



# SENATE BILL 319: Insurance Revisions/Online Auctions/Firefighters.

2023-2024 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 23, 2024
<b>Introduced by:</b>		<b>Prepared by:</b>	Bill Patterson Staff Attorney
<b>Analysis of:</b>	S.L. 2024-29		

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## **OVERVIEW:** *Session Law 2024-29:*

- *Clarifies 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.*
- *Reduces 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.*
- *Removes 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 extends by two years the expiration date of this exemption, ending it for taxable years beginning on or after January 1, 2026.*
- *Allows certain foreclosure sales to be conducted at designated public locations, expands the time allowed for a scheduled foreclosure sale to commence, and establishes a procedure for remote bidding at a foreclosure sale.*
- *Permits 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 the Uniform Electronic Transactions Act, if that is not otherwise prohibited under ERISA.*
- *Permits an individual to be licensed simultaneously as an adjuster and as an insurance producer with casualty, personal lines, or property lines of authority.*
- *Clarifies that either the appointing insurer or the appointed insurance producer can notify the Commissioner when the appointment is cancelled.*
- *Amends the definition of an "underinsured motor vehicle" by removing language that states the applicable limits of underinsured (UIM) coverage at the time of the accident are those "for the vehicle involved in the accident and insured under the owner's policy."*
- *Makes technical corrections to certain insurance provisions in S.L. 2023-133 concerning the calculation of underinsured motorist coverage and insurance ratemaking laws.*
- *Establishes the Firefighters' Cancer Insurance Program to provide health benefits to eligible firefighters with a new diagnosis of cancer on or after January 1, 2022.*
- *Increases from \$10.00 to \$15.00 the monthly payment by eligible firefighters and rescue squad workers who participate in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund and increases the monthly pension benefit from \$170.00 to \$175.00.*

Kara McCraw  
Director



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Legislative Analysis  
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# Senate Bill 319

Page 2

- *Requires a county to ensure a criminal history record check is conducted for an applicant over the age of 18 who is applying for a firefighting position and allows county clerks of court and third-party vendors to conduct a record check under certain conditions.*

*This act has various effective dates. Please see the full summary for more details.*

## 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** provides 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 must be conducted expeditiously, in coordination with other examining bodies to avoid unnecessary repetition, and in accordance with guidelines of the National Association of Insurance Commissioners. The examined risk retention group is responsible for the costs associated with the examination.

**Section 2** reduces 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** eliminates 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 extends 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:**

# Senate Bill 319

Page 3

- Provides 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.
- Permits the sale to take place up to three hours after the time designated in the notice of sale.
- Permits 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 are not 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 (UETA), Article 40 of Chapter 66 of the General Statutes.

**Section 5** allows employers, or others who sponsor health insurance plans, to consent to electronic delivery of plan communications on behalf of the plan's insureds, if such action is not prohibited under any applicable provisions of the federal Employee Retirement and Income Security Act of 1974 (ERISA). Insureds must have regular access to email through work, and they can withdraw consent to electronic delivery at any time. Insurers sending communications electronically must comply with ERISA and UETA requirements.

## **Producer Licensing Revisions**

**Section 6(a)** repeals a prohibition against an individual simultaneously holding both an adjuster's license and an insurance producer's license with casualty, personal lines, or property lines of authority.

**Section 6(b)** clarifies that either the appointing insurer or the appointed insurance producer can notify the Commissioner when the appointment is cancelled.

## **Underinsured Motorist Coverage Revisions**

S.L. 2023-133 makes various changes to North Carolina's insurance laws including increasing the State's minimum liability and property damage insurance requirements, mandating underinsured motorist coverage, changing how underinsured motorist coverage is calculated, and amending certain ratemaking provisions.

**Section 7** amends the definition of an "underinsured highway vehicle" by removing language that states the applicable limits of underinsured (UIM) coverage at the time of the accident are those "for the vehicle involved in the accident and insured under the owner's policy."

**Section 8(a)** makes technical corrections to statutory language requiring drivers to purchase underinsured motorist coverage and clarifies that interpolicy stacking of uninsured motorist coverage (UM) and UIM coverage is only allowed on nonfleet private passenger vehicles.

**Section 8(b)** applies the new mandatory UIM coverage requirement to vehicles in the North Carolina Reinsurance Facility.

**Section 8(c)** changes the effective date for North Carolina's new mandatory minimum liability insurance requirements and new calculation methods to determine UIM coverage from January 1, 2025, to July 1, 2025.

# Senate Bill 319

Page 4

**Section 9(a)** amends the existing date of January 1, 2025, to July 1, 2025, in North Carolina's Safe Driver Incentive Program's (SDIP) first-time driver surcharge statute.

**Section 9(b)** changes the effective date of the ratemaking and SDIP provisions in S.L. 2023-133 from January 1, 2025, to July 1, 2025.

## **Firefighters' Cancer Insurance Program**

**Firefighters' Health Benefits Pilot Program.** – Section 30.4A of the 2021 Appropriations Act established a pilot program administered by the Department of Insurance to provide supplemental insurance for firefighters diagnosed with cancer and was funded through a \$7.5 million dollar appropriation. The program was set to expire on June 30, 2023, but was extended by the 2023 Appropriations Act until June 30, 2025, through \$5 million dollars in nonrecurring funds for each fiscal year of the 2023-2025 fiscal biennium.

