

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-451
HOUSE BILL 13**

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

(c) Any person who violates this section is subject to the applicable provisions of G.S. 58-2-70 and G.S. 58-33-46, provided that the maximum civil penalty that can be assessed under G.S. 58-2-70(d) for a violation of this section is two thousand dollars (\$2,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 18th day of October, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:30 p.m. this 28th day of October, 2001