

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 1279\*

Short Title: Homeowners' Reinsurance Facility. (Public)

Sponsors: Senators Soles; Albertson, Thomas, Wellons, and Ballantine.

Referred to: Insurance and Consumer Protection.

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A REINSURANCE FACILITY FOR HOMEOWNER'S  
INSURANCE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** The heading of Article 46 of Chapter 58 of the General Statutes reads as rewritten:

"Article 46. Fair Access to Insurance Requirements.

Part 1. Insurance Underwriting Association."

**SECTION 2.** Article 46 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 2. Homeowners' Reinsurance Facility.

**"§ 58-46-60. Findings; purpose of Part.**

(a) The General Assembly of North Carolina finds that:

- (1) An adequate market for homeowner's insurance is necessary to the economic welfare of the State of North Carolina and that without that insurance the orderly growth and development in the State would be severely impeded.
- (2) Adequate insurance on property in the State is necessary to enable homeowners to obtain financing for the purchase and improvement of their properties.
- (3) While the need for this insurance is increasing, the market for this insurance is not adequate and is likely to become less adequate in the future.
- (4) The present plans to provide adequate insurance on residences in the State, while deserving praise, have not been sufficient to meet the needs of the State.

(b) The State has an obligation to provide an equitable method whereby every licensed insurer writing homeowner's insurance in North Carolina is required to meet its public responsibility instead of shifting the burden to a few willing and public-spirited

1 insurers. It is the purpose of this Part to accept this obligation and to provide a  
2 mandatory program to assure an adequate market for homeowner's insurance in the  
3 State of North Carolina.

4 **"§ 58-46-65. Definitions.**

5 As used in this Part:

- 6 (1) 'Board' means the Board of Directors of the Facility.  
7 (2) 'Cede' of 'cession' means the act of transferring the risk of loss from an  
8 individual insurer to all insurers through the operation of the Facility.  
9 (3) 'Eligible risk' means a person who has an insurable interest in insurable  
10 property located in this State; provided, however, that a person is not  
11 an eligible risk if:  
12 a. Timely payment of premium is not tendered by the person;  
13 b. There is a valid unsatisfied judgment of record against the  
14 person for recovery of amounts due for premiums and the  
15 person has not been discharged from paying the judgment; or  
16 c. The person does not furnish the information necessary to effect  
17 insurance.  
18 (4) 'Facility' means the North Carolina Homeowners' Reinsurance Facility  
19 established by this Part.  
20 (5) 'Homeowner's insurance' means insurance against loss to residential  
21 real property located in this State comprising not more than four  
22 housing units, its contents, any valuable interest in the property, and  
23 other insurance coverages written in connection with the sale of  
24 homeowner's insurance, as governed by Article 36 of this Chapter.  
25 (6) 'Insurable interest' includes any lawful and substantial economic  
26 interest in the safety or preservation of property from loss, destruction,  
27 or pecuniary damage.  
28 (7) 'Insurable property' means:  
29 a. Residential real property located in the State comprising not  
30 more than four housing units and its contents, which is  
31 determined by the member, after inspection and under criteria  
32 specified in the Plan, to be in an insurable condition.  
33 b. A one-family or two-family dwelling built in substantial  
34 accordance with the federal Manufactured Home Construction  
35 and Safety Standards, any predecessor or successor federal or  
36 State construction or safety standards, and any further  
37 construction or safety standards developed by the Facility and  
38 approved by the Commissioner.  
39 c. A one-family or two-family dwelling built in substantial  
40 accordance with the North Carolina Uniform Residential  
41 Building Code and the North Carolina State Building Code,  
42 including the design-wind requirements, that is not otherwise  
43 rendered uninsurable by reason of use or occupancy.

1           'Insurable property' does not mean a structure begun on or  
2           after January 1, 1970, that is not built in substantial compliance  
3           with the federal Manufactured Home Construction and Safety  
4           Standards, any predecessor or successor federal or State  
5           construction or safety standards, and any further construction or  
6           safety standards developed by the Facility and approved by the  
7           Commissioner, or the North Carolina Uniform Residential  
8           Building Code or the North Carolina State Building Code,  
9           including the design-wind requirements.

10           (8) 'Member' means an insurance company that is a member of the  
11           Facility.

12           (9) 'Person' means every natural person, firm, partnership, association,  
13           limited liability company, corporation, State or local government, or  
14           State or local governmental agency.

