

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 353

Short Title: Insurance Technical Amendments/AB.

(Public)

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Sponsors: Senator Parnell.

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Referred to: Pensions and Retirement/Insurance/State Personnel

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March 9, 1995

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS AND CORRECTIONS IN THE  
INSURANCE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-1-5 reads as rewritten:

**"§ 58-1-5. Definitions.**

In ~~Articles 1 through 64~~ of this Chapter, unless the context ~~otherwise requires~~, clearly requires otherwise:

(1) 'Alien company' means a company incorporated or organized under the laws of any jurisdiction outside of the United States.

(2) 'Commissioner' means Commissioner of Insurance of North ~~Carolina~~.  
Carolina or an authorized designee of the Commissioner.

(3) 'Company' or 'insurance company' or 'insurer' ~~shall be deemed to include~~  
includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations.

(4) 'Department' means Department of Insurance of North Carolina.

- 1 (5) 'Domestic company' means a company incorporated or organized under  
2 the laws of this State.
- 3 (6) 'Foreign company' means a company incorporated or organized under  
4 the laws of the United States or of any jurisdiction within the United  
5 States other than this State.
- 6 (7) 'NAIC' means the National Association of Insurance Commissioners.
- 7 (8) 'Nuclear insured' means a public utility procuring insurance against  
8 radioactive contamination and other risks of direct physical loss at a  
9 nuclear electric generating plant.
- 10 (9) 'Person' ~~includes an individual, aggregation of individuals, corporation,~~  
11 ~~company, association and partnership.~~ means an individual, partnership,  
12 firm, association, corporation, joint-stock company, trust, any similar  
13 entity, or any combination of the foregoing acting in concert. 'Person'  
14 does not mean the State of North Carolina or any county, city, or other  
15 political subdivision of the State of North Carolina.
- 16 (10) The singular form shall include the plural, and the masculine form shall  
17 include the feminine wherever appropriate."

18 Sec. 2. G.S. 58-1-15(b) reads as rewritten:

19 "(b) Any warranty made solely by a manufacturer, distributor, or seller of goods or  
20 services without charge, or an extended warranty offered as an option and made solely by  
21 a manufacturer, distributor, or seller of goods or services for charge, that guarantees  
22 indemnity for defective parts, mechanical or electrical breakdown, labor, or any other  
23 remedial measure, including replacement of goods or repetition of services, shall not be a  
24 contract of insurance under Articles 1 through 64 of this Chapter; however, service  
25 agreements on motor vehicles are governed by ~~G.S. 58-1-25 and G.S. 58-1-35 through G.S.~~  
26 ~~58-1-50.~~ G.S. 58-1-25, 58-1-35, and 58-1-36. Service agreements on home appliances are  
27 governed by ~~G.S. 58-1-30 through G.S. 58-1-50.~~ G.S. 58-1-30, 58-1-35, and 58-1-36."

28 Sec. 3. G.S. 58-1-25 reads as rewritten:

29 **"§ 58-1-25. Motor vehicle service agreement companies.**

30 (a) This section applies to all motor vehicle service agreement companies  
31 soliciting business in this State, but it does not apply to performance guarantees,  
32 warranties, or motor vehicle service agreements made by

- 33 (1) A manufacturer,  
34 (2) A distributor, or  
35 (3) A subsidiary or affiliate of a manufacturer or a distributor, where fifty-  
36 one percent (51%) or more of the subsidiary or affiliate is owned  
37 directly or indirectly by
- 38 a. The manufacturer,  
39 b. The distributor, or  
40 c. The common owner of fifty-one percent (51%) or more of the  
41 manufacturer or distributor

42 in connection with the sale of motor vehicles. This section does not apply to any motor  
43 vehicle dealer licensed to do business in this State (i) whose primary business is the retail

1 sale and service of motor vehicles; (ii) who makes and administers its own service  
2 agreements with or without association with a third-party administrator or who makes its  
3 own service agreements in association with a manufacturer, distributor, or their  
4 subsidiaries or affiliates; and (iii) whose service agreements cover only vehicles sold by  
5 the dealer to its retail customer; provided that the dealer complies with ~~G.S. 58-1-35~~ G.S.  
6 58-1-35 and G.S. 58-1-36. A motor vehicle dealer who sells a motor vehicle service  
7 agreement to a consumer, as defined in 15 U.S.C. § 2301(3), shall not be deemed to have  
8 made a written warranty to the consumer with respect to the motor vehicle sold or to have  
9 entered into a service contract with the consumer that applies to the motor vehicle, as  
10 provided in 15 U.S.C. § 2308(a), if: (i) the motor vehicle dealer acts as a mere agent of a  
11 third party in selling the motor vehicle service agreement; and (ii) the motor vehicle  
12 dealer would, after the sale of the motor vehicle service agreement, have no further  
13 obligation under the motor vehicle service agreement to the consumer to service or repair  
14 the vehicle sold to the consumer at or within 90 days before the dealer sold the motor  
15 vehicle service agreement to the consumer.

16 (b) The following definitions apply in this section and in ~~G.S. 58-1-30 through G.S.~~  
17 ~~58-1-50~~ G.S. 58-1-30, 58-1-35, and 58-1-36:

- 18 (1) Authorized insurer. – An insurance company authorized to write  
19 liability insurance under Articles 7, 16, 21, or 22 of this Chapter.
- 20 (2) Distributor. – Defined in G.S. 20-286(3).
- 21 (3) Licensed insurer. – An insurance company licensed to write liability  
22 insurance under Article 7 or 16 of this Chapter.
- 23 (4) Motor vehicle. – Defined in G.S. 20-4.01(23), but also including  
24 mopeds as defined in G.S. 20-4.01(27)d1.
- 25 (5) Motor vehicle service agreement. – Any contract or agreement  
26 indemnifying the motor vehicle service agreement holder against loss  
27 caused by failure, arising out of the ownership, operation, or use of a  
28 motor vehicle, of a mechanical or other component part of the motor  
29 vehicle that is listed in the agreement. The term does not mean a  
30 contract or agreement guaranteeing the performance of parts or  
31 lubricants manufactured by the guarantor and sold for use in connection  
32 with a motor vehicle where no additional consideration is paid or given  
33 to the guarantor for the contract or agreement beyond the price of the  
34 parts or lubricants.
- 35 (6) Motor vehicle service agreement company. – Any person that issues  
36 motor vehicle service agreements and that is not a licensed insurer.

37 (c) through (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3."  
38 Sec. 4. G.S. 58-1-35(a) reads as rewritten:

39 "(a) The provisions of this section and ~~G.S. 58-1-40 through G.S. 58-1-50~~ G.S. 58-1-  
40 36 apply to companies specified in G.S. 58-1-25 and G.S. 58-1-30."

41 Sec. 5. G.S. 58-1-35(b) reads as rewritten:

42 "(b) The following definitions apply in this section and in ~~G.S. 58-1-40 through G.S.~~  
43 ~~58-1-50~~ G.S. 58-1-36:"

1 (1) Service agreement. Includes motor vehicle service agreements and  
2 home appliance service agreements.

3 (2) Service agreement company. Includes motor vehicle service agreement  
4 companies and home appliance service agreement companies."

