

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: Senate Bill 647 (Second Edition)

SHORT TITLE: Mutual Insurance Holding Companies.

SPONSOR(S): Senator Rucho

FISCAL IMPACT				
	Yes ( )	No ( )	No Estimate Available (X)	
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u> <u>FY 2015-16</u>
REVENUES	***See Assumptions and Methodology***			
EXPENDITURES	***See Assumptions and Methodology***			
POSITIONS (cumulative):	***See Assumptions and Methodology***			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Insurance				
EFFECTIVE DATE: Effective when it becomes law				

BILL SUMMARY:

Senate Bill 647 adds a new Part 8 to Article 10 of Chapter 58 of the General Statutes, entitled "Mutual Insurance Holding Companies." Among its provisions, the bill creates the following new sections:

➤ G.S. 58-10-275. Definitions.

The bill defines terms used in the act. Definitions include the following:

- "Domestic mutual insurance company" -- an insurance company organized on a mutual plan and incorporated under the laws of North Carolina.
- "Mutual insurance holding company" -- a holding company organized on a mutual plan and incorporated under the laws of North Carolina, resulting from the reorganization of a domestic mutual insurance company...with one or more stock insurance holding company subsidiaries or stock insurance company subsidiaries.
- "Limited application" -- an application for reorganization to a mutual insurance holding company which will hold one hundred percent of the stock of its insurance subsidiaries.

- "Standard application" -- an application for reorganization to a mutual insurance holding company which may sell interests in its subsidiaries to third parties.

➤ ***G.S. 58-10-280. General provisions.***

With the Commissioner's approval, the bill authorizes a domestic mutual insurance company to form an insurance holding company based upon a mutual plan and continue its corporate existence as a stock insurance company subsidiary of the holding company. The membership interest of the policyholders in the mutual company shall, subject to the Commissioner's approval, become membership interests in the mutual insurance holding company. The Commissioner may require modification of the plan as necessary to protect the policyholders' interests. The Commissioner also retains jurisdiction over the holding company. The holding company shall at all times own a majority of the voting shares of stock of the reorganized stock insurance company. The policyholders of the mutual company must approve the reorganization by a two-thirds majority of those voting. In any delinquency proceeding under Chapter 58, the assets of the holding company are deemed to be assets of the reorganized mutual insurance company.

➤ ***G.S. 58-10-285. Application; contents; process.***

A limited or standard application, including a plan of reorganization, must be filed with the Commissioner. The Commissioner receives and considers public comment and may hold a public hearing. Applicants must pay to the Commissioner a fee of \$250 for each limited application and \$500 for each standard application under this section.

➤ ***G.S. 58-10-290. Plan of reorganization.***

A limited or standard plan of reorganization submitted to the Commissioner must include provisions as outlined and must demonstrate the following:

- Policyholder interests are properly preserved and protected
- Plan is fair and equitable
- The financial condition of the applicant will not be diminished.

➤ ***G.S. 58-10-295. Powers of the Commissioner.***

The Commissioner retains jurisdiction over the mutual insurance holding company, intermediate holding company subsidiaries with stock insurance subsidiaries, and stock insurance subsidiaries. Approval of a plan of operation may be conditioned on modifications deemed necessary by the Commissioner. If modifications are not made within 30 days, the plan is deemed to be denied. If the reorganization is not completed within 210 days of approval or conditional approval by the Commissioner, the approval expires unless the time period is extended by the Commissioner. The Commissioner may revoke approval if the applicant fails to comply with the plan of reorganization.

➤ ***G.S. 58-10-300. Special financial requirements.***

A mutual insurance holding company is subject to the provisions of the Insurance Holding Company System Regulatory Act, Article 19 of Chapter 58, but is not subject to the restrictions on investment activities by domestic insurers as provided in G.S. 58-19-10 of the Act. (G.S. 58-19-10 regulates the investment activities of domestic insurers, not insurance holding companies.)

This section also requires a mutual insurance holding company to do the following:

- Upon acquisition or plan to acquire more than 50% of a stock insurance company, submit to the Commissioner of a plan describing the membership interests of policyholders.
- Invest at least 50% or more of its net worth in insurance company subsidiaries, unless waived by the Commissioner.
- File a report with the Commissioner disclosing all material transactions (acquisition and disposition of assets, nonrenewal and cancellation of reinsurance).

