

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 409
SENATE BILL 603

AN ACT TO MAKE SUBSTANTIVE CHANGES IN VARIOUS INSURANCE AND
INSURANCE-RELATED LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3-100 reads as rewritten:

"§ 58-3-100. Revocation, suspension and refusal to renew license.

~~The license of any insurer, including fraternal orders and societies, may in the discretion of the Commissioner be suspended or revoked or its renewal refused, (a)~~
The Commissioner may revoke, suspend, or refuse to renew the license of any insurer if:

- (1) ~~Whenever it~~ The insurer fails or refuses to comply with any law, order or ~~regulation~~ rule applicable to it; ~~the insurer.~~
- (2) ~~Whenever its~~ The insurer's financial condition is unsound, or its assets above its liabilities, exclusive of capital, are less than the amount of its capital or required minimum ~~surplus;~~ surplus.
- (3) ~~Whenever it~~ The insurer has published or made to the Department or to the public any false statement or ~~report;~~ report.
- (4) ~~Whenever it~~ the insurer refuses to submit to any examination authorized by ~~law;~~ law.
- (5) ~~Whenever it~~ the insurer is found to make a practice of unduly engaging in ~~litigation;~~ litigation or of delaying the investigation of claims or the adjustment or payment of valid ~~claims~~ claims. ~~or whenever it fails to acknowledge a claim within 60 days after receiving written notice thereof, provided, such notice contains sufficient information for the insurance company to identify the specific insurance coverage involved. Acknowledgment of the claim shall be made to the claimant or his legal representative advising that the claim is being investigated; or shall be a payment of the claim; or shall be a bona fide written offer of settlement; or shall be a written denial of the claim.~~

(b) ~~Any such~~ suspension, revocation or refusal to renew ~~a~~ an insurer's license under this section may also be made applicable to the license or registration of ~~an agent~~ any natural person regulated under this Chapter who is a party to ~~such default or improper practice.~~ any of the causes for licensing sanctions listed in subsection (a) of this section.

(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an insurer fails to acknowledge a claim within 30 days after receiving written notice of the

claim, but only if the notice contains sufficient information for the insurer to identify the specific coverage involved. Acknowledgement of the claim shall be made to the claimant or his legal representative advising that the claim is being investigated; or shall be a payment of the claim; or shall be a bona fide written offer of settlement; or shall be a written denial of the claim."

Sec. 1.1. G.S. 58-33-25(c) reads as rewritten:

- "(c) An agent or broker may be licensed for the following kinds of insurance:
- (1) Life, Accident and Health Insurance
 - ~~(2) Accident and Health Insurance~~
 - (3) Fire and Casualty Insurance
 - (4) Repealed by Session Laws 1989, c. 485, s. 17.
 - (5) Title Insurance
 - (6) Repealed by Session Laws 1989, c. 485, s. 17.
 - (7) Automobile Physical Damage
 - (8) Medicare Supplement Insurance and Long-Term Care Insurance, as a supplement to a license for the kinds of insurance listed in subdivisions (1) and (2) of this subsection.

Any person who holds a valid license on February 1, 1988, which grants authority to act as an agent for the kinds of insurance described in this subsection shall be issued the equivalent agent's license for such kinds of insurance."

Sec. 2. G.S. 58-33-30(d) reads as rewritten:

- "(d) Education and Training. –
- (1) Each applicant must have had special education, training, or experience of sufficient duration and extent reasonably to satisfy the Commissioner that the applicant possesses the competence necessary to fulfill the responsibilities of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser.
 - (2) All individual applicants for licensing as life, accident and health agents or as fire and casualty agents shall furnish evidence satisfactory to the Commissioner of successful completion of at least 40 hours of instruction, which shall in all cases include the general principles of insurance and any other topics that the Commissioner establishes by regulation; and which shall, in the case of life, accident and health insurance applicants, include the principles of life, accident, and health insurance and, in the case of fire and casualty insurance applicants, shall include instruction in fire and casualty insurance. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a fire and casualty or life or health insurance company admitted to do business in this State or a professional insurance association shall be deemed to have satisfied the educational requirements of this subdivision. The requirement in this subdivision for completion of 40 hours of instruction applies only to applicants for life, accident and health or fire and casualty insurance

licenses. ~~The provisions of this subdivision also apply to applicants for accident and health insurance licenses; except that such applicants shall be required to successfully complete 20 hours of instruction. Such instruction shall in all cases include the general principles of insurance and the principles of accident and health insurance.~~

- (3) Each applicant for a Medicare supplement and long-term care insurance license shall furnish evidence satisfactory to the Commissioner of successful completion of 10 hours of instruction, which shall in all cases include the principles of Medicare supplement and long-term care insurance and federal and North Carolina law relating to such insurance. An applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of an admitted life or health insurer or a professional insurance association satisfies the educational requirements of this subdivision."

