

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 612

Pensions & Retirement and Insurance Committee Substitute Adopted 4/10/97

Short Title: Insurer Financial Operations.

(Public)

Sponsors:

Referred to:

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO MAKE SUBSTANTIVE CHANGES IN THE LAWS GOVERNING THE FINANCIAL OPERATIONS OF INSURANCE COMPANIES AND THE ROLE OF THE DEPARTMENT OF INSURANCE IN MONITORING THE SOLVENCY OF INSURANCE COMPANIES.

The General Assembly of North Carolina enacts:

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

"§ 58-3-100. **Revocation, ~~suspension~~ suspension, restriction, and or refusal to renew license.**

(a) ~~The Commissioner may revoke, suspend, or refuse to renew the license of any insurer if.~~ The Commissioner may, after notice and opportunity for a hearing, revoke, suspend, restrict, or refuse to renew the license of any insurer if:

- (1) The insurer fails or refuses to comply with any law, order or rule applicable to the insurer.
- (2) 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.
- (3) The insurer has published or made to the Department or to the public any false statement or report.

1           (4) ~~The insurer refuses~~ insurer or any of the insurer's officers, directors,  
2 ~~employees, agents, or other representatives refuse~~ to submit to any  
3 examination authorized by ~~law.~~ law or refuse to perform any legal  
4 ~~obligation in relation to an examination.~~

5           (5) The insurer is found to make a practice of unduly engaging in litigation  
6 or of delaying the investigation of claims or the adjustment or payment  
7 of valid claims.

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

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

19           (d) If a foreign insurance company's license is suspended or revoked, the  
20 Commissioner shall give written notification of the revocation or suspension to all of the  
21 company's agents in this State. Until the Commissioner restores the company's license  
22 and authority to do business in this State, the company shall not write any new business  
23 in this State.

24           (e) The Commissioner may, after considering the standards under G.S. 58-30-  
25 60(b), restrict an insurer's license by prohibiting or limiting the kind or amount of  
26 insurance written by that insurer. For a foreign insurer, this restriction relates to the  
27 insurer's business conducted in this State. The Commissioner shall remove any  
28 restriction under this subsection once the Commissioner determines that the operations of  
29 the insurer are no longer hazardous to the public or to the insurer's policyholders or  
30 creditors."

31           Section 2. Article 7 of Chapter 58 of the General Statutes is amended by  
32 adding a new section to read:

33 **"§ 58-7-37. Background of incorporators and proposed management personnel.**

34           (a) Before a license is issued to a new domestic insurance company, each key  
35 person must furnish the Commissioner a complete set of the applicant's fingerprints and a  
36 recent passport-size, full-face photograph of the applicant. The applicant's fingerprints  
37 shall be certified by an authorized law enforcement officer. The fingerprints of every  
38 applicant shall be forwarded to the State Bureau of Investigation for a search of the  
39 applicant's criminal history record file, if any. If warranted, the State Bureau of  
40 Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation  
41 for a national criminal history record check. An applicant shall pay the cost of the State  
42 and any national criminal history record check of the applicant.

1       (b) As used in this section, 'key person' means a proposed officer, director, or any  
2 other individual who will be in a position to influence the operating decisions of a  
3 domestic insurance company.

4       (c) The Commissioner may refuse to approve the formation or initial license of a  
5 new domestic insurance company under this Article if, after notice to the applicant and an  
6 opportunity for a hearing, the Commissioner finds as to the incorporators or other key  
7 person any one or more of the following conditions:

8           (1) Any untrue material statement regarding the background or experience  
9 of any incorporator or other key person.

10          (2) Violation of or noncompliance with any insurance laws or any rule or  
11 order of the Commissioner or of the insurance regulator of another state  
12 by any incorporator or other key person.

13          (3) Obtaining or attempting to obtain any license through misrepresentation  
14 or fraud.

15          (4) An incorporator or other key person has been convicted of a felony.

16          (5) An incorporator or other key person has been found to have committed  
17 any unfair trade practice or fraudulent act or omission.

18          (6) An incorporator or other key person has used fraudulent, coercive, or  
19 dishonest practices; or has acted in a manner that is incompetent,  
20 untrustworthy, or financially irresponsible.

21          (7) An incorporator or other key person has held such a position in another  
22 insurance company that has had its license suspended or revoked by any  
23 state.

24       (d) If the Commissioner disapproves a company formation or initial license, the  
25 Commissioner shall notify the applicant and advise the applicant in writing of the reasons  
26 for the disapproval. Within 30 days after date of receipt of the written disapproval, the  
27 applicant may make a written request for a hearing, which shall be scheduled within 30  
28 days after the date of receipt of the request.

29       (e) For investigations under this section, the Commissioner has all of the authority  
30 in G.S. 58-3-125.

31       (f) The Commissioner may adopt rules to set standards for obtaining background  
32 information on each incorporator or other key person of a proposed new domestic  
33 insurance company."

