

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE BILL 639

Short Title: Clarify WC Claim Deadline/Ins. Guaranty Assn. (Public)

Sponsors: Senators Berger of Franklin; and Kinnaird.

Referred to: Judiciary II.

March 18, 2009

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE DEADLINE FOR FILING CLAIMS WITH THE INSURANCE
GUARANTY ASSOCIATION FOR BENEFITS UNDER A WORKERS'
COMPENSATION INSURANCE COVERAGE.

The General Assembly of North Carolina enacts:

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

"§ 58-48-35. Powers and duties of the Association.

(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~~the insured 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). 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) 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).

If the primary coverage or the self-insured retention is less than three hundred thousand dollars (\$300,000), 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 Association has the right to recover the amount of the self-insured retention from the employer.

In no event shall the Association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises. Notwithstanding any other provision of this Article, a covered claim shall ~~not~~ include any claim (i) filed with the



1 Association ~~after~~before the final date set by the court for the filing of claims
2 against the liquidator or receiver of an insolvent insurer or (ii) for benefits
3 under a workers' compensation insurance coverage if the claimant has timely
4 filed for benefits under Chapter 97 of the General Statutes."

5 **SECTION 2.** This act is effective when it becomes law and applies to claims filed
6 with the Insurance Guaranty Association on or after that date.