5 Sec. 6. G.S. 58-2-50 reads as rewritten:

6 "**§ 58-2-50. ~~Examinations, investigations and hearings; notice of hearing.~~**  
7 **Examinations and investigations.**

8 All ~~examinations, investigations and hearings~~ examinations and investigations provided  
9 for by ~~Articles 1 through 64 of this Chapter~~ may be conducted by the Commissioner  
10 personally or by one or more of ~~his~~ deputies, investigators, actuaries, examiners or  
11 employees designated by ~~him~~ for the purpose. If the Commissioner or any investigator  
12 appointed to conduct ~~such~~ the investigations is of the opinion that there is evidence to  
13 charge any person or persons with a criminal violation of ~~the insurance laws~~ he any  
14 provision of this Chapter, the Commissioner may arrest with warrant or cause ~~such~~ the  
15 person or persons to be arrested. All ~~hearings shall, unless otherwise specially provided, be~~  
16 ~~held at such time and place as shall be designated in a notice which shall be given by the~~  
17 ~~Commissioner in writing to the person cited to appear, at least 10 days before the date designated~~  
18 ~~therein. The notice shall state the subject of inquiry and the specific charges, if any. It shall be~~  
19 ~~sufficient to give such notice either by delivering it to such person or by depositing the same in~~  
20 ~~the United States mail, postage prepaid, and addressed to the last known place of business of~~  
21 ~~such person."~~

22 Sec. 7. G.S. 58-2-52(a) reads as rewritten:

23 "(a) The Commissioner may adopt rules for the hearing of appeals by the  
24 Commissioner or the Commissioner's designated hearing officer under G.S. 58-36-35,  
25 58-37-65, 58-45-50, 58-46-30, 58-48-40(c)(7), 58-48-42, ~~58-62-51(e), and G.S. 58-62-92.~~  
26 and 58-62-51(c). These rules may provide for prefiled evidence and testimony of the  
27 parties, prehearing statements and conferences, settlement conferences, discovery,  
28 subpoenas, sanctions, motions, intervention, consolidation of cases, continuances, rights  
29 and responsibilities of parties, witnesses, and evidence."

30 Sec. 8. G.S. 58-2-225, 58-5-60, and 58-5-65 are repealed.

31 Sec. 9. G.S. 58-3-50 reads as rewritten:

32 "**§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.**

33 Every insurance company or group of companies must conduct its business in the  
34 State in, and the policies and contracts of insurance issued by it shall be headed or  
35 entitled only by, its proper or corporate ~~name~~ name or names. There shall not appear on  
36 ~~the face of the policy or on its filing back~~ anything that would indicate that it is the  
37 obligation of any other than the company or companies responsible for the payment of  
38 losses under the policy, though it will be permissible to stamp or print on the ~~bottom of the~~  
39 ~~filing back, policy,~~ the name or names of the department or general agency issuing the  
40 same, and the group of companies with which the company is financially affiliated. The  
41 use of any emblem, insignia, or anything other than the true and proper corporate name of  
42 ~~such~~ the company or group of companies shall be permitted only with the approval of the  
43 Commissioner."

1           Sec. 10. G.S. 58-3-100(a) reads as rewritten:

2           "(a) The Commissioner may revoke, suspend, or refuse to renew the license of any  
3 insurer if:

4           (1) The insurer fails or refuses to comply with any law, order or rule  
5 applicable to the insurer.

6           (2) The insurer's financial condition is unsound, or its assets above its  
7 liabilities, exclusive of capital, are less than the amount of its capital or  
8 required minimum surplus.

9           (3) The insurer has published or made to the Department or to the public  
10 any false statement or report.

11           (4) ~~Whenever the~~The insurer refuses to submit to any examination  
12 authorized by law.

13           (5) ~~Whenever the~~The insurer is found to make a practice of unduly engaging  
14 in litigation or of delaying the investigation of claims or the adjustment  
15 or payment of valid claims."

16           Sec. 11. Article 5 of Chapter 58 of the General Statutes is amended by adding  
17 a new section to read:

18 **"§ 58-5-63. Interest; liquidation of deposits for liabilities.**

19           (a) All insurance companies making deposits under this Article are entitled to  
20 interest on those deposits, which shall remain in the deposit accounts. The right to  
21 interest is subject to a company paying its insurance policy liabilities. If any company  
22 fails to pay those liabilities, interest accruing after the failure is payable to the  
23 Commissioner for the payment of those liabilities under subsection (b) of this section.

24           (b) If any company fails to pay its insurance policy liabilities after those liabilities  
25 have been established by settlement or final adjudication, the Commissioner may  
26 liquidate the amount of the company's deposit and accrued interest specified in  
27 subsection (a) of this section that will satisfy the company's policy liabilities and make  
28 payment to the person to whom the liability is owed. After payment has been made, the  
29 Commissioner may require the company to deposit the amount paid out under this  
30 subsection."

31           Sec. 12. G.S. 58-5-70 reads as rewritten:

32 **"§ 58-5-70. Lien of policyholders; action to enforce.**

33           Upon the securities deposited with the Commissioner by any ~~such~~foreign or alien  
34 insurance company, the holders of all contracts of the company who are citizens or  
35 residents of this State at ~~such~~the time, or who hold policies issued upon property in the  
36 State, shall have a lien for the amounts due them, respectively, under or in consequence  
37 of ~~such~~the contracts for losses, equitable values, return premiums, or otherwise, and shall  
38 be entitled to be paid ratably out of the proceeds of ~~said~~the securities, if ~~such~~the proceeds  
39 ~~be~~are not sufficient to pay all of ~~said~~the contract holders. When any foreign or alien  
40 insurance company depositing securities as aforesaid under this Article becomes insolvent  
41 or bankrupt or makes an assignment for the benefit of its creditors, any holder of ~~such~~the  
42 contract may begin an action in the Superior Court of the County of Wake to enforce the  
43 lien for the benefit of all the holders of ~~such~~the contracts. The Commissioner shall be a

1 party to the suit, and the funds shall be distributed by the court, but ~~no cost of such action~~  
2 ~~shall the cost of the action shall not be~~ adjudged against the Commissioner."

3 Sec. 13. G.S. 58-7-21(a) reads as rewritten:

4 "(a) As used in this section and in G.S. 58-7-26, 58-7-30, and ~~58-7-32; 58-7-31:~~

5 (1) 'Reinsurance' means a transfer of insurance risk from a ceding insurer to  
6 an assuming insurer.

7 (2) 'Insurance risk' means an uncertainty regarding the ultimate amount of  
8 any claim payment (underwriting risk) or an uncertainty regarding the  
9 timing of ~~such the~~ payments (timing risk), or both."

10 Sec. 14. G.S. 58-7-30 reads as rewritten:

11 "**§ 58-7-30. Insolvency of ceding insurer; exceptions.**

12 ~~No~~ Notwithstanding any other provision of this Article, no credit shall be allowed, as  
13 an admitted asset or as a deduction from liability, to any ceding insurer for reinsurance,  
14 unless the reinsurance is payable by the assuming insurer, on the basis of claims allowed  
15 against the ceding insurer under the contract or contracts reinsured without diminution  
16 because of the insolvency of the ceding insurer, directly to the ceding insurer or to its  
17 domiciliary receiver except (1) where the contract specifically provides for another  
18 payee of the reinsurance in the event of the insolvency of the ceding insurer or (2) where  
19 the assuming insurer, with the consent of the direct insured or insureds, has assumed the  
20 policy obligations of the ceding insurer as direct obligations of the assuming insurer to  
21 the payees under the policies and in substitution of the obligations of the ceding insurer to  
22 the payees."

23 Sec. 15. G.S. 58-7-31(a) reads as rewritten:

24 "(a) ~~This~~ Notwithstanding any other provision of this Article, this section applies to  
25 every domestic life and accident and health insurer, to every other licensed life and  
26 accident and health insurer that is not subject to a substantially similar statute or  
27 administrative rule in its domiciliary state, and to every licensed property and casualty  
28 insurer with respect to its accident and health business. This section does not apply to  
29 assumption reinsurance, yearly renewable term reinsurance, nor to certain  
30 nonproportional reinsurance, such as stop loss or catastrophe reinsurance."

31 Sec. 16. G.S. 58-7-31(f) reads as rewritten:

32 "(f) In the case of a letter of intent, a reinsurance ~~agreement, agreement~~ or an  
33 amendment to a reinsurance agreement must be executed within a reasonable period of  
34 time, not exceeding 90 days after the execution date of the letter of intent, in order for  
35 credit to be granted for the reinsurance ceded."

