

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 603\*

Insurance Committee Substitute Adopted 5/10/93

House Committee Substitute Favorable 7/13/93

Short Title: Insurance Substantive Changes.

(Public)

Sponsors:

Referred to:

March 29, 1993

A BILL TO BE ENTITLED

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

1 adjustment or payment of valid ~~claims~~ claims, ~~or whenever it fails to~~  
 2 ~~acknowledge a claim within 60 days after receiving written notice thereof,~~  
 3 ~~provided, such notice contains sufficient information for the insurance~~  
 4 ~~company to identify the specific insurance coverage involved.~~  
 5 ~~Acknowledgment of the claim shall be made to the claimant or his legal~~  
 6 ~~representative advising that the claim is being investigated; or shall be a~~  
 7 ~~payment of the claim; or shall be a bona fide written offer of settlement; or~~  
 8 ~~shall be a written denial of the claim.~~

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

13 (c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an  
 14 insurer fails to acknowledge a claim within 30 days after receiving written notice of the  
 15 claim, but only if the notice contains sufficient information for the insurer to identify the  
 16 specific coverage involved. Acknowledgement of the claim shall be made to the  
 17 claimant or his legal representative advising that the claim is being investigated; or shall  
 18 be a payment of the claim; or shall be a bona fide written offer of settlement; or shall be  
 19 a written denial of the claim."

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

21 "(c) An agent or broker may be licensed for the following kinds of insurance:

- 22 (1) Life, Accident and Health Insurance
- 23 (2) ~~Accident and Health Insurance~~
- 24 (3) Fire and Casualty Insurance
- 25 (4) Repealed by Session Laws 1989, c. 485, s. 17.
- 26 (5) Title Insurance
- 27 (6) Repealed by Session Laws 1989, c. 485, s. 17.
- 28 (7) Automobile Physical Damage
- 29 (8) Medicare Supplement Insurance and Long-Term Care Insurance, as a  
 30 supplement to a license for the kinds of insurance listed in subdivisions  
 31 (1) and (2) of this subsection.

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

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

36 "(d) Education and Training. –

- 37 (1) Each applicant must have had special education, training, or  
 38 experience of sufficient duration and extent reasonably to satisfy the  
 39 Commissioner that the applicant possesses the competence necessary  
 40 to fulfill the responsibilities of an agent, broker, limited representative,  
 41 adjuster, or motor vehicle damage appraiser.
- 42 (2) All individual applicants for licensing as life, accident and health  
 43 agents or as fire and casualty agents shall furnish evidence satisfactory  
 44 to the Commissioner of successful completion of at least 40 hours of  
 45 instruction, which shall in all cases include the general principles of

1 insurance and any other topics that the Commissioner establishes by  
 2 regulation; and which shall, in the case of life, accident and health  
 3 insurance applicants, include the principles of life, accident, and health  
 4 insurance and, in the case of fire and casualty insurance applicants,  
 5 shall include instruction in fire and casualty insurance. Any applicant  
 6 who submits satisfactory evidence of having successfully completed  
 7 an agent training course that has been approved by the Commissioner  
 8 and that is offered by or under the auspices of a fire and casualty or life  
 9 or health insurance company admitted to do business in this State or a  
 10 professional insurance association shall be deemed to have satisfied  
 11 the educational requirements of this subdivision. The requirement in  
 12 this subdivision for completion of 40 hours of instruction applies only  
 13 to applicants for life, accident and health or fire and casualty insurance  
 14 licenses. ~~The provisions of this subdivision also apply to applicants for~~  
 15 ~~accident and health insurance licenses; except that such applicants shall be~~  
 16 ~~required to successfully complete 20 hours of instruction. Such instruction~~  
 17 ~~shall in all cases include the general principles of insurance and the~~  
 18 ~~principles of accident and health insurance.~~

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

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

31 **"§ 58-33-35. Exemption from examination.**

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

- 33 (1) ~~Any applicant for a license covering the same kind or kinds of~~  
 34 ~~insurance for which the applicant was licensed under a like license in~~  
 35 ~~this State, other than a temporary license, within the 24 months next~~  
 36 ~~preceding the date of application, unless such previous license was~~  
 37 ~~revoked, suspended, or not continued by the Commissioner.~~
- 38 (2) Repealed by Session Laws 1989, c. 485, s. 66, effective June 28, 1989.
- 39 (3) An applicant who has attained the designation of Chartered Life  
 40 Underwriter (CLU), Chartered Financial Consultant (ChFC), Life  
 41 Underwriter Training Council Fellow (LUTCF) or Fellow of Life  
 42 Management Institute (FLMI), shall be exempt from the examination  
 43 for licenses in G.S. ~~58-33-25(e)(1) and (2).~~ 58-33-25(c)(1).

