



September 15, 2016

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: House Bill 287
Rate Evasion Reform

Statutory changes contained in House Bill 287, passed during the 2016 session of the General Assembly; contain significant new anti-fraud provisions becoming effective December 1, 2016, amending the rate evasion and Reinsurance Facility statutes to include provisions to address out-of-state risks fraudulently obtaining North Carolina insurance. The bill adds new criminal penalties, provides guidelines for acceptable documentation to prove North Carolina residency for the purpose of obtaining insurance, and creates a right of recovery for the carriers from insureds who misrepresent their eligibility status when obtaining insurance. Further, the statute as amended by the bill specifically authorizes insurers under certain circumstances to refuse to issue, amend or endorse a policy, or to cancel or refuse to renew a policy that has been issued, or to deny coverage for certain claims if an applicant provides false or misleading information material to the status of the applicant or any named insured as an eligible risk.

Significant points in the bill include:

- The definition which currently makes a non-resident of North Carolina an eligible risk for other than nonfleet private passenger motor vehicle insurance if they own a vehicle that is either registered or garaged in this state is changed to require that the vehicle be both registered and principally garaged in this state.
- It will be a class H felony for any applicant who, with the intent to deceive an insurer, knowingly violates G.S. 58-2-164(b) [essentially, misrepresenting their status as an eligible risk] for the purpose of obtaining auto insurance covering one or more vehicles, the operation of which requires a Commercial Driver's License pursuant to G.S. 20-4.01(3c).
- The bill lists specific types of documents that are deemed to be reliable proof of residency or eligible risk status for the purpose of obtaining motor vehicle insurance.
- Principal place of business" is introduced and defined for commercial auto applicants as relevant to an applicant's qualification as a North Carolina resident.

It should be noted that North Carolina articles of incorporation or other documentation from the North Carolina Secretary of State are not included in the list of documents constituting reliable proof of North Carolina residency or eligible risk status, as there is no requirement that an entity be a resident of or do business in North Carolina to obtain these documents.

The changes included in House Bill 287 pertaining to rate evasion become effective December 1, 2016. All ceded policies becoming effective on or after that date, including both new and renewal policies, should be examined for compliance.

Insurance companies should be aware that the Facility is only authorized to provide reinsurance coverage for losses under ceded policies issued to eligible risks. Losses under policies ceded to the Facility that are found to have been issued to ineligible risks will be the responsibility of the issuing company.

The descriptions in this circular of the statutory changes in House Bill 287 are not intended as legal advice. Please consult your legal counsel regarding these changes.

Please see to it that this circular is brought to the attention of all interested personnel in your company.

Sincerely,

Edith Davis

Chief Operating Officer

North Carolina Reinsurance Facility

ETD:lad

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