➤ ***G.S. 58-10-315. Stock offerings.***

The Commissioner must give prior approval of all stock offerings of a mutual insurance holding company, and its insurance company subsidiaries, intermediate holding company subsidiaries, and any insurance company subsidiaries of an intermediate holding company subsidiary of a mutual insurance holding company. Applications for approval of a stock offering must include a description of the stock, the total number of shares to be issued, justification for offering price, and a description of rights afforded members of the mutual insurance holding company.

Planned stock offerings must:

- Prohibit officers, directors and insiders of the holding company and its subsidiaries and affiliates from purchase or ownership of shares in excess of 5% of the offering.
- Require that after the offering a majority of the Board of directors be persons who are not interested persons of the holding company or of an affiliated person of the company as defined under the Article.
- Provide for the holding company to adopt articles of incorporation prohibiting waiver of dividends from stock subsidiaries except under specified circumstances.
- Require that after the initial stock offering the boards of directors of each insurance company or intermediate holding company include at least three members who are not interested persons of the holding company. (This may be waived by the Commissioner.)
- Establish within the board of the offering corporation a pricing committee consisting exclusively of directors who are not members of management of the insurance company subsidiary.

Insurance company subsidiaries and intermediate holding company subsidiaries may only issue more than one class of stock if the mutual holding company retains at all times a majority of the voting stock and no class of common stock possesses a greater dividend or other rights than the mutual holding company's class of stock.

The Commissioner may establish a period for public comment on the proposed offering and may hold a public hearing. The offering may be approved if it: (1) complies with this Part; (2) the price is established by generally accepted market or industry practices; (3) the plan and offering will not unfairly impact the interests of mutual insurance holding company's members.

Approval of a stock offering under this section expires 120 days following approval, unless the Commissioner orders otherwise.

➤ ***G.S. 58-10-320. Regulation of holding company system.***

All material transactions (acquisition and disposition of assets, nonrenewal and cancellation of reinsurance) between or among subsidiaries and affiliates of a mutual insurance holding company must be approved by a majority of the board of directors of the mutual holding company. Also, if the Commissioner determines that a mutual holding company's activities have violated the General Statutes or the Administrative Code, the Commissioner may prohibit or order rescission of the transaction.

➤ ***G.S. 58-10-325. Reporting of stock ownership and transactions.***

Directors and officers of a mutual insurance holding company or its subsidiaries or affiliates who acquire beneficial ownership of any security issued by any intermediate holding company or any insurance company subsidiary must file a statement with the Commissioner within 15 days of the transaction.

*Source: Research Division (June 8, 2011)*

## **ASSUMPTIONS AND METHODOLOGY:**

### **Revenue**

With the Commissioner's approval, Senate Bill 647 authorizes a domestic mutual insurance company to form an insurance holding company based upon a mutual plan and continue its corporate existence as a stock insurance company subsidiary of the holding company. Also, Senate Bill 647 requires applicants seeking to form an insurance holding company to pay the Commissioner a fee of \$250 for each limited application and \$500 for each standard application under this section.

DOI reports that there are approximately 33 mutual insurance companies. Each of these companies could decide to submit an application. If these companies were to submit an application, DOI reports that it is uncertain as to whether these companies would choose the limited or standard application. The Department of Insurance (DOI) is not able to estimate the number or type of applications that it would receive under this bill.

Fiscal Research is not able to estimate the number of applications that would be filed under this bill or the revenue that would be generated. With that said—if the 33 mutual insurance companies were to submit a limited application, then \$8,250 of revenue would be generated. If the 33 companies were to submit a standard limited application, then \$16,500 of revenue would be generated. Within this scenario, Fiscal Research anticipates that the revenue generated from this bill could range from \$0 to \$16,550.

Any revenue that is generated from Senate Bill 647 would be deposited into the General Fund.

### **Expenditures**

Senate Bill 647 allows DOI to hire experts to review the application or to review stock offerings. Because this expense would be billed to the applicable companies, Fiscal Research estimates that the reviews of applications or stock offering would have no fiscal impact on DOI or the State.

Under Senate Bill 647, DOI would also have to conduct a review of the financial condition of the mutual holding company's financial statements that would be filed annually as well as any transactions and filings that would have to be submitted pursuant to Article 19. DOI estimates that it would not be able to absorb the additional workload required by these reviews and would need an additional position.

Fiscal Research is not able to concur with DOI's assessment. Fiscal Research is not able to estimate the number of applications—and how many of these applications will be limited or standard—that DOI would receive under this bill. Therefore, it is not possible to determine whether or not DOI would require additional resources to administer this bill.

**SOURCES OF DATA:** Department of Insurance

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** June 8, 2011



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