- 1 (4) An applicant who has attained the designation of Chartered Property  
2 and Casualty Underwriter (CPCU) shall be exempt from the  
3 examination for licenses in G.S. 58-33-25(c)(3) and (7).  
4 (5) Applicants for license as limited representatives or as motor vehicle  
5 damage appraisers.  
6 (6) Applicants for license as agents for companies or associations  
7 specified in G.S. 58-36-50; provided that with respect to town or  
8 county farmers mutual fire insurance companies, this exemption  
9 applies only to those agents who solicit and sell only those kinds of  
10 insurance specified in G.S. 58-7-75(5)d for such companies."

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

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

13 **"§ 58-42-55. Expiration.**

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

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

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

18 **"§ 143-143.21A. Refund of buyer deposit.**

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

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

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

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

42 (c) The dealer must give to the buyer a copy of the purchase agreement along with a  
43 completed form in duplicate, captioned 'Notice of Cancellation', which shall be attached

1 to the purchase agreement, be easily detachable, and shall explain in plain English the  
2 buyer's right to cancel the agreement and how that right can be exercised.

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

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

13 (1) If the manufactured home is in the dealer's inventory, the dealer may  
14 retain from the deposit actual damages up to a maximum of ten percent  
15 (10%) of the purchase price; or

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

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

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

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

26 "**§ 58-40-140. ~~CGL extended~~ Extended reporting.**

27 (a) Any policy for commercial general liability coverage or professional liability  
28 insurance wherein the insurer offers, and the insured elects to purchase, an extended  
29 reporting period for claims arising during the expiring policy period must provide:

30 (1) That in the event of a cancellation permitted by G.S. 58-41-15 or  
31 nonrenewal effective under G.S. 58-41-20, there shall be a 30-day  
32 period before the effective date of the cancellation or nonrenewal  
33 during which the insured may elect to purchase coverage for the  
34 extended reporting ~~period;~~ period.

35 (2) That the limit of liability in the policy aggregate for the extended  
36 reporting period shall be one hundred percent (100%) of the expiring  
37 policy ~~aggregate;~~ and aggregate.

38 (3) Within 45 days after the mailing or delivery of the written request of  
39 the insured, the insurer shall mail or deliver the following loss  
40 information covering a three-year period:

41 a. Aggregate information on total closed claims, including date  
42 and description of occurrence, and any paid losses;

43 b. Aggregate information on total open claims, including date and  
44 description of occurrence, and amounts of any payments;

1 c. Information on notice of any occurrence, including date and  
2 description of occurrence.

3 (b) In the event of a cancellation or nonrenewal of a health care provider's  
4 professional liability insurance policy by the insured or by the insurer, as permitted by  
5 G.S. 58-41-15 or G.S. 58-41-20, except for nonpayment of premium, there shall be a  
6 30-day period after the effective date of the cancellation or nonrenewal during which  
7 the insured may elect to obtain an endorsement providing an extended reporting period  
8 of unlimited duration covering claims first reported during the extended reporting  
9 period and arising from the acts, errors, or omissions committed during the policy  
10 period and otherwise covered by the policy.

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

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

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

33 Sec. 11. With respect to the nonfleet private passenger motor vehicle  
34 insurance rate filing made on or before February 1, 1994, the Bureau may file an  
35 additional factor for an additional rate increase or decrease to compensate for the  
36 changing of the filing rate from July 1 to February 1 as provided in Section 10 of this  
37 act."

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

39 "(a) At any time within 50 days from and after the date of any filing, the  
40 Commissioner may give written notice to the Bureau specifying in what respect and to  
41 what extent he contends such filing fails to comply with the requirements of this Article  
42 and fixing a date for hearing not less than 30 days from the date of mailing of such  
43 notice. At such hearing the factors specified in G.S. 58-36-10 shall be considered. If  
44 the Commissioner after hearing finds that the filing does not comply with the provisions

1 of this Article, he may issue his order determining wherein and to what extent such  
2 filing is deemed to be improper and fixing a date thereafter, within a reasonable time,  
3 after which such filing shall no longer be effective. Any order of disapproval under this  
4 section must be entered within 105 days of the date the filing is received by the  
5 Commissioner: Provided that any order of disapproval under this section with respect to  
6 workers' compensation insurance and employers' liability insurance written in  
7 connection therewith shall be entered within ~~120~~150 days of the date the filing is  
8 received by the Commissioner."

