

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 843

Pensions & Retirement and Insurance Committee Substitute Adopted 4/29/97

House Committee Substitute Favorable 8/18/97

Short Title: Insurance Technical Changes.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE LAWS AND MAKE TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS INSURANCE STATUTES; AND TO EXTEND THE EXPIRATION DATE OF THE 1986 RISK SHARING PLAN LAW.

The General Assembly of North Carolina enacts:

**PART I. REPEALS OF OBSOLETE OR UNNECESSARY PROVISIONS.**

Section 1. G.S. 58-3-125, 58-6-10, 58-7-150, 58-41-35, and 58-71-90 are repealed.

Section 2. G.S. 58-2-120 reads as rewritten:

**"§ 58-2-120. Reports of Commissioner to the Governor and General Assembly.**

~~The Commissioner shall biennially submit to the General Assembly, through the Governor, a report of his official acts, including a summary of official rulings and regulations.~~—The Commissioner shall, from time to time, report to the Governor and the General Assembly any change ~~which that in his the Commissioner's~~ opinion should be made in the laws relating to insurance and other subjects pertaining to ~~his department.~~ ~~On or before the first day of February of each year in which the General Assembly is in session he shall make to the Governor the recommendations called for in this section, to~~

1 ~~be transmitted to the General Assembly, with the last annual report of this Department,~~  
2 ~~including receipts and disbursements, the Department."~~

3 Section 3. G.S. 58-87-10(e) reads as rewritten:

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

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

15 Section 4. G.S. 120-123(55) and (65) are repealed.

16 Section 5. G.S. 58-36-15(e) reads as rewritten:

17 "(e) The Commissioner may require the filing of supporting data including:

- 18 (1) The Bureau's interpretation of any statistical data relied upon;
- 19 (2) Descriptions of the methods employed in setting the rates;
- 20 (3) Analysis of the incurred losses submitted on an accident year or policy  
21 year basis into their component parts; to wit, paid losses, reserves for  
22 losses and loss expenses, and reserves for losses incurred but not  
23 reported;
- 24 (4) The total number and dollar amount of paid claims;
- 25 (5) The total number and dollar amount of case basis reserve claims;
- 26 (6) Earned and written premiums at current rates by rating territory;
- 27 (7) Earned premiums and incurred losses according to classification plan  
28 categories; and
- 29 (8) Income from investment of unearned premiums and loss and loss  
30 expense reserves generated by business within this State.

31 ~~Provided, however, that with respect to business written prior to January 1, 1980, the~~  
32 ~~Commissioner shall not require the filing of such supporting data which has not been~~  
33 ~~required to be recorded under statistical plans approved by the Commissioner."~~

34 Section 6. G.S. 58-3-115 reads as rewritten:

35 "**§ 58-3-115. Twisting with respect to insurance policies; penalties.**

36 No insurer shall make or issue, or cause to be issued, any written or oral statement that  
37 willfully misrepresents or willfully makes an incomplete comparison as to the terms,  
38 conditions, or benefits contained in any policy of insurance for the purpose of inducing or  
39 attempting to induce a policyholder in any way to terminate or surrender, exchange, or  
40 convert any insurance policy. Any person who violates this section is subject to the  
41 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.  
42 58-3-100."

43 Section 7. G.S. 58-30-75(7) reads as rewritten:

1           "(7) Without first obtaining the written consent of the ~~Commissioner pursuant~~  
2           ~~to G.S. 58-7-150, Commissioner,~~ the insurer has (i) transferred, or  
3           attempted to transfer, in a manner contrary to Article 19 of this Chapter,  
4           substantially its entire property or business, or (ii) has entered into any  
5           transaction, the effect of which is to merge, consolidate, or reinsure  
6           substantially its entire property or business in or with the property or  
7           business of any other person."

8           Section 8. G.S. 58-41-40(a) reads as rewritten:

9           "(a) There is no liability on the part of and no cause of action for defamation or  
10          invasion of privacy arises against any insurer or its authorized representatives, agents, or  
11          employees, or any licensed insurance agent or broker, for any communication or  
12          statement made, unless shown to have been made in bad faith with malice, in any of the  
13          following:

- 14           (1) A written notice of cancellation under ~~G.S. 58-41-15, G.S. 58-41-15~~ or of  
15           nonrenewal under G.S. 58-41-20, ~~or of cessation of business through an~~  
16           ~~agency under G.S. 58-41-35,~~ specifying the reasons therefor; for  
17           cancellation.  
18           (2) Communications providing information pertaining to ~~such cancellation,~~  
19           ~~nonrenewal, or cessation of business through an agency;~~ the cancellation or  
20           nonrenewal.  
21           (3) Evidence submitted at any court proceeding, administrative hearing, or  
22           informal inquiry in which ~~such cancellation, nonrenewal, or cessation of~~  
23           ~~business through an agency~~ the cancellation or nonrenewal is an issue."

24          **PART II. AMENDMENTS NECESSARY BECAUSE OF 1995 REWRITE OF G.S.**  
25          **58-2-50.**

26          Section 9. G.S. 58-34-2(j) reads as rewritten:

27          "(j) The Commissioner shall disapprove any such contract that:

- 28           (1) Does not contain the required contract provisions specified in subsection  
29           (d) of this section;  
30           (2) Subjects the insurer to excessive charges for expenses or commission;  
31           (3) Vests in the MGA any control over the management of the affairs of the  
32           insurer to the exclusion of the board of directors of the insurer;  
33           (4) Is entered into with any person if the person or its officers and directors  
34           are of known bad character or have been affiliated directly or indirectly  
35           through ownership, control, management, reinsurance transactions, or  
36           other insurance or business relationships with any person known to have  
37           been involved in the improper manipulation of assets, accounts, or  
38           reinsurance; or  
39           (5) Is determined by the Commissioner to contain provisions that are not  
40           fair and reasonable to the insurer.

41          Failure of the Commissioner to disapprove any such contract within 30 days after the  
42          contract has been filed with the Commissioner constitutes the Commissioner's approval  
43          of the contract. An insurer may continue to accept business from ~~such~~ the person until the

1 Commissioner disapproves the contract. Any disapproval shall be in writing. The  
2 Commissioner ~~may, after a hearing held under G.S. 58-2-50, may~~ withdraw approval of any  
3 contract the Commissioner has previously approved ~~upon finding if the Commissioner~~  
4 determines that the basis of the original approval no longer exists or that the contract has,  
5 in actual operation, shown itself to be subject to disapproval on any of the grounds in this  
6 subsection. If the Commissioner withdraws approval of a contract, the Commissioner  
7 shall give the insurer notice of, and written reasons for, the withdrawal of approval. The  
8 Commissioner shall grant any party to the contract a hearing upon request."

9 Section 10. G.S. 58-34-15(b) reads as rewritten:

10 "(b) If the Commissioner disapproves any management contract, ~~notice of such~~  
11 ~~action shall be given to the insurer assigning the reasons therefor in writing. the Commissioner~~  
12 shall give notice of, and written reasons for, the disapproval to the insurer. The  
13 Commissioner shall grant any party to the contract a hearing upon request according to  
14 G.S. 58-2-50-request."