15           (10) 'Plan' means the plan of operation approved under this Part and  
16           includes all written rules, practices, and procedures of the Facility,  
17           except for staffing and personnel matters.

18           **"§ 58-46-70. North Carolina Homeowners' Reinsurance Facility created.**

19           There is created the North Carolina Homeowners' Reinsurance Facility, consisting of  
20           all insurers authorized to write and engage in writing within this State, on a direct basis,  
21           homeowner's insurance, except town and county mutual insurance associations and  
22           assessable mutual companies as authorized by G.S. 58-7-75(5)b., 58-7-75(5)d., and  
23           58-7-75(7)b. and except an insurer who only writes insurance in this State on property  
24           exempted from taxation by the provisions of G.S. 105-278.1 through G.S. 105-278.8.  
25           Every such insurer shall be a member of the Facility and shall remain a member of the  
26           Facility as long as the Facility is in existence as a condition of its authority to continue  
27           to transact the business of insurance in this State.

28           **"§ 58-46-75. Facility functions and administration.**

29           (a) The operation of the Facility shall assure the availability of homeowner's  
30           insurance to any eligible risk and the Facility shall accept all placements made in  
31           accordance with this Part and the Plan, as amended.

32           (b) The Facility shall require each member to adjust losses for ceded business  
33           fairly and efficiently in the same manner as voluntary business losses are adjusted and  
34           to effect settlement where settlement is appropriate.

35           (c) A Board of Directors shall administer the Facility. The Board shall comprise  
36           15 directors as follows:

37           (1) Seven members, at least two of which shall be domestic insurers.

38           (2) Three individuals not employed by, or otherwise affiliated with,  
39           insurers, insurance agents, insurance brokers, producers, or other  
40           entities of the insurance industry.

41           (3) Four individuals who are North Carolina licensed insurance agents or  
42           brokers.

43           (4) The Commissioner, who shall serve ex officio.

1       (d) The seven member directors shall be elected annually by cumulative voting  
2 by the members, whose votes shall be weighted in accordance with the proportion that  
3 each member's premium written in the State during the most recent calendar year for  
4 which data are available bear to the aggregate premiums written by all members. Voting  
5 may be in person or by proxy. Not more than one member in a group under the same  
6 management or ownership shall serve on the Board at the same time. The three  
7 individual members not affiliated with the insurance industry and the four insurance  
8 agents or brokers shall be appointed annually by the Commissioner.

9       (e) The Board shall elect from its membership a chair and shall meet at the call  
10 of the chair or at the request of four or more Board members. The chair shall retain the  
11 right to vote on all issues. Eight Board members shall constitute a quorum. The same  
12 Board member may not serve as chair for more than two consecutive years; provided,  
13 however, that a Board member may continue to serve as chair until a successor chair is  
14 elected and qualified.

15       (f) Board members shall receive reimbursement from the Facility for their actual  
16 and necessary expenses incurred on Facility business, en route to perform Facility  
17 business, and while returning from Facility business.

18       (g) Except as may be delegated specifically to others in the Plan or reserved to  
19 the members, power and responsibility for the establishment and operation of the  
20 Facility is vested in the Board, including the following:

21           (1) To sue and be sued in the name of the Facility. No judgment against  
22 the Facility creates any direct liability in the individual members.

23           (2) To receive and record cessions.

24           (3) To assess members on the basis of participation ratios established in  
25 the Plan to cover anticipated or incurred costs of operation and  
26 administration of the Facility at such intervals that are established in  
27 the Plan.

28           (4) To contract for goods and services from others to assure the efficient  
29 operation of the Facility.

30           (5) To purchase reinsurance on behalf of the members.

31           (6) To maintain all loss, expense, and premium data relative to all risks  
32 reinsured in the Facility, and to require each member to furnish such  
33 statistics relative to insurance reinsured by the Facility at such times  
34 and in such form and detail as may be required.

35           (7) To establish fair and reasonable procedures for participation by  
36 members under G.S. 58-46-85.

37           (8) To receive or distribute all sums required by the operation of the  
38 Facility.

39           (9) To accept all risks submitted in accordance with this Part.

40           (10) To establish procedures for reviewing claims practices of members to  
41 the end that claims to the account of the Facility will be handled fairly  
42 and efficiently.

43           (11) To adopt and enforce all rules and to do anything else where the Board  
44 is not elsewhere specifically authorized that is otherwise necessary to

1 accomplish the purpose of the Facility and is not in conflict with this  
2 Part.

