

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

SESSION LAW 2005-217  
SENATE BILL 552

AN ACT TO PROVIDE AN UNAUTHORIZED INSURER AGAINST WHICH AN EMERGENCY CEASE AND DESIST ORDER HAS BEEN ISSUED TO PETITION THE DEPARTMENT OF INSURANCE FOR A HEARING ON THE MATTER AND TO APPEAL THAT DECISION TO THE SUPERIOR COURT OF WAKE COUNTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-28-20 reads as rewritten:

**"§ 58-28-20. Cease and desist orders; orders; judicial review.**

(a) Whenever the ~~Commissioner, from evidence satisfactory to him,~~ Commissioner has reasonable grounds to believe that any person is violating or is about to violate G.S. 58-28-5, ~~he the Commissioner~~ may, after notice and opportunity for hearing, ~~reduce his findings to writing~~ make written findings and issue and cause to be served upon ~~such~~ the person an order to cease and desist ~~from violating~~ G.S. 58-28-5.

(b) Until the expiration of the time allowed under ~~G.S. 58-28-25(a)~~ G.S. 58-2-75 for filing a petition for review, ~~if no such petition has been duly filed within such time;~~ or if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the Court, the Commissioner may at any time, upon ~~such~~ notice and in ~~such a manner as he~~ the Commissioner considers proper, modify or set aside in whole or in part any order issued by ~~him~~ the Commissioner under this ~~section.~~ section as follows:

- (1) Any time before the expiration of the time allowed for seeking judicial review, if no petition for review has been filed; or
- (2) If a petition for review has been timely filed, until the transcript of the record in the proceeding has been filed with the Court.

(c) ~~After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time,~~ If no petition for judicial review has been filed within the time provided under G.S. 58-2-75, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by ~~him~~ the Commissioner under this section, whenever in ~~his~~ the Commissioner's opinion conditions of fact or of law have so changed as to require such action or if the public interest requires.

(d) Whenever the Commissioner has evidence that any person has or is violating G.S. 58-28-5, or has or is violating any order or requirement of the Commissioner issued ~~or promulgated~~ by the Commissioner under this Article, and that the interests of policyholders, creditors, or the public may be irreparably harmed by delay, the Commissioner may issue ~~a-an emergency cease and desist order. Notice of the cease and desist order and notice of hearing shall be delivered by first class mail.~~ order that shall become effective on the date specified in the order or upon service of a certified copy of the order upon the person ordered to cease and desist, whichever is later. The emergency cease and desist order shall also include a notice of hearing, which shall be conducted as provided under Article 3A of Chapter 150B of the General Statutes. However, the person ordered to cease and desist under this subsection may request and shall be granted an expedited review of the order. The emergency order shall remain in

effect prior to and during the proceedings, unless modified by the Commissioner as provided under subsection (b) of this section.

(e) Any person required to cease and desist violating G.S. 58-28-5 by an order issued after notice and a hearing under subsection (a) or (d) of this section may seek judicial review of that order under G.S. 58-2-75."

**SECTION 2.** G.S. 58-28-25 is repealed.

**SECTION 3.** This act becomes effective October 1, 2005, and applies to orders issued on or after that date.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of July, 2005.

s/ Beverly E. Perdue  
President of the Senate

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

s/ Michael F. Easley  
Governor

Approved 2:04 p.m. this 20<sup>th</sup> day of July, 2005