

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 424
SENATE BILL 448

AN ACT TO MODIFY SURCHARGE AND APPEAL PROCEDURES OF THE
NORTH CAROLINA MOTOR VEHICLE REINSURANCE FACILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-248.34(f) reads as rewritten:

"(f) The plan of operation shall provide that every member shall, following payment of any pro rata assessment, commence recoupment of that assessment by way of a surcharge on motor vehicle insurance policies issued by the member or through the Facility until the assessment has been recouped. Such surcharge shall be a percentage of premium adopted by the Board of Governors of the Facility; and the charges determined on the basis of the surcharge shall be combined with and displayed as a part of the applicable premium charges. Provided, however, that recoupment of losses sustained by the Facility since September 1, 1977, with respect to nonfleet private passenger motor vehicles may be recouped only by surcharging policies (i) that are subject to the classification plan promulgated pursuant to G.S. 58-124.31 and (ii) to which one or more driving record points have been assigned pursuant to said plan, subject to the provisions of G.S. 58-124.33. If the amount collected during the period of surcharge exceeds assessments paid by the member to the Facility, the member shall pay over the excess to the Facility on a date specified by the Board of Governors. If the amount collected during the period of surcharge is less than the assessments paid by the member to the Facility, the Facility shall pay the difference to the member. Except as hereinafter provided, the amount of recoupment shall not be considered or treated as a rate or premium for any purpose. The Board of Governors shall adopt and implement a plan for compensation of agents of Facility members when recoupment surcharges are imposed; such compensation shall not exceed the compensation or commission rate normally paid to the agent for the issuance or renewal of the automobile liability policy issued through the North Carolina Reinsurance Facility affected by such surcharge; provided, however, that the surcharge provided for in this section shall include an amount necessary to recover the amount of the assessment to member companies and the compensation paid by each member, pursuant to this section, to agents."

Sec. 2. G.S. 58-248.41 is amended by adding a new subsection to read:

"(h) The surcharge allocated pursuant to this section shall be a percentage of premium adopted by the Board of Governors of the Facility; and the charges determined on the basis of the surcharge shall be combined with and displayed as a part of the applicable premium charges."

Sec. 3. G.S. 58-248.39(c) reads as rewritten:

~~"(c) The Commissioner shall issue an order approving the action or decision, disapproving the action or decision, or directing the Board of Governors to reconsider the ruling.—~~The Commissioner shall, after a hearing held on not less than 30 days written notice to the appellant and to the Board, (i) issue an order approving the decision of the Board or (ii) after setting out the findings and conclusions as to how the action of the Board is not in accordance with the Plan of Operation, the Standard Practice Manual, or other provisions of this Article, direct the Board to reconsider its decision. In the event the Commissioner directs the Board to reconsider its decision and the Board fails to take action in accordance with the Plan of Operation, the Standard Practice Manual, or other provisions of this Article, the Commissioner may issue an order modifying the action of the Board to the extent necessary to comply with the Plan of Operation, the Standard Practice Manual, or other provisions of this Article."

Sec. 4. Sections 1 and 2 of this act shall become effective January 1, 1990. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of June, 1989.