15 Section 11. G.S. 58-40-100 reads as rewritten:

16 "**§ 58-40-100. Request for review of rate, rating plan, rating system or underwriting**  
17 **rule.**

18 (a) Any person aggrieved by any rate charged, rating plan, rating system, or  
19 underwriting rule followed or adopted by an insurer or rating organization may request in  
20 writing that the insurer or rating organization to review the manner in which the rate,  
21 plan, system, or rule has been applied with respect to insurance afforded him. Such request  
22 may be made by his authorized representative, and shall be in writing. the person's insurance.  
23 The person's authorized representative may make the request. If the request is not  
24 granted within 30 days after it is made, the requestor may treat it as rejected. Any person  
25 aggrieved by the action of an insurer or rating organization in refusing the review  
26 requested or in failing or refusing to grant all or part of the relief requested, may file a  
27 written complaint and request for hearing with the Commissioner, and shall specify the  
28 grounds relied upon. If the Commissioner has information concerning a similar ~~complaint~~  
29 ~~he~~ complaint, the Commissioner may deny the hearing. If the Commissioner believes  
30 that probable cause for the complaint does not exist or that the complaint is not made in  
31 good faith, ~~he~~ the Commissioner shall deny the hearing. If the Commissioner finds that  
32 the complaint charges a violation of this Article and that the complainant would be  
33 aggrieved if the violation is proven, ~~he~~ the Commissioner shall proceed as provided in  
34 G.S. 58-2-50 or 58-2-70.

35 (b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1027, s. 15."

36 Section 12. G.S. 58-42-1 reads as rewritten:

37 "**§ 58-42-1. Establishment of plans.**

38 If the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-2-50, hearing,~~  
39 that in all or any part of this State, any amount or kind of insurance authorized by G.S.  
40 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the voluntary market  
41 and that the public interest requires the availability of that insurance, ~~he~~ the  
42 Commissioner may either:

- 1 (1) Promulgate plans to provide insurance coverage for any risks in this  
2 State that are, based on reasonable underwriting standards, entitled to  
3 obtain but are otherwise unable to obtain coverage; or  
4 (2) Call upon insurers to prepare plans for ~~his~~ the Commissioner's  
5 approval."

6 Section 13. G.S. 58-45-50 reads as rewritten:

7 "**§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**  
8 **Commissioner to superior court.**

9 Any person or any insurer who may be aggrieved by an act, ruling or decision of the  
10 Association other than an act, ruling or decision relating to the cause or amount of a  
11 claimed loss, may, within 30 days after ~~such ruling~~ the ruling, appeal to the  
12 Commissioner. Any hearings held by the Commissioner ~~pursuant to such an~~ under the  
13 appeal shall be in accordance with ~~the procedure set forth in G.S. 58-2-50;~~ rules adopted by  
14 the Commissioner. Provided, however, the Commissioner is authorized to appoint a  
15 member of ~~his~~ the Commissioner's staff as deputy commissioner for the purpose of  
16 hearing ~~such~~ those appeals and a ruling based upon ~~such~~ the hearing shall ~~have~~ has the  
17 same effect as if heard by the Commissioner. All persons or insureds aggrieved by any  
18 order or decision of the Commissioner may appeal as ~~is provided by the provisions of~~ in  
19 G.S. 58-2-75.

20 No later than 20 days before each hearing, the appellant shall file with the  
21 Commissioner or his designated hearing officer and shall serve on the appellee a written  
22 statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant intends to offer  
23 at the hearing. No later than five days before ~~such~~ the hearing, the appellee shall file with  
24 the Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellant a  
25 written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellee intends  
26 to offer at the hearing. ~~Each such hearing shall be recorded and transcribed. The cost of such~~  
27 ~~recording and transcribing shall be borne equally by the appellant and appellee; provided that~~  
28 ~~upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by~~  
29 ~~the other party.~~ The procedures governing recordings of hearings and, if necessary,  
30 transcripts of recordings, as well as the fees for copies of recordings and transcripts, shall  
31 be determined by rules adopted by the Commissioner. Each party shall, on a date  
32 determined by the Commissioner or his designated hearing officer, but not sooner than 15  
33 days after delivery of the completed transcript to the party, submit to the Commissioner  
34 or his designated hearing officer and serve on the other party, a proposed order. The  
35 Commissioner or his designated hearing officer shall then issue an order."

36 Section 14. G.S. 58-45-70 reads as rewritten:

37 "**§ 58-45-70. Commissioner may examine affairs of Association.**

38 The Commissioner may from time to time make an examination into the affairs of the  
39 Association when ~~he~~ the Commissioner deems it to be ~~prudent and in undertaking such~~  
40 ~~examination~~ he prudent, and as part of the examination the Commissioner may hold a  
41 public hearing ~~pursuant to the provisions of G.S. 58-2-50;~~ hearing. ~~The expenses of such~~  
42 ~~examination shall be borne and paid by the Association.~~ The Association shall pay the  
43 expenses of the examination."

1 Section 15. G.S. 58-46-20(c) reads as rewritten:

2 "(c) The Commissioner may designate the kinds of property insurance policies on  
3 principal residences to be offered by the association, including insurance policies under  
4 Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for  
5 these policies, if ~~he the Commissioner~~ finds, after a ~~hearing held in accordance with G.S. 58-~~  
6 ~~2-50, hearing,~~ that the public interest requires the designation. The provisions of Chapter  
7 150B of the General Statutes do not apply to any procedure under this subsection, except  
8 that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection.  
9 Within 30 days after the receipt of notification from the Commissioner of a change in  
10 designation ~~pursuant to~~ under this subsection, the association shall submit a revised plan  
11 and articles of association for approval in accordance with subsection (b) of this section."

12 Section 16. G.S. 58-46-30 reads as rewritten:

13 **"§ 58-46-30. Appeals; judicial review.**

14 The association shall provide reasonable means, to be approved by the Commissioner,  
15 whereby any person or insurer affected by any act or decision of the administrators of the  
16 Plan or underwriting association, other than an act or decision relating to the cause or  
17 amount of a claimed loss, may be heard in person or by an authorized representative,  
18 before the governing board of the association or a designated committee. Any person or  
19 insurer aggrieved by any decision of the governing board or designated committee, may  
20 be appealed to the Commissioner within 30 days from the date of ~~such the~~ ruling or  
21 decision. The Commissioner, after hearing held ~~pursuant to the procedure set forth in G.S.~~  
22 ~~58-2-50,~~ under rules adopted by the Commissioner, shall issue an order approving or  
23 disapproving the act or decision with respect to the matter ~~which that~~ is the subject of  
24 appeal. The Commissioner ~~is authorized to~~ may appoint a member of ~~his the~~  
25 Commissioner's staff as deputy commissioner for the purpose of hearing ~~such the~~ appeals  
26 and a ruling based on ~~such the~~ hearing ~~shall have~~ has the same effect as if heard by the  
27 ~~Commissioner personally.~~ Commissioner. All persons or insurers or their representatives  
28 aggrieved by any order or decision of the Commissioner may appeal as provided ~~by the~~  
29 ~~provisions of in~~ G.S. 58-2-75.

