

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 533
SENATE BILL 710

AN ACT TO INCREASE THE NORTH CAROLINA SELF-INSURANCE
GUARANTY FUND AND TO ALLOW A CREDIT AGAINST THE GROSS
PREMIUMS TAX FOR ASSESSMENTS PAID BY SELF-INSURERS TO THE
GUARANTY FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-133(a) reads as rewritten:

"(a) The Association shall:

- (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.
- (2) Assess each member of the Association as follows:
 - a. Each individual member self-insurer shall be annually assessed an amount equal to ~~one-half of one percent (0.5%)~~ one-quarter of one percent (0.25%) of the annual standard premium that would have been paid by that member self-insurer for workers' compensation insurance during the prior calendar year; and payment to the Association shall be made no later than September 15 following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual standard premium for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual standard premium. Each group member self-insurer shall be annually assessed an amount equal to ~~one-half of one percent (0.5%)~~ one-quarter of one percent (0.25%) of the annual premium collected by the group member self-insurer

during the prior calendar year; and payment to the Association shall be made no later than September 15 following the close of that calendar year. Regardless of the size of the Fund, during its first 12 months of membership, no member self-insurer may discount or reduce this ~~one-half of one percent (0.5%)~~ one-quarter of one percent (0.25%) assessment. Assessments paid by members pursuant to this subdivision shall be credited toward the tax paid by self-insurers under G.S. 105-228.5 and G.S. 97-100.

- b. Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.
 - c. If a self-insurer is a member of the Association for less than a full calendar year, the annual standard premium shall be adjusted by that portion of the year the self-insurer is not a member of the Association.
 - 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-five~~ million dollar ~~(\$1,000,000)~~ (\$5,000,000) 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.
- (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-five~~ million dollars ~~(\$1,000,000)~~, (\$5,000,000), 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-five~~ million dollars ~~(\$1,000,000)~~, (\$5,000,000). 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 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 subdivision (c)(1) of this section 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;

- (4) Be obligated to the extent of covered claims occurring prior to the determination of the member self-insurer's insolvency, or occurring after such determination but prior to the obtaining by the self-insurer of workers' compensation insurance as otherwise required under this Chapter. The Association shall pay claims against a self-insurer that are not or have not been paid as a result of a determination of insolvency or the institution of bankruptcy or receivership proceedings that occurred prior to the effective date of this Article; provided that any assessments made to pay such claims may be credited towards the tax paid by the self- insurers under G.S. 97-100;
- (5) After paying any claim resulting from a self-insurer's insolvency, be subrogated to the rights of the injured employee and dependents and be entitled to enforce liability against the self-insurer by any appropriate action brought in its own name or in the name of the injured employee and dependents;
- (6) Assess the Fund in an amount necessary to pay only:
 - a. The obligations for the Association under this Article subsequent to an insolvency;
 - b. The expenses of handling covered claims subsequent to an insolvency;
 - c. The cost of examinations under G.S. 97-137; and
 - d. Other expenses authorized by this Article;
- (7) Investigate claims brought against the Association and adjust, compromise, settle, and pay covered claims to the extent of the

Association's obligation; and deny all other claims. The Association may review settlements to which the insolvent self-insurer was a party to determine the extent to which such settlements may be properly contested;

- (8) Notify such persons as the Commissioner directs under G.S. 97-136;
- (9) Handle claims through its employees or through one or more self-insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but designation of a member self-insurer as a servicing facility may be declined by such self-insurer;
- (10) Reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association;
- (11) Pay the other expenses of the Association authorized by this section; and
- (12) Establish in the Plan a mechanism to calculate the assessments required by subdivisions (1), (2), and (3) of this subsection by a simple and equitable means to convert from policy or fund years that are different from a calendar year."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1995.

In the General Assembly read three times and ratified this the 29th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives