

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 607\*

Short Title: Insurance Technical Amendments.

(Public)

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Sponsors: Representative B. Miller.

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Referred to: Insurance.

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March 29, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL AMENDMENTS, CLARIFICATIONS, AND  
3 CORRECTIONS IN VARIOUS INSURANCE AND INSURANCE-RELATED  
4 LAWS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 58-2-165 reads as rewritten:

7 "**§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with**  
8 **Commissioner.**

9 (a) Every insurance company shall file in the Commissioner's office, on or before  
10 March 1 of each year, a statement showing the business standing and financial condition  
11 of the company, association, or order on the preceding December 31, signed and sworn  
12 to by the chief managing agent or officer thereof, before the Commissioner or some  
13 officer authorized by law to administer oaths. Provided, the Commissioner may, for  
14 good and sufficient cause shown by an applicant company, extend the filing date of the  
15 company's annual statement, for a reasonable period of time, not to exceed 30 days.  
16 ~~However, In addition, the Commissioner may require any insurance company,~~  
17 ~~association, or order to file its statement semiannually or quarterly semiannually,~~  
18 ~~quarterly, or monthly.~~

19 (b) The Commissioner may require statements under this section, G.S. 58-2-170,  
20 G.S. 58-2-175, and G.S. 58-2-190 to be filed in a format that can be read by electronic  
21 data processing equipment; ~~and may require these readable statements to be filed on a~~  
22 ~~monthly basis.~~ equipment.

23 (c) All statements filed under this section must be prepared in accordance with  
24 the appropriate NAIC Annual Statement Instructions Handbook and pursuant to the

1 NAIC Accounting Practices and Procedures Manual and on the NAIC Model Financial  
2 Statement Blank, unless further modified by the Commissioner as the Commissioner  
3 considers to be appropriate."

4 Sec. 2. G.S. 58-4-5 reads as rewritten:

5 **"§ 58-4-5. Filing requirements.**

6 (a) Each domestic, foreign, and alien insurer that is authorized to transact  
7 insurance in this State shall file with the NAIC a copy of its financial statements  
8 required by G.S. 58-2-165, applicable rules, and legal directives and bulletins issued by  
9 the Department. The statements shall, in the Commissioner's discretion, be filed  
10 annually, semiannually, ~~or quarterly~~, or monthly and shall be filed in a form or format  
11 prescribed or permitted by the Commissioner. The Commissioner may require the  
12 statements to be filed in a format that can be read by electronic data processing  
13 equipment. Any amendments and addenda to the financial statement that are  
14 subsequently filed with the Commissioner shall also be filed with the NAIC.

15 (b) Foreign insurers that are domiciled in a state that has a law or regulation  
16 substantially similar to this Article shall be deemed to be in compliance with this  
17 section."

18 Sec. 3. G.S. 58-5-55 reads as rewritten:

19 **"§ 58-5-55. Deposits of capital and surplus by domestic insurance companies.**

20 (a) In addition to other requirements of Articles 1 through 64 of this Chapter, all  
21 domestic stock insurance companies shall deposit their required statutory capital with  
22 the Department. Such deposits shall be under the exclusive control of the Department,  
23 for the protection of ~~all policyholders wheresoever situated~~ policyholders.

24 (b) In addition to other requirements of Articles 1 through 64 of this Chapter,  
25 all domestic mutual insurance companies shall deposit at least fifty percent (50%) of  
26 their minimum required surplus with the Department, with the amount of the deposit to  
27 be determined by the Commissioner. Such deposits shall be under the exclusive control  
28 of the Department, for the protection of ~~all policyholders wheresoever situated~~ policyholders."

30 Sec. 4. The final paragraph of G.S. 58-7-35 reads as rewritten:

31 "Any Subject to G.S. 58-8-5, any proposed change in or amendment to the articles of  
32 incorporation, charter, or bylaws incorporation shall be promptly filed with the  
33 Commissioner. Commissioner, who shall examine the change. If the Commissioner  
34 approves the change, the Commissioner shall place a certificate of approval on the  
35 change, and forward it to the Secretary of State."

36 Sec. 5. G.S. 58-7-45 reads as rewritten:

37 **"§ 58-7-45. Bylaws; classification and election of ~~directors~~ directors; amendments.**

38 (a) A domestic company may adopt bylaws for the conduct of its business that  
39 are not repugnant to law or its charter, articles of incorporation and therein provide for  
40 the division of its board of directors into two, three, or four classes, and the election  
41 thereof at its annual meetings so that the members of one class only shall retire and their  
42 successors be chosen each year. Vacancies in any such class may be filled by election  
43 by the board for the unexpired term.

1 (b) Any change in the bylaws of a domestic company shall be promptly filed  
2 with the Commissioner."

3 Sec. 6. G.S. 58-7-183(b) reads as rewritten:

4 "(b) In no case shall the investments authorized under this section being held by  
5 an insurer be greater than the amount by which the insurer's policyholders' surplus  
6 exceeds the minimum ~~reserves and policyholders' surplus~~ required to be maintained."

7 Sec. 7. G.S. 58-13-5 reads as rewritten:

8 "**§ 58-13-5. Purposes.**

9 The purposes of this Article are to require insurers to maintain unencumbered assets  
10 in amounts equal to ~~reserve-policyholder-related~~ liabilities and minimum required capital  
11 and minimum required surplus; to provide preferential claims against insurers' assets in  
12 favor of owners, beneficiaries, assignees, and holders of insurance policies and  
13 certificates; and to prevent the pledging, hypothecation, or encumbrance of assets  
14 without a prior written order of the Commissioner."

15 Sec. 8. G.S. 58-13-15(4) reads as rewritten:

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

20 Sec. 9. G.S. 58-13-20(a) reads as rewritten:

21 "(a) This Article does not apply to those reserve assets of an insurer that are held,  
22 deposited, pledged, hypothecated, or otherwise encumbered as provided in this section  
23 to secure, offset, protect, or meet those ~~reserve-policyholder-related~~ liabilities of the  
24 insurer that are established, incurred, or required under the provisions of a reinsurance  
25 agreement whereby the insurer has reinsured the insurance policy liabilities of a ceding  
26 insurer, provided:

27 (1) The ceding insurer and the reinsurer are both licensed to transact  
28 business in this State;

29 (2) Pursuant to a written agreement between the ceding insurer and the  
30 reinsurer, reserve assets substantially equal to the ~~reserve-policyholder-~~  
31 related liabilities required to be established by the reinsurer on the  
32 reinsured business are either (i) deposited by or are withheld from the  
33 reinsurer and are in the custody of the ceding insurer as security for the  
34 payment of the reinsurer's obligations under the reinsurance  
35 agreement, and such assets are held subject to withdrawal by and  
36 under the separate or joint control of the ceding insurer, or (ii)  
37 deposited and held in trust account for that purpose and under those  
38 conditions with a State or national bank domiciled in this State."

39 Sec. 10. G.S. 58-13-25 reads as rewritten:

40 "(a) Every insurer subject to this Article shall at all times have and maintain free  
41 and unencumbered reserve assets equal to an amount that is at least ten percent (10%)  
42 more than the total of its ~~reserve-policyholder-related~~ liabilities and its required  
43 minimum capital and minimum surplus and shall not pledge, hypothecate, or otherwise  
44 encumber those reserve assets. The Commissioner, upon application made to the

1 Commissioner, may issue a written order approving the pledging, hypothecation, or  
2 encumbrance of any of the assets of an insurer not otherwise prohibited upon a finding  
3 that the pledging, hypothecation, or encumbrance will not adversely affect the insurer's  
4 solvency.

5 (b) Every insurer shall file, along with ~~its~~ any statement filed under G.S. 58-2-  
6 165, a statement sworn to by the chief executive officer of the insurer that: (i) Title to  
7 assets in an amount equal to the ~~reserve-policyholder-related~~ liabilities and minimum  
8 required capital and minimum required surplus of the insurer that are not pledged,  
9 hypothecated, or otherwise encumbered is vested in the insurer; (ii) the only assets of  
10 the insurer that are pledged, hypothecated, or otherwise encumbered are as identified  
11 and reported in the sworn statement and no other assets of the insurer are pledged,  
12 hypothecated, or otherwise encumbered; and (iii) the terms and provisions of the  
13 transaction of the pledge, hypothecation, or encumbrance are as reported in the sworn  
14 statement.

15 (c) Any person that accepts a pledge, hypothecation, or encumbrance of any asset  
16 of an insurer, as security for a debt or other obligation of the insurer, not in accordance  
17 with this Article, is deemed to have accepted the asset subject to a superior, preferential,  
18 and automatically perfected lien in favor of claimants: Provided, that said lien does not  
19 apply to the assets of an insurer in a delinquency proceeding under Article 30 of this  
20 Chapter if the Commissioner or the court, whichever is appropriate, approves the  
21 pledge, hypothecation, or encumbrance of the assets.

22 (d) In the event of the liquidation of any insurer subject to this Article, claimants  
23 of the insurer shall have a prior and preferential claim against all assets of the insurer  
24 except those that have been pledged, hypothecated, or encumbered in accordance with  
25 this Article. Subject to Article 30 of this Chapter, all claimants have equal status; and  
26 their prior and preferential claims are superior to any claim or cause of action against  
27 the insurer by any other person."

