



SENATE BILL 496: DOI Omnibus Bill.

2021-2022 General Assembly

Committee:		Date:	August 4, 2022
Introduced by:		Prepared by:	Kristen L. Harris Staff Attorney
Analysis of:	S.L. 2022-46		

OVERVIEW: *S.L. 2022-46 does the following:*

- **Makes various changes to North Carolina's insurance laws, as recommended by the Department of Insurance (DOI), including:**
 - *Removes personal delivery as a delivery option for certain DOI forms.*
 - *Expands quality limitations to include certain obligations held by subsidiaries and affiliated corporations.*
 - *Discontinues certain notification requirements to the Commissioner of Insurance (COI) from licensed professional employer organizations.*
 - *Extends certain requirements applicable to Prepaid Health Plans (PHP) to Health Maintenance Organizations (HMO).*
 - *Clarifies continuation of health care service requirements for PHPs when impacted by insolvency.*
 - *Requires public educational entities to annually report to the Commissioner certain insured property information.*
 - *Conforms penalties related to manufactured housing standards with federal law.*
 - *Updates contact information for the Seniors' Health Insurance Information Program.*
 - *Prevents businesses with a revoked or suspended license in North Carolina from offering insurance products to North Carolina residents through another state's licensure.*
 - *Modifies state of disaster and public health emergency provisions for property and casualty insurance companies, premium finance companies, and collection agencies.*
 - *Expands the types of program enhancements insurers may offer to consumers.*
 - *Provides additional notice to consumers regarding exclusions contained in travel insurance.*
- *Removes the requirement that a licensed insurance agent must obtain a broker license and post a bond in order to broker business and makes technical and conforming changes throughout Chapter 58 (Insurance) of the General Statutes.*
- *Allows a certificate of self-insurance to serve as evidence of proof of financial responsibility and removes a vehicle requirement on religious organizations to be self-insured.*

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- *Prohibits a person from requiring an insurance company or agent to disclose the replacement cost estimator for the lending of money or extension of credit to be secured by real property.*
- *Amends certain appointments made by the COI to the North Carolina Reinsurance Facility's Board of Governors.*
- *Amends an annual reporting deadline for members of the North Carolina Insurance Underwriting Association.*
- *Creates exemptions for certain DOI employment contracts.*
- *Under the North Carolina Life and Health Insurance Guaranty Association Act, amends the definition of "member insurer" to replace the phrase "hospital or medical service corporation" with the phrase "full-service corporation."*
- *Prohibits the North Carolina Innovation Council or any applicable State agency from granting an innovation waiver that alters or amends Article 36 (North Carolina Rate Bureau) or Article 37 (North Carolina Motor Vehicle Reinsurance Facility) of Chapter 58 (Insurance) of the General Statutes, or all financial and solvency requirements that apply to nonadmitted domestic surplus lines insurers.*
- *Revises the primary automobile liability and combined uninsured and undersinsured insurance requirements for transportation network companies.*
- *Authorizes the North Carolina Global TransPark Authority to receive and administer grant funding for the National Telecommunications and Information Administration for the expansion of broadband infrastructure and access in Lenoir County.*
- *Requires home inspection reports to be provided within 3 days after an inspection is performed, unless modified by a written agreement.*
- *Allows an individual to take the home inspector license examination once every 90 days instead of once every 180 days.*
- *Amends the Building Code to require different minimum insulation requirements for unconditioned attic spaces.*

This act has various effective dates. Please see full summary for more detail.

BILL ANALYSIS:

PART I. HOLDING COMPANY ACT FORM FILING CHANGES

SECTION 1. Eliminates personal delivery as a delivery option for certain documents that are required to be filed with the Commissioner of Insurance (COI) under Article 19 of Chapter 58 (Insurance Holding Companies). Delivery by mail remains available.

PART II. STANDARDIZE QUALITY LIMITATIONS FOR OBLIGATIONS

SECTION 2. Expands quality limitations imposed on obligations held by insurers that are considered medium to lower quality, to include obligations of subsidiaries or affiliated corporations.

PART III. CHANGE PEO NOTIFICATION REQUIREMENTS

SECTION 3. Discontinues the requirement that a licensed professional employer organization must notify the COI of the initiation or termination of its relationship with any client company.

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PART IV. UPDATE OTHER LAWS APPLICABLE TO HMOS

SECTION 4. Extends the following four statutes currently applicable to prepaid health plans (PHPs) under G.S. 58-93-120, to HMOs under G.S. 58-67-171:

- G.S. 58-7-21 – Credit allowed a domestic ceding insurer.
- G.S. 58-7-26 – Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of G.S. 58-7-21.
- G.S. 58-7-30 – Insolvent ceding insurer.
- G.S. 58-7-31 – Life and health reinsurance agreements.

