

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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**HOUSE BILL 13**  
**Committee Substitute Favorable 4/19/01**  
**Senate Insurance and Consumer Protection Committee Substitute Adopted 10/3/01**

Short Title: Motor Vehicle Repairs.

(Public)

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Sponsors:

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Referred to:

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January 29, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROHIBIT INSURANCE COMPANIES FROM RECOMMENDING  
3 THAT INSURANCE CLAIMANTS OBTAIN MOTOR VEHICLE REPAIR  
4 SERVICES FROM PARTICULAR SOURCES WITHOUT INFORMING THEM  
5 OF THEIR OPTIONS; TO AMEND THE SURPLUS LINES LAW TO CONFORM  
6 IT TO THE GRAMM-LEACH-BLILEY ACT; AND TO CORRECT AN ERROR  
7 IN AN AMENDMENT TO THE WORKERS' COMPENSATION ACT.

8 The General Assembly of North Carolina enacts:

9       **SECTION 1.** G.S. 58-3-180, as amended by S.L. 2001-203, reads as  
10 rewritten:

11 "**§ 58-3-180. Motor vehicle repairs; selection by claimant.**

12       (a) A policy covering damage to a motor vehicle shall allow the claimant to  
13 select the repair service or source for the repair of the damage.

14       (b) The amount determined by the insurer to be payable under a policy covering  
15 damage to a motor vehicle shall be paid regardless of the repair service or source  
16 selected by the claimant.

17       **(b1) No insurer or insurer representative shall recommend the use of a particular**  
18 **motor vehicle repair service without clearly informing the claimant that (i) the claimant**  
19 **is under no obligation to use the recommended repair service, (ii) the claimant may use**  
20 **the repair service of the claimant's choice, and (iii) the amount determined by the**  
21 **insurer to be payable under the policy will be paid regardless of whether or not the**  
22 **claimant uses the recommended repair service.**

23       **(b2) The provisions of subsection (b1) of this section shall be included in nonfleet**  
24 **private passenger motor vehicle insurance policy forms promulgated by the Bureau and**  
25 **approved by the Commissioner.**

26       (c) Any person who violates this section is subject to the applicable provisions of  
27 G.S. 58-2-70 and G.S. 58-33-46, provided that the maximum civil penalty that can be

1 assessed under G.S. 58-2-70(d) for a violation of this section is two thousand dollars  
2 (\$2,000).

3 (d) As used in this section, 'insurer representative' includes an insurance agent,  
4 limited representative, broker, adjuster, and appraiser."

5 **SECTION 2.** G.S. 58-21-70 reads as rewritten:

6 "**§ 58-21-70. Surplus lines licensees may accept business from other agents or**  
7 **~~brokers.~~ brokers; countersignatures required; remittance of premium**  
8 **tax.**

9 (a) A surplus lines licensee may originate surplus lines insurance or accept such  
10 insurance from any other duly licensed agent or broker, and the surplus lines licensee  
11 may compensate such agent or broker therefor.

12 (b) Every report filed by a nonresident licensee under G.S. 58-21-35(a) shall,  
13 before being filed with the Commissioner, be countersigned by a resident licensee or by  
14 a regulatory support organization. The resident licensee or regulatory support  
15 organization may charge the nonresident licensee a countersignature fee.

16 (c) Every resident licensee and regulatory support organization that countersigns  
17 a report under subsection (b) of this section is responsible for remitting the premium tax  
18 for the coverage, as specified in G.S. 58-21-85, to the Commissioner."

19 **SECTION 2.1.** Section 32 of Session Law 2001-203 reads as rewritten:

20 "**SECTION 32.** Section 28 of this act becomes effective ~~October 1, 2001.~~ January 1,  
21 2002. Sections 25, 30, and this section are effective when they become law. The  
22 remaining sections of this act become effective July 1, 2002."

23 **SECTION 2.2.** G.S. 58-21-40(a), as amended by Section 28 of S.L.  
24 2001-203, reads as rewritten:

25 "(a) A surplus lines regulatory support organization of surplus lines licensees shall  
26 be formed to:

- 27 (1) Facilitate and encourage compliance by resident and nonresident  
28 surplus lines licensees with the laws of this State and the rules and  
29 regulations of the Commissioner relative to surplus lines insurance;
- 30 (2) Communicate with organizations of admitted insurers with respect to  
31 the proper use of the surplus lines market;
- 32 (3) Receive and disseminate to surplus lines licensees information about  
33 surplus lines insurance, including, without limitation, new electronic  
34 filing procedures approved by the Commissioner, changes in the list of  
35 eligible surplus lines insurers, and modifications in coverages,  
36 procedures, and requirements as may be requested by the  
37 Commissioner; and
- 38 (4) ~~Certify satisfactory evidence of current nonresident surplus lines~~  
39 ~~licensure in this State by countersigning~~ Countersign nonresident  
40 produced surplus lines coverages and remit premium taxes for those  
41 coverages under G.S. 58-21-70 by means satisfactory to the  
42 Commissioner; and charge the nonresident surplus lines licensee a fee

1 for the certification and countersignature as approved by the  
2 Commissioner."

3 **SECTION 3.** G.S. 58-47-125 reads as rewritten:

4 "**§ 58-47-125. Admission and termination of group members.**

5 (a) Prospective group members shall submit applications for membership to the  
6 board. The board, a designated employee of the group, or TPA shall approve an  
7 application for membership under the bylaws of the group. Members shall have bona  
8 fide offices in this State and members' employees shall be primarily engaged in  
9 business activities within this State. Members shall receive certificates of coverage from  
10 the board on a form acceptable to the Commissioner.

11 (b) The group shall make available to the Commissioner properly executed  
12 applications and indemnity agreements for all members, on forms prescribed by the  
13 Commissioner. If the applications and indemnity agreements are not executed properly  
14 and maintained, the Commissioner may order the group to cease writing all new  
15 business until all of the agreements are executed properly and obtained.

16 (c) Members may elect to terminate their participation in a group and may be  
17 ~~canceled-terminated~~ by the group under ~~G.S. 97-99~~ subsection (d) of this section and the  
18 bylaws of the group.

19 (d) A group may terminate a member's participation in the group on 30 days'  
20 written notice to the member. A group may terminate a member's participation in the  
21 group for nonpayment of premium on 10 days' written notice to the member. A member  
22 may terminate its participation in the group on 10 days' written notice to the group.  
23 Notices under this subsection shall be given by certified mail, return receipt requested.  
24 No termination by the group is effective until the notice is received by the member."

25 **SECTION 4.** Section 1 of this act becomes effective April 1, 2002, and  
26 applies to policies issued or renewed on and after that date. Sections 2 and 2.2 of this act  
27 become effective January 1, 2002. The remainder of this act is effective when it  
28 becomes law.