioner may enter into agreements with or obtain documentation from any insurer registered under G.S. 58-19-25, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(h) The Commissioner may adopt rules necessary for the administration of this section.

(i) A registered insurer subject to this section shall be liable for the reasonable expenses of the Commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and reasonable travel expenses."

SECTION 1.(d) G.S. 58-19-40(a) reads as rewritten:

"(a) Documents, materials, or other information in the possession or control of the Department that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to G.S. 58-19-35, and all information reported or provided to the Department pursuant to subdivisions (11a) and (11b) of G.S. 58-19-15(b), G.S. 58-19-25, and G.S. 58-19-30, G.S. 58-19-30 and G.S. 58-19-38 shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication thereof, in which event the Commissioner may publish all or any part of the information in such manner as may be deemed appropriate."

PART II. OVERSIGHT OF INTERNAL AUDIT FUNCTIONS OF INSURERS OR GROUPS OF INSURERS

SECTION 2.(a) G.S. 58-10-190(3) reads as rewritten:

"(3) "Audit committee" means a committee, or equivalent body, established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of ~~insurers~~ insurers, any internal audit function of the insurer or group of insurers, and external audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers at the election of the controlling person as provided in G.S. 58-10-245(f). If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee."

SECTION 2.(b) G.S. 58-10-190 is amended by adding a new subdivision to read:

1 "(6a) "Internal audit function" means a person or persons that provide independent,
2 objective, and reasonable assurance designed to add value and improve an organization's
3 operations and accomplish its objectives by bringing a systematic, disciplined approach to
4 evaluate and improve the effectiveness of risk management, control, and governance processes."

5 **SECTION 2.(c)** G.S. 58-10-245 is amended by adding a new subsection to read:

6 "(b1) The audit committee of an insurer or group of insurers shall be responsible for
7 overseeing the insurer's internal audit function and granting the person or persons performing the
8 function suitable authority and resources to fulfill the requirements of G.S. 58-10-246."

9 **SECTION 2.(d)** Article 10 of Chapter 58 of the General Statutes is amended by
10 adding a new section to read as follows:

11 **"§ 58-10-246. Internal audit function requirements.**

12 (a) Exemption. – An insurer is exempt from the requirements of this section if both of
13 the following apply:

14 (1) The insurer has annual direct written and unaffiliated assumed premium,
15 including international direct and assumed premium, but excluding premiums
16 reinsured with the Federal Crop Insurance Corporation and Federal Flood
17 Program, less than five hundred million dollars (\$500,000,000).

18 (2) If the insurer is a member of a group of insurers, the group has annual direct
19 written and unaffiliated assumed premium including international direct and
20 assumed premium, but excluding premiums reinsured with the Federal Crop
21 Insurance Corporation and Federal Flood Program, less than one billion
22 dollars (\$1,000,000,000).

23 (b) Function. – The insurer or group of insurers shall establish an internal audit function
24 providing independent, objective, and reasonable assurance to the audit committee and insurer
25 management regarding the insurer's governance, risk management, and internal controls. This
26 assurance shall be provided by performing general and specific audits, reviews, and tests and by
27 employing other techniques deemed necessary to protect assets, evaluate control effectiveness
28 and efficiency, and evaluate compliance with policies and regulations.

29 (c) Independence. – In order to ensure that internal auditors remain objective, the internal
30 audit function must be organizationally independent. For purposes of this section,
31 "organizationally independent" means that the internal audit function (i) shall not defer ultimate
32 judgment on audit matters to others and (ii) shall appoint an individual to head the internal audit
33 function who will have direct and unrestricted access to the board of directors of the insurer or
34 group of insurers. Organizational independence does not preclude dual-reporting relationships.

35 (d) Reporting. – The head of the internal audit function shall report to the audit committee
36 with a frequency no less than annually on the periodic audit plan, factors that may adversely
37 impact the internal audit function's independence or effectiveness, material findings from
38 completed audits, and the appropriateness of corrective actions implemented by management as
39 a result of audit findings.

40 (e) Additional Requirements. – If an insurer is a member of an insurance holding
41 company system or included in a group of insurers, the insurer may satisfy the internal audit
42 function requirements set forth in this section at the ultimate controlling parent level, an
43 intermediate holding company level, or the individual legal entity level."

44 **SECTION 2.(e)** G.S. 58-10-260 is amended by adding a new subsection to read:

45 "(g) The requirements of G.S. 58-10-246 become effective January 1, 2020. An insurer or
46 group of insurers exempt from G.S. 58-10-246 that no longer meets the threshold for exemption
47 shall have one calendar year after the year the threshold is exceeded to comply with the
48 requirements of that section."

49
50 **PART III. CORPORATE GOVERNANCE ANNUAL DISCLOSURE**

1 **SECTION 3.(a)** Article 10 of Chapter 58 of the General Statutes is amended by
2 adding a new Part to read:

3 "Part 11. Corporate Governance Annual Disclosure.

4 "§ 58-10-755. Purpose and scope.

5 (a) The purpose of this Part is to:

- 6 (1) Provide the Commissioner a summary of an insurer or insurance group's
7 corporate governance structure, policies, and practices to permit the
8 Commissioner to gain and maintain an understanding of the insurer's
9 corporate governance framework.
10 (2) Outline the requirements for completing a corporate governance annual
11 disclosure with the Commissioner.
12 (3) Provide for the confidential treatment of the corporate governance annual
13 disclosure and related information that will contain confidential and sensitive
14 information related to an insurer or insurance group's internal operations and
15 proprietary and trade secret information which, if made public, could
16 potentially cause the insurer or insurance group competitive harm or
17 disadvantage.
18 (4) Set forth the procedures for filing and the required contents of the Corporate
19 Governance Annual Disclosure.

20 (b) Nothing in this Part shall be construed to prescribe or impose corporate governance
21 standards and internal procedures beyond that which is required under applicable state corporate
22 law. Notwithstanding the foregoing, nothing in this Part shall be construed to limit the
23 Commissioner's authority, or the rights or obligations of third parties, under G.S. 58-2-131
24 through G.S. 58-2-134.

25 (c) The requirements of this Part shall apply to all insurers domiciled in this state.

26 "§ 58-10-760. Definitions.

27 The following definitions apply in this Part:

- 28 (1) CGAD or Corporate Governance Annual Disclosure. – A confidential report
29 filed by an insurer or insurance group made in accordance with the
30 requirements of this Part.
31 (2) Insurance group. – Those insurers and affiliates included within an insurance
32 holding company system as defined in G.S. 58-19-5.
33 (3) Insurer. – Defined in G.S. 58-1-5 and includes a person subject to Articles 65
34 or 67 of this Chapter. Insurer does not include an agency, authority, or
35 instrumentality of the United States; any of its possessions and territories; the
36 Commonwealth of Puerto Rico; the District of Columbia; a state, or a political
37 subdivision of a state.
38 (4) Senior management. – Any corporate officer responsible for reporting
39 information to the board of directors at regular intervals or providing this
40 information to shareholders or regulators and shall include the chief executive
41 officer, chief financial officer, chief operations officer, chief procurement
42 officer, chief legal officer, chief information officer, chief technology officer,
43 chief revenue officer, and chief visionary officer.

44 "§ 58-10-765. Disclosure requirement and filing procedures.

45 (a) An insurer, or the insurance group of which the insurer is a member, shall, no later
46 than June 1 of each calendar year, submit to the Commissioner a CGAD that contains the
47 information described in G.S. 58-10-775. Notwithstanding any request from the Commissioner
48 made pursuant to subsection (c) of this section, if the insurer is a member of an insurance group,
49 the insurer shall submit the report required by this section to the Commissioner of the lead state
50 for the insurance group, in accordance with the laws of the lead state, as determined by the
51 procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC. In

these instances, a copy of the CGAD must also be provided, upon request, to the chief regulatory official of any state in which the insurance group has a domestic insurer.

(b) The CGAD must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the disclosure has been provided to the insurer's or insurance group's board of directors or the appropriate committee thereof.

(c) An insurer not required to submit a CGAD under this section shall do so upon the Commissioner's request.

(d) The insurer or insurance group shall have discretion regarding the appropriate format for providing the required information and may customize the CGAD to provide the most relevant information necessary to permit the Commissioner to gain an understanding of the corporate governance structure, policies, and practices utilized by the insurer or insurance group.

(e) For purposes of completing the CGAD, the insurer or insurance group may provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level, or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures (i) at the level at which the insurer's or insurance group's risk appetite is determined, (ii) at the level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or (iii) at the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.

(f) The review of the CGAD and any additional requests for information shall be made through the lead state as determined by the procedures within the most recent Financial Analysis Handbook adopted by the NAIC.

(g) An insurer or insurance group providing information substantially similar to the information required by this Part in other documents provided to the Commissioner, including proxy statements filed in conjunction with Form B requirements, or other state or federal filings provided to the Commissioner, shall not be required to duplicate that information in the CGAD, but shall only be required to cross reference the document in which the information is included. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the Commissioner.

(h) Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing shall so state.

"§ 58-10-770. Rules and regulations.

The Commissioner may adopt such rules and issue such orders as shall be necessary to carry out the provisions of this Part.

"§ 58-10-775. Contents of corporate governance annual disclosure.

(a) The insurer or insurance group shall have discretion over the responses to the CGAD inquiries, provided the CGAD shall contain the material information necessary to permit the Commissioner to gain an understanding of the insurer's or insurance group's corporate governance structure, policies, and practices. The Commissioner may request additional information that he or she deems material and necessary to provide the Commissioner with a clear understanding of the corporate governance policies, the reporting or information system, or controls implementing those policies.

(b) Notwithstanding subsection (a) of this section, the CGAD shall be prepared consistent with this Part. Documentation and supporting information shall be maintained and made available upon examination or upon request of the Commissioner.

(c) The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process that may provide a means to demonstrate the strengths of their governance framework and practices.

(d) The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure, including consideration of all of the following:

(1) The board of directors and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level at which that oversight occurs, such as the ultimate control level, intermediate holding company level, or legal entity level. The insurer or insurance group shall describe and discuss the rationale for the current board of directors' size and structure.

(2) The duties of the board of directors and each of its significant committees and how they are governed, such as by bylaws, charters, or informal mandates.

(3) How the board of directors' leadership is structured, including a discussion of the roles of chief executive officer and chairman of the board of directors within the organization.

(e) The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of each of the following factors:

(1) How the qualifications, expertise, and experience of each board of directors member meet the needs of the insurer or insurance group.

(2) How an appropriate amount of independence is maintained on the board of directors and its significant committees.

(3) The number of meetings held by the board of directors and its significant committees over the past year as well as information on director attendance.

(4) How the insurer or insurance group identifies, nominates, and elects members to the board of directors and its committees, including information on all of the following:

a. Whether a nomination committee is in place to identify and select individuals for consideration.

b. Whether term limits are placed on directors.

c. How the election and reelection processes function.

d. Whether a board of directors' diversity policy is in place and, if so, how it functions.

(5) The processes in place for the board of directors to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance, including any board of directors or committee training programs that have been put in place.

(f) The insurer or insurance group shall describe the policies and practices for directing senior management, including a description of each of the following factors:

(1) Any processes or practices, such as suitability standards, to determine whether officers and key persons in control functions have the appropriate background, experience, and integrity to fulfill their prospective roles, including both of the following:

a. Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.

- 1 b. Any changes in an officer's or key person's suitability as outlined by
2 the insurer's or insurance group's standards and procedures to monitor
3 and evaluate those changes.
- 4 (2) The insurer's or insurance group's code of business conduct and ethics,
5 including information regarding compliance with laws, rules, and regulations
6 as well as proactive reporting of any illegal or unethical behavior.
- 7 (3) The insurer's or insurance group's processes for performance evaluation,
8 compensation, and corrective action to ensure effective senior management
9 throughout the organization, including a description of the general objectives
10 of significant compensation programs and what the programs are designed to
11 reward. The description shall include sufficient detail to allow the
12 Commissioner to understand how the organization ensures that compensation
13 programs do not encourage or reward excessive risk taking. Elements to be
14 discussed include the following:
- 15 a. The board of directors' role in overseeing management compensation
16 programs and practices.
- 17 b. The various elements of compensation awarded in the insurer's or
18 insurance group's compensation programs and how the insurer or
19 insurance group determines and calculates the amount of each element
20 of compensation paid.
- 21 c. How compensation programs are related to both company and
22 individual performance over time.
- 23 d. Whether compensation programs include risk adjustments and how
24 those adjustments are incorporated into the programs for employees at
25 different levels.
- 26 e. Any clawback provisions built into the programs to recover awards or
27 payments if the performance measures upon which they are based are
28 restituted or otherwise adjusted.
- 29 f. Any other factors relevant in understanding how the insurer or
30 insurance group monitors its compensation policies to determine
31 whether its risk management objectives are met by incentivizing its
32 employees.
- 33 (4) The insurer's or insurance group's plans for chief executive officer and senior
34 management succession.
- 35 (g) The insurer or insurance group shall describe the processes by which the board of
36 directors, its committees, and senior management ensure an appropriate amount of oversight to
37 the critical risk areas impacting the insurer's business activities, including a discussion of all of
38 the following:
- 39 (1) How oversight and management responsibilities are delegated between the
40 board of directors, its committees, and senior management.
- 41 (2) How the board of directors is kept informed of the insurer's strategic plans,
42 the associated risks, and steps that senior management is taking to monitor
43 and manage those risks.
- 44 (3) How reporting responsibilities are organized for each critical risk area. The
45 description should allow the Commissioner to understand the frequency at
46 which information on each critical risk area is reported to and reviewed by
47 senior management and the board of directors. This description may include
48 any of the following critical risk areas of the insurer:
- 49 a. Risk management processes.
- 50 b. Actuarial function.
- 51 c. Investment decision-making processes.

- d. Reinsurance decision-making processes.
- e. Business strategy/finance decision-making processes.
- f. Compliance function.
- g. Financial reporting/internal auditing.
- h. Market conduct decision-making processes.

"§ 58-10-780. Confidentiality.

(a) Documents, materials, or other information, including the CGAD, in the possession or control of the Department that are obtained by, created by, or disclosed to the Commissioner or any other person under this Part, are recognized as proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the Commissioner may share or receive confidential documents, materials, or other CGAD-related information pursuant to subsection (c) of this section to assist in the performance of the Commissioner's duties.

(b) Neither the Commissioner nor any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the Commissioner, or with whom such documents, materials, or other information are shared pursuant to this Part shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the Commissioner's regulatory duties, the Commissioner may do all of the following:

(1) Upon request, share documents, materials, or other CGAD-related information including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, with the NAIC, and with third-party consultants pursuant to G.S. 58-10-785, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material, or other information and has verified in writing the legal authority to maintain confidentiality.

(2) Receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(d) The sharing of information and documents by the Commissioner pursuant to this Part shall not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is

solely responsible for the administration, execution, and enforcement of the provisions of this Part.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials or other CGAD-related information shall occur as a result of disclosure of CGAD-related information or documents to the Commissioner under this section or as a result of sharing as authorized in this Part.

"§ 58-10-785. NAIC and third-party consultants.

(a) The Commissioner may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the CGAD-related information or the insurer's compliance with this Part.

(b) Any persons retained under subsection (a) of this section shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

(c) The NAIC and third-party consultants shall be subject to the same confidentiality standards and requirements as the Commissioner.

(d) As part of the retention process, a third-party consultant shall verify to the Commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this Part.

(e) A written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this Part shall contain all of the following provisions and expressly require the written consent of the insurer prior to making public information provided under this Part:

- (1) Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant pursuant to this Part.
- (2) Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.
- (3) A provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the Department and the NAIC's or third-party consultant's use of the information is subject to the direction of the Commissioner.
- (4) A provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this Part in a permanent database after the underlying analysis is completed.
- (5) A provision requiring the NAIC or third-party consultant to provide prompt notice to the Commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information.
- (6) A requirement that the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this Part.

"§ 58-10-790. Sanctions.

(a) Civil Penalties. – Any insurer failing, without just cause, to timely file the CGAD as required in this Part shall be subject to a civil penalty of one hundred dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand dollars (\$1,000).

(b) Notice and Opportunity to Be Heard Required. – After providing notice and opportunity to be heard in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, the Commissioner may order the respondent to pay the assessment and civil penalty imposed by this section.

(c) Disposition of Civil Penalties. – The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Reduction of Civil Penalties. – The Commissioner may reduce the penalty if the insurer demonstrates to the Commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

"§ 58-10-795. Severability clause.

If any provision of this Part other than G.S. 58-10-780, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this Part which can be given effect without the invalid provision or application, and to that end the provisions of this Part, with the exception of G.S. 58-10-780, are severable.

"§ 58-10-800. Effective date.

The requirements of this Part shall become effective on January 1, 2020. The first filing of the CGAD shall be made on or before June 1, 2020."

PART IV. OTHER PROVISIONS

SECTION 4. G.S. 58-58-50(a1)(2) reads as rewritten:

"(a1) As used in this section:

...

(2) Company. – An ~~entity~~ entity, including a fraternal benefit society as defined in Article 24, which has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, annuity contracts, pure endowment contracts, or deposit-type contracts (i) in this State and has at least one such policy in force or on claim or (ii) in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, annuity contract, pure endowment, or deposit-type contracts in this State."

SECTION 5. G.S. 58-7-21(b)(4a)d. reads as rewritten:

"d. Certified reinsurer rating. – The Commissioner shall assign a rating to each certified reinsurer on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association, including incorporated and individual unincorporated underwriters, that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. The Commissioner shall publish a list of all certified reinsurers and their ratings. Factors that may be considered as part of the evaluation process ~~include, but are not limited to,~~ include the following:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or

maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification;

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable	B, B-,	BB+, BB, BB-,	Ba1, Ba2, Ba3,	BB+, BB, BB-,
– 6	C++, C+,	B+, B, B-,	B1, B2, B3,	B+, B, B-,
	C, C-, D,	CCC, <u>CC</u> , C, D, R	Caa, Ca, C	CCC+, CC,
	E, F			CCC-, DD

...."

SECTION 6. Section 3 of this act becomes effective January 1, 2020. Except as otherwise provided, the remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 219
PROPOSED COMMITTEE SUBSTITUTE H219-CSTU-7 [v.2]

04/10/2019 11:28:13 AM

Short Title: NAIC Accreditation Amendments.-AB

(Public)

Sponsors:

Referred to:

February 28, 2019

1 AN ACT TO REVISE VARIOUS INSURANCE LAWS IN ORDER TO MAINTAIN NAIC
2 ACCREDITATION, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.

3 The General Assembly of North Carolina enacts:

4 **PART I. SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS**

5 **SECTION 1.(a)** G.S. 58-19-5 is amended by adding a new subdivision to read:

6 "(10a) Group-wide supervisor. – The regulatory official authorized to engage in
7 conducting and coordinating group-wide supervision activities who is
8 determined or acknowledged by the Commissioner under G.S. 58-19-38 to
9 have sufficient significant contacts with the internationally active insurance
10 group."

11 **SECTION 1.(b)** G.S. 58-19-5 is amended by adding a new subdivision to read:

12 "(12a) Internationally active insurance group. – An insurance holding company
13 system that includes an insurer registered under G.S. 58-19-25 and that meets
14 all of the following criteria:

15 a. The insurance holding company system writes premiums in at least
16 three countries.

17 b. The percentage of gross premiums of the insurance holding company
18 system written outside the United States is at least ten percent (10%)
19 of the insurance holding company system's total gross written
20 premiums.

21 c. Based on a three-year rolling average, the total assets of the insurance
22 holding company system are at least fifty billion dollars
23 (\$50,000,000,000) or the total gross written premiums of the insurance
24 holding company system are at least ten billion dollars
25 (\$10,000,000,000)."

26 **SECTION 1.(c)** Article 19 of Chapter 58 of the General Statutes is amended by
27 adding a new section to read as follows:

28 **"§ 58-19-38. Group-wide supervision of internationally active insurance groups.**

29 (a) In cooperation with other state, federal, and international regulatory agencies, the
30 Commissioner will identify a single group-wide supervisor for an internationally active insurance
31 group in accordance with the provisions of this section. The Commissioner is authorized to act
32 as the group-wide supervisor for any internationally active insurance group. However, the
33 Commissioner may otherwise acknowledge another regulatory official as the group-wide
34 supervisor where the internationally active insurance group meets any of the following criteria:

35 (1) It does not have substantial insurance operations in the United States.



(2) It has substantial insurance operations in the United States, but not in this State.

(3) It has substantial insurance operations in the United States and this State, but the Commissioner has determined pursuant to the factors set forth in subsections (b) and (f) of this section that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the Commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

(b) The Commissioner shall consider all of the following factors when determining that the Commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this State or acknowledges that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group:

(1) The place of domicile of the insurers within the internationally active insurance group that holds the largest share of the group's written premiums, assets, or liabilities.

(2) The place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group.

(3) The location of the executive offices or largest operational offices of the internationally active insurance group.

(4) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the Commissioner determines to have either of the following characteristics:

a. The system is substantially similar to the system of regulation provided under the laws of this State.

b. The system is otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(5) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the Commissioner with reasonably reciprocal recognition and cooperation.

A regulatory official identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made (i) after consideration of the factors listed in subdivisions (1) through (5) of this subsection, (ii) in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and (iii) in consultation with the internationally active insurance group.

(c) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, the Commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection (b) of this section when there is a material change in the internationally active insurance group that results in either of the following:

(1) The internationally active insurance group's insurers domiciled in this State holding the largest share of the group's premiums, assets, or liabilities.

(2) This State being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(d) Pursuant to G.S. 58-19-35, the Commissioner is authorized to collect from any insurer registered pursuant to G.S. 58-19-25 all information necessary to determine whether the Commissioner may act as the group-wide supervisor of an internationally active insurance group or if the Commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the Commissioner, the Commissioner shall notify the insurer registered pursuant to G.S. 58-19-25 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have 30 days to provide the Commissioner with additional information pertinent to the pending determination.

(e) If the Commissioner is the group-wide supervisor for an internationally active insurance group, the Commissioner is authorized to engage in the following group-wide supervision activities:

- (1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:
 - a. That the material financial condition and liquidity risks to the members of the internationally active insurance group, that are engaged in the business of insurance, are identified by management.
 - b. That reasonable and effective mitigation measures are in place.
- (2) Request, from any member of an internationally active insurance group subject to the Commissioner's supervision, information necessary and appropriate to assess enterprise risk. This information includes information about the governance, risk assessment and management, capital adequacy, and material intercompany transactions of the members of the internationally active insurance group.
- (3) Coordinate and, in reliance on the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.
- (4) Communicate with other state, federal, and international regulatory agencies with jurisdiction over members within the internationally active insurance group and share relevant information through supervisory colleges as set forth in G.S. 58-19-37 or otherwise subject to the confidentiality provisions of G.S. 58-19-40.
- (5) Enter into agreements with or obtain documentation from any insurer registered under G.S. 58-19-25, any member of the internationally active insurance group, and any other state, federal and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the Commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and
- (6) Other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the Commissioner.

(f) If the Commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the Commissioner is authorized

1 to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision
2 undertaken by the group-wide supervisor, provided that both of the following conditions are met:

- 3 (1) The Commissioner's cooperation is in compliance with the laws of this State.
4 (2) The regulatory official acknowledged as the group-wide supervisor
5 recognizes and cooperates with the Commissioner's activities as a group-wide
6 supervisor for other internationally active insurance groups where applicable.

7 Where recognition and cooperation are not reasonably reciprocal, the Commissioner is
8 authorized to refuse recognition and cooperation.

9 (g) The Commissioner may enter into agreements with or obtain documentation from any
10 insurer registered under G.S. 58-19-25, any affiliate of the insurer, and other state, federal, and
11 international regulatory agencies for members of the internationally active insurance group that
12 provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

13 (h) The Commissioner may adopt rules necessary for the administration of this section.

14 (i) A registered insurer subject to this section shall be liable for and shall pay the
15 reasonable expenses of the Commissioner's participation in the administration of this section,
16 including the engagement of attorneys, actuaries, and any other professionals and reasonable
17 travel expenses."

18 **SECTION 1.(d)** G.S. 58-19-40(a) reads as rewritten:

19 "(a) Documents, materials, or other information in the possession or control of the
20 Department that are obtained by or disclosed to the Commissioner or any other person in the
21 course of an examination or investigation made pursuant to G.S. 58-19-35, and all information
22 reported or provided to the Department pursuant to subdivisions (11a) and (11b) of
23 G.S. 58-19-15(b), G.S. 58-19-25, and G.S. 58-19-30, G.S. 58-19-30 and G.S. 58-19-38 shall be
24 confidential by law and privileged, shall not be considered a public record under either
25 G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall
26 not be subject to discovery or admissible in evidence in any private civil action. However, the
27 Commissioner is authorized to use the documents, materials, or other information in the
28 furtherance of any regulatory or legal action brought as a part of the Commissioner's official
29 duties. The Commissioner shall not otherwise make the documents, materials, or other
30 information public without the prior written consent of the insurer to which it pertains unless the
31 Commissioner, after giving the insurer and its affiliates who would be affected thereby notice
32 and opportunity to be heard, determines that the interest of policyholders, shareholders, or the
33 public will be served by the publication thereof, in which event the Commissioner may publish
34 all or any part of the information in such manner as may be deemed appropriate."
35

36 **PART II. OVERSIGHT OF INTERNAL AUDIT FUNCTIONS OF INSURERS OR** 37 **GROUPS OF INSURERS**

38 **SECTION 2.(a)** G.S. 58-10-190(3) reads as rewritten:

39 "(3) "Audit committee" means a committee, or equivalent body, established by the
40 board of directors of an entity for the purpose of overseeing the accounting
41 and financial reporting processes of an insurer or group of ~~insurers~~ insurers,
42 any internal audit function of the insurer or group of insurers, and external
43 audits of financial statements of the insurer or group of insurers. The audit
44 committee of any entity that controls a group of insurers may be deemed to be
45 the audit committee for one or more of these controlled insurers at the election
46 of the controlling person as provided in G.S. 58-10-245(f). If an audit
47 committee is not designated by the insurer, the insurer's entire board of
48 directors shall constitute the audit committee."

49 **SECTION 2.(b)** G.S. 58-10-190 is amended by adding a new subdivision to read:

50 "(6a) "Internal audit function" means a person or persons that provide independent,
51 objective, and reasonable assurance designed to add value and improve an organization's

operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes."

SECTION 2.(c) G.S. 58-10-245 is amended by adding a new subsection to read:

"(b1) The audit committee of an insurer or group of insurers shall be responsible for overseeing the insurer's internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill the requirements of G.S. 58-10-246."

SECTION 2.(d) Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"§ 58-10-246. Internal audit function requirements.

(a) Exemption. – An insurer is exempt from the requirements of this section if both of the following apply:

(1) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than five hundred million dollars (\$500,000,000).

(2) If the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than one billion dollars (\$1,000,000,000).

(b) Function. – The insurer or group of insurers shall establish an internal audit function providing independent, objective, and reasonable assurance to the audit committee and insurer management regarding the insurer's governance, risk management, and internal controls. This assurance shall be provided by performing general and specific audits, reviews, and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

(c) Independence. – In order to ensure that internal auditors remain objective, the internal audit function must be organizationally independent. For purposes of this section, "organizationally independent" means that the internal audit function (i) shall not defer ultimate judgment on audit matters to others and (ii) shall appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors of the insurer or group of insurers. Organizational independence does not preclude dual-reporting relationships.

(d) Reporting. – The head of the internal audit function shall report to the audit committee with a frequency no less than annually on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits, and the appropriateness of corrective actions implemented by management as a result of audit findings.

(e) Additional Requirements. – If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level, or the individual legal entity level."

SECTION 2.(e) G.S. 58-10-260 is amended by adding a new subsection to read:

"(g) The requirements of G.S. 58-10-246 become effective January 1, 2020. An insurer or group of insurers exempt from G.S. 58-10-246 that no longer meets the threshold for exemption shall have one calendar year after the year the threshold is exceeded to comply with the requirements of that section."

PART III. CORPORATE GOVERNANCE ANNUAL DISCLOSURE

SECTION 3.(a) Article 10 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 11. Corporate Governance Annual Disclosure.

"§ 58-10-755. Purpose and scope.

(a) The purpose of this Part is to:

- (1) Provide the Commissioner a summary of an insurer or insurance group's corporate governance structure, policies, and practices to permit the Commissioner to gain and maintain an understanding of the insurer's corporate governance framework.
- (2) Outline the requirements for completing a corporate governance annual disclosure with the Commissioner.
- (3) Provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer or insurance group's internal operations and proprietary and trade secret information which, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage.
- (4) Set forth the procedures for filing and the required contents of the Corporate Governance Annual Disclosure.

(b) Nothing in this Part shall be construed to prescribe or impose corporate governance standards and internal procedures beyond that which is required under applicable state corporate law. Notwithstanding the foregoing, nothing in this Part shall be construed to limit the Commissioner's authority, or the rights or obligations of third parties, under G.S. 58-2-131 through G.S. 58-2-134.

(c) The requirements of this Part shall apply to all insurers domiciled in this state.

"§ 58-10-760. Definitions.

The following definitions apply in this Part:

- (1) CGAD or Corporate Governance Annual Disclosure. – A confidential report filed by an insurer or insurance group made in accordance with the requirements of this Part.
- (2) Insurance group. – Those insurers and affiliates included within an insurance holding company system as defined in G.S. 58-19-5.
- (3) Insurer. – Defined in G.S. 58-1-5 and includes a person subject to Articles 65 or 67 of this Chapter. Insurer does not include an agency, authority, or instrumentality of the United States; any of its possessions and territories; the Commonwealth of Puerto Rico; the District of Columbia; a state, or a political subdivision of a state.
- (4) Senior management. – Any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include the chief executive officer, chief financial officer, chief operations officer, chief procurement officer, chief legal officer, chief information officer, chief technology officer, chief revenue officer, and chief visionary officer.

"§ 58-10-765. Disclosure requirement and filing procedures.

(a) An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the Commissioner a CGAD that contains the information described in G.S. 58-10-775. Notwithstanding any request from the Commissioner made pursuant to subsection (c) of this section, if the insurer is a member of an insurance group, the insurer shall submit the report required by this section to the Commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC. In these instances, a copy of the CGAD must also be provided, upon request, to the chief regulatory official of any state in which the insurance group has a domestic insurer.

1 (b) The CGAD must include a signature of the insurer's or insurance group's chief
2 executive officer or corporate secretary attesting to the best of that individual's belief and
3 knowledge that the insurer or insurance group has implemented the corporate governance
4 practices and that a copy of the disclosure has been provided to the insurer's or insurance group's
5 board of directors or the appropriate committee thereof.

6 (c) An insurer not required to submit a CGAD under this section shall do so upon the
7 Commissioner's request.

8 (d) The insurer or insurance group shall have discretion regarding the appropriate format
9 for providing the required information and may customize the CGAD to provide the most
10 relevant information necessary to permit the Commissioner to gain an understanding of the
11 corporate governance structure, policies, and practices utilized by the insurer or insurance group.

12 (e) For purposes of completing the CGAD, the insurer or insurance group may provide
13 information regarding corporate governance at the ultimate controlling parent level, an
14 intermediate holding company level, or the individual legal entity level, depending upon how the
15 insurer or insurance group has structured its system of corporate governance. The insurer or
16 insurance group is encouraged to make the CGAD disclosures (i) at the level at which the
17 insurer's or insurance group's risk appetite is determined, (ii) at the level at which the earnings,
18 capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which
19 the supervision of those factors are coordinated and exercised, or (iii) at the level at which legal
20 liability for failure of general corporate governance duties would be placed. If the insurer or
21 insurance group determines the level of reporting based on these criteria, it shall indicate which
22 of the three criteria was used to determine the level of reporting and explain any subsequent
23 changes in level of reporting.

24 (f) The review of the CGAD and any additional requests for information shall be made
25 through the lead state as determined by the procedures within the most recent Financial Analysis
26 Handbook adopted by the NAIC.

27 (g) An insurer or insurance group providing information substantially similar to the
28 information required by this Part in other documents provided to the Commissioner, including
29 proxy statements filed in conjunction with Form B requirements, or other state or federal filings
30 provided to the Commissioner, shall not be required to duplicate that information in the CGAD,
31 but shall only be required to cross reference the document in which the information is included.
32 The insurer or insurance group shall clearly reference the location of the relevant information
33 within the CGAD and attach the referenced document if it is not already filed or available to the
34 Commissioner.

35 (h) Each year following the initial filing of the CGAD, the insurer or insurance group
36 shall file an amended version of the previously filed CGAD indicating where changes have been
37 made. If no changes were made in the information or activities reported by the insurer or
38 insurance group, the filing shall so state.

39 **"§ 58-10-770. Rules and regulations.**

40 The Commissioner may adopt such rules and issue such orders as shall be necessary to carry
41 out the provisions of this Part.

42 **"§ 58-10-775. Contents of corporate governance annual disclosure.**

43 (a) The insurer or insurance group shall have discretion over the responses to the CGAD
44 inquiries, provided the CGAD shall contain the material information necessary to permit the
45 Commissioner to gain an understanding of the insurer's or insurance group's corporate
46 governance structure, policies, and practices. The Commissioner may request additional
47 information that he or she deems material and necessary to provide the Commissioner with a
48 clear understanding of the corporate governance policies, the reporting or information system, or
49 controls implementing those policies.

1 (b) Notwithstanding subsection (a) of this section, the CGAD shall be prepared consistent
2 with this Part. Documentation and supporting information shall be maintained and made
3 available upon examination or upon request of the Commissioner.

4 (c) The insurer or insurance group shall be as descriptive as possible in completing the
5 CGAD, with inclusion of attachments or example documents that are used in the governance
6 process that may provide a means to demonstrate the strengths of their governance framework
7 and practices.

8 (d) The CGAD shall describe the insurer's or insurance group's corporate governance
9 framework and structure, including consideration of all of the following:

10 (1) The board of directors and various committees thereof ultimately responsible
11 for overseeing the insurer or insurance group and the level at which that
12 oversight occurs, such as the ultimate control level, intermediate holding
13 company level, or legal entity level. The insurer or insurance group shall
14 describe and discuss the rationale for the current board of directors' size and
15 structure.

16 (2) The duties of the board of directors and each of its significant committees and
17 how they are governed, such as by bylaws, charters, or informal mandates.

18 (3) How the board of directors' leadership is structured, including a discussion of
19 the roles of chief executive officer and chairman of the board of directors
20 within the organization.

21 (e) The insurer or insurance group shall describe the policies and practices of the most
22 senior governing entity and significant committees thereof, including a discussion of each of the
23 following factors:

24 (1) How the qualifications, expertise, and experience of each board of directors
25 member meet the needs of the insurer or insurance group.

26 (2) How an appropriate amount of independence is maintained on the board of
27 directors and its significant committees.

28 (3) The number of meetings held by the board of directors and its significant
29 committees over the past year as well as information on director attendance.

30 (4) How the insurer or insurance group identifies, nominates, and elects members
31 to the board of directors and its committees, including information on all of
32 the following:

33 a. Whether a nomination committee is in place to identify and select
34 individuals for consideration.

35 b. Whether term limits are placed on directors.

36 c. How the election and reelection processes function.

37 d. Whether a board of directors' diversity policy is in place and, if so,
38 how it functions.

39 (5) The processes in place for the board of directors to evaluate its performance
40 and the performance of its committees, as well as any recent measures taken
41 to improve performance, including any board of directors or committee
42 training programs that have been put in place.

43 (f) The insurer or insurance group shall describe the policies and practices for directing
44 senior management, including a description of each of the following factors:

45 (1) Any processes or practices, such as suitability standards, to determine whether
46 officers and key persons in control functions have the appropriate background,
47 experience, and integrity to fulfill their prospective roles, including both of
48 the following:

49 a. Identification of the specific positions for which suitability standards
50 have been developed and a description of the standards employed.

- 1 b. Any changes in an officer's or key person's suitability as outlined by
2 the insurer's or insurance group's standards and procedures to monitor
3 and evaluate those changes.
- 4 (2) The insurer's or insurance group's code of business conduct and ethics,
5 including information regarding compliance with laws, rules, and regulations
6 as well as proactive reporting of any illegal or unethical behavior.
- 7 (3) The insurer's or insurance group's processes for performance evaluation,
8 compensation, and corrective action to ensure effective senior management
9 throughout the organization, including a description of the general objectives
10 of significant compensation programs and what the programs are designed to
11 reward. The description shall include sufficient detail to allow the
12 Commissioner to understand how the organization ensures that compensation
13 programs do not encourage or reward excessive risk taking. Elements to be
14 discussed include the following:
- 15 a. The board of directors' role in overseeing management compensation
16 programs and practices.
- 17 b. The various elements of compensation awarded in the insurer's or
18 insurance group's compensation programs and how the insurer or
19 insurance group determines and calculates the amount of each element
20 of compensation paid.
- 21 c. How compensation programs are related to both company and
22 individual performance over time.
- 23 d. Whether compensation programs include risk adjustments and how
24 those adjustments are incorporated into the programs for employees at
25 different levels.
- 26 e. Any clawback provisions built into the programs to recover awards or
27 payments if the performance measures upon which they are based are
28 restated or otherwise adjusted.
- 29 f. Any other factors relevant in understanding how the insurer or
30 insurance group monitors its compensation policies to determine
31 whether its risk management objectives are met by incentivizing its
32 employees.
- 33 (4) The insurer's or insurance group's plans for chief executive officer and senior
34 management succession.
- 35 (g) The insurer or insurance group shall describe the processes by which the board of
36 directors, its committees, and senior management ensure an appropriate amount of oversight to
37 the critical risk areas impacting the insurer's business activities, including a discussion of all of
38 the following:
- 39 (1) How oversight and management responsibilities are delegated between the
40 board of directors, its committees, and senior management.
- 41 (2) How the board of directors is kept informed of the insurer's strategic plans,
42 the associated risks, and steps that senior management is taking to monitor
43 and manage those risks.
- 44 (3) How reporting responsibilities are organized for each critical risk area. The
45 description should allow the Commissioner to understand the frequency at
46 which information on each critical risk area is reported to and reviewed by
47 senior management and the board of directors. This description may include
48 any of the following critical risk areas of the insurer:
- 49 a. Risk management processes.
- 50 b. Actuarial function.
- 51 c. Investment decision-making processes.

- d. Reinsurance decision-making processes.
- e. Business strategy/finance decision-making processes.
- f. Compliance function.
- g. Financial reporting/internal auditing.
- h. Market conduct decision-making processes.

"§ 58-10-780. Confidentiality.

(a) Documents, materials, or other information, including the CGAD, in the possession or control of the Department that are obtained by, created by, or disclosed to the Commissioner or any other person under this Part, are recognized as proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the Commissioner may share or receive confidential documents, materials, or other CGAD-related information pursuant to subsection (c) of this section to assist in the performance of the Commissioner's duties.

(b) Neither the Commissioner nor any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the Commissioner, or with whom such documents, materials, or other information are shared pursuant to this Part shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the Commissioner's regulatory duties, the Commissioner may do all of the following:

(1) Upon request, share documents, materials, or other CGAD-related information including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, with the NAIC, and with third-party consultants pursuant to G.S. 58-10-785, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material, or other information and has verified in writing the legal authority to maintain confidentiality.

(2) Receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(d) The sharing of information and documents by the Commissioner pursuant to this Part shall not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is

solely responsible for the administration, execution, and enforcement of the provisions of this Part.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials or other CGAD-related information shall occur as a result of disclosure of CGAD-related information or documents to the Commissioner under this section or as a result of sharing as authorized in this Part.

"§ 58-10-785. NAIC and third-party consultants.

(a) The Commissioner may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the CGAD-related information or the insurer's compliance with this Part.

(b) Any persons retained under subsection (a) of this section shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

(c) The NAIC and third-party consultants shall be subject to the same confidentiality standards and requirements as the Commissioner.

(d) As part of the retention process, a third-party consultant shall verify to the Commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this Part.

(e) A written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this Part shall contain all of the following provisions and expressly require the written consent of the insurer prior to making public information provided under this Part:

- (1) Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant pursuant to this Part.
- (2) Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.
- (3) A provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the Department and the NAIC's or third-party consultant's use of the information is subject to the direction of the Commissioner.
- (4) A provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this Part in a permanent database after the underlying analysis is completed.
- (5) A provision requiring the NAIC or third-party consultant to provide prompt notice to the Commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information.
- (6) A requirement that the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this Part.

"§ 58-10-790. Sanctions.

(a) Civil Penalties. – Any insurer failing, without just cause, to timely file the CGAD as required in this Part shall be subject to a civil penalty of one hundred dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand dollars (\$1,000).

(b) Notice and Opportunity to Be Heard Required. – After providing notice and opportunity to be heard in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, the Commissioner may order the respondent to pay the assessment and civil penalty imposed by this section.

(c) Disposition of Civil Penalties. – The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Reduction of Civil Penalties. – The Commissioner may reduce the penalty if the insurer demonstrates to the Commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

SECTION 3.(b) If any provision of Section 3 other than G.S. 58-10-780, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions of this section, with the exception of G.S. 58-10-780, are severable.

SECTION 3.(c) Section 3 shall become effective on January 1, 2020. The first filing of the CGAD shall be made on or before June 1, 2020.

PART IV. OTHER PROVISIONS

SECTION 4. G.S. 58-58-50(a1)(2) reads as rewritten:

"(a1) As used in this section:

...

(2) Company. – An ~~entity~~ entity, including a fraternal benefit society as defined in Article 24, which has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, annuity contracts, pure endowment contracts, or deposit-type contracts (i) in this State and has at least one such policy in force or on claim or (ii) in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, annuity contract, pure endowment, or deposit-type contracts in this State."

SECTION 5. G.S. 58-7-21(b)(4a)d. reads as rewritten:

"d. Certified reinsurer rating. – The Commissioner shall assign a rating to each certified reinsurer on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association, including incorporated and individual unincorporated underwriters, that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. The Commissioner shall publish a list of all certified reinsurers and their ratings. Factors that may be considered as part of the evaluation process ~~include, but are not limited to, include~~ the following:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification;

1	Ratings	Best	S&P	Moody's	Fitch
2	Secure – 1	A++	AAA	Aaa	AAA
3	Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
4	Secure – 3	A	A+, A	A1, A2	A+, A
5	Secure – 4	A-	A-	A3	A-
6	Secure – 5	B++, B+	BBB+, BBB,	Baa1, Baa2,	BBB+, BBB,
7			BBB-	Baa3	BBB-
8	Vulnerable	B, B-,	BB+, BB, BB-,	Ba1, Ba2, Ba3,	BB+, BB, BB-,
9	– 6	C++, C+,	B+, B, B-,	B1, B2, B3,	B+, B, B-,
10		C, C-, D,	CCC, <u>CC</u> , C, D, R	Caa, Ca, C	CCC+, CC,
11		E, F			CCC-, DD
12	"			

SECTION 6. Except as otherwise provided, the remainder of this act is effective when it becomes law.



HOUSE BILL 219: NAIC Accreditation Amendments.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 11, 2019
Introduced by:	Reps. Setzer, Bumgardner, Corbin	Prepared by:	Kristen L. Harris
Analysis of:	PCS to First Edition H219-CSTU-7		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute to House Bill 219 would enact legislative changes to North Carolina's insurance laws to comply with the National Association of Insurance Commissioners (NAIC) and allow the North Carolina Department of Insurance (DOI) to maintain its NAIC accreditation.*

Specifically, House Bill 219 would 1) clarify the legal authority and power of the Commissioner of Insurance (COI) to engage in the group-wide supervision of an internationally active insurance group (IAIG), 2) require insurers to establish an internal audit function that would evaluate the insurer's governance, risk management, and internal controls, and 3) enact new legislation requiring insurers to disclose and file their corporate governance practices with the COI.

The PCS makes technical changes only.

BACKGROUND: The National Association of Insurance Commissioners is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. The formal certification program began in June 1990. North Carolina has been accredited since 1991. All fifty states, the District of Columbia, and Puerto Rico are currently accredited.

CURRENT LAW: Chapter 58 of the General Statutes governs North Carolina's insurance laws. Currently, the provisions in Chapter 58 meet NAIC requirements.

BILL ANALYSIS:

Part I would incorporate language from the NAIC's "Holding Company Model Act and Model Regulation Act" into Chapter 58 and authorize the Commissioner of Insurance to engage in the group-wide supervision of an internationally active insurance group (IAIG).

Sections 1(a) and (b) would define "group-wide supervisor" and "internationally active insurance group".

Section 1(c) would allow the Commissioner of Insurance (COI) to serve as the group-wide supervisor of an internationally active insurance group (IAIG) or acknowledge another regulatory official to serve as the supervisor under certain circumstances.

- Would authorize the COI to collect data from the IAIG when determining who should serve as the group-wide supervisor.
- Would allow the COI to acknowledge a regulatory official from a non-NAIC accredited jurisdiction as the group-wide supervisor of an IAIG if the COI's cooperation with the supervisor was in compliance with North Carolina law and the supervisor recognized and cooperated with the

Karen Cochrane-Brown
Director



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Division
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COI's activities as a supervisor for other IAIGs where applicable. If the recognition and cooperation were not reciprocated, the COI could refuse to acknowledge the regulatory official as the group-wide supervisor.

Section 1(d) would make data collected by the COI from an IAIG confidential.

Part II would incorporate language from the NAIC's "Annual Financial Reporting Model Regulation" in Chapter 58 and require insurers to maintain an internal audit function of their risk management, internal controls, and governance processes.

Section 2(a) would add an internal audit function to the types of reporting conducted by an audit committee.

Section 2(b) would define "internal audit function".

Section 2(c) would add the internal audit function to the requirements of an audit committee.

Section 2(d) would establish the requirements of an insurer's internal audit function. The internal audit function must be "organizationally independent" and report to the audit committee at least annually.

Section 2(e) would make the internal audit function requirements effective January 1, 2020, and would allow an insurer who no longer qualifies for an exemption, one calendar year after the year the exemption ends to comply with the internal audit function.

Part III would incorporate language from the NAIC's "Corporate Governance Annual Disclosure Model Act" and require insurers to disclose and file their corporate governance practices.

Section 3(a) would enact new NAIC legislation to outline the requirements of completing a corporate governance annual disclosure (CGAD) with the Commissioner of Insurance (COI) and provide confidential treatment of the CGAD and related information.

- Would define terms used in the new legislation.
- Would require insurers to submit a CGAD to the COI by June 1st of each year. The insurer would have discretion over the format of the CGAD and in determining at what corporate level to base its reporting. After an initial filing, each year an insurer would file an amended version of the previous CGAD noting any changes.
- Would allow the insurer to have discretion over its responses, but allow the COI to request additional information.
- Would require the insurer to provide information describing its corporate governance framework and structure, policies and practices of its most senior governing entity, and significant committees, policies and practices for directing senior management, and processes by which the board of directors, its committees, and senior management ensure appropriate oversight to critical risk areas impacting business activities.
- Would maintain the confidentiality of the CGAD and other related documents and materials when disclosed to the COI or other persons under the new legislation.
- Would allow the COI to retain third-party consultants, at the insurer's expense, to assist in reviewing the CGAD-related information.
- Would allow an insurer to be penalized \$100.00 for each day's delay in failing to timely file a CGAD, not to exceed a total penalty of \$1,000. The COI would have discretion to reduce the penalty if the insurer could demonstrate that the penalty would impose a financial hardship.

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Section 3(b) would allow for the severability of any statute in the new legislation, with the exception of the confidentiality statute, if found invalid.

Section 3(c) Section 3 would become effective January 1, 2020, with the first filing of the CGAD to be made on or before June 1, 2020.

Part IV would make other changes, as recommended by the Department of Insurance.

Section 4 would include a "fraternal benefit society" in the definition of "company" under the Standard Valuation Law.

Section 5 would make a technical and a clarifying change.

EFFECTIVE DATE: Except as otherwise provided, the remainder of this act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 221*

Short Title: Rate-Making Amendments.-AB (Public)

Sponsors: Representatives Setzer, Bumgardner, and Corbin (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Transportation, if favorable, Rules, Calendar, and Operations of the House

February 28, 2019

A BILL TO BE ENTITLED
AN ACT TO AMEND THE INSURANCE RATE-MAKING LAWS, AS RECOMMENDED
BY THE DEPARTMENT OF INSURANCE.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-10(2) reads as rewritten:

"(2) Due consideration shall be given to actual loss and expense experience within this State for the most recent three-year period for which that information is available; to prospective loss and expense experience within this State; to the hazards of conflagration and catastrophe; to a reasonable margin for underwriting profit and to contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to investment income earned or realized by insurers from their unearned premium, loss, and loss expense reserve funds generated from business within this State; to investment income from capital and surplus; to past and prospective expenses specially applicable to this State; and to all other relevant factors within this State: Provided, however, that countrywide expense and loss experience and other countrywide data may be considered only where credible North Carolina experience or data is not available."

SECTION 2.(a) G.S. 58-36-43(a) reads as rewritten:

"(a) Member companies writing private passenger automobile or homeowners' insurance under this Article may incorporate optional enhancements to their automobile and homeowners' programs as an endorsement to an automobile or homeowners' policy issued under this Article if the insurer has filed the proposed enhancement with the Commissioner and if the proposed enhancement is approved by the Commissioner. Any approved optional enhancements shall be considered outside the authority of the Rate Bureau. If the proposed enhancement will include an additional premium charge, the proposed premium charge shall be included with the proposed program enhancements filed with the Commissioner. The Commissioner shall review the proposed premium charges and approve them if the Commissioner finds that they are based on sound actuarial principles. Amendments to private passenger automobile or homeowners' program enhancements are subject to the same requirements as initial filings. ~~Neither the acceptance, renewal of a policy, nor any underwriting rating criteria shall be conditioned by a company upon the acceptance by the policyholder of any optional automobile or homeowners' enhancements.~~



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1 A company shall not condition (i) the acceptance or renewal of a policy, (ii) any underwriting
2 criteria, or (iii) any rating criteria upon the acceptance by the policyholder of any optional
3 automobile or homeowners' enhancements authorized by this section. A rate amendment
4 authorized by this section is not a rate deviation and is not subject to the requirements for rate
5 deviations set forth in G.S. 58-36-30(a)."

6 **SECTION 2.(b)** G.S. 58-36-43(b) is repealed.

7 **SECTION 3.(a)** G.S. 58-36-65(j) reads as rewritten:

8 "(j) Subclassification plan surcharges shall be applied to a policy for a period of not less
9 nor more than three policy ~~years~~; provided, however, that for convictions for which four or
10 more points under the Plan are assigned, other than convictions for speeding in excess of the
11 posted speed limit, subclassification plan surcharges for convictions shall be applied to a policy
12 for a period of not less nor more than five policy years."

13 **SECTION 3.(b)** G.S. 58-36-65(k) reads as rewritten:

14 "(k) ~~The~~ For insureds receiving a drivers license for the first time on or before September
15 30, 2019, the subclassification plan may provide for premium surcharges for insureds having less
16 than three years' driving experience as licensed drivers. For insureds receiving a drivers license
17 for the first time on or after October 1, 2019, the subclassification plan may provide for premium
18 surcharges for insureds having less than eight years' driving experience as licensed drivers."

19 **SECTION 3.(c)** G.S. 58-36-65 is amended by adding a new subsection to read:

20 "(k1) Licensed drivers subject to premium surcharges pursuant to subsection (k) of this
21 section for a period of up to eight years may be eligible for an inexperienced safe driver discount
22 after three full years of driving experience. To be eligible for the premium discount, an
23 inexperienced licensed driver cannot have any at-fault accidents or convictions on their driving
24 record, whether or not such at-fault accidents or convictions result in the assignment of points
25 under the Plan. Any at-fault accidents or convictions shall preclude the inexperienced licensed
26 driver from being eligible for the premium discount for a period of five years. Eligibility for the
27 premium discount terminates once the inexperienced driver has been licensed for eight years, or
28 when the inexperienced driver has any at-fault accidents or convictions. For purposes of this
29 section, convictions on a driving record shall include convictions for which a prayer for judgment
30 continued was granted. Any inexperienced safe driver discount shall be filed by the Bureau for
31 approval with the Commissioner."

32 **SECTION 4.** Subsection (a) of Section 3 becomes effective October 1, 2020, and
33 applies to drivers convicted of moving violations on or after that date. Subsection (c) of Section
34 3 becomes effective October 1, 2019. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 221
PROPOSED COMMITTEE SUBSTITUTE H221-CSTU-8 [v.1]

04/10/2019 11:53:06 AM

Short Title: Rate-Making Amendments.-AB

(Public)

Sponsors:

Referred to:

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE INSURANCE RATE-MAKING LAWS, AS RECOMMENDED
3 BY THE DEPARTMENT OF INSURANCE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 58-36-10(2) reads as rewritten:

6 "(2) Due consideration shall be given to actual loss and expense experience within
7 this State for the most recent three-year period for which that information is
8 available; to prospective loss and expense experience within this State; to the
9 hazards of conflagration and catastrophe; to a reasonable margin for
10 underwriting profit and to contingencies; to dividends, savings, or unabsorbed
11 premium deposits allowed or returned by insurers to their policyholders,
12 members, or subscribers; to investment income earned or realized by insurers
13 from their unearned premium, loss, and loss expense reserve funds generated
14 from business within this State; to investment income from capital and
15 surplus; to past and prospective expenses specially applicable to this State;
16 and to all other relevant factors within this State: Provided, however, that
17 countrywide expense and loss experience and other countrywide data may be
18 considered only where credible North Carolina experience or data is not
19 available."

20 **SECTION 2.(a)** G.S. 58-36-43(a) reads as rewritten:

21 "(a) Member companies writing private passenger automobile or homeowners' insurance
22 under this Article may incorporate optional enhancements to their automobile and homeowners'
23 programs as an endorsement to an automobile or homeowners' policy issued under this Article if
24 the insurer has filed the proposed enhancement with the Commissioner and if the proposed
25 enhancement is approved by the Commissioner. Any approved optional enhancements shall be
26 considered outside the authority of the Rate Bureau. If the proposed enhancement will include
27 an additional premium charge, the proposed premium charge shall be included with the proposed
28 program enhancements filed with the Commissioner. The Commissioner shall review the
29 proposed premium charges and approve them if the Commissioner finds that they are based on
30 sound actuarial principles. Amendments to private passenger automobile or homeowners'
31 program enhancements are subject to the same requirements as initial filings. ~~Neither the~~
32 ~~acceptance, renewal of a policy, nor any underwriting rating criteria shall be conditioned by a~~
33 ~~company upon the acceptance by the policyholder of any optional automobile or homeowners'~~
34 ~~enhancements.~~

35 A company shall not condition (i) the acceptance or renewal of a policy, (ii) any underwriting
36 criteria, or (iii) any rating criteria upon the acceptance by the policyholder of any optional



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1 automobile or homeowners' enhancements authorized by this section. A rate amendment
2 authorized by this section is not a rate deviation and is not subject to the requirements for rate
3 deviations set forth in G.S. 58-36-30(a)."

4 **SECTION 2.(b)** G.S. 58-36-43(b) is repealed.

5 **SECTION 3.(a)** G.S. 58-36-65(i) reads as rewritten:

6 "(i) As used in this section, "conviction" means a ~~conviction as defined in G.S. 20-279.1~~
7 plea of guilty, a plea of no contest, or the determination of guilt by a jury or by a court, even if
8 no sentence has been imposed or, if imposed, has been suspended, and it includes a forfeiture of
9 bail or collateral deposited to secure appearance in court of the defendant, unless the forfeiture
10 has been vacated and means an infraction as defined in G.S. 14-3.1."

11 **SECTION 3.(b)** G.S. 58-36-65(j) reads as rewritten:

12 "(j) Subclassification plan surcharges shall be applied to a policy for a period of not less
13 nor more than three policy years. However, for convictions for which four or more points under
14 the Plan are assigned, other than convictions for speeding in excess of the posted speed limit,
15 subclassification plan surcharges shall be applied to a policy for a period of not less nor more
16 than five policy years."

17 **SECTION 3.(c)** G.S. 58-36-65(k) reads as rewritten:

18 "(k) ~~The~~For insureds receiving a drivers license for the first time on or before September
19 30, 2019, the subclassification plan may provide for premium surcharges for insureds having less
20 than three years' driving experience as licensed drivers. Notwithstanding subsection (j) of this
21 section, for insureds receiving a drivers license for the first time on or after October 1, 2019, the
22 subclassification plan may provide for premium surcharges for insureds having less than eight
23 years' driving experience as licensed drivers."

24 **SECTION 3.(d)** G.S. 58-36-65 is amended by adding a new subsection to read:

25 "(k1) Licensed drivers subject to premium surcharges pursuant to subsection (k) of this
26 section for a period of up to eight years may be eligible for an inexperienced safe driver discount
27 after three full years of driving experience. To be eligible for the premium discount, an
28 inexperienced licensed driver cannot have any at-fault accidents or convictions on their driving
29 record, whether or not such at-fault accidents or convictions result in the assignment of points
30 under the Plan. Any at-fault accidents or convictions shall preclude the inexperienced licensed
31 driver from being eligible for the premium discount for a period of five years. Eligibility for the
32 premium discount terminates once the inexperienced driver has been licensed for eight years, or
33 when the inexperienced driver has any at-fault accidents or convictions. For purposes of this
34 subsection, convictions on a driving record shall include convictions for which a prayer for
35 judgment continued was granted. Any inexperienced safe driver discount shall be filed by the
36 Bureau for approval with the Commissioner."

37 **SECTION 4.** Subsection (b) of Section 3 becomes effective October 1, 2020, and
38 applies to drivers convicted of moving violations on or after that date. Subsection (d) of Section
39 3 becomes effective October 1, 2019. The remainder of this act is effective when it becomes law.