30 No later than 20 days before each hearing, the appellant shall file with the  
31 Commissioner or ~~his the~~ designated hearing officer and shall serve on the appellee a  
32 written statement of ~~his the~~ appellant's case and any evidence ~~he that the appellant~~ intends  
33 to offer at the hearing. No later than five days before ~~such the~~ hearing, the appellee shall  
34 file with the Commissioner or ~~his the~~ designated hearing officer and shall serve on the  
35 appellant a written statement of ~~his the~~ appellee's case and any evidence ~~he that the~~  
36 appellee intends to offer at the hearing. ~~Each such hearing shall be recorded and transcribed.~~  
37 ~~The cost of such recording and transcribing shall be borne equally by the appellant and appellee;~~  
38 ~~provided that upon any final adjudication the prevailing party shall be reimbursed for his share of~~  
39 ~~such costs by the other party.~~ The procedures governing recordings of hearings and, if  
40 necessary, transcripts of recordings, as well as the fees for copies of recordings and  
41 transcripts, shall be determined by rules adopted by the Commissioner. Each party shall,  
42 on a date determined by the Commissioner or ~~his the~~ designated hearing officer, but not  
43 sooner than 15 days after delivery of the completed transcript to the party, submit to the

1 Commissioner or ~~his~~the designated hearing officer and serve on the other party, a  
2 proposed order. The Commissioner or ~~his~~the designated hearing officer shall then issue  
3 an order."

4 **PART III. CONTINUING CARE RETIREMENT COMMUNITY NAME**  
5 **CORRECTION AND RECEIVERSHIPS.**

6 Section 17. G.S. 58-30-10(14) reads as rewritten:

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

13 Section 18. The title of Article 64 of Chapter 58 of the General Statutes reads  
14 as rewritten:

15 **"ARTICLE 64.**

16 ~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~  
17 ~~Continuing Care Facilities.~~Retirement Communities."

18 Section 19. G.S. 58-64-1 reads as rewritten:

19 **"§ 58-64-1. Definitions.**

20 As used in this Article, unless otherwise specified:

- 21 (1) 'Continuing care' means the furnishing to an individual other than an  
22 individual related by blood, marriage, or adoption to the person  
23 furnishing the care, of lodging together with nursing services,  
24 medical services, or other health related services, ~~pursuant to~~under  
25 an agreement effective for the life of the individual or for a period ~~in~~  
26 ~~excess of~~longer than one year.
- 27 (2) 'Entrance fee' means a payment that assures a resident a place in a  
28 facility for a term of years or for life.
- 29 (3) 'Facility' means the ~~place or places~~retirement community or  
30 communities in which a provider undertakes to provide continuing  
31 care to an individual.
- 32 (4) 'Health related services' means, at a minimum, nursing home  
33 admission or assistance in the activities of daily living, exclusive of  
34 the provision of meals or cleaning services.
- 35 (5) 'Living unit' means a room, apartment, cottage, or other area within a  
36 facility set aside for the exclusive use or control of one or more  
37 identified residents.
- 38 (6) 'Provider' means the promoter, developer, or owner of a ~~continuing~~  
39 ~~care~~facility, whether a natural person, partnership, or other  
40 unincorporated association, however organized, trust, or corporation,  
41 of an institution, building, residence, or other place, whether  
42 operated for profit or not, or any other person, that solicits or  
43 undertakes to provide continuing care under a continuing care

1 facility contract, or that represents ~~himself~~ himself, herself, or itself  
2 as providing continuing care or 'life care.'

3 (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to, a  
4 continuing care contract.

5 (8) 'Hazardous financial condition' means a provider is insolvent or in  
6 eminent danger of becoming insolvent."

7 Section 20. G.S. 58-64-40(b) reads as rewritten:

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

16 Section 21. G.S. 58-64-80 reads as rewritten:

17 "**§ 58-64-80. Advisory Committee.**

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

24 Section 21.1. Article 64 of Chapter 58 of the General Statutes is amended by  
25 adding a new section to read:

26 "**§ 58-64-46. Receiverships; exception for facility beds.**

27 When the Commissioner has been appointed as a receiver under Article 30 of this  
28 Chapter for a provider or facility subject to this Article, and if it appears to the court,  
29 upon petition of the Commissioner or the provider, or on the court's own motion, that the  
30 best interests of the facility or the welfare of persons who have previously contracted  
31 with the provider or may contract with the facility may be best served by the addition of  
32 adult care home beds, the Department of Human Resources may, notwithstanding any  
33 other provision of law, accept and approve the addition of beds for that facility."

34 **PART IV. WORKERS' COMPENSATION LOSS COSTS CONFORMING**  
35 **CHANGES.**

36 Section 22. G.S. 58-36-1(2) reads as rewritten:

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

42 Section 23. G.S. 58-36-1(5)c. reads as rewritten:



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

8            Section 24. G.S. 58-36-10 reads as rewritten:

9    **"§ 58-36-10. Method of rate making; factors considered.**

10          The following standards shall apply to the making and use of ~~rates~~: rates or loss costs:

- 11            (1) Rates or loss costs shall not be excessive, inadequate or unfairly  
12 discriminatory.
- 13            (2) Due consideration shall be given to actual loss and expense  
14 experience within this State for the most recent three-year period for  
15 which ~~such~~ that information is available; to prospective loss and  
16 expense experience within this State; to the hazards of conflagration  
17 and catastrophe; to a reasonable margin for underwriting profit and  
18 to contingencies; to dividends, savings, or unabsorbed premium  
19 deposits allowed or returned by insurers to their policyholders,  
20 members, or subscribers; to investment income earned or realized by  
21 insurers from their unearned premium, loss, and loss expense reserve  
22 funds generated from business within this State; to past and  
23 prospective expenses specially applicable to this State; and to all  
24 other relevant factors within this State: Provided, however, that  
25 countrywide expense and loss experience and other countrywide  
26 data may be considered only where credible North Carolina  
27 experience or data is not available.
- 28            (3) In the case of fire insurance rates, as are subject to the ratemaking  
29 authority of the Bureau, consideration may be given to the  
30 experience of such fire insurance business during the most recent  
31 five-year period for which ~~such~~ that experience is available. In the  
32 case of fire insurance rates that are subject to the ratemaking  
33 authority of the Bureau, consideration shall be given to the insurance  
34 public protection classifications of rural fire districts based upon  
35 standards established by the Commissioner. To the extent credits are  
36 provided for proximity to fire hydrants, the Bureau may also provide  
37 appropriate credits in public protection classifications for optional  
38 water sources, such as ponds, lakes, or other bodies of water, in  
39 accordance with standards and procedures filed with and approved  
40 by the Commissioner.
- 41            (4) Risks may be grouped by classifications and lines of insurance for  
42 establishment of ~~rates~~ rates, loss costs, and base premiums.  
43 Classification rates may be modified to produce rates for individual

1 risks in accordance with rating plans ~~which~~ that establish standards  
2 for measuring variations in hazards or expense provisions or both.  
3 ~~Such~~ Those standards may measure any differences among risks that  
4 can be demonstrated to have a probable effect upon losses or  
5 expenses. The Bureau ~~is directed to~~ shall establish and implement a  
6 comprehensive classification rating plan for motor vehicle insurance  
7 under its jurisdiction within 90 days of September 1, 1977. No such  
8 classification plans shall base any standard or rating plan for private  
9 passenger (nonfleet) motor vehicles, in whole or in part, directly or  
10 indirectly, upon the age or sex of the persons insured. The Bureau  
11 shall at least once every three years make a complete review of the  
12 filed classification rates to determine whether they are proper and  
13 supported by statistical evidence, and shall at least once every 10  
14 years make a complete review of the territories for nonfleet private  
15 passenger motor vehicle insurance to determine whether they are  
16 proper and reasonable.

