

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 644  
SENATE BILL 339

AN ACT TO MAKE VARIOUS SUBSTANTIVE AMENDMENTS TO THE INSURANCE LAWS AND OTHER LAWS RELATED TO THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-8-35 reads as rewritten:

**"§ 58-8-35. Contingent liability printed on policy.**

Every insurance company licensed to do business in this State shall print upon the ~~filing face of its policies~~ front of each policy and application in clear and explicit language the full contingent liability of its members. The language shall include the following statements printed in bold red type for each unlimited assessment policy:  
**'CAUTION: THIS IS AN ASSESSMENT POLICY. YOU MAY BE LIABLE FOR THE PAYMENT OF LOSSES, RESERVES, AND/OR EXPENSES INCURRED WHILE YOU ARE A MEMBER OF OUR ASSOCIATION.'**

Sec. 2. Article 58 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-58-86. Insurable interest of charitable organizations.**

If an organization described in section 501(c)(3) of the Internal Revenue Code purchases or receives by assignment, before, on, or after the effective date of this section, life insurance on an insured who consents to the purchase or assignment, the organization is deemed to have an insurable interest in the insured person's life."

Sec. 3. G.S. 58-58-90 reads as rewritten:

**"§ 58-58-90. ~~Construction of §§ 58-58-75 to 58-58-85~~ Construction.**

Sections 58-58-75 to 58-58-85 shall not be construed to G.S. 58-58-75, 58-58-80, 58-58-85, and 58-58-86 do not limit or abridge any insurable interest or right to insure now existing at common law or by statute, and shall be construed liberally to sustain insurable interest, whether as a declaration of existing law or as an extension of or addition to existing law."

Sec. 3.1. G.S. 58-31-60(b) reads as rewritten:

"(b) Appointment of Employee Insurance Committee Members. – The members of the Employee Insurance Committee shall be appointed by the head of the payroll unit. The Committee shall consist of not less than five or more than nine individuals a majority of whom have been employed in the payroll unit for at least one year. The committee members shall, except where necessary initially to establish the rotation herein prescribed, serve three-year terms with approximately one-third of the terms expiring annually. Committee membership make-up shall fairly represent the work

force in the payroll unit and be selected without regard to any political or other affiliations. It shall be the duty of the payroll unit head to assure that the Employee Insurance Committee is completely autonomous in its selection of insurance products and insurance companies and that no member of the Employee Insurance Committee has any conflict of interest in serving on the Committee. A committee on employee benefits elected or appointed by the faculty representative body of a constituent institution of The University of North Carolina shall be deemed constituted and functioning as an employee insurance committee in accordance with this section. Any decision rendered by the Employee Insurance Committee where the autonomy of the Committee or a conflict of interest is questioned shall be subject to appeal pursuant to the Administrative Procedure Act, or in the case of departments, boards and commissions which are specifically exempt from the Administrative Procedure Act, pursuant to the appeals procedure prescribed for such department, board or commission.

All payroll units in existence on May 21, 1985, shall continue to be deemed payroll units, regardless of any subsequent consolidation of such payroll units, for purposes of the appointment of the members of the Employee Insurance Committee in order to assure such units the continuing ability to meet the needs and desires of the employees of such units by having the right to select insurance carriers and insurance products. No Employee Insurance Committee shall be created for employees represented by a previously existing committee. Any such duplicative Employee Insurance Committees are hereby disbanded. In the event of the consolidation of a payroll unit, the head of the former payroll unit shall appoint the members of the Committee in accordance with the provisions of this section."

Sec. 4. G.S. 58-41-50 is amended by adding a new subsection to read:

"(g) An insurer subject to this Article may develop and use an individual form or rate as a result of the uniqueness of a particular risk. The form or rate shall be developed, filed, and used in accordance with rules adopted by the Commissioner."

Sec. 5. G.S. 58-43-5 reads as rewritten:

**"§ 58-43-5. Limitation as to amount and term; indemnity contracts for difference in actual value and cost of ~~replacement.~~ replacement; functional replacement.**

No insurance company or agent shall knowingly issue any fire insurance policy upon property within this State for an amount which, together with any existing insurance thereon, exceeds the fair value of the property, nor for a longer term than seven years: Provided, any fire insurance company authorized to transact business in this State may, by appropriate riders or endorsements or otherwise, provide insurance indemnifying the insured for the difference between the actual value of the insured property at the time any loss or damage occurs, and the amount actually expended to repair, rebuild or replace on the premises described in the policy, or some other location within the State of North Carolina with new materials of like size, kind and quality, ~~such property as that~~ has been damaged or destroyed by fire or other perils insured against. ~~against.~~ Provided further, that the Commissioner may approve forms that permit functional replacement by the insurance company, at the insured's option. Functional replacement means to replace the property with property that performs the same function when replacement

with materials of like size, kind, and quality is not possible, necessary, or less costly than obsolete, antique, or custom construction materials and methods. Forms and rating plans may also provide for credits when functional replacement cost coverage is provided. Policies issued in violation of this section are binding upon the company issuing them, but the company is liable for the forfeitures by law prescribed for such violation."

Sec. 6. G.S. 58-28-5(a) reads as rewritten:

"(a) Except as hereinafter provided, it shall be unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this State as set forth in G.S. 58-28-10, without a certificate of authority issued by the Commissioner. This section shall not apply to the following acts or transactions:

- (1) The procuring of a policy of insurance upon a risk within this State where the applicant is unable to procure coverage in the open market with admitted companies and is otherwise in compliance with Article 21 of this Chapter;
- (2) Contracts of reinsurance;
- (3) Transactions in this State involving a policy lawfully solicited, written and delivered outside of this State covering only subjects of insurance not resident, located or expressly to be performed in this State at the time of issuance, and which transactions are subsequent to the issuance of such policy;
- (4) Transactions in this State involving group life insurance, group annuities, or group, blanket, or franchise accident and health insurance where the master policy of such insurance was lawfully issued and delivered in a state where the company was authorized to transact business;
- (5) Transactions in this State involving all policies of insurance issued prior to July 1, 1967;
- (6) The procuring of contracts of insurance issued to a nuclear insured;
- (7) Insurance independently procured, as specified in subsection (b) of this ~~section~~-section;
- (8) Insurance on vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies, as distinguished from inland marine insurance policies."

Sec. 7. G.S. 58-7-15 reads as rewritten:

**"§ 58-7-15. Kinds of insurance authorized.**

The kinds of insurance ~~which~~-that may be authorized in this State, subject to the other provisions of Articles 1 through 64 of this Chapter, are set forth in ~~the following paragraphs~~-this section. Except to the extent an insurer participates in a risk sharing plan under Article 42 of this ~~Chapter~~-Chapter, ~~nothing herein contained shall require in this section requires~~ any insurer to insure every kind of risk ~~which~~-that it is authorized to insure. Except to the extent an insurer participates in a risk sharing plan under Article 42 of this ~~Chapter~~-Chapter, no insurer may transact any other business than that

specified in its charter and articles of ~~association~~ association or incorporation. The power to do any kind of insurance against loss of or damage to property ~~shall include~~ includes the power to insure all lawful interests in ~~such the~~ the property and to insure against loss of use and ~~occupaney~~ occupancy and rents and profits resulting therefrom; but no kind of insurance ~~shall be deemed to include~~ includes life insurance or insurance against legal liability for personal injury or death unless specified ~~herein~~ in this section. In addition to any power to engage in any other kind of business than an insurance business ~~which that~~ is specifically conferred by the provisions of Articles 1 through 64 of this Chapter, any insurer authorized to do business in this State may engage in such other ~~kind or~~ kinds of business to the extent necessarily or properly incidental to the ~~kind or~~ kinds of insurance business ~~which that~~ it is authorized to do in this State. Each of the following ~~paragraphs~~ indicates the scope of the kind of insurance business specified therein specified:

- (1) 'Life insurance,' 'insurance', meaning every insurance upon the lives of human beings and every insurance appertaining thereto. The business of life insurance ~~shall be deemed to include~~ includes the granting of endowment benefits; additional benefits in the event of death by accident or accidental means; additional benefits operating to safeguard the contract from lapse, or to provide a special surrender value, in the event of total and permanent disability of the insured, including industrial sick benefit; and optional modes of settlement of proceeds.
- (2) 'Annuities,' 'Annuities', meaning all ~~agreement~~ agreements to make periodical payments, whether in fixed or variable dollar amounts, or both, ~~where the making or continuance of all or of some of a series of such payments, or the amount of any such payment, is dependent upon the continuance of human life, except payments made under the authority of subdivision (1).~~ at specified intervals.
- (3) 'Accident and health insurance,' 'insurance', meaning meaning:
  - a. Insurance against death or personal injury by accident or by any specified ~~kind or~~ kinds of accident and insurance against sickness, ailment or bodily injury except as specified in paragraph b following; and
  - b. ~~Noneancellable~~ 'Noncancelable disability insurance,' meaning insurance against disability resulting from sickness, ailment or bodily injury (but not including insurance solely against accidental injury), under any contract ~~which that~~ does not give the insurer the option to cancel or otherwise terminate the contract at or after one year from its effective date or renewal date.
- (4) 'Fire insurance,' 'insurance', meaning insurance against loss of or damage to any property resulting from fire, including loss or damage incident to the extinguishment of a fire or to the salvaging of property in connection therewith.