HOUSE BILL 221: Rate-Making Amendments.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Transportation. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 11, 2019
Introduced by:	Reps. Setzer, Bumgardner, Corbin	Prepared by:	Kristen L. Harris
Analysis of:	PCS to First Edition H221-CSTU-8		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 221 would amend North Carolina's insurance rate-making laws. Specifically, it would 1) create a five-year surcharge for convictions assigned 4 or more points under the State's Safe Driver Incentive Plan (SDIP), 2) extend the existing three-year inexperienced driver surcharge to eight years, and 3) create an inexperienced safe driver discount which would be available after three full years of driving experience if certain conditions were met.*

The PCS makes technical changes only.

CURRENT LAW AND BACKGROUND:

Safe Driver Incentive Plan (SDIP)

Currently, subclassification plan surcharges cannot be applied to an insurance policy for not less nor more than three years.

The following convictions and at-fault accidents are charged four or more points under SDIP:

- Four points: reckless driving, hit and run resulting in property damage only, passing a stopped school bus, speeding in excess of 75 mph when the speed limit is less than 70 mph, speeding in excess of 80 mph when the speed limit is 70 mph or higher, or driving by a person less than 21 after consuming alcohol or drugs.
- Eight points: driving during revocation or suspension of license or registration or aggressive driving.
- Ten points: highway racing or knowingly lending a motor vehicle for highway racing or speeding to elude arrest.
- Twelve points: manslaughter or negligent homicide, prearranged highway racing or knowingly lending a motor vehicle for prearranged highway racing, hit and run resulting in bodily injury or death, driving with a blood-alcohol level of .08 or more, driving commercial vehicle with a blood-alcohol level of .04 or more, DWI, or transporting illegal intoxicating liquor for sale.

BILL ANALYSIS:

Section 1 would require investment income from capital and surplus to be considered in insurance ratemaking.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 221

Page 2

Section 2(a) would rewrite already existing language that prohibits an insurance company from conditioning the acceptance or renewal of a policy or underwriting and rating criteria on the acceptance by a policyholder of any optional enhancement.

Section 2(b) would repeal the requirement that an insurer report its optional enhancement premiums and losses.

Section 3(a) would make a technical correction.

Section 3(b) would authorize a five-year surcharge for convictions assigned 4 or more SDIP points, not including convictions for speeding over the posted limit.

Section 3(c) would create an eight-year inexperienced driver surcharge for drivers receiving a license for the first time on or after October 1, 2019. For drivers receiving a first license on or before September 30, 2019, the surcharge would be limited to three years' driving experience.

Section 3(d) would create an inexperienced safe driver discount that would be available after three full years of driving without any at-fault accidents or convictions, including convictions for which a prayer for judgment continued was granted.

EFFECTIVE DATE: Subsection (b) of Section 3 becomes effective October 1, 2020, and applies to drivers convicted of moving violations on or after that date. Subsection (d) of Section 3 becomes effective October 1, 2019. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 222*

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

Sponsors: Representatives Setzer, Bumgardner, and Corbin (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

February 28, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE INSURANCE
LAWS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.
The General Assembly of North Carolina enacts:

PART I. CAPTIVE INSURANCE CHANGES

SECTION 1. G.S. 58-10-395 is amended by adding a new subsection to read:

"(c) G.S. 58-10-345(f) shall apply to all information filed pursuant to this section."

SECTION 2. G.S. 58-10-415(c) reads as rewritten:

"(c) ~~Captive insurance companies with less than one million two hundred thousand dollars (\$1,200,000) in written premium may make a written request for exemption from the annual audit requirement. Upon written request by any captive insurance company, the Commissioner may grant an exemption from compliance with any and all provisions of this section if the Commissioner finds, upon review of the request, that compliance with this section would constitute a financial or organizational hardship upon the insurer. Such request must be made at least 90 days prior to the captive insurance company's fiscal year-end or as otherwise required by the Commissioner. Requests will be considered on a case-by-case basis and may be subject to the Commissioner receiving an annual audit of the captive insurance company's parent in lieu of the annual audit of the captive insurance company.~~"

SECTION 3. G.S. 58-10-430 reads as rewritten:

"§ 58-10-430. Audits, Audits and Financial Analyses.

(a) Whenever the Commissioner determines it to be prudent, the Commissioner shall audit a captive insurance company's affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this Part. The expenses and charges of the audit shall be paid by the captive insurance company.

(a1) Whenever the Commissioner determines it to be prudent, the Commissioner shall conduct a financial analysis of information submitted to or obtained by the Commissioner pursuant to this Part. Except as otherwise provided in this Part, the captive insurance company is not required to pay the expense and charges of the financial analysis.

(b) G.S. 58-2-160 shall apply to audits and financial analyses conducted under this section.

(c) All audit reports, preliminary audit reports or results, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in the course of an audit or financial analysis made under this section are confidential, are not subject to subpoena, and may not be made public by the



Commissioner or an employee or agent of the Commissioner. Nothing in this subsection shall prevent the Commissioner from using such information in furtherance of the Commissioner's regulatory authority under this Chapter. The Commissioner shall have the discretion to grant access to such information to public officials having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this State or any other state or agency of the federal government at any time only if the officials receiving the information agree in writing to maintain the confidentiality of the information in a manner consistent with this subsection.

(d) Risk retention groups are not subject to this section and shall instead be audited in accordance with the Examination Law, G.S. 58-2-131 through G.S. 58-2-134."

SECTION 4.(a) G.S. 58-10-340 is amended by adding a new subsection to read:

"(16a) Governing board. – The board of directors or officials possessing similar authority."

SECTION 4.(b) G.S. 58-10-345(b) reads as rewritten:

"(b) No captive insurance company shall transact any insurance business in this State unless:

...

(2) ~~Its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee governing board~~ holds at least one meeting each year in this State. A captive insurance company will be exempt from this board meeting requirement if the captive insurance company utilizes the services of at least two of the following North Carolina-based service providers:

- a. Legal.
- b. Accounting.
- c. Actuarial.
- d. Investment advisor.
- e. Captive manager.
- f. Other service providers acceptable to the Commissioner.

...."

SECTION 4.(c) G.S. 58-10-380(e) reads as rewritten:

"(e) ~~In the case of a captive insurance company formed as a corporation, at least one of the members of the board of directors governing board shall be a resident of this State. In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this State. In the case of a captive insurance company formed as a limited liability company, at least one of the managers shall be a resident of this State.~~"

SECTION 4.(d) G.S. 58-10-380(i) reads as rewritten:

"(i) ~~The articles of incorporation or bylaws~~ organizational documents of a captive insurance company ~~formed as a corporation may authorize a quorum of its board of directors governing board~~ to consist of no fewer than one-third of the fixed or prescribed number of ~~directors~~ board members."

SECTION 4.(e) G.S. 58-10-385 reads as rewritten:

"§ 58-10-385. Directors, Governing board members, officers, and employees.

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

(b) No ~~director, governing board member~~, officer, or employee of a captive insurance company shall, except on behalf of the captive insurance company, accept or be the beneficiary of, any fee, brokerage, gift, or other compensation because of any investment, loan, deposit,

1 purchase, sale, payment, or exchange made by or for the captive insurance company unless
2 otherwise approved in advance by the Commissioner, but such person may receive reasonable
3 compensation for necessary services rendered to the captive insurance company in his or her
4 usual private, professional, or business capacity.

5 (c) Any profit or gain received by or on behalf of any person in violation of this section
6 shall inure to and be recoverable by the captive insurance company."

7 **SECTION 4.(f)** G.S. 58-10-390 reads as rewritten:

8 **"§ 58-10-390. Conflict of interest.**

9 (a) Each captive insurance company licensed in this State is required to adopt a conflict
10 of interest statement for officers, ~~directors, governing board members,~~ and key employees. Such
11 statement shall disclose that the individual has no outside commitments, personal or otherwise,
12 that would divert him or her from his or her duty to further the interests of the captive insurance
13 company he or she represents, but this shall not preclude such person from being a director or
14 officer in more than one insurance company.

15 (b) Each officer, ~~directors, governing board member,~~ and key employee shall file such
16 disclosure with ~~the board of directors or other governing body governing board~~ of the captive
17 insurance company annually."

18 **SECTION 4.(g)** G.S. 58-10-420(b) reads as rewritten:

19 "(b) A captive insurance company shall require its independent certified public accountant
20 to immediately notify in writing an officer and all members of the ~~board of directors or other~~
21 ~~governing body governing board~~ of the captive insurance company of any determination by the
22 independent certified public accountant that the captive insurance company has materially
23 misstated its financial condition in its report to the Commissioner as required in G.S. 58-10-405.
24 A captive insurance company receiving a notification pursuant to this subsection shall forward a
25 copy of the notification to the Commissioner within five business days after receipt of the
26 notification and shall provide the independent certified public accountant with proof that the
27 notification was forwarded to the Commissioner. If the independent certified public accountant
28 fails to receive the proof within the five-day period required by this subsection, the independent
29 certified public accountant shall within the next five business days submit a copy of the
30 notification to the Commissioner."

31 **SECTION 4.(h)** G.S. 58-10-510(d) reads as rewritten:

32 "(d) A protected cell captive insurance company shall establish administrative and
33 accounting procedures necessary to properly identify (i) the one or more protected cells of the
34 protected cell captive insurance company and (ii) the assets and liabilities attributable to each
35 protected cell. The ~~directors governing board~~ of a protected cell captive insurance company shall
36 keep protected cell assets and liabilities:

- 37 (1) Separate and separately identifiable from the assets and liabilities of the
38 protected cell captive insurance company's general account.
39 (2) Attributable to one protected cell separate and separately identifiable from
40 protected cell assets and protected cell liabilities attributable to other protected
41 cells.

42 If this subsection is violated, then the remedy of tracing is applicable to protected cell assets when
43 commingled with protected cell assets of other protected cells or the assets of the protected cell
44 captive insurance company's general account. The remedy of tracing shall not be construed as an
45 exclusive remedy."

46 **SECTION 4.(i)** G.S. 58-10-512(c) reads as rewritten:

47 "(c) An incorporated protected cell may be organized and operated in any form of business
48 organization authorized by the Commissioner. Unless otherwise permitted by the organizational
49 documents of a protected cell captive insurance company, each incorporated protected cell of the
50 protected cell captive insurance company must have the same ~~directors, governing board~~
51 ~~members,~~ secretary, and registered office as the protected cell captive insurance company."

SECTION 4.(j) G.S. 58-10-565(b) reads as rewritten:

"(b) To transact business in this State, an SPFC shall:

...

- (3) Hold at least one management meeting each year in this State. For the purposes of this section, management is defined as the ~~board of directors, managing board, governing board~~ or other individual or individuals vested with overall responsibility for the management of the affairs of the SPFC, including the election and appointment of officers or other of those agents to act on behalf of the SPFC.

...."

SECTION 4.(k) G.S. 58-10-565(c) reads as rewritten:

"(c) A complete SPFC application shall include the following:

...

- (4) Biographical affidavits in NAIC format of all of the prospective SPFC's officers and ~~directors, governing board members,~~ providing the officers' and ~~directors' governing board members'~~ legal names, any names under which they have or are conducting their affairs, and any other biographical information as the Commissioner may request.

...."

SECTION 5.(a) G.S. 105-228.4A(a) reads as rewritten:

"(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this section applies only to the branch business of the company. Two or more captive insurance companies under common ownership and ~~control-control, other than a protected cell captive insurance company or a special purpose captive insurance company with a cell or series structure,~~ are taxed under this section as a single captive insurance company. The tax levied in this section does not apply to a foreign captive insurance company."

SECTION 5.(b) G.S. 105-228.4A(f) reads as rewritten:

"(f) Total Tax Liability. – The aggregate amount of tax payable under this section by a protected cell captive insurance company with more than 10 cells or a special purpose captive insurance company with a cell or series structure with 10 or more cells or series may not be less than ten thousand dollars (\$10,000) and may not exceed the lesser of (i) one hundred thousand dollars (\$100,000) plus five thousand dollars (\$5,000) multiplied by the number of cells or series over 10 and (ii) two hundred thousand dollars (\$200,000). The aggregate amount of tax payable under this section for any other captive insurance company may not be less than five thousand dollars (\$5,000) and may not exceed one hundred thousand dollars (\$100,000).

If a captive insurance company is a special purpose financial captive and if the special purpose financial captive is under common ownership and control with one or more other captive insurance companies, the following provisions apply to the consolidated group of companies that are taxed as a single captive insurance company pursuant to subsection (a) of this section:

- (1) The amount of premium tax payable under this section is allocated to each member of the consolidated group in the same proportion that the premium allocable to the member bears to the total premium of all members.
- (2) The aggregate amount of tax payable under this section by the consolidated group is equal to the greater of the following:
 - a. The sum of the premium tax allocated to the members.
 - b. Five thousand dollars (\$5,000).
- (3) If the total premium tax allocated to all members of a consolidated group that are special purpose financial captives exceeds one hundred thousand dollars (\$100,000), then the total premium tax allocated to those members is one hundred thousand dollars (\$100,000).

- (4) If the total premium tax allocated to all members of the consolidated group that are not special purpose financial captives exceeds one hundred thousand dollars (\$100,000), then the total premium tax allocated to those members is one hundred thousand dollars (\$100,000)."

SECTION 5.(c) G.S. 105-228.4A is amended by adding a new subsection to read:

"(g) A captive insurance company formed and licensed under the laws of a jurisdiction other than North Carolina that (i) obtains the approval of the North Carolina Commissioner of Insurance to redomesticate to North Carolina pursuant to G.S. 58-10-380(g) to operate as a North Carolina-domiciled captive insurance company and (ii) redomesticates to North Carolina on or before December 31, 2020, is exempted from prorated premium taxes imposed by this section for the year in which the redomestication occurs and the premium taxes imposed by this section for the calendar year following the redomestication. This subsection expires for taxable years beginning on or after January 1, 2022."

SECTION 5.(d) Subsections (a) and (b) of this section are effective for premium taxes imposed for taxable years beginning on or after January 1, 2020. Subsection (c) of this section is effective for premium taxes imposed for taxable years beginning on or after January 1, 2019.

PART II. HOLDING COMPANY ACT TECHNICAL CHANGES

SECTION 6. G.S. 58-19-10(b) reads as rewritten:

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

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

...

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

PART III. SURPLUS LINES TECHNICAL CHANGES

SECTION 7.(a) G.S. 58-21-35(b) reads as rewritten:

"(b) The licensee shall complete and retain a copy of the report in paper or electronic form as required by the Commissioner. The report required by this section ~~and the quarterly report required by G.S. 58-21-80 shall be completed on a standardized form or forms prescribed~~

1 ~~by the Commissioner and are not public records is not a public record~~ under G.S. 132-1 or
2 G.S. 58-2-100."

3 **SECTION 7.(b)** G.S. 58-21-40(b)(3) is repealed.

4 **SECTION 7.(c)** G.S. 58-21-75 reads as rewritten:

5 **"§ 58-21-75. Records of surplus lines licensee.**

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

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

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

25 **SECTION 7.(d)** G.S. 58-21-80 is repealed.

26 **SECTION 7.(e)** G.S. 58-21-95 reads as rewritten:

27 **"§ 58-21-95. Suspension, revocation or nonrenewal of surplus lines licensee's license.**

28 The Commissioner may suspend, revoke, or refuse to renew the license of a surplus lines
29 licensee after notice and hearing as provided under G.S. 58-2-70 upon any one or more of the
30 following grounds:

- 31 (1) ~~Removal of the surplus lines licensee's office from this State;~~
- 32 (2) Removal of the surplus lines licensee's office accounts and records ~~from this~~
33 ~~State~~ during the period during which such accounts and records are required
34 to be maintained under G.S. 58-21-75;
- 35 (3) Closing of the surplus lines licensee's office for a period of more than 30
36 business days, unless permission is granted by the Commissioner;
- 37 (4) Failure to make and file required reports;
- 38 (5) Failure to transmit the required tax on surplus lines premiums;
- 39 (6) ~~Failure to maintain the required bond;~~ Failure to pay the stamping fee to the
40 stamping office;
- 41 (7) Violation of any provision of this Article; or
- 42 (8) For any other cause for which an insurance license could be denied, revoked,
43 suspended, or renewal refused under the Insurance Law."
- 44

45 **PART IV. ALIGN STATE LAW WITH NAIC MODEL LAW REGARDING IMMUNITY**
46 **FOR CONTRACTORS HIRED BY THE DEPARTMENT**

47 **SECTION 8.(a)** G.S. 58-30-71(a) reads as rewritten:

48 "(a) ~~For the purposes of this section, the persons~~ Persons entitled to protection under this
49 section are:

- 50 (1) All receivers responsible for the conduct of a delinquency proceeding under
51 this Article, including present and former receivers; and

(2) ~~Their employees~~ All of the receiver's employees, meaning all present and former special deputies and assistant special deputies appointed by the Commissioner, staff assigned to the delinquency proceeding employed by the Attorney General's Office, and all persons whom the Commissioner, special deputies, or assistant special deputies have employed to assist in a delinquency proceeding under this Article. Attorneys, accountants, auditors, and other professional persons or firms, who are retained by the receiver as independent contractors and their employees are not employees of the receiver for purposes of this section.

(3) All of the receiver's contractors, meaning all persons who are retained by the receiver or the receiver's employees as independent contractors to assist in a delinquency proceeding under this Article, including attorneys, accountants, auditors, and other professional persons or firms and their employees."

SECTION 8.(b) G.S. 58-30-71(b) reads as rewritten:

"(b) ~~The receiver and his employees have~~ receiver, the receiver's employees, and the receiver's contractors shall have official immunity and are immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from any alleged act, error, or omission of the receiver or any employee arising out of or by reason of any of the following:

(1) ~~their~~ Their duties or employment; employment.

(2) Any matters that have been subject to review by the Court after notice and opportunity to be heard, provided that the alleged act, error, or omission was not disapproved or disallowed by the Court.

~~provided that nothing~~ Provided, however, that nothing in this section holds the receiver or any employee ~~receiver, the receiver's employees, or the receiver's contractors~~ receiver, the receiver's employees, or the receiver's contractors immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors or for any bodily injury caused by the operation of a motor vehicle."

SECTION 8.(c) G.S. 58-30-71(j) reads as rewritten:

"(j) Nothing in this section deprives the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors of any immunity, indemnity, benefits of law, rights, or any defense otherwise available."

PART V. CLARIFY CONSENT TO RATE

SECTION 9.(a) G.S. 58-36-30(b) reads as rewritten:

"(b) This subsection applies ~~only~~ to insurance against loss to automobile physical damage and related expenses. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized:

NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR AUTOMOBILE PHYSICAL DAMAGE AND RELATED EXPENSES THAT COVERS THE DAMAGE TO YOUR COVERED VEHICLE(S) EXCEEDS THE PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE WITH G.S. 58-36-30(b).

The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy when the rates charged exceed the approved manual rate. The insurer shall retain consent to rate information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may also be

1 used to provide motor vehicle liability coverage limits above those required under Article 9A of
2 Chapter 20 of the General Statutes and above those that could be ceded to the North Carolina
3 Reinsurance Facility under Article 37 of this Chapter to persons whose personal excess liability
4 insurance policies require that they maintain specific higher liability coverage limits. Any data
5 obtained by the Commissioner under this subsection is proprietary and confidential and is not a
6 public record under G.S. 132-1 or G.S. 58-2-100."

7 **SECTION 9.(b)** G.S. 58-36-30(b1) reads as rewritten:

8 "(b1) This subsection applies only to insurance against loss to residential property with not
9 more than four housing units. A rate in excess of that promulgated by the Bureau may be charged
10 by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted
11 by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate
12 the premium for the policy are greater than those rates that are applicable in the State of North
13 Carolina by including the following language in the policy on page one of the declarations page
14 or on a separate page before the declarations page, in at least 14 point type or in a font size larger
15 than the remainder of the document whichever is larger, bolded, and all capitalized:

16 NOTICE: IN ACCORDANCE WITH G.S. 58-36-30(b1), THE PREMIUM BASED
17 UPON THE APPROVED RATES IN NORTH CAROLINA FOR RESIDENTIAL PROPERTY
18 INSURANCE COVERAGE APPLIED FOR WOULD BE \$ _____. OUR PREMIUM FOR THIS
19 COVERAGE IS \$ _____.

20 The disclosure statement noted above in this subsection shall be included on any renewal of
21 or endorsement to the policy when the rates charged exceed the approved manual rate. ~~for any~~
22 ~~subsequent increase above the.~~ The insurer shall retain consent to rate information for each
23 insured and make this information available to the Commissioner, upon request of the
24 Commissioner. Any data obtained by the Commissioner under this subsection is proprietary and
25 confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100."

26 **SECTION 9.(c)** G.S. 58-36-30(c) reads as rewritten:

27 ~~"(c) Any approved rate under subsection (b) of this section with respect to~~ This subsection
28 applies only to workers' compensation and employers' liability insurance written in connection
29 therewith shall be furnished to the Bureau therewith. A rate in excess of that promulgated by the
30 Bureau may be charged by an insurer on any specific risk if the higher rate is charged in
31 accordance with rules adopted by the Commissioner."

32 **SECTION 9.(d)** G.S. 58-36-30(e) reads as rewritten:

33 "(e) Each insurer shall collect the following consent to rate data for nonfleet private
34 passenger motor vehicle physical damage and homeowners residential property ~~(all forms~~
35 ~~excluding HO4 and HO6)~~ with not more than four housing units (all forms, excluding HO4 and
36 HO6) and transmit the data electronically for each policy to the Commissioner on a semi-annual
37 basis in a format prescribed and designated by the Commissioner:

38"

39 **SECTION 9.(e)** The Commissioner may adopt temporary rules to implement this
40 section.

41 42 **PART VI. FAST ACT CONFIRMING CHANGE**

43 **SECTION 10.(a)** G.S. 58-39-26(a) reads as rewritten:

44 "(a) Disclosure Required. – In addition to the notice requirements of G.S. 58-39-25, an
45 insurance institution or agent shall provide, to all applicants and policyholders no later than (i)
46 before the initial disclosure of personal information under G.S. 58-39-75(11) or (ii) the time of
47 the delivery of the insurance policy or certificate, a clear and conspicuous notice, in written or
48 electronic form, of the insurance institution or agent's policies and practices with respect to:

- 49 (1) Disclosing nonpublic personal information to affiliates and nonaffiliated third
50 parties, consistent with section 502 of Public Law 106-102, including the
51 categories of information that may be disclosed.

(2) Disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution.

(3) Protecting the nonpublic personal information of consumers.

These disclosures shall be made in accordance with the regulations prescribed under section 505 504 of Public Law 106-102.

(b) Information to Be Included. – The disclosure required by subsection (a) of this section shall include:

- (1) The policies and practices of the insurance institution or agent with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the insurance institution or agent, consistent with section 502 of Public Law 106-102, and including:
 - a. The categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided under section 502(e) of Public Law 106-102.
 - b. The policies and practices of the insurance institution or agent with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the insurance institution or agent.
- (2) The categories of nonpublic personal information that are collected by the insurance institution or agent.
- (3) The policies that the insurance institution or agent maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501 of Public Law 106-102.
- (4) The disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.

(c) In the case of a policyholder, the notice required by this section shall be provided not less than annually during the continuation of the policy. As used in this subsection, "annually" means at least once in any period of 12 consecutive months during which the policy is in effect.

(d) Exception to Annual Notice Requirement. – An insurance institution or agent is not required to provide the privacy notice annually as required under subsection (c) of this section if all of the following apply:

- (1) The insurance institution or agent provides nonpublic personal information only in accordance with the provisions of sections 502(b)(2) or 502(e) of Public Law 106-102 or regulations prescribed under section 504(b) of Public Law 106-102.
- (2) The insurance institution or agent has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section.

If at any time subdivisions (1) or (2) of this section no longer apply to an insurance institution or agent, then the insurance institution or agent shall be required to provide the annual privacy notice required under subsection (c) of this section."

PART VII. STREAMLINE EXPEDITED EXTERNAL REVIEW PROCESS

SECTION 11.(a) G.S. 58-50-82(a) reads as rewritten:

"(a) Except as provided in subsection (g) of this section, a covered person may file a request for an expedited external review with the Commissioner at the time the covered person receives:receives any of the following:

- (1) A noncertification decision under G.S. 58-50-61(f) ~~if~~ if all of the following conditions apply:
 - a. The covered person has a medical condition where the time frame for completion of an expedited review of an appeal involving a

- 1 noncertification set forth in G.S. 58-50-61(l) would be reasonably
 2 expected to seriously jeopardize the life or health of the covered person
 3 or would jeopardize the covered person's ability to regain maximum
 4 ~~function; and function.~~
- 5 b. The covered person has filed a request for an expedited appeal under
 6 G.S. 58-50-61(l).
- 7 (2) An appeal decision under G.S. 58-50-61(k) or ~~(l)~~ G.S. 58-58-61(l) upholding
 8 a noncertification ~~if all of the following conditions apply:~~
- 9 a. The noncertification appeal decision involves a medical condition of
 10 the covered person for which the time frame for completion of an
 11 expedited second-level grievance review of a noncertification set forth
 12 in G.S. 58-50-62(i) would reasonably be expected to seriously
 13 jeopardize the life or health of the covered person or jeopardize the
 14 covered person's ability to regain maximum ~~function; and function.~~
- 15 b. The covered person has filed a request for an expedited second-level
 16 grievance review of a noncertification as set forth in ~~G.S. 58-50-61(i);~~
 17 ~~or G.S. 58-50-62(i).~~
- 18 (3) A second-level grievance review decision under ~~G.S. 58-60-62(h) or (i)~~
 19 G.S. 58-50-62(h) or G.S. 58-50-62(i) upholding a
 20 ~~noncertification; noncertification if all of the following conditions apply:~~
- 21 a. If the covered person has a medical condition where the time frame for
 22 completion of a standard external review under G.S. 58-50-80 would
 23 reasonably be expected to seriously jeopardize the life or health of the
 24 covered person or jeopardize the covered person's ability to regain
 25 maximum ~~function; or function.~~
- 26 b. If the second-level grievance concerns a noncertification of an
 27 admission, availability of care, continued stay, or health care service
 28 for which the covered person received emergency services, but has not
 29 been discharged from a facility."

30 **SECTION 11.(b)** G.S. 58-50-82(b) reads as rewritten:

31 "(b) Within two days after receiving a request for an expedited external review, the
 32 Commissioner shall complete all of the following:

- 33 (1) Notify the insurer that made the noncertification, noncertification appeal
 34 decision, or second-level grievance review decision which is the subject of the
 35 request that the request has been received and provide a copy of the request.
 36 The Commissioner shall also request any information from the insurer
 37 necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and
 38 require the insurer to deliver the information not later than one day after the
 39 request was made.
- 40 (2) Determine whether the request is eligible for external ~~review and, if it is~~
 41 ~~eligible, determine whether it is eligible for expedited review.~~ review.
- 42 (3) If the request is eligible for external review and the covered person's treating
 43 provider requesting the service that is the subject of the external review has
 44 certified the request on a form prescribed by the Commissioner, then one of
 45 the following shall apply:
- 46 a. For a request made pursuant to subdivision (a)(1) of this ~~section that~~
 47 ~~the Commissioner has determined meets the reviewability~~
 48 ~~requirements set forth in G.S. 58-50-80(b)(2), determine, based on~~
 49 ~~medical advice from a medical professional who is not affiliated with~~
 50 ~~the organization that will be assigned to conduct the external review~~
 51 ~~of the request, whether~~ section, the request ~~should~~ shall be reviewed

on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-61(l) would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be ~~informed by the Commissioner that the covered person must exhaust, at a minimum, the insurer's internal appeal process under G.S. 58-50-61(l) before making another request for an external review with the Commissioner notified.~~

b. For a request made pursuant to subdivision (a)(2) of this ~~section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether~~ section, the request should shall be reviewed on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-62 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be ~~informed by the Commissioner that the covered person must exhaust the insurer's internal grievance process under G.S. 58-50-62 before making another request for an external review with the Commissioner notified.~~

c. For a request made pursuant to sub-subdivision (a)(3)a. of this ~~section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether~~ section, the request should shall be reviewed on an expedited basis because the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the

covered person, the covered person's provider who performed or requested the service, and the insurer whether the review will be conducted using an expedited or standard time frame and shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame.

- d. For a request made pursuant to sub subdivision (a)(3)b. of this section, ~~that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision.~~ the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision."

SECTION 11.(c) G.S. 58-50-89 reads as rewritten:

"§ 58-50-89. Hold harmless for Commissioner, medical professionals, Commissioner and independent review organizations.

Neither the The Commissioner, a medical professional rendering advice to the Commissioner under G.S. 58-50-82(b)(2), an independent review organization, nor shall or a clinical peer reviewer working on behalf of an independent review organization shall not be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted under this Part, unless the opinion was rendered in bad faith or involved gross negligence."

SECTION 11.(d) Subsections (a) and (b) of this section are effective October 1, 2019, and apply to requests for expedited review submitted on or after that date.

PART VIII. EXCLUSIVE PROVIDER BENEFIT PLANS

SECTION 12.(a) G.S. 58-50-56(i) reads as rewritten:

"(i) A person enrolled in a preferred provider benefit plan may obtain covered health care services from a provider who does not participate in the plan. In accordance with rules adopted by the Commissioner and subject to G.S. 58-3-190 and G.S. 58-3-200(d), the preferred provider benefit plan may limit coverage for health care services obtained from a nonparticipating provider. The Commissioner shall adopt rules on product limitations, including payment differentials for services rendered by nonparticipating providers. These rules shall be similar in substance to rules governing HMO point-of-service products."

SECTION 12.(b) Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-56.1. Continuity of Care.

(a) Definitions. – The following definitions shall apply in this section:

(1) Exclusive provider benefit plan. – A preferred provider benefit plan in which enrollees must receive covered services from health care providers who are under contract with the insurer and under which there is no coverage for care received from a health care provider who is not under contract with the insurer, except for emergency services as required by G.S. 58-3-190 and medically necessary covered services as required by G.S. 58-3-200(d).

(2) Insurer. – As defined in G.S. 58-50-56.

(3) Ongoing special condition. – One of the following conditions:

a. An acute illness that is serious enough to require medical care or treatment to avoid a reasonable possibility of death or permanent harm.

- 1 b. A chronic illness, disease, or condition that is life-threatening,
2 degenerative, or disabling, and that requires medical care or treatment
3 over a prolonged period of time.
4 c. Pregnancy from the start of the second trimester.
5 d. A terminal illness for which an individual has a medical prognosis of
6 a life expectancy of six months or less.
7 (4) Terminated or termination. – The expiration or nonrenewal of a contract. This
8 term does not include an ending of the contract by an insurer for failure to
9 meet applicable quality standards or for fraud.
10 (b) Termination of a Provider. – If (i) a contract between an insurer and a health care
11 provider offering an exclusive provider benefit plan is terminated by the provider or by the
12 insurer, or benefits or coverage provided by the insurer are terminated because of a change in the
13 terms of provider participation in an insurer's exclusive provider benefit plan and (ii) an insured
14 is undergoing treatment from the provider for an ongoing special condition on the date of
15 termination, then the following shall apply:
16 (1) Upon termination of the contract by the insurer or upon receipt by the insurer
17 of written notification of termination by the provider, the insurer shall notify
18 the insured on a timely basis of the termination and of the insured's right to
19 elect continuation of coverage of treatment by the provider. This subdivision
20 shall apply only if the insured has a claim with the insurer for services
21 provided by the terminated provider or the insured is otherwise known by the
22 insurer to be a patient of the terminated provider.
23 (2) Subject to subsection (h) of this section, the insurer shall permit an insured to
24 elect to continue to be covered with respect to the treatment by the terminated
25 provider for the ongoing special condition during a transitional period, as
26 provided under this section.
27 (c) Newly Covered Insured. – Each exclusive provider benefit plan offered by an insurer
28 shall provide transition coverage to individuals who (i) are newly covered under an exclusive
29 provider benefit plan because the individual's employer has changed benefit plans and (ii) are
30 undergoing treatment from a provider for an ongoing special condition. On the date of
31 enrollment, an insurer shall notify the newly covered insured of the right to elect continuation of
32 coverage of treatment by a provider that is not contracted with the exclusive provider benefit plan
33 and, subject to subsection (h) of this section, the insurer shall permit the newly covered insured
34 to elect to continue to be covered with respect to the treatment by the provider of the ongoing
35 special condition during a transitional period, as provided under this section.
36 (d) Transitional Period: In General. – Except as otherwise provided in this section, the
37 length of a transitional period provided under this subsection shall be determined by the treating
38 health care provider, so long as it does not exceed 90 days after the date of the notice to the
39 individual described in subdivision (b)(1) of this section or the date of enrollment in a new plan
40 described in subsection (c) of this section.
41 (e) Transitional Period: Scheduled Surgery, Organ Transplantation, or Inpatient Care. –
42 If surgery, organ transplantation, or other inpatient care was scheduled for an individual, or if the
43 individual was on an established waiting list for surgery, organ transplantation, or other inpatient
44 care, before the date of the notice required under subdivision (b)(1) of this section or the date of
45 enrollment described in subsection (c) of this section, then the transitional period under this
46 subsection with respect to the surgery, transplantation, or other inpatient care shall extend
47 through the date of discharge of the individual after completion of the surgery, transplantation,
48 or other inpatient care, and through post discharge follow-up care related to the surgery,
49 transplantation, or other inpatient care occurring within 90 days after the date of discharge.
50 (f) Transitional Period: Pregnancy. – If an individual has entered the second trimester of
51 pregnancy on or before the date of the notice required under subdivision (b)(1) of this section or

the date of enrollment in a new plan described in section (c) of this section, and the provider was treating the pregnancy before the date of the notice, or the date of enrollment in the plan, then the transitional period with respect to the provider's treatment of the pregnancy shall extend through the provision of 60 days of postpartum care.

(g) Transitional Period: Terminal Illness. – If an individual was determined to be terminally ill at the time of a provider's termination of participation under subsection (b) of this section or at the time of enrollment in the plan under subsection (c) of this section, and the provider was treating the terminal illness before the date of the termination or enrollment in the plan, then the transitional period shall extend for the remainder of the individual's life with respect to care directly related to the treatment of the terminal illness or its medical manifestations.

(h) Permissible Terms and Conditions. – An insurer may condition coverage of continued treatment by a provider under subsection (b) or subsection (c) of this section upon the following terms and conditions:

(1) When care is provided pursuant to subsection (b) of this section, the provider agrees to accept reimbursement from the insurer and, with respect to cost-sharing, from the insured involved at the rates applicable before the start of the transitional period as payment in full.

(2) When care is provided pursuant to subsection (c) of this section, the provider agrees to accept the prevailing rate based on contracts the insurer has with the same or similar providers in the same or similar geographic area, plus the applicable copayment from the newly covered insured, as reimbursement in full from the insurer and the insured for all covered services.

(3) The provider agrees to comply with the quality assurance programs of the insurer responsible for payment under this subsection and to provide to the insurer necessary medical information related to the care provided. The insurer's quality assurance programs shall not override the professional or ethical responsibility of the provider or interfere with the provider's ability to provide information or assistance to the insured.

(4) The provider agrees to adhere to the insurer's established policies and procedures for participating providers, including procedures regarding referrals and obtaining prior authorization, providing services pursuant to a treatment plan approved by the insurer, and member hold harmless provisions.

(5) The receipt of notification from the insured within 45 days of the date of the notice described in subdivision (b)(1) of this section or the new enrollment described in subsection (c) of this section, that the insured elects to continue receiving treatment by the provider.

(6) The provider agrees to discontinue providing services at the end of the transition period and to assist the insured in an orderly transition to a network provider. Nothing in this section shall prohibit the insured from continuing to receive services from the provider at the insured's expense.

(i) Construction. – Nothing in this section shall do any of the following:

(1) Require the coverage of benefits that would not have been covered if the provider involved remained a participating provider or, in the case of a newly covered insured, require the coverage of benefits not provided under the policy in which the newly covered insured is enrolled.

(2) Require an insurer to offer a transitional period when the insurer terminates a provider's contract for reasons relating to quality of care or fraud. Refusal by an insurer to offer a transitional period under these circumstances is not subject to the grievance review provisions of G.S. 58-50-62.

(3) Prohibit an insurer from extending any transitional period beyond that specified in this section.

(4) Prohibit an insurer from terminating the continuing services of a provider when the insurer has determined that the provider's continued provision of services may result in, or is resulting in, a serious danger to the health or safety of the insured. A termination for these reasons shall be in accordance with the contract provisions that the provider would otherwise be subject to if the provider's contract were still in effect.

(j) Disclosure of Right to Transitional Period. – Each insurer shall include a clear description of an insured's rights under this section in its evidence of coverage and summary plan description."

SECTION 12.(c) The Department of Insurance may adopt temporary rules to implement this section.

SECTION 12.(d) Subsections (a) and (b) of this section apply to insurance contracts issued, renewed, or amended on or after the effective date of this act.

PART IX. BAIL BONDSMAN TECHNICAL CHANGES

SECTION 13.(a) G.S. 58-71-1 is amended by adding a new subdivision to read:

"(6a) Premium. – An amount of money paid in exchange for a bail bondsman's services in writing a bail bond."

SECTION 13.(b) G.S. 58-71-45 reads as rewritten:

"§ 58-71-45. Terms of licenses.

A license issued to a bail bondsman or to a runner authorizes the licensee to act in that capacity until the license is lapsed, suspended or revoked. ~~Upon the suspension or revocation of a license, the~~ The licensee shall return the license to the Commissioner within 10 working days of the lapse, suspension, or revocation of the license. A license of a bail bondsman and a license of a runner shall be renewed in accordance with G.S. 58-71-75. After notifying the Commissioner in writing, a professional bondsman who employs a runner may cancel the runner's authority to act for the professional bondsman."

SECTION 13.(c) G.S. 58-71-165(a) reads as rewritten:

"(a) Each professional bail bondsman shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) ~~the State or local official to whom given, and court file or docket number for the principal's court obligation.~~ (v) the fee charged for the bonding service in each ~~instance.~~ instance, and (vi) the certificate seal number for each bond issued."

SECTION 13.(d) G.S. 58-71-167 reads as rewritten:

"(a) In any case where the agreement between principal and surety calls for some portion of the bond premium payments to be deferred or paid after the defendant has been released from custody, a written memorandum of agreement between the principal and surety shall be kept on file by the surety with a copy provided to the ~~principal, upon request.~~ principal. The memorandum shall contain the following information:

(1) The amount of the premium payment deferred or not yet paid at the time the defendant is released from jail.

(2) The method and schedule of payment to be made by the defendant to the bondsman, which shall include the dates of payment and amount to be paid on each date.

(3) That the principal ~~is, upon the principal's request,~~ is entitled to a copy of the memorandum.

(b) The memorandum must be signed by the defendant and the bondsman, or one of the bondsman's agents, and dated at the time the agreement is made. Any subsequent modifications of the memorandum must be in writing, signed, dated, and kept on file by the surety, with a copy provided to the ~~principal, upon request.~~ principal."

PART X. CLARIFY RULEMAKING AUTHORITY FOR STATE FIRE AND RESCUE COMMISSION

SECTION 14. G.S. 58-78-5(a) is amended by adding a new subsection to read:

"(a) The Commission shall have the following powers and duties:

...

(17) To adopt, modify, or repeal any rules and regulations necessary for the purpose of carrying out the provisions of this Article."

PART XI. PREPAID HEALTH PLAN LICENSING ACT CLARIFYING AND TECHNICAL CHANGES

SECTION 15.(a) G.S. 58-93-20(c) reads as rewritten:

"(c) Any person that is already a licensed health organization in this State under this Chapter shall be recognized as a PHP under this Article and shall be issued a PHP license upon the licensed health organization's demonstration to the Commissioner of its compliance with this Article. A licensed health organization shall not be required to file a PHP application, pay a PHP application fee, or provide the notice required by subsection (d) of this section as a condition of receipt of a PHP license. Unless otherwise exempted, a licensed health organization shall be subject to the remaining requirements of this Article, including deposit, minimum capital and surplus, and working capital requirements."

SECTION 15.(b) G.S. 58-93-30 reads as rewritten:

"§ 58-93-30. Fees.

The Commissioner shall ~~establish charge~~ an application fee ~~not to exceed of~~ two thousand dollars (\$2,000) for entities filing an application to be licensed as a PHP under this Article. The Commissioner shall ~~establish charge~~ an annual PHP license continuation fee ~~not to exceed of~~ five thousand dollars (\$5,000). The PHP license shall continue in full force and effect subject to timely payment of the annual PHP license continuation fee in accordance with G.S. 58-6-7(c) and subject to any other provisions of this Chapter applicable to PHPs."

SECTION 15.(c) G.S. 58-93-60 reads as rewritten:

"§ 58-93-60. Examinations.

The Commissioner may make an examination of the affairs of any PHP as often as the Commissioner determines it to be necessary for the protection of the interests of the enrollees or the State but not less frequently than once every five years. The Commissioner shall notify DHHS prior to any examination of a PHP and shall provide DHHS with the results of an examination in accordance with G.S. 58-93-5(e). Examinations shall otherwise be conducted under G.S. 58-2-131 through G.S. 58-2-134."

SECTION 15.(d) G.S. 58-93-90 reads as rewritten:

"§ 58-93-90. Rehabilitation or liquidation of PHP.

(a) Any rehabilitation or liquidation of a PHP shall be deemed to be the rehabilitation or liquidation of an insurance company and shall be conducted under the supervision of the Commissioner pursuant to Article 30 of this Chapter. The Commissioner may apply for an order directing the rehabilitation or liquidation of a PHP upon one or more grounds set out in Article 30 of this Chapter or when it is the opinion of the Commissioner that the continued operation of the PHP would be hazardous either to the enrollees or to the State. Priority shall be given to DHHS's claims over all other claims in G.S. 58-30-220, except for claims in G.S. 58-30-220(1).

(b) To the greatest extent possible, the Commissioner shall provide notice to DHHS prior to seeking an application for an order to rehabilitate or liquidate a PHP under this section. If prior notice is not possible, the Commissioner shall provide the notice to DHHS as soon as possible after seeking the order."

SECTION 15.(e) G.S. 58-93-95(a) reads as rewritten:

1 "(a) When the Commissioner has cause to believe that grounds for the denial of an
2 application for a license exist, or that grounds for the suspension or revocation of a license exist,
3 notification shall be given to the PHP in ~~writing~~-writing and a copy of the notice shall be provided
4 to DHHS. This notice shall specifically state the grounds for denial, suspension, or revocation
5 and shall set a date for a hearing on the matter at least 30 days after notice is given."

6 **SECTION 15.(f)** G.S. 58-93-120(16) reads as rewritten:

7 "(16) G.S. 58-7-26, Asset or reduction from liability for reinsurance ceded by a
8 domestic insurer to an assuming insurer not meeting the requirements of
9 ~~G.S. 58-7-121~~.G.S. 58-7-21."

10
11 **PART XII. CLARIFY WHEN APPLICATION SENT TO NORTH CAROLINA**
12 **SELF-INSURANCE SECURITY ASSOCIATION**

13 **SECTION 16.** G.S. 97-170(b) reads as rewritten:

14 "(b) An applicant for a license as a self-insurer shall file with the Commissioner the
15 information required by subsection (d) of this section on a form prescribed by the Commissioner
16 at least 90 days before the proposed licensing date. No application is complete until the
17 Commissioner has received all required information. A copy of the application ~~must~~-shall also
18 be filed with the North Carolina Self-Insurance Security Association ~~at least 90 days before the~~
19 ~~proposed licensing date~~at the same time the application is filed with the Commissioner."

20
21 **PART XIII. EFFECTIVE DATE**

22 **SECTION 17.** Except as otherwise provided, this act is effective when it becomes
23 law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

D

**HOUSE BILL 222
PROPOSED COMMITTEE SUBSTITUTE H222-CSTU-1 [v.8]**

04/08/2019 02:10:21 PM

Short Title: Modify Crim Penalties/NAIC Fraud Act- AB.

(Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE PORTIONS OF THE NAIC'S INSURANCE FRAUD PREVENTION MODEL ACT LANGUAGE INTO NORTH CAROLINA'S INSURANCE LAWS AND TO MODIFY CRIMINAL PENALTIES ASSOCIATED WITH CERTAIN INSURANCE FRAUD STATUTES, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

PART I. INCORPORATE NAIC INSURANCE FRAUD PREVENTION MODEL ACT LANGUAGE

SECTION 1.(a) G.S. 58-1-5 reads as rewritten:

"§ 58-1-5. Definitions.

In this Chapter, unless the context clearly requires otherwise:

- (1) "Alien company" means a company incorporated or organized under the laws of any jurisdiction outside of the United States.
- (1a) "Commercial aircraft" means aircraft used in domestic, flag, supplemental, commuter, or on-demand operations, as defined in Federal Aviation Administration Regulations, 14 C.F.R. § 119.3, as amended.
- (2) "Commissioner" means the Commissioner of Insurance of North Carolina or an authorized designee of the Commissioner.
- (3) "Company" or "insurance company" or "insurer" includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations. "Company" or "insurance company" or "insurer" does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.
- (4) "Department" means the Department of Insurance of North Carolina.
- (5) "Domestic company" means a company incorporated or organized under the laws of this State.
- (6) "Foreign company" means a company incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.
- (6a) "Fraudulent insurance act" means an act or omission affecting the business of insurance committed by a person with the intent to injure, defraud, or deceive another person in violation of this Chapter.



(7) "NAIC" means the National Association of Insurance Commissioners.

(8) Repealed by Session Laws 1999-219, s. 5.5.

(9) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.

(10) The singular form includes the plural, and the masculine form includes the feminine wherever appropriate.

SECTION 1.(b) G.S. 58-2-50 reads as rewritten:

"§ 58-2-50. Examinations, hearings, and investigations.

(a) All examinations, hearings, and investigations provided for by this Chapter may be conducted by the Commissioner personally or by one or more deputies, investigators, actuaries, examiners or employees designated for the purpose. ~~If the Commissioner or any investigator appointed to conduct the investigations is of the opinion that there is evidence to charge any person or persons with a criminal violation of any provision of this Chapter, the Commissioner may arrest with warrant or cause the person or persons to be arrested.~~

(b) All hearings shall, unless otherwise specially provided, be held in accordance with this Article and Article 3A of Chapter 150B of the General Statutes and at a time and place designated in a written notice given by the Commissioner to the person cited to appear. The notice shall state the subject of inquiry and the specific charges, if any.

(c) The Commissioner may investigate and prosecute suspected fraudulent insurance acts and persons engaged in the business of insurance.

(d) The Commissioner shall have the authority to do all of the following:

(1) Inspect, copy, and collect records and evidence.

(2) Serve subpoenas.

(3) Administer oaths and affirmations.

(4) Share records and evidence with federal, state, or local law enforcement, or regulatory agencies.

(5) Execute search warrants and arrest warrants for criminal violations of this Chapter.

(6) Arrest upon probable cause without warrant a person found in the act of violating or attempting to violate a provision of this Chapter.

(7) Make criminal referrals to prosecuting authorities.

(8) Conduct investigations outside of this State. If the information the Commissioner seeks to obtain is located outside this State, the person from whom the information is sought may make the information available to the Commissioner to examine at the place where the information is located. The Commissioner may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the Commissioner, and the Commissioner may respond to similar requests from officials of other states.

(e) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this Chapter or investigations of suspected or actual violations of this Chapter.

SECTION 1.(c) G.S. 58-2-160 reads as rewritten:

"§ 58-2-160. Reporting and investigation of ~~insurance and reinsurance fraud~~ fraudulent insurance acts and the financial condition of licensees; immunity from liability.

(a) As used in this section, "Commissioner" includes an employee, agent, or designee of the Commissioner. A person, or an employee or agent of that person, acting without actual malice, is not subject to civil liability for libel, slander, or any other cause of action by virtue of furnishing to the Commissioner under the requirements of law or at the direction of the Commissioner reports or other information relating to (i) any known or suspected fraudulent insurance ~~or reinsurance claim, transaction, or act~~ or (ii) the financial condition of any licensee.

1 In the absence of actual malice, members of the NAIC, their duly authorized committees,
2 subcommittees, task forces, delegates, and employees, and all other persons charged with the
3 responsibility of collecting, reviewing, analyzing, or disseminating the information developed
4 from filings of financial statements or examinations of licensees are not subject to civil liability
5 for libel, slander, or any other cause of action by virtue of their collection, review, analysis, or
6 dissemination of the data and information collected from such filings or examinations.

7 (b) The Commissioner, acting without actual malice, is not subject to civil liability for
8 libel or slander by virtue of an investigation of (i) any known or suspected fraudulent insurance
9 ~~or reinsurance claim, transaction, or act~~ or (ii) the financial condition of any licensee; or by virtue
10 of the publication or dissemination of any official report related to any such investigation, which
11 report is published or disseminated in the absence of fraud, bad faith, or actual malice on the part
12 of the Commissioner. The Commissioner is not subject to civil liability in relation to the
13 collecting, reviewing, analyzing, or dissemination of information that is developed by the NAIC
14 from the filing of financial statements with the NAIC or from the examination of insurers by the
15 NAIC and that is communicated to the Commissioner, including any investigation or publication
16 or dissemination of any report or other information in relation thereto, which report is published
17 or disseminated in the absence of fraud, bad faith, negligence, or actual malice on the part of the
18 Commissioner.

19 (c) During the course of an investigation of (i) a known or suspected fraudulent insurance
20 ~~or reinsurance claim, transaction, or act~~ or (ii) the financial condition of any licensee, the
21 Commissioner may request any person to furnish copies of any information relative to the (i)
22 known or suspected claim, transaction, or act or (ii) financial condition of the licensee. The
23 person shall release the information requested and cooperate with the Commissioner pursuant to
24 this section."

25 **SECTION 1.(d)** Article 2 of Chapter 58 of the General Statutes is amended by adding
26 a new section to read:

27 **"§ 58-2-166. Fraudulent insurance act warning required on claim for payment or other**
28 **benefit or on application for insurance.**

29 (a) Claims for payment or other benefits or applications for issuance of an insurance
30 policy regardless of the form of transmission, shall contain the following statement or a
31 substantially similar statement:

32 "Any person who knowingly presents or causes to be presented a false or fraudulent claim
33 for payment of a loss or benefit or knowingly presents false information on an application for
34 insurance is guilty of a crime and may be subject to fines and confinement in prison."

35 (b) The lack of a statement as required in subsection (a) of this section does not constitute
36 a defense in any prosecution for a fraudulent insurance act as defined in G.S. 58-1-5.

37 (c) Policies issued by nonadmitted insurers shall contain a statement disclosing the status
38 of the insurer to do business in the state where the policy is delivered or issued for delivery or
39 the state where coverage is in force. The requirement of this subsection may be satisfied by a
40 disclosure specifically required by G.S. 58-21-45 or G.S. 58-22-20.

41 (d) The requirements of this section shall not apply to reinsurance claims forms or
42 reinsurance applications."

43 **SECTION 1.(e)** Article 2 of Chapter 58 of the General Statutes is amended by adding
44 a new section to read:

45 **"§ 58-2-167. Insurer antifraud initiatives.**

46 (a) Insurers shall have in place antifraud initiatives reasonably calculated to detect,
47 prosecute, and prevent fraudulent insurance acts as defined in G.S. 58-1-5. At the discretion of
48 the Commissioner, the Commissioner may order, or an insurer may request and the
49 Commissioner may grant, such modifications of the following required initiatives as necessary
50 to ensure an effective antifraud program. The modifications may be more or less restrictive than

the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

(b) The antifraud initiatives shall include the following:

(1) Fraud investigators, who may be insurer employees or independent contractors.

(2) An antifraud plan, which shall be submitted to the Commissioner. The antifraud plan shall include the following:

a. A description of the procedures for detecting and investigating possible fraudulent insurance acts.

b. A description of the procedures for reporting possible fraudulent insurance acts to the Commissioner.

c. A description of the plan of antifraud education and training of underwriters and other personnel.

d. Any other information required by the Commissioner.

(c) Antifraud plans submitted to the Commissioner under this section are proprietary, privileged, and confidential, are not public records under G.S. 132-1 or G.S. 58-2-100, and are not subject to discovery or subpoena in a civil or criminal action."

SECTION 1.(f) Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-168. Confidentiality.

(a) Information and evidence provided under G.S. 58-2-160 or G.S. 58-2-163 or obtained by the Commissioner in an investigation of suspected or actual fraudulent insurance acts shall be privileged and confidential, are not public records, and are not subject to discovery or subpoena in a civil or criminal action.

(b) In order to assist in the performance of the Commissioner's duties, the Commissioner may do any of the following:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (a) of this section, with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries; provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information.

(2) May receive documents, materials or other information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries, and from regulatory officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(c) Nothing in this section shall prohibit the Commissioner from providing information to or receiving information from any local, state, federal, or international law enforcement authorities, including any prosecuting authority; or from complying with subpoenas or other lawful process in criminal actions; or as may otherwise be provided in this Article.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (b) of this section."

SECTION 1.(g) Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-169. Other law enforcement or regulatory authority.

(a) This Article does none of the following:

- (1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.
- (2) Prevent or prohibit a person from disclosing voluntarily information concerning fraudulent insurance acts to a law enforcement or regulatory agency other than the Commissioner.
- (3) Limit the powers granted elsewhere by the laws of this State to the Commissioner to investigate and examine possible violations of law and to take appropriate action against wrongdoers."

SECTION 1.(h) The catchline of G.S. 58-58-267 reads as rewritten:

"§ 58-58-267. ~~Fraud- Fraudulent viatical settlement act~~ warning required."

SECTION 1.(i) G.S. 58-58-67 reads as rewritten:

"§ 58-58-285. ~~Other law enforcement or regulatory authority.~~

This Part does ~~not~~ none of the following:

- (1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.
- (2) Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the Commissioner.
- (3) Limit the powers granted elsewhere by the laws of this State to the Commissioner to investigate and examine possible violations of law and to take appropriate action against wrongdoers."

SECTION 1.(j) Subsections (d) and (e) of this section become effective January 1,

2020.

PART II. MODIFY CERTAIN CRIMINAL PENALTIES

SECTION 2.(a) G.S. 58-2-161 reads as rewritten:

"§ 58-2-161. ~~False statement to procure or deny benefit of insurance policy or certificate.~~

...

(b) ~~Any person~~ It shall be unlawful for any person who, with the intent to injure, defraud, or deceive an insurer or insurance claimant, does any of the following:

- (1) Presents or causes to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the claim, or claim.
- (2) ~~Assists, abets, solicits, or conspires with~~ Assists or abets another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning a fact or matter material to the ~~claim is guilty of claim.~~

(c) Any person who violates subsection (b) of this section shall be penalized as follows:

- (1) If the value of the claim for payment or other benefit sought is less than one thousand dollars (\$1,000), it shall be a Class 1 misdemeanor.
- (2) If the value of the claim for payment or other benefit sought is one thousand dollars (\$1,000) or more, it shall be a Class H felony.
- (3) If the value of the claim for payment or other benefit sought is fifty thousand dollars (\$50,000) or more, it shall be a Class E felony.

- (4) If the value of the claim for payment or other benefit sought is one hundred thousand dollars (\$100,000) or more, it shall be a Class C felony.

In addition to any other penalties authorized by law, a violation of this section may be punishable by a fine of not more than ten thousand dollars (\$10,000) for each violation.

(d) Each claim ~~shall~~ may be considered a separate count. Upon conviction, if the court imposes probation, the court may order the defendant to pay restitution as a condition of probation. In determination of the amount of restitution pursuant to G.S. 15A-1343(d), the reasonable costs and attorneys' fees incurred by the victim in the investigation of, and efforts to recover damages arising from, the claim, may be considered part of the damage caused by the defendant arising out of the offense.

(e) In a civil cause of action for recovery based upon a claim for which a defendant has been convicted under this section, the conviction may be entered into evidence against the defendant. The court may award the prevailing party compensatory damages, attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can demonstrate that the defendant has engaged in a pattern of violations of this section, the court may award treble damages."

SECTION 2.(b) G.S. 58-2-164 reads as rewritten:

"§ 58-2-164. Rate evasion fraud; prevention programs.

...

(b) It shall be a ~~Class 3~~ Class 1 misdemeanor for any person who, with the intent to deceive an insurer, does any of the following:

- (1) Presents or causes to be presented a written or oral statement in support of an application for issuance of or amendment to a policy of auto insurance, knowing that the application contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.
- (2) ~~Assists, abets, solicits, or conspires with~~ Assists or abets another person to prepare or make any written or oral statement that is intended to be presented to an insurer in connection with or in support of an application for issuance of or amendment to a policy of auto insurance, if the person knows that the statement contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than one thousand dollars (\$1,000) for each violation.

(b1) If the violation of subsection (b) of this section is committed with respect to an application for insurance or amendment to a policy of auto insurance for more than one passenger vehicle, the person shall be guilty of a Class H felony.

~~(b1)~~(b2) It shall be a Class H felony for any applicant who, with the intent to deceive an insurer, knowingly violates G.S. 58-2-164(b) for the purpose of obtaining auto insurance covering one or more vehicles, the operation of which requires a Commercial Drivers License pursuant to G.S. 20-4.01(3c).

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than ten thousand dollars (\$10,000) for each violation.

...."

SECTION 2.(c) G.S. 58-3-150 is amended by adding a new subsection to read:

"(h) It shall be unlawful for any person who, with the intent to injure, defraud, or deceive, prepares, issues, or requests a certificate of insurance that meets the criteria of subdivision (2) or (3) of subsection (f) of this section. The person violating this subsection shall be punished as follows:

- (1) If the value of the certificate of insurance is less than five thousand dollars (\$5,000), it shall be a Class 1 misdemeanor.

(2) If the value of the certificate of insurance is five thousand dollars (\$5,000) or more, it shall be a Class I felony."

SECTION 2.(d) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

PART III. EFFECTIVE DATE

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.



