



HOUSE BILL 288: Insurance Technical Changes.-AB

2015-2016 General Assembly

Committee:	Senate Insurance	Date:	June 11, 2015
Introduced by:	Reps. Setzer, Bumgardner	Prepared by:	Tim Hovis
Analysis of:	PCS to Second Edition H288-CSTU-19		Kristen Harris Committee Counsel

SUMMARY: *The Proposed Committee Substitute to House Bill 288 enacts legislative changes to North Carolina's insurance laws to comply with requirements of the National Association of Insurance Commissioners (NAIC) and allow the North Carolina Department of Insurance to maintain its accreditation with the NAIC and makes various statutory changes recommended by the Department.*

[The PCS makes a technical change to Section 1.4 and returns the language in Subsection (j)(1) of that section to how it appeared in the First Edition of the bill. The PCS also incorporates language from House Bill 287 relating to electronic proof of insurance and optional program enhancements.]

BACKGROUND: The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. The formal certification program began in June 1990. North Carolina has been accredited since 1991. All fifty states, the District of Columbia and Puerto Rico are currently accredited.

CURRENT LAW:

Chapter 58 of the General Statutes governs North Carolina's insurance laws. Currently, the provisions in Chapter 58 meet NAIC requirements.

BILL ANALYSIS:

House Bill 288 amends existing statutes in Chapter 58 by incorporating model act provisions from the NAIC that are required to be enacted by 2017. In addition, sections from the North Carolina Administrative Code are incorporated into Chapter 58 as outlined below.

PART I

Section 1.1:

G.S. 58-19-1 Findings; purpose; legislative intent.

- Subsection (3) contains a clarifying change.

Section 1.2(a):

Contains recodifications.

Section 1.2(b):

G.S. 58-19-5 Definitions.

- Subsections (3) through (10) add various definitions. The definitions "enterprise risk" and Forms E and F are required for NAIC accreditation. The definitions "executive officer" and Forms A, B, C, and D are being incorporated from the North Carolina Administrative Code (NCAC.)



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- Subsection (16) adds a definition for "ultimate controlling person" which is being incorporated from the NCAC.

Section 1.3(a):

Contains recodifications.

Section 1.3(b):

G.S. 58-19-15 Acquisition of control of or merger with domestic insurer.

- Subsection (a) contains a technical change and incorporates language from the NCAC.
- Subsection (b) amends the definition of "domestic insurer" as required for NAIC accreditation.
- Subsections (e) and (f) adopt provisions required for NAIC accreditation. Subsection (e) requires notification to the Commissioner when a holding company divests of a domestic insurer. Subsection (f) requires a pre-acquisition notification (Form E), which will include information about the impact of the acquisition on competition.
- Subsection (g) amends the form of the statement to be filed with the Commissioner which is being incorporated from the NCAC. It also sets forth additional information to be provided with the acquisition of control of a domestic insurer as required for NAIC accreditation.
- Subsection (j) adopts provisions required for NAIC accreditation concerning public hearing and statement filing requirements.
- Subsections (n) and (o) contains changes required for NAIC accreditation.

Section 1.4:

G.S. 58-19-25 Registration of insurers.

- Subsection (a) changes "licensed" to "authorized," incorporates language from the NCAC, and contains clarifying changes.
- Subsection (b) incorporates language from the NCAC and adopts provisions required for NAIC accreditation that set forth information that an insurer must provide to the Commissioner when filing a registration statement.
- Subsections (d) and (f) through (h) incorporate language from the NCAC.
- Subsection (j) contains technical changes and incorporates language from the NCAC. The language added in Subsection (j)(1) would no longer require a hearing for the denial of a disclaimer of affiliation but would still provide for a hearing upon request. This language agrees with the NAIC model law but is not required for NAIC accreditation.
- Subsection (k) adds language required for NAIC accreditation establishing that the failure to file the enterprise risk filing (Form F) is a violation of Article 19.
- Subsection (l) adopts provisions required for NAIC accreditation establishing the requirement for the ultimate controlling person of an insurer to file the enterprise risk report annually.

