

§ 58-30-12. Duty to report insurer impairment; violations; penalties.

(a) As used in this section:

- (1) "Chief executive officer", as used in subsection (b) of this section, means the person, irrespective of title, designated by the board of directors or trustees of an insurer as the person charged with administering and implementing an insurer's policies and procedures.
- (2) "Impaired", as used in subsections (b) and (c) of this section, means a financial condition in which the assets of an insurer are less than the sum of the insurer's minimum required capital, minimum required surplus, and all liabilities as determined in accordance with the requirements for the preparation and filing of a financial statement under G.S. 58-2-165 and under other provisions of this Chapter.
- (3) "Insolvent", as used in subsection (c) of this section, has the same meaning as set forth in G.S. 58-30-10(13).

(b) Whenever an insurer is impaired, its chief executive officer shall, as soon as is reasonably possible, notify the Commissioner in writing of the impairment and shall at the same time notify in writing all of the members of the board of directors or trustees of the insurer, if the chief executive officer knows or has reason to know of the impairment. An officer, director, or trustee of an insurer shall notify the chief executive officer of the impairment of the insurer if the officer, director, or trustee knows or has reason to know that the insurer is impaired. Any person who knowingly violates this subsection shall, upon conviction, be guilty of a Class 1 misdemeanor.

(c) Any person who willfully:

- (1) Conceals any property belonging to an insurer; or
- (2) Transfers or conceals in contemplation of a delinquency proceeding the person's own property or property belonging to an insurer; or
- (3) Conceals, destroys, mutilates, alters, or makes a false entry in any document that affects or relates to the property of an insurer or withholds any such document from a receiver, trustee, or other officer of a court entitled to its possession; or
- (4) Gives, obtains, or receives a thing of value for acting or forbearing to act in any court proceedings;

and any such act results in or contributes to an insurer becoming impaired or insolvent; shall be guilty of a Class H felony. (1991, c. 681, s. 40; 1993, c. 539, s. 455; 1994, Ex. Sess., c. 24, s. 14(c).)