HOUSE BILL 222: Modify Crim Penalties/NAIC Fraud Act- AB.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 11, 2019
Introduced by:	Reps. Setzer, Bumgardner, Corbin	Prepared by:	Kristen L. Harris
Analysis of:	PCS to First Edition H222-CSTU-1		Committee Co-Counsel

OVERVIEW: *The PCS for House Bill 222 would incorporate language from the National Association of Insurance Commissioners (NAIC) Fraud Prevention Model Act Language into North Carolina's insurance laws and modify certain criminal penalties for fraudulent insurance acts.*

BILL ANALYSIS:

PART I. INCORPORATE NAIC INSURANCE FRAUD PREVENTION MODEL ACT LANGUAGE

Section 1(a) would add a definition for "fraudulent insurance act" to Chapter 58 of the General Statutes.

Section 1(b) would codify the Commissioner of Insurance's (COI) authority to investigate and prosecute fraudulent insurance acts and enumerate his or her specific powers.

Section 1(c) would make conforming changes.

Section 1(d) would require a warning statement be included on insurance claims and applications advising individuals that presenting a false claim or information is a crime and may result in a fine or imprisonment. However, the lack of a warning statement would not be a defense to any prosecution against an individual.

Section 1(e) would require insurers to have antifraud initiatives to detect, prosecute, and prevent fraudulent insurance acts. The initiatives would include fraud investigators and antifraud plans.

Section 1(f) would provide that the information obtained by the COI in a fraud investigation is confidential and not public record. However, the COI would be allowed to share and receive documents under specific circumstances.

Section 1(g) would provide that nothing in the fraud prevention laws preempts or relieves other law enforcement or regulatory agencies from pursuing suspected violations of law, prevents persons from disclosing information about fraudulent acts to law enforcement or regulatory agencies other than the COI, or limits the powers granted by other laws authorizing the COI pursue violations of law.

Sections 1(h) and 1(i) would make conforming and technical changes.

PART II. MODIFY CERTAIN CRIMINAL PENALTIES

Section 2(a) would amend the penalties for persons who present or assist in presenting false or misleading information to an insurance company in connection with, in support of, or in opposition to, a claim for payment. The penalties would be as follows:

- For a claim value sought of less than \$1,000, it would be a Class 1 misdemeanor.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
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House PCS 222

Page 2

- For a claim value sought of \$1,000 or more, it would be a Class H felony.
- For a claim value sought of \$50,000 or more, it would be a Class E felony.
- For a claim value sought of \$100,000 or more, it would be a Class C felony.

In addition to other penalties authorized by law, a violation could also include a fine up to \$10,000 for each violation. Each claim for payment could be considered a separate count.

Section 2(b) would amend the penalties for persons who present or assist in presenting a statement to an insurer in support of an application for or amendment to a policy of automobile insurance that contains false or misleading information about the applicant's eligible risk status. The penalties would be as follows:

- If related to a policy for only one passenger vehicle, it would be a Class 1 misdemeanor.
- If related to a policy for more than one passenger vehicle, it would be a Class H felony.

Section 2(c) would make the fraudulent insurance act of preparing, issuing, or requesting a certificate of insurance that either i) contains any false or misleading information concerning the related policy of insurance or ii) purports to alter, amend, or extend coverage provided by the related policy a Class 1 misdemeanor if the value of the certificate is less than \$5,000. If the value of the certificate is \$5,000 or more, the penalty would be a Class I felony.

EFFECTIVE DATE: Section 2 of the act would be effective December 1, 2019, and apply to offenses committed on or after that date. The remainder of the act would be effective when it becomes law.

BACKGROUND: The National Association of Insurance Commissioners is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. The formal certification program began in June 1990. North Carolina has been accredited since 1991. All fifty states, the District of Columbia, and Puerto Rico are currently accredited.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 464

Short Title: Small Business Health Care Act. (Public)

Sponsors: Representatives K. Hall, Grange, Dobson, and B. Turner (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH STANDARDS FOR ASSOCIATION HEALTH PLANS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 58 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 50A.

7 "Association Health Plans.

8 **"§ 58-50A-1. Definitions.**

9 (a) "Association Health Plan." – A fully insured group health insurance policy that is
10 sponsored by a sponsoring association and offered or sold to members of the sponsoring
11 association, to provide health benefits, as permitted under the Employee Retirement Income
12 Security Act of 1974, its implementing regulations, and this Chapter.

13 (b) "Employer Member." – A sole proprietorship, or an individual or entity employing at
14 least one person, which is a member of a sponsoring association.

15 (c) "Sponsoring Association." – An association comprised of one or more employer
16 members that provides an association health plan to its employer members. Provided that it meets
17 the other requirements of this Article, a sponsoring association shall be treated as an employer of
18 a single group health plan under the Employee Retirement Income Security Act of 1974, its
19 implementing regulations, and this Chapter.

20 **"§ 58-50A-5. Compliance with requirements.**

21 Regardless of the domicile of the sponsoring association receiving the policy, no association
22 health plan shall be delivered or issued for delivery in this State unless it complies with the
23 requirements of this Chapter.

24 **"§ 58-50A-10. Sponsoring association requirements.**

25 (a) No insurer shall deliver or issue for delivery an association health plan to a sponsoring
26 association unless that sponsoring association meets all of the following requirements:

27 (1) Be an employer within the definition of section 3(5) of the Employee
28 Retirement Income Security Act of 1974 and its implementing regulations.

29 (2) Have a constitution or bylaws that provides for all of the following:

30 a. Regular meetings.

31 b. Collection of dues from members.

32 c. Operation by a board of trustees that consists of an owner, partner,
33 officer, director, or employee of at least one of the employer members
34 of the association.



- (3) Have at least one substantial business purpose unrelated to the offering and providing of health insurance or other employee benefits to its employer members and their employees.
- (4) Have registered as a multiple employer welfare arrangement with the Commissioner.
- (5) Have a commonality of interest shared among the employer members based on either of the following:
 - a. Establishment by employer members in the same trade, industry, line of business, or profession.
 - b. Establishment by employer members as a statewide association in an area that does not exceed the boundaries of the State.

"§ 58-50A-15. Membership requirements.

(a) In order to obtain coverage under an association health plan, an employer member must be a member of the sponsoring association and either be domiciled in this State, have a principal headquarters or principal administrative office in this State, or be licensed by the State licensing agency for the employer member's industry, trade, or profession.

(b) Each employer member that obtains coverage under an association health plan may only provide coverage to eligible employees as defined in G.S. 58-51-80(c) and individuals who are paid on an I.R.S. Form 1099.

(c) In order to obtain coverage under an association health plan, employer members must commit to remaining members of the sponsoring association and receiving and paying for benefits under the association health plan for a period of at least two years.

"§ 58-50A-20. Association health plan requirements.

(a) Any association health plan delivered or issued for delivery must meet all of the following requirements:

- (1) Neither be offered nor advertised to the public generally.
- (2) Provide a level of coverage equal to or greater than sixty percent (60%) of the actuarial value of allowed costs for covered benefits.
- (3) Provide coverage for hospital and physician services.
- (4) Comply with the provisions of G.S. 58-3-150.

"§ 58-50A-25. Solvency requirements.

(a) No association health plan shall be delivered or issued for delivery to a sponsoring association unless the sponsoring association meets all of the following solvency requirements:

- (1) Have been established and maintained in good faith for a period of at least five years.
- (2) Have at the outset a minimum of 500 persons eligible to receive coverage through the association health plan.
- (3) Enforce provisions that are intended to prevent or deter employer members from terminating coverage under the association health plan prior to the end of the coverage period required under the association health plan's membership requirements. These provisions may include levying fines or assessments and requiring employer members to provide proof of coverage through another health insurance policy before terminating coverage through the association health plan.
- (4) Maintain a minimum net worth equal to at least one month's premium, which must be held in trust and separate from the sponsoring association's operating assets.
- (5) Maintain at all times an adequate plan for protection against insolvency that is acceptable to the Commissioner.

"§ 58-50A-30. Nondiscrimination.

1 (a) No association health plan or sponsoring association may condition eligibility for
2 coverage, including continuing eligibility for coverage, on any of the following health-status
3 factors:

- 4 (1) Health status.
- 5 (2) Medical condition, including both physical and mental illness.
- 6 (3) Claims experience.
- 7 (4) Receipt of health care.
- 8 (5) Medical history.
- 9 (6) Genetic information.
- 10 (7) Evidence of insurability.
- 11 (8) Disability.

12 (b) An association health plan or sponsoring association may make rating distinctions
13 among its employer members based on factors other than health-status factors, such as industry,
14 occupation, or geography, provided that the rating distinction is not directed at individual
15 beneficiaries or based on a factor listed in subsection (a) of this section.

16 (c) No association health plan may impose imitations based on preexisting conditions.

17 (d) This section shall not be construed to require an association health plan to provide
18 particular benefits other than those provided under the terms of the plan, or otherwise required
19 by law, or to prevent the plan from establishing limitations or restrictions on the amount, level,
20 extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan.

21 **"§ 58-50A-35. Premium contributions.**

22 (a) An association health plan or sponsoring association shall not require any individual,
23 as a condition of initial enrollment or continued enrollment in the plan, to pay a premium or
24 contribution that is greater than the premium or contribution for a similarly situated individual
25 enrolled in the plan on the basis of any health status-related factor in relation to the individual or
26 to an individual enrolled in the plan as a dependent of the individual.

27 (b) Nothing in this section shall be construed to restrict the amount an insurer may charge
28 for coverage under an association health plan, or to prevent an insurer from establishing premium
29 discounts or modifying otherwise applicable co-payments or deductibles for an association health
30 plan in return for adherence to programs of health promotion and disease prevention.

31 **"§ 58-50A-40. Use of licensed agents and brokers.**

32 Nothing in this Article shall preclude a sponsoring association from engaging a broker or
33 agent licensed to sell insurance in this State for the purposes of reviewing and considering any
34 association health plan."

35 **SECTION 2.** This act becomes effective January 1, 2020, and applies to contracts
36 entered into, amended, or renewed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 464
PROPOSED COMMITTEE SUBSTITUTE H464-CSBC-13 [v.1]
04/09/2019 04:44:28 PM

Short Title: Small Business Health Care Act.

(Public)

Sponsors:

Referred to:

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH STANDARDS FOR ASSOCIATION HEALTH PLANS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 50A.
7 "Association Health Plans.

8 "**§ 58-50A-1. Definitions.**

9 (a) "Association Health Plan." – A fully insured group health insurance policy that is
10 sponsored by a sponsoring association and offered or sold to members of the sponsoring
11 association, to provide health benefits, as permitted under the Employee Retirement Income
12 Security Act of 1974, its implementing regulations, and this Chapter.

13 (b) "Employer Member." – A sole proprietorship, or an individual or entity employing at
14 least one person, which is a member of a sponsoring association.

15 (c) "Sponsoring Association." – An association comprised of one or more employer
16 members that provides an association health plan to its employer members. Provided that it meets
17 the other requirements of this Article, a sponsoring association shall be treated as an employer of
18 a single group health plan under the Employee Retirement Income Security Act of 1974, its
19 implementing regulations, and this Chapter.

20 "**§ 58-50A-5. Compliance with requirements.**

21 Regardless of the domicile of the sponsoring association receiving the policy, no association
22 health plan shall be delivered or issued for delivery in this State unless it complies with the
23 requirements of this Chapter.

24 "**§ 58-50A-10. Sponsoring association requirements.**

25 (a) No insurer shall deliver or issue for delivery an association health plan to a sponsoring
26 association unless that sponsoring association meets all of the following requirements:

27 (1) Be an employer within the definition of section 3(5) of the Employee
28 Retirement Income Security Act of 1974 and its implementing regulations.

29 (2) Have a constitution or bylaws that provides for all of the following:

30 a. Regular meetings.

31 b. Collection of dues from members.

32 c. Operation by a board of trustees that consists of an owner, partner,
33 officer, director, or employee of at least one of the employer members
34 of the association.



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- (3) Have at least one substantial business purpose unrelated to the offering and providing of health insurance or other employee benefits to its employer members and their employees.
- (4) Have registered as a multiple employer welfare arrangement with the Commissioner.
- (5) Have a commonality of interest shared among the employer members based on either of the following:
 - a. Establishment by employer members in the same trade, industry, line of business, or profession.
 - b. Establishment by employer members as a statewide association in an area that does not exceed the boundaries of the State.

"§ 58-50A-15. Membership requirements.

(a) In order to obtain coverage under an association health plan, an employer member must be a member of the sponsoring association and either be domiciled in this State, have a principal headquarters or principal administrative office in this State, or be licensed by the State licensing agency for the employer member's industry, trade, or profession.

(b) Each employer member that obtains coverage under an association health plan may only provide coverage to the following:

- (1) Eligible employees of the employer member as defined in G.S. 58-51-80(c).
- (2) Individuals the employer member pays on an I.R.S. Form 1099.
- (3) The spouse or dependent children of any individual identified in subdivisions (1) or (2) of subsection (b) of this section.

(c) In order to obtain coverage under an association health plan, employer members must commit to remaining members of the sponsoring association and receiving and paying for benefits under the association health plan for a period of at least two years.

"§ 58-50A-20. Association health plan requirements.

(a) Any association health plan delivered or issued for delivery must meet all of the following requirements:

- (1) Neither be offered nor advertised to the public generally.
- (2) Provide a level of coverage equal to or greater than sixty percent (60%) of the actuarial value of allowed costs for covered benefits.
- (3) Provide coverage for hospital and physician services.
- (4) Comply with the provisions of G.S. 58-3-150.

"§ 58-50A-25. Solvency requirements.

(a) No association health plan shall be delivered or issued for delivery to a sponsoring association unless the sponsoring association meets all of the following solvency requirements:

- (1) Have been established and maintained in good faith for a period of at least five years.
- (2) Have at the outset a minimum of 500 persons eligible to receive coverage through the association health plan.
- (3) Enforce provisions that are intended to prevent or deter employer members from terminating coverage under the association health plan prior to the end of the coverage period required under the association health plan's membership requirements. These provisions may include levying fines or assessments and requiring employer members to provide proof of coverage through another health insurance policy before terminating coverage through the association health plan.
- (4) Maintain a minimum net worth equal to at least one month's premium, which must be held in trust and separate from the sponsoring association's operating assets.

- (5) Maintain at all times an adequate plan for protection against insolvency that is acceptable to the Commissioner.

"§ 58-50A-30. Nondiscrimination.

(a) No association health plan or sponsoring association may condition eligibility for coverage, including continuing eligibility for coverage, on any of the following health-status factors:

- (1) Health status.
- (2) Medical condition, including both physical and mental illness.
- (3) Claims experience.
- (4) Receipt of health care.
- (5) Medical history.
- (6) Genetic information.
- (7) Evidence of insurability.
- (8) Disability.

(b) An association health plan or sponsoring association may make rating distinctions among its employer members based on factors other than health-status factors, such as industry, occupation, or geography, provided that the rating distinction is not directed at individual beneficiaries or based on a factor listed in subsection (a) of this section.

(c) No association health plan may impose limitations based on preexisting conditions.

(d) This section shall not be construed to require an association health plan to provide particular benefits other than those provided under the terms of the plan, or otherwise required by law, or to prevent the plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan.

"§ 58-50A-35. Premium contributions.

(a) An association health plan or sponsoring association shall not require any individual, as a condition of initial enrollment or continued enrollment in the plan, to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled in the plan as a dependent of the individual.

(b) Nothing in this section shall be construed to restrict the amount an insurer may charge for coverage under an association health plan, or to prevent an insurer from establishing premium discounts or modifying otherwise applicable co-payments or deductibles for an association health plan in return for adherence to programs of health promotion and disease prevention.

"§ 58-50A-40. Use of licensed agents and brokers.

Nothing in this Article shall preclude a sponsoring association from engaging a broker or agent licensed to sell insurance in this State for the purposes of reviewing and considering any association health plan."

SECTION 2. This act becomes effective January 1, 2020, and applies to contracts entered into, amended, or renewed on or after that date.



HOUSE BILL 464: Small Business Health Care Act.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 9, 2019
Introduced by:	Reps. K. Hall, Grange, Dobson, B. Turner	Prepared by:	Jason Moran-Bates Committee Staff
Analysis of:	PCS to First Edition H464-CSBC-13		

OVERVIEW: *The Proposed Committee Substitute to House Bill 464 would establish standards for Association Health Plans (AHPs). It would define several terms and create requirements for the business associations sponsoring the AHPs, including domicile, solvency, and operational requirements. It would also create requirements for the AHPs themselves, including coverage, premium, and non-discrimination requirements.*

The PCS makes a clarifying change to language in G.S. 58-50A-15(b) and makes a technical change to G.S. 58-50A-30(c); otherwise, it is identical to the introduced version of the bill.

CURRENT LAW: Currently, AHPs are regulated as large group health insurance plans under Chapter 58. There are no requirements that apply to the associations sponsoring the AHPs, unless those associations are also Multiple Employee Welfare Arrangements (MEWAs), which are regulated by G.S. 58-49-40 through 58-49-65.

BILL ANALYSIS: The PCS to House Bill 464 would create Article 50A in Chapter 58, establishing standards for Association Health Plans.

- 58-50A-1 would create definitions for Article 50A.
 - "Association health plan" would mean a fully-insured health insurance policy sold to a sponsoring association.
 - "Employer member" would mean any employer, including a sole proprietorship, which is a member of a sponsoring association.
 - "Sponsoring association" would mean an association of one or more employer members that provides an AHP to those members.
- 58-50A-5 would require all AHPs issued in North Carolina to comply with Chapter 58.
- 58-50A-10 would create requirements for sponsoring associations. All sponsoring associations must:
 - Be employers as defined by the Employee Retirement and Income Security Act of 1974 (ERISA).
 - Have bylaws that provide for regular meetings, dues collection, and a board of trustees.
 - Have a substantial business purpose that is unrelated to offering insurance.

Karen Cochrane-Brown
Director



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House PCS 464

Page 2

- Register as a MEWA with the Commissioner.
 - Have a commonality of interest among employer members that is based on either (1) being in the same trade, industry, line of business, or profession, or (2) being members of a statewide association.
- 58-50A-15 would require employer members to be domiciled or headquartered in North Carolina and commit to remaining in the sponsoring association for at least two years. Employer members could only provide coverage to employees as defined in G.S. 58-51-80(c), individuals who are paid on an I.R.S. Form 1099, or the spouses and dependent children of either of those two groups.
- 58-50A-20 would require AHPs issued in North Carolina to be:
 - Not offered to the general public.
 - Provide a level of coverage equal to that provided by a bronze plan on the Affordable Care Act exchange.
 - Provide coverage for hospital and physician services.
 - Comply with G.S. 58-3-150.
- 58-50A-25 would create solvency requirements for sponsoring associations. All sponsoring associations obtaining an AHP must:
 - Have been in existence for at least five years.
 - Have at least 500 individuals eligible for coverage.
 - Enforce provisions designed to deter employer members from leaving the sponsoring association.
 - Maintain in trust a net worth equal to at least one month's premium.
 - Maintain a plan against insolvency that is acceptable to the Commissioner.
- 58-50A-30 would prohibit AHPs and sponsoring associations from imposing limitations based on pre-existing conditions and from conditioning coverage eligibility on the following factors:
 - Health status.
 - Medical condition.
 - Claims experience.
 - Receipt of health care.
 - Medical history.
 - Genetic information.
 - Evidence of insurability.
 - Disability.
- 58-50-35 would require all individuals receiving coverage through an AHP to pay the same premium, unless a reduction is offered for adherence to programs of health promotion and disease prevention.
- 58-50A-40 would clarify that sponsoring associations can contact licensed brokers for assistance in obtaining an AHP.

House PCS 464

Page 3

EFFECTIVE DATE: This act would be effective January 1, 2020, and apply to contracts entered into, amended, or renewed on or after that date.

BACKGROUND: An Association Health Plan (AHP) is a group health insurance policy offered to a sponsoring business association. The members of the sponsoring association are usually individual employers. AHPs can be fully funded, or they can be self-insured. Because AHPs are group health insurance, they are regulated—for the most part—by the Employee Retirement Income Security Act of 1974 (ERISA).

Prior to 2018, the federal Department of Labor had several requirements a sponsoring association had to meet before it could obtain an AHP. First, the individual employer members of the sponsoring association had to have a commonality of interest, usually defined as a "close economic or representational nexus" with the sponsoring association. Second, the sponsoring association had to exist for a bona fide purpose other than offering insurance. Third, the employer members of the sponsoring association had to have employees; they could not be sole proprietorships.

In late 2018, the Department of Labor changed the requirements. Under the new rules, a commonality of interest will exist if the employer members of the sponsoring association are either (1) in the same trade, industry, profession, or line of business, or (2) in the same geographic area. The new rules permit the sponsoring association to obtain an AHP if it has a substantial business purpose other than offering insurance, even if the principal purpose of the association is offering benefits. The employee requirement was dropped entirely; sole proprietors can now join sponsoring associations and obtain AHPs.¹

¹ On March 28, 2019, a federal judge struck down the new rules. The Department of Labor has not yet decided if it will appeal.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 464

H464-ABC-20 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
Proposed Committee Substitute H464-CSBC-13

Date April 11, 2019

Representative K. Hall

- 1 moves to amend the PCS on page 1, line 23, by rewriting the line to read:
2 "requirements of this Chapter. Nothing in this Article shall be interpreted to regulate or
3 prohibit any group health insurance policy that is not an association health plan as defined in G.S.
4 58-50A-1(a)."
5
6

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 464

H464-ABC-21 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date 4/11/19, 2019

Representative Holley

- 1 moves to amend the bill on page 2, lines 33 through 34, by inserting a line between the lines to
2 read:
3 "(5) Provide coverage for the essential health benefits listed in 42 U.S.C. §
4 18022(b)."
5
6

SIGNED *James L. Holley*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 466

Short Title: Firefighters' Line of Duty Diseases/Funds. (Public)

Sponsors: Representatives Riddell, Saine, Wray, and Barnes (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Appropriations, General Government, if favorable,
Appropriations, if favorable, Rules, Calendar, and Operations of the House

March 28, 2019

A BILL TO BE ENTITLED
AN ACT EXPANDING THE LIST OF CANCERS COVERED AS OCCUPATIONAL
DISEASES FOR FIREFIGHTERS' DEATH BENEFITS AND APPROPRIATING FUNDS
TO COVER THE ADDITIONAL DEATH BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.2 reads as rewritten:
"§ 143-166.2. Definitions.

The following definitions apply in this Article:

...
(6) Killed in the line of duty. – This term shall apply to all of the following deaths:

...
e. When the death of a firefighter occurs as a direct and proximate result
of any of the following cancers that are occupationally related to
firefighting, that firefighter is presumed to have been killed in the line
of duty:

1. Mesothelioma.
2. Testicular cancer.
3. ~~Intestinal cancer.~~ Cancer of the small intestine.
4. Esophageal cancer.
5. Non-Hodgkin's lymphoma.
6. Brain and other nervous system cancer.
7. Multiple myeloma.

...."

SECTION 2. There is appropriated from the General Fund to the Department of
Insurance the sum of one million twenty-three thousand dollars (\$1,023,000) for the 2019-2020
fiscal year and the sum of one million twenty-three thousand dollars (\$1,023,000) for the
2020-2021 fiscal year in recurring funds to be used to cover the additional occupational diseases
for firefighters' death benefits set out in Section 1 of this act.

SECTION 3. This act becomes effective July 1, 2019.





HOUSE BILL 466: Firefighters' Line of Duty Diseases/Funds.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Appropriations, General Government. If favorable, re-refer to Appropriations. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 11, 2019
Introduced by:	Reps. Riddell, Saine, Wray, Barnes	Prepared by:	Jeremy Ray
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 446 would expand the list of cancers covered as occupational diseases for firefighters and appropriate funds to cover the cost of the additional death benefits.*

CURRENT LAW: When the death of a firefighter occurs as a direct and proximate result of certain cancers that are occupationally related to firefighting, that firefighter is presumed to have been killed in the line of duty and eligible for firefighters' death benefits. Cancers that are currently covered include the following:

- Mesothelioma
- Testicular cancer
- Intestinal cancer
- Esophageal cancer

BILL ANALYSIS: House Bill 446 would expand the list of covered cancers as occupational diseases for firefighters to also include:

- Non-Hodgkin's lymphoma
- Brain and other nervous system cancer.
- Multiple myeloma

It would also rename "intestinal cancer," already covered, to "cancer of the small intestine."

House Bill would appropriate from the General Fund to the Department of Insurance the sum of one million twenty-three thousand dollars (\$1,023,000) for fiscal year 2019-2020, and fiscal year 2020-2021 in recurring funds to cover the additional occupational diseases cost for firefighters' death benefit.

EFFECTIVE DATE: This act would become effective July 1, 2019.

Karen Cochrane-Brown
Director



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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 553*

Short Title: Licensing Certain Fire Safety Equip. Work. (Public)

Sponsors: Representatives Strickland, Barnes, Corbin, and Hardister (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

April 3, 2019

A BILL TO BE ENTITLED
 AN ACT TO REQUIRE LICENSING AND PERMITTING FOR INDIVIDUALS AND FIRMS
 THAT INSTALL AND SERVICE PORTABLE FIRE EXTINGUISHERS AND FIRE
 SUPPRESSION SYSTEMS

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new article to read:

"Article 82B.

"Licensing and Permitting for the Installation and Servicing of Portable Fire Extinguishers and
 Fire Suppression Systems.

"§ 58-82B-1. Definitions.

The following definitions apply in this Article:

- (1) Commissioner. – The North Carolina Commissioner of Insurance
- (2) Engineered special hazard fire suppression system. – A fire suppression system having pipe lengths, number of fittings, number and types of nozzles, suppression agent flow rates, and nozzle pressures calculated based on appropriate standards of the National Fire Protection Association. An engineered fire suppression system may include other components, including, but not limited to, detection devices, alarm devices, and control devices as tested and approved by a nationally recognized testing laboratory, where the component's manufacturer determines the component is compatible with the fire suppression system.
- (3) Fire suppression system. – Any fire-fighting system employing a suppression agent with the purpose of controlling, suppressing, or extinguishing a fire in a specific hazard, including pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems, and engineered special hazard fire suppression systems.
- (4) Industrial fire suppression system. – A pre-engineered automatic fire extinguishing system provided for the protection of property or equipment as described by the manufacturer other than those systems covered under the definition of kitchen fire suppression system.
- (5) Kitchen fire suppression system. – An automatic fire extinguishing system provided for the protection of grease removal devices, hoods, duct systems,



and cooking equipment. This term also includes "restaurant fire suppression system."

(6) Suppression agent. – A currently recognized agent or water additive required to control, suppress, or extinguish a fire.

(7) Firm. – Any business, person, partnership, organization, association, corporation, contractor, subcontractor, or individual.

(8) License. – The document issued by the Commissioner which authorizes a firm to engage in the business of installation, repair, recharging, inspection, service, or testing of fire suppression systems or portable fire extinguishers.

(9) Permit. – The document issued by the Commissioner which authorizes an individual to install, inspect, repair, recharge, service, or test fire suppression systems or portable fire extinguishers.

(10) Portable fire extinguisher. – A portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

(11) Pre-engineered fire suppression system. – Any system having predetermined flow rates, nozzle pressures, and quantities of an extinguishing agent.

"§ 58-82B-2. Commissioner of Insurance to administer Article; rules and regulations.

(a) The Commissioner of Insurance, through the Office of the State Fire Marshal, shall have full power and authority to administer the provisions of this Article, including adopting rules to enforce the purposes and provisions of this Article.

(b) The Commissioner of Insurance shall establish rules for the following:

(1) Proper installation, inspection, recharging, repairing, servicing, or testing of fire suppression systems or portable fire extinguishers.

(2) Required specifications as to the number, type, size, shape, color, and information and data contained thereon of service tags to be attached to all portable fire extinguishers and fire suppression systems covered by this Article when they are installed, inspected, recharged, repaired, serviced, or tested.

(c) The Commissioner may adopt by rule the applicable standards of the National Fire Protection Association or another nationally recognized organization, if the standards are judged by the Commissioner to be suitable for the enforcement of this Article. All fire suppression systems and portable fire extinguishers covered by G.S. 58-82B-3 shall be installed, inspected, recharged, repaired, serviced, or tested in compliance with this Article and with the Commissioner's rules.

(d) The Commissioner may adopt rules to require an applicant for a license or permit to take an examination as to the applicant's competence to be licensed or permitted under this Article. If required, the applicant must take and pass the examination according to requirements prescribed by the Commissioner.

(e) The Commissioner is authorized to apply for and receive grants for the administration of this Article from parties interested in upgrading and improving the quality of fire protection provided by portable fire extinguishers or fire suppression systems.

"§ 58-82B-3. Compliance with this article; license and permit requirement.

(a) Except as otherwise provided by this Article, no firm may install, inspect, repair, service, or test any of the following fire suppression systems or portable fire extinguishers that are required by the Commissioner's rules or by other state or local fire safety rules, unless the firm is licensed under the provisions of this Article:

(1) Portable fire extinguishers.

(2) Pre-engineered kitchen fire suppression systems.

(3) Pre-engineered industrial fire suppression systems.

(4) Engineered special hazard fire suppression systems.

(b) Except as otherwise provided by this Article, no individual may install, inspect, repair, recharge, service, or test any of the following fire suppression systems or portable fire extinguishers that are required by the Commissioner's rules or by other state or local fire safety rules, unless the individual is permitted under the provisions of this Article:

- (1) Portable fire extinguishers.
- (2) Pre-engineered kitchen fire suppression systems.
- (3) Pre-engineered industrial fire suppression systems.
- (4) Engineered special hazard fire suppression systems.

(c) It shall be unlawful for an individual to install, inspect, recharge, repair, service, or test any portable fire extinguisher or fire suppression system without attaching the required tag or tags completed in detail, including the actual month, day, and year the work was performed, or to use a tag not meeting the specifications set forth by the Commissioner.

(d) The permit established by subsection (b) of this section shall not be required for any individual employed by any firm or governmental entity that engages only in installing, inspecting, recharging, repairing, servicing, or testing of portable fire extinguishers or fire suppression systems owned by the firm and installed on property under the control of the firm. These individuals shall remain subject to the rules and regulations adopted pursuant to this Article.

(e) The provisions of this Article do not apply to any of the following:

- (1) Fire chiefs, fire marshals, fire inspectors, or insurance company inspectors with regard to the routine visual inspection of pre-engineered fire suppression systems or portable fire extinguishers.
- (2) Any firm that engages only in the routine visual inspection of fire suppression systems or portable fire extinguishers owned by the firm and installed on property under the control of the firm.

"§ 58-82B-4. License and permit fees.

(a) A nonrefundable license fee of two hundred fifty dollars (\$250.00) shall be paid to the Commissioner with each application for the issuance of a license under this Article.

(b) A nonrefundable permit fee of one hundred dollars (\$100.00) shall be paid to the Commissioner with each application for the issuance of a permit under this Article.

(c) The fees required by this Article shall not apply to employees of federal, state, or local governments or to a member of a legally organized fire department while acting in the member's official capacity.

"§ 58-82B-5. Requirements for issuance of license.

(a) Before approving a license for a firm pursuant to G.S. 58-82B-3, the Commissioner shall find that the firm has:

- (1) Submitted a completed application pursuant to G.S. 58-82B-8.
- (2) Submitted to the Commissioner evidence of registration as a North Carolina corporation.
- (3) Not committed any act that is a ground for denial, suspension, probation, revocation, or nonrenewal set forth in G.S. 58-82B-11.
- (4) Satisfied all requirements of this Article.
- (5) Been determined, by inspection of the Commissioner, to possess the equipment required for the activities the applicant requests to be licensed to perform. If the applicant includes in the request the high-pressure hydrostatic testing of equipment, the applicant must submit a copy of its United States Department of Transportation approval and renewals.
- (6) Submitted to the Commissioner proof of a valid comprehensive liability insurance policy purchased from an insurer authorized to do business in North Carolina. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The proof

of insurance must also be provided before any license can be renewed. The minimum amount of the coverage shall be one million dollars (\$1,000,000) or any other amount as specified by the Commissioner. An insurer which provides this coverage shall notify the Commissioner of any change in coverage.

(7) Paid the applicable fees set forth in G.S. 58-82B-4.

(8) Paid a nonrefundable filing fee fixed by rule of the Commissioner when filing an application for an examination, if the Commissioner requires an examination pursuant to this Article.

(9) Successfully passed any examination, if the Commissioner requires an examination pursuant to this Article.

(b) Before approving a permit for an individual pursuant to G.S. 58-82B-3, the Commissioner shall find that the individual has:

(1) Submitted a completed application pursuant to G.S. 58-82B-8.

(2) Not committed any act that is a ground for denial, suspension, probation, revocation, or nonrenewal set forth in G.S. 58-82B-11.

(3) Satisfied all requirements of this Article.

(4) Paid the applicable fees set forth in G.S. 58-82B-4.

(5) Paid a nonrefundable filing fee fixed by rule of the Commissioner when filing an application for an examination, if the Commissioner requires an examination pursuant to this Article.

(6) Successfully passed any examination, if the Commissioner requires an examination pursuant to this Article.

"§ 58-82B-6. Production of license or permit on demand.

(a) Every permittee must have a valid permit upon his person at all times while engaging in the installing, inspection, recharging, repairing, servicing, or testing of fire suppression systems or portable fire extinguishers.

(b) Every licensee or permittee must be able to produce a valid license or valid permit, as appropriate, upon demand by the Commissioner or his representatives or by any local authority having jurisdiction for fire protection or prevention or by any individual for whom the licensee or permittee solicits to perform any of the activities covered by this Article.

"§ 58-82B-7. Reciprocity.

The Commissioner may issue a license or permit under this Article to an individual who holds a comparable valid permit, license, or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this Article for the specific license or permit issued and the individual or firm pays the application and filing fees required under this Article.

"§ 58-82B-8. Forms of licenses, permits, and applications; information required.

(a) An individual applying for a license or permit under this Article shall apply on a form prescribed by the Commissioner and declare under penalty of denial, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Permit applications shall include the name of the licensee employing the applicant or the name of the firm or governmental entity pursuant to the exemptions found in G.S. 58-82B-3.

(c) Each license or permit issued by the Commissioner under this Article shall clearly state the activity or activities for which the licensee or permittee has been issued the license or permit to perform. The licensee or permittee shall not perform any activity not noted on a license or permit issued by the Commissioner.

(d) A licensee or permittee shall notify the Commissioner within 30 days of any change to the information provided to the Commissioner on the license or permit application.

(e) The Commissioner shall give an applicant 60 days to correct any deficiencies discovered by inspection.

"§ 58-82B-9. Terms of licenses and permits; failure to renew.

(a) The licenses and permits required by this Article shall be issued by the Commissioner for each license year, beginning January 1 and expiring the following December 31.

(b) The failure to renew a license or permit by December 31 will cause the license or permit to become inoperative. A license or permit which is inoperative because of the failure to renew the license or permit shall be restored upon payment of the applicable fee, plus a penalty equal to the applicable fee, if the fees are paid within 90 days of expiration. After 90 days, the former licensees and former permittees must apply for new licenses and permits as required for an initial license or permit.

"§ 58-82B-10. License or permit sanction and denial procedures.

(a) The suspension, placing on probation, revocation, denial, or refusal to renew any license or permit under this Article shall be in accordance with the provisions of Chapter 150B of the General Statutes.

(b) Whenever the Commissioner denies an initial application or an application for a reissuance of a license or permit under this Article, the Commissioner shall notify the applicant and advise, in writing, the applicant of the reasons for the denial of the license. The applicant may also be denied for any reasons for which a license may be suspended or revoked or not renewed under G.S. 58-82B-11.

(c) In order for an applicant to be entitled to a review of the Commissioner's action to determine the reasonableness of the action, the applicant must make a written demand upon the Commissioner for a review no later than 30 days after service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing of the outcome of the review.

(d) In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing no later than 30 days after service upon the applicant of the notification of the outcome.

(e) A licensee or permittee whose license or permit is suspended, revoked, or not renewed shall surrender the license or permit to the Commissioner within 30 days of the suspension, revocation, or nonrenewal.

(f) During the suspension or revocation of any license or permit, the licensee or permittee whose license or permit has been suspended or revoked shall not engage in or attempt or profess to engage in any transaction or business for which a license or permit is required under this Article or directly or indirectly own, control, or be employed in any manner by any firm, business, or corporation for which a license or permit under this Article is required.

(g) If, during the period between the beginning of proceedings and the entry of an order of suspension or revocation by the Commissioner, a new license or permit has been issued to the individual or firm charged, the order of suspension or revocation shall operate to suspend or revoke, as the case may be, the new license or permit held by the individual or firm.

(h) The Commissioner shall not, so long as the revocation or suspension remains in effect, issue any new license or permit for the establishment of any new firm, business, or corporation of any individual or applicant that has or will have the same or similar management, ownership, control, employees, permittees, or licensees or will use the same or a similar name as the revoked or suspended firm, business, corporation, individual, or applicant.

"§ 58-82B-11. Grounds for denial, suspension, probation, revocation, or nonrenewal of licenses.

The Commissioner may deny, suspend, place on probation, revoke, or refuse to renew any license or permit under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following reasons:

- (1) Performing any action for which a license or permit is required under this Article without having first obtained such license or permit.
- (2) Improperly installing, recharging, repairing, servicing, inspecting, or testing a portable fire extinguisher or fire suppression system.
- (3) Rendering inoperative a portable fire extinguisher or pre-engineered or engineered fire suppression system covered by this Article, except during the time the extinguisher or system is being inspected, recharged, repaired, serviced, or tested or except pursuant to court order.
- (4) Material misstatement, misrepresentation, or fraud in obtaining a license or permit under this Article.
- (5) Failing to provide proof of or maintain the minimum comprehensive liability insurance coverage as set forth in G.S. 58-82B-5.
- (6) Failing to notify the Commissioner, in writing, within 30 days after a change of any information required on applications under G.S. 58-82B-8.
- (7) Cheating on an examination for a license or permit, if an examination is required by the Commissioner pursuant to this Article.
- (8) Having any professional license denied, suspended, or revoked in this State or any other jurisdiction for causes substantially similar to those listed in this subsection.
- (9) Failing or refusing to comply with a cease and desist order or any other notice or order to correct a violation related to conduct governed by this Article.
- (10) Retaining an officer, director, stockholder, owner, or individual who has a direct or indirect interest that has had his or her license or permit suspended or revoked under this Article.
- (11) Serving or previously serving as an officer, director, stockholder, or owner of a firm, business, or corporation whose license or permit has been suspended or revoked under this Article, or who has or had a direct or indirect interest in a firm, business, or corporation, whose license or permit has been suspended or revoked under this Article.
- (12) While holding a permit or license, using a license or permit or license number or permit number other than his or her own valid license or permit or license number or permit number.
- (13) Using credentials, methods, means, or practices to impersonate a representative of the Commissioner or the State Fire Marshal or any local fire chief, fire marshal, or other fire authority having jurisdiction.
- (14) Any cause for which the issuance of the license or permit could have been denied had it been known to the Commissioner at the time of issuance.
- (15) Failing to obtain, retain, or maintain one or more of the qualifications for a license or permit required by this Article.
- (16) Knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (17) Failing to comply with an administrative or court order imposing a child support obligation, after entry of a final judgment or order finding the violation to have been willful.
- (18) Failing to pay State income tax or comply with any administrative or court order directing payment of State income tax, after entry of a final judgment or order finding the violation to have been willful.
- (19) Conviction of a crime involving dishonesty, a breach of trust, or moral turpitude.
- (20) Violating any other provision of this Article or any rule or regulation adopted and promulgated pursuant to this Article.

(21) Any cause sufficient to deny, suspend, or revoke the license or permit under any other provision of this Article.

"§ 58-82B-12. Cease and desist orders; period of revocation.

(a) Whenever the Commissioner shall have reason to believe that any individual or firm is or has been violating any provisions of this Article, the Commissioner may issue and deliver to the individual or firm an order to cease and desist the violation.

(b) Any order issued by the Commissioner under this section shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if an individual subject to the order requests a hearing within 30 days of receipt of the order and notice. The order and notice shall be served by hand delivery by the Commissioner or by registered or certified mail.

(c) Failure to comply with a cease and desist order is cause for revocation of any or all permits and licenses issued by the Commissioner for a period of not less than six months and not to exceed five years. If a new permit or license has been issued to the individual or firm, the order of revocation shall operate effectively with respect to the new permits and licenses held by the individual or firm.

(d) In the case of an applicant for a license or permit, violation of any provision of this title may constitute grounds for refusal of the application.

"§ 58-82B-13. Civil penalty; injunction.

(a) Any individual or firm who violates any provision of this Article or any rule or order issued by the Commissioner under this Article shall be subject to a civil penalty imposed by the Commissioner of not more than one thousand dollars (\$1,000) for a first offense, not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000) for a second offense, and not less than two thousand dollars (\$2,000) or more than five thousand dollars (\$5,000) for a third or subsequent offense.

(b) Prior to subjecting any individual or firm to a fine under this subsection, the Commissioner shall give written notice to the individual or firm by hand delivery or by registered or certified mail of the existence of the violations. After a reasonable period of time after notice is given, an order may be issued based on this section. The order must be delivered in accordance with the provisions of subsection G.S. 58-82B-12(b) and must notify the individual or firm of the right to a hearing with respect to the order.

(c) In addition to other powers granted to the Commissioner under this Article, the Commissioner may bring a civil action to enjoin a violation of any provision of this Article or of any rule or order issued by the Commissioner under this Article.

"§ 58-82B-14. Criminal penalty.

(a) Any individual or firm that willfully or intentionally violates any provision of this Article or any order or rule of the Commissioner shall be guilty of a Class 1 misdemeanor.

(b) It shall also constitute a Class 1 misdemeanor to willfully or intentionally do any of the following:

(1) Obliterate the serial number on a fire suppression system or portable fire extinguisher for the purposes of falsifying service records.

(2) Improperly install a fire suppression system or improperly recharge, repair, service, or test any fire suppression system or portable fire extinguisher.

(3) While holding a permit or license, allow another individual to use the permit or license or permit number or license number or to use a license or permit or license number or permit number other than his own valid license or permit or license number or permit number.

(4) Use or permit the use of any license by an individual or firm other than the one to whom the license is issued.

1 (5) Use any credential, method, means, or practice to impersonate a representative
2 of the Commissioner or the State Fire Marshal or any local fire chief, fire
3 marshal, or other fire authority having jurisdiction.

4 (6) Engage in the business of installing, inspecting, recharging, repairing,
5 servicing, or testing portable fire extinguishers or fire suppression systems
6 except in conformity with the provisions of this Article and the applicable
7 rules and regulations of the Commissioner.

8 (7) Fails to comply with a cease and desist order under G.S. 58-82B-12.

9 **"§ 58-82B-15. Power of the State and local governments to regulate not limited.**

10 (a) Nothing in this Article limits the power of the State or a unit of local government to
11 require the submission and approval of plans and specifications or to regulate the quality and
12 character of work performed by contractors for the protection of the public health and safety.

13 (b) No unit of local government shall impose any other requirements on individuals
14 licensed or permitted by the Commissioner as set forth in this Article to prove competency to
15 conduct any activity covered by the license or permit."

16 **SECTION 2.** The Department of Insurance may adopt temporary rules to implement
17 the provisions of this Article. Any temporary rules adopted in accordance with this section shall
18 remain in effect until permanent rules that replace the temporary rules become effective.

19 **SECTION 3.** This act becomes effective January 1, 2020.



HOUSE BILL 553: Licensing Certain Fire Safety Equip. Work.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 11, 2019
Introduced by:	Reps. Strickland, Barnes, Corbin, Hardister	Prepared by:	Jeremy Ray
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 553 would authorize the North Carolina Commissioner of Insurance (Commissioner), to license and regulate the installation of portable fire extinguishers and fire suppression systems.*

[As introduced, this bill was identical to S519, as introduced by Sens. Burgin, Ford, Sawyer, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS: House Bill 553 would create a new Article 82B in Chapter 58 of the General Statutes which would authorize the Commissioner of Insurance, through the Office of the State Fire Marshall, to license and regulate the installation, inspection, recharging, repairing, servicing, or testing of portable fire extinguishers and fire suppression systems. Under this Article, a firm or individual would not be permitted to install, inspect, repair, service or test a portable fire extinguisher or fire suppression system unless the firm or individual is first licensed, or permitted, or is specifically exempted to do so. No unit of local government could impose additional requirements for licenses or permits to prove competency, or conduct activity related to the installation of portable fire extinguishers and fire suppression systems.

For purposes of the Article, a fire extinguisher is defined as a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire. A fire suppression system is generally defined as a fire-fighting system employing a suppression agent with the purpose of controlling, suppressing, or extinguishing a fire in a specific hazard.

This bill would establish, or authorize the Commissioner to do the following:

- Adopt rules under Chapter 150B of the General Statutes to administer the provisions of the Article related to:
 - Proper installation, inspection, recharging, repairing, servicing, or testing
 - Specifications as to the number, type, size, shape, color and information found on service tags attached to fire extinguishers and fire suppression systems
 - Adoption of applicable standards from the National Fire Protection Association or another national recognized organization
 - Rules for the examination of an applicant for a license or permit, if required
- Enforce compliance with license and permit requirements:
 - Require that certain tags be attached to devices meeting certain specifications

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 553

Page 2

- Would not apply to firms or government entities engaging in prohibited activity related to portable fire extinguishers or fire suppression systems owned by the firm and installed on property under control of the firm
- Fire chiefs, fire marshals, fire inspectors, or insurance company inspectors would not be subject to the prohibitions in the Article for routine visual inspections
- Would not limit the power of the State or a unit of local government to regulate the quality and character of work performed by contractors for the protection of public health and safety
- License fees:
 - Nonrefundable fee of two hundred fifty dollars (\$250.00) for each license application
 - Nonrefundable fee of one hundred dollars (\$100.00) for each permit application
 - Fees do not apply to federal, state, or local governments or fire departments
- Requirements for issuance of licenses or permits:
 - Completed application on a form prescribed by the Commissioner
 - Evidence of registration as a North Carolina corporation
 - Not committed any act that is ground for denial, suspension, probation, revocation, or renewal
 - Possesses requisite equipment
 - Proof of liability insurance
 - Successfully passed examination, if so required
- Terms of licenses and permits
 - Valid January 1 through December 31. Failure to renew would render license or permit inoperative, and after 90 days a new application would be required
- License or permit sanctions
 - A license or permit holder who is sanctioned or denied under the Article would be done so in accordance with the provisions set forth in Chapter 150B of the General Statutes
 - Commissioner would be required to notify the applicant of the reasons for denial
 - Applicant would have 30 days to request a review and a response must be given as to the outcome
 - Applicant who disagrees with outcome would have 30 days to request a hearing pursuant to the provisions found in Chapter 150B of the General Statutes
 - Applicant has 30 days to surrender license after suspension, revocation, or non-renewal
- Enumerated list of grounds for denial, suspension, probation, revocation, or nonrenewal which include, but are not limited to:
 - Performing actions for which a license or permit is required without first obtaining one
 - Improper installation
 - Material misstatements or misrepresentations in obtaining a license or permit

House Bill 553

Page 3

- Failure to maintain liability insurance
 - Cheating on examination
 - Failure to pay state income taxes
 - Failure to comply with cease and desist order
 - Aiding or abetting others to evade provisions of the Article
 - Conviction of certain crimes involving dishonesty, a breach of trust, or moral turpitude
- Cease and desist orders
 - Commissioner may order that a firm or individual cease and desist from committing a violation under the Article
 - Cease and desist orders would be accompanied by opportunity for hearing within 30 days
 - Failure to comply with cease and desist order would be cause for revocation or refusal of an application
- Civil and Criminal Penalties
 - Violations of the Article resulting in civil penalties:
 - First offense – not more than one thousand dollars (\$1,000)
 - Second offense – not less than one thousand dollars (\$1,000) or greater than two thousand dollars (\$2,000)
 - Third and subsequent offense – not less than two thousand dollars (\$2,000) or greater than five thousand dollars (\$5,000)
 - Willful or intentional violation of certain provisions of the Article, or rules promulgated by the Commissioner would be charged as a Class 1 misdemeanor

EFFECTIVE DATE: This act becomes effective January 1, 2020.



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 553***

H553-ABH-10 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date _____, 2019

Representative

- 1 moves to amend the bill on page 1, line 23, by rewriting the line to read:
2 "(3) Fire suppression system. – Any pre-engineered fire-fighting system
3 employing a suppression";
4
5 and on page 1, line 27, by rewriting the line to read:
6 "hazard fire suppression systems. Unless otherwise specified in this Article, a
7 fire suppression system shall mean a pre-engineered fire suppression system
8 as defined in subdivision (11).";
9
10 and on page 1, line 32, by rewriting the line to read:
11 "(5) Kitchen fire suppression system. – A pre-engineered automatic fire
12 extinguishing system";
13
14 and on page 2, lines 3 and 4, by rewriting the line to read:
15 "(6) Suppression agent. – A currently recognized agent or additive required to
16 control, suppress, or extinguish a fire. This does not include water.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



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**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair**

FAVORABLE AND RE-REFERRED

HB 466 Firefighters' Line of Duty Diseases/Funds.
Draft Number: None
Serial Referral: APPROPRIATIONS, GENERAL GOVERNMENT
Recommended Referral: None
Long Title Amended: No
Floor Manager: Riddell

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 221 Rate-Making Amendments.-AB
Draft Number: H221-PCS40336-TU-8
Serial Referral: TRANSPORTATION
Recommended Referral: None
Long Title Amended: No
Floor Manager: Setzer

HB 464 Small Business Health Care Act.
Draft Number: H464-PCS10424-BC-13
Serial Referral: HEALTH
Recommended Referral: None
Long Title Amended: No
Floor Manager: K. Hall

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1 AND RE-REFERRED

HB 205 (CS#1) Veh. Property Dmg./Determining Amt. of Loss.
Draft Number: H205-PCS30319-TG-13
Serial Referral: RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Torbett

TOTAL REPORTED: 4



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 466

Short Title: Firefighters' Line of Duty Diseases/Funds. (Public)

Sponsors: Representatives Riddell, Saine, Wray, and Barnes (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Appropriations, General Government, if favorable,
Appropriations, if favorable, Rules, Calendar, and Operations of the House

March 28, 2019

A BILL TO BE ENTITLED
AN ACT EXPANDING THE LIST OF CANCERS COVERED AS OCCUPATIONAL
DISEASES FOR FIREFIGHTERS' DEATH BENEFITS AND APPROPRIATING FUNDS
TO COVER THE ADDITIONAL DEATH BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.2 reads as rewritten:

"§ 143-166.2. Definitions.

The following definitions apply in this Article:

(6) Killed in the line of duty. – This term shall apply to all of the following deaths:

e. When the death of a firefighter occurs as a direct and proximate result
of any of the following cancers that are occupationally related to
firefighting, that firefighter is presumed to have been killed in the line
of duty:

1. Mesothelioma.
2. Testicular cancer.
3. ~~Intestinal cancer.~~ Cancer of the small intestine.
4. Esophageal cancer.
5. Non-Hodgkin's lymphoma.
6. Brain and other nervous system cancer.
7. Multiple myeloma.

SECTION 2. There is appropriated from the General Fund to the Department of
Insurance the sum of one million twenty-three thousand dollars (\$1,023,000) for the 2019-2020
fiscal year and the sum of one million twenty-three thousand dollars (\$1,023,000) for the
2020-2021 fiscal year in recurring funds to be used to cover the additional occupational diseases
for firefighters' death benefits set out in Section 1 of this act.

SECTION 3. This act becomes effective July 1, 2019.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 221
PROPOSED COMMITTEE SUBSTITUTE H221-PCS40336-TU-8

Short Title: Rate-Making Amendments.-AB

(Public)

Sponsors:

Referred to:

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE INSURANCE RATE-MAKING LAWS, AS RECOMMENDED
3 BY THE DEPARTMENT OF INSURANCE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 58-36-10(2) reads as rewritten:

6 "(2) Due consideration shall be given to actual loss and expense experience within
7 this State for the most recent three-year period for which that information is
8 available; to prospective loss and expense experience within this State; to the
9 hazards of conflagration and catastrophe; to a reasonable margin for
10 underwriting profit and to contingencies; to dividends, savings, or unabsorbed
11 premium deposits allowed or returned by insurers to their policyholders,
12 members, or subscribers; to investment income earned or realized by insurers
13 from their unearned premium, loss, and loss expense reserve funds generated
14 from business within this State; to investment income from capital and
15 surplus; to past and prospective expenses specially applicable to this State;
16 and to all other relevant factors within this State: Provided, however, that
17 countrywide expense and loss experience and other countrywide data may be
18 considered only where credible North Carolina experience or data is not
19 available."

20 **SECTION 2.(a)** G.S. 58-36-43(a) reads as rewritten:

21 "(a) Member companies writing private passenger automobile or homeowners' insurance
22 under this Article may incorporate optional enhancements to their automobile and homeowners'
23 programs as an endorsement to an automobile or homeowners' policy issued under this Article if
24 the insurer has filed the proposed enhancement with the Commissioner and if the proposed
25 enhancement is approved by the Commissioner. Any approved optional enhancements shall be
26 considered outside the authority of the Rate Bureau. If the proposed enhancement will include
27 an additional premium charge, the proposed premium charge shall be included with the proposed
28 program enhancements filed with the Commissioner. The Commissioner shall review the
29 proposed premium charges and approve them if the Commissioner finds that they are based on
30 sound actuarial principles. Amendments to private passenger automobile or homeowners'
31 program enhancements are subject to the same requirements as initial filings. ~~Neither the~~
32 ~~acceptance, renewal of a policy, nor any underwriting rating criteria shall be conditioned by a~~
33 ~~company upon the acceptance by the policyholder of any optional automobile or homeowners'~~
34 ~~enhancements.~~

35 A company shall not condition (i) the acceptance or renewal of a policy, (ii) any underwriting
36 criteria, or (iii) any rating criteria upon the acceptance by the policyholder of any optional



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1 automobile or homeowners' enhancements authorized by this section. A rate amendment
2 authorized by this section is not a rate deviation and is not subject to the requirements for rate
3 deviations set forth in G.S. 58-36-30(a)."

4 **SECTION 2.(b)** G.S. 58-36-43(b) is repealed.

5 **SECTION 3.(a)** G.S. 58-36-65(i) reads as rewritten:

6 "(i) As used in this section, "conviction" means a ~~conviction as defined in G.S. 20-279.1~~
7 plea of guilty, a plea of no contest, or the determination of guilt by a jury or by a court, even if
8 no sentence has been imposed or, if imposed, has been suspended, and it includes a forfeiture of
9 bail or collateral deposited to secure appearance in court of the defendant, unless the forfeiture
10 has been vacated and means an infraction as defined in G.S. 14-3.1."

11 **SECTION 3.(b)** G.S. 58-36-65(j) reads as rewritten:

12 "(j) Subclassification plan surcharges shall be applied to a policy for a period of not less
13 nor more than three policy years. However, for convictions for which four or more points under
14 the Plan are assigned, other than convictions for speeding in excess of the posted speed limit,
15 subclassification plan surcharges shall be applied to a policy for a period of not less nor more
16 than five policy years."

17 **SECTION 3.(c)** G.S. 58-36-65(k) reads as rewritten:

18 "(k) ~~The~~ For insureds receiving a drivers license for the first time on or before September
19 30, 2019, the subclassification plan may provide for premium surcharges for insureds having less
20 than three years' driving experience as licensed drivers. Notwithstanding subsection (j) of this
21 section, for insureds receiving a drivers license for the first time on or after October 1, 2019, the
22 subclassification plan may provide for premium surcharges for insureds having less than eight
23 years' driving experience as licensed drivers."

24 **SECTION 3.(d)** G.S. 58-36-65 is amended by adding a new subsection to read:

25 "(k1) Licensed drivers subject to premium surcharges pursuant to subsection (k) of this
26 section for a period of up to eight years may be eligible for an inexperienced safe driver discount
27 after three full years of driving experience. To be eligible for the premium discount, an
28 inexperienced licensed driver cannot have any at-fault accidents or convictions on their driving
29 record, whether or not such at-fault accidents or convictions result in the assignment of points
30 under the Plan. Any at-fault accidents or convictions shall preclude the inexperienced licensed
31 driver from being eligible for the premium discount for a period of five years. Eligibility for the
32 premium discount terminates once the inexperienced driver has been licensed for eight years, or
33 when the inexperienced driver has any at-fault accidents or convictions. For purposes of this
34 subsection, convictions on a driving record shall include convictions for which a prayer for
35 judgment continued was granted. Any inexperienced safe driver discount shall be filed by the
36 Bureau for approval with the Commissioner."

37 **SECTION 4.** Subsection (b) of Section 3 becomes effective October 1, 2020, and
38 applies to drivers convicted of moving violations on or after that date. Subsection (d) of Section
39 3 becomes effective October 1, 2019. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 464
PROPOSED COMMITTEE SUBSTITUTE H464-PCS10424-BC-13

Short Title: Small Business Health Care Act.

(Public)

Sponsors:

Referred to:

March 28, 2019

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH STANDARDS FOR ASSOCIATION HEALTH PLANS.
The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 50A.
"Association Health Plans.

"§ 58-50A-1. Definitions.

(a) "Association Health Plan." – A fully insured group health insurance policy that is sponsored by a sponsoring association and offered or sold to members of the sponsoring association, to provide health benefits, as permitted under the Employee Retirement Income Security Act of 1974, its implementing regulations, and this Chapter.

(b) "Employer Member." – A sole proprietorship, or an individual or entity employing at least one person, which is a member of a sponsoring association.

(c) "Sponsoring Association." – An association comprised of one or more employer members that provides an association health plan to its employer members. Provided that it meets the other requirements of this Article, a sponsoring association shall be treated as an employer of a single group health plan under the Employee Retirement Income Security Act of 1974, its implementing regulations, and this Chapter.

