

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1300*

Short Title: Insurance Reg. Charge/Company Exams.

(Public)

Sponsors: Senators Odom and Hoyle.

Referred to: Commerce.

May 27, 1998

A BILL TO BE ENTITLED

1 AN ACT TO SET THE INSURANCE REGULATORY CHARGE FOR CALENDAR
2 YEAR 1998, TO AMEND PROVISIONS IN THE INSURANCE LAWS DEALING
3 WITH EXAMINATIONS OF INSURANCE COMPANIES AND AUDITS OF
4 THEIR FINANCIAL STATEMENTS, AND TO CLARIFY THE LAW ON
5 INSURERS' FUNDING AGREEMENT RESERVES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. The percentage rate to be used in calculating the insurance
9 regulatory charge under G.S. 58-6-25 is eight and seventy-five hundredths percent
10 (8.75%) for the 1998 calendar year.

11 Section 2. G.S. 58-7-50(d) reads as rewritten:

12 "(d) This section is subject to the exceptions provided in G.S. 58-7-55. The
13 Commissioner may allow a domestic insurer to maintain certain records or assets outside
14 this State."

15 Section 3. G.S. 58-2-131(k) reads as rewritten:

16 "(k) ~~When making an examination, For any examination of an insurer, if the~~
17 Commissioner determines that appropriated resources within the Department are
18 insufficient to conduct or complete the examination properly, the Commissioner may
19 retain attorneys, appraisers, independent actuaries, independent certified public
20 accountants, or other professionals and specialists as examiners. to assist the

1 Commissioner in the examination, the cost of which shall be paid by the insurer pursuant
2 to G.S. 58-2-134."

3 Section 4. Article 2 of Chapter 58 of the General Statutes is amended by
4 adding a new section to read:

5 "**§ 58-2-134. Cost of examinations.**

6 (a) For an examination of records or assets maintained in the State pursuant to
7 G.S. 58-2-131, 58-2-132, or 58-2-133, the insurer shall pay the actual expenses incurred
8 by the Department in conducting the examination. Except as provided in subsection (b)
9 of this section, the amount paid by an insurer for an examination shall not exceed one
10 hundred thousand dollars (\$100,000).

11 (b) An insurer shall reimburse the Department for the actual expenses incurred by
12 the Department in any examination of those records or assets conducted pursuant to G.S.
13 58-2-131, 58-2-132, or 58-2-133 when:

14 (1) The insurer maintains part of its records or assets outside this State
15 pursuant to G.S. 58-7-50 or G.S. 58-7-55.

16 (2) The insurer requests an examination of its records or assets.

17 (3) The Commissioner examines an insurer that is impaired or insolvent or
18 is unlikely to be able to meet obligations with respect to known or
19 anticipated claims or to pay other obligations in the normal course of
20 business."

21 Section 5. G.S. 58-7-16(f) reads as rewritten:

22 "(f) The Commissioner has sole authority to regulate the issuance and sale of
23 funding agreements on behalf of insurers. In addition to the authority in G.S. 58-2-40, the
24 Commissioner may adopt rules relating to:

25 (1) Standards to be followed in the approval of forms of funding
26 agreements.

27 (2) Reserves to be maintained by insurers issuing funding agreements.

28 (3) Accounting and reporting of funds credited under funding agreements.

29 (4) Disclosure of information to be given to holders and prospective holders
30 of funding agreements.

31 (5) Qualification and compensation of persons selling funding agreements
32 on behalf of insurers.

33 In determining minimum valuation reserves to be maintained by insurers issuing
34 funding agreements, the Commissioner may use any relevant actuarial guideline,
35 regulation, interpretation, or paper published by the Society of Actuaries or the American
36 Academy of Actuaries that the Commissioner considers reasonable."

37 Section 6. G.S. 58-2-131(d) reads as rewritten:

38 "(d) The Commissioner may conduct an examination of any insurer whenever the
39 Commissioner deems it to be prudent for the protection of policyholders but shall at a
40 minimum conduct ~~an~~ a regular examination of every domestic insurer not less frequently
41 than once every ~~three~~ five years. In scheduling and determining the nature, scope, and
42 frequency of examinations, the Commissioner shall consider such matters as the results
43 of financial statement analyses and ratios, changes in management or ownership,

1 actuarial opinions, reports of independent certified public accountants, and other criteria
2 as set forth in the NAIC Examiners' Handbook."

3 Section 7. G.S. 58-2-205 reads as rewritten:

4 **"§ 58-2-205. CPA audits of financial statements.**

5 ~~The Commissioner is authorized to adopt rules to provide for audits and opinions of~~
6 ~~insurers' financial statements by certified public accountants. Such rules shall be in~~
7 ~~accordance with the NAIC model rule that requires audited financial reports, as amended.~~

8 (a) The NAIC model rule requiring annual audited financial reports as provided
9 for in the annual statement instructions is incorporated into this section by reference,
10 except as specified in subsections (b) through (g) of this section.

11 (b) The annual audited financial report shall be filed with the Commissioner on or
12 before May 10 for the previous calendar year. Two copies of this report shall be filed
13 with the Chief Examiner in the Field Audit Section of the Department. An extension of
14 the May 10 filing date may be granted by the Commissioner for a period of up to 45 days.
15 The request for extension must be submitted in writing no sooner than 15 days before the
16 due date.

17 (c) This requirement applies to all insurers; provided that insurers having direct
18 premiums written in North Carolina of less than two hundred fifty thousand dollars
19 (\$250,000) in any year and having fewer than 500 policyholders in North Carolina at the
20 end of any year are exempt from this requirement for that year unless the Commissioner
21 makes a specific finding that compliance is necessary for the Commissioner to carry out
22 the Commissioner's statutory responsibilities.

23 (d) Certified public accountants that intend to practice pursuant to the provisions
24 of the annual statement instructions shall file a notice to that effect with the
25 Commissioner by October 1 of each year. The Commissioner may reject the filing if the
26 certified public accountant does not meet the requirements. The filing shall contain a
27 statement from the certified public accountant affirming that the certified public
28 accountant is aware of and will comply with the provisions of the annual statement
29 instructions related to the definition, availability, and maintenance of certified public
30 accountant workpapers and evidence of the certified public accountant's expertise in the
31 areas of insurance auditing and insurance accounting. This evidence shall also
32 demonstrate experience in the areas of insurance auditing and insurance accounting for
33 the certified public accountant's staff members who are assigned to the audit.

34 (e) The certified public accountant may be deemed to be experienced in the areas
35 of insurance auditing and accounting if the office filing with the Department pursuant to
36 this section has existing audit clients in the insurance industry.

37 (f) The staff assigned to an audit under this section may be considered by the
38 Commissioner to be experienced in the areas of insurance auditing and accounting if they
39 meet the following criteria:

- 40 (1) Managerial staff that has been assigned or has had responsibility for
41 audit engagements in the insurance industry in an amount averaging at
42 least thirty percent (30%) of its chargeable time during the last three
43 years.

1 (2) Nonmanagerial staff that has been assigned or has had responsibility for
2 audit engagements in the insurance industry in an amount averaging at
3 least fifteen percent (15%) of its chargeable time during the last three
4 years or during the staff members' periods of employment if employed
5 fewer than three years.

6 (g) An audit performed by a certified public accountant under this section shall be
7 staffed by managerial staff experienced in the areas of insurance auditing and accounting
8 and by a majority or an equal number of nonmanagerial staff experienced in the areas of
9 insurance auditing and accounting.

10 (h) As used in this section, 'insurance' includes financial services."

11 Section 8. This act becomes effective July 1, 1998.