

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1036

Short Title: Insurance Guaranty Assoc. Amendments.

(Public)

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Sponsors: Senator Kerr.

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Referred to: Pensions & Retirement and Insurance.

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April 21, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE INSURANCE GUARANTY ASSOCIATION ACT TO  
2 CONTROL LOSSES INCURRED BY THE NORTH CAROLINA INSURANCE  
3 GUARANTY ASSOCIATION.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 58-48-20(4) reads as rewritten:

7 "(4) 'Covered claim' means an unpaid claim, including one of unearned  
8 premiums, which is in excess of fifty dollars (\$50.00) and arises out of  
9 and is within the coverage and not in excess of the applicable limits of  
10 an insurance policy to which this Article applies as issued by an insurer,  
11 if such insurer becomes an insolvent insurer after the effective date of  
12 this Article and (i) the claimant or insured is a resident of this State at  
13 the time of the insured event; or (ii) the property from which the claim  
14 arises is permanently located in this State. 'Covered claim' shall not  
15 include any first-party claim by an insured whose net worth exceeds  
16 fifty million dollars (\$50,000,000) as of December 31 of the year next  
17 preceding the date the insurer becomes an insolvent insurer, provided  
18 that an insured's net worth on such date shall be deemed to include the  
19 aggregate net worth of the insured and all of its subsidiaries as  
20 calculated on a consolidated basis; any amount awarded as punitive or

1           exemplary damages; sought as a return of premium under any  
2           retrospective rating plan; or due any reinsurer, insurer, insurance pool,  
3           or underwriting association, as subrogation or contribution recoveries or  
4           otherwise."

5           Section 2. G.S. 58-48-35(a)(1) reads as rewritten:

6           "(a) The Association shall:

7           (1) Be obligated to the extent of the covered claims existing prior to the  
8           determination of insolvency and arising within 30 days after the  
9           determination of insolvency, or before the policy expiration date if less  
10          than 30 days after the determination, or before the insured replaces the  
11          policy or causes its cancellation, if he does so within 30 days of the  
12          determination. This obligation includes only the amount of each covered  
13          claim that is in excess of fifty dollars (\$50.00) and is less than three  
14          hundred thousand dollars (\$300,000). The Association's obligation shall  
15          not extend beyond six hundred thousand dollars (\$600,000) per covered  
16          claim combined with the loss adjustment expenses allocated to that  
17          claim. However, the Association shall pay the full amount of a covered  
18          claim for benefits under a workers' compensation insurance coverage,  
19          and shall pay an amount not exceeding ten thousand dollars (\$10,000)  
20          per policy for a covered claim for the return of unearned premium. The  
21          Association has no obligation to pay a claimant's covered claim, except  
22          a claimant's workers' compensation claim, if:

- 23          a. The insured had primary coverage at the time of the loss with a  
24          solvent insurer equal to or in excess of three hundred thousand  
25          dollars (\$300,000) and applicable to the claimant's loss; or  
26          b. The insured's coverage is written subject to a self-insured  
27          retention equal to or in excess of three hundred thousand dollars  
28          (\$300,000).

29          If the primary coverage or the self-insured retention is less than three  
30          hundred thousand dollars (\$300,000), the Association's obligation to the  
31          claimant is reduced by the coverage and the retention. The Association  
32          shall pay the full amount of a covered claim for benefits under a  
33          workers' compensation insurance coverage to a claimant  
34          notwithstanding any self-insured retention, but the Association has the  
35          right to recover the amount of the self-insured retention from the  
36          employer.

37          In no event shall the Association be obligated to a policyholder or  
38          claimant in an amount in excess of the obligation of the insolvent  
39          insurer under the policy from which the claim arises. Notwithstanding  
40          any other provision of this Article, a covered claim shall not include any  
41          claim filed with the Association after the final date set by the court for  
42          the filing of claims against the liquidator or receiver of an insolvent  
43          insurer."

1                   Section 3. This act becomes effective October 1, 1997, and applies to insurer  
2 insolvencies occurring on or after that date.