28 Sec. 11. G.S. 58-19-10(b) reads as rewritten:

29 "(b) In addition to investments in common stock, preferred stock, debt obligations,  
30 and other securities permitted under all other sections of Articles 1 through 64 of this  
31 Chapter, a domestic insurer may also:

- 32 (1) Invest, in common stock, preferred stock, debt obligations, and other  
33 securities of one or more subsidiaries, amounts that do not exceed the  
34 lesser of ten percent (10%) of such insurer's admitted assets or fifty  
35 percent (50%) of such insurer's surplus as regards policyholders,  
36 provided that after such investments, the insurer's surplus as regards  
37 policyholders will be reasonable in relation to the insurer's outstanding  
38 liabilities and adequate to its financial needs. In calculating the  
39 amount of such investments, investments in domestic or foreign  
40 insurance subsidiaries shall be excluded, and there shall be included:  
41 (i) total net monies or other consideration expended and obligations  
42 assumed in the acquisition or formation of a subsidiary, including all  
43 organizational expenses and contributions to capital and surplus of  
44 such subsidiary whether or not represented by the purchase of capital

1 stock or issuance of other securities; and (ii) all amounts expended in  
2 acquiring additional common stock, preferred stock, debt obligations,  
3 and other securities, and all contributions to the capital or surplus, of a  
4 subsidiary subsequent to its acquisition or formation;

5 (2) Invest any amount in common stock, preferred stock, debt ~~obligation~~  
6 obligations and other securities of one or more subsidiaries engaged or  
7 organized to engage exclusively in the ownership and management of  
8 assets authorized as investments for the insurer; provided that such  
9 subsidiary agrees to limit its investments in any asset so that such  
10 investments will not cause the amount of the total investment of the  
11 insurer to exceed any of the investment limitations specified in  
12 subdivision (b)(1) of this section or in Article 7 of this Chapter  
13 applicable to the insurer. For the purposes of this section, 'the total  
14 investment of the insurer' includes: (i) any direct investment by the  
15 insurer in an asset; and (ii) the insurer's proportionate share of any  
16 investment in an asset by any subsidiary of the insurer, which shall be  
17 calculated by multiplying the amount of the subsidiary's investment by  
18 the percentage of the ownership of such subsidiary."

19 (3) With the approval of the Commissioner, invest any greater amount in  
20 common stock, preferred stock, debt obligations, or other securities of  
21 one or more subsidiaries; provided that after such investment the  
22 insurer's surplus as regards policyholders will be reasonable in relation  
23 to the insurer's outstanding liabilities and adequate to its financial  
24 needs."

25 Sec. 12. G.S. 58-19-15(e) reads as rewritten:

26 "(e) The public hearing referred to in subsection (d) of this section shall be held  
27 within 120 days after the statement required by subsection (a) of this section is filed,  
28 and the Commissioner shall give at least 30 days notice of the hearing to the person  
29 filing the statement, to the insurer, and to such other persons as may be designated by  
30 the Commissioner. The Commissioner shall make a determination as expeditiously as it  
31 reasonably practicable after the conclusion of the hearing. At the hearing, the person  
32 filing the statement, the insurer, any person to whom notice of hearing was sent, and any  
33 other person whose interest may be affected by the hearing shall have the right to  
34 present evidence, examine and cross-examine witnesses, and offer oral or written  
35 arguments; and in connection therewith shall be entitled to conduct discovery  
36 proceedings at any time after the statement is filed with the Commissioner under this  
37 section and in the same manner as is presently allowed in the superior courts of this  
38 State. In connection with discovery proceedings authorized by this section, the  
39 Commissioner may issue such protective orders and other orders governing the timing  
40 and scheduling of discovery proceedings as might otherwise have been issued by a  
41 superior court of this State in connection with a civil proceeding. If any party fails to  
42 make reasonable and adequate response to discovery on a timely basis or fails to comply  
43 with any order of the Commissioner with respect to discovery, the Commissioner on the  
44 Commissioner's own motion or on motion of any other party or person may order that

1 the hearing be postponed, recessed, convened, or reconvened, as the case may be,  
2 following proper completion of discovery and reasonable notice to the person filing the  
3 statement, to the insurer, and to such other persons as may be designated by the  
4 Commissioner."

5 Sec. 13. G.S. 58-19-25(c) reads as rewritten:

6 "(c) No information need be disclosed on the registration statement filed pursuant  
7 to subsection (b) of this section if such information is not material for the purposes of  
8 this section. Unless the Commissioner by rule or order provides otherwise, all sales,  
9 purchases, exchanges, loans or extensions of credit, investments, or guarantees  
10 involving one-half of one percent (1/2%) or less of an insurer's admitted assets as of the  
11 ~~31st day of December next~~ preceding December 31 are not material for the purposes of  
12 this section."

13 Sec. 14. G.S. 58-19-50(a) reads as rewritten:

14 "(a) Any person failing, without just cause, to file any registration statement as  
15 required in this Article shall pay, after notice and hearing, a civil penalty of one hundred  
16 dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand  
17 dollars (\$1,000), to the Commissioner, who shall forward the clear proceeds to the  
18 General Fund of this State."

19 Sec. 15. G.S. 58-26-1(b) reads as rewritten:

20 "(b) Such companies shall be subject to:

- 21 (1) The same capital, surplus and investment requirements as govern the  
22 formation and operation of domestic stock casualty companies.
- 23 (2) The same deposit requirements governing the operation of other ~~state~~  
24 domestic or foreign casualty companies in this State; and
- 25 (3) Repealed by Session Laws 1985, c. 666, s. 43."

26 Sec. 16. G.S. 58-23-40 reads as rewritten:

27 "**§ 58-23-40. Pools not covered by guaranty associations or solvency funds.**  
28 **associations.**

29 The provisions of Articles 48 and 62 of this Chapter and of ~~Articles 3 and Article 4~~ of  
30 Chapter 97 of the General Statutes do not apply to any risks retained by local  
31 governments pursuant to this Article."

32 Sec. 17. G.S. 58-26-10 reads as rewritten:

33 "**§ 58-26-10. Financial statements and licenses required.**

34 Title insurance companies are subject to G.S. ~~58-2-131, 58-2-132, 58-2-133, 58-2-~~  
35 ~~165-58-2-165, and 58-2-180-58-2-180, and 58-6-5.~~ The Commissioner may require title  
36 insurance companies to separately report their experience in insuring titles and in  
37 insuring closing services. The Commissioner shall annually license such companies and  
38 their agents, and have the same power and authority to visit and examine such corporations as  
39 he has in the case of other domestic insurance companies, and the duties and liabilities of such  
40 corporations and their agents in reference to such examinations are the same as those of other  
41 domestic insurance companies. agents."

42 Sec. 18. B.S. 58-26-15 reads as rewritten:

43 "**§ 58-26-15. Investment of capital. Limitation of risk.**

1       ~~Any real estate title insurance company having a capital stock of more than fifty~~  
2 ~~thousand dollars (\$50,000), may, with the consent of the Commissioner, after investing~~  
3 ~~fifty thousand dollars (\$50,000) of the capital, as provided in Articles 1 through 64 of~~  
4 ~~this Chapter, invest not to exceed one fourth of the total capital stock in abstract or title~~  
5 ~~plants, and no such company.~~ No real estate title insurance company shall guarantee or  
6 insure in any one risk on real property located in North Carolina more than forty percent  
7 (40%) of its combined capital and surplus without first having the approval of the  
8 commissioner, which approval shall be endorsed upon the policy."

9           Sec. 19. G.S. 58-26-20 reads as rewritten:

10 **"§ 58-26-20. Unearned premium reserve.**

11       Every domestic title insurance company shall, in addition to other reserves, establish  
12 and maintain a reserve to be known as the 'unearned premium reserve' for title  
13 insurance, which shall at all times and for all purposes be considered and constitute  
14 unearned portions of the original risk premiums and shall be charged as a reserve  
15 liability of such title insurance company in determining its financial conditions. ~~While~~  
16 ~~said sums are so reserved they~~ The unearned premium reserve shall be withdrawn from the  
17 use of the insurer for its general purposes and impressed with a trust placed in a trust  
18 account, as approved by the Commissioner, in favor of the holders of title policies and  
19 held available for reinsurance of the title policies in the event of insolvency of the  
20 insurer. Nothing herein contained shall preclude such an insurer from investing said  
21 reserve in investments authorized by law for such an insurer, and the income from such  
22 invested reserve shall be included in the general income of the insurer to be used by  
23 such insurer for any lawful purpose."

24           Sec. 20. G.S. 58-28-5(a) reads as rewritten:

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

- 29           (1) The procuring of a policy of insurance upon a risk within this State  
30 where the applicant is unable to procure coverage in the open market  
31 with admitted companies and is otherwise in compliance with Article  
32 21 of this Chapter;
- 33           (2) Contracts of reinsurance; but not including assumption reinsurance  
34 transactions, whereby the reinsuring company succeeds to all of the  
35 liabilities of and supplants the ceding company on the insurance  
36 contracts that are the subject of the transaction, unless prior approval  
37 has been obtained from the Commissioner;
- 38           (3) Transactions in this State involving a policy lawfully solicited, written  
39 and delivered outside of this State covering only subjects of insurance  
40 not resident, located or expressly to be performed in this State at the  
41 time of issuance, and which transactions are subsequent to the issuance  
42 of such policy;
- 43           (4) Transactions in this State involving group life insurance, group  
44 annuities, or group, blanket, or franchise accident and health insurance

1 where the master policy of such insurance was lawfully issued and  
 2 delivered in a state where the company was authorized to transact  
 3 business;

4 (5) Transactions in this State involving all policies of insurance issued  
 5 prior to July 1, 1967;

6 (6) The procuring of contracts of insurance issued to a nuclear insured;

7 (7) Insurance independently procured, as specified in subsection (b) of this  
 8 section;

9 (8) Insurance on vessels or craft, their cargoes, marine builders' risks,  
 10 marine protection and indemnity, or other risks commonly insured  
 11 under marine insurance policies, as distinguished from inland marine  
 12 insurance policies."