Sec. 3. G.S. 58-33-35 reads as rewritten:

"§ 58-33-35. Exemption from examination.

The following are exempt from the requirement for a written examination:

- (1) ~~Any applicant for a license covering the same kind or kinds of insurance for which the applicant was licensed under a like license in this State, other than a temporary license, within the 24 months next preceding the date of application, unless such previous license was revoked, suspended, or not continued by the Commissioner.~~
- (2) Repealed by Session Laws 1989, c. 485, s. 66, effective June 28, 1989.
- (3) An applicant who has attained the designation of Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Life Underwriter Training Council Fellow (LUTCF) or Fellow of Life Management Institute (FLMI), shall be exempt from the examination for licenses in G.S. ~~58-33-25(e)(1) and (2).~~ 58-33-25(c)(1).
- (4) An applicant who has attained the designation of Chartered Property and Casualty Underwriter (CPCU) shall be exempt from the examination for licenses in G.S. 58-33-25(c)(3) and (7).
- (5) Applicants for license as limited representatives or as motor vehicle damage appraisers.
- (6) Applicants for license as agents for companies or associations specified in G.S. 58-36-50; provided that with respect to town or county farmers mutual fire insurance companies, this exemption applies only to those agents who solicit and sell only those kinds of insurance specified in G.S. 58-7-75(5)d for such companies."

Sec. 4. G.S. 58-33-130(k) is repealed.

Sec. 5. G.S. 58-42-55 reads as rewritten:

"§ 58-42-55. Expiration.

This Article shall expire on July 1, ~~1993.~~ 1995."

Sec. 6. G.S. 143-143.21 is repealed.

Sec. 7. Article 9A of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-143.21A. Refund of buyer deposit.

(a) A dealer shall record the following information in a retail purchase agreement for a manufactured home:

- (1) A description of the manufactured home and all accessories included in the purchase;
- (2) The purchase price for the home and all accessories;
- (3) The amount of deposit;
- (4) The date the retail purchase agreement is signed; and
- (5) The estimated terms of financing the purchase, if any, including the estimated interest rate, number of years financed, and monthly payment.

(b) A dealer must present to the buyer and obtain his signature to a retail purchase agreement at the time the deposit is received. The purchase agreement shall contain, in immediate proximity to the space reserved for the signature of the buyer and in at least ten point, all upper-case Gothic type, a statement in substantially the following form:

'I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS PURCHASE PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE THAT I HAVE SIGNED THIS AGREEMENT. I UNDERSTAND THAT THIS CANCELLATION MUST BE IN WRITING. IF I ATTEMPT TO CANCEL THE PURCHASE AFTER THE THREE-DAY PERIOD, I UNDERSTAND THAT THE DEALER HAS NO OBLIGATION TO REFUND THE ENTIRE AMOUNT OF MY DEPOSIT.'

(c) The dealer must give to the buyer a copy of the purchase agreement along with a completed form in duplicate, captioned 'Notice of Cancellation', which shall be attached to the purchase agreement, be easily detachable, and shall explain in plain English the buyer's right to cancel the agreement and how that right can be exercised.

(d) A dealer shall refund to a buyer the full amount of a deposit on the purchase of a manufactured home if the buyer cancels the purchase before midnight of the third business day after the date the buyer signed the purchase agreement. In order to make an effective cancellation, the buyer must notify the dealer, in writing, of the buyer's intent to cancel the purchase agreement. The dealer shall make the refund promptly and, in any event, within 15 business days from receipt of the notice of cancellation. For purposes of this section, 'business day' shall mean Monday through Saturday, excluding legal holidays.

(e) If the buyer cancels the purchase agreement after the three-day cancellation period, but before the home is delivered to the buyer, then,

- (1) If the manufactured home is in the dealer's inventory, the dealer may retain from the deposit actual damages up to a maximum of ten percent (10%) of the purchase price; or

- (2) If the manufactured home is specially ordered from the manufacturer for the buyer, the dealer may retain actual damages up to the full amount of the buyer's deposit."