- (5) 'Miscellaneous property ~~insurance,~~ insurance,' meaning loss of or damage to property resulting from
- a. Lightning, smoke or smudge, windstorm, tornado, cyclone, earthquake, volcanic eruption, rain, hail, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, or
  - b. Insects, or blights, or from disease of such property other than animals, or
  - c. Electrical disturbance causing or concomitant with a fire or an explosion in public service or public utility property, or
  - d. Bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, or explosion; but not including any kind of insurance specified in subdivision (9), except insurance against loss or damage to property resulting from:
    1. Explosion of pressure vessels (except steam boilers of more than 15 pounds pressure) in buildings designed and used solely for residential purposes by not more than four families,
    2. Explosion of any kind originating outside of the insured building or outside of the building containing the property insured,
    3. Explosion of pressure vessels ~~which~~ that do not contain steam or ~~which~~ that are not operated with steam coils or steam jackets,
    4. Electrical disturbance causing or concomitant with an explosion in public service or public utility property.
- (6) 'Water damage insurance,' meaning insurance against loss or damage by water or other fluid or substance to any property resulting from the breakage or leakage of sprinklers, ~~pumps~~ pumps, or other apparatus erected for extinguishing fires or of water pipes or other conduits or ~~containers,~~ containers; or resulting from casual water entering through leaks or openings in buildings or by seepage through building ~~walls,~~ walls; but not including loss or damage resulting from flood or the rising of the waters of the ocean or its tributaries; and including insurance against accidental injury of such sprinklers, pumps, fire apparatus, ~~conduits~~ conduits, or containers.
- (7) 'Burglary and theft insurance,' meaning:
- a. Insurance against loss of or damage to any property resulting from burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, ~~confiscation~~ confiscation, or

- wrongful conversion, disposal or concealment by any person or persons, or from any attempt at any of the foregoing, and
- b. Insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, ~~acceptances~~ acceptances, or any other valuable papers or documents, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail.
- (8) 'Glass insurance,' meaning insurance against loss of or damage to glass and its appurtenances resulting from any cause.
- (9) 'Boiler and machinery insurance,' meaning insurance against loss of or damage to any property of the insured, resulting from the explosion of or injury to:
- a. Any boiler, heater or other fired pressure vessel;
  - b. Any unfired pressure vessel;
  - c. Pipes or containers connected with any of said boilers or vessels;
  - d. Any engine, turbine, compressor, pump or wheel;
  - e. Any apparatus generating, transmitting or using electricity;
  - f. Any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines;
- and including the incidental power to make inspections of and to issue certificates of inspection upon, any such boilers, apparatus, and machinery, whether insured or otherwise.
- (10) 'Elevator insurance,' meaning insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire.
- (11) 'Animal insurance,' meaning insurance against loss of or damage to any domesticated or wild animal resulting from any cause.
- (12) 'Collision insurance,' meaning insurance against loss of or damage to any property of the insured resulting from collision of any other object with ~~such~~ the property, but not including collision to or by elevators or to or by vessels, craft, piers or other instrumentalities of ocean or inland navigation.
- (13) 'Personal injury liability insurance,' meaning insurance against legal liability of the insured, and against loss, ~~damage~~ damage, or expense incident to a claim of such ~~liability~~ liability; and including an obligation of the insurer to pay medical, hospital, ~~surgical and~~ surgical, or funeral ~~benefits~~ benefits; and in the case of automobile liability insurance including also disability and death benefits to injured persons, irrespective of legal liability of the insured, arising out of the death or injury of any person, or arising out of injury to the economic interests of any person as a result of negligence in rendering expert, ~~fiduciary~~ fiduciary, or professional ~~service~~ service; but not including any kind of insurance specified in subdivision (15).

- (14) 'Property damage liability insurance,' meaning insurance against legal liability of the insured, and against loss, damage or expense incident to a claim of such liability, arising out of the loss or destruction of, or damage to, the property of any other person, but not including any kind of insurance specified in subdivision (13) or (15).
- (15) 'Workers' compensation and employer's liability insurance,' meaning insurance against the legal liability, whether imposed by common law or by statute or assumed by contract, of any employer for the death or disablement of, or injury to, ~~his or its~~ the employer's employee.
- (16) 'Fidelity and surety insurance,' meaning:
- a. Guaranteeing the fidelity of persons holding positions of public or private trust;
  - b. Becoming surety on, or guaranteeing the performance of, any lawful contract except the following:
    1. A contract of indebtedness secured by title to, or mortgage upon, or interest in, real or personal property;
    2. Any insurance contract except reinsurance;
  - c. Becoming surety on, or guaranteeing the performance of, bonds and undertakings required or permitted in all judicial proceedings or otherwise by law allowed, including surety bonds accepted by states and municipal authorities in lieu of deposits as security for the performance of insurance contracts;
  - d. Guaranteeing contracts of indebtedness secured by any title to, or interest in, real property, only to the extent required for the purpose of refunding, extending, refinancing, liquidating or salvaging obligations heretofore lawfully made and guaranteed;
  - e. Indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debts, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including any loss while the same are being transported in armored motor vehicles, or by ~~messenger, messenger;~~ but not including any other risks of transportation or navigation; also against loss or damage to such an insured's premises, or to ~~his~~ the insured's furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.
- (17) 'Credit insurance,' meaning indemnifying merchants or other persons extending credit against loss or damage resulting from the nonpayment of debts owed to them; and including the incidental power to acquire and dispose of debts so insured, and to collect any debts owed to ~~such~~

the insurer or to any person so insured by ~~him~~ the insurer including without limiting the foregoing, mortgage guaranty insurance ~~which~~ that is insurance against financial loss by reason of the nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond, or other evidence of indebtedness secured by a security interest, mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, or on such personal property as the Commissioner may from time to time approve.

- (18) 'Title insurance,' meaning insuring the owners of real property and chattels real and other persons lawfully interested therein against loss by reason of defective titles and encumbrances thereon and insuring the correctness of searches for all instruments, liens or charges affecting the title to ~~such~~ that property, including the power to procure and furnish information relative thereto, and ~~such~~ other incidental powers ~~as~~ that are specifically granted in Articles 1 through 64 of this Chapter.
- (19) 'Motor vehicle and aircraft insurance,' meaning insurance against loss of or damage resulting from any cause to motor vehicles or aircraft and their equipment, and against legal liability of the insured for loss or damage to ~~the~~ another's property ~~of another~~ resulting from the ownership, maintenance or use of motor vehicles or aircraft and against loss, damage or expense incident to a claim of such liability.
- (20) 'Marine insurance,' meaning insurance against any and all kinds of loss or damage to:
- a. Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks, and
  - b. Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of ~~such~~ the insurance (but not including life insurance or surety bonds nor insurance

- against loss ~~by reason~~ because of bodily injury to the person arising out of the ownership, maintenance or use of automobiles), and
- c. Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, and
  - d. Bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways against all risks.
- (21) 'Marine protection and indemnity insurance,' meaning insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.
- (22) 'Miscellaneous insurance,' meaning insurance against any other casualty authorized by the charter of the company, not included in subdivisions (1) to (21) ~~inclusive~~ of this section, which is a proper subject of insurance."

Sec. 8. G.S. 58-58-110(a) reads as rewritten:

"(a) Each insurer admitted to transact insurance in this State which, without the written consent of the beneficiary, fails or refuses to pay the death proceeds or death benefits in accordance with the terms of any policy ~~of life or accident insurance providing a death benefit~~ issued by it in this State within 30 days after receipt of satisfactory proof of loss because of the death, whether accidental or otherwise, of the insured shall pay interest, at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer computed from the date of the insured's death, on any moneys payable and unpaid after the expiration of ~~such the~~ 30-day period. As used in this subsection, the phrase "satisfactory proof of loss because of the death" includes, but is not limited to, a certified copy of the death certificate; or a written statement by the attending physician at the time of death that contains the following information: (i) the name and address of the physician, who must be duly licensed to practice medicine in the United States; (ii) the name of the deceased; (iii) the date, time, and place of the death; and (iv) the immediate cause of the death."

