



2023-2024 General Assembly

SENATE BILL 452: Insurance Law Amendments/Revise High School Athletics, Sec. 1-16: Insurance Law Amendments

Committee:		Date:	December 5, 2023
Introduced by:		Prepared by:	Alejandro Ramirez Staff Attorney
Analysis of:	Sec. 1-16 of S.L. 2023-133		

OVERVIEW: Sections 1-16 of S.L. 2023-133 make various changes to the insurance laws of North Carolina, including raising motor vehicle liability coverage minimums.

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

BILL ANALYSIS:

PART I. SURPLUS LINES ACT CLARIFYING CHANGES

Section 1 makes clarifying changes and technical corrections to "The Surplus Lines Act" and incorporates model language from the National Association of Insurance Commissioners (NAIC).

PART II. TECHNICAL CORRECTIONS TO REFLECT COMPENDIUM NAME CHANGE

Section 2 makes a technical correction to change the publisher's name.

PART III. CHANGES RELATED TO THE INSURANCE GUARANTY ACT

Section 3 makes technical changes to the "Insurance Guaranty Association Act" and increases the Association's covered claim limit from \$300,000 to \$500,000. This section became effective October 1, 2023, and applies to covered claims arising from orders of liquidation becoming final on or after that date.

PART IV. CHANGES RELATED TO TRANSACTIONS WITHIN AN INSURANCE HOLDING COMPANY SYSTEM

Section 4 amends the "Insurance Holding Company System Regulatory Act" and adds model language from the NAIC. This section became effective October 1, 2023, and applies to contracts issued, renewed, or amended on or after that date.

PART V. TECHNICAL CORRECTION TO REFLECT REPEAL OF PART 2 OF ARTICLE 38 AND ENACTMENT OF ARTICLE 38A OF CHAPTER 1 OF THE GENERAL STATUTES

Section 5 makes a technical correction to the "North Carolina Receivership Act."

PART VI. CHANGES RELATED TO THE ADMINISTRATION OF WORKERS' COMPENSATION LARGE DEDUCTIBLE POLICIES AND INSURED COLLATERAL IN LIQUIDATION PROCEEDINGS

Section 6 adds a new section to Article 30 (Insurers Supervision, Rehabilitation, and Liquidation) of Chapter 58 (Insurance) that applies to workers' compensation large deductible policies issued by an insurer subject to an order of liquidation. Under certain circumstances, large deductible claims must be turned over to the North Carolina Insurance Guaranty Association or the foreign guaranty association for handling and administration. If a deductible claim is paid by a guaranty association, the association has a

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right to reimbursement. A liquidator of the insurer utilizes collateral, when available, to secure the obligation of the insured to fund or reimburse deductible claims or other secured obligations. This section became effective October 1, 2023, and applies to insurance contracts issued, renewed, or amended on or after that date.

PART VII. TECHNICAL CORRECTION TO ADD OMITTED WORD

Section 7 makes a technical correction to G.S. 58-33-5, which prohibits a person from selling, soliciting, or negotiating insurance in North Carolina unless licensed for that specific insurance.

PART VIII. AMEND ON-SITE AUDIT REQUIREMENTS FOR THIRD-PARTY ADMINISTRATORS

Section 8 allows an insurer to conduct a review of a third-party administrator's operations either on-site or virtually. Previously, the review had to be done on-site.

PART IX. INCREASE OR IMPLEMENT CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS

Section 9.(a) amends the penalties for when a person, with the intent to injure, defraud, or deceive an insurer or insurance claimant, either i) presents or causes to be presented a written or oral statement related to a claim for insurance payment or benefit knowing the statement is false or misleading, or ii) assists, abets, solicits, or conspires with another person to make a written or oral statement related to a claim for an insurance payment or benefit knowing it is false or misleading. Previously, the penalty was a Class H felony. **Section 9.(a)** makes it a Class H felony if the amount of the claim for payment or other benefit is less than \$100,000. If the amount of the claim for payment or other benefit is \$100,000 or more, a violation is a Class C felony.

Section 9.(b) makes it a Class 1 misdemeanor to willfully and knowingly conduct business as a public adjuster in violation of Article 33A (Public Adjusters) of Chapter 58 (Insurance).

Section 9.(c) This section became effective December 1, 2023, and applies to offenses committed on or after that date.

PART X. ADDITIONAL CERTIFICATE OF INSURANCE PROHIBITIONS

Section 10 prohibits a person from knowingly preparing, issuing, requesting, or requiring a certificate of insurance that includes information not contained in the underlying insurance policy. This section became effective October 1, 2023.

PART XI. AUTHORIZE INSURANCE PREMIUM CONVENIENCE FEES

Section 11 allows an insurer to accept electronic payment of a premium and charge a convenience fee up to 4% of the electronic payment. This section became effective October 1, 2023.

PART XII. INCREASE MINIMUM LIABILITY LIMITS FOR INSURANCE REQUIRED BY THE STATE

Sections 12.(a) through (d) does the following:

- Increase the State's minimum per-person and per-accident motor vehicle liability insurance requirements for bodily injury from \$30,000 to \$50,000 and \$60,000 to \$100,000 and increase the minimum property damage insurance requirements from \$25,000 to \$50,000. Both uninsured and underinsured motorist coverage would be mandatory at \$50,000.
- Modify a statutorily required provision for vehicle policies of liability insurance to allow an insurer in a civil action to be issued a summons, complaint, or other process outside of the statute

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of limitations and still have them be bound by a final judgement taken by against an uninsured motorist.

- Change the way the applicable limits of UIM are calculated.

Section 12.(e) amends the requirements for a sufficient motor vehicle insurance policy to clarify that UIM coverage is required.

Sections 12.(f) increases the amount of money or securities a person could show to prove financial responsibility from \$85,000 to \$150,000.

Section 12.(g) and (h) applies the increased mandatory minimum motor vehicle bodily injury and property damage insurance limits to rental cars and the North Carolina Reinsurance Facility's policies.

Section 12.(i) This section becomes effective January 1, 2025, and applies to policies issued or renewed on or after that date.

PART XIII. CLARIFY TIMELINE FOR COMPLIANCE WITH MEDICAL RECORDS SUBPOENA

Section 13 requires medical providers that wish to place a lien on damages recovered during a civil suit to provide the requisite medical records within 60 days of receiving a request by an attorney for the lien to be valid.

PART XIV. INCREASING SMALL EMPLOYER ACCESS TO STOP LOSS, CATASTROPHIC, AND REINSURANCE COVERAGE

Small employers who self-fund employee insurance plans can purchase stop loss coverage to protect themselves against large payouts under those employee insurance plans.

Section 14 allows small employers with no less than 12 eligible employees. Previously, the lowest number of eligible employees was 20.

This section becomes effective October 1, 2024, and applies to contracts issued, renewed, or amended on or after that date.

PART XV. RAISING BEACH PLAN POLICY LIMITS

The Coastal Property Insurance Pool, formerly known as "the Beach Plan," is governed by the North Carolina Insurance Underwriting Association. The Association was created by the General Assembly in 1967 in Article 47 (Essential Property Insurance for Beach Area Property) of Chapter 58 (Insurance) of the General Statutes.

Section 15.(a) increases the maximum amount of insurance issued by the Association for habitational properties from \$750,000 to \$1,000,000. For commercial properties, the increase is from \$3,000,000 to \$4,000,000 on any freestanding structure or building unit within multiple firewall divisions. The aggregate insurance on structures with multiple firewall divisions, previously capped at \$6,000,000, cannot exceed \$10,000,000 on all interest at one risk.

This section became effective November 2, 2023, and applies to contracts issued, amended, and renewed on or after that date.

PART XVI. AMEND INSURANCE RATE-MAKING LAWS

Section 16.(a) requires investment income from capital and surplus to be considered in insurance ratemaking.

Section 16.(b) prohibits making the acceptance or renewal, or rating or underwriting, of a passenger automobile or homeowners insurance policy conditional on any optional policy enhancement.

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Section 16.(c) repeals the requirement that an insurer report its optional enhancement premiums and losses.

Section 16.(d) amends the definition of "conviction" for the purposes of driver classifications and North Carolina Safe Driver Incentive Plan (SDIP) statute for nonfleet private passenger motor vehicle insurance

Section 16.(e) authorizes a five-year surcharge for convictions assigned 4 or more SDIP points, but will not include convictions for speeding over the posted limit

Section 16.(f) creates an eight-year inexperienced driver surcharge for drivers receiving a license for the first time on or after January 1, 2025. For drivers receiving a first license on or before January 1, 2025, the surcharge will continue to be limited to three years' driving experience.

Section 16.(g) creates an inexperienced safe driver discount for drivers subject to the new premium surcharges for a period of eight years (i.e. for drivers receiving their first license on or after January 1, 2025) that will be available after three full years of driving without any at-fault accidents or convictions, including convictions for which a prayer for judgment continued was granted.

Section 16.(h) raises the period of time from three years to five years for which a driver must not have a moving violation in order to avoid NCSDIP points for a conviction for speeding 10 miles per hour or less over the limit.

Section 16.(i) directs the Department of Insurance to conduct public outreach to determine how the changes to SDIP and provisions in Section 16 may impact insurance premiums.

Section 16.(j) This section becomes effective January 1, 2025.

**Kristen Harris, Legislative Analyst, substantially contributed to this summary.*