

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1429*

Short Title: Insurance Reg. Charge/Company Exams.

(Public)

Sponsors: Representative C. Wilson.

Referred to: Insurance.

May 25, 1998

A BILL TO BE ENTITLED

1 AN ACT TO SET THE INSURANCE REGULATORY CHARGE FOR CALENDAR
2 YEAR 1998, TO AMEND PROVISIONS IN THE INSURANCE LAWS
3 DEALING WITH EXAMINATIONS OF INSURANCE COMPANIES AND
4 AUDITS OF THEIR FINANCIAL STATEMENTS, AND TO CLARIFY THE
5 LAW ON INSURERS' FUNDING AGREEMENT RESERVES.
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7 The General Assembly of North Carolina enacts:

8 Section 1. The percentage rate to be used in calculating the insurance
9 regulatory charge under G.S. 58-6-25 is eight and seventy-five hundredths percent
10 (8.75%) for the 1998 calendar year.

11 Section 2. G.S. 58-7-50(d) reads as rewritten:

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

15 Section 3. G.S. 58-2-131(k) reads as rewritten:

16 "(k) ~~When making an examination,~~ For any examination of an insurer, if the
17 Commissioner determines that appropriated resources within the Department are
18 insufficient to conduct or complete the examination properly, the Commissioner may
19 retain attorneys, appraisers, independent-actuaries, independent-certified public
20 accountants, or other professionals and specialists as-examiners-to assist the
21 Commissioner in the examination, the cost of which shall be paid by the insurer
22 pursuant to G.S. 58-2-134."

23 Section 4. Article 2 of Chapter 58 of the General Statutes is amended by
24 adding a new section to read:

1 **"§ 58-2-134. Cost of examinations.**

2 (a) For an examination of records or assets maintained in the State pursuant to
3 G.S. 58-2-131, 58-2-132, or 58-2-133, the insurer shall pay the actual expenses incurred
4 by the Department in conducting the examination. Except as provided in subsection (b)
5 of this section, the amount paid by an insurer for an examination shall not exceed one
6 hundred thousand dollars (\$100,000).

7 (b) An insurer shall reimburse the Department for the actual expenses incurred
8 by the Department in any examination of those records or assets conducted pursuant to
9 G.S. 58-2-131, 58-2-132, or 58-2-133 when:

- 10 (1) The insurer maintains part of its records or assets outside this State
11 pursuant to G.S. 58-7-50 or G.S. 58-7-55.
12 (2) The insurer requests an examination of its records or assets.
13 (3) The Commissioner examines an insurer that is impaired or insolvent or
14 is unlikely to be able to meet obligations with respect to known or
15 anticipated claims or to pay other obligations in the normal course of
16 business."

17 Section 5. G.S. 58-7-16(f) reads as rewritten:

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

- 21 (1) Standards to be followed in the approval of forms of funding
22 agreements.
23 (2) Reserves to be maintained by insurers issuing funding agreements.
24 (3) Accounting and reporting of funds credited under funding agreements.
25 (4) Disclosure of information to be given to holders and prospective
26 holders of funding agreements.
27 (5) Qualification and compensation of persons selling funding agreements
28 on behalf of insurers.

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

33 Section 6. G.S. 58-2-131(d) reads as rewritten:

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

42 Section 7. G.S. 58-2-205 reads as rewritten:

43 **"§ 58-2-205. CPA audits of financial statements.**

1 ~~The Commissioner is authorized to adopt rules to provide for audits and opinions of~~
2 ~~insurers' financial statements by certified public accountants. Such rules shall be in~~
3 ~~accordance with the NAIC model rule that requires audited financial reports, as~~
4 ~~amended.~~ (a) The NAIC model rule requiring annual audited financial reports as
5 provided for in the annual statement instructions is incorporated into this section by
6 reference, except as specified in subsections (b) through (g) of this section.

7 (b) The annual audited financial report shall be filed with the Commissioner on
8 or before May 10 for the previous calendar year. Two copies of this report shall be filed
9 with the Chief Examiner in the Field Audit Section of the Department. An extension of
10 the May 10 filing date may be granted by the Commissioner for a period of up to 45
11 days. The request for extension must be submitted in writing no sooner than 15 days
12 before the due date.

13 (c) This requirement applies to all insurers; provided that insurers having direct
14 premiums written in North Carolina of less than two hundred fifty thousand dollars
15 (\$250,000) in any year and having fewer than 500 policyholders in North Carolina at
16 the end of any year are exempt from this requirement for that year unless the
17 Commissioner makes a specific finding that compliance is necessary for the
18 Commissioner to carry out the Commissioner's statutory responsibilities.

19 (d) Certified public accountants that intend to practice pursuant to the provisions
20 of the annual statement instructions shall file a notice to that effect with the
21 Commissioner by October 1 of each year. The Commissioner may reject the filing if
22 the certified public accountant does not meet the requirements. The filing shall contain
23 a statement from the certified public accountant affirming that the certified public
24 accountant is aware of and will comply with the provisions of the annual statement
25 instructions related to the definition, availability, and maintenance of certified public
26 accountant workpapers and evidence of the certified public accountant's expertise in the
27 areas of insurance auditing and insurance accounting. This evidence shall also
28 demonstrate experience in the areas of insurance auditing and insurance accounting for
29 the certified public accountant's staff members who are assigned to the audit.

30 (e) The certified public accountant may be deemed to be experienced in the areas
31 of insurance auditing and accounting if the office filing with the Department pursuant to
32 this section has existing audit clients in the insurance industry.

33 (f) The staff assigned to an audit under this section may be considered by the
34 Commissioner to be experienced in the areas of insurance auditing and accounting if
35 they meet the following criteria:

36 (1) Managerial staff that has been assigned or has had responsibility for
37 audit engagements in the insurance industry in an amount averaging at
38 least thirty percent (30%) of its chargeable time during the last three
39 years.

40 (2) Nonmanagerial staff that has been assigned or has had responsibility
41 for audit engagements in the insurance industry in an amount
42 averaging at least fifteen percent (15%) of its chargeable time during
43 the last three years or during the staff members' periods of
44 employment if employed fewer than three years.

1 (g) An audit performed by a certified public accountant under this section shall
2 be staffed by managerial staff experienced in the areas of insurance auditing and
3 accounting and by a majority or an equal number of nonmanagerial staff experienced in
4 the areas of insurance auditing and accounting.

5 (h) As used in this section, 'insurance' includes financial services."

6 Section 8. This act becomes effective July 1, 1998.