Sec. 8. G.S. 58-33-25(m) reads as rewritten:

"(m) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner. ~~An agent's license automatically terminates after a period of one year during which no appointment of such agent was in effect."~~

Sec. 9. G.S. 58-40-140 reads as rewritten:

"§ 58-40-140. ~~CGL extended~~ Extended reporting.

(a) Any policy for commercial general liability coverage or professional liability insurance 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. 58-41-15 or nonrenewal effective under G.S. 58-41-20, 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; 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 aggregate.
- (3) Within 45 days after the mailing or delivery of the written request of the insured, the insurer shall mail or deliver the following loss information covering a three-year period:
 - a. Aggregate information on total closed claims, including date and description of occurrence, and any paid losses;
 - b. Aggregate information on total open claims, including date and description of occurrence, and amounts of any payments;
 - c. Information on notice of any occurrence, including date and description of occurrence.

(b) In the event of a cancellation or nonrenewal of a health care provider's professional liability insurance policy by the insured or by the insurer, as permitted by G.S. 58-41-15 or G.S. 58-41-20, except for nonpayment of premium, there shall be a 30-day period after the effective date of the cancellation or nonrenewal during which the insured may elect to obtain an endorsement providing an extended reporting period of unlimited duration covering claims first reported during the extended reporting period and arising from the acts, errors, or omissions committed during the policy period and otherwise covered by the policy.

(c) An unlimited extended reporting period for health care provider professional liability claims must be provided if the insured: (i) dies; (ii) becomes permanently disabled and is unable to carry out his or her profession or practice; or (iii) retires permanently from his or her profession or practice after attaining the age of 65 and accumulating five or more consecutive years of claims-made coverage."

Sec. 10. G.S. 58-36-15(d) reads as rewritten:

"(d) With respect to the filing of rates for nonfleet private passenger motor vehicle insurance, the Bureau shall, on or before ~~July~~February 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. 11. With respect to the nonfleet private passenger motor vehicle insurance rate filing made on or before February 1, 1994, the Bureau may file an additional factor for an additional rate increase or decrease to compensate for the changing of the filing rate from July 1 to February 1 as provided in Section 10 of this act."

Sec. 12. G.S. 58-36-20(a) reads as rewritten:

"(a) At any time within 50 days from and after the date of any filing, the Commissioner may give written notice to the Bureau specifying in what respect and to what extent he contends such filing fails to comply with the requirements of this Article and fixing a date for hearing not less than 30 days from the date of mailing of such notice. At such hearing the factors specified in G.S. 58-36-10 shall be considered. If the Commissioner after hearing finds that the filing does not comply with the provisions of this Article, he may issue his order determining wherein and to what extent such filing is deemed to be improper and fixing a date thereafter, within a reasonable time, after which such filing shall no longer be effective. Any order of disapproval under this section must be entered within 105 days of the date the filing is received by the Commissioner: Provided that any order of disapproval under this section with respect to workers' compensation insurance and employers' liability insurance written in connection therewith shall be entered within ~~120~~150 days of the date the filing is received by the Commissioner."

Sec. 13. Article 31 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

"§ 58-31-12. Policy forms.

The Commissioner, with the approval of the Council of State, may adopt insurance forms for coverages provided by the State Property Fire Insurance Fund under this Article.

"§ 58-31-13. Hazardous conditions in State-owned buildings.

If the Commissioner determines that an undue hazard to life, safety, or property exists because of a condition or the use of a building owned by the State, the Commissioner shall advise the proper agency how to limit or prohibit use of the building until the hazard is abated."

Sec. 14. G.S. 58-51-80(b) reads as rewritten:

"(b) No policy or contract of group accident, group health or group accident and health insurance shall be delivered or issued for delivery in this State unless the group of persons thereby insured conforms to the requirements of the following subdivisions:

(1) Under a policy issued to an employer, principal, or to the trustee of a fund established by an employer or two or more employers in the same industry or kind of business, or by a principal or two or more principals in the same industry or kind of business, which employer, principal, or trustee shall be deemed the policyholder, covering, except as hereinafter provided, only employees, or agents, of any class or classes thereof determined by conditions pertaining to employment, or agency, for amounts of insurance based upon some plan which will preclude individual selection. The premium may be paid by the employer, by the employer and the employees jointly, or by the employee; and where the relationship of principal and agent exists, the premium may be paid by the principal, by the principal and agents, jointly, or by the agents. If the premium is paid by the employer and the employees jointly, or by the principal and agents jointly, or by the employees, or by the agents, the group shall be structured on an actuarially sound basis.