13 Sec. 21. G.S. 58-31-55 reads as rewritten:

14 **"§ 58-31-55. Insurance and official fidelity bonds for State agencies to be placed by**  
 15 **Department; exception; costs of placement.**

16 Except as provided in G.S. 58-32-15, all insurance and all official fidelity and surety  
 17 bonds authorized for State departments, institutions, and agencies shall be effected and  
 18 placed by the Department, and the cost of such placement shall be paid by the  
 19 ~~Department, department,~~ institution, or agency involved upon bills rendered to and  
 20 approved by the Commissioner."

21 Sec. 22. G.S. 58-33-25(c) reads as rewritten:

22 "(c) An agent or broker may be licensed for the following kinds of insurance:

23 (1) ~~Life, Accident~~ Life and Health Insurance

24 (2) ~~Accident and Health Insurance~~

25 (3) ~~Fire and Casualty~~ Property and Liability Insurance

26 (4) Repealed by Session Laws 1989, c. 485, s. 17, effective June 28, 1989.

27 (5) Title Insurance

28 (6) Repealed by Session Laws 1989, c. 485, s.17, effective June 28, 1989.

29 (7) Automobile Physical Damage.

30 (8) Medicare Supplement Insurance and Long-Term Care Insurance, as a  
 31 supplement to a license for the kinds of insurance listed in subdivision  
 32 (1) of this subsection.

33 ~~Any person who holds a valid license on February 1, 1988, which grants authority to act~~  
 34 ~~as an agent for the kinds of insurance described in this subsection shall be issued the~~  
 35 ~~equivalent agent's license for such kinds of insurance."~~

36 Sec. 23. G.S. 58-33-25(d) reads as rewritten:

37 "(d) A ~~fire and casualty property and liability~~ insurance license shall not authorize  
 38 an agent to sell accident and health insurance. An agent must hold a ~~life, accident~~ life  
 39 ~~and health insurance license or an accident and health insurance license~~ to sell accident and  
 40 health insurance."

41 Sec. 24. G.S. 58-33-25(d1) reads as rewritten:

42 "(d1) A ~~life, accident~~ life and health insurance license shall authorize authorizes an  
 43 agent to sell variable contracts, ~~provided that if the licensee~~ agent satisfies the

1 Commissioner that he has met the NASD requirements of the Secretary of State of  
2 North Carolina."

3 Sec. 25. G.S. 58-33-25(d2) reads as rewritten:

4 "(d2) A ~~life, accident, life~~ and health license ~~or an accident and health license~~  
5 authorizes an agent to sell Medicare supplement and long-term care insurance policies  
6 as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee  
7 takes and passes a supplemental written examination for such insurance as provided in  
8 G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-  
9 125(c)."

10 Sec. 26. G.S. 58-33-30(g) reads as rewritten:

11 "(g) Denial of License. – If the Commissioner finds that the applicant has not fully  
12 met the requirements for licensing, he shall refuse to issue the license and shall notify in  
13 writing the applicant and the appointing insurer, if any, of such denial, stating the  
14 grounds therefor. The application may also be denied for any reason for which a license  
15 may be suspended or revoked or not renewed under G.S. 58-33-45(a). Within 30 days  
16 after service of the notification, the applicant may make a written demand upon the  
17 Commissioner for a review to determine the reasonableness of the Commissioner's  
18 action. The review shall be completed without undue delay, and the applicant shall be  
19 notified promptly in writing as to the outcome of the review. Within 30 days after  
20 service of the notification as to the outcome, the applicant may make a written demand  
21 upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General  
22 Statutes if the applicant disagrees with the outcome."

23 Sec. 27. (a) The catch line of G.S. 58-33-45 reads as rewritten:

24 "**§ 58-33-45. Denial, suspension, Suspension, revocation, or nonrenewal of licenses**  
25 **and appointments. licenses.**"

26 (b) G.S. 58-33-45(a) reads as rewritten:

27 "(a) The Commissioner may suspend, revoke, or refuse to ~~issue or renew~~ any  
28 license issued under this Article if, ~~after notice to the licensee or applicant and hearing in~~  
29 accordance with the provisions of Article 3A of Chapter 150B, he finds as to the  
30 licensee any one or more of the following conditions:

- 31 (1) Any untrue material statement in the license application;
- 32 (2) Any cause for which issuance of the license could have been refused  
33 had it then existed and been known to the Commissioner at the time of  
34 issuance;
- 35 (3) Violation of, or noncompliance with, any insurance laws, or of any  
36 lawful rule, or order of the Commissioner or of a Commissioner of  
37 another state;
- 38 (4) Obtaining or attempting to obtain any such license through  
39 misrepresentation or fraud;
- 40 (5) Improperly withholding, misappropriating, or converting to his own  
41 use any moneys belonging to policyholders, insurers, beneficiaries or  
42 others received in the course of his insurance business;
- 43 (6) Misrepresentation of the terms of any actual or proposed insurance  
44 contract;

