

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 402

Short Title: Financial Responsibility Referendum.

(Public)

Sponsors: Representative Beall.

Referred to: Commerce.

February 28, 1989

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE PEOPLE OF NORTH CAROLINA TO DECIDE WHETHER OR NOT TO REPEAL THE VEHICLE FINANCIAL RESPONSIBILITY ACT OF 1957 AND TO MAKE CORRESPONDING AMENDMENTS TO THE REINSURANCE FACILITY AND POLICY LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 13 of Chapter 20 of the General Statutes is repealed.

Sec. 2. G.S. 58-248.26 reads as rewritten:

§ 58-248.26. Definitions.

As used in this Article:

- (1) 'Cede' or 'cession' means the act of transferring the risk of loss from the individual insurer to all insurers through the operation of the facility.
- (2) 'Commissioner' means the Commissioner of Insurance.
- (3) 'Company' means each member of the Facility.
- (4) 'Eligible risk' means a person who is a resident of this State who owns a motor vehicle registered or principally garaged in this State or who has a valid driver's license in this State or who is required to file proof of financial responsibility pursuant to Article 9A or 13 of the North Carolina Motor Vehicle Code of Chapter 20 of the General Statutes in order to register his motor vehicle or obtain a driver's license in this State; or a nonresident of this State who owns a motor vehicle registered or principally garaged in this State, or the State and its agencies and cities, counties, towns and municipal corporations in this

1 State and their agencies, provided, however, that no person shall be  
2 deemed an eligible risk if timely payment of premium is not tendered  
3 or if there is a valid unsatisfied judgment of record against such person  
4 for recovery of amounts due for motor vehicle insurance premiums  
5 and such person has not been discharged from paying said judgment,  
6 or if such person does not furnish the information necessary to effect  
7 insurance.

8 (5) 'Facility' means the North Carolina Motor Vehicle Reinsurance  
9 Facility established pursuant to the provisions of this Article.

10 (6) 'Motor vehicle' means every self-propelled vehicle that is designed for  
11 use upon a highway, including trailers and semitrailers designed for  
12 use with such vehicles (except traction engines, road rollers, farm  
13 tractors, tractor cranes, power shovels, and well drillers).

14 (7) 'Motor vehicle insurance' means direct insurance against liability  
15 arising out of the ownership, operation, maintenance or use of a motor  
16 vehicle for bodily injury including death and property damage and  
17 includes medical payments and uninsured motorist coverages.

18 With respect to motor carriers who are subject to the financial  
19 responsibility requirements established under the Motor Carrier Act of  
20 1980, the term, 'motor vehicle insurance' includes coverage with  
21 respect to environmental restoration. As used in this subsection the  
22 term, 'environmental restoration' means restitution for the loss,  
23 damage, or destruction of natural resources arising out of the  
24 accidental discharge, dispersal, release, or escape into or upon the  
25 land, atmosphere, water course, or body of water of any commodity  
26 transported by a motor carrier. Environmental restoration includes the  
27 cost of removal and the cost of necessary measures taken to minimize  
28 or mitigate damage or potential for damage to human health, the  
29 natural environment, fish, shellfish, and wildlife.

30 (8) 'Person' means every natural person, firm, partnership, association,  
31 corporation or government or agency thereof.

32 (9) 'Plan of operation' means the plan of operation approved pursuant to  
33 the provisions of this Article."

34 Sec. 3. Article 3 of Chapter 58 of the General Statutes is amended by adding  
35 two new sections to read:

36 "**§ 58-30.6. Grounds and procedure for cancellation or nonrenewal of motor**  
37 **vehicle liability insurance.**

38 (a) As used in this section, the following definitions apply:

39 (1) 'Policy' means an insurance policy or contract delivered or issued for  
40 delivery in this State covering liability arising from the ownership,  
41 maintenance, or use of any motor vehicle, insuring as the named  
42 insured one individual or husband and wife residents of the same  
43 household, and under which the insured vehicle therein designated is  
44 of the following type only:

- 1           a.     A four-wheeled automobile or station wagon that is not used as  
2                 a public or livery conveyance (which terms shall not be  
3                 construed to include car pools) nor rented to others;  
4           b.     Any other four-wheeled motor vehicle with a load capacity of  
5                 1,500 pounds or less which is not used in the occupation,  
6                 profession or business of the insured, nor is used as a public or  
7                 livery conveyance nor rented to others.

