

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 1027  
SENATE BILL 873

AN ACT TO REVISE THE RATING AND CLASSIFICATION PLANS AND THE RATEMAKING PROCEDURE FOR NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE; TO MAKE REVISIONS AND IMPROVEMENTS IN THE REGULATION OF COMMERCIAL PROPERTY AND LIABILITY INSURANCE RATES; TO REQUIRE REPORTS FROM INSURERS AND TO AUTHORIZE THE INSURANCE COMMISSIONER TO MODIFY RATES IF STATUTORY CHANGES IN CIVIL LAW AFFECT INSURERS' EXPERIENCE; TO MAKE CHANGES IN CERTAIN INSURANCE MARKET PRACTICES FOR THE BENEFIT OF CONSUMERS; AND TO MAKE TECHNICAL CHANGES IN THE INSURANCE LAWS, AND TO MAKE CHANGES IN RULES 8(A)(2) AND 11(A) OF THE RULES OF CIVIL PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. Article 12B of General Statutes Chapter 58 is amended by adding a new section to read:

**"§ 58-124.31. Classifications and Safe Driver Incentive Plan for nonfleet private passenger motor vehicle insurance.**—(a) The Bureau shall file, subject to review, modification, and promulgation by the Commissioner, such rate classifications, schedules, or rules that the Commissioner deems to be desirable and equitable to classify drivers of nonfleet private passenger motor vehicles for insurance purposes. Subsequently, the Commissioner may require the Bureau to file modifications of the classifications, schedules, or rules. If the Bureau does not file the modifications within a reasonable time, the Commissioner may promulgate the modifications. In promulgating or modifying these classifications, schedules, or rules, the Commissioner may give consideration to the following:

- (1) Uses of vehicles, including without limitation to farm use, pleasure use, driving to and from work, and business use;
- (2) Principal and occasional operation of vehicles;
- (3) Years of driving experience of insureds as licensed drivers;
- (4) The characteristics of vehicles; or
- (5) Any other factors, not in conflict with any law, deemed by the Commissioner to be appropriate.

(b) The Bureau shall file, subject to review, modification, and promulgation by the Commissioner, a Safe Driver Incentive Plan ('Plan') that adequately and factually distinguishes among various classes of drivers that have safe driving records and

various classes of drivers that have a record of chargeable accidents; a record of convictions of major moving traffic violations; a record of convictions of minor moving traffic violations; or a combination thereof; and that provides for premium differentials among those classes of drivers. Subsequently, the Commissioner may require the Bureau to file modifications of the Plan. If the Bureau does not file the modifications within a reasonable time, the Commissioner may promulgate the modifications. The Commissioner is authorized to structure the Plan to provide for surcharges above and discounts below the rate otherwise charged.

(c) The classifications and Plan filed by the Bureau shall be subject to the filing, hearing, modification, approval, disapproval, review, and appeal procedures provided by law. The classifications or Plan filed by the Bureau and promulgated by the Commissioner shall of itself not be designed to bring about any increase or decrease in the overall rate level.

(d) Whenever any policy loses any safe driver discount provided by the Plan or is surcharged due to an accumulation of points under the Plan, the insurer shall, pursuant to rules adopted by the Commissioner, prior to or simultaneously with the billing for additional premium, inform the named insured of the surcharge or loss of discount by mailing to such insured a notice that states the basis for the surcharge or loss of discount, and that advises that upon receipt of a written request from the named insured it will promptly mail to the named insured a statement of the amount of increased premium attributable to the surcharge or loss of discount. The statement of the basis of the surcharge or loss of discount is privileged, and does not constitute grounds for any cause of action for defamation or invasion of privacy against the insurer or its representatives, or against any person who furnishes to the insurer the information upon which the insurer's reasons are based, unless the statement or furnishing of information is made with malice or in bad faith.

(e) Records of convictions for moving traffic violations to be considered under the safe driver plans under G.S. 58-30.4 and this section shall be obtained at least annually from the Division of Motor Vehicles and applied by the Bureau's member companies in accordance with rules to be established by the Bureau.

(f) The Bureau is authorized to establish reasonable rules providing for the exchange of information among its member companies as to chargeable accidents and similar information involving persons to be insured under policies. Neither the Bureau, any employee of the Bureau, nor any company or individual serving on any committee of the Bureau has any liability for defamation or invasion of privacy to any person arising out of the adoption, implementation, or enforcement of any such rule. No insurer or individual requesting, furnishing, or otherwise using any information that such insurer or person reasonably believes to be for purposes authorized by this section has any liability for defamation or invasion of privacy to any person on account of any such requesting, furnishing, or use. The immunity provided by this subsection does not apply to any acts made with malice or in bad faith.

(g) If an applicant for the issuance or renewal of a nonfleet private passenger motor vehicle insurance policy knowingly makes a material misrepresentation of the years of driving experience or the driving record of any named insured or of any other

operator who resides in the same household and who customarily operates a motor vehicle to be insured under the policy, the insurer may:

- (1) Cancel or refuse to renew the policy;
- (2) Surcharge the policy in accordance with rules to be adopted by the Bureau and approved by the Commissioner; or
- (3) Recover from the applicant the appropriate amount of premium or surcharge that would have been collected by the insurer had the applicant furnished the correct information."

Sec. 2. G.S. 58-124.20(d) is rewritten to read:

"(d) With respect to the filing of rates for nonfleet private passenger motor vehicle insurance, the Bureau shall, on or before July 1 of each year, or later with the approval of the Commissioner, file with the Commissioner the experience, data, statistics, and information referred to in subsection (c) of this section and any proposed adjustments in the rates for all member companies of the Bureau. The filing shall include, where deemed by the Commissioner to be necessary for proper review, the data specified in subsections (c), (e), (g) and (h) of this section. Any filing that does not contain the data required by this subsection may be returned to the Bureau and not be deemed a proper filing. Provided, however, that if the Commissioner concludes that a filing does not constitute a proper filing he shall promptly notify the Bureau in writing to that effect, which notification shall state in reasonable detail the basis of the Commissioner's conclusion. The Bureau shall then have a reasonable time to remedy the defects so specified. An otherwise defective filing thus remedied shall be deemed to be a proper and timely filing, except that all periods of time specified in this Article will run from the date the Commissioner receives additional or amended documents necessary to remedy all material defects in the original filing."

Sec. 3. G.S. 58-124.20 is amended by adding three new subsections to read:

"(g) The following information must be included in policy form, rule, and rate filings under this Article and under Article 25A of this Chapter:

- (1) A detailed list of the rates, rules, and policy forms filed, accompanied by a list of those superseded; and
- (2) A detailed description, properly referenced, of all changes in policy forms, rules, and rates, including the effect of each change.

