

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 528  
HOUSE BILL 844

AN ACT TO MAKE CERTAIN CLARIFYING AND CONFORMING  
AMENDMENTS TO THE NORTH CAROLINA SELF-INSURANCE  
GUARANTY ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-130 is amended as follows:

(a) by renumbering existing subdivision (6) as subdivision (7);

(b) by adding a new subdivision (6) to read:

"(6) 'Member self-insurer' or 'member' means a self-insurer which is authorized by the Commissioner to self-insure pursuant to G.S. 97-93, 97-94 and 97-96.";

(c) by renumbering existing subdivision (7) as subdivision (8); and

(d) by deleting the phrase 'or member self-insurer' from new subdivision (8).

Sec. 2. G.S. 97-131 is amended as follows:

(a) G.S. 97-131(a) is amended by deleting the last sentence of the subsection;

(b) G.S. 97-131(b) is amended by inserting the phrase "by the Board" following "both," in the second sentence of the subsection;

(c) G.S. 97-131(b)(2) is rewritten to read:

"(2) A self-insurer shall be deemed to be a member of the Association for purposes of its own insolvency if it is a member when the compensable injury occurs."

Sec. 3. G.S. 97-132 is amended by rewriting the second sentence to read:

"The members of the Board shall be selected by the member self-insurers, subject to the approval of the Commissioner, and shall serve for terms which shall not exceed three years."

Sec. 4. G.S. 97-133(a)(1) is rewritten to read:

"(1) Obtain from each member self-insurer and file with the Commissioner individual reports specifying the aggregate benefits each member paid during the previous calendar year, and the annual standard premium that would have been paid by the individual member self-insurer during the previous calendar year, pursuant to manual rates established by the North Carolina Rate Bureau and using the experience rating procedure approved by the Commissioner for that member self-insurer or the annual premium collected by each group member self-insurer during the prior calendar year. These reports shall be due on or before July 15 following the close of that calendar year, except that this deadline may be extended by the Commissioner for up to three additional months for good cause shown."

Sec. 5. G.S. 97-133(a)(2)d. is rewritten to read:

"d. If application of the contribution rates referenced in sub-subdivisions a. and b. of this subdivision would produce an amount in excess of the one million dollar (\$1,000,000) limits of the fund, an equitable proration may be made; provided that every self-insurer that becomes a member of the Association shall pay an initial assessment, in an amount established by the Board, regardless of the size of the fund at the time the member joins the Association."

Sec. 6. G.S. 97-133(a)(3) is rewritten to read:

"(3) Administer a fund, to be known as the North Carolina Self-Insurance Guaranty Fund, which shall receive the assessments required in subdivision (2) of this subsection. Once the Fund reaches one million dollars (\$1,000,000), no further assessments shall be made except initial assessments of new member self-insurers that are required to be made in subdivision (2)d. of this subsection. Assessments may be subsequently made only to maintain the Fund at a level of one million dollars (\$1,000,000). In its discretion, the Board may determine that the assets of the Fund should be segregated, or, that a separate accounting shall be made, in order to identify that portion of the Fund which represents assessments paid by individual self-insurers and that portion of the Fund which represents assessments paid by group self-insurers. If the Board determines to segregate the Fund in this manner, the Association shall thereafter pay covered claims against individual member self-insurers from that portion of the Fund which represents assessments against individual self-insurers and shall thereafter pay covered claims against group member self-insurers from that portion of the Fund which represents assessments against group self-insurers. The cost of administration incurred by the Association shall be borne by the Fund and the Association is authorized to secure reinsurance and bonds and to otherwise invest the assets of the Fund to effectuate the purpose of the Association, subject to the approval of the Commissioner. All earnings from investment of Fund assets shall be placed in or credited to the Fund.

The Association may purchase primary excess insurance from an insurer licensed by the Commissioner for the appropriate lines of authority to defray its exposure to loss occasioned by the default of one or more of its members. The terms of any excess insurance so purchased shall be limited to providing coverage of liabilities which exceed the Fund's assets after the payment by member self-insurers of the maximum post-insolvency assessment provided in G.S. 197-133(c)(1) herein and the Association shall fund any such purchase by levying a special assessment on its members for this purpose or by application of any unencumbered earnings of the Fund or any other available funds. The Association may obtain from each member any information the Association may reasonably require in order to facilitate the securing of this primary excess insurance. The Association shall establish reasonable safeguards designed to insure that information so received is used only for this purpose and is not otherwise disclosed;"

Sec. 7. G.S. 97-133(a)(6)c. reads as rewritten:

"c. The cost of examinations under ~~subdivision (8) of this subsection~~ G.S. 97-137; and"

Sec. 8. G.S. 97-133(a)(8) is rewritten to read:

"(8) Notify such persons as the Commissioner directs under G.S. 97-136;"

Sec. 9. G.S. 97-133(c) is rewritten by amending the introductory sentence to read as follows:

"(c) In the event that the assets of the Fund are not sufficient to pay the obligations of the Association, then the Association shall impose an additional assessment upon its members, which shall be known as a post-insolvency assessment which shall be imposed as follows:"

Sec. 10. G.S. 97-133(c)(1) is rewritten to read:

"(1) Each individual member self-insurer shall be assessed in an amount not to exceed two percent (2%) each year of the annual standard premium that would have been paid by that member self-insurer during the prior calendar year. The assessments of each individual member self-insurer shall be in the proportion that the annual standard premium of the individual member self-insurer for the premium calendar year bears to the annual standard premium of all individual member self-insurers for the preceding calendar year. For group member self-insurers, the assessment shall not exceed two percent (2%) each year the annual premium collected by that group member self-insurer during the prior calendar year. The assessments of each group member self-insurer shall be in the proportion that the annual collected premium of the group member self-insurer for the premium calendar year bears to the annual collected premium of all group member self-insurers for the preceding calendar year."

Sec. 11. G.S. 97-134(1) is amended by rewriting the third sentence to read as follows:

"If the Association at any time fails to submit a Plan or suitable amendment to the Plan the Commissioner shall, after notice and hearing, adopt such reasonable rules as are necessary or advisable to effectuate this Article."

Sec. 12. G.S. 97-135 is amended to read as follows:

"§ 97-135. **Insolvency.**—A member self-insurer shall be insolvent for the purposes of this Article under the following circumstances:

- (1) Determination of insolvency by a court of competent jurisdiction; or
- (2) Institution of bankruptcy proceedings by or regarding the member self-insurer; or
- (3) The Board determines that the self-insurer's total liabilities exceed its total assets or the self-insurer is unable or ceases to pay its debts as they fall due or in the ordinary course of business."

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1987.