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

11 "**§ 58-31-12. Policy forms.**

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

15 "**§ 58-31-13. Hazardous conditions in State-owned buildings.**

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

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

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

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

40 (1a) Under a policy issued to an association or to a trust or to the trustee or  
41 trustees of a fund established, created, or maintained for the benefit of  
42 members of one or more associations. The association or associations  
43 shall have at the outset a minimum of 500 persons and shall have been  
44 organized and maintained in good faith for purposes other than that of

1           obtaining insurance; shall have been in active existence for at least five  
2           years; and shall have a constitution and bylaws that provide that (i) the  
3           association or associations hold regular meetings not less than annually  
4           to further purposes of the members; (ii) except for credit unions, the  
5           association or associations collect dues or solicit contributions from  
6           members; and (iii) the members have voting privileges and  
7           representation on the governing board and committees. The policy is  
8           subject to the following requirements:

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

14           b.     The premium for the policy shall be paid from funds  
15           contributed by the association or associations, or by employer  
16           members, or by both, or from funds contributed by the covered  
17           persons or from both the covered persons and the association,  
18           associations, or employer members.

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

23           (2)    For employer groups of 50 or more persons no evidence of individual  
24           insurability may be required at the time the person first becomes  
25           eligible for insurance or within 31 days thereafter except for any  
26           insurance supplemental to the basic coverage for which evidence of  
27           individual insurability may be required. With respect to trustee  
28           groups the phrase 'groups of 50' must be applied on a participating unit  
29           basis for the purpose of requiring individual evidence of insurability.

30           (3)    Policies may contain a provision limiting coverage for preexisting  
31           conditions. Preexisting conditions must be covered no later than 12  
32           months after the effective date of coverage. Preexisting conditions are  
33           defined as 'those conditions for which medical advice or treatment was  
34           received or recommended or which could be medically documented  
35           within the 12-month period immediately preceding the effective date  
36           of the person's coverage.' Preexisting conditions exclusions may not  
37           be implemented by any successor plan as to any covered persons who  
38           have already met all or part of the waiting period requirements under  
39           any prior group plan. Credit must be given for that portion of the  
40           waiting period which was met under the prior plan."

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

43           "**§ 58-63-65. Rule-making authority.**

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

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

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

- 8           (1) For any cause sufficient to deny, suspend, or revoke license under any  
9           other provision of this Article.
- 10          (2) Violation of any laws of this State relating to bail in the course of  
11          dealings under the license issued by the Commissioner.
- 12          (3) Material misstatement, misrepresentation or fraud in obtaining the  
13          license.
- 14          (4) Misappropriation, conversion or unlawful withholding of moneys  
15          belonging to insurers or others and received in the conduct of business  
16          under the license.
- 17          (5) Fraudulent or dishonest practices in the conduct of business under the  
18          license.
- 19          (6) Conviction of a felony regardless of the time the conviction occurred  
20          and regardless of whether the conviction resulted from conduct in or  
21          related to the bail bond business.
- 22          (7) Failure to comply with or violation of the provisions of this Article or  
23          of any order, rule or regulation of the Commissioner.
- 24          (8) When in the judgment of the Commissioner, the licensee has in the  
25          conduct of the licensee's affairs under the license, demonstrated  
26          incompetency, financial irresponsibility, or untrustworthiness; or that  
27          the licensee is no longer in good faith carrying on the bail bond  
28          business; or that the licensee is guilty of rebating, or offering to rebate,  
29          or offering to divide the premiums received for the bond.
- 30          (9) For failing to pay any judgment or decree rendered on any forfeited  
31          undertaking in any court of competent jurisdiction.
- 32          (10) For charging or receiving, as premium or compensation for the making  
33          of any deposit or bail bond, any sum in excess of that permitted by this  
34          Article.
- 35          (11) For requiring, as a condition of executing a bail bond, that the  
36          principal agree to engage the services of a specified attorney.
- 37          (12) For cheating on an examination for a license under this Article.
- 38          (13) For entering into any business association or agreement with any  
39          person who is at that time found by the Commissioner to be in  
40          violation of any of the bail bond laws of this State, or who has been in  
41          any manner disqualified under the bail bond laws of this State or any  
42          other state, whereby the person has any direct or indirect financial  
43          interest in the bail bond business of the licensee or applicant.

1 (14) For knowingly aiding or abetting others to evade or violate the  
2 provisions of this Article.