This treats HMOs the same as PHPs for reinsurance purposes.

PART V. PREPAID HEALTH PLAN LICENSING CLARIFYING CHANGE

SECTION 5. Clarifies the continuation of health care service requirements for Medicaid PHPs when impacted by insolvency by replacing the phrase "enrollees whose enrollment in a PHP is not voluntary" with a citation to G.S. 108D-40, which identifies those enrollees. Currently, the COI requires that each PHP have a plan for handling insolvency. The plan must allow for health care services to be provided to its enrollees until the specified enrollees of the PHP are enrolled in another PHP. This modification requires the PHP to plan for the continuation of health care services to all of its enrollees until the PHP's capitated contract is terminated by the Department of Health and Human Services and all specified enrollees are transitioned to another PHP.

PART VI. PUBLIC SCHOOL INSURANCE REPORTING CHANGES

SECTION 6. Under current law, local school administrative units and community colleges are required to insure buildings against property and flood (if located in a flood zone) damage. To accommodate this requirement, effective July 1, 2020, under S.L. 2019-176, the COI is authorized to operate a system of insurance available for public education property. Section 6 requires those public education entities to provide to the COI a list of all of its insurable buildings, the equipment and contents of those buildings, and their uninsurable values by October 1 of each year. It also requires those same entities to provide copies of insurance policies when purchasing insurance from an authorized insurance company. If a policy is cancelled, terminated, or changed for any reason, the entity must notify the COI within five days.

PART VII. NORTH CAROLINA MANUFACTURED HOUSING BOARD CHANGES.

SECTION 7. Codifies the definition of "qualifier" currently found in the administrative rules under 11 NCAC 08 .0912 and specifies the name of engineering standards adopted by the COI as "State of North Carolina Regulations for Manufactured Homes." It also conforms penalties for violations related to manufactured housing standards under Chapter 143 of the General Statutes with federal law.

PART VIII. LONG TERM CARE INSURANCE TECHNICAL CHANGE UPDATING PHONE NUMBER

SECTION 8. Updates the contact information (telephone number) for the Seniors' Health Insurance Information Program under G.S. 58-55-60(7).

PART IX. CLARIFY EXCEPTION TO UNAUTHORIZED INSURER PROHIBITION

SECTION 9. Prohibits a company from offering insurance products to North Carolina residents with a revoked or suspended license in North Carolina regardless of whether that company is authorized to transact business by another state.

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PART X. AMEND STATE OF DISASTER PROVISIONS

SECTION 10. Under current law, the requirement to file a "proof of loss" under a property and casualty insurance policy is automatically stayed under certain state of disaster situations, and insureds are given the option to defer payment of their premiums. Section 10 creates additional guidelines for property and casualty insurance companies, premium finance companies, and collection agencies to follow during deferral periods that become effective as the result of a declared state of disaster or a public health emergency requiring individuals to stay at home.

These standards set limitations on what an insurance company, premium finance company, or collection agency may be authorized to collect before, during, or after a deferral period becomes effective. This includes actions taken on insurance policies in arrears and policy cancellations and nonrenewals.

PART XI. EXPANSION OF PROGRAM ENHANCEMENTS

SECTION 11. Under current law, companies that write private passenger automobile or homeowners' insurance may incorporate optional enhancements not otherwise provided for under Chapter 58 (Insurance) of the General Statutes, if approved by the COI. Section 11 expands the list of optional enhancements to include dwelling, and residential private flood insurance products if approved by the COI.

PART XII. TRAVEL INSURANCE EXCLUSIONS NOTICE

SECTION 12. Requires additional notice to be given to consumers regarding exclusions contained in travel insurance policies.

PART XIII. AMEND BROKER AND INSURANCE PRODUCER LICENSURE REQUIREMENTS AND TERMINOLOGY

SECTION 13. Under current law, licensed insurance agents must obtain a broker license and post a bond in order to broker insurance business. Section 13 removes that requirement and replaces the terms "broker" and "agent" with "insurance producer."

PART XIV. MAKES TECHNICAL AND CONFORMING CHANGES

SECTION 14. Makes technical and conforming changes throughout Chapter 58 (Insurance) of the General Statutes related to Section 13 of this act.

PART XV. ALLOW SELF-INSURANCE TO SERVE AS PROOF OF FINANCIAL RESPONSIBILITY

SECTION 15. Allows a certificate of self-insurance to serve as proof of financial responsibility, and also removes the requirement that, in order to qualify as a self-insurer, members of a religious organization must operate five or more vehicles that are registered in this State and are either owned or leased by them.

This section became effective July 7, 2022, and applies to all drivers license applications submitted on or after that date.