3 (h) Each member shall authorize the Facility to audit that part of the member's  
4 business that is written subject to the Facility in a manner and time prescribed by the  
5 Board.

6 (i) The Facility shall furnish each member with a copy of an annual report of the  
7 operation of the Facility in the form and detail determined by the Board.

8 (j) Each member shall furnish statistics in connection with insurance subject to  
9 the Facility as may be required by the Facility. The statistics shall be furnished at the  
10 time and in the form and detail that the Board requires but, at a minimum, shall include  
11 premiums charged, expenses, and losses.

12 (k) The rates, rating plans, rating rules, and forms applicable to the insurance  
13 written by the Facility shall be in accordance with the most recent manual rates or  
14 adjusted loss costs and forms that are legally in effect in the State. No special surcharge,  
15 other than those presently in effect, may be applied to homeowner's insurance rates.

16 **"§ 58-46-80. Plan of operation.**

17 (a) Within 60 days after the initial organizational meeting, the Facility shall  
18 submit to the Commissioner, for his approval, a proposed Plan, consistent with this Part,  
19 which shall provide for economical, fair, and nondiscriminatory administration and for  
20 the prompt and efficient provision of homeowner's insurance to eligible risks. If no Plan  
21 is submitted within the 60-day period, the Commissioner shall formulate and place into  
22 effect a Plan consistent with this Part.

23 (b) The proposed Plan shall be reviewed by the Commissioner and approved by  
24 him if he finds that the Plan satisfies G.S. 58-46-60. In the review of the proposed Plan,  
25 the Commissioner may consult with the Board and may seek any further information  
26 that the Commissioner considers necessary for the Commissioner's decision. If the  
27 Commissioner approves the proposed Plan, the Commissioner shall certify the approval  
28 to the Board; and the Plan shall become effective 10 days after the certification. If the  
29 Commissioner disapproves all or any part of the proposed Plan, the Commissioner shall  
30 return the proposed Plan to the Board with a written statement for the reasons for  
31 disapproval and any recommendations. The Board may change the Plan in accordance  
32 with the Commissioner's recommendation or may, within 30 days after the date of  
33 disapproval, return a new Plan to the Commissioner. If the Board fails to submit a  
34 proposed Plan within 90 days after October 1, 2002, or a new Plan that is acceptable to  
35 the Commissioner, or accept the recommendations of the Commissioner within 30 days  
36 after disapproval of the Plan, the Commissioner shall develop and place a Plan into  
37 effect. Any Plan developed by the Commissioner shall become effective 10 days after  
38 certification to the Board: Provided, however, that until a Plan is in effect under this  
39 Part, the North Carolina Insurance Underwriting Association and the North Carolina  
40 Joint Underwriting Association shall be continued in effect on a mandatory basis on  
41 such terms as the Commissioner determines.

42 (c) The Board may, subject to the approval of the Commissioner, amend the Plan  
43 at any time. The Commissioner may review the Plan at any time the Commissioner  
44 considers expedient or prudent, but not less than once in each calendar year. After

1 review of the Plan the Commissioner may amend the Plan after consultation with the  
2 Board.

3 (d) On the effective date of the Plan, all insurance companies licensed to write  
4 homeowner's insurance in this State as a prerequisite to further engaging in writing the  
5 insurance shall formally subscribe to and participate in the Plan.

6 (e) In order to obtain a transfer of business to the Facility effective when the  
7 binder or policy or renewal of the policy first becomes effective, the member shall  
8 within 30 days after the binding or policy effective date notify the Facility of the  
9 identification of the insured, the coverage and limits afforded, classification data, and  
10 premium. The Facility shall accept risks at other times on receipt of necessary  
11 information, but acceptance shall not be retroactive. The Facility shall accept renewal  
12 business after the member, on underwriting review, elects to again cede the business.

13 (f) The Plan shall provide that all investment income from premiums on business  
14 reinsured by the Facility shall be retained by or paid over to the Facility. In determining  
15 the cost of operation of the Facility, all investment income shall be taken into  
16 consideration.

17 (g) The Plan shall provide for audit of the annual statement of the Facility by  
18 independent auditor approved by the Commissioner.