3 (15) Any cause for which issuance of the license could ~~not~~ have been  
4 refused had it then existed and been known to the Commissioner at the  
5 time of issuance."

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

8 **"§ 58-71-81. Notice of receivership.**

9 Upon the filing for protection under the United States Bankruptcy Code by any  
10 professional bondsman licensed under this Article or by any bail bond business in which  
11 the bondsman holds a position of management or ownership, the bondsman shall notify  
12 the Commissioner of the filing for protection within three business days after the filing.  
13 Upon the appointment of a receiver by a State or federal court for any professional  
14 bondsman licensed under this Article, or for any bail bond business in which the  
15 bondsman holds a position of management or ownership, the bondsman shall notify the  
16 Commissioner of the filing for protection within three business days after the filing.  
17 The failure to notify the Commissioner within three business days after the filing for  
18 bankruptcy protection shall, after hearing, cause the license of any person failing to  
19 make the required notification to be suspended for a period of not less than 60 days nor  
20 more than three years, in the discretion of the Commissioner."

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

22 **"§ 58-71-95. Prohibited practices.**

23 No bail bondsman or runner shall:

24 (1) Pay a fee or rebate or give or promise anything of value, directly or  
25 indirectly, to a jailer, law-enforcement officer, committing magistrate,  
26 or any other person who has power to arrest or hold in custody, or to  
27 any public official or public employee in order to secure a settlement,  
28 compromise, remission or reduction of the amount of any bail bond or  
29 the forfeiture thereof, including the payment to law-enforcement  
30 officers, directly or indirectly, for the arrest or apprehension of a  
31 principal or principals who have caused or will cause a forfeiture.

32 (2) Pay a fee or rebate or give anything of value to an attorney in bail bond  
33 matters, except in defense of any action on a bond.

34 (3) Pay a fee or rebate or give or promise anything of value to the  
35 principal or anyone in his behalf.

36 (4) Participate in the capacity of an attorney at a trial or hearing of one on  
37 whose bond he is surety, nor suggest or advise the employment of, or  
38 name for employment any particular attorney to represent his  
39 principal.

40 (5) Accept anything of value from a principal or from anyone on behalf of  
41 a principal except the premium, which shall not exceed fifteen percent  
42 (15%) of the face amount of the ~~bond, bond;~~ provided that the  
43 bondsman shall be permitted to accept collateral security or other  
44 indemnity from the a principal which shall be returned upon final

1 ~~termination of liability on the bond.~~ or from anyone on behalf of a  
 2 principal. Such collateral security or other indemnity required by the  
 3 bondsman must be reasonable in relation to the amount of the ~~bond.~~  
 4 bond and shall be returned upon final termination of liability on the  
 5 bond.

6 (6) Solicit business in any of the courts or on the premises of any of the  
 7 courts of this State, in the office of any magistrate and in or about any  
 8 place where prisoners are confined. Loitering in or about a magistrate's  
 9 office or any place where prisoners are confined shall be **prima facie**  
 10 evidence of soliciting.

11 (7) Advise or assist the principal for the purpose of forfeiting bond."  
 12 Sec. 19. G.S. 20-310(f) reads as rewritten:

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

- 17 (1) Be approved as to form by the Commissioner of Insurance prior to use;  
 18 (2) State the date, not less than 60 days after mailing to the insured of  
 19 notice of cancellation or notice of intention not to renew, on which  
 20 such cancellation or refusal to renew shall become effective, except  
 21 that such effective date may be 15 days from the date of mailing or  
 22 delivery when it is being canceled or not renewed for the reasons set  
 23 forth in subdivision ~~(1) of subsection (d)-(d)(1)~~ and in subdivision ~~(4) of~~  
 24 ~~subsection (e)-(e)(4)~~ of this section;  
 25 (3) State the specific reason or reasons of the insurer for cancellation or  
 26 refusal to renew;  
 27 (4) Advise the insured of his right to request in writing, within 10 days of  
 28 the receipt of the notice, that the Commissioner of Insurance review  
 29 the action of the insurer; ~~and the insured's right to request in writing,~~  
 30 ~~within 10 days of receipt of the notice, a hearing before the Commissioner of~~  
 31 ~~Insurance;~~  
 32 (5) Either in the notice or in an accompanying statement advise the  
 33 insured that operation of a motor vehicle without complying with the  
 34 provisions of this Article is a misdemeanor and specifying the  
 35 penalties for such violation."