PART XVI. PROHIBIT THE DISCLOSURE OF REPLACEMENT COST ESTIMATORS

SECTION 16. Prohibits requiring an insurance company or agent to provide the replacement cost estimator or other underwriting or related proprietary business information of an insurer underwriting an insurance policy covering real property, as a condition precedent or condition subsequent to the lending of money or extension of credit to be secured by real property. DOI is authorized to investigate the affairs of any person to whom these provisions apply.

This section became effective August 1, 2022.

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PART XVII. REQUIRE CERTAIN APPOINTMENTS TO THE REINSURANCE FACILITY'S BOARD OF GOVERNORS

SECTION 17. Requires the COI to appoint one member of the Board of Governors (the Board) from two nominees submitted by the Alliance of Insurance Agents of North Carolina. Section 17 also decreases, from five to four, the number of Board appointees, who are fire and casualty insurance agents licensed in the State and actively engage in writing motor vehicle insurance in the State.

This section became effective July 7, 2022, and applies to all appointments made on or after that date.

PART XVIII. AMEND REPORTING DATE FOR MEMBERS OF THE NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION (NCIUA)

SECTION 18. Changes the annual reporting date for members of the NCIUA to report to the COI the amount of homeowners' coverage written in the beach and coastal areas in the preceding calendar year by that member company from February 1st to April 1st of each year.

PART XIX. EXEMPT CERTAIN DOI EMPLOYMENT CONTRACTS

SECTION 19. Exempts contracts with persons for financial, legal, examination and other services, considered by the COI to be necessary for the proper execution of DOI's work, from G.S. 114-2.3 (Use of private counsel limited.), G.S. 147-17 (May employ counsel in cases wherein State is interested.), and Article 3 (Purchases and Contracts), Article 3C (Contracts to Obtain Consultant Services), and Article 8 (Public Contracts) under Chapter 143 (State Departments, Institutions, and Commissions) of the General Statutes and any rules and procedures adopted under those Articles concerning procurement, contracting, and contract review.

PART XX. CLARIFY DEFINITION UNDER THE NORTH CAROLINA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT

SECTION 20. Amends the definition of "member insurer" to replace the phrase "hospital or medical service corporation" with the phrase "full-service corporation."

PART XXI. AMEND INNOVATION WAIVER EXEMPTIONS

SECTION 21. Prohibits the North Carolina Innovation Council or any applicable State agency from granting an innovation waiver that alters or amends Article 36 (North Carolina Rate Bureau) or Article 37 (North Carolina Motor Vehicle Reinsurance Facility) of Chapter 58 (Insurance) of the General Statutes, or all financial and solvency requirements that apply to nonadmitted domestic surplus lines insurers.

PART XXII. REVISE INSURANCE REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES (TNC)

SECTION 22. Modifies and reduces certain insurance coverage minimums for TNC drivers. Specifically, a TNC driver that is logged onto the TNC's platform, but is not providing TNC service, must carry combined uninsured and underinsured motorist coverage that complies with North Carolina's statutory requirements. A TNC driver, while engaged in TNC service, must carry primary automobile liability insurance of at least \$1 million, and combined uninsured and underinsured motorist coverage that complies with North Carolina's statutory requirements.

This section becomes effective October 1, 2022.

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PART XXIII. GLOBAL TRANSPARK BROADBAND PARK GRANT

SECTION 23. Authorizes the North Carolina Global TransPark Authority to receive and administer grant funding for the National Telecommunications and Information Administration for the expansion of broadband infrastructure and access in Lenoir County.

This section expires June 30, 2027.

PART XXIV. AMEND HOME INSPECTION REPORT DEADLINE

SECTION 24. Requires home inspection reports to be provided within three days after an inspection is performed, unless modified by a written agreement.

This section becomes effective October 1, 2022.

PART XXV. AMEND HOME INSPECTOR LICENSE RETEST PERIOD

SECTION 25. Allows an individual to take the home inspector license examination once every 90 days instead of once every 180 days.

PART XXVI. AMEND MINIMUM INSULATION REQUIREMENTS

SECTION 26. Under current law, Sections 20.10 and 20.10A of S.L. 2022-6 direct the Building Code Council to amend code provisions in accordance with, and code enforcement officials to follow, alternative minimum insulation requirements for supply and return air ducts located in unconditioned spaces for residential and commercial spaces. Section 26 amends those directives to include different minimums for unconditioned attic spaces.

This section became effective July 7, 2022, and applies retroactively to March 17, 2022.

PART XXVII. MAKE TECHNICAL STATUTORY CORRECTION

SECTION 27. Makes a technical correction to a statutory citation.

PART XXVIII. EFFECTIVE DATE

SECTION 28. Except as otherwise provided, this act became effective July 7, 2022.