34       Section 3. G.S. 58-7-55(3)d. reads as rewritten:

35           "d. That if at any time the Commissioner finds that the conditions  
36 justifying the maintenance of such offices, records, and assets  
37 outside of this State no longer exist, or that the insurer has  
38 willfully and knowingly violated any of the conditions stated in  
39 sub-subdivisions b. and c., the Commissioner may order the  
40 return of such offices, records, and assets to this State within  
41 such reasonable time, not less than six months, as may be  
42 specified in the order; ~~and that for failure to comply with such order,~~  
43 ~~as thereafter modified or extended, if any, the Commissioner shall~~

1 ~~suspend or revoke the insurer's certificate of authority, and the~~  
2 ~~Commissioner may, for good cause shown, extend the time for~~  
3 ~~compliance in the order."~~

4 Section 4. G.S. 58-7-130 reads as rewritten:

5 "**§ 58-7-130. Payment of dividends impairing financial soundness of company or**  
6 **detrimental to policyholders. Dividends and distributions to stockholders.**

7 (a) Each domestic insurance company in North Carolina shall be restricted by the  
8 Commissioner from the payment of any dividends or other distributions to its  
9 stockholders whenever the Commissioner determines from examination of such  
10 company's financial condition that the payment of future dividends or other distributions  
11 would cause a hazardous financial condition, impair the financial soundness of the  
12 company or be detrimental to its policyholders, and ~~such those~~ restrictions shall continue  
13 in force until ~~such future date when the Commissioner may specifically permit~~ permits the  
14 payment of dividends or other distributions to stockholders by the company through a  
15 written authorization. ~~Nothing contained in this section and no action taken by the~~  
16 ~~Commissioner shall in any way restrict the liability of stockholders under G.S. 58-7-125.~~

17 (b) No domestic stock insurance company shall declare dividends to its  
18 stockholders except from the unassigned surplus of the company as reflected in the  
19 company's most recent financial statement filed with the Commissioner under G.S. 58-2-  
20 165.

21 (c) A transfer out of paid-in and contributed surplus to common or preferred  
22 capital stock will be permitted on a case-by-case basis, with the Commissioner's prior  
23 approval, depending on the necessity for a company to make the transfer.

24 (d) Nothing in this section and no action taken by the Commissioner in any way  
25 restricts the liabilities of stockholders under G.S. 58-7-125.

26 (e) Dividends and other distributions paid to stockholders are subject to the  
27 requirements and limitations of G.S. 58-19-25(d) and G.S. 58-19-30(c)."

28 Section 5. G.S. 58-7-170(c) reads as rewritten:

29 "~~(c) The cost of investments made by insurers in mortgage loans, authorized by~~  
30 ~~G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of the~~  
31 ~~insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus. An~~  
32 ~~insurer shall not invest in additional mortgage loans without the Commissioner's consent~~  
33 ~~if the admitted value of all mortgage loans held by the insurer exceeds an aggregate of~~  
34 ~~sixty percent (60%) of the admitted assets of the insurer, if (i) the admitted value of all~~  
35 ~~mortgage pass-through securities permitted by G.S. 58-7-173(17) does not exceed~~  
36 ~~twenty five percent (25%) of the admitted assets of the insurer and (ii) the admitted value~~  
37 ~~of other mortgage loans permitted by G.S. 58-7-179 does not exceed forty percent (40%)~~  
38 ~~of the admitted assets of the insurer.~~

39 An insurer that, as of October 1, 1993, has mortgage investments that exceed the  
40 aggregate limitation specified in this subsection shall submit to the Commissioner no  
41 later than January 31, 1994, a plan to bring the amount of mortgage investments into  
42 compliance with the limitations by January 1, 2001. The cost of investments made by an  
43 insurer in mortgage loans authorized by G.S. 58-7-179, with any one person, or in

1 mortgage pass-through securities and derivatives of mortgage pass-through securities  
2 authorized by G.S. 58-7-173(1), (2), (8), or (17), backed by a single collateral package,  
3 shall not exceed three percent (3%) of the insurer's admitted assets. An insurer shall not  
4 invest in additional mortgage loans or mortgage pass-through securities and derivatives  
5 of mortgage pass-through securities without the Commissioner's consent if the admitted  
6 value of all such investments held by the insurer exceeds an aggregate of sixty percent  
7 (60%) of the admitted assets of the insurer. Within the aggregate sixty percent (60%)  
8 limitation, the admitted value of all mortgage pass-through securities and derivatives of  
9 mortgage pass-through securities permitted by G.S. 58-7-173(17) shall not exceed  
10 twenty-five percent (25%) of the admitted assets of the insurer. The admitted value of  
11 other mortgage loans permitted by G.S. 58-7-179 shall not exceed forty percent (40%) of  
12 the admitted assets of the insurer. Mortgage pass-through securities authorized by G.S.  
13 58-7-173(1), (2), or (8) shall only be subject to the single collateral package limitation  
14 and the sixty percent (60%) aggregate limitation. An insurer that has mortgage  
15 investments that exceed the limitations specified in this subsection shall submit to the  
16 Commissioner no later than January 31, 1998, a plan to bring the amount of mortgage  
17 investments into compliance with the limitations by January 1, 2003."

