

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE DRH80293-MH-64 (3/11)

Short Title: Revise Insurance Guaranty Association Limits.

(Public)

Sponsors: Representative Stewart.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO RAISE THE LIABILITY CAP OF THE INSURANCE GUARANTY
ASSOCIATION TO THE LEVEL RECOMMENDED BY THE CURRENT VERSION OF
THE MODEL ACT AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-48-35(a) reads as rewritten:

"(a) The Association shall:

(1) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination, or before the insured replaces the policy or causes its cancellation, if he does so within 30 days of the determination. This obligation includes only the amount of each covered claim that is in excess of fifty dollars (\$50.00) and is less than ~~three hundred thousand dollars (\$300,000)~~five hundred thousand dollars (\$500,000). However, the Association shall pay the full amount of a covered claim for benefits under a workers' compensation insurance coverage, and shall pay an amount not exceeding ten thousand dollars (\$10,000) per policy for a covered claim for the return of unearned premium. The Association has no obligation to pay a claimant's covered claim, except a claimant's workers' compensation claim, if:

- a. The insured had primary coverage at the time of the loss with a solvent insurer equal to or in excess of ~~three hundred thousand dollars (\$300,000)~~five hundred thousand dollars (\$500,000) and applicable to the claimant's loss; or
- b. The insured's coverage is written subject to a self-insured retention equal to or in excess of ~~three hundred thousand dollars (\$300,000)~~five hundred thousand dollars (\$500,000).

If the primary coverage or the self-insured retention is less than ~~three hundred thousand dollars (\$300,000)~~five hundred thousand dollars (\$500,000), the Association's obligation to the claimant is reduced by the coverage and the retention. The Association shall pay the full amount of a covered claim for benefits under a workers' compensation insurance coverage to a claimant notwithstanding any self-insured retention, but the



1 Association has the right to recover the amount of the self-insured retention
2 from the employer.
3 In no event shall the Association be obligated to a policyholder or claimant
4 in an amount in excess of the obligation of the insolvent insurer under the
5 policy from which the claim arises. Notwithstanding any other provision of
6 this Article, a covered claim shall not include any claim filed with the
7 Association after the final date set by the court for the filing of claims
8 against the liquidator or receiver of an insolvent insurer."

9 **SECTION 2.** The Department of Insurance shall study the latest version of the
10 Property and Casualty Insurance Guaranty Association Model Act (the Act) and determine
11 what provisions of the Act should be incorporated into Article 48 of Chapter 58 of the General
12 Statutes. The Department shall also study how the Insurance Guaranty Association (the
13 Association) might revise its plan of operation to streamline and simplify the process for
14 claimants seeking reimbursement from the Association. The Department shall report its
15 findings, including proposed legislation, to the House of Representatives Insurance Committee
16 and the Senate Commerce Committee no later than April 1, 2010.

17 **SECTION 3.** Section 1 of this act becomes effective October 1, 2009, and applies
18 to policies of insurance subject to Article 48 of Chapter 58 of the General Statutes issued or
19 renewed on or after that date. Section 2 of this act is effective when it becomes law.