

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 296
RATIFIED BILL

AN ACT TO REPEAL OBSOLETE OR UNNECESSARY LAWS AND MAKE
TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN
VARIOUS INSURANCE STATUTES.

The General Assembly of North Carolina enacts:

PART I. REPEALS OF OBSOLETE OR UNNECESSARY PROVISIONS.

Section 1.1. G.S. 58-3-125, 58-6-10, and 58-71-90 are repealed.

Section 1.2. G.S. 58-87-10(e) reads as rewritten:

"(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from appropriations made to the Department of Insurance for this purpose. In addition, every eligible unit that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as a per capita fixed dollar amount for each member of the roster of the eligible unit.

The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund. ~~If the Commission does not receive an annual payment from an eligible unit by July 1, then that unit shall not receive workers' compensation coverage from the Fund for the fiscal year that begins that July 1.~~"

Section 1.3. G.S. 58-3-115 reads as rewritten:

"§ 58-3-115. Twisting with respect to insurance policies; penalties.

No insurer shall make or issue, or cause to be issued, any written or oral statement that willfully misrepresents or willfully makes an incomplete comparison as to the terms, conditions, or benefits contained in any policy of insurance for the purpose of inducing or attempting to induce a policyholder in any way to terminate or surrender, exchange, or convert any insurance policy. Any person who violates this section is subject to the provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125. G.S. 58-2-70 or G.S. 58-3-100.~~"

Section 1.4. G.S. 58-33-45(d) reads as rewritten:

"(d) For the purposes of investigation under this section, the Commissioner shall have all the power conferred upon him by G.S. ~~58-3-125.~~ 58-2-50."

PART II. CONTINUING CARE RETIREMENT COMMUNITY NAME CORRECTION.

Section 2.1. G.S. 58-30-10(14) reads as rewritten:

"(14) 'Insurer' means any entity licensed under Articles 7, 16, 26, 49, 65, or 67 of this Chapter and any employer that has furnished to the Commissioner satisfactory proof of its financial responsibility under G.S. 97-93(a)(2). For purposes of this Article, 'insurer' also includes ~~continuing care retirement centers~~ continuing care retirement communities licensed under Article 64 of this Chapter."

Section 2.2. The title of Article 64 of Chapter 58 of the General Statutes reads as rewritten:

"ARTICLE 64.

~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~

CONTINUING CARE FACILITIES-RETIREMENT COMMUNITIES."

Section 2.3. G.S. 58-64-1 reads as rewritten:

"§ 58-64-1. Definitions.

As used in this Article, unless otherwise specified:

- (1) 'Continuing care' means the furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, ~~pursuant to~~ under an agreement effective for the life of the individual or for a period in excess of longer than one year.
- (2) 'Entrance fee' means a payment that assures a resident a place in a facility for a term of years or for life.
- (3) 'Facility' means the ~~place or places~~ retirement community or communities in which a provider undertakes to provide continuing care to an individual.
- (4) 'Health related services' means, at a minimum, nursing home admission or assistance in the activities of daily living, exclusive of the provision of meals or cleaning services.
- (5) 'Living unit' means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified residents.
- (6) 'Provider' means the promoter, developer, or owner of a ~~continuing care~~ facility, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, or any other person, that solicits or undertakes to provide continuing care under a continuing care facility contract, or that represents ~~himself~~ himself, herself, or itself as providing continuing care or 'life care.'
- (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to, a continuing care contract.
- (8) 'Hazardous financial condition' means a provider is insolvent or in eminent danger of becoming insolvent."

Section 2.4. G.S. 58-64-40(b) reads as rewritten:

"(b) The board of directors or other governing body of a ~~continuing care~~ facility or its designated representative shall hold annual meetings with the residents of the ~~continuing care~~ facility for free discussions of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility and discussions of proposed changes in policies, programs, and services. Residents shall be entitled to at least seven days advance notice of each meeting. An agenda and any materials that will be distributed by the governing body at the meetings shall remain available upon request to residents."

Section 2.5. G.S. 58-64-80 reads as rewritten:

"§ 58-64-80. Advisory Committee.

There shall be a nine member Continuing Care Advisory Committee appointed by the Commissioner. The Committee shall consist of at least two residents of ~~continuing care communities, facilities,~~ two representatives of the North Carolina Association of Nonprofit Homes for the Aging, one individual who is a certified public accountant and is licensed to practice in this State, one individual skilled in the field of architecture or engineering, and one individual who is a health care professional."

PART III. WORKERS' COMPENSATION LOSS COSTS CONFORMING CHANGES.

Section 3.1. G.S. 58-36-1(2) reads as rewritten:

"(2) The Bureau shall provide reasonable means to be approved by the Commissioner whereby any person affected by a rate or loss costs made by it may be heard in person or by ~~his~~ the person's authorized representative before the governing committee or other proper executive of the Bureau."

Section 3.2. G.S. 58-36-1(5)c. reads as rewritten:

"c. Failure or refusal by any assigned employer risk to make full disclosure to the Bureau, servicing carrier, or insurer writing a policy of information regarding the employer's true ownership, change of ownership, operations, or payroll, or any other failure to disclose fully any records pertaining to workers' compensation insurance shall be sufficient grounds for ~~the Bureau to authorize~~ the termination of the policy of that employer."

Section 3.3. G.S. 58-36-10 reads as rewritten:

"§ 58-36-10. Method of rate making; factors considered.