18 Section 6. G.S. 58-7-185(a) reads as rewritten:

19 "(a) In addition to investments excluded under other provisions of this Chapter,  
20 except with prior approval by the Commissioner, an insurer shall not directly or indirectly  
21 invest in or lend its funds upon the security of:

22 (1) Issued shares of its own capital stock, except in connection with a plan  
23 for purchase of the shares by the insurer's officers, employees, or agents.  
24 No such stock shall, however, constitute an asset of the insurer in any  
25 determination of its financial condition.

26 (2) Except with the Commissioner's consent, securities issued by any  
27 corporation or enterprise, the controlling interest of which is or will  
28 after acquisition by the insurer be held directly or indirectly by the  
29 insurer or any combination of the insurer and the insurer's directors,  
30 officers, parent corporation, subsidiaries, or controlling stockholders.  
31 Investments in subsidiaries under G.S. 58-7-177 are not subject to this  
32 provision.

33 (3) ~~Any note or other evidence of indebtedness of any director, officer, or~~  
34 ~~controlling stockholder of the insurer, except as to policy loans~~  
35 ~~authorized under G.S. 58-7-175 and loans authorized under G.S. 58-7-~~  
36 ~~200(e)."~~

37 Section 7. G.S. 58-7-187(c) reads as rewritten:

38 ~~"(c) An insurer may acquire and hold real property for investment, subject to the~~  
39 ~~following conditions: An insurer may, subject to the limitations and conditions set out in~~  
40 ~~subdivisions (1) through (4) of this subsection, acquire, improve, develop, manage, lease,~~  
41 ~~mortgage, and dispose of real estate, other than real estate to be used primarily for mining~~  
42 ~~or development of oil or mineral resources, situated in any state of the United States or~~  
43 ~~province of Canada either directly or indirectly through limited partnership interest,~~

1 general partnership interests, provided that in the case of general partnership interests, all  
2 other partners in the partnership are subsidiaries of the insurer, limited liability  
3 companies, joint ventures, stock of an investment subsidiary, trust certificates, or other  
4 similar instruments. The real estate shall be income-producing or to be improved or  
5 developed for investment purposes under an existing program, in which case the property  
6 shall be deemed to be income-producing. The real estate may be subject to mortgages,  
7 liens, or other encumbrances, the amount of which shall, to the extent that the obligations  
8 secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be  
9 deducted from the amount of the investment of the insurer in the real estate for purposes  
10 of determining compliance with this subsection and G.S. 58-7-187(d). As used in this  
11 subsection, 'investment subsidiary' means a subsidiary of an insurer engaged or organized  
12 to engage exclusively in real estate investments authorized in this subsection.

13 (1) The amount shall not exceed in the aggregate the lesser of five percent  
14 (5%) of the insurer's admitted assets or fifteen percent (15%) of the  
15 insurer's capital and surplus.

16 (2) The amount in any one property shall not exceed one percent (1%) of  
17 the insurer's admitted assets.

18 (3) The amount in unimproved land shall not exceed one-half of one  
19 percent (0.5%) of the insurer's admitted assets.

20 (4) There shall be no time limit for the disposal of investment real estate."

21 Section 8. G.S. 58-7-200(c) reads as rewritten:

22 "~~(c) No insurer shall make any direct or indirect loan to any of its directors,~~  
23 ~~officers, or controlling stockholders; nor shall the insurer make any loan to any other~~  
24 ~~person in which the officer, director, or stockholder is substantially interested; nor shall~~  
25 ~~any such director, officer, or stockholder directly or indirectly accept any such loan. No~~  
26 ~~insurer shall directly or indirectly invest in or lend its funds to any of its directors,~~  
27 ~~officers, stockholders, or any other person in which an officer, director, or stockholder is~~  
28 ~~interested substantially, nor shall any director, officer, or stockholder directly or~~  
29 ~~indirectly accept such funds."~~

30 Section 9. G.S. 58-8-10 reads as rewritten:

31 "**§ 58-8-10. Policyholders are members of mutual companies.**

32 Every person insured by a mutual insurance company is a member while ~~his~~~~that~~  
33 person's policy is in force, is entitled to one vote for each policy ~~he~~~~that person~~ holds, and  
34 must be notified of the time and place of holding its meetings by a written notice or by an  
35 imprint upon the back of each policy, receipt, or certificate of renewal, as follows:

36 The insured is hereby notified that by virtue of this policy ~~he~~~~the insured~~ is a  
37 member of the ..... insurance company, and that the annual meetings of the  
38 company are held at its home office on the ..... day of ....., in each year,  
39 at ..... o'clock.

