

# Insurance

**See full summary documents for additional detail**

## **Reorganization and Economic Development Act.**

SL 2023-33 (H346)

S.L. 2023-33 allows hospital service corporations to reorganize so that they can be controlled by a non-profit holding corporation. The act provides that a non-profit holding company is not subject to the provisions of Article 65 (Hospital Service Corporations) and Article 66 (Hospital Service Corporation Readable Insurance Certificates Act) of Chapter 58 (Insurance), but that most of those provisions continue to apply to the underlying hospital service corporation.

This act became effective June 9, 2023.

## **Insurance Law Amendments – Insurance Law Amendments/Revise High School Athletics.**

SL 2023-133 (S452), Sec. 1-16

Sections 1-16 of S.L. 2023-133 make various changes to the insurance laws of North Carolina, including raising motor vehicle liability coverage minimums.

This act has various effective dates. Please see the full summary for more detail.

## **Office of State Fire Marshal Established – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 30.8

Section 30.8(a) of S.L. 2023-134, as amended by Section 10.1(a) of S.L. 2023-151, does the following:

- Creates the Office of the State Fire Marshal (OSFM) within the Department of Insurance (DOI) and requires OSFM to exercise its powers and duties independently of DOI.
- Requires DOI to provide clerical and professional services to OSFM.
- Sets out several laws OSFM is responsible for administering.
- Names the State Fire Marshal as the head of OSFM and requires that person be appointed by the Commissioner of the Department of Insurance (Commissioner) subject to confirmation by the General Assembly by joint resolution.
- Requires that the State Fire Marshal be a person other than the Commissioner and serve a three-year term.
- Allows the Commissioner to appoint a State Fire Marshal to serve on an interim basis pending confirmation by the General Assembly, if a vacancy arises when the General Assembly is not in session.
- Provides for the compensation of the State Fire Marshal.

- Requires the State Fire Marshal to faithfully execute all laws that office is responsible for administering and authorizes the State Fire Marshal to adopt rules to enforce those laws.
- Declares that OSFM is a public office and requires, outside of a few exceptions, that the records of OSFM be accessible to the public for inspection.
- States the procedures OSFM must follow when conducting required hearings and investigations.
- Authorizes the State Fire Marshal to designate a member of staff to serve as a hearing officer in any contested case involving OSFM.
- Permits the State Fire Marshal to impose civil penalties and/or petition the court for an order to pay restitution, if the State Fire Marshal finds that a person licensed by OSFM has violated any provision of the Office of the State Fire Marshal statutes.
- Allows for court review of the State Fire Marshal's orders and decisions.
- Permits every document executed by the State Fire Marshal to be used as evidence and recorded, in the same manner and with the same effect as a deed regularly acknowledged or proved before an officer authorized to take probate. All copies of papers in OSFM certified by the State Fire Marshal and authenticated by that office's seal are evidence of the original documents.
- Requires a party that requests or files a subpoena for the State Fire Marshal or any employee of OSFM to testify as an expert witness in any civil or administrative action on that party's behalf to, upon receiving a statement of the cost from the State Fire Marshal, reimburse OSFM for the actual time and expenses incurred by OSFM in connection with the testimony.
- Instructs the State Fire Marshal, with the approval of the Governor, to (i) create a seal, with suitable inscription, for that office and (ii) file a description of the seal, along with the certificate of approval by the Governor, with the Office of the Secretary of State.
- Directs the State Fire Marshal (or designee in OSFM) to administer all oaths required in the discharge of the State Fire Marshal's official duty.
- Allows the State Fire Marshal to petition the court for a restraining order and injunction, if the State Fire Marshal determines any person has violated, is violating, or threatens to violate any provision of the North Carolina Manufactured Housing Board – Manufactured Home Warranties statutes.
- States that the conviction in court of any person licensed under the North Carolina Manufactured Housing Board – Manufactured Home Warranties statutes for any criminal violation of those statutes automatically has the effect of suspending the license of that person until the license is reinstated by the North Carolina Manufactured Housing Board.
- Allows a person or entity licensed under the North Carolina Manufactured Housing Board – Manufactured Home Warranties statutes, with the consent of the State Fire Marshal, to surrender the license for a period of time established by the State Fire Marshal, if the licensee is accused of any act, omission, or misconduct that will subject the license to suspension or revocation.
- Requires applicants for an OSFM-issued license to notify the State Fire Marshal of changes of address and criminal convictions within certain time frames, and permits the State Fire Marshal to give notice to licensees personally or by first-class mail.
- Allows the State Fire Marshal to create and appoint advisory committees.