The following standards shall apply to the making and use of rates:

- (1) Rates or loss costs shall not be excessive, inadequate or unfairly discriminatory.
- (2) Due consideration shall be given to actual loss and expense experience within this State for the most recent three-year period for which ~~such~~ that information is available; to prospective loss and expense experience within this State; to the hazards of conflagration and catastrophe; to a reasonable margin for underwriting profit and to contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to investment income earned or realized by insurers from their unearned premium, loss, and loss expense reserve funds generated from business within this State; to past and prospective expenses specially applicable to this State; and to all other relevant factors within this State: Provided, however, that countrywide expense and loss experience and other countrywide data may be considered only where credible North Carolina experience or data is not available.
- (3) In the case of fire insurance rates, as are subject to the ratemaking authority of the Bureau, consideration may be given to the experience of such fire insurance business during the most recent five-year period for which ~~such~~ that experience is available. In the case of fire insurance rates that are subject to the ratemaking authority of the Bureau, consideration shall be given to the insurance public protection classifications of rural fire districts based upon standards established by the Commissioner. To the extent credits are provided for proximity to fire hydrants, the Bureau may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner.
- (4) Risks may be grouped by classifications and lines of insurance for establishment of ~~rates~~ rates, loss costs, and base premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans ~~which~~ that establish standards for measuring variations in hazards or expense provisions or both. ~~Such~~ Those standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. The Bureau ~~is directed to~~ shall establish and implement a comprehensive classification rating plan for motor vehicle insurance under its ~~jurisdiction within 90 days of September 1, 1977.~~ jurisdiction. No

such classification plans shall base any standard or rating plan for private passenger (nonfleet) motor vehicles, in whole or in part, directly or indirectly, upon the age or ~~sex~~ gender of the persons insured. The Bureau shall at least once every three years make a complete review of the filed classification rates to determine whether they are proper and supported by statistical evidence, and shall at least once every 10 years make a complete review of the territories for nonfleet private passenger motor vehicle insurance to determine whether they are proper and reasonable.

- (5) In the case of workers' compensation insurance and employers' liability insurance written in connection therewith, due consideration shall be given to the past and prospective effects of changes in compensation benefits and in legal and medical fees that are provided for in General Statutes Chapter 97."

Section 3.4. G.S. 58-36-15(a) reads as rewritten:

"(a) The Bureau shall file with the Commissioner copies of the rates, loss costs, classification plans, rating plans and rating systems used by its members. Each rate or loss costs filing shall become effective on the date specified in the filing, but not earlier than 105 days from the date the filing is received by the Commissioner: Provided that (1) rate or loss costs filings for workers' compensation insurance and employers' liability insurance written in connection therewith shall not become effective earlier than 120 days from the date the filing is received by the Commissioner or on the date as provided ~~under in~~ G.S. 58-36-100, whichever is earlier; and (2) any filing may become effective on a date earlier than that specified in this subsection upon agreement between the Commissioner and the Bureau."

Section 3.5. G.S. 58-36-15(f) reads as rewritten:

"(f) On or before September 1 of each calendar ~~year~~ year, or later with the approval of the Commissioner, the Bureau shall submit to the Commissioner the experience, data, statistics, and information referred to in subsection (c) of this section and required under G.S. 58-36-100 and a residual market rate or prospective loss costs review based on ~~such those~~ data for workers' compensation insurance and employers' liability insurance written in connection therewith. Any rate or loss costs increase for ~~such that~~ insurance that is implemented ~~pursuant to~~ under this Article shall become effective solely to ~~such insurance as is written having insurance with an~~ inception date on or after the effective date of the rate or loss costs increase."

Section 3.6. G.S. 58-36-15(g) reads as rewritten:

"(g) The following information must be included in policy form, rule, and rate or loss costs filings under this Article and under Article 37 of this Chapter:

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

Section 3.7. G.S. 58-36-30(a) reads as rewritten:

"(a) ~~No insurer, officer, agent or representative thereof~~ Except as permitted by G.S. 58-36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or representative of an insurer shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State which that does not conform to the rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau. However, an An insurer may deviate from the rates promulgated by the Bureau provided if the insurer has filed the proposed deviation to be applied both with the Bureau and the Commissioner, and provided the deviation is uniform in its application to all risks in the State of the class to which the deviation is to apply; and provided such deviation is approved by the Commissioner. if the proposed deviation is based on sound actuarial principles, and if the proposed deviation is

~~approved by the Commissioner. The Commissioner shall approve proposed deviations if they do not render the rates excessive, inadequate or unfairly discriminatory. If approved, the deviation may thereafter be amended, subject to the provisions of this subsection. Amendments to deviations are subject to the same requirements as initial filings. The deviation may be terminated. An insurer may terminate a deviation only if the deviation has been in effect for a period of six months before the effective date of the termination and the insurer notifies the Commissioner of the termination no later than 15 days before the effective date of the termination."~~

Section 3.8. G.S. 58-36-30(c) reads as rewritten:

~~"(c) Any deviation with respect to workers' compensation and employers' liability insurance written in connection therewith as filed under subsection (a) of this section shall apply uniformly to all classifications. Any approved rate under subsection (b) of this section with respect to workers' compensation and employers' liability insurance written in connection therewith shall be furnished to the Bureau."~~

Section 3.9. G.S. 58-36-100(a) reads as rewritten:

~~"(a) Nothing in this section requires the Bureau or its member insurers to refile rates previously implemented before two years after the effective date of this section. Any member insurer of the Bureau may continue to use all rates and deviations filed and approved for its use until disapproved, or the insurer makes its own filing to change its rates, either by making an independent filing or by filing a reference filing adoption form adopting the Bureau's prospective loss costs, or modification thereof. Except as provided in subsection subsections (k) and (m) of this section, with the initial prospective loss costs reference filing, the Bureau shall no longer develop or file any minimum premiums, minimum premium formulas, or expense constants. If an insurer wishes to amend minimum premium formulas, formulas or expense constants, it must file the minimum premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted to the Commissioner under subsections (e) and (g) of this section shall also be sent to the Bureau."~~

Section 3.10. G.S. 58-36-100(b)(1) reads as rewritten:

~~"(1) 'Expenses'. – That portion of a rate attributable to acquisition, field supervision, collection expenses, any tax levied by the State or by any political subdivision of the State, licensing costs, fees, and general expenses, as determined by the insurer."~~

Section 3.11. G.S. 58-36-100(c) reads as rewritten:

~~"(c) Except as provided in subsection (m) of this section, for workers' compensation and employers' liability insurance written in connection with workers' compensation insurance, the Bureau shall no longer develop or file advisory final rates that contain provisions for expenses (other than loss adjustment expenses) and profit. The Bureau shall instead develop and file for approval with the Commissioner, in accordance with this section, reference filings containing advisory prospective loss costs and the underlying loss data and other supporting statistical and actuarial information for any calculations or assumptions underlying these loss costs. Loss-based assessments, any tax levied by the State or any political subdivision of the State, licensing costs, and fees assessments will be included in prospective loss costs."~~

Section 3.12. G.S. 58-36-100(k) reads as rewritten:

~~"(k) The Bureau shall file with the Commissioner, for approval, filings containing a revision of rules and supplementary rating information. This includes policy-writing rules, rating plans, classification codes and descriptions, and rules that include factors or relativities, such as employers' liability-increased limits factors, factors and related minimum premiums classification relativities, or similar factors, but excludes minimum premiums-factors. The Bureau may print and distribute manuals of rules and supplementary rating information, excluding minimum premiums-information."~~

PART IV. HEALTH INSURANCE CLARIFYING CHANGES.

Section 4.1. G.S. 58-50-130(a) is amended by adding a new subdivision to read:

"(4b) Late enrollees may only be excluded from coverage for the greater of 18 months or an 18-month preexisting-condition exclusion; however, if both a period of exclusion from coverage and a preexisting-condition exclusion are applicable to a late enrollee, the combined period shall not exceed 18 months. If a period of exclusion from coverage is applied, a late enrollee shall be enrolled at the end of that period in the health benefit plan held at the time by the small employer."

Section 4.2. G.S. 58-51-55(d) reads as rewritten:

"(d) Applicability. – Subsection (b1) of this section applies only to group health insurance ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than 50 employees. The remainder of this section applies only to group health insurance contracts covering 20 or more employees. For purposes of this section, 'group health insurance contracts' include MEWAs, as defined in G.S. 58-49-30(a)."

Section 4.3. G.S. 58-65-90(d) reads as rewritten:

"(d) Applicability. – Subsection (b1) of this section applies only to subscriber ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than 50 employees. The remainder of this section applies only to group contracts covering 20 or more employees."

Section 4.4. G.S. 58-67-75(d) reads as rewritten:

"(d) Applicability. – Subsection (b1) of this section applies only to group ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than 50 employees. The remainder of this section applies only to group contracts covering 20 or more employees."

Section 4.5. Reserved.

Section 4.6. G.S. 58-68-40(e) reads as rewritten:

"(e) ~~Exception for Coverage Offered Only to Bona Fide Association Members.~~ Coverage. – Subsection (a) of this section does not apply to:

- (1) Health insurance coverage offered by a health insurer if the coverage is made available in the small group market only through one or more bona fide associations.
- (2) A self-employed individual as defined in ~~G.S. 58-50-110(21a).~~ G.S. 58-50-110(21a), except as otherwise provided for the basic and standard health care plans under the North Carolina Small Employer Group Health Coverage Reform Act."

Section 4.7. G.S. 58-68-60(b)(2) reads as rewritten:

- "(2) Who is not eligible for coverage under (i) ~~an ERISA~~ a group health plan, (ii) part A or part B of title XVIII of the Social Security Act, or (iii) a State plan under title XIX of the Act (or any successor program), and does not have other health insurance coverage;"

Section 4.8. Section 3.19 of Session Law 1997-519 reads as rewritten:

"Section 3.19. Except as modified by G.S. 58-50-56(i), as enacted in this Part, any administrative rules that were adopted by the Commissioner under the authority of ~~G.S. 58-50-50 or G.S. 58-50-55~~ G.S. 58-65-140, 58-50-50, or 58-50-55 and that were effective before January 1, 1998, are not affected by the repeals in Section 3.16 or Section 3.17 of this act."

PART V. BAIL BONDS.

Section 5. G.S. 58-71-82 reads as rewritten:

"§ 58-71-82. Dual license holding.

If an individual holds a professional bondsman's license or a runner's license and a surety bondsman's license simultaneously, they are considered one license for the

purpose of disciplinary actions involving suspension, revocation, or renewal-nonrenewal under this Article. Separate renewal fees must be paid for each license, however."

PART VI. AGENT ASSOCIATIONS MERGER.

Section 6.1. G.S. 58-32-1 reads as rewritten:

"§ 58-32-1. Commission created; membership.

There is hereby created within the Department a Public Officers and Employees Liability Insurance Commission. The Commission shall consist of 11 members who shall be appointed as follows: the Commissioner shall appoint six members as follows: two members who are members of the insurance industry who may be chosen from a list of ~~three-six~~ nominees submitted to the Commissioner by the Independent Insurance Agents of North Carolina, Inc., and a list of ~~three~~ nominees submitted by the ~~Carolinas Association of Professional Insurance Agents, North Carolina Division, Inc.;~~ one member who is employed by a police department who may be chosen from a list of three nominees submitted to the Commissioner jointly by the North Carolina Police Chiefs Association and North Carolina Police Executives Association, and one member who is employed by a sheriff's department who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Sheriff's Association; one member representing city government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina League of Municipalities; and one member representing county government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Association of County Commissioners; and the General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President Pro Tempore of the Senate. The Commissioner or ~~his-the Commissioner's~~ designate shall be an ex officio member. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. The Secretary of the Department of Crime Control and Public Safety or ~~his~~ the Secretary's designate shall be an ex officio member. The Attorney General or ~~his-the~~ Attorney General's designate shall be an ex officio member. One insurance industry member appointed by the Commissioner shall be appointed to a term of two years and one insurance industry member shall be appointed to a term of four years. The police department member shall be appointed to a term of two years and the sheriff's department member shall be appointed to a term of four years. The representative of county government shall be appointed to a term of two years and the representative of city government to a term of four years. Beginning July 1, 1983, the appointment made by the General Assembly upon the recommendation of the Speaker shall be for two years, and the appointment made by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be for four years. Except as provided in this section, if any vacancy occurs in the membership of the Commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member. After the initial terms established herein have expired, all appointees to the Commission shall be appointed to terms of four years.