(h) Except for filings made under G.S. 58-124.23, all policy form, rule, and rate filings under this Article and Article 25A of this Chapter that are based on statistical data must be accompanied by the following properly identified information:

- (1) North Carolina earned premiums at the actual and current rate level; losses and loss adjustment expenses, each on paid and incurred bases without trending or other modification for the experience period, including the loss ratio anticipated at the time the rates were promulgated for the experience period;
- (2) Credibility factor development and application;
- (3) Loss development factor derivation and application on both paid and incurred bases and in both numbers and dollars of claims;
- (4) Trending factor development and application;

- (5) Changes in premium base resulting from rating exposure trends;
- (6) Limiting factor development and application;
- (7) Overhead expense development and application of commission and brokerage, other acquisition expenses, general expenses, taxes, licenses, and fees;
- (8) Percent rate change;
- (9) Final proposed rates;
- (10) Investment earnings, consisting of investment income and realized plus unrealized capital gains, from loss, loss expense, and unearned premium reserves;
- (11) Identification of applicable statistical plans and programs and a certification of compliance with them;
- (12) Investment earnings on capital and surplus;
- (13) Level of capital and surplus needed to support premium writings without endangering the solvency of member companies; and
- (14) Such other information that may be required by any rule adopted by the Commissioner.

Provided, however, that no filing may be returned or disapproved on the grounds that such information has not been furnished if insurers have not been required to collect such information pursuant to statistical plans or programs or to report such information to the Bureau or to statistical agents, except where the Commissioner has given reasonable prior notice to the insurers to begin collecting and reporting such information, or except when the information is readily available to the insurers.

(i) The Bureau shall file with and at the time of any rate filing all testimony, exhibits, and other information on which the Bureau will rely at the hearing on the rate filing. The Department shall file all testimony, exhibits, and other information on which the Department will rely at the hearing on the rate filing 20 days in advance of the convening date of the hearing. Upon the issuance of a notice of hearing the Commissioner shall hold a meeting of the parties to provide for the scheduling of any additional testimony, including written testimony, exhibits or other information, in response to the notice of hearing and any potential rebuttal testimony, exhibits, or other information. This subsection also applies to rate filings made by the North Carolina Motor Vehicle Reinsurance Facility under Article 25A of this Chapter."

Sec. 3.1. G.S. 58-124.22(b) is amended by rewriting the 8th and 9th lines to read:

"collected during such interim period. Upon a final determination by the Court, the Commissioner shall order the escrowed funds to be distributed appropriately, except that".

Sec. 4. G.S. 58-124.22(b) is amended by rewriting the last sentence to read:

"If refunds made to policyholders are ordered under this subsection, the amounts refunded shall bear interest at the rate determined under this subsection. That rate shall be the average of the prime rates of the four largest banking institutions domiciled in this State, plus three percent (3%), as of the effective date of the filing, to be computed by the Commissioner."

Sec. 5. Article 12B of General Statutes Chapter 58 is amended by adding a new section to read:

**"§ 58-124.32. Rate filings and hearings for motor vehicle insurance.**—(a) With respect to nonfleet private passenger motor vehicle insurance, except as provided in G.S. 58-124.22, a filing made by the Bureau under G.S. 58-124.20(d) is not effective until approved by the Commissioner or unless 60 days have elapsed since the making of a proper filing under that subsection and the Commissioner has not called for a hearing on the filing. If the Commissioner calls for a hearing, he must give written notice to the Bureau, specify in the notice in what respect the filing fails to comply with this Article, and fix a date for the hearing that is not less than 30 days from the date the notice is mailed.

(b) At least 15 days before the date set for the convening of the hearing the respective staffs and consultants of the Bureau and Commissioner shall meet at a prehearing conference to review the filing and discuss any points of disagreement that are likely to be in issue at the hearing. At the prehearing conference, the parties shall list the names of potential witnesses and, where possible, stipulate to their qualifications as expert witnesses, stipulate to the sequence of appearances of witnesses, and stipulate to the relevance of proposed exhibits to be offered by the parties. Minutes of the prehearing conference shall be made and reduced to writing and become part of the hearing record. Any agreements reached as to preliminary matters shall be set forth in writing and consented to by the Bureau and the Commissioner. The purpose of this subsection is to avoid unnecessary delay in the rate hearings.

(c) Once begun, hearings must proceed without undue delay. At the hearing the burden of proving that the proposed rates are not excessive, inadequate, or unfairly discriminatory is on the Bureau. The Commissioner may disregard at the hearing any exhibits, judgments, or conclusions offered as evidence by the Bureau that were developed by or available to or could reasonably have been obtained or developed by the Bureau at or before the time the Bureau made its proper filing and which exhibits, judgments, or conclusions were not included and supported in the filing; unless the evidence is offered in response to inquiries made at the hearing by the Department, the notice of hearing, or as rebuttal to the Department's evidence. If relevant data becomes available after the filing has been properly made, the Commissioner may consider such data as evidence in the hearing. The order of presenting evidence shall be (1) by the Bureau; (2) by the Department; (3) any rebuttal evidence by the Bureau regarding the Department's evidence; and (4) any rebuttal evidence by the Department regarding the Bureau's rebuttal evidence. Neither the Bureau nor the Department shall present repetitious testimony or evidence relating to the same issues. The Bureau shall reimburse the Department for all reasonable costs incurred by the Department in retaining outside actuarial, economic, and legal consultants or counsel, and court reporting services, for the review of rate filings, in conducting hearings, and up to the time the Commissioner issues an order approving or disapproving the filing.

(d) If the Commissioner finds that a filing complies with the provisions of this Article, either after the hearing or at any other time after the filing has been properly made, he may issue an order approving the filing. If the Commissioner after the hearing

finds that the filing does not comply with the provisions of this Article, he may issue an order disapproving the filing, determining in what respect the filing is improper, and specifying the appropriate rate level or levels that may be used by the members of the Bureau instead of the rate level or levels proposed by the Bureau filing, unless there has not been data admitted into evidence in the hearing that is sufficiently credible for arriving at the appropriate rate level or levels. Any order issued after a hearing shall be issued within 45 days after the completion of the hearing. If no order is issued within 45 days after the completion of the hearing, the filing shall be deemed to be approved.

(e) No person shall wilfully withhold information required by this Article from or knowingly furnish false or misleading information to the Commissioner, any statistical agency designated by the Commissioner, any rating or advisory organization, the Bureau, the North Carolina Motor Vehicle Reinsurance Facility, or any insurer, which information affects the rates, rating plans, classifications, or policy forms subject to this Article or Article 25A of this Chapter."