"§ 58-50A-5. Compliance with requirements.

Regardless of the domicile of the sponsoring association receiving the policy, no association health plan shall be delivered or issued for delivery in this State unless it complies with the requirements of this Chapter. Nothing in this Article shall be interpreted to regulate or prohibit any group health insurance policy that is not an association health plan as defined in G.S. 58-50A-1(a).

"§ 58-50A-10. Sponsoring association requirements.

(a) No insurer shall deliver or issue for delivery an association health plan to a sponsoring association unless that sponsoring association meets all of the following requirements:

- (1) Be an employer within the definition of section 3(5) of the Employee Retirement Income Security Act of 1974 and its implementing regulations.
- (2) Have a constitution or bylaws that provides for all of the following:
 - a. Regular meetings.
 - b. Collection of dues from members.
 - c. Operation by a board of trustees that consists of an owner, partner, officer, director, or employee of at least one of the employer members of the association.



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- (3) Have at least one substantial business purpose unrelated to the offering and providing of health insurance or other employee benefits to its employer members and their employees.
- (4) Have registered as a multiple employer welfare arrangement with the Commissioner.
- (5) Have a commonality of interest shared among the employer members based on either of the following:
- a. Establishment by employer members in the same trade, industry, line of business, or profession.
- b. Establishment by employer members as a statewide association in an area that does not exceed the boundaries of the State.

"§ 58-50A-15. Membership requirements.

- (a) In order to obtain coverage under an association health plan, an employer member must be a member of the sponsoring association and either be domiciled in this State, have a principal headquarters or principal administrative office in this State, or be licensed by the State licensing agency for the employer member's industry, trade, or profession.
- (b) Each employer member that obtains coverage under an association health plan may only provide coverage to the following:
- (1) Eligible employees of the employer member as defined in G.S. 58-51-80(c).
- (2) Individuals the employer member pays on an IRS Form 1099.
- (3) The spouse or dependent children of any individual identified in subdivisions (1) or (2) of subsection (b) of this section.
- (c) In order to obtain coverage under an association health plan, employer members must commit to remaining members of the sponsoring association and receiving and paying for benefits under the association health plan for a period of at least two years.

"§ 58-50A-20. Association health plan requirements.

- (a) Any association health plan delivered or issued for delivery must meet all of the following requirements:
- (1) Neither be offered nor advertised to the public generally.
- (2) Provide a level of coverage equal to or greater than sixty percent (60%) of the actuarial value of allowed costs for covered benefits.
- (3) Provide coverage for hospital and physician services.
- (4) Comply with the provisions of G.S. 58-3-150.
- (5) Provide coverage for the essential health benefits listed in 42 U.S.C. § 18022(b).

"§ 58-50A-25. Solvency requirements.

- (a) No association health plan shall be delivered or issued for delivery to a sponsoring association unless the sponsoring association meets all of the following solvency requirements:
- (1) Have been established and maintained in good faith for a period of at least five years.
- (2) Have at the outset a minimum of 500 persons eligible to receive coverage through the association health plan.
- (3) Enforce provisions that are intended to prevent or deter employer members from terminating coverage under the association health plan prior to the end of the coverage period required under the association health plan's membership requirements. These provisions may include levying fines or assessments and requiring employer members to provide proof of coverage through another health insurance policy before terminating coverage through the association health plan.

(4) Maintain a minimum net worth equal to at least one month's premium, which must be held in trust and separate from the sponsoring association's operating assets.

(5) Maintain at all times an adequate plan for protection against insolvency that is acceptable to the Commissioner.

"§ 58-50A-30. Nondiscrimination.

(a) No association health plan or sponsoring association may condition eligibility for coverage, including continuing eligibility for coverage, on any of the following health-status factors:

(1) Health status.

(2) Medical condition, including both physical and mental illness.

(3) Claims experience.

(4) Receipt of health care.

(5) Medical history.

(6) Genetic information.

(7) Evidence of insurability.

(8) Disability.

(b) An association health plan or sponsoring association may make rating distinctions among its employer members based on factors other than health-status factors, such as industry, occupation, or geography, provided that the rating distinction is not directed at individual beneficiaries or based on a factor listed in subsection (a) of this section.

(c) No association health plan may impose limitations based on preexisting conditions.

(d) This section shall not be construed to require an association health plan to provide particular benefits other than those provided under the terms of the plan, or otherwise required by law, or to prevent the plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan.

"§ 58-50A-35. Premium contributions.

(a) An association health plan or sponsoring association shall not require any individual, as a condition of initial enrollment or continued enrollment in the plan, to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled in the plan as a dependent of the individual.

(b) Nothing in this section shall be construed to restrict the amount an insurer may charge for coverage under an association health plan, or to prevent an insurer from establishing premium discounts or modifying otherwise applicable co-payments or deductibles for an association health plan in return for adherence to programs of health promotion and disease prevention.

"§ 58-50A-40. Use of licensed agents and brokers.

Nothing in this Article shall preclude a sponsoring association from engaging a broker or agent licensed to sell insurance in this State for the purposes of reviewing and considering any association health plan."

SECTION 2. This act becomes effective January 1, 2020, and applies to contracts entered into, amended, or renewed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 205
Committee Substitute Favorable 3/26/19
PROPOSED COMMITTEE SUBSTITUTE H205-PCS30319-TG-13

Short Title: Veh. Property Dmg./Determining Amt. of Loss.

(Public)

Sponsors:

Referred to:

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING THE PROCEDURES FOR DETERMINING
3 THE AMOUNT OF PROPERTY DAMAGE TO A MOTOR VEHICLE WHEN LIABILITY
4 FOR COVERAGE FOR THE CLAIM IS NOT IN DISPUTE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-279.21(d1) reads as rewritten:

7 "(d1) Such motor vehicle liability policy shall provide an alternative method of determining
8 the amount of property damage to a motor vehicle when liability for coverage for the claim is not
9 in dispute. For a claim for property damage to a motor vehicle against an insurer, the policy shall
10 provide that if:

- 11 (1) The claimant and the insurer fail to agree as to the difference in fair market
12 value of the vehicle immediately before the accident and immediately after
13 the accident; and
14 (2) The difference in the claimant's and the insurer's estimate of the diminution in
15 fair market value is greater than ~~two thousand dollars (\$2,000) or twenty-five~~
16 ~~percent (25%) five hundred dollars (\$500.00)~~ of the fair market retail value of
17 the vehicle prior to the accident as determined by the latest edition of the
18 National Automobile Dealers Association Pricing Guide ~~Book or other~~
19 ~~publications approved by the Commissioner of Insurance, whichever is less;~~
20 Book; then on the written demand of either the claimant or the insurer, each
21 shall select a competent and disinterested appraiser and notify the other of the
22 appraiser selected within 20 days after the demand. The appraisers shall then
23 appraise the loss, loss and exchange appraisals within 35 days after the
24 demand, for review by the opposing appraiser. Any appraiser who refuses to
25 appraise the loss or exchange an appraisal with an opposing appraiser as
26 required pursuant to this subdivision is subject to a civil penalty under
27 G.S. 58-2-70. Should the appraisers agree, they shall put their agreement in
28 writing and shall file the agreement with the insured and the claimant. Should
29 the appraisers fail to agree, they shall then select a competent and disinterested
30 appraiser to serve as an umpire. If the appraisers cannot agree upon an umpire
31 within 15 days, either the claimant or the insurer may request that a magistrate
32 resident in the county where the insured motor vehicle is registered or the
33 county where the accident occurred select the umpire. The appraisers shall
34 then submit their differences to the umpire. The umpire then shall prepare a
35 report determining the amount of the loss and shall file the report with the



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1 insurer and the claimant. The agreement of the two appraisers or the report of
2 the umpire, when filed with the insurer and the claimant, shall determine the
3 amount of the damages. In preparing the report, the umpire shall not award
4 damages that are higher or lower than the determinations of the appraisers. In
5 no event shall appraisers or the umpire make any determination as to liability
6 for damages or as to whether the policy provides coverage for claims asserted.
7 ~~The claimant or the insurer shall have 15 days from the filing of the report to~~
8 ~~reject the report and notify the other party of such rejection. If the report is not~~
9 ~~rejected within 15 days from the filing of the report, the report shall be binding~~
10 ~~upon~~ The agreement of the appraisers or the report of the umpire is binding
11 on both the claimant and the insurer. Each appraiser shall be paid by the party
12 selecting the appraiser, and the expenses of appraisal and umpire shall be paid
13 by the parties equally. For purposes of this section, "appraiser" and "umpire"
14 shall mean a person licensed as a motor vehicle damage appraiser under
15 G.S. 58-33-26 and G.S. 58-33-30 and who as a part of his or her regular
16 employment is in the business of advising relative to the nature and amount
17 of motor vehicle damage and the fair market value of damaged and
18 undamaged motor vehicles."

19 **SECTION 2.** This act becomes effective October 1, 2019, and applies to policies
20 issued, renewed, or amended on or after that date.

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 219	NAIC Accreditation Amendments.-AB
	Draft Number: H219-PCS10425-TU-7
	Serial Referral: RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Setzer
HB 222	Insurance Technical Changes.-AB
	Draft Number: H222-PCS30327-TU-1
	Serial Referral: RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
	Recommended Referral: None
	Long Title Amended: Yes
	Floor Manager: Setzer
HB 553	Licensing Certain Fire Safety Equip. Work.
	Draft Number: H553-PCS30330-BH-7
	Serial Referral: FINANCE
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Strickland

TOTAL REPORTED: 3



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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**HOUSE BILL 222
PROPOSED COMMITTEE SUBSTITUTE H222-PCS30327-TU-1**

Short Title: Modify Crim Penalties/NAIC Fraud Act- AB.

(Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED
AN ACT TO INCORPORATE PORTIONS OF THE NAIC'S INSURANCE FRAUD
PREVENTION MODEL ACT LANGUAGE INTO NORTH CAROLINA'S INSURANCE
LAWS AND TO MODIFY CRIMINAL PENALTIES ASSOCIATED WITH CERTAIN
INSURANCE FRAUD STATUTES, AS RECOMMENDED BY THE DEPARTMENT OF
INSURANCE.

The General Assembly of North Carolina enacts:

**PART I. INCORPORATE NAIC INSURANCE FRAUD PREVENTION MODEL ACT
LANGUAGE**

SECTION 1.(a) G.S. 58-1-5 reads as rewritten:

"§ 58-1-5. Definitions.

In this Chapter, unless the context clearly requires otherwise:

- (1) "Alien company" means a company incorporated or organized under the laws of any jurisdiction outside of the United States.
- (1a) "Commercial aircraft" means aircraft used in domestic, flag, supplemental, commuter, or on-demand operations, as defined in Federal Aviation Administration Regulations, 14 C.F.R. § 119.3, as amended.
- (2) "Commissioner" means the Commissioner of Insurance of North Carolina or an authorized designee of the Commissioner.
- (3) "Company" or "insurance company" or "insurer" includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations. "Company" or "insurance company" or "insurer" does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.
- (4) "Department" means the Department of Insurance of North Carolina.
- (5) "Domestic company" means a company incorporated or organized under the laws of this State.
- (6) "Foreign company" means a company incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.



(6a) "Fraudulent insurance act" means an act or omission affecting the business of insurance committed by a person with the intent to injure, defraud, or deceive another person in violation of this Chapter.

(7) "NAIC" means the National Association of Insurance Commissioners.

(8) Repealed by Session Laws 1999-219, s. 5.5.

(9) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.

(10) The singular form includes the plural, and the masculine form includes the feminine wherever appropriate."

SECTION 1.(b) G.S. 58-2-50 reads as rewritten:

"§ 58-2-50. Examinations, hearings, and investigations.

(a) All examinations, hearings, and investigations provided for by this Chapter may be conducted by the Commissioner personally or by one or more deputies, investigators, actuaries, examiners or employees designated for the purpose. ~~If the Commissioner or any investigator appointed to conduct the investigations is of the opinion that there is evidence to charge any person or persons with a criminal violation of any provision of this Chapter, the Commissioner may arrest with warrant or cause the person or persons to be arrested.~~

(b) All hearings shall, unless otherwise specially provided, be held in accordance with this Article and Article 3A of Chapter 150B of the General Statutes and at a time and place designated in a written notice given by the Commissioner to the person cited to appear. The notice shall state the subject of inquiry and the specific charges, if any.

(c) The Commissioner may investigate and prosecute suspected fraudulent insurance acts and persons engaged in the business of insurance.

(d) The Commissioner shall have the authority to do all of the following:

(1) Inspect, copy, and collect records and evidence.

(2) Serve subpoenas.

(3) Administer oaths and affirmations.

(4) Share records and evidence with federal, state, or local law enforcement, or regulatory agencies.

(5) Execute search warrants and arrest warrants for criminal violations of this Chapter.

(6) Arrest upon probable cause without warrant a person found in the act of violating or attempting to violate a provision of this Chapter.

(7) Make criminal referrals to prosecuting authorities.

(8) Conduct investigations outside of this State. If the information the Commissioner seeks to obtain is located outside this State, the person from whom the information is sought may make the information available to the Commissioner to examine at the place where the information is located. The Commissioner may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the Commissioner, and the Commissioner may respond to similar requests from officials of other states.

(e) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this Chapter or investigations of suspected or actual violations of this Chapter."

SECTION 1.(c) G.S. 58-2-160 reads as rewritten:

"§ 58-2-160. Reporting and investigation of ~~insurance and reinsurance fraud~~ fraudulent insurance acts and the financial condition of licensees; immunity from liability.

(a) As used in this section, "Commissioner" includes an employee, agent, or designee of the Commissioner. A person, or an employee or agent of that person, acting without actual malice, is not subject to civil liability for libel, slander, or any other cause of action by virtue of

1 furnishing to the Commissioner under the requirements of law or at the direction of the
2 Commissioner reports or other information relating to (i) any known or suspected fraudulent
3 insurance ~~or reinsurance claim, transaction, or act~~ or (ii) the financial condition of any licensee.
4 In the absence of actual malice, members of the NAIC, their duly authorized committees,
5 subcommittees, task forces, delegates, and employees, and all other persons charged with the
6 responsibility of collecting, reviewing, analyzing, or disseminating the information developed
7 from filings of financial statements or examinations of licensees are not subject to civil liability
8 for libel, slander, or any other cause of action by virtue of their collection, review, analysis, or
9 dissemination of the data and information collected from such filings or examinations.

10 (b) The Commissioner, acting without actual malice, is not subject to civil liability for
11 libel or slander by virtue of an investigation of (i) any known or suspected fraudulent insurance
12 ~~or reinsurance claim, transaction, or act~~ or (ii) the financial condition of any licensee; or by virtue
13 of the publication or dissemination of any official report related to any such investigation, which
14 report is published or disseminated in the absence of fraud, bad faith, or actual malice on the part
15 of the Commissioner. The Commissioner is not subject to civil liability in relation to the
16 collecting, reviewing, analyzing, or dissemination of information that is developed by the NAIC
17 from the filing of financial statements with the NAIC or from the examination of insurers by the
18 NAIC and that is communicated to the Commissioner, including any investigation or publication
19 or dissemination of any report or other information in relation thereto, which report is published
20 or disseminated in the absence of fraud, bad faith, negligence, or actual malice on the part of the
21 Commissioner.

22 (c) During the course of an investigation of (i) a known or suspected fraudulent insurance
23 ~~or reinsurance claim, transaction, or act~~ or (ii) the financial condition of any licensee, the
24 Commissioner may request any person to furnish copies of any information relative to the (i)
25 known or suspected claim, transaction, or act or (ii) financial condition of the licensee. The
26 person shall release the information requested and cooperate with the Commissioner pursuant to
27 this section."

28 **SECTION 1.(d)** Article 2 of Chapter 58 of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 58-2-166. Fraudulent insurance act warning required on claim for payment or other**
31 **benefit or on application for insurance.**

32 (a) Claims for payment or other benefits or applications for issuance of an insurance
33 policy, regardless of the form of transmission, shall contain the following statement or a
34 substantially similar statement:

35 "Any person who knowingly presents or causes to be presented a false or fraudulent claim
36 for payment of a loss or benefit or knowingly presents false information on an application for
37 insurance is guilty of a crime and may be subject to fines and confinement in prison."

38 (b) The lack of a statement as required in subsection (a) of this section does not constitute
39 a defense in any prosecution for a fraudulent insurance act as defined in G.S. 58-1-5.

40 (c) Policies issued by nonadmitted insurers shall contain a statement disclosing the status
41 of the insurer to do business in the state where the policy is delivered or issued for delivery or
42 the state where coverage is in force. The requirement of this subsection may be satisfied by a
43 disclosure specifically required by G.S. 58-21-45 or G.S. 58-22-20.

44 (d) The requirements of this section shall not apply to reinsurance claims forms or
45 reinsurance applications."

46 **SECTION 1.(e)** Article 2 of Chapter 58 of the General Statutes is amended by adding
47 a new section to read:

48 **"§ 58-2-167. Insurer antifraud initiatives.**

49 (a) Insurers shall have in place antifraud initiatives reasonably calculated to detect,
50 prosecute, and prevent fraudulent insurance acts as defined in G.S. 58-1-5. At the discretion of
51 the Commissioner, the Commissioner may order, or an insurer may request and the

Commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

(b) The antifraud initiatives shall include the following:

(1) Fraud investigators, who may be insurer employees or independent contractors.

(2) An antifraud plan, which shall be submitted to the Commissioner. The antifraud plan shall include the following:

a. A description of the procedures for detecting and investigating possible fraudulent insurance acts.

b. A description of the procedures for reporting possible fraudulent insurance acts to the Commissioner.

c. A description of the plan of antifraud education and training of underwriters and other personnel.

d. Any other information required by the Commissioner.

(c) Antifraud plans submitted to the Commissioner under this section are proprietary, privileged, and confidential, are not public records under G.S. 132-1 or G.S. 58-2-100, and are not subject to discovery or subpoena in a civil or criminal action."

SECTION 1.(f) Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-168. Confidentiality.

(a) Information and evidence provided under G.S. 58-2-160 or G.S. 58-2-163 or obtained by the Commissioner in an investigation of suspected or actual fraudulent insurance acts shall be privileged and confidential, are not public records, and are not subject to discovery or subpoena in a civil or criminal action.

(b) In order to assist in the performance of the Commissioner's duties, the Commissioner may do any of the following:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information.

(2) May receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(c) Nothing in this section shall prohibit the Commissioner from providing information to or receiving information from any local, state, federal, or international law enforcement authorities, including any prosecuting authority, or from complying with subpoenas or other lawful process in criminal actions, or as may otherwise be provided in this Article.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing, as authorized in subsection (b) of this section."

SECTION 1.(g) Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-169. Other law enforcement or regulatory authority.

(a) This Article does none of the following:

- (1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.
- (2) Prevent or prohibit a person from disclosing voluntarily information concerning fraudulent insurance acts to a law enforcement or regulatory agency other than the Commissioner.
- (3) Limit the powers granted elsewhere by the laws of this State to the Commissioner to investigate and examine possible violations of law and to take appropriate action against wrongdoers."

SECTION 1.(h) The catch line of G.S. 58-58-267 reads as rewritten:

"§ 58-58-267. ~~Fraud~~ **Fraudulent viatical settlement act warning required.**"

SECTION 1.(i) G.S. 58-58-285 reads as rewritten:

"§ 58-58-285. **Other law enforcement or regulatory authority.**

This Part does ~~not~~ none of the following:

- (1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.
- (2) Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the Commissioner.
- (3) Limit the powers granted elsewhere by the laws of this State to the Commissioner to investigate and examine possible violations of law and to take appropriate action against wrongdoers."

SECTION 1.(j) Subsections (d) and (e) of this section become effective January 1,

2020.

PART II. MODIFY CERTAIN CRIMINAL PENALTIES

SECTION 2.(a) G.S. 58-2-161 reads as rewritten:

"§ 58-2-161. **False statement to procure or deny benefit of insurance policy or certificate.**

...

(b) ~~Any person~~ It shall be unlawful for any person who, with the intent to injure, defraud, or deceive an insurer or insurance claimant; claimant, does any of the following:

- (1) Presents or causes to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the ~~claim, or claim.~~
- (2) ~~Assists, abets, solicits, or conspires with~~ Assists or abets another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning a fact or matter material to the ~~claim-is guilty of claim.~~

(c) Any person who violates subsection (b) of this section shall be penalized as follows:

- (1) If the value of the claim for payment or other benefit sought is less than one thousand dollars (\$1,000), it shall be a Class 1 misdemeanor.
- (2) If the value of the claim for payment or other benefit sought is one thousand dollars (\$1,000) or more, it shall be a Class H felony.
- (3) If the value of the claim for payment or other benefit sought is fifty thousand dollars (\$50,000) or more, it shall be a Class E felony.

- (4) If the value of the claim for payment or other benefit sought is one hundred thousand dollars (\$100,000) or more, it shall be a Class C felony.

In addition to any other penalties authorized by law, a violation of this section may be punishable by a fine of not more than ten thousand dollars (\$10,000) for each violation.

(d) Each claim ~~shall~~ may be considered a separate count. Upon conviction, if the court imposes probation, the court may order the defendant to pay restitution as a condition of probation. In determination of the amount of restitution pursuant to G.S. 15A-1343(d), the reasonable costs and attorneys' fees incurred by the victim in the investigation of, and efforts to recover damages arising from, the claim, may be considered part of the damage caused by the defendant arising out of the offense.

(e) In a civil cause of action for recovery based upon a claim for which a defendant has been convicted under this section, the conviction may be entered into evidence against the defendant. The court may award the prevailing party compensatory damages, attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can demonstrate that the defendant has engaged in a pattern of violations of this section, the court may award treble damages."

SECTION 2.(b) G.S. 58-2-164 reads as rewritten:

"§ 58-2-164. Rate evasion fraud; prevention programs.

...

(b) It shall be a ~~Class 3~~ Class 1 misdemeanor for any person who, with the intent to deceive an insurer, does any of the following:

- (1) Presents or causes to be presented a written or oral statement in support of an application for issuance of or amendment to a policy of auto insurance, knowing that the application contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.
- (2) ~~Assists, abets, solicits, or conspires with~~ Assists or abets another person to prepare or make any written or oral statement that is intended to be presented to an insurer in connection with or in support of an application for issuance of or amendment to a policy of auto insurance, if the person knows that the statement contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than one thousand dollars (\$1,000) for each violation.

(b1) If the violation of subsection (b) of this section is committed with respect to an application for insurance or amendment to a policy of auto insurance for more than one passenger vehicle, the person shall be guilty of a Class H felony.

~~(b1)~~(b2) It shall be a Class H felony for any applicant who, with the intent to deceive an insurer, knowingly violates G.S. 58-2-164(b) for the purpose of obtaining auto insurance covering one or more vehicles, the operation of which requires a Commercial Drivers License pursuant to G.S. 20-4.01(3c).

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than ten thousand dollars (\$10,000) for each violation.

...."

SECTION 2.(c) G.S. 58-3-150 is amended by adding a new subsection to read:

"(h) It shall be unlawful for any person who, with the intent to injure, defraud, or deceive, prepares, issues, or requests a certificate of insurance that meets the criteria of subdivision (2) or (3) of subsection (f) of this section. The person violating this subsection shall be punished as follows:

- (1) If the value of the certificate of insurance is less than five thousand dollars (\$5,000), it shall be a Class 1 misdemeanor.

1 (2) If the value of the certificate of insurance is five thousand dollars (\$5,000) or
2 more, it shall be a Class I felony."

3 **SECTION 2.(d)** This section becomes effective December 1, 2019, and applies to
4 offenses committed on or after that date.

5
6 **PART III. EFFECTIVE DATE**

7 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
8 law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 553
PROPOSED COMMITTEE SUBSTITUTE H553-PCS30330-BH-7

Short Title: Licensing Certain Fire Safety Equip. Work.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO REQUIRE LICENSING AND PERMITTING FOR INDIVIDUALS AND FIRMS
THAT INSTALL AND SERVICE PORTABLE FIRE EXTINGUISHERS AND FIRE
SUPPRESSION SYSTEMS

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new article
to read:

"Article 82B.

"Licensing and Permitting for the Installation and Servicing of Portable Fire Extinguishers and
Fire Suppression Systems.

"§ 58-82B-1. Definitions.

The following definitions apply in this Article:

- (1) Commissioner. – The North Carolina Commissioner of Insurance
- (2) Engineered special hazard fire suppression system. – A fire suppression system having pipe lengths, number of fittings, number and types of nozzles, suppression agent flow rates, and nozzle pressures calculated based on appropriate standards of the National Fire Protection Association. An engineered fire suppression system may include other components, including, but not limited to, detection devices, alarm devices, and control devices as tested and approved by a nationally recognized testing laboratory, where the component's manufacturer determines the component is compatible with the fire suppression system.
- (3) Fire suppression system. – Any pre-engineered firefighting system employing a suppression agent with the purpose of controlling, suppressing, or extinguishing a fire in a specific hazard, including pre-engineered kitchen fire suppression systems, pre-engineered industrial fire suppression systems, and engineered special hazard fire suppression systems. Unless otherwise provided in this Article, a fire suppression system shall mean a pre-engineered fire suppression system as defined in subdivision (11) of this section.
- (4) Industrial fire suppression system. – A pre-engineered automatic fire extinguishing system provided for the protection of property or equipment as described by the manufacturer other than those systems covered under the definition of kitchen fire suppression system.
- (5) Kitchen fire suppression system. – A pre-engineered automatic fire extinguishing system provided for the protection of grease removal devices,



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hoods, duct systems, and cooking equipment. This term also includes "restaurant fire suppression system."

(6) Suppression agent. – A currently recognized agent or additive required to control, suppress, or extinguish a fire. This does not include water.

(7) Firm. – Any business, person, partnership, organization, association, corporation, contractor, subcontractor, or individual.

(8) License. – The document issued by the Commissioner which authorizes a firm to engage in the business of installation, repair, recharging, inspection, service, or testing of fire suppression systems or portable fire extinguishers.

(9) Permit. – The document issued by the Commissioner which authorizes an individual to install, inspect, repair, recharge, service, or test fire suppression systems or portable fire extinguishers.

(10) Portable fire extinguisher. – A portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

(11) Pre-engineered fire suppression system. – Any system having predetermined flow rates, nozzle pressures, and quantities of an extinguishing agent.

"§ 58-82B-2. Commissioner of Insurance to administer Article; rules and regulations.

(a) The Commissioner of Insurance, through the Office of the State Fire Marshal, shall have full power and authority to administer the provisions of this Article, including adopting rules to enforce the purposes and provisions of this Article.

(b) The Commissioner of Insurance shall establish rules for the following:

(1) Proper installation, inspection, recharging, repairing, servicing, or testing of fire suppression systems or portable fire extinguishers.

(2) Required specifications as to the number, type, size, shape, color, and information and data contained thereon of service tags to be attached to all portable fire extinguishers and fire suppression systems covered by this Article when they are installed, inspected, recharged, repaired, serviced, or tested.

(c) The Commissioner may adopt by rule the applicable standards of the National Fire Protection Association or another nationally recognized organization, if the standards are judged by the Commissioner to be suitable for the enforcement of this Article. All fire suppression systems and portable fire extinguishers covered by G.S. 58-82B-3 shall be installed, inspected, recharged, repaired, serviced, or tested in compliance with this Article and with the Commissioner's rules.

(d) The Commissioner may adopt rules to require an applicant for a license or permit to take an examination as to the applicant's competence to be licensed or permitted under this Article. If required, the applicant must take and pass the examination according to requirements prescribed by the Commissioner.

(e) The Commissioner is authorized to apply for and receive grants for the administration of this Article from parties interested in upgrading and improving the quality of fire protection provided by portable fire extinguishers or fire suppression systems.

"§ 58-82B-3. Compliance with this article; license and permit requirement.

(a) Except as otherwise provided by this Article, no firm may install, inspect, repair, service, or test any of the following fire suppression systems or portable fire extinguishers that are required by the Commissioner's rules or by other state or local fire safety rules, unless the firm is licensed under the provisions of this Article:

(1) Portable fire extinguishers.

(2) Pre-engineered kitchen fire suppression systems.

(3) Pre-engineered industrial fire suppression systems.

(4) Engineered special hazard fire suppression systems.

(b) Except as otherwise provided by this Article, no individual may install, inspect, repair, recharge, service, or test any of the following fire suppression systems or portable fire extinguishers that are required by the Commissioner's rules or by other state or local fire safety rules, unless the individual is permitted under the provisions of this Article:

- (1) Portable fire extinguishers.
- (2) Pre-engineered kitchen fire suppression systems.
- (3) Pre-engineered industrial fire suppression systems.
- (4) Engineered special hazard fire suppression systems.

(c) It shall be unlawful for an individual to install, inspect, recharge, repair, service, or test any portable fire extinguisher or fire suppression system without attaching the required tag or tags completed in detail, including the actual month, day, and year the work was performed, or to use a tag not meeting the specifications set forth by the Commissioner.

(d) The permit established by subsection (b) of this section shall not be required for any individual employed by any firm or governmental entity that engages only in installing, inspecting, recharging, repairing, servicing, or testing of portable fire extinguishers or fire suppression systems owned by the firm and installed on property under the control of the firm. These individuals shall remain subject to the rules and regulations adopted pursuant to this Article.

(e) The provisions of this Article do not apply to any of the following:

- (1) Fire chiefs, fire marshals, fire inspectors, or insurance company inspectors with regard to the routine visual inspection of pre-engineered fire suppression systems or portable fire extinguishers.
- (2) Any firm that engages only in the routine visual inspection of fire suppression systems or portable fire extinguishers owned by the firm and installed on property under the control of the firm.

"§ 58-82B-4. License and permit fees.

(a) A nonrefundable license fee of two hundred fifty dollars (\$250.00) shall be paid to the Commissioner with each application for the issuance of a license under this Article.

(b) A nonrefundable permit fee of one hundred dollars (\$100.00) shall be paid to the Commissioner with each application for the issuance of a permit under this Article.

(c) The fees required by this Article shall not apply to employees of federal, state, or local governments or to a member of a legally organized fire department while acting in the member's official capacity.

"§ 58-82B-5. Requirements for issuance of license.

(a) Before approving a license for a firm pursuant to G.S. 58-82B-3, the Commissioner shall find that the firm has:

- (1) Submitted a completed application pursuant to G.S. 58-82B-8.
- (2) Submitted to the Commissioner evidence of registration as a North Carolina corporation.
- (3) Not committed any act that is a ground for denial, suspension, probation, revocation, or nonrenewal set forth in G.S. 58-82B-11.
- (4) Satisfied all requirements of this Article.
- (5) Been determined, by inspection of the Commissioner, to possess the equipment required for the activities the applicant requests to be licensed to perform. If the applicant includes in the request the high-pressure hydrostatic testing of equipment, the applicant must submit a copy of its United States Department of Transportation approval and renewals.
- (6) Submitted to the Commissioner proof of a valid comprehensive liability insurance policy purchased from an insurer authorized to do business in North Carolina. The coverage must include bodily injury and property damage, products liability, completed operations, and contractual liability. The proof

of insurance must also be provided before any license can be renewed. The minimum amount of the coverage shall be one million dollars (\$1,000,000) or any other amount as specified by the Commissioner. An insurer which provides this coverage shall notify the Commissioner of any change in coverage.

(7) Paid the applicable fees set forth in G.S. 58-82B-4.

(8) Paid a nonrefundable filing fee fixed by rule of the Commissioner when filing an application for an examination, if the Commissioner requires an examination pursuant to this Article.

(9) Successfully passed any examination, if the Commissioner requires an examination pursuant to this Article.

(b) Before approving a permit for an individual pursuant to G.S. 58-82B-3, the Commissioner shall find that the individual has:

(1) Submitted a completed application pursuant to G.S. 58-82B-8.

(2) Not committed any act that is a ground for denial, suspension, probation, revocation, or nonrenewal set forth in G.S. 58-82B-11.

(3) Satisfied all requirements of this Article.

(4) Paid the applicable fees set forth in G.S. 58-82B-4.

(5) Paid a nonrefundable filing fee fixed by rule of the Commissioner when filing an application for an examination, if the Commissioner requires an examination pursuant to this Article.

(6) Successfully passed any examination, if the Commissioner requires an examination pursuant to this Article.

"§ 58-82B-6. Production of license or permit on demand.

(a) Every permittee must have a valid permit upon his person at all times while engaging in the installing, inspection, recharging, repairing, servicing, or testing of fire suppression systems or portable fire extinguishers.

(b) Every licensee or permittee must be able to produce a valid license or valid permit, as appropriate, upon demand by the Commissioner or his representatives or by any local authority having jurisdiction for fire protection or prevention or by any individual for whom the licensee or permittee solicits to perform any of the activities covered by this Article.

"§ 58-82B-7. Reciprocity.

The Commissioner may issue a license or permit under this Article to an individual who holds a comparable valid permit, license, or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this Article for the specific license or permit issued and the individual or firm pays the application and filing fees required under this Article.

"§ 58-82B-8. Forms of licenses, permits, and applications; information required.

(a) An individual applying for a license or permit under this Article shall apply on a form prescribed by the Commissioner and declare under penalty of denial, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Permit applications shall include the name of the licensee employing the applicant or the name of the firm or governmental entity pursuant to the exemptions found in G.S. 58-82B-3.

(c) Each license or permit issued by the Commissioner under this Article shall clearly state the activity or activities for which the licensee or permittee has been issued the license or permit to perform. The licensee or permittee shall not perform any activity not noted on a license or permit issued by the Commissioner.

(d) A licensee or permittee shall notify the Commissioner within 30 days of any change to the information provided to the Commissioner on the license or permit application.

1 (e) The Commissioner shall give an applicant 60 days to correct any deficiencies
2 discovered by inspection.

3 **"§ 58-82B-9. Terms of licenses and permits; failure to renew.**

4 (a) The licenses and permits required by this Article shall be issued by the Commissioner
5 for each license year, beginning January 1 and expiring the following December 31.

6 (b) The failure to renew a license or permit by December 31 will cause the license or
7 permit to become inoperative. A license or permit which is inoperative because of the failure to
8 renew the license or permit shall be restored upon payment of the applicable fee, plus a penalty
9 equal to the applicable fee, if the fees are paid within 90 days of expiration. After 90 days, the
10 former licensees and former permittees must apply for new licenses and permits as required for
11 an initial license or permit.

12 **"§ 58-82B-10. License or permit sanction and denial procedures.**

13 (a) The suspension, placing on probation, revocation, denial, or refusal to renew any
14 license or permit under this Article shall be in accordance with the provisions of Chapter 150B
15 of the General Statutes.

16 (b) Whenever the Commissioner denies an initial application or an application for a
17 reissuance of a license or permit under this Article, the Commissioner shall notify the applicant
18 and advise, in writing, the applicant of the reasons for the denial of the license. The applicant
19 may also be denied for any reasons for which a license may be suspended or revoked or not
20 renewed under G.S. 58-82B-11.

21 (c) In order for an applicant to be entitled to a review of the Commissioner's action to
22 determine the reasonableness of the action, the applicant must make a written demand upon the
23 Commissioner for a review no later than 30 days after service of the notification upon the
24 applicant. The review shall be completed without undue delay, and the applicant shall be notified
25 promptly in writing of the outcome of the review.

26 (d) In order for an applicant who disagrees with the outcome of the review to be entitled
27 to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make
28 a written demand upon the Commissioner for a hearing no later than 30 days after service upon
29 the applicant of the notification of the outcome.

30 (e) A licensee or permittee whose license or permit is suspended, revoked, or not renewed
31 shall surrender the license or permit to the Commissioner within 30 days of the suspension,
32 revocation, or nonrenewal.

33 (f) During the suspension or revocation of any license or permit, the licensee or permittee
34 whose license or permit has been suspended or revoked shall not engage in or attempt or profess
35 to engage in any transaction or business for which a license or permit is required under this
36 Article or directly or indirectly own, control, or be employed in any manner by any firm, business,
37 or corporation for which a license or permit under this Article is required.

38 (g) If, during the period between the beginning of proceedings and the entry of an order
39 of suspension or revocation by the Commissioner, a new license or permit has been issued to the
40 individual or firm charged, the order of suspension or revocation shall operate to suspend or
41 revoke, as the case may be, the new license or permit held by the individual or firm.

42 (h) The Commissioner shall not, so long as the revocation or suspension remains in effect,
43 issue any new license or permit for the establishment of any new firm, business, or corporation
44 of any individual or applicant that has or will have the same or similar management, ownership,
45 control, employees, permittees, or licensees or will use the same or a similar name as the revoked
46 or suspended firm, business, corporation, individual, or applicant.

47 **"§ 58-82B-11. Grounds for denial, suspension, probation, revocation, or nonrenewal of**
48 **licenses.**

49 The Commissioner may deny, suspend, place on probation, revoke, or refuse to renew any
50 license or permit under this Article, in accordance with the provisions of Article 3A of Chapter
51 150B of the General Statutes, for any one or more of the following reasons:

- (1) Performing any action for which a license or permit is required under this Article without having first obtained such license or permit.
- (2) Improperly installing, recharging, repairing, servicing, inspecting, or testing a portable fire extinguisher or fire suppression system.
- (3) Rendering inoperative a portable fire extinguisher or pre-engineered or engineered fire suppression system covered by this Article, except during the time the extinguisher or system is being inspected, recharged, repaired, serviced, or tested or except pursuant to court order.
- (4) Material misstatement, misrepresentation, or fraud in obtaining a license or permit under this Article.
- (5) Failing to provide proof of or maintain the minimum comprehensive liability insurance coverage as set forth in G.S. 58-82B-5.
- (6) Failing to notify the Commissioner, in writing, within 30 days after a change of any information required on applications under G.S. 58-82B-8.
- (7) Cheating on an examination for a license or permit, if an examination is required by the Commissioner pursuant to this Article.
- (8) Having any professional license denied, suspended, or revoked in this State or any other jurisdiction for causes substantially similar to those listed in this subsection.
- (9) Failing or refusing to comply with a cease and desist order or any other notice or order to correct a violation related to conduct governed by this Article.
- (10) Retaining an officer, director, stockholder, owner, or individual who has a direct or indirect interest that has had his or her license or permit suspended or revoked under this Article.
- (11) Serving or previously serving as an officer, director, stockholder, or owner of a firm, business, or corporation whose license or permit has been suspended or revoked under this Article, or who has or had a direct or indirect interest in a firm, business, or corporation, whose license or permit has been suspended or revoked under this Article.
- (12) While holding a permit or license, using a license or permit or license number or permit number other than his or her own valid license or permit or license number or permit number.
- (13) Using credentials, methods, means, or practices to impersonate a representative of the Commissioner or the State Fire Marshal or any local fire chief, fire marshal, or other fire authority having jurisdiction.
- (14) Any cause for which the issuance of the license or permit could have been denied had it been known to the Commissioner at the time of issuance.
- (15) Failing to obtain, retain, or maintain one or more of the qualifications for a license or permit required by this Article.
- (16) Knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (17) Failing to comply with an administrative or court order imposing a child support obligation, after entry of a final judgment or order finding the violation to have been willful.
- (18) Failing to pay State income tax or comply with any administrative or court order directing payment of State income tax, after entry of a final judgment or order finding the violation to have been willful.
- (19) Conviction of a crime involving dishonesty, a breach of trust, or moral turpitude.
- (20) Violating any other provision of this Article or any rule or regulation adopted and promulgated pursuant to this Article.

(21) Any cause sufficient to deny, suspend, or revoke the license or permit under any other provision of this Article.

"§ 58-82B-12. Cease and desist orders; period of revocation.

(a) Whenever the Commissioner shall have reason to believe that any individual or firm is or has been violating any provisions of this Article, the Commissioner may issue and deliver to the individual or firm an order to cease and desist the violation.

(b) Any order issued by the Commissioner under this section shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if an individual subject to the order requests a hearing within 30 days of receipt of the order and notice. The order and notice shall be served by hand delivery by the Commissioner or by registered or certified mail.

(c) Failure to comply with a cease and desist order is cause for revocation of any or all permits and licenses issued by the Commissioner for a period of not less than six months and not to exceed five years. If a new permit or license has been issued to the individual or firm, the order of revocation shall operate effectively with respect to the new permits and licenses held by the individual or firm.

(d) In the case of an applicant for a license or permit, violation of any provision of this title may constitute grounds for refusal of the application.

"§ 58-82B-13. Civil penalty; injunction.

(a) Any individual or firm who violates any provision of this Article or any rule or order issued by the Commissioner under this Article shall be subject to a civil penalty imposed by the Commissioner of not more than one thousand dollars (\$1,000) for a first offense, not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000) for a second offense, and not less than two thousand dollars (\$2,000) or more than five thousand dollars (\$5,000) for a third or subsequent offense.

(b) Prior to subjecting any individual or firm to a fine under this subsection, the Commissioner shall give written notice to the individual or firm by hand delivery or by registered or certified mail of the existence of the violations. After a reasonable period of time after notice is given, an order may be issued based on this section. The order must be delivered in accordance with the provisions of subsection G.S. 58-82B-12(b) and must notify the individual or firm of the right to a hearing with respect to the order.

(c) In addition to other powers granted to the Commissioner under this Article, the Commissioner may bring a civil action to enjoin a violation of any provision of this Article or of any rule or order issued by the Commissioner under this Article.

"§ 58-82B-14. Criminal penalty.

(a) Any individual or firm that willfully or intentionally violates any provision of this Article or any order or rule of the Commissioner shall be guilty of a Class 1 misdemeanor.

(b) It shall also constitute a Class 1 misdemeanor to willfully or intentionally do any of the following:

(1) Obliterate the serial number on a fire suppression system or portable fire extinguisher for the purposes of falsifying service records.

(2) Improperly install a fire suppression system or improperly recharge, repair, service, or test any fire suppression system or portable fire extinguisher.

(3) While holding a permit or license, allow another individual to use the permit or license or permit number or license number or to use a license or permit or license number or permit number other than his own valid license or permit or license number or permit number.

(4) Use or permit the use of any license by an individual or firm other than the one to whom the license is issued.

1 (5) Use any credential, method, means, or practice to impersonate a representative
2 of the Commissioner or the State Fire Marshal or any local fire chief, fire
3 marshal, or other fire authority having jurisdiction.

4 (6) Engage in the business of installing, inspecting, recharging, repairing,
5 servicing, or testing portable fire extinguishers or fire suppression systems
6 except in conformity with the provisions of this Article and the applicable
7 rules and regulations of the Commissioner.

8 (7) Fails to comply with a cease and desist order under G.S. 58-82B-12.

9 **"§ 58-82B-15. Power of the State and local governments to regulate not limited.**

10 (a) Nothing in this Article limits the power of the State or a unit of local government to
11 require the submission and approval of plans and specifications or to regulate the quality and
12 character of work performed by contractors for the protection of the public health and safety.

13 (b) No unit of local government shall impose any other requirements on individuals
14 licensed or permitted by the Commissioner as set forth in this Article to prove competency to
15 conduct any activity covered by the license or permit."

16 **SECTION 2.** The Department of Insurance may adopt temporary rules to implement
17 the provisions of this Article. Any temporary rules adopted in accordance with this section shall
18 remain in effect until permanent rules that replace the temporary rules become effective.

19 **SECTION 3.** This act becomes effective January 1, 2020.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 219
PROPOSED COMMITTEE SUBSTITUTE H219-PCS10425-TU-7

Short Title: NAIC Accreditation Amendments.-AB

(Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED
AN ACT TO REVISE VARIOUS INSURANCE LAWS IN ORDER TO MAINTAIN NAIC
ACCREDITATION, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.
The General Assembly of North Carolina enacts:

PART I. SUPERVISION OF INTERNATIONALLY ACTIVE INSURANCE GROUPS

SECTION 1.(a) G.S. 58-19-5 is amended by adding a new subdivision to read:

"(10a) Group-wide supervisor. – The regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the Commissioner under G.S. 58-19-38 to have sufficient significant contacts with the internationally active insurance group."

SECTION 1.(b) G.S. 58-19-5 is amended by adding a new subdivision to read:

"(12a) Internationally active insurance group. – An insurance holding company system that includes an insurer registered under G.S. 58-19-25 and that meets all of the following criteria:

- a. The insurance holding company system writes premiums in at least three countries.
- b. The percentage of gross premiums of the insurance holding company system written outside the United States is at least ten percent (10%) of the insurance holding company system's total gross written premiums.
- c. Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars (\$50,000,000,000) or the total gross written premiums of the insurance holding company system are at least ten billion dollars (\$10,000,000,000)."

SECTION 1.(c) Article 19 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"§ 58-19-38. Group-wide supervision of internationally active insurance groups.

(a) In cooperation with other state, federal, and international regulatory agencies, the Commissioner will identify a single group-wide supervisor for an internationally active insurance group in accordance with the provisions of this section. The Commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group. However, the Commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group meets any of the following criteria:



- 1 (1) It does not have substantial insurance operations in the United States.
2 (2) It has substantial insurance operations in the United States, but not in this
3 State.
4 (3) It has substantial insurance operations in the United States and this State, but
5 the Commissioner has determined pursuant to the factors set forth in
6 subsections (b) and (f) of this section that the other regulatory official is the
7 appropriate group-wide supervisor.

8 An insurance holding company system that does not otherwise qualify as an internationally
9 active insurance group may request that the Commissioner make a determination or
10 acknowledgment as to a group-wide supervisor pursuant to this section.

11 (b) The Commissioner shall consider all of the following factors when determining that
12 the Commissioner is the appropriate group-wide supervisor for an internationally active
13 insurance group that conducts substantial insurance operations concentrated in this State or
14 acknowledges that a regulatory official from another jurisdiction is the appropriate group-wide
15 supervisor for the internationally active insurance group:

- 16 (1) The place of domicile of the insurers within the internationally active
17 insurance group that holds the largest share of the group's written premiums,
18 assets, or liabilities.
19 (2) The place of domicile of the top-tiered insurer(s) in the insurance holding
20 company system of the internationally active insurance group.
21 (3) The location of the executive offices or largest operational offices of the
22 internationally active insurance group.
23 (4) Whether another regulatory official is acting or is seeking to act as the
24 group-wide supervisor under a regulatory system that the Commissioner
25 determines to have either of the following characteristics:
26 a. The system is substantially similar to the system of regulation
27 provided under the laws of this State.
28 b. The system is otherwise sufficient in terms of providing for
29 group-wide supervision, enterprise risk analysis, and cooperation with
30 other regulatory officials.
31 (5) Whether another regulatory official acting or seeking to act as the group-wide
32 supervisor provides the Commissioner with reasonably reciprocal recognition
33 and cooperation.

34 A regulatory official identified under this section as the group-wide supervisor may
35 determine that it is appropriate to acknowledge another regulatory official to serve as the
36 group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made (i) after
37 consideration of the factors listed in subdivisions (1) through (5) of this subsection, (ii) in
38 cooperation with and subject to the acknowledgment of other regulatory officials involved with
39 supervision of members of the internationally active insurance group, and (iii) in consultation
40 with the internationally active insurance group.

41 (c) Notwithstanding any other provision of law, when another regulatory official is acting
42 as the group-wide supervisor of an internationally active insurance group, the Commissioner
43 shall acknowledge that regulatory official as the group-wide supervisor. However, the
44 Commissioner shall make a determination or acknowledgment as to the appropriate group-wide
45 supervisor for such an internationally active insurance group pursuant to subsection (b) of this
46 section when there is a material change in the internationally active insurance group that results
47 in either of the following:

- 48 (1) The internationally active insurance group's insurers domiciled in this State
49 holding the largest share of the group's premiums, assets, or liabilities.

(2) This State being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(d) Pursuant to G.S. 58-19-35, the Commissioner is authorized to collect from any insurer registered pursuant to G.S. 58-19-25 all information necessary to determine whether the Commissioner may act as the group-wide supervisor of an internationally active insurance group or if the Commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the Commissioner, the Commissioner shall notify the insurer registered pursuant to G.S. 58-19-25 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have 30 days to provide the Commissioner with additional information pertinent to the pending determination.

(e) If the Commissioner is the group-wide supervisor for an internationally active insurance group, the Commissioner is authorized to engage in the following group-wide supervision activities:

(1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:

a. That the material financial condition and liquidity risks to the members of the internationally active insurance group, that are engaged in the business of insurance, are identified by management.

b. That reasonable and effective mitigation measures are in place.

(2) Request, from any member of an internationally active insurance group subject to the Commissioner's supervision, information necessary and appropriate to assess enterprise risk. This information includes information about the governance, risk assessment and management, capital adequacy, and material intercompany transactions of the members of the internationally active insurance group.

(3) Coordinate and, in reliance on the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.

(4) Communicate with other state, federal, and international regulatory agencies with jurisdiction over members within the internationally active insurance group and share relevant information through supervisory colleges as set forth in G.S. 58-19-37 or otherwise subject to the confidentiality provisions of G.S. 58-19-40.

(5) Enter into agreements with or obtain documentation from any insurer registered under G.S. 58-19-25, any member of the internationally active insurance group, and any other state, federal, and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the Commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State.

(6) Other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the Commissioner.

(f) If the Commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the Commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that both of the following conditions are met:

(1) The Commissioner's cooperation is in compliance with the laws of this State.

(2) The regulatory official acknowledged as the group-wide supervisor recognizes and cooperates with the Commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.

Where recognition and cooperation are not reasonably reciprocal, the Commissioner is authorized to refuse recognition and cooperation.

(g) The Commissioner may enter into agreements with or obtain documentation from any insurer registered under G.S. 58-19-25, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(h) The Commissioner may adopt rules necessary for the administration of this section.

(i) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the Commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and reasonable travel expenses."

SECTION 1.(d) G.S. 58-19-40(a) reads as rewritten:

"(a) Documents, materials, or other information in the possession or control of the Department that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to G.S. 58-19-35, and all information reported or provided to the Department pursuant to subdivisions (11a) and (11b) of G.S. 58-19-15(b), G.S. 58-19-25, ~~and G.S. 58-19-30~~, G.S. 58-19-30 and G.S. 58-19-38 shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication thereof, in which event the Commissioner may publish all or any part of the information in such manner as may be deemed appropriate."

PART II. OVERSIGHT OF INTERNAL AUDIT FUNCTIONS OF INSURERS OR GROUPS OF INSURERS

SECTION 2.(a) G.S. 58-10-190(3) reads as rewritten:

"(3) "Audit committee" means a committee, or equivalent body, established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of ~~insurers-insurers,~~ any internal audit function of the insurer or group of insurers, and external audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers at the election of the controlling person as provided in G.S. 58-10-245(f). If an audit

committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee."

SECTION 2.(b) G.S. 58-10-190 is amended by adding a new subdivision to read:

"(6a) "Internal audit function" means a person or persons that provide independent, objective, and reasonable assurance designed to add value and improve an organization's operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes."

SECTION 2.(c) G.S. 58-10-245 is amended by adding a new subsection to read:

"(b1) The audit committee of an insurer or group of insurers shall be responsible for overseeing the insurer's internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill the requirements of G.S. 58-10-246."

SECTION 2.(d) Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"§ 58-10-246. Internal audit function requirements."

(a) Exemption. – An insurer is exempt from the requirements of this section if both of the following apply:

(1) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than five hundred million dollars (\$500,000,000).

(2) If the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than one billion dollars (\$1,000,000,000).

(b) Function. – The insurer or group of insurers shall establish an internal audit function providing independent, objective, and reasonable assurance to the audit committee and insurer management regarding the insurer's governance, risk management, and internal controls. This assurance shall be provided by performing general and specific audits, reviews, and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

(c) Independence. – In order to ensure that internal auditors remain objective, the internal audit function must be organizationally independent. For purposes of this section, "organizationally independent" means that the internal audit function (i) shall not defer ultimate judgment on audit matters to others and (ii) shall appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors of the insurer or group of insurers. Organizational independence does not preclude dual-reporting relationships.

(d) Reporting. – The head of the internal audit function shall report to the audit committee with a frequency no less than annually on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits, and the appropriateness of corrective actions implemented by management as a result of audit findings.

(e) Additional Requirements. – If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level, or the individual legal entity level."

SECTION 2.(e) G.S. 58-10-260 is amended by adding a new subsection to read:

"(g) The requirements of G.S. 58-10-246 become effective January 1, 2020. An insurer or group of insurers exempt from G.S. 58-10-246 that no longer meets the threshold for exemption

shall have one calendar year after the year the threshold is exceeded to comply with the requirements of that section."

PART III. CORPORATE GOVERNANCE ANNUAL DISCLOSURE

SECTION 3.(a) Article 10 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 11. Corporate Governance Annual Disclosure.

"§ 58-10-755. Purpose and scope.

(a) The purpose of this Part is to:

- (1) Provide the Commissioner a summary of an insurer or insurance group's corporate governance structure, policies, and practices to permit the Commissioner to gain and maintain an understanding of the insurer's corporate governance framework.
- (2) Outline the requirements for completing a corporate governance annual disclosure with the Commissioner.
- (3) Provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer or insurance group's internal operations and proprietary and trade-secret information which, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage.
- (4) Set forth the procedures for filing and the required contents of the Corporate Governance Annual Disclosure.

(b) Nothing in this Part shall be construed to prescribe or impose corporate governance standards and internal procedures beyond that which is required under applicable state corporate law. Notwithstanding the foregoing, nothing in this Part shall be construed to limit the Commissioner's authority, or the rights or obligations of third parties, under G.S. 58-2-131 through G.S. 58-2-134.

(c) The requirements of this Part shall apply to all insurers domiciled in this State.

"§ 58-10-760. Definitions.

The following definitions apply in this Part:

- (1) CGAD or Corporate Governance Annual Disclosure. – A confidential report filed by an insurer or insurance group made in accordance with the requirements of this Part.
- (2) Insurance group. – Those insurers and affiliates included within an insurance holding company system as defined in G.S. 58-19-5.
- (3) Insurer. – Defined in G.S. 58-1-5 and includes a person subject to Articles 65 or 67 of this Chapter. Insurer does not include an agency, authority, or instrumentality of the United States; any of its possessions and territories; the Commonwealth of Puerto Rico; the District of Columbia; a state, or a political subdivision of a state.
- (4) Senior management. – Any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include the chief executive officer, chief financial officer, chief operations officer, chief procurement officer, chief legal officer, chief information officer, chief technology officer, chief revenue officer, and chief visionary officer.

"§ 58-10-765. Disclosure requirement and filing procedures.

(a) An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the Commissioner a CGAD that contains the information described in G.S. 58-10-775. Notwithstanding any request from the Commissioner

1 made pursuant to subsection (c) of this section, if the insurer is a member of an insurance group,
2 the insurer shall submit the report required by this section to the Commissioner of the lead state
3 for the insurance group, in accordance with the laws of the lead state, as determined by the
4 procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC. In
5 these instances, a copy of the CGAD must also be provided, upon request, to the chief regulatory
6 official of any state in which the insurance group has a domestic insurer.

7 (b) The CGAD must include a signature of the insurer's or insurance group's chief
8 executive officer or corporate secretary attesting to the best of that individual's belief and
9 knowledge that the insurer or insurance group has implemented the corporate governance
10 practices and that a copy of the disclosure has been provided to the insurer's or insurance group's
11 board of directors or the appropriate committee thereof.

12 (c) An insurer not required to submit a CGAD under this section shall do so upon the
13 Commissioner's request.

14 (d) The insurer or insurance group shall have discretion regarding the appropriate format
15 for providing the required information and may customize the CGAD to provide the most
16 relevant information necessary to permit the Commissioner to gain an understanding of the
17 corporate governance structure, policies, and practices utilized by the insurer or insurance group.

18 (e) For purposes of completing the CGAD, the insurer or insurance group may provide
19 information regarding corporate governance at the ultimate controlling parent level, an
20 intermediate holding company level, or the individual legal entity level, depending upon how the
21 insurer or insurance group has structured its system of corporate governance. The insurer or
22 insurance group is encouraged to make the CGAD disclosures (i) at the level at which the
23 insurer's or insurance group's risk appetite is determined, (ii) at the level at which the earnings,
24 capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which
25 the supervision of those factors are coordinated and exercised, or (iii) at the level at which legal
26 liability for failure of general corporate governance duties would be placed. If the insurer or
27 insurance group determines the level of reporting based on these criteria, it shall indicate which
28 of the three criteria was used to determine the level of reporting and explain any subsequent
29 changes in level of reporting.

30 (f) The review of the CGAD and any additional requests for information shall be made
31 through the lead state as determined by the procedures within the most recent Financial Analysis
32 Handbook adopted by the NAIC.

33 (g) An insurer or insurance group providing information substantially similar to the
34 information required by this Part in other documents provided to the Commissioner, including
35 proxy statements filed in conjunction with Form B requirements, or other state or federal filings
36 provided to the Commissioner, shall not be required to duplicate that information in the CGAD,
37 but shall only be required to cross reference the document in which the information is included.
38 The insurer or insurance group shall clearly reference the location of the relevant information
39 within the CGAD and attach the referenced document if it is not already filed or available to the
40 Commissioner.

41 (h) Each year following the initial filing of the CGAD, the insurer or insurance group
42 shall file an amended version of the previously filed CGAD indicating where changes have been
43 made. If no changes were made in the information or activities reported by the insurer or
44 insurance group, the filing shall so state.

45 **"§ 58-10-770. Rules and regulations.**

46 The Commissioner may adopt such rules and issue such orders as shall be necessary to carry
47 out the provisions of this Part.

48 **"§ 58-10-775. Contents of corporate governance annual disclosure.**

49 (a) The insurer or insurance group shall have discretion over the responses to the CGAD
50 inquiries, provided the CGAD shall contain the material information necessary to permit the
51 Commissioner to gain an understanding of the insurer's or insurance group's corporate

1 governance structure, policies, and practices. The Commissioner may request additional
2 information that he or she deems material and necessary to provide the Commissioner with a
3 clear understanding of the corporate governance policies, the reporting or information system, or
4 controls implementing those policies.

