

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

Short Title: Set Reg. Fees/Company Exams.

(Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

11 "(b) As used in this section, ~~G.S. 58-2-132 and G.S. 58-2-133~~, section and G.S. 58-2-
12 132 through G.S. 58-2-134, unless the context clearly indicates otherwise:

13 (1) " Commissioner" includes an authorized representative or designee of
14 the Commissioner.

15 (2) " Examination" means an examination conducted under the Examination
16 Law.

17 (3) " Examiner" means any person authorized by the Commissioner to
18 conduct an examination.

19 (4) " Insurance regulator" means the official or agency of another
20 jurisdiction that is responsible for the regulation of a foreign or alien
21 insurer.

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

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

25 "**§ 58-2-134. Cost of certain examinations.**

26 An insurer shall reimburse the Department for the actual expenses incurred by the
27 Department in any examination of those records or assets conducted pursuant to G.S. 58-
28 2-131, 58-2-132, or 58-2-133 when:

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

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

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

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

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

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

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

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

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

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

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

23 "**§ 58-2-205. CPA audits of financial statements.**

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

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

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

37 ♦ Section 11. Section 1 of this act becomes effective July 1, 1998. The
38 remainder of this act is effective when it becomes law.