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HOUSE BILL 382*

Short Title: Insurance Technical Corrections.-AB (Public)

Sponsors: Representatives Setzer, Bumgardner, Henson, and Destin Hall (Primary Sponsors).

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Referred to: Insurance

March 16, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE INSURANCE LAWS
3 OF NORTH CAROLINA, AS RECOMMENDED BY THE DEPARTMENT OF
4 INSURANCE.

5 The General Assembly of North Carolina enacts:

6
7 **REVISE LOAN TO VALUE REQUIREMENTS FOR INSURER MORTGAGE**
8 **INVESTMENTS**

9 **SECTION 1.(a)** G.S. 58-7-179(c) reads as rewritten:

10 "(c) No such mortgage loan or loans made or acquired by an insurer on any one property
11 shall, at the time of investment by the insurer, exceed the larger of the following amounts, as
12 applicable:

- 13 (1) ~~Ninety-five percent (95%)~~ Ninety-seven percent (97%) of the value of the
14 real property or leasehold securing the real property in the case of a
15 mortgage on a dwelling primarily intended for occupancy by not more than
16 four families if they insure down to ~~seventy-five percent (75%)~~ eighty
17 percent (80%) with a licensed mortgage insurance company, or seventy-five
18 percent (75%) of the value in the case of other real estate mortgages;
19 (2) The amount of any insurance or guaranty of the loan by the United States or
20 by an agency or instrumentality thereof; or
21 (3) The percentage-of-value limit on the amount of the loan applicable under
22 subdivision (1) of this subsection, plus the amount by which the excess of
23 the loan over the percentage-of-value limit is insured or guaranteed by the
24 United States or by any agency or instrumentality thereof."

25 **SECTION 1.(b)** This section becomes effective January 1, 2018.

26
27 **CAPTIVE INSURANCE TECHNICAL CHANGES**

28 **SECTION 2.(a)** G.S. 58-10-345(g) reads as rewritten:

29 "(g) The Commissioner is authorized to retain legal, financial, and audit services from
30 outside the Department, the costs of which shall be reimbursed by the business entity.
31 G.S. 58-2-160 shall apply to ~~audits, investigations,~~ audits and processing conducted under the
32 authority of this section."

33 **SECTION 2.(b)** G.S. 58-10-355 reads as rewritten:

34 "§ 58-10-355. **Organizational audit.**



1 In addition to the processing of the application, an organizational ~~investigation or~~ audit may
2 be performed before an applicant business entity is licensed. Such investigation or audit shall
3 consist of a general ~~survey-review~~ of the applicant business entity's corporate records, including
4 charters, bylaws, and minute books; verification of capital and surplus; verification of principal
5 place of business; determination of assets and liabilities; and a review of such other factors as
6 the Commissioner deems necessary."

7 **SECTION 2.(c)** G.S. 58-10-385(a) reads as rewritten:

8 "(a) Every captive insurance company shall report to the Commissioner within 30 days
9 after any change in its executive officers or directors, including in its report a biographical
10 affidavit for each new officer or director. The change shall be deemed approved unless it is
11 disapproved within 30 days from the completion of the Commissioner's review of the
12 biographical affidavit."

13 14 **INSURANCE HOLDING COMPANY AFFILIATES**

15 **SECTION 3.** G.S. 58-19-10(b) reads as rewritten:

16 "(b) In addition to investments in common stock, preferred stock, debt obligations, and
17 other securities permitted under this Chapter, a domestic insurer may also:

- 18 (1) Invest, in common stock, preferred stock, debt obligations, and other
19 securities of one or more affiliates or subsidiaries, amounts that do not
20 exceed the lesser of ten percent (10%) of the insurer's admitted assets or fifty
21 percent (50%) of the insurer's policyholders' surplus, provided that after
22 those investments, the insurer's policyholders' surplus will be reasonable in
23 relation to the insurer's outstanding liabilities and adequate to its financial
24 needs. In calculating the amount of the investments, investments in domestic
25 or foreign insurance affiliates or subsidiaries and health maintenance
26 organizations shall be excluded, and there shall be included: (i) total net
27 monies or other consideration expended and obligations assumed in the
28 acquisition or formation of a subsidiary, including all organizational
29 expenses and contributions to capital and surplus of the subsidiary whether
30 or not represented by the purchase of capital stock or issuance of other
31 securities; and (ii) all amounts expended in acquiring additional common
32 stock, preferred stock, debt obligations, and other securities, and all
33 contributions to the capital or surplus, of a subsidiary subsequent to its
34 acquisition or formation;

35 ...

- 36 (3) With the approval of the Commissioner, invest any greater amount in
37 common stock, preferred stock, debt obligations, or other securities of one or
38 more affiliates or subsidiaries; provided that after such investment the
39 insurer's policyholders' surplus will be reasonable in relation to the insurer's
40 outstanding liabilities and adequate to its financial needs."