Sec. 9. G.S. 58-58-140 reads as rewritten:

**"§ 58-58-140. Group life insurance standard provisions.**

No policy of group life insurance shall be delivered in this State unless it contains in substance the following provisions, or provisions which in the Commissioner's opinion ~~of the Commissioner~~ are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder, provided, however, (i) that subdivisions (6) ~~to through~~ (10) ~~inclusive shall of this section do not~~ apply to policies issued to a creditor to insure the creditor's debtors; creditors of such creditor; (ii) that the standard provisions required for individual life insurance policies ~~shall do~~ not apply to group life insurance policies; and (iii) that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions ~~which that~~ in the Commissioner's opinion ~~of the Commissioner~~ is or are equitable to the insured persons and to the policyholder, but nothing ~~herein shall be construed to require that in this section requires~~ group life insurance policies to contain the same nonforfeiture provisions ~~as that~~ are required for individual life insurance policies:

- (1) A provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder ~~shall have~~ has given the insurer written notice of discontinuance ~~in advance of~~ before the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during ~~such the~~ the grace period.
- (2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to ~~his that person's~~ that person's insurability shall be used in contesting the validity of the insurance with respect to which ~~such the~~ the statement was made after ~~such the~~ the insurance has been in force ~~prior to before~~ before the contest for a period of two years during ~~such the~~ the person's lifetime nor unless it is contained in a written instrument signed by ~~him the person.~~ the person.
- (3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be ~~deemed considered~~ considered representations and not ~~warranties, warranties;~~ warranties; and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to ~~such the person or to his the person's~~ the person or to the person's beneficiary.
- (4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of ~~his the person's~~ the person's coverage.

- (5) A provision specifying an equitable adjustment of premiums or of ~~benefits~~ benefits, or of both ~~both~~, to be made ~~in the event if~~ the age of a person insured has been ~~misstated~~, such ~~misstated~~; the provision to contain a clear statement of the method of adjustment to be used.
- (6) A provision that any sum becoming due ~~by reason~~ because of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy ~~in the event~~ if there is no designated beneficiary as to all or any part of ~~such~~ the sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of ~~such~~ the sum not exceeding two hundred fifty dollars (\$250.00) to any person appearing to the insurer to be equitably entitled thereto by ~~reason of~~ having incurred funeral or other expenses incident to the last illness or death of the person insured.
- (7) A provision that the insurer will issue to the ~~policyholder~~ policyholder, for delivery to each person ~~insured~~ insured, an individual certificate setting forth a statement as to the insurance protection to which ~~he~~ the person is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in subdivisions (8), (9) and (10) following of this section.
- (8) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the ~~class or~~ classes eligible for coverage under the policy, ~~such~~ the person shall be entitled to ~~have~~ be issued ~~to him~~ by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, and provided further that,
- a. The individual policy shall, at the option of ~~such~~ the person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;
  - b. The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of ~~such~~ the termination, provided that any amount of insurance which shall have matured on or before the date of ~~such~~ the termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of ~~such~~ the termination; and
  - c. The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which ~~such~~ the person

then belongs, and to ~~his~~ the person's age attained on the effective date of the individual policy.

- (9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured ~~thereunder~~ under the policy at the date of ~~such~~ the termination whose insurance terminates and who has been so insured for at least five years ~~prior to such~~ before the termination date shall be entitled to ~~have issued to him~~ be issued by the insurer an individual policy of life insurance, subject to the ~~same~~ conditions and limitations ~~as are provided by in~~ (8) above, except that the group policy may provide that the amount of ~~such~~ the individual policy shall not exceed the smaller of (i) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which ~~he~~ the person is or becomes eligible under any group policy issued or reinstated by the same or another insurer within 31 days after ~~such~~ termination, and (ii) ~~two thousand dollars (\$2,000)~~ ten thousand dollars (\$10,000).
- (10) A provision that if a person insured under the group policy dies during the period within which ~~he~~ the person would have been entitled to have been issued an individual policy ~~issued to him~~ in accordance with (8) or (9) above and before such an individual policy shall have become effective, the amount of life insurance which ~~he~~ the person would have been entitled to have been issued to him under ~~such~~ the individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made."

Sec. 10. G.S. 58-60-35(a)(2) reads as rewritten:

- "(2) 'Prearrangement insurance policy' means a life insurance policy, annuity contract, or other insurance contract, or any series of contracts or agreements in any form or manner, issued on a group or individual basis by an insurance company authorized by law to do business in this State, which, whether by assignment or otherwise, has for a purpose the funding of a specific preneed funeral contract or a specific insurance-funded funeral or burial prearrangement, the insured being the person for whose service the funds were paid."

Sec. 11. G.S. 58-51-80(g) reads as rewritten:

"(g) Any policy or contract of group accident, group health or group accident and health insurance may provide for readjustment of the rate of premium based on the experience thereunder at the end of the first year, or at any time during any subsequent year based upon at least 12 months of experience: Provided that any such readjustment after the first year shall not be made any more frequently than once every six months. Any rate adjustment must be preceded by a 45-day notice to the contract holder before the effective date of any rate increase or any policy benefit revision. A notice of nonrenewal shall be given to the contract holder 45 days prior to termination. Any

refund under any plan for readjustment of the rate of premium based on the experience under group policies and any dividend paid under ~~such the~~ policies may be used to reduce the employer's or principal's contribution to group insurance for the employees of the employer, or the agents of the principal, and the excess over ~~such the~~ contribution by the employer, or principal, shall be applied by the employer, or principal, for the sole benefit of the employees or agents."

Sec. 12. G.S. 58-51-30 reads as rewritten:

**"§ 58-51-30. Policies to cover newborn infants, infants and adopted children.**

Every policy of insurance and every hospital service or medical service plan as defined in Articles 65 and 66 of this ~~Chapter~~ Chapter, and any health care plan operated by a health maintenance organization as defined in Article 67 of this Chapter (regardless of whether any of such policies or plans shall be defined as individual, family, group, blanket, franchise, industrial or otherwise) ~~which that~~ provides benefits on account of any sickness, illness, or disability of any minor child or ~~which that~~ provides benefits on account of any medical treatment or service authorized or permitted to be furnished by a hospital under the laws of this State to any minor child shall provide ~~such the~~ benefits for ~~such those~~ occurrences beginning with the moment of the child's birth of such child if ~~such the~~ birth occurs while ~~said policy or the policy,~~ subscriber ~~contract~~ contract, or evidence of coverage with such a plan is in force. Adoptive children shall be treated the same as newborn infants and eligible for coverage on the same basis upon placement in the adoptive home, regardless of whether a final decree of adoption has been entered; provided that a petition for adoption has been duly filed and is pursued to a final decree of adoption.

Benefits in such insurance ~~polieies or plans~~ policies, plans, or evidence of coverage shall be the same for congenital defects or anomalies as are provided for most sicknesses or illnesses suffered by minor children which are covered by ~~said polieies or the policies, plans.~~ plans, or evidence of coverage. Benefits for congenital defects or anomalies shall specifically include, but not be limited to, all necessary treatment and care needed by individuals born with cleft lip or cleft palate.

No policy or plan subscriber contract or evidence of coverage shall be approved by the Commissioner of Insurance pursuant to the provisions of this Article or the provisions of Articles ~~65 and 66~~ 65, 66, and 67 of this Chapter that does not comply with the provisions of this section.

The provisions of this section shall apply both to insurers governed by the provisions of Articles 1 through 64 of this Chapter and to corporations governed by the provisions of Articles ~~65 and 66~~ 65, 66, and 67 of this Chapter."

Sec. 13. G.S. 58-67-50(c) reads as rewritten:

"(c) The Commissioner shall, within a reasonable period, approve any form if the requirements of paragraph (1) are met and any schedule of premiums if the requirements of paragraph (2) are met. It shall be unlawful to issue ~~such the~~ form or to use ~~such the~~ schedule of premiums until approved. If the Commissioner disapproves ~~such the~~ filing, ~~he the~~ Commissioner shall notify the filer. In the notice, the Commissioner shall specify the reasons for ~~his~~ disapproval. A hearing will be granted within 30 days after a request in writing by the person filing. If the Commissioner does

not approve or disapprove any form or schedule of premiums within ~~30-90~~ 90 days ~~of after~~ the filing for forms and within 60 days after the filing for premiums, of such forms or premiums, they shall be deemed to be approved."

Sec. 14. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-3-102. Request for determination of coverage for transplants under health benefit payment mechanisms; required response time; penalties.**

(a) As used in this section, 'insurer' means any payer of health benefits that is subject to Articles 1 through 66 of this Chapter.

(b) When a person or that person's health care provider or representative requests that person's insurer to determine whether a transplant is eligible for benefits under that person's health benefit coverage, the insurer shall, within 10 business days after receipt of the request and medical documentation necessary to determine if there is coverage, inform the requesting person as to whether there is coverage; provided coverage exists at the time of the transplant."