40 The blanks shall be duly filled in print and are a sufficient notice. A corporation ~~which~~  
41 that becomes a member of such a mutual insurance company may authorize any person to  
42 represent ~~it, the corporation;~~ and this representative has all the rights of an individual  
43 member. A person holding property in trust may insure it in ~~such a mutual insurance~~

1 company, and as trustee assume the liability and be entitled to the rights of a ~~member,~~  
2 ~~member;~~ but that person is not personally liable upon the contract of insurance. Members  
3 may vote by proxies, dated and executed within three ~~months,~~ months after receipt, and  
4 returned and recorded on the books of the company three days or more before the  
5 meeting at which they are to be used; ~~but no person as proxy or otherwise may cast more than~~  
6 ~~20 votes.~~ used."

7 Section 10. Article 10 of Chapter 58 of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 58-10-10. Conversion to stock insurer.**

10 (a) A domestic mutual insurer may convert to a domestic stock insurer under a  
11 plan that is approved in advance by the Commissioner.

12 (b) The Commissioner shall not approve the plan unless:

13 (1) It is fair and equitable to the insurer's policyholders.

14 (2) It is adopted by the insurer's board of directors in accordance with the  
15 insurer's bylaws and approved by a vote of not less than two-thirds of  
16 the insurer's members voting on it in person, by proxy, or by mail at a  
17 meeting called for the purpose of voting on the plan, pursuant to  
18 reasonable notice and procedure as approved by the Commissioner. If  
19 the company is a life insurer, the right to vote may be limited, as its  
20 bylaws provide, to members whose policies are other than term or group  
21 policies and have been in effect for more than one year.

22 (3) Each policyholder's equity in the insurer is determinable under a fair  
23 and reasonable formula approved by the Commissioner. The equity  
24 shall be based upon the insurer's entire statutory surplus after deducting  
25 certificates of contribution, guaranty capital certificates, and similar  
26 evidences of indebtedness included in an insurer's statutory surplus.

27 (4) The policyholders entitled to vote on the plan and participate in the  
28 purchase of stock or distribution of assets include all policyholders on  
29 the date the plan was adopted by the insurer's board of directors.

30 (5) The plan provides that each policyholder specified in subdivision (4) of  
31 this subsection receives a preemptive right to acquire a proportionate  
32 part of all of the proposed capital stock of the insurer or of all of the  
33 stock of a corporation affiliated with the insurer within a designated  
34 reasonable period as the part is determinable under the plan of  
35 conversion; and to apply toward the purchase of the stock the amount of  
36 the policyholder's equity in the insurer under subdivision (3) of this  
37 subsection. The plan must provide for an equitable distribution of  
38 fractional interests.

39 (6) The plan provides for payment to each policyholder of the  
40 policyholder's entire equity in the insurer; with that payment to be  
41 applied toward the purchase of stock to which the policyholder is  
42 entitled preemptively or to be made in cash, or both. The cash payment  
43 may not exceed fifty percent (50%) of each policyholder's equity. The

1           stock purchased, together with the cash payment, if any, shall constitute  
2           full payment and discharge of the policyholder's equity as an owner of  
3           the mutual insurer.

4           (7) Shares are to be offered to policyholders at a price not greater than that  
5           of shares to be subsequently offered to others.

6           (8) The Commissioner finds that the insurer's management has not, through  
7           reduction of volume of new business written, through policy  
8           cancellations, or through any other means, sought to (i) reduce, limit, or  
9           affect the number or identity of the insurer's members entitled to  
10           participate in the plan or (ii) secure for the individuals constituting  
11           management any unfair advantage through the plan.

12           (9) The plan, when completed, provides that the insurer's capital and  
13           surplus are not less than the minimum required of a domestic stock  
14           insurer transacting the same kinds of insurance, are reasonable in  
15           relation to the insurer's outstanding liabilities, and are adequate to meet  
16           its financial needs.

17           (c) With respect to an insurer with a guaranty capital, the conversion plan shall be  
18           approved by a vote of not less than two-thirds of the insurer's guaranty capital  
19           shareholders and policyholders as provided for in subdivision (b)(2) of this section. The  
20           plan may provide for the issuance of stock in exchange for outstanding guaranty capital  
21           shares at their redemption value subject to the conditions in subsection (b) of this section.

22           (d) The Commissioner may schedule a public hearing on the proposed conversion  
23           plan.

24           (e) The Commissioner may retain, at the mutual insurer's expense, any attorneys,  
25           actuaries, economists, accountants, or other experts not otherwise a part of the  
26           Commissioner's staff as may be reasonably necessary to assist the Commissioner in  
27           reviewing the proposed conversion plan.

28           (f) The corporate existence of the mutual company continues in the stock  
29           company created under this section. All assets, rights, franchises, and interests of the  
30           former mutual insurer, in and to real or personal property, are deemed to be transferred to  
31           and vested in the stock insurer, without any other deed or transfer; and the stock insurer  
32           simultaneously assumes all of the obligations and liabilities of the former mutual insurer.

33           (g) The Commissioner may adopt rules to carry out the provisions of this section."