8     'Policy of automobile insurance' or 'policy' does not apply to any policy  
9     insuring more than four motor vehicles; to any policy covering the  
10    operation of a garage, sales agency, repair shop, service station, or  
11    public parking place; to any policy providing insurance only on an  
12    excess basis; nor to any other contract providing insurance to such  
13    named insured even though such contract may incidentally provide  
14    insurance with respect to such motor vehicles.

15    (2)   'Renewal' or 'to renew' means the issuance and delivery by an insurer  
16         of a policy superseding at the end of the policy period a policy  
17         previously issued and delivered by the same insurer through the agent  
18         who originally placed the policy or his successors or assigns, such  
19         renewal policy to provide types and limits of coverage at least equal to  
20         those contained in the policy being superseded, or the issuance and  
21         delivery of a certificate or notice extending the term of a policy  
22         beyond its policy period or term with types and limits of coverage at  
23         least equal to those contained in the policy being extended: Provided,  
24         however, that any policy with a policy period or term of less than 12  
25         months or any period with no fixed expiration date shall for the  
26         purpose of this section be considered as if written for successive policy  
27         periods or terms of six months.

28         (b) No insurer shall cancel or refuse to renew a policy solely or primarily  
29         because of the age, sex, residence, race, color, creed, national origin, ancestry, marital  
30         status, or lawful occupation (including the military service) of anyone who is insured, or  
31         solely because another insurer canceled a policy or refused to write or renew such  
32         policy, or solely because of any combination of the factors mentioned in this subsection.

33         (c) No insurer shall cancel a policy except for the following reasons:

34         (1)   The named insured fails to discharge when due any of his obligations  
35                 in connection with the payment of premium for the policy or any  
36                 installment thereof, whether payable to the company or its agent either  
37                 directly or indirectly under any premium finance plan or extension of  
38                 credit.

39         (2)   The named insured or any other operator who resides in the same  
40                 household and customarily operates an automobile insured under such  
41                 policy has had his driver's license suspended or revoked for more than  
42                 31 days after the effective date of the policy if the policy had been in  
43                 effect less than one year or after the last anniversary of the effective  
44                 date if the policy had been in effect longer than one year.

- 1           (3) The named insured or any other operator who resides in the same  
2 household and customarily operates an automobile insured under the  
3 policy during the policy period is finally convicted of driving while  
4 impaired.
- 5           (d) No insurer shall refuse to renew a policy except for one or more of the  
6 following reasons:
- 7           (1) The insured has violated any of the material terms or conditions of the  
8 policy.
- 9           (2) The named insured or any other operator who resides in the same  
10 household and customarily operates an automobile insured under the  
11 policy has had his driver's license suspended or revoked for more than  
12 31 days after the effective date of the policy if the policy had been in  
13 effect less than one year or after the last anniversary of the effective  
14 date if the policy had been in effect longer than one year; or is or  
15 becomes subject to any physical or mental condition that impairs his  
16 ability to operate a motor vehicle.
- 17           (3) The named insured or any other operator who resides in the same  
18 household and customarily operates an automobile insured under the  
19 policy is finally convicted of, pleads **nolo contendere**, or forfeits bail  
20 during the policy period for any of the following:
- 21           a. Any felony involving the use of a motor vehicle.  
22           b. Homicide, arising out of the operation of a motor vehicle.  
23           c. Driving while impaired.  
24           d. Leaving the scene of a motor vehicle accident in which the  
25 insured is involved without identifying himself and furnishing  
26 his address as required by law.  
27           e. Theft of a motor vehicle or the unlawful taking of a motor  
28 vehicle.  
29           f. A second moving traffic violation by any one person who  
30 customarily operates the insured vehicle or an aggregate of four  
31 moving traffic violations by all persons customarily operating  
32 the insured vehicle within a 12-month period any part of which  
33 falls within the policy period, whether or not the violations were  
34 repetitions of the same offense or were different offenses.
- 35           (4) The named insured fails to discharge when due any of his obligations  
36 in connection with the payment of premium for the policy or any  
37 installment thereof, whether payable to the company or its agent either  
38 directly or indirectly under any premium finance plan or extension of  
39 credit.
- 40           (5) The named insured, or any other operator who resides in his household  
41 and who customarily operates an automobile insured under the policy  
42 within a 24-month period any part of which falls within the policy  
43 period, has been involved as an operator of an automobile in four or

1 more automobile accidents where there is evidence to indicate fault on  
2 the part of such operator.