Sec. 15. G.S. 58-69-5 reads as rewritten:

**"§ 58-69-5. License required.**

No motor club, district or branch office of a motor club, or franchise motor club shall engage in business in this State unless it holds a valid license issued to it by the Commissioner as hereinafter provided. provided in this Article. The license shall at all times be prominently displayed in each office of the entity to which the license is issued."

Sec. 16. G.S. 58-33-25(e) reads as rewritten:

"(e) A limited representative may receive qualification for one or more licenses without examination for the following kinds of insurance:

- (1), (2) Repealed by Session Laws 1989, c. 485, s. 19.
- (3) Credit Life, Accident and Health
- (4) Credit
- (5) Travel Accident and Baggage
- (6) Motor Club
- (7) Dental Service-Services
- (8) Bail bonds executed or countersigned by surety bondsmen under Article 71 of this Chapter."

Sec. 17. G.S. 58-71-80 reads as rewritten:

**"§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew licenses.**

(a) The Commissioner may deny, suspend, or revoke or refuse to renew any license issued under this Article for any of the following causes:

- (1) For any cause sufficient to deny, suspend, or revoke license under any other provision of this Article.
- (2) Violation of any laws of this State relating to bail in the course of dealings under the license issued ~~him~~ by the Commissioner.
- (3) Material misstatement, misrepresentation or fraud in obtaining the license.

- (4) Misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.
- (5) Fraudulent or dishonest practices in the conduct of business under the license.
- (6) Conviction of a felony regardless of the time ~~such~~the conviction occurred and regardless of whether ~~such~~the conviction resulted from conduct in or related to the bail bond business.
- (7) Failure to comply with or violation of the provisions of this Article or of any order, rule or regulation of the Commissioner.
- (8) When in the judgment of the Commissioner, the licensee has in the conduct of ~~his~~the licensee's affairs under the license, demonstrated ~~incompetency~~incompetency, financial irresponsibility, or untrustworthiness; or that ~~he~~the licensee is no longer in good faith carrying on the bail bond ~~business~~business; or that ~~he~~the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.
- (9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction.
- (10) For charging or receiving, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Article.
- (11) For requiring, as a condition of ~~his~~executing a bail bond, that the principal agree to engage the services of a specified attorney.
- (12) For cheating on an examination for a license under this Article.
- (13) For entering into any business association or agreement with any ~~person, which person~~person who is at that time found by the Commissioner to be in violation of any of the bail bond laws of this State, or ~~which person who~~ has been in any manner disqualified under the bail bond laws of any other state, whereby ~~such~~the person has any direct or indirect financial interest in the bail bond business of the licensee or applicant.
- (14) For knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (15) Any cause for which issuance of the license could not have been refused had it then existed and been known to the Commissioner at the time of issuance.

(b) The Commissioner, in lieu of revoking or suspending a license in accordance with the provisions of this Article, may, in any one proceeding, by order, require the licensee to pay to the school fund in the licensee's county of ~~his~~residence a civil penalty ~~in the sum~~ of two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's failure ~~of such licensee~~ to pay the penalty within 20 days after the ~~mailing of such order,~~ order is mailed, postage prepaid, registered and addressed to the licensee's last known place of ~~business of such licensee,~~ business, unless ~~such~~the order is stayed by an order

of the court of competent ~~jurisdiction, jurisdiction~~ or unless the Commissioner has already suspended or revoked the license of the licensee, the Commissioner may revoke the license of ~~such licensee~~ or may suspend the ~~same license~~ for ~~such a period as he may determine, any period.~~"

Sec. 18. G.S. 58-71-105 reads as rewritten:

**"§ 58-71-105. Persons prohibited from becoming surety or runners.**

No sheriff, deputy sheriff, other law-enforcement officer, judicial official, attorney, parole officer, probation officer, jailer, assistant jailer, employee of the General Court of Justice, nor other public employee assigned to duties relating to the administration of criminal justice, nor the spouse of any such person, may in any case become surety on a bail bond for any person. In addition, no person covered by this section may act as an agent for any bonding company or professional bondsman. No such person may have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as ~~bondsmen, a bail bondsman.~~ ~~Provided, however, However, nothing herein shall prohibit in this section prohibits any such person above designated~~ from being surety upon the bond of his or her spouse, parent, brother, sister, ~~child-child,~~ or descendant."

Sec. 19. G.S. 58-71-185 reads as rewritten:

**"§ 58-71-185. Penalties for violations.**

Any person, firm, association or corporation violating any of the provisions of this Article is guilty of a misdemeanor and shall upon conviction for each offense be fined not more than five hundred dollars (\$500.00) less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for not more than six months, two years, or both."

Sec. 20. G.S. 58-71-165 reads as rewritten:

**"§ 58-71-165. Monthly report required.**

Each professional bail bondsman and surety bondsman shall file with the Commissioner of Insurance a written report in form prescribed by the Commissioner regarding all bail bonds on which ~~he the bondsman~~ is liable as of the first day of each month showing (i) each individual bonded, (ii) the date ~~such the~~ bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance. ~~Such The~~ report shall be filed on or before the fifteenth day of each month. Within the same time, a copy of this written report must also be filed with the clerk of superior court in any county in which ~~he the bondsman~~ is obligated on bail bonds. Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class J felony."

Sec. 21. G.S. 58-71-170 reads as rewritten:

**"§ 58-71-170. Examinations.**

(a) Whenever the Commissioner deems it ~~prudent he prudent,~~ the Commissioner shall visit and examine or cause to be visited and examined by some a competent person appointed by him the Commissioner for that purpose any professional bail bondsman subject to the provisions of this Article. For this purpose the Commissioner or person making the examination shall have free access to all books and papers of the bondsman

that relate to ~~his~~ the bondsman's business and to the books and papers kept by any of ~~his~~ the bondsman's agents or runners.

(b) The Commissioner may conduct examinations of surety bondsmen under G.S. 58-2-195 as well as under subsection (a) of this section."

Sec. 22. Article 71 of Chapter 58 of the General Statutes is amended by adding two new subsections to read:

**"§ 58-71-167. Portion of bond premium payments deferred.**

(a) In any case where the agreement between principal and surety calls for some portion of the bond premium payments to be deferred or paid after the defendant has been released from custody, a written memorandum of agreement between the principal and surety shall be kept on file by the surety with a copy provided to the principal, upon request. The memorandum shall contain the following information:

- (1) The amount of the premium payment deferred or not yet paid at the time the defendant is released from jail.
- (2) The method and schedule of payment to be made by the defendant to the bondsman, which shall include the dates of payment and amount to be paid on each date.
- (3) That the principal is, upon the principal's request, entitled to a copy of the memorandum.

(b) The memorandum must be signed by the defendant and the bondsman, or one of the bondsman's agents, and dated at the time the agreement is made. Any subsequent modifications of the memorandum must be in writing, signed, dated, and kept on file by the surety, with a copy provided to the principal, upon request.

**"§ 58-71-168. Records to be maintained.**

All records related to executing bail bonds, including bail bond registers, monthly reports, receipts, collateral security agreements, and memoranda of agreements, shall be kept separate from records of any other business and must be maintained for not less than three years after the final entry has been made."

Sec. 23. G.S. 58-70-65 is amended by adding a new subsection to read:

"(c) Each permit holder located outside this State shall deposit in a separate trust account, designated for its North Carolina creditors, funds to pay all monies due or owing all collection creditors or forwarders located within this State."

Sec. 24. Article 55 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-55-5. Dual options.**

(a) No policy that conditions the eligibility of benefits on prior hospitalization may be delivered or issued for delivery in this State unless the insurer or other entity offering that policy also offers a policy that does not condition eligibility of benefits on such a requirement.

(b) Policies that were delivered, issued for delivery, or renewed on and after October 1, 1989, that did not condition the eligibility of benefits on prior hospitalizations shall be amended, upon the insured's written request, to condition eligibility of benefits on prior hospitalization, provided that the insured receives the appropriate reduction in premium."

Sec. 25. Article 4 of Chapter 97 of the General Statutes is amended by adding a new section to read:

**"§ 97-143. Use of deposits made by insolvent member self-insurers.**

After the Commissioner has notified the Association, under G.S. 97-136(a), that a member is insolvent, the Commissioner shall assign and deliver to the Association, and the Association is authorized to expend the deposit made by the insolvent member pursuant to G.S. 97-93(b), to the extent the deposit is needed by the Association to pay covered claims against the premium taxes owed by the insolvent member as required by this Article, and to the extent the deposit is needed to pay expenses of the Association relating to covered claims against the insolvent member. The Association shall account to the Commissioner and the insolvent member or its successor for all deposits received from the Commissioner under this section."