36 Sec. 17. G.S. 58-7-75(1) reads as rewritten:

37 "(1) Stock Life Insurance Companies. – A stock corporation may be  
38 organized in the manner prescribed in this Chapter and licensed to do  
39 the business of life insurance, only when it has paid-in capital of at least  
40 six hundred thousand dollars (\$600,000) and a paid-in initial surplus of  
41 at least nine hundred thousand dollars (\$900,000), and it may in  
42 addition do the kind of business specified in G.S. 58-7-15(2), without  
43 having additional capital or surplus. Every such company shall at all

1 times thereafter maintain a minimum capital of not less than six hundred  
2 thousand dollars (\$600,000) and a minimum surplus of at least one  
3 hundred fifty thousand dollars (\$150,000). Provided that, any such  
4 corporation may do either or both of the kinds of insurance authorized  
5 for ~~stock~~, stock accident and health insurance companies, as set out in  
6 ~~paragraphs a and b of subdivision (3) of G.S. 58-7-15 (accidental death or~~  
7 ~~personal injury, and noncancelable disability), G.S. 58-7-15(3)a. and b.,~~  
8 where its charter so permits, and ~~when and so~~ only as long as it meets and  
9 maintains a minimum capital and surplus equal to the sum of the  
10 minimum capital and surplus requirements of this subdivision ~~(1)a and~~  
11 the minimum capital and surplus requirements of ~~subdivision (2)a and/or~~  
12 ~~(2)b hereof as applicable.~~ subdivision (2) of this section."

13 Sec. 18. G.S. 58-7-150(c) reads as rewritten:

14 "(c) An application for ~~merger or consolidation~~ under this section shall be  
15 accompanied by a nonrefundable fee of two hundred fifty dollars (\$250.00)."

16 Sec. 19. G.S. 58-7-177 reads as rewritten:

17 **"§ 58-7-177. Investments in subsidiaries and affiliated corporations.**

18 (a) Any insurer, either by itself or in cooperation with one or more persons, may  
19 organize or acquire one or more subsidiaries, subject to the limitations of this Chapter.  
20 The subsidiaries may conduct any kind of business, and their authority to do so shall not  
21 be limited because they are subsidiaries of an insurer, except where in conflict with  
22 Article 19 of this Chapter.

23 (b) In addition to investments in common stock, preferred stock, debt obligations,  
24 and other securities permitted under this Chapter, an insurer may also invest and maintain  
25 investments in common stock, preferred stock, debt obligations, and other securities of  
26 one or more subsidiaries ~~or affiliated corporations~~ under the provisions and limitations  
27 outlined in G.S. 58-19-10.

28 (c) ~~For purposes of this section:~~

29 (1) ~~'Subsidiary' has the same meaning as in G.S. 58-19-5(7).~~

30 (2) ~~'Affiliated' has the same meaning as in G.S. 58-19-5(1).~~

31 As used in this section 'subsidiary' has the same meaning as in G.S. 58-19-5(7).

32 (d) Debt obligations, other than mortgage loans, made under the authority of this  
33 section must meet amortization requirements in accordance with the latest edition of the  
34 NAIC publication entitled 'Valuation of Securities'; provided that the amortization  
35 methodology is acceptable to the Commissioner.

36 (e) For purposes of this section, an insurer's investment in a subsidiary ~~or affiliated~~  
37 ~~corporation~~ shall be considered to include all sums lent to the ~~subsidiary or affiliated~~  
38 ~~corporation.~~ subsidiary."

39 Sec. 20. G.S. 58-9-2(a)(6)c. reads as rewritten:

40 "c. An underwriting manager who, pursuant to contract, manages all  
41 the reinsurance ~~operating operations~~ of a reinsurer, is under  
42 common control with the reinsurer under Article 19 of this

Chapter, and whose compensation is not based on the volume of premiums written;"

Sec. 21. G.S. 58-12-11(f) reads as rewritten:

"(f) Every domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the Commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance regulator in any state in which the insurer is authorized to do business if:

(1) That state has a risk-based capital provision substantially similar to G.S. 58-12-21(a); and

(2) The insurance regulator of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan in that state no later than the later of:

a. Fifteen days after the receipt of notice to file a copy of its risk-based capital plan or revised risk-based capital plan with the state; or

b. The date on which the risk-based capital plan or revised risk-based capital plan is filed under ~~G.S. 58-12-30(e)~~ subsection (c) or (d) of this section."

Sec. 22. G.S. 58-12-35(a) reads as rewritten:

"(a) All risk-based capital reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and the risk-based capital plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any ~~Corrective Order~~ corrective order issued by the Commissioner pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer that are filed with the Commissioner constitute information that shall be kept confidential by the Commissioner. This information shall not be made public or be subject to subpoena, other than by the Commissioner, and then only for the purpose of enforcement actions taken by the Commissioner under this Article or any other provision of this Chapter."

Sec. 23. G.S. 58-12-45 reads as rewritten:

**"§ 58-12-45. Foreign insurers.**

(a) Any foreign insurer shall, upon written request of the Commissioner, submit to the Commissioner a risk-based capital report as of the end of the calendar year just ended the later of:

(1) The date a risk-based capital report would be required to be filed by a domestic insurer under this Article; or

(2) Fifteen days after the request is received by the foreign insurer.

Any foreign insurer shall, at the written request of the Commissioner, promptly submit to the Commissioner a copy of any risk-based capital plan that is filed with the insurance regulator of any other state.

(b) In the event of a company action level ~~event~~ or event, regulatory action level ~~event~~ event, or authorized control level event with respect to any foreign insurer as



1 determined under the risk-based capital statute or rule applicable in the state of domicile  
2 of the insurer, or if no risk-based capital ~~provision~~ statute or rule is in force in that state  
3 under the provisions of this Article, if the insurance regulator of the state of domicile of  
4 the foreign insurer fails to require the foreign insurer to file a risk-based capital plan in  
5 the manner specified under the risk-based capital statute or, if no risk-based capital  
6 provision is in force in that state, under G.S. 58-12-11, the Commissioner may require the  
7 foreign insurer to file a risk-based capital plan with the Commissioner. In that event the  
8 failure of the foreign insurer to file a risk-based capital plan with the Commissioner is  
9 grounds to order the insurer to cease and desist from writing new insurance business in  
10 this State.

11 (c) In the event of a mandatory control level event with respect to any foreign  
12 insurer, if no domiciliary receiver has been appointed with respect to the foreign insurer  
13 under the rehabilitation or liquidation statutes of the state ~~or~~ of domicile of the foreign  
14 insurer, the Commissioner may make application to the Superior Court of Wake County  
15 as permitted under Article 30 of this Chapter with respect to the liquidation of property of  
16 foreign insurers found in this State; and the occurrence of the mandatory control level  
17 event is an adequate ground for the application."

18 Sec. 24. G.S. 58-14-15 reads as rewritten:

19 "**§ 58-14-15. Penalties provided for unauthorized acts.**

20 Whenever any domestic insurer shall knowingly engage in the practice of soliciting,  
21 advertising or making contracts for insurance in states or jurisdictions in which it is not  
22 licensed, the Commissioner shall be authorized, as hereinafter provided, to issue an order  
23 requiring ~~such~~ the company to cease and desist from engaging in such activities and, for  
24 the purposes of this section, the acts prohibited by G.S. 58-14-10 and the foregoing  
25 sections, are declared to be an unfair trade practice within the meaning of G.S. 58-63-15  
26 and 58-63-40. Provided, whenever the Commissioner shall have reason to believe that  
27 any domestic company has been engaged or is engaging in the practice of knowingly  
28 soliciting, advertising or writing contracts of insurance on risks within a state or  
29 jurisdiction in which it is not licensed, ~~he~~ the Commissioner shall proceed to serve ~~such~~  
30 the company with notice of hearing and the hearing shall in all respects conform with the  
31 hearing procedure set forth in G.S. 58-63-25. Any action taken by the Commissioner after  
32 ~~such~~ the hearing shall be in compliance with ~~G.S. 58-63-30,~~ G.S. 58-63-32, and any  
33 company aggrieved by an order of the Commissioner shall be entitled to that judicial  
34 review as is provided in G.S. 58-63-35."