3 (e) No cancellation of refusal to renew by an insurer of a policy is effective  
4 unless the insurer has given the policyholder, and any loss payee designated in the  
5 policy, notice at his last known post office address by certificate of mailing a written  
6 notice of the cancellation or refusal to renew. Such notice shall:

7 (1) Be approved as to form by the Commissioner prior to use;

8 (2) State the date, not less than 60 days after mailing to the insured of  
9 notice of cancellation or notice of intention not to renew, on which  
10 such cancellation or refusal to renew shall become effective, except  
11 that such effective date may be 15 days from the date of mailing or  
12 delivery when it is being canceled or not renewed for the reasons set  
13 forth in subdivision (1) of subsection (d) and in subdivision (4) of  
14 subsection (e) of this section;

15 (3) State the specific reason or reasons of the insurer for cancellation or  
16 refusal to renew;

17 (f) Nothing in this section applies:

18 (1) If the insurer has manifested its willingness to renew by issuing or  
19 offering to issue a renewal policy, certificate, or other evidence of  
20 renewal, or has manifested such intention by any other means,  
21 including the mailing by first class mail of a premium notice or  
22 expiration notice, and the insured has failed to pay the required  
23 premium prior to the premium due date;

24 (2) If the named insured has notified in writing the insurer or its agent that  
25 he wishes the policy to be canceled or that he does not wish the policy  
26 to be renewed;

27 (3) To any policy that has been in effect less than 60 days, unless it is a  
28 renewal policy, nor to any policy that has been written or written and  
29 renewed for a consecutive period of 48 months or longer.

30 (g) There is no liability on the part of and no cause of action of any nature arises  
31 against any insurer, its authorized representative, its agents, its employees, or any  
32 person furnishing to the insurer information as to reasons for cancellation or refusal to  
33 renew for any statement made by any of them in complying with this section or for the  
34 providing of information pertaining thereto except as provided by this section and any  
35 applicable federal law.

36 (h) This section does not apply to any insurer that limits the issuance of policies  
37 to one class or group of persons engaged in any one particular profession, trade,  
38 occupation, or business; nor shall any insurer be required to renew should the insured  
39 become a nonresident of North Carolina.

40 **"§ 58-30.7. Motor vehicle liability insurance; companies may not fail to renew**  
41 **solely by reason of age; penalties provided.**

42 (a) No insurance company licensed in this State to do a business of insurance,  
43 which is engaged in the writing of motor vehicle liability insurance, as the same is

1 defined in G.S. 20-279.21, shall fail to renew any such existing policy of insurance  
2 solely because the insured has attained the age of 65 years or older.

3 (b) Whenever the Commissioner has reason to believe that any insurance  
4 company that is licensed to do a business of insurance in this State and is engaged in  
5 writing motor vehicle liability insurance has refused to renew policies of motor vehicle  
6 liability insurance solely because the applicant has reached the age of 65 years or older,  
7 he shall notify such company that it may be in violation of this section, and, in his  
8 discretion he may require a hearing to determine whether or not such company has  
9 actually been engaged in the practice as aforesaid. Any hearing held under this section  
10 shall in all respects comply with the hearing procedure provided in G.S. 58-54.6.

11 (c) If after such hearing the Commissioner shall determine that the company  
12 has engaged in the practice of systematically failing to renew policies of motor vehicle  
13 liability insurance because of the advanced age of the insureds, he shall reduce his  
14 findings to writing and shall issue and cause to be served upon the company charged  
15 with the violation an order requiring the company to cease and desist from engaging in  
16 such practices. After the issuance of such cease and desist order, if the Commissioner  
17 finds that the company has continued to engage in such practices, he shall impose upon  
18 such company a fine not to exceed the amount of one thousand dollars (\$1,000) for each  
19 separate violation.

20 (d) Any company aggrieved by any order or decision of the Commissioner  
21 may appeal such order and decision to the Superior Court of Wake County in the same  
22 manner and under the same rules and provisions set forth in G.S. 58-9.3."

23 Sec. 4. Sections 1 through 3 of this act shall become effective only if  
24 approved by the qualified voters of the State of North Carolina, and if so approved,  
25 Sections 1 through 3 of this act shall become effective on January 1, 1990. The  
26 question of the approval of Sections 1 through 3 of this act shall be submitted to the  
27 qualified voters of the State of North Carolina at a statewide election to be held  
28 November 7, 1989.

29 The referendum shall be held in accordance with the provisions of Chapter  
30 163 of the General Statutes, and the form of the ballot shall be:

31  FOR approval of an act abolishing compulsory automobile liability  
32 insurance.

33  AGAINST approval of an act abolishing compulsory automobile  
34 liability insurance."

35 If less than a majority of the votes are cast in favor of the approval of Sections 1 through  
36 3 of this act, they shall have no force or effect.

37 Sec. 5. This act is effective upon ratification.