Sec. 26. G.S. 58-2-40 reads as rewritten:

**"§ 58-2-40. Powers and duties of Commissioner.**

The Commissioner shall:

- (1) See that all laws of this State that ~~he~~ the Commissioner is ~~statutorily~~ responsible for administering and the provisions of this Chapter are faithfully executed; and to that end ~~he shall have power and authority to make~~ the Commissioner is authorized to adopt rules in accordance with Chapter 150B of the General Statutes, in order to enforce, carry out and make effective the provisions of those laws. He ~~The Commissioner is also has the authority authorized to make adopt~~ such further rules not contrary to those laws ~~which that~~ will prevent persons subject to ~~his~~ the Commissioner's regulatory authority from engaging in practices injurious to the public.
- (2) Have the power and authority to ~~make and promulgate adopt~~ rules and regulations pertaining to and governing the solicitation of proxies, including financial reporting in connection therewith, with respect to the capital stock or other equity securities of any domestic stock insurance company.
- (3) ~~Furnish~~ Prescribe to the companies, associations, ~~orders~~ orders, or bureaus required by Articles 1 through 64 of this Chapter to report to ~~him, the Commissioner,~~ the necessary ~~blank~~ forms for the statements required, ~~which forms may be changed by him~~ required. The Commissioner may change those forms from time to time when necessary to secure full information as to the standing, condition condition, and such other information desired of companies, associations, orders orders, or bureaus under the Insurance jurisdiction of the Department.
- (4) Receive and thoroughly examine each ~~annual~~ financial statement required by Articles 1 through 64 of this Chapter.
- (5) Report in detail to the Attorney General any violations of the laws relative to insurance companies, associations, orders and bureaus or the business of ~~insurance,~~ insurance; and ~~he~~ the Commissioner shall

~~have power to may~~ institute civil actions or criminal prosecutions either by the Attorney General or ~~such other another~~ attorney as ~~whom~~ the Attorney General may select, for any violation of the provisions of Articles 1 through 64 of this Chapter.

- (6) Upon a proper application by any citizen of this State, give a statement or synopsis of the provisions of any insurance contract offered or issued to ~~such the~~ citizen.
- (7) ~~Administer by himself Administer, or by his the~~ Commissioner's deputy may administer, all oaths required in the discharge of ~~his the~~ Commissioner's official duty.
- (8) Compile and make available to the public such lists of rates charged, including deviations, and such explanations of coverages that are provided by insurers for and in connection with contracts or policies of (i) insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance and (ii) private passenger (nonfleet) motor vehicle liability, physical damage, theft, medical payments, uninsured motorists, and other insurance coverages written in connection with the sale of such insurance, as may be advisable to inform the public of insurance premium differentials and of the nature and types of coverages provided. The explanations of coverages provided for in this section must comply with the provisions of Article 38 of this Chapter."

Sec. 27. G.S. 58-51-20(a) reads as rewritten:

"(a) Every individual or blanket family hospitalization policy and accident and health policy, other than ~~noncancellable noncancelable~~ or nonrenewable policies but including group, blanket and franchise policies, as defined in Articles 1 through 64 of this Chapter, covering less than 10 persons, issued in North Carolina after January 1, 1956, shall include in substance the following provision:

Renewability: This policy is renewable at the option of the policyholder unless sufficient notice of nonrenewal is given the policyholder in writing by the insurer.

Sufficient notice shall be, during the first year of any policy, or during the first year following any lapse and reinstatement, a period of 30 days ~~prior to before~~ the premium due date. After one continuous year of coverage and acceptance of premium for any portion of the second or subsequent year sufficient notice shall be a number of full months most nearly equivalent to one fourth the number of months of continuous coverage from the ~~first anniversary of the date of issue or reinstatement, inception date of the policy,~~ to the date of mailing of ~~such the~~ notice: Provided no period of required notice shall exceed two years."

Sec. 28. Article 63 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-63-32. Cease and desist order.**

(a) If, after a hearing under G.S. 58-63-25, the Commissioner determines that the method of competition or the act or practice in question is defined in G.S. 58-63-15 and that the person complained of has engaged in the method of competition, act, or practice in violation of this Article, the Commissioner shall reduce his finding to writing and shall issue and cause to be served upon the person charged with the violation an order requiring the person to cease and desist from engaging in the method, act, or practice.

(b) Until the expiration of the time allowed under G.S. 58-63-35(a) for filing a petition for review, if no such petition has been duly filed within that time, then until the transcript of the record in the proceeding has been filed in court, the Commissioner may at any time, upon such notice and in such manner as the Commissioner considers proper, modify or set aside in whole or in part any order issued by the Commissioner under this section.

(c) After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within that time, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by the Commissioner under this section, whenever in the Commissioner's opinion conditions of fact or of law have so changed as to require the action or if the public interest requires."

Sec. 29. G.S. 58-63-30 is repealed.

Sec. 30. Article 62 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-62-92. Procedure for appeal to Commissioner from decision of Association.**

In any hearing called by the Commissioner for an appeal made under G.S. 58-62-90(b), no later than 20 days before the hearing the appellant shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellee a written statement of the appellant's case and any evidence the appellant intends to offer at the hearing. No later than five days before the hearing, the appellee shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellant a written statement of the appellee's case and any evidence the appellee intends to offer at the hearing. Each hearing shall be recorded and transcribed. The cost of recording and transcribing shall be borne equally by the appellant and the appellee; however, upon any final adjudication the prevailing party shall be reimbursed for that party's share of the costs by the other party. Each party shall, on a date determined by the Commissioner or the Commissioner's designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or the Commissioner's designated hearing officer and serve on the other party, a proposed order. The Commissioner or the Commissioner's designated hearing officer shall then issue an order."

Sec. 31. Article 48 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-48-42. Procedure for appeal to Commissioner from decision of Association.**

In any hearing called by the Commissioner for an appeal made pursuant to G.S. 58-48-40(7), no later than 20 days before the hearing the appellant shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the

appellee a written statement of the appellant's case and any evidence the appellant intends to offer at the hearing. No later than five days before the hearing, the appellee shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellant a written statement of the appellee's case and any evidence the appellee intends to offer at the hearing. Each hearing shall be recorded and transcribed. The cost of the recording and transcribing shall be borne equally by the appellant and the appellee. However, upon any final adjudication the prevailing party shall be reimbursed for that party's share of the costs by the other party. Each party shall, on a date determined by the Commissioner or the Commissioner's designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or the Commissioner's designated hearing officer and serve on the other party, a proposed order. The Commissioner or the Commissioner's designated hearing officer shall then issue an order."

Sec. 32. G.S. 58-7-75 reads as rewritten:

**"§ 58-7-75. Amount of capital and/or surplus required; impairment of capital or surplus.**

The amount of capital and/or surplus requisite to the formation and organization of companies under the provisions of Articles 1 through 64 of this Chapter shall be as follows:

(1) Stock Life Insurance Companies.

- a- A stock corporation may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do the business of life insurance, only when it ~~shall have~~ has paid-in capital of at least six hundred thousand dollars (\$600,000) and a paid-in initial surplus of at least nine hundred thousand dollars (\$900,000), and it may in addition do the kind of business specified in ~~subdivision (2) of G.S. 58-7-15(2), (annuities)~~, without having additional capital or surplus. Every such company shall at all times thereafter maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000). Provided that, any such corporation may do either or both of the kinds of insurance authorized for stock, accident and health insurance companies, as set out in paragraphs a and b of subdivision (3) of G.S. 58-7-15 (accidental death or personal injury, and noncancelable disability), where its charter so permits, and when and so long as it meets and maintains a minimum capital and surplus equal to the sum of the minimum capital and surplus requirements of this subdivision (1)a and the minimum capital and surplus requirements of subdivision (2)a and/or (2)b hereof as applicable.
- b- ~~If the Commissioner, after such investigation as he may deem it expedient to make, finds that a corporation may be organized to~~

~~do the business of life insurance, or the writing of annuities or both, that its operations are restricted solely to one state, and that the organization of such corporation is in the public interest, he may permit the organization of a stock corporation to do on such restricted plan either or both kinds of business specified in subdivisions (1) and (2) of G.S. 58-7-15 (life insurance and annuities), with the minimum paid in capital and a minimum paid in initial surplus in an amount to be prescribed by him, but in no event to be less than a paid in capital of four hundred thousand dollars (\$400,000) and a paid in surplus of six hundred thousand dollars (\$600,000). Every such company shall at all times thereafter maintain such prescribed minimum capital, or four hundred thousand dollars (\$400,000), whichever is greater and a minimum surplus of at least one hundred thousand dollars (\$100,000).~~

(2) Stock Accident and Health Insurance Companies.