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

22 Section 25. G.S. 58-36-15(a) reads as rewritten:

23 "(a) The Bureau shall file with the Commissioner copies of the rates, loss costs,  
24 classification plans, rating plans and rating systems used by its members. Each rate or  
25 loss costs filing shall become effective on the date specified in the filing, but not earlier  
26 than 105 days ~~from~~ after the date the filing is received by the Commissioner: Provided  
27 that (1) rate or loss costs filings for workers' compensation insurance and employers'  
28 liability insurance written in connection therewith shall not become effective earlier than  
29 120 days from the date the filing is received by the Commissioner or on the date as  
30 provided ~~under~~ in G.S. 58-36-100, whichever is earlier; and (2) any filing may become  
31 effective on a date earlier than that specified in this subsection upon agreement between  
32 the Commissioner and the Bureau."

33 Section 26. G.S. 58-36-15(f) reads as rewritten:

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

42 Section 27. G.S. 58-36-15(g) reads as rewritten:

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

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

8       Section 28. G.S. 58-36-30(a) reads as rewritten:

9       "~~no insurer, officer, agent or representative thereof~~ Except as permitted by G.S. 58-  
10 36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or  
11 representative of an insurer shall knowingly issue or deliver or knowingly permit the  
12 issuance or delivery of any policy of insurance in this State ~~which~~that does not conform  
13 to the rates, rating plans, classifications, schedules, rules and standards made and filed by  
14 the Bureau. ~~However, an~~An insurer may deviate from the rates ~~promulgated~~adopted by  
15 the Bureau ~~provided if~~ the insurer has filed the proposed deviation ~~to be applied both~~ with  
16 the Bureau and the Commissioner, ~~and provided the deviation is uniform in its application to~~  
17 ~~all risks in the State of the class to which the deviation is to apply; and provided such deviation is~~  
18 ~~approved by the Commissioner.~~ if the proposed deviation is based on sound actuarial  
19 principles, and if the proposed deviation is approved by the Commissioner. ~~The~~  
20 ~~Commissioner shall approve proposed deviations if they do not render the rates excessive,~~  
21 ~~inadequate or unfairly discriminatory. If approved, the deviation may thereafter be amended,~~  
22 ~~subject to the provisions of this subsection.~~ Amendments to deviations are subject to the  
23 same requirements as initial filings. ~~The deviation may be terminated~~An insurer may  
24 terminate a deviation only if the deviation has been in effect for a period of six months  
25 before the effective date of the termination and the insurer notifies the Commissioner of  
26 the termination no later than 15 days before the effective date of the termination."

27       Section 29. G.S. 58-36-30(c) reads as rewritten:

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

33       Section 30. Effective September 1, 1997, G.S. 58-36-100(a) reads as rewritten:

34       "~~Nothing in this section requires the Bureau or its member insurers to refile~~  
35 ~~rates previously implemented before two years after the effective date of this section.~~  
36 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed and~~  
37 ~~approved for its use until disapproved, or the insurer makes its own filing to change its~~  
38 ~~rates, either by making an independent filing or by filing a reference filing adoption form~~  
39 ~~adopting the Bureau's prospective loss costs, or modification thereof.~~ Except as provided  
40 in ~~subsection~~ subsections (k) and (m) of this section, ~~with the initial prospective loss~~  
41 ~~costs reference filing,~~ the Bureau shall no longer develop or file any minimum premiums,  
42 minimum premium formulas, or expense constants. If an insurer wishes to amend  
43 minimum premium ~~formulas,~~ formulas or expense constants, it must file the minimum

1 premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted  
2 to the Commissioner under subsections (e) and (g) of this section shall also be sent to the  
3 Bureau."

4 Section 31. Effective September 1, 1997, G.S. 58-36-100(b)(1) reads as  
5 rewritten:

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

10 Section 32. Effective September 1, 1997, G.S. 58-36-100(c) reads as  
11 rewritten:

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

22 Section 32.1. Effective September 1, 1997, G.S. 58-36-100(k) reads as  
23 rewritten:

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

#### 31 **PART V. INSURANCE COMPANY FINANCIAL OPERATIONS.**

32 Section 33. G.S. 58-5-63(a) reads as rewritten:

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

38 Section 34. G.S. 58-7-21(a) reads as rewritten:

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

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

1 (2) 'Insurance risk' means an uncertainty regarding the ultimate amount  
2 of any claim payment (underwriting risk) or an uncertainty regarding  
3 the timing of the payments (timing risk), or both."

4 Section 35. G.S. 58-7-31(b)(3) reads as rewritten:

5 "(3) The ceding insurer is required to reimburse the reinsurer for negative  
6 experience under the reinsurance agreement; except that neither  
7 offsetting experience refunds against current and prior years' losses  
8 under the reinsurance agreement nor payment by the ceding insurer  
9 of an amount equal to the current and prior years' losses under the  
10 reinsurance agreement upon voluntary termination of in-force  
11 reinsurance by the ceding insurer are a reimbursement to the  
12 reinsurer for negative experience. Voluntary termination does not  
13 include situations where termination occurs because of unreasonable  
14 provisions that allow the reinsurer to reduce its risk or increase its  
15 risk charge under the reinsurance agreement."

16 Section 36. G.S. 58-7-31(d)(1) reads as rewritten:

17 "(1) Reinsurance agreements entered into after October 1, 1993, that  
18 involve the reinsurance of business issued ~~prior to~~ before the  
19 effective date of the reinsurance agreements, along with any  
20 subsequent amendments thereto, shall be filed by the ceding  
21 company with the Commissioner within 30 days after its date of  
22 execution. Each filing shall include data detailing the ~~final impact~~  
23 financial effect of the transaction. The ceding insurer's actuary who  
24 signs the financial statement actuarial opinion with respect to  
25 valuation of reserves shall consider this ~~statute section~~ and any  
26 applicable actuarial standards of practice when determining the  
27 proper credit in financial statements filed with the Commissioner.  
28 The actuary ~~should~~ shall maintain adequate documentation and be  
29 prepared upon request to describe the actuarial work performed for  
30 inclusion in the financial statements and to demonstrate that ~~such that~~  
31 work conforms to this ~~statute section~~."

32 Section 37. G.S. 58-7-173(12) reads as rewritten:

33 "(12) Secured obligations of duly constituted churches and of church-  
34 holding companies; and the cost of investments made under this  
35 subdivision shall not exceed the lesser of one percent (1%) of the  
36 insurer's admitted assets ~~of~~ or five percent (5%) of the insurer's  
37 capital and surplus."

38 Section 38. The catchline of G.S. 58-7-177 reads as rewritten:

39 **"§ 58-7-177. Investments in ~~subsidiaries and affiliated corporations~~ subsidiaries."**

40 Section 39. G.S. 58-8-5(a)(3) reads as rewritten:

41 "(3) ~~Said officers shall cause said certificate to be published once a week~~  
42 ~~for two consecutive weeks in a newspaper in Raleigh and in the~~  
43 ~~county where the company's principal office is located, or posted at~~

1           ~~the courthouse door if no newspaper be published within the county.~~  
2           ~~Said printed or posted notices shall be in such form and of such size~~  
3           ~~as the Commissioner may approve, and in addition to setting forth in~~  
4           ~~full the certificate required in subdivision (2) shall state that~~  
5           ~~application for amending the company's charter in the manner~~  
6           ~~specified has been proposed by the board of directors, and shall also~~  
7           ~~state the time set for a meeting of policyholders thereby called to be~~  
8           ~~held at the principal office of the company to take action on the~~  
9           ~~proposed amendment. A true copy of such notice shall be filed with~~  
10           ~~the Commissioner, and also with that official who performs the~~  
11           ~~functions of Commissioner in each state where the company is~~  
12           ~~licensed to do business. Such publication and filing of notices shall~~  
13           ~~be completed at least 30 days prior to the date set therein for the~~  
14           ~~meeting of policyholders and due proof thereof shall be filed with~~  
15           ~~the Commissioner at least 15 days prior to the date of such meeting.~~  
16           ~~If the meeting at which the proposed amendment is to be considered~~  
17           ~~is a special meeting, rather than a regular annual meeting of~~  
18           ~~policyholders, such special that meeting can be called only after the~~  
19           ~~Commissioner has given his approval in writing, and the published~~  
20           ~~notice shall show the fact of such approval; writing."~~

