

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL DRH10063-NE-16

Short Title: Elim. Cession of Clean Risks to Facility. (Public)

Sponsors: Representative Cleveland.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ELIMINATE THE CESSION OF CLEAN RISKS TO THE REINSURANCE  
3 FACILITY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 58-37-1 reads as rewritten:

6 "§ 58-37-1. Definitions.

7 As used in this Article:

8 ...

9 (2a) "Clean Risk" means any owner of a nonfleet, private passenger motor vehicle,  
10 as defined in G.S. 58-40-10, if the owner, principal operator, and each licensed  
11 operator in the owner's household have two years' driving experience as  
12 licensed drivers and if none of the persons has been assigned any Safe Driver  
13 Incentive Plan points under Article 36 of this Chapter during the three-year  
14 period immediately preceding either (i) the date of application for a motor  
15 vehicle insurance policy or (ii) the date of preparation of a renewal of a motor  
16 vehicle insurance policy.

17 ...."

18 SECTION 2. Article 37 of Chapter 58 of the General Statutes is amended by adding  
19 a new section to read:

20 "**§ 58-37-33. Cession of clean risks prohibited**

21 An insurer may not cede any policy or renewal thereof held by a clean risk to the Facility."

22 SECTION 3. G.S. 58-37-35 reads as rewritten:

23 "**§ 58-37-35. The Facility; functions; administration.**

24 ...

25 (l) The classifications, rules, rates, rating plans and policy forms used on motor vehicle  
26 insurance policies reinsured by the Facility may be made by the Facility or by any licensed or  
27 statutory statistical organization or bureau on its behalf and shall be filed with the Commissioner.  
28 ~~The Board of Governors shall establish a separate subclassification within the Facility for "clean~~  
29 ~~risks". For the purpose of this Article, a "clean risk" is any owner of a nonfleet private passenger~~  
30 ~~motor vehicle as defined in G.S. 58-40-10, if the owner, principal operator, and each licensed~~  
31 ~~operator in the owner's household have two years' driving experience as licensed drivers and if~~  
32 ~~none of the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of~~  
33 ~~this Chapter during the three-year period immediately preceding either (i) the date of application~~  
34 ~~for a motor vehicle insurance policy or (ii) the date of preparation of a renewal of a motor vehicle~~  
35 ~~insurance policy.~~The filings may incorporate by reference any other material on file with the  
36 Commissioner. Rates shall be neither excessive, inadequate nor unfairly discriminatory. If the



1 Commissioner finds, after a hearing, that a rate is either excessive, inadequate or unfairly  
2 discriminatory, the Commissioner shall issue an order specifying in what respect it is deficient  
3 and stating when, within a reasonable period thereafter, the rate is no longer effective. The order  
4 is subject to judicial review as set out in Article 2 of this Chapter. Pending judicial review of said  
5 order, the filed classification plan and the filed rates may be used, charged and collected in the  
6 same manner as set out in G.S. 58-40-45 of this Chapter. The order shall not affect any contract  
7 or policy made or issued before the expiration of the period set forth in the order. All rates shall  
8 be on an actuarially sound basis and shall be calculated, insofar as is possible, to produce neither  
9 a profit nor a loss. ~~However, the rates made by or on behalf of the Facility with respect to "clean~~  
10 ~~risks" shall not exceed the rates charged "clean risks" who are not reinsured in the Facility. The~~  
11 ~~difference between the actual rate charged and the actuarially sound and self-supporting rates for~~  
12 ~~"clean risks" reinsured in the Facility may be recouped in similar manner as assessments under~~  
13 ~~G.S. 58-37-40(f).~~ Rates shall not include any factor for underwriting profit on Facility business,  
14 but shall provide an allowance for contingencies. There shall be a strong presumption that the  
15 rates and premiums for the business of the Facility are neither unreasonable nor excessive.

16 ...."

17 **SECTION 4.** This act becomes effective October 1, 2021, and applies to policies  
18 issued or renewed after that date.