5 (b) Notwithstanding subsection (a) of this section, the CGAD shall be prepared consistent
6 with this Part. Documentation and supporting information shall be maintained and made
7 available upon examination or upon request of the Commissioner.

8 (c) The insurer or insurance group shall be as descriptive as possible in completing the
9 CGAD, with inclusion of attachments or example documents that are used in the governance
10 process that may provide a means to demonstrate the strengths of their governance framework
11 and practices.

12 (d) The CGAD shall describe the insurer's or insurance group's corporate governance
13 framework and structure, including consideration of all of the following:

14 (1) The board of directors and various committees thereof ultimately responsible
15 for overseeing the insurer or insurance group and the level at which that
16 oversight occurs, such as the ultimate control level, intermediate holding
17 company level, or legal entity level. The insurer or insurance group shall
18 describe and discuss the rationale for the current board of directors' size and
19 structure.

20 (2) The duties of the board of directors and each of its significant committees and
21 how they are governed, such as by bylaws, charters, or informal mandates.

22 (3) How the board of directors' leadership is structured, including a discussion of
23 the roles of chief executive officer and chairman of the board of directors
24 within the organization.

25 (e) The insurer or insurance group shall describe the policies and practices of the most
26 senior governing entity and significant committees thereof, including a discussion of each of the
27 following factors:

28 (1) How the qualifications, expertise, and experience of each board of directors
29 member meet the needs of the insurer or insurance group.

30 (2) How an appropriate amount of independence is maintained on the board of
31 directors and its significant committees.

32 (3) The number of meetings held by the board of directors and its significant
33 committees over the past year as well as information on director attendance.

34 (4) How the insurer or insurance group identifies, nominates, and elects members
35 to the board of directors and its committees, including information on all of
36 the following:

37 a. Whether a nomination committee is in place to identify and select
38 individuals for consideration.

39 b. Whether term limits are placed on directors.

40 c. How the election and reelection processes function.

41 d. Whether a board of directors' diversity policy is in place and, if so,
42 how it functions.

43 (5) The processes in place for the board of directors to evaluate its performance
44 and the performance of its committees, as well as any recent measures taken
45 to improve performance, including any board of directors or committee
46 training programs that have been put in place.

47 (f) The insurer or insurance group shall describe the policies and practices for directing
48 senior management, including a description of each of the following factors:

49 (1) Any processes or practices, such as suitability standards, to determine whether
50 officers and key persons in control functions have the appropriate background,

- 1 experience, and integrity to fulfill their prospective roles, including both of
2 the following:
- 3 a. Identification of the specific positions for which suitability standards
4 have been developed and a description of the standards employed.
5 b. Any changes in an officer's or key person's suitability as outlined by
6 the insurer's or insurance group's standards and procedures to monitor
7 and evaluate those changes.
- 8 (2) The insurer's or insurance group's code of business conduct and ethics,
9 including information regarding compliance with laws, rules, and regulations
10 as well as proactive reporting of any illegal or unethical behavior.
- 11 (3) The insurer's or insurance group's processes for performance evaluation,
12 compensation, and corrective action to ensure effective senior management
13 throughout the organization, including a description of the general objectives
14 of significant compensation programs and what the programs are designed to
15 reward. The description shall include sufficient detail to allow the
16 Commissioner to understand how the organization ensures that compensation
17 programs do not encourage or reward excessive risk taking. Elements to be
18 discussed include the following:
- 19 a. The board of directors' role in overseeing management compensation
20 programs and practices.
21 b. The various elements of compensation awarded in the insurer's or
22 insurance group's compensation programs and how the insurer or
23 insurance group determines and calculates the amount of each element
24 of compensation paid.
25 c. How compensation programs are related to both company and
26 individual performance over time.
27 d. Whether compensation programs include risk adjustments and how
28 those adjustments are incorporated into the programs for employees at
29 different levels.
30 e. Any clawback provisions built into the programs to recover awards or
31 payments if the performance measures upon which they are based are
32 restated or otherwise adjusted.
33 f. Any other factors relevant in understanding how the insurer or
34 insurance group monitors its compensation policies to determine
35 whether its risk management objectives are met by incentivizing its
36 employees.
- 37 (4) The insurer's or insurance group's plans for chief executive officer and senior
38 management succession.
- 39 (g) The insurer or insurance group shall describe the processes by which the board of
40 directors, its committees, and senior management ensure an appropriate amount of oversight to
41 the critical risk areas impacting the insurer's business activities, including a discussion of all of
42 the following:
- 43 (1) How oversight and management responsibilities are delegated between the
44 board of directors, its committees, and senior management.
45 (2) How the board of directors is kept informed of the insurer's strategic plans,
46 the associated risks, and steps that senior management is taking to monitor
47 and manage those risks.
48 (3) How reporting responsibilities are organized for each critical risk area. The
49 description should allow the Commissioner to understand the frequency at
50 which information on each critical risk area is reported to and reviewed by

senior management and the board of directors. This description may include any of the following critical risk areas of the insurer:

- a. Risk management processes.
- b. Actuarial function.
- c. Investment decision-making processes.
- d. Reinsurance decision-making processes.
- e. Business strategy/finance decision-making processes.
- f. Compliance function.
- g. Financial reporting/internal auditing.
- h. Market conduct decision-making processes.

"§ 58-10-780. Confidentiality.

(a) Documents, materials, or other information, including the CGAD, in the possession or control of the Department that are obtained by, created by, or disclosed to the Commissioner or any other person under this Part, are recognized as proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the Commissioner may share or receive confidential documents, materials, or other CGAD-related information pursuant to subsection (c) of this section to assist in the performance of the Commissioner's duties.

(b) Neither the Commissioner nor any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the Commissioner, or with whom such documents, materials, or other information are shared pursuant to this Part shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the Commissioner's regulatory duties, the Commissioner may do all of the following:

- (1) Upon request, share documents, materials, or other CGAD-related information including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, with the NAIC, and with third-party consultants pursuant to G.S. 58-10-785, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material, or other information and has verified in writing the legal authority to maintain confidentiality.
- (2) Receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the

1 laws of the jurisdiction that is the source of the document, material, or
2 information.

3 (d) The sharing of information and documents by the Commissioner pursuant to this Part
4 shall not constitute a delegation of regulatory authority or rule making, and the Commissioner is
5 solely responsible for the administration, execution, and enforcement of the provisions of this
6 Part.

7 (e) No waiver of any applicable privilege or claim of confidentiality in the documents,
8 proprietary and trade-secret materials or other CGAD-related information shall occur as a result
9 of disclosure of CGAD-related information or documents to the Commissioner under this section
10 or as a result of sharing as authorized in this Part.

11 **"§ 58-10-785. NAIC and third-party consultants.**

12 (a) The Commissioner may retain, at the insurer's expense, third-party consultants,
13 including attorneys, actuaries, accountants, and other experts not otherwise a part of the
14 Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing
15 the CGAD-related information or the insurer's compliance with this Part.

16 (b) Any persons retained under subsection (a) of this section shall be under the direction
17 and control of the Commissioner and shall act in a purely advisory capacity.

18 (c) The NAIC and third-party consultants shall be subject to the same confidentiality
19 standards and requirements as the Commissioner.

20 (d) As part of the retention process, a third-party consultant shall verify to the
21 Commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has
22 internal procedures in place to monitor compliance with a conflict and to comply with the
23 confidentiality standards and requirements of this Part.

24 (e) A written agreement with the NAIC or a third-party consultant governing sharing and
25 use of information provided pursuant to this Part shall contain all of the following provisions and
26 expressly require the written consent of the insurer prior to making public information provided
27 under this Part:

28 (1) Specific procedures and protocols for maintaining the confidentiality and
29 security of CGAD-related information shared with the NAIC or a third-party
30 consultant pursuant to this Part.

31 (2) Procedures and protocols for sharing by the NAIC only with other state
32 regulators from states in which the insurance group has domiciled insurers.
33 The agreement shall provide that the recipient agrees in writing to maintain
34 the confidentiality and privileged status of the CGAD-related documents,
35 materials, or other information and has verified in writing the legal authority
36 to maintain confidentiality.

37 (3) A provision specifying that ownership of the CGAD-related information
38 shared with the NAIC or a third-party consultant remains with the Department
39 and the NAIC's or third-party consultant's use of the information is subject to
40 the direction of the Commissioner.

41 (4) A provision that prohibits the NAIC or a third-party consultant from storing
42 the information shared pursuant to this Part in a permanent database after the
43 underlying analysis is completed.

44 (5) A provision requiring the NAIC or third-party consultant to provide prompt
45 notice to the Commissioner and to the insurer or insurance group regarding
46 any subpoena, request for disclosure, or request for production of the insurer's
47 CGAD-related information.

48 (6) A requirement that the NAIC or a third-party consultant to consent to
49 intervention by an insurer in any judicial or administrative action in which the
50 NAIC or a third-party consultant may be required to disclose confidential

information about the insurer shared with the NAIC or a third-party consultant pursuant to this Part.

"§ 58-10-790. Sanctions.

(a) Civil Penalties. – Any insurer failing, without just cause, to timely file the CGAD as required in this Part shall be subject to a civil penalty of one hundred dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand dollars (\$1,000).

(b) Notice and Opportunity to Be Heard Required. – After providing notice and opportunity to be heard in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, the Commissioner may order the respondent to pay the assessment and civil penalty imposed by this section.

(c) Disposition of Civil Penalties. – The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Reduction of Civil Penalties. – The Commissioner may reduce the penalty if the insurer demonstrates to the Commissioner that the imposition of the penalty would constitute a financial hardship to the insurer."

SECTION 3.(b) If any provision of Section 3 other than G.S. 58-10-780, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions of this section, with the exception of G.S. 58-10-780, are severable.

SECTION 3.(c) Section 3 shall become effective on January 1, 2020. The first filing of the CGAD shall be made on or before June 1, 2020.

PART IV. OTHER PROVISIONS

SECTION 4. G.S. 58-58-50(a1)(2) reads as rewritten:

"(a1) As used in this section:

...

(2) Company. – An ~~entity~~ entity, including a fraternal benefit society as defined in Article 24 of this Chapter, which has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, annuity contracts, pure endowment contracts, or deposit-type contracts (i) in this State and has at least one such policy in force or on claim or (ii) in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, annuity contract, pure endowment, or deposit-type contracts in this State."

SECTION 5. G.S. 58-7-21(b)(4a)d. reads as rewritten:

"d. Certified reinsurer rating. – The Commissioner shall assign a rating to each certified reinsurer on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association, including incorporated and individual unincorporated underwriters, that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. The Commissioner shall publish a list of all certified reinsurers and their ratings. Factors that may be considered as part of the evaluation process ~~include, but are not limited to,~~ include the following:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Commissioner shall use the lowest financial strength rating

received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification;

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, <u>CC</u> , C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

...."

SECTION 6. Except as otherwise provided, the remainder of this act is effective when it becomes law.

House Committee on Insurance
Friday, April 26, 2019 at 12:00 PM
Room 544 of the Legislative Office Building

MINUTES

The House Committee on Insurance met at 12:00 PM on April 26, 2019 in Room 544 of the Legislative Office Building. Representatives Beasley, Bumgardner, Cleveland, Corbin, Garrison, Goodwin, Graham, K. Hall, Humphrey, Montgomery, Sasser, and Warren attended.

Representative Kevin Corbin, Chair, presided. Representative Corbin called the meeting to order at 12:00 PM thanking the Sergeant At Arms for their assistance with the Committee. He welcomed the visitors. (Attachments 1-3)

The following bills were considered:

HB 220 Insurance Technical Changes.-AB (Representatives Setzer, Bumgardner, Corbin)

Representative Setzer explained the bill. Representative Cleveland was recognized and moved that HB 220 receive a favorable report with a referral to House Finance. (Attachments 4-6)

HB 806 HOA/Condo Crime & Fidelity Insurance Policies. (Representatives Saine, Strickland)

Representative Jason Saine explained the bill. Representative Cleveland was recognized and moved that HB 806 be referred to House Rules. (Attachments 7-8)

The meeting adjourned at 12:05 PM.



Representative Kevin Corbin, Chair
Presiding



Cindy Hobbs, Committee Clerk

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Friday, April 26, 2019
TIME: 12:00 PM
LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 220</u>	Insurance Technical Changes.-AB	Representative Setzer Representative Bumgardner Representative Corbin
<u>HB 806</u>	HOA/Condo Crime & Fidelity Insurance Policies.	Representative Saine Representative Strickland

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:00 PM on Thursday, April 25, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Cindy Hobbs (Committee Assistant)

Committee Sergeants at ArmsNAME OF COMMITTEE House Committee on InsuranceDATE: 4-26-2019 Room: 544 LOBHouse Sgt-At Arms:

1. Name: Reggie Sills
2. Name: Marvin Lee
3. Name: John Gilbert
4. Name: Warren Hawkins
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

Amend-2

VISITOR REGISTRATION SHEET

House Insurance Committee

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Gardner Members	Gardner
Dave Horne	SA
Dana Saps	SIA
Heidi	Jordan Puri
Paul Sherman	NCFB
Montez	WMRS
Jim Stewart	IIANC
Leah	CSS
Kara Weisner	SK
Wesley	Dickens

VISITOR REGISTRATION SHEET

House Insurance Committee

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tracy Kimbrell

Parker Poe

Harold Brubaker

Brubaker & Assoc

Matt Gross

DHHS

Amy Zyl

mwc

April Neumann

mwc

Jonathan Brubaker

Brubaker & Assoc



HOUSE BILL 220: Insurance Technical Changes.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 26, 2019
Introduced by:	Reps. Setzer, Bumgardner, Corbin	Prepared by:	Jeremy Ray*
Analysis of:	PCS to First Edition H220-CSTU-9		Staff Attorney

OVERVIEW: *The PCS to House Bill 220 makes various changes to North Carolina's insurance laws including:*

- *Adds the term "affiliates" as it relates to affiliates of the domestic insurer, as an additional type of security that a domestic insurer may invest in, provided other existing safeguards are met.*
- *Incorporates model act language from the National Association of Insurance Commissioners (NAIC) regarding immunity for contractors.*
- *Makes technical and clarifying changes to consent to rate laws.*
- *Makes conforming changes and corrects erroneous statutory references found in G.S. 58-39-26 and adds new federal privacy disclosure notice requirements.*
- *Makes changes to procedures for individuals to receive an expedited external review of noncertification decisions.*
- *Makes technical changes to bail bond laws.*
- *Clarifies rulemaking authority of the North Carolina Fire and Rescue Commission.*
- *Makes various changes to the Prepaid Health Plan Licensing Act.*
- *Makes Medicare Supplement changes.*
- *Clarifies when applications are sent to the North Carolina Self-insurance Security Association.*
- *Requires writers of credit property insurance to report certain information to DOI annually.*

[As introduced, this bill was identical to S211, as introduced by Sens. Edwards, Gunn, J. Alexander, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

PART I. HOLDING COMPANY ACT CHANGES

SECTION 1. Adds the term "affiliates" as it relates to affiliates of the domestic insurer, as an additional type of security that a domestic insurer may invest in, provided other existing safeguards are met. Domestic insurers are currently allowed to invest in certain types of securities of "subsidiaries" of the domestic insurer as they are defined under G.S. 58-19-10(a), consistent with the same conditions.

PART II. SURPLUS LINES TECHNICAL CHANGES

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 220

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SECTION 2.(a) Removes a no longer needed reference to quarterly report. Quarterly reports are repealed in subsection (d).

SECTION 2.(b) Repeals G.S. 58-21-40(b)(3), which requires The North Carolina Surplus Lines Association, a regulatory support organization of surplus lines licensees, to provide the Commissioner with an annually updated list of surplus lines licensees.

SECTION 2.(c) Requires each surplus lines licensee to include a copy of the compliance agreement with the record of each surplus lines insurance contract placed by and through the licensee.

SECTION 2.(d) Repeals G.S. 58-21-80, which requires each surplus lines licensee to file a quarterly report with the Commissioner.

SECTION 2.(e) Replaces failure to maintain the required bond, with failure to pay the stamping fee to the stamping office, as a grounds for Commissioner to suspend, revoke, or refuse to renew the licensee of a surplus lines licensee.

PART III. ALIGN STATE LAW WITH NAIC MODEL LAW REGARDING IMMUNITY FOR CONTRACTORS HIRED BY THE DEPARTMENT

SECTIONS 3.(a), 3.(b), & 3.(c) Adds NAIC model language, and associated conforming changes to G.S. 58-30-71, by extending official immunity from suit and liability, to all independent contractors who are retained by the receiver or the receiver's employees, and who are hired to assist in a delinquency proceeding. This includes: attorneys, accountants, auditors, and other professional persons or firms and their employees retained by the receiver.

An independent contractor would receive immunity both personally, and in their official capacities, for certain claims arising from:

- Duties of employment
- Matters subject to review by the Court after notice and hearing that are not disapproved, or disallowed by the Court.

An independent contractor extended immunity through this section would still be held liable for damages caused by their intentional, or willful and wanton misconduct.

PART IV. CLARIFY CONSENT TO RATE

SECTIONS 4.(a) through 4.(e) Makes several clarifying and technical changes to the insurance deviations laws found in G.S. 58-36-30, otherwise known as consent to rate. This includes erroneous cross references to sections that conflict with one another.

PART V. FAST ACT CONFORMING CHANGE

SECTION 5. Corrects erroneous statutory references to section 505, to section 504 of Public Law 106-102, otherwise known as the Gramm-Leach-Bliley Act. Adds a new subsection (d) to federal privacy disclosure notice requirements under G.S. 58-39-26, to provide an exception to the annual notice requirement for insurance institutions or agents, if all of the following apply:

- The insurance institution or agency provides nonpublic personal information only in accordance with certain federal privacy regulations; and
- The insurance institution or agency has not changed its policies or practices with regard to disclosing nonpublic personal information that were disclosed in the most recent required disclosure sent to consumers.

If at any time any of these requirements no longer apply to the insurance institution or agency, then the insurance institution or agency must provide the annual privacy notice required under this subsection.

PART VI. STREAMLINE EXPEDITED EXTERNAL REVIEW PROCESS

SECTIONS 6.(a), 6.(b), and 6.(c) Makes changes to procedures for individuals to receive an expedited external review of noncertification decisions. Part of this change would remove the requirement that medical advice from a medical consultant not affiliated with the organization be used in the determination of whether an expedited request should be processed on an expedited basis. Instead, if the Commissioner determines that the request is eligible, a covered person's treating provider that is the subject of the external review would be allowed to certify the request on a form prescribed by the Commissioner. Subsections (a) and (b) would become effective October 1, 2019, and apply to requests submitted on or after that date.

PART VII. BAIL BONDSMAN TECHNICAL CHANGES

SECTION 7.(a) Adds a definition for premium to G.S. 58-71-1, to mean an amount of money paid in exchange for a bail bondsman's services in writing a bail bond.

SECTION 7.(b) Modifies G.S. 58-71-45 to require a bail bondsman to return a license to the Commissioner within 10 working days of a lapse (new status), suspension, or revocation of their license. Currently, there is no specific timeframe in which to return a license to the Commissioner upon suspension or revocation of a bail bondsman license.

SECTION 7.(c) Would clarify the requirement for bail bondsmen to include in their required written report for all bail bonds which the bail bondsman is liable, and filed with the Commissioner, the court file or docket numbers for the principal's court obligation, and the certificate seal number for each bond issued.

SECTION 7.(d) Would change several references to "upon the principal's request" to "principle." This applies to copies of a written memorandum of agreement between a principal and surety that are only required to be provided if requested. The change would such make such instances where the references appear in the statute, compulsory, rather than after having been requested.

PART VIII. CLARIFY RULEMAKING AUTHORITY FOR STATE FIRE AND RESCUE

SECTION 8. Clarifies rulemaking authority in G.S. 58-78-5(a), by specifically authorizing the State Fire and Rescue Commission with rule-making authority to adopt, modify, or repeal any rules or regulations for the purpose of carrying out the provisions of the Article.

PART IX. PREPAID HEALTH PLAN LICENSING ACT CLARIFYING AND TECHNICAL CHANGES.

SECTIONS 9.(a), 9.(b), and 9.(f) Makes technical and conforming changes to statutes relating to prepaid health plans.

SECTION 9.(c) Amends G.S. 58-90-60 to require the Commissioner to notify the Department of Health and Human Services (DHHS) before conducting an examination of a prepaid health plan.

SECTION 9.(d) Amends G.S. 58-93-90 to require the Commissioner, to the greatest extent possible, to give notice to DHHS before seeking an application to rehabilitate or liquidate a prepaid health plan.

SECTION 9.(e) Amends G.S. 58-93-95(a) to require the Commissioner to provide notice to DHHS of the grounds for the denial, suspension, or revocation of the license for a prepaid health plan.

PART X. CLARIFY WHEN APPLICATION SENT TO NORTH CAROLINA SELF-INSURANCE SECURITY ASSOCIATION

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SECTION 10. Would require a copy of the application for a license as a self-insurer, to be filed with the North Carolina Self-Insurance Security Association at the same time the application is filed with the Commissioner.

PART XI. MEDICARE SUPPLEMENT CHANGES

SECTION 11.(a) Would require insurers to make Medicare Supplement Plan A coverage available to disabled individuals before age 65. Insurers would also have to make Medicare Standardized Plan D and G coverage available to individuals age 65 or over. Section 11 would become effective January 1, 2020.

PART XII. CREDIT PROPERTY INSURANCE REPORTING REQUIREMENT

SECTION 12. Would require each writer of credit property insurance written in North Carolina to submit to the Department by April 1 of each year, information for each of the last five calendar years that the Department has already been statutorily required to collect data on. This includes coverage written, direct premiums, earned premiums, dividends, and other information. The Department would be required to publish the collected data on its website by July 1 of each year.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

**Jason Moran-Bates, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*

Amend. 5

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 220
PROPOSED COMMITTEE SUBSTITUTE H220-CSTU-9 [v.4]

04/25/2019 04:21:10 PM

Short Title: Insurance Technical Changes.-AB

(Public)

Sponsors:

Referred to:

February 28, 2019

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

4 The General Assembly of North Carolina enacts:

5 **PART I. HOLDING COMPANY ACT TECHNICAL CHANGES**

6 **SECTION 1.** G.S. 58-19-10(b) reads as rewritten:

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

- 9 (1) Invest, in common stock, preferred stock, debt obligations, and other
10 securities of one or more affiliates or subsidiaries, amounts that do not exceed
11 the lesser of ten percent (10%) of the insurer's admitted assets or fifty percent
12 (50%) of the insurer's policyholders' surplus, provided that after those
13 investments, the insurer's policyholders' surplus will be reasonable in relation
14 to the insurer's outstanding liabilities and adequate to its financial needs. In
15 calculating the amount of the investments, investments in domestic or foreign
16 insurance affiliates or subsidiaries and health maintenance organizations shall
17 be excluded, and there shall be included: (i) total net monies or other
18 consideration expended and obligations assumed in the acquisition or
19 formation of a subsidiary, including all organizational expenses and
20 contributions to capital and surplus of the subsidiary whether or not
21 represented by the purchase of capital stock or issuance of other securities;
22 and (ii) all amounts expended in acquiring additional common stock, preferred
23 stock, debt obligations, and other securities, and all contributions to the capital
24 or surplus, of a subsidiary subsequent to its acquisition or formation;

- 25 ...
26 (3) With the approval of the Commissioner, invest any greater amount in common
27 stock, preferred stock, debt obligations, or other securities of one or more
28 affiliates or subsidiaries; provided that after such investment the insurer's
29 policyholders' surplus will be reasonable in relation to the insurer's
30 outstanding liabilities and adequate to its financial needs."

31
32 **PART II. SURPLUS LINES TECHNICAL CHANGES**

33 **SECTION 2.(a)** G.S. 58-21-35(b) reads as rewritten:

34 "(b) The licensee shall complete and retain a copy of the report in paper or electronic
35 form as required by the Commissioner. The report required by this section ~~and the quarterly~~
36 ~~report required by G.S. 58-21-80 shall be completed on a standardized form or forms prescribed~~



1 ~~by the Commissioner and are not public records is not a public record~~ under G.S. 132-1 or
2 G.S. 58-2-100."

3 **SECTION 2.(b)** G.S. 58-21-40(b)(3) is repealed.

4 **SECTION 2.(c)** G.S. 58-21-75 reads as rewritten:

5 **"§ 58-21-75. Records of surplus lines licensee.**

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

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

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

25 **SECTION 2.(d)** G.S. 58-21-80 is repealed.

26 **SECTION 2.(e)** G.S. 58-21-95 reads as rewritten:

27 **"§ 58-21-95. Suspension, revocation or nonrenewal of surplus lines licensee's license.**

28 The Commissioner may suspend, revoke, or refuse to renew the license of a surplus lines
29 licensee after notice and hearing as provided under G.S. 58-2-70 upon any one or more of the
30 following grounds:

- 31 (1) ~~Removal of the surplus lines licensee's office from this State;~~
- 32 (2) Removal of the surplus lines licensee's office accounts and records ~~from this~~
33 ~~State~~ during the period during which such accounts and records are required
34 to be maintained under G.S. 58-21-75;
- 35 (3) Closing of the surplus lines licensee's office for a period of more than 30
36 business days, unless permission is granted by the Commissioner;
- 37 (4) Failure to make and file required reports;
- 38 (5) Failure to transmit the required tax on surplus lines premiums;
- 39 (6) ~~Failure to maintain the required bond; Failure to pay the stamping fee to the~~
40 stamping office;
- 41 (7) Violation of any provision of this Article; or
- 42 (8) For any other cause for which an insurance license could be denied, revoked,
43 suspended, or renewal refused under the Insurance Law."

44 **PART III. ALIGN STATE LAW WITH NAIC MODEL LAW REGARDING IMMUNITY**
45 **FOR CONTRACTORS HIRED BY THE DEPARTMENT**

46 **SECTION 3.(a)** G.S. 58-30-71(a) reads as rewritten:

47 "(a) ~~For the purposes of this section, the persons~~ Persons entitled to protection under this
48 section are:

- 49 (1) All receivers responsible for the conduct of a delinquency proceeding under
50 this Article, including present and former receivers; and

(2) ~~Their employees~~ All of the receiver's employees, meaning all present and former special deputies and assistant special deputies appointed by the Commissioner, staff assigned to the delinquency proceeding employed by the Attorney General's Office, and all persons whom the Commissioner, special deputies, or assistant special deputies have employed to assist in a delinquency proceeding under this Article. Attorneys, accountants, auditors, and other professional persons or firms, who are retained by the receiver as independent contractors and their employees are not employees of the receiver for purposes of this section.

(3) All of the receiver's contractors, meaning all persons who are retained by the receiver or the receiver's employees as independent contractors to assist in a delinquency proceeding under this Article, including attorneys, accountants, auditors, and other professional persons or firms and their employees."

SECTION 3.(b) G.S. 58-30-71(b) reads as rewritten:

"(b) ~~The receiver and his employees have~~ receiver, the receiver's employees, and the receiver's contractors shall have official immunity and are immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from any alleged act, error, or omission of the receiver or any employee arising out of or by reason of any of the following:

(1) ~~their~~ Their duties or employment; ~~employment.~~

(2) Any matters that have been subject to review by the Court after notice and opportunity to be heard, provided that the alleged act, error, or omission was not disapproved or disallowed by the Court.

~~provided that nothing~~ Provided, however, that nothing in this section holds the receiver or any employee receiver, the receiver's employees, or the receiver's contractors immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the receiver or any employee receiver, the receiver's employees, or the receiver's contractors or for any bodily injury caused by the operation of a motor vehicle."

SECTION 3.(c) G.S. 58-30-71(j) reads as rewritten:

"(j) ~~Nothing in this section deprives the receiver or any employee receiver, the receiver's employees, or the receiver's contractors of~~ any immunity, indemnity, benefits of law, rights, or any defense otherwise available."

PART IV. CLARIFY CONSENT TO RATE

SECTION 4.(a) G.S. 58-36-30(b) reads as rewritten:

"(b) This subsection applies ~~only~~ to insurance against loss to automobile physical damage and related expenses. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized:

NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR AUTOMOBILE PHYSICAL DAMAGE AND RELATED EXPENSES THAT COVERS THE DAMAGE TO YOUR COVERED VEHICLE(S) EXCEEDS THE PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE WITH G.S. 58-36-30(b).

The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy when the rates charged exceed the approved manual rate. The insurer shall retain consent to rate information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may also be

1 used to provide motor vehicle liability coverage limits above those required under Article 9A of
2 Chapter 20 of the General Statutes and above those that could be ceded to the North Carolina
3 Reinsurance Facility under Article 37 of this Chapter to persons whose personal excess liability
4 insurance policies require that they maintain specific higher liability coverage limits. Any data
5 obtained by the Commissioner under this subsection is proprietary and confidential and is not a
6 public record under G.S. 132-1 or G.S. 58-2-100."

7 **SECTION 4.(b)** G.S. 58-36-30(b1) reads as rewritten:

8 "(b1) This subsection applies only to insurance against loss to residential property with not
9 more than four housing units. A rate in excess of that promulgated by the Bureau may be charged
10 by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted
11 by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate
12 the premium for the policy are greater than those rates that are applicable in the State of North
13 Carolina by including the following language in the policy on page one of the declarations page
14 or on a separate page before the declarations page, in at least 14 point type or in a font size larger
15 than the remainder of the document whichever is larger, bolded, and all capitalized:

16 NOTICE: IN ACCORDANCE WITH G.S. 58-36-30(b1), THE PREMIUM BASED
17 UPON THE APPROVED RATES IN NORTH CAROLINA FOR RESIDENTIAL PROPERTY
18 INSURANCE COVERAGE APPLIED FOR WOULD BE \$ _____. OUR PREMIUM FOR THIS
19 COVERAGE IS \$ _____.

20 The disclosure statement noted above in this subsection shall be included on any renewal of
21 or endorsement to the policy when the rates charged exceed the approved manual rate. ~~for any~~
22 ~~subsequent increase above the.~~ The insurer shall retain consent to rate information for each
23 insured and make this information available to the Commissioner, upon request of the
24 Commissioner. Any data obtained by the Commissioner under this subsection is proprietary and
25 confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100."

26 **SECTION 4.(c)** G.S. 58-36-30(c) reads as rewritten:

27 ~~"(c) Any approved rate under subsection (b) of this section with respect to~~ This subsection
28 applies only to workers' compensation and employers' liability insurance written in connection
29 therewith shall be furnished to the Bureau, therewith. A rate in excess of that promulgated by the
30 Bureau may be charged by an insurer on any specific risk if the higher rate is charged in
31 accordance with rules adopted by the Commissioner."

32 **SECTION 4.(d)** G.S. 58-36-30(e) reads as rewritten:

33 "(e) Each insurer shall collect the following consent to rate data for nonfleet private
34 passenger motor vehicle physical damage and homeowners residential property ~~(all forms~~
35 ~~excluding HO4 and HO6)~~ with not more than four housing units (all forms, excluding HO4 and
36 HO6) and transmit the data electronically for each policy to the Commissioner on a semi-annual
37 basis in a format prescribed and designated by the Commissioner:

38"

39 **SECTION 4.(e)** The Commissioner may adopt temporary rules to implement this
40 section.

41 42 **PART V. FAST ACT CONFORMING CHANGE**

43 **SECTION 5.** G.S. 58-39-26(a) reads as rewritten:

44 "(a) Disclosure Required. – In addition to the notice requirements of G.S. 58-39-25, an
45 insurance institution or agent shall provide, to all applicants and policyholders no later than (i)
46 before the initial disclosure of personal information under G.S. 58-39-75(11) or (ii) the time of
47 the delivery of the insurance policy or certificate, a clear and conspicuous notice, in written or
48 electronic form, of the insurance institution or agent's policies and practices with respect to:

- 49 (1) Disclosing nonpublic personal information to affiliates and nonaffiliated third
50 parties, consistent with section 502 of Public Law 106-102, including the
51 categories of information that may be disclosed.

(2) Disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution.

(3) Protecting the nonpublic personal information of consumers.

These disclosures shall be made in accordance with the regulations prescribed under section 505 of Public Law 106-102.

(b) Information to Be Included. – The disclosure required by subsection (a) of this section shall include:

- (1) The policies and practices of the insurance institution or agent with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the insurance institution or agent, consistent with section 502 of Public Law 106-102, and including:
 - a. The categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided under section 502(e) of Public Law 106-102.
 - b. The policies and practices of the insurance institution or agent with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the insurance institution or agent.
- (2) The categories of nonpublic personal information that are collected by the insurance institution or agent.
- (3) The policies that the insurance institution or agent maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501 of Public Law 106-102.
- (4) The disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.

(c) In the case of a policyholder, the notice required by this section shall be provided not less than annually during the continuation of the policy. As used in this subsection, "annually" means at least once in any period of 12 consecutive months during which the policy is in effect.

(d) Exception to Annual Notice Requirement. – An insurance institution or agent is not required to provide the privacy notice annually as required under subsection (c) of this section if all of the following apply:

- (1) The insurance institution or agent provides nonpublic personal information only in accordance with the provisions of sections 502(b)(2) or 502(e) of Public Law 106-102 or regulations prescribed under section 504(b) of Public Law 106-102.
- (2) The insurance institution or agent has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section.

If at any time subdivisions (1) or (2) of this section no longer apply to an insurance institution or agent, then the insurance institution or agent shall be required to provide the annual privacy notice required under subsection (c) of this section."

PART VI. STREAMLINE EXPEDITED EXTERNAL REVIEW PROCESS

SECTION 6.(a) G.S. 58-50-82(a) reads as rewritten:

"(a) Except as provided in subsection (g) of this section, a covered person may file a request for an expedited external review with the Commissioner at the time the covered person receives:receives any of the following:

- (1) A noncertification decision under G.S. 58-50-61(f) ~~if~~if all of the following conditions apply:
 - a. The covered person has a medical condition where the time frame for completion of an expedited review of an appeal involving a

noncertification set forth in G.S. 58-50-61(l) would be reasonably expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum ~~function; and~~function.

b. The covered person has filed a request for an expedited appeal under G.S. 58-50-61(l).

(2) An appeal decision under G.S. 58-50-61(k) or ~~(l)~~G.S. 58-58-61(l) upholding a noncertification ~~if all of the following conditions apply:~~

a. The noncertification appeal decision involves a medical condition of the covered person for which the time frame for completion of an expedited second-level grievance review of a noncertification set forth in G.S. 58-50-62(i) would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum ~~function; and~~function.

b. The covered person has filed a request for an expedited second-level grievance review of a noncertification as set forth in ~~G.S. 58-50-61(i); or G.S. 58-50-62(i).~~

(3) A second-level grievance review decision under ~~G.S. 58-60-62(h) or (i)~~ G.S. 58-50-62(h) or G.S. 58-50-62(i) upholding a ~~noncertification; noncertification~~ if all of the following conditions apply:

a. If the covered person has a medical condition where the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum ~~function; or~~function.

b. If the second-level grievance concerns a noncertification of an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility."

SECTION 6.(b) G.S. 58-50-82(b) reads as rewritten:

"(b) Within two days after receiving a request for an expedited external review, the Commissioner shall complete all of the following:

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

(2) Determine whether the request is eligible for external ~~review and, if it is eligible, determine whether it is eligible for expedited review.~~review.

(3) If the request is eligible for external review and the covered person's treating provider requesting the service that is the subject of the external review has certified the request on a form prescribed by the Commissioner, then one of the following shall apply:

a. For a request made pursuant to subdivision (a)(1) of this ~~section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether~~ section, the request ~~should~~ shall be reviewed

on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-61(l) would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be ~~informed by the Commissioner that the covered person must exhaust, at a minimum, the insurer's internal appeal process under G.S. 58-50-61(l) before making another request for an external review with the Commissioner.~~notified.

b. For a request made pursuant to subdivision (a)(2) of this ~~section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether~~section, the request should shall be reviewed on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-62 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be ~~informed by the Commissioner that the covered person must exhaust the insurer's internal grievance process under G.S. 58-50-62 before making another request for an external review with the Commissioner.~~notified.

c. For a request made pursuant to sub-subdivision (a)(3)a. of this ~~section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether~~section, the request should shall be reviewed on an expedited basis because the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the

covered person, the covered person's provider who performed or requested the service, and the insurer whether the review will be conducted using an expedited or standard time frame and shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame.

- d. For a request made pursuant to sub subdivision (a)(3)b. of this section, ~~that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision.~~ the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision."

SECTION 6.(c) G.S. 58-50-89 reads as rewritten:

"§ 58-50-89. Hold harmless for Commissioner, medical professionals, Commissioner and independent review organizations.

~~Neither the The Commissioner, a medical professional rendering advice to the Commissioner under G.S. 58-50-82(b)(2), an independent review organization, nor shall or a clinical peer reviewer working on behalf of an independent review organization shall not be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted under this Part, unless the opinion was rendered in bad faith or involved gross negligence."~~

SECTION 6.(d) Subsections (a) and (b) of this section are effective October 1, 2019, and apply to requests for expedited review submitted on or after that date.

PART VII. BAIL BONDSMAN TECHNICAL CHANGES

SECTION 7.(a) G.S. 58-71-1 is amended by adding a new subdivision to read:

"(6a) Premium. — An amount of money paid in exchange for a bail bondsman's services in writing a bail bond."

SECTION 7.(b) G.S. 58-71-45 reads as rewritten:

"§ 58-71-45. Terms of licenses.

A license issued to a bail bondsman or to a runner authorizes the licensee to act in that capacity until the license is lapsed, suspended or revoked. ~~Upon the suspension or revocation of a license, the~~ The licensee shall return the license to the ~~Commissioner.~~ Commissioner within 10 working days of the lapse, suspension, or revocation of the license. A license of a bail bondsman and a license of a runner shall be renewed in accordance with G.S. 58-71-75. After notifying the Commissioner in writing, a professional bondsman who employs a runner may cancel the runner's authority to act for the professional bondsman."

SECTION 7.(c) G.S. 58-71-165(a) reads as rewritten:

"(a) Each professional bail bondsman shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) ~~the State or local official to whom given, and court file or docket number for the principal's court obligation,~~ (v) the fee charged for the bonding service in each ~~instance.~~ instance, and (vi) the certificate seal number for each bond issued."

SECTION 7.(d) G.S. 58-71-167 reads as rewritten:

"(a) In any case where the agreement between principal and surety calls for some portion of the bond premium payments to be deferred or paid after the defendant has been released from custody, a written memorandum of agreement between the principal and surety shall be kept on

1 file by the surety with a copy provided to the ~~principal, upon request.~~ principal. The memorandum
2 shall contain the following information:

- 3 (1) The amount of the premium payment deferred or not yet paid at the time the
4 defendant is released from jail.
- 5 (2) The method and schedule of payment to be made by the defendant to the
6 bondsman, which shall include the dates of payment and amount to be paid on
7 each date.
- 8 (3) That the principal ~~is, upon the principal's request,~~ is entitled to a copy of the
9 memorandum.
- 10 (b) The memorandum must be signed by the defendant and the bondsman, or one of the
11 bondsman's agents, and dated at the time the agreement is made. Any subsequent modifications
12 of the memorandum must be in writing, signed, dated, and kept on file by the surety, with a copy
13 provided to the ~~principal, upon request.~~ principal."

14
15 **PART VIII. CLARIFY RULEMAKING AUTHORITY FOR STATE FIRE AND RESCUE**
16 **COMMISSION**

17 **SECTION 8.** G.S. 58-78-5(a) is amended by adding a new subsection to read:

18 "(a) The Commission shall have the following powers and duties:

- 19 ...
- 20 (17) To adopt, modify, or repeal any rules and regulations necessary for the
21 purpose of carrying out the provisions of this Article."

22
23 **PART IX. PREPAID HEALTH PLAN LICENSING ACT CLARIFYING AND**
24 **TECHNICAL CHANGES**

25 **SECTION 9.(a)** G.S. 58-93-20(c) reads as rewritten:

26 "(c) Any person that is already a licensed health organization in this State under this
27 Chapter shall be recognized as a PHP under this Article and shall be issued a PHP license upon
28 the licensed health organization's demonstration to the Commissioner of its compliance with this
29 Article. A licensed health organization shall not be required to file a PHP application, pay a PHP
30 application fee, or provide the notice required by subsection (d) of this section as a condition of
31 receipt of a PHP license. Unless otherwise exempted, a licensed health organization shall be
32 subject to the remaining requirements of this Article, including deposit, minimum capital and
33 surplus, and working capital requirements."

34 **SECTION 9.(b)** G.S. 58-93-30 reads as rewritten:

35 **"§ 58-93-30. Fees.**

36 The Commissioner shall ~~establish charge~~ an application fee ~~not to exceed of~~ two thousand
37 dollars (\$2,000) for entities filing an application to be licensed as a PHP under this Article. The
38 Commissioner shall ~~establish charge~~ an annual PHP license continuation fee ~~not to exceed of~~
39 five thousand dollars (\$5,000). The PHP license shall continue in full force and effect subject to
40 timely payment of the annual PHP license continuation fee in accordance with G.S. 58-6-7(c)
41 and subject to any other provisions of this Chapter applicable to PHPs."

42 **SECTION 9.(c)** G.S. 58-93-60 reads as rewritten:

43 **"§ 58-93-60. Examinations.**

44 The Commissioner may make an examination of the affairs of any PHP as often as the
45 Commissioner determines it to be necessary for the protection of the interests of the enrollees or
46 the State but not less frequently than once every five years. The Commissioner shall notify DHHS
47 prior to any examination of a PHP and shall provide DHHS with the results of an examination in
48 accordance with G.S. 58-93-5(e). Examinations shall otherwise be conducted under
49 G.S. 58-2-131 through G.S. 58-2-134."

50 **SECTION 9.(d)** G.S. 58-93-90 reads as rewritten:

51 **"§ 58-93-90. Rehabilitation or liquidation of PHP.**

(a) Any rehabilitation or liquidation of a PHP shall be deemed to be the rehabilitation or liquidation of an insurance company and shall be conducted under the supervision of the Commissioner pursuant to Article 30 of this Chapter. The Commissioner may apply for an order directing the rehabilitation or liquidation of a PHP upon one or more grounds set out in Article 30 of this Chapter or when it is the opinion of the Commissioner that the continued operation of the PHP would be hazardous either to the enrollees or to the State. Priority shall be given to DHHS's claims over all other claims in G.S. 58-30-220, except for claims in G.S. 58-30-220(1).

(b) To the greatest extent possible, the Commissioner shall provide notice to DHHS prior to seeking an application for an order to rehabilitate or liquidate a PHP under this section. If prior notice is not possible, the Commissioner shall provide the notice to DHHS as soon as possible after seeking the order."

SECTION 9.(e) G.S. 58-93-95(a) reads as rewritten:

"(a) When the Commissioner has cause to believe that grounds for the denial of an application for a license exist, or that grounds for the suspension or revocation of a license exist, notification shall be given to the PHP in ~~writing~~. writing and a copy of the notice shall be provided to DHHS. This notice shall specifically state the grounds for denial, suspension, or revocation and shall set a date for a hearing on the matter at least 30 days after notice is given."

SECTION 9.(f) G.S. 58-93-120(16) reads as rewritten:

"(16) G.S. 58-7-26, Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of ~~G.S. 58-7-121~~. G.S. 58-7-21."

PART X. CLARIFY WHEN APPLICATION SENT TO NORTH CAROLINA SELF-INSURANCE SECURITY ASSOCIATION

SECTION 10. G.S. 97-170(b) reads as rewritten:

"(b) An applicant for a license as a self-insurer shall file with the Commissioner the information required by subsection (d) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information. A copy of the application ~~must~~ shall also be filed with the North Carolina Self-Insurance Security Association ~~at least 90 days before the proposed licensing date~~ at the same time the application is filed with the Commissioner."

PART XI. MEDICARE SUPPLEMENT CHANGES

SECTION 11.(a) G.S. 58-54-45(a) reads as rewritten:

"§ 58-54-45. By reason of disability.

(a) ~~In~~ For persons whose eligibility for Medicare occurred before January 1, 2020. – In addition to any rule adopted under this Article that is directly or indirectly related to open enrollment, an insurer shall at least make standardized Medicare Supplement Plan A available to persons eligible for Medicare by reason of disability before age 65 and also standardized Plan C or F if marketing either Plan to persons eligible for Medicare before January 1, 2020, due to age. This action shall be taken without regard to medical condition, claims experience, or health status. To be eligible, a person must submit an application during the six-month period beginning with the first month the person first enrolls in Medicare Part B. For those persons that are retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision.

(a1) For persons whose eligibility for Medicare occurs on or after January 1, 2020.- In addition to any rule adopted under this Article that is directly or indirectly related to open enrollment, an insurer shall at least make standardized Medicare Supplement Plan A available to persons eligible for Medicare by reason of disability before age 65 and also standardized Plan D

or G if marketing either Plan to persons eligible for Medicare on or after January 1, 2020, due to age. This action shall be taken without regard to medical condition, claims experience, or health status. To be eligible, a person must submit an application during the six-month period beginning with the first month the person first enrolls in Medicare Part B. For those persons that are retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision.

(b) Persons eligible for Medicare by reason of disability before age 65 who are enrolled in a managed care plan and whose coverage under the managed care plan is terminated through cancellation, nonrenewal, or disenrollment have the guaranteed right to purchase Medicare Supplement Plans A and CA, D, or G from any insurer within 63 days after the date of termination or disenrollment.

(c) An insurer may develop premium rates specific to the disabled population. No insurer shall discriminate in the pricing of the Medicare supplement plans referred to in this section because of the health status, claims experience, receipt of health care, or medical condition of an applicant where an application for the plan is submitted during an open enrollment or is submitted within 63 days after the managed care plan is terminated. The rates and any applicable rating factors for the Medicare supplement plans referred to in this section shall be filed with and approved by the Commissioner."

SECTION 11.(b) This section is effective January 1, 2020.

PART XII. CREDIT PROPERTY INSURANCE REPORTING REQUIREMENT

SECTION 12. G.S. 58-57-90 reads as rewritten:

"§ 58-57-90. Credit property insurance; personal property coverage.

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

(b) Premium rates charged shall not exceed eighty-seven cents (87¢) per year per one hundred dollars (\$100.00) of insured value for single interest credit property insurance and shall not exceed one dollar and thirty-one cents (\$1.31) per year per one hundred dollars (\$100.00) of insured value for dual interest credit property insurance. The insured value shall not exceed the lesser of the value of the property or the amount of the initial indebtedness.

In addition to the premium rate authorized, a charge may also be made for a nonrefundable origination fee per credit property insurance transaction as set forth below:

Insured Value	Fee Permitted
less than \$250.00	none
\$250.00 or more but less than \$500.00	\$1.00
\$500.00 or more	\$3.00

No third or subsequent origination fee may be charged in connection with the third or subsequent refinancing within any twelve-month period.

~~The Department shall collect data on Each writer of credit property insurance written in North Carolina, including but not limited to:~~ Carolina shall by April 1 of each year submit to the Department for each of the last five calendar years the following information: the amount of coverage written, direct premiums, earned premiums, dividends and retrospective rate credits

1 paid, direct losses paid, direct losses incurred, commissions paid, loss ratios and policy
2 provisions. The Department shall publish the information in an aggregate form on its website by
3 July 1 of each year. "
4

5 **PART XIII. EFFECTIVE DATE**

6 **SECTION 13.** Except as otherwise provided, this act is effective when it becomes
7 law.

Amend - 6

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 220*

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

Sponsors: Representatives Setzer, Bumgardner, and Corbin (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE INSURANCE
3 LAWS, AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.
4 The General Assembly of North Carolina enacts:

5
6 **PART I. CAPTIVE INSURANCE CHANGES**

7 **SECTION 1.** G.S. 58-10-395 reads as rewritten:

8 **"§ 58-10-395. Plan of operation change.**

9 (a) Any material change in a captive insurance company's plan of operation ~~plan of~~
10 ~~operation~~ that was filed with the Commissioner at the time of initial application and any
11 subsequent amendment of the plan requires prior approval from the Commissioner.

12 (b) Any change in any other information filed with the application must be filed with the
13 Commissioner within 60 days but does not require prior approval.

14 (c) G.S. 58-10-345(f) shall apply to all information filed pursuant to this section."

15 **SECTION 2.** G.S. 58-10-415(c) reads as rewritten:

16 "(c) ~~Captive insurance companies with less than one million two hundred thousand dollars~~
17 ~~(\$1,200,000) in written premium may make a written request for exemption from the annual audit~~
18 ~~requirement. Upon written request by any captive insurance company, the Commissioner may~~
19 ~~grant an exemption from compliance with any and all provisions of this section if the~~
20 ~~Commissioner finds, upon review of the request, that compliance with this section would~~
21 ~~constitute a financial or organizational hardship upon the insurer. Such request must be made at~~
22 ~~least 90 days prior to the captive insurance company's fiscal year-end or as otherwise required~~
23 ~~by the Commissioner. Requests will be considered on a case-by-case basis and may be subject~~
24 ~~to the Commissioner receiving an annual audit of the captive insurance company's parent in lieu~~
25 ~~of the annual audit of the captive insurance company."~~

26 **SECTION 3.** G.S. 58-10-430 reads as rewritten:

27 **"§ 58-10-430. ~~Audits.~~ Audits and Financial Analyses.**

28 (a) Whenever the Commissioner determines it to be prudent, the Commissioner shall
29 audit a captive insurance company's affairs to ascertain its financial condition, its ability to fulfill
30 its obligations, and whether it has complied with this Part. The expenses and charges of the audit
31 shall be paid by the captive insurance company.

32 (a1) Whenever the Commissioner determines it to be prudent, the Commissioner shall
33 conduct a financial analysis of information submitted to or obtained by the Commissioner
34 pursuant to this Part. Except as otherwise provided in this Part, the captive insurance company is
35 not required to pay the expense and charges of the financial analysis.



(b) G.S. 58-2-160 shall apply to audits and financial analyses conducted under this section.

(c) All audit reports, preliminary audit reports or results, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in the course of an audit or financial analysis made under this section are confidential, are not subject to subpoena, and may not be made public by the Commissioner or an employee or agent of the Commissioner. Nothing in this subsection shall prevent the Commissioner from using such information in furtherance of the Commissioner's regulatory authority under this Chapter. The Commissioner shall have the discretion to grant access to such information to public officials having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this State or any other state or agency of the federal government at any time only if the officials receiving the information agree in writing to maintain the confidentiality of the information in a manner consistent with this subsection.

(d) Risk retention groups are not subject to this section and shall instead be audited in accordance with the Examination Law, G.S. 58-2-131 through G.S. 58-2-134."

SECTION 4.(a) G.S. 58-10-340 is amended by adding a new subsection to read:

"(16a) Governing board. – The board of directors or officials possessing similar authority."

SECTION 4.(b) G.S. 58-10-345(b) reads as rewritten:

"(b) No captive insurance company shall transact any insurance business in this State unless:

...

(2) ~~Its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee governing board~~ holds at least one meeting each year in this State. A captive insurance company will be exempt from this board meeting requirement if the captive insurance company utilizes the services of at least two of the following North Carolina-based service providers:

- a. Legal.
- b. Accounting.
- c. Actuarial.
- d. Investment advisor.
- e. Captive manager.
- f. Other service providers acceptable to the Commissioner.

...."

SECTION 4.(c) G.S. 58-10-380(e) reads as rewritten:

"(e) ~~In the case of a captive insurance company formed as a corporation, at least one of the members of the board of directors governing board shall be a resident of this State. In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this State. In the case of a captive insurance company formed as a limited liability company, at least one of the managers shall be a resident of this State.~~"

SECTION 4.(d) G.S. 58-10-380(i) reads as rewritten:

"(i) ~~The articles of incorporation or bylaws organizational documents of a captive insurance company formed as a corporation may authorize a quorum of its board of directors governing board to consist of no fewer than one-third of the fixed or prescribed number of directors.~~board members."

SECTION 4.(e) G.S. 58-10-385 reads as rewritten:

"§ 58-10-385. Directors, Governing board members, officers, and employees.

(a) Every captive insurance company shall report to the Commissioner within 30 days after any change in its executive officers or ~~directors, governing board members~~, including in its

1 report a biographical affidavit for each new officer or go ~~director, governing board member~~. The
2 change shall be deemed approved unless it is disapproved within 30 days from the completion of
3 the Commissioner's review of the biographical affidavit.

4 (b) No ~~director, governing board member~~, officer, or employee of a captive insurance
5 company shall, except on behalf of the captive insurance company, accept or be the beneficiary
6 of, any fee, brokerage, gift, or other compensation because of any investment, loan, deposit,
7 purchase, sale, payment, or exchange made by or for the captive insurance company unless
8 otherwise approved in advance by the Commissioner, but such person may receive reasonable
9 compensation for necessary services rendered to the captive insurance company in his or her
10 usual private, professional, or business capacity.

11 (c) Any profit or gain received by or on behalf of any person in violation of this section
12 shall inure to and be recoverable by the captive insurance company."

13 **SECTION 4.(f)** G.S. 58-10-390 reads as rewritten:

14 **"§ 58-10-390. Conflict of interest.**

15 (a) Each captive insurance company licensed in this State is required to adopt a conflict
16 of interest statement for officers, ~~directors, governing board members~~, and key employees. Such
17 statement shall disclose that the individual has no outside commitments, personal or otherwise,
18 that would divert him or her from his or her duty to further the interests of the captive insurance
19 company he or she represents, but this shall not preclude such person from being a director or
20 officer in more than one insurance company.

21 (b) Each officer, ~~directors, governing board member~~, and key employee shall file such
22 disclosure with ~~the board of directors or other governing body governing board~~ of the captive
23 insurance company annually."

24 **SECTION 4.(g)** G.S. 58-10-420(b) reads as rewritten:

25 "(b) A captive insurance company shall require its independent certified public accountant
26 to immediately notify in writing an officer and all members of the ~~board of directors or other~~
27 ~~governing body governing board~~ of the captive insurance company of any determination by the
28 independent certified public accountant that the captive insurance company has materially
29 misstated its financial condition in its report to the Commissioner as required in G.S. 58-10-405.
30 A captive insurance company receiving a notification pursuant to this subsection shall forward a
31 copy of the notification to the Commissioner within five business days after receipt of the
32 notification and shall provide the independent certified public accountant with proof that the
33 notification was forwarded to the Commissioner. If the independent certified public accountant
34 fails to receive the proof within the five-day period required by this subsection, the independent
35 certified public accountant shall within the next five business days submit a copy of the
36 notification to the Commissioner."

37 **SECTION 4.(h)** G.S. 58-10-510(d) reads as rewritten:

38 "(d) A protected cell captive insurance company shall establish administrative and
39 accounting procedures necessary to properly identify (i) the one or more protected cells of the
40 protected cell captive insurance company and (ii) the assets and liabilities attributable to each
41 protected cell. The ~~directors governing board~~ of a protected cell captive insurance company shall
42 keep protected cell assets and liabilities:

- 43 (1) Separate and separately identifiable from the assets and liabilities of the
44 protected cell captive insurance company's general account.
45 (2) Attributable to one protected cell separate and separately identifiable from
46 protected cell assets and protected cell liabilities attributable to other protected
47 cells.

48 If this subsection is violated, then the remedy of tracing is applicable to protected cell assets when
49 commingled with protected cell assets of other protected cells or the assets of the protected cell
50 captive insurance company's general account. The remedy of tracing shall not be construed as an
51 exclusive remedy."

1 **SECTION 4.(i)** G.S. 58-10-512(c) reads as rewritten:

2 "(c) An incorporated protected cell may be organized and operated in any form of business
3 organization authorized by the Commissioner. Unless otherwise permitted by the organizational
4 documents of a protected cell captive insurance company, each incorporated protected cell of the
5 protected cell captive insurance company must have the same ~~directors, governing board~~
6 members, secretary, and registered office as the protected cell captive insurance company."

7 **SECTION 4.(j)** G.S. 58-10-565(b) reads as rewritten:

8 "(b) To transact business in this State, an SPFC shall:

9 ...

10 (3) Hold at least one management meeting each year in this State. For the
11 purposes of this section, management is defined as the ~~board of directors,~~
12 ~~managing board, governing board~~ or other individual or individuals vested
13 with overall responsibility for the management of the affairs of the SPFC,
14 including the election and appointment of officers or other of those agents to
15 act on behalf of the SPFC.

16 "

17 **SECTION 4.(k)** G.S. 58-10-565(c) reads as rewritten:

18 "(c) A complete SPFC application shall include the following:

19 ...

20 (4) Biographical affidavits in NAIC format of all of the prospective SPFC's
21 officers and ~~directors, governing board members,~~ providing the officers' and
22 ~~directors' governing board members'~~ legal names, any names under which
23 they have or are conducting their affairs, and any other biographical
24 information as the Commissioner may request.

25 "

26 **SECTION 5.(a)** G.S. 105-228.4A(a) reads as rewritten:

27 "(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing
28 business in this State. In the case of a branch captive insurance company, the tax levied in this
29 section applies only to the branch business of the company. Two or more captive insurance
30 companies under common ownership and ~~control-control, other than a protected cell captive~~
31 insurance company or a special purpose captive insurance company with a cell or series structure,
32 are taxed under this section as a single captive insurance company. The tax levied in this section
33 does not apply to a foreign captive insurance company."

34 **SECTION 5.(b)** G.S. 105-228.4A(f) reads as rewritten:

35 "(f) Total Tax Liability. – The aggregate amount of tax payable under this section by a
36 protected cell captive insurance company with more than 10 cells or a special purpose captive
37 insurance company with a cell or series structure with 10 or more cells or series may not be less
38 than ten thousand dollars (\$10,000) and may not exceed the lesser of (i) one hundred thousand
39 dollars (\$100,000) plus five thousand dollars (\$5,000) multiplied by the number of cells or series
40 over 10 and (ii) two hundred thousand dollars (\$200,000). The aggregate amount of tax payable
41 under this section for any other captive insurance company may not be less than five thousand
42 dollars (\$5,000) and may not exceed one hundred thousand dollars (\$100,000).