21           Section 40. G.S. 58-8-25 reads as rewritten:

22   **"§ 58-8-25. Dividends to policyholders.**

23           (a) Any participating or dividend-paying company, stock or mutual or foreign or  
24           domestic, that writes other than life insurance or workers' compensation insurance and  
25           employers' liability insurance in connection therewith, may declare and pay a dividend to  
26           policyholders from its ~~surplus,~~ unassigned surplus as reflected in the company's most  
27           recent annual or quarterly statement filed with the Commissioner, which shall include  
28           only its surplus in excess of any required minimum surplus. No such dividend shall be  
29           paid unless it is fair and equitable and for the best interest of the company and its  
30           policyholders. In declaring any dividend to its policyholders, any such company may  
31           make reasonable classifications of policies expiring during a fixed period, upon the basis  
32           of each general kind of insurance covered by ~~such those~~ policies and by territorial  
33           divisions of the location of risks by states, except that in fixing the amount of dividends  
34           to be paid on each general kind of insurance, ~~which the~~ dividends shall be uniform in rate  
35           and applicable to the majority of risks within ~~such that~~ general kind of insurance, and  
36           exceptions may be made as to any class or classes of risk and a different rate or amount  
37           of dividends paid on ~~such the~~ class or classes if the conditions applicable to ~~such the~~ class  
38           or classes differ substantially from the condition applicable to the kind of insurance as a  
39           whole. Every such company shall have an equal rate of dividend for the same term on all  
40           policies insuring risks in the same classification. The payment of dividends to  
41           policyholders shall not be contingent upon the maintenance or renewal of the policy. All  
42           dividends shall be paid to the policyholder unless a written assignment ~~thereof be of those~~  
43           dividends is executed. Neither the payment of dividends nor the rate ~~thereof of the~~

1 dividends may be guaranteed by any company, or its agent, ~~prior to~~ before the declaration  
2 of the dividend by the board of directors of ~~such the~~ company. The holders of policies of  
3 insurance issued by a company in compliance with the orders of any public official,  
4 bureau or committee, in conformity with any statutory requirement or voluntary  
5 arrangement, for the issuance of insurance to risks not otherwise acceptable to the  
6 company, may be established as a separate class of risks.

7 (b) Any participating or dividend-paying company, stock or mutual or foreign or  
8 domestic, that writes workers' compensation insurance and employers' liability insurance  
9 in connection therewith may declare and pay a dividend to policyholders from its ~~surplus,~~  
10 unassigned surplus as reflected in the company's most recent statement filed with the  
11 Commissioner under G.S. 58-2-165, which shall include only its surplus in excess of any  
12 required minimum surplus. No such dividend shall be paid unless it is fair and equitable  
13 and for the best interest of the company and its policyholders. In declaring any dividend  
14 to its policyholders, any such company may make reasonable classifications of policies  
15 expiring during a fixed period. The payment of dividends to policyholders shall not be  
16 contingent upon the maintenance or renewal of the policy. All dividends shall be paid to  
17 the policyholder unless a written assignment ~~thereof be of those dividends is~~ executed.  
18 Neither the payment of dividends nor the rate ~~thereof of the dividends~~ may be guaranteed  
19 by any company, or its agent, ~~prior to~~ before the declaration of the dividend by the board  
20 of directors of ~~such the~~ company. The holders of policies of insurance issued by a  
21 company in compliance with the orders of any public official, bureau, or committee, in  
22 conformity with any statutory requirement or voluntary arrangement, for the issuance of  
23 insurance to risks not otherwise acceptable to the company, may be established as a  
24 separate class of risks."

25 Section 41. G.S. 58-9-6(a) reads as rewritten:

26 "(a) The Commissioner shall issue an intermediary license or an exemption from  
27 the license, subject to G.S. 58-9-2(b)(2) or G.S. 58-9-2(c)(3), to any person who has  
28 complied with the requirements of this Article. A license issued to a noncorporate entity  
29 authorizes all of the members of the entity and any designated employees to act as  
30 intermediaries under the license, and those persons shall be named in the application and  
31 any supplements. A license issued to a corporation authorizes all of the officers and any  
32 designated employees and directors of the corporation to act as intermediaries on behalf  
33 of the corporation, and those persons shall be named in the application and any  
34 supplements."

35 Section 42. G.S. 58-9-11(b) reads as rewritten:

36 "(b) An insurer shall not engage the services of any person to act as a broker on its  
37 behalf unless the person is licensed ~~under G.S. 58-9-6~~ or exempted under this Article. An  
38 insurer shall not employ an individual who is employed by a broker with which it  
39 transacts business, unless the broker is under common control with the insurer under  
40 Article 19 of this Chapter."

41 Section 43. G.S. 58-9-21(a) reads as rewritten:

42 "(a) A reinsurer shall not engage the services of any person to act as a manager on  
43 its behalf unless the person is licensed ~~under G.S. 58-9-6~~ or exempted under this Article."

1 Section 44. G.S. 58-12-2(3) reads as rewritten:

2 "(3) Domestic insurer. – Any insurance company organized in this State  
3 under ~~Article 7~~ Article 7 or Article 15 of this Chapter."

4 Section 45. G.S. 58-13-10 reads as rewritten:

5 **"§ 58-13-10. Scope.**

6 (a) This Article applies to all domestic insurers and to all kinds of insurance  
7 written by those insurers ~~under Articles 1 through 66~~ of this Chapter. Foreign insurers ~~are to~~  
8 shall comply in substance with the requirements and limitations of this section. ~~This~~  
9 ~~Article does not apply to variable contracts for which separate accounts are required to be~~  
10 ~~maintained nor to statutory deposits that are required to be maintained by insurance regulatory~~  
11 ~~agencies as a requirement for doing business in such jurisdictions.~~

12 (b) This Article does not apply to:

13 (1) Variable contracts for which separate accounts are required to be  
14 maintained.

15 (2) Statutory deposits that are required to be maintained by insurance  
16 regulatory agencies as a requirement for doing business.

17 (3) Real estate authorized under G.S. 58-7-187 and encumbered by a  
18 mortgage loan with a first lien."

19 Section 46. G.S. 58-13-15 reads as rewritten:

20 **"§ 58-13-15. Definitions.**

21 As used in this Article:

22 (1) 'Assets' means all property, real or personal, tangible or intangible,  
23 legal or equitable, owned by an insurer.

24 (2) 'Claimants' means any owners, beneficiaries, assignees, certificate  
25 holders, or third-party beneficiaries of any insurance benefit or right  
26 arising out of and within the coverage of an insurance policy covered  
27 by this Article.

28 (3) 'Reserve assets' means those assets of an insurer that are authorized  
29 investments for policy reserves in accordance with ~~Articles 1 through~~  
30 ~~64 of this Chapter and G.S. 58-65-95.~~ this Chapter.