19 **"§ 58-46-85. Participation in Facility expenses, profits, and losses.**

20 (a) Each member shall participate in the expenses, profits, and losses of the  
21 Facility in the proportion that its written exposure in this State during the preceding  
22 calendar year for residential properties bears to the aggregate written exposure in this  
23 State during the preceding calendar year for residential properties by all members, as  
24 certified to the Facility by the Commissioner. The Commissioner shall certify each  
25 member's participation after review of annual statements and any other reports and data  
26 necessary to determine participation and may obtain any necessary information or data  
27 from any member of the Facility for this purpose. Any insurer that is authorized to write  
28 and that is engaged in writing homeowner's insurance shall become a member of the  
29 Facility on the first day of January after authorization. The determination of the  
30 member's participation in the Facility shall be made as of the date of membership in the  
31 same manner as for all other members.

32 (b) All members shall receive credit each year for homeowner's insurance  
33 voluntarily written in the State in accordance with guidelines and procedures to be  
34 submitted by the Directors to the Commissioner for approval. The participation of each  
35 member in the expenses, profits, and losses of the Facility shall be reduced accordingly.  
36 The guidelines and procedures for granting credit shall encourage and assist each  
37 member to voluntarily write these coverages in the State for commercial and residential  
38 properties.

39 (c) The Facility shall use the 'take-out' program, as filed with and approved by  
40 the Commissioner.

41 **"§ 58-46-90. Designated agents.**

42 (a) Upon the request of any licensed property and liability agent meeting any two  
43 of the standards set forth in subdivisions (1) through (5) of this subsection, as  
44 determined by the Commissioner within 10 days after receipt of the application, the

1 Facility shall contract with one or more members within 20 days after receipt of the  
2 Commissioner's determination to appoint the agent as a designated agent in accordance  
3 with reasonable rules established by the Plan. The standards shall be whether the agent's  
4 evidence establishes:

- 5 (1) The agent has been conducting insurance business in a community for  
6 at least one year.
- 7 (2) The agent had a gross premium volume during the 13 months before  
8 the date of application of at least twenty thousand dollars (\$20,000)  
9 from homeowner's insurance.
- 10 (3) The number of eligible risks served by the agent during the 13 months  
11 before the date of application was 200 or more.
- 12 (4) There was a growth in eligible risks served and premium volume  
13 during the agent's years of service as an agent.
- 14 (5) The agent made available to eligible risks premium financing or any  
15 other plan for deferred payment of premiums.

16 (b) With respect to business produced by designated agents, adequate provision  
17 shall be made by the Facility to assure that such business is rated in accordance with this  
18 Part and the Plan. All business produced by designated agents may be ceded to the  
19 Facility. If no insurer is willing to contract with a designated agent on terms acceptable  
20 to the Board, the Facility shall license the agent to write directly on behalf of the  
21 Facility. For this purpose the Facility does not act as an insurer, but acts only as the  
22 statutory agent of all of the members of the Facility, which shall be bound on risks  
23 written by the Facility's appointed agent. The Facility may contract with one or more  
24 servicing carriers and shall promulgate fair and reasonable underwriting procedures to  
25 require that business produced by Facility agents and written through those servicing  
26 carriers shall be rated in accordance with this Part and the Plan. All business produced  
27 by Facility agents may be ceded to the Facility. Any designated agent who is disabled or  
28 retiring or the estate of any deceased designated agent may transfer the designation and  
29 the book of business to some other licensed property and liability agent meeting the  
30 requirements of this section and under rules established by the Facility.

31 (c) No agent may be designated under this section to any insurer that does not  
32 actively write voluntary market business.

33 **"§ 58-46-95. General obligations of members and agents.**

34 (a) Except as otherwise provided in this Part, as a prerequisite to the further  
35 engaging in this State in the writing of homeowner's insurance, all insurers shall accept  
36 and insure any otherwise unacceptable applicant who is an eligible risk if cession of the  
37 coverage applied for is authorized under this Part. Members shall equitably share the  
38 results of the business ceded to the Facility and shall be bound by the acts of their  
39 agents in accordance with this Part. No member shall impose upon any of its agents,  
40 solely on account of ceded business received from those agents, any quota or matching  
41 requirement for any other insurance as a condition for further acceptance of ceded  
42 business from those agents. Upon receipt by a member of a risk that it does not elect to  
43 retain, the member shall follow the procedures for ceding the risk as are established by  
44 the Plan.

1       (b) Each member shall provide the same type of service to ceded business that it  
2 provides for voluntary market business. Records provided to agents and brokers shall  
3 include an indication that the business is ceded.