Section 1.5(a):

Contains recodifications.

Section 1.5(b):

G.S. 58-19-30 Standards and management of an insurer within a holding company system.

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- Subsection (a) contains a clarifying change and adds language required for NAIC accreditation establishing that management and cost sharing arrangements between the insurers and its affiliates must include specified minimum provisions.
- Subsection (b) contains technical and clarifying changes and incorporates language from the NCAC.

It also adds language required for NAIC accreditation requiring insurers to obtain prior approval for modifications to affiliated agreements, which are already subject to the Commissioner's approval, further specifies the reinsurance agreements which are subject to the Commissioner's approval, adds tax allocation agreements amongst affiliates to the types of agreements that require the Commissioner's prior approval, and sets forth minimum standards for management agreements and cost sharing agreements between an insurer and its affiliates.

It also creates a new subsection for the guarantee agreement filing requirement. The language agrees with the NAIC model law but is not required for accreditation.

- Subsections (d) and (e) incorporate language from the NCAC.

Section 1.6:

G.S. 58-19-35 Examination.

- Subsections (a), (e), (f), and (g) add language required for NAIC accreditation that authorizes the Commissioner to examine enterprise risk and provides that the Commissioner may order the insurer to provide information generated from contractual arrangements with affiliates that may not be in the insurer's possession.
- Subsection (d) removes language to conform to changes made to subsection (a) required for NAIC accreditation.

Section 1.7:

G.S. 58-19-37 Supervisory Colleges.

- Subsections (a) through (c) add language required for NAIC accreditation that establishes the Commissioner's authority to participate in supervisory colleges in order to facilitate the sharing of information with regulators from other jurisdictions that regulate entities that are affiliated with the domestic insurer.

Section 1.8:

G.S. 58-19-40 Confidential Treatment.

- Subsections (a) through (f) add language required for NAIC accreditation that revises the confidentiality language regarding holding company filings to be substantially the same as the NAIC model law.

Section 1.9:

Subsection (f) adds language required for NAIC accreditation that establishes sanctions for violations, which prevent the Commissioner's full understanding of the enterprise risk.

Section 1.10:

Contains clarifying changes.

Section 1.11:

Incorporates language from the NCAC and the NAIC model law.

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Section 1.12:

Contains technical and clarifying changes.

PART II

Section 2:

Adds language required for NAIC accreditation that changes the definition of a life and health insurer's risk based capital company action level.

PART III

Section 3:

G.S. 58-22-15 Risk retention groups chartered in this State.

- Subsection (d) adds language required for NAIC accreditation relating to risk retention groups. Specifically, guidelines are established for a risk retention group's board of directors, attorney-in-fact, and captive manager, president, or CEO.

PART VI

Section 4:

Adds a new subsection to The Vehicle Financial Responsibility Act which would allow proof of financial responsibility (auto liability insurance) for registration to be demonstrated in a physical and electronic format.

Section 5:

Creates a new section allowing automobile insurers to file individually with the Commissioner for approval of optional enhancements to their automobile or homeowners' policies. These enhancements could then be offered as an endorsement to an automobile policy. Any additional premium resulting from the enhancement must be included with the proposed enhancement filed with the Commissioner and must be reviewed by the Commissioner to ensure that the additional premium is based on sound actuarial principles. The acceptance or renewal of a policy may not be conditioned upon the acceptance by a policyholder of an optional enhancement.

This section specifically provides that any rate amendment based on the enhancement is not a rate deviation under current law. Under current law, G.S. 58-36-30(a), proposed rate deviations must be filed with the Commissioner and the Rate Bureau and approved by the Commissioner.

Under the bill, optional enhancements would be outside the jurisdiction of the Rate Bureau.

EFFECTIVE DATE: Sections 1 and 3 of this act become effective July 1, 2015. Section 2 of this act becomes effective January 1, 2017. Section 5 of this act becomes effective July 1, 2015 and applies to optional enhancements, as described in that section, filed and approved on or after that date. The remainder of this act is effective when it becomes law.

The Department of Insurance substantially contributed to this summary.