31 (4) 'Policyholder-related liabilities' means those liabilities that are  
32 required to be established by an insurer for all of its outstanding  
33 insurance policies in accordance with ~~Articles 1 through 64 of this~~  
34 ~~Chapter and G.S. 58-65-95.~~ this Chapter."

35 Section 47. G.S. 58-13-20(b) reads as rewritten:

36 "(b) The Commissioner ~~has the right to~~ may examine any of ~~such~~ these assets,  
37 reinsurance agreements, or deposit arrangements at any time in accordance with ~~his~~ the  
38 Commissioner's authority to make examinations of insurers as conferred by other  
39 provisions of ~~Articles 1 through 64 of this Chapter.~~

40 Section 48. G.S. 58-19-5(5) reads as rewritten:

41 "(5) 'Person' means an individual, corporation, partnership, limited  
42 liability company, association, joint stock company, trust,



1 unincorporated organization, or any similar entity or any  
2 combination of the foregoing acting in concert."

3 Section 49. G.S. 58-19-10(b)(1) reads as rewritten:

4 "(1) Invest, in common stock, preferred stock, debt obligations, and other  
5 securities of one or more subsidiaries, amounts that do not exceed  
6 the lesser of ten percent (10%) of ~~such the~~ insurer's admitted assets  
7 or fifty percent (50%) of ~~such the~~ insurer's surplus as regards  
8 policyholders, provided that after ~~such those~~ investments, the  
9 insurer's surplus as regards policyholders will be reasonable in  
10 relation to the insurer's outstanding liabilities and adequate to its  
11 financial needs. In calculating the amount of ~~such the~~ investments,  
12 investments in domestic or foreign insurance subsidiaries and health  
13 maintenance organizations shall be excluded, and there shall be  
14 included: (i) total net monies or other consideration expended and  
15 obligations assumed in the acquisition or formation of a subsidiary,  
16 including all organizational expenses and contributions to capital  
17 and surplus of ~~such the~~ subsidiary whether or not represented by the  
18 purchase of capital stock or issuance of other securities; and (ii) all  
19 amounts expended in acquiring additional common stock, preferred  
20 stock, debt obligations, and other securities, and all contributions to  
21 the capital or surplus, of a subsidiary subsequent to its acquisition or  
22 formation;"

## 23 PART VI. HANDICAPPED PERSONS.

24 Section 50. G.S. 168-10 reads as rewritten:

### 25 "§ 168-10. Eliminate discrimination in treatment of handicapped and disabled.

26 Each handicapped person shall have the same consideration as any other person for  
27 individual accident and health insurance coverage, and no insurer, service corporation,  
28 multiple employer welfare arrangement, or health maintenance organization subject to  
29 Chapter 58 of the General Statutes solely on the basis of ~~such the~~ person's handicap, shall  
30 deny ~~such coverage or benefits~~. The availability of ~~such insurance coverage or benefits~~  
31 shall not be denied solely due to because of the handicap, provided, however, that no such  
32 insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions  
33 from such coverage, and further provided that handicap; however, any such insurer may  
34 charge the appropriate premiums or fees for the risk insured on the same basis and  
35 conditions as insurance issued to other ~~persons.~~ persons, in accordance with actuarial and  
36 underwriting principles prescribed in Chapter 58 of the General Statutes. Nothing  
37 contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter  
38 58 of the General Statutes from setting and charging a premium or fee based upon the class or  
39 elasses of risks and on sound actuarial and underwriting principles as determined by such  
40 insurer, or from applying its regular underwriting standards applicable to all classes of risks. The  
41 provisions of this section shall apply to both corporations governed by Chapter 58 of the General  
42 Statutes."

43 Section 51. G.S. 168-22(b) reads as rewritten:

1       "(b) A family care home ~~shall be~~ is deemed a residential use of property for the  
2 purposes of determining charges or assessments imposed by political subdivisions or  
3 businesses for water, sewer, power, telephone service, cable television, garbage and trash  
4 collection, repairs or improvements to roads, streets, and sidewalks, and other services,  
5 utilities, and ~~improvements, and for purposes of classification for insurance.~~ improvements."

6 **PART VII. AUTOMOBILE INSURANCE.**

7       Section 52. G.S. 58-36-75(c) is repealed.

8       Section 53. G.S. 58-36-5(c) reads as rewritten:

9       "(c) ~~The Bureau, when created, Bureau shall adopt such rules and regulations for its~~  
10 orderly procedure ~~as shall be~~ that are necessary for its maintenance and operation. No  
11 ~~such rules and regulations shall discriminate against any type of insurer because of its plan~~  
12 of operation, nor shall any insurer be prevented from returning any unused or unabsorbed  
13 premium, deposit, savings or earnings to its policyholders or subscribers. ~~The expense of~~  
14 ~~such Bureau shall be borne by its members by quarterly contributions to be made in advance,~~  
15 ~~such contributions to be made in advance by prorating such expense among the members in~~  
16 ~~accordance with the amount of gross premiums derived from the above lines of insurance in~~  
17 ~~North Carolina during the preceding year and members entering the Bureau since that date to~~  
18 ~~advance an amount to be fixed by the governing committee. After the first fiscal year of~~  
19 ~~operation of the Bureau the~~ The necessary expense of the Bureau shall be advanced by the  
20 members in accordance with rules ~~and regulations to be established and adopted by the~~  
21 governing committee. ~~The Bureau shall be empowered to~~ may subscribe for or purchase  
22 any necessary service, ~~and employ and fix the salaries of such personnel and assistants as~~  
23 ~~are necessary.~~ necessary, charge reasonable fees for its products and services, and engage  
24 in any lawful activities related to the objects, functions, duties, responsibilities, or  
25 authority of the Bureau."

26       Section 53.1. G.S. 58-37-1(7) reads as rewritten:

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

31       With respect to motor carriers who are subject to the financial  
32 responsibility requirements established under the Motor Carrier Act of  
33 1980, the term, 'motor vehicle insurance' includes coverage with respect  
34 to environmental restoration. As used in this subsection the term,  
35 'environmental restoration' means restitution for the loss, damage, or  
36 destruction of natural resources arising out of the accidental discharge,  
37 dispersal, release, or escape into or upon the land, atmosphere, water  
38 course, or body of water of any commodity transported by a motor  
39 carrier. Environmental restoration includes the cost of removal and the  
40 cost of necessary measures taken to minimize or mitigate damage to  
41 human health, the natural environment, fish, shellfish, and wildlife."

42       Section 53.2. G.S. 58-37-35(b)(2) reads as rewritten:

1           "(2) Additional ceding privileges for motor vehicle insurance shall be  
2 provided by the Board of Governors if there is a substantial public  
3 demand for a coverage or coverage limit of any component of motor  
4 vehicle insurance up to the following:

5           Bodily injury liability: one hundred thousand dollars (\$100,000) each  
6 person, three hundred thousand dollars (\$300,000) each accident;

7           Property damage liability: fifty thousand dollars (\$50,000) each  
8 accident;

9           Medical payments: two thousand dollars (\$2,000) each person;

10          Underinsured motorist: one ~~hundred thousand~~ million dollars ~~(\$100,000)~~  
11 ~~(\$1,000,000)~~ each person and ~~three hundred thousand dollars~~ ~~(\$300,000)~~  
12 each accident for bodily injury liability;

13          Uninsured motorist: one ~~hundred thousand~~ million dollars ~~(\$100,000)~~  
14 ~~(\$1,000,000)~~ each person and each accident for bodily injury and ~~fifteen~~  
15 ~~fifty~~ thousand dollars ~~(\$15,000)~~ ~~(\$50,000)~~ for property damage (one  
16 hundred dollars (\$100.00) deductible)."