- a. A stock corporation may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do only the kind of insurance specified in ~~subdivision (3)a~~ of G.S. 58-7-15(3)a, ~~(accidental death or personal injury)~~, when it shall have ~~a~~ has paid-in capital of not less than four hundred thousand dollars (\$400,000), and a paid-in initial surplus of at least six hundred thousand dollars (\$600,000). Every such company shall at all times thereafter maintain a minimum capital of not less than four hundred thousand dollars (\$400,000) and a minimum surplus of at least one hundred thousand dollars (\$100,000).
- b. Any company organized under the provisions of paragraph a of this subdivision may, by the provisions of its original charter or any amendment thereto, acquire the power to do the kind of business specified in ~~paragraph b of subdivision (3)~~ of G.S. 58-7-15(3)b, ~~(noncancelable disability insurance)~~, if it has a paid-in capital of at least six hundred thousand dollars (\$600,000) and a paid-in initial surplus of at least nine hundred thousand dollars (\$900,000). Every such company shall at all times maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000).

(3) Stock Fire and Marine Companies. – A stock corporation may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do one or more of the kinds of insurance specified in ~~subdivisions~~ G.S. 58-7-15 (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) ~~of G.S. 58-7-15~~ only when it shall have has a paid-in capital of not less than eight hundred thousand dollars

(\$800,000) and a paid-in initial surplus of not less than one million two hundred thousand dollars (\$1,200,000). Every such company shall at all times thereafter maintain a minimum capital of not less than eight hundred thousand dollars (\$800,000) and a minimum surplus of at least two hundred thousand dollars (\$200,000). Provided that, any such corporation may do all the kinds of insurance authorized for casualty, fidelity and surety companies, as set out in subdivision (4) ~~hereof~~ of this section where its charter so permits, and when and so long as it meets and thereafter maintains a minimum capital and surplus equal to the sum of the minimum capital and surplus requirements of this subdivision (3) ~~and the minimum capital and surplus requirements of subdivision (4) hereof~~ of this section.

(4) Stock Casualty and Fidelity and Surety Companies.

a. ~~A stock corporation may be organized in the manner prescribed in Articles 1 through 64 of this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions G.S. 58-7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22) of G.S. 58-7-15 only when it shall have~~ has a paid-in capital of not less than one million dollars (\$1,000,000) and a paid-in initial surplus of not less than one million five hundred thousand dollars (\$1,500,000). Every such company shall at all times thereafter maintain a minimum capital of not less than one million dollars (\$1,000,000) and a minimum surplus of at least two hundred fifty thousand dollars (\$250,000).

b. ~~If the Commissioner, after such investigation as he may deem it expedient to make, finds that a corporation may be organized to do one or more of such kinds of insurance, that its operations are restricted solely to one state, and that the organization of such corporation is in the public interest, he may permit such corporation to be organized and licensed to write the lines set out in subsection a above with a paid in capital of not less than six hundred thousand dollars (\$600,000) and a paid in initial surplus of not less than nine hundred thousand dollars (\$900,000). Every such company shall hereafter maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000). Provided that, any such casualty, fidelity and surety corporation may do all the kinds of insurance authorized for fire and marine companies, as set out in subdivision (3) hereof where its charter so permits, when and if it meets all additional requirements as to capital and surplus as fixed in said section, and maintains the same.~~

(5) Mutual Fire and Marine Companies.

- a. Limited assessment companies. – A limited assessment mutual company may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do one or more kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-7-15~~ only when it has no less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of at least three hundred thousand dollars (\$300,000), which surplus shall at all times be maintained. The assessment liability of a policyholder of a company organized in accordance with the provisions of this ~~paragraph~~ sub-subdivision shall not be limited to less than five annual ~~premiums~~ premiums; provided, ~~such~~ the limited assessment company may reduce the assessment liability of its policyholders from such five annual premiums ~~as set out herein~~ to one additional annual premium when the free surplus of ~~such~~ the company amounts to not less than three hundred thousand dollars (\$300,000), which surplus shall at all times be maintained.
- b. Assessable mutual companies. – An assessable mutual company may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do one or more of the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (4), (5) and (6) (6), of G.S. 58-7-15 (fire, miscellaneous property and water damage)~~, with an unlimited assessment liability of its policyholders only when it ~~shall have~~ has not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus equal to twice the amount of the maximum net retained liability under the largest policy of insurance issued by ~~such~~ the company; but not less than sixty thousand dollars ~~(\$60,000)~~ (\$60,000); which surplus shall at all times be maintained. Provided ~~such~~ the company, when its charter so permits, in addition may be licensed to do one or more of the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (7), (8), (11), (12), (19), (20), (21) and (22) (22), of G.S. 58-7-15~~, with an unlimited assessment liability of its policyholders, when its free surplus amounts to not less than sixty thousand dollars (\$60,000), which surplus shall at all times be maintained.
- c. Nonassessable mutual companies. – A nonassessable mutual company may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do one or more of the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S.~~

~~58-7-15~~ and may be authorized to issue policies under the terms of which a policyholder is not liable for any assessments in addition to the premium set out in the policy only when it ~~shall have~~ has not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of not less than eight hundred thousand dollars (\$800,000), which surplus shall at all times be maintained.

- d. Town or county mutual insurance companies. – A town or county mutual insurance company with unlimited assessment liability may be organized in the manner prescribed in ~~Articles 1 through 64~~ of this Chapter and licensed to do the kinds of insurance specified in ~~subdivision (4) of G.S. 58-7-15 (fire insurance)~~ G.S. 58-7-15(4) only when it ~~shall have~~ has not less than fifty thousand dollars (\$50,000) of insurance in force in not fewer than 50 separate risks subscribed with a paid-in initial surplus of not less than fifteen thousand dollars (\$15,000), which surplus shall at all times be maintained. A town or county mutual insurance company may, in addition to writing the business specified in ~~subdivision (4) of G.S. 58-7-15 (fire insurance)~~, G.S. 58-7-15(4) cover in the same policy the hazards usually insured against under an extended coverage endorsement when ~~such the company has~~ not less than five hundred thousand dollars (\$500,000) of insurance in force in not fewer than 500 separate risks and maintains a surplus at all times of not less than one hundred twenty thousand dollars (\$120,000); and at all times maintains in addition to the surplus hereinbefore required, an additional surplus of not less than twenty five thousand dollars (\$25,000) or not less than an amount equivalent to one percent (1%) of the total amount of net retained insurance in force, whichever is the larger sum: Provided, that ~~such the company~~ any company authorized under this section before July 1, 1991, shall be permitted to continue to do the same kinds of business that it was authorized to do prior to July 1, 1991, without being required to increase its surplus; however, the insurer shall increase its surplus to the required amounts on or before July 1, 1992. The requirements of this sub-subdivision as to surplus shall apply to such companies as a prerequisite to writing additional lines of business, and to such companies as a prerequisite to commencing business if unlicensed prior to July 1, 1991.

- (6) Mutual Life, Accident and Health Insurance Companies. – A nonassessable mutual insurance company may be organized in the

manner prescribed in ~~Articles 1 through 64~~ of this Chapter, and licensed to do only one or more of the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (1), (2) and (3) of G.S. 58-7-15 (life, annuities, and accident and health)~~ when it has complied with the requirements of ~~Articles 1 through 64~~ of this Chapter and with those hereinafter set forth in ~~paragraphs sub-subdivisions a to through d~~ of this subdivision, inclusive, whichever shall be applicable.

- a. If organized to do only the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (1) and (2) of G.S. 58-7-15 (life insurance and annuities)~~, ~~such the~~ company shall have not less than 500 bona fide applications for life insurance in an aggregate amount not less than five hundred thousand dollars (\$500,000), and shall have received from each such applicant in cash the full amount of one annual premium on the policy for which the applicant applied, applied for by him, in an aggregate amount at least equal to ten thousand dollars (\$10,000), and shall in addition have a paid-in initial surplus of two hundred thousand dollars (\$200,000), and shall have and maintain at all times a minimum surplus of one hundred thousand dollars (\$100,000).
- b. If organized to do only the kind of insurance specified in paragraph a of ~~subdivision G.S. 58-7-15 (3) of G.S. 58-7-15 (accidental death and personal injury)~~, ~~such the~~ company shall have not less than 250 bona fide applications for ~~such that~~ insurance, and shall have received from each ~~such~~ applicant in cash the full amount of one annual premium on the policy for which the applicant applied, applied for by him in an aggregate amount of at least ten thousand dollars (\$10,000), and shall have a paid-in initial surplus of two hundred thousand dollars (\$200,000) and shall have and maintain at all times a minimum surplus of one hundred thousand dollars (\$100,000).
- c. If organized to do the kinds of insurance specified in ~~subdivision G.S. 58-7-15 (1) and (3)a, in paragraph a of subdivision (3) of G.S. 58-7-15 (life insurance and accidental death and injury)~~, ~~such the~~ company shall have complied with the provisions of ~~both paragraphs sub-subdivisions a and b hereof~~ of this subdivision.
- d. If organized to do the kind of insurance specified in ~~paragraph b of subdivision (3) of G.S. 58-7-15(3)b (noncancelable disability insurance)~~, in addition to the kind or kinds of insurance designated in any one of the ~~foregoing paragraphs preceding sub-subdivisions~~ of this subdivision, ~~such the~~ company shall have a paid-in initial surplus of at least five hundred thousand

dollars (\$500,000) and shall maintain a minimum surplus of at least three hundred thousand dollars (\$300,000).