Sec. 5.1. G.S. 58-124.17 is amended by adding two new subsections to read:

"(6) The Bureau shall maintain and furnish to the Commissioner on an annual basis the statistics on earnings derived by member companies from the investment of unearned premium, loss, and loss expense reserves on nonfleet private passenger motor vehicle insurance policies written in this State. Whenever the Bureau proposes rates under this Article, it shall prepare a separate exhibit for the experience years in question showing the combined earnings realized from the investment of such reserves on policies written in this State. The amount of earnings may in an equitable manner be included in the ratemaking formula to arrive at a fair and equitable rate. The Commissioner may require further information as to such earnings and may require calculations of the Bureau bearing on such earnings.

(7) Member companies shall furnish, upon request of any person carrying nonfleet private passenger motor vehicle insurance in the State upon whose risk a rate has been promulgated, information as to rating, including the method of calculation."

Sec. 6. G.S. 58-124.18(b) is amended by adding the following:

"The governing committee of the Bureau shall also have as nonvoting members two persons who are not employed by or affiliated with any insurance company or the Department of Insurance and who are appointed by the Governor to serve at his pleasure."

Sec. 7. G.S. 58-248.33(d) is amended by adding the following:

"The Board of Governors of the Facility shall also have as nonvoting members two persons who are not employed by or affiliated with any insurance company or the Department of Insurance and who are appointed by the Governor to serve at his pleasure."

Sec. 8. G.S. 58-25.1 is amended by inserting between the words, "insurer" and "or its officers" the following: ", rating organization, advisory organization, joint

underwriting or joint reinsurance organization, or the North Carolina Rate Bureau or Motor Vehicle Reinsurance Facility,".

Sec. 9. Notwithstanding the provisions of Sections 2 through 5 of this act, the Bureau may make its 1986 rate filing for nonfleet private passenger motor vehicle insurance after July 1, 1986.

Sec. 9.1. G.S. 58-131.37(a) is amended by deleting "Rates" and substituting therefor, "In order to serve the public interest, rates".

Sec. 10. G.S. 58-131.37(b) and (c) are repealed.

Sec. 11. G.S. 58-131.37(d) is rewritten to read:

"(d) No rate is inadequate unless the rate is unreasonably low for the insurance provided and the use or continued use of the rate by the insurer has had or will have the effect of:

- (1) endangering the solvency of the insurer; or
- (2) destroying competition; or
- (3) creating a monopoly; or
- (4) violating actuarial principles, practices, or soundness."

Sec. 12. G.S. 58-131.42 is amended by rewriting subsection (a) to read:

"(a) If, after a hearing, the Commissioner disapproves a rate, he must issue an order specifying in what respects the rate fails to meet the requirements of G.S. 58-131.37. If the Commissioner finds a rate to be excessive, he shall order the excess premium, plus interest at a rate determined in the same manner as in G.S. 58-124.22(b) as of the dates such rates were effective for policyholders, to be refunded to those policyholders who have paid the excess premium. If the Commissioner finds a rate to be unfairly discriminatory, he shall order an appropriate adjustment for policyholders who have paid the unfairly discriminatory premium. The order must be issued within 30 business days after the close of the hearing."

Sec. 12.1. G.S. 58-131.42 is amended by adding a new subsection (c) to read:

"(c) No person shall wilfully withhold information required by this Article from or knowingly furnish false or misleading information to the Commissioner, any statistical agency designated by the Commissioner, any rating or advisory organization, or any insurer, which information will affect the rates, rating plans, classifications, or policy forms subject to this Article."

Sec. 13. Article 13C of General Statutes Chapter 58 is amended by adding a new section to read:

**"§ 58-131.61. Financial disclosure; rate modifications; reporting requirements.–**

(a) The Commissioner may require each insurer subject to this Article to report, on a form prescribed by the Commissioner, its loss and expense experience, investment income, administrative expenses, and other data that he may require, for kinds of insurance or classes of risks that he designates. These reports are in addition to financial or other statements required by this Chapter.

(b) The Commissioner may designate one or more rating organizations or advisory organizations to gather and compile the experience and data referred to in subsection (a) of this section for their member companies.

(c) Whereas the provisions enacted by the General Assembly in 1986 regarding modifications in North Carolina civil law may have a prospective effect upon the loss experience of insurers subject to this Article, the Commissioner is authorized to review each company's rates by type of insurance that are in effect on and after January 1, 1987, and, when and where appropriate, require modification of such rates.

(d) Each insurer subject to this Article shall record the experience and data referred to in subsection (a) of this section arising from causes of action arising against its insureds on and after January 1, 1987. Such experience and data shall be reported to the Commissioner by March 31, 1988, which report shall be on a form prescribed by the Commissioner reflecting such experience and data for the one year period beginning on January 1, 1987. Subsequently, such experience and data shall be reported to the Commissioner by March 31 of each year for each one year period ending on December 31 of the previous year.

(e) On or before July 1, 1988, and annually thereafter, the Commissioner shall report to the General Assembly the effects, if any, of changes in North Carolina civil law statutes on the experience of insurers subject to this section."

Sec. 14. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 38.

"Insurance Regulatory Reform Act.

"§ 58-470. **Short title.**—This Article is known and may be cited as the Insurance Regulatory Reform Act.

"§ 58-471. **Legislative findings and intent.**—(a) Due to conditions in national and international property and liability insurance markets, insureds in the United States have experienced unprecedented in-term cancellations of existing policies for entire books of business, have been afforded little or no notice that existing policies would not be renewed at their expiration dates, or would be renewed only at substantially higher rates or on less favorable terms. The General Assembly finds that such conditions pose an imminent peril to the public welfare for the following reasons:

- (1) In-term cancellations of insurance coverages erode insureds' confidence and breach insureds' trust; unfairly and prematurely terminate the promised coverage; force persons to go without needed insurance protection or force the procurement of substitute insurance at greater cost; and create marketplace confusion resulting in product unavailability.
- (2) Failures to provide timely notices of nonrenewals or of renewals with altered terms deprive persons of adequate opportunities to secure affordable replacement coverages or require persons to go without needed insurance protection.

(b) The General Assembly finds that there is no uniform requirement for the notice of cancellation, renewal, or nonrenewal for commercial property and liability insurance and that it should adopt reasonable requirements for such notices and should regulate in-term cancellations of entire books of business by companies.



**"§ 58-472. Scope.**—(a) Except as otherwise provided, this Article applies to all kinds of insurance authorized by G.S. 58- 72(4) through (14) and G.S. 58-72(18) through (22), and to all insurance companies licensed by the Commissioner to write those kinds of insurance. This Article does not apply to insurance written under Articles 12B, 18A, 18B, 25A or 36 of this Chapter; to marine and personal inland marine insurance; to aviation insurance; nor to policies issued in this State covering risks with multistate locations, except with respect to coverages applicable to locations within this State.