4       (c) Except as otherwise provided in this Part, no licensed agent of an insurer  
5 authorized to solicit and accept premiums for homeowner's insurance or by the member  
6 the agent represents shall refuse on behalf of the member to accept any application from  
7 an eligible risk for the insurance and to immediately bind the coverage applied for and  
8 for a period of not less than six months if cession of the particular coverage and  
9 coverage limits applied for are permitted in the Facility, provided the application is  
10 submitted during the agent's normal business hours, at the agent's customary place of  
11 business, and in accordance with the agent's customary practices and procedures. If the  
12 agent refuses to accept an application because the property is not insurable property, the  
13 agent shall inform the applicant that the applicant may request a review by the Facility  
14 of the agent's refusal. The Facility shall review the refusal and shall accept cession of  
15 the risk if the Facility determines the property is insurable property. If the Facility  
16 determines that the property is not insurable property, the applicant may ask the Facility  
17 to reconsider its decision or appeal to the Commissioner as provided in G.S. 58-46-115.

18       (d) None of the following factors shall be considered in determining insurable  
19 condition: neighborhood, area, geographic location, or environmental hazards beyond  
20 the control of the applicant or owner of the property.

21       (e) The owner or applicant shall furnish, with the application, proof in the form  
22 of a certificate from a local building inspector, contractor, engineer, or architect that the  
23 structure is built in substantial accordance with the federal Manufactured Home  
24 Construction and Safety Standards, any predecessor or successor federal or State  
25 construction or safety standards, and any further construction or safety standards  
26 developed by the Facility and approved by the Commissioner, or the North Carolina  
27 Uniform Residential Building Code or the North Carolina State Building Code;  
28 however, an individual certificate shall not be necessary where the structure is located  
29 within a political subdivision which has certified to the Facility on an annual basis that  
30 it is enforcing the North Carolina Uniform Residential Building Code or the North  
31 Carolina State Building Code and has no plans to discontinue enforcing these codes  
32 during that year.

33 **"§ 58-46-100. Miscellaneous.**

34       (a) Any member whose membership in the Facility has been terminated by  
35 withdrawal shall, with respect to its business before midnight of the effective date of the  
36 termination, continue to be governed by this Part.

37       (b) Any unsatisfied net liability to the Facility of any insolvent member shall be  
38 assumed by and apportioned among the remaining members in the Facility in the same  
39 manner in which assessments are apportioned by the Facility. The Facility shall have all  
40 rights allowed by law in behalf of the remaining members against the estate or funds of  
41 the insolvent for sums due the Facility in accordance with this Part. Any assessment  
42 against an insolvent insurer shall not be a charge against any special deposit fund held  
43 under the provisions of Article 5 of this Chapter for the benefit of policyholders.



1       (c) When a member has been merged or consolidated into another insurer, or has  
2 reinsured its entire property insurance business in the State with another insurer, the  
3 member or its successor in interest shall remain liable for all obligations under this Part;  
4 and the member, its successor in interest, and the other insurers with which it has been  
5 merged or consolidated shall continue to participate in the Facility according to the  
6 Plan.

7 **"§ 58-46-105. Termination of insurance.**

8       No member may terminate insurance to the extent that cession of a particular type of  
9 coverage and limits is available under this Part except for the following reasons:

- 10       (1) Nonpayment of premium when due to the member or producing agent.  
11       (2) A member has terminated an agency contract for reasons other than the  
12 quality of the agent's insureds, or the agent has terminated the  
13 contract, and the agent represented the member in taking the original  
14 application for insurance.  
15       (3) When the insurance contract has been cancelled under a power of  
16 attorney given a member licensed under G.S. 58-35-5.  
17       (4) The named insured, at the time of renewal, fails to meet the  
18 requirements contained in the corporate charter, articles of  
19 incorporation, and/or bylaws of the member, when the member is a  
20 company organized for the sole purpose of providing members of an  
21 organization with insurance policies in North Carolina.

22 **"§ 58-46-110. Appeals.**

23       (a) Any person or any member, who may be aggrieved by an act, ruling, or  
24 decision of the Facility other than an act, ruling, or decision relating to the cause or  
25 amount of a claimed loss, may, within 30 days after the ruling, appeal to the  
26 Commissioner. Any hearings held by the Commissioner under the appeal shall be in  
27 accordance with rules adopted by the Commissioner: Provided, however, the  
28 Commissioner may appoint a member of the Commissioner's staff as deputy  
29 commissioner for the purpose of hearing those appeals and a ruling based upon the  
30 hearing has the same effect as if heard by the Commissioner. Any person aggrieved by  
31 any order or decision of the Commissioner may appeal under G.S. 58-2-75.