- (7) Organization of Mutual Casualty, Fidelity and Surety Companies.
- a. Nonassessable, mutual companies. – A mutual insurance company with no assessment liability provided for its policyholders may be organized in the manner prescribed in ~~Articles 1 through 64 of this Chapter~~ and licensed to do one or more of the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22) of G.S. 58-7-15~~ when it has a minimum paid-in initial surplus of one million dollars (\$1,000,000) and not less than five hundred thousand dollars (\$500,000) in insurance subscribed in not less than 500 separate risks. The surplus of ~~such the~~ company shall at all times be maintained at or above ~~the amount required hereinabove for organization of such company. that amount.~~
- b. Assessable mutual companies. – A mutual insurance company with assessment liability provided for its policyholders may be organized in the manner prescribed in ~~Articles 1 through 64 of this Chapter~~ and licensed to do one or more of the kinds of insurance specified in ~~subdivisions G.S. 58-7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22) of G.S. 58-7-15~~ when it has a minimum paid-in initial surplus of four hundred thousand dollars (\$400,000) and not less than five hundred thousand dollars (\$500,000) of insurance subscribed in not less than 500 separate risks. ~~Such~~ The company shall at all times maintain a surplus in an amount not less than four hundred thousand dollars (\$400,000). The assessment liability of a policyholder of ~~such the~~ company shall not be limited to less than one annual premium.
- (8) Organization of Mutual Multiple Line Companies.
- a. Assessable mutual companies. – A company may do all the kinds of insurance authorized to be done by a company organized under the provisions of ~~paragraph a of subdivision (5) sub-subdivision (5)a, hereof (limited assessment mutual fire and marine companies), and paragraph b of subdivison (7) sub-subdivision (7)b of this subdivision, hereof (assessable mutual easualty, fidelity and surety companies),~~ where its charter so permits when and if it meets the combined minimum requirements of ~~said those paragraphs. sub-subdivisions.~~ The assessment liability of policyholders of such a company shall not be limited to less than one annual premium within any one policy year.

- b. Nonassessable mutual companies. – A company may do all the kinds of insurance authorized to be done by a company organized under the provisions of ~~paragraph e of subdivision (5), sub-subdivision (5)c, hereof (nonassessable mutual fire and marine companies), and paragraph a of subdivision (7) sub-subdivision (7)a of this subdivision, hereof (nonassessable mutual casualty, fidelity and surety companies),~~ where its charter so permits when and if it meets the combined minimum requirements of ~~said those paragraphs.~~ The policyholders of such a company shall not be subject to any assessment liability.
- (9) ~~Time for Compliance. — Any domestic, foreign or alien company licensed to do business in North Carolina prior to July 1, 1979, shall be permitted to continue to do the same kinds of business which it was authorized to do on such date without being required to increase its capital and/or surplus, provided however, such insurers shall increase the capital and surplus requirements to the amounts set forth in this section G.S. 58-7-75 on or before July 1, 1987, but the requirements of this section as to capital and surplus shall apply to such companies as a prerequisite to writing additional lines of business, and to such companies as a prerequisite to commencing business if unlicensed prior to July 1, 1979.~~
- (10) Impairment of Capital and/or Surplus. – Whenever the Commissioner finds from a financial statement made by any ~~such~~ company, or from a report of examination of any ~~such~~ company, that its admitted assets are less than the aggregate amount of its liabilities and its outstanding capital stock and/or required minimum surplus, ~~he the Commissioner~~ shall determine the amount of ~~such the~~ impairment of capital and/or surplus and issue an order in writing requiring the company to eliminate the impairment within such period of not more than 90 days as ~~he the Commissioner~~ shall designate. The Commissioner may, by order served upon the company, prohibit the company from issuing any new policies while ~~such the~~ impairment exists. If at the expiration of the designated period the company has not satisfied the Commissioner that the impairment has been eliminated, an order for the rehabilitation or liquidation of the company may be entered as provided in Article 17A, ~~Chapter 58 of the General Statutes of North Carolina 30 of this Chapter.~~"

Sec. 33. G.S. 58-42-55 reads as rewritten:

**"§ 58-42-55. Expiration.**

This Article shall expire on July 1, ~~1991-1993.~~"

Sec. 34. G.S. 143-143.13(a) reads as rewritten:

"(a) A license may be denied, suspended or revoked by the Board on any one or more of the following grounds:

- (1) Material misstatement in application for license;

- (2) Failure to post an adequate corporate surety bond, cash bond or fixed value equivalent thereof;
- (3) Engaging in the business of manufactured home manufacturer, dealer, salesman or set-up contractor without first obtaining a license from the Board;
- (4) Failure to comply with the warranty service obligations and claims procedure established by this Article;
- (5) Failure to comply with the set-up and tie-down requirements established by this Article;
- (6) Having knowingly failed or refused to account for or to pay over moneys or other valuables belonging to others which have come into licensee's possession arising out of the sale of manufactured homes;
- (7) Use of unfair methods of competition or unfair or deceptive commercial acts or practices;
- (8) Failure to comply with any provision of this Article;
- (9) Failure to appear before the Board upon due notice or to follow directives of the Board issued pursuant to this Article;
- (10) Employing unlicensed retail salesmen;
- (11) Knowingly offering for sale the products of manufacturers who are not licensed pursuant to this Article or selling, to dealers not licensed pursuant to this Article, manufactured homes which are to be sold in this State to buyers as defined in this Article;
- (12) Conviction of a felony or any crime involving moral turpitude;
- (13) Having had a license revoked, suspended or denied by the Board under this Article; or having had a license revoked, suspended or denied by a similar entity in another state; or engaging in conduct in another state which conduct, if committed in this State, would have been a violation under this ~~Article~~ Article;
- (14) Knowingly engaging any person to perform set-up operations who is not licensed by the Board as a set-up contractor."

Sec. 35. G.S. 143-143.11(a) reads as rewritten:

"(a) It shall be unlawful for any manufactured home manufacturer, dealer, salesman or set-up contractor to engage in business as such in this State without first obtaining a license from the ~~North Carolina Manufactured Housing~~ Board, as provided in this Article. The fact that a person is licensed by the Board as a set-up contractor or a dealer does not preempt any other licensing boards' applicable requirements for that person."

Sec. 36. Article 9A of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-143.25. Staff support for Board.**

The Manufactured Housing Division of the Department shall provide clerical and other staff services required by the Board; and shall administer and enforce all provisions of this Article and all rules adopted under this Article, subject to the direction

of the Board; except for powers and duties delegated by this Article to local units of government, other State agencies, or to any persons."

Sec. 37. G.S. 58-50-40 reads as rewritten:

**"§ 58-50-40. Willful failure to pay group insurance premiums; notice to persons insured; penalty; restitution; examination of insurance transactions.**

(a) As used in this section and in G.S. 58-50-45, the term 'group health insurance' means: (1) any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; (2) any group insurance certificate or group subscriber contract issued by a hospital service corporation pursuant to Articles 65 and 66 of this Chapter; (3) any health care plan provided or arranged by a health maintenance organization pursuant to Article 67 of this Chapter; or (4) any multiple employer welfare arrangement as defined in G.S. 58-49-30(a). As used in this section and in G.S. 58-50-45, the term 'insurance fiduciary' means any person, employer, principal, agent, trustee, or third party administrator, who is responsible for the payment of group health or group life insurance premiums. As used in this section and in G.S. 58-50-45, 'premiums' includes contributions to a multiple employer welfare arrangement.

(b) No insurance fiduciary shall:

- (1) Cause the cancellation or nonrenewal of group health or group life insurance and the consequential loss of the coverages of the persons insured by willfully failing to pay such premiums in accordance with the terms of a group health or group life insurance contract; and
- (2) Willfully fail to deliver, at least ~~30~~ 45 days ~~prior to~~ before the termination of such insurance, to ~~each named insured~~ all persons covered by the group policy a written notice of the insurance fiduciary's intention to stop payment of premiums.

(c) Any insurance fiduciary who violates subsection (b) of this section shall be guilty of a Class J ~~felony if the group health or life insurance was, in whole or in part, paid for out of wages withheld or other funds collected from the persons insured.~~ felony.