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

37 "(i) Notwithstanding any other provision herein contained, ~~of this section,~~ any  
 38 insured ~~may~~ may, within 10 days ~~of the~~ after receipt of the notice of cancellation or  
 39 notice of intention not to ~~renew,~~ renew within 10 days after ~~the~~ receipt of the reason  
 40 or reasons for cancellation or refusal to renew if they were not stated in the notice, ~~be~~  
 41 entitled to make a written request to in writing that the Commissioner of Insurance that  
 42 the Commissioner of Insurance review the action of an insurer in canceling or refusing  
 43 to renew the policy of such insured. Within said 10 day period the insured may also request  
 44 in writing a hearing in regard to such review; the insured; otherwise, the right of the insured

1 for a ~~hearing shall be deemed~~ review is waived. On receiving a request in writing for a  
2 review of the action of such insurer, the Commissioner of Insurance shall immediately  
3 notify the insurer involved of the insured's request and the charges involved, if known,  
4 and on receipt of ~~said the~~ notification and within 10 days thereafter the insurer may  
5 make a ~~request response~~ in writing for a hearing in regard to ~~such review; otherwise, the~~  
6 ~~right of the insurer to such a hearing shall be deemed waived. the~~ review. If neither the  
7 insurer or the insured by request in writing or the Commissioner of Insurance of his own  
8 motion requires a hearing, then in such event the The Commissioner of Insurance shall  
9 make such investigation as he deems to be appropriate to determine if the insurer has  
10 violated the provisions of this section, and shall ~~after appropriate findings of fact~~ either  
11 approve the cancellation or nonrenewal of such policy or order the insurer to renew,  
12 reissue, or reinstate ~~such the~~ policy on such terms as may be just. ~~At the written request of~~  
13 ~~the insured or insurer or on his own motion, the Commissioner of Insurance shall after notice~~  
14 ~~conduct a hearing to determine if the insurer has violated the provisions of this section, and~~  
15 ~~after appropriate findings of fact, shall within 40 days after receipt in writing of a request for~~  
16 ~~review by the insured, either approve the cancellation or nonrenewal of such policy or order the~~  
17 ~~insurer to renew, reissue, or reinstate such policy on such terms as may be just. In addition, if~~ If  
18 the Commissioner of Insurance finds after notice and opportunity for hearing and after  
19 appropriate findings of fact, that the insurer has willfully violated the provisions of this  
20 section or has acted without reasonable investigation into the grounds for ~~action of~~  
21 cancellation or nonrenewal, he may order the insurer involved to pay the reasonable  
22 expenses and costs of the investigation and review and hearing conducted by the  
23 Commissioner of Insurance, not to exceed the sum of three hundred dollars (\$300.00) one  
24 thousand dollars (\$1,000) and such costs as are ordered paid by the Commissioner of  
25 Insurance pursuant to the provisions of this section shall be paid as a condition of ~~such the~~  
26 insurer continuing to write automobile insurance business in this State. Any insured or  
27 insurer aggrieved by any order or decision of the Commissioner of Insurance may  
28 appeal ~~said order and the order or decision to the Superior Court of Wake County pursuant to~~  
29 ~~and subject to the provisions of under~~ G.S. 58-2-75. All examinations, reviews,  
30 investigations, and hearings and investigations provided by this subsection may be  
31 conducted by the Commissioner personally or by one or more of his ~~deputies, actuaries,~~  
32 ~~examiners, licensed attorneys, deputies~~ or employees designated by him for the purpose,  
33 and any order entered by such ~~hearing officer person~~ other than the Commissioner shall  
34 have the same force and effect as if entered by the Commissioner himself. All hearings  
35 shall be held at such time and place as shall be designated in a notice which shall be  
36 given by the Commissioner in writing to the person cited to appear at least 10 days  
37 before the date designated thereon. The notice shall state the subject of the inquiry and  
38 the specific charges, if any. It shall be sufficient to give such notice either by delivering  
39 it or by depositing the same in the United States mail, postage prepaid and addressed to  
40 the last known address of such insured or insurer. The policy shall remain in full force  
41 and effect during the pendency of review by the Commissioner of Insurance or the court  
42 except where the Commissioner of Insurance has sustained the action of the insurer and  
43 except where the cancellation or failure to renew was for nonpayment under subdivision  
44 ~~(1) of subsection (d) (d)(1) and or subdivision (4) of subsection (e) (e)(4)~~ of this section, in

1 which case the policy shall terminate as of the date provided in the notice under  
2 subsection (f) of this section."

