

GENERAL ASSEMBLY OF NORTH CAROLINA



FISCAL ANALYSIS MEMORANDUM

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DATE: May 18, 2011

TO: Representative Dockham

FROM: Tazra Mitchell
Fiscal Research Division

RE: House Bill 298 (PCS to Second Edition)

FISCAL IMPACT

Yes ()

No ()

No Estimate Available (X)

FY 2011-12 FY 2012-13 FY 2013-14 FY 2014-15 FY 2015-16

REVENUES: *Unknown. See Assumptions and Methodology*

EXPENDITURES: *None Anticipated*

POSITIONS
(cumulative): *None Anticipated*

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Insurance

EFFECTIVE DATE: Sections 1, 4, 10 and 11 become effective July 1, 2011. Sections 3, 5, 6, and 7 become effective October 1, 2011. Section 8 becomes effective July 1, 2012 and applies to licenses issued on or after that date. The remainder of the act is effective when it becomes law.

BILL SUMMARY:

The Proposed Committee Substitute to the Second Edition of House Bill 298 makes the following changes:

Section 1 authorizes the Commissioner of Insurance to contract with the National Association of Insurance Commissioners (NAIC) and other third parties to provide online license processing and support services to license applicants. The bill also authorizes the third party to charge a reasonable fee, as agreed to by the Commissioner, for these services.

Section 2 codifies the existing Senior Health Insurance Information Program (SHIIP) in Chapter 58 of the General Statutes governing insurance. Currently, this Program is referenced in the Administrative Code (11 NCAC 17).

Section 3 makes it unlawful to prepare or issue a certificate of insurance that: (1) is in a form not approved by the Commissioner; (2) contains any false or misleading information; or (3) purports to alter or amend the coverage provided by the policy. A certificate of insurance is a short summary of a policy provided by an insurer upon request to verify the existence of coverage.

Section 4 grants the Commissioner the authority to approve or disapprove rates filed by insurers for small group coverage prior to an insurer's use of the filed rates. This is known as "prior approval." Prior approval is needed to avoid possible federal intervention in the approval of rates if the State does not have this authority.

Section 5 creates a defined open enrollment period in the months of January and July of each year for nondependent child coverage, also known as "child only" coverage. An insurer is not required, however, to offer child only coverage, or maternity coverage as part of an offer of child only coverage.

Sections 6 and 7 adopt NAIC model language implementing a new "trend test" calculation. The trend test is currently used to allow the Department to identify a company with insufficient capital in light of the company's assumed risk. The Department can then require the development of a comprehensive financial plan by the company. Failure to adopt the new NAIC Model trend test language could result in loss of state accreditation by the NAIC.

Section 8 exempts from adjuster licensing requirements those individuals who, in connection solely with insurance covering only portable consumer electronic devices, collect claims information and conduct data entry, and exercise no discretion in the disposition of the portable electronic device claim. For the exemption to apply, the individual must be supervised by a licensed adjuster or licensed agent who supervises no more than 25 individuals adjusting claims.

Section 9 exempts crop loss adjusters from the examination requirements applicable to property and casualty adjusters if: (1) the crop adjuster adjusts only federal crop insurance claims; and (2) the adjuster passes a proficiency examination approved by the federal Risk Management Agency or the Commissioner.

Sections 10 and 11 make changes to ease Department regulation of the Association Aggregate Security System (System) of the North Carolina Self-Insurance Guaranty Association (Association). The Association provides for the payment of Workers' Compensation claims against member self-insurers in the case of insolvency of one of its members. The System was established by the Association to allow individual self-insurers to collectively secure workers' compensation liabilities through the Association. The Association submits its Plan of Operation to the Commissioner for approval and also must annually submit its plan for the System to the Commissioner for approval. The bill makes the following changes:

- Deletes language requiring the Commissioner's approval of the Association's Board of Directors (G.S. 97-132), the Association's Plan of Operation (G.S. 97-134), the System's plan (G.S. 97-133(a)(2a), and the Association's servicing facility (G.S. 97-133(a)(9)).
- Removes language allowing separation of the Association's Self-Insurance Security Fund into separate funds for group self-insurers and individual self-insurers (G.S. 97-133(a)(1a)).
- Requires each member of the Association to annually determine and report its total undiscounted workers compensation claims liability to the Association (G.S. 97-133(a)(13)).
- Allows the Board to set its own minimum debt rating for participation in the System.

Section 12 exempts multiline limited assessable mutual insurance companies from requirement that application and policy fees may not be charged by an insurer without the insured's prior written consent. Under current law, these mutual insurance companies are generally exempt from Department regulatory requirements.

Section 13 provides that a fee charged by a licensed continuing care facility in a facility's declaration of condominium which is also provided in a resident's contract for continuing care with the facility is not a transfer fee for the purposes of Chapter 39A of the General Statutes. Chapter 39A prohibits the enforcement of transfer fee covenants running with a title to real property.

Source: Bill Summary, Research Division (May 17, 2011)

ASSUMPTIONS AND METHODOLOGY:

Revenue

Section 8

This section of the bill exempts from adjuster licensing requirements those individuals who, in connection solely with insurance covering only portable consumer electronic devices, collect claims information and conduct data entry, and exercise no discretion in the disposition of the portable electronic device claim.

The Department of Insurance (DOI) reports that there could be a reduction in revenue as a result of this exemption, but DOI is not aware of any adjuster who is only adjusting portable electronic device claims. The Agent Services Division within DOI has no way of determining the population

or number of adjusters that would fall into this category. As a result, Fiscal Research is not able to estimate the potential reduction in revenue to the State.

Expenditures

DOI estimates that House Bill 298 would have no fiscal impact on its current operations. Any additional workload required by the bill would be absorbed by current DOI staff. DOI also anticipates that the bill would not result in any savings to the State.

Section 1

This section of the bill authorizes the Commissioner of Insurance to contract with the National Association of Insurance Commissioners (NAIC) and other third parties to provide online license processing and support services to license applicants. The bill also authorizes the third party to charge a reasonable fee, as agreed to by the Commissioner, for these services. This section of the bill will have no fiscal impact on DOI because the administrative fee would be charged to the licensee and does not have a fiscal impact on DOI.

Sections 4, 5, 6, 7, 10, and 11

DOI anticipates that it would absorb the additional workload required by these sections of the bill. With respect Sections 10 and 11, DOI does not expect any savings from the review of the Association Aggregate Security System.

Section 9 exempts crop loss adjusters from the examination requirements applicable to property and casualty adjusters under certain circumstances. The hail adjuster exam exemption does not have a fiscal impact on DOI because the adjusters would still be required to be licensed and would have to pay the annual license fees.

SOURCES OF DATA: Department of Insurance

TECHNICAL CONSIDERATIONS: None