

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS15119-LT-48 (3/12)

Short Title: Amend Self-Insurance Guaranty Assoc. Laws.

(Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAWS GOVERNING THE SELF-INSURANCE
GUARANTY ASSOCIATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-133(a)(2) reads as rewritten:

"(2) Assess each member of the Association as follows:

- a. Each individual member self-insurer shall be annually assessed an amount equal to ~~one quarter of one percent (0.25%)~~ two percent (2%) of the annual gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), that would have been paid by that member self-insurer for workers' compensation insurance during the prior calendar year; and payment to the Association shall be made no later than ~~September 15~~ May 15 following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual gross premiums for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual gross premiums. Each group member self-insurer shall be annually assessed an amount equal to ~~one quarter of one percent (0.25%)~~ two percent (2%) of the annual gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), of the group member self-insurer during the prior calendar year; and payment to the Association shall be made no later than ~~September 15~~ May 15 following the close of that calendar year. Regardless of the size of the Fund, during its first 12 months of membership, no member self-insurer may discount or

1 reduce this ~~one quarter of one percent (0.25%)~~ assessment.
2 Assessments paid by members pursuant to this subdivision shall
3 be credited toward the tax paid by self insurers under Article
4 ~~8B of Chapter 105 of the General Statutes.~~ two percent (2%)
5 assessment. For the purpose of making the assessments
6 authorized by this subsection and subsections (c) and (d) of this
7 section, the Secretary of Revenue shall provide to the
8 Association the self-insurer premium and payroll information as
9 determined under G.S. 105-228.5(b), (b1) and (c), and the
10 Commissioner shall provide to the Association the group
11 self-insurer premium information reported to the Commissioner
12 under G.S. 58-47-75 and G.S. 58-2-165.

- 13 b. Each member self-insurer shall be notified of the assessment no
14 later than 30 days before it is due.
- 15 c. If a self-insurer is a member of the Association for less than a
16 full calendar year, the annual gross premiums shall be adjusted
17 by that portion of the year the self-insurer is not a member of
18 the Association.
- 19 d. If application of the contribution rates referenced in
20 sub-subdivision a. of this subdivision would produce an amount
21 in excess of the five million dollar (\$5,000,000) limits of the
22 fund, an equitable proration may be made; provided that every
23 self-insurer that becomes a member of the Association shall pay
24 an initial assessment, in an amount established by the Board,
25 regardless of the size of the fund at the time the member joins
26 the Association."

27 **SECTION 2.** G.S. 97-133(a)(4) reads as rewritten:

28 "(4) Be obligated to the extent of covered claims occurring prior to the
29 determination of the member self-insurer's insolvency, or occurring
30 after such determination but prior to the obtaining by the self-insurer
31 of workers' compensation insurance as otherwise required under this
32 Chapter. ~~The Association shall pay claims against a self insurer that
33 are not or have not been paid as a result of a determination of
34 insolvency or the institution of bankruptcy or receivership proceedings
35 that occurred prior to the effective date of this Article."~~

36 **SECTION 3.** G.S. 97-185 reads as rewritten:

37 **"§ 97-185. ~~Deposits or surety bond.~~ Deposits; surety bonds; letters of credit.**

38 (a) Every self-insurer shall deposit with the Commissioner an amount equal to
39 ~~twenty five percent (25%)~~ fifty percent (50%) of the self-insurer's total undiscounted
40 outstanding claim liability per the most recent certification from a qualified actuary as
41 required by G.S. 97-180(b), but not less than five hundred thousand dollars (\$500,000),
42 or such other amount as the Commissioner prescribes based on, but not limited to, the
43 financial condition of the self-insurer and the risk retained by the self-insurer.

1 ~~(b) A self insurer organized and authorized before the effective date of this~~
2 ~~section shall have 24 months from the effective date of this section to comply with this~~
3 ~~section.~~

4 (c) Deposits received, changes to existing deposits, or deposits exchanged after
5 the effective date of this section, shall comprise one or more of the following:

6 (1) Interest-bearing bonds of the United States of America.

7 (2) Interest-bearing bonds of the State of North Carolina, or of its cities or
8 counties.

9 (3) Certificates of deposit issued by any solvent bank domesticated in the
10 State of North Carolina that have a maturity of one year or greater.

11 (4) Surety bonds in a form acceptable to the Commissioner and issued by
12 a corporate surety. A surety bond deposited pursuant to this subsection
13 shall require that the surety reimburse the Commissioner, or his
14 successors, assigns, or transferees, from the proceeds of the surety
15 bond, for any costs incurred in the collection of the proceeds of the
16 surety bond, including reasonable attorneys' fees, and any costs
17 incurred in administering the workers' compensation claims against the
18 insolvent self-insurer that deposited the surety bond.

19 (4a) Irrevocable letters of credit in a form acceptable to the Commissioner
20 issued by a bank acceptable to the Commissioner.

21 (5) Any other investments that are approved by the Commissioner.

22 (d) All bonds or securities that are posted as a security deposit shall be valued
23 annually at market value. If market value is less than face value, the Commissioner may
24 require the self-insurer to post additional securities. In making this determination, the
25 Commissioner shall consider the self-insurer's financial condition, the amount by which
26 market value is less than face value, and the likelihood that the securities will be needed
27 to provide benefits.