The Commission members shall elect the ~~chairman and vice-chairman chair and vice-chair~~ of the Commission. The Commission may, by majority vote, remove any member of the Commission for chronic absenteeism, misfeasance, malfeasance or other good cause."

Section 6.2. G.S. 58-37-35(d) reads as rewritten:

"(d) The Facility shall be administered by a Board of Governors. The Board of Governors shall consist of 12 members having one vote each from the classifications hereinafter enumerated plus the Commissioner who shall serve ex officio without vote. Each Facility insurance company member serving on the Board shall be represented by a senior officer of the company. Not more than one company in a group under the same

ownership or management shall be represented on the Board at the same time. Five members of the Board shall be selected by the member insurers, which members shall be fairly representative of the industry. To insure representative member insurers, one each shall be selected from the following groups: the American Insurance Association (or its successors), the Alliance of American Insurers (or its successors), the National Association of Independent Insurers (or its successors), all other stock insurers not affiliated with the above groups, and all other nonstock insurers not affiliated with the above groups. The Commissioner shall appoint two members of the Board who shall be Facility insurance company members domiciled in this State. The Commissioner shall appoint one member of the Board who shall be selected from a list of two nominees submitted by the Auto Insurance Agents of North Carolina, Inc. The Commissioner shall appoint four members of the Board who shall be fire and casualty insurance agents licensed in this State and actively engaged in writing motor vehicle insurance in this State. The Commissioner shall select ~~one agent~~ two agents from among a list of ~~two~~ four nominees submitted by the Independent Insurance Agents of North Carolina, Inc., and ~~one agent from among a list of two nominees submitted by the Carolinas Association of Professional Insurance Agents, Inc., (or its successors).~~ The initial term of office of said Board members shall be two years. Following completion of initial terms, successors to the members of the original Board of Governors shall be selected to serve three years. All members of the Board of Governors shall serve until their successors are selected and qualified and the Commissioner may fill any vacancy on the Board from any of the aforementioned classifications until such vacancies are filled in accordance with the provisions of this Article. The Board of Governors of the Facility shall also have as nonvoting members two persons who are not employed by or affiliated with any insurance company or the Department and who are appointed by the Governor to serve at ~~his~~ the Governor's pleasure."

Section 6.3. G.S. 58-33-135(b) reads as rewritten:

"(b) The ~~fire and casualty property and liability~~ advisory committee shall comprise:

- (1) Two employees of the Department of Insurance;
- (2) ~~One representative~~ Two representatives from a list of ~~two~~ four nominees submitted by the Independent Insurance Agents of North Carolina;
- (3) ~~One representative from a list of two nominees submitted by the Carolinas Association of Professional Insurance Agents (North Carolina Division);~~
- (4) One representative of a licensed property and ~~casualty~~ liability insurance company writing business in this State that operates through an exclusive agency force;
- (5) One representative from a list of two nominees submitted by the North Carolina Adjusters Association;
- (6) One representative of ~~fire property and casualty~~ liability insurers from a list of two nominees submitted by the Association of North Carolina Property and Casualty Insurance Companies; and
- (7) One representative from a list of two nominees submitted by the Department of Community Colleges."

PART VII. MISCELLANEOUS CORRECTIONS.

Section 7.1. G.S. 58-3-15 reads as rewritten:

"§ 58-3-15. Additional or coinsurance clause.

No insurance company or agent licensed to do business in this State may issue any policy or contract of insurance covering property in this State ~~which shall contain that~~ contains any clause or provision requiring the insured to take or maintain a larger amount of insurance than that expressed in ~~such~~ the policy, nor in any way provide that the insured shall be liable as a coinsurer with the company issuing the policy for any

part of the loss or damage to the property described in ~~such the~~ policy, and any such clause or provision shall be null and void, and of no effect: Provided, the coinsurance clause or provision may be written in or attached to a policy or policies issued when there is printed or stamped on the ~~filing face declarations page~~ of ~~such the~~ policy or on the form containing ~~such the~~ clause the words 'coinsurance contract,' and the Commissioner may, in ~~his the~~ Commissioner's discretion, determine the location of the words 'coinsurance contract' and the size of the type to be used. If there ~~be is~~ a difference in the rate for the insurance with and without the coinsurance clause, the rates for each shall be furnished the insured upon request."

Section 7.2. G.S. 58-30-5 reads as rewritten:

"§ 58-30-5. Persons covered.

The proceedings authorized by this Article may be applied to:

- (1) All insurers ~~who that~~ are doing, or have done, an insurance business in this State, and against whom claims arising from that business may exist now or in the future.
- (2) All insurers ~~who that~~ purport to do an insurance business in this State.
- (3) All insurers ~~who that~~ have insureds resident in this State.
- (4) All persons organized or in the process of organizing with the intent to do an insurance business in this State.
- (5) All persons subject to Articles 64, 65 and 66, or 67 of this Chapter; except to the extent there is a conflict between the provisions of this Article and the provisions of those Articles, in which case those Articles will govern.
- (6) Self-insured group workers' compensation funds ~~organized under G.S. 97-93(a)(2)~~ subject to Article 47 of this Chapter."

Section 7.3. G.S. 58-30-10(14) reads as rewritten:

- "(14) 'Insurer' means any entity that is or should be licensed under Articles 7, 16, 26, 47, 49, 65, or 67 of this Chapter and any employer that has furnished to the Commissioner satisfactory proof of its financial responsibility under G.S. 97-93(a)(2) or under Article 5 of Chapter 97 of the General Statutes. For the purposes of this Article, 'insurer' also includes continuing care retirement centers that are or should be licensed under Article 64 of this Chapter."

PART VIII. AUTOMOBILE INSURANCE.

Section 8.1. G.S. 58-36-75(c) is repealed.

Section 8.2. G.S. 58-37-1(7) reads as rewritten:

- "(7) 'Motor vehicle insurance' means direct insurance against liability arising out of the ownership, operation, maintenance or use of a motor vehicle for bodily injury including death and property damage and includes medical payments and uninsured and underinsured motorist coverages.

