



HOUSE BILL 220: Insurance Technical Changes.

2019-2020 General Assembly

Committee:	House Insurance. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 26, 2019
Introduced by:	Reps. Setzer, Bumgardner, Corbin	Prepared by:	Jeremy Ray* Staff Attorney
Analysis of:	PCS to First Edition H220-CSTU-9		

OVERVIEW: *The PCS to House Bill 220 makes various changes to North Carolina's insurance laws including:*

- *Adds the term "affiliates" as it relates to affiliates of the domestic insurer, as an additional type of security that a domestic insurer may invest in, provided other existing safeguards are met.*
- *Incorporates model act language from the National Association of Insurance Commissioners (NAIC) regarding immunity for contractors.*
- *Makes technical and clarifying changes to consent to rate laws.*
- *Makes conforming changes and corrects erroneous statutory references found in G.S. 58-39-26 and adds new federal privacy disclosure notice requirements.*
- *Makes changes to procedures for individuals to receive an expedited external review of noncertification decisions.*
- *Makes technical changes to bail bond laws.*
- *Clarifies rulemaking authority of the North Carolina Fire and Rescue Commission.*
- *Makes various changes to the Prepaid Health Plan Licensing Act.*
- *Makes Medicare Supplement changes.*
- *Clarifies when applications are sent to the North Carolina Self-insurance Security Association.*
- *Requires writers of credit property insurance to report certain information to DOI annually.*

[As introduced, this bill was identical to S211, as introduced by Sens. Edwards, Gunn, J. Alexander, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

PART I. HOLDING COMPANY ACT CHANGES

SECTION 1. Adds the term "affiliates" as it relates to affiliates of the domestic insurer, as an additional type of security that a domestic insurer may invest in, provided other existing safeguards are met. Domestic insurers are currently allowed to invest in certain types of securities of "subsidiaries" of the domestic insurer as they are defined under G.S. 58-19-10(a), consistent with the same conditions.

PART II. SURPLUS LINES TECHNICAL CHANGES

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SECTION 2.(a) Removes a no longer needed reference to quarterly report. Quarterly reports are repealed in subsection (d).

SECTION 2.(b) Repeals G.S. 58-21-40(b)(3), which requires The North Carolina Surplus Lines Association, a regulatory support organization of surplus lines licensees, to provide the Commissioner with an annually updated list of surplus lines licensees.

SECTION 2.(c) Requires each surplus lines licensee to include a copy of the compliance agreement with the record of each surplus lines insurance contract placed by and through the licensee.

SECTION 2.(d) Repeals G.S. 58-21-80, which requires each surplus lines licensee to file a quarterly report with the Commissioner.

SECTION 2.(e) Replaces failure to maintain the required bond, with failure to pay the stamping fee to the stamping office, as a grounds for Commissioner to suspend, revoke, or refuse to renew the licensee of a surplus lines licensee.

PART III. ALIGN STATE LAW WITH NAIC MODEL LAW REGARDING IMMUNITY FOR CONTRACTORS HIRED BY THE DEPARTMENT

SECTIONS 3.(a), 3.(b), & 3.(c) Adds NAIC model language, and associated conforming changes to G.S. 58-30-71, by extending official immunity from suit and liability, to all independent contractors who are retained by the receiver or the receiver's employees, and who are hired to assist in a delinquency proceeding. This includes: attorneys, accountants, auditors, and other professional persons or firms and their employees retained by the receiver.

An independent contractor would receive immunity both personally, and in their official capacities, for certain claims arising from:

- Duties of employment
- Matters subject to review by the Court after notice and hearing that are not disapproved, or disallowed by the Court.

An independent contractor extended immunity through this section would still be held liable for damages caused by their intentional, or willful and wanton misconduct.

PART IV. CLARIFY CONSENT TO RATE

SECTIONS 4.(a) through 4.(e) Makes several clarifying and technical changes to the insurance deviations laws found in G.S. 58-36-30, otherwise known as consent to rate. This includes erroneous cross references to sections that conflict with one another.

PART V. FAST ACT CONFORMING CHANGE

SECTION 5. Corrects erroneous statutory references to section 505, to section 504 of Public Law 106-102, otherwise known as the Gramm-Leach-Bliley Act. Adds a new subsection (d) to federal privacy disclosure notice requirements under G.S. 58-39-26, to provide an exception to the annual notice requirement for insurance institutions or agents, if all of the following apply:

- The insurance institution or agency provides nonpublic personal information only in accordance with certain federal privacy regulations; and
- The insurance institution or agency has not changed its policies or practices with regard to disclosing nonpublic personal information that were disclosed in the most recent required disclosure sent to consumers.