43 If a captive insurance company is a special purpose financial captive and if the special
44 purpose financial captive is under common ownership and control with one or more other captive
45 insurance companies, the following provisions apply to the consolidated group of companies that
46 are taxed as a single captive insurance company pursuant to subsection (a) of this section:

- 47 (1) The amount of premium tax payable under this section is allocated to each
48 member of the consolidated group in the same proportion that the premium
49 allocable to the member bears to the total premium of all members.
50 (2) The aggregate amount of tax payable under this section by the consolidated
51 group is equal to the greater of the following:

- a. The sum of the premium tax allocated to the members.
 - b. Five thousand dollars (\$5,000).
- (3) If the total premium tax allocated to all members of a consolidated group that are special purpose financial captives exceeds one hundred thousand dollars (\$100,000), then the total premium tax allocated to those members is one hundred thousand dollars (\$100,000).
- (4) If the total premium tax allocated to all members of the consolidated group that are not special purpose financial captives exceeds one hundred thousand dollars (\$100,000), then the total premium tax allocated to those members is one hundred thousand dollars (\$100,000)."

SECTION 5.(c) G.S. 105-228.4A is amended by adding a new subsection to read:

"(g) A captive insurance company formed and licensed under the laws of a jurisdiction other than North Carolina that (i) obtains the approval of the North Carolina Commissioner of Insurance to redomesticate to North Carolina pursuant to G.S. 58-10-380(g) to operate as a North Carolina-domiciled captive insurance company and (ii) redomesticates to North Carolina on or before December 31, 2020, is exempted from prorated premium taxes imposed by this section for the year in which the redomestication occurs and the premium taxes imposed by this section for the calendar year following the redomestication. This subsection expires for taxable years beginning on or after January 1, 2022."

SECTION 5.(d) Subsections (a) and (b) of this section are effective for premium taxes imposed for taxable years beginning on or after January 1, 2020. Subsection (c) of this section is effective for premium taxes imposed for taxable years beginning on or after January 1, 2019.

PART II. HOLDING COMPANY ACT TECHNICAL CHANGES

SECTION 6. G.S. 58-19-10(b) reads as rewritten:

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

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

...

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

PART III. SURPLUS LINES TECHNICAL CHANGES

SECTION 7.(a) G.S. 58-21-35(b) reads as rewritten:

"(b) The licensee shall complete and retain a copy of the report in paper or electronic form as required by the Commissioner. The report required by this section ~~and the quarterly report required by G.S. 58-21-80 shall be completed on a standardized form or forms prescribed by the Commissioner and are not public records~~ is not a public record under G.S. 132-1 or G.S. 58-2-100."

SECTION 7.(b) G.S. 58-21-40(b)(3) is repealed.

SECTION 7.(c) G.S. 58-21-75 reads as rewritten:

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

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

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

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

SECTION 7.(d) G.S. 58-21-80 is repealed.

SECTION 7.(e) G.S. 58-21-95 reads as rewritten:

"§ 58-21-95. Suspension, revocation or nonrenewal of surplus lines licensee's license.

The Commissioner may suspend, revoke, or refuse to renew the license of a surplus lines licensee after notice and hearing as provided under G.S. 58-2-70 upon any one or more of the following grounds:

- (1) ~~Removal of the surplus lines licensee's office from this State;~~
- (2) Removal of the surplus lines licensee's office accounts and records ~~from this State~~ during the period during which such accounts and records are required to be maintained under G.S. 58-21-75;
- (3) Closing of the surplus lines licensee's office for a period of more than 30 business days, unless permission is granted by the Commissioner;
- (4) Failure to make and file required reports;
- (5) Failure to transmit the required tax on surplus lines premiums;
- (6) ~~Failure to maintain the required bond;~~ Failure to pay the stamping fee to the stamping office;
- (7) Violation of any provision of this Article; or
- (8) For any other cause for which an insurance license could be denied, revoked, suspended, or renewal refused under the Insurance Law."

PART IV. ALIGN STATE LAW WITH NAIC MODEL LAW REGARDING IMMUNITY FOR CONTRACTORS HIRED BY THE DEPARTMENT

SECTION 8.(a) G.S. 58-30-71(a) reads as rewritten:

"(a) ~~For the purposes of this section, the persons~~ Persons entitled to protection under this section are:

- (1) All receivers responsible for the conduct of a delinquency proceeding under this Article, including present and former receivers; and
- (2) ~~Their employees~~ All of the receiver's employees, meaning all present and former special deputies and assistant special deputies appointed by the Commissioner, staff assigned to the delinquency proceeding employed by the Attorney General's Office, and all persons whom the Commissioner, special deputies, or assistant special deputies have employed to assist in a delinquency proceeding under this Article. Attorneys, accountants, auditors, and other professional persons or firms, who are retained by the receiver as independent contractors and their employees are not employees of the receiver for purposes of this section.
- (3) All of the receiver's contractors, meaning all persons who are retained by the receiver or the receiver's employees as independent contractors to assist in a delinquency proceeding under this Article, including attorneys, accountants, auditors, and other professional persons or firms and their employees."

SECTION 8.(b) G.S. 58-30-71(b) reads as rewritten:

"(b) ~~The receiver and his employees have~~ receiver, the receiver's employees, and the receiver's contractors shall have official immunity and are immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from any alleged act, error, or omission of the receiver or any employee arising out of or by reason of any of the following:

(1) ~~their~~ Their duties or ~~employment~~ employment.

(2) Any matters that have been subject to review by the Court after notice and opportunity to be heard, provided that the alleged act, error, or omission was not disapproved or disallowed by the Court.

~~provided that nothing~~ Provided, however, that nothing in this section holds the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors or for any bodily injury caused by the operation of a motor vehicle."

SECTION 8.(c) G.S. 58-30-71(j) reads as rewritten:

"(j) Nothing in this section deprives the ~~receiver or any employee~~ receiver, the receiver's employees, or the receiver's contractors of any immunity, indemnity, benefits of law, rights, or any defense otherwise available."

PART V. CLARIFY CONSENT TO RATE**SECTION 9.(a)** G.S. 58-36-30(b) reads as rewritten:

"(b) This subsection applies ~~only~~ to insurance against loss to automobile physical damage and related expenses. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized:

NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR AUTOMOBILE PHYSICAL DAMAGE AND RELATED EXPENSES THAT COVERS THE DAMAGE TO

1 YOUR COVERED VEHICLE(S) EXCEEDS THE PREMIUM BASED UPON THE
2 APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE WITH G.S. 58-36-30(b).

3 The disclosure statement noted above in this subsection shall be included on any renewal of
4 or endorsement to the policy when the rates charged exceed the approved manual rate. The
5 insurer shall retain consent to rate information for each insured and make this information
6 available to the Commissioner, upon request of the Commissioner. This subsection may also be
7 used to provide motor vehicle liability coverage limits above those required under Article 9A of
8 Chapter 20 of the General Statutes and above those that could be ceded to the North Carolina
9 Reinsurance Facility under Article 37 of this Chapter to persons whose personal excess liability
10 insurance policies require that they maintain specific higher liability coverage limits. Any data
11 obtained by the Commissioner under this subsection is proprietary and confidential and is not a
12 public record under G.S. 132-1 or G.S. 58-2-100."

13 **SECTION 9.(b)** G.S. 58-36-30(b1) reads as rewritten:

14 "(b1) This subsection applies only to insurance against loss to residential property with not
15 more than four housing units. A rate in excess of that promulgated by the Bureau may be charged
16 by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted
17 by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate
18 the premium for the policy are greater than those rates that are applicable in the State of North
19 Carolina by including the following language in the policy on page one of the declarations page
20 or on a separate page before the declarations page, in at least 14 point type or in a font size larger
21 than the remainder of the document whichever is larger, bolded, and all capitalized:

22 NOTICE: IN ACCORDANCE WITH G.S. 58-36-30(b1), THE PREMIUM BASED
23 UPON THE APPROVED RATES IN NORTH CAROLINA FOR RESIDENTIAL PROPERTY
24 INSURANCE COVERAGE APPLIED FOR WOULD BE \$ _____. OUR PREMIUM FOR THIS
25 COVERAGE IS \$ _____.

26 The disclosure statement noted above in this subsection shall be included on any renewal of
27 or endorsement to the policy when the rates charged exceed the approved manual rate. ~~for any~~
28 ~~subsequent increase above the.~~ The insurer shall retain consent to rate information for each
29 insured and make this information available to the Commissioner, upon request of the
30 Commissioner. Any data obtained by the Commissioner under this subsection is proprietary and
31 confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100."

32 **SECTION 9.(c)** G.S. 58-36-30(c) reads as rewritten:

33 "~~(c) Any approved rate under subsection (b) of this section with respect~~ This subsection
34 applies only to workers' compensation and employers' liability insurance written in connection
35 therewith shall be furnished to the Bureau therewith. A rate in excess of that promulgated by the
36 Bureau may be charged by an insurer on any specific risk if the higher rate is charged in
37 accordance with rules adopted by the Commissioner."

38 **SECTION 9.(d)** G.S. 58-36-30(e) reads as rewritten:

39 "(e) Each insurer shall collect the following consent to rate data for nonfleet private
40 passenger motor vehicle physical damage and homeowners residential property ~~(all forms~~
41 ~~excluding HO4 and HO6)~~ with not more than four housing units (all forms, excluding HO4 and
42 HO6) and transmit the data electronically for each policy to the Commissioner on a semi-annual
43 basis in a format prescribed and designated by the Commissioner:

44"

45 **SECTION 9.(e)** The Commissioner may adopt temporary rules to implement this
46 section.

47 **PART VI. FAST ACT CONFIRMING CHANGE**

49 **SECTION 10.(a)** G.S. 58-39-26(a) reads as rewritten:

50 "(a) Disclosure Required. – In addition to the notice requirements of G.S. 58-39-25, an
51 insurance institution or agent shall provide, to all applicants and policyholders no later than (i)

1 before the initial disclosure of personal information under G.S. 58-39-75(11) or (ii) the time of
2 the delivery of the insurance policy or certificate, a clear and conspicuous notice, in written or
3 electronic form, of the insurance institution or agent's policies and practices with respect to:

- 4 (1) Disclosing nonpublic personal information to affiliates and nonaffiliated third
5 parties, consistent with section 502 of Public Law 106-102, including the
6 categories of information that may be disclosed.
- 7 (2) Disclosing nonpublic personal information of persons who have ceased to be
8 customers of the financial institution.
- 9 (3) Protecting the nonpublic personal information of consumers.

10 These disclosures shall be made in accordance with the regulations prescribed under section 505
11 504 of Public Law 106-102.

12 (b) Information to Be Included. – The disclosure required by subsection (a) of this section
13 shall include:

- 14 (1) The policies and practices of the insurance institution or agent with respect to
15 disclosing nonpublic personal information to nonaffiliated third parties, other
16 than agents of the insurance institution or agent, consistent with section 502
17 of Public Law 106-102, and including:
 - 18 a. The categories of persons to whom the information is or may be
19 disclosed, other than the persons to whom the information may be
20 provided under section 502(e) of Public Law 106-102.
 - 21 b. The policies and practices of the insurance institution or agent with
22 respect to disclosing of nonpublic personal information of persons
23 who have ceased to be customers of the insurance institution or agent.
- 24 (2) The categories of nonpublic personal information that are collected by the
25 insurance institution or agent.
- 26 (3) The policies that the insurance institution or agent maintains to protect the
27 confidentiality and security of nonpublic personal information in accordance
28 with section 501 of Public Law 106-102.
- 29 (4) The disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair
30 Credit Reporting Act.

31 (c) In the case of a policyholder, the notice required by this section shall be provided not
32 less than annually during the continuation of the policy. As used in this subsection, "annually"
33 means at least once in any period of 12 consecutive months during which the policy is in effect.

34 (d) Exception to Annual Notice Requirement. – An insurance institution or agent is not
35 required to provide the privacy notice annually as required under subsection (c) of this section if
36 all of the following apply:

- 37 (1) The insurance institution or agent provides nonpublic personal information
38 only in accordance with the provisions of sections 502(b)(2) or 502(e) of
39 Public Law 106-102 or regulations prescribed under section 504(b) of Public
40 Law 106-102.
- 41 (2) The insurance institution or agent has not changed its policies and practices
42 with regard to disclosing nonpublic personal information from the policies and
43 practices that were disclosed in the most recent disclosure sent to consumers
44 in accordance with this section.

45 If at any time subdivisions (1) or (2) of this section no longer apply to an insurance institution
46 or agent, then the insurance institution or agent shall be required to provide the annual privacy
47 notice required under subsection (c) of this section."

49 PART VII. STREAMLINE EXPEDITED EXTERNAL REVIEW PROCESS

50 SECTION 11.(a) G.S. 58-50-82(a) reads as rewritten:

"(a) Except as provided in subsection (g) of this section, a covered person may file a request for an expedited external review with the Commissioner at the time the covered person ~~receives~~receives any of the following:

(1) A noncertification decision under G.S. 58-50-61(f) ~~if~~if all of the following conditions apply:

- a. The covered person has a medical condition where the time frame for completion of an expedited review of an appeal involving a noncertification set forth in G.S. 58-50-61(l) would be reasonably expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum ~~function~~function.
- b. The covered person has filed a request for an expedited appeal under G.S. 58-50-61(l).

(2) An appeal decision under G.S. 58-50-61(k) or ~~(l)~~G.S. 58-58-61(l) upholding a noncertification ~~if~~if all of the following conditions apply:

- a. The noncertification appeal decision involves a medical condition of the covered person for which the time frame for completion of an expedited second-level grievance review of a noncertification set forth in G.S. 58-50-62(i) would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum ~~function~~function.
- b. The covered person has filed a request for an expedited second-level grievance review of a noncertification as set forth in G.S. 58-50-61(i); ~~or G.S. 58-50-62(i)~~.

(3) A second-level grievance review decision under ~~G.S. 58-60-62(h) or (i)~~ G.S. 58-50-62(h) or G.S. 58-50-62(i) upholding a ~~noncertification~~noncertification if all of the following conditions apply:

- a. If the covered person has a medical condition where the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum ~~function~~function.
- b. If the second-level grievance concerns a noncertification of an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility."

SECTION 11.(b) G.S. 58-50-82(b) reads as rewritten:

"(b) Within two days after receiving a request for an expedited external review, the Commissioner shall complete all of the following:

- (1) Notify the insurer that made the noncertification, noncertification appeal decision, or second-level grievance review decision which is the subject of the request that the request has been received and provide a copy of the request. The Commissioner shall also request any information from the insurer necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and require the insurer to deliver the information not later than one day after the request was made.
- (2) Determine whether the request is eligible for external ~~review and, if it is eligible, determine whether it is eligible for expedited review~~review.
- (3) If the request is eligible for external review and the covered person's treating provider requesting the service that is the subject of the external review has

certified the request on a form prescribed by the Commissioner, then one of the following shall apply:

- a. For a request made pursuant to subdivision (a)(1) of this section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether section, the request should ~~shall~~ be reviewed on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-61(l) would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be informed by the Commissioner that the covered person must exhaust, at a minimum, the insurer's internal appeal process under G.S. 58-50-61(l) before making another request for an external review with the Commissioner notified.
- b. For a request made pursuant to subdivision (a)(2) of this section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether section, the request should shall be reviewed on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-62 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be informed by the Commissioner that the covered person must exhaust the insurer's internal grievance process under G.S. 58-50-62 before making another request for an external review with the Commissioner notified.
- c. For a request made pursuant to sub-subdivision (a)(3)a. of this section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall

determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether ~~the request should~~ shall be reviewed on an expedited basis because the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall ~~then~~ inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the review will be conducted using an expedited or standard time frame and shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame.

- d. For a request made pursuant to sub subdivision (a)(3)b. of this section, ~~that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision.~~ the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision."

SECTION 11.(c) G.S. 58-50-89 reads as rewritten:

"§ 58-50-89. Hold harmless for ~~Commissioner, medical professionals,~~ Commissioner and independent review organizations.

~~Neither the The Commissioner, a medical professional rendering advice to the Commissioner under G.S. 58-50-82(b)(2), an independent review organization, nor shall or a clinical peer reviewer working on behalf of an independent review organization shall not be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted under this Part, unless the opinion was rendered in bad faith or involved gross negligence."~~

SECTION 11.(d) Subsections (a) and (b) of this section are effective October 1, 2019, and apply to requests for expedited review submitted on or after that date.

PART VIII. EXCLUSIVE PROVIDER BENEFIT PLANS

SECTION 12.(a) G.S. 58-50-56(i) reads as rewritten:

"(i) ~~A person enrolled in a preferred provider benefit plan may obtain covered health care services from a provider who does not participate in the plan.~~ In accordance with rules adopted by the Commissioner and subject to G.S. 58-3-190 and G.S. 58-3-200(d), the preferred provider benefit plan may limit coverage for health care services obtained from a nonparticipating provider. The Commissioner shall adopt rules on product limitations, including payment differentials for services rendered by nonparticipating providers. These rules shall be similar in substance to rules governing HMO point-of-service products."

SECTION 12.(b) Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-56.1. Continuity of Care.

(a) Definitions. – The following definitions shall apply in this section:

- (1) Exclusive provider benefit plan. – A preferred provider benefit plan in which enrollees must receive covered services from health care providers who are under contract with the insurer and under which there is no coverage for care

- 1 received from a health care provider who is not under contract with the insurer,
2 except for emergency services as required by G.S. 58-3-190 and medically
3 necessary covered services as required by G.S. 58-3-200(d).
- 4 (2) Insurer. – As defined in G.S. 58-50-56.
- 5 (3) Ongoing special condition. – One of the following conditions:
- 6 a. An acute illness that is serious enough to require medical care or
7 treatment to avoid a reasonable possibility of death or permanent harm.
- 8 b. A chronic illness, disease, or condition that is life-threatening,
9 degenerative, or disabling, and that requires medical care or treatment
10 over a prolonged period of time.
- 11 c. Pregnancy from the start of the second trimester.
- 12 d. A terminal illness for which an individual has a medical prognosis of
13 a life expectancy of six months or less.
- 14 (4) Terminated or termination. – The expiration or nonrenewal of a contract. This
15 term does not include an ending of the contract by an insurer for failure to
16 meet applicable quality standards or for fraud.
- 17 (b) Termination of a Provider. – If (i) a contract between an insurer and a health care
18 provider offering an exclusive provider benefit plan is terminated by the provider or by the
19 insurer, or benefits or coverage provided by the insurer are terminated because of a change in the
20 terms of provider participation in an insurer's exclusive provider benefit plan and (ii) an insured
21 is undergoing treatment from the provider for an ongoing special condition on the date of
22 termination, then the following shall apply:
- 23 (1) Upon termination of the contract by the insurer or upon receipt by the insurer
24 of written notification of termination by the provider, the insurer shall notify
25 the insured on a timely basis of the termination and of the insured's right to
26 elect continuation of coverage of treatment by the provider. This subdivision
27 shall apply only if the insured has a claim with the insurer for services
28 provided by the terminated provider or the insured is otherwise known by the
29 insurer to be a patient of the terminated provider.
- 30 (2) Subject to subsection (h) of this section, the insurer shall permit an insured to
31 elect to continue to be covered with respect to the treatment by the terminated
32 provider for the ongoing special condition during a transitional period, as
33 provided under this section.
- 34 (c) Newly Covered Insured. – Each exclusive provider benefit plan offered by an insurer
35 shall provide transition coverage to individuals who (i) are newly covered under an exclusive
36 provider benefit plan because the individual's employer has changed benefit plans and (ii) are
37 undergoing treatment from a provider for an ongoing special condition. On the date of
38 enrollment, an insurer shall notify the newly covered insured of the right to elect continuation of
39 coverage of treatment by a provider that is not contracted with the exclusive provider benefit plan
40 and, subject to subsection (h) of this section, the insurer shall permit the newly covered insured
41 to elect to continue to be covered with respect to the treatment by the provider of the ongoing
42 special condition during a transitional period, as provided under this section.
- 43 (d) Transitional Period: In General. – Except as otherwise provided in this section, the
44 length of a transitional period provided under this subsection shall be determined by the treating
45 health care provider, so long as it does not exceed 90 days after the date of the notice to the
46 individual described in subdivision (b)(1) of this section or the date of enrollment in a new plan
47 described in subsection (c) of this section.
- 48 (e) Transitional Period: Scheduled Surgery, Organ Transplantation, or Inpatient Care. –
49 If surgery, organ transplantation, or other inpatient care was scheduled for an individual, or if the
50 individual was on an established waiting list for surgery, organ transplantation, or other inpatient
51 care, before the date of the notice required under subdivision (b)(1) of this section or the date of

enrollment described in subsection (c) of this section, then the transitional period under this subsection with respect to the surgery, transplantation, or other inpatient care shall extend through the date of discharge of the individual after completion of the surgery, transplantation, or other inpatient care, and through post discharge follow-up care related to the surgery, transplantation, or other inpatient care occurring within 90 days after the date of discharge.

(f) Transitional Period: Pregnancy. – If an individual has entered the second trimester of pregnancy on or before the date of the notice required under subdivision (b)(1) of this section or the date of enrollment in a new plan described in section (c) of this section, and the provider was treating the pregnancy before the date of the notice, or the date of enrollment in the plan, then the transitional period with respect to the provider's treatment of the pregnancy shall extend through the provision of 60 days of postpartum care.

(g) Transitional Period: Terminal Illness. – If an individual was determined to be terminally ill at the time of a provider's termination of participation under subsection (b) of this section or at the time of enrollment in the plan under subsection (c) of this section, and the provider was treating the terminal illness before the date of the termination or enrollment in the plan, then the transitional period shall extend for the remainder of the individual's life with respect to care directly related to the treatment of the terminal illness or its medical manifestations.

(h) Permissible Terms and Conditions. – An insurer may condition coverage of continued treatment by a provider under subsection (b) or subsection (c) of this section upon the following terms and conditions:

(1) When care is provided pursuant to subsection (b) of this section, the provider agrees to accept reimbursement from the insurer and, with respect to cost-sharing, from the insured involved at the rates applicable before the start of the transitional period as payment in full.

(2) When care is provided pursuant to subsection (c) of this section, the provider agrees to accept the prevailing rate based on contracts the insurer has with the same or similar providers in the same or similar geographic area, plus the applicable copayment from the newly covered insured, as reimbursement in full from the insurer and the insured for all covered services.

(3) The provider agrees to comply with the quality assurance programs of the insurer responsible for payment under this subsection and to provide to the insurer necessary medical information related to the care provided. The insurer's quality assurance programs shall not override the professional or ethical responsibility of the provider or interfere with the provider's ability to provide information or assistance to the insured.

(4) The provider agrees to adhere to the insurer's established policies and procedures for participating providers, including procedures regarding referrals and obtaining prior authorization, providing services pursuant to a treatment plan approved by the insurer, and member hold harmless provisions.

(5) The receipt of notification from the insured within 45 days of the date of the notice described in subdivision (b)(1) of this section or the new enrollment described in subsection (c) of this section, that the insured elects to continue receiving treatment by the provider.

(6) The provider agrees to discontinue providing services at the end of the transition period and to assist the insured in an orderly transition to a network provider. Nothing in this section shall prohibit the insured from continuing to receive services from the provider at the insured's expense.

(i) Construction. – Nothing in this section shall do any of the following:

(1) Require the coverage of benefits that would not have been covered if the provider involved remained a participating provider or, in the case of a newly

covered insured, require the coverage of benefits not provided under the policy in which the newly covered insured is enrolled.

(2) Require an insurer to offer a transitional period when the insurer terminates a provider's contract for reasons relating to quality of care or fraud. Refusal by an insurer to offer a transitional period under these circumstances is not subject to the grievance review provisions of G.S. 58-50-62.

(3) Prohibit an insurer from extending any transitional period beyond that specified in this section.

(4) Prohibit an insurer from terminating the continuing services of a provider when the insurer has determined that the provider's continued provision of services may result in, or is resulting in, a serious danger to the health or safety of the insured. A termination for these reasons shall be in accordance with the contract provisions that the provider would otherwise be subject to if the provider's contract were still in effect.

(j) Disclosure of Right to Transitional Period. – Each insurer shall include a clear description of an insured's rights under this section in its evidence of coverage and summary plan description."

SECTION 12.(c) The Department of Insurance may adopt temporary rules to implement this section.

SECTION 12.(d) Subsections (a) and (b) of this section apply to insurance contracts issued, renewed, or amended on or after the effective date of this act.

PART IX. BAIL BONDSMAN TECHNICAL CHANGES

SECTION 13.(a) G.S. 58-71-1 is amended by adding a new subdivision to read:

"(6a) Premium. – An amount of money paid in exchange for a bail bondsman's services in writing a bail bond."

SECTION 13.(b) G.S. 58-71-45 reads as rewritten:

"§ 58-71-45. Terms of licenses.

A license issued to a bail bondsman or to a runner authorizes the licensee to act in that capacity until the license is lapsed, suspended or revoked. ~~Upon the suspension or revocation of a license, the~~ The licensee shall return the license to the ~~Commissioner.~~ Commissioner within 10 working days of the lapse, suspension, or revocation of the license. A license of a bail bondsman and a license of a runner shall be renewed in accordance with G.S. 58-71-75. After notifying the Commissioner in writing, a professional bondsman who employs a runner may cancel the runner's authority to act for the professional bondsman."

SECTION 13.(c) G.S. 58-71-165(a) reads as rewritten:

"(a) Each professional bail bondsman shall file with the Commissioner a written report in a form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the ~~State or local official to whom given, and court file or docket number for the principal's court obligation.~~ (v) the fee charged for the bonding service in each ~~instance.~~ instance, and (vi) the certificate seal number for each bond issued."

SECTION 13.(d) G.S. 58-71-167 reads as rewritten:

"(a) In any case where the agreement between principal and surety calls for some portion of the bond premium payments to be deferred or paid after the defendant has been released from custody, a written memorandum of agreement between the principal and surety shall be kept on file by the surety with a copy provided to the ~~principal, upon request.~~ principal. The memorandum shall contain the following information:

(1) The amount of the premium payment deferred or not yet paid at the time the defendant is released from jail.

(2) The method and schedule of payment to be made by the defendant to the bondsman, which shall include the dates of payment and amount to be paid on each date.

(3) That the principal ~~is, upon the principal's request, is~~ entitled to a copy of the memorandum.

(b) The memorandum must be signed by the defendant and the bondsman, or one of the bondsman's agents, and dated at the time the agreement is made. Any subsequent modifications of the memorandum must be in writing, signed, dated, and kept on file by the surety, with a copy provided to the ~~principal, upon request.~~ principal."

PART X. CLARIFY RULEMAKING AUTHORITY FOR STATE FIRE AND RESCUE COMMISSION

SECTION 14. G.S. 58-78-5(a) is amended by adding a new subsection to read:

"(a) The Commission shall have the following powers and duties:

...
(17) To adopt, modify, or repeal any rules and regulations necessary for the purpose of carrying out the provisions of this Article."

PART XI. PREPAID HEALTH PLAN LICENSING ACT CLARIFYING AND TECHNICAL CHANGES

SECTION 15.(a) G.S. 58-93-20(c) reads as rewritten:

"(c) Any person that is already a licensed health organization in this State under this Chapter shall be recognized as a PHP under this Article and shall be issued a PHP license upon the licensed health organization's demonstration to the Commissioner of its compliance with this Article. A licensed health organization shall not be required to file a PHP application, pay a PHP application fee, or provide the notice required by subsection (d) of this section as a condition of receipt of a PHP license. Unless otherwise exempted, a licensed health organization shall be subject to the remaining requirements of this Article, including deposit, minimum capital and surplus, and working capital requirements."

SECTION 15.(b) G.S. 58-93-30 reads as rewritten:

"§ 58-93-30. Fees.

The Commissioner shall ~~establish charge~~ an application fee ~~not to exceed~~ of two thousand dollars (\$2,000) for entities filing an application to be licensed as a PHP under this Article. The Commissioner shall ~~establish charge~~ an annual PHP license continuation fee ~~not to exceed~~ of five thousand dollars (\$5,000). The PHP license shall continue in full force and effect subject to timely payment of the annual PHP license continuation fee in accordance with G.S. 58-6-7(c) and subject to any other provisions of this Chapter applicable to PHPs."

SECTION 15.(c) G.S. 58-93-60 reads as rewritten:

"§ 58-93-60. Examinations.

The Commissioner may make an examination of the affairs of any PHP as often as the Commissioner determines it to be necessary for the protection of the interests of the enrollees or the State but not less frequently than once every five years. The Commissioner shall notify DHHS prior to any examination of a PHP and shall provide DHHS with the results of an examination in accordance with G.S. 58-93-5(e). Examinations shall otherwise be conducted under G.S. 58-2-131 through G.S. 58-2-134."

SECTION 15.(d) G.S. 58-93-90 reads as rewritten:

"§ 58-93-90. Rehabilitation or liquidation of PHP.

(a) Any rehabilitation or liquidation of a PHP shall be deemed to be the rehabilitation or liquidation of an insurance company and shall be conducted under the supervision of the Commissioner pursuant to Article 30 of this Chapter. The Commissioner may apply for an order directing the rehabilitation or liquidation of a PHP upon one or more grounds set out in Article

30 of this Chapter or when it is the opinion of the Commissioner that the continued operation of the PHP would be hazardous either to the enrollees or to the State. Priority shall be given to DHHS's claims over all other claims in G.S. 58-30-220, except for claims in G.S. 58-30-220(1).

(b) To the greatest extent possible, the Commissioner shall provide notice to DHHS prior to seeking an application for an order to rehabilitate or liquidate a PHP under this section. If prior notice is not possible, the Commissioner shall provide the notice to DHHS as soon as possible after seeking the order."

SECTION 15.(e) G.S. 58-93-95(a) reads as rewritten:

"(a) When the Commissioner has cause to believe that grounds for the denial of an application for a license exist, or that grounds for the suspension or revocation of a license exist, notification shall be given to the PHP in ~~writing~~. writing and a copy of the notice shall be provided to DHHS. This notice shall specifically state the grounds for denial, suspension, or revocation and shall set a date for a hearing on the matter at least 30 days after notice is given."

SECTION 15.(f) G.S. 58-93-120(16) reads as rewritten:

"(16) G.S. 58-7-26, Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of ~~G.S. 58-7-121~~. G.S. 58-7-21."

PART XII. CLARIFY WHEN APPLICATION SENT TO NORTH CAROLINA SELF-INSURANCE SECURITY ASSOCIATION

SECTION 16. G.S. 97-170(b) reads as rewritten:

"(b) An applicant for a license as a self-insurer shall file with the Commissioner the information required by subsection (d) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information. A copy of the application ~~must~~ shall also be filed with the North Carolina Self-Insurance Security Association ~~at least 90 days before the proposed licensing date~~ at the same time the application is filed with the Commissioner."

PART XIII. MODIFY CERTAIN CRIMINAL PENALTIES

SECTION 17.(a) G.S. 58-2-161(b) reads as rewritten:

"(b) ~~Any person~~ It shall be unlawful for any person who, with the intent to injure, defraud, or deceive an insurer or insurance claimant; claimant, does any of the following:

- (1) Presents or causes to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the ~~claim, or claim.~~
- (2) ~~Assists, abets, solicits, or conspires with~~ Assists or abets another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning a fact or matter material to the ~~claim is guilty of claim.~~

(c) Any person who violates subsection (b) of this section shall be penalized as follows:

- (1) If the value of the claim for payment or other benefit sought is less than one thousand dollars (\$1,000), it shall be a Class 1 misdemeanor.
- (2) If the value of the claim for payment or other benefit sought is one thousand dollars (\$1,000) or more, it shall be a Class H felony.
- (3) If the value of the claim for payment or other benefit sought is fifty thousand dollars (\$50,000) or more, it shall be a Class E felony.

- (4) If the value of the claim for payment or other benefit sought is one hundred thousand dollars (\$100,000) or more, it shall be a Class C felony.

In addition to any other penalties authorized by law, a violation of this section may be punishable by a fine of not more than ten thousand dollars (\$10,000) for each violation.

(d) Each claim ~~shall~~ may be considered a separate count. Upon conviction, if the court imposes probation, the court may order the defendant to pay restitution as a condition of probation. In determination of the amount of restitution pursuant to G.S. 15A-1343(d), the reasonable costs and attorneys' fees incurred by the victim in the investigation of, and efforts to recover damages arising from, the claim, may be considered part of the damage caused by the defendant arising out of the offense.

(e) In a civil cause of action for recovery based upon a claim for which a defendant has been convicted under this section, the conviction may be entered into evidence against the defendant. The court may award the prevailing party compensatory damages, attorneys' fees, costs, and reasonable investigative costs. If the prevailing party can demonstrate that the defendant has engaged in a pattern of violations of this section, the court may award treble damages."

SECTION 17.(b) G.S. 58-2-164(b) reads as rewritten:

"§ 58-2-164. Rate evasion fraud; prevention programs.

...

(b) It shall be a ~~Class 3~~ Class 1 misdemeanor for any person who, with the intent to deceive an insurer, does any of the following:

- (1) Presents or causes to be presented a written or oral statement in support of an application for issuance of or amendment to a policy of auto insurance, knowing that the application contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.
- (2) ~~Assists, abets, solicits, or conspires with~~ Assists or abets another person to prepare or make any written or oral statement that is intended to be presented to an insurer in connection with or in support of an application for issuance of or amendment to a policy of auto insurance, if the person knows that the statement contains false or misleading information that states the applicant is an eligible risk when the applicant is not an eligible risk.

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than one thousand dollars (\$1,000) for each violation.

(b1) If the violation of subsection (b) of this section is committed with respect to an application for insurance or amendment to a policy of auto insurance for more than one passenger vehicle, the person shall be guilty of a Class H felony.

~~(b1)(b2)~~ It shall be a Class H felony for any applicant who, with the intent to deceive an insurer, knowingly violates G.S. 58-2-164(b) for the purpose of obtaining auto insurance covering one or more vehicles, the operation of which requires a Commercial Drivers License pursuant to G.S. 20-4.01(3c).

In addition to any other penalties authorized by law, a violation of this subsection may be punishable by a fine of not more than ten thousand dollars (\$10,000) for each violation.

...."

SECTION 17.(c) G.S. 58-3-150 is amended by adding a new subsection to read:

"(h) It shall be unlawful for any person who, with the intent to injure, defraud, or deceive, prepares, issues, or requests a certificate of insurance that meets the criteria of subdivision (2) or (3) of subsection (f) of this section. The person violating this subsection shall be punished as follows:

- (1) If the value of the certificate of insurance is less than five thousand dollars (\$5,000), it shall be a Class 1 misdemeanor.

(2) If the value of the certificate of insurance is five thousand dollars (\$5,000) or more, it shall be a Class I felony."

SECTION 17.(d) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

PART XIV. EFFECTIVE DATE

SECTION 18. Except as otherwise provided, this act is effective when it becomes law.



HOUSE BILL 806: HOA/Condo Crime & Fidelity Insurance Policies.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 26, 2019
Introduced by:	Reps. Saine, Strickland	Prepared by:	Jeremy Ray*
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 806 would require condominium and homeowners' associations and their management companies to obtain a crime and fidelity insurance policy and require the associations' executive boards to perform annual independent financial audits.*

CURRENT LAW: G.S. 47C-3-113 and G.S. 47F-3-113 regulate property and liability insurance coverage requirements for condominium and homeowners' associations. G.S. 47C-3-118 and G.S. 47F-3-118 require condominium and homeowners' associations to keep financial records and have procedures for auditing each association's books and records.

BILL ANALYSIS: Sections 1 and 5 would make conforming changes.

Sections 2 and 6 would require condominium and homeowners' associations ("associations") with annual assessments for common expenses of at least \$25,000 or with \$25,000 or more of total funds invested or on deposit to obtain and maintain a crime and fidelity insurance policy. The policy would insure the association against losses resulting from theft or dishonesty committed by the officers and members of the executive board, members of association committees, past and present, and persons employed by the associations. It would provide coverage for 125% of the total funds invested or on deposit, plus 125% of the association's annual budget, but would not be required to exceed \$1,000,000.

Any management agent or company hired by an association, who is authorized to disburse funds from accounts belonging to the association, would be required to be covered by a crime and fidelity insurance policy in the amount of the total annual budgets of all clients of the management agent or company, but would not be required to exceed \$2,000,000.

If an association was unable to obtain a policy due to unavailability, it would be required to promptly notify all unit owners.

Sections 3 and 7 would remove the elective audit from an association's recordkeeping procedures. Audits would instead become mandatory annually under Sections 4 and 8.

Sections 4 and 8 would require the executive boards of associations to provide for an annual independent financial audit conducted by a certified public accountant if the association has annual revenues or expenditures or total account balances of \$150,000 or more.

EFFECTIVE DATE: This act becomes effective January 1, 2020. Audit requirements would apply to fiscal years beginning on or after the effective date of this act.

**Kristen Harris, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Amend. 8

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 806

Short Title: HOA/Condo Crime & Fidelity Insurance Policies. (Public)

Sponsors: Representatives Saine and Strickland (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

April 18, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HOMEOWNERS ASSOCIATIONS, CONDOMINIUM ASSOCIATIONS, AND THEIR MANAGEMENT COMPANIES TO ACQUIRE CRIME AND FIDELITY INSURANCE POLICIES TO PROTECT THE ASSOCIATIONS' MEMBERSHIP FROM LOSS DUE TO THE ILLEGAL CONDUCT OF THE ASSOCIATION, THE EXECUTIVE BOARD AND ITS EMPLOYEES, OR A MANAGEMENT COMPANY, AND TO REQUIRE ANNUAL FINANCIAL AUDITS TO BE PERFORMED BY HOMEOWNERS ASSOCIATIONS AND CONDOMINIUM ASSOCIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-1-102 reads as rewritten:

"§ 47C-1-102. Applicability.

(a) This Chapter applies to all condominiums created within this State after October 1, 1986. G.S. 47C-1-105 (Separate Titles and Taxation), 47C-1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 47C-1-107 (Eminent Domain), 47C-2-103 (Construction and Validity of Declaration and Bylaws), 47C-2-104 (Description of Units), 47C-2-121 (Merger or Consolidation of Condominiums), 47C-3-102(a)(1) through (6) and (11) through (16)(Powers of Unit Owners' Association), 47C-3-103 (Executive board members and officers), 47C-3-107.1 (Procedures for fines and suspension of condominium privileges or services), 47C-3-108 (Meetings), 47C-3-111 (Tort and Contract Liability), 47C-3-112 (Conveyance or Encumbrance of Common Elements), 47C-3-113.1 (Crime and Fidelity Policy Required), 47C-3-116 (Lien for Assessments), 47C-3-118 (Association Records), 47C-3-121 (American and State flags and political sign displays), and 47C-4-117 (Effect of Violation on Rights of Action; Attorney's Fees), and G.S. 47C-1-103 (Definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this State on or before October 1, 1986, unless the declaration expressly provides to the contrary. Those sections apply only with respect to events and circumstances occurring after October 1, 1986, and do not invalidate existing provisions of the declarations, bylaws, or plats or plans of those condominiums.

...."

SECTION 2. Article 3 of Chapter 47C of the General Statutes is amended by adding a new section to read:

"§ 47C-3-113.1. Crime and fidelity policy required.

(a) Executive Board Coverage. – Any unit owners' association with annual assessments for common expenses of at least twenty-five thousand dollars (\$25,000) or with twenty-five



1 thousand dollars (\$25,000) or more of total funds invested or on deposit shall obtain and
2 maintain, to the extent available, a crime and fidelity insurance policy. The crime and fidelity
3 insurance policy shall insure the unit owners' association against losses resulting from theft or
4 dishonesty committed by the officers and members of the executive board, members of
5 association committees, past and present, and persons employed by the unit owners' association.
6 The crime and fidelity policy shall be written by an insurance company authorized to write a
7 crime and fidelity policy in the State and shall provide coverage in the amount of one hundred
8 twenty-five percent (125%) of the total funds on deposit or invested by the executive board plus
9 one hundred twenty-five percent (125%) of the annual budget of the unit owners' association as
10 of the last day of the association's last fiscal year, but is not required to be greater than one million
11 dollars (\$1,000,000). The executive board shall obtain the crime and fidelity policy on behalf of
12 the unit owners' association.

13 (b) Management Agent or Company Coverage. – Any management agent or company
14 hired by a unit owners' association shall at all times be covered by a crime and fidelity insurance
15 policy. For purposes of this section, a management agent or company is any person who, for
16 compensation or the expectation thereof, performs two or more of the following:

- 17 (1) Acts with the authority of a unit owners' association in its business, legal,
18 financial, or other transactions with association members and nonmembers.
- 19 (2) Executes the resolutions and decisions of the government of a unit owners'
20 association or, with the authority of the association, enforces the rights of the
21 association secured by statute, contract, covenant, rule, or bylaw.
- 22 (3) Collects, disburses, or otherwise exercises dominion or control over money or
23 other property belonging to a unit owners' association.
- 24 (4) Prepares budgets, financial statements, or other financial reports for a unit
25 owners' association.
- 26 (5) Negotiates contracts or otherwise coordinates or arranges for services or the
27 purchase of property and goods for or on behalf of a unit owners' association.
- 28 (6) Offers or solicits to perform any of the acts or services in subdivisions (1)
29 through (5) of this subsection on behalf of a unit owners' association.

30 The crime and fidelity policy shall provide coverage in the amount of the total annual budgets
31 of all clients of the management agent or company, but is not required to be greater than two
32 million dollars (\$2,000,000). The crime and fidelity policy shall be written by an insurance
33 company authorized to write a crime and fidelity policy in this State and shall cover the unit
34 owners' association manager and all of the manager's employees and protect all or a portion of
35 the association funds in the custody of the association manager or association employees acting
36 under the association manager's supervision.

37 (c) Notice of Inability to Comply. – If the insurance policy described in this section is
38 not reasonably or commercially available, the association shall promptly each year cause notice
39 of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners."

40 **SECTION 3.** G.S. 47C-3-118 reads as rewritten:

41 **"§ 47C-3-118. Association records.**

42 (a) The association shall keep financial records sufficiently detailed to enable the
43 association to comply with this chapter. All financial and other records, including records of
44 meetings of the association and executive board, shall be made reasonably available for
45 examination by any unit owner and the unit owner's authorized agents as required by the bylaws
46 and by Chapter 55A of the General Statutes if the association is a nonprofit corporation. If the
47 bylaws do not specify particular records to be maintained, the association shall keep accurate
48 records of all cash receipts and expenditures and all assets and liabilities. In addition to any
49 specific information that is required by the bylaws to be assembled and reported to the unit
50 owners at specified times, the association shall make an annual income and expense statement
51 and balance sheet available to all unit owners at no charge and within 75 days after the close of

the fiscal year to which the information relates. ~~Notwithstanding the bylaws, a more extensive compilation, review, or audit of the association's books and records for the current or immediately preceding fiscal year may be required by a vote of the majority of the executive board or by the affirmative vote of a majority of the unit owners present and voting in person or by proxy at any annual meeting or any special meeting duly called for that purpose.~~

...."

SECTION 4. Article 3 of Chapter 47C of the General Statutes is amended by adding a new section to read:

"§ 47C-3-118.1. Financial audits.

The executive board shall provide for an annual independent financial audit conducted by a certified public accountant licensed pursuant to Chapter 93 of the General Statutes of the unit owners' association if the unit owners' association has annual revenues or expenditures or total account balances of one hundred fifty thousand dollars (\$150,000) or more. The audit shall be completed no later than one year after the end of the fiscal year of the unit owners' association and shall be made available upon request to the unit owners within 30 days after its completion."

SECTION 5. G.S. 47F-1-102 reads as rewritten:

"§ 47F-1-102. Applicability.

...

(c) Notwithstanding the provisions of subsection (a) of this section, G.S. 47F-1-104 (Variation), G.S. 47F-2-103 (Construction and validity of declaration and bylaws), G.S. 47F-2-117 (Amendment of declaration), G.S. 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association), G.S. 47F-3-103(f) (Executive board members and officers), G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-107.1 (Procedures for fines and suspension of planned community privileges or services), G.S. 47F-3-108 (Meetings), G.S. 47F-3-113.1 (Crime and Fidelity Policy Required), G.S. 47F-3-115 (Assessments for common expenses), G.S. 47F-3-116 (Lien for assessments), G.S. 47F-3-118 (Association records), G.S. 47F-3-118.1 (Financial Audits), and G.S. 47F-3-121 (American and State flags and political sign displays), and G.S. 47F-3-104 (Transfer of Special Declarant Rights) apply to all planned communities created in this State before January 1, 1999, unless the articles of incorporation or the declaration expressly provides to the contrary, and G.S. 47F-3-120 (Declaration limits on attorneys' fees) applies to all planned communities created in this State before January 1, 1999. These sections apply only with respect to events and circumstances occurring on or after January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections.

...."

SECTION 6. Article 3 of Chapter 47F of the General Statutes is amended by adding a new section to read:

"§ 47F-3-113.1. Crime and fidelity policy required.

(a) Executive Board Coverage. – Any lot owners' association with annual assessments for common expenses of twenty-five thousand dollars (\$25,000) or with twenty-five thousand dollars (\$25,000) or more of total funds invested or on deposit shall obtain and maintain, to the extent available, a crime and fidelity insurance policy. The crime and fidelity insurance policy shall insure the unit owners' association against losses resulting from theft or dishonesty committed by the officers and members of the executive board, members of association committees, past and present, and persons employed by the lot owners' association. The crime and fidelity policy shall be written by an insurance company authorized to write a crime and fidelity policy in the State and shall provide coverage in the amount of one hundred twenty-five percent (125%) of the total funds on deposit or invested by the executive board plus one hundred twenty-five percent (125%) of the annual budget of the lot owners' association as of the last day

of the association's last fiscal year, but is not required to be greater than one million dollars (\$1,000,000). The executive board shall obtain the crime and fidelity policy on behalf of the lot owners' association.

(b) Management Agent or Company Coverage. – Any management agent or company hired by a lot owners' association shall at all times be covered by a crime and fidelity insurance policy. For purposes of this section, a management agent or company is any person who, for compensation or the expectation thereof, performs two or more of the following:

- (1) Acts with the authority of a lot owners' association in its business, legal, financial, or other transactions with association members and nonmembers.
- (2) Executes the resolutions and decisions of the government of a lot owners' association or, with the authority of the association, enforces the rights of the association secured by statute, contract, covenant, rule, or bylaw.
- (3) Collects, disburses, or otherwise exercises dominion or control over money or other property belonging to a lot owners' association.
- (4) Prepares budgets, financial statements, or other financial reports for a lot owners' association.
- (5) Negotiates contracts or otherwise coordinates or arranges for services or the purchase of property and goods for or on behalf of a lot owners' association.
- (6) Offers or solicits to perform any of the acts or services in subdivisions (1) through (5) of this subsection on behalf of a lot owners' association.

The crime and fidelity policy shall provide coverage in the amount of the total annual budgets of all clients of the management agent or company, but is not required to be greater than two million dollars (\$2,000,000). The crime and fidelity policy shall be written by an insurance company authorized to write a crime and fidelity policy in this State and shall cover the lot owners' association manager and all of the manager's employees and protect all or a portion of the association funds in the custody of the association manager or association employees acting under the association manager's supervision.

(c) Notice of Inability to Comply. – If the insurance policy described in this section is not reasonably or commercially available, the association shall promptly each year cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all lot owners."

SECTION 7. G.S. 47F-3-118 reads as rewritten:

"§ 47F-3-118. Association records.

(a) The association shall keep financial records sufficiently detailed to enable the association to comply with this Chapter. All financial and other records, including records of meetings of the association and executive board, shall be made reasonably available for examination by any lot owner and the lot owner's authorized agents as required in the bylaws and Chapter 55A of the General Statutes. If the bylaws do not specify particular records to be maintained, the association shall keep accurate records of all cash receipts and expenditures and all assets and liabilities. In addition to any specific information that is required by the bylaws to be assembled and reported to the lot owners at specified times, the association shall make an annual income and expense statement and balance sheet available to all lot owners at no charge and within 75 days after the close of the fiscal year to which the information relates. ~~Notwithstanding the bylaws, a more extensive compilation, review, or audit of the association's books and records for the current or immediately preceding fiscal year may be required by a vote of the majority of the executive board or by the affirmative vote of a majority of the lot owners present and voting in person or by proxy at any annual meeting or any special meeting duly called for that purpose.~~

...."

SECTION 8. Article 3 of Chapter 47F of the General Statutes is amended by adding a new section to read:

"§ 47F-3-118.1. Financial audits.

1 The executive board shall provide for an annual independent financial audit conducted by a
2 certified public accountant licensed pursuant to Chapter 93 of the General Statutes of the
3 association if the owners' association has annual revenues or expenditures or total account
4 balances of one hundred fifty thousand dollars (\$150,000) or more. The audit shall be completed
5 no later than one year after the end of the fiscal year of the association and shall be made available
6 upon request to the lot owners within 30 days after its completion."

7 **SECTION 9.** This act becomes effective January 1, 2020. The audit requirements in
8 Section 6 and Section 8 apply to fiscal years beginning on or after the effective date of this act.

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 220

Insurance Technical Changes.-AB

Draft Number: H220-PCS30427-TUf-9

Serial Referral: **FINANCE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: Setzer

TOTAL REPORTED: 1



* C M R 3 3 3 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair**

FAVORABLE AND RE-REFERRED

HB 806

HOA/Condo Crime & Fidelity Insurance Policies.

Draft Number: None

Serial Referral: **RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: Saine

TOTAL REPORTED: 1



* C M R 3 3 1 - V - 1 *

House Committee on Insurance
Thursday, May 2, 2019 at 10:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Insurance met at 10:00 AM on May 2, 2019 in Room 1228/1327 of the Legislative Building. Representatives Bumgardner, Corbin, Setzer, Lucas, Beasley, Cleveland, Floyd, Garrison, Gill, Goodwin, Graham, Hall, Henson, Holly, Howard, Humphrey, Iler, Lewis, Montgomery, Murphy, Pierce, Potts, Sasser, Willingham, and Bell attended.

Representative Mitchell S. Setzer, Chair, called the meeting to order thanking the Pages and the Sergeant At Arms for their assistance with the Committee. He welcomed the visitors. (Attachments 1-8)

The following bills were considered:

HB 755 Travel Insurance Amendments. (Representatives Corbin, Hardister, Hunter)

Representative Corbin explained the bill. Representative Lucas was recognized and moved that HB 755 receive a favorable report to the PCS, unfavorable to the original bill with referral to Rules. The motion carried. (Attachments 9-12)

HB 562 Health Care Reimbursement Contracts/AOBs. (Representatives Torbett, Conrad, Grange, Black)

Representative K. Hall was recognized to present an amendment to HB 562. The amendment was passed with a voice vote. Representative Torbett explained the bill. Representative Murphy was recognized and moved HB 562 receive a favorable report with the amendment. Chairman Setzer called for a show of hands. The bill failed 12-9. (Attachments 13-15)

HB 534 NC Pharmacy Benefits Manager Licensure Act. (Representatives Sasser, Murphy, Lewis, Bell)

Representative Sasser explained the bill. The bill was discussed and remains in Insurance Committee. (Attachment 16-18)

The meeting adjourned at 10:50 AM.


Representative Mitchell S. Setzer, Chair
Presiding


Margaret Herring, Committee Clerk

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis Representative Bell

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:08 PM on Monday, April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2019-2020 SESSION

You are hereby notified that the **House Committee on Insurance** will **NOT** meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter Representative Torbett Representative Conrad Representative Grange Representative Black Representative Sasser Representative Murphy Representative Lewis Representative Bell
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	

Respectfully,

Representative Dana Bumgardner, Co-Chair
 Representative Kevin Corbin, Co-Chair
 Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:33 PM on Monday, April 29, 2019.

____ Principal Clerk
 ____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 8:30 AM
LOCATION: 544 LOB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
<u>HB 534</u>	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis Representative Bell

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:37 PM on Monday, April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Margaret Herring (Committee Assistant)

Margaret Herring (Rep. Mitchell Setzer)

From: Cindy Hobbs (Rep. Kevin Corbin)
nt: Wednesday, May 01, 2019 12:36 PM
Rep. Jon Hardister; Rep. Howard Hunter III; Rep. Kevin Corbin; Rep. John Torbett; Rep. Debra Conrad; Rep. Holly Grange; Rep. MaryAnn Black; Rep. David Lewis; Rep. John Bell; Rep. Gregory Murphy; Rep. Wayne Sasser

Cc: Jayne Nelson (Rep. Jon Hardister); Brenda Bennett (Rep. Howard Hunter III); Cindy Hobbs (Rep. Kevin Corbin); Viddia Torbett (Rep. John Torbett); Ginny Taylor (Rep. Debra Conrad); Joanna Almquist (Rep. Holly G. Grange); Mimi Wilson (Rep. MaryAnn Black); Grace Rogers (Rep. David Lewis); Chandra C. Reed (Rep. David Lewis); Susan West Horne (Rep. John Bell); Anne Harvey Smith (Rep. Gregory Murphy); Anita Spence (Rep. Wayne Sasser)

Subject: <NCGA> House Insurance Committee Meeting Notice for Thursday, May 02, 2019 at 10:00 AM - UPDATED #1

Attachments: Add Meeting to Calendar_LINC_.ics

Follow Up Flag: Follow up
Flag Status: Flagged

Updated #1: Location and time change

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

You are hereby notified that the **House Committee on Insurance** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: 10:00 AM
LOCATION: 1228/1327 LB
COMMENTS: Chairman Mitchell S. Setzer presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 755</u>	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
<u>HB 562</u>	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black

Representative Sasser
Representative Murphy
Representative Lewis
Representative Bell

Respectfully,

Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:35 PM on
Wednesday, May 01, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Cindy Hobbs (Committee Assistant)

**House Committee on Insurance
Thursday, May 2, 2019, 10:00 AM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 755	Travel Insurance Amendments.	Representative Corbin Representative Hardister Representative Hunter
HB 562	Health Care Reimbursement Contracts/AOBs.	Representative Torbett Representative Conrad Representative Grange Representative Black
HB 534	NC Pharmacy Benefits Manager Licensure Act.	Representative Sasser Representative Murphy Representative Lewis Representative Bell

Presentations

Chairman Mitchell S. Setzer presiding.

Other Business

Adjournment

**House Pages
Assignments
Wednesday, May 01, 2019
Session: 8:30 AM**

Committee	Room	Time	Staff	Comments	Member
Pensions and Retirement	415	9:00 AM	Isabelle Lam		Rep. Debra Conrad
Energy/Public Utilities	1228/1327	9:00 AM	Jacob Dillman		Rep. Cecil Brockman
Insurance	1228/1327	10:00 AM	Rowan Marquez		Speaker Tim Moore
			Colin Vess		Rep. Jon Hardister
State and Local Government I	422	10:00 AM	Ethan Brooks		Speaker Tim Moore
			Bronwyn McVeigh		Rep. James L. Boles, Jr.
Regulatory Reform	1228/1327	11:00 AM	Jesse Ellis		Speaker Tim Moore
			Mya Hernandez		Speaker Tim Moore
Wildlife Resources	425	11:00 AM	Gerald Blohm		Rep. John Fraley

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Insurance

DATE: 5-2-19 Room: 1228/1327

House Sgt-At Arms:

1. Name: Reggie Sills
2. Name: Marvin Lee
- Name: John Gilbert
4. Name: David Linthicum
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
- Name: _____

VISITOR REGISTRATION SHEET

INSURANCE

May 2, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Debra Dew	Ad Chamber
Heather Kazmark	Coalition of State Rheumatology Organizations
Amy Prentice	Nat'l Psoriasis Foundation
Melissa B. Murphy	Pfizer
Allison Grannis	Pfizer
Kirby Consier	Novartis
Harold Bayhak	Bayer
DAVID POWERS	POWERS STRATEGIES LLC
Montez	NMRS
Scott Latta	KGANC
Ed Shup	BP

VISITOR REGISTRATION SHEET

INSURANCE

May 2, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Gregg Thompson	NFIB
Tony Adams	Adams and Assoc.
Louie Harris	LATA
Mary Black	PRIME THERAPEUTICS
Chris Evans	C
Aid/Man	MVA
Jason Seger	NC C
Mark Fleming	BCBSNC
Kym	BCBSNC
Michael Fark	NCCH
LL Perry	CSS
Rick Zuchini	Williams Mather
Chip Biggs	WMS

VISITOR REGISTRATION SHEET

INSURANCE

May 2, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Randolph S. Plouffe	R. S. Plouffe & Associates
Lindsey Dowling	TSS
Duke de Haas	Allianz
Chris Wall	PLG
Justin Clanton	UHE
LAURA PURYEAR	MWC
John Harzli	MTB
Mike McBryde	BioGen
Chris McQuinn	BMS
Joyce Peters	CSS
Christine Craig	Wakefield

VISITOR REGISTRATION SHEET

INSURANCE

May 2, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mike Hager	HSS
Mark [unclear]	NCAP
[unclear]	NCAP
Mike [unclear]	ARP
George Robinson	KIC DOI
Will Morgan	MFS
CURT LADIG	DELTA DENTAL
Raven [unclear]	HCA/Healthcare - Mass
Sharon [unclear]	PhRNA
Thomas [unclear]	PhRNA
Elise Wingate	PhRNA

VISITOR REGISTRATION SHEET

INSURANCE

Name of Committee

May 2, 2019

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Sarah Bates

Bambalux + Ass

Jonathan Bombaker

Bombardier Ass

Resha Fortson

SEANL

Kary Kiger

NR 2024

Andy Elter

NCRMA

[Signature]

544

VISITOR REGISTRATION SHEET

INSURANCE

May 2, 2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Chris Hoover

MS Society

Colleen Kacharek

KLG

Carey Fair, MD

MS Society, Duke Health

Hattie Gawande

DHHS

David Lustig

Celgene Corp.