~~(d) Any insurance fiduciary who violates subsection (b) of this section shall be subject only to the court order for restitution provided for in subsection (e) of this section if the group health or life insurance covered 15 or more persons and was fully paid for by the insurance fiduciary.~~

(e) Upon conviction under subsection (c) ~~or a finding under subsection (d) of this section of a violation of subsection (b) of this section~~ the court shall order the insurance fiduciary to make full restitution to persons insured who incurred expenses that would have been covered by the group health insurance or full restitution to beneficiaries of the group life insurance for death benefits that would have been paid if the coverage had not been terminated.

(f) Insurance fiduciaries subject to this section shall be subject to the provisions of G.S. 58-2-200 with respect only to transactions involving group health or life insurance.

(g) In the notice required by subsection (b) of this section, the insurance fiduciary shall also notify ~~the persons insured~~ those persons of their rights to health insurance

conversion policies under Article 53 of this Chapter and their rights under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA).

(h) In the event of the insolvency of an employer or insurance fiduciary who has violated this section, any person specified in subsection (e) of this section shall have a lien upon the assets of ~~such~~the employer or insurance fiduciary for the expenses or benefits specified in subsection (e) of this section. With respect to personal property within the estate of the insolvent employer or insurance fiduciary, ~~such~~the lien shall have priority over unperfected security interests. "

Sec. 38. G.S. 58-50-45 reads as rewritten:

**"§ 58-50-45. Group health or life insurers to notify insurance fiduciaries of obligations.**

(a) On and after January 1, 1986, upon the issuance or renewal of any policy, contract, certificate, or evidence of coverage of group health or life insurance, the insurer, corporation, or health maintenance organization shall give written notice to the insurance fiduciary of the provisions of G.S. 58-50-40.

(b) The notice required by subsection (a) of this section shall be printed in 10 point type and shall read as follows:

'UNDER NORTH CAROLINA GENERAL STATUTE SECTION 58-50-40, NO PERSON, EMPLOYER, PRINCIPAL, AGENT, TRUSTEE, OR THIRD PARTY ADMINISTRATOR, WHO IS RESPONSIBLE FOR THE PAYMENT OF GROUP HEALTH OR LIFE INSURANCE OR HEALTH CARE PLAN PREMIUMS, ~~FOR WHICH PAYMENT WAGES OR OTHER FUNDS ARE WITHHELD FROM THE PERSONS INSURED,~~ PREMIUMS, SHALL: (1) CAUSE THE CANCELLATION OR NONRENEWAL OF GROUP HEALTH OR LIFE INSURANCE, HOSPITAL, MEDICAL, OR DENTAL SERVICE PLAN, MULTIPLE EMPLOYER WELFARE ARRANGEMENT, OR HEALTH CARE PLAN COVERAGES AND THE CONSEQUENTIAL LOSS OF THE COVERAGES OF THE PERSONS INSURED, BY WILLFULLY FAILING TO PAY SUCH PREMIUMS IN ACCORDANCE WITH THE TERMS OF THE INSURANCE OR PLAN CONTRACT, AND (2) WILLFULLY FAIL TO DELIVER, AT LEAST ~~30~~45 DAYS PRIOR TO THE TERMINATION OF SUCH COVERAGES, TO ~~EACH NAMED INSURED~~ ALL PERSONS COVERED BY THE GROUP POLICY A WRITTEN NOTICE OF THE PERSON'S INTENTION TO STOP PAYMENT OF PREMIUMS. THIS WRITTEN NOTICE MUST ALSO CONTAIN A NOTICE TO ~~THE NAMED INSUREDS~~ ALL PERSONS COVERED BY THE GROUP POLICY OF THEIR RIGHTS TO HEALTH INSURANCE CONVERSION POLICIES UNDER ARTICLE 53 OF GENERAL STATUTES CHAPTER 58 AND THEIR RIGHTS UNDER THE FEDERAL CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA). VIOLATION OF THIS LAW IS A ~~FELONY IF THE INSURANCE IS, IN WHOLE OR IN PART, PAID FOR OUT OF WAGES WITHHELD OR OTHER FUNDS COLLECTED FROM THE PERSONS INSURED.~~ FELONY. ANY PERSON VIOLATING THIS LAW IS ALSO SUBJECT TO A COURT ORDER REQUIRING THE PERSON TO COMPENSATE PERSONS INSURED FOR EXPENSES OR LOSSES INCURRED AS A RESULT OF THE TERMINATION OF THE INSURANCE."

Sec. 39. G.S. 58-36-10 reads as rewritten:

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

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

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

proper and supported by statistical evidence, and shall at least once every 10 years make a complete review of the territories for nonfleet private passenger motor vehicle insurance to determine whether they are proper and reasonable.

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

Sec. 40. G.S. 58-40-25 reads as rewritten:

**"§ 58-40-25. Rating methods.**

In determining whether rates comply with the standards under G.S. 58-40-20, the following criteria shall be applied:

- (1) Due consideration shall be given to past and prospective loss and expense experience within this State, to catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to trends within this State, to dividends or savings to be allowed or returned by insurers to their policyholders, members, or subscribers, and to all other relevant factors, including judgment factors; ~~Provided, however,~~ ~~that however,~~ regional or countrywide expense or loss experience and other regional or countrywide data may be considered only when credible North Carolina expense or loss experience or other data is not available.
- (2) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. ~~Such~~ ~~Those~~ standards may measure any differences among risks that have probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations. ~~Such~~ ~~Those~~ classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.
- (3) The expense provisions included in the rates to be used by an insurer may reflect the operating methods of the insurer and, as far as it is credible, its own expense experience.
- (4) With respect to fire insurance, to the extent credits are provided for proximity to fire hydrants, insurers may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner."

Sec. 41. G.S. 58-21-65 is amended by adding a new subsection to read:

"(f) A person licensed as a surplus lines licensee under the laws of a state bordering this State may be licensed as a surplus lines licensee under this Article, if: (i) the laws of the bordering state are substantially similar to the provisions of this Article and (ii) the bordering state has a law or regulation substantially similar to this subsection that permits surplus lines licensees licensed under this Article to be licensed by the bordering state and (iii) the person complies with all requirements of this Article and submits himself or herself to the Commissioner's jurisdiction."

Sec. 42. G.S. 58-21-75 reads as rewritten:

**"§ 58-21-75. Records of surplus lines licensee.**

Each surplus lines licensee shall keep in his or her office in this State a full and true record of each surplus lines insurance contract placed by or through ~~him, the licensee,~~ including a copy of the policy, certificate, cover note, or other evidence of ~~insurance,~~ which insurance. The record shall include the following items:

- (1) Amount of the insurance and perils insured;
- (2) Brief description of the property insured and its location;
- (3) Gross premium charged;
- (4) Any return premium paid;
- (5) Rate of premium charged upon the several items of property;
- (6) Effective date of the contract, and the terms ~~thereof,~~ of the contract;
- (7) Name and address of the insured;
- (8) Name and address of the insurer;
- (9) Amount of tax and other sums to be collected from the insured; and
- (10) Identity of the producing broker, any confirming correspondence from the insurer or its representative, and the application.

The record of each contract shall be kept open at all reasonable times to examination by the Commissioner without notice for a period not less than ~~five~~ three years following termination of the contract."

Sec. 43. G.S. 58-1-20 reads as rewritten:

**"§ 58-1-20. Real property warranties.**

(a) Any warranty relating to ~~tangible personal property or fixtures to real property issued in connection with the sale of real property by a person as defined in this Article shall be~~ is a contract of insurance, except the following, ~~which shall not be contracts of insurance:~~ following:

- (1) A warranty made by a builder or seller of the real property;
- (2) A warranty ~~incidental to the sale of real property~~ providing for the repair or replacement of the items covered by the warranty for defective parts and mechanical failure or resulting from ordinary wear and tear, ~~which warranty excludes and excluding~~ from its coverage damage from recognizable ~~perils~~ perils, such as fire, flood, and wind, ~~which perils do not that~~ neither relate to any defect in the items covered nor result from ordinary wear and tear. ~~Any person issuing such warranties shall post a surety bond with the Secretary of State in the principal sum of not less than seventy five thousand dollars~~

~~(\$75,000), which bond shall be subject to the approval of the Secretary of State. Any person to whom the warranty is issued has the right to institute an action to recover against the warrantor and the surety bond for breach of warranty.~~

(b) It is unlawful for any person to issue a warranty specified in subdivision (a)(2) of this section unless that person has posted a surety bond with the Secretary of State in the principal sum of not less than one hundred thousand dollars (\$100,000). The bond must be issued by a surety company licensed to do business in this State and is subject to the approval of the Secretary of State. Any person to whom the warranty is issued may institute an action to recover against the warrantor and the surety bond for any breach of warranty."

Sec. 44. Sections 8, 9, and 12 of this act become effective September 1, 1991. Sections 1, 15, 16, 19, 22, 23, 28, 37 through 41, and 43 of this act become effective October 1, 1991. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives