

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 382*
Committee Substitute Favorable 4/11/17

Short Title: Insurance Technical Corrections.-AB

(Public)

Sponsors:

Referred to:

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.** 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

26 **CAPTIVE INSURANCE CLARIFYING CHANGES**

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

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

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

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

35 In addition to the processing of the application, an organizational ~~investigation or~~ audit may
36 be performed before an applicant business entity is licensed. Such investigation or audit shall
consist of a general ~~survey~~ review of the applicant business entity's corporate records, including



1 charters, bylaws, and minute books; verification of capital and surplus; verification of principal
2 place of business; determination of assets and liabilities; and a review of such other factors as
3 the Commissioner deems necessary."

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

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

10 11 **AMEND INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT**

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

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

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

32 ...

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

38 39 **SURPLUS LINES ACT CLARIFYING AND TECHNICAL CHANGES**

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

41 "**§ 58-21-40. Surplus lines regulatory support organization.**

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

- 45 (1) Facilitate and encourage compliance by resident and nonresident surplus
46 lines licensees with the laws of this State and the rules and regulations of the
47 Commissioner relative to surplus lines insurance.
- 48 (2) Communicate with organizations of admitted insurers with respect to the
49 proper use of the surplus lines market.
- 50 (3) Receive and disseminate to surplus lines licensees information about surplus
51 lines insurance, including, without limitation, new electronic filing

1 procedures approved by the Commissioner, changes in the list of eligible
2 surplus lines insurers, and modifications in coverages, procedures, and
3 requirements as may be requested by the Commissioner.

4 (4) Establish and operate a stamping office to process all surplus lines insurance
5 and remit premium taxes for those coverages under G.S. 58-21-85 by means
6 satisfactory to the Commissioner, and charge surplus lines licensees a fee for
7 such processing.

8 (b) The ~~regulatory support organization~~ NCSLA shall file with the Commissioner:

9 (1) A copy of its constitution, articles of agreement or association, or certificate
10 of incorporation;

11 (2) A copy of its bylaws and rules governing its activities;

12 (3) An annually updated list of ~~resident and nonresident~~ surplus lines licensees;

13 (4) The name and address of a resident of this State upon whom notices or
14 orders of the Commissioner or processes issued at his direction may be
15 served; and

16 (5) An agreement that the Commissioner may examine the ~~regulatory support~~
17 ~~organization~~ NCSLA in accordance with subsection (c) of this section.

18 (c) The Commissioner may, at times deemed appropriate, make or cause to be made an
19 examination of ~~each regulatory support organization; the NCSLA~~ in which case the provisions
20 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,
21 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the ~~regulatory support~~
22 ~~organization~~ NCSLA or any surplus lines licensee, ~~whether resident or nonresident,~~ licensee
23 to be in violation of this Article, the Commissioner may issue an order requiring the
24 discontinuance of the violation.

25 (d) Each surplus lines licensee shall maintain active membership in a ~~regulatory support~~
26 ~~organization~~ the NCSLA as a condition of continued licensure under this Article."

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

28 "**§ 58-21-65. Licensing of surplus lines licensee.**

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

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

36 (1) Remitted the fifty dollars (\$50.00) annual fee to the Commissioner;

37 (2) Submitted a completed license application on a form supplied by the
38 Commissioner, and the application has been approved by the Commissioner;

39 (3) Passed a qualifying examination approved by the Commissioner; except that
40 all holders of a license prior to July 11, 1985 shall be deemed to have passed
41 such an examination; and

42 (4) Repealed by Session Laws 2004-199, s. 20(c), effective August 17, 2004.

43"

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

45 "**§ 58-21-75. Records of surplus lines licensee.**

46 Each surplus lines licensee shall keep in his or her office in this State a full and true record
47 of each surplus lines insurance contract placed by or through the licensee, including a copy of
48 the policy, certificate, cover note, or other evidence of insurance. The record shall include the
49 following items:

50 (1) Amount of the insurance and perils insured;

51 (2) Brief description of the property insured and its location;

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

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

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

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

25 **INSURANCE PRODUCER NOTICE REQUIREMENT CONFORMING CHANGE**

26 **SECTION 5.** G.S. 58-33-56(d) reads as rewritten:

27 "(d) Within 15 days after making the notification required by subsections (a), (b), and (c)
 28 of this section, the insurer shall ~~mail a copy of the notification to the producer at the producer's~~
 29 ~~last known address. notify the producer using a form prescribed by the Commissioner.~~ If the
 30 producer is terminated for cause for any of the reasons listed in G.S. 58-33-46(a), the insurer
 31 shall provide a copy of the notification to the producer at the producer's last known address by
 32 certified mail, return receipt requested, postage prepaid, or by overnight delivery using a
 33 nationally recognized carrier."
 34

35 **AMEND CONTINUING EDUCATION FOR BAIL BONDSMEN AND RUNNERS**

36 **SECTION 6.** G.S. 58-71-71(b) reads as rewritten:

37 "(b) Each year by June 30 every licensee shall complete at least three hours of
 38 continuing education as provided by an approved provider in subjects related to the duties and
 39 responsibilities of a runner or bail ~~bondsman before renewal of the license.~~ bondsman. This
 40 continuing education shall not include a written or oral examination. A person who receives his
 41 or her first license on or after January 1 of any year does not have to comply with this
 42 subsection until ~~the period between his first and second license renewals.~~June 30 of the
 43 following year."
 44

45 **NORTH CAROLINA MANUFACTURED HOUSING BOARD TECHNICAL CHANGE**

46 **SECTION 7.** G.S. 143-143.10(a) reads as rewritten:

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

- 49 (1) The Commissioner of Insurance or the Commissioner's designee.
- 50 (2) A manufactured home manufacturer.
- 51 (3) A manufactured home dealer.

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

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

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

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

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

41

42 **AMEND PORTABLE ELECTRONICS INSURANCE NOTICE REQUIREMENTS**

43 **SECTION 8.(a)** G.S. 58-44A-10 reads as rewritten:

44 **"§ 58-44A-10. Requirements for sale of portable electronics insurance.**

45 (a) At every location where portable electronics insurance is offered to customers,
46 brochures or other written materials shall be made available to a prospective customer. Those
47 materials shall do the following:

- 48 (1) Disclose that portable electronics insurance may provide a duplication of
49 coverage already provided by a customer's homeowner's insurance policy,
50 renter's insurance policy, or other source of coverage.

- 1 (2) State that the enrollment by the customer in a portable electronics insurance
2 program is not required in order to purchase or lease portable electronics or
3 services.
- 4 (3) Summarize the material terms of the insurance coverage, including:
5 a. The identity of the insurer.
6 b. The identity of the supervising entity.
7 c. The amount of any applicable deductible and how it is to be paid.
8 d. Benefits of the coverage.
9 e. Key terms and conditions of coverage, such as whether portable
10 electronics may be repaired or replaced with similar make and model
11 reconditioned or nonoriginal manufacturer parts or equipment.
- 12 (4) Summarize the process for filing a claim, including a description of how to
13 return portable electronics and the maximum fee applicable in the event the
14 enrolled customer fails to comply with any equipment return requirements.
- 15 (5) State that the enrolled customer may cancel enrollment for coverage under a
16 portable electronics insurance policy at any time and the person paying the
17 premium shall receive a refund of any applicable unearned premium.
- 18 (b) Portable electronics insurance may be offered on a month-to-month or other
19 periodic basis as a group or master commercial inland marine policy issued to a vendor of
20 portable electronics for its enrolled customers.
- 21 (c) Eligibility and underwriting standards for customers electing to enroll in coverage
22 shall be established for each portable electronics insurance program.
- 23 (d) The terms of the termination or modification of coverage under a policy of portable
24 electronic insurance offered in compliance with this section shall be as set forth in the policy.
- 25 (e) Notices and correspondence may be sent either by mail or by electronic means as set
26 forth in this subsection. The consumer may provide an electronic mail address to the insurer or
27 vendor of portable electronics which shall be considered to be the consumer's consent to
28 receive notices and correspondence by electronic means so long as a disclosure to that effect is
29 provided to the consumer within 30 days following the purchase of the portable electronics
30 insurance."
- 31 **SECTION 8.(b)** This section becomes effective September 1, 2017.
32 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
33 law.