34           Section 11. G.S. 58-16-5 reads as rewritten:

35           "**§ 58-16-5. Conditions of ~~admission.~~ licensure.**

36           A foreign or alien insurance company may be ~~admitted and authorized~~ licensed to do  
37           business when it:

38           (1) Deposits with the Commissioner a certified copy of its charter or  
39           certificate of organization and a statement of its financial condition and  
40           business, in ~~such the form and detail as he that~~ the Commissioner  
41           requires, signed and sworn to by its president and secretary or other  
42           proper officer, and pays for the filing of this statement the sum required  
43           by law.

- 1           (2) Satisfies the Commissioner that it is fully and legally organized under  
2 the laws of its state or government to do the business it proposes to  
3 ~~transact,~~ transact as direct insurance or assumed reinsurance and that it  
4 has been successful in the conduct of ~~such~~ that business; that it has, if a  
5 stock company, a free surplus and a fully paid-up and unimpaired  
6 capital, exclusive of stockholders' obligations of any description of an  
7 amount not less than that required for the organization of a domestic  
8 company writing the same kinds of business; and if a mutual company  
9 that its free surplus is not less than that required for the organization of a  
10 domestic company writing the same kind of business, and that ~~such~~ the  
11 capital, surplus, and other funds are invested in substantial accordance  
12 with the requirements of ~~Articles 1 through 64~~ of this Chapter.
- 13           (3) Repealed by Session Laws 1995, c. 517, s. 6.
- 14           (4) Repealed by Session Laws 1987, c. 629, s. 20.
- 15           (5) Files with the Commissioner a certificate that it has complied with the  
16 laws of the state or government under which it was organized and is  
17 authorized to make contracts of insurance.
- 18           (6) Satisfies the Commissioner that it is in substantial compliance with ~~the~~  
19 ~~provisions of~~ G.S. 58-7-21, 58-7-26, 58-7-30, and 58-7-31 and Article 13  
20 of this Chapter.
- 21           (7) Satisfies the Commissioner that it is in compliance with the company  
22 name requirements of G.S. 58-7-35.
- 23           (8) Satisfies the Commissioner that it is in substantial compliance with the  
24 requirements of G.S. 58-7-37 pertaining to the background of its  
25 officers and directors.
- 26           (9) Files with the Commissioner an instrument appointing the  
27 Commissioner as the company's agent on whom any legal process under  
28 G.S. 58-16-30 may be served. This appointment is irrevocable as long  
29 as any liability of the company remains outstanding in this State. A  
30 copy of this instrument, certified by the Commissioner, is sufficient  
31 evidence of this appointment; and service upon the Commissioner is  
32 sufficient service upon the company."

33           Section 12. G.S. 58-16-6 reads as rewritten:

34 **"§ 58-16-6. Conditions of continued licensure.**

35           In order for a foreign insurance company to continue to be licensed, it shall report any  
36 changes in the documents filed under ~~G.S. 58-16-5(1) or G.S. 58-16-5(5),~~ G.S. 58-16-5,  
37 maintain the amounts of capital and surplus specified in G.S. 58-16-5(2), and remain in  
38 substantial compliance with the statutes listed in G.S. 58-16-5(6) ~~and G.S. 58-16-5(7)~~  
39 through G.S. 58-16-5(8)."

40           Section 13. G.S. 58-19-25(a) reads as rewritten:

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

1 or regulation in the jurisdiction of its domicile that are substantially similar to those  
2 contained in this section and G.S. 58-19-30 or a provision such as the following: Each registered  
3 insurer shall keep current the information required to be disclosed in its registration statement by  
4 reporting 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 statement  
6 and any amendments to the statement in each state in which that insurer is authorized to do  
7 business if requested by the insurance regulator of that state. in:

8 (1) This section.

9 (2) G.S. 58-19-30(a), 58-19-30(c), and 58-19-30(d).

10 (3) G.S. 58-19-30(b) or a provision such as the following: Each registered  
11 insurer shall keep current the information required to be disclosed in its  
12 registration statement by reporting all material changes or additions  
13 within 15 days after the end of the month in which it learns of each  
14 change or addition. The insurer shall also file a copy of its registration  
15 statement and any amendments to the statement in each state in which  
16 that insurer is authorized to do business, if requested by the insurance  
17 regulator of that state.

18 Any insurer that is subject to registration under this section shall register within 30 days  
19 after it becomes subject to registration, and an amendment to the registration statement  
20 shall be filed by March 1 of each year for the previous calendar year; unless the  
21 Commissioner for good cause shown extends the time for registration or filing, and then  
22 within the extended time. All registration statements shall contain a summary, on a form  
23 prescribed by the Commissioner, outlining all items in the current registration statement  
24 representing changes from the prior registration statement. The Commissioner may  
25 require any insurer that is a member of a holding company system that is not subject to  
26 registration under this section to furnish a copy of the registration statement or other  
27 information filed by the insurance company with the insurance regulator of its  
28 domiciliary jurisdiction."