28 (e) Securities deposited under this section shall be assigned to the Commissioner,
29 the Commissioner's successors, assigns, or trustees, on a form prescribed by the
30 Commissioner in a manner that renders the securities negotiable by the Commissioner.
31 If a self-insurer is deemed by the Commissioner to be in a hazardous financial
32 condition, the Commissioner may sell or collect, or both, such amounts that will yield
33 sufficient funds to meet the self-insurer's obligations under the Act. In the case of a
34 letter of credit, the Commissioner may draw the full amount of a letter of credit if the
35 letter of credit is not renewed within 90 days prior to its expiration or at any time that
36 the bank issuing the letter of credit is no longer acceptable to the Commissioner. Interest
37 accruing on any negotiable security deposited under this Article shall be collected and
38 transmitted to the self-insurer if the self-insurer is not in a hazardous financial condition.

39 (f) No judgment creditor, other than a claimant entitled to benefits under the Act,
40 may levy upon any deposits made under this section.

41 (g) Securities held by the Commissioner under this section may be exchanged or
42 replaced by the self-insurer with other securities of like nature and amount as long as
43 the self-insurer is not in a hazardous financial condition. No release shall be effectuated
44 until replacement securities or bonds of an equal value have been substituted. Any

1 surety bond may be exchanged or replaced with another surety bond that meets the
2 requirements of this section if 90 days' advance written notice is given to the
3 Commissioner. If a self-insurer ceases to self-insure or desires to replace securities with
4 an acceptable surety bond or bonds, the self-insurer shall notify the Commissioner, and
5 may recover all or a portion of the securities deposited with the Commissioner upon
6 posting instead an acceptable special release bond issued by a corporate surety in an
7 amount equal to the total value of the securities. The special release bond shall cover all
8 existing liabilities under the Act plus an amount to cover future loss development and
9 shall remain in force until all obligations under the Act have been discharged fully.

10 (h) If a self-insurer ceases to self-insure, no deposits shall be released by the
11 Commissioner until the self-insurer has discharged fully all of the self-insurer's
12 obligations under the Act.

13 (i) An endorsement to a surety bond shall be filed with the Commissioner within
14 90 days after the effective date of the endorsement."

15 **SECTION 4.** Effective January 1, 2005, G.S. 97-185(a), as amended in
16 Section 3 of this act, reads as rewritten:

17 "(a) Every self-insurer shall deposit with the Commissioner an amount equal to
18 ~~fifty percent (50%)~~ seventy-five percent (75%) of the self-insurer's total undiscounted
19 outstanding claim liability per the most recent certification from a qualified actuary as
20 required by G.S. 97-180(b), but not less than five hundred thousand dollars (\$500,000),
21 or such other amount as the Commissioner prescribes based on, but not limited to, the
22 financial condition of the self-insurer and the risk retained by the self-insurer."

23 **SECTION 5.** Effective January 1, 2006, G.S. 97-185(a), as amended in
24 Sections 3 and 4 of this act, reads as rewritten:

25 "(a) Every self-insurer shall deposit with the Commissioner an amount equal to
26 ~~seventy-five percent (75%)~~ one hundred percent (100%) of the self-insurer's total
27 undiscounted outstanding claim liability per the most recent certification from a
28 qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand
29 dollars (\$500,000), or such other amount as the Commissioner prescribes based on, but
30 not limited to, the financial condition of the self-insurer and the risk retained by the
31 self-insurer."

32 **SECTION 6.** Effective January 1, 2007, G.S. 97-185(a), as amended in
33 Sections 3, 4, and 5 of this act, reads as rewritten:

34 "(a) Every self-insurer shall deposit with the Commissioner an amount equal to
35 ~~one hundred percent (100%)~~ one hundred twenty-five percent (125%) of the
36 self-insurer's total undiscounted outstanding claim liability per the most recent
37 certification from a qualified actuary as required by G.S. 97-180(b), but not less than
38 five hundred thousand dollars (\$500,000), or such other amount as the Commissioner
39 prescribes based on, but not limited to, the financial condition of the self-insurer and the
40 risk retained by the self-insurer."

41 **SECTION 7.** G.S. 97-141 reads as rewritten:

42 **§ 97-141. Stay of proceedings.**

43 All claims or proceedings under this Chapter to which the insolvent member
44 self-insurer is a party either before the Industrial Commission or a court in this State and

1 the running of all time periods against either the insolvent member self-insurer or the
2 Association under this Chapter shall be stayed for 60 days from the later of the date of
3 notice to the Association of the insolvency or the date the Association is notified of a
4 claim or proceeding under this Chapter in order to permit the Association to investigate,
5 prosecute, or defend properly any petition, claim, or appeal under this Chapter, provided
6 that the payment of weekly compensation for incapacity is made whenever time periods
7 or proceedings affecting the payment of weekly compensation are stayed."

8 **SECTION 8.** Section 3 of this act becomes effective January 1, 2004.
9 Section 4 of this act becomes effective January 1, 2005. Section 5 of this act becomes
10 effective January 1, 2006. Section 6 of this act becomes effective January 1, 2007.
11 Section 7 of this act is effective when this act becomes law and applies to claims filed
12 on or after that date. The remainder of this act is effective when this act becomes law
13 and applies to assessments made on or after that date.