(b) This Article is not exclusive, and the Commissioner may also consider other provisions of this Chapter to be applicable to the circumstances or situations addressed in this Article. Policies may provide terms more favorable to insureds than are required by this Article. The rights provided by this Article are in addition to and do not prejudice any other rights the insured may have at common law, under statutes, or under administrative rules.

**"§ 58-473. Certain policy cancellations prohibited.**—(a) No insurance policy or renewal thereof may be cancelled by the insurer prior to the expiration of the term or anniversary date stated in the policy and without the prior written consent of the insured, except for any one of the following reasons:

- (1) Nonpayment of premium in accordance with the policy terms;
- (2) An act or omission by the insured or his representative that constitutes material misrepresentation or nondisclosure of a material fact in obtaining the policy, continuing the policy, or presenting a claim under the policy;
- (3) Increased hazard or material change in the risk assumed that could not have been reasonably contemplated by the parties at the time of assumption of the risk;
- (4) Substantial breach of contractual duties, conditions, or warranties that materially affects the insurability of the risk;
- (5) A fraudulent act against the company by the insured or his representative that materially affects the insurability of the risk;
- (6) Willful failure by the insured or his representative to institute reasonable loss control measures that materially affect the insurability of the risk after written notice by the insurer;
- (7) Loss of facultative reinsurance, or loss of or substantial changes in applicable reinsurance as provided in G.S. 58-476;
- (8) Conviction of the insured of a crime arising out of acts that materially affect the insurability of the risk; or
- (9) A determination by the Commissioner that the continuation of the policy would place the insurer in violation of the laws of this State;
- (10) The named insured fails to meet the requirements contained in the corporate charter, articles of incorporation, or bylaws of the insurer, when the insurer is a company organized for the sole purpose of providing members of an organization with insurance coverage in this State.

(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been delivered or mailed to the insured, not less than 15 days before the proposed effective date of cancellation. The notice must be given or mailed to the insured, and any designated mortgagee or loss payee at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice must state the precise reason for cancellation. Proof of mailing is sufficient proof of notice. Failure to send this notice to any designated mortgagee or loss payee invalidates the cancellation only as to the mortgagee's or loss payee's interest.

(c) This section does not apply to any insurance policy that has been in effect for less than 60 days and is not a renewal of a policy. That policy may be cancelled for any reason by furnishing to the insured at least 15 days prior written notice of and reasons for cancellation.

(d) Cancellation for nonpayment of premium is not effective if the amount due is paid before the effective date set forth in the notice of cancellation.

(e) Copies of the notice required by this section shall also be sent to the agent or broker of record; however, failure to send copies of the notice to such persons shall not invalidate the cancellation.

**"§ 58-474. Notice of nonrenewal, premium increase, or change in coverage required.**—(a) No insurer may refuse to renew an insurance policy except in accordance with the provisions of this section, and any nonrenewal attempted or made that is not in compliance with this section is not effective. This section does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

(b) An insurer may refuse to renew a policy that has been written for a term of one year or less at the policy's expiration date by giving or mailing written notice of nonrenewal to the insured not less than 45 days prior to the expiration date of the policy.

(c) An insurer may refuse to renew a policy that has been written for a term of more than one year or for an indefinite term at the policy anniversary date by giving or mailing written notice of nonrenewal to the insured not less than 45 days prior to the anniversary date of the policy.

(d) The notice required by this section must be given or mailed to the insured and any designated mortgagee or loss payee at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. Proof of mailing is sufficient proof of notice. The notice of nonrenewal must state the precise reason for nonrenewal. Failure to send this notice to any designated mortgagee or loss payee invalidates the nonrenewal only as to the mortgagee's or loss payee's interest.

(e) Copies of the notice required by this section shall also be sent the agent or broker of record; however, failure to send copies of the notice to such persons shall not invalidate the nonrenewal.

**"§ 58-475. Notice of renewal of policies with premium or coverage changes.**—

(a) If an insurer intends to renew a policy, the insurer must furnish to the insured the renewal terms and a statement of the amount of premium due for the renewal policy period.

(b) If the policy being renewed was written for a term of one year or less, the renewal terms and statement of premium due must be given or mailed not less than 45 days before the expiration date of that policy. If the policy being renewed was written for a term of more than one year or for an indefinite term, the renewal terms and statement of premium due must be given or mailed not less than 45 days before the anniversary date of that policy. The renewal terms and statement of premium due must be given or mailed to the insured and any designated mortgagee or loss payee at their addresses shown in the policy, or, if not indicated in the policy, at their last known addresses.

(c) If the insurer fails to furnish the renewal terms and statement of premium due in the manner required by this section, the insured may cancel the renewal policy within the 30-day period following receipt of the renewal terms and statement of premium due. For refund purposes, earned premium for any period of coverage shall be calculated pro rata upon the premium applicable to the policy being renewed instead of the renewal policy.

(d) If a policy has been issued for a term longer than one year, and for additional consideration a premium has been guaranteed for the entire term, it is unlawful for the insurer to increase that premium or require policy deductibles or other policy or coverage provisions less favorable to the insured during the term of the policy.

(e) Copies of the notice required by this section shall also be given or mailed to any designated mortgagee or loss payee and may also be given or mailed to the agent or broker of record.

**"§ 58-476. Loss of reinsurance.**—An insurer may cancel or refuse to renew a kind of insurance when the cancellation or nonrenewal is necessary because of a loss of or substantial reduction in applicable reinsurance, by filing a plan with the Commissioner pursuant to the requirements of this section. The insurer's plan must be filed with the Commissioner at least 15 business days prior to the issuance of any notice of cancellation or nonrenewal. The insurer may implement its plan upon the approval of the Commissioner, which shall be granted or denied in writing, with the reasons for his actions, within 15 business days of the Commissioner's receipt of the plan. Any plan submitted for approval shall contain a certification by an elected officer of the company:

- (1) That the loss or substantial change in applicable reinsurance necessitates the cancellation or nonrenewal action;
- (2) That the insurer has made a good faith effort to obtain replacement reinsurance but was unable to do so because of the unavailability or unaffordability of replacement reinsurance;
- (3) Identifying the category of risks, the total number of risks written by the company in that category, and the number of risks intended to be cancelled or not renewed;
- (4) Identifying the total amount of the insurer's net retention for the risks intended to be cancelled or not renewed;
- (5) Identifying the total amount of risk ceded to each reinsurer and the portion of that total that is no longer available;

- (6) Explaining how the loss of or reduction in reinsurance affects the insurer's risks throughout the kind of insurance proposed for cancellation or nonrenewal;
- (7) Explaining why cancellation or nonrenewal is necessary to cure the loss of or reduction in reinsurance; and
- (8) Explaining how the cancellations or nonrenewals, if approved, will be implemented and the steps that will be taken to ensure that the cancellation or nonrenewal decisions will not be applied in an arbitrary, capricious, or unfairly discriminatory manner.