Section 30.8(e) of S.L. 2023-134, as amended by Section 10.2(a) of S.L. 2023-151, requires the Chief State Fire Marshal (position number 60013729), serving on October 1, 2023, notwithstanding any provision of law, to serve as the State Fire Marshal until the General Assembly confirms an independent State Fire Marshal.

The remainder of Section 30.8 of S.L. 2023-134 requires DOI to eliminate one or more vacant positions and use the funds made available as a result to fund the new position of State Fire Marshal.

The remainder of Section 10 of S.L. 2023-151 does the following:

- Removes the authority of the Commissioner to exercise general supervision over local fire investigators and fire prevention inspectors, and grants that authority solely to the State Fire Marshal.
- Removes the authority of the Commissioner to inspect State property and determine its protection from fire, and grants that authority solely to the State Fire Marshal.
- Clarifies that OSFM must report certain information about various relief funds to specific legislative committees and the Fiscal Research Division.
- Requires the individual serving as the legislative liaison for OSFM (position number 60013560) on October 1, 2023, to continue to serve in that capacity at the individual's option or until further action is taken by OSFM in accordance with law.
- Requires all employees of OSFM on October 1, 2023, to continue as employees of OSFM at their option or until further action is taken by OSFM in accordance with law. All positions in OSFM on October 1, 2023, must remain in OSFM unless changed by the General Assembly. All programs and functions conducted by OSFM on October 1, 2023, must continue without any reduction in funds, responsibilities, or administrative support, including, but not limited to, budgetary, human resources, information technology, and legal, unless expressly authorized by the General Assembly.

Section 30.8 of S.L. 2023-134 and Section 10.1 of S.L. 2023-151 become effective January 1, 2024. The remainder of Section 10 of S.L. 2023-151 became effective November 9, 2023.

## **Proposal for State-Based Health Benefits Exchange – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 30.9

Section 30.9 of S.L. 2023-134 directs the Commissioner (Commissioner) of the Department of Insurance, in consultation with the Secretary (Secretary) of the Department of Health and Human Services to create a plan to develop a state-based health benefits exchange in compliance with the Affordable Care Act (ACA). The Commissioner must also seek a waiver under section 1332 of the ACA.

This section became effective July 1, 2023.

## **Pharmacy Insurance Benefits/Coupon Accumulator – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 30.10

Section 30.10 of S.L. 2023-134 prevents the coupon accumulator provisions in the Consumer Benefits section of the Pharmacy Benefits Management article of Chapter 58 (Insurance) from applying to high-deductible healthcare plans in most circumstances.

This section became effective July 1, 2023.

## **Limit Tort Liability for State Employees – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 31.1

Section 31.1 of S.L. 2023-134 limits tort claims against state employees by stating that all claims must be brought under Article 31 (Tort Claims against State Departments and Agencies) of Chapter 143 (State Departments, Institutions, and Commissions) of the North Carolina General Statutes and that all claims must be filed and heard at the North Carolina Industrial Commission (IC).

This section became effective October 3, 2023, and applies to all claims filed on or after that date.

## **Industrial Commission/Extended Compensation/Clarify Meaning of Total Loss of Wage-Earning Capacity. – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 31.3

Section 31.3 of S.L. 2023-134 does the following:

- Clarifies the meaning of the term "total loss of wage-earning capacity" for purposes of determining an employee's entitlement to extended compensation.
- Allows the North Carolina Industrial Commission (Commission) to consider various factors in determining whether an employee has sustained a total loss of wage-earning capacity.
- States the intent of the General Assembly when it enacted G.S. 97-29(c).