29 Section 14. G.S. 58-19-30(b) reads as rewritten:

30 "(b) The following transactions involving a domestic insurer and any person in its  
31 holding company system may not be entered into unless the insurer has notified the  
32 Commissioner in writing of its intention to enter into the transaction at least 30 days  
33 before the transaction, or such shorter period as the Commissioner permits, and the  
34 Commissioner has not disapproved it within that period:

35 (1) Sales, purchases, exchanges, loans or extensions of credit, guarantees,  
36 or investments, provided the transactions equal or exceed: (i) with  
37 respect to nonlife insurers, the lesser of three percent (3%) of the  
38 insurer's admitted assets or twenty-five percent (25%) of surplus as  
39 regards policyholders; (ii) with respect to life insurers, three percent  
40 (3%) of the insurer's admitted assets; each as of the preceding December  
41 31.

42 (2) Loans or extensions of credit to any person who is not affiliated, where  
43 the insurer makes the loans or extensions of credit with the agreement or

1 understanding that the proceeds of the transactions, in whole or in  
2 substantial part, are to be used to make loans or extensions of credit to,  
3 to purchase assets of, or to make investments in, any affiliate of the  
4 insurer making the loans or extensions of credit provided the  
5 transactions equal or exceed: (i) with respect to nonlife insurers, the  
6 lesser of three percent (3%) of the insurer's admitted assets or twenty-  
7 five percent (25%) of surplus as regards policyholders; (ii) with respect  
8 to life insurers, three percent (3%) of the insurer's admitted assets; each  
9 as of the preceding December 31.

10 (3) Reinsurance agreements or modifications to the agreements in which the  
11 reinsurance premium or a change in the insurer's liabilities equals or  
12 exceeds five percent (5%) of the insurer's surplus as regards  
13 policyholders, as of the preceding December 31, including those  
14 agreements that may require as consideration the transfer of assets from  
15 an insurer to a nonaffiliate, if an agreement or understanding exists  
16 between the insurer and nonaffiliate that any portion of the assets will  
17 be transferred to one or more affiliates of the insurer.

18 (4) All management agreements, service contracts, guarantees, or cost-  
19 sharing arrangements.

20 (4a) Direct or indirect acquisitions or investments in a person that controls  
21 the insurer or an affiliate of the insurer in an amount which, together  
22 with its present holdings in the investments, exceeds two and one-half  
23 percent (2.5%) of the insurer's surplus to policyholders. Direct or  
24 indirect acquisitions or investments in subsidiaries acquired under G.S.  
25 58-19-10, or in nonsubsidiary insurance affiliates that are subject to the  
26 provisions of this Article, are exempt from this requirement.

27 (5) Any material transactions, specified by rule, that the Commissioner  
28 determines may adversely affect the interests of the insurer's  
29 policyholders."

30 Section 15. G.S. 58-26-25 reads as rewritten:

31 **"§ 58-26-25. Amount of unearned premium reserve.**

32 (a) The unearned premium reserve of every domestic title insurance company shall  
33 consist of the aggregate of:

34 (1) The amount of the unearned premium reserve held as of January 1,  
35 ~~1974-1998.~~

36 (2) The amount of all additions required to be made to such reserve by this  
37 section, less the reduction of such aggregate amount required hereby.

38 (b) On each contract of title insurance issued by a domestic title insurance  
39 company on and after January 1, ~~1974-1998,~~ there shall be reserved initially as an  
40 unearned premium reserve a sum equal to ~~ten per centum~~ percent (10%) of the original  
41 risk premium charged therefor.

42 (c) The aggregate of the amounts set aside in unearned premium reserves in any  
43 calendar year, ~~pursuant to~~ under subsection (b) of this section, shall be reduced annually at

1 the end of each calendar year following the year in which the policy is issued, at the  
2 ~~annual rate of one twentieth of the aggregate of such amounts, over a period of 20 years,~~  
3 ~~according to the following: twenty percent (20%) the first year; ten percent (10%) for~~  
4 ~~years two and three; five percent (5%) for years four through 10; three percent (3%) for~~  
5 ~~years 11 through 15; and two percent (2%) for years 16 through 20.~~

6 (d) The entire amount of the unearned premium reserve held as of January 1, ~~1974,~~  
7 ~~1998,~~ shall be added to the reserve as of that date and shall be released from ~~said the~~  
8 reserve and restored to net profits at the ~~annual rate of one twentieth of the said entire amount,~~  
9 ~~beginning in the next ensuing calendar year.~~ in accordance with percentages reflected in G.S.  
10 58-26-25(c).