(1a) Under a policy issued to an association or to a trust or to the trustee or trustees of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 500 persons and shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least five years; and shall have a constitution and bylaws that provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members; (ii) except for credit unions, the association or associations collect dues or solicit contributions from members; and (iii) the members have voting privileges and representation on the governing board and committees. The policy is subject to the following requirements:

a. The policy may insure members of the association or associations, employees of the association or associations, or employees of members, or one or more of the preceding or all of any class or classes for the benefit of persons other than the employee's employer.

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer

members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

c. A policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject the coverage, in writing.

- (2) For employer groups of 50 or more persons no evidence of individual insurability may be required at the time the person first becomes eligible for insurance or within 31 days thereafter except for any insurance supplemental to the basic coverage for which evidence of individual insurability may be required. With respect to trusteed groups the phrase 'groups of 50' must be applied on a participating unit basis for the purpose of requiring individual evidence of insurability.
- (3) Policies may contain a provision limiting coverage for preexisting conditions. Preexisting conditions must be covered no later than 12 months after the effective date of coverage. Preexisting conditions are defined as 'those conditions for which medical advice or treatment was received or recommended or which could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage.' Preexisting conditions exclusions may not be implemented by any successor plan as to any covered persons who have already met all or part of the waiting period requirements under any prior group plan. Credit must be given for that portion of the waiting period which was met under the prior plan."

Sec. 15. Article 63 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-63-65. Rule-making authority.

The Commissioner may adopt rules to carry out the provisions of this Article, including rules that define unfair methods of competition or unfair or deceptive acts or practices in the business of insurance, in addition to those defined in G.S. 58-63-15 and determined under G.S. 58-63-40."

Sec. 16. G.S. 58-71-80(a) reads as rewritten:

"(a) The Commissioner may deny, suspend, or revoke or refuse to renew any license issued under this Article for any of the following causes:

- (1) For any cause sufficient to deny, suspend, or revoke license under any other provision of this Article.
- (2) Violation of any laws of this State relating to bail in the course of dealings under the license issued by the Commissioner.
- (3) Material misstatement, misrepresentation or fraud in obtaining the license.
- (4) Misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.

- (5) Fraudulent or dishonest practices in the conduct of business under the license.
- (6) Conviction of a felony regardless of the time the conviction occurred and regardless of whether the conviction resulted from conduct in or related to the bail bond business.
- (7) Failure to comply with or violation of the provisions of this Article or of any order, rule or regulation of the Commissioner.
- (8) When in the judgment of the Commissioner, the licensee has in the conduct of the licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness; or that the licensee is no longer in good faith carrying on the bail bond business; or that the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.
- (9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction.
- (10) For charging or receiving, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Article.
- (11) For requiring, as a condition of executing a bail bond, that the principal agree to engage the services of a specified attorney.
- (12) For cheating on an examination for a license under this Article.
- (13) For entering into any business association or agreement with any person who is at that time found by the Commissioner to be in violation of any of the bail bond laws of this State, or who has been in any manner disqualified under the bail bond laws of this State or any other state, whereby the person has any direct or indirect financial interest in the bail bond business of the licensee or applicant.
- (14) For knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (15) Any cause for which issuance of the license could ~~not~~ have been refused had it then existed and been known to the Commissioner at the time of issuance."

Sec. 17. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-71-81. Notice of receivership.

Upon the filing for protection under the United States Bankruptcy Code by any professional bondsman licensed under this Article or by any bail bond business in which the bondsman holds a position of management or ownership, the bondsman shall notify the Commissioner of the filing for protection within three business days after the filing. Upon the appointment of a receiver by a State or federal court for any professional bondsman licensed under this Article, or for any bail bond business in which the bondsman holds a position of management or ownership, the bondsman shall notify the Commissioner of the filing for protection within three business days after the filing. The failure to notify the Commissioner within three business days after the filing for

bankruptcy protection shall, after hearing, cause the license of any person failing to make the required notification to be suspended for a period of not less than 60 days nor more than three years, in the discretion of the Commissioner."

