

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1429*

Committee Substitute Favorable 6/24/98
Committee Substitute #2 Favorable 7/9/98
Committee Substitute #3 Favorable 9/3/98

Short Title: Set Reg. Fees/Company Exams.

(Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

1
2 **AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEE, TO SET THE**
3 **INSURANCE REGULATORY CHARGE FOR CALENDAR YEAR 1998, TO**
4 **AMEND PROVISIONS IN THE INSURANCE LAWS DEALING WITH**
5 **EXAMINATIONS OF INSURANCE COMPANIES AND AUDITS OF THEIR**
6 **FINANCIAL STATEMENTS, TO CLARIFY THE LAW ON INSURERS'**
7 **FUNDING AGREEMENT RESERVES, TO AMEND THE LAW GOVERNING**
8 **INSURERS' INVESTMENTS IN MORTGAGE LOANS AND MORTGAGE**
9 **SECURITIES, AND TO CONFORM THE INSURANCE SURCHARGE LAW TO**
10 **A RECENT ENACTMENT.**

11 The General Assembly of North Carolina enacts:

12 Section 1. The percentage rate to be used in calculating the public utility
13 regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public
14 utility's North Carolina jurisdictional revenues earned during each quarter that begins on
15 or after July 1, 1998.

16 Section 2. The percentage rate to be used in calculating the insurance
17 regulatory charge under G.S. 58-6-25 is six percent (6%) for the 1998 calendar year.

1 Section 3. G.S. 58-7-50(d) reads as rewritten:

2 "(d) This section is subject to the exceptions provided in G.S. 58-7-55. The
3 Commissioner may allow a domestic insurer to maintain certain records or assets outside
4 this State."

5 Section 4. G.S. 58-2-131(a) reads as rewritten:

6 "(a) This section and G.S. 58-2-132 ~~and G.S. 58-2-133~~ through G.S. 58-2-134 shall
7 be known and may be cited as the Examination Law. The purpose of the Examination
8 Law is to provide an effective and efficient system for examining the activities,
9 operations, financial condition, and affairs of all persons transacting the business of
10 insurance in this State and all persons otherwise subject to the Commissioner's
11 jurisdiction; and to enable the Commissioner to use a flexible system of examinations
12 that directs resources that are appropriate and necessary for the administration of the
13 insurance statutes and rules of this State."

14 Section 5. G.S. 58-2-131(b) reads as rewritten:

15 "(b) As used in this ~~section, G.S. 58-2-132 and G.S. 58-2-133,~~ section and G.S. 58-2-
16 132 through G.S. 58-2-134, unless the context clearly indicates otherwise:

17 (1) 'Commissioner' includes an authorized representative or designee of the
18 Commissioner.

19 (2) 'Examination' means an examination conducted under the Examination
20 Law.

21 (3) 'Examiner' means any person authorized by the Commissioner to
22 conduct an examination.

23 (4) 'Insurance regulator' means the official or agency of another jurisdiction
24 that is responsible for the regulation of a foreign or alien insurer.

25 (5) 'Person' includes a trust or any affiliate of a person."

26 Section 6. Article 2 of Chapter 58 of the General Statutes is amended by
27 adding a new section to read:

28 "**§ 58-2-134. Cost of certain examinations.**

29 An insurer shall reimburse the Department for the actual expenses incurred by the
30 Department in any examination of those records or assets conducted pursuant to G.S. 58-
31 2-131, 58-2-132, or 58-2-133 when:

32 (1) The insurer maintains part of its records or assets outside this State
33 under G.S. 58-7-50 or G.S. 58-7-55 and the examination is of the
34 records or assets outside this State.

35 (2) The insurer requests an examination of its records or assets.

36 (3) The Commissioner examines an insurer that is impaired or insolvent or
37 is unlikely to be able to meet obligations with respect to known or
38 anticipated claims or to pay other obligations in the normal course of
39 business.

40 The amount paid by an insurer for an examination of records or assets shall not
41 exceed one hundred thousand dollars (\$100,000), unless the insurer and the
42 Commissioner agree on a higher amount."

43 Section 7. G.S. 58-7-16(f) reads as rewritten:

1 (f) The Commissioner has sole authority to regulate the issuance and sale of
2 funding agreements on behalf of insurers. In addition to the authority in G.S. 58-2-40, the
3 Commissioner may adopt rules relating to:

- 4 (1) Standards to be followed in the approval of forms of funding
5 agreements.
- 6 (2) Reserves to be maintained by insurers issuing funding agreements.
- 7 (3) Accounting and reporting of funds credited under funding agreements.
- 8 (4) Disclosure of information to be given to holders and prospective holders
9 of funding agreements.
- 10 (5) Qualification and compensation of persons selling funding agreements
11 on behalf of insurers.

12 In determining minimum valuation reserves to be maintained by insurers issuing
13 funding agreements, the Commissioner may use any relevant actuarial guideline,
14 regulation, interpretation, or paper published by the Society of Actuaries or the American
15 Academy of Actuaries that the Commissioner considers reasonable."

