**South Carolina General Assembly**

123rd Session, 2019-2020

**A5, R10, S358**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Cromer

Document Path: l:\council\bills\bh\7099cz19.docx

Companion/Similar bill(s): 3705

Introduced in the Senate on January 10, 2019

Introduced in the House on February 7, 2019

Passed by the General Assembly on February 22, 2019

Governor's Action: March 20, 2019, Signed

Summary: Property and casualty insurance guaranty association

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/10/2019 Senate Introduced and read first time ([Senate Journal‑page 4](file:///h%3A%5Csj%5C20190110.docx))

 1/10/2019 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 4](file:///h%3A%5Csj%5C20190110.docx))

 1/24/2019 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 24](file:///h%3A%5Csj%5C20190124.docx))

 1/25/2019 Scrivener's error corrected

 1/31/2019 Senate Read second time ([Senate Journal‑page 5](file:///h%3A%5Csj%5C20190131.docx))

 1/31/2019 Senate Roll call Ayes‑37 Nays‑0 ([Senate Journal‑page 5](file:///h%3A%5Csj%5C20190131.docx))

 2/6/2019 Senate Read third time and sent to House ([Senate Journal‑page 39](file:///h%3A%5Csj%5C20190206.docx))

 2/7/2019 House Introduced and read first time ([House Journal‑page 4](file:///h%3A%5Chj%5C20190207.docx))

 2/7/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 4](file:///h%3A%5Chj%5C20190207.docx))

 2/14/2019 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 26](file:///h%3A%5Chj%5C20190214.docx))

 2/21/2019 House Requests for debate‑Rep(s).  Hill ([House Journal‑page 102](file:///h%3A%5Chj%5C20190221.docx))

 2/21/2019 House Read second time ([House Journal‑page 102](file:///h%3A%5Chj%5C20190221.docx))

 2/21/2019 House Roll call Yeas‑106 Nays‑0 ([House Journal‑page 103](file:///h%3A%5Chj%5C20190221.docx))

 2/21/2019 House Unanimous consent for third reading on next legislative day ([House Journal‑page 105](file:///h%3A%5Chj%5C20190221.docx))

 2/22/2019 House Read third time and enrolled ([House Journal‑page 4](file:///h%3A%5Chj%5C20190222.docx))

 3/19/2019 Ratified R 10

 3/20/2019 Signed By Governor

 3/27/2019 Effective date 07/01/19

 4/1/2019 Act No.  5

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=358&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[1/10/2019](file:///p%3A%5Cpprever%5C2019-20%5C358_20190110.docx)

[1/24/2019](file:///p%3A%5Cpprever%5C2019-20%5C358_20190124.docx)

[1/25/2019](file:///p%3A%5Cpprever%5C2019-20%5C358_20190125.docx)

[2/14/2019](file:///p%3A%5Cpprever%5C2019-20%5C358_20190214.docx)

(A.5, R10, S358)

**AN ACT TO AMEND SECTION 38‑31‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION, SO AS TO APPLY THE PROVISIONS OF CHAPTER 31, TITLE 38 TO A CLAIM OR LOSS COVERED BY SELF‑INSURANCE THAT OCCURRED PRIOR TO THE ACQUISITION OF A BLOCK OF BUSINESS BY A LICENSED INSURER; AND TO AMEND SECTION 42‑5‑20, RELATING TO INSURANCE REQUIREMENTS FOR WORKERS’ COMPENSATION, SO AS TO PROHIBIT A SELF‑INSURER FROM PARTICIPATING IN OR OBTAINING BENEFITS FROM THE SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION AND TO REQUIRE THE SOUTH CAROLINA WORKERS’ COMPENSATION COMMISSION TO SECURE AN ACTUARIAL OPINION BEFORE APPROVING THE TRANSFER OF A SELF‑INSURER TO A LICENSED INSURER.**

Be it enacted by the General Assembly of the State of South Carolina:

**Application of the South Carolina Property and Casualty Insurance Guaranty Association**

SECTION 1. Section 38‑31‑30 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

 “( ) any claim or loss or part of a claim or loss covered by self‑insurance that occurred prior to the assumption, transfer, merger, or other acquisition of a block of business by a licensed insurer.”

**South Carolina Property and Casualty Insurance Guaranty Association, self-insurer prohibited**

SECTION 2. Section 42‑5‑20 of the 1976 Code is amended to read:

 “Section 42‑5‑20. (A)(1) Every employer who accepts the provisions of this title relative to the payment of compensation shall insure and keep insured his liability thereunder in any authorized corporation, association, organization, or mutual insurance association formed by a group of employers so authorized or shall furnish to the commission satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this title. The commission may, under such rules and regulations as it may prescribe, permit two or more employers in businesses of a similar nature to enter into agreements to pool their liabilities under the Workers’ Compensation Law for the purpose of qualifying as self‑insurers. In the case of self‑insurers the commission shall require the deposit of an acceptable security, indemnity, or bond to secure the payment of the compensation liabilities as they are incurred. The Workers’ Compensation Commission shall have exclusive jurisdiction of group self‑insurers under this section, and such group self‑insurers shall not be deemed to be insurance companies and shall not be regulated by the Department of Insurance. Provided, further, that if any provision is made for the recognition of reinsurance of the self‑insured fund, such provision shall expressly provide that the reinsurance agreement or treaty must recognize the right of the claimant to recover directly from the reinsurer and that such agreement shall provide for privity between the reinsurer and the workers’ compensation claimant.

 (2) In lieu of submitting audited financial statements when an employer makes an application to self‑insure with the commission, the commission shall accept the sworn statement or affidavit of an independent auditor verifying the financial condition of the employer according to the required financial ratios and guidelines established by regulation of the commission. The independent auditor must be a certified public accountant using generally acceptable accounting principles in the preparation of the financial statements of the employer.

 (B) A corporation, association, organization, or mutual insurance association formed pursuant to Section 42‑5‑50 may not be considered a licensed insurer pursuant to Chapter 31, Title 38 and may not participate in or receive benefits or protection from the South Carolina Property and Casualty Insurance Guaranty Association.

 (C) An assumption, transfer, merger, or other acquisition of a block of business by a licensed insurer from a self‑insurer may not be approved until the commission has obtained an opinion from a qualified actuary as to the adequacy of assets and other funding to adjudicate and pay any known claims as of the effective date of the assumption, transfer, merger, or other acquisition of the self‑insured block.”

**Time effective**

SECTION 3. This act takes effect on July 1, 2019.

Ratified the 19th day of March, 2019.

Approved the 20th day of March, 2019.

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