Sec. 18. G.S. 58-71-95 reads as rewritten:

"§ 58-71-95. Prohibited practices.

No bail bondsman or runner shall:

- (1) Pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law-enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof, including the payment to law-enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused or will cause a forfeiture.
- (2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond.
- (3) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf.
- (4) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of, or name for employment any particular attorney to represent his principal.
- (5) Accept anything of value from a principal or from anyone on behalf of a principal except the premium, which shall not exceed fifteen percent (15%) of the face amount of the bond, bond; provided that the bondsman shall be permitted to accept collateral security or other indemnity from the a principal which shall be returned upon final termination of liability on the bond. or from anyone on behalf of a principal. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. bond and shall be returned upon final termination of liability on the bond.
- (6) Solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate and in or about any place where prisoners are confined. Loitering in or about a magistrate's office or any place where prisoners are confined shall be **prima facie** evidence of soliciting.
- (7) Advise or assist the principal for the purpose of forfeiting bond."

Sec. 19. G.S. 20-310(f) reads as rewritten:

"(f) No cancellation or refusal to renew by an insurer of a policy of automobile insurance ~~shall be~~ is effective unless the insurer ~~shall have~~ has given the policyholder notice at his last known ~~post office~~ address by certificate of mailing a written notice of the cancellation or refusal to renew. Such notice shall:

- (1) Be approved as to form by the Commissioner of Insurance prior to use;

- (2) State the date, not less than 60 days after mailing to the insured of notice of cancellation or notice of intention not to renew, on which such cancellation or refusal to renew shall become effective, except that such effective date may be 15 days from the date of mailing or delivery when it is being canceled or not renewed for the reasons set forth in subdivision ~~(1) of subsection (d) (d)(1)~~ and in subdivision ~~(4) of subsection (e) (e)(4)~~ of this section;
- (3) State the specific reason or reasons of the insurer for cancellation or refusal to renew;
- (4) Advise the insured of his right to request in writing, within 10 days of the receipt of the notice, that the Commissioner of Insurance review the action of the insurer; ~~and the insured's right to request in writing, within 10 days of receipt of the notice, a hearing before the Commissioner of Insurance;~~
- (5) Either in the notice or in an accompanying statement advise the insured that operation of a motor vehicle without complying with the provisions of this Article is a misdemeanor and specifying the penalties for such violation."

Sec. 20. G.S. 20-310(i) reads as rewritten:

"(i) Notwithstanding any other provision herein contained, of this section, any insured ~~may may,~~ within 10 days ~~of the after~~ receipt of the notice of cancellation or notice of intention not to ~~renew,~~ renew within 10 days after or the receipt of the reason or reasons for cancellation or refusal to renew if they were not stated in the notice, ~~be entitled to make a written request to in writing that the Commissioner of Insurance that the Commissioner of Insurance~~ review the action of an insurer in canceling or refusing to renew the policy of such insured. ~~Within said 10 day period the insured may also request in writing a hearing in regard to such review; the insured;~~ otherwise, the right of the insured for a ~~hearing shall be deemed review is~~ waived. On receiving a request in writing for a review of the action of such insurer, the Commissioner of Insurance shall immediately notify the insurer involved of the insured's request and the charges involved, if known, and on receipt of ~~said the~~ notification and within 10 days thereafter the insurer may make a request response in writing ~~for a hearing in regard to such review; otherwise, the right of the insurer to such a hearing shall be deemed waived. the review.~~ ~~If neither the insurer or the insured by request in writing or the Commissioner of Insurance of his own motion requires a hearing, then in such event the~~ The Commissioner of Insurance shall make such investigation as he deems to be appropriate to determine if the insurer has violated the provisions of this section, and shall ~~after appropriate findings of fact~~ either approve the cancellation or nonrenewal of such policy or order the insurer to renew, reissue, or reinstate ~~such the~~ policy on such terms as may be just. ~~At the written request of the insured or insurer or on his own motion, the Commissioner of Insurance shall after notice conduct a hearing to determine if the insurer has violated the provisions of this section, and after appropriate findings of fact, shall within 40 days after receipt in writing of a request for review by the insured, either approve the cancellation or nonrenewal of such policy or order the insurer to renew,~~