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If at any time any of these requirements no longer apply to the insurance institution or agency, then the insurance institution or agency must provide the annual privacy notice required under this subsection.

PART VI. STREAMLINE EXPEDITED EXTERNAL REVIEW PROCESS

SECTIONS 6.(a), 6.(b), and 6.(c) Makes changes to procedures for individuals to receive an expedited external review of noncertification decisions. Part of this change would remove the requirement that medical advice from a medical consultant not affiliated with the organization be used in the determination of whether an expedited request should be processed on an expedited basis. Instead, if the Commissioner determines that the request is eligible, a covered person's treating provider that is the subject of the external review would be allowed to certify the request on a form prescribed by the Commissioner. Subsections (a) and (b) would become effective October 1, 2019, and apply to requests submitted on or after that date.

PART VII. BAIL BONDSMAN TECHNICAL CHANGES

SECTION 7.(a) Adds a definition for premium to G.S. 58-71-1, to mean an amount of money paid in exchange for a bail bondsman's services in writing a bail bond.

SECTION 7.(b) Modifies G.S. 58-71-45 to require a bail bondsman to return a license to the Commissioner within 10 working days of a lapse (new status), suspension, or revocation of their license. Currently, there is no specific timeframe in which to return a license to the Commissioner upon suspension or revocation of a bail bondsman license.

SECTION 7.(c) Would clarify the requirement for bail bondsmen to include in their required written report for all bail bonds which the bail bondsman is liable, and filed with the Commissioner, the court file or docket numbers for the principal's court obligation, and the certificate seal number for each bond issued.

SECTION 7.(d) Would change several references to "upon the principal's request" to "principle." This applies to copies of a written memorandum of agreement between a principal and surety that are only required to be provided if requested. The change would such make such instances where the references appear in the statute, compulsory, rather than after having been requested.

PART VIII. CLARIFY RULEMAKING AUTHORITY FOR STATE FIRE AND RESCUE

SECTION 8. Clarifies rulemaking authority in G.S. 58-78-5(a), by specifically authorizing the State Fire and Rescue Commission with rule-making authority to adopt, modify, or repeal any rules or regulations for the purpose of carrying out the provisions of the Article.

PART IX. PREPAID HEALTH PLAN LICENSING ACT CLARIFYING AND TECHNICAL CHANGES.

SECTIONS 9.(a), 9.(b), and 9.(f) Makes technical and conforming changes to statutes relating to prepaid health plans.

SECTION 9.(c) Amends G.S. 58-90-60 to require the Commissioner to notify the Department of Health and Human Services (DHHS) before conducting an examination of a prepaid health plan.

SECTION 9.(d) Amends G.S. 58-93-90 to require the Commissioner, to the greatest extent possible, to give notice to DHHS before seeking an application to rehabilitate or liquidate a prepaid health plan.

SECTION 9.(e) Amends G.S. 58-93-95(a) to require the Commissioner to provide notice to DHHS of the grounds for the denial, suspension, or revocation of the license for a prepaid health plan.

PART X. CLARIFY WHEN APPLICATION SENT TO NORTH CAROLINA SELF-INSURANCE SECURITY ASSOCIATION

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SECTION 10. Would require a copy of the application for a license as a self-insurer, to be filed with the North Carolina Self-Insurance Security Association at the same time the application is filed with the Commissioner.

PART XI. MEDICARE SUPPLEMENT CHANGES

SECTION 11.(a) Would require insurers to make Medicare Supplement Plan A coverage available to disabled individuals before age 65. Insurers would also have to make Medicare Standardized Plan D and G coverage available to individuals age 65 or over. Section 11 would become effective January 1, 2020.

PART XII. CREDIT PROPERTY INSURANCE REPORTING REQUIREMENT

SECTION 12. Would require each writer of credit property insurance written in North Carolina to submit to the Department by April 1 of each year, information for each of the last five calendar years that the Department has already been statutorily required to collect data on. This includes coverage written, direct premiums, earned premiums, dividends, and other information. The Department would be required to publish the collected data on its website by July 1 of each year.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

**Jason Moran-Bates, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*