41 42 **SURPLUS LINES ACT TECHNICAL CHANGES**

43 **SECTION 4.(a)** G.S. 58-21-40 reads as rewritten:

44 "**§ 58-21-40. Surplus lines regulatory support organization.**

45 (a) ~~A surplus lines~~ The North Carolina Surplus Lines Association (NCSLA) shall serve
46 as the regulatory support organization of surplus lines licensees shall be formed to and shall
47 carry out the following functions:

- 48 (1) Facilitate and encourage compliance by resident and nonresident surplus
49 lines licensees with the laws of this State and the rules and regulations of the
50 Commissioner relative to surplus lines insurance.

- 1 (2) Communicate with organizations of admitted insurers with respect to the
2 proper use of the surplus lines market.
- 3 (3) Receive and disseminate to surplus lines licensees information about surplus
4 lines insurance, including, without limitation, new electronic filing
5 procedures approved by the Commissioner, changes in the list of eligible
6 surplus lines insurers, and modifications in coverages, procedures, and
7 requirements as may be requested by the Commissioner.
- 8 (4) Establish and operate a stamping office to process all surplus lines insurance
9 and remit premium taxes for those coverages under G.S. 58-21-85 by means
10 satisfactory to the Commissioner, and charge surplus lines licensees a fee for
11 such processing.
- 12 (b) ~~The regulatory support organization~~ NCSLA shall file with the Commissioner:
- 13 (1) A copy of its constitution, articles of agreement or association, or certificate
14 of incorporation;
- 15 (2) A copy of its bylaws and rules governing its activities;
- 16 (3) An annually updated list of ~~resident and nonresident~~ surplus lines licensees;
- 17 (4) The name and address of a resident of this State upon whom notices or
18 orders of the Commissioner or processes issued at his direction may be
19 served; and
- 20 (5) An agreement that the Commissioner may examine the ~~regulatory support~~
21 ~~organization~~ NCSLA in accordance with subsection (c) of this section.
- 22 (c) The Commissioner may, at times deemed appropriate, make or cause to be made an
23 examination of ~~each regulatory support organization;~~ the NCSLA in which case the provisions
24 of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185,
25 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the ~~regulatory support~~
26 ~~organization~~ NCSLA or any surplus lines ~~licensee, whether resident or nonresident,~~ licensee
27 to be in violation of this Article, the Commissioner may issue an order requiring the
28 discontinuance of the violation.
- 29 (d) Each surplus lines licensee shall maintain active membership in a ~~regulatory support~~
30 ~~organization~~ the NCSLA as a condition of continued licensure under this Article."

31 **SECTION 4.(b)** G.S. 58-21-65 reads as rewritten:

32 **"§ 58-21-65. Licensing of surplus lines licensee.**

33 (a) For insureds whose home state is this State, no agent or broker licensed by the
34 Commissioner shall directly procure any contract of surplus lines insurance with any
35 nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the
36 Commissioner.

37 (b) The Commissioner shall issue a surplus lines license to any qualified holder of a
38 current ~~property broker's or property and casualty agent's~~ license, but only when the ~~broker or~~
39 agent has:

- 40 (1) Remitted the fifty dollars (\$50.00) annual fee to the Commissioner;
- 41 (2) Submitted a completed license application on a form supplied by the
42 Commissioner, and the application has been approved by the Commissioner;
- 43 (3) Passed a qualifying examination approved by the Commissioner; except that
44 all holders of a license prior to July 11, 1985 shall be deemed to have passed
45 such an examination; and
- 46 (4) Repealed by Session Laws 2004-199, s. 20(c), effective August 17, 2004.

47 "...."

48 **SECTION 4.(c)** G.S. 58-21-75 reads as rewritten:

49 **"§ 58-21-75. Records of surplus lines licensee.**

50 Each surplus lines licensee shall keep in his or her office in this State a full and true record
51 of each surplus lines insurance contract placed by or through the licensee, including a copy of

1 the policy, certificate, cover note, or other evidence of insurance. The record shall include the
2 following items:

- 3 (1) Amount of the insurance and perils insured;
- 4 (2) Brief description of the property insured and its location;
- 5 (3) Gross premium charged;
- 6 (4) Any return premium paid;
- 7 (5) Rate of premium charged upon the several items of property;
- 8 (6) Effective date of the contract, and the terms of the contract;
- 9 (7) Name and address of the insured;
- 10 (8) Name and address of the insurer;
- 11 (9) Amount of tax and other sums to be collected from the insured; and
- 12 (10) Identity of the producing broker, any confirming correspondence from the
13 insurer or its representative, and the application.

14 The record of each contract shall be kept open at all reasonable times to examination by the
15 Commissioner without notice for a period not less than ~~three~~five years following termination
16 of the contract."

