



# HOUSE BILL 288: Insurance Technical Changes.

2015-2016 General Assembly

**Committee:**  
**Introduced by:**  
**Analysis of:** S.L. 2015-146

**Date:**  
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**SUMMARY:** *S.L. 2015-146, as amended by Sec. 13 of S.L. 2015-281, amends North Carolina's insurance laws governing (i) insurance company holding systems, (ii) risk-based capital requirements for life insurers, and (iii) corporate governance requirements for risk retention groups that are required to be enacted by 2017 to allow the Department of Insurance to maintain its accreditation with the National Association of Insurance Commissioners (NAIC). The changes include the incorporation of model act provisions from the NAIC and sections from North Carolina's Administrative Code and various technical and substantive statutory changes recommended by the Department.*

*This act also adds a new section to The Vehicle Financial Responsibility Act which allows proof of financial responsibility to be shown in a physical or electronic format and also creates a new law allowing automobile insurers to file individually with the Commissioner of Insurance for approval of optional enhancements to their automobile or homeowners' policies.*

*This act has multiple effective dates. The provisions of this act pertaining to insurance company holding systems became effective July 1, 2015. The provision of this act pertaining to risk-based capital requirements for life insurers becomes effective January 1, 2017. The provision of this act pertaining to optional enhancements became effective July 1, 2015, and applies to optional enhancements, as described in that section, filed, and approved on or after that date. Except as otherwise provided, the remainder of this act became effective July 13, 2015.*

**CURRENT LAW:** Chapter 58 of the General Statutes governs North Carolina's insurance laws. The Vehicle Financial Responsibility Act can be found in Article 13 of Chapter 20 of the General Statutes.

## **BILL ANALYSIS:**

### **PART I (Sections 1.1 – 1.12): Insurance Holding Company System Regulatory Act Revisions**

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

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

- Subsection (a) incorporates language from the NCAC.

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- 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.

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

- Subsection (a) changes "licensed" to "authorized" and incorporates language from the NCAC.
- 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) incorporates language from the NCAC. The language added in Subsection (j)(1) no longer requires a hearing for the denial of a disclaimer of affiliation but still provides 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.

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

- Subsection (a) 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) 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.

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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.

## 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.

## 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.

## 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.

## G.S. 58-19-50 Sanctions.

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

## G.S. 58-19-75 Forms – general requirements.

- Incorporates language from the NCAC and the NAIC model law.

## G.S. 58-19-80 Forms – incorporation by reference, summaries and omissions.

- Incorporates language from the NCAC and the NAIC model law.

## G.S. 58-19-85 Forms – information unknown or unavailable and extension of time to furnish.

- Incorporates language from the NCAC.

## G.S. 58-19-90 Forms – additional information and exhibits.

- Incorporates language from the NCAC and the NAIC model law.

## **PART II (Section 2): Revisions to Risk-Based Capital Requirements for Life Insurers**

### G.S. 58-12-11 Company action level event.

- 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): Update Corporate Governance Requirements for Risk Retention Groups**

### 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.

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## **PART VI (Sections 4 and 5): Conforming and Clarifying Changes**

G.S. 20-309 Financial responsibility prerequisite to registration; must be maintained throughout registration period.

- 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.

G.S. 58-36-43 Optional program enhancements authorized not altering coverage under Rate Bureau jurisdiction.

- 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:** Part I (Sections 1-1.12) of this act pertaining to insurance company holding systems became effective July 1, 2015. Part II (Section 2) of this act pertaining to risk-based capital requirements for life insurers becomes effective January 1, 2017. Section 5 of Part IV of this act pertaining to optional enhancements became 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 S.L. 2015-146 became effective July 13, 2015.

**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.