Cody Harris

NCHH

John Metcalf

Policy Group

Dore Sup

SA

Kara Weisman

SA

Gate Apostola

Vista

Amanda Donnen

ILTS

Committee Bill Action Sheet

Committee: Insurance Date: 5/2

Chair: _____

Bill #: 534

Finance

PCS: YES/NO _____ Motion made PCS before the Committee _____

Amendments: _____

Serial referral to: _____

*Committee
Discussion*

Representative/Senator Sasser explained the bill.

Floor Manager: _____

Rep. _____ motioned for:

*meeting
adjourned
ran out of
time*

____ Favorable Report

____ Favorable to PCS, unfavorable to original bill

____ Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____ Adoption (Conference Report/House Resolution)

____ Unfavorable Report (recommend not be passed) (Minority report YES/NO)

____ No vote or Bill sponsor pulled bill from consideration

____ Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers _____

Attached Handouts: YES/NO



HOUSE BILL 755: Travel Insurance Amendments.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 2, 2019
Introduced by:	Reps. Corbin, Hardister, Hunter	Prepared by:	Kristen L. Harris
Analysis of:	PCS to First Edition H755-CSTUF-11		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 755 would incorporate language from the National Association of Insurance Commissioners' (NAIC) Travel Insurance Model Act into North Carolina's insurance laws.*

CURRENT LAW AND BACKGROUND: In 2013, through the passage of S.L. 2013-285, the Department of Insurance began regulating the travel insurance industry. Currently, limited lines travel insurance producers can sell travel insurance through a licensed insurer. Travel insurance covers: 1) personal risks incident to planned travel including interruption or cancellation of a trip or event, 2) loss of baggage or personal effects, 3) damages to accommodations or rental vehicles, 4) and sickness, accident, disability, or death occurring during travel.

In December 2018, the NAIC adopted its Travel Insurance Model Act.

BILL ANALYSIS:

Section 1 would incorporate language from the NAIC Model language into North Carolina's existing travel insurance statute G.S. 58-33-19 as follows:

- Add a "travel administrator" to the list of persons authorized to act as a limited lines travel insurance producer.
- Add the following to the definition of travel insurance coverage: 1) emergency evacuation, 2) repatriation of remains, and 3) any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner (COI).
- Authorize any licensed insurance producer, including a property and casualty insurance producer, to sell, solicit, and negotiate travel insurance.

Section 2 would incorporate NAIC language and create a new Article in Chapter 58 of the General Statutes regulating travel insurance. The Article would do the following:

- Define relevant terms in the travel insurance industry including groups eligible to be covered, types of coverage (individual, group, and blanket), fulfillment materials, travel administrator, travel assistance services, and travel protection plans.
- Affirm the requirement, in G.S. 105-228.5, that a travel insurer must pay a tax based on its gross premiums and clarify that the taxes are paid to the home state of the purchaser.
- Offer travel protection plans under certain conditions.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 755

Page 2

- Regulate the sale and marketing of travel insurance by:
 - Making travel insurers subject to Article 63 (Unfair Trade Practices) of Chapter 58.
 - Requiring marketing materials to be consistent with the travel insurance policy.
 - Providing pre-existing condition exclusions prior to the time of purchase.
 - Prohibiting the use of negative option or opt out when selling, offering, or soliciting travel insurance or travel protection plans.
- Regulate travel administrators by requiring them to be licensed as a property and casualty insurance producer, a managing general agent, and a third-party administrator.
- Allow travel insurance to be provided in the form of an individual, group, or blanket policy.

EFFECTIVE DATE: This act becomes effective January 1, 2020.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

D

**HOUSE BILL 755
PROPOSED COMMITTEE SUBSTITUTE H755-CSTUF-11 [v.7]**

05/01/2019 04:18:46 PM

Short Title: Travel Insurance Amendments.

(Public)

Sponsors:

Referred to:

April 16, 2019

A BILL TO BE ENTITLED
AN ACT TO CREATE A COMPREHENSIVE FRAMEWORK FOR THE SALE OF TRAVEL
INSURANCE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-19 reads as rewritten:**"§ 58-33-19. Limited lines travel insurance.**(a) As used in this ~~Article, section,~~ the following definitions apply:

(1) Limited lines travel insurance producer. – Any of the following:

- a. A licensed managing general underwriter.
- b. A licensed managing general agent or third-party administrator.
- c. A licensed insurance producer as defined by G.S. 58-33-10(7), including:
 1. A limited lines producer designated by an insurer as the travel insurance supervising entity, as set forth in subsection (h) of this section.
 2. A limited lines producer appointed by an insurer, as set forth in G.S. 58-33-40, who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in Chapter 42A of the General Statutes.

d. A travel administrator, as defined in G.S. 58-44B-2.

(2) Offer and disseminate. – Providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other activities that do not require a license and are permitted by the Department.

(3) Travel insurance. – Insurance coverage for the personal risks incident to planned travel that ~~includes, but is not limited to, the coverages listed in subdivisions a. through d. of this subdivision. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including deployed military personnel or those U.S. citizens working overseas as expatriates.~~ [Travel insurance includes:] may include any of the following:

- a. Interruption or cancellation of a trip or event.
- b. Loss of baggage or personal effects.
- c. Damages to accommodations or rental vehicles.
- d. Sickness, accident, disability, or death occurring during travel.



- 1 e. Emergency evacuation.
2 f. Repatriation of remains.
3 g. Any other contractual obligations to indemnify or pay a specified
4 amount to the traveler upon determinable contingencies related to
5 travel as approved by the Commissioner.

6 Travel insurance does not include major medical plans that provide
7 comprehensive medical protection for travelers with trips lasting longer than
8 six months, including, for example, those working or residing overseas as an
9 expatriate, or any other product that requires another specific insurance
10 producer license.

- 11 (4) Travel retailer. – A business entity that makes, arranges, or offers ~~travel~~
12 ~~services-planned travel~~ and may offer and disseminate travel insurance as a
13 service to its customers on behalf of and under the direction of a limited lines
14 travel insurance producer.

15 (b) An individual or business entity may apply for a limited lines travel insurance
16 producer license by filing with the Department an application in a form and manner prescribed
17 by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer
18 to sell, solicit, or negotiate travel insurance through a licensed insurer.

19 (c) A travel retailer may offer and disseminate travel insurance under a limited lines
20 travel insurance producer business entity license only if the following conditions are met:

- 21 (1) The limited lines producer or travel retailer provides all of the following to
22 purchasers of travel insurance:

- 23 a. A description of the material terms or the actual material terms of the
24 insurance coverage.
25 b. A description of the process for filing a claim.
26 c. A description of the review or cancellation process for the travel
27 insurance policy.
28 d. The identity and contact information of the insurer and limited lines
29 travel insurance producer.

- 30 (2) At the time of licensure, the limited lines travel insurance producer shall
31 establish and maintain a register on a form prescribed by the Commissioner
32 of each travel retailer that offers travel insurance on the limited lines travel
33 insurance producer's behalf. The register shall be maintained and updated
34 annually by the limited lines travel insurance producer and shall include the
35 name, address, and contact information of the travel retailer and an officer or
36 person who directs or controls the travel retailer's operations, and the travel
37 retailer's federal Tax Identification Number. The limited lines travel insurance
38 producer shall submit the register to the Department upon request. The limited
39 lines producer shall also certify that the travel ~~retailer register complies~~
40 retailer's register complies with 18 U.S.C. § 1033. The grounds for the
41 suspension, revocation, and the penalties applicable to resident insurance
42 producers shall be applicable to the limited lines travel insurance producers
43 and travel retailers.

- 44 (3) The limited lines travel insurance producer has designated one of its
45 employees who is a licensed individual producer as the person responsible for
46 the limited lines travel insurance producer's compliance with this Chapter and
47 administrative rules adopted by the Commissioner.

- 48 (4) The person designated in subdivision (3) of this subsection and the president,
49 secretary, treasurer, and any other officer or person who directs or controls the
50 limited lines travel insurance producer's insurance operations comply with the

- 1 fingerprinting requirements applicable to insurance producers in the resident
2 state of the limited lines travel insurance producer.
- 3 (5) The limited lines travel insurance producer has paid all applicable insurance
4 producer licensing fees as set forth in applicable State law.
- 5 (6) The limited lines travel insurance producer requires each employee and
6 authorized representative of the travel retailer whose duties include offering
7 and disseminating travel insurance to receive a program of instruction or
8 training, which may be subject to review by the Commissioner. The training
9 material shall, at a minimum, contain instructions on the types of insurance
10 offered, ethical sales practices, and required disclosures to prospective
11 customers.
- 12 (7) Limited lines travel insurance producers, and those registered under its
13 license, are exempt from the examination and continuing education
14 requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.
- 15 (d) Any travel retailer offering or disseminating travel insurance shall make available to
16 prospective purchasers brochures or other written materials that have been approved by the travel
17 insurer and include all of the following:
- 18 (1) The identity and contact information of the insurer and the limited lines travel
19 insurance producer.
- 20 (2) An explanation that the purchase of travel insurance is not required in order
21 to purchase any other product or service from the travel retailer.
- 22 (3) A disclaimer that an unlicensed travel retailer is permitted to provide general
23 information about the insurance offered by the travel retailer, including a
24 description of the coverage and price, but is not qualified or authorized to
25 answer technical questions about the terms and conditions of the insurance
26 offered by the travel retailer or to evaluate the adequacy of the customer's
27 existing insurance coverage.
- 28 (e) A travel retailer's employee or authorized representative who is not licensed as a
29 limited lines travel insurance producer shall not do any of the following:
- 30 (1) Evaluate or interpret the technical terms, benefits, and conditions of the
31 offered travel insurance coverage.
- 32 (2) Evaluate or provide advice concerning a prospective purchaser's existing
33 insurance coverage.
- 34 (3) Hold himself or herself out as a licensed insurer, licensed producer, or
35 insurance expert.
- 36 (f) ~~A Notwithstanding any other provision in law, a~~ travel retailer, whose insurance
37 related activities and the activities of its employees and authorized representatives are limited to
38 offering ~~or and~~ disseminating travel insurance on behalf of and under the direction of a limited
39 lines travel insurance producer meeting the conditions stated in this section, is authorized to do
40 so and receive related compensation upon compliance with subdivision (c)(2) of this section by
41 the limited lines travel insurance producer.
- 42 (g) Travel insurance may be provided under in the form of an individual policy
43 individual, group, or under a group or master blanket policy.
- 44 (h) As the travel insurance supervising entity, the limited lines travel insurance producer
45 is responsible for the acts of the travel retailer and shall use reasonable means to ensure
46 compliance by the travel retailer with this section.
- 47 (i) The limited lines travel insurance producer and any travel retailer offering or
48 disseminating travel insurance under the limited lines travel insurance producer license shall be
49 subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the
50 Commissioner granted by Article 2 of this Chapter.

(j) Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance."

SECTION 2. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 44B.

"Travel Insurance.

"§ 58-44B-1. Scope and purpose.

(a) The purpose of this Article is to create a comprehensive legal framework within which travel insurance may be sold in this State.

(b) The requirements of this Article shall apply to travel insurance which covers any resident of this State and is sold, solicited, negotiated, or offered in this State and where policies and certificates are delivered or issued for delivery in this State. It shall not apply to cancellation fee waivers and travel assistance services, except as expressly provided herein.

(c) All other applicable provisions of this Chapter shall continue to apply to travel insurance except that (i) the specific provisions of this Article shall supersede any general provisions of law that would otherwise be applicable to travel insurance and (ii) in the event of a conflict between this Article and other provisions of this Chapter regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this Article shall control.

"58-44B-2. Definitions.

As used in this Article, in addition to the definitions in G.S. 58-33-19, the following definitions apply:

(1) Aggregator site. – A Web site that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) Blanket travel insurance. – A policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

(3) Cancellation fee waiver. – A contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) Eligible group. – Solely for the purposes of travel insurance, two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including any of the following:

a. Any entity engaged in the business of providing travel or travel services, including tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers or the operator, owner, or lessor of a means of transportation of passengers, including airlines, cruise lines, railroads, steamship companies, and public bus carriers, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel.

b. Any college, school, or other institution of learning covering students, teachers, or employees or volunteers.

- 1 c. Any employer covering any group of employees, volunteers,
2 contractors, board of directors, dependents, or guests.
- 3 d. Any sports team, camp, or sponsor thereof covering participants,
4 members, campers, employees, officials, supervisors, or volunteers.
- 5 e. Any religious, charitable, recreational, educational, or civic
6 organization or branch thereof covering any group of members,
7 participants, or volunteers.
- 8 f. Any financial institution or financial institution vendor, or parent
9 holding company, trustee, or agent of or designated by one or more
10 financial institutions or financial institution vendors, including
11 acountholders, credit card holders, debtors, guarantors, or purchasers.
- 12 g. Any incorporated or unincorporated association, including labor
13 unions, having a common interest, constitution, and bylaws, and
14 organized and maintained in good faith for purposes other than
15 obtaining insurance for members or participants of such association
16 covering its members.
- 17 h. Any trust or the trustees of a fund established, created or maintained
18 for the benefit of and covering members, employees, or customers,
19 subject to the Commissioner's permitting the use of a trust and the
20 State's premium tax provisions in G.S. 58-44B-3 of one or more
21 associations meeting the above requirements of sub-subdivision g. of
22 this subdivision.
- 23 i. Any entertainment production company covering any group of
24 participants, volunteers, audience members, contestants, or workers.
- 25 j. Any volunteer fire department, ambulance, rescue, police, court, or
26 any first aid, civil defense, or other such volunteer group.
- 27 k. Preschools, daycare institutions for children or adults, and senior
28 citizen clubs.
- 29 l. Any automobile or truck rental or leasing company covering a group
30 of individuals who may become renters, lessees, or passengers defined
31 by their travel status on the rented or leased vehicles. The common
32 carrier, the operator, owner, or lessor of a means of transportation, or
33 the automobile or truck rental or leasing company, is the policyholder
34 under a policy to which this section applies.
- 35 m. Any other group where the Commissioner has determined that the
36 members are engaged in a common enterprise, or have an economic,
37 educational, or social affinity or relationship, and that issuance of the
38 policy would not be contrary to the public interest.
- 39 (5) Fulfillment materials. – Documentation sent to the purchaser of a travel
40 protection plan confirming the purchase and providing the travel protection
41 plan's coverage and assistance details.
- 42 (6) Group travel insurance. – Travel insurance issued to any eligible group.
- 43 (7) Primary certificate holder. – Specific to G.S. 58-44B-3, an individual person
44 who elects and purchases travel insurance under a group policy.
- 45 (8) Primary policyholder. – Specific to G.S. 58-44B-3, an individual person who
46 elects and purchases individual travel insurance.
- 47 (9) Travel administrator. – A person who directly or indirectly underwrites,
48 collects, or charges collateral, or premiums from, or adjusts or settles claims
49 on residents of this State, in connection with travel insurance, except that a
50 person shall not be considered a travel administrator if that person's only

actions that would otherwise cause it to be considered a travel administrator are among the following:

- a. A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator.
- b. An insurance producer selling insurance or engaged in administrative and claims related activities within the scope of the producer's license.
- c. A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this Article.
- d. An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage.
- e. A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

(10) Travel assistance services. – Non-insurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. Travel assistance services may include security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance.

(11) Travel insurer. – An insurer as defined in G.S. 58-1-5 engaging in the business of travel insurance.

(12) Travel protection plans. – Plans that provide one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

(13) Travel retailer. – As defined in G.S. 58-33-19.

"§58-44B-3. Premium tax.

(a) A travel insurer shall pay premium tax, as provided in G.S. 105-228.5, on travel insurance premiums paid by any of the following:

- (1) An individual primary policyholder who is a resident of this State.
- (2) A primary certificate holder who is a resident of this State who elects coverage under a group travel insurance policy.
- (3) A blanket travel insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in, this State for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) A travel insurer shall do all of the following:

- (1) Document the state of residence or principal place of business of the policyholder or certificate holder, as required in subsection (a).

- (2) Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

"§58-44B-4. Travel protection plans.

Travel protection plans may be offered for one price for the combined permitted features as defined in G.S. 58-44B-2 if the plan meets all of the following requirements:

- (1) The travel protection plan clearly discloses to the consumer at or prior to the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers as applicable, and provides information and an opportunity at or prior to the time of purchase for the consumer to obtain additional information regarding the features and pricing of each.
- (2) The fulfillment materials:
- a. Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan.
- b. Include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

"§58-44B-5. Sales practices.

(a) All persons offering travel insurance to residents of this State are subject to Article 63 of this Chapter, except as otherwise provided in this section.

(b) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under Article 63 of this Chapter.

(c) The following requirements apply to the marketing of travel insurance:

- (1) All documents, sales materials, advertising materials, and marketing materials provided to consumers prior to the purchase of travel insurance shall be consistent with the travel insurance policy itself including forms, endorsements, policies, rate filings, and certificates of insurance.
- (2) For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase and in the coverage's fulfillment materials.
- (3) The fulfillment materials and the information described in G.S. 58-33-19(c)(1) shall be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least the earlier of the following:
- a. Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail.
- b. Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.
- For the purposes of this subdivision, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.
- (4) The company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.
- (5) Where travel insurance is marketed directly to a consumer through an insurer's Web site or by others through an aggregator site, it shall not be an unfair trade

practice or other violation of law to provide an accurate summary or short description of coverage on the Web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(d) No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage such as unchecking a box on an electronic form when the consumer purchases a trip.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package.

(2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

"§ 58-44B-6. Travel administrators.

(a) Notwithstanding any other provisions of this Chapter, no person shall act or represent him or herself as a travel administrator for travel insurance in this State unless that person:

(1) Is a licensed property and casualty insurance producer in this State for activities permitted under that producer license.

(2) Holds a valid managing general agent license in this State.

(3) Holds a valid third-party administrator license in this State.

(b) A travel administrator and his or her employees are exempt from the licensing requirements of G.S. 58-33-19 for travel insurance he or she administers.

(c) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the Commissioner upon request.

"§ 58-44B-7. Policy.

(a) Notwithstanding any other provision of this Chapter, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance, provided, however, that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation, repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be filed by an authorized insurer under either an accident and health line of insurance or an inland marine line of insurance.

(b) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet the State's underwriting standards for inland marine.

(c) Travel insurance may be provided in the form of an individual, group, or blanket policy.

"§ 58-44B-8. Rule-making authority.

The Commissioner may issue rules to implement the provisions of this Article."

SECTION 3. This act becomes effective January 1, 2020.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 755

Short Title: Travel Insurance Amendments.

(Public)

Sponsors: Representatives Corbin, Hardister, and Hunter (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

April 16, 2019

A BILL TO BE ENTITLED

AN ACT TO CREATE A COMPREHENSIVE FRAMEWORK FOR THE SALE OF TRAVEL
INSURANCE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-19 reads as rewritten:

"§ 58-33-19. Limited lines travel insurance.

(a) As used in this ~~Article, section,~~ the following definitions apply:

(1) Limited lines travel insurance producer. – Any of the following:

- a. A licensed managing general underwriter.
- b. A licensed managing general agent or third-party administrator.
- c. A licensed insurance producer as defined by G.S. 58-33-10(7), including:
 1. A limited lines producer designated by an insurer as the travel insurance supervising entity, as set forth in subsection (h) of this section.
 2. A limited lines producer appointed by an insurer, as set forth in G.S. 58-33-40, who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in Chapter 42A of the General Statutes.

d. A travel administrator, as defined in G.S. 58-44B-2.

(2) Offer and disseminate. – Providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other activities that do not require a license and are permitted by the Department.

(3) Travel insurance. – Insurance coverage for the personal risks incident to planned travel that includes, but is not limited to, the ~~coverages listed in subdivisions a. through d. of this subdivision. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including deployed military personnel or those U.S. citizens working overseas as expatriates.~~ [Travel insurance includes:] following coverages:

- a. Interruption or cancellation of trip or event.
- b. Loss of baggage or personal effects.
- c. Damages to accommodations or rental vehicles.



- d. Sickness, accident, disability, or death occurring during travel.
- e. Emergency evacuation.
- f. Repatriation of remains.
- g. Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner.

Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six months, including, for example, those working or residing overseas as an expatriate, or any other product that requires another specific insurance producer license.

- (4)(5) Travel retailer. – A business entity that makes, arranges, or offers ~~travel services-planned travel~~ and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

(b) An individual or business entity may apply for a limited lines travel insurance producer license by filing with the Department an application in a form and manner prescribed by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

(c) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

- (1) The limited lines producer or travel retailer provides all of the following to purchasers of travel insurance:

- a. A description of the material terms or the actual material terms of the insurance coverage.
- b. A description of the process for filing a claim.
- c. A description of the review or cancellation process for the travel insurance policy.
- d. The identity and contact information of the insurer and limited lines travel insurance producer.

- (2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the Commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal Tax Identification Number. The limited lines travel insurance producer shall submit the register to the Department upon request. The limited lines producer shall also certify that the ~~travel retailer register complies~~ retailers registered comply with 18 U.S.C. § 1033. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers shall be applicable to the limited lines travel insurance producers and travel retailers.

- (3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person responsible for the limited lines travel insurance producer's compliance with this Chapter and administrative rules adopted by the Commissioner.

- (4) The person designated in subdivision (3) of this subsection and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the

- 1 fingerprinting requirements applicable to insurance producers in the resident
2 state of the limited lines travel insurance producer.
- 3 (5) The limited lines travel insurance producer has paid all applicable insurance
4 producer licensing fees as set forth in applicable State law.
- 5 (6) The limited lines travel insurance producer requires each employee and
6 authorized representative of the travel retailer whose duties include offering
7 and disseminating travel insurance to receive a program of instruction or
8 training, which may be subject to review by the Commissioner. The training
9 material shall, at a minimum, contain instructions on the types of insurance
10 offered, ethical sales practices, and required disclosures to prospective
11 customers.
- 12 (7) Limited lines travel insurance producers, and those registered under its
13 license, are exempt from the examination and continuing education
14 requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.
- 15 (d) Any travel retailer offering or disseminating travel insurance shall make available to
16 prospective purchasers brochures or other written materials that have been approved by the travel
17 insurer and include all of the following:
- 18 (1) The identity and contact information of the insurer and the limited lines travel
19 insurance producer.
- 20 (2) An explanation that the purchase of travel insurance is not required in order
21 to purchase any other product or service from the travel retailer.
- 22 (3) A disclaimer that an unlicensed travel retailer is permitted to provide general
23 information about the insurance offered by the travel retailer, including a
24 description of the coverage and price, but is not qualified or authorized to
25 answer technical questions about the terms and conditions of the insurance
26 offered by the travel retailer or to evaluate the adequacy of the customer's
27 existing insurance coverage.
- 28 (e) A travel retailer's employee or authorized representative who is not licensed as a
29 limited lines travel insurance producer shall not do any of the following:
- 30 (1) Evaluate or interpret the technical terms, benefits, and conditions of the
31 offered travel insurance coverage.
- 32 (2) Evaluate or provide advice concerning a prospective purchaser's existing
33 insurance coverage.
- 34 (3) Hold himself or herself out as a licensed insurer, licensed producer, or
35 insurance expert.
- 36 (f) ~~A Notwithstanding any other provision in law, a~~ travel retailer, whose insurance
37 related activities and the activities of its employees and authorized representatives are limited to
38 offering ~~or and~~ disseminating travel insurance on behalf of and under the direction of a limited
39 lines travel insurance producer meeting the conditions stated in this section, is authorized to do
40 so and receive related compensation upon compliance with subdivision (c)(2) of this section by
41 the limited lines travel insurance producer.
- 42 (g) Travel insurance may be provided ~~under in the form of an individual policy~~
43 individual, group, or under a group or master blanket policy.
- 44 (h) As the travel insurance supervising entity, the limited lines travel insurance producer
45 is responsible for the acts of the travel retailer and shall use reasonable means to ensure
46 compliance by the travel retailer with this section.
- 47 (i) The limited lines travel insurance producer and any travel retailer offering or
48 disseminating travel insurance under the limited lines travel insurance producer license shall be
49 subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the
50 Commissioner granted by Article 2 of this Chapter.

(j) Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance."

SECTION 2. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 44B.

"Travel Insurance.

"§ 58-44B-1. Scope and purpose.

(a) The purpose of this Article is to create a comprehensive legal framework within which travel insurance may be sold in this State.

(b) The requirements of this Article shall apply to travel insurance which covers any resident of this State sold, solicited, negotiated, or offered in this State and where policies and certificates are delivered or issued for delivery in this State. It shall not apply to cancellation fee waivers and travel assistance services, except as expressly provided herein.

(c) All other applicable provisions of this Chapter shall continue to apply to travel insurance except that (i) the specific provisions of this Article shall supersede any general provisions of law that would otherwise be applicable to travel insurance and (ii) in the event of a conflict between this Article and other provisions of this Chapter regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this Article shall control.

"58-44B-2. Definitions.

As used in this Article, in addition to the definitions in G.S. 58-33-19, the following definitions apply:

(1) Aggregator site. – A Web site that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) Blanket travel insurance. – A policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

(3) Cancellation fee waiver. – A contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) Eligible group. – Solely for the purposes of travel insurance, two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including, but not limited to, any of the following:

a. Any entity engaged in the business of providing travel or travel services, including, but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers or the operator, owner, or lessor of a means of transportation of passengers, including, but not limited to, airlines, cruise lines, railroads, steamship companies, and public bus carriers, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel.

b. Any college, school, or other institution of learning covering students, teachers, or employees or volunteers.

- c. Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests.
- d. Any sports team, camp, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers.
- e. Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers.
- f. Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers.
- g. Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members.
- h. Any trust or the trustees of a fund established, created or maintained for the benefit of and covering members, employees, or customers, subject to the Commissioner's permitting the use of a trust and the State's premium tax provisions in G.S. 58-44B-3 of one or more associations meeting the above requirements of sub-subdivision g. of this subdivision.
- i. Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers.
- j. Any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group.
- k. Preschools, daycare institutions for children or adults, and senior citizen clubs.
- l. Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies.
- m. Any other group where the Commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.
- (5) Fulfillment materials. – Documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.
- (6) Group travel insurance. – Travel insurance issued to any eligible group.
- (7) Primary certificate holder. – Specific to G.S. 58-44B-3, an individual person who elects and purchases travel insurance under a group policy.
- (8) Primary policyholder. – Specific to G.S. 58-44B-3, an individual person who elects and purchases individual travel insurance.
- (9) Travel administrator. – A person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this State, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person's only actions that

would otherwise cause it to be considered a travel administrator are among the following:

- a. A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator.
- b. An insurance producer selling insurance or engaged in administrative and claims related activities within the scope of the producer's license.
- c. A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this Article.
- d. An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage.
- e. A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

(10) Travel assistance services. – Non-insurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to, security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance.

(11) Travel protection plans. – Plans that provide one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

"§58-44B-3. Premium tax.

(a) A travel insurer shall pay premium tax, as provided in G.S. 105-228.5, on travel insurance premiums paid by any of the following:

- (1) An individual primary policyholder who is a resident of this State.
- (2) A primary certificate holder who is a resident of this State who elects coverage under a group travel insurance policy.
- (3) A blanket travel insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in, this State for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) A travel insurer shall do all of the following:

- (1) Document the state of residence or principal place of business of the policyholder or certificate holder, as required in subsection (a).
- (2) Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

"§58-44B-4. Travel protection plans.

Travel protection plans may be offered for one price for the combined permitted features as defined in G.S. 58-44B-2 if the plan meets all of the following requirements:

- (1) The travel protection plan clearly discloses to the consumer at or prior to the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers as applicable, and provides information and an opportunity at or prior to the time of purchase for the consumer to obtain additional information regarding the features and pricing of each.
- (2) The fulfillment materials:
 - a. Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan.
 - b. Include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

"§58-44B-5. Sales practices.

(a) All persons offering travel insurance to residents of this State are subject to Article 63 of this Chapter, except as otherwise provided in this section.

(b) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under Article 63 of this Chapter.

(c) The following requirements apply to the marketing of travel insurance:

- (1) All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.
- (2) For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase and in the coverage's fulfillment materials.
- (3) The fulfillment materials and the information described in G.S. 58-33-19(c)(1) shall be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least the earlier of the following:
 - a. Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail.
 - b. Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

For the purposes of this subdivision, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

- (4) The company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.
- (5) Where travel insurance is marketed directly to a consumer through an insurer's Web site or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law to provide an accurate summary or short

description of coverage on the Web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(d) No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage such as unchecking a box on an electronic form when the consumer purchases a trip.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package.

(2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

"§ 58-44B-6. Travel administrators.

(a) Notwithstanding any other provisions of this Chapter, no person shall act or represent itself as a travel administrator for travel insurance in this State unless that person:

(1) Is a licensed property and casualty insurance producer in this State for activities permitted under that producer license.

(2) Holds a valid managing general agent license in this State.

(3) Holds a valid third-party administrator license in this State.

(b) A travel administrator and its employees are exempt from the licensing requirements of G.S. 58-33-70 for travel insurance it administers.

(c) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the Commissioner upon request.

"§ 58-44B-7. Policy.

(a) Notwithstanding any other provision of this Chapter, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance, provided, however, that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation, repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be filed by an authorized insurer under either an accident and health line of insurance or an inland marine line of insurance.

(b) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet the State's underwriting standards for inland marine.

"§ 58-44B-8. Rule-making authority.

The Commissioner may issue rules to implement the provisions of this Article."

SECTION 3. This act becomes effective January 1, 2020.

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 755

Travel Insurance Amendments.

Draft Number: H755-PCS30444-TUf-11

Serial Referral: **RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: Corbin

TOTAL REPORTED: 1



* C M R 4 1 4 - V - 1 *



HOUSE BILL 562: Health Care Reimbursement Contracts/AOBs.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 5, 2019
Introduced by:	Reps. Torbett, Conrad, Grange, Black	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Staff

OVERVIEW: *House Bill 562 would require insurers to issue payments directly to health care providers if there is a reimbursement contract between the provider and insurer or if an insured with a reimbursement benefit contract executes a valid assignment of benefits.*

CURRENT LAW: G.S. 58-3-225 requires insurers to promptly pay benefits owed for claims under a health benefits plan. There is nothing in that section that requires benefits owed under a reimbursement contract to be paid directly to health care providers.

BILL ANALYSIS: The bill would create definitions for "health benefit plan," "health care provider," and "insured." It would also require reimbursement contracts between insurers and providers to contain a provision that reimbursement payments be issued directly to the providers. Finally, it would require insurers to accept assignment of benefits agreements executed by insureds.

EFFECTIVE DATE: This act would be effective July 1, 2019, and apply to reimbursement contracts and assignment of benefit agreements entered into or amended on or after that date.

Karen Cochrane-Brown
Director



H 5 6 2 - S M B C - 1 8 E 1 - V - 1

Legislative Analysis
Division
919-733-2578

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 562

Short Title: Health Care Reimbursement Contracts/AOBs. (Public)

Sponsors: Representatives Torbett, Conrad, Grange, and Black (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Rules, Calendar, and Operations of the House

April 4, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE PAYMENTS BE MADE DIRECTLY TO HEALTH CARE PROVIDERS UNDER REIMBURSEMENT CONTRACTS AND TO MAKE OTHER STATUTORY CHANGES RELATED TO THOSE CONTRACTS AND TO ASSIGNMENT OF BENEFITS AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-226. Reimbursement contracts and assignment of benefits.

(a) The following definitions apply in this section:

(1) Health benefit plan. – As defined in G.S. 58-3-167. The phrase also applies to limited-scope dental and vision insurance.

(2) Health care provider. – As defined in G.S. 58-3-225.

(3) Insured. – An individual who is eligible to receive benefits from the health benefit plan.

(b) Reimbursement Contracts. – A reimbursement contract between a health care provider and an insurer or a third-party payor shall require that reimbursement shall be made directly to the health care provider for any covered service provided by the health care provider under the reimbursement contract.

(c) Assignment of Benefits. – An insurer or a third-party payor shall accept and honor a completed assignment of benefits agreement that assigns the insured's reimbursement benefits to a health care provider. The assignment of benefits agreement must be validly executed by the insured. This subsection applies only if there is no reimbursement contract between a health care provider and an insurer or a third-party payor.

(d) The prompt claims payment provisions under G.S. 58-3-225 apply to payments made under reimbursement contracts or through an assignment of benefits agreement."

SECTION 2. This act is effective July 1, 2019, and applies to reimbursement contracts and assignment of benefit agreements entered into or amended on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 562

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H562-ABC-32 [v.1]

Page 1 of 1

Amends Title [NO]
First Edition

Date 5/21, 2019

Representative K. Hall

moves to amend the bill on page 1, lines 26-27, by inserting a line between the lines to read:

"(e) A provider who receives payment pursuant to this section shall accept as payment in full the lesser of the following:

- (1) One hundred percent (100%) of the current Medicare payment rate for the same or similar services.
- (2) The health care provider's actual charges.
- (3) The median contracted rate in the insurer's health care provider network for the same or similar services.

The applicable amount that is applied to an insured's deductible, copayment, or coinsurance is considered payment for purposes of this section. Receipt by the health care provider of payment for services to the insured shall foreclose the health care provider from collecting any additional amount from the insured or any third party."

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

✓

TABLED





HOUSE BILL 534: NC Pharmacy Benefits Manager Licensure Act.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 30, 2019
Introduced by:	Reps. Sasser, Murphy, Lewis, Bell	Prepared by:	Jason Moran-Bates Committee Staff
Analysis of:	PCS to First Edition H534-CSBCf-17		

OVERVIEW: *The Proposed Committee Substitute to House Bill 534 would require pharmacy benefits managers (PBMs) to be licensed. It would also add to the consumer protections in G.S. 58-56A-3, restrict PBMs from prohibiting pharmacies from taking certain actions, establish rules for claim overpayments and PBM networks. Finally, it would increase the Commissioner's ability to take enforcement action against PBMs.*

[As introduced, this bill was identical to S632, as introduced by Sens. Britt, Hise, Tillman, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Article 56A of Chapter 58 governs pharmacy benefits managers (PBMs). Under current law, PBMs cannot prohibit pharmacies from discussing lower-cost drugs with patients, offering delivery to patients, or collecting a co-payment that exceeds the total charges for the drug. PBMs may only charge fees if they are disclosed in advance or are on a claim form. PBMs cannot place drugs on the maximum allowable cost price list unless they have an A, B, NR, or NA rating. The Insurance Commissioner is empowered to enforce Article 56A

BILL ANALYSIS: Section 1 would recodify G.S. 58-56A-10 as G.S. 58-56A-40.

Section 2 would make several changes, including the addition of new sections, to Article 56A.

- 58-56A-1, an existing section, would add new definitions for "claim," "claims processing service," "maximum allowable cost list," "other prescription drug or device services," "pharmacy services," and "pharmacy benefits manager affiliate."
- 58-56A-2, a new section, would prohibit PBMs from operating without a license. The application for licensure would require a PBM to disclose its contact information and information on its beneficial owners.
- 58-56A-3, an existing section, would be amended to extend its current consumer protection provisions. Under the new language, PBMs could not prohibit pharmacies from:
 - Disclosing health care information that is within a pharmacist's scope of practice.
 - Discussing information about the total cost of pharmacist services for a drug.
 - Selling a more affordable drug to an insured.
 - Disclosing information to the Commissioner during the course of an investigation.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 534

Page 2

The new provisions of this section would also prevent PBMs from requiring pharmacies to collect co-payments that exceed the lesser of (1) the total charges submitted by the pharmacy, (2) the contracted co-payment amount, or (3) the cash price of the drug.

Finally, the new language would prohibit PBMs from using deceptive advertising, requiring pharmacies to use PBM affiliates, and restricting insureds from using any in-network pharmacy.

- 58-56A-4, an existing section, would be amended to prevent PBMs from charging fees that were not apparent at the time of claim processing, not on the remittance advice of an adjudicated claim, or charged after the claim is adjudicated at the point of sale. It would also prohibit PBMs from using low reimbursements to undercut pharmacies in favor of PBM affiliates, requiring use of mail to fill prescriptions, or retaliating against pharmacies for exercising their rights under Article 56A. Finally, it would allow pharmacies to dispense any legal drug within the appropriate scope of practice, charge a shipping and handling fee for mailed prescriptions, and decline to provide services on behalf of a PBM.
- 58-56A-5, an existing section, would be amended to prohibit PBMs from reimbursing independent pharmacies at a rate consistently less than the amount of the National Drug Average Acquisition Cost and including dispensing fees in the maximum allowable cost price. It would also require PBMs to establish a process where pharmacies can appeal the reimbursement for a drug subject to maximum allowable cost pricing.
- 58-56A-15, a new section, would prevent claims from being retroactively denied or reduced, unless any of the following criteria are met:
 - The original claim was fraudulent.
 - The claim had already been paid.
 - The pharmacy did not render the services for which it was paid.
 - The pharmacy agreed to the retroactive denial or reduction.
- 58-56A-20, a new section, would create new rules for PBM networks.
 - PBMs could require different accreditation standards for different pharmacies, so long as they do not discriminate against independent pharmacies, and the standards are not more stringent than federal and State requirements.
 - All network pharmacies must be able to participate on the same terms, without benefit differentials.
 - Pay-for-performance networks must use a nationally-recognized entity used to aid performance measures.
 - Payments due a pharmacy must be paid even if the pharmacy is terminated from the network.
- 58-56A-25, a new section, would require PBMs to disclose to a health benefit plan the difference between the amount paid to a pharmacy and the amount charged to the health benefit plan. It would also restrict the sharing of confidential health information.
- 58-56A-30, a new section, would require PBMs to report information regarding rebates to the Commissioner.
- 58-56A-35, a new section, would allow the Commissioner to examine the books and records of a PBM and refer violations this Article to the Attorney General.

House PCS 534

Page 3

- 58-56A-40, an existing section, would be amended to allow the Commissioner to consider the extent of harm caused by a violation, the amount of money the PBM received as a result of a violation, the willfulness of a violation, and the PBM's prior record in determining the amount of a civil penalty.

EFFECTIVE DATE: The bill would be effective January 1, 2020, and apply to any contracts entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 534
PROPOSED COMMITTEE SUBSTITUTE H534-CSBCf-17 [v.7]

04/25/2019 03:15:44 PM

Short Title: NC Pharmacy Benefits Manager Licensure Act.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH STANDARDS AND CRITERIA FOR THE REGULATION AND
LICENSURE OF PHARMACY BENEFITS MANAGERS PROVIDING CLAIMS
PROCESSING SERVICES OR OTHER PRESCRIPTION DRUG OR DEVICE SERVICES
FOR HEALTH BENEFIT PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-56A-10 is recodified as G.S. 58-56A-40.

SECTION 2. Article 56A of Chapter 58 of the General Statutes, as amended by
Section 1 of this act, reads as rewritten:

"Article 56A.

"Pharmacy Benefits Management.

"§ 58-56A-1. Definitions.

The following definitions apply in this Article:

- (1) Claim. – A request from a pharmacy or pharmacist to be reimbursed for the cost of administering, filling, or refilling a prescription for a drug or for providing a medical supply or device.
- (2) Claims processing service. – The administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include either or both of the following:
 - a. Receiving payments for pharmacist services.
 - b. Making payments to pharmacists or pharmacies for pharmacist services.
- ~~(1)~~(3) Health benefit plan. – As defined in ~~G.S. 58-50-110(11)~~. This definition specifically excludes the State Health Plan for Teachers and State Employees. G.S. 58-3-167.
- ~~(1a)~~(4) Insured. – An individual covered by a health benefit plan.
- ~~(2)~~(5) Insurer. – Any entity that provides or offers a health benefit plan.
- (6) Maximum allowable cost list. – A listing of generic drugs used by a pharmacy benefits manager to set the maximum allowable cost price.
- ~~(3)~~(7) Maximum allowable cost price. – The maximum per unit reimbursement for multiple source prescription drugs, medical products, or devices.
- (8) Other prescription drug or device services. – Services, other than claims processing services, provided directly or indirectly by a pharmacy benefits manager, whether in connection with or separate from claims processing services, including any of the following:



* H 5 3 4 - C S B C F - 1 7 *

- 1 a. Negotiating rebates, discounts, or other financial incentives and
- 2 arrangements with drug companies.
- 3 b. Disbursing or distributing rebates.
- 4 c. Managing or participating in incentive programs or arrangements for
- 5 pharmacist services.
- 6 d. Negotiating or entering into contractual arrangements with
- 7 pharmacists or pharmacies, or both.
- 8 e. Developing formularies.
- 9 f. Designing prescription benefit programs.
- 10 g. Advertising or promoting services.
- 11 ~~(3a)~~(9) Pharmacist. – A person licensed to practice pharmacy under Article 4A of
- 12 Chapter 90 of the General Statutes.
- 13 (10) Pharmacist services. – Products, goods, and services, or any combination
- 14 thereof, provided as a part of the practice of pharmacy.
- 15 ~~(4)~~(11) Pharmacy. – A pharmacy registered with the North Carolina Board of
- 16 Pharmacy.
- 17 ~~(5)~~(12) Pharmacy benefits manager. – An entity who contracts with a pharmacist or a
- 18 pharmacy on behalf of an insurer or third-party administrator to administer or
- 19 manage prescription drug ~~benefits~~ benefits to perform any of the following
- 20 functions:
- 21 a. Processing claims for prescription drugs or medical supplies or
- 22 providing retail network management for pharmacies or pharmacists.
- 23 b. Paying pharmacies or pharmacists for prescription drugs or medical
- 24 supplies.
- 25 c. Negotiating rebates with manufacturers for drugs paid for or procured
- 26 as described in this Article.
- 27 (13) Pharmacy benefits manager affiliate. – A pharmacy or pharmacist that directly
- 28 or indirectly, through one or more intermediaries, owns or controls, is owned
- 29 or controlled by, or is under common ownership or control with a pharmacy
- 30 benefits manager.
- 31 ~~(6)~~(14) Third-party administrator. – As defined in G.S. 58-56-2.
- 32 **"§ 58-56A-2. Licensure.**
- 33 (a) A person or organization may not establish or operate as a pharmacy benefits manager
- 34 in this State for health benefit plans without obtaining a license from the Commissioner of the
- 35 Department of Insurance.
- 36 (b) The Commissioner shall prescribe the application for a license to operate in this State
- 37 as a pharmacy benefits manager and may charge an initial application fee of two thousand dollars
- 38 (\$2,000) and an annual renewal fee of one thousand five hundred dollars (\$1,500), provided the
- 39 pharmacy benefits manager application form must collect all of the following information:
- 40 (1) The name, address, and telephone contact number of the pharmacy benefits
- 41 manager.
- 42 (2) The name and address of the pharmacy benefits manager's agent for service
- 43 of process in the State.
- 44 (3) The name and address of each person with management or control over the
- 45 pharmacy benefits manager.
- 46 (4) The name and address of each person with a beneficial ownership interest in
- 47 the pharmacy benefits manager.
- 48 (5) A signed statement indicating that, to the best of the applicant's knowledge,
- 49 no officer with management or control of the pharmacy benefit manager has
- 50 been convicted of a felony or has violated any of the requirements of State or
- 51 federal law applicable to pharmacy benefits managers, or, if the applicant

cannot provide that statement, a signed statement describing the relevant conviction or violation.

(6) In the case of a pharmacy benefits manager applicant that is a partnership or other unincorporated association, limited liability company, or corporation, and that has five or more partners, members, or stockholders, all of the following shall apply:

a. The applicant shall specify its legal structure and the total number of its partners, members, or stockholders who, directly or indirectly, own, control, hold with the power to vote, or hold proxies representing ten percent (10%) or more of the voting securities of any other person.

b. An agreement that, upon request by the Department, the applicant shall furnish the Department with information regarding the name, address, usual occupation, and professional qualifications of any other partners, members, or stockholders who, directly or indirectly, own, control, hold with the power to vote, or hold proxies representing ten percent (10%) or more of the voting securities of any other person.

(c) An applicant or a pharmacy benefits manager that is licensed to conduct business in the State shall, unless otherwise provided for in this Article, file a notice describing any material modification of the information required to be provided under this section.

(d) The Commissioner shall adopt rules establishing the licensing and reporting requirements of pharmacy benefits managers consistent with the provisions of this Article.

"§ 58-56A-3. Consumer protections.

(a) A pharmacy or pharmacist shall have the right to provide an insured information regarding the amount of the insured's cost share for a prescription drug. Neither a pharmacy nor a pharmacist shall be prohibited, restricted, or penalized by a pharmacy benefits manager for discussing any information described in this section or for selling a lower-priced drug to the insured if one is available.

(b) A pharmacy benefits manager shall not, through contract, prohibit restrict or penalize a pharmacy or pharmacist from any of the following:

(1) ~~offering~~ Offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy, as delineated in the contract between the pharmacy benefits manager and the pharmacy.

(2) Disclosing to any insured any health care information that the pharmacy or pharmacist deems appropriate within the pharmacist's scope of practice.

(3) Discussing information regarding the total cost for pharmacist services for a prescription drug, or from selling a more affordable alternative to the insured if a more affordable alternative is available. A pharmacy benefits manager shall not prohibit a pharmacy or pharmacist from sharing proprietary or confidential information.

(4) Disclosing information to the Commissioner investigating or examining a complaint or conducting a review of a pharmacy benefits manager's compliance with the requirements of this Chapter. The information or data acquired under this subdivision during an examination or review is considered proprietary and confidential and shall not be considered a public record under Chapter 132 of the General Statutes.

(c) A pharmacy benefits manager shall not charge, or attempt to collect from, an insured a co-payment copayment that exceeds the lesser of the following amounts:

(1) The total submitted charges by the network pharmacy.

(2) The contracted copayment amount.

(3) The amount an individual would pay for a prescription drug if that individual was not insured and was paying cash for the prescription drug.

(c1) To the extent allowable under federal and State law, when calculating an insured's overall contribution to any out-of-pocket maximum or any cost-sharing requirement under a health benefit plan, an insurer shall include any amounts paid by the insured or paid on behalf of the insured by another person.

(d) Any contract for the provision of a network to deliver health care services between a pharmacy benefits manager and insurer shall be made available for review by the Department.

(e) The Department shall report to the Attorney General any violations of this section or G.S. 58-56A-4 in accordance with G.S. 58-2-40(5).

(f) No pharmacy benefits manager shall cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading. No pharmacy benefits manager shall knowingly make any misrepresentation.

(g) A pharmacy benefits manager shall not require an insured to use a pharmacy benefits manager affiliate for the filling of a prescription or the provision of pharmacy care services.

(h) An insured shall not be restricted from utilizing any in-network pharmacy or pharmacist for a prescription drug covered by the health benefit plan, including specialty drugs and maintenance drugs.

"§ 58-56A-4. Pharmacy and pharmacist protections.

(a) A pharmacy benefits manager may only charge a reasonable fee or adjustment for the receipt and processing of a claim, or otherwise hold a pharmacy responsible for a fee relating to the adjudication of a claim-claim, if the fee is reported on the remittance advice of the adjudicated claim or is set out in contract between the pharmacy benefits manager and the pharmacy. No fee or adjustment for the receipt and processing of a claim, or otherwise related to the adjudication of a claim, shall be charged without a justification for each adjustment or fee. This section shall not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D.

(b) A pharmacy benefits manager shall not, directly or indirectly, charge a reasonable fee or adjustment for the receipt and processing of a claim, or otherwise hold a pharmacy responsible for a fee or adjustment relating to the adjudication of a claim, if the claim meets any of the following criteria:

(1) The fee or adjustment is not apparent at the time of claim processing.

(2) The fee or adjustment is not reported on the remittance advice of an adjudicated claim.

(3) The fee or adjustment is charged after the initial claim is adjudicated at the point of sale.

(c) A pharmacy or pharmacist shall not be prohibited or in any way restricted by a pharmacy benefits manager from dispensing any prescription drug allowed to be dispensed under a license to practice pharmacy under Article 4A of Chapter 90 of the General Statutes.

(d) With the express intent or purpose of driving out competition or financially injuring competitors, a pharmacy benefits manager shall not engage in a pattern or practice of reimbursing independent pharmacies or pharmacists in this State consistently less than the amount of the National Drug Average Acquisition Cost (NDAAC), the Wholesale Acquisition Cost (WAC) when the NDAAC is not available, or the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same pharmacist services.

(e) A pharmacy benefits manager shall not require the use of mail order for filling prescriptions.

(f) A pharmacy benefits manager shall not prohibit a pharmacist or pharmacy from charging a shipping and handling fee to an insured requesting a prescription be mailed or delivered.

(g) A pharmacy benefits manager shall not prohibit a pharmacist or pharmacy from participating in a class action lawsuit.

1 (h) Nothing in this Article abridges the right of a pharmacist to refuse to fill or refill a
2 prescription if the pharmacist believes it would be harmful to the patient or is not in the patient's
3 best interest or if there is a question as to the prescription's validity.

4 (i) A pharmacy benefits manager shall not penalize or retaliate against a pharmacist or
5 pharmacy for exercising rights provided under this Article.

6 **"§ 58-56A-5. Maximum allowable cost price.**

7 (a) In order to place a prescription drug on the maximum allowable cost price list, the
8 drug must be available for purchase by pharmacies in North Carolina from national or regional
9 wholesalers, must not be obsolete, and must meet one of the following conditions:

10 (1) The drug is listed as "A" or "B" rated in the most recent version of the United
11 States Food and Drug Administration's Approved Drug Products with
12 Therapeutic Equivalence Evaluations, also known as the Orange Book.

13 (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally
14 recognized reference.

15 (b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost
16 price for a prescription drug to remain consistent with changes in the national marketplace for
17 prescription drugs. A review of the maximum allowable cost prices for removal or modification
18 shall be completed by the pharmacy benefits manager at least once every seven business days,
19 and any removal or modification shall occur within seven business days of the review. A
20 pharmacy benefits manager shall provide a means by which the contracted pharmacies may
21 promptly review current prices in an electronic, print, or telephonic format within one business
22 day of the removal or modification.

23 (c) Consistent with G.S. 58-56A-4, a pharmacy benefits manager shall not engage in a
24 pattern or practice of reimbursing independent pharmacies or pharmacists in this State
25 consistently less than the amount of the National Drug Average Acquisition Cost.

26 (d) A pharmacy benefits manager shall ensure that dispensing fees are not included in the
27 calculation of maximum allowable cost price.

28 (e) A pharmacy benefits manager shall establish an administrative appeals procedure by
29 which a contracted pharmacy or pharmacist, or a designee, can appeal the provider's
30 reimbursement for a prescription drug subject to maximum allowable cost pricing if the
31 reimbursement for the drug is less than the net amount that the network provider paid to the
32 suppliers of the drug. The reasonable administrative appeal procedure must include all of the
33 following:

34 (1) A dedicated telephone number and e-mail address or Web site for the purpose
35 of submitting administrative appeals.

36 (2) The ability to submit an administrative appeal directly to the pharmacy
37 benefits manager regarding the pharmacy benefits plan or program or through
38 a pharmacy service administrative organization if the pharmacy service
39 administrative organization has a contract with the pharmacy benefits
40 manager that allows for the submission of such appeals.

41 (3) No less than 10 calendar days after the applicable fill date to file an
42 administrative appeal.

43 (4) If an appeal is initiated, then the pharmacy benefits manager shall, within 10
44 calendar days after receipt of notice of the appeal, do either of the following:

45 a. If the appeal is upheld, the pharmacy benefits manager shall notify the
46 pharmacy or pharmacist, or designee, of the decision, make the change
47 in the maximum allowable cost effective as of the date the appeal is
48 resolved, permit the appealing pharmacy or pharmacist to reverse and
49 rebill the claim in question, and make the change effective for each
50 similarly situated pharmacy, as defined by the payor subject to the

Maximum Allowable Cost List, effective as of the date the appeal is resolved.

- b. If the appeal is denied within 10 days of the denial, the pharmacy benefits manager shall provide the appealing pharmacy or pharmacist the reason for the denial, the National Drug Code number, and the names of the national or regional pharmaceutical wholesalers operating in this State.

"§ 58-56A-15. Claims and overpayments.

(a) A claim for pharmacist services may not be retroactively denied or reduced after adjudication of the claim unless any of the following apply:

- (1) The original claim was submitted fraudulently.
- (2) The original claim payment was incorrect because the pharmacy or pharmacist had already been paid for the pharmacist services.
- (3) The pharmacist services were not rendered by the pharmacy or pharmacist.

(b) Nothing in this section shall be construed to limit overpayment recovery efforts by a pharmacy benefits manager.

"§ 58-56A-20. Pharmacy benefits manager networks.

(a) Each pharmacy benefits manager network may require different pharmacy accreditation standards or certification requirements for participating in the network, provided that the pharmacy accreditation standards or certification requirements are applied without regard to a pharmacy's or pharmacist's status as an independent pharmacy or pharmacy benefits manager affiliate. Each individual pharmacy location, as identified by its National Council for Prescription Drug Program identification number, may have access to more than one network, so long as the pharmacy location meets the pharmacy accreditation standards or certification requirements of each network.

(b) A pharmacy benefits manager shall not deny the right to any properly licensed pharmacist or pharmacy to participate in a network on the same terms and conditions of other participants in the network.

(c) As a condition of participation in a pharmacy benefits manager network, the pharmacy benefits manager shall not require pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and State requirements for licensure.

(d) Pharmacy performance measure or pay-for-performance networks shall utilize a nationally-recognized entity aiding in improving pharmacy performance measures. The following applies to pharmacy performance measures:

- (1) A pharmacy benefits manager may not impose a fee on a pharmacy, or otherwise penalize the pharmacy, if the pharmacy's scores or metrics fall within the criteria identified by a nationally-recognized entity aiding in improving pharmacy performance measures, or if the patient is compliant with the patient's drug regimen.
- (2) If a pharmacy benefits manager imposes a fee on a pharmacy for scores or metrics that do not fall within the criteria identified by a nationally-recognized entity aiding in improving pharmacy performance measures, then the pharmacy benefits manager is limited to applying the fee to the professional dispensing fee as contained in the pharmacy contract.
- (3) A pharmacy benefits manager may not impose a fee relating to performance metrics on the cost of goods sold by a pharmacy.

(e) A pharmacist or pharmacy that belongs to a pharmacy service administration organization shall, upon request, receive a copy of the contract the pharmacy service administration organization entered into with a pharmacy benefits manager on the pharmacy's behalf.

(f) Termination of a pharmacy or pharmacist from a pharmacy benefits manager network does not release the pharmacy benefits manager from the obligation to make any payment due to the pharmacy or pharmacist for pharmacist services properly rendered according to the contract.

"§ 58-56A-25. Pharmacy benefits manager affiliate disclosure; sharing of data.

(a) A pharmacy benefits manager that has a pharmacy benefits manager affiliate shall disclose to a health benefit plan, and any provider contracted under that health benefit plan, any difference between the amount paid to a pharmacy and the amount charged to the health benefit plan.

(b) A pharmacy benefits manager shall not transfer or share records relative to prescription information containing patient-identifiable and prescriber-identifiable data to a pharmacy benefits manager affiliate for any commercial purpose. Nothing in this subsection shall be construed to prohibit the exchange of prescription information between a pharmacy benefits manager and a pharmacy benefits manager affiliate for the limited purposes of pharmacy reimbursement, formulary compliance, pharmacy care, or utilization review.

"§ 58-56A-30. Reports and information to be provided to the Commissioner.

(a) Any contract for the provision of a network to deliver health care services between a pharmacy benefits manager and an insurer or health benefit plan shall be made available for review by the Department as a condition of initial licensure or maintenance of licensure.

(b) All pharmacy benefits managers shall report annually to the Commissioner all of the following information regarding rebates:

(1) The aggregate amount of all rebates that the pharmacy benefits manager received from pharmaceutical manufacturers.

(2) The aggregate amount of all rebates that the pharmacy benefits manager received from pharmaceutical manufacturers that the pharmacy benefits manager did not pass through to insurers or payors.

"§ 58-56A-35. Enforcement.

(a) The Commissioner may examine or audit the books and records of a pharmacy benefits manager providing claims processing services or other prescription drug or device services for an insurer or a health benefit plan that are relevant to determining if the pharmacy benefits manager is in compliance with this Article. The Commissioner may contract with consultants and other professionals with relevant expertise as necessary and appropriate to conduct an examination or audit of a pharmacy benefits manager.

(b) The pharmacy benefits manager shall pay the charges incurred in an examination or audit under this section, including the expenses of the Department and the expenses and compensation of the examiners. The Commissioner shall institute a civil action to recover the expenses of examination against a pharmacy benefits manager which refuses or fails to pay the expenses.

(c) The information or data acquired during an examination or audit under this section is considered proprietary and confidential and is not a public record under Chapter 132 of the General Statutes.

(d) The Commissioner shall adopt rules regarding the regulation of pharmacy benefits managers that are not inconsistent with this Article.

(e) Violations of this Article are subject to the penalties under G.S. 58-56A-10. A pharmacy benefits manager shall also be subject to revocation of, or a refusal to renew, a license to operate in this State as a result of violations of this Article.

(f) The Commissioner shall report to the Attorney General any violations of this Article, in accordance with G.S. 58-2-40(5).

"§ 58-56A-40. Civil Penalties for violations; administrative procedure.

(a) Whenever the Commissioner has reason to believe that a pharmacy benefits manager has violated any of the provisions of this Article with such frequency as to indicate a general

1 business practice, the Commissioner may, after notice and opportunity for a hearing, proceed
2 under the appropriate subsections of this section.