**"§ 58-477. Notice of cessation of business through insurance agency.**—(a) Each insurer must, upon the cessation of any of its business through a North Carolina insurance agency, furnish the Commissioner with the following information on a form to be prescribed by the Commissioner:

- (1) The kinds of policies no longer written through the agency. In describing the kinds of these policies, those appearing on page 14 of the annual statement convention blank will suffice, except that liability coverages should be more specifically described;
- (2) The number of policies, by kind, no longer written through the agency;
- (3) A statement as to whether or not the cessation of business is by nonrenewal of business at policy expiration dates, or is a decision not to accept new business from the agency, or a combination of these;
- (4) If the cessation is by the insurer, the specific reason or reasons for the cessation; and
- (5) The names and addresses of the insurer and the agency and the effective date of the cessation of the business.

(b) This section applies to the cessation of the writing of any kind of insurance subject to this Article through an agency located in North Carolina. Reports are required even though other kinds of insurance may still be written through the agency.

**"§ 58-478. No liability for statements or communications made in good faith; prior notice to agents or brokers.**—(a) There is no liability on the part of and no cause of action for defamation or invasion of privacy arises against any insurer or its authorized representatives, agents, or employees, or any licensed insurance agent or broker, for any communication or statement made, unless shown to have been made in bad faith with malice, in any of the following:

- (1) A written notice of cancellation under G.S. 58-473, of nonrenewal under G.S. 58-474, or of cessation of business through an agency under G.S. 58-477, specifying the reasons therefor;
- (2) Communications providing information pertaining to such cancellation, nonrenewal, or cessation of business through an agency;
- (3) Evidence submitted at any court proceeding, administrative hearing, or informal inquiry in which such cancellation, nonrenewal, or cessation of business through an agency is an issue.

(b) With respect to the notices that must be given or mailed to agents or brokers under G.S. 58-473 and G.S. 58-474, the insurer may give or mail that notice at the same time or prior to giving or mailing the notice to the insured.

**"§ 58-479. Termination of writing kind of insurance.**—(a) Except as provided in G.S. 58-476, no insurer may terminate, by nonrenewals, an entire book of business of any kind of insurance without 60 days prior written notice to the Commissioner; unless the Commissioner determines that continuation of the line of business would impair the solvency of the insurer or unless the Commissioner determines that such termination is effected under a plan that minimizes disruption in the marketplace or that makes provisions for alternative coverage at comparable rates and terms.

(b) Except as provided in G.S. 58-476, in-term cancellation by an insurer of an entire book of business of any kind of insurance is presumed to be unfair, inequitable, and contrary to the public interest, unless the Commissioner determines that continuation of the line of business would impair the solvency of the insurer or unless the Commissioner determines that such termination is effected under a plan that minimizes disruption in the marketplace or that makes provisions for alternative coverage at comparable rates and terms.

**"§ 58-480. Policy form and rate filings; punitive damages; data required to support filings.**—(a) With the exception of inland marine insurance, which by general custom of the business is not written according to manual rates and rating plans, all policy forms must be filed with and either approved by the Commissioner or 90 days have elapsed and he has not disapproved the form before they may be used in this State. With respect to liability insurance policy forms, an insurer may exclude or limit coverage for punitive damages awarded against its insured.

(b) With the exception of inland marine insurance, which by general custom of the business is not written according to manual rates and rating plans, all rates by licensed fire and casualty companies or their designated rating organizations must be filed with the Commissioner at least 60 days before they may be used in this State.

(c) A filing that does not include the statistical and rating information required by subsections (d) and (e) of this section is not a proper filing, and will be returned to the filing insurer or organization.

(d) The following information must be included in each policy form, rule, and rate filing:

- (1) A detailed list of the rates, rules, and policy forms filed, accompanied by a list of those superseded; and
- (2) A detailed description, properly referenced, of all changes in policy forms, rules, and rates, including the effect of each change.

(e) Each policy form, rule, and rate filing that is based on statistical data must be accompanied by the following properly identified information:

- (1) North Carolina earned premiums at the actual and current rate level; losses and loss adjustment expenses, each on paid and incurred bases without trending or other modification for the experience period, including the loss ratio anticipated at the time the rates were promulgated for the experience period;

- (2) Credibility factor development and application;
- (3) Loss development factor derivation and application on both paid and incurred bases and in both numbers and dollars of claims;
- (4) Trending factor development and application;
- (5) Changes in premium base resulting from rating exposure trends;
- (6) Limiting factor development and application;
- (7) Overhead expense development and application of commission and brokerage, other acquisition expenses, general expenses, taxes, licenses, and fees;
- (8) Percent rate change;
- (9) Final proposed rates;
- (10) Investment earnings, consisting of investment income and realized plus unrealized capital gains, from loss, loss expense, and unearned premium reserves;
- (11) Identification of applicable statistical plans and programs and a certification of compliance with them;
- (12) Investment earnings on capital and surplus;
- (13) Level of capital and surplus needed to support premium writings without endangering the solvency of the company or companies involved; and
- (14) Such other information that may be required by any rule adopted by the Commissioner.

Provided, however, that no filing may be returned or disapproved on the grounds that such information has not been furnished if the filer has not been required to collect such information pursuant to statistical plans or programs or to report such information to statistical agents, except where the Commissioner has given reasonable prior notice to the filer to begin collecting and reporting such information or except when the information is readily available to the filer.

(f) It is unlawful for an insurer to charge or collect, or attempt to charge or collect, any premium for insurance except in accordance with filings made with the Commissioner under this section and Article 13C of this Chapter.

**"§ 58-481. Penalties; restitution.**—In addition to criminal penalties for acts declared unlawful by this Article, any violation of this Article subjects an insurer to revocation or suspension of its certificate of authority, or monetary penalties or payment of restitution as provided in G.S. 58-9.7."

Sec. 15. G.S. 58-131.53(b), G.S. 58-131.56, and G.S. 58-131.59 are repealed.

Sec. 16. G.S. 58-131.38(1) is amended by rewriting the proviso to read:

"Provided, however, that regional or countrywide expense or loss experience and other regional or countrywide data may be considered only when credible North Carolina expense or loss experience or other data is not available."

Sec. 17. G.S. 58-131.39 is amended by adding a new subsection to read:

"(d) This section and G.S. 58-480 shall be construed in pari materia."

Sec. 18. G.S. 58-54.4(11) is amended by rewriting the heading and first phrase to read:

"(11) Unfair Claim Settlement Practices. Committing or performing with such frequency as to indicate a general business practice of any of the following: Provided, however, that no violation of this subsection shall of itself create any cause of action in favor of any person other than the Commissioner".

Sec. 19. G.S. 58-248.33(b)(1)e. is rewritten to read:

"e. Any other motor vehicle insurance or financial responsibility limits in the amounts required by any federal law or federal agency regulation; by any law of this State; or by any rule duly adopted under Chapter 150B of the General Statutes or by the North Carolina Utilities Commission."

Sec. 20. G.S. 58-54.4(7) is amended by adding the following subdivisions:

"c. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or
2. The refusal, cancellation, or limitation is required by law.

d. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:

1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or
2. The refusal, cancellation, or limitation is required by law."

Sec. 21. G.S. 58-173.2 is amended by adding a new subsection to read:

"(3a) 'Crime insurance' means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies approved by the Commissioner and issued by the association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609."

Sec. 22. G.S. 58-173.8(b) is amended by inserting ", and shall offer additional extended coverage and crime insurance," between "property insurance" and "for a".

Sec. 23. G.S. 58-173.20, as found in the 1986 Special Supplement, is amended by rewriting the first sentence to read:

"The Association formed pursuant to the provisions of this Article shall have authority on behalf of its members to cause to be issued basic property insurance policies, including coverage for farm risks; and shall offer additional extended coverage

and crime insurance policies; to reinsure in whole or in part, any such policies; and to cede any such reinsurance."

Sec. 24. G.S. 58-173.17, as found in the 1986 Special Supplement, is amended by adding:

"(c) As used in this Article, 'crime insurance' means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies approved by the Commissioner and issued by the Association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609."

Sec. 25. G.S. 58-173.2(5) is amended by inserting "the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner, or" immediately before "the North Carolina Uniform Residential Building Code" in each place reference to that Code appears, except in the proviso at the end of the subsection.

Sec. 26. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 39.

"Local Government Risk Pools.

"§ 58-490. **Short title; definition.**—This Article shall be known and may be cited as the Local Government Risk Pool Act. As used in this Article, 'local government' means any county or municipal corporation located in this State.

"§ 58-491. **Local government pooling of property, liability and workers' compensation coverages.**—In addition to other authority granted pursuant to Chapters 153A and 160A of the General Statutes, two or more local governments may enter into contracts or agreements pursuant to this Article for the joint purchasing of insurance or to pool retention of their risks for property losses and liability claims and to provide for the payment of such losses of or claims made against any member of the pool on a cooperative or contract basis with one another, or may enter into a trust agreement to carry out the provisions of this Article. In addition to other authority granted pursuant to Chapters 153A and 160A of the General Statutes, two or more local governments may enter into contracts or agreements pursuant to this Article to establish a separate workers' compensation pool to provide for the payment of workers' compensation claims pursuant to Chapter 97 of the General Statutes or to establish pools providing for life or accident and health insurance for their employees on a cooperative or contract basis with one another; or may enter into a trust agreement to carry out the provisions of this Article. A workers' compensation pool established pursuant to this Article may only provide coverage for workers' compensation, employers' liability, and occupational disease claims.

"§ 58-492. **Board of trustees.**—(a) Each pool will be operated by a board of trustees consisting of at least five persons who are elected officials or employees of local governments within this State. The board of trustees of each pool will:



- (1) Establish terms and conditions of coverage within the pool, including underwriting criteria and exclusions of coverage;
  - (2) Ensure that all valid claims are paid promptly;
  - (3) Take all necessary precautions to safeguard the assets of the pool;
  - (4) Maintain minutes of its meeting and make those minutes available to the Commissioner;
  - (5) Designate an administrator to carry out the policies established by the board of trustees and to provide day to day management of the group and delineate in written minutes of its meetings the areas of authority it delegates to the administrator; and
  - (6) Establish guidelines for membership in the pool.
- (b) The board of trustees may not:
- (1) Extend credit to individual members for payment of a premium, except pursuant to payment plans approved by the Commissioner.
  - (2) Borrow any monies from the pool or in the name of the pool, except in the ordinary course of business, without first advising the Commissioner of the nature and purpose of the loan and obtaining prior approval from the Commissioner.

**"§ 58-493. Contract.**—A contract or agreement made pursuant to this Article must contain provisions:

- (1) For a system or program of loss control;
- (2) For termination of membership including either:
  - a. Cancellation of individual members of the pool by the pool; or
  - b. Election by an individual member of the pool to terminate its participation;
- (3) Requiring the pool to pay all claims for which each member incurs liability during each member's period of membership, except where a member has individually retained the risk, where the risk is not covered, and except for amount of claims above the coverage provided by the pool.
- (4) For the maintenance of claim reserves equal to known incurred losses and loss adjustment expenses and to an estimate of incurred but not reported losses;
- (5) For a final accounting and settlement of the obligations of or refunds to a terminating member to occur when all incurred claims are concluded, settled, or paid;
- (6) That the pool may establish offices where necessary in this State and employ necessary staff to carry out the purposes of the pool;
- (7) That the pool may retain legal counsel, actuaries, claims adjusters, auditors, engineers, private consultants, and advisors, and other persons as the board of trustees or the administrator deem to be necessary;
- (8) That the pool may make and alter bylaws and rules pertaining to the exercise of its purpose and powers;

- (9) That the pool may purchase, lease, or rent real and personal property it deems to be necessary; and
- (10) That the pool may enter into financial services agreements with financial institutions and that it may issue checks in its own name.

**"§ 58-494. Termination.**—A pool or a terminating member must provide at least 90 days' written notice of the termination or cancellation. A workers' compensation pool must notify the Commissioner of the termination or cancellation of a member within 10 days after notice of termination or cancellation is received or issued.

**"§ 58-495. Audit.**—Each pool must be audited annually at the expense of the pool by a certified public accounting firm, with a copy of the report available to the governing body or chief executive officer of each member of the pool and to the Commissioner. The board of trustees of the pool must obtain an appropriate actuarial evaluation of the loss and loss adjustment expense reserves of the pool, including an estimate of losses and loss adjustment expenses incurred but not reported. The Commissioner must examine each pool once every three years. The costs of such examination expenses will be paid by the pool that is subject to the examination. The Commissioner may examine a pool earlier than three years after a previous examination if he has reason to believe that the pool is insolvent or financially impaired.

