

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 270

Short Title: Insurance Technical Corrections.-AB

(Public)

Sponsors: Representative Setzer.

Referred to: Insurance.

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE INSURANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory clause of Section 4 of S.L. 2002-144 reads as rewritten:

"**SECTION 4.** ~~G.S. 143-10(a)~~ G.S. 143-143.10(a) reads as rewritten:"

SECTION 2. G.S. 58-26-31(a) reads as rewritten:

"(a) Each domestic title insurance company shall withdraw from use funds to be used by the Commissioner in the event of the insurer's insolvency, the funds being equal to the statutory premium reserve and the supplemental reserve pursuant to G.S. 58-26-25. The amount shall be held in a trust account, as approved by the Commissioner. The trust account will be held in favor of the holders of title policies in the event of the insolvency of the ~~insurer.~~ insurer, and is not subject to G.S. 41-15. Nothing in this section precludes the insurer from investing the reserve in investments authorized by law for that insurer, and the income from the invested reserve shall be included in the general income of the insurer to be used by the insurer for any lawful purpose."

SECTION 3. G.S. 1-507.7 reads as rewritten:

"**§ 1-507.7. Report on claims to court; exceptions and jury trial.**

It is the duty of the receiver to report to the session of the superior court subsequent to a finding by him as to any claim against the corporation, and exceptions thereto may be filed by any person interested, within 10 days after notice of the finding by the receiver, and not later than within the first three days of the said term; and, if, on an exception so filed, a jury trial is demanded, it is the duty of the court to prepare a proper issue and submit it to a jury; and if the demand is not made in the exceptions to the report the right to a jury trial is waived. The judge may, in his discretion, extend the time for filing such exceptions. Provided, that no court shall issue any order of distribution or order of discharge of a receiver until said receiver has proved to the satisfaction of the court that written notice has been mailed to the last known address of

1 every claimant who has properly filed claim with the receiver, to the effect that such
 2 orders will be applied for at a certain time and place therein set forth and by producing a
 3 receipt issued by the United States post office, showing that such notice has been mailed
 4 to each of such claimant's last known address at least 20 days prior to the time set for
 5 hearing and passing upon such application to the court for said orders of distribution
 6 and/or discharge.

7 As to delinquency proceedings for insurance companies under Article ~~17A~~ 30 of
 8 General Statutes Chapter 58, such prior notice need be given only to those claimants
 9 whose presented claims have been denied or have not been adjudicated; and notice is
 10 satisfied by mailing either a general notice of application for distribution showing
 11 disposition of the claims or a copy of the application to such claimants. Proof of mailing
 12 with the United States Postal Service may be made by the receiver's certificate of
 13 service without either the necessity of postal receipt or the listing of individual
 14 claimants names and addresses."

15 **SECTION 4.** G.S. 1-339.1(8) reads as rewritten:

16 "(8) A sale made in the course of liquidation of an insurance company
 17 pursuant to Article ~~17A~~ 30 of Chapter 58 of the General Statutes, or".

18 **SECTION 5.** G.S. 58-33-133(c) reads as rewritten:

19 "(c) Fees collected by the Commissioner under this section shall be credited to the
 20 ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

21 **SECTION 6.** G.S. 143-138(g) reads as rewritten:

22 "(g) **(Effective until June 30, 2003)** Publication and Distribution of Code. – The
 23 Building Code Council shall cause to be printed, after adoption by the Council, the
 24 North Carolina State Building Code and each amendment thereto. It shall, at the State's
 25 expense, distribute copies of the Code and each amendment to State and local
 26 governmental officials, departments, agencies, and educational institutions, as is set out
 27 in the table below. (Those marked by an asterisk will receive copies only on written
 28 request to the Council.)

30 OFFICIAL OR AGENCY	NUMBER OF COPIES
31 State Departments and Officials	
32 Governor	1
33 Lieutenant Governor	1
34 Auditor	1
35 Treasurer	1
36 Secretary of State	1
37 Superintendent of Public Instruction	1
38 Attorney General (Library)	1
39 Commissioner of Agriculture	1
40 Commissioner of Labor	1
41 Commissioner of Insurance	1
42 Department of Environment and Natural Resources	1
43 Department of Health and Human Services	1
44 Department of Juvenile Justice and Delinquency Prevention	1

1 Board of Transportation..... 1
 2 Utilities Commission 1
 3 Department of Administration 1
 4 Clerk of the Supreme Court 1
 5 Clerk of the Court of Appeals 1
 6 Department of Cultural Resources [State Library] 1
 7 Supreme Court Library 1
 8 Legislative Library 1
 9 Office of Administrative Hearings 1
 10 Rules Review Commission 1
 11 Schools
 12 All state-supported colleges and universities in the State of North
 13 Carolina *1 each
 14 Local Officials
 15 Clerks of the Superior Courts 1 each
 16 Chief Building Inspector of each incorporated
 17 municipality or county..... 1
 18

19 In addition, the Building Code Council shall make additional copies available at
 20 such price as it shall deem reasonable to members of the general public. The proceeds
 21 from sales of the Building Code shall be credited to the ~~Department of Insurance~~
 22 Regulatory Fund under G.S. 58-6-25."