17          Section 53.3. G.S. 58-37-35(e) reads as rewritten:

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

32          Section 53.4. G.S. 58-37-40(e) reads as rewritten:

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

38          The plan of operation shall provide for, among other matters, (i) the establishment of  
39 necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment  
40 of all members for initial expenses necessary to commence operations; (iv) the  
41 assessment of members if necessary to defray losses and expenses; (v) the distribution of  
42 gains to defray losses incurred since September 1, 1977; (vi) the distribution of gains by  
43 credit or reduction of recoupment ~~or allocation~~ surcharges to policies subject to

1 recoupment ~~or allocation~~ surcharges pursuant to this Article (the Facility may apportion  
2 the distribution of gains among the coverages eligible for cession pursuant to this  
3 Article); (vii) the recoupment ~~or allocation~~ of losses sustained by the Facility since  
4 September 1, 1977, pursuant to this Article, which losses may be recouped by equitable  
5 pro rata assessment of member ~~companies~~; companies or by way of a surcharge on motor  
6 vehicle policies issued by member companies or through the Facility; (viii) the standard  
7 amount (one hundred percent (100%) or any equitable lesser amount) of coverage  
8 afforded on eligible risks which a member company may cede to the Facility; and (ix) the  
9 procedure by which reinsurance shall be accepted by the Facility. The plan shall further  
10 provide that:

- 11 (1) Members of the Board of Governors shall receive reimbursement from  
12 the Facility for their actual and necessary expenses incurred on Facility  
13 business, en route to perform Facility business, and while returning  
14 from Facility business plus a per diem allowance of twenty-five dollars  
15 (\$25.00) a day which may be waived.
- 16 (2) In order to obtain a transfer of business to the Facility effective when  
17 the binder or policy or renewal thereof first becomes effective, the  
18 company must within 30 days of the binding or policy effective date  
19 notify the Facility of the identification of the insured, the coverage and  
20 limits afforded, classification data, and premium. The Facility shall  
21 accept risks at other times on receipt of necessary information, but  
22 acceptance shall not be retroactive. The Facility shall accept renewal  
23 business after the member on underwriting review elects to again cede  
24 the business."

25 Section 54. G.S. 58-37-40(f) reads as rewritten:

26 "(f) The plan of operation shall provide that every member shall, following  
27 payment of any pro rata assessment, ~~commence~~ begin recoupment of that assessment by  
28 way of a surcharge on motor vehicle insurance policies issued by the member or through  
29 the Facility until the assessment has been recouped. ~~Such~~ Any surcharge under this  
30 subsection or under subsection (e) of this section shall be a percentage of premium  
31 adopted by the Board of Governors of the Facility; and the charges determined on the  
32 basis of the surcharge shall be combined with and displayed as a part of the applicable  
33 premium charges. Provided, however, that recoupment Recoupment of losses sustained by  
34 the Facility ~~since September 1, 1977,~~ with respect to nonfleet private passenger motor  
35 vehicles may be ~~recouped~~ made only by surcharging nonfleet private passenger motor  
36 vehicle insurance policies. policies (i) that are subject to the classification plan promulgated  
37 pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have been assigned  
38 pursuant to said plan, subject to the provisions of G.S. 58-36-75. If the amount collected  
39 during the period of surcharge exceeds assessments paid by the member to the Facility,  
40 the member shall pay over the excess to the Facility on a date specified by the Board of  
41 Governors. If the amount collected during the period of surcharge is less than the  
42 assessments paid by the member to the Facility, the Facility shall pay the difference to the  
43 member. Except as ~~hereinafter provided,~~ otherwise provided in this Article, the amount of

1 recoupment shall not be considered or treated as a rate or premium for any purpose. The  
2 Board of Governors shall adopt and implement a plan for compensation of agents of  
3 Facility members when recoupment surcharges are imposed; ~~such that~~ compensation shall  
4 not exceed the compensation or commission rate normally paid to the agent for the  
5 issuance or renewal of the automobile liability policy issued through the North Carolina  
6 Reinsurance Facility affected by ~~such surcharge; provided, however, that the surcharge.~~  
7 However, the surcharge ~~provided for in this section~~ shall include an amount necessary to  
8 recover the amount of the assessment to member companies and the compensation paid  
9 by each member, ~~pursuant to~~ under this section, to agents."

10 Section 55. G.S. 58-37-35(g)(8) reads as rewritten:

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

20 Section 56. G.S. 58-37-35(l) reads as rewritten:

21 "(l) The classifications, rules, rates, rating plans and policy forms used on motor  
22 vehicle insurance policies reinsured by the Facility may be made by the Facility or by any  
23 licensed or statutory rating organization or bureau on its behalf and shall be filed with the  
24 Commissioner. The Board of Governors shall establish a separate subclassification  
25 within the Facility for 'clean risks' ~~as herein defined.~~ risks'. For the purpose of this Article,  
26 a 'clean risk' ~~shall be~~ is any owner of a nonfleet private passenger motor vehicle as defined  
27 in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the  
28 owner's household have two years' driving experience as licensed drivers and if none of  
29 the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of  
30 this Chapter during the three-year period immediately preceding either (i) the date of  
31 application for a motor vehicle insurance policy or (ii) the date of preparation of a  
32 renewal of a motor vehicle insurance policy. ~~Such The~~ filings may incorporate by  
33 reference any other material on file with the Commissioner. Rates shall be neither  
34 excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a  
35 hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he the~~  
36 Commissioner shall issue an order specifying in what respect it is deficient and stating  
37 when, within a reasonable period thereafter, ~~such rate shall be deemed the rate is~~ no longer  
38 effective. ~~Said The~~ order is subject to judicial review as set out in Article 2 of this  
39 Chapter. Pending judicial review of ~~said the~~ order, the filed classification plan and the  
40 filed rates may be used, charged and collected in the same manner as set out in G.S. 58-  
41 40-45 of this Chapter. ~~Said The~~ order shall not affect any contract or policy made or  
42 issued ~~prior to~~ before the expiration of the period set forth in the order. All rates shall be  
43 on an actuarially sound basis and shall be calculated, insofar as is possible, to produce

1 neither a profit nor a loss. However, the rates made by or on behalf of the Facility with  
2 respect to 'clean risks', ~~as defined above,~~ risks' shall not exceed the rates charged 'clean  
3 risks' who are not reinsured in the Facility. The difference between the actual rate  
4 charged and the actuarially sound and self-supporting rates for 'clean risks' reinsured in  
5 the Facility may be recouped in similar manner as assessments pursuant to G.S. 58-37-40(f)  
6 ~~or allocated pursuant to G.S. 58-37-75.~~ under G.S. 58-37-40(f). Rates shall not include any  
7 factor for underwriting profit on Facility business, but shall provide an allowance for  
8 contingencies. There shall be a strong presumption that the rates and premiums for the  
9 business of the Facility are neither unreasonable nor excessive."

10 Section 57. G.S. 58-37-75 is repealed.

## 11 **PART VIII. WORKERS' COMPENSATION SELF-INSURANCE.**

12 Section 58. G.S. 58-50-60 reads as rewritten:

### 13 **"§ 58-50-60. Rules for precertification practices.**

14 (a) This section applies to all accident and health insurers under Articles 1 through  
15 64 of this Chapter, all third-party administrators and preferred provider arrangements, all  
16 entities subject to Articles 65 through 67 of this Chapter, and all self-funded ~~health benefit~~  
17 workers' compensation insurance plans.