35 Sec. 25. G.S. 58-16-5(6) reads as rewritten:

36 "(6) Satisfies the Commissioner that it is in substantial compliance with the  
37 provisions of G.S. 58-7-21, 58-7-26, 58-7-30, and ~~58-7-32~~ 58-7-31 and  
38 Article 13 of this Chapter."

39 Sec. 26. G.S. 58-19-25(a) reads as rewritten:

40 "(a) Every insurer that is licensed to do business in this State and that is a member  
41 of an insurance holding company system shall register with the Commissioner, except a  
42 foreign insurer subject to the registration requirements and standards adopted by statute  
43 or regulation in the jurisdiction of its domicile that are substantially similar to those

1 contained in this section and ~~G.S. 58-19-30(a), 58-19-30(b), 58-19-30(c), and 58-19-30(d),~~  
2 G.S. 58-19-30 or a provision such as the following: Each registered insurer shall keep  
3 current the information required to be disclosed in its registration statement by reporting  
4 all material changes or additions within 15 days after the end of the month in which it  
5 learns of each change or addition. The insurer shall also file a copy of its registration  
6 statement and any amendments to the statement in each state in which that insurer is  
7 authorized to do business if requested by the insurance regulator of that state. Any insurer  
8 that is subject to registration under this section shall register within 30 days after it  
9 becomes subject to registration, and an amendment to the registration statement shall be  
10 filed by March 1 of each year for the previous calendar year; unless the Commissioner  
11 for good cause shown extends the time for registration or filing, and then within the  
12 extended time. All registration statements shall contain a summary, on a form prescribed  
13 by the Commissioner, outlining all items in the current registration statement representing  
14 changes from the prior registration statement. The Commissioner may require any insurer  
15 that is a member of a holding company system that is not subject to registration under this  
16 section to furnish a copy of the registration statement or other information filed by the  
17 insurance company with the insurance regulator of its domiciliary jurisdiction."

18 Sec. 27. G.S. 58-19-35(c) reads as rewritten:

19 "(c) Each registered insurer or acquiring party producing records, books, or papers  
20 for examination pursuant to subsection (a) of this section is liable for and shall pay the  
21 expenses of ~~such~~ the examination in accordance with ~~G.S. 58-2-130~~ G.S. 58-2-133 and  
22 G.S. 58-6-5."

23 Sec. 28. G.S. 58-21-40(c) reads as rewritten:

24 "(c) The Commissioner may, at ~~such~~ times that he deems to be deemed appropriate,  
25 make or cause to be made an examination of each advisory organization; in which case  
26 the provisions of ~~G.S. 58-2-130, 58-2-140, G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-150,~~  
27 ~~58-2-155, 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200~~ shall apply. If the  
28 Commissioner finds ~~such~~ the advisory organization or any member thereof to be in  
29 violation of this Article, ~~he~~ the Commissioner may issue an order requiring the  
30 discontinuance of ~~such~~ the violation."

31 Sec. 29. G.S. 58-24-100 reads as rewritten:

32 "**§ 58-24-100. Investments.**

33 A society shall invest its funds only in ~~such~~ investments as that are authorized by the  
34 laws of this State for the investment of assets of life insurers and subject to the limitations  
35 thereon. Any foreign or alien society permitted or seeking to do business in this State  
36 must comply in substance with the investment requirements and limitations imposed by  
37 ~~G.S. 58-7-85~~ Article 7 of this Chapter and applicable to life insurers; provided, that any  
38 ~~such~~ society that invests its funds in accordance with the laws of the state, district,  
39 territory, country, or province in which it is incorporated, shall thereby be deemed to be  
40 in compliance with ~~G.S. 58-7-85~~ the investment requirements and limitations for a period  
41 of two years from January 1, 1988."

42 Sec. 30. G.S. 58-28-5(b) reads as rewritten:

1       "(b) Any person in this State may directly procure or directly renew insurance with  
2 an unlicensed insurer without the involvement of an agent, broker, or surplus lines  
3 licensee, on a risk located or to be performed, in whole or in part, in this State, ~~other than~~  
4 ~~insurance procured or renewed pursuant to subsections (a)(1) through (a)(6) of this section.~~  
5 ~~State.~~ Any such The person shall, within 30 days after the date the insurance is procured  
6 or renewed, file a written report with the Commissioner on forms prescribed by the  
7 Commissioner. The report must contain the name and address of the insured; name and  
8 address of the insurer; the subject of insurance; a general description of the coverage; the  
9 amount of premium currently charged; and ~~such any~~ additional information ~~as~~ requested  
10 by the Commissioner. The report must also contain an affidavit of the insured that states  
11 that the full amount or kind of insurance cannot be obtained from insurers that are  
12 admitted to do business in this State; and that the insured has made a diligent search  
13 among the insurers that are admitted to transact and are actually writing the particular  
14 kind and class of insurance in this State. Gross premiums charged for ~~such the~~ insurance,  
15 less any return premiums, are subject to a tax at the rate of five percent (5%). At the time  
16 of filing the report required by this subsection, the insured shall pay the tax to the  
17 Commissioner. The Commissioner has the powers specified in G.S. 58-21-90 with  
18 respect to the tax levied by this subsection."

19       Sec. 31. G.S. 58-30-75(9) reads as rewritten:

20       "(9) Within the previous four years the insurer has willfully violated its  
21 charter or articles of incorporation, its bylaws, Articles 1 through ~~64-67~~  
22 of this Chapter, or any valid order of the Commissioner under G.S. 58-  
23 30-60."

24       Sec. 32. G.S. 58-30-300(c) reads as rewritten:

25       "(c) The owner of a ~~secure~~ secured claim against an insurer for which a liquidator  
26 has been appointed in this or any other state may surrender ~~his~~ the owner's security and  
27 file his claim as a general creditor, or the claim may be discharged by resort to the  
28 security in accordance with G.S. 58-30-215 in which case the deficiency, if any, shall be  
29 treated as a claim against the general assets of the insurer on the same basis as claims of  
30 unsecured creditors."

31       Sec. 33. G.S. 58-31-60(a) reads as rewritten:

32       "(a) Employee Insurance Committee. – The head of each State government  
33 employee payroll unit offering payroll deduction insurance products to employees shall  
34 appoint an Employee Insurance Committee for the following purposes:

35       (1) To review insurance products currently offered through payroll  
36 deduction to the State employees in the Employee Insurance  
37 Committee's payroll unit to determine if those products meet the needs  
38 and desires of employees in the Employee Insurance Committee's  
39 payroll unit.

40       (2) To select the types of insurance products that reflect the needs and  
41 desires of employees in the Employee Insurance Committee's payroll  
42 unit.

- 1 (3) To competitively select the best insurance products of the types  
2 determined by the Employee Insurance Committee to reflect the needs  
3 and desires of the employees of that payroll unit.

4 As used in this section, 'insurance product' includes a prepaid legal services plan  
5 registered under G.S. 84-23.1."

6 Sec. 34. G.S. 58-34-2(a)(3) reads as rewritten:

- 7 "(3) 'Managing general agent' or 'MGA' means any person who manages all  
8 or part of the insurance business of an insurer (including the  
9 management of a separate division, department, or underwriting office)  
10 and acts as an agent for the insurer, whether known as a managing  
11 general agent, manager, or other similar term, who, with or without the  
12 authority, either separately or together with persons under common  
13 control, produces, directly or indirectly, and underwrites an amount of  
14 gross direct written premium equal to or more than five percent (5%) of  
15 the policyholder surplus as reported in the last annual statement of the  
16 insurer in any one quarter or year together with one or more of the  
17 following activities related to the business produced: (i) adjusts or pays  
18 any claims, or (ii) negotiates reinsurance on behalf of the insurer. 'MGA'  
19 does not mean an employee of the insurer; an underwriting manager  
20 who, pursuant to contract, manages ~~all~~ all or part of the insurance  
21 operations of the insurer, is under common control with the insurer, is  
22 subject to Article 19 of this Chapter, and whose compensation is not  
23 based on the volume of premiums written; a person who, under Article  
24 15 of this Chapter, is designated and authorized by subscribers as the  
25 attorney-in-fact for a reciprocal having authority to obligate them on  
26 reciprocal and other insurance contracts; or a U.S. Manager of the  
27 United States branch of an alien insurer."