3 (b) If, under subsection (a) of this section, the Commissioner finds a violation of this
4 Article, the Commissioner may order the payment of a monetary penalty ~~as provided in~~
5 ~~subsection (e) of this section~~ or petition the Superior Court of Wake County for an order directing
6 payment of restitution as provided in subsections (d) and (e) of this section, or both. Each day
7 during which a violation occurs constitutes a separate violation.

8 (c) ~~If If, pursuant to subsection (b) of this section,~~ the Commissioner orders the payment
9 of a monetary penalty ~~pursuant to subsection (b) of this section, for a violation of G.S. 58-56A-5,~~
10 ~~then~~ the penalty shall not be less than one hundred dollars (\$100.00) nor more than one thousand
11 dollars (\$1,000) per day for each prescription drug resulting from the pharmacy benefit manager's
12 failure to comply with G.S. 58-56A-5. In determining the amount of the penalty, the
13 Commissioner shall consider the degree and extent of harm caused by the violation, the amount
14 of money that inured to the benefit of the violator as a result of the violation, whether the violation
15 was committed willfully, and the prior record of the violator in complying or failing to comply
16 with laws, rules, or orders applicable to the violator. The clear proceeds of the penalty shall be
17 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment
18 of the civil penalty under this section shall be in addition to payment of any other penalty for a
19 violation of the criminal laws of this State.

20 (c1) If, pursuant to subsection (b) of this section, the Commissioner orders the payment of
21 a monetary penalty for a violation of any provision of this Article other than G.S. 58-56A-5, then,
22 in determining the amount of the penalty, the Commissioner shall consider the degree and extent
23 of harm caused by the violation, the amount of money that inured to the benefit of the violator as
24 a result of the violation, whether the violation was committed willfully, and the prior record of
25 the violator in complying or failing to comply with laws, rules, or orders applicable to the
26 violator. The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture
27 Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall
28 be in addition to payment of any other penalty for a violation of the criminal laws of this State.

29 (d) Upon petition of the Commissioner to the court pursuant to subsection (b) of this
30 section, the court may order the pharmacy benefits manager who committed a violation ~~specified~~
31 ~~in subsection (b) of this section under this Article~~ to make restitution in an amount that would
32 make whole any pharmacist harmed by the violation. The petition may be made at any time and
33 also in any appeal of the Commissioner's order.

34 (e) Upon petition of the Commissioner to the court pursuant to subsection (b) of this
35 section, the court may order the pharmacy benefits manager who committed a violation ~~specified~~
36 ~~in subsection (b) of this section under this Article~~ to make restitution to the Department for
37 expenses under subsection (f) of this section, incurred in the investigation, hearing, and any
38 appeals associated with the violation in such amount that would reimburse the agency for the
39 expenses. The petition may be made at any time and also in any appeal of the Commissioner's
40 order.

41 (f) The Commissioner may contract with consultants and other professionals with
42 relevant expertise as necessary and appropriate to conduct investigation, hearing, and appeals
43 activities as provided in this section. ~~Such~~ These contracts shall not be subject to G.S. 114-2.3,
44 G.S. 147-17, or Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules
45 and procedures adopted under those Articles concerning procurement, contracting, and contract
46 review.

47 (g) Nothing in this section prevents the Commissioner from negotiating a mutually
48 acceptable agreement with any pharmacy benefits manager as to any civil penalty or restitution.

49 (h) Unless otherwise specifically provided for, all administrative proceedings under this
50 Article are governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's
51 orders under this section shall be governed by G.S. 58-2-75."

1 **SECTION 3.** G.S. 58-2-40(5) reads as rewritten:

2 "(5) Report in detail to the Attorney General any violations of the laws relative to
3 pharmacy benefits manager, insurance companies, associations, orders and
4 bureaus or the business of insurance; and the Commissioner may institute civil
5 actions or criminal prosecutions either by the Attorney General or another
6 attorney whom the Attorney General may select, for any violation of the
7 provisions of Articles 1 through 64 of this Chapter."

8 **SECTION 4.** This act is effective January 1, 2020, and applies to any contracts
9 entered into on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

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HOUSE BILL 534

Short Title: NC Pharmacy Benefits Manager Licensure Act.

(Public)

Sponsors: Representatives Sasser, Murphy, Lewis, and Bell (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH STANDARDS AND CRITERIA FOR THE REGULATION AND
LICENSURE OF PHARMACY BENEFITS MANAGERS PROVIDING CLAIMS
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The following definitions apply in this Article:

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- (2) Claims processing service. – The administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include either or both of the following:
 - a. Receiving payments for pharmacist services.
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- ~~(1)~~(3) Health benefit plan. – As defined in G.S. 58-50-110(11). This definition ~~specifically excludes the State Health Plan for Teachers and State Employees.~~ G.S. 58-3-167.
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- (8) Other prescription drug or device services. – Services, other than claims processing services, provided directly or indirectly by a pharmacy benefits



manager, whether in connection with or separate from claims processing services, including any of the following:

- a. Negotiating rebates, discounts, or other financial incentives and arrangements with drug companies.
- b. Disbursing or distributing rebates.
- c. Managing or participating in incentive programs or arrangements for pharmacist services.
- d. Negotiating or entering into contractual arrangements with pharmacists or pharmacies, or both.
- e. Developing formularies.
- f. Designing prescription benefit programs.
- g. Advertising or promoting services.

(3a)(9) Pharmacist. – A person licensed to practice pharmacy under Article 4A of Chapter 90 of the General Statutes.

(10) Pharmacist services. – Products, goods, and services, or any combination thereof, provided as a part of the practice of pharmacy.

(4)(11) Pharmacy. – A pharmacy registered with the North Carolina Board of Pharmacy.

(5)(12) Pharmacy benefits manager. – An entity who contracts with a pharmacist or a pharmacy on behalf of an insurer or third-party administrator to administer or manage prescription drug ~~benefits~~ benefits to perform any of the following functions:

- a. Processing claims for prescription drugs or medical supplies or providing retail network management for pharmacies or pharmacists.
- b. Paying pharmacies or pharmacists for prescription drugs or medical supplies.
- c. Negotiating rebates with manufacturers for drugs paid for or procured as described in this Article.

(13) Pharmacy benefits manager affiliate. – A pharmacy or pharmacist that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with a pharmacy benefits manager.

(6)(14) Third-party administrator. – As defined in G.S. 58-56-2.

"§ 58-56A-2. Licensure.

(a) A person or organization may not establish or operate as a pharmacy benefits manager in this State for health benefit plans without obtaining a license from the Commissioner of the Department of Insurance.

(b) The Commissioner shall prescribe the application for a license to operate in this State as a pharmacy benefits manager and may charge an initial application fee of two thousand dollars (\$2,000) and an annual renewal fee of one thousand five hundred dollars (\$1,500), provided the pharmacy benefits manager application form must collect all of the following information:

- (1) The name, address, and telephone contact number of the pharmacy benefits manager.
- (2) The name and address of the pharmacy benefits manager's agent for service of process in the State.
- (3) The name and address of each person with management or control over the pharmacy benefits manager.
- (4) The name and address of each person with a beneficial ownership interest in the pharmacy benefits manager.
- (5) A signed statement indicating that, to the best of the applicant's knowledge, no officer with management or control of the pharmacy benefit manager has

1 been convicted of a felony or has violated any of the requirements of State or
2 federal law applicable to pharmacy benefits managers, or, if the applicant
3 cannot provide that statement, a signed statement describing the relevant
4 conviction or violation.

5 (6) In the case of a pharmacy benefits manager applicant that is a partnership or
6 other unincorporated association, limited liability company, or corporation,
7 and that has five or more partners, members, or stockholders, all of the
8 following shall apply:

9 a. The applicant shall specify its legal structure and the total number of
10 its partners, members, or stockholders who, directly or indirectly, own,
11 control, hold with the power to vote, or hold proxies representing ten
12 percent (10%) or more of the voting securities of any other person.

13 b. An agreement that, upon request by the Department, the applicant shall
14 furnish the Department with information regarding the name, address,
15 usual occupation, and professional qualifications of any other partners,
16 members, or stockholders who, directly or indirectly, own, control,
17 hold with the power to vote, or hold proxies representing ten percent
18 (10%) or more of the voting securities of any other person.

19 (c) An applicant or a pharmacy benefits manager that is licensed to conduct business in
20 the State shall, unless otherwise provided for in this Article, file a notice describing any material
21 modification of the information required to be provided under this section.

22 (d) The Commissioner shall adopt rules establishing the licensing and reporting
23 requirements of pharmacy benefits managers consistent with the provisions of this Article.

24 **"§ 58-56A-3. Consumer protections.**

25 (a) A pharmacy or pharmacist shall have the right to provide an insured information
26 regarding the amount of the insured's cost share for a prescription drug. Neither a pharmacy nor
27 a pharmacist shall be prohibited, restricted, or penalized by a pharmacy benefits manager for
28 discussing any information described in this section or for selling a lower-priced drug to the
29 insured if one is available.

30 (b) A pharmacy benefits manager shall not, through contract, prohibit restrict or penalize
31 a pharmacy or pharmacist from any of the following:

32 (1) ~~offering~~ Offering and providing direct and limited delivery services to an
33 insured as an ancillary service of the pharmacy, as delineated in the contract
34 between the pharmacy benefits manager and the pharmacy.

35 (2) Disclosing to any insured any health care information that the pharmacy or
36 pharmacist deems appropriate within the pharmacist's scope of practice.

37 (3) Discussing information regarding the total cost for pharmacist services for a
38 prescription drug, or from selling a more affordable alternative to the insured
39 if a more affordable alternative is available. A pharmacy benefits manager
40 shall not prohibit a pharmacy or pharmacist from sharing proprietary or
41 confidential information.

42 (4) Disclosing information to the Commissioner investigating or examining a
43 complaint or conducting a review of a pharmacy benefits manager's
44 compliance with the requirements of this Chapter. The information or data
45 acquired under this subdivision during an examination or review is considered
46 proprietary and confidential and shall not be considered a public record under
47 Chapter 132 of the General Statutes.

48 (c) A pharmacy benefits manager shall not charge, or attempt to collect from, an insured
49 a co-payment copayment that exceeds the lesser of the following amounts:

50 (1) The total submitted charges by the network pharmacy.

51 (2) The contracted copayment amount.

(3) The amount an individual would pay for a prescription drug if that individual was not insured and was paying cash for the prescription drug.

(c1) To the extent allowable under federal and State law, when calculating an insured's overall contribution to any out-of-pocket maximum or any cost-sharing requirement under a health benefit plan, an insurer shall include any amounts paid by the insured or paid on behalf of the insured by another person.

~~(d) Any contract for the provision of a network to deliver health care services between a pharmacy benefits manager and insurer shall be made available for review by the Department.~~

~~(e) The Department shall report to the Attorney General any violations of this section or G.S. 58-56A-4 in accordance with G.S. 58-2-40(5).~~

(f) No pharmacy benefits manager shall cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading. No pharmacy benefits manager shall knowingly make any misrepresentation.

(g) A pharmacy benefits manager shall not require an insured to use a pharmacy benefits manager affiliate for the filling of a prescription or the provision of pharmacy care services.

(h) An insured shall not be restricted from utilizing any in-network pharmacy or pharmacist for a prescription drug covered by the health benefit plan, including specialty drugs and maintenance drugs, provided the prescription drug meets all of the following criteria:

(1) The drug is not a limited distribution drug.

(2) The drug is not commonly carried at retail pharmacies.

(3) The drug requires special handling.

"§ 58-56A-4. Pharmacy and pharmacist protections.

(a) A pharmacy benefits manager may only charge a reasonable fee or adjustment for the receipt and processing of a claim, or otherwise hold a pharmacy responsible for a fee relating to the adjudication of a claim, if the fee is reported on the remittance advice of the adjudicated claim or is set out in contract between the pharmacy benefits manager and the pharmacy. No fee or adjustment for the receipt and processing of a claim, or otherwise related to the adjudication of a claim, shall be charged without a justification for each adjustment or fee. This section shall not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D.

(b) A pharmacy benefits manager shall not, directly or indirectly, charge a reasonable fee or adjustment for the receipt and processing of a claim, or otherwise hold a pharmacy responsible for a fee or adjustment relating to the adjudication of a claim, if the claim meets any of the following criteria:

(1) The fee or adjustment is not apparent at the time of claim processing.

(2) The fee or adjustment is not reported on the remittance advice of an adjudicated claim.

(3) The fee or adjustment is charged after the initial claim is adjudicated at the point of sale.

(c) A pharmacy or pharmacist shall not be prohibited or in any way restricted by a pharmacy benefits manager from dispensing any prescription drug allowed to be dispensed under a license to practice pharmacy under Article 4A of Chapter 90 of the General Statutes.

(d) With the express intent or purpose of driving out competition or financially injuring competitors, a pharmacy benefits manager shall not engage in a pattern or practice of reimbursing independent pharmacies or pharmacists in this State consistently less than the amount of the National Drug Average Acquisition Cost and the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same pharmacist services.

(e) A pharmacy benefits manager shall not require the use of mail order for filling prescriptions, unless required to do so by the health benefit plan.

(f) A pharmacy benefits manager shall not prohibit a pharmacist or pharmacy from charging a shipping and handling fee to an insured requesting a prescription be mailed or delivered.

(g) A pharmacy benefits manager shall not prohibit a pharmacist or pharmacy from participating in a class action lawsuit.

(h) Nothing in this Article abridges the right of a pharmacist to refuse to fill or refill a prescription if the pharmacist believes it would be harmful to the patient or is not in the patient's best interest or if there is a question as to the prescription's validity.

(i) A pharmacy or pharmacists may decline to provide pharmacist services on behalf of a pharmacy benefits manager or third-party administrator.

(j) A pharmacy benefits manager shall not penalize or retaliate against a pharmacist or pharmacy for exercising rights provided under this Article.

"§ 58-56A-5. Maximum allowable cost price.

(a) In order to place a prescription drug on the maximum allowable cost price list, the drug must be available for purchase by pharmacies in North Carolina from national or regional wholesalers, must not be obsolete, and must meet one of the following conditions:

- (1) The drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book.
- (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally recognized reference.

(b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost price for a prescription drug to remain consistent with changes in the national marketplace for prescription drugs. A review of the maximum allowable cost prices for removal or modification shall be completed by the pharmacy benefits manager at least once every seven business days, and any removal or modification shall occur within seven business days of the review. A pharmacy benefits manager shall provide a means by which the contracted pharmacies may promptly review current prices in an electronic, print, or telephonic format within one business day of the removal or modification.

(c) Consistent with G.S. 58-56A-4, a pharmacy benefits manager shall not engage in a pattern or practice of reimbursing independent pharmacies or pharmacists in this State consistently less than the amount of the National Drug Average Acquisition Cost.

(d) A pharmacy benefits manager shall ensure that dispensing fees are not included in the calculation of maximum allowable cost price.

(e) A pharmacy benefits manager shall establish an administrative appeals procedure by which a contracted pharmacy or pharmacist, or a designee, can appeal the provider's reimbursement for a prescription drug subject to maximum allowable cost pricing if the reimbursement for the drug is less than the net amount that the network provider paid to the suppliers of the drug. The reasonable administrative appeal procedure must include all of the following:

- (1) A dedicated telephone number and e-mail address or Web site for the purpose of submitting administrative appeals.
- (2) The ability to submit an administrative appeal directly to the pharmacy benefits manager regarding the pharmacy benefits plan or program or through a pharmacy service administrative organization if the pharmacy service administrative organization has a contract with the pharmacy benefits manager that allows for the submission of such appeals.
- (3) No less than 10 calendar days after the applicable fill date to file an administrative appeal.
- (4) If an appeal is initiated, then the pharmacy benefits manager shall, within 10 calendar days after receipt of notice of the appeal, do either of the following:

a. If the appeal is upheld, the pharmacy benefits manager shall notify the pharmacy or pharmacist, or designee, of the decision, make the change in the maximum allowable cost effective as of the date the appeal is resolved, permit the appealing pharmacy or pharmacist to reverse and rebill the claim in question, and make the change effective for each similarly situated pharmacy, as defined by the payor subject to the Maximum Allowable Cost List, effective as of the date the appeal is resolved.

b. If the appeal is denied within 10 days of the denial, the pharmacy benefits manager shall provide the appealing pharmacy or pharmacist the reason for the denial, the National Drug Code number, and the names of the national or regional pharmaceutical wholesalers operating in this State.

"§ 58-65A-15. Claims and overpayments.

(a) A claim for pharmacist services may not be retroactively denied or reduced after adjudication of the claim unless any of the following apply:

(1) The original claim was submitted fraudulently.

(2) The original claim payment was incorrect because the pharmacy or pharmacist had already been paid for the pharmacist services.

(3) The pharmacist services were not rendered by the pharmacy or pharmacist.

(4) The adjustment was agreed upon by the pharmacy or pharmacist prior to the denial or reduction.

(b) Nothing in this section shall be construed to limit overpayment recovery efforts by a pharmacy benefits manager.

"§ 58-56A-20. Pharmacy benefits manager networks.

(a) Each pharmacy benefits manager network may require different pharmacy accreditation standards or certification requirements for participating in the network, provided that the pharmacy accreditation standards or certification requirements are applied without regard to a pharmacy's or pharmacist's status as an independent pharmacy or pharmacy benefits manager affiliate. Each individual pharmacy location, as identified by its National Council for Prescription Drug Program identification number, may have access to more than one network, so long as the pharmacy location meets the pharmacy accreditation standards or certification requirements of each network.

(b) A pharmacy benefits manager shall not deny the right to any properly licensed pharmacist or pharmacy to participate in a network on the same terms and conditions of other participants in the network. Benefit differentials are prohibited.

(c) As a condition of participation in a pharmacy benefits manager network, the pharmacy benefits manager shall not require pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and State requirements for licensure.

(d) Pharmacy performance measure or pay-for-performance networks shall utilize the electronic quality improvement platform for plans and pharmacies, known as EQuIPP, or another unbiased, nationally-recognized entity aiding in improving pharmacy performance measures. The following applies to pharmacy performance measures:

(1) A pharmacy benefits manager may not impose a fee on a pharmacy, or otherwise penalize the pharmacy, if the pharmacy's scores or metrics fall within the criteria identified by EQuIPP, or another unbiased, nationally-recognized entity aiding in improving pharmacy performance measures, or if the patient is compliant with the patient's drug regimen.

(2) If a pharmacy benefits manager imposes a fee on a pharmacy for scores or metrics that do not fall within the criteria identified by EQuIPP, or another

unbiased, nationally-recognized entity aiding in improving pharmacy performance measures, then the pharmacy benefits manager is limited to applying the fee to the professional dispensing fee as contained in the pharmacy contract.

(3) A pharmacy benefits manager may not impose a fee relating to performance metrics on the cost of goods sold by a pharmacy.

(e) A pharmacist or pharmacy that belongs to a pharmacy service administration organization shall, upon request, receive a copy of the contract the pharmacy service administration organization entered into with a pharmacy benefits manager on the pharmacy's behalf.

(f) Termination of a pharmacy or pharmacist from a pharmacy benefits manager network does not release the pharmacy benefits manager from the obligation to make any payment due to the pharmacy or pharmacist for pharmacist services properly rendered according to the contract.

"§ 58-65A-25. Pharmacy benefits manager affiliate disclosure; sharing of data.

(a) A pharmacy benefits manager that has a pharmacy benefits manager affiliate shall disclose to a health benefit plan, and any provider contracted under that health benefit plan, any difference between the amount paid to a pharmacy and the amount charged to the health benefit plan.

(b) A pharmacy benefits manager shall not transfer or share records relative to prescription information containing patient-identifiable and prescriber-identifiable data to a pharmacy benefits manager affiliate for any commercial purpose. Nothing in this subsection shall be construed to prohibit the exchange of prescription information between a pharmacy benefits manager and a pharmacy benefits manager affiliate for the limited purposes of pharmacy reimbursement, formulary compliance, pharmacy care, or utilization review.

"§ 58-65A-30. Reports and information to be provided to the Commissioner.

(a) Any contract for the provision of a network to deliver health care services between a pharmacy benefits manager and an insurer or health benefit plan shall be made available for review by the Department as a condition of initial licensure or maintenance of licensure.

(b) All pharmacy benefits managers shall report annually to the Commissioner all of the following information regarding rebates:

(1) The aggregate amount of all rebates that the pharmacy benefits manager received from pharmaceutical manufacturers.

(2) The aggregate amount of all rebates that the pharmacy benefits manager received from pharmaceutical manufacturers that the pharmacy benefits manager did not pass through to insurers or payors.

"§ 58-65A-35. Enforcement.

(a) The Commissioner may examine or audit the books and records of a pharmacy benefits manager providing claims processing services or other prescription drug or device services for an insurer or a health benefit plan that are relevant to determining if the pharmacy benefits manager is in compliance with this Article. The Commissioner may contract with consultants and other professionals with relevant expertise as necessary and appropriate to conduct an examination or audit of a pharmacy benefits manager.

(b) The pharmacy benefits manager shall pay the charges incurred in an examination or audit under this section, including the expenses of the Department and the expenses and compensation of the examiners. The Commissioner shall institute a civil action to recover the expenses of examination against a pharmacy benefits manager which refuses or fails to pay the expenses.

(c) The information or data acquired during an examination or audit under this section is considered proprietary and confidential and is not a public record under Chapter 132 of the General Statutes.

1 (d) The Commissioner shall adopt rules regarding the regulation of pharmacy benefits
2 managers that are not inconsistent with this Article.

3 (e) Violations of this Article are subject to the penalties under G.S. 58-56A-10. A
4 pharmacy benefits manager shall also be subject to revocation of, or a refusal to renew, a license
5 to operate in this State as a result of violations of this Article.

6 (f) The Commissioner shall report to the Attorney General any violations of this Article,
7 in accordance with G.S. 58-2-40(5).

8 **"§ 58-56A-40. Civil Penalties for violations; administrative procedure.**

9 (a) Whenever the Commissioner has reason to believe that a pharmacy benefits manager
10 has violated any of the provisions of this Article with such frequency as to indicate a general
11 business practice, the Commissioner may, after notice and opportunity for a hearing, proceed
12 under the appropriate subsections of this section.

13 (b) If, under subsection (a) of this section, the Commissioner finds a violation of this
14 Article, the Commissioner may order the payment of a monetary penalty ~~as provided in~~
15 ~~subsection (c) of this section~~ or petition the Superior Court of Wake County for an order directing
16 payment of restitution as provided in subsections (d) and (e) of this section, or both. Each day
17 during which a violation occurs constitutes a separate violation.

18 (c) ~~If~~ If, pursuant to subsection (b) of this section, the Commissioner orders the payment
19 of a monetary penalty ~~pursuant to subsection (b) of this section, for a violation of G.S. 58-56A-5,~~
20 ~~then~~ the penalty shall not be less than one hundred dollars (\$100.00) nor more than one thousand
21 dollars (\$1,000) per day for each prescription drug resulting from the pharmacy benefit manager's
22 failure to comply with G.S. 58-56A-5. In determining the amount of the penalty, the
23 Commissioner shall consider the degree and extent of harm caused by the violation, the amount
24 of money that inured to the benefit of the violator as a result of the violation, whether the violation
25 was committed willfully, and the prior record of the violator in complying or failing to comply
26 with laws, rules, or orders applicable to the violator. The clear proceeds of the penalty shall be
27 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment
28 of the civil penalty under this section shall be in addition to payment of any other penalty for a
29 violation of the criminal laws of this State.

30 (c1) If, pursuant to subsection (b) of this section, the Commissioner orders the payment of
31 a monetary penalty for a violation of any provision of this Article other than G.S. 58-56A-5, then,
32 in determining the amount of the penalty, the Commissioner shall consider the degree and extent
33 of harm caused by the violation, the amount of money that inured to the benefit of the violator as
34 a result of the violation, whether the violation was committed willfully, and the prior record of
35 the violator in complying or failing to comply with laws, rules, or orders applicable to the
36 violator. The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture
37 Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall
38 be in addition to payment of any other penalty for a violation of the criminal laws of this State.

39 (d) Upon petition of the Commissioner ~~to the court pursuant to subsection (b) of this~~
40 ~~section,~~ the court may order the pharmacy benefits manager who committed a violation ~~specified~~
41 ~~in subsection (b) of this section under this Article~~ to make restitution in an amount that would
42 make whole any pharmacist harmed by the violation. The petition may be made at any time and
43 also in any appeal of the Commissioner's order.

44 (e) Upon petition of the Commissioner ~~to the court pursuant to subsection (b) of this~~
45 ~~section,~~ the court may order the pharmacy benefits manager who committed a violation ~~specified~~
46 ~~in subsection (b) of this section under this Article~~ to make restitution to the Department for
47 expenses under subsection (f) of this section, incurred in the investigation, hearing, and any
48 appeals associated with the violation in such amount that would reimburse the agency for the
49 expenses. The petition may be made at any time and also in any appeal of the Commissioner's
50 order.

1 (f) The Commissioner may contract with consultants and other professionals with
2 relevant expertise as necessary and appropriate to conduct investigation, hearing, and appeals
3 activities as provided in this section. ~~Such~~ These contracts shall not be subject to G.S. 114-2.3,
4 G.S. 147-17, or Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules
5 and procedures adopted under those Articles concerning procurement, contracting, and contract
6 review.

7 (g) Nothing in this section prevents the Commissioner from negotiating a mutually
8 acceptable agreement with any pharmacy benefits manager as to any civil penalty or restitution.

9 (h) Unless otherwise specifically provided for, all administrative proceedings under this
10 Article are governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's
11 orders under this section shall be governed by G.S. 58-2-75."

12 **SECTION 3.** G.S. 58-2-40(5) reads as rewritten:

13 "(5) Report in detail to the Attorney General any violations of the laws relative to
14 pharmacy benefits manager, insurance companies, associations, orders and
15 bureaus or the business of insurance; and the Commissioner may institute civil
16 actions or criminal prosecutions either by the Attorney General or another
17 attorney whom the Attorney General may select, for any violation of the
18 provisions of Articles 1 through 64 of this Chapter."

19 **SECTION 4.** This act is effective January 1, 2020, and applies to any contracts
20 entered into on or after that date.

House Committee on Insurance
Tuesday, July 16, 2019 at 9:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Insurance met at 9:00 AM on July 16, 2019, in Room 1228/1327 of the Legislative Building. Representatives Bumgardner, Cleveland, Corbin, Floyd, Garrison, Goodwin, Henson, Holley, Howard, Humphrey, Iler, Murphy, Pierce, Potts, Ross, Sasser, Setzer, Warren, and Willingham attended. The Visitor Registration Sheets are attached as Exhibit A, and the Agenda is attached as Exhibit B.

Representative Dana Bumgardner, Co-Chair, presided and called the meeting to order at 9:00 a.m. Representative Bumgardner recognized the Pages and the Assistant Sergeants-at-Arms serving the committee. The list of Pages is attached as Exhibit C and the list of Assistant Sergeants-At-Arms is attached as Exhibit D.

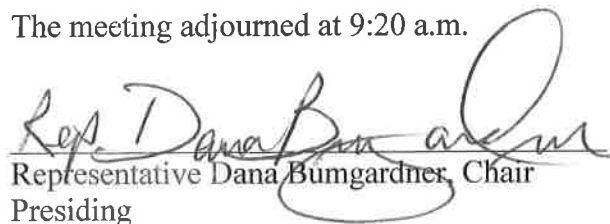
The following bill was considered:

Senate Commerce and Insurance Committee Substitute for HB 922, Enhance Insurance Coverage/Educ. Buildings. (Representatives D. Hall, Lewis, Arp)

Chairman Bumgardner recognized Senator Sawyer to explain the Senate Commerce and Insurance Committee Substitute for HB 922, A BILL TO BE ENTITLED AN ACT TO REDUCE THE IMPACT TO TAXPAYERS OF NATURAL DISASTERS AND OTHER INSURABLE RISKS BY ENHANCING STATE INSURANCE COVERAGE FOR PUBLIC SCHOOL BUILDINGS AND COMMUNITY COLLEGES. A copy of the Senate committee substitute is attached as Exhibit E, and the staff analysis of the bill is attached as Exhibit F. Mr. Jeremy Ray, staff attorney with the Legislative Analysis Division, was available to answer the questions of committee members as was Mr. George Robinson, liaison from the Department of Insurance.

Representative Warren moved the Insurance Committee concur with the Senate Committee Substitute for House Bill 922, and the motion carried unanimously. (The Committee Report is attached as Exhibit G.)

The meeting adjourned at 9:20 a.m.


Representative Dana Bumgardner, Chair
Presiding


Margie Penven, Committee Clerk

Attachments:

- A. Visitor Registration Sheets
- B. Agenda

- C. List of Pages
- D. List of Assistant Sergeants-at-Arms
- E. Senate Committee Substitute for HB 922
- F. Staff Analysis of HB 922
- G. Insurance Committee Report

VISITOR REGISTRATION SHEET

H C on Insurance

7/16/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Dpa Moretz	UNC System
Cecilia Alden	NC SBE
Elipen Torres	NC DPI
Wade Butler	NCOP1
Matthew Balrod	PPAB
Debbi	MFS
Will Morgan	MFS
Tracy Kimbrell	Parker Poe
Jim Stewart	IIANC
Antigua	NMRS
Chandler Smith	SA

7/16/2019

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

FIRM OR AGENCY AND ADDRESS

5A

811

NC DOT

VISITOR REGISTRATION SHEET

H C on Insurance

Name of Committee

7/16/2019

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard Boston	NC SBA
Mary Murphy	NCCCS
Elizabeth Browder	NCCCS
Sue Ann Foster	MM
Nel Rouse	NCA
Donna Carth	BCBNC
Katey Hogg	BCBNC
E. W.	BCBNC

VISITOR REGISTRATION SHEET

H C on Insurance

Name of Committee

7/16/2019

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Dana Soper	SIA
Chip Bessie	NCMS
Claudie Mermaker	governor
Dany Lassie	NCSTA
Jacqueline Scott	Williams Mallen
Rob Begner	DOI/OSFM
Bob Mays	DOI
Bryan Hecker	DOI
Pharm Taylor	DOI/OSFM
Fred Bugata	NC Police Chiefs Assoc
Adam Prodenore	NCACC

**House Committee on Insurance
Tuesday, July 16, 2019, 9:00 AM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills


BILL NO.	SHORT TITLE	SPONSOR
HB 922	Enhance Insurance Coverage/Educ. Buildings.	Representative D. Hall Representative Lewis Representative Arp

Presentations

Other Business

Adjournment

**House Pages
Assignments
Tuesday, July 16, 2019
Session: 2:00 PM**



Committee	Room	Time	Staff	Comments	Member
Insurance	1228/1327	9:00 AM	Nathaniel Bowers		Rep. Verla Insko
			Lindsay Lopez		Rep. Julie von Haefen
			Caitlin O'Brien		Rep. Wesley Harris
			Brooke Sanderford		Rep. Holly Grange

Exhibit C

Committee Sergeants at Arms

NAME OF COMMITTEE H C Insurance

DATE: 7/16/2019 Room: 1228/1327 LB

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

3

**HOUSE BILL 922*
Senate Commerce and Insurance Committee Substitute Adopted 6/27/19
Third Edition Engrossed 7/8/19**

Short Title: Enhance Insurance Coverage/Educ. Buildings.

(Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED
AN ACT TO REDUCE THE IMPACT TO TAXPAYERS OF NATURAL DISASTERS AND
OTHER INSURABLE RISKS BY ENHANCING STATE INSURANCE COVERAGE FOR
PUBLIC SCHOOL BUILDINGS AND COMMUNITY COLLEGES.
The General Assembly of North Carolina enacts:

ENHANCE INSURANCE COVERAGE FOR PUBLIC SCHOOL BUILDINGS

SECTION 1.(a) Article 37 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-523.1. Duty to insure public school property.

(a) The local board of education of every local school administrative unit in the public school system of this State, in order to safeguard the investment made in public schools, shall:

(1) Insure and keep insured to the extent of not less than eighty percent (80%) of the current insurable value, as determined by the insurer and the insured, of each of its insurable buildings against the perils embraced in broad form coverage to include fire, lightning, windstorm, hail, explosion, aircraft or vehicles, riot or civil commotion, smoke, vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet, or water damage.

(2) Insure and keep insured adequately the equipment and contents of the building.

(b) The tax-levying authority for each local school administrative unit shall appropriate funds necessary for compliance with the provisions of subsection (a) of this section.

(c) Local boards of education may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to comply with the provisions of subsections (a) and (b) of this section, the Commissioner of Insurance may order, for each separate violation, a civil penalty under the procedures in G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation."

SECTION 1.(b) Article 37 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-523.2. Flood insurance.



★ H 9 2 2 - V - 3 ★

(a) The local board of education of every local school administrative unit in the public school system of this State, in order to safeguard the investment made in public schools, shall insure and keep insured to the extent of not less than eighty percent (80%) of the current insurable value, as determined by the insurer and the insured, of each of its insurable buildings against flood when that property is located, or becomes located in, an area identified on the latest Flood Insurance Rate Map produced by the Federal Emergency Management Agency as area that will be inundated by the flood event having a one percent (1%) chance of being equaled or exceeded in any given year.

(b) The tax-levying authority for each local school administrative unit shall appropriate funds necessary for compliance with the provisions of subsection (a) of this section.

(c) Local boards of education may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to comply with the provisions of subsections (a) and (b) of this section, the Commissioner of Insurance may order, for each separate violation, a civil penalty under the procedures in G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation."

SECTION 1.(c) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(14) Property insurance. – The board of directors shall comply with the requirements of G.S. 115C-523.1 and G.S. 115C-523.2 for any regional school building owned by the board of directors."

ENHANCE INSURANCE COVERAGE FOR COMMUNITY COLLEGES

SECTION 2.(a) G.S. 115D-58.11 reads as rewritten:

"§ 115D-58.11. Fire and casualty insurance on institutional buildings and contents.

(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall:

(1) Insure and keep insured each building owned by the institution to the extent of not less than eighty percent (80%) of the current insurable value, as determined by the insured and insurer, against loss by fire, lightning, and the other perils embraced in extended coverage, broad form coverage to include fire, lightning, windstorm, hail, explosion, aircraft or vehicles, riot or civil commotion, smoke, vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet, or water damage to institutional buildings and properties.

(2) Insure and keep insured equipment and other contents of all institutional buildings that are the property of the institution or the State or which are used in the operation of the institution.

(b) The tax-levying authority of each institution shall provide the funds necessary for the purchase of the insurance required in G.S. 115D-58.11(a) subsection (a) of this section.

(c) Boards of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 16, Chapter 115, Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public ~~School~~ Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to comply with the provisions of subsections (a) and (b) of this section, the Commissioner of Insurance may order, for each separate violation, a civil penalty under the procedures in G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate offense violation."

SECTION 2.(b) Article 4A of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-58.11A. Flood insurance.

(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall insure and keep insured to the extent of not less than eighty percent (80%) of the current insurable value, as determined by the insurer and the insured, of each of its insurable buildings against flood when that property is located, or becomes located in, an area identified on the latest Flood Insurance Rate Map produced by the Federal Emergency Management Agency as area that will be inundated by the flood event having a one percent (1%) chance of being equaled or exceeded in any given year.

(b) The tax-levying authority for each institution shall appropriate funds necessary for compliance with the provisions of subsection (a) of this section.

(c) The board of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to comply with the provisions of subsections (a) and (b) of this section, the Commissioner of Insurance may order, for each separate violation, a civil penalty under the procedures in G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation."

TRANSFER PUBLIC SCHOOL INSURANCE FUND TO DEPARTMENT OF INSURANCE

SECTION 3.(a) All functions, powers, duties, obligations, resources, and appropriations vested in the State Board of Education, the Superintendent of Public Instruction, and the School Insurance Fund Section of the Department of Public Instruction for management and operation of a system of insurance for public education property are transferred to, vested in, and consolidated into the Department of Insurance and the Commissioner of Insurance as a Type I transfer, as defined in G.S. 143A-6. The Commissioner of Insurance, the Department of Insurance, and the Office of State Budget and Management are authorized to take all other steps necessary to consolidate the system of insurance for public education property into the Department of Insurance. To effectuate this Type I transfer and ensure continuation of other benefit services in the Department of Public Instruction, the following shall occur:

(1) The State Treasurer shall transfer the balance of the Public School Insurance Fund to the State Public Education Property Insurance Fund, established pursuant to G.S. 58-31A-20, as enacted by this act.

(2) The following positions shall be transferred from the Department of Public Instruction to the Department of Insurance as part of the Type I transfer, and the Department of Insurance may eliminate these positions as needed for the efficient operation of the Department:

<u>Position number</u>	<u>Title</u>
a. 60009670	School Insurance Consultant.
b. 60009672	Fire Safety Inspector.
c. 60009673	Fire Safety Inspector.
d. 60009674	Fire Safety Inspector.
e. 60009675	Administrative Specialist II.
f. 60009677	Accounting Technician II.
g. 60009668	Administrative Specialist I.

(3) The Department of Public Instruction shall retain the following position to continue administration of non-property insurance benefit services formerly handled by the School Insurance Fund Section, and shall use funds appropriated to Fund Code 1870 for costs associated with that position:

<u>Position number</u>	<u>Title</u>
------------------------	--------------

a. 60009669 Education Program Administrator II.

SECTION 3.(b) Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 31A.

"State Insurance of Public Education Property.

"§ 58-31A-1. Definitions.

The following definitions shall apply in this Article:

- (1) Insurable hazards. – A minimum list of perils, risks, or hazards which must be insured against loss, which includes the following: fire, lightning, windstorm, hail, explosion, aircraft or vehicles, riot or civil commotion, smoke, vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet, or water damage.
- (2) Public education board. – A local board of education of a local school administrative unit, as defined in G.S. 115C-5(5), a board of trustees of a regional school, as defined in G.S. 115C-238.63, or a board of trustees of a community college, as defined in G.S. 115D-12.
- (3) Public education property. – Property owned by a local board of education, a regional school board of directors, or a community college board of trustees.

"§ 58-31A-5. Duty of the Commissioner to operate insurance system for public education property.

The Commissioner shall have the duty to manage and operate a system of insurance for public education property. The Commissioner may offer a system of property insurance to any charter schools approved pursuant to G.S. 115C-218.5.

"§ 58-31A-10. Flood insurance.

Premiums for flood insurance coverage for public education buildings shall be paid by each public education board in accordance with rates fixed by the Commissioner, and the Commissioner may purchase from insurers admitted to do business in North Carolina such insurance or reinsurance as may be necessary to protect the State Public Education Insurance Fund against loss with respect to such insurance coverage.

"§ 58-31A-15. Authority and rules for organization of system.

The Commissioner is hereby authorized, directed, and empowered to establish a division to manage and operate a system of insurance for public education property. The Commissioner shall adopt such rules and regulations as may be necessary to provide all details inherent in the insurance of public education property. The Commissioner shall employ any staff necessary, which in his or her opinion is necessary to insure and protect effectively public education property, and he or she shall fix their compensation consistent with the policies of the State Human Resources Commission.

"§ 58-31A-20. State Public Education Property Insurance Fund; decrease of premiums when fund reaches five percent of total insurance in force.

(a) There is established a State Public Education Property Insurance Fund (Fund) as a special fund in the State treasury for the purpose of providing a reserve against property loss of public education boards. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. All funds paid over to the State Treasurer by the Commissioner for premiums on insurance by public education boards and all money received from interest or from loans and deposits and from any other source connected with the insurance of the property shall be held by the State Treasurer in the Fund for the purpose of paying all insurable hazards for which the Fund shall be liable and the expenses necessary for the proper conduct of the insurance of such property, together with such premiums for reinsurance that the Commissioner may deem necessary to reinsure as provided by this Article.

(b) When the balance of the Fund reaches the sum of five percent (5%) of the total insurance in force, then annually thereafter the Commissioner shall proportionately decrease the premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent (5%) of the total insurance in force, and in the event in the judgment of the Commissioner the income from the investments of the Fund are sufficient to maintain the same at five percent (5%) of the total insurance in force, no premium shall be charged for the ensuing year. However, no public education board shall cease to pay premiums until five annual payments of premiums have been made on a building or property insured whether or not through such payments the Fund shall be increased beyond five percent (5%) of the total insurance in force, unless such building or property shall cease to be insurable under this Article within such five-year period.

"§ 58-31A-25. Insurance of property by public education boards; notice of election to insure and information to be furnished; outstanding policies.

All public education boards may insure all public education property titled to that board against the direct loss or damage by insurable hazards in public education buildings and other public education properties in the Fund. Any property covered by an insurance policy in effect on the date when the property of a public education board is insured in the Fund shall be insured by the Fund as of the expiration of the policy. Each public education board shall give notice of its election to insure in the Fund at least 90 days prior to such insurance becoming effective and shall furnish to the Commissioner a full and complete list of all outstanding property insurance policies, giving in complete detail the name of the insurers, the amount of the insurance and expirations thereof. While the said insurance policies remain in effect, the Fund shall act as coinsurer of the properties covered by such insurance to the same extent and in the same manner as is provided for coinsurance under the provisions of the standard form of property insurance as provided by law, and in the event of loss shall have the same rights and duties as required by participating insurance companies.

"§ 58-31A-30. Inspections of insured public education properties.

The Commissioner shall provide for periodic inspections of all public education properties in the State of North Carolina insured under the provisions of this Article, in addition to the inspections required by G.S. 115C-525(b). The person making inspections required under G.S. 115C-525(b) shall furnish a copy to the Commissioner, and the local superintendent shall furnish to the Commissioner their corrective action plan. The inspections shall be for safety of buildings and particularly buildings used to provide instruction to students. The inspections shall be the basis for offering such engineering advice as may be thought to be necessary to safeguard students in public education buildings from death and injury from school fires or explosions and to protect the properties from loss, and the public education properties shall be required so far as possible, and reasonable, to carry out and put into effect any recommendations made by the Commissioner.

"§ 58-31A-35. Information to be furnished prior to insuring in Fund; providing for payment of premiums.

Public education boards shall, at least 90 days before insuring in the Fund, furnish to the Commissioner a complete and detailed list of all public education buildings and contents of those buildings and other insurable public education property, together with an estimate of the present value of the property. Valuation for purposes of insuring in the Fund shall be reached by agreement in accordance with the procedure established for adjustment of losses. Public education boards and the tax-levying authority shall be required to provide for the payment of premiums for insurance on the school properties of each public education board, respectively, to the extent of not less than eighty percent (80%) of the current insurable value of the said properties, including the insurance in property insurance companies and the insurance provided by the Fund.

"§ 58-31A-40. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payments of premiums.

1 (a) The Commissioner shall determine the annual premium rate to be charged for
2 insurance of public education properties pursuant to this Article, and rates shall be adjusted from
3 time to time so as to provide insurance against damage or loss resulting from insurable hazards
4 to public education buildings and properties of the public education boards at the lowest cost
5 possible in keeping with the payment of cost of administration under this Article, and the creation
6 of adequate reserves to pay losses which may be incurred. The Commissioner shall furnish to
7 each public education board annually and, at such times as changes may require, a certificate
8 showing the amount of insurance carried on each item of insurable property. This insurance shall
9 not lapse but shall remain in force until the public education board requests that the insurance be
10 canceled or until such property becomes uninsurable in the manner set out in G.S. 58-31A-45.
11 From time to time, the public education board shall be notified as to the amount of the premiums
12 required to be paid for insurance and the amounts to be provided for in the annual budget of the
13 public education board. The tax-levying authorities shall provide by taxation or otherwise a sum
14 sufficient to pay the required premiums.

15 (b) The public education board shall, within 30 days from notice of the rate of the
16 premium, pay to the Commissioner the amount of the premiums on the insurance, and in the
17 event that there are no funds available to make a payment on the premiums as required by this
18 subsection, the premium shall be paid out of the first funds available to the public education
19 board. Delayed payments shall bear interest at the rate of six percent (6%) per annum.

20 **"§ 58-31A-45. Adjustment of losses; determination and report of appraisers; payment of**
21 **amounts to treasurers of local school administrative units; disbursement of**
22 **funds.**

23 (a) In the event of loss or damage by insurable hazards to public education buildings and
24 properties for the public education boards, the Fund shall pay the loss (i) in the same proportion
25 as the amount of insurance carried bore to the valuation of the property at the time it was insured,
26 but not exceeding the amount which it would cost to repair or replace the property with material
27 of like kind and quality within a reasonable time after the loss, (ii) not in excess of the amount of
28 insurance provided for the property, and (iii) not in excess of the amount of the loss that the Fund
29 is required to pay in participation with property insurance companies having policies of insurance
30 in force on the properties at the time of the loss or damage. The Fund shall not be liable for a
31 greater proportion of any loss than the amount of insurance shall bear to the whole insurance
32 covering the property against the peril involved.

33 (b) In the event of loss or damage by insurable hazards to public education buildings and
34 properties of the public education boards, to the property insured, when an agreement as to the
35 extent of the loss or damage cannot be arrived at between the Commissioner and the public
36 education board with control charge of the property, the amount of the loss or damage shall be
37 determined by three appraisers selected as follows: the Commissioner shall select one appraiser,
38 the public education board in control of the property shall select one appraiser, and the two
39 appraisers selected by the Commissioner and the public education board shall select a third
40 appraiser. The selected appraisers shall be disinterested persons and shall be qualified from
41 experience to appraise and value the property. If the appraisers appointed by the Commissioner
42 and the public education board shall fail to agree upon a third appraiser within 15 days of their
43 selection, then, on request of the Commissioner or the public education board, a third appraiser
44 shall be selected by any regular resident superior court judge of the superior court district or set
45 of districts as defined in G.S. 7A-41.1 in which the property is located. The selected appraisers
46 shall file their written report with the Commissioner and with the public education board. The
47 costs of the appraisal shall be paid from the Fund. Upon the determination of the loss by the
48 appraisers, the Commissioner shall pay the amount of the loss or damage to the education
49 property to the finance officer of the public education board, upon proper warrant of the
50 Commissioner. The funds shall be paid out by the finance officer for the disbursement of the
51 funds to the public education board.

"§ 58-31A-50. Maintenance of inspection and engineering service; cancellation of insurance.

The Commissioner is authorized and empowered to maintain an inspection and engineering service deemed by it to be appropriate and necessary to reduce the hazards of fire in public education buildings insured in the Fund and to expend for such purpose not in excess of ten percent (10%) of the annual premiums collected from the public education boards. The Commissioner is authorized and empowered to cancel any insurance on any public education property when, in his or her opinion, because of dilapidation and depreciation of the property, the property is no longer insurable. The public education board shall be notified at least 30 days prior to cancellation, and in the event the public education board demonstrates the property can be restored to insurable condition, the Commissioner may continue insurance coverage, provided, that the findings and results of the inspection of public education property by the agents of the Commissioner shall be reported to the public education board and to the tax-levying authority for that public education board that carry insurance with the Fund at least 30 days prior to finalization of a local budget for that fiscal year to ensure that all public education property shall be properly taken care of and made safe from fire hazards.

"§ 58-31A-55. Other property insurance.

The Commissioner shall adopt rules for providing property insurance on property insured by the Fund against all risks of direct physical loss not otherwise insured against pursuant to this Article. Losses covered by this additional insurance shall be paid out of the Fund in the same manner as fire and extended coverage losses. Each public education board that elects to purchase this additional insurance shall pay a premium in accordance with rates fixed by the Commissioner. This additional insurance shall be subject to the provisions and stipulations on policy forms approved by the Commissioner."

SECTION 3.(c) Article 38 of Chapter 115C of the General Statutes is repealed.

SECTION 3.(d) G.S. 115C-12(9) reads as rewritten:

"(9) Miscellaneous Powers and Duties. – All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

...

e. ~~To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.~~

In making substantial policy changes in administration, curriculum, or programs the Board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters."

SECTION 3.(e) G.S. 147-69.2(15) is amended by adding a new subdivision to read:

"(15) The State Public School Education Property Insurance Fund."

SECTION 3.(f) Section 6(d)(30) of S.L. 2018-32 is repealed.

PART IV. EFFECTIVE DATE

SECTION 4. This act becomes effective July 1, 2020.



HOUSE BILL 922: Enhance Insurance Coverage/Educ. Buildings.

2019-2020 General Assembly

Committee: House Insurance
Introduced by: Reps. D. Hall, Lewis, Arp
Analysis of: Third Edition

Date: July 16, 2019
Prepared by: Kara McCraw
Jeremy Ray
Staff Attorney

OVERVIEW: House Bill 922 would authorize a Type I transfer and consolidation of the School Insurance Fund Section of the Department of Public Instruction that oversees the management and operation of a system of insurance for public education property, to the Department of Insurance (DOI), as well as a transfer of the Public School Insurance Fund to the DOI. Local boards of education, regional schools, and community colleges would also be required to purchase flood insurance for all educational property.

CURRENT LAW: Article 38 of Chapter 115C of the General Statutes authorizes the State Board of Education to manage and operate a system of insurance for public school property. The State Treasurer is responsible for managing the Public School Insurance Fund for the School Insurance Fund Section to provide adequate reserves against losses which may be incurred on account of risks insured and to provide payment for such losses incurred by such risks.

All local boards of education and boards of trustees for community colleges, are *required* to insure and keep insured, not less than 75% of the current insurable value of each building against fire, lightning, and other perils, and to insure and keep insured adequately, the equipment and contents of said building. All local boards of education and community colleges *may* insure all property within their units against the direct loss or damage arising from the aforementioned causes by participating in the Public School Insurance Fund, or by purchasing insurance policies directly from companies duly licensed and authorized to sell insurance in this State. A willful failure to comply with these insurance coverage requirements is a Class III misdemeanor violation.

BILL ANALYSIS: House Bill 922 would authorize a Type I transfer¹ and consolidation of the School Insurance Fund Section of the Department of Public Instruction, that oversees the management and operation of a system of insurance for public education property, to the Department of Insurance. The bill would also transfer the requirements related to State insurance of public school property to Chapter 58 (Insurance) and make technical and conforming changes in those statutes.

¹Under G.S. 143A-6, a Type I transfer means: "the transferring of all or part of an existing agency to a principal department." Further, "[w]hen all or part of any agency is transferred to a principal department under a Type I transfer, its statutory authority, powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and purchasing, are transferred to the principal department." "When any agency, or part thereof, is transferred by a Type I transfer to a principal department...all its prescribed powers, duties, and functions, including but not limited to rule making, regulation, licensing, and promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications are transferred to the head of the principal department into which the agency, or part thereof, has been transferred."

Karen Cochrane-Brown
Director

CHECKED OUT

Legislative Analysis
Division
919-733-2578

House Bill 922

Page 2

The bill would define "public education board" to mean a local board of education of a local school administrative unit, a board of trustees of a regional school, or a board of trustees of a community college. These educational entities are currently authorized to use the Public School Insurance Fund, and may elect to continue utilizing the Fund. The bill would now require a public education board to insure, and keep insured, each building owned by the entity to the extent of not less than 80% of the current insurable value, against loss by an *insurable hazard*, defined as the following: fire, lightning, windstorm, hail, explosion, aircraft or vehicles, riot or civil commotion, smoke, vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet, and water damage.

Under the bill, a public education board would now be required to insure and keep insured to the extent of not less than 80% of the current insurable value, for *flood damage* to buildings and their contents, when that property is located, or becomes located in an area identified on the latest Flood Insurance Rate Map produced by the Federal Emergency Management Agency as an area that will be inundated by a flood event having a one percent (1%) chance of being equaled or exceeded in any given year. Currently, public education boards may voluntarily elect to provide for flood insurance coverage, which includes coverage made available through the Public School Insurance Fund, and may continue to utilize the Fund to satisfy the new flood insurance coverage requirements.

If the Commissioner of Insurance determines that any person has willfully failed to comply with the insurance coverage requirements for public education boards, the Commissioner may order, for each separate violation, a civil penalty.

The bill would make further conforming and technical changes to fully implement the transfer and consolidation of the School Insurance Fund Section of the Department of Public Instruction to the Department of Insurance.

EFFECTIVE DATE: This act becomes effective July 1, 2020.

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**INSURANCE COMMITTEE REPORT
Representative Dana Bumgardner, Co-Chair
Representative Kevin Corbin, Co-Chair
Representative Mitchell S. Setzer, Co-Chair**

FAVORABLE FOR CONCURRENCE

HB 922 (SCS#1)	Enhance Insurance Coverage/Educ. Buildings.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Arp

TOTAL REPORTED: 1





COMMITTEE ON INSURANCE*

Rep. Dana Bumgardner
Rep. Kevin Corbin
Rep. Mitchell S. Setzer
Co-Chairs

Margaret Herring
Cindy Hobbs
Margie Penven
Committee Assistants

*The Committee on Insurance did not meet during the 2020 Session.

A handwritten signature in cursive script, appearing to read "D. Bumgardner".

HOUSE COMMITTEE ON INSURANCE 2019-20
(10/1/19)

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Bumgardner, Dana, Chair	Margie Penven	733-5809	1206 LB	40
Corbin, Kevin, Chair	Cindy Hobbs	733-5859	2215 LB	90
Setzer, Mitchell, Chair	Margaret Herring	733-4948	2204 LB	2
Lucas, Marvin, Vice-Chair	Thelma Utley	733-5775	402 LOB	11
Baker, Kristen	Rhonda Todd	733-5861	306A3A LOB	114
Beasley, Chaz	Michael Wilson	733-5654	403 LOB	60
Cleveland, George	Pam Ahlin	715-6707	417A LOB	8
Floyd, Elmer	Mildred Alston	733-5827	1221 LB	36
Garrison, Terry	Anita Bennett	733-5824	610 LOB	45
Gill, Rosa	Lisa Ray	733-5880	1303 LB	44
Goodwin, Edward	Richard Blackwelder	733-0010	2217 LB	112
Graham, Charles	Linda Laton	715-0875	1309 LB	35
Hall, Kyle	Jeffrey Biggs	733-5609	529 LOB	78
Holley, Yvonne	Lee Lewis	733-5758	1219 LB	71
Howard, Julia	Cody Huneycutt	733-5904	302 LOB	1
Humphrey, Chris	Wanda Benson	733-5995	632 LOB	97
Iler, Frank	Carla Langdon	301-1450	639 LOB	14
Jones, Perrin	Susie Ferrell	733-5757	307B LOB	73
McElraft, Pat	Nancy Fox	733-6275	634 LOB	9
Montgomery, Derwin	Carol Brooks	733-5829	1006 LB	81
Pierce, Garland	Janice Fenner	733-5803	1204 LB	22
Potts, Larry	Caroline Craig	715-0873	306B1 LOB	77
Ross, Stephen	Tammy Ross	733-5820	1229 LOB	50
Sasser, Wayne	Anita Spence	733-5908	418A LOB	89
Warren, Harry	Cristy Yates	733-5784	611 LOB	16
Willingham, Shelly	Johnna Smith	715-3024	513 LOB	46
Wray, Michael	Susan Burleson	733-5662	2123 LB	20
Ex-Officio Voting Members				
Stevens, Sarah, Speaker Pro Tempore	Lisa Brown	715-1883	419 LOB	7
Lewis, David, Rules Chair	Grace Rogers	715-3015	2301 LB	6
Bell, John, House Majority Leader	Susan Horne	715-3017	301F LOB	5
Jones, Brenden, Deputy House Majority Leader	Andrew Bailey	733-5821	1227 LOB	88
Staff:				
Kristen Harris, Coordinator , Legislative Analysis Division (LAD)		733-2578	545 LOB	
Jeremy Ray, Staff Attorney , LAD		733-2578	545 LOB	
Bill Patterson, Staff Attorney , LAD		733-2578	545 LOB	
Margaret Herring, Committee Assistant		733-4948	2204 LB	
Cindy Hobbs, Committee Assistant		733-5859	2215 LB	
Margie Penven, Committee Assistant		733-5809	1206 LB	

INSURANCE

House Standing Committee

Chairs



Rep. Bumgardner



Rep. Corbin



Rep. Setzer

Vice Chair



Rep. Lucas

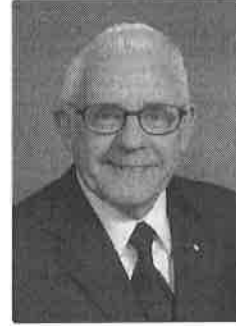
Members



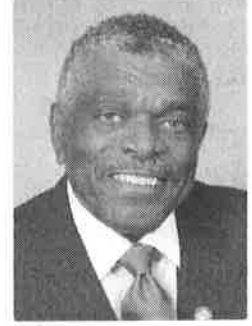
Rep. Baker



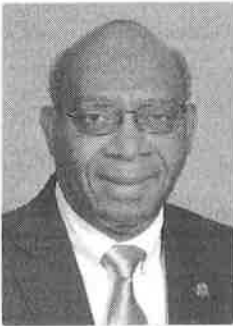
Rep. Beasley



Rep. Cleveland



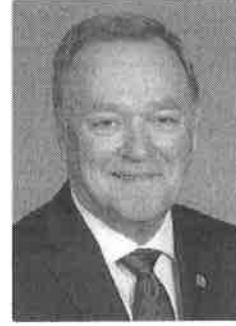
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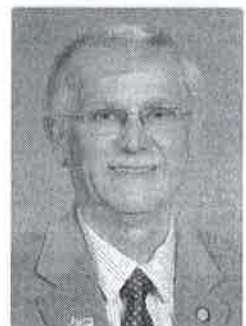
Rep. Pierce



Rep. Potts



Rep. Ross



Rep. Sasser



Rep. Warren



Rep. Willingham



Rep. Wray

Pursuant to House Rules 26(e) and 26(f), the Chair of the Committee on Rules, Calendar and Operations of the House, the Speaker Pro Tempore, the Majority Leader, and the Deputy Majority Leader are ex officio members of each standing committee and permanent subcommittee with the right to vote. The previous sentence does not apply to the Standing Committee on Ethics. For the purposes of determining a quorum, when serving only as ex officio members, these members shall be counted among the membership of the committee or subcommittee only when present.