**"§ 58-496. Insolvency or impairment of pool.**—(a) If, as a result of the annual audit or an examination by the Commissioner, it appears that the assets of a pool are insufficient to enable the pool to discharge its legal liabilities and other obligations, the Commissioner must notify the administrator and the board of trustees of the pool of the deficiency and his list of recommendations to abate the deficiency, including a recommendation not to add any new members until the deficiency is abated. If the pool fails to comply with the recommendations within 60 days after the date of the notice, the Commissioner must notify the chief executive officers or the governing bodies of the members of the pool, the Governor, the President of the Senate, and the Speaker of the House of Representatives that the pool has failed to comply with the recommendations of the Commissioner.

(b) If a pool is determined to be insolvent, financially impaired, or is otherwise found to be unable to discharge its legal liabilities and other obligations, each pool contract will provide that the members of the pool shall be assessed on a pro rata basis as calculated by the amount of each member's average annual contribution in order to satisfy the amount of deficiency. The assessment may not exceed the amount of each member's average annual contribution to the pool.

**"§ 58-497. Immunity of administrators and boards of trustees.**—There is no liability on the part of and no cause of action arises against any board of trustees established or administrator appointed pursuant to G.S. 58-492, their representatives, or any pool, its members, or its employees, agents, contractors, or subcontractors for any good faith action taken by them in the performance of their powers and duties in creating or administering any pool under this Article.

**"§ 58-498. Pools not covered by guaranty associations or solvency funds.**—The provisions of Articles 17B and 17C of this Chapter and of Article 3 of Chapter 97 of the

General Statutes do not apply to any risks retained by local governments pursuant to this Article."

Sec. 27. G.S. 153A-435(a) is amended by inserting after the first sentence of the second paragraph, and G.S. 160A-485(a) is amended by inserting after the first sentence, the following:

"Participation in a local government risk pool pursuant to Article 39 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section."

Sec. 28. Article 13C of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-131.62. Good faith immunity for operation of market assistance programs.**—There is no liability on the part of and no cause of action of any nature arises against any director, administrator, or employee of a market assistance program, or the Commissioner or his representatives, for any acts or omissions taken by them in creation or operation of a market assistance program. The immunity established by this section does not extend to willful neglect, malfeasance, bad faith, fraud, or malice that would otherwise make an act or omission actionable."

Sec. 29. Article 13C of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-131.63. CGL extended reporting.**—Any policy for commercial general liability coverage wherein the insurer offers, and the insured elects to purchase, an extended reporting period for claims arising during the expiring policy period must provide:

- (1) That in the event of a cancellation permitted by G.S. 58-473 or nonrenewal effective under G.S. 58-474, there shall be a 30 day period before the effective date of the cancellation or nonrenewal during which the insured may elect to purchase coverage for the extended reporting period;
- (2) That the limit of liability in the policy aggregate for the extended reporting period shall be one hundred percent (100%) of the expiring policy aggregate; and
- (3) That the insurer will provide the following loss information to the first named insured within 30 days of an insured's request, or, with any notice of cancellation or nonrenewal:
  - a. All information on closed claims including date and description of occurrence, and amount of payments, if any;
  - b. All information on open claims including date and description of occurrence, amount of payment, if any, and amount of reserves, if any;
  - c. All information on notices of occurrence including date and description of occurrence and amount of resources, if any."

Sec. 30. G.S. 58-27.22. is amended:

(a) By deleting the words, "county or municipality", "counties and municipalities", "counties or municipalities", and "municipality and county" from the

section, and by substituting the words "political subdivision" or "political subdivisions" as grammatically appropriate; and

(b) By adding the following, at the end:

"For purposes of this section, the term 'political subdivision' includes any county, city, town, incorporated village, sanitary district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, parking authority, local ABC boards, special airport district, airport authority, soil and water conservation district created pursuant to G.S. 139-5, fire district, volunteer or paid fire department, rescue squads, city or county parks and recreation commissions, area mental health boards, area mental health, mental retardation and substance abuse authority as described in G.S. 122C-117, domiciliary home community advisory committees, county and district boards of health, nursing home advisory committees, county boards of social services, local school administrative units, local boards of education, community colleges and technical institutes, and all other persons, bodies, or agencies authorized or regulated by Chapters 108A, 115C, 115D, 118, 122C, 130A, 131A, 131D, 131E, 153A, 160A, and 160B of the General Statutes."

Sec. 31. G.S. 130A-294 is amended by adding a new subdivision to read:

"(j) The Commission may adopt rules for financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures, and for potential liability for sudden and nonsudden accidental occurrences), which may permit the use of insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would have been provided by insurance if insurance were the only mechanism used. The Department may provide a copy of any filing to meet the financial responsibility requirements to the State Treasurer, who shall review the filing and provide written comments on the equivalency of protection provided by the filing, including recommended changes."

Sec. 32. G.S. 58-150 is amended by adding a new subsection (6) to read:

"(6) Satisfied the Commissioner that it is in substantial compliance with the provisions of G.S. 58-72.1 through G.S. 58- 72.3 and Article 35 of this Chapter."

Sec. 33. G.S. 58-248.33(g)(6) is amended by adding the following sentence:

"No agent may be designated under this subdivision to any insurer that does not actively write voluntary market business."

Sec. 34. G.S. 58-248.34 is amended by adding a new subsection to read:

"(i) The Facility shall file with the Commissioner revisions in the Facility plan of operation for his approval or modification. Such revisions shall be made for the purpose of revising the classification and rating plans for other than nonfleet private passenger motor vehicle insurance ceded to the Facility."

Sec. 35. G.S. 55-19(a) is rewritten to read:

"(a) In addition to the indemnification provided for in G.S. 55-20 and G.S. 55-21, a corporation may in its charter or bylaws or by contract or resolution indemnify or

agree to indemnify any one or more of its officers, directors, employees, or agents against liability and litigation expense, including reasonable attorneys' fees, arising out of their status as such or their activities in any of the foregoing capacities; provided, however, that a corporation may not indemnify or agree to indemnify a person against liability or litigation expense he may incur on account of his activities which were at the time taken known or believed by him to be clearly in conflict with the best interests of the corporation. A corporation may likewise and to the same extent indemnify or agree to indemnify any person who, at the request of the corporation, is or was serving as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise or as a trustee or administrator under an employee benefit plan. Any charter or bylaw provision, contract, or resolution permitted under this section may include provisions for recovery from the corporation of reasonable costs, expenses, and attorneys' fees in connection with the enforcement of rights to indemnification granted therein and may further include provisions establishing reasonable procedures for determining and enforcing the rights granted therein."