This section became effective July 1, 2023, and applies to claims accrued or pending prior to, on, or after that date.

## **Unfunded Liability Solvency Reserve – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 39.28

Section 39.28 of S.L. 2023-134 amends the law (G.S. 143C-4-10) providing the Unfunded Liability Solvency Reserve by removing certain subsections in an effort to streamline the process for transferring funds intended to address the unfunded liabilities.

This section became effective October 3, 2023, and applies to fiscal years beginning on or after July 1, 2023.

### **Authorize State Treasurer to Pay Premiums to Purchase Alternative Coverage in Lieu of State Health Plan – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 39.29

Section 39.29 of S.L. 2023-134 allows the State Treasurer to purchase alternative health insurance coverage for retired state employees in lieu of providing them coverage under the State Health Plan. The Treasurer is authorized to adopt the rules necessary to implement the provisions of this section.

The section becomes effective January 1, 2023.

### **Preserve Existing North Carolina Building Code Limitation on the Use of Plastic Pipe in Certain Buildings – Regulatory Reform Act of 2023.**

SL 2023-137 (H600), Sec. 36

Section 36 of S.L. 2023-137 codifies a plastic pipe limitation currently in the 2018 North Carolina Building Code.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

### **Powers and Duties of State Fire Marshal and Miscellaneous. – Various Changes to Criminal and Civil Laws.**

SL 2023-151 (S409), Sec. 11-12

Sections 11-12 of S.L. 2023-151 do the following:

- Make conforming and clarifying changes to the statutes so that the powers and duties of the State Fire Marshal and the Commissioner of the Department of Insurance (Commissioner) are clearly distinguishable.
- Require the State Fire Marshal to serve as the State Fire Training Director.
- Require the State Fire Marshal to submit a written report on certain information to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division within 60 days after grants from the Volunteer Fire Department Fund or the Volunteer Rescue/EMS Fund have been made.
- Remove the requirement that the Office of State Fire Marshal (OSFM) include a clause explicitly stating that no commissions of any kind may be paid to any agent, broker, or other person from the Workers' Compensation Fund in its contracts with third-party administrators.

- Allow the State Fire Marshal to fix and collect reasonable fees for services performed by qualified Code-enforcement officials, when these officials assist the State Fire Marshal with the supervision, administration, and enforcement of the North Carolina State Building Code. "Code" in the phrase "Code-enforcement" consists of all of the following: (i) the North Carolina State Building Code adopted by the Building Code Council, (ii) local building rules approved by the Building Code Council, (iii) any resolution adopted by a federally recognized Indian Tribe in which the Tribe adopts the North Carolina State Building Code and related local building rules, and (iv) the manufactured homes standards adopted by the Commissioner.
- Permit the State Fire Marshal to collect reimbursement, at the rate established under the Travel Allowances of State Officers and Employees statute, for mileage costs incurred by qualified Code-enforcement officials traveling to and from inspections.
- Prohibit the State Fire Marshal from fixing or collecting fees incurred by local inspection departments when requests for assistance with Code-enforcement are made by local inspection departments.
- Authorize OSFM to administer the firefighter cancer health benefit pilot program extension, Fund Code 2510, by contracting with a third-party administrator. The contracting procedure is not subject to the Contracts to Obtain Consultant Services statutes. This takes effect January 1, 2024. OSFM can use up to 10% of the \$5 million appropriated for the pilot program to pay for (i) reasonable and necessary expenses incurred by the administration of the program and (ii) an independent audit of the program.
- Clarify that a firefighter with a diagnosis of cancer prior to January 1, 2022, is not eligible for benefits in the firefighter cancer health benefit pilot program for that previously diagnosed cancer type but remains eligible for benefits in the program upon the diagnosis of any other cancer type, even if the cancer type diagnosed on or after January 1, 2022, metastasized from a cancer diagnosed before January 1, 2022.

Section 11.55 becomes effective January 1, 2025. The remainder of Sections 11-12 became effective November 9, 2023.