16 Section 8. G.S. 58-2-131(d) reads as rewritten:

17 (d) The Commissioner may conduct an examination of any insurer whenever the
18 Commissioner deems it to be prudent for the protection of policyholders but shall at a
19 minimum conduct ~~an a~~ regular examination of every domestic insurer not less frequently
20 than once every ~~three~~ five years. In scheduling and determining the nature, scope, and
21 frequency of examinations, the Commissioner shall consider such matters as the results
22 of financial statement analyses and ratios, changes in management or ownership,
23 actuarial opinions, reports of independent certified public accountants, and other criteria
24 as set forth in the NAIC Examiners' Handbook."

25 Section 9. G.S. 58-2-205 reads as rewritten:

26 **"§ 58-2-205. CPA audits of financial statements.**

27 The Commissioner ~~is authorized to~~ may adopt rules to provide for audits and opinions
28 of insurers' financial statements by certified public accountants. ~~Such~~ These rules shall be
29 ~~in accordance with~~ substantially similar to the NAIC model rule that requires audited
30 financial reports, as amended. The Commissioner may adopt, amend, or repeal
31 provisions of these rules under G.S. 150B-21.1 in order to keep these rules current with
32 the NAIC model rule."

33 Section 10. G.S. 150B-21.1 is amended by adding a new subsection to read:

34 "(a2) Notwithstanding the provisions of subsection (a) of this section, the
35 Commissioner of Insurance may adopt a temporary rule to implement the provisions of
36 G.S. 58-2-205 after prior notice or hearing or upon any abbreviated notice or hearing.
37 When the Commissioner adopts a temporary rule pursuant to this subsection, the
38 Commissioner must submit the reference to this subsection as the Commissioner's
39 statement of need to the Codifier of Rules."

40 Section 11. G.S. 58-7-170(c) reads as rewritten:

41 ~~"(c) The cost of investments made by insurers in mortgage loans, authorized by~~
42 ~~G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of the~~
43 ~~insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus. An~~

1 insurer shall not invest in additional mortgage loans without the Commissioner's consent
2 if the admitted value of all mortgage loans held by the insurer exceeds an aggregate of
3 sixty percent (60%) of the admitted assets of the insurer, if (i) the admitted value of all
4 mortgage pass-through securities permitted by G.S. 58-7-173(17) does not exceed
5 twenty-five percent (25%) of the admitted assets of the insurer and (ii) the admitted value
6 of other mortgage loans permitted by G.S. 58-7-179 does not exceed forty percent (40%)
7 of the admitted assets of the insurer.

8 An insurer that, as of October 1, 1993, has mortgage investments that exceed the
9 aggregate limitation specified in this subsection shall submit to the Commissioner no
10 later than January 31, 1994, a plan to bring the amount of mortgage investments into
11 compliance with the limitations by January 1, 2001.

12 The cost of investments made by an insurer in mortgage loans authorized by G.S. 58-
13 7-179 with any one person, or in mortgage pass-through securities and derivatives of
14 mortgage pass-through securities authorized by G.S. 58-7-173(1), (2), (8), or (17), and
15 backed by a single collateral package, shall not exceed three percent (3%) of the insurer's
16 admitted assets. An insurer shall not invest in additional mortgage loans or mortgage
17 pass-through securities and derivatives of mortgage pass-through securities without the
18 Commissioner's consent if the admitted value of all those investments held by the insurer
19 exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer. Within
20 the aggregate sixty percent (60%) limitation, the admitted value of all mortgage pass-
21 through securities and derivatives of mortgage pass-through securities permitted by G.S.
22 58-7-173(17) shall not exceed thirty-five percent (35%) of the admitted assets of the
23 insurer. The admitted value of other mortgage loans permitted by G.S. 58-7-179 shall not
24 exceed forty percent (40%) of the admitted assets of the insurer. Mortgage pass-through
25 securities authorized by G.S. 58-7-173(1), (2), or (8) shall only be subject to the single
26 collateral package limitation and the sixty percent (60%) aggregate limitation. No later
27 than January 31, 1999, an insurer that has mortgage investments that exceed the
28 limitations specified in this subsection shall submit to the Commissioner a plan to bring
29 the amount of mortgage investments into compliance with the specified limitations by
30 January 1, 2004."

31 Section 12. G.S. 58-6-25(a) reads as rewritten:

32 "(a) Charge Levied. – There is levied on each insurance company an annual charge
33 for the purposes stated in subsection (d) of this section. As used in this section, the term
34 "insurance company" means a company that pays the gross premiums tax levied in G.S.
35 105-228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this
36 Chapter. A health maintenance organization subject to Article 67 of this Chapter is not
37 subject to those taxes and is therefore not subject to the charge levied in this section. The
38 charge levied in this section is in addition to all other fees and taxes. The charge shall be
39 at a percentage rate of the company's premium tax liability for the taxable year. In
40 determining an insurance company's premium tax liability for a taxable year, the
41 following shall be disregarded:

42 (1) ~~additional~~ Additional taxes imposed by G.S. ~~405-228.8, 105-228.8.~~

- 1 (2) The ~~the~~ additional local fire and lightning tax imposed by G.S. 105-
2 228.5(d)(4), and any 105-228.5(d)(4).
- 3 (3) Any tax credits for guaranty or solvency fund assessments under G.S.
4 105-228.5A or G.S. 97-133(a) shall be disregarded. 97-133(a).
- 5 (4) Any tax credits allowed under Chapter 105 of the General Statutes other
6 than tax payments made by or on behalf of the taxpayer."

7 Section 13. Section 1 of this act becomes effective July 1, 1998. The
8 remainder of this act is effective when it becomes law.