Sec. 36. G.S. 55-19(b) is rewritten to read:

"(b) The authorization, adoption, approval, or favorable recommendation by the board of directors of a corporation or any charter or bylaw provision or contract or resolution, as permitted in this section, shall not be deemed an act or corporate transaction in which a director has an adverse interest, and no such charter or bylaw provision or contract or resolution shall be void or voidable on such grounds. Except as permitted in G.S. 55-30, no such bylaw, contract, or resolution not adopted, authorized, approved, or ratified by shareholders shall be effective as to claims made or liabilities asserted against any director prior to its adoption, authorization, or approval by the board of directors."

Sec. 37. G.S. 55-19(c) is amended by adding immediately after "trust or other enterprise" the words "or as a trustee or administrator under an employee benefit plan".

Sec. 38. G.S. 55-19(d) is amended by adding immediately after "in the specific case" the words "or as authorized or required under any charter or bylaw provision or by any applicable resolution or contract" and is further amended by deleting "as authorized in this section or in G.S. 55-20 or 55- 21" and substituting "against such expenses".

Sec. 39. G.S. 55-20(a) is amended:

(a) By adding a immediately after the words "trust or other enterprise" the words ", or at the request of the corporation as a trustee or administrator under an employee benefit plan";

(b) In subparagraph (1) of that subsection, by deleting the words "on the merits";

(c) By deleting subparagraph (2) of that subsection and redesignating the following subparagraph as subparagraph (2);

(d) The first sentence of the newly designated subparagraph (2) is rewritten to read:

"(2) If such person is not wholly successful or is unsuccessful in his defense, or the proceeding to which he is a party results in his indictment, fine, or penalty, the corporation shall pay such expenses of defense or participation, including attorneys' fees, and the amount of any judgment, money decree, fine, penalty, or settlement for which he may have become liable, if:"; and

(e) By deleting the final period of subsubparagraph b. of the newly designated subparagraph (2) and substituting ", or".

Sec. 40. G.S. 55-21(c) is amended by deleting "permitted" and substituting "provided".

Sec. 41. G.S. 20-279.21(b)(3) is amended in the first paragraph:

(a) By deleting the phrase that begins with "and provided that" and that ends with "of third persons", and by substituting the following:

"provided, an insured is entitled to secure additional coverage up to the limits of bodily injury liability in the owner's policy of liability insurance that he carries for the protection of third persons."; and

(b) By deleting "ten thousand dollars (\$10,000)" and by substituting the following:

"up to the limits of property damage liability in the owner's policy of liability insurance,".

Sec. 42. G.S. 20-279.21(b)(3) and (b)(4) are each amended by adding to the end of the first paragraph of G.S. 20- 279.21(b)(3) and to the end of G.S. 20-279.21(b)(4) the following sentence:

"If the named insured rejects the coverage required under this subdivision, the insurer shall not be required to offer the coverage in any renewal, reinstatement, substitute, amended, altered, modified, transfer or replacement policy unless the named insured makes a written request for the coverage. Rejection of this coverage for policies issued after October 1, 1986, shall be made in writing by the named insured on a form promulgated by the North Carolina Rate Bureau and approved by the Commissioner of Insurance."

Sec. 43. G.S. 58-248.33(b)(2) is amended by inserting on the line between the amounts for medical payments and uninsured motorist the following:

"Underinsured motorist: one hundred thousand dollars (\$100,000) each person and three hundred thousand dollars (\$300,000) each accident for bodily injury liability;".

Sec. 44. G.S. 58-44.8 is amended by substituting "Article 36 of this Chapter" for "G.S.58-53.1".

Sec. 45. G.S. 58-422(8) is amended by inserting between "insurance" and "independently" the following: ", insurance".

Sec. 46. G.S. 58-424(a)(2)c. is amended by substituting "one" for "four" and "\$1,500,000" for "\$4,500,000".

Sec. 47. G.S. 58-131.44(a) is amended by substituting the words, "obtain a license from and" between the words "shall" and "file".

Sec. 48. G.S. 58-131.45(a) is amended by inserting the words, "obtain a license from and" between the words "file" and "with".

Sec. 49. G.S. 57B-3 is amended by substituting the words, "full compliance with Article 17 of General Statute Chapter 58" for the words, "registration to do business in this State as a foreign corporation under Article 17 of Chapter 58".

Sec. 50. G.S. 20-130.1(b) is amended by adding a new subdivision (11a) to read:

"(11a) A vehicle operated by the State Fire Marshal or his representatives in the performance of their duties, whether or not the State owns the vehicle;"

Sec. 51. G.S. 143-143.13, as found in the 1985 Supplement, is amended by adding a new subsection (c) to read:

"(c) In addition to the authority to deny, suspend, or revoke a license under this Part, the Board also has the authority to impose a five hundred dollar (\$500.00) civil penalty upon any person violating the provisions of this Part."

Sec. 52. G.S. 58-16.3 is amended by deleting the citation, "58-16.1" from the section.

Sec. 53. G.S. 58-151 is amended by designating the present section as subsection (a) and by adding a new subsection (b) to read:

"(b) Any foreign or alien company admitted to do business in this State shall have as a part of its corporate title one of the following: 'insurance company', 'insurance association', 'insurance society', 'life', 'casualty', or 'indemnity'; and 'mutual', if the corporation is organized upon the mutual principle."

Sec. 54. G.S. 97-94(a), as found in the 1985 Supplement, is amended by substituting "Industrial Commission" for "Commissioner of Insurance".

Sec. 55. G.S. 1A-1, Rule 11(a) is rewritten to read as follows:

"(a) Signing by attorney. Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee."

Sec. 56. G.S. 1A-1, Rule 8 (a)(2), is rewritten to read:

"(2) A demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded. In all negligence actions, and in all claims for punitive damages in any civil action, wherein the matter in controversy exceeds the sum or value of ten thousand dollars (\$10,000), the pleading shall not state the demand for monetary relief, but shall state that the relief demanded is for damages incurred or to be incurred in excess of ten thousand dollars (\$10,000). However, at any time after service of the claim for relief, any party may request of the claimant a written statement of the monetary relief sought, and the claimant shall, within 10 days after such service, provide such statement, which shall not be filed with the clerk until the action has been called for trial or entry of default entered. Such statement may be amended in the manner and at times as provided by Rule 15."

Sec. 57. In the event any provision of this act is held to be invalid by any court of competent jurisdiction, the court's holding as to that provision shall not affect the validity or operation of other provisions of this act; and to that end the provisions of this act are severable.

Sec. 58. Section 28 of this act is effective March 10, 1986. Sections 9.1 through 20, and 29 of this act shall become effective September 1, 1986. Sections 41 through 43 of this act shall become effective October 1, 1986. Sections 55 and 56 shall become effective January 1, 1987, and shall apply to pleadings, motions, or papers filed on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.