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

4 "(a) Except as otherwise provided, this Article applies to all kinds of insurance  
5 authorized by G.S. 58-7-15(4) through (14) and G.S. 58-7-15(18) through (22), and to  
6 all insurance companies licensed by the Commissioner to write those kinds of  
7 insurance. This Article does not apply to insurance written under Articles 21, 36, 37, 45  
8 or 46 of this Chapter; insurance written under G.S. 58-7-15(7),(13), or (14) when  
9 burglary and theft insurance or personal injury or property damage insurance is written  
10 for residential risks in conjunction with insurance written under Article 36 of this  
11 Chapter; to marine insurance as defined in G.S. 58-40-15(3); to personal inland marine  
12 insurance; to aviation insurance; to policies issued in this State covering risks with  
13 multistate locations, except with respect to coverages applicable to locations within this  
14 State; to any town or county farmers mutual fire insurance association restricting its  
15 operations to not more than six adjacent counties in this State; nor to domestic insurance  
16 companies, associations, orders, or fraternal benefit societies doing business in this State  
17 on the assessment plan."

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

20 "**§ 58-71-71. Examination; educational requirements; penalties.**

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

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

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

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

39 (e) Any person who falsely represents to the Commissioner that the requirements  
40 of this section have been met is subject, after notice and opportunity for hearing, to G.S.  
41 58-2-70.

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

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

3 **"§ 58-2-52. Appeals and rate-making hearings before the Commissioner.**

4       (a) The Commissioner may adopt rules for the hearing of appeals by the  
5 Commissioner or the Commissioner's designated hearing officer under G.S. 58-36-35,  
6 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-  
7 92. These rules may provide for prefiled evidence and testimony of the parties,  
8 prehearing statements and conferences, settlement conferences, discovery, subpoenas,  
9 sanctions, motions, intervention, consolidation of cases, continuances, rights and  
10 responsibilities of parties, witnesses, and evidence.

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

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

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

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

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

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

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

34       "(c) This section does not apply to any surviving nonprofit corporation that results  
35 from a merger between the nonprofit corporation established by the North Carolina  
36 State Bar Council pursuant to Chapter 707 of the 1975 Session Laws of North Carolina  
37 and another domestic nonprofit corporation; provided, however, that any such surviving  
38 corporation shall register with the North Carolina State Bar Council under G.S. 84-  
39 23.1."

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

41       "(5) It is the duty of every insurer that writes workers' compensation  
42 insurance in this State and is a member of the Bureau, as defined in  
43 this section and G.S. 58-36-5 to insure and accept any workers'  
44 compensation insurance risk that has been certified to be 'difficult to

1 place' by any fire and casualty insurance agent who is licensed in this  
2 State. When any such risk is called to the attention of the Bureau by  
3 receipt of an application with an estimated or deposit premium  
4 payment and it appears that the risk is in good faith entitled to such  
5 coverage, the Bureau will bind coverage for 30 days and will designate  
6 a member who must issue a standard workers' compensation policy of  
7 insurance that contains the usual and customary provisions found in  
8 those policies. Multiple coordinated policies, as defined by the Bureau  
9 and approved by the Commissioner, may be used for the issuance of  
10 coverage under this subdivision for risks involved in employee leasing  
11 arrangements. Coverage will be bound at 12:01 A.M. on the first day  
12 following the postmark time and date on the envelope in which the  
13 application is mailed including the estimated annual or deposit  
14 premium, or the expiration of existing coverage, whichever is later. If  
15 there should be no postmark, coverage will be effective 12:01 A.M. on  
16 the date of receipt by the Bureau unless a later date is requested.  
17 Those applications hand delivered to the Bureau will be effective as of  
18 12:01 A.M. of the date following receipt by the Bureau unless a later  
19 date is requested. The designated carrier may request of the Bureau  
20 certification of the State Department of Labor that the insured is  
21 complying with the laws, rules, and regulations of that Department.  
22 The certification must be finished within 30 days by the State  
23 Department of Labor unless extension of time is granted by agreement  
24 between the Bureau and the State Department of Labor. The Bureau  
25 will make and adopt such rules as are necessary to carry this section  
26 into effect, subject to final approval of the Commissioner. As a  
27 prerequisite to the transaction of workers' compensation insurance in  
28 this State, every member of the Bureau that writes such insurance must  
29 file with the Bureau written authority permitting the Bureau to act in  
30 its behalf, as provided in this section, and an agreement to accept risks  
31 that are assigned to the member by the Bureau, as provided in this  
32 section."

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