

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 104

Short Title: Auto Insurance/Protect Lienholders. (Public)

Sponsors: Representatives Brenden Jones, Iler, Corbin, and Szoka (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary III, if favorable, Insurance

February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO ENSURE THE RIGHTS AND INTERESTS OF LIENHOLDERS ARE ADEQUATELY PROTECTED UNDER CURRENT STATE LAW GOVERNING THE ISSUANCE OF MOTOR VEHICLE LIABILITY POLICIES AND PAYMENTS OF CLAIMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 41 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-41-32. Nonfleet private passenger motor vehicle insurance policy claims; ensure lienholder's security interest is protected.

Notwithstanding any provision of law to the contrary, prior to making payment on a nonfleet private passenger motor vehicle insurance policy claim, an insurer shall verify with any lienholders of record or loss payee whether the lienholder or loss payee holds a perfected security interest in the motor vehicle covered by the policy. If the insurer determines a lienholder or loss payee does hold a perfected security interest in the motor vehicle covered by the policy, the lienholder or loss payee shall be named as a co-payee on the insurer's payment of the claim, and the insurer shall mail the payment of the claim to the lienholder or loss payee."

SECTION 2. G.S. 58-39-75 is amended by adding a new subdivision to read:

"(22) To a lienholder of record with a perfected security interest in a motor vehicle covered by a nonfleet private passenger motor vehicle insurance policy, provided that all of the following requirements are met:

- a. The lienholder submits the request in writing or electronically.
- b. The personal or privileged information disclosed is limited to (i) the name of the insured, (ii) whether the insured's nonfleet private passenger motor vehicle insurance policy is in effect, (iii) whether the lienholder is listed on the nonfleet private passenger motor vehicle insurance policy, and (iv) if applicable, and to the extent permitted by federal law, any facts gathered by an insurer, insurance agent, or insurance-support organization during an investigation of a nonfleet private passenger motor vehicle insurance policy claim for the secured motor vehicle in which the claim is denied due to fraud or false representations by the insured.
- c. The lienholder agrees not to disclose the information unless the disclosure would otherwise be permitted or required by State or federal law."



1 **SECTION 3.** The Department of Insurance, in consultation with the Division of
2 Motor Vehicles, shall study ways to better ensure the rights and interests of any lienholder of
3 record of a motor vehicle are protected when an insurer issues a motor vehicle liability policy or
4 makes a claim payment. In particular, the Department shall examine what rule or legislative
5 changes may be necessary to better protect a lienholder of record from losses incurred due to the
6 denial of a claim based on (i) the covered motor vehicle being driven at the time of the accident by
7 a person not covered by the liability policy or (ii) the insured making fraudulent or false
8 representations in the claim. The Department shall report its findings and legislative
9 recommendations to the Joint Legislative Oversight Committee on General Government and the
10 Joint Legislative Transportation Oversight Committee no later than December 1, 2017.

11 **SECTION 4.** The Department of Insurance may adopt temporary rules to implement
12 the provisions of this act. Temporary rules adopted in accordance with this section shall remain in
13 effect until permanent rules that replace the temporary rules become effective.

14 **SECTION 5.** Section 1 of this act becomes effective October 1, 2017, and applies to
15 claims filed on or after that date. The remainder of this act is effective when it becomes law.