~~reissue, or reinstate such policy on such terms as may be just. In addition, if~~ If the Commissioner of Insurance finds after notice and opportunity for hearing and after appropriate findings of fact, that the insurer has willfully violated the provisions of this section or has acted without reasonable investigation into the grounds for ~~action of~~ cancellation or nonrenewal, he may order the insurer involved to pay the reasonable expenses and costs of the investigation and review and hearing conducted by the Commissioner of Insurance, not to exceed the sum of ~~three hundred dollars (\$300.00)~~ one thousand dollars (\$1,000) and such costs as are ordered paid by the Commissioner of Insurance pursuant to the provisions of this section shall be paid as a condition of ~~such the~~ insurer continuing to write automobile insurance business in this State. Any insured or insurer aggrieved by any order or decision of the Commissioner of Insurance may appeal ~~said order and the order or decision to the Superior Court of Wake County pursuant to and subject to the provisions of under G.S. 58-2-75.~~ reviews, investigations, and hearings and investigations provided by this subsection may be conducted by the Commissioner personally or by one or more of his ~~deputies, actuaries, examiners, licensed attorneys,~~ deputies or employees designated by him for the purpose, and any order entered by ~~such hearing officer person~~ other than the Commissioner shall have the same force and effect as if entered by the Commissioner himself. All hearings shall be held at such time and place as shall be designated in a notice which shall be given by the Commissioner in writing to the person cited to appear at least 10 days before the date designated thereon. The notice shall state the subject of the inquiry and the specific charges, if any. It shall be sufficient to give such notice either by delivering it or by depositing the same in the United States mail, postage prepaid and addressed to the last known address of such insured or insurer. The policy shall remain in full force and effect during the pendency of review by the Commissioner of Insurance or the court except where the Commissioner of Insurance has sustained the action of the insurer and except where the cancellation or failure to renew was for nonpayment under subdivision ~~(1) of subsection (d)~~ (d)(1) and or subdivision ~~(4) of subsection (e)~~ (e)(4) of this section, in which case the policy shall terminate as of the date provided in the notice under subsection (f) of this section."

Sec. 21. G.S. 58-41-10(a) reads as rewritten:

"(a) Except as otherwise provided, this Article applies to all kinds of insurance authorized by G.S. 58-7-15(4) through (14) and G.S. 58-7-15(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 21, 36, 37, 45 or 46 of this Chapter; insurance written under G.S. 58-7-15(7),(13), or (14) when burglary and theft insurance or personal injury or property damage insurance is written for residential risks in conjunction with insurance written under Article 36 of this Chapter; to marine insurance as defined in G.S. 58-40-15(3); to personal inland marine insurance; to aviation insurance; to policies issued in this State covering risks with multistate locations, except with respect to coverages applicable to locations within this State; to any town or county farmers mutual fire insurance association restricting its operations to not more than six adjacent counties in this State; nor to domestic insurance

companies, associations, orders, or fraternal benefit societies doing business in this State on the assessment plan."

Sec. 22. Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-71-71. Examination; educational requirements; penalties.

(a) In order to be eligible to take the examination required to be licensed as a bail bondsman under G.S. 58-71-70, each person shall complete at least 20 hours of education in subjects pertinent to the duties and responsibilities of a bail bondsman, including all laws and regulations related to being a bail bondsman.

(b) Each year every licensee shall complete at least 10 hours of continuing education in subjects related to the duties and responsibilities of a bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination.

(c) Any person licensed as a bail bondsman before January 1, 1994, is not subject to the prelicensing education requirement of this section, but is subject to the continuing education requirement of this section. A licensed bail bondsman who is 65 years of age or older and who has been licensed as a bail bondsman for 15 years or more is exempt from both the prelicensing education and continuing education requirements of this section.

(d) The North Carolina Bail Agents Association shall provide education for bail bondsman licensure as required by this section. The Commissioner shall approve the courses offered and ensure that the education meets the general standards for education otherwise established by the Commissioner.

(e) Any person who falsely represents to the Commissioner that the requirements of this section have been met is subject, after notice and opportunity for hearing, to G.S. 58-2-70.

(f) The Commissioner may adopt rules for the effective administration of this section."

Sec. 23. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-52. Appeals and rate-making hearings before the Commissioner.

(a) The Commissioner may adopt rules for the hearing of appeals by the Commissioner or the Commissioner's designated hearing officer under G.S. 58-36-35, 58-37-65, 58-45-50, 58-46-30, 58-48-40(c)(7), 58-48-42, 58-62-51(c), and G.S. 58-62-92. These rules may provide for prefiled evidence and testimony of the parties, prehearing statements and conferences, settlement conferences, discovery, subpoenas, sanctions, motions, intervention, consolidation of cases, continuances, rights and responsibilities of parties, witnesses, and evidence.