18 (b) The Commissioner shall adopt reasonable rules governing ~~precertification~~  
19 ~~practices and forms utilization review~~ and utilization review organizations ~~affiliated that do~~  
20 business with the entities subject to this section."

21 Section 59. G.S. 58-50-65(a) reads as rewritten:

22 "(a) ~~Nothing~~ Except as provided in this subsection, nothing in Articles 50 through  
23 55 of this Chapter ~~shall apply~~ applies to or affect any policy of liability or workers'  
24 compensation insurance, ~~except that insurance policy.~~ Except for G.S. 58-50-55(a), the  
25 provisions of ~~G.S. 58-50-50 and subsections (b) and (c) of G.S. 58-50-55 shall~~ this Article and  
26 Articles 65 and 67 of this Chapter and any administrative rules adopted under those  
27 Articles relating to preferred providers and utilization review apply to policies of workers'  
28 compensation insurance. ~~insurance policies and to individual and group self-funded~~  
29 workers' compensation insurance plans. If there is any conflict between managed care  
30 rules adopted by the Commissioner under this Chapter and managed care rules adopted  
31 by the Industrial Commission under G.S. 97-25.2, the Industrial Commission's rules  
32 govern. If there is any conflict between managed care provisions in this Chapter and in  
33 Chapter 97 of the General Statutes with respect to workers' compensation, the provisions  
34 in Chapter 97 govern."

## 35 **PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.**

36 Section 60. The phrase "certificate of authority" is deleted and replaced by the  
37 word "license" wherever it occurs in each of the following sections of the General  
38 Statutes:

39 G.S. 58-4-15. Revocation of certificate of authority.

40 G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.

41 G.S. 58-7-70. Effects of redomestication.

42 G.S. 58-15-5. Definitions.

43 G.S. 58-16-35. Unauthorized Insurers Process Act.

1 G.S. 58-24-45. Organization.

2 G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic  
3 society.

4 G.S. 58-28-5. Transacting business without certificate of authority  
5 prohibited; exceptions.

6 G.S. 58-28-15. Validity of acts or contracts of unauthorized company  
7 shall not impair obligation of contract as to the company;  
8 maintenance of suits; right to defend.

9 G.S. 58-28-45. Uniform Unauthorized Insurers Act.

10 G.S. 58-30-10. Definitions.

11 G.S. 58-30-55. Condition on release from delinquency proceedings.

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

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

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

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

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

18 G.S. 58-57-80. Penalties.

19 **PART X. RISK SHARING PLAN SUNSET EXTENSION.**

20 Section 61. G.S. 58-42-55 reads as rewritten:

21 **"§ 58-42-55. Expiration.**

22 This Article ~~shall expire~~ expires on July 1, ~~1997-~~1999."

23 **PART XI. HEALTH INSURANCE CLARIFYING CHANGES.**

24 Section 62. G.S. 58-50-130(a), as amended by S.L. 1997-259, is amended by  
25 adding the following new subdivision:

26 "(4b) Late enrollees may only be excluded from coverage for the greater of 18  
27 months or an 18-month preexisting-condition exclusion; however, if  
28 both a period of exclusion from coverage and a preexisting-condition  
29 exclusion are applicable to a late enrollee, the combined period shall not  
30 exceed 18 months. If a period of exclusion from coverage is applied, a  
31 late enrollee shall be enrolled at the end of such period in the health  
32 benefit plan currently held by the small employer."

33 Section 63.1. G.S. 58-51-55(d), as amended by S.L. 1997-259, reads as  
34 rewritten:

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

40 Section 63.2. G.S. 58-65-90(d), as amended by S.L. 1997-259, reads as  
41 rewritten:

42 "(d) Applicability. – Subsection (b1) of this section applies only to subscriber  
43 ~~contracts~~ contracts, other than excepted benefits as defined in G.S. 58-68-25, covering

1 more than 50 employees. The remainder of this section applies only to group contracts  
2 covering 20 or more employees."

3 Section 63.3. G.S. 58-67-75(d), as amended by S.L. 1997-259, reads as  
4 rewritten:

5 "(d) Applicability. – Subsection (b1) of this section applies only to group ~~contracts~~  
6 contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than  
7 50 employees. The remainder of this section applies only to group contracts covering 20  
8 or more employees."

9 Section 63.4. G.S. 58-51-15(h), as enacted by S.L. 1997-259, reads as  
10 rewritten:

11 "(h) Preexisting Condition Exclusion Clarification. – Sub-subdivision (a)(2)b. of  
12 this section does not apply to:

13 (1) Policies issued to eligible individuals under G.S. 58-68-60.

14 (2) Excepted benefits as described in ~~G.S. 58-68-25(b)~~. G.S. 58-68-25(b)(1)."

15 Section 63.5. G.S. 58-68-40(e), as enacted by S.L. 1997-259, reads as  
16 rewritten:

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

19 (1) Health insurance coverage offered by a health insurer if the coverage is  
20 made available in the small group market only through one or more  
21 bona fide associations.

22 (2) A self-employed individual as defined in ~~G.S. 58-50-110(21a)~~. G.S. 58-  
23 50-110(21a), except as otherwise provided for the basic and standard  
24 health care plans under the North Carolina Small Employer Group  
25 Health Coverage Reform Act."

26 Section 63.6. G.S. 58-68-60(b)(2), as enacted by S.L. 1997-259, reads as  
27 rewritten:

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

32 Section 63.7. G.S. 58-50-65(d) reads as rewritten:

33 "(d) The provisions of G.S. ~~58-51-5(5)~~ 58-51-5(a)(5) and G.S. 58-51-15(a)(1), (4),  
34 and (10) may be omitted from railroad ticket policies sold only at railroad stations or at  
35 railroad ticket offices by railroad employees."

## 36 **PART XII. COMMERCIAL INSURANCE FORM DOCUMENT RETENTION.**

37 Section 64. G.S. 58-41-50(g) reads as rewritten:

38 "(g) An insurer subject to this Article may develop and use an individual form or  
39 rate as a result of the uniqueness of a particular risk. The form or rate shall be developed,  
40 filed, and used in accordance with rules adopted by the Commissioner. Rules adopted by  
41 the Commissioner under this section may provide for retention of certain documents and  
42 data by insurers instead of insurers filing those records with the Commissioner."

## 43 **PART XIII. BAIL BONDS.**



1           Section 65. G.S. 58-71-82 reads as rewritten:

2 **"§ 58-71-82. Dual license holding.**

3           If an individual holds a professional bondsman's license or a runner's license and a  
4 surety bondsman's license simultaneously, they are considered one license for the  
5 purpose of disciplinary actions involving suspension, revocation, or ~~renewal-nonrenewal~~  
6 under this Article. Separate renewal fees must be paid for each license, however."

7 **PART XIV. EFFECT OF HEADINGS.**

8           Section 66. The headings to the parts of this act are a convenience to the  
9 reader and are for reference only. The headings do not expand, limit, or define the text of  
10 this act.

11 **PART XV. EFFECTIVE DATE.**

12           Section 67. Sections 30 through 32.1 of this act become effective September 1,  
13 1997. Section 61 of this act becomes effective June 30, 1997. Sections 62, 63.4, 63.5,  
14 and 63.6 of this act become effective July 1, 1997. Sections 63.1, 63.2, and 63.3 become  
15 effective January 1, 1998. The remainder of this act is effective when it becomes law.