

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 165
Committee Substitute Favorable 3/29/99

Short Title: JUA Reauthorization.

(Public)

Sponsors:

Referred to:

March 1, 1999

A BILL TO BE ENTITLED

1 AN ACT TO REENACT THE 1986 LAW PROVIDING FOR RISK-SHARING
2 PLANS, TO AMEND THE IMMUNITY STATUTES FOR THE FAIR AND
3 BEACH PLANS, AND TO MAKE A TECHNICAL AMENDMENT IN THE
4 BEACH PLAN LAWS.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 42 of Chapter 58 of the General Statutes, which expired July
8 1, 1997, is reenacted.

9 Section 2. G.S. 58-42-1, as reenacted in Section 1 of this act, reads as
10 rewritten:

11 "**§ 58-42-1. Establishment of plans.**

12 (a) If the Commissioner finds, after a hearing held in accordance with ~~G.S. 58-2-50,~~
13 Article 3A of Chapter 150B of the General Statutes, that in all or any part of this State,
14 any amount or kind of insurance authorized by G.S. 58-7-15(4) through G.S. 58-7-15(22)
15 is not readily available in the voluntary market and that the public interest requires the
16 availability of that insurance, he may either:

- 17 (1) Promulgate plans to provide insurance coverage for any risks in this
18 State that are, based on reasonable underwriting standards, entitled to
19 obtain but are otherwise unable to obtain coverage; or

1 (2) Call upon insurers to prepare plans for his approval.

2 (b) Consistent with G.S. 58-42-5(a)(2), the Commissioner shall at least annually
3 reevaluate a plan promulgated pursuant to this section and shall terminate the plan upon
4 determining that the insurance coverage is readily available in the voluntary market or
5 that the public interest no longer requires the operation of the plan."

6 Section 2.1. G.S. 58-42-20, as reenacted by Section 1 of this act, reads as
7 rewritten:

8 **"§ 58-42-20. Classification and rates.**

9 Each plan shall provide for:

10 (1) The method of classifying risks;

11 (2) The making and filing of rates ~~which~~ that are not excessive, inadequate,
12 or unfairly discriminatory and that are calculated on an actuarially
13 sound basis and policy forms applicable to the various risks insured by
14 the plan;

15 (3) The adjusting and processing of claims;

16 (4) The commission rates to be paid to agents or brokers for coverages
17 written by the plan; and

18 (5) Any other insurance or investment functions that are necessary for the
19 purpose of providing adequate and readily accessible coverage."

20 Section 3. G.S. 58-42-45, as reenacted by Section 1 of this act, reads as
21 rewritten:

22 **"§ 58-42-45. Article ~~not~~ subject to Administrative Procedure Act; legislative**
23 **oversight of plans.**

24 (a) The provisions of Chapter 150B of the General Statutes shall ~~not~~ apply to this
25 Article, ~~except that G.S. 150B-39 and G.S. 150B-41 apply to hearings conducted under~~
26 ~~G.S. 58-42-1. Article.~~

27 (b) At the same time the Commissioner issues a notice of hearing under G.S.
28 150B-38, the Commissioner shall provide copies of the notice to the Joint Legislative
29 Administrative Procedure Oversight Committee and to the Joint Legislative Commission
30 on Governmental Operations. The Commissioner shall provide the Committee and
31 Commission with copies of any plan promulgated by or approved by the Commissioner
32 under G.S. 58-42-1(1) or (2)."

33 Section 4. G.S. 58-42-55, as reenacted in Section 1 of this act, reads as
34 rewritten:

35 **"§ 58-42-55. Expiration.**

36 This Article shall expire on July 1, ~~1997.~~ 2001."

37 Section 5. G.S. 58-45-60 reads as rewritten:

38 **"§ 58-45-60. Association and Commissioner immune from liability.**

39 There shall be no liability on the part of and no cause of action of any nature shall
40 arise against ~~the Commissioner or any of his staff, the Association or its agents or~~
41 ~~employees, or against any participating insurer, for any inspections made hereunder or~~
42 ~~any statements made in good faith by them in any reports or communications concerning~~
43 ~~risks submitted to the Association, or at any administrative hearings conducted in~~

1 ~~connection therewith under the provisions of this Article. any member insurer, the~~
2 ~~Association or its agents or employees, the board of directors, or the Commissioner or his~~
3 ~~representatives for any action taken by them in good faith in the performance of their~~
4 ~~powers and duties under this Article."~~

5 Section 6. G.S. 58-46-35 reads as rewritten:

6 **"§ 58-46-35. Reports of inspection made available; immunity from liability.**

7 All reports of inspection performed by or on behalf of the association shall be made
8 available to the members of the association, applicants and the Commissioner. There
9 shall be no liability on the part of and no cause of action of any nature shall arise against
10 ~~the Commissioner, any of his staff, the association or any of its agents or employees, or against~~
11 ~~any participating insurer for any inspections made hereunder or any statements made in good~~
12 ~~faith by them in any reports or communications concerning risks submitted to the association, or~~
13 ~~at any administrative hearing conducted in connection therewith under the provisions of this~~
14 ~~Article. any member insurer, the Association or its agents or employees, the board of~~
15 ~~directors, or the Commissioner or his representatives for any action taken by them in~~
16 ~~good faith in the performance of their powers and duties under this Article."~~

17 Section 7. G.S. 58-45-15 reads as rewritten:

18 **"§ 58-45-15. Powers and duties of Association.**

19 The Association shall, pursuant to the provisions of this Article and the plan of
20 operation, and with respect to ~~essential property insurance on insurable property, the~~
21 ~~insurance coverages authorized in this Article,~~ have the power on behalf of its members:

- 22 (1) To cause to be issued policies of insurance to applicants;
- 23 (2) To assume reinsurance from its members;
- 24 (3) To cede reinsurance to its members and to purchase reinsurance in
25 behalf of its members."

26 Section 8. If any section or provision of this act is declared unconstitutional or
27 invalid by the courts, it does not affect the validity of the act as a whole or any part other
28 than the part so declared to be unconstitutional or invalid.

29 Section 9. This act is effective when it becomes law.