**Gross Premiums Tax.** – There is a tax at the rate of 0.74% that applies to the gross premiums on insurance contracts for property coverage. The tax is imposed on 10% of the gross premiums from insurance contracts for automobile physical damage coverage and on 100% of the gross premiums from all other contracts for property coverage.

The proceeds of the tax are distributed as follows:

Volunteer Fire Department Fund	20%
Local Firefighters' Relief Funds	20%
Workers' Compensation Fund	Up to 20% (based on an annual actuarial study)
General Fund	Remainder

**Section 10.1** makes permanent the Firefighters' Health Benefits Pilot Program, renaming it the Firefighters' Cancer Insurance Program, to provide health benefits to eligible firefighters with a new diagnosis of cancer on or after January 1, 2022.

Under the new Article 86A in Chapter 58 of the General Statutes, the Office of the State Fire Marshall (OSFM) must administer the Program through a third-party administrator instead of purchasing private insurance and can use up to 10% of the funds appropriated in each fiscal biennium for the program for administrative expenses.

To receive benefits, a firefighter must have either served in a North Carolina fire department for at least five continuous years or been included on a certified roster submitted to the North Carolina State Firefighters' Association for a period of no more than 10 years as "retired/nonactive" and received a new diagnosis of cancer on or after January 1, 2022.

An eligible firefighter can receive a lump sum benefit of \$37,000 for each diagnosis of cancer, not to exceed a total of \$74,000, and a monthly disability benefit up to three years.

On January 1st of each year, OSFM must submit a report to the Joint Oversight Committee on General Government, the Governor, and the Fiscal Research Division providing information on the program's participants, the benefit claims filed, the types of cancer for which benefit claims were filed, and the benefits paid out.

**Section 10.2** funds the Firefighters' Cancer Insurance Program through an allocation of a portion of the net proceeds of the gross premiums tax that is currently allocated to the Workers' Compensation Fund. Both the Workers' Compensation Fund and the Firefighters' Cancer Insurance Program receive 10% of the proceeds of the tax. There is a cap of \$45 million dollars that can be in reserves for the Workers' Compensation Fund. There is a credit cap of \$10 million dollars for the Firefighters' Cancer Insurance Program Fund. Any remaining net proceeds, including those that exceed the limits established on the

# Senate Bill 319

Page 5

Workers' Compensation Fund and the Firefighters' Cancer Insurance Program Fund, must be credited to the General Fund.

Under the act, the proceeds of the gross premiums tax on property coverage contracts are distributed as follows:

Volunteer Fire Department Fund	20%
Local Firefighters' Relief Funds	20%
Workers' Compensation Fund	10% (Reserves cap of \$45 million)
Firefighters' Cancer Insurance Program	10% (Credit cap of \$10 million)
General Fund	Remainder

**Section 10.3** makes conforming changes.

**Section 10.4** makes a conforming change.

## **North Carolina Firefighters' and Rescue Squad Workers' Pension Fund**

**Sections 11.1 and 11.2** increase the monthly payment from \$10.00 to \$15.00 per month for eligible firefighters and rescue squad workers participating in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund (Fund), and **Section 11.3** increases the monthly pension benefit available under the Fund from \$170.00 to \$175.00. As amended by Section 3(c) of S.L. 2024-42, these increases apply to membership contributions to the Fund due on or after January 1, 2025, and to pension benefit amounts due to a member or beneficiary on or after January 1, 2025.

## **Firefighter & Prevention Services Background Checks**

**Section 12.1** requires a county to ensure that an applicant for fire-fighting or prevention services, who is over the age of 18, undergoes a criminal history record check before being offered a position. If an applicant for fire-fighting and prevention services has lived in North Carolina for over five years and reports no charges or convictions on his or her application, the criminal history record check can be conducted through the county clerk of court or a third-party vendor.

**Section 12.2** allows a fire marshal's designee to obtain a criminal history record check on an applicant over the age of 18 years old prior to offering an applicant a position with the fire department. If an applicant has lived in North Carolina for over five years and reports no charges or convictions on his or her application, the criminal history record check can be conducted through the county clerk of court or a third-party vendor.

**Section 12.3** allows a fire chief's designee to obtain a criminal history record check on an applicant over the age of 18 years old prior to offering an applicant a position with the fire department. If an applicant has lived in North Carolina for over five years and reports no charges or convictions on his or her application, the criminal history record check can be conducted through the county clerk of court or a third-party vendor.

**EFFECTIVE DATE:** Sections 1, 2, 4, and 5 of this act become effective October 1, 2024. Sections 1 and 2 apply to contracts issued, renewed, or amended on or after that date; Section 4 applies to notices of foreclosure sale filed with the clerk of superior court on or after that date; and Section 5 applies to contracts entered into on or after that date. Section 7 of this act became effective July 2, 2024, and applies to claims pending on or arising after that date. Sections 10.1 through 10.3 of this act become effective July 1, 2025, and apply to the distribution of net proceeds of the gross premiums tax collected on or after that date. Section 10.4 of this act becomes effective July 1, 2025. As amended by Section 3(d) of S.L. 2024-42, Sections 11.1 through 11.3 of this act become effective January 1, 2025. Sections 12.1 through 12.3 of

# Senate Bill 319

Page 6

this act became effective July 2, 2024, and apply to applications submitted on or after that date. The remainder of this act became effective July 2, 2024.

*Kristen Harris, LAD Staff Attorney, and Theresa Matula, LAD Legislative Analyst, substantially contributed to this summary.*