- 1 (7) Willfully overinsuring property;  
 2 (8) Conviction of a misdemeanor involving moral turpitude, or conviction  
 3 of a felony;  
 4 (9) The person has been found guilty of any unfair trade practice or fraud;  
 5 (10) In the conduct of his affairs under the license, the licensee has used  
 6 fraudulent, coercive or dishonest practices, or has shown himself to be  
 7 incompetent, untrustworthy, or financially irresponsible;  
 8 (11) His license has been suspended or revoked in any other state, province,  
 9 district, or territory;  
 10 (12) The person has forged another's name to an application for insurance;  
 11 or  
 12 (13) The person has cheated on an examination for an insurance license."

13 Sec. 28. G.S. 58-33-45(c) is repealed.

14 Sec. 29. G.S. 58-33-50 reads as rewritten:

15 "**§ 58-33-50. Notices; loss of residency; duplicate licenses. Surrender, loss or**  
 16 **destruction of license.**

17 (a) The Commissioner shall notify ~~all appointing insurers, where applicable, and the~~  
 18 ~~licensee regarding every appointing insurer about any suspension, revocation, or~~  
 19 ~~nonrenewal of a license by the Commissioner.~~ Commissioner and about any surrender of  
 20 a license by a licensee, whether by consent order or otherwise.

21 (b) Upon suspension, ~~revocation—~~revocation, nonrenewal, surrender, or  
 22 reinstatement of any license, the Commissioner shall notify the Central Office of the  
 23 NAIC.

24 (c) Any licensee who ceases to maintain his residency in this State ~~as defined in~~  
 25 ~~G.S. 58-33-30~~ shall deliver his insurance license or licenses to the Commissioner by  
 26 personal delivery or by mail within 30 days after terminating ~~said~~ residency.

27 (d) The Commissioner may issue a duplicate license for any lost, stolen, or  
 28 destroyed license issued pursuant to this Article upon a written request from the licensee  
 29 and payment of appropriate fees."

30 Sec. 30. G.S. 58-36-65(i) reads as rewritten:

31 "(i) As used in this section, 'conviction' ~~means a conviction as defined in G.S. 20-~~  
 32 ~~279.1 and means an infraction as defined in G.S. 14-3.1.~~ means:

- 33 (1) A final conviction of a criminal offense, including a no contest plea;  
 34 (2) A determination that a person is responsible for an infraction, as  
 35 defined in G.S. 14-3.1, including a no contest plea;  
 36 (3) An unvacated forfeiture of cash in the full amount of a bond required  
 37 by Article 26 of Chapter 15A of the General Statutes;  
 38 (4) A prayer for judgment continued, subject to G.S. 58-36-75(f)."

39 Sec. 31. G.S. 58-36-75(g) reads as rewritten:

40 "(g) As used in this section 'conviction' ~~means a conviction as defined in G.S. 20-~~  
 41 ~~279.1 and means an infraction as defined in G.S. 14-3.1.~~ means:

- 42 (1) A final conviction of a criminal offense, including a no contest plea;  
 43 (2) A determination that a person is responsible for an infraction, as  
 44 defined in G.S. 14-3.1, including a no contest plea;

- 1           (3) An unvacated forfeiture of cash in the full amount of a bond required  
 2           by Article 26 of Chapter 15A of the General Statutes;  
 3           (4) A prayer for judgment continued, subject to subsection (f) of this  
 4           section."

5           Sec. 32. G.S. 58-51-30 reads as rewritten:

6   **"§ 58-51-30. Policies to cover newborn infants and adopted children.**

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

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

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

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

34      Sec. 33. G.S. 58-71-85 reads as rewritten:

35   **"§ 58-71-85. ~~Notice and hearing before refusal, suspension, revocation, etc., of~~**  
 36    **license. License sanction and denial procedures.**

37      (a) ~~No license shall be suspended, revoked, or renewal refused except on~~  
 38      ~~reasonable notice and opportunity to be heard afforded the person licensed or renewal~~  
 39      ~~thereof.—The suspension or revocation of, or refusal to renew, any license under G.S.~~  
 40      58-71-80 shall be in accordance with the provisions of Article 3A of Chapter 150B of  
 41      the General Statutes. (b) Whenever the Commissioner denies an initial application for  
 42      a ~~license,—license or an application for a reissuance of a license,~~ he shall notify the  
 43      applicant and advise, in writing, the applicant of the reasons for the denial of the license.  
 44      The application may also be denied for any reason for which a license may be

1 suspended or revoked or not renewed under G.S. 58-71-80(a). Within 30 days of after  
2 receipt service of the notification, the applicant may make a written demand upon the  
3 Commissioner for a hearing—review to determine the reasonableness of the  
4 Commissioner's action. Such hearing—The review shall be scheduled within 30 days  
5 from the date of receipt of the written demand. completed without undue delay, and the  
6 applicant shall be notified promptly in writing as to the outcome of the review. Within  
7 30 days after service of the notification as to the outcome, the applicant may make a  
8 written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B  
9 of the General Statutes if the applicant disagrees with the outcome."