11 (e) ~~If substantially the entire outstanding liability under all policies, contracts of~~  
12 ~~title insurance or reinsurance agreements of any such title insurance company shall be~~  
13 ~~reinsured, the value of the consideration received by a reinsuring title insurance company~~  
14 ~~authorized to transact the business of title insurance in this State, shall constitute, in its~~  
15 ~~entirety, unearned portions of original premiums and be added to its unearned premium~~  
16 ~~reserve and deemed, for recovery purposes, to have been provided for liabilities assumed~~  
17 ~~during the year of such reinsurance. The amount of such addition to the unearned~~  
18 ~~premium reserve of such assuming title insurance company shall be not less, however,~~  
19 ~~than two thirds of the amount of the unearned premium reserve required to be maintained~~  
20 ~~by the ceding title insurance company at the time of such reinsurance. A supplemental~~  
21 ~~reserve shall be established in accordance with the instructions of the annual statement~~  
22 ~~required under G.S. 58-27-15 consisting of the reserves necessary, when taken in~~  
23 ~~combination with the reserves required by G.S. 58-26-25(a) through (d), to cover the~~  
24 ~~company's liabilities with respect to all losses, claims, and loss adjustment expenses.~~

25 (f) Each title insurer subject to this Article shall file with its annual statement  
26 required under G.S. 58-27-15 an actuarial certification of a member in good standing of  
27 the American Academy of Actuaries. The actuarial certification shall conform to the  
28 NAIC annual statement instructions for title insurers.

29 (g) If substantially the entire outstanding liability under all policies, contracts of  
30 title insurance, or reinsurance agreements of any title insurance company is reinsured, the  
31 value of the consideration received by a ceding title insurance company authorized to  
32 transact title insurance in this State shall constitute, in its entirety, unearned portions of  
33 original premiums, shall be added to its unearned premium reserve, and shall be deemed,  
34 for recovery purposes, to have been provided for liabilities assumed during the year of  
35 the reinsurance. The amount of the addition to the unearned premium reserve of the  
36 assuming title insurance company shall be not less than two-thirds of the amount of the  
37 unearned premium reserve required to be maintained by the ceding title insurance  
38 company at the time of the reinsurance."

39 Section 16. G.S. 58-34-2(a) is amended by adding a new subdivision to read:

40 "(1a) 'Custodial agreement' means any agreement or contract under which any  
41 person is delegated authority to safekeep assets of the insurer."

42 Section 17. G.S. 58-34-10 reads as rewritten:

43 "**§ 58-34-10. Management ~~contracts.~~ contracts or custodial agreements.**

1 (a) Subject to G.S. 58-19-30(b)(4), any domestic insurer that enters into a  
2 management contract or custodial agreement must file that contract or agreement with the  
3 Commissioner on or before its effective date. As used in this section, 'management  
4 contract' means any agreement or contract under which any person is delegated  
5 management duties or control of an insurer, or transfers a substantial part of any major  
6 function of an insurer, such as adjustment of losses, production of business, investment of  
7 assets, or general servicing of the insurer's business.

8 (b) Any domestic insurer that has a management contract or custodial agreement  
9 shall file a statement with the initial filing of that contract that discloses (i) criteria on  
10 which charges to the insurer are based for that contract; (ii) whether management  
11 personnel or other employees of the insurer are to be performing management functions  
12 and receiving any remuneration therefor through that contract in addition to the  
13 compensation by way of salary received directly from the insurer for their services; (iii)  
14 whether the contract transfers substantial control of the insurer or any of the powers  
15 vested in the board of directors, by statute, articles of incorporation, or bylaws, or  
16 substantially all of the basic functions of the insurer's management; (iv) biographical  
17 information for each officer and director of the management firm; and (v) other  
18 information concerning the contract or the management or custodian firm as may be  
19 included from time to time in any registration forms adopted or approved by the  
20 Commissioner. ~~Such~~ The statement shall be filed on a form prescribed by the  
21 Commissioner.

22 (c) Any domestic insurer that amends or cancels a management contract or  
23 custodial agreement filed ~~pursuant to~~ under subsection (a) of this section shall notify the  
24 Commissioner ~~thereof~~ within 15 business days after the amendment or cancellation. If the  
25 contract is amended, the notice shall provide a copy of the amended contract and shall  
26 disclose if the amendment affects any of the items in subsection (b) of this section. The  
27 Commissioner may prescribe a form to be used to provide notice under this subsection.

28 (d) Any domestic insurer that has a management contract or custodial agreement  
29 shall file a statement on or before March 1 of each year, for the preceding calendar year,  
30 disclosing (i) total charges incurred by the insurer under the contract; (ii) any salaries,  
31 commissions, or other valuable consideration paid by the insurer directly to any officer,  
32 director, or shareholder of the management or custodian firm; and (iii) other information  
33 concerning the contract or the management or custodian firm as may be included from  
34 time to time in any registration forms adopted or approved by the Commissioner. The  
35 Commissioner may prescribe a form to be used to provide the information required by  
36 this subsection.

