



SENATE BILL 319: Captive Insurance Revisions/Online Auctions.

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 18, 2024
Introduced by:	Sens. Johnson, Perry, Sawrey	Prepared by:	Bill Patterson
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *Senate Bill 319 would:*

- *Clarify that risk retention groups chartered in this State are subject to examination by the Commissioner of Insurance and are responsible for the costs of the examination.*
- *Reduce from 5% to 1.85% the tax rate applicable to gross premiums paid for coverages within this State to risk retention groups not chartered in this State.*
- *Remove the requirement that foreign captive insurance companies redomesticate to North Carolina before December 31, 2022, in order to qualify for the exemption from paying gross premiums taxes in the year of and after redomestication and extend by two years the expiration date of this exemption, ending it for taxable years beginning on or after January 1, 2026.*
- *Allow certain foreclosure sales to be conducted at designated public locations, expand the time allowed for a scheduled foreclosure sale to commence, and establish a procedure for remote bidding at a foreclosure sale.*
- *Permit health benefit plan sponsors, on behalf of any enrolled individual, to consent to delivery of all plan-related documents by electronic means in compliance with ERISA and with the Uniform Electronic Transactions Act.*

CURRENT LAW AND BILL ANALYSIS:

Captive Insurance Revisions

Risk retention groups chartered in this State are regulated by the Commissioner of Insurance pursuant to Article 22 of Chapter 58 of the General Statutes.

Gross premiums paid for coverages in this State to risk retention groups not chartered in this State are taxed at a rate of 5%.

If a captive insurance company formed and licensed in another jurisdiction redomesticates to North Carolina with the approval of the Commissioner of Insurance prior to December 31, 2022, it is exempt from gross premiums taxes otherwise due for the remainder of the year in which redomestication occurs and for the calendar year following its redomestication. This provision is effective for gross premiums taxes imposed for taxable years beginning on or after January 1, 2021, and expires for taxable years beginning on or after January 1, 2024.

Section 1 would provide that a risk retention group chartered in this State is subject to examination by the Commissioner of Insurance whenever the Commissioner deems it prudent and reasonable. The examination would have to be conducted expeditiously, in coordination with other examining bodies to

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avoid unnecessary repetition, and in accordance with guidelines of the National Association of Insurance Commissioners. The examined risk retention group would be responsible for the costs associated with the examination.

Section 2 would reduce from 5% to 1.85% the tax rate applicable to gross premiums paid for coverages within this State to risk retention groups not chartered in this State.

Section 3 would eliminate the requirement that a foreign captive insurance company redomesticate to North Carolina prior to December 31, 2022, in order to qualify for the exemption from paying gross premiums taxes in the year of and in the year after redomestication and would extend by one year the sunset on this exemption provision, ending it for taxable years beginning on or after January 1, 2026.

Online Auctions

Article 2A of Chapter 45 of the General Statutes governs sales under a power of sale. If the sale is not held on the premises being sold, it must be held at the courthouse door of the county in which all of the property is situated, or if the property is situated in more than one county, it can be held at the courthouse door for any county in which it is situated.

A sale must begin at the time designated in the notice of sale or as soon thereafter as practicable, but not later than one hour after that time unless delayed by other sales held at the same place.

There is no current statutory authority for the person exercising the power of sale to accept remote bids from bidders not physically present at the place of sale.

Section 4 would:

- Provide that a sale held under a power of sale that is not held on the premises being sold can be held either at the courthouse door in a county in which the property is situated, or at another public location within that county as designated by the mortgagee or trustee.
- Permit the sale to take place up to three hours after the time designated in the notice of sale.
- Permit the person exercising the power of sale, or their agent, to accept remote bids from persons not physically present at the place of sale. Before accepting a remote bid the person exercising the power of sale, or their agent, must collect all sums required to be paid by the winning bidder. Any charges incurred in connection with remote bidding would not be chargeable to the mortgagor or otherwise recoverable as costs and expenses of the foreclosure.

Electronic Transmission of Health Benefit Plan Documents to Enrollees

When any State insurance law requires that a communication be provided to a party in writing, signed by a party, provided by means of a specific delivery method, or retained by an insurer, the requirement is satisfied if the insurer complies with the Uniform Electronic Transactions Act, Article 40 of Chapter 66 of the General Statutes.

Section 5 would allow employers, or others who sponsor health benefit plans, to consent to electronic delivery of plan communications on behalf of the plan's insureds. Insureds must have regular access to email through work, and they would be able to withdraw consent to electronic delivery at any time. Insurers sending communications electronically would have to comply with the provisions of ERISA and the Uniform Electronic Transactions Act.

EFFECTIVE DATE: Sections 1, 2, 3 and 5 of this act would become effective October 1, 2024. Sections 1 and 2 would apply to contracts issued, renewed, or amended on or after that date; Section 4 would apply to notices of foreclosure sale filed with the clerk of superior court on or after that date; and Section 5

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would apply to contracts entered into on or after that date. The remainder of this act would become effective when the act becomes law.