10 Sec. 34. G.S. 58-78-5(a) reads as rewritten:

11 "(a) The Commission shall have the following powers and duties:

- 12 (1) To formally adopt a State Fire Education and Training Plan, a State  
13 Master Plan for Fire Prevention and Control, a Rescue Training Plan,  
14 and a State Master Plan for Rescue Services;
- 15 (2) To assist and participate with State and local fire prevention and  
16 control agencies in the improvement of fire prevention and control in  
17 North Carolina and to work with State and local rescue agencies to  
18 improve rescue services in the State;
- 19 (3) To increase the professional skills of fire protection and fire-fighting  
20 personnel and rescue personnel;
- 21 (4) To encourage public support for fire prevention and control and rescue  
22 services;
- 23 (5) To accept gifts, bequests, devises, grants, matching funds, and other  
24 considerations from private or governmental sources for use in  
25 promoting its work;
- 26 (6) To make grants for use in pursuing its objectives, under such  
27 conditions as are deemed to be necessary and such other powers as  
28 may be necessary to carry out the State's duties with respect to all  
29 grants to the State by the United States Fire Administration and the  
30 National Fire Academy; and all support programs brought into the  
31 State by these two entities shall be coordinated and controlled by the  
32 Commission;
- 33 (7) To make studies and recommendations for the improvement of fire  
34 prevention and control and rescue services in the State and to make  
35 studies and recommendations for the coordination and implementation  
36 of effective fire prevention and control and rescue services and for  
37 effective fire prevention and control and rescue services education;
- 38 (8) To set objectives and priorities for the improvement of fire prevention  
39 and control and rescue services throughout the State;
- 40 (9) To advise State and local interests of opportunities for securing federal  
41 assistance for fire prevention and control and rescue services and for  
42 improving fire prevention and control and rescue services  
43 administration and planning within the State of North Carolina;

- 1 (10) To assist State agencies and institutions of local government and  
 2 combinations thereof in the preparation and processing of applications  
 3 for financial aid and to support fire prevention and control, rescue  
 4 services, and planning and administration;
- 5 (11) To encourage and assist coordination at the federal, State and local  
 6 government levels in the preparation and implementation of fire  
 7 prevention and control and rescue services administrative  
 8 improvements and crime reduction plans;
- 9 (12) To apply for, receive, disburse and audit the use of funds received  
 10 from any public and private agencies and instrumentalities for fire  
 11 prevention and control and rescue services, their administration and  
 12 plans therefor;
- 13 (13) To enter into monitoring and evaluating the results of contracts and  
 14 agreements necessary or incidental to the discharge of its assigned  
 15 responsibilities;
- 16 (14) To provide technical assistance to State and local fire prevention and  
 17 control and rescue agencies in developing programs for improvement;
- 18 (14a) To serve as a central office for the collection and dissemination  
 19 of information relative to fire service and rescue service  
 20 activities and programs in State government. All State  
 21 government agencies conducting fire service and rescue service  
 22 related programs and activities shall report the status of these  
 23 programs and activities to the Commission on a quarterly basis  
 24 and they shall also report to the Commission any new programs  
 25 or changes to existing programs as they are implemented;
- 26 (14b) To establish voluntary minimum professional qualifications for  
 27 all levels of fire service and rescue service personnel;
- 28 (14c) To prepare an annual report to the Governor on its fire prevention and  
 29 control activities and plans, rescue activities and plans, and to  
 30 recommend legislation concerning fire prevention and control and  
 31 rescue ~~services; and services;~~
- 32 (14d) To reimburse the members of the Commission's certification board, in  
 33 accordance with G.S. 138-5, for travel and subsistence expenses  
 34 incurred by them in their duties as certification board members; and
- 35 (15) To take such other actions as may be deemed necessary or appropriate  
 36 to carry out its assigned duties and responsibilities."

37 Sec. 35. G.S.143-143.14 reads as rewritten:

38 "**§ 143-143.14. Notice and hearing.**

39 ~~(a) The Board shall not suspend, revoke or deny a license, or refuse the renewal~~  
 40 ~~of a license, or impose a civil penalty, until a written notice of the complaint has been~~  
 41 ~~furnished to the licensee or applicant against whom the same is directed, and a hearing~~  
 42 ~~thereon has been held before the Board. At least 30 days' written notice of the time and~~  
 43 ~~place of the hearing shall be given to the licensee or applicant by certified mail to his~~  
 44 ~~last known address, as shown on the license or other record of information in possession~~

1 of the Board. At any such hearing, the licensee or applicant shall have the right to be  
2 heard in person or through counsel. After the hearing, the Board shall have the power to  
3 deny, suspend, revoke or refuse to renew the license in question, or to impose a civil  
4 penalty for violation of the provisions of this Article. Immediate notice of any such  
5 action by the Board shall be given to the licensee or applicant in the same manner as  
6 provided herein for furnishing notice of the hearing. License suspensions, revocations,  
7 and renewal refusals are subject to the provisions of Chapter 150B of the General  
8 Statutes.

9 (b) Within 30 days after receipt of a notification that an application for a license  
10 has been denied, the applicant may make a written demand upon the Board for a review  
11 by a member of the Department staff designated by the Board to determine the  
12 reasonableness of the Board's action. The review shall be completed without undue  
13 delay, and the Board shall be notified promptly in writing as to the outcome of the  
14 review. Within 30 days after service of the notification as to the outcome, the Board  
15 may make a written demand upon the Commissioner for a hearing under Article 3A of  
16 Chapter 150B of the General Statutes if the Board disagrees with the outcome."

17 Sec. 36. G.S. 143-150 reads as rewritten:

18 **"§ 143-150. No electricity to be furnished units not in compliance.**

19 It shall be is unlawful for any individual natural person, partnership, firm or corporation  
20 person to allow any electric current for use in any manufactured home to be turned on or  
21 to continue to furnish electricity for use in such manufactured home without having first  
22 ascertained that either a label of compliance is permanently attached to said manufactured  
23 home or a certificate of compliance has been issued for such manufactured home, provided this  
24 section shall not apply if electricity to such manufactured home had been turned on or  
25 furnished prior to September 1, 1971, by said firm or corporation or if the owner of said  
26 manufactured home shall have obtained a certificate of title for said manufactured home as  
27 required by G.S. 20-52 prior to September 1, 1971, or his predecessor in title shall have  
28 obtained such certificate prior to September 1, 1971, or the owner furnishes other satisfactory  
29 evidence on file with the North Carolina Department of Motor Vehicles that said manufactured  
30 home was manufactured prior to September 1, 1971. — first ascertaining that the  
31 manufactured home and its electrical supply has been inspected pursuant to G.S. 143-  
32 139 by the inspection authority having jurisdiction and found to comply with the  
33 requirements of the State Electrical Code. The certificate of compliance issued by the  
34 inspection jurisdiction shall be accepted as evidence of compliance."

35 Sec. 37. G.S. 143-151.17 is amended by adding a new subsection to read:

36 "(d) The Board may deny an application for a certificate for any of the grounds for  
37 suspension, revocation, or refusal to grant that are described in subsection (a) of this  
38 section. Within 30 days after receipt of a notification that an application for a certificate  
39 has been denied, the applicant may make a written demand upon the Board for a review  
40 by a member of the Department staff designated by the Board to determine the  
41 reasonableness of the Board's action. The review shall be completed without undue  
42 delay, and the Board shall be notified promptly in writing as to the outcome of the  
43 review. Within 30 days after service of the notification as to the outcome, the Board  
44 may make a written demand upon the Commissioner for a hearing under Article 3A of  
45 Chapter 150B of the General Statutes if the Board disagrees with the outcome."

1           Sec. 38. G.S. 58-33-30(d)(2) reads as rewritten:

2           "(2) All individual applicants for licensing as ~~life, accident-life~~ and health  
3           agents or as ~~fire and casualty-property and liability~~ agents shall furnish  
4           evidence satisfactory to the Commissioner of successful completion of  
5           at least 40 hours of instruction, which shall in all cases include the  
6           general principles of insurance and any other topics that the  
7           Commissioner establishes by regulation; and which shall, in the case  
8           of ~~life, accident-life~~ and health insurance applicants, include the  
9           principles of life, accident, and health insurance and, in the case of ~~fire~~  
10          ~~and casualty-property and liability~~ insurance applicants, shall include  
11          instruction in ~~fire and casualty-property and liability~~ insurance. Any  
12          applicant who submits satisfactory evidence of having successfully  
13          completed an agent training course that has been approved by the  
14          Commissioner and that is offered by or under the auspices of a ~~fire and~~  
15          ~~casualty-property or liability~~ or life or health insurance company  
16          admitted to do business in this State or a professional insurance  
17          association shall be deemed to have satisfied the educational  
18          requirements of this subdivision. The requirement in this subdivision  
19          for completion of 40 hours of instruction applies only to applicants for  
20          ~~life, accident-life~~ and health or ~~fire and casualty-property and liability~~  
21          insurance licenses. The provisions of this subdivision also apply to the  
22          applicants for accident and health insurance licenses; except that such  
23          applicants shall be required to successfully complete 20 hours of  
24          instruction. Such instruction shall in all cases include the general  
25          principles of insurance and the principles of accident and health  
26          insurance."

27          Sec. 39. This act is effective upon ratification.