17 **SECTION 4.(d)** G.S. 58-21-85(a) reads as rewritten:

18 "**§ 58-21-85. Surplus lines tax.**

19 (a) Gross premiums charged, less any return premiums, for surplus lines insurance on
20 insureds for whom North Carolina is the home state are subject to a premium receipts tax of
21 five percent (5%), which shall be collected in a manner approved by the Commissioner, in
22 addition to the full amount of the gross premium charged by the insurer for the insurance. The
23 tax on any portion of the premium unearned at termination of insurance having been credited
24 by the State to the licensee shall be returned by the licensee directly to the policyholder
25 ~~directly to the policyholder~~. The surplus lines licensee is prohibited from absorbing such tax and from
26 rebating for any reason, any part of such tax. To the extent that other states in which portions of
27 the properties, risks, or exposures reside have failed to enter into a compact or reciprocal
28 allocation procedure with this State, the premium tax collected shall be retained by this State."
29

30 CREDIT INSURANCE REGULATORY AMENDMENTS

31 **SECTION 5.(a)** G.S. 58-57-90(a) reads as rewritten:

32 "(a) As used in this Article, the term "single interest credit property" insurance means
33 insurance of the personal ~~household~~-property of the debtor against loss, with the creditor as sole
34 beneficiary; and the term "dual credit property" insurance means insurance of personal
35 household property of the debtor, with the creditor as primary beneficiary and the debtor as
36 beneficiary of proceeds not paid to the creditor. For the purpose of this Article, "personal
37 ~~household~~-property" means household furniture, furnishings and appliances designed for
38 household use and other property of the debtor, exclusive of an automobile, not used by the
39 debtor in a business trade or profession."

40 **SECTION 5.(b)** G.S. 58-57-110(a) reads as rewritten:

41 "(a) ~~Each year~~ Beginning September 1, 2018, and every third year thereafter, the
42 Commissioner shall prescribe a minimum incurred loss ratio standard requirement to develop a
43 premium rate reasonable in relation to the benefits provided by credit unemployment insurance
44 coverage. This requirement shall be effective on January 1 of the year following the year the
45 Commissioner prescribes it and shall remain in effect until the next minimum incurred loss
46 ratio standard requirement prescribed by the Commissioner takes effect. The following
47 requirements must be met:

48"
49

50 STATE MANUFACTURED HOUSING BOARD CONFORMING CHANGE

51 **SECTION 6.** G.S. 143-143.10(a) reads as rewritten:

1 "(a) There is created the North Carolina Manufactured Housing Board within the
2 Department. The Board shall be composed of 11 members as follows:

- 3 (1) The Commissioner of Insurance or the Commissioner's designee.
- 4 (2) A manufactured home manufacturer.
- 5 (3) A manufactured home dealer.
- 6 (4) A representative of the banking and finance industry.
- 7 (5) A representative of the insurance industry.
- 8 (6) A manufactured home supplier.
- 9 (7) A set-up contractor.
- 10 (8) Two representatives of the general public.
- 11 (9) A person who is employed with a HUD-approved housing counseling
12 agency in the State.
- 13 (10) An accountant.

14 The Commissioner or the Commissioner's designee shall chair the Board. The Governor
15 shall appoint to the Board the manufactured home manufacturer and the manufactured home
16 dealer. The General Assembly upon the recommendation of the Speaker of the House of
17 Representatives in accordance with G.S. 120-121 shall appoint to the Board the representative
18 of the banking and finance industry, the employee of a HUD-approved housing counseling
19 agency, and the representative of the insurance industry. The General Assembly upon the
20 recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121
21 shall appoint to the Board the manufactured home supplier, the accountant, and the set-up
22 contractor. The Commissioner shall appoint two representatives of the general public. Except
23 for the representatives from the general public and the persons appointed by the General
24 Assembly, each member of the Board shall be appointed by the appropriate appointing
25 authority from a list of nominees submitted to the appropriate appointing authority by the
26 Board of Directors of the North Carolina ~~Manufactured Housing Institute~~. Manufactured and
27 Modular Homebuilders Association. At least three nominations shall be submitted for each
28 position on the Board. The members of the Board shall be residents of the State.

29 The members of the Board shall serve for terms of three years. In the event of any vacancy
30 of a position appointed by the Governor or Commissioner, the appropriate appointing authority
31 shall appoint a replacement in the same manner as provided for the original appointment to
32 serve the remainder of the unexpired term. Vacancies in appointments made by the General
33 Assembly shall be filled in accordance with G.S. 120-122. In the event of any vacancy, the
34 appropriate appointing authority shall appoint a replacement to serve the remainder of the
35 unexpired term. Such appointment shall be made in the same manner as provided for the
36 original appointment. No member of the Board shall serve more than two consecutive,
37 three-year terms.

38 The members of the Board designated in subdivisions (8), (9), and (10) of this subsection
39 shall have no current or previous financial interest connected with the manufactured housing
40 industry. No member of the Board shall participate in any proceeding before the Board
41 involving that member's own business.

42 Each member of the Board, except the Commissioner and any other State employee, shall
43 receive per diem and allowances as provided with respect to occupational licensing boards by
44 G.S. 93B-5. Fees collected by the Board under this Article shall be credited to the Insurance
45 Regulatory Fund created under G.S. 58-6-25."

46 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
47 law.