28 Sec. 35. G.S. 58-37-1(4) reads as rewritten:

- 29 "(4) 'Eligible risk' means a person who is a resident of this State who owns a  
30 motor vehicle registered or principally garaged in this State or who has  
31 a valid driver's license in this State or who is required to file proof of  
32 financial responsibility pursuant to ~~Article 9A or 13 of the North Carolina~~  
33 ~~Motor Vehicle Code~~ the law or regulation of any state, the federal  
34 government, or any county, city, or other political subdivision  
35 authorized by law to require proof of financial responsibility in order to  
36 register ~~his~~ the person's motor vehicle or obtain a driver's license in this  
37 State; or a nonresident of this State who owns a motor vehicle registered  
38 or principally garaged in this State, or the State and its agencies and  
39 cities, counties, towns and municipal corporations in this State and their  
40 agencies, provided, however, that no person shall be deemed an eligible  
41 risk if timely payment of premium is not tendered or if there is a valid  
42 unsatisfied judgment of record against ~~such~~ the person for recovery of  
43 amounts due for motor vehicle insurance premiums and ~~such~~ the person

1 has not been discharged from paying ~~said~~ the judgment, or if ~~such~~ the  
2 person does not furnish the information necessary to effect insurance."

3 Sec. 36. G.S. 58-37-35(b)(1)e. reads as rewritten:

4 "e. Any other motor vehicle insurance or financial responsibility  
5 limits in the amounts required by ~~any federal law or federal~~  
6 ~~agency regulation; by any law of this State; or by any rule duly~~  
7 ~~adopted under Chapter 150B of the General Statutes or by the~~  
8 ~~North Carolina Utilities Commission.~~ the law or regulation of  
9 any state, the federal government, or any county, city, or other  
10 political subdivision authorized by law to require proof of  
11 financial responsibility."

12 Sec. 37. G.S. 58-41-50(b) reads as rewritten:

13 "(b) With the exception of inland marine insurance that is not written according to  
14 manual rates and rating plans, all rates or prospective loss cost multipliers by licensed fire  
15 and casualty companies or their designated rating organizations must be filed with the  
16 Commissioner at least 60 days before they may be used in this State. Any filing may  
17 become effective on a date earlier than that specified in this subsection upon agreement  
18 between the Commissioner and the filer."

19 Sec. 38. G.S. 58-47-5(4) reads as rewritten:

20 "(4) 'Health care provider' means any person who pursuant to the provisions  
21 of Chapter 90 of the General Statutes is licensed, or is otherwise  
22 registered or certified to engage in the practice of, or otherwise performs  
23 duties associated with any of the following: medicine, surgery,  
24 dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry,  
25 chiropractic, radiology, nursing, physiotherapy, pathology,  
26 anesthesiology, anesthesia, laboratory analysis, rendering assistance to a  
27 physician, dental hygiene, psychiatry, psychology; or a hospital as  
28 defined by ~~G.S. 131-126.1(3); G.S. 131E-76(3);~~ or a nursing home as  
29 defined by ~~G.S. 130-9(e)(2); G.S. 131E-101(6);~~ or any other person who  
30 is legally responsible for the negligence of ~~such~~ the person, hospital or  
31 nursing home; or any person acting at the direction or under the  
32 supervision of a health care provider."

33 Sec. 39. G.S. 58-47-10(b) reads as rewritten:

34 "(b) Investment and Management. – All moneys ~~which~~ that belong to the fund and  
35 are collected or received under this Article shall be held in trust, deposited in a segregated  
36 account, invested and reinvested by the Board in accordance with the reserve investment  
37 requirements of ~~G.S. 58-7-90, Article 7 of this Chapter for property and liability insurers,~~  
38 and shall not become a part of the general fund of the State. All interest and revenues  
39 from moneys belonging to the fund shall inure solely to the benefit and use of the fund.  
40 The Board shall be authorized to withdraw funds from ~~such~~ the account as amounts  
41 payable under G.S. 58-47-35 and other expenses become due and payable. No part of the  
42 revenues or assets of the fund shall inure to the benefit of or be distributable to the Board  
43 or any member thereof or any officer or employee of the Board, except for services

1 rendered. All expenses and salaries connected with the administration and operation of  
2 the fund shall be paid out of the fund."

3 Sec. 40. G.S. 58-49-5 reads as rewritten:

4 **"§ 58-49-5. Authority and jurisdiction of Commissioner.**

5 Notwithstanding any other provision of law, and except as provided in this Article,  
6 any person that provides coverage in this State for medical, surgical, chiropractic,  
7 physical therapy, speech pathology, audiology, professional mental health, dental,  
8 hospital, or optometric expenses, whether ~~such~~the coverage is by direct payment,  
9 reimbursement, or otherwise, shall be presumed to be subject to the ~~exclusive~~-jurisdiction  
10 of the Commissioner, unless the person shows that while providing ~~such~~the services it is  
11 subject to the exclusive jurisdiction of another agency or subdivision of this State or of  
12 the federal government."

13 Sec. 41. Effective October 1, 1998, G.S. 58-50-30(a) reads as rewritten:

14 "(a) Discrimination between individuals of the same class in the amount of  
15 premiums or rates charged for any policy of insurance covered by Articles 50 through 55  
16 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of  
17 ~~such~~the policy, or in any other manner whatsoever, is prohibited.

18 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter  
19 provides for payment of or reimbursement for any service rendered in connection with a  
20 condition or complaint ~~which~~that is within the scope of practice of a duly licensed  
21 optometrist, ~~or~~a duly licensed podiatrist, ~~or~~a duly licensed dentist, ~~or~~a duly licensed  
22 chiropractor, a duly certified clinical social worker, or a duly licensed psychologist, the  
23 insured or other persons entitled to benefits under ~~such~~the policy shall be entitled to  
24 payment of or reimbursement for ~~such~~the services, whether ~~such~~the services be  
25 performed by a duly licensed physician, ~~or~~a duly licensed optometrist, ~~or~~a duly licensed  
26 podiatrist, ~~or~~a duly licensed dentist, ~~or~~a duly licensed chiropractor, a duly certified  
27 clinical social worker, or a duly licensed psychologist, notwithstanding any provision  
28 contained in ~~such~~the policy. Whenever any policy of insurance governed by Articles 1  
29 through 64 of this Chapter provides for certification of disability ~~which~~that is within the  
30 scope of practice of a duly licensed physician, ~~or~~a duly licensed optometrist, ~~or~~a duly  
31 licensed podiatrist, ~~or~~a duly licensed dentist, ~~or~~a duly licensed chiropractor, a duly  
32 certified clinical social worker, or a duly licensed psychologist, the insured or other  
33 persons entitled to benefits under ~~such~~the policy shall be entitled to payment of or  
34 reimbursement for ~~such~~the disability whether ~~such~~the disability be certified by a duly  
35 licensed physician, ~~or~~a duly licensed optometrist, ~~or~~a duly licensed podiatrist, ~~or~~a duly  
36 licensed dentist, ~~or~~a duly licensed chiropractor, a duly certified clinical social worker, or  
37 a duly licensed psychologist, notwithstanding any provisions contained in ~~such~~the policy.  
38 The policyholder, insured, or beneficiary shall have the right to choose the provider of  
39 ~~such~~the services notwithstanding any provision to the contrary in any other statute.

40 Whenever any policy of insurance provides coverage for medically necessary  
41 treatment, the insurer shall not impose any limitation on treatment or levels of coverage if  
42 performed by a duly licensed chiropractor acting within the scope of ~~his~~the chiropractor's  
43 practice as defined in G.S. 90-151 unless a comparable limitation is imposed on ~~such~~the

1 medically necessary treatment if performed or authorized by any other duly licensed  
2 physician."

3 Sec. 42. G.S. 58-50-65(d) reads as rewritten:

4 "(d) The provisions of ~~Articles 50 through 55 of this Chapter contained in~~  
5 ~~subdivision (5) of G.S. 58-51-5, and clauses (2), (3), (8), and (12) of G.S. 58-251~~ G.S.  
6 58-51-5(5) and G.S. 58-51-15(a)(1), (4), and (10) may be omitted from railroad ticket  
7 policies sold only at railroad stations or at railroad ticket offices by railroad employees."

8 Sec. 43. G.S. 58-51-115(a) reads as rewritten:

9 "(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

10 (1) 'Health benefit plan' means any accident and health insurance policy or  
11 certificate; a nonprofit hospital or medical service corporation contract;  
12 a health maintenance organization subscriber contract; a plan provided  
13 by a multiple employer welfare arrangement; or a plan provided by  
14 another benefit arrangement. 'Health benefit plan' does not mean a  
15 Medicare supplement policy as defined in G.S. 58-54-1(5).

16 (2) 'Health insurer' means any health insurance company subject to Articles  
17 1 through 63 of this Chapter, including a multiple employee welfare  
18 arrangement, and any corporation subject to Articles 65 and 67 of this  
19 Chapter; and means a group health plan, as defined in section 607(1) of  
20 the Employee Retirement Income Security Act of 1974."

21 Sec. 44. G.S. 108A-69(a) reads as rewritten:

22 "(a) As used in this section and in G.S. 108A-70:

23 (1) 'Health benefit plan' means an accident and health insurance policy or  
24 certificate; a nonprofit hospital or medical service corporation contract;  
25 a health maintenance organization subscriber contract; a plan provided  
26 by a multiple employer welfare arrangement; or a plan provided by  
27 another benefit arrangement. 'Health benefit plan' does not mean a  
28 Medicare supplement policy as defined in G.S. 58-54-1(5).

29 (2) 'Health insurer' means any health insurance company subject to Articles  
30 1 through 63 of Chapter 58 of the General Statutes, including a multiple  
31 employee welfare arrangement, and any corporation subject to Articles  
32 65 and 67 of Chapter 58 of the General Statutes; and means a group  
33 health plan, as defined in Section 607(1) of the Employee Retirement  
34 Income Security Act of 1974."

35 Sec. 45. G.S. 58-57-5 reads as rewritten:

36 **"§ 58-57-5. Definitions.**

37 As used in this Article, unless the context requires otherwise, the following words or  
38 terms shall have the meanings herein ascribed to them, respectively:

39 (1) Repealed by Session Laws 1991, c. 720, s. 6.

40 (2) 'Credit accident and health insurance' means insurance on a debtor to  
41 provide indemnity for payments becoming due on a specific loan or  
42 other credit transaction as defined in ~~G.S. 58-51-100;~~ G.S. 58-51-100.

- 1 (2a) 'Credit insurance agent' means an agent of an insurance company  
2 licensed in this State who is authorized to solicit, negotiate or effect  
3 credit life insurance, credit accident and health insurance, credit  
4 unemployment insurance, credit property insurance, or any of them, but  
5 only to the extent as is authorized and limited in this ~~Article;~~ Article.
- 6 (3) 'Credit life insurance' means insurance on the life of a debtor pursuant to  
7 or in connection with a specific loan or other credit transaction as  
8 defined in ~~G.S. 58-58-10;~~ G.S. 58-58-10.
- 9 (4) Recodified as G.S. § 58-57-5(2a) (See Note.)
- 10 (4a) 'Credit transaction' means any transaction by the terms of which the  
11 repayment of money loaned or loan commitment made, or payment for  
12 goods, services, or properties sold or leased, is to be made at a future  
13 date or ~~dates;~~ dates.
- 14 (4b) 'Credit unemployment insurance' means insurance on a debtor in  
15 connection with a specified loan or other credit transaction to provide  
16 payment to a creditor of the debtor for the installment payments or other  
17 periodic payment becoming due while the debtor is involuntarily  
18 unemployed as defined in the ~~policy;~~ policy.
- 19 (5) 'Creditor' means any lender of money or vendor or lessor of goods,  
20 services, property, rights or privileges, including any person that  
21 directly or indirectly provides credit in connection with any such sale or  
22 lease, for which payment is arranged through a credit-related  
23 transaction; or any successor to the right, title or interest of any such  
24 lender, vendor, lessor, or person extending credit, and an affiliate,  
25 associate, or subsidiary of any of them, or any director, officer, or  
26 employee of any of them or any other person in any way associated with  
27 any of ~~them;~~ them.
- 28 (6) 'Debtor' means a borrower of money or a purchaser or lessee of goods,  
29 services, property, rights or privileges for which payment is arranged  
30 through a credit ~~transaction;~~ transaction.
- 31 (7) 'Indebtedness' means the total amount payable for the term of the loan  
32 by debtor to creditor in connection with a loan or other credit  
33 transaction, including principal, interest, allowable charges, and any  
34 premiums authorized ~~hereunder;~~ hereunder.
- 35 (7a) 'Joint accident and health coverage' means credit accident and health  
36 insurance covering two or more debtors; provided that only one monthly  
37 benefit, as defined in G.S. 58-57-15(b), shall be payable each month on  
38 a specific indebtedness regardless of the number of debtors ~~insured;~~  
39 insured.
- 40 (8) 'Joint life coverage' means credit life insurance covering two or more  
41 lives, the entire amount of insurance being payable upon the death of the  
42 first insured debtor to ~~die;~~ die.



1 (9) 'Lease' means a contract whereby the lessee of a 'motor vehicle,' as  
2 defined in G.S. 20-4.01(23), contracts to pay as compensation for use a  
3 sum substantially equivalent to or in excess of the aggregate value of the  
4 property, but not exceeding the term of years in G.S. 58-57-1.

5 (10) 'Open-end credit' means credit extended by a creditor under an  
6 agreement in which:

- 7 a. The creditor reasonably contemplates repeated transactions;  
8 b. The creditor imposes a finance charge from time to time on an  
9 outstanding unpaid balance; and  
10 c. The amount of credit that may be extended to the debtor during  
11 the term of the agreement (up to any limit set by the creditor) is  
12 generally made available to the extent that any outstanding  
13 balance is repaid.

14 'Open-end credit' includes credit card balances.

15 (11) 'Truncated coverage' means a credit insurance benefit with a term of  
16 insurance coverage that is less than the term of the credit ~~transaction;~~  
17 transaction."

18 Sec. 46. G.S. 58-58-110(c) reads as rewritten:

19 "(c) ~~Nothing contained herein shall be construed to allow any insurer admitted to~~  
20 ~~transact insurance in this State. This section does not allow an insurer to withhold~~  
21 ~~payment of money payable under a life or accident insurance any policy providing a~~  
22 ~~death benefit issued in this State to any beneficiary for a period longer than reasonably~~  
23 ~~necessary to determine whether benefits are payable and thereafter to transmit such the~~  
24 ~~payment."~~

25 Sec. 47. G.S. 58-62-41(e) reads as rewritten:

26 "(e) Assessments for funds to meet the requirements of the Association with respect  
27 to a delinquent insurer shall not be made until necessary to implement the purposes of  
28 this Article. Classification of assessments under subsection (b) of this section and  
29 computation of assessments under this subsection shall be made with a reasonable degree  
30 of ~~accuracy~~-accuracy, recognizing that exact determinations may not always be possible."

31 Sec. 48. G.S. 58-62-41(f) reads a rewritten:

32 "(f) The Association may abate or defer, in whole or in part, the assessment of a  
33 member insurer if, in the Board's opinion, payment of the assessment would endanger the  
34 member insurer's ability to fulfill its contractual obligations. If an assessment against a  
35 member insurer is abated, or deferred in whole or in part, the amount by which the  
36 assessment is abated or deferred may be assessed against the other member insurers in a  
37 manner consistent with the basis for assessments set forth in this section, ~~recognizing that~~  
38 ~~exact determinations may not always be possible.~~ section."

39 Sec. 49. G.S. 58-63-25(a) reads as rewritten:

40 "(a) Whenever the Commissioner ~~shall have~~-has reason to believe that any ~~such~~  
41 person has been engaged or is engaging in this State in any unfair method of competition  
42 or any unfair or deceptive act or practice defined in ~~G.S. 58-63-15, G.S. 58-63-15~~ or under  
43 G.S. 58-63-65, and that a proceeding by ~~him in respect thereto~~-the Commissioner on the

1 ~~matter would be to~~ in the interest of the public, he ~~the Commissioner~~ shall issue and serve  
2 upon ~~such~~ the person a statement of the charges in that respect and a notice of the hearing  
3 ~~thereon on the matter~~ to be held at the time and place fixed in the notice, which shall not  
4 be less than 10 days after the date of the service ~~thereof~~ of the notice."

5 Sec. 50. G.S. 58-63-35(a) reads as rewritten:

6 "(a) Any person required by an order of the Commissioner under ~~G.S. 58-63-30~~ G.S.  
7 58-63-32 to cease and desist from engaging in any unfair method of competition or any  
8 unfair or deceptive act or practice defined in G.S. 58-63-15 may obtain a review of ~~such~~  
9 the order by filing in the Superior Court of Wake County, within 30 days from the date of  
10 the service of such order, a written petition praying that the order of the Commissioner be  
11 set aside. A copy of such petition shall be forthwith served upon the Commissioner, and  
12 thereupon the Commissioner forthwith shall certify and file in ~~such~~ the court a transcript  
13 of the entire record in the proceeding, including all the evidence taken and the report and  
14 order of the Commissioner. Upon ~~such~~ the filing of the petition and ~~transcript~~ such  
15 transcript, the court shall have jurisdiction of the proceeding and of the question  
16 determined therein, shall determine whether the filing of ~~such~~ the petition shall operate as  
17 a stay of ~~such~~ the order of the Commissioner, and shall have power to make and enter  
18 upon the pleadings, evidence, and proceedings set forth in ~~such~~ the transcript a decree  
19 modifying, affirming or reversing the order of the Commissioner, in whole or in part.  
20 The findings of the Commissioner as to the facts, if supported by substantial evidence,  
21 shall be conclusive."

22 Sec. 51. G.S. 58-63-50 reads as rewritten:

23 "**§ 58-63-50. Penalty.**

24 Any person who willfully violates a cease and desist order of the Commissioner under  
25 ~~G.S. 58-63-30~~ G.S. 58-63-32, after it has become final, and while ~~such~~ the order is in  
26 effect, shall forfeit and pay to the Commissioner for the use of the public schools of the  
27 county or counties in which the act or acts complained of occurred the sum of not less  
28 than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each  
29 violation, which if not paid shall be recovered in a civil action instituted in the name of  
30 the Commissioner in the Superior Court of Wake County."

31 Sec. 52. G.S. 58-64-33(a) reads as rewritten:

32 "(a) All continuing care facilities shall maintain after opening: operating reserves  
33 equal to fifty percent (50%) of the total operating costs projected for the 12-month period  
34 following the period covered by the most recent annual statement filed with the  
35 Department. The forecast statements as required by G.S. 58-64-20(a)(12) shall serve as  
36 the basis for computing the operating reserve. In addition to total operating expenses,  
37 total operating costs will include debt service, consisting of principal and interest  
38 payments along with taxes and insurance on any mortgage loan or other long-term  
39 financing, but will exclude depreciation, amortized expenses, and extraordinary items as  
40 approved by the Commissioner. If the debt service portion is accounted for by way of  
41 another reserve account, the debt service portion may be excluded. Facilities that  
42 maintain an occupancy level in excess of ninety percent (90%) shall only be required to  
43 maintain twenty-five percent (25%) operating reserve upon approval of the

1 Commissioner, unless otherwise instructed by the Commissioner. The operating reserves  
2 may be funded by cash, by invested cash, or by investment grade securities, including  
3 bonds, stocks, U.S. Treasury obligations, or obligations of U.S. government agencies."

4 Sec. 53. G.S. 58-64-55 reads as rewritten:

5 **"§ 58-64-55. Examinations; financial statements.**

6 The Commissioner or his designee may, in the Commissioner's discretion, visit a  
7 facility offering continuing care in this State to examine its books and records. Expenses  
8 incurred by the Commissioner in conducting examinations under this section shall be  
9 paid by the facility examined. The provisions of ~~G.S. 58-2-130, 58-2-135, 58-2-140, G.S.~~  
10 ~~58-2-131, 58-2-132, 58-2-133, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, and~~  
11 ~~58-6-5~~ apply to this Article and are hereby incorporated by reference."

12 Sec. 54. G.S. 58-64-70(c) reads as rewritten:

13 "(c) A person may not file or maintain an action under this section if the person,  
14 before filing the action, received a written offer of a refund of all amounts paid the  
15 provider, facility, or person violating this Article together with interest at the rate  
16 established monthly by the Commissioner of Banks pursuant to ~~G.S. 24-1.1(3), G.S. 24-~~  
17 ~~1.1(c),~~ less the current contractual value of care and lodging provided prior to receipt of  
18 the offer, and if the offer recited the provisions of this section and the recipient of the  
19 offer failed to accept it within 30 days of actual receipt."

20 Sec. 55. The heading of Part 2 of Article 65 of Chapter 58 of the General  
21 Statutes reads as rewritten:

22 **"PART 2. INDEMNIFICATION."**

23 Sec. 56. G.S. 58-65-172(1) reads as rewritten:

24 "(1) An officer of the corporation is entitled to mandatory indemnification  
25 under ~~G.S. 58-56-168~~ G.S. 58-65-168 and is entitled to apply for court-  
26 ordered indemnification under G.S. 58-65-170, in each case to the same  
27 extent as a director;"

28 Sec. 57. G.S. 58-66-30(a) reads as rewritten:

29 "(a) No insurer may make, issue, amend or renew any certificate or contract after  
30 the dates specified in G.S. 58-66-35 for the applicable type of insurance unless the  
31 certificate is in compliance with the provisions of G.S. 58-66-20 and 58-66-25, and  
32 unless the certificate is filed with the Commissioner for ~~his~~ this approval. The policy will  
33 be deemed approved 90 days after filing unless disapproved within the 90-day period.  
34 The ~~Commission~~ Commissioner may not unreasonably withhold ~~his~~ this approval. Any  
35 disapproval must be delivered to the insurer in writing and must state the grounds for  
36 disapproval. Any certificate filed with the Commissioner must be accompanied by a  
37 certified Flesch scale readability analysis and test score and by the insurer's certification  
38 that the policy is, in the insurer's judgment, readable based on the factors specified in  
39 G.S. 58-66-20 and 58-66-25."

40 Sec. 58. G.S. 58-66-35 reads as rewritten:

41 **"§ 58-66-35. Application to policies; dates; duties of the Commissioner.**

1       (a) The filing requirements of G.S. 58-66-30 apply to all subscribers' contracts of  
2 hospital, medical, and dental service corporations as described in G.S. 58-65-60(a) and  
3 (b) that are made, issued, amended or renewed after ~~July 1, 1983; and July 1, 1983.~~

4       (b) ~~The Commissioner must make the following reports to the Legislative  
5 Research Commission and the General Assembly:~~

6           (1) ~~On or before March 31, 1980, a report detailing and evaluating the  
7 efforts made by the Commissioner and insurers to implement the  
8 provisions of subdivision (a)(1) of this section, and particularly  
9 examining the feasibility and practicality of requiring certificates to  
10 comply with the provisions of this Article and in the time prescribed;~~

11           (2) ~~On or before March 31, 1981, a report detailing and evaluating:~~

12               a. ~~The operation of and the extent of compliance with the  
13 provisions of this Article;~~

14               b. ~~The efforts made by the Commissioner and insurers to implement  
15 the provisions of subdivision (a)(2) of this section."~~

16       Sec. 59. G.S. 58-67-50(c) reads as rewritten:

17       "(c) The Commissioner shall, within a reasonable period, approve any form if the  
18 requirements of ~~paragraph (1) subsection (a) of this section~~ are met and any schedule of  
19 premiums if the requirements of ~~paragraph (2) subsection (b) of this section~~ are met. It  
20 shall be unlawful to issue the form or to use the schedule of premiums until approved. If  
21 the Commissioner disapproves the filing, the Commissioner shall notify the filer. In the  
22 notice, the Commissioner shall specify the reasons for disapproval. A hearing will be  
23 granted within 30 days after a request in writing by the person filing. If the Commissioner  
24 does not approve or disapprove any form or schedule of premiums within 90 days after  
25 the filing for forms and within 60 days after the filing for premiums, they shall be  
26 deemed to be approved."

27       Sec. 60. G.S. 58-68A-1(4) reads as rewritten:

28       "(4) Focus health care reform upon improving health status and the included  
29 health care."

30       Sec. 61. G.S. 58-68A-10(1) reads as rewritten:

31       "(1) Financing. – A method or methods of financing the Plan shall be  
32 recommended by the Commission. The system ~~which~~ will ensure that  
33 every North Carolina citizen has access to affordable health care,  
34 regardless of the resources of the community in which he resides."

35       Sec. 62. G.S. 58-68A-10(5) reads as rewritten:

36       "(5) Administration. – The Plan may be administered through regional health  
37 plan purchasing cooperatives that will:

38           a. Certify private health plans as community health plans for  
39 participation in the system of universal health coverage on the  
40 basis of ability to deliver the State-guaranteed package of  
41 comprehensive, medically necessary health services in  
42 accordance with criteria defined by the Commission for quality

- 1 and service. All community health plans meeting certification  
2 requirements will be certified.
- 3 b. Pay each community health plan the same risk-adjusted per  
4 capita amount for all eligible persons, except that the  
5 Commission shall have the authority to ensure accessibility to  
6 health care in rural and medically underserved areas by  
7 enhancing provider payments, requiring an accountable health  
8 plan to provide services throughout the area, or by any other  
9 reasonable means.
- 10 c. Ensure that no community health plan that charges an additional  
11 premium shall charge an eligible resident a higher premium than  
12 that charged to any other eligible resident for the same  
13 accountable health plan.
- 14 d. Except in underserved areas in which the regional health plan  
15 purchasing cooperative determines that there are insufficient  
16 providers to support more than one community health plan,  
17 ensure that all eligible residents have a choice of at least two  
18 community health plans that will provide the State-guaranteed  
19 package of comprehensive, medically necessary health services  
20 for no additional premium above that paid on their behalf by the  
21 regional health plan purchasing cooperative.
- 22 e. Assist eligible residents in choosing among community health  
23 plans by providing consumer education, including uniform  
24 information about all the community health plans available  
25 through the health plan purchasing cooperative such as quality  
26 indicators and choice of providers.
- 27 f. Provide a mechanism for enrolling all eligible residents in their  
28 chosen community health plans and for automatically enrolling  
29 in a community health plan all eligible residents who fail to  
30 choose such a plan.
- 31 g. ~~The~~ Determine the number, organization, and geographic areas of  
32 the regional health plan purchasing cooperatives to be  
33 established, which will include at least six geographic areas.  
34 Each area is to be defined so that it is self-sufficient in providing  
35 comprehensive health care including most tertiary services, thus  
36 allowing for a large enough population to support community  
37 rating.
- 38 h. Monitor and enforce standards concerning access, consumer  
39 satisfaction, and quality of health care in all community health  
40 plans.
- 41 i. Jointly with the Commission and the North Carolina Medical  
42 Database Commission, collect data from all community health

1 plans and sponsor research into health outcomes and practice  
2 guidelines.

3 j. Jointly with the Commission and where necessary to meet the  
4 needs of underserved areas or special populations, organize the  
5 delivery of health care.

6 k. Receive bids annually from private health plans to provide the  
7 benefit package established by the Commission to enrolled  
8 eligible residents. A health plan purchasing cooperative may  
9 reject any or all bids, and may request that revised bids be  
10 submitted."

11 Sec. 63. G.S. 58-68A-10(6) reads as rewritten:

12 "(6) Large Groups. – In order to preserve employer-based and other group  
13 health care coverage, the Plan may provide, notwithstanding any other  
14 provision of this Article, for the direct marketing by community health  
15 plans to an employer with 100 or more employees and to any other  
16 group with 100 or more members, provided that the employer or group  
17 is eligible under G.S. 58-51-80 for group accident, group health, or  
18 group accident and health insurance. If the Plan provides for direct  
19 marketing of insurance to large groups as defined in this ~~subsection,~~  
20 subdivision, it shall also address the extent to which those groups and  
21 self-insured plans (prior to obtaining an ERISA waiver) should be  
22 subject to the certification requirements for community health plans,  
23 whether exemptions, tax credits, or other means are necessary and  
24 appropriate to provide for equitable treatment of large groups and self-  
25 insured groups under any tax-financed system of universal health care  
26 coverage, and other issues involving the use of large group coverage  
27 with universal coverage. The regional health plan purchasing  
28 cooperatives would be responsible for marketing community health  
29 plans to individuals and all other groups. Before the plan provides for  
30 direct marketing to large groups, the Commission shall study whether  
31 there are any adverse affects to the purchasing arrangements in effect  
32 for other residents, the impact on portability of coverage, and the role  
33 large employers play in financing coverage for the uninsured and  
34 indigent populations."

35 Sec. 64. G.S. 97-93(d) reads as rewritten:

36 "(d) Groups comprising two or more employers who agree to pool their liabilities  
37 under subdivision (a)(2) of this section are subject to ~~G.S. 58-3-80, G.S. 58-3-81, 58-7-50,~~  
38 ~~58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-~~  
39 ~~170, 58-7-172, 58-7-173, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187,~~  
40 ~~58-7-188, 58-7-190, 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200,~~ and Articles 13,  
41 19, and 34 of Chapter 58 of the General Statutes."

42 Sec. 65. G.S. 105-228.4(a) reads as rewritten:

1       "(a) As a condition precedent to doing business in this State, an insurance company  
2 must apply for and obtain a ~~certificate of registration~~ license from the Commissioner of  
3 Insurance by March 1 of each year. The ~~certificate~~ license shall become effective the  
4 following July 1 and shall remain in effect for one year. Except as provided in  
5 subsections (b) and (c) of this section, the insurance company shall pay an annual fee for  
6 the certificate as follows:

7           For each domestic farmer's mutual assessment

8           fire insurance company \$ 25.00

9           For each fraternal order 100.00

10          For each of all other insurance companies, except

11          mutual burial associations taxed under G.S.

12          105-121.1500.00

13       The fees levied in this subsection shall be in addition to those specified in G.S. 58-6-  
14 5."

15       Sec. 66. G.S. 143-215.94I(g) reads as rewritten:

16       "(g) Each pool shall be audited annually at the expense of the pool by a certified  
17 public accounting firm, with a copy of the report available to the governing body or chief  
18 executive officer of each member of the pool and to the Commissioner. The board of  
19 trustees of the pool shall obtain an appropriate actuarial evaluation of the loss and loss  
20 adjustment expense reserves of the pool, including an estimate of losses and loss  
21 adjustment expenses incurred but not reported. The provisions of ~~G.S. 58-2-130, G.S. 58-~~  
22 ~~2-131, 58-2-132, 58-2-133, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190,~~  
23 ~~58-2-200, and 58-6-5~~ apply to each pool and to persons that administer ~~such~~ the pools.  
24 Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within  
25 60 days after the end of the pool's fiscal year. All financial statements required by this  
26 section shall be prepared in accordance with generally accepted statutory accounting  
27 principles."

28       Sec. 67. If any section or provision of this act is declared unconstitutional or  
29 invalid by the courts, it does not affect the validity of the act as a whole or any part other  
30 than the part so declared to be unconstitutional or invalid.

31       Sec. 68. Except as otherwise provided herein, this act is effective upon  
32 ratification.