37 (e) Any domestic insurer that has a management contract may request an  
38 exemption from the filing requirements of this section if the contract is for a group of  
39 affiliated insurers on a pooled funds basis or service company management basis, where  
40 costs to the individual member insurers are charged on an actually incurred or closely  
41 estimated basis. The request for an exemption must be in writing, must explain the basis  
42 for the exemption, and must be received by the Commissioner on or before the effective  
43 date of the contract. As used in this subsection, 'affiliated' has the same meaning as in

1 G.S. 58-19-5(1). Management contracts exempted under this subsection must still be  
2 reduced to written form."

3 Section 18. G.S. 58-34-15 reads as rewritten:

4 **"§ 58-34-15. Grounds for disapproval.**

5 (a) The Commissioner must disapprove any management contract or custodial  
6 agreement filed under G.S. 58-34-10 if, at any time, the Commissioner finds:

7 (1) That the service or management charges are based upon criteria  
8 unrelated either to the managed insurer's profits or to the reasonable  
9 customary and usual charges for ~~such~~ the services or are based on  
10 factors unrelated to the value of ~~such~~ the services to the insurer; or

11 (2) That management personnel or other employees of the insurer are to be  
12 performing management functions and receiving any remuneration  
13 ~~therefor~~ for those functions through the management or service contract  
14 in addition to the compensation by way of salary received directly from  
15 the insurer for their services; or

16 (3) That the contract would transfer substantial control of the insurer or any  
17 of the powers vested in the board of directors, by statute, articles of  
18 incorporation, or bylaws, or substantially all of the basic functions of the  
19 insurance company management; or

20 (4) That the contract contains provisions that would be clearly detrimental  
21 to the best interest of policyholders, stockholders, or members of the  
22 insurer; or

23 (5) That the officers and directors of the management or custodial firm are  
24 of known bad character or have been affiliated, directly or indirectly,  
25 through ownership, control, management, reinsurance transactions, or  
26 other insurance or business relations with any person known to have  
27 been involved in the improper manipulation of assets, accounts, or  
28 reinsurance.

29 (6) That the custodial agreement is not substantially the same as the form  
30 adopted by the Commissioner.

31 (b) If the Commissioner disapproves any management contract or custodial  
32 agreement, notice of ~~such action~~ the disapproval shall be given to the insurer assigning the  
33 reasons ~~therefor~~ for the disapproval in writing. The Commissioner shall grant any party to  
34 the contract a hearing ~~upon request according to G.S. 58-2-50.~~ if the party requests a  
35 hearing."

36 Section 19. G.S. 58-65-95 reads as rewritten:

37 **"§ 58-65-95. Investments and reserves.**

38 (a) No corporation subject to this Article shall invest in any securities other than  
39 securities permitted ~~by the laws of this State~~ by Article 7 of this Chapter for the investment  
40 of assets of life insurance companies, banks, trust companies, executors, administrators and  
41 ~~guardians.~~ assets.

42 (b) Every ~~such~~ corporation subject to this Article ~~after the first full year of doing~~  
43 ~~business after the passage of this Article and Article 66 of this Chapter~~ shall accumulate and

1 maintain, in addition to proper reserves for current administrative liabilities and whatever  
2 reserves are deemed to be adequate and proper by the Commissioner of Insurance for  
3 unpaid hospital and/or medical and/or hospital, medical, or dental bills, and unearned  
4 membership dues, a special contingent surplus or reserve at the following rates annually  
5 of its gross annual collections from membership dues, exclusive of receipts from cost  
6 plus plans, until ~~said the reserve shall equal equals~~ an amount that is three times its  
7 average monthly expenditures for hospital and/or medical and/or dental claims and  
8 administrative and selling expenses:

- 9 (1) First \$200,000 4%  
10 (2) Next \$200,000 2%  
11 (3) All above \$400,000 1%

12 (c) Any ~~such~~ corporation subject to this Article may accumulate and maintain a  
13 contingent reserve in excess of the ~~reserve hereinabove provided for, reserve required in~~  
14 subsection (b) of this section, not to exceed an amount equal to six times the average  
15 monthly expenditures for ~~hospital and/or medical and/or dental claims and administrative~~  
16 and selling expenses.

17 (d) ~~In the event If~~ the Commissioner of Insurance finds that special conditions exist  
18 warranting an increase or decrease in the reserves or schedule of reserves, ~~hereinabove~~  
19 ~~provided for, it may be modified by reserves in subsection (b) of this section, the~~  
20 ~~Commissioner of Insurance accordingly, may modify them accordingly. provided~~ Provided,  
21 however, when special conditions exist warranting an increase in said the schedule of  
22 reserves, said the schedule shall not be increased by the Commissioner of Insurance until a  
23 reasonable length of time shall have has elapsed after the Commissioner gives notice of  
24 such the increase."

25 Section 20. Article 65 of Chapter 58 of the General Statutes is amended by  
26 adding a new section to read:

27 "**§ 58-65-102. Financial statements; examinations.**

28 (a) Every corporation organized under this Article is subject to G.S. 58-2-165.

29 (b) Service corporations organized under this Article shall be examined under G.S.  
30 58-2-131, 58-2-132, and 58-2-133."

31 Section 21. Article 67 of Chapter 58 of the General Statutes is amended by  
32 adding a new section to read:

33 "**§ 58-67-56. Financial statements.**

34 Every HMO under this Chapter is subject to G.S. 58-2-165."

35 Section 22. G.S. 58-3-90, 58-65-100, 58-65-105, and 58-67-55 are repealed.

36 Section 23. This act becomes effective October 1, 1997.