With respect to motor carriers who are subject to the financial responsibility requirements established under the Motor Carrier Act of 1980, the term, 'motor vehicle insurance' includes coverage with respect to environmental restoration. As used in this subsection the term, 'environmental restoration' means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, water course, or body of water of any commodity transported by a motor carrier. Environmental restoration includes the cost of removal and the cost of necessary measures taken to minimize

or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife."

Section 8.3. G.S. 58-37-35(b)(2) reads as rewritten:

"(2) Additional ceding privileges for motor vehicle insurance shall be provided by the Board of Governors if there is a substantial public demand for a coverage or coverage limit of any component of motor vehicle insurance up to the following:
 Bodily injury liability: one hundred thousand dollars (\$100,000) each person, three hundred thousand dollars (\$300,000) each accident;
 Property damage liability: fifty thousand dollars (\$50,000) each accident;
 Medical payments: two thousand dollars (\$2,000) each person;
 Underinsured motorist: ~~one hundred thousand dollars (\$100,000)~~ one million dollars (\$1,000,000) each person and ~~three hundred thousand dollars (\$300,000)~~ each accident for bodily injury liability;
 Uninsured motorist: ~~one hundred thousand dollars (\$100,000)~~ one million dollars (\$1,000,000) each person and each accident for bodily injury and ~~fifteen thousand dollars (\$15,000)~~ fifty thousand dollars (\$50,000) for property damage (one hundred dollars (\$100.00) deductible)."

Section 8.4. G.S. 58-37-35(e) reads as rewritten:

"(e) ~~The Commissioner and member companies shall provide for a Board of Governors within 30 days after May 24, 1973. If any member seat on the initial Board of Governors is not filled in accordance with this Article within such time, then, in that event the Commissioner shall appoint natural persons from any of the classifications specified in subsection (d) of this section to serve the initial term on the Board of Governors. As soon as possible after its selection, the Commissioner shall call for the initial meeting of the Board of Governors. After the Board of Governors have been selected it shall then elect from its membership a chairman chair and shall then meet thereafter as often as at the call of the chairman shall require chair or at the request of three four members of the Board of Governors. The chairman chair shall retain the right to vote on all issues. Five Seven members of the Board of Governors shall constitute a quorum. The same member may not serve as chairman chair for more than two consecutive years. years; provided, however, that a member may continue to serve as chair until a successor chair is elected and qualified.~~"

Section 8.5. G.S. 58-37-40(e) reads as rewritten:

"(e) Upon approval of the Commissioner of the plan so submitted or promulgation of a plan deemed approved by the Commissioner, all insurance companies licensed to write motor vehicle insurance in this State or any component thereof as a prerequisite to further engaging in writing the insurance shall formally subscribe to and participate in the plan so approved.

The plan of operation shall provide for, among other matters, (i) the establishment of necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment of all members for initial expenses necessary to commence operations; (iv) the assessment of members if necessary to defray losses and expenses; (v) the distribution of gains to defray losses incurred since September 1, 1977; (vi) the distribution of gains by credit or reduction of recoupment ~~or allocation~~ surcharges to policies subject to recoupment ~~or allocation~~ surcharges pursuant to this Article (the Facility may apportion the distribution of gains among the coverages eligible for cession pursuant to this Article); (vii) the recoupment ~~or allocation~~ of losses sustained by the Facility since September 1, 1977, pursuant to this Article, which losses may be recouped by equitable pro rata assessment of ~~member companies; companies~~ or by way of a surcharge on motor vehicle policies issued by member companies or through the Facility; (viii) the standard amount (one hundred percent (100%) or any equitable lesser amount) of coverage afforded on eligible risks which a member company may cede to

the Facility; and (ix) the procedure by which reinsurance shall be accepted by the Facility. The plan shall further provide that:

- (1) Members of the Board of Governors shall receive reimbursement from the Facility for their actual and necessary expenses incurred on Facility business, en route to perform Facility business, and while returning from Facility business plus a per diem allowance of twenty-five dollars (\$25.00) a day which may be waived.
- (2) In order to obtain a transfer of business to the Facility effective when the binder or policy or renewal thereof first becomes effective, the company must within 30 days of the binding or policy effective date notify the Facility of the identification of the insured, the coverage and limits afforded, classification data, and premium. The Facility shall accept risks at other times on receipt of necessary information, but acceptance shall not be retroactive. The Facility shall accept renewal business after the member on underwriting review elects to again cede the business."

Section 8.6. G.S. 58-37-40(f) reads as rewritten:

"(f) The plan of operation shall provide that every member shall, following payment of any pro rata assessment, ~~commence~~ begin recoupment of that assessment by way of a surcharge on motor vehicle insurance policies issued by the member or through the Facility until the assessment has been recouped. ~~Such~~ Any surcharge under this subsection or under subsection (e) of this section shall be a percentage of premium adopted by the Board of Governors of the Facility; and the charges determined on the basis of the surcharge shall be combined with and displayed as a part of the applicable premium charges. ~~Provided, however, that recoupment~~ Recoupment of losses sustained by the Facility since September 1, 1977, with respect to nonfleet private passenger motor vehicles may be ~~recouped~~ made only by surcharging nonfleet private passenger motor vehicle insurance policies. ~~policies (i) that are subject to the classification plan promulgated pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have been assigned pursuant to said plan, subject to the provisions of G.S. 58-36-75.~~ If the amount collected during the period of surcharge exceeds assessments paid by the member to the Facility, the member shall pay over the excess to the Facility on a date specified by the Board of Governors. If the amount collected during the period of surcharge is less than the assessments paid by the member to the Facility, the Facility shall pay the difference to the member. Except as hereinafter provided, otherwise provided in this Article, the amount of recoupment shall not be considered or treated as a rate or premium for any purpose. The Board of Governors shall adopt and implement a plan for compensation of agents of Facility members when recoupment surcharges are imposed; such that compensation shall not exceed the compensation or commission rate normally paid to the agent for the issuance or renewal of the automobile liability policy issued through the North Carolina Reinsurance Facility affected by such surcharge; provided, however, that the surcharge. However, the surcharge provided for in this section shall include an amount necessary to recover the amount of the assessment to member companies and the compensation paid by each member, pursuant to under this section, to agents."

Section 8.7. G.S. 58-37-35(g)(8) reads as rewritten:

- "(8) To establish fair and reasonable procedures for the sharing among members of any loss on Facility business ~~which that~~ cannot be recouped pursuant to under G.S. 58-37-40(f) G.S. 58-37-40(e) or which cannot be recouped or allocated under G.S. 58-37-75, and other costs, charges, expenses, liabilities, income, property and other assets of the Facility and for assessing or distributing to members their appropriate shares. ~~Such~~ The shares may be based on the member's premiums for voluntary business for the appropriate category of motor vehicle insurance or by any other fair and reasonable method."

Section 8.8. G.S. 58-37-35(l) reads as rewritten:

"(l) The classifications, rules, rates, rating plans and policy forms used on motor vehicle insurance policies reinsured by the Facility may be made by the Facility or by any licensed or statutory rating organization or bureau on its behalf and shall be filed with the Commissioner. The Board of Governors shall establish a separate subclassification within the Facility for 'clean risks' as herein defined. For the purpose of this Article, a 'clean risk' shall be ~~is~~ any owner of a nonfleet private passenger motor vehicle as defined in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the owner's household have two years' driving experience as licensed drivers and if none of the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of this Chapter during the three-year period immediately preceding either (i) the date of application for a motor vehicle insurance policy or (ii) the date of preparation of a renewal of a motor vehicle insurance policy. ~~Such~~ The filings may incorporate by reference any other material on file with the Commissioner. Rates shall be neither excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he~~ the Commissioner shall issue an order specifying in what respect it is deficient and stating when, within a reasonable period thereafter, ~~such rate shall be deemed~~ the rate is no longer effective. ~~Said~~ The order is subject to judicial review as set out in Article 2 of this Chapter. Pending judicial review of said order, the filed classification plan and the filed rates may be used, charged and collected in the same manner as set out in G.S. 58-40-45 of this Chapter. ~~Said~~ The order shall not affect any contract or policy made or issued ~~prior to~~ before the expiration of the period set forth in the order. All rates shall be on an actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a profit nor a loss. However, the rates made by or on behalf of the Facility with respect to 'clean risks', ~~as defined above,~~ risks' shall not exceed the rates charged 'clean risks' who are not reinsured in the Facility. The difference between the actual rate charged and the actuarially sound and self-supporting rates for 'clean risks' reinsured in the Facility may be recouped in similar manner as assessments pursuant to G.S. 58-37-40(f) or allocated pursuant to G.S. 58-37-75 under G.S. 58-37-40(f). Rates shall not include any factor for underwriting profit on Facility business, but shall provide an allowance for contingencies. There shall be a strong presumption that the rates and premiums for the business of the Facility are neither unreasonable nor excessive."

Section 8.9. G.S. 58-37-75 is repealed.

PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.

Section 9.1. The phrase "certificate of authority" is deleted and replaced by the word "license" wherever it occurs in each of the following sections of the General Statutes:

- G.S. 58-4-15. Revocation of certificate of authority.
- G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.
- G.S. 58-7-70. Effects of redomestication.
- G.S. 58-15-5. Definitions.
- G.S. 58-16-35. Unauthorized Insurers Process Act.
- G.S. 58-24-45. Organization.
- G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic society.
- G.S. 58-28-15. Validity of acts or contracts of unauthorized company shall not impair obligation of contract as to the company; maintenance of suits; right to defend.
- G.S. 58-28-45. Uniform Unauthorized Insurers Act.
- G.S. 58-30-10. Definitions.
- G.S. 58-30-55. Condition on release from delinquency proceedings.

G.S. 58-30-260. Conservation of property of foreign or alien insurers found in this State.

G.S. 58-33-132. Qualifications of instructors.

G.S. 58-41-55. Penalties; restitution.

G.S. 58-48-35. Powers and duties of the Association.

G.S. 58-48-45. Duties and powers of the Commissioner.

Section 9.2. G.S. 58-43-35 reads as rewritten:

"§ 58-43-35. Punishment for issuing fire policies contrary to law.

Any insurance company or agent who makes, issues, or delivers a policy of fire insurance in willful violation of the provisions of Articles 1 through 64 of this Chapter ~~which that~~ prohibit a domestic insurance company from issuing policies before obtaining ~~certificate and authority~~ a license from the ~~Commissioner of Insurance; Commissioner;~~ or ~~which that~~ prohibit the issuing of a fire insurance policy for more than the fair value of the property or for a longer term than seven years; or ~~which that~~ prohibit stipulations in insurance contracts restricting the jurisdiction of courts, or limiting the time within which an action may be brought to less than one year after the cause of action accrues or to less than six months after a nonsuit by the plaintiff, shall be guilty of a Class 3 misdemeanor and shall, upon conviction, be punished only by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000); but the policy shall be binding upon the company issuing it."

Section 9.3. G.S. 58-57-80 reads as rewritten:

"§ 58-57-80. Penalties.

In addition to any other penalty provided by law, any person, firm or corporation which willfully violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of North Carolina a sum not to exceed one thousand dollars (\$1,000) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed five thousand dollars (\$5,000). The Commissioner, in his discretion, may revoke or suspend the license ~~or certificate of authority~~ of the person, firm or corporation guilty of such willful violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in G.S. 58-57-75. Any creditor who requires credit life insurance or credit accident and health insurance, or both, in excess of the amounts set forth in G.S. 58-57-15 or who violates the provisions of G.S. 58-57-65 shall be guilty of a Class 3 misdemeanor, the penalty for which shall only be a fine of two thousand dollars (\$2,000) for each such occurrence or violation."

PART X. RESERVED.

PART XI. EXAMINATION LAW – CROSS REFERENCE CORRECTIONS.

Section 11.1. G.S. 58-3-155(c) reads as rewritten:

"(c) No licensed property or casualty insurer that has control of a broker may accept insurance from the broker in any transaction in which the broker, when the insurance is placed, is acting as such on behalf of the insured for any compensation, commission, or thing of value unless the broker, before the effective date of the coverage, delivers written notice to the prospective insured disclosing the relationship between the insurer and broker. The disclosure must be signed by the insured and must be retained in the insurer's underwriting file until the completion and release of the examination report under ~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 for the period in which the coverage is in effect. If the insurance is placed through a subbroker that is not a controlled broker, the controlling insurer shall retain in its records a signed commitment from the subbroker that the subbroker is aware of the relationship between the insurer and the broker and that the subbroker has notified or will notify the insured."

Section 11.2. G.S. 58-20-30 reads as rewritten:

"§ 58-20-30. Financial monitoring and evaluation of clubs.

Each club shall be audited annually, at the Club's expense, by a certified public accounting firm. A copy of the audit report shall be furnished to each member, and to the Commissioner. The trustees shall obtain an appropriate actuarial evaluation of the loss and loss adjustment expenses reserves of the Club, including estimate of losses and loss adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131 through ~~G.S. 58-2-133, G.S. 58-2-134, G.S. 58-2-150, 58-2-160, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200,~~ and G.S. 58-6-5 apply to each Club and to persons that administer the Clubs."

Section 11.3. G.S. 58-21-40(c) reads as rewritten:

"(c) The Commissioner may, at times deemed appropriate, make or cause to be made an examination of each advisory organization; in which case the provisions of G.S. 58-2-131, 58-2-132, 58-2-133, ~~58-2-134,~~ 58-2-150, 58-2-155, 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the advisory organization or any member thereof to be in violation of this Article, the Commissioner may issue an order requiring the discontinuance of the violation."

Section 11.4. G.S. 58-23-26(c) reads as rewritten:

"(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, ~~58-2-134,~~ 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, ~~58-3-71, 58-3-75, 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-31, 58-7-50, 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-175, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200,~~ and Articles 13, 19, and 34 of this Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year, subject to extension by the Commissioner."

Section 11.5. G.S. 58-26-10 reads as rewritten:

"§ 58-26-10. Financial statements and licenses required.

Title insurance companies are subject to G.S. 58-2-131, 58-2-132, 58-2-133, ~~58-2-134,~~ 58-2-165, 58-2-180, and 58-6-5. The Commissioner may require title insurance companies to separately report their experience in insuring titles and in insuring closing services. The Commissioner shall annually license such companies and their agents."

Section 11.6. G.S. 58-34-2(m) reads as rewritten:

"(m) The acts of an MGA are considered to be the acts of the insurer on whose behalf it is acting. An MGA may be examined by the Commissioner under ~~G.S. 58-2-131, 58-2-132, or 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 as if it were an insurer."

Section 11.7. G.S. 58-47-100 reads as rewritten:

"§ 58-47-100. Examinations.

~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134 apply to groups."

Section 11.8. G.S. 58-47-195 reads as rewritten:

"§ 58-47-195. Examinations.

TPAs and service companies may be examined under ~~G.S. 58-2-131, 58-2-132, and 58-2-133~~ G.S. 58-2-131 through G.S. 58-2-134."

Section 11.9. G.S. 58-64-55 reads as rewritten:

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

The Commissioner or the Commissioner's designee may, in the Commissioner's discretion, visit a facility offering continuing care in this State to examine its books and records. Expenses incurred by the Commissioner in conducting examinations under this section shall be paid by the facility examined. The provisions of G.S. 58-2-131, 58-2-132, 58-2-133, ~~58-2-134,~~ 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, and 58-6-5 apply to this Article and are hereby incorporated by reference."

Section 11.10. G.S. 58-67-100(a) reads as rewritten:

"(a) The Commissioner may make an examination of the affairs of any health maintenance organization and the contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State but not less frequently than once every three years. Examinations shall otherwise be conducted under ~~G.S. 58-2-131, 58-2-132, and 58-2-133.~~ G.S. 58-2-131 through G.S. 58-2-134."

Section 11.11. G.S. 143-215.94I(g) reads as rewritten:

"(g) Each pool shall be audited annually at the expense of the pool by a certified public accounting firm, with a copy of the report available to the governing body or chief executive officer of each member of the pool and to the Commissioner. The board of trustees of the pool shall obtain an appropriate actuarial evaluation of the loss and loss adjustment expense reserves of the pool, including an estimate of losses and loss adjustment expenses incurred but not reported. The provisions of G.S. 58-2-131, 58-2-132, 58-2-133, ~~58-2-134,~~ 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, and 58-6-5 apply to each pool and to persons that administer the pools. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year. All financial statements required by this section shall be prepared in accordance with generally accepted statutory accounting principles."

PART XII. MOTOR CLUBS.

Section 12.1. G.S. 58-69-1, 58-77-1, and 58-77-5 are repealed.

Section 12.2. Article 69 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-69-2. Definitions.

As used in this Article:

- (1) 'Branch or district office' means any physical location, other than a motor club's home office, where the motor club or its representatives conduct any type of business authorized under this Article.
- (2) 'Motor club' means any person, whether or not residing, domiciled, or chartered in this State, that, in consideration of dues, assessments, or periodic payments of money, promises its members to assist them in matters relating to the ownership, operation, use, or maintenance of motor vehicles by rendering three or more of the following services:
 - a. Automobile theft reward service. – A reward payable to any person, law enforcement agency, or officer for information leading to the recovery of a member's stolen vehicle and to the apprehension and conviction of the person or persons unlawfully taking the vehicle.
 - b. Bail or cash appearance bond service. – The furnishing of cash or a surety bond for a member accused of a violation of the motor vehicle law, or of any law of this State by reason of an automobile accident to secure the member's release and subsequent appearance in court.
 - c. Emergency road service. – Roadside adjustment of a motor vehicle so that the vehicle may be operated under its own power.
 - d. Legal service. – Providing for reimbursement to a member for attorneys' fees if criminal proceedings are instituted against the member as a result of the operation of a motor vehicle.
 - e. Map service. – The furnishing of road maps to members without cost.
 - f. Personal travel and accident insurance service. – Making available to members a personal travel and accident insurance

policy issued by a duly licensed insurance company in this State.

g. Touring service. – The furnishing of touring information to members without cost.

h. Towing service. – Furnishing means to move a motor vehicle from one place to another under power other than its own.

(3) 'Licensee' means a motor club to which a license has been issued under this Article."

Section 12.3. Article 69 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-69-50. Authority for qualified surety companies to guarantee certain arrest bond certificates.

(a) Any domestic or foreign surety company that is authorized to do business in this State may become a surety, by filing with the Department an undertaking to become a surety, in an amount not to exceed one thousand five hundred dollars (\$1,500) with respect to each guaranteed arrest bond certificate issued by a motor club.

(b) The undertaking shall be in a form to be prescribed by the Department and shall state:

(1) The name and address of the motor club or clubs with respect to which the surety company undertakes to guarantee the arrest bond certificates.

(2) The unqualified obligation of the surety company to pay the fine or forfeiture, in an amount not to exceed one thousand five hundred dollars (\$1,500) of any person who, after posting a guaranteed arrest bond certificate which the surety has undertaken to guarantee, fails to make the appearance for which the guaranteed arrest bond certificate was posted."

Section 12.4. Article 69 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-69-55. Guaranteed arrest bond certificates accepted.

(a) Any guaranteed arrest bond certificate guaranteed by a surety company under G.S. 58-69-50 shall be accepted in lieu of cash bail or other bond in an amount not to exceed one thousand five hundred dollars (\$1,500) as a bail bond, when signed by the person whose signature appears on the certificate, to guarantee the appearance of that person in any court in this State at the time set by the court when the person is arrested for the violation of any motor vehicle law of this State or any motor vehicle ordinance of any municipality of this State. The guaranteed arrest bond certificate shall not apply to, and shall not be accepted in lieu of, cash bail or bond when the person has been arrested for any impaired driving offense or for any felony.

(b) A guaranteed arrest bond certificate that is posted as a bail bond in any court shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as provided by law."

PART XIII. WORKERS' COMPENSATION SELF-INSURANCE.

Section 13.1. G.S. 58-47-65(f)(3) reads as rewritten:

"(3) An individual application, under G.S. 58-47-125, of each member applying for coverage in the proposed group on the inception date of the proposed group, with a current GAAP financial statement of ~~the~~ each member. The financial statements are confidential, but the Commissioner may use them in any judicial or administrative proceeding."

Section 13.2. G.S. 58-47-85(2)c. reads as rewritten:

"c. Adopt a policy whereby every member:

1. Pays a deposit to the group of twenty-five percent (25%) of the member's estimated annual earned premium, or

- another amount that the Commissioner prescribes based on, but not limited to, the financial condition of the group and the risk retained by the group; or
2. Once every year files with the group the member's most recent year-end balance sheet, which, at a minimum, is compiled by an independent certified public accountant. The balance sheet shall demonstrate that the member's financial position does not show a deficit equity and is appropriate for membership in the group. At the request of the Commissioner, the group shall make these filings available for review. These filings shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding."

Section 13.3. G.S. 58-47-120(f)(11) reads as rewritten:

"(11) Qualifications for group membership, including underwriting guidelines and procedures to identify ~~members~~ any member that are-is in a hazardous financial conditions-condition."

Section 13.4. Reserved.

Section 13.5. G.S. 97-165(2) reads as rewritten:

"(2) 'Certified audit' means an audit on which a certified public accountant expresses his or her professional opinion that the accompanying statements fairly present the financial position of the self-insurer, in conformity with generally accepted accounting ~~principles—as considered necessary by the auditor under the circumstances.~~ principles."

Section 13.6. G.S. 97-170(c) reads as rewritten:

"(c) Only an applicant ~~whose employee base is actuarially sufficient in numbers and provides an actuarially appropriate spreading of risk and whose total fixed assets amount to five hundred thousand dollars (\$500,000) or more may apply for a license. In judging the applicant's financial strength and liquidity relative to its ability to comply with the Act, the Commissioner shall consider the applicant's:~~

- (1) Organizational structure and management;
- (2) Financial strength;
- (3) Source and reliability of financial information;
- (4) Risks to be retained;
- (5) Workers' compensation loss history;
- (6) Number of employees;
- (7) Claims administration;
- (8) Excess insurance; and
- (9) ~~Access to excess insurance or reinsurance.~~ insurance."

Section 13.7. G.S. 97-170(d)(4) is repealed.

Section 13.8. G.S. 97-180(b) reads as rewritten:

"(b) Every self-insurer shall submit within 120 days after the end of its fiscal year a certification from a qualified actuary setting forth the actuary's opinion relating to loss and loss adjustment expense reserves for workers' compensation obligations for ~~each state in which the self-insurer does business.~~ North Carolina. The certification shall show liabilities, excess insurance carrier and other qualifying credits, if any, and net retained workers' compensation liabilities. The qualified actuary shall present an annual report to the self-insurer on the items within the scope of and supporting the certification, within 90 days after the close of the self-insurer's fiscal year. Upon request, the report shall be submitted to the Commissioner."

Section 13.9. G.S. 97-180(d) reads as rewritten:

"(d) ~~Every~~ Upon the request of the Commissioner, every self-insurer shall submit ~~within 120 days after the end of its fiscal year~~ a report of its annual payroll information.

The report shall summarize payroll, by annual amount paid, and the number of employees, by classification, using the rules, classifications, and rates in the most recently approved Workers' Compensation and Employers' Liability Insurance Manual governing the audits of payrolls and the adjustments of premiums. Every self-insurer shall maintain true and accurate payroll records. These payroll records shall be maintained to allow for verification of the completeness and accuracy of the annual payroll report."

PART XIV. EFFECT OF HEADINGS.

Section 14. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

PART XV. EFFECTIVE DATE.

Section 15. This act is effective when it becomes law, except for Part III of this act, which becomes effective September 1, 1999.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Dennis A. Wicker
President of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 19