32       (b) No later than 10 days before each hearing, the appellant shall file with the  
33 Commissioner or the Commissioner's designated hearing officer and shall serve on the  
34 appellee a written statement of the appellant's case and any evidence that the appellant  
35 intends to offer at the hearing. No later than five days before the hearing, the appellee  
36 shall file with the Commissioner or the designated hearing officer and shall serve on the  
37 appellant a written statement of the appellee's case and any evidence that the appellee  
38 intends to offer at the hearing. Each hearing shall be recorded and may be transcribed. If  
39 the matter is between an insurer and the Facility, the cost of the recording and  
40 transcribing shall be borne equally by the appellant and appellee; provided that upon  
41 any final adjudication the prevailing party shall be reimbursed for his share of the costs  
42 by the other party. If the matter is between an insured and the Facility, the cost of  
43 transcribing shall be borne equally by the appellant and appellee; provided that the  
44 Commissioner may order the Facility to pay recording or transcribing costs for which

1 the insured is financially unable to pay. Each party shall, on a date determined by the  
2 Commissioner or the designated hearing officer, but not sooner than 15 days after  
3 delivery of the completed transcript to the party, submit to the Commissioner or the  
4 designated hearing officer and serve on the other party, a proposed order. The  
5 Commissioner or the designated hearing officer shall then issue an order.

6 **"§ 58-46-115. Immunity.**

7 There shall be no liability on the part of and no cause of action of any nature shall  
8 arise against any member insurer, the Facility or its agents or employees, the Board, or  
9 the Commissioner or his representatives for any action taken by them in good faith in  
10 the performance of their powers and duties under this Part.

11 **"§ 58-46-120. Annual report.**

12 The Facility shall file in the office of the Commissioner on an annual basis, on or  
13 before January 1, a statement that summarizes the transactions, conditions, operations  
14 and affairs of the Facility during the preceding year. The statement shall contain such  
15 matters and information as are prescribed by the Commissioner and shall be in such  
16 form as is approved by him. The Commissioner may at any time require the Facility to  
17 furnish to him any additional information with respect to its transactions or any other  
18 matter which the Commissioner deems to be material to assist him in evaluating the  
19 operation and experience of the Facility.

20 **"§ 58-46-125. Examinations.**

21 The Commissioner may from time to time make an examination into the affairs of  
22 the Facility under the Examination Law. The expenses of the examination shall be borne  
23 and paid by the Facility.

24 **"§ 58-46-130. Penalty for abuse of procedure.**

25 An insurer or agent that cedes uninsurable property to the Facility with such  
26 frequency as to indicate a general business practice is subject to G.S. 58-2-70.

27 **"§ 58-46-135. Open meetings.**

28 The Board is subject to the Open Meetings Act, Article 33C of Chapter 143 of the  
29 General Statutes, as amended.

30 **"§ 58-46-140. Rules.**

31 The Commissioner may adopt rules, not inconsistent with law, to enforce, carry out  
32 and make effective this Part. The Commissioner shall not be liable for any act or  
33 omission in connection with the administration of the duties imposed upon him by this  
34 Part."

35 **SECTION 3.** G.S. 58-2-52(a) reads as rewritten:

36 "(a) The Commissioner may adopt rules for the hearing of appeals by the  
37 Commissioner or the Commissioner's designated hearing officer under G.S. 58-36-35,  
38 58-37-65, 58-45-50, 58-46-30, 58-46-110, 58-48-40(c)(7), 58-48-42, and 58-62-51(c).  
39 These rules may provide for prefiled evidence and testimony of the parties, prehearing  
40 statements and conferences, settlement conferences, discovery, subpoenas, sanctions,  
41 motions, intervention, consolidation of cases, continuances, rights and responsibilities  
42 of parties, witnesses, and evidence."

43 **SECTION 4.** If any section or provision of this act is declared  
44 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the

1 validity of the act as a whole or any part other than the part so declared to be  
2 unconstitutional, preempted, or otherwise invalid.

3           **SECTION 5.** Section 3 of this act becomes effective on the date the Plan of  
4 Operation of the North Carolina Homeowners' Reinsurance Facility becomes effective  
5 under Section 2 of this act. The remainder of this act is effective when it becomes law.