(b) Notwithstanding G.S. 150B-38(h), hearing procedures for rate filings made by the North Carolina Rate Bureau shall be governed by the provisions of Article 36 of this Chapter and G.S. 150B-39 through G.S. 150B-41. The Commissioner may adopt rules for those hearings.

(c) Appeals under the statutes cited in subsection (a) of this section are not contested cases within the meaning of G.S. 150B-2(2)."

Sec. 24. G.S. 58-65-60(b) reads as rewritten:

"(b) ~~Contracts may be issued which that entitle one or more persons to benefits thereunder, under those contracts. provided that persons~~ Persons entitled to benefits ~~thereunder, under those contracts, other than the certificate holder, are either~~ may only be the certificate holder's spouse, lawful or legally adopted child of the certificate holder or ~~his~~ the certificate holder's spouse, or any other person ~~members of the immediate family of the certificate holder who reside~~ resides in the same household with the certificate holder and ~~are legally, equitably, or morally dependent upon and rely upon certificate holder to a material degree for the reasonable necessities of life, such as food, clothing, lodging, maintenance, support, and/or education. is dependent upon the certificate holder.~~"

Sec. 25. G.S. 58-36-30(b) reads as rewritten:

"(b) A rate in excess of that promulgated by the Bureau may be charged on any specific risk provided such higher rate is charged with the approval of the Commissioner and with the knowledge and written consent of the insured. All data filed with the Commissioner under this subsection are proprietary and confidential and are not public records under G.S. 132-1 or G.S. 58-2-100."

Sec. 26. G.S. 58-28-5 is amended by adding a new section to read:

"(c) This section does not apply to any surviving nonprofit corporation that results from a merger between the nonprofit corporation established by the North Carolina State Bar Council pursuant to Chapter 707 of the 1975 Session Laws of North Carolina and another domestic nonprofit corporation; provided, however, that any such surviving corporation shall register with the North Carolina State Bar Council under G.S. 84-23.1."

Sec. 27. G.S. 58-36-1(5) reads as rewritten:

"(5) It is the duty of every insurer that writes workers' compensation insurance in this State and is a member of the Bureau, as defined in this section and G.S. 58-36-5 to insure and accept any workers' compensation insurance risk that has been certified to be 'difficult to place' by any fire and casualty insurance agent who is licensed in this State. When any such risk is called to the attention of the Bureau by receipt of an application with an estimated or deposit premium payment and it appears that the risk is in good faith entitled to such coverage, the Bureau will bind coverage for 30 days and will designate a member who must issue a standard workers' compensation policy of insurance that contains the usual and customary provisions found in those policies. Multiple coordinated policies, as defined by the Bureau and approved by the Commissioner, may be used for the issuance of coverage under this subdivision for risks involved in employee leasing arrangements. Coverage will be bound at 12:01 A.M. on the first day following the postmark time and date on the envelope in which the application is mailed including the estimated annual or deposit premium, or the expiration of existing coverage, whichever is later. If there should be no postmark, coverage will be effective 12:01 A.M. on

the date of receipt by the Bureau unless a later date is requested. Those applications hand delivered to the Bureau will be effective as of 12:01 A.M. of the date following receipt by the Bureau unless a later date is requested. The designated carrier may request of the Bureau certification of the State Department of Labor that the insured is complying with the laws, rules, and regulations of that Department. The certification must be finished within 30 days by the State Department of Labor unless extension of time is granted by agreement between the Bureau and the State Department of Labor. The Bureau will make and adopt such rules as are necessary to carry this section into effect, subject to final approval of the Commissioner. As a prerequisite to the transaction of workers' compensation insurance in this State, every member of the Bureau that writes such insurance must file with the Bureau written authority permitting the Bureau to act in its behalf, as provided in this section, and an agreement to accept risks that are assigned to the member by the Bureau, as provided in this section."

Sec. 28. Sections 1.1, 2, 3, 4, 10, and 11 of this act are effective July 1, 1993. Sections 1 and 9 of this act become effective October 1, 1993. Section 22 of this act becomes effective January 1, 1994. Sections 6 and 7 of this act become effective January 1, 1994, and apply to purchase agreements executed on and after that date. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives