

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH50325-LN-202 (4/13)

Short Title: Clarify Insurance Law/Service Corporations.

(Public)

Sponsors: Representative Holliman.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND ARTICLE 65 OF CHAPTER 58 OF THE GENERAL
3 STATUTES TO CLARIFY THAT CORPORATIONS SUBJECT TO THIS
4 ARTICLE ARE ALSO SUBJECT TO RISK-BASED CAPITAL LAWS; TO
5 CLARIFY RATE-MAKING FACTORS THAT THE COMMISSIONER MAY
6 CONSIDER; AND TO REPEAL PROVISIONS REQUIRING SUCH
7 CORPORATIONS TO ESTABLISH AND MAINTAIN CONTINGENCY
8 RESERVES.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 58-65-2 reads as rewritten:

11 **"§ 58-65-2. Other laws applicable to service corporations.**

12 The following ~~provisions~~ sections and Articles of this Chapter are applicable to
13 service corporations that are subject to this Article:

- | | | |
|----|----------------|--|
| 14 | G.S. 58-2-125. | Authority over all insurance companies; no exemptions from |
| 15 | | license. |
| 16 | G.S. 58-2-155. | Investigation of charges. |
| 17 | G.S. 58-2-160. | Reporting and investigation of insurance and reinsurance |
| 18 | | fraud and the financial condition of licensees; immunity from |
| 19 | | liability. |
| 20 | G.S. 58-2-162. | Embezzlement by insurance agents, brokers, or |
| 21 | | administrators. |
| 22 | G.S. 58-2-185. | Record of business kept by companies and agents; |
| 23 | | Commissioner may inspect. |
| 24 | G.S. 58-2-190. | Commissioner may require special reports. |
| 25 | G.S. 58-2-195. | Commissioner may require records, reports, etc., for agencies, |
| 26 | | agents, and others. |
| 27 | G.S. 58-2-200. | Books and papers required to be exhibited. |

- 1 G.S. 58-3-50. Companies must do business in own name; emblems,
 2 insignias, etc.
 3 G.S. 58-3-115. Twisting with respect to insurance policies; penalties.
 4 G.S. 58-50-35. Notice of nonpayment of premium required before forfeiture.
 5 G.S. 58-51-25. Policy coverage to continue as to mentally retarded or
 6 physically handicapped children.

7 Article 12 of this Chapter."

8 **SECTION 2.** G.S. 58-65-95 reads as rewritten:

9 **"§ 58-65-95. Investments and reserves.**

10 (a) Corporations subject to this Article shall invest in or hold only those assets
 11 permitted by Article 7 of this Chapter for life and health insurance companies.

12 (b) Every such corporation shall accumulate and maintain, in addition to proper
 13 reserves for current administrative liabilities and whatever reserves are deemed to be
 14 adequate and proper by the Commissioner for unpaid hospital, medical, or dental bills,
 15 and unearned membership dues. ~~dues, a special contingent surplus or reserve at the~~
 16 ~~following rates annually of its gross annual collections from membership dues,~~
 17 ~~exclusive of receipts from cost plus plans, until the reserve equals an amount that is~~
 18 ~~three times its average monthly expenditures for claims and administrative and selling~~
 19 ~~expenses:~~

- | | | | |
|----|-----|---------------------|----|
| 20 | (1) | First \$200,000 | 4% |
| 21 | (2) | Next \$200,000 | 2% |
| 22 | (3) | All above \$400,000 | 1% |

23 (c) ~~Any such corporation may accumulate and maintain a contingent reserve in~~
 24 ~~excess of the reserve required in subsection (b) of this section, not to exceed an amount~~
 25 ~~equal to six times the average monthly expenditures for claims and administrative and~~
 26 ~~selling expenses.~~

27 (d) ~~If the Commissioner finds that special conditions exist warranting an increase~~
 28 ~~or decrease in the reserves or schedule of reserves in subsection (b) of this section, the~~
 29 ~~Commissioner may modify them accordingly. Provided, however, when special~~
 30 ~~conditions exist warranting an increase in the schedule of reserves, the schedule shall~~
 31 ~~not be increased by the Commissioner until a reasonable length of time has elapsed after~~
 32 ~~the Commissioner gives notice of the increase."~~

33 **SECTION 3.** G.S. 58-65-40 reads as rewritten:

34 **"§ 58-65-40. Supervision of Commissioner of Insurance; form of contract with**
 35 **subscribers; schedule of rates.**

36 No hospital service corporation shall enter into any contract with subscribers unless
 37 and until it shall have filed with the Commissioner of Insurance a specimen copy of the
 38 contract or certificate and of all applications, riders, and endorsements for use in
 39 connection with the issuance or renewal thereof to be formally approved by him as
 40 conforming to the section of this Article entitled "Subscribers' contracts," and conforms
 41 to all rules and regulations promulgated by the Commissioner of Insurance under the
 42 provisions of this Article and Article 66 of this Chapter. The Commissioner of
 43 Insurance shall, within a reasonable time after the filing of any such form, notify the
 44 corporation filing the same either of his approval or of his disapproval of such form.

1 No corporation subject to the provisions of this Article and Article 66 of this Chapter
2 shall enter into any contract with a subscriber after the enactment hereof unless and until
3 it shall have filed with the Commissioner of Insurance a full schedule of rates to be paid
4 by the subscribers to such contracts and shall have obtained the Commissioner's
5 approval thereof. The Commissioner may refuse approval if he finds that such rates are
6 excessive, inadequate, or unfairly discriminatory; or do not exhibit a reasonable
7 relationship to the benefits provided by such contracts. In determining whether or not
8 such rates for a corporation are excessive, inadequate, or unfairly discriminatory, the
9 Commissioner shall consider current and projected surplus levels, underwriting
10 margins, expenses, investment income, and such other supporting data as the
11 Commissioner deems appropriate. At all times such rates and form of subscribers'
12 contracts shall be subject to modification and approval of the Commissioner of
13 Insurance under rules and regulations adopted by the Commissioner, in conformity to
14 this Article and Article 66 of this Chapter."

15 **SECTION 4.** This act is effective when it becomes law.