23 **SECTION 7.** G.S. 58-69-40 reads as rewritten:

24 "**§ 58-69-40. Disposition of fees.**

25 All fees collected by the Commissioner under this Article shall be credited to the
 26 ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

27 **SECTION 8.** G.S. 58-70-45 reads as rewritten:

28 "**§ 58-70-45. Disposition of permit fees.**

29 All permit fees collected under this Article shall be credited to the ~~Department of~~
 30 Insurance Regulatory Fund created under G.S. 58-6-25."

31 **SECTION 9.** G.S. 58-71-180 reads as rewritten:

32 "**§ 58-71-180. Disposition of fees.**

33 Fees collected by the Commissioner pursuant to this Article shall be credited to the
 34 ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

35 **SECTION 10.** G.S. 143-151.21 reads as rewritten:

36 "**§ 143-151.21. Disposition of fees.**

37 Fees collected by the Commissioner under this Article shall be credited to the
 38 ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

39 **SECTION 11.** G.S. 58-85-30 reads as rewritten:

40 "**§ 58-85-30. Treasurer to pay fund to Volunteer Firemen's Association.**

41 (a) The treasurer of the North Carolina State Firemen's Association shall pay to
 42 the treasurer of the North Carolina State Volunteer Firemen's Association one sixth of
 43 the funds arising from the ~~five percent (5%)~~ three percent (3%) paid ~~him~~ the treasurer of
 44 the North Carolina State Firemen's Association by the ~~Insurance~~ Commissioner each

1 year to be used by ~~said~~ the North Carolina State Volunteer Firemen's Association for the
2 purposes set forth in G.S. 58-84-35.

3 (b) Local units of the North Carolina State Volunteer Firemen's Association shall
4 maintain records and report to the North Carolina State Firemen's Association in the
5 ~~same manner and to the same extent as provided for in accordance with~~ G.S. 58-84-40,
6 and shall be subject to the sanctions ~~as set forth therein~~ in G.S. 58-84-40."

7 **SECTION 12.** G.S. 58-51-80(c) reads as rewritten:

8 "(c) The term "employees" as used in this section shall be deemed to include, for
9 the purposes of insurance hereunder, employees of a single employer, the officers,
10 managers, and employees of the employer and of subsidiary or affiliated corporations of
11 a corporation employer, and the individual proprietors, partners, and employees of
12 individuals and firms of which the business is controlled by the insured employer
13 through stock ownership, contract or otherwise. ~~Employees~~ With the exception of
14 disability income insurance, employees shall be added to the group coverage no later
15 than 90 days after their first day of employment. Employment shall be considered
16 continuous and not be considered broken except for unexcused absences from work for
17 reasons other than illness or injury. The term "employee" is defined as a nonseasonal
18 person who works on a full-time basis, with a normal work week of 30 or more hours
19 and who is otherwise eligible for coverage, but does not include a person who works on
20 a part-time, temporary, or substitute basis. The term "employer" as used herein may be
21 deemed to include the State of North Carolina, any county, municipality or corporation,
22 or the proper officers, as such, of any unincorporated municipality or any department or
23 subdivision of the State, county, such corporation, or municipality determined by
24 conditions pertaining to the employment."

25 **SECTION 13.** G.S. 58-33-83 reads as rewritten:

26 **"§ 58-33-83. Assumed names.**

27 An insurance producer doing business under any name other than the producer's
28 legal name shall notify the ~~Commission~~ Commissioner before using the assumed
29 name."

30 **SECTION 14.** G.S. 58-30-200(c) reads as rewritten:

31 "(c) The liquidator shall make his recommendations to the Court under ~~G.S.~~
32 ~~58-30-125,~~ G.S. 58-30-225 for the allowance of an insured's claim under subsection (b)
33 of this section after consideration of the probable outcome of any pending action against
34 the insured on which the claim is based, the probable damages recoverable in the action,
35 and the probable costs and expenses of defense. After allowance by the Court, the
36 liquidator shall withhold any dividends payable on the claim, pending the outcome of
37 litigation and negotiation with the insured. Whenever it seems appropriate, he shall
38 reconsider the claim on the basis of additional information and amend his
39 recommendations to the Court. The insured shall be afforded the same notice and
40 opportunity to be heard on all changes in the recommendation as in its initial
41 determination. The Court may amend its allowance as it thinks appropriate. As claims
42 against the insured are settled or barred, the insured shall be paid from the amount
43 withheld the same percentage dividend as was paid on other claims of like property,
44 based on the lesser of (i) the amount actually recovered from the insured by action or

1 paid by agreement plus the reasonable costs and expense of defense, or (ii) the amount
2 allowed on the claims by the Court. After all claims are settled or barred, any sum
3 remaining from the amount withheld shall revert to the undistributed assets of the
4 insurer. Delay in final payment under this subsection shall not be a reason for
5 unreasonable delay of final distribution and discharge of the liquidator."

6 **SECTION 15.** G.S. 97-195(b)(4) is repealed.

7 **SECTION 16.** This act is effective when it becomes law.